

MAY 14, 2010

APPLICATION

The Hon. Commission is already seized of extensive data of the phone call Records of key influential persons of the relevant time under examination of the Commission and the idea is not duplicate this material. For the purposes of supporting the case of the victim complainants in the ongoing criminal trials afoot under the monitoring of the Honourable Apex Court, the phone call records need to be probed thoroughly and then collated with other documentary data. For instance, the probe must include

- a) The Phone Call records of the 5 lakh phone calls on the CD collected by the Crime Branch, Ahmedabad (June 2002)
- b) The Police Control Room Records concerned with the Meghaninagar Area, the Naroda Area collated with the log and analysis of the calls received by senior and responsible officers and the response to the calls at the relevant time
- c) The Fire Brigade Registers, the Case Diaries Etc

We have found, after a scrutiny of the material already available with the Hon. Commission, that certain aspects of the investigation may be missing. Those aspects of the Analysis are being brought to the interest of the Commission with specific Averments and Prayers.

This Investigation is an ongoing one. Already we have identified several areas in which serious questions arise and point towards the likely confirmation of a pre-planned conspiracy. Partial Findings are being Put on Record here to Illustrate the Extent and Depth of the Concealment that has resulted from a failure to Investigate these Records. We crave leave to submit the final submissions in thus regard by June 20, 2010.

WE also crave leave to submit Two Volumes of the Concerned Citizens Tribunal Report (Crimes Against Humanity—Gujarat 2002) headed by Justices VR Krishna Iyer, PB Sawant and Hosbet Suresh **(ANNEXURE A COLLY)**

WE also crave leave to annexe hereto a copy of the Editor's Guild Report, 2002 **(ANNEXURE B)**

Reasoning for Providing these Records

From the records submitted before this to the Commission already, it is humbly submitted that some crucial and relevant details are absent.

For instance

a) While there are minute Tables of Individual Records of Approximately Tables that Show at a Glance the records of these individuals with i) Number of Calls Received

ii) Timings/Durations of the Calls;

iii) Locations of the Person Concerned Received and Making the Calls

iv) There is no attempt made in these Minute Tables to Identify the Calles who have been Spoken to or who called the Speaker Concerned. For example, the fact tact that for crucial hours when Gulberg Society, Meghaninagar and Naroda Patiya and Naroda Gaam, within Ahmedabad City were under pre-planned mob attack and burning **three of the city's top cops avoided these areas (PC Pande, MK Tandon, Shivanand Jha) and moreover that the CMO –nine persons from the Chief Minister's Office were in constant touch with them – lends weight to the allegations that the inaction and lack of help rendered to victims was part of a Design/Conspiracy. CP PC Pande himself received as many as 15 calls from the CMO on that day during that period.**

v) Besides the Minute Details given show the calls received with dates all mixed up making it almost impossible to sift through

v) As a result the Graphs hitherto presented before the Commission could be Selective

vi) There are no records on the Commission of **three critical persons from the Chief Minister's Office (CMO)**, i.e. OP Singh, OSD to the CM, Harsh Brahmbutt from the GAD part of the CMO, and P.K. Mishra, PS to the Chief Minister.

vii) Besides, from other members of t he CMO too we find records are missing. For instance while an objective analysis shows that A.P. Patel, PA to the Chief Minister received and made 42 calls on 28.2.2002, from the records already presented to the Commission, only 11 calls are attributed to his phone for that day. Similarly then MOS Home Govardhan Zadaphiya's call records show 77 calls from the records of 28.2.2002, the records submitted before the Commission show only 32 calls made and received by Zadaphiya. Home Secretary, GOG Nityanandan's records are also not complete.records...whereas he made and received 35 calls that day, the records placed before the Commission show that he received and made only 10 calls on 28.2.2002.. Similarly, the call records of Anil Mukhim, Additional Chief Secretary to the CM

actually has 21 call records of 28.2.2002 whereas only 11 have so far been brought before the Commission.

We have taken the liberty of providing the Commission with

- a) Detailed Tables of the Calls Received by Individuals, that show at a glance the total calls received, Caller Names where numbers have been Identified and Duration of these Calls (TO BE SUBMITTED WITHIN A WEEK)**
- b) Individual Graphs of These Tables of Phone calls made and received**
- c) and made by 44 Persons . The records herein also include the records analysis of these nine persons from the CMO, as it is likely that the chief minister used the phone of one of these nine persons (ANNEXURE C COLLY)**
- d) Graphs Showing Locations of Important Persons at MEGHANINAGAR AND NARODA --Key Locations on 27.2.2010 while the Chief Minister was at Godhra (It was at these very locations that violence spilt over, in broad daylight the next day as Policemen watched-ANNEXURE D COLLY)**
- e) Graphs Showing Locations of Important Persons at MEGHANINAGAR AND NARODA --Key Locations on 28.2.2002, the day these areas were under re-planned mob attack -ANNEXURE E COLLY)**
- f) Graphs Showing Locations of Persons from the CMO and Senior Policemen in and around the Gandhinagar area (CM's Residence) corroborating the fact that secret/illegal meetings did take place there where instructions to allow free reign to the organized mobs led by men of the VHP/Bajrang Dal are alleged to have been given-ANNEXURE F COLLY**
- g) Time Zonal Locational Graphs for 28.2.2002, the Day of the Worst Massacres in Ahmedabad city post the Godhra Carnage that indicate the common locations of key persons at certain times of that day-ANNEXURE G COLLY**
- h) Locational Graphs of areas in and around Mobile Tower Locations like Shayona Plaza, Meghaninagr, Kailash Complex, Narol, Naroda, Shahibaug Kedar Towers, Vishal Diamond Factory, Sambhav Building, Sears Towers, Zydeus Gandhinagar-ANNEXURE H COLLY**

Chief Minister's Office (CMO)

Name	Designation	Phone Nos.
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Tanmay Mehta	OSD To Chief Minister	9825000837
O. P. Singh	OSD To Chief Minister	9825000836
Sanjay Bhavsar	OSD To Chief Minister	9825037432 / 0795460888 (R)
Anil Mukim	Addl. Principal Sec To CM	9825049391 / 0796407739 (R)
A. P. Patel	PA To Chief Minister	9825037439
J.M. Thakkar	PRO To Chief Minister	9825037429
Harsh Brahmbhatt	General Administration Departments Dy. Secretary (Ser)	9825000620 / 0795464988 (R)
P. K. Mishra	PS To The Chief Minister	9825095142
A. K. Sharma	Secretary to CM	9825037435
Dinesh Thakore	PA to CM	9825000838

Besides there are other critical areas that we have attempted to include in this analysis which are:

- I. Individual Phone Record Analysis of **44 persons includes their locations at the time of the call and the persons they spoke to if such numbers have been identified..**
- II. Locational Details of Key Persons from the CMO and influential Politicians who are found through the Locations of their Mobile Phones to have been located at the **Meghaninagar (Gulberg Society) and Narol (Naroda) areas on the day of the Godhra Train Burning while the Chief Minister was at Godhra.** Given the fact that in all the depositions before the Commission, senior policemen have averred that the reasons why **Gulberg was attacked and burned in broad daylight for several hours was the fact that this was *not a traditionally communally sensitive area and therefore was left under-manned. A similar excuse was made for Narol, Naroda.*** Yet it transpires that key persons are found located here. Why?
- III. Key persons at certain sensitive locations where it is believed **secret meetings were held on February 27, 2002 and February 28, 2002. These locations are at Koba Circle, Gandinagar...etc..etc...**

Analysis of Documentary Evidence

How Mobile Towers Work

- a) A Mobile Tower Covers a Radius of 16 kilometres (10 miles in circumference)
- b) In normal times, the nearest tower would pick up the signal from a mobile number located within its area
- c) When there is heavy congestion, the tower, next in proximity could pick up the signal from the same mobile
- d) That is to say that even within the distance of say the Meghaninagar area (where Gulberg Society) is located, the towers that could pick up signals could be the one showing Shayona Plaza, Meghaninagar or the one showing Kedar Towers, Shahibaug , **Kubernagar near Sardarnagar**

Analytical Note on Importance of Analysing Phone Call Records

Eyewitnesses and victim survivors have testified in the Courts to the fact of the anguished calls made by former Parliamentarian, Shri Ahsan Jafri, from Gulberg Society, Meghaninagar, for help from the highest levels in government that he not others received.

Was this a genuine human lapse or a preplanned conspiracy at the very highest levels to allow people to be raped, molested, burned and killed at the Gulberg society after the attack started around 10 a.m. went on until 5.30- 6 p.m?

There is a parallel investigation being undertaken by the Special Investigation Team (SIT) relates to allegations of Mass Murder and Criminal Conspiracy against chief minister and 61 others. Senior police officers have also been arraigned as accused. Some of the individual ghastly incidents are evidence of this conspiracy. Section 120 (b) is also a section that the accused arraigned have already been charged with. As complainants in that Investigation we have unearthed these Records and wish to bring them to the Commission's notice.

- Postmortem done hastily at Godhra Railway Yard itself allegedly on the instructions of the CM (phone call records between Personal Secretary to the CM and the Health Minister)
- Bodies could reach Ahmedabad by next morning for the proposed funeral procession instead of being dispatched to respective districts in an all out bid to inflame the anger of the funeralists, which could be converted into a violent communal reprisal.

- **Bodies handed over to Jaideep Patel, Vice-President, VHP, (not to an official functionary) for carrying them to Ahmedabad.** allegedly on the instructions of the CM (affidavit of ACS, Home and Collector, Godhra filed before the Nanavati-Shah Commission)
- Dead bodies carried by road to Civil Hospital, Sola, Ahmedabad in open trucks against advise by officers.
- Call for Gujarat Bandh by the VHP.
- State's endorsement of the Bandh through Press Note.
- **The CM called a meeting of senior police officers & bureaucrats on the night of 27th February, 2002. (Locational Graph).**
Officers were "advised" as is borne out by Annexure A Colly Concerned Citizens Tribunal Report Volume II (State Complicity) not to take action against the riotous mobs the next day and let people vent their anger. (Meeting attended by Chief Secretary; ACS, Home Department, DGP, Principal Secretary to the CM, CP, Ahmedabad City, etc.)
- **A second such meeting was held between 7-8 a.m. of February 28, 2002 at which DGP Gujarat Chakravarti was present as were members of the CMO, top Policemen and even then MLA Maya Kodnani.**
- **Several meetings through the day, i.e. February 28, 2002 were held at locations in Ahmedabad like possibly in or around the Sambhav office, a Cooperative Bank near the Judges Bungalow area of which then health minister, Ashok Bhatt was Chairman of, a Diamond factory or farmhouse owned by another Minister.**
- **Testimony of this meeting given to *Concerned Citizens Tribunal, Crimes Against Humanity 2002 Report* by MOS revenue, Haren Pandya on May 18, 2002;** Justice PB Sawant, Justice Hosbet Suresh, KG Kannabiran and Teesta Setalvad (Convenor) present
- Positioning of senior ministers/party functionaries at selected Police Control
- Rooms on 28th February, 2002
- to monitor riots
- to ensure police inaction
- Residential colonies, shops & establishments had been identified beforehand.
- Hate Pamphlets had been distributed throughout the state, some even authored openly by the VHP asking for a socio-economic boycott of the largest minority community.
- Inflammatory Writings by Newspapers published in the Gujarati Language against which at least four Policemen had recommended Action but on

Which the State Government/Home Department/Home Minister (who is the Chief Minister) had not granted any sanction to prosecute

- The Editor's Guild Report of 2002 also mentions the **Transcript of March 1, 2002 Interview of the Chief Minister on Zee television wherein he openly speaks of the "Ation-Reaction" theory, to a substantive extent justifying the post Godhra Violence**
- This Report also speaks of Congratulatory letters written officially by the Chief Minister's Office to Newspapers like the Sandesh to congratulate them for a Certain Kind of Writing. Incidentally those Gujarati language newspapers that were critical of the state government and had even reported about **distribution of alchohol and arms in areas on the night of February 27, 2002 were "not congratulated by the CM or the CMO."**
- **Army Deployment officially was sanctioned only around March 4, 2002 in Ahmedabad and for the intitial days the armed forces had the ignominy or indignity of being given "dumpers " of the AMC to travel in and not act to save lives.**

Descriptions of Annexures

ANNEXURE C COLLY

Individual Graphs of These Tables of Phone calls made and received and made by 44 Persons Including Nine Persons from the Chief Minister's Office (CMO)

The Individual Graph of these 44 Phone Calls Reveal the Following:

1. **Chief Minister's Office (CMO) makes 15 calls to Commissioner of Police Ahmedabadm P.C.Pande while the city was aflame and the CP did not move out of his office after 11 am at all.**
Conclusion: Calls were Directly Co-Related to Instructions to Top Echelons of the Police not to Act.
2. **CMO's Office is in Contact with VHP Gujarat General Secretary Dr Jaideep Patel (now an accused in both the Naroda Patiya and Naoda Gaam massacres) several times on February 28, 2002. The CM's Office Nos phone Records show such a contact 5 timesm with Sanjay Bhavsar twice and with Tanmay Mehta once.**
Conclusion: For the CMO to be directly in touch with the man entrusted to bring the bodies of the Godhra victims back to Ahmedabad and moreover the man accused of leading and inciting the massacres and rapes in the Naroda Patiya and Gaam areas suggests collusion of the CM in the violence at the highest level.
3. **Records of then Minister for Health Ashok Bhatt also show him in conversation with Dr Jaideep Patel**

4. Records of then MOS Home Govardhan Zadaphiya show him to be in touch with both Jaideep Patel and Dinesh Togadia, brother of Praveen Togadia and Manager of the Dhanvantri Hospital, Ahmedabad.
5. Details of the Phone Calls Records Analysis of the CP PC Pande, Joint CP MK Tandon, Additional CP Shivanand Jha, then first PI Meghaninagar KG Erda have been given in detail separately in the Application.
6. Amit Shah later to become MOS Home and then Chairman of the Ahmedabad District Cooperative Bank was in touch with Shivanand Jha that day (28.2.2002). Besides, Dr Maya Kodnani (then MLA and later Minister for Women and Child Welfare when she was arrested in 2009) and Minister Kaushik Jamnadas Patel were in touch with Jha,
7. DCP Zone IV PB Gondia was in touch with Dr Maya Kodnani, Jaideep Patel and Nimesh Patel.
8. First PI Meghaninagar KG Erda was among others also in touch with Dr Maya Kodnani and Nimesh Patel
9. First PI Naroda KK Mysorewala was in touch with Dr Maya Kodnani, Jaideep Patel among others. His phone call records show relatively few phone calls recorded that day.
10. The Two Police station Numbers for Meghaninagar Police station that was the Police Station where the Gulberg Society was located has recorded just two phone calls from mobile phones in the whole day that day.
11. BJP State President, Rajendrasingh Rana is also in touch with both Dr Maya Kodnani and Jaideep Patel that day.
12. ACCUSED TO ACCUSED CONTACTS on 28.2.2002
 - i) The Individual Graphs of the Phone call Analysis also show that those Accused of Violence in the Naroda Patiya and Naoda Gaam Massacres (like Babu Bajrangi) and Atul Vaidya (Gulberg Society) were in touch with each other. Analysis of the Records for 28.2.2002 show that Bajrangi was in touch with Atul Vaidya, Jaideep Patel, Naresh Bhatia and Govind Patel.
 - ii) Maya Kodnani (then MLA) was in touch with Police Officers DCP Jebalia and Gondia, Additional CP Shivanand Jha, PI Meghaninagar KG Erda, Deputy Prime Minister and then Union Home Minister LK Advani's office, Dinesh Togadia (Manager of Dhanvantri Hospital, brother of Praveen Togadia) , co-accused Jaideep Patel and Nimesh Patel.
 - iii) Jaideep Patel was in touch with the CMO, Ministers Ashok Bhatt and Govardhan Zadaphiya, DCP Gondia, BJP

President rajendrasing Rana and co-accused Maya Kodnani and Babu Bajrangi.

- iv) Atul Vaidya accused in the Gulberg Society Massacre was in touch with VHP leaders Kamlesh Agarwal, Ajaysingh Balisatarsingh Rajput, Dinesh Bhoidas Patel and Babu Bajrangi.
- v) Nimesh Patel was in touch with Mayabehn Kodnani and DCP PB Gondia.

ANNEXURE D COLLY

27.2.2010

Graphs Showing Locations of Important Persons at MEGHANINAGAR AND NARODA --Key Locations that Burned the Next Day

MEGHANINAGAR

What were Six Persons from the CMO, Anil Mukhim, OP Singh, Tanmay Mehta, Sanjay Bhavsar, AP Patel and JM Thakkar doing in the Meghaninar area between 1400 to 1700 hours on 27.2.2002 while CM Modi was at Godhra?

Health Minister Ashok Bhatt and Tanmay Mehta were at Narol Naroda between 0900 hours and 1700 hours on 27.2.2002 (Other Reports say that Ashok Bhatt was at Godhra so did he leave his Mobile Phone behind?)

It was at these very locations that violence spilt over, in broad daylight the next day as Policemen watched

ANNEXURE E COLLY

28.2.2010

Startlingly, on the day of the GULBERG MASSACRE/NARODA PATIYA AND GAAM MASSACRES, persons from the CMP, Ministers Ashok Bhatt and IK Jadeja, ACS Ashok Narayan and even DGP Chakravarti are shown through an Analysis of the Mobile Phone Records to be Located in these areas of Ahmedabad City.

Early Morning (5.10 a.m.,) Ashok Bhatt Narol, Naroda

Afternoon (3.41 p.m.) Ashok Narayan Narol Naroda

Afternoon (3.56 p.m.) Tanmay Mehta (CMO) Narol, Naroda

Afternoon (3.56 p.m.) IK Jadeja , Meghaninagar

Evening (5.10 p.m., 5.14 p.m., 5.57 p.m.) Ashok Bhatt Nrol, Naroda

Evening 5.40 p.m. AP Patel (CMO) Meghaninagar

Evening 7.24 p.m. Harsh Brahmbutt (CMO) Narol Naroda

Evening 7.26 p.m. Harsh Bahbut (CMO) Meghaninagar

ANNEXURE F COLLY

Graphs Showing Locations of Persons from the CMO and Senior Policemen in and around the Gandhinagar area (CM's Residence) corroborating the fact that secret/illegal meetings did take place there where instructions to allow free reign to the organized mobs led by men of the VHP/Bajrang Dal are alleged to have been given-

Koba Circle, Gandhinagar CMO + CP Pande 27.2.2002 Late Evening

Koba Circle, Gandhinagar CMO + Maya Kodnani + Chakravarti 28.2.2002 Morning

ANNEXURE G COLLY

Time Zonal Locational Graphs for 28.2.2002, the Day of the Worst Massacres in Ahmedabad city post the Godhra Carnage that indicate the common locations of key persons at certain times of that day-

ANNEXURE H COLLY

Locational Graphs of areas in and around Mobile Tower Locations like Shayona Plaza, Meghaninagr, Kailash Complex, Narol, Naroda, Shahibaug Kedar Towers, Vishal Diamond Factory, Sambhav Building, Sears Towers, Zydeus Gandhinagar-

We humbly say and submit that

In cases of targeted mass crimes, the world over, oral testimonies need to be carefully corroborated with Documentary Evidence like Police Control Room Logs, Station Diaries and Case Diaries, Fire Brigade Registers and Mobile and Landline Phone Call Records. Such an investigation, therefore, needs to be thorough and conducted in a manner to bring out inferential evidence pointing towards the conspiratorial role of the main accused. A thorough scrutiny of the documentary evidence becomes vital.

The Failure to Interrogate Substantive Documentary Evidence of State Complicity

1. Combined Analysis of Phone Call Records of Three Senior Most Officers in Ahmedabad City

The three officers and their mobile numbers are given below:

- i) Mr. P.C. Pande, the then Commissioner of Police, Ahmedabad City (Mobile Phone Number: 9825048303: Celforce Network)
- ii) Mr. M.K. Tandon, the then Joint Commissioner of Police, Ahmedabad City (Mobile Phone Number: 9825048316: Celforce Network)
- iii) Mr. Shivanand Jha, the then Additional Commissioner of Police, Ahmedabad City (Mobile Phone Number: 9825048308: Celforce Network)

A. PC Pande 's Role as Revealed After an Analysis of the CD

a) Phone call record analysis of PC Pande for the whole of Ahmedabad city but especially for the Gulberg Society or Naroda Patiya and Gaam chargesheets suggest that he is being protected by investigation agencies

b) The phone call records of both P.C. Pande and Joint Commissioner of Police MK Tandon (below) show that at the critical time when the latter visits Gulberg Society (between 11:43 a.m. and 12:42 p.m.) when the mob build up is at its height, **the two speak to each other six times.** For Pande or the latter to say in affidavits before the Commission that he was not aware of what happened is a bare untruth.

A close and dispassionate analysis of the Police Control Room (PCR) records of Ahmedabad city co-related with the mobile phone call records analysis reveal that

- a) Adequate forces failed to reach Gulberg society despite repeated calls made to the Police Control Room (PCR) that show on official records
- b) PC Pande a Commissioner would get intimations every 15 minutes of the PCR information.
- c) The first time that the fire brigade was called to Gulberg Society was at 1855 in the evening when the massacre had been successfully completed and all homes were burning. MK Tandon was standing here at the time. Despite this call, the official panchnama shows that the fire inside Ahsan Jafri's home was burning for three-four days after the crime.
- d) PI Meghaninagar, KG Erda's Phone Records Show that of the 29 calls made and received by him that day, 10 Calls were made to the Police Control Room which means that with every call the CP (PC Pande would have received news about the systematic Mob Attack o Guberg Society.

- e) An Analysis of the PCR Records Show that Curfew was declared piecemeal, at Different Times within Ahmedabad—Meghaninagar Area, Naroda, KrishnaNagar. Was this part of a Strategy to allow Free Reign to the Mobs?
- f) An Analysis of the PCR also Show that Curfew Was imposed at the Meghaninagar Area at 12.54 p.m. when PCR had already been informed of a 5,000 strong Mob Attack on the Society at 12.38 p.m.

SEE TEXTUAL ANALYSIS AND GRAPH OF TOP COPS AND HOW THEY DESERTED GULBERG(ANNEXURE I COLLY)

How Gujarat's Top Cops Deserted Residents of Gulberg Society

Where were the Top Cops when Armed Mobs Surrounded and Attacked Gulberg Society?

Commissioner of Police PC Pande

Curfew was declared in the Meghaninagar area where the Gulberg Society is located at 12.54 pm (according to the Police Control Room Records—PCR). By then, according to data of the PCR itself, the Gulberg Society had already been surrounded by a mob of 4-5,000 armed with weapons. (12.38 p.m., PCR Records). In law, the Commissioner of Police, PC Pande has the responsibility of declaring curfew on time.

At 2.09 p.m. PI Meghaninagar KG Erda even asked for Central Paramilitary Forces but the PCR records show no deployment of paramilitary forces in the area till late in the evening, a decision that should have been taken by the Commissioner of Police, PC Pande.

Joint Commissioner of Police, Sector II, MK Tandon

He finds himself more comfortable in the Revdi Bazar area between 2 and 3 p.m. immediately after he received a call from his boss, Commissioner of Police PC Pande informing him of the attack on the residents of the Gulberg Society in the Meghaninagar area. (Revdi Bazar is five kilometres away from the Gulberg Society)

When the PCR sent a message to Tandon mentioning that Shri Ahsan Jafri and other residents of the Gulberg society were in danger, Tandon was still seen in Revdi Bazar area which was apparently calm, with no incidents of violence.

In spite of Meghaninagar PI KG Erda desperately seeking additional deployment at Gulberg around 2.30 p.m. MK Tandon leaves the Revdi Bazar area only after he was ordered to do so by City Police Commissioner, PC Pande around 3 p.m. Ironically, Revdi Bazar where Tandon appears to have sought asylum falls under the jurisdiction of his counterpart Shivanand Jha who during those crucial minutes was in the comfort of his own office at Shahibaug.

DCP Zone IV, P.B. Gondia

Not only did Tandon shy away from the engulfed and burning Gulberg society, even his deputy, DCP Zone IV, PB Gondia inspite of being repeatedly informed by PCR (Police Control Room) about the attack on Gulberg Society stayed away from the worst affected areas and from attending to the helpless cries of residents. He preferred to stay at the Kuber Nagar area, 6 kilometres away.

Gondia arrives at the Gulberg Society a few minutes before 2 p.m. on that fateful day only to leave the place in less than one hour, leaving a free way of passage to the armed mob. Later that afternoon Gondia moves to the Kalupur area which does not come under his jurisdiction.

The safety of the entire Meganinagar area during the most crucial periods of the day, from 11.30 a.m.-3.30 p.m. was left on PI KG Erda's shoulders despite the fact that Erda had himself asked the PCR to inform his bosses about the gravity of the situation and also to ensure that senior officers remain physically present as things were beyond his control. Today, KG Erda is an accused in the trial but P.B.Gondia, M.K. Tandon and P.C. Pande have escaped the investigator's net.

Clearly evident is the fact that the top Gujarat officers turned a deaf ear and a blind eye to the pleas of victims under attack for reasons best known to them. The entire Meghaninagar area was left unmanned by senior police personnel even when a residential society along with a neighbouring police chowkey were set afire leading to huge casualties. Among the 70 persons maimed, massacred and burnt to ashes, were former parliamentarian Shri Ahsan Jafri.

(Source: Phone Call Records Analysis Co-Related with PCR Records)

SEE ANALYSIS with LOCATIONAL GRAPH OF MK TANDON, PB GONDIA AND KG ERDA ON 28.2.2002 (ANNEXURE I COLLY)

I. Analysis of PC Pande's Phone Call Records

He was in his office till about 1:00 am on the night of 27.2.2002 that is the early morning of 28.2.2002. In normal times, he used to leave office at around 7 pm every evening. It was an apprehension and of trouble and a seasoned assessment that after the Godhra incident, some trouble may break out that on 28.02.2002 that made him stay so late. This clearly suggests that he was aware of the gravity of the situation following the Godhra carnage on 27.02.2002.

He arrived at his office in the morning at around 8:00 am. His normal schedule shows that he used to arrive at his office at about 10:30 am. His early arrival again shows that he was aware of the gravity of the situation.

Shri. Pande left his office at around 9:45 am and went towards Gota. This is likely to be his visit to the Sola Civil Hospital, where the dead bodies of the Godhra Victims had been kept. He returned and reached office at around 10:50 am. He was confined to his office for the whole of the day and did not move out till about 19:10 hrs, when he probably went to Gulberg Society, Meghaninagar.

The important point to be noted is that during the peak period of the communal riots, he did not move out of his office. (It also appears that he did not issue any instructions to any of his officers and let things take their own course.)

An Analysis of the phone records of Shri. P.C. Pande presented by us shows that on 28.02.2002 shows that he had received/dialed a total of **302 calls on his mobile phone**. He had dialed **39 numbers** from his mobile phone. Out of these 39 calls, he had called up the DGP, Shri. K. Chakravarty, 6 times. He had dialed Shri. Shivanand Jha 8 times and his DCP's 8 times. He had called DCP, Zone IV, Shri. P.B. Gondia only twice at 15:16:12 hrs and 15:54:39 hrs. **DCP Gondia is specifically responsible for the Gulberg society, Meghaninagar and Naroda areas.**

Analysis of the Mobile Phone Records of Shri P.C.Pande

Chief Minister's Office (CMO) (Fifteen Calls received)

Significantly, from the critical calls received from those political superiors on his mobile phone who are from the close confidential coterie of the

chief minister, there are as many as **15** calls received and made to the men who moved with the CM.

1. Firstly, there are 5 incoming calls received by Shri P.C. Pande from the PA to the chief minister, Tanmay Mehta on February 28, 2002 (at 11:14 hours 13:21 hours, 15:38 hours, 15:57 hours, and 19:26 hours). This was the time of the peak violence when neither Shri P.C.Pande, nor any political heavyweight in the state moved to the affected areas.

2. Shri PC Pande received 2 calls from Sanjay Bhavsar, OSD to chief minister's phone number, once at 13:07 hours and then at 14:22 hours.

3. Shri P.C. Pande receives and makes 7 calls from Shri Anil Mukhim, Additional Principal Secretary to the chief minister 7 times on that day His call records show that at 13:09 hours, 13:12 hours, 15:43 hours, 15:50 and 21:14 hours there were four incoming calls recorded to the number of Shri Mukhim. At 20: 09 hours and then at 21:03 hours he made calls to Shri Mukhim's number.

4. Shri PC Pande receives one call from Shri A.P. Patel, PA to the chief minister's mobile at 17:17 hours on February 28, 2002.

5. Shri P.C. Pande is in touch with Shri Ashok Narayan (then Additional Chief Secretary, Home) eight times during the day. Each time it is he who calls the number (outgoing calls) at 13:52 hours, 14:17 hours, 14:19 hours, 15:02 hours, 15:25 hours, 20:11 hours and 23:26 hours and 23:42 hours.

6. Shri P.C. Pande is in touch with Shri S.K. Nanda, Secretary Health and Family Welfare Board once during the day at 15:05 hours on the day

Note: The three men close to the chief minister, Shri Tanmay Mehta, Shri Sanjay Bhavsar and O.P. Sinh (PA to the CM) did not file any affidavits before the Nanavati-Shah-Mehta Commission till recently.

Shri Mehta filed his two page affidavit dated January 22, 2010, Shri Bhavsar on January 22, 2010 and Shri O.P. Sinh on February 1, 2010. For eight years after the carnage they had found no reason to file an affidavit. In these two page affidavits they have explained away the calls made or received from Shri Zadaphiya (MOS Home) and Shri Jaideep Patel saying they were probably official and due to passage of time they do not recall what was spoken. There are no Averments/Explanations in these affidavits of the CMO being in touch with Commissioner of Police Ahmedabad while violence raged – 15 times in the whole day, a period that also coincided with complete and utter inaction on the part of the Ahmedabad Police. What were they then saying to each other?

These persons need to be examined by the Commission.

Other Politicians

Shri P.C. Pande received six calls from MOS Home Govardhan Zadaphiya six times on February 28, 2002, first at 11:31 hours, 14:20 hours, 14:5 hours, 16:20 hours, 17:16 hours and 19:11 hours.

Shri P.C. Pande speaks to Shri Narottam Patel, minister for at 13:56 hours from his office landline number

Shri P.C. Pande speaks to Shri Ashok Bhatt, state health minister twice, first at 15:09, second time 18:31 hours (both are incoming calls)

Accused

Shri P.C. Pande speaks to Jaideep Patel, VHP Gujarat general secretary and accused in the Naroda Patiya and Gaam massacres once during the day at 19:31 ours (incoming call). This is when the massacres are over.

Landline Numbers of the Commissioner of Police PC Pande

Analysis of calls made from his landline in office to mobiles of officers show that he connected to **mobiles operating in Ahmedabad City only 13 times** (out of 302 calls). Out of these 13, 12 were incoming calls on his landline phone. He made just one phone call from his landline number and that too was probably not to an officer. In addition, this single call was made at 20:10:56, when most of the action had already taken place. **It can be concluded that he did not use the landline to pass orders or instructions to his field officers.**

As has been reported in the newspapers, **Shri. Pande had claimed that he had no information of the happenings in Naroda Patiya or Gulberg Society.** In the deposition before the Commission he attributed loss of memory of February 28, 2002. Former Commissioner of Police PC Pande needs to be recalled and re-examined in the wake of these fresh disclosures. His knowledge of the two incidents gets support from call details, as has been explained above.

It must also logically follow that if Shri. Pande was not informed of the incidents, he would not have sent any message to the officers in the field. However PCR records show and KG Erda's Phone records confirm that the KG Erda, first PI Meghaninagar called the PCR 10 times.

The statement of Shri. Pande before a prominent television channel **to the effect that since sentiments ran high it was only to be expected that**

police would be affected, only speaks his mind, reveals no sense of discomfiture or outrage at the mass crimes committed in open daylight, and prima facie points to his involvement in the conspiracy. He had said, during the riots, *“Where the whole society has opted for a certain colour in a particular issue, it’s very difficult to expect the policemen to be totally isolated and unaffected.”*

Cell phone records show that he was sitting in his office all day long. He hardly seems to have done anything with respect to the dead bodies except paying a visit in the morning to the Sola Civil Hospital.

The **inaction** on the part of Shri Pande is apparent. The real question that arises is the root cause of this inaction.

- a) Did he omit to take necessary measures out of his own volition?
- b) Or was he coerced into doing this?

There is another aspect that requires detailed consideration and investigation.

On the evening/night of 27.02.2002, a meeting was held under the chairmanship of the CM, Shri. Narendra Modi. Shri. Pande was one of the officers who attended the meeting.

What instructions were issued by him in the meeting?

Were the officers instructed to take firm action?

If that was so, then would any officer have dared to disobey the CM over a legal order? And above all disobey the present CM?

It is most unlikely.

Annexure of the Locational Graphs of Koba Circle, Zydus, Gandhinagar Confirm Possibilities of the Meeting (ANNEXURE F COLLY)

No Disciplinary Action Against Criminally Negligent or Errant Officers

The government, till this day, has also not taken any serious disciplinary action against any officer for not following legal orders. A paper exercise of “Departmental Inquiries” and denying a few officers some months salary and calling this serious disciplinary action has been undertaken to simply

reduce any punitive action to a farce as also to mislead the Apex Court overseeing the Trials.

These actions suggest that the respondent government was not agitated by the intentional lack of compliance of its legal orders by Large Sections of the Gujarat Police.. The state government claims that It has ordered Departmental Inquiries against several officers .The Commission should summon all details of the Departmental Inquiries ordered by the State Government as they would reveal the absence of seriousness in Punishing Criminal Negligence by Police Officials and Administrators

Annexure Table of Details of Departmental Inquiries Submitted by Government of Gujarat (GOG) in the Apex Court (2009) (ANNEXURE J COLLY OF DEPARTMENTAL INQUIRY OF COPS SUBMITTED TO SUPREME COURT IN 2009)

The other possibility is that the officers were actually instructed to “let things happen”? This instruction seems to be consistent with the conduct of the officers and very much in the interest of the political party in power. It is also consistent with the conduct of the government to the whole issue – officers who supported the ‘mission’ were suitably rewarded with important postings; officers, who stood up for their call of duty, were shifted to insignificant and difficult posts.

II. M K Tandon’s Role as Revealed by an Analysis of the CD

He, too, was in his office late in the night till about 1:15 am on 28.02.2002. In normal times, he also used to leave office at around 7:00 pm. Further, he arrived at his office at about 8:30 am on the morning of 28.02.2002. As in the case of Shri. P.C. Pande, his being in his office till late hours and arriving early suggests that he, too, was aware of the gravity of the situation.

As had been mentioned earlier, Shri. Tandon had visited Gulberg society at around 11:25 am on the morning of 28.02.2002 but as police witness testimonies reveal before the trial court, despite coming with a striking force and a restive and violent mob met him, junior officers pleaded with him to send men and arms, he left with this well equipped force to another location. **(Testimonies of Police Officers in the Gulberg Trial)** MK Tandon’s phone calls records show that he was received many calls from both political bigwigs and some accused. Was his decision to leave Gulberg society unprotected a professional decision or governed by political pressure?

Mr. Tandon had visited Gulberg society at around 11:25 am on the morning of 28.02.2002. MK Tandon's phone calls records show that he was received many calls from the political bigwigs and some accused. At 00:00:32 on 28.2.2002 he received a call from Govardhan Zadaphiya, MOS Home and later in the day around 5 pm. a call from Kaushik Jamnadas Patel , state minister for power. Nimesh Patel, accused of killing eight people was also in touch with him at 22:28:34 on 28.2.2009.

At 12:06:57 pm (afternoon), Mr. Tandon received a phone call from Mr. P.C. Pande. Mr. Tandon was at Gulberg Society at that time. They talked for about 75 seconds. What they talked about is not known?

At around 12:10 pm, there is wireless message from the vehicle of Meghaninagar Police Station to the Police Control Room informing that police had resorted to firing at Gulberg Society. Now, someone familiar with police operations would agree that it is not that police fires and rushes to inform the Police Control Room. Police would fire and then would inform the Control Room only when the situation eases a bit. This means that when Mr. Tandon got a call from Mr. Pande, police had either already resorted to firing or the mob surrounding the Gulberg Society had become so restive that police firing was imminent. In such a situation, Mr. Tandon would certainly have mentioned to Mr. Pande the grave environment prevailing at the Gulberg Society.

Specifically,

At 00:00:32 on 28.2.2002 Tandon received a call from Govardhan Zadaphia, MOS Home and later in the day around 5 p.m. a call from Kaushik Jamnadas Patel, state minister for power.

Nimesh Patel, accused of killing eight people was also in touch with him at 22:28:34 on 28.2.2009.

At 11:34 a.m. he makes a call to his DCP PB Gondia when he is located under the Shayona Plaza Tower Area which is within 1.5 kilometres of the Gulberg Society Meghaninagar. Police witnesses have testified to Tandon's visit. This has not been denied by Tandon on oath.

Then again at 11:43 a.m. he makes a call to Shri Pande's on the latter's mobile nos. He makes a call thereafter to the Police Control Room at 11:47 a.m. He then receives a call at 11:48 from an undisclosed landline number and ten minutes later he makes another call and again at 11:58 a.m. He receives another call from an undisclosed to the Control Room

landline. At 12:06 p.m. he receives a call from P.C.Pande (mobile). Thereafter he Makes a call to RJ Savani, DCP Zone V (a neighbouring zone) at 12:09 p.m. He is still in this area when he makes a call to PC Pande at 12: 37 p.m.. In between at 12: 11 pm he makes a call to DCP jabelia of Zone VI whie his location shows at Kailash Complex, Naroda. When he receives a call from Savani at 12:13 he is at the same location but a minute later at 12:14 when he calls PC Pande his location shows up at Kubernagar, There are other calls including two calls made to PC Pande at 12: 18 p.m. when he is at the Kubernagar location. Between 12: 11 p.m. to 12: 33 p.m. when he receives and makes call his location is shown as Kailash Complex Naroda but thereafter at 12:41 and 12:42 he is shown at Vishal Diamond Factory near New India Colony at Bapunagat. This is a fctory owned by MOS Home Govardhan Zadaphiya. Then he isout of the affected area and is shown to be in the vicinity of or at the Bora marriage Hall, Rakhial, Char Rasta (12:44).

The phone call records of both P.C. Pande and Joint Commissioner of Police MK Tandon show that ar the critical time when the latter visits Gulberg Society (between 11:43 a.m. and 12:42 p.m.) when the mob build up is at its height, the **two speak to each other six times**. For Tandon to explain away his departure without leaving behind the striking force that he had come with (evidence before the Trial Court) is inexplicable.

Tandon at Gulberg Society

While just outside Gulberg society, Shri. Tandon receives a call from Commissioner of Police PC Pande and it is assumed that the two would have spoken about the violence and restiveness of the mob at Gulberg eases a bit. This means that when Shri. Tandon got a call from Shri. Pande, police had either already resorted to firing or the mob surrounding the Gulberg Society had become so restive that police firing was imminent. In such a situation, Shri. Tandon would certainly have mentioned to Shri. Pande the grave environment prevailing at the Gulberg Society. **This does not happen.**

Inexplicably, after talking to Shri. Pande, Shri. Tandon heads for Naroda Patiya. If this movement was on the instructions of Shri. Pande, it shows that Shri. Pande, who has reportedly pleaded ignorance of the incidents at Gulberg Society and Naroda Patiya before the Commission of Inquiry, was actually fully aware of the entire happenings. And that he committed perjury when he willfully misled the Commission.

Shri. Tandon reaches Naroda Patiya at around 12:15 pm, imposes curfew at 12:29 pm in Naroda Patiya (wireless message records of the same are available), and then leaves Naroda Patiya at about 12:33 pm – **within 4 minutes of imposing the curfew!** At this point a huge mob had already gathered at Naroda Patiya and its intentions to kill and plunder were apparent. It was for this reason that Shri. Tandon had to order the imposition of the curfew. However, Shri. Tandon made no effort to implement the curfew. He left the place leaving the hapless residents of Naroda Patiya undefended.

After leaving Naroda Patiya, Shri. Tandon goes to Dariapur & Revdi Bazaar areas where nothing is happening and all is quiet. Thus, Shri. Tandon is neither at Gulberg Society nor at Naroda Patiya despite having full knowledge of the prevailing situation at the two places. He is not present at the place where the crime is taking place despite having sufficient police force at his disposal. He, thus, intentionally abdicates his responsibility and abets the commission of the crime by the riotous mob.

Was this omission on the part of Shri. Tandon a mere act of cowardice or was it an intentional omission to leave the mob to kill, rape and loot? Given that he had earlier been instructed by Shri. P.C. Pande to “let things happen”, it is most likely that he fell in line and allowed the pre-planned pogrom to be executed without any obstruction or resistance.

Tandon While Gulberg Burns

Eye-Witnesses have Testified in the Trial Court in the Ongoing Trial to the Fact that when they were finally rescued by the Police around 6 p.m. on the evening of 28.2.2002, Joint Commissioner MK tandon was present. Specifically when some victims and eye-witnesses pleaded with him to call for the Fire Brigade he is alleged to have said, :When the whole of Ahmedabad is buning how can the Fire Brigade come?” Victim Survivors asked for them to take the bodies of their near and dear ones that had been brutally massacred but were still recognisable at the time. Tandon is alleged to have said, “ You take care of the living we will of the dead.” Four days later when Witnesses and Victim Survivors Buried their loved ones in a Mass Grave at the Kalandari Masjid Kabrastan (March 3, 2002) the bodies had been burnt to ash pulp in an unrecognisable condition.

Is not Joint CP MK Tandon Legally and Morally responsible for the Destruction of these Bodies?

We Annexe herewith Photographs of Bodies of the Gulberg Society, Naroda Patia and Naoda Gaam Massacre taken by a Private Photographer attached to the Daria Khan Ghumbat Relief Camp.

Annexure K COLLY—PHOTOGRAPHS OF DEAD BODIES OF GULBERG SOCIETY, NARODA PATIA AND NARODA GAAM TAKEN BY PRIVATE PHOTOGRAPHER AT THE DARIA KHAN GHUMBAT RELIEF CAMP

PRAYER: We urge that the Commission Summons the Official Photographs/VideoGraphs Taken by Police Photographers and Videographers (This is a Statutory Requirement)

III. Analysis of Calls and Location of Shri. Shivanand Jha:

He, too, was in his office late in the night till about 1:15 am on 28.02.2002. Normally, he used to leave office at around 7:00 pm. Further, he arrived at his office at about 5:10 am on the morning of 28.02.2002. As in the case of Shri. P.C. Pande, his being in his office till late hours and arriving very early suggests that he, too, was aware of the gravity of the situation.

It is seen that both the sector heads – Shri. M.K. Tandon and Shri. Shivanand Jha did not move out of their offices till about 11:00 am despite mounting tensions and reports of gathering mobs and skirmishes.

On February 27, 2002 Shivanand Jha receives **68 phone calls**, mostly from numbers out of the official government directories. This suggests they are phone numbers either owned by politicians or officials unofficially or they were using phones actually in other's names. On the next day that is February 28, 2002 Jha records as many as 192 calls in his phone records of which four calls are ones he has made to then Gujarat Power Minister, Kaushik Jamnadas Patel (an MLA elected from his area) and another three are those that he makes to then MLA Dr. Maya Kodnani who is an MLA from an area outside his jurisdiction. **Shri Jha also receives a call from Shri Amit Shah who is later made MOS Home (still is) but was, in 2002, Chairman of a Cooperative Bank.**

Shri Jha's phone call records show that he speaks to Joint Commissioner MK Tandon once at 18:16 hours (Jha calls Tandon). Jha and P.C. Pande are in touch 9 times during the day which shows that they are clearly aware of the inaction of the police and action of the mob.

Jha and the Chief Minister's Office (CMO)

Shri Jha is also in touch with Shri Harsh Bhahmbutt a close aide of the chief minister from whom the chief minister could have made calls at 19:35 hours.

IV. Need to Investigate the Chain of Command

I. DCP PB Gondia, Zone IV (Meghaninagar and Naroda Areas)

Analysis of DCP Zone IV Praveen B Gondia 's Phone Call Records

Shri Gondia receives two calls from Maya Kodnani at 10:39 hours and 17:05 hours

Shri Gpndia receives three calls from Jaideep Patel of the VHP and accused in the Naroda Gaam and Patia Cases at 11:40 hours, 11:52 hours. 12: 20 hours. **This is a crucial time when the violence is building up, mobs are attacking both Naroda Patiya, Gaam and Gulberg Society.**

Shri Gondia speaks to Nimish Patel an accused, six times during the day at 13:53 hours, 14:13 hours, 15:01, 18:55, 21:43 hours, and 22:10 hours
Politicians

Gondia receives two calls from state minister Kaushikumar Patel at 17:24 hours and 17:29 hours

Gondia also receives three calls from K. Nityanandan, Secretary Home department at 19:40 hours, 23:15 hours and 23:16 hours

Location Analysis

Gondia's records show that from 12:35 hours to 22:01 hours on February 28, 2002 he was in the Meghaninagar and Narol areas and yet did nothing to dispel the mob, call the fire brigade or stem the violence.

At 18:55:59 and then again at 21:43:23 P B Gondia (9825049197) received a call from Nimesh Patel (9824255788). It appears as if this officer was regularly reporting to these two as at 22:10:52 P B Gondia (9825049197) made a call to 09824255788 (Nimesh Patel) and then at 11:40:02 he (09825049197) received a call from Jaideep Patel (9825023887)

II. PI K.G. Erda

Analysis of the Calls Made and Received by KG ERDA IO Meghaninangar (now accused by SIT in its chargesheet dated May 16, 2009 before the Trial Court) (Lowest in the Chain of Command vis a vis Gulberg Society)

- A. K G Erda's phone call records show that he had been in constant touch with the Control Room through 27.2.2002 and 28.2.2002. In fact even the day of the Godhra Train Burning tragedy PI Erda had been in touch with the Control Room from 1.21 p.m. to 11.10 p.m., even being in touch with his immediate superior Gondia.
- B. On 28.2.2002, of the 28 logged calls made and received by him,, 13 were made by him to the police; 10 calls logged on his mobile show that he called the Control Room 10 times speaking for a total of 688 seconds that is about 12 minutes; three Calls were made by him to the local, Meghaningar Police Station during which he spoke a total of 65 seconds that is a little over a minute; 2 calls were made to DCP Gondia and 2 calls to Joint Commissioner of Police, MK Tandon.
- C. The fact that this police officer, the man on the spot, the PI was in touch with the Control Room except between 15:33 p.m. and 17:52 p.m. (that is for a period of two hours and twenty minutes) when he preferred to call his immediate bosses DCP Gondia and Joint CP MK Tandon could also lead to some revelations. This is because this was a critical period of the killing and carnage at the Gulberg Society when frantic messages to the Control Room could have yielded more immediate help and results.
- D. In Police and Law Enforcement language, a call to the Control Room means a call to the Commissioner of Police, Ahmedabad in this case. Various Officers in charge of the Control Room are expected, area wise to report to the CP every 15 minutes. A close scrutiny of the Phone Call login records of the various Police Stations connected with these trials, the Police Control Room, Shahibaug Ahmedabad, and State Control Room, Gandhinagar would reveal which officers had performed their duties and informed their superiors. If these records then show that after having received such critical information from a close coterie of senior officers who were in touch with the CMO did not act, then allegations of conspiracy get substantiated.
- E. To top it all, the phone call records of PI Meghaningar KG Erda also reveal that on 28.2.2002 he was in touch with influential and key accused at various times of the day. At 15:20:35: Erda (98250116221) receives a call from 792682186 (then MLA Maya Kodnani's Office No.), a call lasting 19 seconds. It is submitted that Kodnani was Minister Women and Child Development in 2009 when she was given notice of arrest by

SIT. She then absconded for several days before surrendering to be arrested. Smt Kodnani thereafter resigned her position and was refused bail by the Gujarat high court. At 18:20:31: Erda (98250116221) again called 09825006729 (Maya Kodnani's mobile) and speaks for 93 seconds again from the Meghaninagar area. Mysteriously PI Erda, at 17:59:24 on 28.2.2002, (98250116221) also called 09824255788 a mobile number of accused Nimesh Patel, who is accused of killing 8 people in Naroda village. The call lasted 24 seconds. In what could be the strangest co-incidence or have the ingredients of a sinister conspiracy, the accused Nimesh Patel spoke from his mobile number (098242255788) four times on 28.2.2002, at 12:40, (for 29 seconds) at 10:03(for 32 seconds) at 20:58 (22 seconds) and at 12:21 (154 seconds) to accused MLA and Minister Maya Kodnani on 28.2.2002 as well.

V. Failure of SIT to Investigate the Loational Details as Revealed by an Analysis of Five Lakh Phone Calls on the CD

Analysis of Location of Powerful and Key Accused at Scenes of Worst Carnagaes

Day of Godhra Train Burning Tragedy

NAROL, NARODA

27.2.2002

(Please Refer to the ANNEXURE WITH LOCATIONAL GRAPHS—D COLLY)

Meghaninagar

27.2.2002

Day of Godhra Train Burning Tragedy

Close members of the CMO are shown to be located at Meghaninagar within which the Gulberg Society is located the day of the Godhra Train Burning Tragedy.

Interestingly among policemen who are in the same area on 27.2.2002 are PB Gondia DCP Zone IV who is there are 00:36:26 that is on the early morning of that day.

(Please Refer to the ANENXURE WITH LOCATIONAL GRAPHS)

ANNEXURES D AND E COLLY

THE INTEGRITY OF THE CD:

The CD submitted by Shri Rahul Sharma contains call details of all mobile phones that were operating from Ahmedabad City areas for the period 25.02.2002 to 04.03.2002. Along with the regular details of numbers to which phones are dialed and from which they are received, the data also contains the approximate location of the mobile phone from which the call was made.

At that particular point of time, only two mobile phone operators were in existence – Celforce (now Vodafone) and AT&T (now Idea). Information was called for from both the mobile phone service providers and received in separate CDs. The phone data from these separate CDs were then zipped and copied on to one single CD. Thus, to that extent, the CD produced by Mr. Rahul Sharma, per se, is not an exact copy of the CDs provided by the cell phone providers.

Service Providers and Senior Policemen need to be summoned to Verify and Authenticate the CD

A) It is also submitted that efforts should be made to locate the office copies of the CDs provided by the mobile phone providers. In any case, if data is provided by a mobile phone company, they should be keeping an office copy of the data provided by them. Else, how would they prove the data sent by them? The inside information is that the cell phone companies have the data but they are “scared” of coming up with it under political/police pressure.

B) Efforts should also be made to recover the original CDs, which are lying with the Crime Branch of Ahmedabad City.

C) SENIOR FUNCTIONARIES of the MOBILE PHONE COMPANIES should be summoned to IDENTIFY OVER TWO THIRDS OF THE NUMBERS THAT ARE NOT IDENTIFIABLE IN ALL RECORDS. **This phenomenon clearly establishes that several of the powerful politicians, policemen and possibly even the accused were using official phone connections not registered in their names. This further points to a conspiracy behind the post Godhra Violence.**

What should be done to analyze the CD:

1. Collect all communications made between police officials/Ahmedabad City Police Control Room/State Control Room/ Police Stations for the period 27.02.2002 to 04.03.2002.
2. Every police officer of or above the rank of a DCP has with him a wireless operator who writes down all messages pertaining to the officer he is attached with in a book. Collect all such books of all officers of the rank of DCP and above. (The Gujarat Police have submitted partial records to the Trial Courts hearing the Trials. In defence of their stand in not producing the entire record they have produced official letters stating that these records were "DESTROYED IN 2007.")

NOTE: THE HON. SUPREME COURT HAS BEEN SEIZED OF THE MATTER SINCE MAY 2002. **If in the interim period, any Political Functionary of the Government of Gujarat or any Police Official dares orders Destruction of the PCR records etc, this is not simply a Contempt of the Apex Court but worse attracts sections of the IPC that deal with the crime of destruction of evidence.**

PRAYERS

The Commission needs to Order and Investigation into Who, When and Why Ordered the Destruction of these Crucial records Including the Phone Records of the Chief Minister himself, his Office, the CMO and others.

3. Collect copies of all station diaries made between the above-mentioned dates.
4. Digitize all the records of communications and other relevant information into an MS Access database.
5. Analyze the data thus collected in the background of the cell phone data and other evidence.
6. The entire procedure can be time consuming and databases have to be constructed carefully.

**THERE IS A COMPELLING REASON TO EXAMINE THIS EVIDENCE IN
DETAIL TO ESTABLISH
WHO ARE THE GUILTY?**

Criminal Culpability and Negligence of Police Officials and the State

Administration

The charge sheet

Sections that have been violated by the Top Echelons of the Gujarat Government

We list below the details of the criminal charges made out in the complaint and the petition. Due to constraints of space, some of these charges have been condensed here. Full details can be accessed at www.cjponline.org.

Details of offences with applicable sections of law

1. Criminal conspiracy and abetment to commit multiple offences of murder (Section 120 B (Punishment of criminal conspiracy) read with (r/w) Section 114 (Abettor present when offence is committed) r/w Section 302 (Punishment for murder), Indian Penal Code (IPC)).
2. Furnishing false information (Section 177, IPC).
3. False statement made in declaration, which is by law receivable as evidence (Section 199, IPC).
4. Punishment for false evidence (Section 193, IPC r/w Section 6 of the Commissions of Inquiry Act, 1952).
5. Giving false information about an offence committed (Section 203, IPC).
6. Injuring or defiling place of worship with intent to insult the religion of any class (Section 295, IPC); Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs (Section 295 A, IPC).
7. Uttering, words, etc, with deliberate intent to wound religious feelings (Section 298, IPC).
8. Obstructing public servant in discharge of public functions (Section 186, IPC).
9. Omission to assist a public servant when bound by law to give assistance (Section 187, IPC).
10. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc, and doing acts prejudicial to maintenance of harmony (Section 153 A, IPC).
11. Criminal intimidation (Section 506, IPC).
12. Mischief causing damage to public property (Section 3, Prevention of Damage to Public Property Act 1984).
13. Public servant disobeying law, with intent to cause injury to any person (Section 166, IPC).

Evidence in support of the charges

1. Instructions to the director general of police (DGP), the chief secretary and other senior officials to give vent to the Hindu anger against minority Muslims in

the wake of the Godhra incident. Meeting held in Gandhinagar on the evening of February 27, 2002, as testified in Affidavit No. 4 dated October 27, 2005 of additional director general of police (ADGP), RB Sreekumar, before the Nanavati-Shah Commission.

2. The chief minister (CM)'s decision to bring dead bodies of those killed in the Godhra train fire to Ahmedabad and parade them in Ahmedabad city, as testified by Ashok Narayan, former addl. chief secretary, home department, in his cross-examination before the Nanavati-Shah Commission.

3. Numerous illegal instructions given verbally to officials as detailed in Affidavit No. 3 dated April 9, 2005 of RB Sreekumar before the Nanavati-Shah Commission.

4. Evidence contained in *Crime Against Humanity*, Concerned Citizens Tribunal report, Gujarat 2002, by a panel of judges, Justices VR Krishna Iyer, PB Sawant and others, which included testimonies of officials and a cabinet minister of the state of Gujarat.

5. Positioning cabinet ministers, IK Jadeja and Ashok Bhatt, in the DGP's office and Ahmedabad city control room respectively. DGP Chakravarti was critical of the minister, IK Jadeja, remaining in his office, as testified by RB Sreekumar in para 85 of his fourth affidavit before the Nanavati-Shah Commission.

6. Transfer of officers from field executive posts in the thick of the riots in 2002 despite the DGP's objections (as per media reports), to facilitate placement of those who were willing to subvert the system for political and electoral benefits.

7. Rewarding of senior officials with undue benefits even while their conduct is under scrutiny at the Nanavati-Shah Commission.

8. No follow-up action on the reports sent by RB Sreekumar on April 24, 2002, June 15, 2002, August 20, 2002 and August 28, 2002 about the administration's anti-minority stance. Copies of these reports are appended in Affidavit No. 2 dated October 6, 2004 of RB Sreekumar before the Nanavati-Shah Commission.

9. Indictment by the Supreme Court about the injustices carried out against the minority community and riot victims in the investigation of riot cases in respect of 1) the Bilkees Bano case, 2) the Best Bakery case.

10. Partisan investigations betraying prejudice against riot victims belonging to the minority community, as indicated by Rahul Sharma, the then superintendent

of police (SP), Bhavnagar district, and now SP (CBI), Gandhinagar, during his cross-examination before the Nanavati-Shah Commission.

11. The CM, Narendra Modi, did not visit the riot affected areas during the initial days of the violence though he visited the Godhra railway station on February 27, 2002 itself.

12. The press statement by Narendra Modi that the reaction against the Muslim community was the operation of Newton's law of action and reaction.

13. No direction from Narendra Modi to Hindu organisations against the observance of a *bandh* on February 28, 2002. (In 1997 and subsequently, the Kerala High Court has declared forced *bandhs* illegal; the 1997 verdict was even upheld by the Supreme Court.)

14. Delay in the requisition and deployment of the army although anti-minority violence had broken out on the afternoon of February 27, 2002 itself, in the cities of Vadodara, Ahmedabad, etc.

15. Appointment of pro-VHP advocates as public prosecutors in riot cases though as home minister (cabinet rank) the CM had the necessary means at his disposal to verify the credentials and integrity of these advocates.

16. Refusal to transfer officers from the grass root level, as per the State Intelligence Bureau (SIB)'s recommendation, until the arrival of KPS Gill as security adviser to the CM in May 2002. Gill ensured the above transfers and this led to a dramatic improvement in the situation, as indicated in RB Sreekumar's second affidavit before the Nanavati-Shah Commission.

17. No action taken against the print media carrying communally inflammatory reports although the SIB and some field officers had recommended such action, as noted in Affidavit No. 1 of RB Sreekumar dated July 6, 2002 and during his cross-examination before the Nanavati-Shah Commission on August 31, 2004. (It is the state home department that is empowered to give clearance for initiating action against the print media.)

18. The state home department provided misleading reports about normalcy in the state to the Chief Election Commission (CEC) so as to ensure early assembly elections. The home department's assessment was adjudged as false by the CEC in its open order dated August 16, 2002. As per the register recording verbal instructions from higher echelons of government (the CM and others) maintained by RB Sreekumar, in his third affidavit before the Nanavati-Shah

Commission it is noted that he was directed by home department officials to give favourable reports about the law and order situation so as to facilitate the holding of early elections.

19. State secretary, home department, GC Murmu, was presumably specially assigned to tutor, cajole and even intimidate officials deposing before the Nanavati-Shah Commission, to prevent them from telling the truth and harming the interests of the CM and the ruling party, as noted in RB Sreekumar's third affidavit before the Nanavati-Shah Commission.

20. GC Murmu's mission was to try and ensure that officials did not file affidavits relating to the second term of reference of the Nanavati-Shah Commission, in particular, the role of the CM and other ministers in the riots.

21. Initiating no action against senior police officers, whose work is administered by the home department, for their grave dereliction of duty in the supervision of the investigation of serious offences as envisaged in Rules 24, 134, 135 and 240 of the Gujarat Police Manual-Vol. III, as noted in para 94 of RB Sreekumar's fourth affidavit before the Nanavati-Shah Commission.

22. Did not initiate departmental action against the then SP of Dahod district, SP Jadeja, for his gross misconduct and negligence during investigations into the Bilkees Bano case despite recommendations to that effect by the CBI which reinvestigated the case as per the directions of the Supreme Court.

23. Investigating officers in the Naroda Patiya and the Gulberg Society cases did not investigate the compact disc (CD) containing records of important telephone calls made by Bharatiya Janata Party (BJP) leaders and police officers during the riots. Rahul Sharma, SP (CBI), had submitted this CD to the Nanavati-Shah Commission in 2004. In May 2007 the commission ordered an inquiry into this matter, as per media reports.

24. A situation conducive to the rehabilitation of riot victims has not been created, contrary to the claims made by the state administration in its reports to the National Human Rights Commission. Instead, riot victims were pressurised into compromising with the perpetrators of the violence as a condition precedent for their safe return to their homes and their rehabilitation.

25. Police inaction on investigating the roots and extent of the criminal conspiracy, linked to their participation in it.

26. No minutes or written notes of the meetings held by the CM and senior bureaucrats were issued, and instructions were mainly conveyed on the

telephone. The non-issuance of such minutes/notes served the twin objectives of
1) Field officers carrying out the conspiracy of a pogrom against the minority and
2) Avoidance of subsequent monitoring of actions by jurisdictional officers in the field.

27. No action has been taken against officers like K. Chakravarti, then DGP; PC Pande, then commissioner of police (CP), Ahmedabad city; Ashok Narayan, then addl. chief secretary, and a large number of senior government functionaries who filed incomplete, inaccurate, vague and inadequate affidavits before the Nanavati-Shah Commission. Virtually no officer provided important documents relevant to the terms of reference of the commission as exhibits either in affidavits or during their cross-examination.

28. Slack review of post-riot cases, a review ordered by the Supreme Court in 2004. This was achieved by entrusting the work to those senior officers who were willing or constrained to act according to the political interests of the CM and the BJP.

29. Nepotism practised in postings, transfers, promotions, etc despite mounting vacancies in police departments so as to facilitate the ongoing subversion of the criminal justice system.

30. The fact that the main victims of the riots were Muslims, and the violence and police firing were targeted predominantly at the Muslim community will establish that rioters, the administration, cohorts of the ruling party (BJP), were working in collaboration to achieve the vile objectives of the CM. Statistics in this respect may be seen in RB Sreekumar's second affidavit before the Nanavati-Shah Commission, particularly in para 3 of Appendix V therein.

The nature of offences detailed and the quantum of evidence delineated above categorically establish that the accused No. 1, Chief Minister Narendra Modi, had violated and has been violating his oath of allegiance to the Constitution of India. Further, through a series of preconceived, and pre-planned illegal actions, he carried out and has been pursuing actions challenging, violating and subverting the letter, spirit and ethos of the Constitution. This sinister design has been implemented by means of the malevolent use of the human and material resources under his command, by virtue of his position as chief minister. Activists, collaborators and supporters of the ruling party – BJP – and its feeder and sister organisations have been motivated, equipped and directed by the accused for the perpetration of crimes as listed above. In other words, the accused has been waging a war against the true sovereignty of the Indian nation, "We, the people", as etched in the first line of the Preamble to the Constitution of India. The deliberate acts of omission and commission by the accused,

individually and through his active collaborators in the state administration and the BJP's party bodies, violate the basic and inviolable structure of Indian polity as envisioned in the preamble to the Constitution.

From this perspective, the accused had and has been committing seditious acts, which had and will have a divisive, degenerative and debilitating impact on Indian society and on the unity and integrity of the Indian nation in the long term.

Sections 217/218 of the Indian Penal Code

Section 217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture

Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture

Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

