

OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA, NEW DELHI

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To

All the Heads of Departments in IA&AD

Subject:- Summoning of records for evidence and IA&AD officials for obtaining statements from the offices of the IA&AD by the Police/Vigilance Authorities in connection with the investigation of various offences committed in auditee organizations

Sir/Madam,

Various police/vigilance authorities have been requisitioning for the records as evidence and summoning officials as witnesses from IA&AD offices in connection with investigation of various offences in auditee organizations. Section 91(1) and 160(1) of the Criminal Procedure Code, 1973 (CrPC) empowering them in this regard are reproduced below for the sake of convenience:-

"Section 91(1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code or by or before such Court or officer, such Court may issue a summons, or such officer, a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order."

"Section 160(1) Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required."

2. The Department has always considered it necessary to extend all possible cooperation to the investigating agencies in dealing with the corruption cases so long as the independence of the C&AG of India and his officers/officials is not compromised because the purpose of functions of both the organizations is similar. In order to strike a balance in discharge of their duties by both the organizations, initially the Ministry of Home Affairs had issued detailed instructions in consultation with the C&AG of India regarding obtaining of documents in possession of the IA&AD offices. Ministry of Home Affairs letter dated 26-5-1952 (copy

enclosed), *inter alia*, provided that investigating authority should be permitted to peruse, scrutinize and copy (including taking of photocopy) of original documents in possession of IA&AD offices. In exceptional circumstances, where the investigating authority requires original documents, the investigating authority would make a reference to the Ministry of Home Affairs who would consider the request in consultation with the C&AG for appropriate action and it would be unnecessary for the police to resort to Section 94 (now Section 91) of Criminal Procedure Code for the purposes of requisitioning of the documents. Dispensing the requirement of making reference to the Ministry of Home Affairs, letter dated 15-7-1955 as amended vide letter dated 13-3-1964 (copies of both enclosed) of the Ministry of Home Affairs authorized the officer of the level of the Additional Inspector General of Police to make a request to the Accountant General for arranging supply of the requisitioned document.

3. The instructions (contained in paragraph 2 above) were issued in the context of the then responsibilities of the C&AG of India in connection with the maintenance of accounts of the Union as well as the State Governments and were meant for supply of documents created in the combined Accounts and Audit offices in discharge of their accounting functions. As regards the Union Government, these instructions have been incorporated in Chapter V of Vigilance Manual, Volume I (2005 Edition) issued by the Central Vigilance Commission. Consequent upon the departmentalization of accounts of the Ministries and Departments of the Central Government, Para 5.4.3 of this Manual requires the Principal Accounts Officers etc of the Ministries/Departments concerned to hand over the documents in original to the police authorities. Since the accounts of the State Governments are still being maintained by the Accountants General (A&E) the existing instructions shall continue to be followed as regards the original documents related to the maintenance of accounts of the State Governments.

4. As regards the constitutional duties of the C&AG of India in relation to audit of accounts, question arose in the past whether copies of Inspection Reports, Local Test Audit Reports, correspondence relating to objection raised in audit etc. fall within the category of 'original documents' and can be supplied to the police and other investigating authorities. It was clarified in this office circular No. 1704-TA 1/591-65 dated 16-6-1967 (Copy enclosed) that the Inspection Reports and objection memos etc issued by the IA&AD contain the various irregularities or defects noticed in audit which, according to the prescribed procedure, are issued to department concerned with copies to higher authorities at appropriate levels wherever necessary and are subject to further examination and review on receipt of replies from the department and as such cannot be considered to be final conclusions of audit and, therefore, cannot be brought within the scope of the term, 'original document'.

5. However, it has come to the notice of this office that some field offices are not following the instructions regarding production of documents leading to the finalization of the Audit Reports of the C&AG of India to the police and other investigating authorities. It has, therefore, been decided that following instructions shall be followed by the field offices in IA&AD in the matter of requisition of any documents related to the statutory audit functions of the C&AG of India by the police and other investigating authorities for the purpose of investigation of various offences:-

- (a) According to existing instructions, Audit Reports are treated as confidential documents till they are presented to Parliament/State/UT Legislature. Accordingly, it was instructed vide this office circular letter dated 30-10-2003 (copy enclosed) that all materials relating to the Audit Reports will have to be treated as strictly confidential right from the stage of issue of preliminary draft paragraphs to Government / Departments till the final stage of presentation to the Parliament/Legislature. Adequate care should be taken at every stage to see that the Audit Report materials are secured against use by outsiders till they are presented to the Legislature. The draft paras/draft reviews which are also considered as confidential should be marked invariably as confidential in order to maintain secrecy, while sending them to the Headquarters Office for approval or to the Government of India, State Government, Departmental Offices, etc., for verification of facts or calling for comments.
- (b) The Audit Report of the C&AG of India presented to the President of India, Governor of a State and duly laid before the House(s) of the Parliament of India, Legislature of the State concerned, as the case may be, in terms of the requirements of Article 151 of the Constitution of India is the final and published document and can be made available to the police and the other investigating authorities if so required by them. While making available the Audit Report it may, however, be made clear that findings recorded therein are based on scrutiny of records/documents made available to the audit and may not be conclusive proof of acts of omission and commission of various individual functionaries of the auditee organization.
- (c) In the finalization of the Audit Report laid before the House(s) of the Parliament or the State Legislature, the IA&AD relies on varied records, documents, vouchers, correspondence of the auditee organizations, etc., generally called as 'key documents'. Since IA&AD is not the originator of such records, documents etc, their supply by any official of IA&AD and his testimony thereon is inadmissible under the relevant provisions of Indian Evidence Act. Therefore, the police and the other investigating agencies may be advised to obtain such documents relied on in the finalization of the Audit Report from

the concerned authorities of the auditee organizations in case these are requisitioned by them from our Department. However, list of key documents (and not key documents themselves) marked on a copy of the audit para that may form the subject of investigation may be provided to the police and other vigilance authorities on written requests from them so as to facilitate obtaining of the necessary documents from the authorities concerned.

- (d) The IA&AD follows a procedure of giving opportunity to the authorities of the Executives at various levels to explain their position before the audit findings are included in the Audit Report of the C&AG of India. In this process a large number of records/documents such as audit memos, half margins, inspections reports, local audit reports, statement of facts, correspondence made between the audit and auditee organization, draft Paragraphs, etc., are created. These being subject to change based on the replies of the appropriate authorities are unpublished official documents that do not reflect the final view of the department. Therefore, these records/documents do not fall in the category of 'original documents' referred to in para 4 above and the police and other investigating authorities should be advised not to insist for their production.
- (e) If the police or investigative authorities insist, a copy of the inspection report or local audit report may be given to them. It should be pointed out to them that the original report was already issued to the concerned auditee organization. They should also be clearly informed that the inspection report or the local audit report has been prepared on the basis of information furnished and made available by the concerned auditee organization. The Audit Office and its officers/officials disclaim any responsibility for any misinformation and/or non-information on the part of the auditee organization.
- (f) Since the Audit Report of the C&AG duly placed before the House(s) of the Parliament or State Legislature is the final and the only document reflecting the views of the Department, the police and other investigating authorities may be advised not to identify any official/officer of the Department performing his official duties at various stages of finalization of the Audit Report with any particular finding in the Audit Report. Ministry of Home Affairs letter dated 1-6-1965 is also clear in this regard (copy enclosed).
- (g) The purpose of investigation by the police and other investigating authorities and audit of accounts by the C&AG of India is to bring home the acts of omission and commission of various Government functionaries. In other words, there are certain similarities in the functions of police/investigating

authorities and the C&AG of India. Therefore, it is necessary that all possible help is provided to the police and investigating authorities. Such help shall be in the nature of technical assistance in understanding of the observations made in the Audit Report duly placed before the Parliament/State Legislature. Accordingly, while the officers/officials well acquainted with the observations in the Audit Report may be assigned the work of rendering necessary technical assistance to the police/investigating authorities in understanding the observations in the Audit Report, they should be advised to strictly restrict themselves to the final conclusions made in the Audit Report. As far as possible, necessary interaction with the investigating officers should be held within the premises of the concerned Audit Office itself. In this context, it is necessary to bring to notice the incorrect practice followed in one of the field offices. The concerned office provided to the police audit objection and other papers created in the process of inclusion of a paragraph related to a corruption case in the Audit Report. The police also recorded the statement of the audit officers/officials who detected the matter during audit. Subsequently, those officials were made prosecution witnesses by the police. As is evident, making of audit officers/officials as witnesses could cause needless hardship as in some cases the officials would be asked to appear before the police officers and courts even after retirement. It may also be kept in mind that once any audit official deposes before the investigating officer, he has to also depose before the court in case the police rely on his testimony for proving of the charge. Also, testimony of individual officials associated with any particular stage/aspect of inclusion of an audit finding in the Audit Report is likely to prove misleading and result in miscarriage of justice because findings recorded in the Audit Report laid before the Parliament of State Legislature alone would reflect the views of the Department. On the contrary, inferences drawn from partial evidence or incomplete examination thereof, at an intermediate stage, would have neither finality nor authenticity. In order to avoid such situation in future, the police and other investigating authorities demanding the production of any of the documents created in the course of inclusion of audit findings in the Audit Report should be apprised of the above guidelines immediately on receipt of their request in this regard. The Heads of Department may also, if necessary, take up the matter with the higher authorities of the police and other investigating authorities for not resorting to Section 160(1) of Cr.PC in such matters.

- (h) If these instructions are followed, there should perhaps not be any need for the police or other investigating authorities to

question any officers/officials discharging his official duties in relation to preparation of Audit Reports. The letter No.242/41/65-AVD dated 1-6-1965 issued by the Ministry of Home Affairs provides for permitting the Investigating Officer of the Police Department to take statement from Accountant General's officers/officials in the presence of an officer nominated by the Accountant General for the purpose. Therefore, the police or other investigating authorities may be advised to take statements of officers/officials in the audit office itself in the presence of an officer nominated by the Accountant General if, in any exceptional case, questioning of such officers/officials is considered necessary by the police.

- (i) Producing documents before police and investigating authorities should not be confused with providing information under the Right to Information Act, 2005, for which separate instructions were issued from Headquarters Office. While the former has legal implications in terms of criminal law, the latter mainly operates in the civil law and has different scope and operation.
- (j) In respect of cases of suspected fraud or corruption, the instructions contained in the Standing Order on role of Audit in relation to cases of Fraud and Corruption circulated vide this Office letter No.126/Audit (AP)/2004 dated 6-9-2006 may be kept in view.

6. These instructions are for guidance only and are applicable both to serving as well as former officers/officials. In order to make the position clear the doubts raised by the field offices on various occasions have also been clarified in the enclosed Answers to Frequently Asked Questions. However, in the nature of things, it is neither necessary nor possible to lay down instructions on every aspect of the matter. If any matter cannot be resolved under these instructions, the field offices are advised to report such a matter with full details to Director (Legal) in this office, immediately on receipt of requisition from the police or other investigating authorities, so as to avoid further complications in the case.

7. You may suitably bring these instructions to the concerned authorities in the Home Department of your State, for issuing necessary instructions to the police officers in your State to the extent found necessary.

Encl. As above.

Yours faithfully,



(B.B. Pandit)
Director General (Audit)

Answers to Frequently Asked Questions

	Question	Answer
1)	Can a police officer order a Government office to produce any official document for the purpose of investigation of a case?	According to Section 91(1) of the Criminal Procedure Code, 1973, whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code or by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summon or order." Therefore, police officers of the level of in charge of police station and above are competent to order a Government office to produce any official document for the purpose of investigation, inquiry, trial or other proceedings of a case.
2)	Is it mandatory for a Government office to comply with the order of the police for production of official documents?	According to Section 123 of Indian Evidence Act, no one shall be permitted to give any evidence derived from unpublished official record relating to any affairs of State, except with the permission of the officer at the head of the Department concerned who shall give or withhold such permission as he thinks fit. Further, Section 124 of this Act provides that no one shall be compelled to disclose communication made to him in official confidence when he considers that public interest would suffer by the disclosure. Subject to these provisions in the Evidence Act, a Government office is bound to produce official documents to the police for the purpose of investigation, inquiry, trial or other proceedings of a case.
3)	Is it mandatory for an IA&AD office under the C&AG of India, to comply with the order	Clarification given against (1) and (2) applies to an IA&AD office under the C&AG of India equally if the document or record demanded by the police related to

	of the police for production of an official document related to administration of its own affairs?	administration of the IA&AD office itself and not to the discharge of the constitutional functions of the C&AG of India i.e. maintenance of accounts, entitlement functions and audit of accounts.
4)	What should an Accounts and Entitlement office in IA&AD do if the police or other investigating agencies require for production of a document related to the maintenance of accounts and entitlement functions?	Instructions contained in Ministry of Home Affairs OM dated 26-5-1952 as amended vide OM dated 15-7-1955 and 13-3-1964 issued in consultation with the C&AG of India shall continue to be followed by the Accounts and Entitlement Offices in the matters of production of documents to the police and other investigating authorities related to the maintenance of accounts and entitlement functions of the State Government. In case any Accounts and Entitlement office is not in a position to take a decision on the requisition for production of documents considering the specific facts and circumstances of the case, the matter may be referred to Director (Legal) in this office for advice immediately with all relevant details clearly bringing out the points of doubt.
5)	Can the police and other investigating authorities order for production of the Audit Report of the C&AG of India which is yet to be laid before the Houses(s) of the Parliament and State Legislature?	No. Production of the Audit Report of the C&AG of India to any other authority prior to its laying before the Houses of the Parliament and the State Legislature shall result into breach of privilege of the Parliament and the State Legislature concerned.
6)	What should an audit office do if the police or any other investigating authority demands documents of auditee organizations relied by the audit in finalization of the Audit Reports of the C&AG of India?	In the finalization of the Audit Report laid before the House(s) of the Parliament or the State Legislature, the IA&AD relies on varied records, documents, vouchers, correspondence of the auditee organizations etc generally called as key documents. Since IA&AD is not the originator of such records, documents etc, their supply by any official of IA&AD and his testimony thereon is inadmissible under the relevant provisions of Indian Evidence Act. Therefore, the police and the other

		<p>investigating agencies may be advised to obtain such documents relied on in the finalization of the Audit Report from the concerned authorities of the auditee organizations in case these are requisitioned by them from our Department. However, list of key documents (and not key documents themselves) relied on in audit paragraphs/reviews duly marked on a copy of audit report/paragraph may be provided so as to facilitate the police in collecting necessary documents from the concerned authorities.</p>
7)	<p>What should an audit office do if the police or any other investigating agency demand documents like audit memo, half margin, inspection report etc created in an audit office in the process of finalization of the Audit Report of the C&AG of India?</p>	<p>The IA&AD follows a procedure of giving opportunity to the authorities of the Executives at various levels to explain their position before the audit findings are included in the Audit Report of the C&AG of India. In this process a large number of records/documents such as audit memos, half margins, inspections reports, local audit reports, statement of facts, correspondence made between the audit and auditee organization, Draft Paragraphs, etc. are created. Being subject to change based on the replies of the appropriate authorities, such unpublished official documents would not reflect the final view of the department. Therefore, these records/documents do not fall into the category of 'original documents'. Section 124 of the Indian Evidence Act bars giving of evidence derived from unpublished official records relating to any affairs of the State, except with the permission of the officer at the Head of the Department (C&AG of India). Therefore, the police and other investigating authorities should be advised not to insist for production of such documents. Audit Report of the C&AG of India duly placed before the House(s) of the Parliament or the concerned State Legislature alone is the final and published document and can be provided to the police/investigating authorities. While</p>

		making available the Audit Report it may, however, be made clear that findings recorded therein are based on scrutiny of records/documents made available to the audit and may not be conclusive proof of acts of omission and commission of various individual functionaries of the auditee organization.
8)	Can a copy of the inspection report or local audit report be given to police or investigative authorities?	If the police or investigative authorities insist, a copy of the inspection report or local audit report may be given to them. It should be pointed out to them that the original report was already issued to the concerned auditee organization. They should also be clearly informed that the inspection report or the local audit report has been prepared on the basis of information furnished and made available by the concerned auditee organization. The Audit Office and its officers/officials disclaim any responsibility for any misinformation and/or non-information on the part of the auditee organization.
9)	Can the police order a Government servant to appear before them as witness in connection with investigation of any offence?	Yes. Under Section 160(1) of the Criminal Procedure Code, any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required. The answer against Sl. No.10 below may also be seen in this connection.
10)	What should an audit office do if an official conducting audit or any manner associated with the finalization of the Audit Report of the C&AG of India is called upon by the police or other	As already clarified against Sl. No. 7 herein above, various documents created in the process of finalization of the Audit Report are unpublished official records. The privilege recognized by Section 123 of the Evidence Act extends not only to production of documents but also to giving evidence as to their contents or as to facts derived there from. Therefore, the police and other investigating authorities should

	<p>investigating authorities for questioning connection with investigation of a case?</p>	<p>be advised not to identify any individual officer connected at any stage with the finalization of audit report of the C&AG of India.</p> <p>The letter No.242/41/65-AVD dated 1st June, 1965 issued by the Ministry of Home Affairs provides for permitting the Investigating Officer of the Police Department to take statement from Accountant General's officers/officials in the presence of an officer nominated by the Accountant General for the purpose. Therefore, the police or other investigating authorities may be advised to take statements of officers/officials in the audit office itself in the presence of an officer nominated by the Accountant General if, in any exceptional case, questioning of such officers/officials is considered necessary by the police.</p>
11)	<p>Is there some correlation between the production of documents before police or investigating authorities and providing information under the Right to Information Act, 2005?</p>	<p>No. Producing documents before police and investigating authorities should not be confused with providing information under the Right to Information Act, 2005, for which separate instructions were issued from Headquarters Office. They operate in different fields. While the former has legal implications in terms of criminal law and evidence before courts, the latter mainly operates in the civil law and has different scope and operation.</p>

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Government of India
Ministry of Home Affairs.

New Delhi-2, the 26th May 1952.

From

Shri U.K. Ghoshal, I.C.S.,
Deputy Secretary to the Government of India,

To

All State Governments.

Subject:- Utilisation by the Police of documents in the possession of Audit Offices.

Sir,

I am directed to address you on the above subject and to say that, from information reaching the Government of India, it appears that on occasions there has been a certain amount of misunderstanding between the Police Officers investigating a case, and the Audit Officers, in respect of the latter making available to the Police documents in their custody which the Police have asked for in connection with the pursuit of the investigation. In the opinion of the Government of India, any such misunderstandings apart from being unnecessary and avoidable - are particularly unfortunate in that they may tend to create the wholly erroneous notion that the ultimate interests of the Police and the Audit are conflicting. In actual fact, as the State Government will no doubt agree, no such conflict of interest exists, since the Audit Office is no less vitally interested than the Police in protecting the interests of Government, which, in our system is synonymous with public interests, and differs from the Police only in that it is not an instrument for securing a judicial punishment of offenders. It is difficult to conceive of a case involving documents in the custody of an Audit Office where the alleged offence concerns only the Police and is of no interest to Audit. Both under the Constitution and the well-established and long-standing rules of financial procedure, the Comptroller and Auditor General (and, under him the Accountants-General and other subordinate officers) have not only the duty but also the responsibility of ensuring that public funds are administered correctly and in accordance with law, and of conducting a thorough scrutiny into any case where a breach has occurred or is suspected. It is these special and specific responsibilities that have led the Comptroller and Auditor General to issue instructions to his subordinate officers to decline to part with original documents in their possession. This does not imply the slightest intention of placing any unnecessary difficulties in the way of Police investigation, and, in fact, the anxiety of the Comptroller and Auditor-General to ensure that Police investigation should receive every reasonable help from his subordinate officers is demonstrated by his instructing the subordinate officers that original documents are to be made available to the Police freely at the Audit Office for the purpose of perusal, scrutiny, and copying (including the taking of photostatic copies). The Government of India hope that the State Government will readily concede that

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The instructions issued by the Comptroller and Auditor General go a long way towards assisting Police investigations.

2. The existing instructions of the Comptroller and Auditor General, however, do not fully cover two particular aspects connected with Police investigation; namely, (i) the transmission of original documents to the Government Examiner of Questioned Documents for expert opinion, and (ii) the use of original documents by the Police for identification by witnesses. These aspects have been examined by the Government of India very carefully in consultation with the Comptroller and Auditor General, and the decisions arrived at are explained below. These decisions, it may be explained, aim at achieving a balance between the interests of Police investigation and those of Audit whose interests may extend to a full and formal enquiry into the same transaction that forms the subject of Police investigation. The Government of India hope and trust that in the implementation of these conclusions they and the Comptroller and Auditor General will receive the fullest co-operation from the State Government and from subordinate agencies.

3. Where the Police, in the course of their investigations, require the opinion of the Government Examiner of Questioned Documents (at Simla) the following action will be taken. The Investigating Officer will furnish the Audit Officer with a list of the original documents in the latter's possession on which the opinion of the Government Examiner of Questioned Documents is required, and in making a request to him to forward these documents to the Government Examiner of Questioned Documents also indicate the particular points on which his opinion is being solicited. A copy of this communication will be addressed by the Investigating Officer direct to the Government Examiner of Questioned Documents. The Audit Officer will, thereupon, forward the documents in question direct to the Government Examiner of Questioned Documents, and will refer in his covering letter to the Investigating Officer's communication, so as to enable the Government Examiner of Questioned Documents to link the documents with the Police case. The Government Examiner of Questioned Documents will communicate his opinion to the Investigating Officer and will return to the Audit Officer direct the documents received from the latter. In cases where the Audit Officer has made a request to the Government Examiner of Questioned Documents for being supplied with a copy of his opinion, the request will be complied with. It is necessary that the transfer of documents to and by the Government Examiner of Questioned Documents should be executed with extreme care, and detailed instructions in connection therewith, are set out in the Annexure to this letter.

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4. In regard to the second item mentioned in para 2 above, it is hoped that in the majority of cases the facility of inspection of documents within the Audit Office and the taking of copies (including photostatic copies) will be found to be adequate for the purpose of Police investigation. Even where the original document has to be shown to a witness during the process of investigation, it may be possible in many cases to have that carried out at the Audit Office. The Government of India however, visualise that there may be some very exceptional cases in which this procedure will not be practicable and the Police may find themselves unable to proceed with their investigation without obtaining temporarily the custody of the original documents. In each case of this type, it is requested that a reference may kindly be made, giving full reasons, to the Ministry of Home Affairs. This Ministry would then decide, in consultation with the Comptroller and Auditor General, whether the case for the original documents being handed over by the Audit Officers to the Police has been established, and arrange for the issue of appropriate instructions. Where the Audit Officers are instructed....

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instructed to make over the original documents to the Police, a photostat copy thereof will be taken by the Police to be handed over to the Audit office for retention, till such time as the original is returned to them. In all cases, the Audit Officer will produce the original documents in a Court of Law on a requisition to this effect being received from the Court, and if the Court chooses to employ powers of impounding under Sec. 104 Cr. P.C. the document will be left by the Audit Officer in the Court's custody. So far as production of documents before the Police Officer is concerned, the arrangements indicated above would make it unnecessary to resort to Sec. 94 Cr. P.C., and, it would, in the opinion of the Government of India, be in any event wholly unnecessary and inappropriate for the police to exercise these powers in relation to an Audit Officer acting under the instructions of the Comptroller and Auditor General.

5. I am directed to express the hope that the State Government will agree with the Government of India that the procedure indicated in this letter would be conducive to the maintenance and strengthening of mutual co-operation which the State Government, the Comptroller and Auditor General and the Government of India all desire.

6. A copy of the instructions issued by the Comptroller and Auditor General under D.O. No. 132-Admn/51-Pt. III dated the 26th May 1952 to his subordinate officers is also enclosed, herewith, for your information.

Yours faithfully,

(U.K. Ghoshal)

Deputy Secretary to the Government of India.

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U.K. Ghoshal

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Ministry of Home Affairs letter No. 47/4/55-Police (I), dated 15th July, 1955 ✓

[B(37)]

In continuation of this Ministry's circular letter No. 22/1/50-P.H., dated the 26th of May 1952, I am directed to say that the views expressed by State Governments have been carefully considered and after consultation with the Comptroller and Auditor General of India, it has been decided that the existing procedure laid down in paragraphs 3 & 4 of the circular letter under reference should be modified to the extent indicated below:

- (a) In cases where the Investigating Officer considers that it is not possible to proceed with the investigation without securing the original documents which are in the possession of Audit Offices, the matter should be reported by him to the Inspector General, Special Police Establishment or his Inspector General of Police, as the case may be. The Inspector General, Special Police Establishment or the Inspector General of Police after carefully examining the request of the Investigating Officer and satisfying himself that there is sufficient justification for obtaining the original documents should refer the matter to the Accountant General concerned with the request that the required documents be handed over to the Investigating Officer in original. He should expressly mention that copies including photostat copies would not serve the purpose of the Investigating Officer. The Accountant General will then arrange for the required

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documents being handed over to the police, as early as possible after retaining photostat copies.

- (b) The responsibility for preparing photostat copies will be that of the Audit Offices. Photo-copying machines have been installed in the audit offices at Bombay, Madras, New Delhi and Calcutta and it is likely that some more offices will be provided with these machines in the future. In the case of audit offices where these facilities do not exist at present such offices will have the photostat copies prepared in one of the offices where a photo-copying machine has been installed.
- (c) Where the State Government has under its direct control a Handwriting or a Finger-print Expert and the Police wish to utilise his services rather than refer the matter to the Government Examiner of Questioned Documents at Simla, there would be no objection to this course being followed. Where, however, the Handwriting or the Finger-print Expert is under the control of the Police, the existing procedure will continue. The existing procedure laid down for the transmission of documents by post to the Government Examiner of Questioned Documents at Simla will apply *mutatis mutandis* in cases where such documents are transmitted to the Handwriting or the Finger-print Expert working under the control of the State Government.

2. A copy of the instructions issued by the Comptroller and Auditor General to give effect to the modifications indicated in this letter is enclosed for information.

Ministry of Home Affairs letter No. 17/11/64-AVD, dated 13th
March, 1964

[B(10)]

[B(10)]

In continuation of this Ministry's letter No. 47/4/55-Police (D), dated 15th July, 1955 I am directed to say in accordance with Para 1(a) of the letter, only I.G., S.P.E. and Inspectors General of Police were authorised to requisition original documents from the Audit Offices. With the inception of the Central Bureau of Investigation with effect from 1st April, 1963, the Additional I.G., S.P.E. and Joint Director, C.B.I. is looking into most of the requests for requisitioning documents from Audit in connection with S.P.E. cases. It has, therefore, been decided, in consultation with the Comptroller and Auditor General of India, that Addl.

I.G., S.P.E. may also be authorised to requisition documents direct from the audit offices.

2. The Comptroller and Auditor General of India is being requested to issue suitable instructions to Audit Officers.

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SECRET

No. 1704-TA I/591-65

OFFICE OF THE COMPTROLLER &
AUDITOR GENERAL OF INDIA.
NEW DELHI.

Dated the 16th June, 1967.

To

All Accountants General (Except A.G.Madras)

Sub: Utilisation ~~by~~ by Police and other investigating officers of documents in the possession of Audit Offices.

Sir,

I am to invite a reference to this office D.O. letter No. 'A' 1-43/132-Admn-52/Pt.II dated 23.2.52 and subsequent instructions issued in this regard on the subject indicated above and to state that it has been brought to our notice that S.P.E. and other investigating officers have been requesting the Audit Officers to furnish copies of Inspection Reports, Local Test Audit Reports, copies of correspondence relating to objections raised in Central Audit, etc. etc. In certain cases draft Inspection Reports and rough notes leading to issue of these reports have also been called for.

2. A ~~misikam~~ question has, therefore, arisen whether these documents fall within the category of 'original' documents and can be supplied to the Police and other investigating officers. The matter has been carefully examined and it has been decided that the Inspection Reports and objection memos etc. issued by the IAAD, contain the various irregularities or defects noticed by Audit, which according to the prescribed procedure, are issued to the Department concerned with copies to higher authorities, at appropriate level, where necessary and are subject to further examination and review, on receipt of replies from the Department, and as such cannot be considered to be the final conclusions of Audit. They cannot also be brought within the scope of the term 'Original documents' used in this office circular letter No.C-9/321-Admn.V/53-Vol.IV dated 15.7.55 and No.783-TA.I/147-64 dated 28.3.64. It will not, therefore, be correct to make available the inspection reports etc. to the S.P.E. for their investigation. As the original inspection reports/objection memos have already been issued to the departmental officers concerned, the S.P.E. etc. may, if necessary, contact the departmental officers for copies of the notes, rough notes to the S.P.E., a reference is invited to Shri G. Swaminathan's circular D.O. letter No.418-Admn.I/165-57 dated 9.2.59 regarding production of Inspection Reports in a Court of law. The S.P.E. may, however, be informed that such assistance as they find necessary in elucidation of any technical details on any specific points taken in the Inspection Reports/objection memos, will be rendered by Audit Officers according to the procedure laid down in para 8 of the note enclosed to the Govt. of India, Ministry of Home Affairs O.M.No.22/1/50-P.II, dated 14.1.54.

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The receipt of this letter may please be acknowledged.

Yours faithfully,

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No. 155-Audit (AP)/8-2003
भारत के नियंत्रक-महालेखा परीक्षक का कार्यालय
OFFICE OF THE COMPTROLLER
AND AUDITOR GENERAL OF INDIA

दिनांक
Date

30.10.2003

To,
All Directors General/Principal As.G/As.G. (Audit)
All Principal Directors of Audit (including Commercial, Railways, Defence & PT)
Pr Accountants General/Accountants General (A&E)

Subject: - Confidentiality of materials of Audit Reports/Audit Reports

Sir/Madam,

According to existing instructions, Audit Reports are treated as confidential documents till they are presented to Parliament/State Legislature. Accordingly, all material relating to the Audit Reports will have to be treated as strictly confidential right from the stage of issue of preliminary draft paragraphs to Government/Departments till the final stage of presentation to the Parliament/Legislature. Attention is also drawn to this office letter No.1752/Reports/256-68 dated 2-9-1968 which provides that Audit Reports are to be treated as **confidential documents** till these are presented to Parliament/State Legislature.

Adequate care should be taken at every stage to see that the Audit Report materials are secured against use by outsiders till they are presented to the Legislature. The draft paras/draft reviews which are also considered as confidential, should be marked invariably as confidential in order to maintain secrecy, while sending them either to the Headquarters office for approval or to the Government of India, State Government, departmental offices etc. for verification of facts or calling for comments.

These instructions may be strictly followed in future to ensure that the information contained in the Audit Reports are not accessible to the Press, Public or any outside agencies. These may also be brought to the notice of all the officers/staff connected with Audit Report work for strict compliance.

Any breach of the instructions will be viewed seriously.

Yours faithfully,

(A.BASU)

Director General (Audit)

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SECRET
No.4579-TA I/199-65.
OFFICE OF THE COMPTROLLER & AUDITOR
GENERAL OF INDIA, NEW DELHI - I.
DATED THE 22ND NOVEMBER, 1965.

A copy of the Govt. of India, Ministry of Home Affairs Secret letter No.242/41/65-AVD dated 1.6.1965, with a copy each of letters No.372-PLS dated 22.12.1964 and No.320/AC/LM-4/65, dated 3.2.1965 of the Government of West Bengal, is forwarded for information and guidance to:-

- (i) The-Director of Audit & Accounts, Posts & Telegraphs, Calcutta.
- (ii) The Director of Audit & Accounts, Posts & Telegraphs, S.W.&T.C., Calcut
- (iii) The Chief Auditor, Eastern Railway, Calcutta.
- (iv) The Chief Auditor, South-Eastern Railway, Calcutta.
- (v) The Senior Deputy Director of Audit, Defence Services (Factories), Calcutta.
- (vi) The Deputy Chief Auditor, Commercial Accounts, Calcutta.
- (vii) The Deputy Accountant General, Commerce, Works & Miscellaneous, Calcut
- (viii) The Deputy Chief Auditor, Chittaranjan.

R.B. Khare
(R.B. Khare)

Administrative Officer (Tech. Admn.)

No.4580-TA I/199-65. Dt: 22.11.1965.

Copy with a copy each of the enclosures mentioned above forwarded for information to:-

- (i) The Accountant General, Posts & Telegraphs, Simla.
- (ii) The Accountant General, Commerce, Works & Miscellaneous, New Delhi.
- (iii) The Director of Audit, Defence Services, New Delhi.
- (iv) The Director of Commercial Audit, New Delhi.

R.B. Khare
(R.B. Khare)

Administrative Officer (Tech. Admn.)

original at p. 29c

Copy of Secret letter No.242/41/65-AVD dated 1.6.1965 from the Govt. of India, Ministry of Home Affairs, New Delhi addressed to the Secretary to the Govt. of West Bengal, (i) Home Department (Police), (ii) Home (Anti-Corruption) Department, Calcutta and copy forwarded to the Comptroller & Auditor-General of India, New Delhi with reference to their U.O. Note No.1357-Tech. Admn. I/199-65, dated 5.5.1965.

Subject: Requisition of documents in the custody of Audit Offices.

With reference to the State Government's letter No.372-PLS, dated 22.12.1964/320/AC/LM-4/65, dated 3.2.1965 on the subject noted above, I am directed to say that the Comptroller and Auditor General of India has agreed that the Additional Inspector General of Police, West Bengal, may also be delegated powers to requisition original documents from the Accountant General in the same manner as the Inspector General of Police viz. as laid down in the Government of India, Ministry of Home Affairs' Secret letter No.47/4/55-Police(1), dated 15.7.1965.

The Comptroller and Auditor General of India is being requested to issue suitable instructions to Audit officers.

As regards the oral examination of the staff of Indian Audit & Accounts Department by the enquiry officer of the delinquent officer, I am to say that according to the existing arrangements the Investigating Officer of the Police Department is permitted to interrogate and take statements from the A.C.'s staff in the presence of an officer of the Audit Department nominated by the Accountant General for the purpose. On the other hand the messenger who carries the original records for production before the Departmental Enquiry Officer cannot be expected to give an oral evidence, as the Inspection Reports on Audit Reports are processed at various stages in the Indian Audit and Accounts Department and they represent the views of the office as a whole, and it will not be correct to identify any particular point raised in the course of inspection with any particular officer or set of officers. The Comptroller and Auditor General does not, therefore, agree to the proposals contained in the State Government's letter dated 3.2.1965 referred to above and feels that the existing arrangements in this behalf are adequate.