

Punjab Police Access to Information policy

Need and Rationale

The right to information is now widely recognized as a fundamental human right. Resolution 59(1) of the UNGA states that: '*Freedom of information is a fundamental human right, the touchstone of all the freedoms to which the UN is consecrated*'.

The main theme behind the concept of freedom of information is that public organizations have an obligation to disclose information and every member of the public has a corresponding right to receive information. This right is unlimited unless there are legitimate privacy or security concerns. Where a public authority seeks to deny access to information, it must show that the information it wishes to withhold comes within the scope of these concerns.

The importance of information can be underscored by the fact that accountability of the police to the public in a meaningful manner cannot be exercised without a free and unrestricted flow of information. Further information is key to public participation in policing decisions and a movement towards community policing will be seriously jeopardized unless information becomes freely available. However the right to access information is frequently denied if not outrightly opposed. The reasons for opposing a free information regime are many and varied and include unjustified security concerns, evasion of accountability and safety from unnecessary and costly litigation. Another reason for moving towards a free information regime is that it is becoming increasingly impossible to hide information

The Punjab Policy has already committed to announce an access to information policy as a part of the Public Safety Reform Project¹ and the Human Rights and Gender sensitization Policy.

Principles regarding freedom of information

Derived from international and regional law standards, evolving state practice and general principles of law, the following things constitute freedom of information:

- i) Maximum disclosure: The public bodies should bear the onus of justifying refusal at each stage of proceedings. The law should ensure the protection of integrity and availability of record
- ii) Obligation to publish: Public bodies should be under an obligation to publish and disseminate key information
- iii) Promotion of open Government: Informing the public of their rights and promoting the culture of openness within the Government
- iv) Limited scope of exception: Exceptions should be clearly and narrowly drawn
- v) Processes to facilitate access: Requests for information should be processed rapidly and fairly and an independent review of any refusals should be available
- vi) Costs: Individual should not be deterred from making requests for information by excessive costs
- vii) Open meetings: Meetings of the public bodies should be open to the public
- viii) Disclosure takes precedence: Laws which are inconsistent with the principle of maximum disclosure should be amended or repealed

¹ Public Safety reform project is a project for developing a safer and more secure environment based on respect for human rights and equitable access to justice through police reform that is more responsive to the needs of poor and vulnerable people.

- ix) Protection for whistleblowers: Individuals who release information on wrongdoings must be protected

Freedom of information in Pakistan

The constitution of Pakistan does not expressly give a right of access to information; rather, it is implicit in the fundamental right to freedom of expression. Article 19 states *'Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by the law in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence'*.

The issue of public access to information has been discussed in the Qanun-i-Shahadat Order, 1984 and Article 87 of the Order says that ' Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefore, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies'

In addition to the constitutional mandates and the provisions of the Qanun-i- Shahadat Order, 1984 a detailed law on the subject of freedom of information was first promulgated in Pakistan in 1997 which lapsed. Another freedom of information ordinance was also enacted in September 2002 which continues to hold ground in view of the 17th amendment. The purpose of this legislation is not only freedom of information but transparency as well.

The salient features of the Federal Freedom of Information Ordinance are as follows:

- Free access to official records held by a public body of the federal government including ministries, departments, boards, councils, courts and tribunals.
- Applications for information must be responded within 21 days.
- Free access to official records allowed subject to an exceptions regime based on a harm test for international relations, law enforcement, and invasion of privacy and economic and commercial affairs of a public body.
- Specific permission to access public records recording policies, guide lines, transactions involving acquisition and disposal of property, licenses, contracts, final orders and decisions and other records as notified by the Government.
- Specific exceptions to access include noting on files, minutes of meetings, any intermediary opinion or recommendation, individuals' bank account records, defense forces and national security; classified information; personal privacy; documents given in confidence; other records decreed to be non-public by the government.
- Requirement for appointing an official to handle request who also have a concurrent duty to publish acts, regulations, manuals, orders and other rules that have a force of law, and maintain and index records.
- Requirement for computerizing public records within a reasonable time, subject to finances, to facilitate access.
- Provision of a mechanism to file appeals against decision of denials which include penal provisions
- Law made applicable notwithstanding the official secrets Act

Freedom of information Policy for the police

Keeping in view the legal framework noted above and the fact that the Freedom of information ordinance is not applicable to the Provinces, a policy has been framed so that the objectives of freedom of information are achieved. This policy is designed to approach the issue of access to information in a phased manner while continuing to be cognizant of the paramount need for transparency in the justice sector

Objectives

The Policy sets out the commitment of the Punjab Police to promote access to information and protection to people who use information for accountability purposes. The Policy deals with both substantive and procedural issues.

Guiding principles

In making information available the police shall be guided by the following principles

- All Information regarding the working of the police institution is within the public domain unless there are legitimate privacy , security or public interest concerns
- The Punjab Police will actively assist people in accessing and using information

Policy statements and components

- i. All information shall be deemed to be in the public domain except the following:
 - Information which is hit by legitimate privacy , security and law enforcement concerns
 - Noting on files, intermediary opinions or recommendations
- ii. Information shall be supplied on request except:
 - Where the law imposes an obligation to provide information without request or it is necessary to provide information without waiting for a request(see No v and vi)
 - Where the Information is of a general nature (see No xvii) and the same has been made freely available by posting on the web/ publication and dissemination of public information literature/posting of information notices in police offices.
- iii. Anonymous or pseudonymous requests for information shall not be acceded to.
- iv. Without prejudice to the generality of No i) the following information shall be provided to all applicants within a period of 3 days
 - Copies of First Information Reports
 - Copies of challans in courts
- v. The following information shall be provided to the following immediately and free of cost
 - Copy of Daily Diary Report to the person who has made the report.
 - Copy of the First Information report to the person who has made the report².
 - Information about arrest of a person to a person nominated by the detainee³
 - Copy of the list of items taken into custody as a result of a search under section 103(3) of the Code of criminal procedure to the occupant of the place searched.
 - Copy of list of all things taken possession of under section 102(3) ibid to the person searched.

² See Police Rules 24.5

³ See Article 4(1)K , Police Order, 2002

- vi. The information listed below shall be provided to the authorities mentioned against each within the mentioned timeline:
 - o Report of apprehensions of persons without a warrant to the Zila Nazim, District Superintendent of police and District public safety commission –within 24hours
- vii. The Punjab Police shall design formats for applying for information and institute them (after obtaining approval of the Government where necessary)
- viii. Requests for information shall be recorded by maintaining registers in each police office.
- ix. Information access officers shall be designated in CPO, Regional, District and PS level to process requests for access to information
- x. Information which has been pledged to be kept secret will not be disclosed e.g. information about involvement in criminality
- xi. Information shall be provided for free (see No v) unless it is impracticable or costly to do so. In such the Punjab Police will draft a schedule of fees for provision of copies and submit the same to the Government for approval.
- xii. Targets shall be fixed in each policing plan with regard to provision of information requests. Provision of information will be monitored on a regular basis.
- xiii. Information which is necessary for the performance of the working of public Safety Commissions shall be supplied to them
- xiv. Punjab Police will make police officers aware of their obligations regarding provision of information through awareness campaigns and periodic trainings
- xv. Integrity of information will be ensured.
- xvi. Unauthorized destruction of records/information with the intention to evade accountability shall be proceeded against in accordance with law including criminal action
- xvii. The following information shall be deemed to be information of a general nature and shall be made available by posting on the web/ publication and dissemination of public information literature/posting of information notices in police offices.
 - o Police rules
 - o Standing Orders of the Inspector General of Police
 - o Police procedures regarding permission for holding public gathering/ rallies/ fairs etc
 - o Police procedures regarding change of investigations
 - o Procedure for registration of FIR
 - o Procedure for intimation of incident reports
 - o Criminal statistics
 - o Orders under section 144 Cr.PC
 - o Copies of local policing plans
 - o Information regarding property seized by the police as unclaimed

Action Plan for implementation

- Punjab Police will place all information of a general nature on District and Punjab Police web sites by December 2007
- Punjab Police will prepare and publish leaflets for access to information procedures. These will be available with all Information Access Officers, Station House Officers and other designated police officers.
- An awareness campaign regarding access to information procedures will be implemented by December 2007.
- Punjab Police will design formats for requesting for information and institute them by December 2007
- Information request registers shall be placed in all police offices by end of 2007.

- Punjab Police will designate Information access officers by June 2007
- Information boards will be installed by June 2007 in all police offices. The Boards will carry important information regarding police processes.
- Punjab Police will establish systems and procedures to periodically monitor its performance with regard to access to information under this policy
- The Punjab Police will publish data regarding requests for information received and granted.
- Punjab Police will prepare and implement procedures pertaining to records management by December 2008
- Punjab Police will publish its annual report by December 2007.
- Punjab police will computerize all police records and provide computer connectivity all over Punjab by June 2007.
- Punjab Police will prepare procedures for the use and storage of E-mails by June 2007