

**By Email/Speed Post
Without Prejudice**

To,

Mr. Anjani Kumar, IPS,
Commissioner of Police,
Hyderabad City
Basheer Bagh, Hyderabad - 500001
Email: cp-hyderabad@tspolice.gov.in

Date: October 29, 2021

Respected sir,

Subject: Legal Notice seeking information and immediate cessation of unlawful surveillance activity including search of mobile phones of persons under duress

1. The undersigned is a researcher on data and privacy, and is a permanent resident of Hyderabad at the address stated below. He graduated from Indian Institute of Technology Madras with a Bachelor of Technology in Civil Engineering. He has been associated with various internet communities and movements in India. As part of these communities, he advocates for data standards, open data and cyber security in India. He frequently writes on issues concerning digital rights of citizens for India Today, Business Standard, Outlook, Deccan Herald, the Wire, the News Minute, the Quint etc..
2. The present legal notice calls upon your good office to take immediate cognizance of patently illegal actions being committed by officers of the police force on and about October 27, 2021 in and around Mangalhat, Dhoolpet, Bhoigudakaman, and Jumeraat Bazaar. The impugned actions include stopping pedestrians, motorcycle and auto rickshaw drivers and riders and bystanders without any reasonable suspicion of having committed/being involved in the commission of an offence. Subsequent actions include demands for access to mobile phone devices carried on their person, and thereafter proceeding to search the contents of such mobile devices including searching private messaging applications. This is despite the fact that at a video press conference addressed by your good office, you are seen stating that it is only in a few cases of grave and sensational crimes, where the accused is likely to run, that the police may check items found at the scene of the crime or available with the accused persons, including digital evidence such as mobile phones and laptops.
3. Brief details of the unlawful activity, which the undersigned gathered from news reports published by news agencies are as follows:
 - a. In a news video released by *Siasat Daily* (**Annexure A** - available at this <https://www.youtube.com/watch?v=B4bCUC6Xhh4>), a police officer is

seen on camera stating that he is stopping random passers-by and checking their mobile phones, and in cases where any messages with keywords "ganja", "weed" and "stuff" are found, the persons are being sent to the police station. In the video, the police officials are seen stopping passersby indiscriminately without any basis and without communicating any reasons for inspection of their phones. He stated that five teams were carrying out such inspections in three shifts of 6 AM to 2 PM, 2 PM to 6 PM, and 6 PM to 2 AM, and that this exercise has been taking place for approximately one month and may go on for another month.

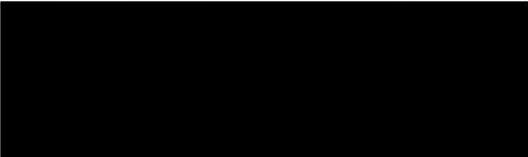
- b. A news article by *The News Minute* (**Annexure B**) reported that it was on the instructions of your good office, that every police station has been instructed to ask for the mobile phones of citizens, get them unlocked, and search the device (presumably email / messaging apps) for keywords such as "ganja" to look for any related chats.
 - c. The said article further reported that Mr. Gajarao Bhupal, Deputy Commissioner of Police, South Zone, has confirmed that he is aware of such practices. He claimed that the police are not forcing anybody to hand over their phones, and that people are co-operating without complaining. Mr. Bhupal further stated that, in his opinion, this was not illegal. However, he added that upon refusal to hand-over phones, the police would consider imposing legal provisions against such persons.
4. As your good office is well aware, police officers have no powers under the Criminal Procedure Code 1973 or any other statute to stop ordinary citizens and "request" that they unlock their mobile devices, and, thereafter, proceed to search the contents of such devices to find evidence of any illegal activity. The Hon'ble Karnataka High Court has recently, in W.P. No. 11759/2020 titled *Virendra Khanna v. State of Karnataka & Anr* (order dt. 12.03.2021) (**Annexure C**), held that a mobile phone is akin to a "place" as under Section 100 Cr.P.C. It was further held that searches of mobile phones require a judicial warrant, unless the search is undertaken during an investigation and there exist recorded reasons explaining the need for urgent and immediate police intervention.
 5. It is clear and apparent that the questioned activity is not backed by judicial warrants, nor is it part of any ongoing investigation requiring such mass-scale invasion of citizens' privacy. The citizens on whose mobile phones some allegedly objectionable content is being found are being sent to police stations. This suggests that the police officers are engaging in a roving and fishing inquiry with no legal basis. Further, the areas where such activities are being carried out make it clear that lower income groups and vulnerable and marginalised populations are being targeted by this police action. The concerned police officers seem to have knowingly selected areas where the residents would not be in a position to decline the "requests" – which carry an implied threat of further coercive action – to carry such wanton and illegal invasions of privacy.

6. It is respectfully submitted that the claims reportedly being made by certain officers that the mobile phones are being searched with consent is farcical and a pathetic attempt at what appears to be a blatant abuse of power wielded by the police force - a power which prompts respect and fear for the police authority in the minds of ordinary citizens. Rather than utilising that power to benefit the society, it is apparent that the police officers are acting on fear and abusing their wide powers and coercive presence to treat all and any persons as suspects without any reasonable basis. The police are operating with a widespread presumption of criminality, rather than a presumption of innocence. While it is obvious that the right to privacy is not absolute, persons without any formal accusation / reasonable suspicion against them are entitled to a reasonable expectation of privacy in respect of their mobile phone and the contents thereof. The questioned activity erodes this expectation without cause and is an obvious weapon of abuse as police officers can wade into the intimate details of any person's private life. There cannot be a more direct and patent violation of the fundamental right to life and personal liberty that your good office has a sworn oath to protect.
7. You are, thus, called upon to immediately ensure the cessation of the illegal actions being committed by police officers under your authority and command, and take cognisance of such actions and initiate appropriate proceedings against them under the Hyderabad City Police Act, 1348-F, including disciplinary proceedings and filing of complaints before concerned courts. You are further called upon to disclose if any prior warrants were obtained by the concerned police officers before searching and accessing of mobile phones of citizens, or any departmental notices/instructions were issued directing for such conduct.
8. I urge you to consider my submissions and remain hopeful of positive action, failing which I may be constrained to seek further legal remedy including but not limited to approaching appropriate judicial fora. Please note that this notice is without prejudice to my rights and remedies, all of which are expressly reserved.

Kind regards,



Srinivas Kodali



Encl:

Annexure A — Still screenshot of video news report titled "*Hyderabad: Vehicle checking in city by Excise team*" published by The Siasat Daily on October 27, 2021

Annexure B — Article titled "*Hyderabad cops are stopping people on the road, checking WhatsApp chats for 'drugs'*" published in The News Minute on October 28, 2021

Annexure C — Order of Karnataka High Court dated 12.03.2020 in *Virendra Khanna v. State of Karnataka*

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