# IPC Section 223

## IPC Section 223: Escape from confinement negligently suffered by public servant  
  
Section 223 of the Indian Penal Code addresses situations where a person escapes from confinement due to the negligence of a public servant charged with their custody. This provision, unlike Sections 221 and 222 which deal with \*intentional\* omissions, focuses on negligence as the cause of the escape. It aims to ensure that public servants entrusted with the responsibility of confining individuals exercise due diligence and care to prevent escapes, holding them accountable for lapses in their duty that result in the release of individuals from lawful custody.  
  
\*\*Detailed Breakdown of Section 223:\*\*  
  
\*\*Text of Section 223:\*\*  
  
Whoever, being a public servant and being legally bound, as such public servant, to keep any person in confinement, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.  
  
  
\*\*Explanation of Key Elements:\*\*  
  
1. \*\*"Public servant":\*\* As with other sections related to public servant misconduct, this element restricts the application of Section 223 to individuals holding a public office. The definition of "public servant" is provided in Section 21 of the IPC. Establishing the accused's status as a public servant is essential for invoking this section.  
  
2. \*\*"Legally bound, as such public servant, to keep any person in confinement":\*\* This phrase specifies that the public servant must have a legal duty to confine the individual who escaped. This duty typically arises from the nature of their public office and the specific circumstances. Examples include police officers detaining suspects, prison guards overseeing inmates, or officials in charge of detention centers. The prosecution must demonstrate that the accused had a clear legal obligation to ensure the confinement of the escaped person.  
  
3. \*\*"Negligently suffers such person to escape from confinement":\*\* This element highlights the core of the offense – negligence. "Negligence" in this context refers to a failure to exercise the degree of care and attention that a reasonable person in the same position would have exercised under similar circumstances. It implies a lack of due diligence or a breach of duty that results in the escape. The prosecution must prove that the escape was a direct consequence of the public servant's negligence and not due to factors beyond their control, such as the use of force by the escaped person or unforeseen circumstances. The escape must be the proximate cause of the negligence.  
  
4. \*\*"Punishment":\*\* The punishment for violating Section 223 is simple imprisonment for a term which may extend to two years, or with fine, or with both. The court has discretion in determining the appropriate penalty based on the specific facts and circumstances of the case, including the nature of the offense committed by the escaped person, the degree of negligence exhibited by the public servant, and any other relevant factors.  
  
  
\*\*Different Interpretations and Judicial Pronouncements:\*\*  
  
Judicial pronouncements have further clarified the application of Section 223:  
  
\* \*\*"Negligently suffers":\*\* Courts have emphasized the distinction between intentional omission (covered by Sections 221 and 222) and negligence. Negligence implies a lack of due care, not a deliberate intention to allow escape.  
  
\* \*\*Proof of negligence:\*\* The prosecution must establish a causal link between the public servant's negligence and the escape. Mere coincidence or factors beyond the public servant's control do not suffice. The prosecution must demonstrate how the specific negligent act or omission directly facilitated the escape.  
  
\* \*\*Standard of care:\*\* The court considers the standard of care expected from a reasonable person in the public servant's position. This takes into account the specific responsibilities and the resources available to the public servant.  
  
  
\*\*Examples:\*\*  
  
\* A prison guard leaving a cell door unlocked due to carelessness, allowing a prisoner to escape.  
  
\* A police officer failing to properly secure a suspect during transport, resulting in their escape.  
  
\* An immigration official neglecting to verify the identity of a detainee, allowing an imposter to escape in the detainee's place.  
  
  
  
\*\*Section 223 and Related Sections:\*\*  
  
Section 223 needs to be read alongside other provisions of the IPC dealing with escapes from lawful custody and offenses committed by public servants:  
  
\* \*\*Section 21 (Definition of "Public Servant")\*\*: Provides the essential definition of a public servant.  
  
\* \*\*Section 221 (Intentional omission to apprehend person legally bound to apprehend):\*\* This section deals with intentional omissions, while Section 223 focuses on negligence.  
  
\* \*\*Section 222 (Intentional omission to apprehend person after it becomes legally bound to do so):\*\* Also deals with intentional omissions, but in situations where the duty arises later.  
  
\* \*\*Section 224 (Resistance or obstruction by a person to his lawful apprehension):\*\* Covers offenses committed by the person being apprehended.  
  
\* \*\*Section 225 (Resistance or obstruction to lawful apprehension of another person):\*\* Deals with offenses committed by someone obstructing the apprehension of another person.  
  
  
  
\*\*Elaborated Discussion on Negligence and Causation:\*\*  
  
The concept of "negligence" is central to Section 223. It's crucial to differentiate negligence from intentional omission. While intentional omission involves a deliberate choice not to act, negligence implies a lack of due care and attention without a conscious intent to allow the escape. Negligence can manifest as an act of commission, doing something carelessly, or an act of omission, failing to do something that a reasonable person would have done. In either case, the negligence must be the proximate cause of the escape. This means that the escape must be a direct and foreseeable consequence of the negligent act or omission.  
  
  
Establishing causation is a crucial aspect of proving negligence under Section 223. The prosecution must demonstrate a direct link between the public servant's negligence and the escape. This involves a careful analysis of the sequence of events leading to the escape and demonstrating how the specific negligent act or omission facilitated the escape. Mere coincidence or the intervention of other factors not attributable to the public servant's negligence can break the chain of causation.  
  
  
The standard of care expected from a public servant under Section 223 is that of a reasonable person in the same position. This is an objective standard that considers the specific duties and responsibilities of the public servant, the resources at their disposal, and the prevailing circumstances. The court will assess whether the public servant's actions or omissions fell below the standard of care expected from a reasonable person in a similar role. This involves considering factors such as established procedures, training received, and the level of risk involved in the confinement situation.  
  
  
\*\*Conclusion:\*\*  
  
Section 223 of the IPC plays a vital role in ensuring the effective functioning of law enforcement and the secure confinement of individuals in lawful custody. By holding public servants accountable for escapes resulting from their negligence, it promotes diligence and care in the discharge of their duties. The focus on negligence distinguishes this provision from those dealing with intentional omissions, addressing a specific type of dereliction of duty that can have serious consequences for public safety. The requirement of establishing a clear causal link between the negligence and the escape ensures that public servants are not held liable for escapes caused by factors beyond their control. Section 223, along with related provisions, forms a comprehensive legal framework for addressing escapes from lawful custody and maintaining the integrity of the justice system.