



Police custody refers to the detention of an individual by law enforcement officers for the purpose of investigation or prosecution for a criminal offense. The police must ensure that the individual is available for questioning and potential prosecution and must also prevent the individual from fleeing or committing further crimes while under investigation. Police custody protects the public and the integrity of the investigation. Generally, a person is taken into custody via the act of arrest by a police officer with legal authority.

Article 21 of the Indian Constitution states that no person shall be deprived of their life or personal liberty except according to a procedure established by law. This means that no individual can be arrested or detained without due process and that any arrest or detention must be in accordance with the laws and procedures established by the government.

Considering the same, the Hon'ble Supreme Court took cognizance of the letter sent by DK Basu, the Executive Chairman of Legal Aid Services, West Bengal drawing attention to news regarding violence and deaths in police custody and lockups. The result was the most landmark case of criminal jurisprudence, D.K. Basu vs. State of West Bengal^[1], which laid down specific procedures and safeguards to be followed in case of arrest and detention. The case has been widely cited as a significant step in the protection of the rights of individuals against arbitrary arrest and detention by the police.

The 'Basic Requirements' for Arrest and Detention

The DK Basu Guidelines were laid down in the case about the basic requirements to be followed when the arrest of a person is made. The 11 prominent guidelines are as follows:

1. Identification: Every police officer shall wear, accurate and clearly visible

on his uniform, identification and name tags while arresting or interrogating a suspect. The details of all police officers who are interrogating suspects are required to be recorded in a register.

2. Memo of Arrest: Every police officer making an arrest is required to prepare a memo of arrest at the time of arrest, which shall be attested by at least one witness. Such a witness may be a family member of the arrested person or any respectable person in the locality of the arrest of the person. The memo must include the time and date of arrest and such memo must be counter-signed by the arrested person as well.
3. Information of Arrest: The arrested person is entitled to have one friend or relative, acquaintance, or well-wisher informed, as soon as practicable, that he has been arrested and is being detained at the particular place unless such friend or relative is also the witness who attested the Memo of Arrest.
4. Information of Arrest to a person outside the district: In the event such a person to be informed lives outside the district of the police station where the arrestee is detained, the police are required to inform such person of the details of the arrest including time, place of arrest and place of custody through a telegram to be sent via the concerned police station and the District Legal Aid Authority.
5. Informing the right to the Arrestee: The arrested person is required to be informed of the grounds of arrest, as also under Article 22(1)[2] of the Indian Constitution, and of his right to have a relative or friend informed of the arrest. This must be done as soon as the police arrests the respective person.
6. Diary Entry: An entry in the Diary is required to be made at the place of detention. It must include the details of the arrest, the name of the friend or relative, or other individual informed of the arrest, along with the names and details of the police officials holding the arrestee in custody.
7. Inspection Memo: The arrestee, at the time of arrest, has a right to request a physical examination for any minor or major injuries, and such injuries must be recorded at that time. This is to be mentioned in the Inspection Memo and is required to be signed by both the arrestee and the police officer who made the arrest. The arrestee is also entitled to receive a copy of this memo.
8. Medical Examination: The arrestee is required to undergo a medical examination every 48 hours during the period of detention. Such examination must be conducted by a trained doctor, one who is on the panel of approved doctors, as appointed by the Director of Health Services of the respective State.
9. Copies of documents to Illaqa Magistrate: The police are required to send a copy of all documents about the arrest, including the Memo of Arrest, the Inspection Memo, and all other documents mentioned, to the Illaqa Magistrate for their records.
10. Right to Lawyer: The arrestee has the right to consult and be defended by a legal practitioner of his own choice, as also provided by Article 22(1)[3] of the Indian Constitution. The police are required to allow him to meet with such a lawyer during interrogation, albeit not throughout.
11. Police Control Room: All district and state headquarters are required to have Police Control Rooms. The officer making the arrest is duty-bound to inform the control room regarding the details of the arrest and the place where the arrestee is kept in custody. This must be done in all cases of arrest and

within 12 hours of arrest. The notice board of the control room should display such information correctly and clearly.

Conclusion

The Court encouraged the heavy broadcasting of these requirements through media, and the police stations were also obligated to display all the guidelines clearly. If such guidelines are not followed, the officer shall undergo departmental action as well as be liable for punishment of contempt of court.

These guidelines are in addition to several other rights such as the right to be presented before a Magistrate within 24 hours post-arrest, to not be tortured while in custody, and so on. These guidelines ensure individual rights and liberties, even for the person arrested, and are crucial to be followed in accordance with the spirit and the principles of the Constitution of India.

[1] D.K. Basu vs. State of West Bengal, AIR 1997 SC 610.

[2] Article 22(1), Constitution of India, 1950.

[3] Article 22(1), Constitution of India, 1950.

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