

# Criminal Justice System

**Criminal justice** is the system of practices and institutions of governments directed at upholding social control, deterring and mitigating crime, or sanctioning those who violate laws with criminal penalties and rehabilitation efforts.

There are four people who play a key role in our criminal justice system. They are- **Police, Public Prosecutor, the defence lawyer, and the Judge.**

According to the Constitution, every individual charged of a crime has to be given a fair trial.

## **What is the Role of Police in Investigating a Crime:**

- (i) To investigate any complaint about the commission of a crime.
- (ii) An investigation includes recording statements of witnesses and collecting different kinds of evidence.
- (iii) If the police think that the evidence points to the guilt of the accused person, then they file a charge-sheet in the court. But whether a person is guilty or innocent, is decided by the judge and not the police.
- (iv) As everyone is subjected to law of land, including police. Therefore, police investigations always have to be conducted in accordance with law and with full respect for human rights.
- (v) Article 22 of the Constitution and criminal law guarantee to every arrested person the following Fundamental Rights.:
  - The Right to be informed at the time of arrest of the offence for which the person is being arrested.
  - The Right not to be ill-treated or tortured during arrest or in custody.
  - Confessions made in police custody cannot be used as evidence against the accused.
  - A boy under 15 years of age and women cannot be called to the police station only for questioning.

## **First Information Report (FIR) :**

- (i) Police can begin investigation into a crime only with the registration of an FIR.
- (ii) The law states that it is compulsory for an officer in charge of a police station to register an FIR when person gives information about a cognizable offence.
- (iii) FIR usually consists of the date, time, place of the offence, details of the offence which includes the description of the event. It also states the name & address of the complainant.
- (iv) Complainant have got the legal right to keep a free copy of the FIR from the police

## **Public Prosecutor:**

**Meaning of public prosecutor:** A law officer who conducts criminal proceedings on behalf of the state or in the public interest.

**Meaning of prosecution:** Carrying of legal proceedings against a person.

**What is the role of public prosecutor :**

- (i) In court, Public Prosecutor represents the interests of the State.
- (ii) The role of the Public Prosecutor begins once the police has conducted the investigation and filed the charge-sheet in the court.
- (iii) He must conduct the prosecution on behalf of the State.
- (iv) He is expected to act impartially and present the full and material facts, witnesses and evidence before the court..

**What is the Role of the Judge:**

- (i) The judge hears all the witnesses and any other evidence presented by the prosecution and the defence.
- (ii) The judge decides whether the accused person is guilty or innocent on the basis of the evidence presented and in accordance with the law.
- (iii) If the accused is convicted, the judge pronounces the sentence which can be sending the person to jail or imposing a heavy fine or both, depending on what the law prescribes.

**What is a Fair Trial:**

- (i) According to the Article 21 of the Constitution that guarantees the right to life which states that a person's life or liberty can be taken away only by following a reasonable and just legal procedure.
- (ii) A fair trial ensures that Article 21 of the Constitution is upheld.
- (iii) Every citizen, irrespective of his class, caste, gender, religious and ideological backgrounds should get a fair trial when accused. That means a judge cannot jump to the conclusion, instead, he have to remain impartial and then decide on the basis of the evidences.
- (iv) The rule of law says that everyone is equal before the law would not make much sense if every citizen were not guaranteed a fair trial by the constitution.

**1. ROLE OF THE POLICE.**

- The entire Judicial system in our country revolves around laws passed by the Union Parliament. After Laws are made, their enforcement us taken up by various government agencies.
- Police is the primary law enforcement Agency. Law enforcement essentially consists if two parts.
- One relates to investigation of facts concerning a crime, i.e., violation of a law. This is mainly looked after by the police. The second part relates to the prevention of the occurrence of crime itself and comes under the domain of the judiciary.
- Apart from investigating the facts of a crime, the other functions of police are as follows:

- Enforcement of law;
- Maintenance of law and order in the society;
- To prevent the occurrence of crime;
- To curtail the crime by all possible legal means;
- To detect and bring offenders to justice; and
- To 'serve and protect' citizens and their lives and properties.

## 2. ROLE OF THE JUDICIARY.

- In India the main role of the judiciary is to secure a state of peace and tranquillity by applying laws designed to ensure that those who violate it are detected, tried according to a regular legal procedure in a court, and thereafter dealt with as sanctioned by law.
- This could range from segregation of convicts- permanent through death penalty or for a fixed period in jail – from society...to correction and release back into the mainstream of society.
- The courts also help the smooth functioning of democratic governance by exercising constitutional limits on the extent of government power. Such limits include periodic elections, guarantees of civil rights, and an independent environment which allows citizens to seek protection of their rights and redress against government actions.

## 3. DIFFERENCE BETWEEN THE ROLES OF PEOPLE AND JUDICIARY.

- The court have a wider scope for action than the police. Law enforcement is primarily an exercise by which the police take due notice of a violation as soon as it occurs, followed by collecting all the facts including the offender's identity.
- The matter goes for trial before the judiciary where the facts, ascertained by the enforcement Agency, are presented by the prosecuting agency. During the entire proceedings in courts, the police have no role to play.
- The ultimate object of the judiciary is to secure peace and order in society. The role, duties, powers and responsibilities of the Police with special reference to prevention and control of crime and the maintenance of public order cannot be denied. It must conform to the overall requirements of the judiciary to succeed in its objectives.

## 4. ROLE OF THE PUBLIC PROSECUTORS.

- The underlying principle of the Indian Judicial system is that all crimes committed by an individual or groups against others are deemed to have been committed against society.
- The State acts to prosecute the accused on behalf of, and in the interests of, society.
- The Public Prosecutors is the government's legal representative, who is responsible for presenting the case against an individual suspected of breaking the law.
- In a criminal trial, it is the prosecution that charges the accused with a definite offence.

- In criminal cases, the 'burden of proof' lies on the prosecution. In other words, an accused person is deemed to be innocent until proved guilty, in Indian law.
- The Public Prosecutor's main aim is to play an impartial and neutral role and prosecute all persons who have been charge-sheeted by the police.
- The prosecution cannot be part of the investigation and the police cannot direct or be part of the prosecution.
- During the investigation stage, and till the filing of charge – sheet, the police have the control over the proceedings. Once the charge – sheet has been filed in the court, the Public Prosecutors takes over. However, a proper working relationship is desirable between the two.
- According to the new CrPC, the Public prosecutor is required to be an advocate with a minimum of seven years practice. The Supreme Court has defined the role and functions of Public Prosecutors in various ways on various occasions:

*“A Public Prosecutor is an important officer of the state government and its appointed by the state under the CrPC. He is not a part of the investigating agency. He is an independent statutory authority.”*

- A First Information Report, popularly known as a FIR, is generally a complaint of a cognizable offence, lodged by the victim or by victim or by someone else on his behalf to the police.
- After receiving the information, the police prepare a written document which is called a FIR.
- It is very important document because it sets the process of justice in motion.

*As per section 154 of the Criminal Procedure Code 1973:*

- When information about a cognizable offence is given orally, the police must write it down;
- A person giving information or making a complaint has the right to demand that the recorded information British read out to him;
- Once recorded, the FIR must be signed by the person who lodged it.
- It is the right of the lodger of the complaint to ask for a free-of-cost copy of the FIR.
- It is thus obligatory for a police officer to register a case as disclosed in the complaint in the complaint, issue the FIR and then to proceed with the investigation.
- When a FIR is registered against an accused, a copy of it is forwarded to the Court under provisions of the Code.
- In most cases, however, the police refuse to lodge a FIR despite knowing the rules of CrPC. Hence again, the role of the Court becomes important, since the judiciary can question the refusal of the Police to register a FIR and order them to do so as per the CrPC.

