

**ANNUAL REPORT OF THE
STATE POLICE ACCOUNTABILITY
COMMISSION, ASSAM
FOR THE YEAR 2008.**

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COMMISSION
ASSAM, DISPUR, GUWAHATI - 2008.**

The State Police Accountability Commission, Assam, came into being in December, 2007, as per Govt. Notification No HMA 833/2007/51, dated 17.12.2007 issued under the Assam Police Act,2007(Chapter VIII of the Act), with the following Members :

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|---------------------------------------|----------|
| 1. Justice Shri D.N.Choudhury (Retd.) | Chairman |
| 2 . Shri D.N.Dutt. IPS (Retd.) | Member |
| 3. Shri D.N.Saikia, IAS (Retd.) | Member |
| 4 .Prof. Mrs. Jahanara Saikia (Retd.) | Member |

I) The Commission, consisting of the above members, accordingly met at the residential office of the Chairman on 8th January,2008 and discussed the modalities with reference to the mandate of the Commission and resolved to move Government immediately for allocating suitable office space for the Commission and the necessary support staff as envisaged in the Assam Police Act,2007, to enable it to start functioning with immediate effect. (Minutes of the meeting is at **Annexure-I**).

II) The Commission held its second meeting with the senior officers of the Home and Political Department on 21.01.2008 to discuss ways and means to make the Commission functional (Minutes of the meeting at **Annexure – II**) .

III) The third and fourth meetings of the Commission were held on 4.2.2008 and 13.2.2008, respectively, primarily to discuss administrative and functional matters.(Minutes of the meetings are at **Annexure III & IV**). It was decided in these meetings that till a permanent office space for the Commission was made available by the Government, the Commission would sit every Wednesday at the Guwahati Circuit House between 11.00 AM and 1.00 PM for benefit of the public to submit their complaints. Besides, the Commission also undertook to meet at the residential office of the Hon'ble Chairman whenever convenient and expedient to transact its business. Subsequently the Commission's office started functioning from a few rooms located inside the Janata Bhawan , Dispur (Old Building), but a devastating fire at this site on the 10th of September ,2008 , effectively terminated this ad-hoc arrangement.

IV) During the month of January and March, 2008, the Commission had several sittings in order to evolve a methodology specifically aimed at achieving the objectives set out for the Commission. In order to do so, the Commission had wide ranging discussions with a cross-section of people that included retired police officers, bureaucrats, academicians, leading public figures, Chairperson of the State Commission for Women and others.

V) The Commission also held a meeting with all the Senior Officers of the State Police Administration on 19-4-2008 (Minutes of the meeting at **Annexure V**) to share the concerns expressed by different individuals and public representatives and also to sensitize them to the expectations of the community to whom they are accountable as much as they are accountable to the Law. These discussions conveyed to the Commission a fair idea of the enormous expectations of the public from the police and the simultaneous disillusionment that is occasioned by the popular perception of the police having failed to deliver on their mandated responsibility of adherence to the Rule of law and of upholding the public good. The common view was that it was necessary to ensure that police officers particularly the officers in-Charge of police stations and their supervisory officers are aware of public expectations and are capable of attending to public complaints and grievances with a degree of tact, patience, objectivity and impartiality. The Police Station represents the cutting edge level at which the members of the public interact with the arm of the law and the manner and sincerity with which the police at the P.S. level respond to the complaints of the public will go a long way in establishing the credibility of the police force which is mandated to serve the community.

It is widely believed that the question of accountability to the people has perhaps not been taken seriously enough by either the political or police leadership as a result of which the use of third-degree methods and custodial deaths have been on the rise. The use of brute force of the police by elected representatives, on people agitating against misgovernance or some other cause has been eroding police accountability both to the people and to the law.

The Commission is of the view that there is need for the police administration to take up a public awareness campaign through the use of billboards in police stations /police offices throughout the State about the rights of the people and obligations of the police.

In this regard the Commission is of the view that it is imperative for the State Govt. also to activate its publicity department through both the electronic and print media to give wide coverage to the aims and objectives of the Commission and correspondingly to the obligations and responsibilities of the police force. The Commission also suggests that the State Govt. publish booklets/ pamphlets/ leaflets in both English and the vernacular language setting out these objectives and distribute the same to all the District Deputy Commissioners and Superintendents of Police. The formulation of police powers, the way the police are recruited, trained and supervised, the policies which determine how they are deployed and the extent to which they are seen to be responsive to community needs and aspirations, are all factors which will have a determining effect upon public confidence and respect for the police force which serves them.

VI) Commencing from the month of February, 2008, a total of 67 cases have been registered with the Commission as of 31.12.2008. Out of these 67 cases, one was enquired into suo-moto in connection with the Salary Scams in the 3rd and 10th APBn. The State Commission for Women and the Child Welfare Committee, Guwahati also referred one case each for consideration of the Commission. The remaining cases have been received from the public. The nature of these cases and their present status is shown below:

Sl. No.	Nature of complaints received	No. of cases registered	No. of cases Disposed of	No. of cases Under enquiry	Remarks.
1	Non registration of FIR	6	3	3	The Commission has during the period of its functioning drafted the Assam State Police Accountability regulations in exercise of the powers conferred by section 77 of the Assam Police Act,2007 (Act. 70 of 2007) for conduct of its business and submitted the same to the Govt. of Assam. The Govt. of Assam has, in pursuance of this, been moved by the Commission to frame the Rules governing these draft regulations so as to make the Act workable but action on this
2.	Police in-action after registration of FIR/Non Registration of cases	8	5	3	
3.	Un-authorized detention	8	4	4	
4.	Police involvement /inaction in land related matter	11	5	6	
5.	Failure to apprehend accused persons/	9	3	6	

	release of accused persons without proper investigation				is still forthcoming. Govt.'s attention is herewith again drawn to this matter for urgent action. During the year under review, the Commission also received a number of complaints which it could not entertain as per proviso of the Assam Police Act, Section 87, as these, on preliminary enquiry, were found to be already under examination by the courts or by some other Commission like the Assam Human Rights Commission etc.
6.	Alleged involvement of police in illegal coal trade.	1	1	x	
7.	Wil ful misdeed in recording FIR.	1	X	1	
8.	Police harassment/ assault.	12	2	10	
9.	Corruption in the Directorate of State Fire Service Orgn.	1	X	1	
10.	Other misc. cases.	9	6	3	
11.	Suo-Moto case.	1	X	1	
Total		67	29	38	

1). The present position as of date of some notable cases of serious misconduct which were reported to the Commission as envisaged in Sec. 78 of the Assam Police Act, 2007 are enumerated below along with the orders passed by the Commission on each. These cases are only illustrative and not exhaustive.

CASE SUMMARY
NON-REGISTRATION OF FIR

Case No. 03/2008, Complainant – Miss Dolan Choudhury, Tezpur.

The Complaint : In August, 2007, the complainant lodged an FIR with the Tezpur PS against one Shri Tapan Ganguly for allegedly trespassing into her residential compound, damaging house property and forcibly occupying a part of her house. But the O/C, Tezpur P.S did not register the FIR on the ground that on an enquiry they have found that the property belongs to Shri Tapan Ganguly.

Follow up action :- The Commission referred the matter to the SP, Sonitpur, for enquiry and report. The enquiry report submitted by the SP, Sonitpur was not found satisfactory as it did not address all the points raised by the complainant. So, the SP, Sonitpur was summoned to appear before the Commission On 23.4.2008 with relevant

records of the case. Accordingly the S.P. presented himself before the Commission on 23.4.08 and informed that the O/C Tezpur has received another FIR the previous day i.e, 22.4.2008 from the complainant and has registered a case vide . Tezpur PS Case No.283/08.

Decision of the Commission :

Although the first FIR lodged by the complainant also disclosed a cognizable offence, the Commission decided to close the proceedings in view of the fact that a case has already been registered on the second FIR.

Case No. 35/2008, Complainant – Md. Dulaluddin, Doboka, Nagaon.

The complaint :

The complainant Md. Dulaluddin approached the O/C Batadravas PS on 26.5.2008 to lodge an FIR in connection with missing of his married daughter from her in-law's house since 23.5.08 and suspected to has been killed by the latter. But the O/C Batadravs PS allegedly demanded money to register the FIR. The complainant, then, lodged the FIR in the Office of the S.P.Nagaon and thereafter met the O/C, Batadrava with a copy of the FIR same day for further action. To that the O/C asked the complainant to come after three days .On 2.6.08 the complainant contacted the O/C over telephone to know the progress of the case and in response he got threats of dire consequences in abusive language. The O/C however did not register the FIR till filing of the complaint before the Commission on 18.6.2008.

Follow up action :

The matter was enquired into through the S.P.Nagaon which revealed that the O/C, Batadrava PS initially did not register the FIR. It was after a month i.e, on 24.6.08 he registered a case vide Batadrava PS Case No. 50/08 u/s 498(A)/302/201 IPC and endorsed the case in the name of SI, Sarat Chandra Nath for investigation. During investigation the I/O arrested one of the FIR- named persons and forwarded him to Judicial Custody. The other accused were reportedly found absconding. It has also been informed that a departmental proceeding has been initiated against SI, H.Ahmed, O/C Batadrava PS for negligence of duty.

On consideration of the complaint and the enquiry report the Commission summoned the SI H. Ahmed to appear before the Commission on 26.11.08 for hearing. In his deposition before the Commission, the Officer admitted that he did not initially register the FIR as the complainant himself requested him to

keep it pending for some time . He also denied the allegation of demanding money for registration of the FIR. As regards Disciplinary Proceedings he is stated to have received a notice and meanwhile he has been transferred to Rupahihat PS.

Decision of the Commission :

The Commission is in the process of examining further evidence in the case before delivering its final verdict.

UNAUTHORISED DETENTION IN POLICE CUSTODY :

Case No. 05/2008, Complainant - Shri Satyendra Nath Das, Guwahati.

The Complaint : On 10.10.2007 Md. Samsul Ahmed, SI, of Noonmati PS called the complainant to appear before him at the PS. When the complainant Shri Das reported before the officer at 10.30 AM same day, the officer without assigning any reason started rebuking the complainant using derogatory words and detained him in the PS till 8.30 in the evening. During this period the officer allegedly assaulted and manhandled the complainant and tried to put him in the lock up.

Follow up action :

On perusal of the complaint the Commission ordered an enquiry through the SSP, City, Guwahati. In the initial report the SSP, City informed that on the basis of an allegation filed by one Shri Krishna Singh against Shri Das the latter was called to the PS for ascertaining the facts but denied the allegations of any sort of harassment or unauthorized detention of the complainant. On the contrary, Shri S.N.Das in his deposition made before the Commission refuted the allegation made by Shri Krishna Singh and the report submitted by the SSP, City. He further alleged that SI, Ahmed has a secret nexus with Krishna Singh in illegal business of Diesel Oil in the area for several months. Shri Das has also submitted a Sworn affidavit to this effect. However, at the direction of the Commission the Addl. S.P. City conducted further enquiry in the matter and submitted his report before the Commission through the SSP, City. During the enquiry the ASP, City, visited the place of dispute, recorded statements of witnesses and examined the documents in the PS. According to this report Shri Krishna Singh was running a garage on the land owned by Shri S.N.Das. After 5/6 months, due to some differences, Shri Das asked Krishna Singh to vacate the garage but Shri Singh was reluctant to do so and since that date the garage was under lock and key. About Shri Das's claim of submitting prayers before the Noonmati PS seeking help to get his garage vacated it is stated no such petition could

be found in the PS. On the other hand all most all the witnesses have stated that Shri Krishna Singh used to buy diesel from different trucks and sell them to interested buyers. But the alleged involvement of

SI, S.A.Ahmed in the matter could not be proved. In the concluding part of the report it is stated that the allegation of manhandling and detaining the petitioner till 8.30 PM on 10.10.07 by SI S.A.Ahmed could not be proved. It has however been gathered in course of interaction that Mr. Ahmed might have passed some derogatory remarks on the age of Shri. Das relating it with the age of his children and wife which must have hurt Shri. Das. But the allegations brought against SI, Ahmed are not proved due to lack of evidence.

Decision of the Commission :

On perusal of the complaint, the enquiry reports and deposition made by the complainant , the ASP, City and the then O/C, Noonmati PS,Md. SA Ahmed the Commission took exception to the fact that SI Mr. Ahmed called the complainant to the PS ostensibly under the power given to him U/S 161 Cr.PC. This particular section of the Cr.PC refers specifically to examination of witnesses by the police and not the complainant. The SI, Md. SA Ahmed has been suitably admonished by the Commission for this serious lapse. The DGP, Assam, has also been requested to caution the said officer and thereby all the Officers in charge of Police Stations for guidance.

Case No. 13/2008, Complainant – Dimbeswar Handique, Lakhimpur.

The Complaint :

On 15-4-2008 one Mrs. Raju Chetia of Vill- Bakisha, P.S. Dhakuakhana telephonically complained to the Lakhimpur P.S. that her domestic hen had been stolen & killed by a boy named Monoj Lagasu . On the basis of this telephonic complaint S.I. Prabin Gogoi of Lakhimpur P.S. arrested the boy from the house of the complainant without any written F.I.R. in absence of the latter and took the boy to the P.S. The boy was kept in the Police lookup over the night (about 12 hours) and badly beaten by the said S.I. The complainant was away from home at the time of the incident. So, as soon as he got the information, he rushed to the P.S. and requested the authority to forgive and release the minor boy and offered to pay the

compensation for the hen. But the S.I. P.Gogoi allegedly ignored it and drove him out of the P.S. asking him to bring Rs. 50,000/- for release of the boy. He also stated that the matter has to be discussed with the SDPO Mr. Patric Ranghang.

Follow up action :-

The matter was referred to the SP, Lakhimpur for enquiry. .

According to the enquiry report, on 15-4-2008 at about 6/6-30 P.M. Shri P.Ranghang SDPO, Dhakuakhana received the complaint from Smt. Raju Chetia over telephone and directed the S.I. P. Gogoi over telephone to initiate necessary steps. At 10.00 P.M. the same day the S.I. reported to the O/C along with the accused Monoj Lagasu (14). On 16-4-2008 at 06.45 A.M. the said S.I. informed th O/C that the detained boy had been released due to lack of evidence.

The report also denied the allegations made against S.I.P.Gogoi of Lakhimpur P.S as no officer by that name & rank was posted at Lakhimpur P.S. on that date. As regards SI, P.Gogoi of Dhakuaknan PS the allegation of demanding Rs. 50,000/- could not be substantiated for want of evidence/ witness.. It has however been admitted that the boy was detained in the PS for interrogation but the allegation that he was assaulted by the said officer is stated to be false “ since the boy was medically examined on 16.4.2008. About Shri P. Ranghang SDPO, it is stated that his role was confined merely to directing the S.I. to initiate action and not beyond that. The S.P. also referred to some other dispute between the complaint & ShriDulu Chetia and Smti. Raju Chetia (P.S. case No. 68/08 U/S 379 IPC) and concluded that the incident explicitly showed that the complainant was driven by vengence and is of a vindictive nature. But the report failed to address the vital question of violation of the Juvenile Act by detaining a minor boy in the PS overnight.

Decision of the Commission :

On examination of the report the Commission served a notice to the SP, Lakhimpur requiring him to show cause as to why action should not be taken against the SI (UB) Probin Gogoi for alleged detention of a minor by in the lock up without valid reason.

In his reply to the show cause notice the SP, Lakhimpur stated that the “...accused person was a minor boy aged about 14 years. He was kept in the PS for the night was a serious violation of law in respect of Juvenile Act. SI, Probin Gogoi is

responsible for the act done by him.....As Monaj Lagasu is a minor boy, Probin Gogoi deserved suitable punishment as deem fit.”

The Commission has served another notice to the S.P.Lakhimpur requiring him to explain the contradictions detected in the reports.

Cases on land dispute.

Case No. 39/2008, Complainant – Haresh Ch.Uzir, Guwahati- 22

The Complaint : The petitioner Haresh Ch. Uzir filed a complaint before the Commission on 18-6-2008 to the effect that he had purchased a plot of land with a two storied house at Panjabari, Guwahati from one Shri Binod Gogoi. It was, however, agreed upon by both the parties that Shri Binod Gogoi will handover possession of the land and house within March,2008. Accordingly on 28-3-2008 when Shri Uzir went to meet Shri Binod Gogoi in the said house, Smti Geeta Borgohain, W/O- Binod Gogoi informed Shri Uzir that Binod Gogoi is missing since 26-3-2008 (Evening) and his where about could not be ascertained yet. Subsequently, whenever Shri Uzir approached Sm. Geeta Borgohain to get possession of the property he was allegedly threatened by taking the name of the Dy.S.P. City Shri D. Deori and of possible arrest by the Noonmati P.S.

Follow up action :-

In consideration of the growing number of land dispute cases in the City as in the instant case the Commission decided to request the S.S.P. City to clarify the position to the Commission personally. Accordingly on 9-7-2008 Shri V.K.Ramisetti, Sr. S.P, City presented himself before the Commission. In his deposition the Sr.S.P. admitted that the instant case is a genuine one wherein the petitioner has been deprived of his legitimate property by unscrupulous individuals having some God father either in the administration or some political circles. He however assured to look into the matter personally and ensure that there is no Police interference and threats by Police at any level of Civil disputes of this nature.

Decision of the Commission :-

Prompt action on the part of the Sr. S.P, City has enabled the complainant to get back his property and thus the Commission decided to close the proceeding.

Case No. 17/2008, Complainant – Smti Sushila Devi, Goalpara.

The Complaint : The Complainant has been the absolute owner and possessor of a plot of land measuring 2 B, 1 K, 14 L at village Dakurvitha, Balijan Revenue Circle of District Goalpara. This land was acquired by the Govt. in favour of 1st APTF Bn. Dakurvitha vide LA Case No. 46/94-95 fixing the value of the land for Rs. 61,856/-. But there was no effort on the part of the L.A. Authority to pay the land compensation to the owner of the land. After waiting for long 5 years the complainant sought refuge of the Hon'ble Gauhati High Court and filed a writ petition Vide WP(C) No. 7280/2000. On 10th of June 2004, the Hon'ble High Court passed judgement and an order as follows :

- (a).....the respondent will immediately and within 30 to 45 days from to day will get an enquiry done by a competent officer and get a report submitted on the claim of the petitioner.
- (b) If it is found that there is need of the acquired land, the process of acquisition will be completed forthwith and award of compensation be released.
- (c) If there is no need for the land , the saeme may be returned with adequate compensation, if any.

Steps / direction (b) and (c) to be completed within next 60 days.

But as the authority failed to respond to the Court Order in four years the complainant approached the Commission for redressal of her grievances.

Decision of the Commission :

The Commission on anxious consideration of the matter found the grievances genuine and it was obvious that the petitioner has not got the relief even after intervention of the Court and its directives to the concerned authorities. In the circumstances, the Commission decided to apprise the DGP of the matter and request him to urgently take up the matter at his level and take appropriate measures as per law. The DGP's compliance report is still awaited.

ILLEGAL COAL SYNDICATE.

Case No. 08/2008 Complainant – Shri Tikendrajit Phukan, Charaideo.

The Complaint : Shri Tikendrajit Phukan, a retired Police Officer and practicing advocate of Charaideo court sent a letter supported by a news paper clipping and alleged violation of the provisions of Assam Police Manual in respect of posting of Shri Punaram Gogoi, Officer in Charge, Simaluguri PS.

As per news paper report (Pratidin dated 8.01.2008) a coal syndicate had been operating at Bihubor, Simaluguri (Dist. Sivsagar) in collusion with the O/C Simaluguri PS, Shri Puna Ram Gogoi, Ssshri Dwijen Das, DTO and some other businessmen under the aegis of a few Ministers of the State Govt. and a former MLA.

Follow up action : In view of the serious nature of the accusation the Commission sought a report from the DGP, Assam. At the instance of the DGP, Assam the DIGP (ER) personally enquired into the matter and submitted a report supported by the statements made by SI, Puna Ram Gogoi, O/C Simaluguri PS; Shri Dwijen Das, DTO,; Shri Suresh Konwar, Coal businessman and others. He is also said to have interacted with some truck drivers and local businessmen.

The summary of the enquiry report is as under :

1. Shri Punaram Gogoi, SI, is continuing as O/C Simuluguri PS from 4/5/98 till date with a short break from 290/10/99 to 3/6/2001 and 26/12/2005 to 20/7/2006.
2. On an average 25 trucks pass through Bihubor and Simaluguri daily during
The season (March – November).
3. There is no formal check gate in Bihubor and Simaluguri.
4. Shri Punaram Gogoi and Shri Dwijen Das denied the allegation of collecting money from coal tucks and harassment of coal traders.
5. One of the witnesses stated that some times truck drivers pay Rs. 50/- to the Police for tea etc.
6. The existence of any coal syndicate at Simaluguri could not be verified because at the time the enquiry was conducted it was 'off season' for coal trade.

7. The tenure of Shri Puna Gogoi, SI as O/C Simaluguri PS is comparatively more than the usual tenure but posting is decided by SP of the District. So, he can not be blamed for his long tenure.
8. It is difficult to collect evidence of extortion of money by Police in the off season.

In view of the above, the Commission arrived at the conclusion that the tenure of Shri Punaram Gogoi as O/C Simaluguri was far in excess of the usual tenure and in direct breach of the provisions of the Assam Police Manual. The allegations admittedly are of a serious nature which require a detailed probe. However, before issuing the final order the Commission offered the DGP, Assam, an opportunity to present the Departments view and/ or other materials / facts to enable the Commission to take appropriate measures as per law.

In response to the Commission's interim order the DGP, Assam, viewed that SI Puna Gogoi has been posted as O/C Simaluguri PS as he is good and effective in maintaining law and order there. He also agreed with the detailed report submitted by the DIGP(ER) in the matter.

Decision of the Commission :

On perusal of the views offered by the DGP, Assam, the Commission observed that while the DIGP (ER) had refrained from making any comment on the unusually long tenure of SI Punaram Gogoi in the same PS stating that the posting is decided by the SP of the district, the DGP, Assam has justified this on the ground that “..he is good and effective in maintaining law and order there”. This justification does not, in any way mitigate the serious allegations levelled against the officer. Further the enquiry conducted by the DIG (ER) is by itself incomplete and there is a kernel of truth in the allegations which are of a serious nature and require a detailed probe.

In the circumstances the Commission has advised the DGP, Assam to direct the SP, Sivsagar to register a criminal case on the basis of the news paper report and also to transfer the O/C, Simaluguri PS, Shri Punaram Gogoi who is the one complained against as being involved in the illegal coal trade in the interest of a fair investigation.

2) **Suo-Moto** case relating to the APBn. salary Scams of the 3rd and 10th APBns. and orders passed thereof by the Commission are as below :-

On 19.2.2008 the attention of the Commission was drawn to a news item published in the local Daily ' The Assam Tribune' under the caption "Salary Scam Probe Loses momentum" relating to the Titabor P.S. Case No. 79/2006 and CID P.S. Case No. 38/207 in connection with excess drawal of Government funds against Salary Head either against vacant posts or against pay bills of the existing staff which were allegedly drawn and misappropriated by the officers and staff of the said APBns. The Commission took suo-moto cognizance of the cases and issued notices to all concerned including the DGP, Assam. The Commission however, despite all efforts did not discern any serious effort on the part of the Department to remedy the unwarranted dilatoriness of the investigation in both the cases involving senior Police Officers alleged to be associated in the matter of alleged misappropriation of public money.

In the considered opinion of the Commission, the State CID which was charged with the investigations has failed to address itself with any seriousness to the gravity of the matter which has serious connotations of corruption in the Police Department and a total lack of accountability to law on the part of the senior officers concerned. The obvious reluctance of the Department to part with information specifically relating to the conduct of these cases and that too, to a statutory body like the State Police Accountability Commission is unfortunate. Needless to state that the State Police Accountability Commission's mandate under the Assam Police Act, 2007 is to ensure speedy completion of such enquiries and investigations involving the Police Department and as per relevant provisions of the Cr.P.C. as well as the Assam Police Manual (Part V) it is mandated that every investigation shall be completed with utmost expeditiousness. Under the circumstances, the Commission decided to discuss the matter with DGP (CID) in order to elicit his views on the specific queries relating to the conduct

of the investigation of the above cases. The DGP (CID), Assam, was accordingly requested to make it convenient to the Commission's meeting on 22.10.08 but for one reason or another, the DGP (CID) failed to apply the direction. The Commission has taken adverse notice of this deliberate dilatoriness of the investigation into both the cases under review and placed on record its dissatisfaction with both the conduct and progress of the investigations. However taking note of the gravity of the problem and the urgent need for preservation and strengthening the rule of law, the Commission is not inclined to wait any further and thought it proper to leave the matter at the door of

the Government to enable it to look into it with the seriousness it deserves and also to ensure, in the public interest, expeditious investigation of the above mentioned cases and condign punishment meted out to those found guilty. The Commission also hopes that by such positive actions the State Govt. would send out a strong message to Govt. functionaries that corruption, especially in high places would not, under any circumstances, be countenanced.

(3) District Accountability Authorities :-

The Assam Police Act,2007 envisages vide section 84, the establishment, in each police district or a group of districts in a police range, a District Police Accountability Authority to enquire into cases of complaints of serious misconduct against police personnel. The Commission regrets that, even after a year of its functioning, the District Police Accountability Authorities have not been set up by Govt., which has had the effect of seriously limiting its capability to ensure that public complaints against police malfeasance are heard at the appropriate levels of authority and conveyed expeditiously to the Commission for action. The District Accountability Authority is an essential component of police accountability as per the scheme of the Act. The Act has been enacted to provide for impartial and efficient police service safeguarding the interests of the public and thereby making the police force professionally organized , service-oriented and accountable to law. It is imperative therefore that the District Police Accountability Authorities are set up at the earliest to enable the Commission to discharge its functions in a proper manner in accordance with public expectations.

(4) Identifiable Patterns of Police Misconduct in the State :-

A close scrutiny and evaluation of the number and types of complaints received by the Commission over the last year (2008-2009) indicates that there is an increasing tendency on the part of police officers at the police station level to be impervious to the genuine grievances of the community whom they are supposed to Serve. Discourteous behaviour by the police personnel towards members of the public was a common complaint as was the difficulty in getting complaints entertained, and cases registered. In effect, police officers at the police stations refuse to accept First Information Reports, register offences and maintain proper case diaries. Instances have been reported when, instead of accepting and registering an FIR, the Police take

it upon themselves to arbitrarily effect a settlement between contesting parties which is contrary to law. This trend needs to be checked with stern measures. It has also been brought to the notice of the Commission that in a large number of cases, the police are either reluctant or dilatory in taking up enquiries or investigations into complaints received from members of the public. In a few of these cases which have been brought to the notice of the Commission by the victim or by someone on his behalf, direct intervention by the Commission itself has been necessary to goad the concerned police officials to initiate action as per law.

The Commission has also noted that there is a general tendency on the part of the police not to record the facts of a case objectively either deliberately at the behest of vested interests or because of pressure from above. As a result the real culprits often go scot-free and innocent people are put under arrest.

Increasingly, over the last few years, especially in the City of Guwahati, a disturbing trend involving police complicity in land-grab cases have come to light and some of these have been brought to the notice of the Commission seeking redress. As of date the Commission has received as many as 11 (eleven) complaints relating to police involvement or inaction in land- related matters. In at least two of these cases enquired into by the Commission the petitioner concerned was sought to be deprived of his legitimate property by unscrupulous individuals acting on their own or at the behest of as yet unidentified God fathers either in the administration or in some political circles. In one of these cases, decisive intervention by the Commission and prompt action thereto by the then SSP. City has enabled the complainant to get back his property. The Commission has in the meantime issued clear instructions to the State DGP to ensure that there is no police interference and threats at any level in matters relating to civil disputes concerning lands and property of members of the public and to refer all such civil disputes to the courts having jurisdiction.

In the matter of traffic control, especially in the city of Guwahati, the Commission has had occasion to observe that traffic police deployment is decidedly thin. As a result and also perhaps because of the lack of adequate motivation and Professionalism as also the absence of stringent supervision by superior officers in the field, traffic police fail to enforce traffic rules and book traffic violators. In this connection, undocumented complaints made verbally of police complicity in collecting so-called 'police tax' from vehicle drivers have been brought to the notice

of the Commission. The Commission is of the view that there needs to be a co-ordinated action plan in place taking into consideration the views of the various concerned authorities besides the police viz the District Transport Authority, the GMDA, GDD, the PWD and known traffic experts in order to evolve a traffic plan for Guwahati city which is capable of implementation and aimed at bringing about a semblance of orderliness in the traffic structure and greater police accountability thereof in the matter of enforcing traffic rules and booking traffic violators. Moreover, besides the above, the Commission's attention has also been drawn, albeit verbally, during various interactions with the Members of the public, to the fact that the police are seldom to be found in the Police Stations but are often deployed on duty providing security to VIPs, leaving behind lower ranked personnel who are ill-equipped to attend to public complaints.

An equally serious allegation centers around the view, commonly held, that the police fail to respond in time and in adequate strength to prevent disturbances, confront violence and vandalism of lawless elements and attend to disaster situations involving loss of life and property. The recent happenings at Beltola in the City and the serial bomb blasts leading to the subsequent breakdown of law and order on the 30th October, 2008, are cited as glaring examples.

Recommendations on measures to enhance police accountability

A] Accountability parameters presuppose the strengthening and reform of laws that allow scope for biased, arbitrary and unregulated exercise of power by political authorities and the police who are often their willing or unwilling instruments. In the meantime certain short-term measures can be put in place to allay public apprehensions and cynicism and ensure greater police accountability.

- (1) There should be a recognition of the fact that the police force is ultimately instrument of the rule of law, even though in practice they appear to be accountable to the political leadership who are in certain cases seen to be bending the rules to suit their purpose.
- (2) It is imperative that the State Chief of Police formulates accountability Parameters of various ranks including supervisory responsibility of senior ranks of and above the rank of Superintendent of Police. A thorough enforcement of accountability at all levels in the police hierarchy is therefore called for.

- (3) The police should change their hackneyed mindset and work overtime to effect a perceptual change in their image from an instrument of coercion to a people- friendly force who are as much a part of society as any other law-abiding citizen. The police must wear a human face if they honestly mean to endear themselves and thereby win the confidence, faith and trust of the public.
- (4) It is essential that the police recognize and respect the limitations of their powers and functions and not endeavour to usurp or even seem to usurp the functions of the judiciary and sit in judgment on cases. Nor are they expected to avenge individuals and punish the guilty.
- (5) In securing the observance of law or in maintaining order, the police are expected to use methods of persuasion, advice and warning. Should these fail and the application of force becomes inevitable, only the absolute minimum required in the circumstances should be used.
- (6) Integrity of the highest order is the fundamental basis of the prestige of the police; recognizing this, the police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed in both personal and official life.
- (7) The police service is a disciplined body. Unless there is good and sufficient cause to do otherwise, officers must obey all lawful orders and abide by the provisions of legislation applicable to the police. Officers should support their colleagues in the execution of their lawful duties and oppose any improper behaviour, reporting it where appropriate.
- (8) Transparency at all levels of police functioning is called for. In cases of custody by police the presence of relatives is desirable so as to rule out application of third degree methods. To deal with the increasing cases of escape from police custody, stringent measures are called for to make the police officers accountable for such lapses.
- (9) The public expresses rather low tolerance for police misconduct, particularly the unnecessary use of force and the use of abusive language. The claim that Police Officers should toe the line and perform their jobs within circumscribed fair processes suggests that the

public expects officers to behave like professionals. In the popular sense of the term police professionalism translates into an expectations that officers will perform their duties within a set of fair, public and accountable guidelines.

- (10) The formation of Oversight Committees comprising police officials, representatives of Citizen's Liaison Groups and Nagarik Committees etc. to closely monitor the functioning of the police in their respective jurisdictions, has been tried out in other States with great success and can be used to good effect in Assam to ensure police accountability to the community they are expected to serve.
- (11) Increased accountability will result in enhanced efficiency and a higher rate of conviction, sending the right signals to criminals. This will make an appreciable difference to the maintenance of law and order for the better. Since the peoples elementary expectation is security to life and property, improved law and order is the basic priority.
- (12) To achieve true accountability to the community, the police and the community must define police services and the level at which the services are provided. They must also identify measures of success for those services as viewed by their local communities and finally, the police must be open to being held accountable by the community for the measures of success agreed upon. Such an open dialogue between the police and community will help gain the trust and confidence of all stakeholders, police and citizens alike.

B] As a long term measure, the Commission is of the view that since its primary mandate under the Police Act, 2007, is to ensure accountability of the State Police Department in every sphere of its functioning, not the least of which is the prevention and detection of crime, Govt. may perhaps consider bringing in necessary amendments of the relevant provisions of the Assam Police Act, 2007, in order to invest the Commission with greater regulatory and supervisory powers with regard to the conduct of criminal cases by the police in the matter of registration, subsequent investigation and submission of Final Form. This, the Commission feels, will serve to give more teeth to the Commission by significantly enhancing its supervisory role and

thereby ensuring greater accountability on the part of the State Police to the community whom they are mandated to serve.

In this connection, the Commission would like to express its serious concern at the tardy progress of investigation of important cases pending with the various Police Stations across the State. For various reasons, the investigation of cases is being accorded low priority, be it because of preoccupation with law and order duties, VIP security or operations against extremists, as a result of which the following attendant problems having a direct bearing on the above spheres of police activity arise:

- 1) Arrested criminals get bail due to case diaries either not being written in time or not having enough credible evidence against the accused.
- 2) Initial defects in the case diaries, like improper seizure, required materials not being seized, names of witnesses not being properly recorded etc, adversely affect the cases in question and leads to submission of final report or even subsequent acquittal by the court, thereby enabling the involved criminals to carry on their nefarious activities with impunity.

The Commission therefore is of the view that crime investigation should be accorded top priority in the overall scheme of things and towards this end , a separate set of highly trained Police Officers who will be able to pay exclusive attention to the investigation of cases should be made available in the Police Stations. The National Police Commission's recommendations in this regard are very clear as well as pragmatic and need to be implemented by the State Govt. in right earnest.

The Commission is also of the opinion that many of the reasons for delayed or tardy progress of investigation of criminal cases by the police reflect poor or inadequate training of the Investigation Officers working in the field. This aspect, the Commission feels, needs to be addressed urgently by the Senior Police leadership as well as by the State Govt. so that there is a conscious effort to impart, improve and

increase the required knowledge and skills and to develop attitudes and values of the individual policeman in the desired direction.

Postscript

The Commission notes with deep regret the fact that even after the completion of one year of the State Police Accountability Commission's functioning, the State Govt. has been unable to provide suitable and permanent office space to enable the Commission to discharge its responsibilities in an efficient and smooth manner. The Commission has been consistently beset with basic infrastructure problems whether it be the question of making available suitable office accommodation for the Commission or passing of a regular budget for its various administrative and other functions or the inordinate delay being experienced in the matter of posting of secretarial and investigative staff. It is hoped that these administrative bottlenecks are resolved at the State Govt. level at the earliest. In this connection the Commission is constrained to note that there is less than adequate attention being paid at the Govt. level to these various concerns raised by the Commission from time to time . Consistent efforts by the Secretary of the Commission to elicit a positive response to these concerns and requirements have more often than not been met with indifference at best and it has been necessary for the Commission members to intervene directly with senior Govt. Officials to persuade them to act on proposals awaiting urgent action. This is, in the view of the Commission an unsatisfactory arrangement. **The Commission feels that a Nodal Officer of sufficient seniority be appointed immediately in the Home Department to attend to these matters on a regular basis and who, along with the Secretary of the Commission can follow up the same at the appropriate Govt. levels for necessary action.**

The Commission is also of the view that the Police Department's response to the initiatives and concerns of the Commission is at best lukewarm and there is no systematic and sustained effort at sensitizing the police formations about the aims and objectives of the Commission. This is in contravention of the categorical assurance given by the then State DGP to take all remedial measures for making the police more responsive to the people. It is hoped that this initiative will be taken up by the new dispensation under the present Police Chief with greater vigour.

The State Govt. had been informed of the resignation, on grounds of ill health, of Prof. (Retd.) Mrs Jahanara Saikia erstwhile member of the State Police Accountability Commission. The Commission records its deep sorrow at the recent demise, on 16.01.09, of Prof. Saikia at her own residence after a brief illness. The Govt. is apprised hereby of the fact that as per Sec.71 of the Assam Police Act, 2007, it is

mandatory to induct a lady member as one of the members of the Commission. It is hoped that the State Govt. will take expeditions steps to induct a lady member into the Commission, having impeccable credentials, at the earliest.

Sd/-
(D.N. CHOWDHURY)
CHAIRMAN

Sd/-
(D.N. DUTT.)
MEMBER

Sd/-
(D.N. SAIKIA)
MEMBER

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**STATE POLICE ACCOUNTABILITY COMMISSION,
GUWAHATI :: DISPUR :: ASSAM.**

No. SPAC/G/02/2009/02

Dated Dispur the June,2009.

From :- Ranjit Nag
Secretary, SPAC, Assam,
Room No. 39 Janata Bhawan, Dispur.

To :- The Principal Secretary of the Govt. of Assam,
Home & Political Department, Dispur.

Sub :- **Annual Report of the SPAC-2008.**

Sir,

I am directed to forward herewith a copy of the Annual Report of the State Police Accountability Commission for the year **2008** submitted before the Hon'ble Chief Minister, Assam, on **29-04-2009** for your kind information and necessary action.

Yours faithfully,

Sd/-

Secretary,
State Police Accountability Commission,
Guwahati :: Dispur :: Assam.