

CHAPTER 10

REGULAR CASES

Registration and First Information Report

10.1 On receipt of a complaint or after verification of an information or on completion of a Preliminary Enquiry taken up by CBI if it is revealed that *prima facie* a cognizable offence has been committed and the matter is fit for investigation to be undertaken by Central Bureau of Investigation, a First Information Report should be recorded under Section 154 Criminal Procedure Code and investigation taken up. While considering registration of an FIR, it should be ensured that at least the main offence/s have been notified under Section 3 of the Delhi Special Police Establishment Act. The registration of First Information Report may also be done on the direction of Constitutional Courts, in which case it is not necessary for the offence to have been notified for investigation by DSPE. The FIRs under investigation with local Police or any other law enforcement authority may also be taken over for further investigation either on the request of the State Government concerned or the Central Government or on the direction of a Constitutional Court. As the resources of CBI are limited, administrative arrangements have been worked out vis-à-vis local Police as detailed in this Manual and Policy Division instructions as regards registration of cases. The guidelines regarding the type of petty cases, which should normally not be taken up for investigation, are also mentioned in the Manual and instructions of the Policy Division.

10.2 While registering the FIR, the legal requirements of section 154 Cr.P.C. should be fully complied with. If the information is given orally, it shall be reduced into writing verbatim and shall include the answers to any question put to the informant. If a written complaint is received, an exact copy must be reproduced in the FIR. Every such information, whether reduced into writing or given in writing, which forms basis of the FIR, shall be signed by the person giving it. In case, the person is illiterate, his thumb impression will have to be secured. The refusal to sign or give thumb impression, as the case may be, on the First Information Report is an offence under Section 180 IPC

10.3 In case, it has been decided, with the approval of the Competent Authority, to register a FIR after conclusion of a Preliminary Enquiry, which might have been taken up on receipt of a complaint, the information originally received along with the summary of conclusions arrived at after completion of the PE should be incorporated in the body of the First Information Report. In such cases, it may not be necessary to obtain the signature of the original complainant. The FIR could be registered on the complaint of the Enquiry Officer, who conducted enquiry into the PE. In such cases, the investigation of the FIR may be entrusted to another Investigating Officer.

10.4 In case of decision to register a case after verification of source information, the FIR may be drafted in concise but comprehensive manner and must contain all details, which *prima facie* indicate commission of the specific cognizable offence(s) by the accused, or each accused, in case there are more than one. Due care must be taken while drafting the FIR and naming the accused persons. Names of only those persons should be mentioned in the FIR against whom *prima facie* material indicating their complicity in the offences is disclosed in the text of the FIR. The draft of the FIR must be thoroughly vetted by the Superintendent of Police. In important matters, even DIG may see the draft of the proposed FIR and approve it before registration. They may take assistance of Law Officers, where considered necessary.

10.5 In case of investigation being transferred to the DSPE by the local Police or any other law enforcement authority, the original First Information Report registered by them may be reproduced with all its details such as FIR number, date of registration, name of the Police Station, sections of law etc. Neither the contents nor the sections of law under which the case was originally registered may be changed. It must be remembered that it would not be treated as fresh FIR but a new number as per prevalent scheme of DSPE may be assigned for the purpose of maintaining uniformity in record keeping in CBI.

10.6 If a case is required to be registered under the Prevention of Corruption Act 1988 against an officer of the rank of Joint Secretary and above or a Government appointee in the Central Public Sector Undertakings, prior permission of the Government should be taken before enquiry/investigation as required under Section 6-A of the DSPE Act except the case under Section 7 of the P C Act wherein the registration is followed by immediate arrest of the accused. In case, involvement of another Government servant of the above-mentioned rank(s) is revealed during the course of investigation, a fresh permission as required under Section 6-A of the DSPE Act, which should be obtained at the earliest. The permission so obtained should form an integral part of the FIR or the Case Diary, as the case may be.

10.7 It may be mentioned that, as per Hon'ble Supreme Court decision in *SP Jaipur v. State of Rajasthan* [JT2001(1)SC624], the lower Courts, can not entrust any matter/ FIR for investigation or enquiry to DSPE. In case, any lower Court passes such an order, the same should be challenged in the appropriate Court after obtaining approval of the Head Office.

10.8 As per provisions under Section 154 (2) Cr.P.C., a copy of the FIR shall be provided to the informant. If, however, it is not intended to divulge the name of the informant, only "Source" should be written against the relevant column of the FIR.

10.9 The operative part of the FIR as well as the endorsement part should be signed by the SP of the Branch or by the officer looking after his work, when the SP is on tour or leave and the FIR should be forwarded to the Court/authorities mentioned in the Annexure 10-B of this chapter.

10.10 In case of registration of FIR under Section 13(1)(e) of the Prevention of Corruption Act, 1988, if the SP does not intend to investigate the case himself, he should simultaneously issue an order under Section 17 of the P.C. Act, 1988 authorizing the Investigating Officer to conduct investigation in the case. The SP must issue an order for registration of FIR and investigation as per stipulation under Section 17 of P.C. Act, 1988 on the date of registration of the case. The I.O. should refer to this order in the first Case Diary itself.

10.11 While registering FIR pertaining to the abuse of official position by a public servant relating to the Government business/commercial decisions, the important difference between a business risk and *mala fide* criminal misconduct should be kept in mind with a view to ensure that while the corrupt public servants are suitably dealt with under the relevant laws, the *bona fide* Government business/commercial decisions taken by public servants in discharge of their official duties are not taken up for unnecessary probe by CBI

10.12 In case a Regular Case is registered on a complaint given by the officer who conducted the Preliminary Enquiry, the investigation must be entrusted to another officer. While taking a decision in this regard, it may be kept in mind that in certain circumstances the investigation could be completed early if it is given to the same officer. However, in cases registered under Section 7 of Prevention of Corruption Act, wherein a trap has been laid, an officer other than the officer, who laid the trap, should conduct investigation.

10.13 In the cases registered on complaints received from a Ministry/Department/individual, the forwarding letter enclosing the copy of FIR meant for the Head Office must invariably mention that the case has been registered in consequence of a complaint from a particular Ministry/Department/ individual, giving details of reference number and date etc.

10.14 When an officer of CBI, not below the rank of a Sub-Inspector, while on tour within the limits of his Branch, receives credible information or complaint of the commission of a cognizable offence which the DSPE is authorized to investigate, he should record the same accurately as informed and transmit it to the SP of his Branch by quickest available means of communication for further necessary action. Whenever necessary, he should take adequate steps to preserve evidence or even take initial steps of investigation with the permission of the Branch SP.

10.15 Care should be taken to see that the FIR contains, as far as possible, full name along with father's name and other particulars of the accused such as age, place of residence and occupation, the scale of pay/group to which he belongs/date of superannuation, if he is a Government servant. The time and date of commission of the offence, the place of commission of the offence, the manner in which the offence was committed, full names and particulars of the witnesses, the motive alleged by the complainant for commission of the offence and, in cases

involving property, the details of property involved such as weight, make, design, distinguishing marks, etc. which may assist in its identification. In cases where the names of accused, or any of them, are not known, the complainant should be called upon to give description of the accused, which should be recorded along with the rest of the information.

10.16 In trap cases under Sections 7 and 13 of the P.C. Act, 1988, the FIR should be registered as soon as a *bona fide* complaint/information is received attracting the provisions of Sections 7 and 13 of the P.C. Act, 1988. After the trap materializes, investigation should continue under the same case number. If the offence is to be investigated by an officer of a rank, who cannot investigate the case without permission from a Magistrate, as contemplated under Section 17 of the P.C. Act of 1988, it will be necessary for the Investigating Officer to obtain requisite permission, from the Court soon after the case is registered. In case, the trap materializes, it will be necessary for the Investigating Officer, if he is below the rank specified in Section 17 of the P.C. Act of 1988, to report the developments to the Magistrate and obtain further permission for investigation of the offence of obtaining gratification other than legal remuneration punishable under Sections 7 and 13 of the P.C. Act, 1988 and of criminal misconduct punishable under Section 13(1)(d) read with Section 13(2) of the P.C. Act, 1988.

10.17 On receipt of an order of the Supreme Court/High Court entrusting a case to CBI, the Branch SP should immediately inform his DIG/JD and send a copy of the same to the DIG/JD without any delay. If the matter pertains to the functional jurisdiction of the Branch under his charge, the JD shall obtain orders of the DCBI through the Additional Director/ Special Director concerned for registration of the case. In case, the matter pertains to another Division, the DIG/JD will forward the order of the Court to the concerned Joint Director having jurisdiction for further necessary action. In urgent cases, a copy of the same may be faxed by the SP to the Joint Director concerned under intimation to his DIG/Joint Director. The Policy Division Circular No. 21/34/96-PD, dated 19-6-2002 prescribes the follow-up action to be taken in respect of such cases

10.18 In case of transfer of case from State Police or any other Law Enforcement Agency to the DSPE, the evidence or material collected during investigation by the concerned agency should be collected and analysed before taking up further investigation. The Case Diaries, including the statements of witnesses, details of places searched along with seizure memorandum, material objects/documents seized and/or sent to Forensic/Expert examination and their reports must be collected. The details regarding persons arrested and their current status must be gathered. It is also important to ascertain the details of petition(s) filed and orders of the Court, if any, passed during the course of investigation by the said agency.

10.19 The provision under Section 468 Cr.P.C., which prescribes the period of limitation for different category of offences, should be kept in mind while dealing with Regular Cases. As per provisions of this section, no Court shall take cognizance of an offence of the category specified in sub-section 2 after the expiry of the period of limitation. The period of limitation for different category of offences laid down in sub-section 2 are as under:

- (a) Six months, if the offence is punishable with fine only.
- (b) One year, if the offence is punishable with imprisonment for a term not exceeding one year.
- (c) Three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years

Closure of an FIR

10.20 Unless the investigation of a case is transferred to another Branch or to the local Police, no RC can be finally closed without the orders of the Magistrate or Special Judge having jurisdiction. In such cases the SP incharge of the Branch shall send the Final Report under Section 173 Cr.PC

with necessary papers to the Magistrate or Special Judge having jurisdiction for orders to close the case.

10.21 In respect of cases registered under Section 25 (1) read with Section 3(1) of the Antiquities and Art Treasures Act (No. 52 of 1972), no case will be registered in respect of any alleged antiquities till the opinion of the competent officer of the Archaeological Survey of India has been obtained on the point whether the items seized from the suspect were antiquities or not.

10.22 In any particular case of the categories mentioned above, if it is felt by the SP of the Branch that the matter should be enquired into by CBI notwithstanding the instructions mentioned above it should be referred to the Head Office for orders. Whenever, in accordance with the above instructions or otherwise, a decision is taken by any CBI Branch to refuse registration of a case on the complaint of a Department/Undertaking, a copy of the communication containing such refusal should be sent to the Regional Office along with the reasons for declining registration

Crime Register of RCs

10.23 Details pertaining to all Regular Cases and details of investigation will be entered in the CRIMES Module and/or in the Crime Register of the Branch. Care shall be taken to see that the entries in this Module are duly validated. It will be the responsibility of the Branch SP to ensure that the data entered in the CRIMES Module and/or in Crimes Register are made correctly. Similar records may also be maintained in the office of the DIG and the Joint Director.

10.24 Similar records may be maintained in CRIMES Module or a separate Crime Register in serial order for the requests for part investigation received from the other Branches of CBI. Regular Case diaries should be written by the I.O. concerned showing the result of investigation in such part investigations also. Two copies of the same should be sent to the concerned Branch and one copy on plain paper may be retained by the I.O. for record.

10.25 While the CRIMES Module has the facility to provide on-line Information about all Regular Cases to the regional and zonal offices, a Crime Register may be maintained till the system is fully functional.

Maintenance of Running Note-sheet

10.26 The Superintendent of Police or any other officer supervising a case shall maintain in the running note-sheet form, a brief record of the progress of investigation as disclosed from the Case Diaries and of the orders or directions issued while supervising the investigation. It will also incorporate the result of investigation, subsequent action, and final disposal of each case. Such running notes should not be maintained in a routine and mechanical manner. It should record the perception of the Branch SP in respect of the evidence gathered and further course of investigation.

Proposals for Searches

10.27 All proposals for searches, which require permission of the Regional DIG or Head Office, should be preferably written in hand/typed by the Officer himself and sent in '**secret**' name covers to the officer concerned. The proposals may be sent by the means which are completely secure so that secrecy is maintained. It shall be the responsibility of the sender to ensure secrecy thereof. For details, the chapter on Searches and Seizure may be referred.

10.28 After completion of investigation, the FR-I shall be prepared by the I.O. The Law Officer will give his recommendation through the FR-II. The Superintendent of Police would, thereafter, either pass final orders in respect of the cases within his competence or obtain orders from the Competent Authority by sending his recommendations to the DIG concerned. After receipt of orders of the Competent Authority, if it is decided to prosecute the accused, necessary sanction for

prosecution u/s 19 of the P.C. Act, 1988 and Section 197 Cr. P.C., as the case may be, if any required, may be obtained by the Branch SP by sending a SP's Report and the relevant records to the Competent Authority. On receipt of the sanction, the Investigating Officer will prepare a self-contained draft charge-sheet giving details of investigation conducted and evidence/charges against each accused person in respect of each allegation(s). The said draft charge sheet shall be vetted by the Law Officer of the Branch and the Branch SP and also by the DIG in important cases and would, thereafter, be finalized and signed by the I.O. and forwarded to the Court by the SP along with the statements of listed witnesses and original relied-upon documents/articles and the sanction for prosecution, under Section 173 Cr.P.C. In cases where the sanction for prosecution is not required, the I.O. will proceed with the preparation of the draft charge-sheet soon after receipt of the orders from the Competent Authority and will take other necessary actions as mentioned in this Manual and the instructions issued from time to time.

10.29 The directions contained in the Chapter of this Manual, which relate to Preliminary Enquiries, will also apply *mutatis mutandis* to the relevant areas of Regular Cases registered in the Branch.

10.30 The provisions of the Cr.P.C. shall be fully complied with by the Branches at all stages in the registration and investigation of RCs. A communication under Section 173(2)(ii) Cr.P.C. shall be sent to the complainant informing him whether the case has been chargesheeted in the Court or not after completion of the investigation.

10.31 In cases where it has been decided not to prosecute any person but to refer the case for Regular Departmental Action, a SP's Report will be forwarded to the Competent Authority, making necessary recommendations and thereafter a report under section 173 Cr.P.C. shall be submitted to the Court concerned stating that the case has been closed on the grounds that may be applicable. These grounds should be based on facts emerging from investigation. In the report under Section 173 Cr.P.C. it should be clarified that disciplinary proceedings have been recommended against the accused. The case property seized during such investigation, should be disposed of by the investigating agency after obtaining necessary permission from the Court.

**GUIDELINES FOR REGISTRATION OF PRELIMINARY ENQUIRIES AND
REGULAR CASES–PETTY CASES TO BE AVOIDED**

Cases of the following types shall not be registered, except where there are special reasons warranting a CBI Enquiry/ Investigation:–

- (i) *Cases relating to Railway Claims, movements or delivery of consignments without Railway Receipts etc. except when bribe is involved and a trap can be laid.*
- (ii) *Cases relating to minor thefts or loss of stores or temporary misappropriation.*
- (iii) *Cases relating to promotions or similar departmental matters where no element of corruption is involved.*
- (iv) *Cases relating to misuse of Railway Passes or obtaining passes on false pretexts.*
- (v) *Cases relating to Life Insurance involving non-medical test or non-accounting of premia, unless the amount involved is very large or there are a number of instances over a prolonged period.*
- (vi) *Cases relating to false T.A. including LTC unless false claims of this nature have been preferred repeatedly.*
- (vii) *Cases (covered by CBI Charter) registered and investigated by Local Police unless these deal with serious criminal misconduct on the part of senior officers and these are handed over very soon after registration.*
- (viii) *Cases relating to departmental irregularities where the department itself is conducting an enquiry or taking necessary action against the delinquent.*
- (ix) *Cases relating to misuse of Staff cars or Government vehicles or orderlies unless such misuse is extensive or repeated.*
- (x) *Cases relating to shortage of stores unless stores found short are of considerable value, i.e. Rs. 25 lac and above and a criminal offence is suspected.*
- (xi) *Cases relating to recommendations in favour of a firm when no mala fides are involved.*
- (xii) *Cases relating to failure to report property or monetary transactions or similar violations of conduct rules.*
- (xiii) *Cases relating to the issues of certificates to Passport applicants without knowing them but not involving mala fides.*
- (xiv) *Cases relating to shortage or losses where it is not possible to fix responsibility due to defects in procedure.*
- (xv) *Cases relating to acceptance of contributions for any religions or social purposes, when the contributors have no official dealings with the officer concerned.*
- (xvi) *Cases relating to negligence due to which the loss caused to Government is less than Rs.25 lac.*
- (xvii) *Cases relating to acceptance of below specification work when the loss caused is small and no mala fides are involved.*
- (xviii) *Cases of Public Sector Undertakings (other than Nationalized Banks) relating to fraud, misappropriation etc. below Rs. 25 lac.*
- (xix) *Cases pertaining to Nationalized Banks, even on specific complaints from the banks, relating to frauds, misappropriation etc. below Rs. 25 lacs, which may not involve bank employees or bank employees in collusion with private persons.*
- (xx) *Cases of Nationalized Banks relating to frauds etc. committed by private persons/companies unless these involve*
 - (i) *amount of Rs.50 lac or more;*
 - (ii) *inter-national and/or interstate ramifications or*
 - (iii) *frauds against several banks.*
- (xxi) *Furnishing or alteration of date of birth in service records except where it can be established that the suspect had deliberately furnished false date of birth or altered the date of birth for deriving some specific advantage like eligibility etc.*
- (xxii) *Allegations which have been the subject-matter of audit objections unless there is reliable Information to indicate corruption or mala fides.*

(xxiii) False declaration of caste, at the time of appointment unless it is for All-India Services or Groups 'A' or 'B' Services.

(xxiv) False claims relating to Leave Travel Concession or Children Education Allowance.

FIRST INFORMTION REPORTS–TO WHOM SENT

*Copies of the FIR should be sent immediately after registration to the jurisdictional Magistrate or Judge, as the case may be, and to the Investigating Officer. Besides this, the legible copies of the FIR should also be also sent to the following, in confidential covers, addressed by name:–

- (i) Regional DIG
- (ii) Zonal JD
- (iii) Director (Vigilance), Department of Personnel and Training, North Block, New Delhi, only if the accused are:
 - (a) *Officers of whom the Department of Personnel is the controlling authority.*
 - (b) *Gazetted or Commissioned Officers of the Central Government removable by the President;*
 - (c) *Members of Parliament*
- (iv) CVC in the following types of cases:–
 - (a) *Cases referred by the CVC to the CBI*
 - (b) *Cases against Gazetted Officers, Commissioned Officers even when on deputation with Public Sector Undertakings.*
 - (c) *Officers of Public Sector Undertakings in respect of whom CVC advice is necessary.*
- (v) Ministries and Departments concerned in respect of following cases:–
 - (a) *Cases involving Non-Gazetted Officers, Head of the Ministry/ Department concerned, as the case may be.*
 - (b) *Cases involving Gazetted Officers:*
 - (i) CVO of the Ministry concerned.
 - (ii) Head of the Department

*Copies of the FIR in CBI cases involving Commissioned and Civilian Gazetted Officers of the Defence Forces should be endorsed to following authorities:–

- (a) Cases involving Commissioned/ Gazetted Officers(Civilian):
 - (i) *HQ of Command concerned.*
 - (ii) *HQ of Formation concerned.*
 - (iii) *AG's Branch.*
 - (iv) *CVO of the Ministry of Defence.*
- (b) Cases involving Non-Commissioned/Non-Gazetted officers (Civilian):
 - (i) *HQ of Command concerned.*
 - (ii) *HQ of Formation concerned.*

*A copy of the First Information Report in all cases involving M.E.S. Officers (both Gazetted and Non-Gazetted) should be endorsed to the Engineer-in-Chief, Army Hqrs., DHQ P.O., New Delhi-110 011.

*First Information Reports regarding cases against employees of Border Roads Organization should be endorsed to the following authorities:–

- (i) Cases involving Gazetted Officers:

Chief Vigilance Officer,

Border Roads Development Board,

'B' Wing, 4th Floor, Sena Bhawan,

New Delhi-110 011.

- (ii) Cases involving Non-Gazetted Officers:

Director-General,

Border Roads, Seema Sarak Bhawan,

Naraina, Ring Road,

New Delhi.

*In case the suspect/accused person is a State Government employee, a copy of the FIR should be sent to the Head of Department/Secretary of the State Government concerned.

*Copies of the FIR in respect of cases against officers belonging to All-India Services serving in the State should also be sent to the Central Vigilance Commission, New Delhi, and the Department of Personnel, Government of India, for information in addition to the Chief Secretary of the State Government concerned.

*Copies of FIR involving Bank employees should be endorsed to the CVO of the concerned Bank, by name. If, however, the CMD of the bank is himself named as an accused in the FIR, copy of the FIR should not be sent to the CVO of the Bank and instead, it should be sent to the CVO of the Banking Division, Ministry of Finance

*Likewise, copies of the FIR involving employees of Public Sector Undertakings (PSU), Government of India should be endorsed to the CVO of the concerned PSU, by name. However, if the CMD of the PSU is himself named as an accused in the FIR, copy of the FIR should not be sent to the CVO of the concerned PSU and instead, it should be sent to the CVO of the concerned administrative Ministry.

*In respect of cases registered on the orders of High Court/Supreme Court, a copy of FIR be also endorsed to the Registrar of the concerned Court.

*** Each copy of the First Information Report should contain the indication of endorsements made to the other authorities.**
