

Celebrating Animals | Confronting Cruelty
Worldwide



HUMANE SOCIETY INTERNATIONAL

hsi.org

Shreya Paropkari Advocate

Animal Cruelty Laws

✓ Cruelty



✓ Wildlife



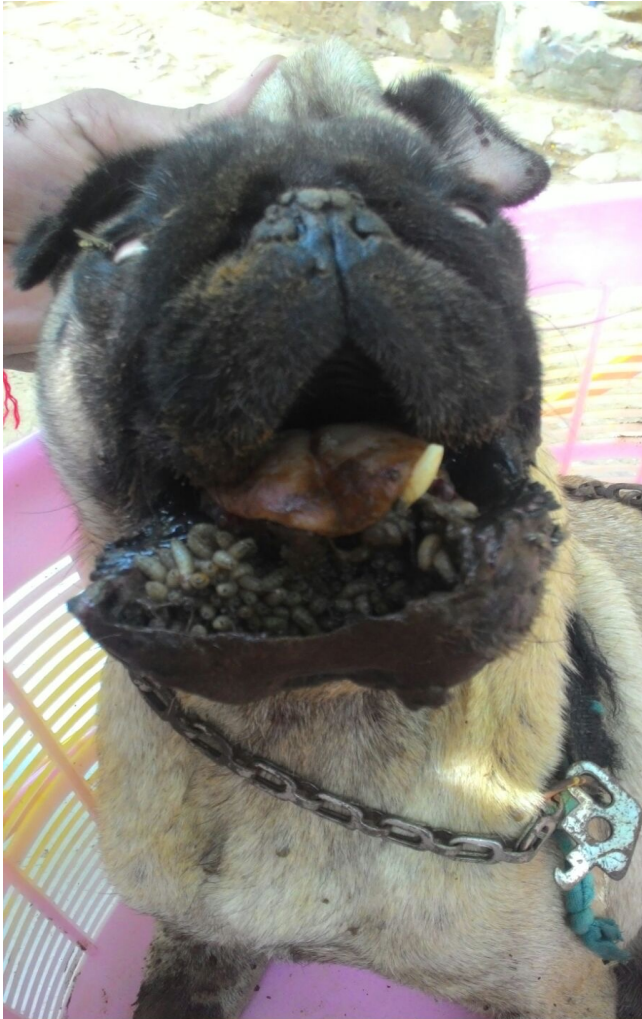
✓ Control



Provisions for animal welfare

- ✓ The Constitution of India
- ✓ The Indian Penal Code, 1860
- ✓ The Criminal Procedure Code, 1973
- ✓ The Prevention of Cruelty to Animals Act, 1960
- ✓ The Wildlife Protection Act, 1972
- ✓ The Police Acts
- ✓ The Municipal Corporation Acts
- ✓ Food Safety Act, 2006

What constitutes cruelty?



This?



Most definitely this?



What about this?







Reporting cruelty

- Identify the problem
- Identify the law
- Identify the authority
- Known the procedure
- **Report**



Crimes against animals

- > Police
- > RPF
- > Cyber Police
- > SPCA Inspector
- > Magistrate



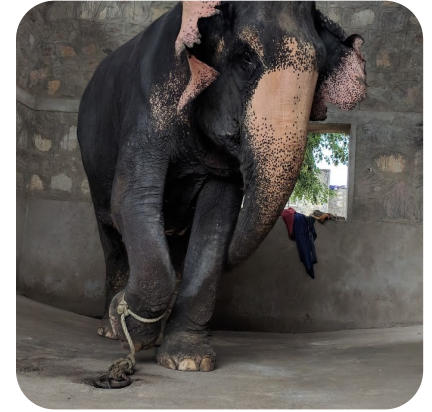
"Food" animals

- > Food Safety Authority
- > Health/UD Department



Transport of animals

- > Traffic Police
- > Road Transport Authority



Wildlife

- > CWLW
- > DFO
- > Authorised persons
- > Magistrate



FIRST INFORMATION REPORT
(Under Section 154 and 157 Cr.P.C)

T.S.P.M. Orders 470,500

1. District Rachakonda P.S. L.B. Nagar I And O Year 2019 FIR No. 989/2019 Date 30/08/2019

2. Acts & Section(s): 429 IPC, 11 PCAA

3. a) Occurrence of Offence: Day Friday Date & Time From 30/08/2019 10:00
Date & Time To 30/08/2019 11:00 Prior To _____ Time Period 0

b) Information Received at P.S.: Date & Time 30/08/2019 16:35

c) General Diary Reference: Entry No 20 Date & Time 30/08/2019 16:35

4. Type of Information: Written

5. Place of Occurrence:

a) Distance and Direction From P.S. 3 Kms, North-East Beat No. _____

b) Address Place At ABC center, Nagole, LB Nagar Area/Mandal LB Nagar Street/Village _____

City/District Rachakonda State Telangana PIN _____

c) In case, outside the limit of this Police Station, then
Name of P.S. _____ District _____

6. Complainant / Informant :

a) Name Sri Panneru Teja

b) Father's / Husband's Name Panneru Shyam Prasad

c) Date/Year of Birth _____ Age 26

d) Nationality Indian e) Caste _____

f) Passport No _____ Date of Issue _____ Place of Issue _____

g) Occupation _____

h) Address House No _____ Area/Mandal Old Nallakunta, Hyd Street/Village No Ward
H.NO. 1-8-726/38/39/

City/District Rachakonda State Telangana PIN 0

7. Details of known/suspected/unknown accused with full particulars:

First Information Report

- Filed by police based on oral or written information
- Written information must contain – 4 wives & a husband
- Evidence to be attached if available
- Copy of FIR must be taken by informer
- Note the following: Charges, IO contact information, jurisdictional court

Basis of law for FIR



CrPC Section 154: Information in cognizable cases

- Section 154 (1) information of a cognizable offence given orally to officer in charge of a police station, reduced to writing shall be signed by the person who furnishes it.
- Section 154 (3) a complaint shall be given in writing or by post to Superintendent of Police if officer in charge refuses to record the information.
- The SP if satisfied of cognizability himself investigate or direct an investigation.
- 156(3), 190 r/w 200 Next remedy is to seek help from the Judicial Magistrate.
- Section 482 or Art 226: High Court may direct process

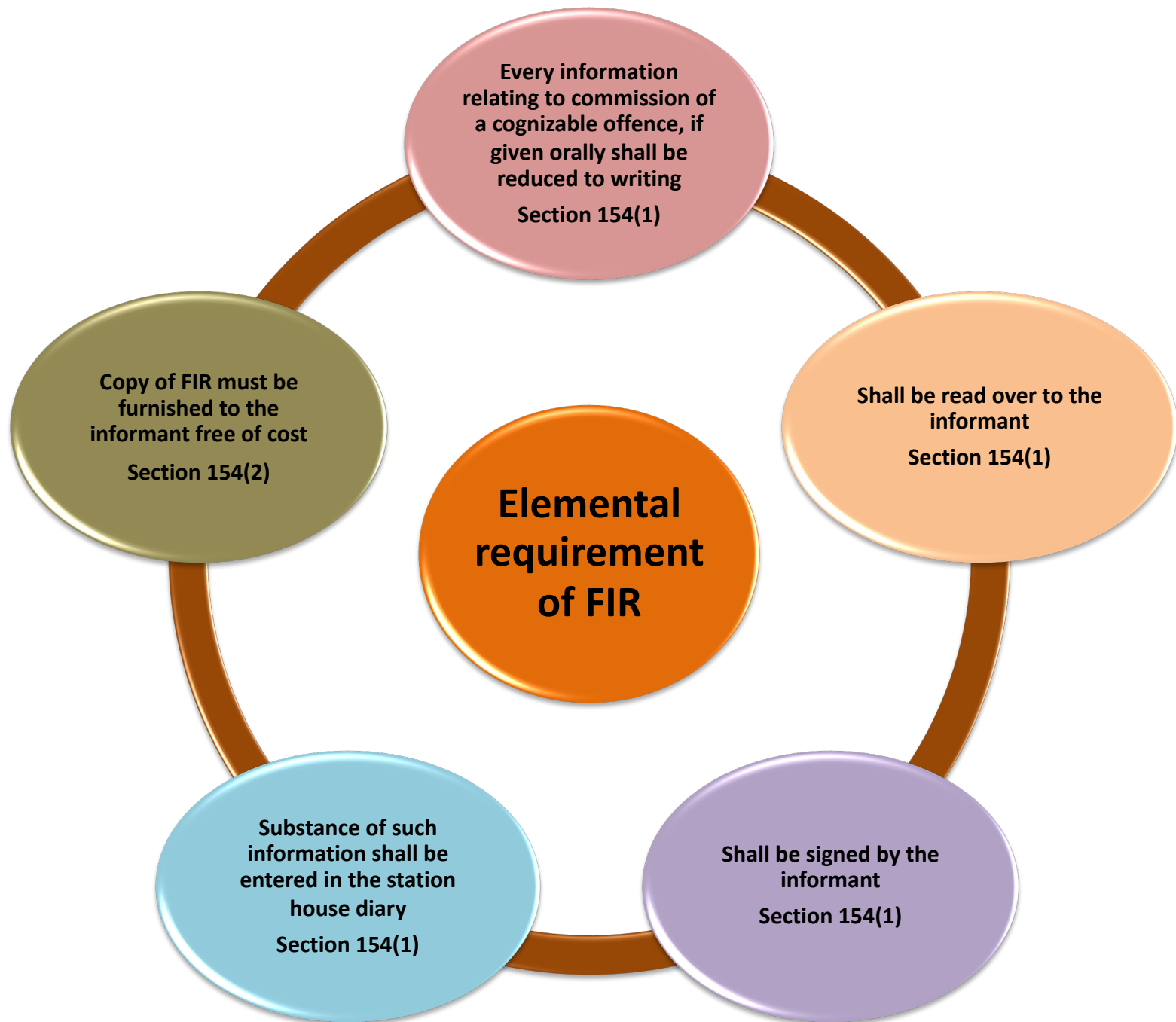
If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. No preliminary inquiry.

Second FIR: Not permissible. Unless, subsequent offence is of magnitude & not within ambit of first FIR

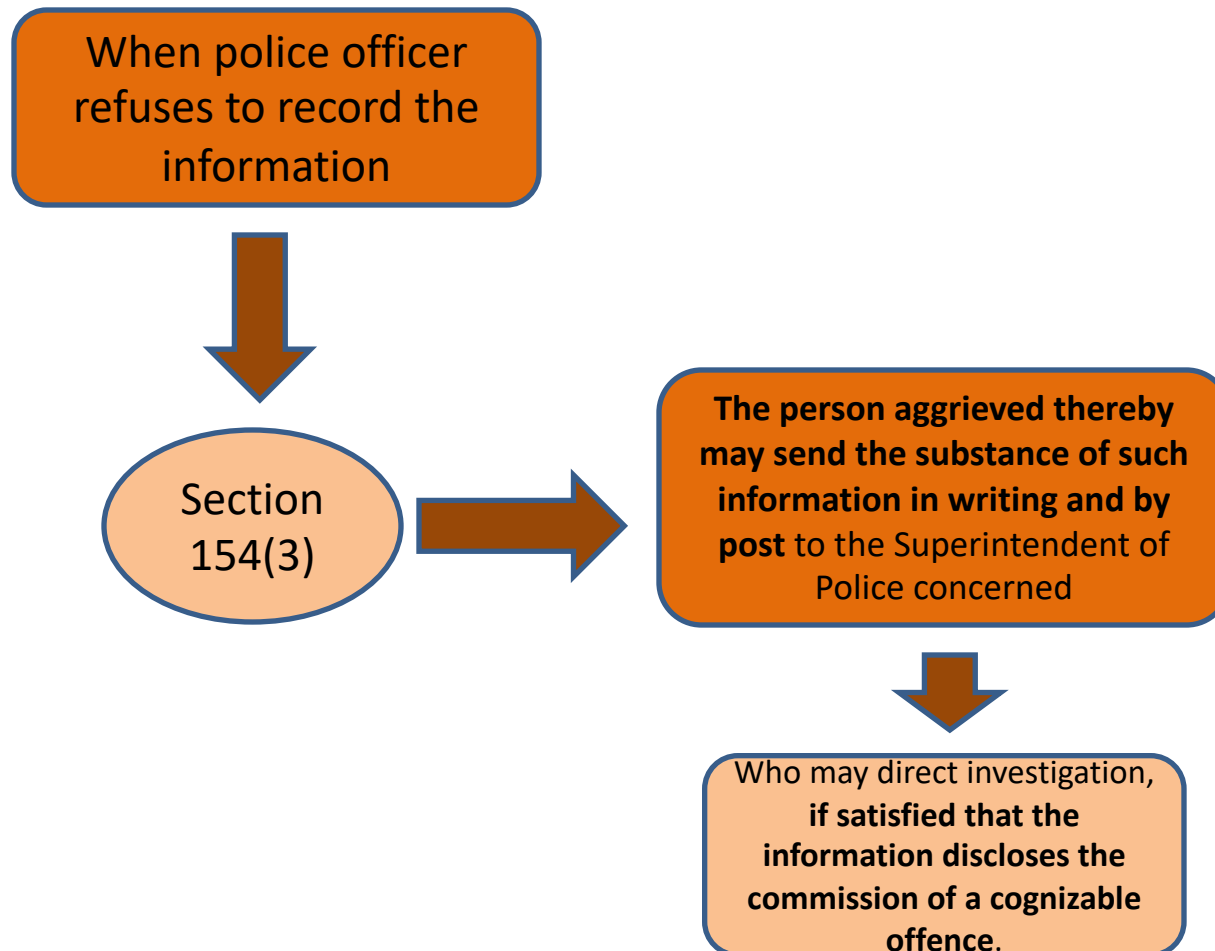
Arrest: SC guidelines

Case laws

- ❖ **Lalita Kumari vs. Govt. of U.P. (2014) 2 SCC 1-** reasonableness is not prerequisite
- ❖ **Surjit Sarkar v. State of WB (2012) SC-** telephonic conversation does not enable procedure u/s 154, hence, no FIR
- ❖ **Ramsinh Bavaji Jadeja vs. State of Gujarat (1994)2SCC685-** cryptic/only to bring police to cite: no FIR. Non-cryptic, elements of cognizability: FIR



Process upon refusal to FIR



ZERO FIR

Justice Verma Committee (2013): Legal obligation on police to investigate & act quickly without the excuse of absence of jurisdiction.

State of Andhra Pradesh v. Punati Ramulu and Others [AIR 1993 SC 2644 (India)]- legal obligation to record the information and then transfer it to the competent police station

Kirti v. State [Crl. M.C. 5933/2019 and Crl. M.A. 40833/2019, Delhi High Court, decided on November 29, 2019]- furnish a standing order to every police station to register FIR in case of cognizable offence without jurisdiction limitations, and transfer to competent PS

FIR Aftermath

H.N. Rishbud vs.The State of Delhi, AIR1955SC196

- The recording of information triggers investigation by a police officer under section 156(1) without the order of the Magistrate which consist of :
 - (1) Proceeding to the spot,
 - (2) Ascertainment of the facts and circumstances,
 - (3) Discovery and **arrest*** of the suspected offender,
 - (4) Collection of evidence and
 - (5) Ascertain whether in material collected there is case to place the accused before a Magistrate for trial & taking the necessary steps for the same by the filing of a charge-sheet under section 173.



Alternately

Summary Reports:

A: Offence undetected

B: false/frivolous case

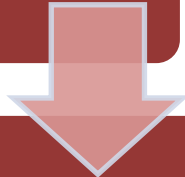
C: non-criminal offence, or

Final Report: No offence found/NC offence or
unknown offender/insufficient evidence

Role of Police as to Non-cognizable cases (Section 155)



The police officer should enter the substance of the information relating to commission of a non-cognizable offence in a book kept for this purpose and refer the informant to the Magistrate.



Investigation into such cases is not the responsibility of the police unless otherwise ordered by the Magistrate



Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.

Elemental requirement of filing a complaint

Cognizance by Magistrate	Section 190(1)(a)	Upon receiving a complaint of facts which constitute such offence
	Section 190(1)(b)	Upon a police report of such facts
	Section 190(1)(c)	Upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed

- The power of the Magistrate to take cognizance of an offence under section 190 is independent from the duty of a police officer to record an information under section 154.
- Any aggrieved person can directly approach the *Illaka* Magistrate (without first approaching the police) and file the complaint under section 200 read with section 190(1)(a).

Steps after receiving complaint under section 190(1)(a)

Direct police to investigate as per section 156(3) and record his reasons

He may take cognizance of the offence under section 190(1)(b) and issue process.

Steps when police sends an adverse report

(i) He may drop the proceeding and dismiss the complaint.

(ii) He may not agree with the police report and may take cognizance of the offence on the basis of the original complaint, under section 190(1)(a) of the Code and proceed to examine the complainant under section 200.

(iii) He may reject the police report and direct an enquiry under section 202 of the Code and after such enquiry take action under section 203.

Take cognizance of the offence under section 200 read with section 190(1)(a)

(i) He shall examine upon oath the complainant and the witnesses present and record the evidence of the complainant or his witnesses as per section 200.

(ii) If he is satisfied that there are sufficient grounds for proceeding, he can straightaway issue process to the accused as per section 204.

(iii) Conversely, if he finds from the evidence led by the complainant or his witnesses that there is **no sufficient ground for proceeding**, he shall dismiss the complaint under section 203.

(iv) The Magistrate can postpone the issue of process and direct an enquiry by himself or by any other person or an investigation by the police under section 202 to ascertain whether or not there is *prima facie* evidence to justify the issue of process.

Food Safety Authority

- Report to State Food Safety Commission by way of representation
- Seek accountability via RTI



Wildlife

- ONLY if you can follow up-
Report to any authority listed under Sec 55 WLPA
- Notice under Sec 55
- If no action in 60 days, bring before Magistrate



Pet neglect/confinement?



How to go from that to this?

- Assess
- 50 steps ahead!
- Ensure report is to appropriate authority under relevant laws
- Custody as per Rules



Dog breeding



- 3 great danes reported to be suffering neglect, used for breeding
- Assessment of conditions
- PoA- the next 50 steps
- Report
- Undertake care and maintenance per procedure
- Seek custody from Court
- Rehabilitate



What happens if you don't follow procedure?

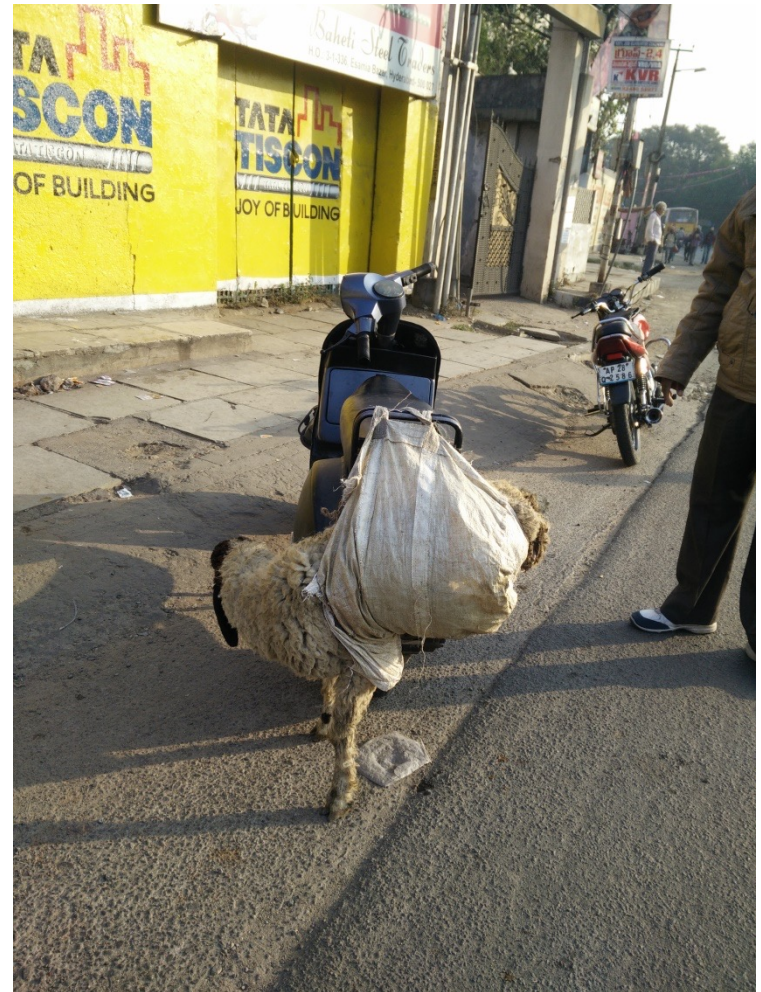
- **Custody of animal returned to accused**
- **No case registered-no consequences-business as usual-more dogs brought into this system**

Overloading, illegal transport

1. Any police officer above the rank of a constable shall ask the owner or other person in charge of the animal to take the animal and the vehicle to the nearest weigh bridge available to determine the weight of the load and the cart. If weight is excessive, animal must be seized and an NCR report must be drawn up.

2. Illegal transport- **report to RTA, nearest PS, dial 100, complain on your city/State police app.**

3. The custody of the animal must be sent to SPCA/org following due procedure.



Violent crimes



- Assessment
- Report
- Cooperate with investigation
- Assistance to prosecution as requested

Downside:

- **Outdated penalty – 1500/- fine**
- **Overburdened judiciary- slow process**

Other laws in play



Careful consideration:

- Accused are minors
- Knowing the process
- Seeking legal counsel
- Public-media engagement

Downside:

- **Outdated penalty – 1500/- fine**
- **Overburdened judiciary- slow process**

The link

70% of people charged with cruelty to animals were known by police for other violent behavior--including homicide.

(National Link Coalition—Boat & Knight, 2000)

Twelve independent surveys have found that between 18% and 48% of battered women have delayed their decision to leave, or have returned to their abusers, out of fear for the welfare of their animals.

(Ascione, 2007)

71% of abused women said their partners harmed, killed or threatened pets.

(National Link Coalition—Ascione, Weber & Wood, 1997)

Children exposed to domestic violence were three times more likely to be cruel to animals.

(National Link Coalition—Currie, 2006)

The link

Physical animal cruelty as a symptom of child abuse and family violence:

“Look what I can do with your animal, and imagine what I can do to you.”

(Cynthia Hodges, *The Link Between Animal Cruelty and Violence Toward People*, 2007)

Gemini Circus



Relief



FD cancelled the ownership of the elephants from Gemini Circus

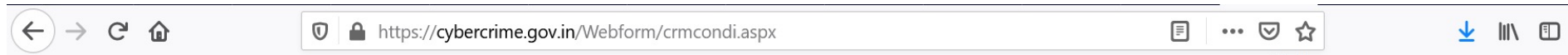
The elephants have been transferred to a forest department facility and are being offered care and



New trends



Cybercrime portal



गृह मंत्रालय
MINISTRY OF
HOME AFFAIRS

National Cyber Crime Reporting Portal



For Delhi Only: A New Feature "Citizen Financial Cyber Fraud Reporting and Management System" has |

[HOME](#) [REPORT WOMEN/CHILD RELATED CRIME](#) [REPORT OTHER CYBER CRIME](#) [CYBER VOLUNTEERS](#) **NEW** [RESOURCES](#) [CONTACT US](#) [HELPLINE](#)

Filing a Complaint on National Cyber Crime Reporting Portal

This portal is an initiative of Government of India to facilitate victims/complainants to report cyber crime complaints online. This portal caters to complaints pertaining to cyber crimes only with special focus on cyber crimes against women and children. Complaints reported on this portal are dealt by law enforcement agencies/ police based on the information available in the complaints. It is imperative to provide correct and accurate details while filing complaint for prompt action.

Please contact local police in case of an emergency or for reporting crimes other than cyber crimes. National police helpline number is 100. National women helpline number is 181.

[Learn about cyber crime](#)

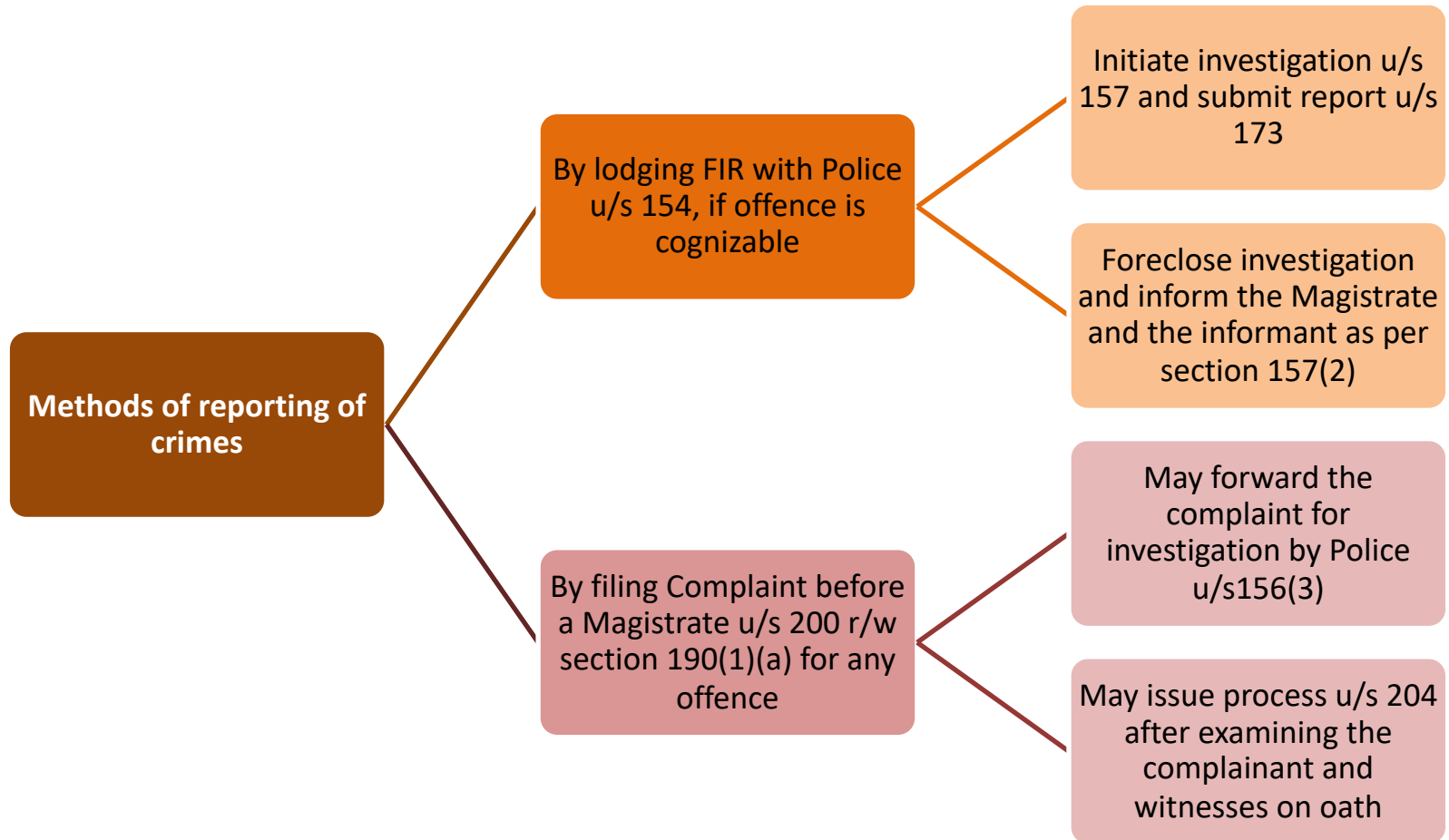
[File a complaint](#)

DO NOT

- Demand the AWO/NGO to ‘confiscate the animal’
- Get physically or verbally abusive
- Walk into private property
- React to any report without a plan
- ‘Confiscate’ animals
- Threaten accused
- Skip the police/court or any step in the procedure laid down by law

One misstep impacts animals across the country

Methods of reporting of crimes



- Though the Magistrate concerned [u/s 190(1)(c)] and the police officer in-charge of a police station [u/s 157(1)] have also been conferred with the power to take *suo-moto* cognizance or to investigate of any cognizable offence.

Trial

Steps

1. Chargesheet or summary report (157)
2. Framing charges or discharging accused (211-228)
3. Plead guilty or tried for charge [228(2)]
4. Summons (61-69)
5. Evidence, examination & cross-examination (313, evidence 137)
6. Conviction or acquittal (248)

Prosecution

1. Assess to ensure charges made out
2. May seek application to amend
3. Provision of necessary documents & evidences to support PP/APP
4. Encouraging witnesses to provide statements
5. Anticipating defence

Depriving ownership of an animal

Section 29: Deprive for a fixed period or permanently of any animal/kind of animal

1. Second offence
2. Complaint to expressly state intention to seek order u/s 29
3. Licensed animal
4. Notwithstanding penalty as prescribed
5. Discretion of court to rescind or modify

Vetro-Legal Cases

Who is a Veterinarian:

Indian Veterinary Council Act,

2(g)- 'registered veterinary practitioner'

Where is a vet involved:

- ✓ Identification, marking & treatment
- ✓ Medical examination, PM [Sec 34 or 35 r/w CPAR]
- ✓ PW [311]
- ✓ Pre/Post Mortem Certificate [SH Rules, FSSA Regulations]
- ✓ Fitness certificate [Transport of Animals]

Private veterinarian has no vetro-legal authority

Questions?

