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NAFEI

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UNAFEI

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ANNUAL REPORT
FOR 1992

UNAFEI

I. Report of the Main Activities and Events of the Year 1992

It is a pleasant duty for us to present the annual report for the year of 1992 on the activities of United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders (UNAFEI).

Thirty years have passed in 1992 since UNAFEI was established as a United Nations regional institute.

The first United Nations Asia and Far East Seminar for the Prevention of Crime and the Treatment of Offenders held in Rangoon, Burma, in 1954, adopted unanimously a resolution calling for the establishment of a regional training and research institute. On 15 March 1961 the United Nations and the Government of Japan reached an agreement regarding establishment of the Regional Institute in Tokyo. On 15 March 1962 UNAFEI was formally inaugurated. Administrative and financial responsibilities have been borne by the Government of Japan, in particular, the United Nations Co-operation Division within the Research and Training Institute of the Ministry of Justice since 1970, until which time the United Nations and the Government of Japan had shared the responsibilities. In 1982 the current UNAFEI facilities were built as one of the commemorative projects of the twentieth anniversary.

The first international training course was conducted in autumn in 1962. Since then UNAFEI has regularly conducted each year two international training courses, which are designed for participants, mainly from Asia and the Pacific Region, who hold relatively high positions in the field of criminal justice administration, and one international seminar course, which is prepared for the participants who are high-ranking officials in the same field. So far, a total number of 92 of these courses have been conducted, in which 2,170 persons have participated, representing 70 countries in total. The breakdown by country and profession of the participants is shown in Appendix.

This year, UNAFEI conducted one five-week international seminar (90th) and two three-month international training courses (91st and 92nd), which were regular training programmes conducted at UNAFEI's facilities in Fuchu, Tokyo. A total of 83 government officials engaged in criminal justice administration from 31 countries, mainly in Asia and the Pacific region, participated in these regular training programmes. In Appendix, a breakdown of these participants by country is shown.

UNAFEI also organized and conducted an overseas joint seminar.

Besides these activities, UNAFEI endeavoured to perform research activities, provide information services and promote co-operation among related agencies, institutions and organizations.

The main activities and events of the year 1992 are summarized hereafter.

A. The 90th International Seminar

I. Duration

From 27 January 1992 to 29 February 1992.

II. Main Theme of the Seminar

The main theme of the Seminar was "Quest for Solutions of the Pressing Problems of

Contemporary Criminal Justice Administration."

Explaining the main theme for this Seminar, I will utilize an excerpt of the Seminar Rationale:

With the rapid social change of recent years in most countries, almost all segments of the criminal justice system are faced with increasingly difficult problems, which often hamper the proper functioning of the overall administration of criminal justice. Usually these problems are related to several criminal justice agencies and cannot be solved through the isolated effort of any one agency. The following issues can be selected from among the pressing problems which concern contemporary criminal justice administration as a whole in many countries.

Urbanization and migration of people to large cities tend to cause the public to become more indifferent and less co-operative towards police activities. Increased sophistication of criminal activities has made the police work more difficult. Indeed, the police are experiencing increasing difficulties in the detection and investigation of the offences and in collecting evidence. These difficulties must be overcome by securing co-operation of the public and by improving the investigative competence of the police. Insufficient and incomplete investigation by the police in turn would increase the difficulties of prosecution and the judiciary. It is therefore significant for criminal justice administrators to discuss and explore the means for the police to obtain the public's trust and co-operation, and to further improve their competence of investigation and the strategies of crime prevention under these difficult and changing circumstances.

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders unanimously adopted Guidelines on the Role of Prosecutors, which stipulate that prosecutors shall perform an active role in criminal proceedings. Public prosecution is given considerably varied functions and roles in different countries. In some countries, public prosecutors are given the power to investigate any crimes, whereas in other countries public prosecutors are not vested with such powers. One view holds that, along with social, economic and technological development, some criminal cases inevitably involve more and more complicated legal issues and that a system which allows public prosecutors investigative power is most appropriate.

However, there is another opinion that holds that public prosecutors should not be involved in investigation because they are also expected to perform a role in supervising investigations conducted by the police. Also, in a considerable number of countries, public prosecutors are given discretionary power to decide on non-prosecution, even if there is sufficient evidence to prove the guilt of the offender.

In some countries, this discretionary power is fully utilized and it is considered a valuable contribution not only to the reduction of the court's caseload and to the realization of a speedy trial, but also to the full resocialization of offenders. On the other hand, there is an opinion that there is the possibility of abuse or misuse of this discretionary power and in some countries such discretionary power is even considered unjustifiable. It is also notable that in some countries the acquittal rate is very high, indicating that many cases are prosecuted at the court even though there is not sufficient evidence to convict the accused.

Under these circumstances, it is certainly beneficial for criminal justice administrators to discuss desirable forms and functions of public prosecution to meet the need of contemporary societies.

How to ensure fair and expeditious trials is an urgent issue. In many countries remand

prisoners who are under detention whilst awaiting or undergoing trial amount to a high proportion of the prison population, constituting one of the major causes of overcrowding. It is also reported that a considerable number of remand prisoners are detained for a long period because of the trial delays. Delay of trial infringes on the fundamental human rights of the accused, and damages people's confidence in the proper administration of criminal justice. Many countries in which delay of trial is a serious problem neither have nor utilize diversion schemes before trial. Under these circumstances, it seems useful for criminal justice administrators to explore and discuss appropriate means to ensure fair and expeditious trial.

It is widely acknowledged that prison overcrowding, both of remand and convicted prisoners, has reached critical levels in many countries and that it is one of the most pressing problems presently facing criminal justice administration. It can be interpreted as one of the outcomes of the ineffective criminal justice administration as a whole. Long detention of massive numbers of alleged offenders awaiting trial indicates inefficient and delayed investigations, prosecutions and trial. Excessive use of imprisonment in sentencing creates prison overcrowding which aggravates the dehumanizing situation in prisons and the ineffectiveness of rehabilitation under adverse conditions. Thus, it is one of the problems which can be solved only through full understanding and co-operation among related criminal justice agencies.

Non-custodial measures for offenders are widely advocated, either because they can contribute to minimizing the negative effects of imprisonment or because they can help ease the problem of prison overcrowding. The United Nations Standard Minimum Rules for Non-Custodial Measures ("The Tokyo Rules") adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders encourage Member States to provide a wide range of non-custodial measures not only at the sentencing stage, but at all stages, from pre-trial to post-sentencing dispositions.

Yet there are many obstacles impeding their use in most countries, such as lack of social acceptance of non-custodial measures, insufficient allocation of manpower and financial resources to the administration of non-custodial measures. It is therefore important to examine and clarify the problems hampering a wider use of non-custodial measures and to explore possible strategies to enhance the use and effectiveness of non-custodial measures.

III. People Concerned

1. Participants

The participants of the Seminar were senior police officers, public prosecutors, judges and other high-ranking officials representing twenty-two countries viz., Botswana, China, Equador, Fiji, Hong Kong, Indonesia, Kenya, Korea, Malaysia, Morocco, Pakistan, Papua New Guinea, Peru, the Philippines, Saudi Arabia, Singapore, Sri Lanka, Swaziland, Tanzania, Thailand (two participants), Venezuela and Japan (6 participants and one observer).

A list of the participants is found in Appendix.

2. Visiting experts

The Japanese Government invited seven distinguished experts from overseas countries for the Seminar.

They were: Mr. Joseph M. Whittle, United States Attorney for the Western District of

Kentucky, United States of America; Mr. Philip B. Heymann, Director and Professor of Law, Center for Criminal Justice, Harvard Law School, United States of America; Mr. Ramon U. Mabutas Jr., Regional Trial Judge, National Capital Judicial Regional Branch XLII, Manila, the Philippines; Mr. Hetti Gamage Dharmadasa, Commissioner of Prisons, Sri Lanka; Mr. Thomas Hutt, Prosecutor-General of Thueringen, Erfurt, Federal Republic of Germany; Mr. Robert. J. Chronnell, Chief Crown Prosector, North London Area Office, Crown Prosecution Service, United Kingdom; and Mr. Robert. J. Green, Chief Crown Prosecutor, Devon and Cornwall Area, Crown Prosecution Service, United Kingdom.

We had also two eminent course counsellors for the Workshop on the Role of Public Prosecutors. They were: Mr. Mohd Ariff Bin Khamis, Assistant Comissioner of Police and CID College, Royal Malaysia Police, Malaysia, and Mr. Wilfredo M. Yu, Regional State Prosecutor, Zamboanga City, Mindanao, the Philippines.

In this Seminar, we had also one guest from Australia: Mr. Mark Findlay, Director, Institute of Criminology, Faculty of Law, University of Sydney.

IV. Programmes

As it is our established method for the international training course and seminar that participants be invited to play a main role in every programme, we arranged in the Seminar to have various participant-centered activities such as comparative study, general discussions and other programmes in which all the participants took part actively and constructively. We also stressed an integrated approach to study, in light of the practical viewpoint to finding viable solutions.

Among the various programmes of the Seminar, special emphasis was placed upon presentations by each participant and subsequent general discussions with regard to the main theme, which invited active participation by the participants utilizing their knowledge and experience to the fullest extent.

The outline of the programmes of the Course is found in Appendix.

1. Comparative study programme

Individual Presentation Sessions were organized to discuss the above-mentioned topics from the viewpoint of comparative study. Each participant was allocated one hour for the presentation of his or her country's paper which introduced actual situations, problems and future prospects, and after each presentation all the participants were given an opportunity to discuss the problems in their respective countries.

The themes of the individual presentations are listed in Appendix.

2. Lectures

During the Seminar, participants and staff of UNAFEI learned a great deal from the series of lectures rendered by the visiting experts and ad hoc lecturers. They also gave the participants guidance through discussions on the above-mentioned topics in the conference room as well as through conversations with the participants on informal occasions.

The Director and Deputy Director delivered lectures on introduction of the Japanese criminal justice system.

The theme of the lectures are listed in Appendix.

3. General discussion sessions

During the Course, general discussion sessions were conducted for further examina-

tion and discussion of each of the above-mentioned topics. Based on the affluent information and knowledge obtained through the individual presentation sessions and lectures of the visiting experts, ad-hoc lecturer and members of the UNAFEI faculty, all the participants exchanged their views vigorously.

For each general discussion session, a chairperson and rapporteur were selected from among the participants and created discussion guides for the session with the guidance of UNAFEI staff. After the general discussion sessions, participants drafted three extensive reports on the above-mentioned topics.

The summarized contents of these reports are as follows:

(1) Effective and Appropriate Means for the Police to Obtain the Public's Trust and Co-operation towards the Police Activities and to Further Improve the Ability of Investigation and Starategies of Crime Prevention

The discussions were carried out under the chairpersonship of Mr. H. J. Kamaruddin Bin Hamzah from Royal Malaysia Police, with Mr. Poon Jee-chung from Royal Hong Kong Police as a rapporteur. The participants were given two half-day sessions for this item and discussed the subjects in the way of a brain-storming approach involving all the participants. Through the concentrated debates, they identified the existing problems and then the causes of the problems were analyzed. In the report, they laid out the problems and their causes and suggested solutions, under the consensus that a corrupt, bureaucratic, and incompetent police force would never gain any trust and support from the public.

As the causes of police corruption the report lists poor conditions of service; too much power; society/community's traditional concept of accepting corruption as part of life; strong ethnic influence/inter-personnel favours; and no anti-corruption agencies.

The causes of bureaucracy are, as described in the report, police force—lack of transparency; complicated and time-consuming reporting/investigation procedures; negative police attitude; rigid/cumbersome departmental instructions; poor promotion system; and lack of appropriate disciplinary punishment.

The report identifies the factors affecting the effectiveness and efficiency of the police as lack of resources; poor recruitment process; lack of good basic training; lack of investigation skill; no guidance from senior/peer officers; lack of supervision; lack of effective administration/intelligence support; no refresher/continuation training; no specialised personnel training to deal with sophisticated crimes; and lack of co-ordination with other countries.

The report goes further to discuss the crime prevention strategies by introducing some police/public relations activities already conducted in some countries. They are: involving youth in police activities; crime prevention committees; police/public relations visits; police participation in community/charity services; beat/patrol officers speaking.more to residents; police open days; local police newspapers; neighborhood watch scheme; fight crime compaign/carnivals; good citizen awards; police hotline; and media assistance.

(2) Appropriate Measures to Ensure Fair and Expeditious Trial

This item was discussed also during two half-day sessions for which the chair was taken by Mr. William John Maina, Judge of the High Court, Tanzania, with Mr. Paras Ram, from Fiji Police Force, serving as rapporteur.

The report confines itself mostly to discussing the minimum number of issues relevant to the fair and speedy trial, though discussion included a rather broad area of the trial

proceedings.

It begins the analysis with the court structure and recommends that appropriate subject matter jurisdiction should be fixed; indictable offences be dealt with only by the trial courts, while the appellate tribunals should confine themselves only to review of the decision to avoid possible delay.

It comments on competency and independence of judges, discussing the related issues such as qualifications for appointment, salary and other incentives. It recommends having codes of conduct for judicial officers to ensure high standard of performance.

The report then moves on to discuss issues of initiation of actions to try to develop early screening of cases, taking into consideration private prosecution at the same time.

It recommends having pretrial conference to shorten the length of trial by getting settlement of the disputes at an early stage. As to the trial proceedings, the report recommends having the time limit be from institution to disposal of the case. To realize this, it also recommends establishing a continuous trial scheme and creating a night court. This time limit should be applied to appellate proceedings as well, according to the recommendations.

The report spares several pages for emphasizing the accused person's human rights such as right to counsel.

It suggests having sanctions for delay such as order of payment of costs.

(3) Prison Overcrowding and Its Countermeasures and Strategies for a Wide and More Effective Use of Non-Custodial Measures

This topic was allocated only one half-day session due to the tight schedule of the Seminar as well as the small number of participants from the corrections and the parobation office, even though there were many related sub-topics to be discussed. However, the chairperson, Mr. Akhtar Ahsan, from Ministry of Interior, Pakistan, and the rapporteur, Ms. Emetri J. Amoroso, from parole and probation administration, the Philippines, thoughtfully prepared and administered a perliminary survey. The survey was intended to collect enough information on the problem of prison overcrowding by asking the causes and possible countermeasures. It also covered non-custodial measures.

Regarding prison overcrowding, the report says that nineteen countries among twenty-three countries represented in the Seminar have been facing this problem in varying degrees of gravity. According to the survey, among the nineteen countries, participants responded that the causes of the problem exist in: heavy caseload of police investigators (15 countries), of public prosecutors (13), and of the courts (16); non-custodial measures not being commonly or widely used (16); too few/limited prison facilities (13); investigation taking a long time to complete (13); poor co-ordination among the criminal justice agencies (7); and lack of defence counsel for the accused (4).

The report recommends: construction of more/larger prisons; wider use of non-custodial measures; better caseload management by the police, prosecution, courts and related agencies; depenalization of petty offences; faster and more efficient investigation of cases. Recognizing that the recommendations entail other actions such as allocation of funds, additional personnel and new legislation, the report concludes that prison overcrowding can be resolved only if it is placed among the high priorities of the nations' agenda.

As to the use of non-custodial measures, according to the report, the majority of the participants believed in the efficacy of the measures both as a solution to prison overcrowding and as tools for rehabilitation of offenders and recommended implementation of such measures as: education of the public including mass media and lawmakers; enlight-

enment and education of officials of criminal justice system; utilization of mass media to generate support for the use of non-custodial measures and for the enactment of proper legislation; lowering of the monetary requirements for bail; appropriation of sufficient funds in national budgets to strengthen administrative machineries and to promote the effective application of community-based rehabilitation programmes; recruitment and training of additional manpower to carry out the supervision and rehabilitation; implementation of an integrated approach for the use of non-custodial measures through regular co-ordination and consultation among the criminal justice agencies.

The report concludes that the resolution of the problems of prison overcrowding and hindrances to the full use of non-custodial measures can be best achieved if these are placed among the top priorities of the nations concerned. It calls for continuing activities and support of UNAFEI, ACPF and the United Nations General Assembly to realize the recommendations of the Seminar.

The above-mentioned reports resulting from the general discussion sessions are to be published in the Resource Material Series No. 42 of UNAFEI.

(4) Workshop on "Implementation of the United Nations Guidelines on the Role of Prosecutors"

During the Seminar we had a special Workshop programme on "Implementation of the United Nations Guidelines on the Role of Prosecutors" incorporated into this Seminar on 12 and 13 February.

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana, Cuba on 27 August to 7 September 1990 had adopted a resolution establishing the "Guidelines on the Role of Prosecutors." The Congress, in adopting the Guidelines, invited Member States to take into account and to respect the Guidelines within the framework of their national legislation and practice, and called upon the Committee on Crime Prevention and Control to consider their implementation. The Secretary-General was requested to prepare every five years, beginning in 1993, an implementation report and to assist Member States in this area.

Following the consultations with the United Nations Office at Vienna, UNAFEI had decided to include this Workshop within this Seminar Course, as it is quite relevant to the main topic of the Seminar.

In this Workshop, we aimed to provide participants with the opportunity to exchange views and opinions on the role of prosecutors, and to discuss such issues as qualifications, selection and training of prosecutors; status and condition of service; role in criminal proceedings, including the exercise of discretionary functions, wherever these exist. Through these discussions, the participants were expected to explore desirable forms and functions of public prosecution to meet the needs of contemporary societies, keeping in mind the effective ways and means by which to implement the Guidelines.

The great assistance by the course counsellors and the active participation by the participants and visiting experts facilitated fruitful and successful discussions during this two-day intensive Workshop.

In order to make the discussions active and fruitful, the course counsellors created discussion guides for reference and organized pre-conference informal group discussions based on the similarity of the criminal justice systems. The participants spent additional hours to prepare the discussions for the Workshop.

The course counsellors took the chairs during the sessions. The participants selected from among themselves three rapporteurs for the Workshop.

The participants of the Seminar consisted of fourteen policemen, nine public prosecutors, three judges, one correction officer and two probation officers. One of the course counsellors was from the police and the other from the prosecution. We had also for the Workshop four visiting experts including three from the prosecution and one from the judiciary. The method we took here was an integrated approach as UNAFEI has adopted as a principle. The problems each state may face when implementing the Guidelines must be discussed from as wide an angle and as broad a perspective as possible. From this point of view, the discussions were definitely successful and fruitful thanks to the ardent participation from the floor.

The participants felt there were no serious problems for their respective countries in implementing some articles of the Guidelines, but they introduced and discussed a number of impediments as to other articles; the issues regarding existing lay prosecutors, lack of resources to combat intimidations of prosecutors and their families, gap of working conditions between prosecutors and private practitioners including salary and transfer, resources availability problem when developing alternative to prosecution, and others.

As to the role of prosecutor in crimial proceedings, one of the major discussions was on the issue of power of investigation. There are some countries where the prosecutor is given the power to investigate any crime, while in other countries the prosecutor has no power to investigate, to direct or to supervise police in their investigations and where only limited number of such powers are given. Participants discussed advantages and disadvantages of their respective systems.

As to the discretionary power of the prosecutor, the participants exchanged views about appropriate ways in which prosecutors can most effectively handle this heavy responsibilty and sought proper safeguards to ensure against misuse of discretionary power.

The results of the discussions were put in appropriate order and summarized into a draft report of the Workshop.

The report was submitted to the United Nations. The report is to be published in the Resource Material Series No. 42.

B. The 91st International Training Course

I. Duration

From 13 April to 3 July 1992.

II. Main Theme of the Course

The main theme of the 91st International Training Course was "Further Use and Effectual Development of Non-Custodial Measures for Offenders."

Explaining the main theme for this Course, I will utilize an excerpt of the Course Rationale:

The ultimate goal of the criminal justice system is the reintegration of the offender into society. Imprisonment of the offenders who have committed petty offences is likely to have adverse effects on the psychological, emotional and social aspects of the personality of the individual. The potentially damaging consequences of imprisonment for the family and for social relationships of the offender also should not be underestimated. An offender placed on community treatment has a much greater chance for social conformity than the

one dealt with through incarceration who is, thereby, deprived of his liberty and a chance to amend his lifestyle. Due consideration should also be given to the high economic and social costs of imprisonment vis-a-vis the lower ones of non-custodial measures.

In view of the preceding, non-custodial measures should be developed and implemented to the maximum extent possible as a more effective means of treating offenders within the community to the advantage of both the offenders and society. In this context, it is necessary, as a matter of course, to ensure a proper balance between the rights of the offender, the rights of victims and the objectives of public safety and crime prevention, in keeping with the realities of their political, economic and socio-cultural conditions.

The criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions, in order to provide greater flexibility consistent with the nature and gravity of the offence, the personality and background of the offender, the protection of society, and to avoid unnecessary use of imprisonment. The nature and extent of non-custodial options and the manner of their selection, application and administration, are determined in practice, subject to, among other factors, the social structures of a particular country and the system that regulates its functioning. However, the basic tenets of human rights, social justice and crime prevention can be commonly shared by various countries. Each State is therefore expected to develop non-custodial measures within its legal system to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

Against this background, the United Nations Standard Minimum Rules for Non-custodial Measures ("Tokyo Rules") was adopted by the General Assembly in its resolution 45/110, on the recommendation of the Eighth United Nations Congress for the Prevention of Crime and the Treatment of Offenders held in Cuba, providing for the minimum guidelines for non-custodial measures with universal applicability.

The extent to which custodial or non-custodial measures are used appears to vary depending on the country for one reason or another. Therefore it would be necessary to examine the modalities of non-custodial measures available and the actual situations regarding the extent to which custodial and non-custodial measures are used in each country, if we are to properly consider the possibility of more extensive use of non-custodial sanctions in a given country. In countries where imprisonment has been utilized as a principal sanction with little resort to non-custodial measures, possible reasons for such situation or some specific impediments to introduction or application of non-custodial measures could be explored and identified so as to analyze such situations in the light of the principles underlying the above-mentioned United Nations Standard Minimum Rules. Comparative study between different countries in this respect would also contribute to more comprehensive analysis for problems faced by each country.

It is to be further stressed that these approaches and efforts must be accompanied by some basic research or analysis based on statistical or any other scientific data. Research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the implementation of non-custodial treatment for offenders.

Here, the concept of non-custodial measures shall be interpreted broadly as all measures which deal with offenders in the community, including the following categories:

(1) Pre-trial dispositions by the police, prosecutors, or other criminal justice agencies.

(2) Avoidance of pre-trial detention.
(3) Sentencing dispositions including:
  (a) Verbal sanctions, such as admonition, reprimand and warning;
  (b) Conditional discharge;
  (c) Status penalties;
  (d) Economic sanctions and monetary penalties, such as fines and day-fines;
  (e) Confiscation or an expropriation order;
  (f) Restitution to the victim or a compensation order;
  (g) Suspended or deferred sentence;
  (h) Probation and judicial supervision;
  (i) Community service order;
  (j) Referral to an attendance centre;
  (k) House arrest;
  (l) Any other mode of non-institutional treatment;
  (m) Some combination of the measures listed above.
(4) Post-sentencing dispositions including:
  (a) Furlough and half-way houses;
  (b) Work or education release;
  (c) Various forms of parole;
  (d) Remission;
  (e) Pardon.

Sub-topics for discussion during the Course were as follows:

1. The scope of non-custodial measures; existing and proposed forms of non-custodial measures.
2. The extent to which custodial and non-custodial measures are applied.
3. Possible impediments to the introduction or more extensive application of non-custodial measures.
4. Review or re-evaluation of sentencing policy.
5. Some issues with respect to the implementation of non-custodial measures including:
  (1) Supervision of offenders;
  (2) Involvement of volunteers and other community resources;
  (3) Victims' rights in light of non-custodial treatment of offenders.
6. Co-ordination of various agencies in criminal justice.
7. Research, or policy analysis on criminal sanctions with special emphasis on non-custodial measures.

III. People Concerned

1. Participants

In the Course we welcomed sixteen overseas participants and ten domestic participants. They included five police officers, four public prosecutors, two judges, four correction officers, four probation officers and other high-ranking officials representing seventeen countries covering Asia, the Pacific, Latin America and Africa: Brazil, Fiji, India, Indonesia, Korea, Lesotho, Malaysia, Nigeria, Pakistan, Papua New Guinea, the Philippines, Seychelles, Singapore, Sri Lanka, Thailand, Zimbabwe and Japan.

A list of the participants is found in Appendix.

2. Visiting experts

The visiting experts for this training course were (in the order of arrivals): Ms. Carol Ann Nix, Deputy Prosecuting Attorney, St. Joseph County Prosecutor's Office, the United States of America; Mr. Satyanshu Kumar Mukherjee, Director, Research and Coordination, Criminal Justice Commission, Australia; Mr. Han Youngsuk, President, Korean Institute of Criminology, Republic of Korea; Mr. Ugljesa Zvekic, Research Co-ordinator, United Nations Interregional Crime and Justice Research Institute (UNICRI), Italy; and Mr. Bo Svensson, Justice of the Supreme Court, Kingdom of Sweden.

We had also one guest as an ad hoc lecturer from the United States of America, Mr. Albert J. Reiss, Jr., Professor, Yale University, who visited Tokyo, Japan to attend a conference of the International Society for Criminology.

IV. Programmes

The outline of the programmes of the Course is found in Appendix.

1. Comparative study programme

Just as in the Seminar, the Comparative Study Programme was arranged to enhance mutual understanding of the situations in the participnats' respective countries, and identification and clarification of the interests and problems.

The themes of the individual presentations are listed in Appendix.

2. Lectures

Visiting experts and UNAFEI faculty members rendered a series of lectures. The list of the lecture topics can be seen in Appendix.

3. Group workshops and general discussions

During the Course, Group Workshops were organized to conduct further examination and discussion of each sub-topic of the main theme. The participants were divided into four groups taking into account their professional expertise and interests. Each group selected from among the members a chairperson and rapporteur to organize the discussion. A total of eleven sessions were allocated to the group workshop. The faculty members of UNAFEI assisted the groups as advisers. The Visiting Experts were assigned to a particular group to give advice during the period of their stay.

Based on the information and knowledge obtained through the individual presentation sessions and a series of lectures, all the group members exchanged their views vigorously. Each group prepared a draft report for discussion during the plenary meetings, in which they further refined the report through discussion with other participants, and then the final reports of the Group Workshops were then endorsed by the Report-Back Plenary Sessions.

The reports resulting from the Group Workshop Sessions are to be published in the Resource Material Series No. 42 of UNAFEI.

The following are brief introductions to the reports.

Group 1: Pre-Trial Detention and Pre-Trial Dispositions by Police, Public Prosecutor and Other Agencies

This topic was discussed under the chairpersonship of Mr. Don Bernard Rufus Solonga Arachchi from Sri Lanka and co-chairperson of Mr. Mohammed Jahir Khan from Fiji with Ms. Naree Tantasathien from Thailand as rapporteur and Mr. Nuruddin Kassim from

Nigeria as co-rapporteur. The other members were Mr. Tsuyoshi Iha, Mr. Kazuhiro Ishida and Mr. Masaki Tamura from Japan.

The report first overviewed the judicial administration system in general. Then it focused on pre-trial detention by introducing and analysing the systems of arrest, detention and bail in the members' respective countries.

The report then described pre-trial disposition systems by country, analysing agencies in charge, the way those agencies deal with pre-trial disposition, and the grounds for the disposition.

The end of the report stated a set of recommendations which had been reached by the group.

Group 2: Contemporary and Further Use of Non-Custodial Measures in Sentencing and its Enforcement: with Special Reference to Probation

This topic was discussed by the members for which the chair was taken by Mr. Jerome Arthur Ballete from Seychelles, with Ms. Julita Bte Mohd Hussen from Singapore as rapporteur and Ms. Tebello Mohlabane from Lesotho as co-rapporteur. The other members were Mr. Paulo Cezar Ramos de Oliveira from Brazil, Mr. Hiroshi Iituska, Mr. Mitsuru Kurisaka, and Mr. Masayo Yoshimura from Japan.

First the report described the existing non-custodial sanctions in sentencing in the members' countries such as discharge, suspended sentence, probation, and community service order as well as non-custodial sanctions pertaining to juvenile offenders.

Then the report focused on probation by discussing eligibility for probation, pre-sentence report, probation conditions, revocation of probation and supervision of probationers. The report also examined a system of community service order.

Group 3: Non-Custodial Measures at Post-Sentencing Stage

This issue was deliberated by the members of Group 3 for which the chair was taken by Mr. Michael Hondikol Jianul from Malaysia with Mr. Reynaldo G. Bayang from the Philippines as rapporteur. The other members of the group were Mr. Abdul Majeed Chaudhry from Pakistan; Mr. Kim, Ahn Shik from Korea; Mr. Takashi Nagai and Ms. Tae Sugiyama from Japan.

The report described the current non-custodial measures at post-sentencing stage, that is parole, pardon and remission in the countries represented in the group. In each section, the report firstly explained existing forms of systems, secondly it discussed the issue of applications of the systems touching upon criteria for selection and procedure, and thirdly it examined the matters of supervision of the subject persons of the systems.

The end of the report was spared for introduction of new measures for non-custodial treatment of offenders at the post-sentencing stage in Korea and Japan, that is work release and study release.

Group 4: Mechanisms for Effective Development of Non-Custodial Measures

The discussion about the above topic was led by chairperson Mr. Clifford Zion Muwoni from Zimbabwe, assisted by rapporteur Mr. Leo Chiliue Tohichem from Papua New Guinea. The rest of the members were Mr. Mohammad Izhar Alam from India, Mr. Adi Sujatno from Indonesia, Mr. Noriyoshi Shimokawa and Mr. Kosuke Furuta from Japan.

The report began with: involvement of community; Japan's experience with non-custodial measures; Singapore's experience of volunteer involvement; and current practices in other countries. Then the report examined and identified present difficulties in further

use of non-custodial measures.

The report then concentrated on staff training by reviewing existing systems, and analysing possible difficulties. It also focused on the need of the co-ordination of various agencies and on the protection of victims' rights.

4. Special workshops

During the Course we had Special Workshops on "Research/Evaluation in the Aid of Criminal Justice Policy and Practice."

In order to comprehensively and accurately analyse the problems faced by each country in the implementation of non-custodial treatment for offenders, research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the matter.

In the last two courses, we had additionally included special workshops on: "Computerization of Criminal Justice Information" during the 89th International Training Course, and "Implementation of the United Nations Guidelines on the Role of Prosecutors" during the 90th International Seminar.

Based on these previous successful experiences, we included the Special Workshops in this Course as well. We asked our two Visiting Experts on research to organise the Special Workshops.

Sessions 1 and 2 were co-ordinated and chaired by Dr. Mukherjee with a faculty member as co-chairperson. Mr. Khan from Fiji and Ms. Hussen from Singapore were designated as rapporteurs of each session respectively. The topics of the discussions included: general idea of research; measuring crime with subtopics of official crime statistics, crime victims surveys and so on; appropriate size of the police; problems of prisons such as overcrowding and recidivism rates; non-custodial measures in view of cost effectiveness as compared to imprisonment and so forth.

Dr. Zvekic organised and took the chair of Sessions 3 and 4 with assistance by a faculty member as co-chairperson. Mr. Chaudhry and Mr. Oliveira were assigned as rapporteurs respectively. During the sessions, discussions took place on the role of research when evaluating non-custodial sanctions.

C. The 92nd International Training Course

I. Duration

From 7 September to 27 November 1992.

II. Main Theme of the Training Course

The main theme of the 92nd course was "Quest for Effective Methods of Organized Crime Control."

Explaining the main theme for this Course, I will utilize an excerpt of the Course Rationale:

One of the most serious threats to the society in many countries is that of organized crime. Organized crime has been representing a danger for economic, political, and social institutions and injuring the peaceful life of the public. In some countries, the criminal undertakings of organized crime have been discouraging domestic and foreign investments, adversely affecting the daily flow of economic activities and thus undermining

sound economic growth as well as political and social stability. In some countries, the illegal activities of organized crime have a strong relation with the widespread corruption and have seriously impaired the rational decision making process required by public administration thus producing social injustice. Moreover, in some cases, an organized crime group constitutes a state within the state, running a full-fledged parallel economy occasionally stronger than that of the legitimate country, and even organizing international conferences with sister organizations from other countries.

Organized crime has been expanding its illegal acts from its traditional offences, such as murder, robbery, gambling and prostitution, which are even now a serious threat to the public, to more complicated and sophisticated offences. These offences may include illegal transactions in the stock market or futures market including insider dealing, large-scale fraud victimizing many citizens, illegal drug trafficking often conducted beyond national borders, money laundering, environmental crime, offences infringing on the cultural heritage of the people and so forth. Organized crime has been insidiously penetrating legitimate business disguising legal enterprises and fully utilizing the proceeds obtained from its illegal activities.

Organized crime has also been expanding the sphere of its heinous undertakings geographically, taking full advantage of newly developed facilities of international communication and transportation. It is transferring, through the worldwide computerized banking system, its illegal proceeds to other countries with the aim of hiding its resources and hampering the efforts of trace and seizure by law enforcement officers.

It has been getting more difficult for the present criminal justice system to respond to this situation. Although it is indispensable in dealing with organized crime offences appropriately in criminal justice proceedings to identify the principal offenders among organized crime group members, it is sometimes a very hard task to achieve, being hampered by the restrictions of investigation methods, insufficiency of investigation technique, inappropriate evidential rules and so forth. Many countries have not yet established the effective and efficient scheme to trace, seize and confiscate the illegal proceeds and assets of organized crime. Although there has been some degree of achievement in international co-operation especially in the field of extradition, the world community has not yet arrived at its efficient and optimum mechanism. More efforts should also be made to formulate the rehabilitative methods of organized crime offenders which facilitate their secession from organized crime groups.

In eradicating organized crime and preventing its unlawful acts, it is essential to destroy its social basis and to isolate it from the society. Therefore, careful consideration should be given to organized crime prevention activities in the community as well as protective measures for victims and witnesses from threat of organized crime.

Against such background, it is an urgent task for criminal justice administrators to exchange the information and experiences, and to formulate the effective crime prevention and criminal justice policies for the fight against organized crime.

Sub-topics for discussion during the Course were as follows:

(1) Current situation and characteristics of organized crime in each country;
(2) Legislation required to control organized crime;
(3) Effective criminal justice administration in controlling organized crime at the stage of:
   (a) detection, investigation and prosecution;
   (b) trial and adjudication;
   (c) treatment of offenders;

(4) Community-based activities for eradication of organized crime;
(5) Protective measures for victims, witnesses and so forth from the threat of organized crime;
(6) International co-operation in controlling organized crime;
(7) Training of criminal justice personnel and research activities.

III. People Concerned

1. Participants

Seventeen overseas participants and twelve domestic participants participated in the Course. They included six police officers, eight public prosecutors, three judges, one correction officer, and other high-ranking officials representing sixteen countries from Asia, the Pacific, Latin America and Africa. The countries were: Argentina, Chile, China, Colombia, Fiji, India, Indonesia, Korea, Malaysia, Nepal, Pakistan, Singapore, Sri Lanka (two participants), Tanzania, Thailand (two participants), and Japan (twelve participants).

The list of the participants is found in Appendix.

2. Visiting experts

The visiting experts from overseas countries were: Mr. M. Enamul Huq, former Inspector General of Police, former Director General, Department of Narcotics, Control, Criminal Investigation Department, Bangladesh; Mr. Richard Scherpenzeel, Special Counselor, Ministry of Justice, the Netherlands; Mr. Edward C. Ratledge, Director, Center for Applied Demography and Survey Research, University of Delaware College of Urban Affairs and Public Policy, the United States of America; Mr. Sharma, Adviser, CMC Limited, former Director General, Crime Records Bureau, Ministry of Home Affairs, India; Mr. George W. Proctor, Director, Office of International Affairs, Criminal Division, the Department of Justice, the United States of America; Mr. Pierre Dillange, First Deputy, Chief of the 11th Section, Paris Prosecution, France; and Mr. Chavalit Yodmani, Secretary General of Narcotics Control Board, Thailand.

Two ad hoc lecturers from overseas: Mr. Hans Yoachim Schneider, Professor, University of Muenster/Westfalia, Federal Republic of Germany; and Mr. Mitchell J. Rycus, Professor, College of Architecture and Urban Planning, University of Michigan, Ann Arbor, Michigan, the United States.

IV. Programmes

The outline of the programmes of the Course is found in Appendix.

1. Conparative study programme

As has been described in the previous part of this report, a Comparative Study Programme was arranged for the participants.

The themes of the individual presentations are listed in Appendix.

2. Lectures

Visiting experts, ad hoc lecturers and UNAFEI faculty members rendered a series of lectures. The list of the lecture topics can be seen in Appendix.

3. Group workshops and general discussions

The following is a brief introduction of the reports as summarized by the work groups themselves.

Group 1: Current Situation, Characteristics of Organized Crime and Legislation to Control It in the Sixteen Participating Countries

This topic was discussed under the chairpersonship of Mr. P. R. Meena from India and co-chairperson of Mr. Abeyratne from Sri Lanka with Mr. Jnan Kaji Shakya from Nepal and Ms. Cristina Ester Dellucchi from Argentina as rapporteurs. The other members were Mr. Nariyuki Ando, Mr. Junichi Sawaki and Mr. Toshihiko Suzuki from Japan.

Summary of the Report:

Organized Crime has been characterized by its illegal profit-making activities, unconditional loyalty to the syndicate, an authoritarian leader, corruption and violence. It is often given protection by some politicians and bureaucrats. It has the capacity to surpass the national boundaries bringing a breakdown of the economic, social and political stability of the country.

Drug trafficking which exists in one form or another in almost all countries has now extended to such a magnitude that the whole world is worried about its spread and consequences. However, Indonesia seems to be nearly immune from it and the harsher punishment provided by its laws has prevented its proliferation in Malaysia and Singapore. Illicit manufacturing and smuggling of arms are posing a serious threat to Japan, Colombia, India, Pakistan and Sri Lanka. Money laundering is found in Argentina, Chile, Malaysia, Pakistan and Thailand. Detection of money laundering has been made difficult by the maintenance of bank secrecy. Prostitution and woman trafficking are the major problems for Thailand, India and Japan while other countries too experience these phenomena. Prostitution dens are the breeding places of criminal activities. Extortion is common in India, Colombia, Japan, Korea, Singapore and Thailand. The new law introduced in Japan is expected to curb the illegal activities of the Boryokudans significantly.

Most of the countries have provided stringent laws against drug trafficking. On the other hand, legislation seems to be either absent or inadequate and hence ineffective in controlling the other crimes discussed above.

There have been various U.N. deliberations for the creation of new offences and the requirement of legislation against narcotic offences, organized fraud, money laundering as well as illicit proceeds. The concerned agencies should be authorized to investigate cases of sudden enrichment, and bank secrecy involving criminal matters should be done away with.

While maneuvering public opinion and mass media against organized crime would be helpful to prevent and control it, it is recommended to adopt that new regulatory policies be adopted to increase conpetition against the illegal markets serviced and exploited by organized criminal groups. Alcohol, gambling and even some drugs can be legalized.

New laws have to be formulated to protect witnesses and victims and enhanced punishment should be provided for such offenders. Countries have to make legislation according to the Milan Plan of Action (1985) to trace, monitor, and forfeit the proceeds of crime. Improved methods of data collection should be introduced for effective control of organized crime.

As short-term measures, organized criminal groups should be cracked down upon without reservation, and separate investigating agencies and courts should be created to deal with organized crime. Long-term measures include prospective socio-economic plan-

ning to root out poverty, unemployment and the gap between the rich and the poor, rehabilitation programmes, and reform in the existing criminal justice system. International co-operation is necessary to achieve global prosperity and security.

Group 2: Development of More Effective Methods in Controlling Organized Crime in Criminal Justice Administration

This topic was discussed by the members, and the chair was taken by Mr. Muhammad Javed Qureshi from Pakistan, with Ms. Salote Yali Kaimacuata from Fiji as rapporteur. The remaining members were Mr. Shin Sang-Kyou from Korea, Mr. Ng. Chee Sing from Singapore, Mr. Hiroyuki Higuchi, Mr. Yukio Mizunoya and Mr. Ryoji Terado from Japan.

Summary of the Report:

The report focuses entirely on the enhancement of various enforcement measures to control organised crime.

For the purposes of the study, reference made about organised crime is limited to the same common denominating offences such as drug trafficking, trafficking in firearms, money laundering, prostitution, gambling, fraud or extortion, being offences commonly perpetrated by organised crime syndicates globally.

The need for more effective methods to control organised crime cannot be overemphasised as such criminal activities have become very sophisticated, thus frustrating in many instances the cumbersome and outdated traditional forms of policing and other enforcement actions, rendering it imperative that modern and more effective methods in controlling organised crime be introduced and developed (nationally and internationally).

In addressing this issue, the report focuses on two separate stages within the Criminal Justice Administration System. Firstly, regarding the stage of detection, investigation and prosecution the following are discussed: (a) wiretapping; (b) undercover investigation and utilisation of informants; (c) controlled delivery in investigation of drug related offences; (d) innovative measures to trace and seize illicit proceeds; (e) identification of principal offenders; and (f) detention and bail. The second stage discusses (a) current evidential rules; (b) sentencing policy; and (c) speedy trials.

The report concludes with proposals for reinforcement and restructuring of law enforcement authorities as discussed in detail in the paper. There is a paramount need for countries to adopt the resolutions of the Vienna Convention of 1988. Effective methods employed against organised crimes should be learned from countries successfully applying them. In the case where no pertinent provisions in the law are available, enforcement agencies should attempt to contrive new methods by interpreting relevant provisions flexibly and appropriately.

Group 3: Improvement of Conditions and Integrated Strategy for Eradication of Organized Crime

This issue was deliberated by Group 3 for which the chair was taken by Mr. H. A. J. S. K. Wickremaratne from Sri Lanka with Mr. Yeap Kum Thim from Malaysia as rapporteur. The other members of the group were Mr. Victor Jorge Diaz Navarrete from Chile, Mr. Santoso from Indonesia, Ms. Ritsuko Hara, Mr. Katsuyuki Kani and Mr. Katsuhiko Shibayama from Japan.

Summary of the Report:

The group described the current organizational structure, responsibilities, and the

inherent weakness in the various law enforcement agencies which include the Police, Narcotic Central Agency, Tax Office, Immigration Office, Public Prosecutor's Office and the Judicial Services. It then suggested measures which could be adopted to strengthen its task of eradicating organized crime. Community based activities which include the active participation of the private sector for example banks, post offices, security companies, and bar association in eradicating organized criminal activities were also looked into by the group.

To effectively eradicate organized crime, the safety and welfare of victims and witnesses of such kinds of crime must be seriously looked into. In this respect this group deliberated and discussed inter alia the protective measures that could be designed and provided to them which are modelled along the lines of U.S.A. Witness Protection Programme. Besides these, institutional and community based treatment for organized crime offenders were also examined to ensure such offenders would secede from their organization thus positively contributing towards its gradual eradication.

Some of the recommendations proposed by the group include:

(1) The legislation of specific laws to deal with organized crime e.g. the new Law on the prevention of Irregularities by Gangsters of Japan, Organized Crime Control Act 1970 of U.S.A.
(2) Placing of emphasis on the application of technical and organizational measures designed to increase the effectiveness of the investigative and sentencing authorities, including prosecutors and the judiciary. Furthermore, courses on professional ethics should be incorporated into the curricula of law enforcement and judicial training institutions.
(3) Better training to upgrade skills and professional qualifications of law enforcement and judicial personnel should be undertaken to improve effectiveness, consistency and fairness in national criminal justice system.
(4) Planning processes designed to integrate and co-ordinate relevant criminal justice agencies that often operate independently of one another.
(5) Research in relation to corruption, its cause, nature and effect, its links with organized crime and stepping-up of anti-corruption measures.
(6) Establishment of appropriate mechanisms for the protection, and assistance of victims and witnesses of organized crime.
(7) Heightening of public awareness, changing of community attitudes and mobilising public support in organized crime eradication programmes.

Group 4: International Co-operation in Controlling Organized Crime

The discussion about this topic was led by chairperson Mr. Nakorn Silparcha from Thailand, assisted by rapporteur Mr. Wilson Mwansasu from Tanzania and co-rapporteur Mr. Ren Xiaofeng from China. The rest of the members were Ms. Sonia Silva from Colombia, Mr. Toshihiko Niibori, Mr. Hiroshi Urata and Mr. Katsuaki Ito from Japan.

Summary of the Report:

The group discussed mutual assistance through international co-operation as the only solution to the marked increase of interstate organized crime.

The group evaluated efforts taken at the national, regional and international levels through treaties and conventions, all of which are aimed at attaining international co-operation to combat organized crime.

These efforts include, extraditions of fugitive offenders, mutual assistance in criminal matters in such areas as investigations, transfer of proceedings, transfer of supervision of offenders and transfer of foreign prisoners. The group discussed informal co-operation through international/regional organizations and meetings by law enforcement agencies.

At the end of the report are recommendations reached by the group. Some of these recommendations are as follows:

(1) The United Nations, in its crime prevention and criminal justice programme should continue to devise strategies which would assist member states in the development of measures to deal with organized crime effectively.
(2) In order to fight organized crimes with coordinated efforts, states should enter into bilateral or multilateral treaties geared at suppressing organized crimes. Negative attitudes caused by lack of urgent necessity among states must be abandoned.
(3) Countries should as much as possible modernize or modify their domestic laws to meet international concepts for more effective and appropriate measures against organized crime.
(4) Emphasis should also be geared towards the training development programmes, seminars, and conferences offered by institutions like UNAFEI whose task is to study, develop and explore modern techniques on crime prevention.
(5) Taking into account the nature of financial crime nowadays which normally includes fraudulent evasion of income tax, custom duties, violation of regulations concerning financial transactions, foreign exchange and export and import of commercial commodities, countries which request mutual assistance in relation to financial crime should revise their domestic laws and provide wider assistance for the investigation of financial crime.
(6) International co-operation in the exchange of information through Interpol and other international/regional organizations must be intensified.
(7) Regional conferences between law enforcement agencies (police, prosecutors/attorneys, judicial authorities) should be encouraged in order to plan effective methods of controlling organized crimes and promote mutual understanding between them.
(8) International cooperation through exchange of experts in the form of "field attachment" should be encouraged between states in order to facilitate exchange of experience and assistance on legal procedures when mutual assistance is requested.

The above-mentioned four reports resulting from the general discussion sessions are published in the Resource Material Series No. 43 of UNAFEI.

4. Special workshops

During the Course, we held two special workshops: The Workshop on Computerization and the Workshop on Statistics. Since the 89th International Training Course we have additionally included special workshops in the normal training programmes in the courses. The previous workshops in the 89th, 90th and 91st courses were respectively on computerization, the role of public prosecutors, and the research and evaluation of criminal justice administration.

(1) Computerization of criminal justice system information

This Special Workshop, organized as a six-day-long programme from 26 October to 6 November, is the second in the series of its kind.

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990 adopted the resolution on "Computerization of Criminal Justice" which was adopted by the United Nations General Assembly in the same year. It requested the Secretary General to establish a technical co-operation programme for the systematization and computerization of criminal justice in order to offer training, assess needs, and formulate and execute specific projects.

In this context, following the consultation with the United Nations Office at Vienna and the Helsinki Institute for Crime Prevention and Control (HEUNI), which has advanced experience on the computerization of criminal justice, as mentioned in the Newsletter No. 76, we held "Workshop on Computerization of Criminal Justice Information" in the 89th International Training Course entitled "Effective and Innovative Countermeasures against Economic Crime."

Based on the successful experience in the 89th course, we decided to hold the second workshop within the framework of this 92nd International Training Course, since the issues of computerization are closely related to the main theme of the course.

To carry out this workshop we relied largely upon the assistance of three visiting experts who specialize in computer technology and computerization of criminal justice. Mr. Scherpenzeel, Professor Ratledge and Mr. Sharma not only made significant contributions to the preparation of the substantive programmes but also enlightened the participants by guiding and leading the whole workshop.

During the Workshop, there were three extra evening sessions on practical training. The participants had invaluable opportunities to execute by themselves various kinds of software on the computers.

Through these experiences the Workshop was expected to be a significant forum for providing an opportunity to increase awareness of the importance of computerization and to serve as a basis for facilitating meaningful introduction and application of computer systems in the participants' respective fields.

(2) Statistics on criminal justice administration

The objective of the Workshop on statistics was to gain a better understanding of statistics and their analysis by collecting information and published annual reports regarding statistics in the criminal justice field, namely, police, prosecution, court, correction, and probation statistics from the respective countries.

Knowing the actual statistical situation of the other countries of the region as well as one's own, will help to improve the criminal justice system and its administration.

Prior to the Workshop, we conducted research on the availability of statistics on criminal justice administration in the representing countries. The participants made efforts to obtain relevant information by contacting the officers in their respective offices. Through these, UNAFEI was enriched by receiving a number of important materials on statistics.

During this Workshop, Mr. Seiji Kurata, Researcher, Research Department, Research and Training Institute, Ministry of Justice of Japan, rendered a lecture on "White Paper on Crime" in which he explained in detail how the White Paper on Crime is compiled. With regard to the utilization of computer system, Mr. Yoshikazu Yuma, Assistant Research Officer of the same Institute, elaborated on data sources and computer-data-handling system.

After the lectures, there was a series of presentations by the participants regarding the actual situation of availability of statistics.

D. International Meetings and Overseas Joint Seminar

1. Indonesia-UNAFEI Joint Seminar on the Prevention of Crime and the Treatment of Offenders

UNAFEI conducted overseas joint seminars with host governments in Asia in response to a request, which had been frequently expressed in various international conferences as well as by an increasing number of former participants, to provide more training opportunities to criminal justice personnel in the countries of the region.

The Joint Seminar between Indonesia and UNAFEI entitled "Contemporary Problems in the Field of Criminal Justice System and Its Administration" was carried out from 20 to 24 January, 1992 in Jakarta, Indonesia under the auspices of Japan International Cooperation Agency (JICA).

The Supreme Court of the Republic of Indonesia, UNAFEI's counterpart on the Indonesian side, had organized the Organizing Committee and the Steering Committee of the Joint Seminar, which both made great contributions to the success of the Seminar.

The Japanese delegation included Mr. Atsushi Nagashima, the Chairman of Board of Directors of ACPF as a special lecturer and Mr. Tetsuro Takizawa, Secretary General, Member of Board of Directors of ACPF as a participant. ACPF made significant contributions to the Joint Seminar financially as well.

We had also a special lecturer from Australia, Mr. Chris Sumner, President of the World Society of Victimology, Attorney General of South Australia.

Prior to the beginning of the Joint Seminar, the UNAFEI and ACPF delegation was given opportunities to visit and discuss various contemporary issues with officials of a number of criminal justice agencies in Indonesia including police offices, public prosecutors' offices, courts, prisons and probation offices. These experiences helped the Japanese delegation understand the Indonesian situation very much and enhanced fruitful discussions in the Seminar.

During the Seminar, various important problems in every field of criminal justice were discussed by the approximately one hundred participants from every segment of the criminal justice system and the academy.

The titles and the presenters of the sessions were as follows:

Session 1: Effective and Efficient Administration of the Police with Special Reference to the Crime Reporting System, Problems Related to the Dark Numbers of Crime and the Protection of the Victims of Crime
Presenter: Prof. Dr. Awaluddin Djamin, Dean of the Indonesian Police College, Former Chief of the Indonesian National Police

Session 2: Contemporary Problems in the Field of the Police
Presenter: Prof. Yutaka Nagashima, UNAFEI

Session 3: The Role of Public Prosecutors
Presenter: Dr. Andi Hamzah, Head of Research and Development Centre, Office of the Attorney General and Mr. R. M. Surahman, Official of the Office of the Attorney

Session 4: Contemporary Problems in the field of the Prosecution
Presenter: Mr. Itsuo Nishimura, Public Prosecutor of the Tokyo District

Public Prosecutors' Office

Session 5: Fair and Effective Administration of the Judiciary—With Special Reference to the Professionalism of Judges and Sentencing Policy
Presenter: Justice Soerjono, S.H., Justice of the Supreme Court of the Republic of Indonesia

Session 6: Criminal Law in Indonesia, Contemporary Problems for the Lawyer
Presenter: Mr. Abdul Hakim Garuda Nusantara, S.H., LLM., Head of the Indonesian Legal Aid Foundation

Session 7: Fair and Effective Administration of the Judiciary
Presenter: Prof. Osamu Ito, UNAFEI

Session 8: Institutional and Non-Institutional Treatment of Offenders
Presenter: Prof. Baharuddin Lopa, Director General of Corrections, Department of Justice and Dr. H. Aehmad Sanusi Has, Director of Prisons, Department of Justice

Session 9: Institutional and Non-Institutional Treatment of Offenders
Presenter: Prof. Noboru Hashimoto, UNAFEI

Session 10: Contemporary Problems in Criminology—An Indonesian View
Presenter: Prof. Dr. J. E. Sahetapy, Professor in Criminal Law, Criminology, Penology and Victimology at the Faculty of Law, Airlangga University

Session 11: Contemporary Problems in Crime Prevention and Criminal Policy
Presenter: Prof. Hiroyasu Sugihara, Director of UNAFEI

Session 12: Future Activities of the UNAFEI Alumni Association in Indonesia and Some Related Problems
Presenter: Mrs. Budiarty, S.H., Expert Staff on Judiciary, Department of Justice

The Special Lecturers and their lecture topics were as follows:

Special Lecture 1
"In Commemoration of Ten Years of the KUHAP (1981-1991): an Optimistic Point of View on the Indonesian Criminal Justice System and its Administration"
by Mr. Marudjono Reksodiputro, S.H., M.A.

Special Lecture 2
"UN Norms and Guidelines Related to the Criminal Justice System and its Administration"
by Mr. Atsushi Nagashima, Chairman of the Board of Directors of the Asia Crime Prevention Foundation, Former Justice of the Supreme Court of Japan, Former Director of UNAFEI

Special Lecture 3
"Victimology and Victims' Rights"
by Mr. Chris Sumner, President of the World Society of Victimology, Attorney General of South Australia, Australia

Concluding the series of discussions, a set of recommendations produced by the Seminar was submitted to the Right Honourable Chief Justice Ali Said on the occasion of the closing ceremony.

2. Seminar-cum-Field Study on Programmes to Rehabilitate Juvenile Delinquents in the ESCAP Region

An international seminar entitled "Seminar-cum-Field Study on Programmes to Rehabilitate Juvenile Delinquents in the ESCAP Region" was convened from 6 to 24 January 1992. This Seminar was jointly organized by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) and UNAFEI in co-operation with the governments of Thailand, Hong Kong, China and Japan. This meeting was the third in a series of ESCAP/UNAFEI-sponsored regional forums on youth and crime prevention initiated in 1985.

The United Nations officials in charge were Mr. Ko Akatsuka, Regional Adviser, ESCAP and Ms. San Yuen Wah, Social Affairs Officer, ESCAP, Mr. Hiroshi Nakajima, Deputy Director, UNAFEI, Mr. Tetsuya Ozaki (resource person), professor, UNAFEI.

The participants were practitioners, administrators and researchers of the criminal justice system in their respective countries, representing fifteen countries, namely, Bangladesh, China, Hong Kong, India, Indonesia, Malaysia, Pakistan, Papua New Guinea, the Philippines, Korea, Singapore, Sri Lanka, Thailand, Vietnam and Japan. They discussed relevant issues to the theme and made a series of field studies in various places including related institutions and community programmes, viz., Ban Karuna Boy's Training School and Klong Toey Slum Area in Thailand; Laiking Training Center, O Pui Shan Boy's School and Pik UK Correctional Institution in Hong Kong; Shanghai Juvenile Reformatory, Shanghai Juvenile Delinquency Research Center, Zapu Lu Neighbourhood Committee, Beijing West District Work-Study School and All-China Youth Federation in China; Tokyo Juvenile Classification Home, Hachioji Branch Probation Office and Tama Boy's Training School in Japan.

3. The Special Events Commemorative of Anniversaries of UNAFEI and ACPF

Special events were organized from 6 to 9 March 1992 to celebrate the 30th anniversary of UNAFEI and the 10th anniversary of ACPF and the honour bestowed upon ACPF by the United Nations through the granting of the consultative status with the Economic and Social Council.

Thirty years have passed since UNAFEI was established in 1961 as a United Nations regional institute.

The Asia Crime Prevention Foundation (ACPF) was established in 1982 in response to the strong needs expressed both by UNAFEI and its alumni members, for strengthening the ties between them in the form of follow-up and feedback as well as the assistance both professional and financial for survey or research programmes initiated by the alumni members in the countries which participated in the UNAFEI training courses and seminars.

In May 1991, ACPF was granted the consultative status with the Economic and Social

Council of the United Nations in recognition of, and with the expectation of, its invaluable contributions to the fight against crime in Asia and other developing regions, particularly by way of supporting the activities of UNAFEI and other United Nations organs in this regard, and strengthening mutual understanding and co-operation among UNAFEI alumni members of the world.

In this regard, the following meetings were jointly convened with ACPF in commemoration of UNAFEI's 30th and ACPF's 10th anniversaries, inviting experts from the United Nations, representatives of UNAFEI Alumni members and other eminent criminal justice experts inside and outside of Japan. The list of the invited overseas experts can be found in Appendix.

(a) Eighth meeting of the ad hoc advisory committee of UNAFEI

During some 30 years existence, UNAFEI has conducted ad hoc advisory committees seven times for the purpose of evaluating its programme and activities and advising on its future work. On the occasion of the above-mentioned special events, a meeting entitled "the Eighth Meeting of the ad hoc Advisory Committee of Experts on UNAFEI Works Programmes and Directions" was convened on 6 March to assess the work accomplished by UNAFEI in these 30 years and make suggestions for future UNAFEI activities.

In addition to the experts from overseas countries, the conference had attendants from Ministry of Justice of Japan and others: Mr. Akio Harada, Director of the Personnel Affairs Division, Secretariat of Ministry of Justice; Mr. Tsuguo Kamiyama, President of the Research and Training Institute of the Ministry of Justice; Mr. Takashi Watanabe, Director of the Second Training Department, the Research and Training Institute of the Ministry of Justice; Mr. Minoru Shikita, Superintending Prosecutor of the Hiroshima High Public Prosecutors' Office and former Director of UNAFEI; Mr. Masaharu Hino, Public Prosecutor of the Supreme Public Prosecutors' Office, former Director of UNAFEI; Mr. Shinichi Tsuchiya, Chief Prosecutor, the Yamaguchi Public Prosecutors' Office, former Deputy Director of UNAFEI; and staff members of UNAFEI.

The Committee elected: Mr. Minoru Shikita as chairperson; Mr. Abdelaziz Abdalla Shiddo and Mr. Suchinta Uthaivathna as co-chairpersons; Mr. Ramon U. Mabutas, Jr. and Mr. Hetti Gamage Dharmadasa as rapporteurs.

The meeting reviewed and assessed the previous activities of UNAFEI: regular training and seminar programmes; ad hoc training and seminar programmes including joint seminars; research activities; and information services. There were also discussions on the ways of improving or enhancing UNAFEI's action programmes such as: roles of UNAFEI as a U.N. Regional Institute; proposals and suggestions for new projects to be undertaken; enhancing the activities of the UNAFEI Alumni Associations; inter-institute collaboration among U.N. Institutes.

The rapporteurs produced a report entitled "Report of the 8th Meeting of the Ad hoc Advisory Committee of Experts on UNAFEI Work Programmes and Directions" the full text of which is to be published in the Resource Material Series No. 43. The following are the conclusive recommendations by the Committee:

1) The UNAFEI training programmes should continue to be evolved towards the development of crime prevention and criminal justice strategies, both sectorally and intersectorally, including appropriate training of relevant NGOs involved in the criminal justice administration;
2) UNAFEI should extend its training programmes to developing countries beyond the

Asian and Far East regions, not only by offering training courses but also by supporting them to develop their own training facilities;

3) UNAFEI should support indigenous researches in various countries by providing both financial and technical assistance in conjunction with the Asian Crime Prevention Foundation International;
4) UNAFEI should develop special courses for legislators and policy-makers in crime prevention and criminal justice with a view to orienting them towards new trends of criminality in all its domestic, transnational and international dimensions;
5) UNAFEI should strengthen its linkages with other United Nations institutes, organizations and agencies involved in crime prevention and criminal justice in order to share its knowledge and experience in research, training and programme development;
6) UNAFEI should expand its publication programmes to cover various segments of personnel involved in crime prevention and criminal justice as well as to make it more accessible to the peoples in various countries;
7) UNAFEI should further diversify and internationalize its technical manpower by inducting into its staff an increased input from developing countries of various regions, with a contribution in kind from said countries;
8) The activities and programmes undertaken and promoted by UNAFEI should be documented and publicized widely in order to generate public support and thereby improve the criminal justice systems in various countries;
9) UNAFEI should consider providing a special focus on the training of trainers in order to extensively reach out to functionaries and workers of crime prevention and criminal justice at the grass-roots level;
10) UNAFEI should give special attention for the establishment of documentation and information services to serve as a clearing house for the exchange of knowledge and experience in crime prevention and criminal justice between the various countries and regions, including the vigorous use of electronic media;
11) UNAFEI should collect, collate and disseminate factual information and statistical data on crime prevention and criminal justice and, at the same time, regularly monitor such trends to the various countries for appropriate action;
12) UNAFEI should prepare implementation modalities and guidelines for the United Nations instruments in crime prevention and criminal justice, including regional commentaries and manuals;
13) UNAFEI should increase its assistance to its alumni associations in various countries to enable them to continue developing the professional expertise initiated by it;
14) The visiting experts to various training courses, seminars and workshops organized by UNAFEI should be closely associated with the UNAFEI alumni associations in various countries as their members;
15) UNAFEI should conduct an increased number of joint seminars in crime prevention and criminal justice with various countries to facilitate the sharing of knowledge and experience with field level functionaries;
16) UNAFEI should work closely with the United Nations Secretariat, including ESCAP and other relevant organs, with a view to ensuring that crime prevention and criminal justice form an integral part of the political, economic and social planning, strategy and action;
17) UNAFEI should explore the possibility of sponsoring some action-oriented demonstration projects based on operational research to improve the efficacy of public policy

in crime prevention and criminal justice;

18) With the restructuring of the United Nations Crime Prevention and Criminal Justice Programme and the establishment of a new United Nations Crime Prevention and Criminal Justice Commission, UNAFEI should augment its technical and manpower resources to assume the enormous responsibility of functioning as a model agency of relevant United Nations activities and programmes in this region.

(b) Symposium on "conditions for prosperity without crime"

This symposium was held on 9 March to provide the participants with a forum where they could discuss various issues of crime prevention and criminal justice, in particular, in developing countries which had been faced with many problems and difficulties in the fight against crime: human and financial constraints leading to the lack of trained personnel and facilities; less effective functioning of criminal justice; insufficient co-ordination and co-operation among relevant criminal justice agencies; and so forth.

All the experts except for Mr. B. J. George, Jr. and Mr. Prasert Mekmanee, who had to leave Japan early, attended the Symposium as keynote speakers or panelists. The discussion was conducted under the chairpersonship of Mr. Atsushi Nagashima with Mr. Minoru Shikita's attendance. The audience amounted to some 300 persons including guests from Ministry of Foreign Affairs, Ministry of Justice, Office of Prime Minister, ACPF and the academia as well as the practitioners from the police, the prosecution, the judiciary, the corrections and the probation and parole services.

The Symposium was divided into two sessions. In Session 1, the keynote speakers made brief presentations on the issues related to the topics "Current Status on Crime Trends and Criminal Justice in Asian and African Countries." Session 2 was organized as a panel discussion where the discussions were carried out, including several questions from the floor, on the following subjects: inter-relationship between crime and economic development; roles of criminal justice in ensuring sound development; conditions for prosperous society free from crime; and roles and functions of ACPF and UNAFEI.

The report of the Symposium including the papers submitted by the experts was published in a special edition of ACPF TODAY.

(c) Commemoration ceremony

The Commemoration Ceremony was conducted on 9 March after the Symposium. There were approximately 230 guests invited from: Office of Prime Minister; the National Police Agency; Ministry of Justice; Public prosecutors' Offices; Ministry of Foreign Affairs; Ministry of Health and Welfare; the Court; Japan International Cooperation Agency; U.N. agencies; Japan Criminal Policy Association; and other related organizations.

After the commencement of the Ceremony with speeches by Mr. Hiroyasu Sugihara, Director of UNAFEI and Mr. Sugiichiro Watari, President of ACPF, the Ceremony was honoured to have such speakers as: Mr. Takashi Tawara, Minister of Justice; Mr. Joseph V. Acakpo-Satchivi, Deputy Secretary of the Economic and Social Council, United Nations; Mr. Eduardo Vetere, Chief, Crime Prevention and Criminal Justice Branch, Centre for Social Development and Humanitarian Affairs, United Nations; Mr. Hideo Chikusa, Secretary-General, the Supreme Court; Mr. Minoru Niwa, Director, United Nations Bureau, Ministry of Foreign Affairs; and Mr. Adi Andojo Soetjipto, Deputy Chief Justice of the Supreme Court, Indonesia, representative of UNAFEI Alumni. In closing, Mr. Atsushi Nagashima, Chairman of the Board of Directors of ACPF gave an address of thanks.

(d) Other events

There were other meetings conducted on this occasion including the First Meeting of the International Board of Directors of ACPF on 7 March, the First Meeting of the representatives from domestic branches of ACPF on 8 March and Reception on 9 March.

E. Other Activities and Events

1. Research Activities

UNAFEI conducted various research activities relating to crime prevention and treatment of offenders. Among them UNAFEI conducted a research project in collaboration with the Asia Crime Prevention Foundation (ACPF) on the implementation of the United Nations norms and guidelines relating to crime prevention and criminal justice in the Asian countries, with particular reference to the impediments in the implementation of the United Nations Standard Minimum Rules for the Treatment of Prisoners, and the Standard Minimum Rules for Non-Custodial Measures.

As mentioned in the Annual Report of 1991, this project was started in 1990 and the objective of this research is to make concrete recommendations for a more effective implementation of these United Nations norms and guidelines. In 1992, UNAFEI was endeavouring to analyze the country reports submitted by the six experts selected from among the UNAFEI alumni members, the results of the field research done by UNAFEI staff, and additional information, where necessary, to make a synthesis report.

2. Information Services

During the year 1992, UNAFEI published Resource Material Series No. 41 and No. 42. No. 41 consists of the Annual Report for 1991 and the articles and the reports which were produced in the 89th International Training Course. No. 42 contains papers produced in the 90th International Seminar and the 91st International Training Course. Three Newsletters were published at the end of each course to provide summary information on the Seminar and Training Courses for the people concerned, and were sent to the alumni members later.

UNAFEI also published "Computerization of Criminal Justice Information Systems" edited by Mr. Richard Scherpenzeel, summarizing the results of the special workshop entitled "Computerization of Criminal Justice Information" which was included in the 89th International Training Course in 1991.

As in previous years, UNAFEI endeavoured to collect statistics, books and other materials on crime situations and criminal and juvenile justice administration not only in Asian countries but also in other countries. In addition to collecting information, UNAFEI made every effort to disseminate the information and to respond to requests for information from many agencies and individuals.

3. Co-operation with Related Institutions and Organizations

(1) Seminar on drug problem

UNAFEI has been closely co-operating with other United Nations Regional Institutes. The following is one example of these activities.

The Fifth Regional Seminar "Effective Measures Against Drug Offences and Advancement of Criminal Justice Administration" was held from 20 to 31 July 1991, in San Jose,

Costa Rica, which was organized by the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) and co-sponsored by the Government of Costa Rica, Japanese International Cooperation Agency (JICA), United Nations Drug Control Program (UNDCP) and UNAFEI.

The objective of the seminar was to foster a wide-ranging discussion of issues related to treatment, prevention and education as an integrated process in the drugs field, evaluate methods of international co-operation for the prevention of drug-related crime, and design possible alternative solutions, highlighting specific actions in countries in the region.

The participants were jurists, psychologists, psychiatrists, counsellors and senior policy making government officials involved with prevention and treatment programmes in the drugs and criminal justice administration.

They came from the following Latin American and Caribbean countries: Argentina, Bolivia, Brazil, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Paraguay, Peru, Trinidad and Tobago, Uruguay and Venezuela.

Mr. Takeshi Koyanagi, Professor, UNAFEI, was dispatched as visiting expert and gave lectures.

(2) Public lecture

A Public Lecture Programme was jointly sponsored by the Asia Crime Prevention Foundation, the Japan Criminal Policy Association and UNAFEI.

Mr. Joseph M. Whittle, U.S. Attorney for the Western District of Kentucky, United States of America and Mr. Thomas Hutt, Prosecutor-General of Thueringeng, Erfurt, Federal Republic of Germany, who both were visiting experts for the 90th International Seminar at UNAFEI, gave public lectures at the main conference hall of the Ministry of Justice, on the afternoon of 18 February 1992.

Mr. Whittle rendered a lecture entitled "International Forfeiture: An Emerging Global Response to Crime" and the topic of the lecture given by Mr. Hutt was "Criminal Sanctions in the Process of Change—With Examples from the Federal Republic of Germany." The lectures attracted the attention and interest of the audience which consisted of over one hundred and thirty attendants including the 90th Seminar participants.

II. Work Programme for the Year 1993

In 1993 UNAFEI will conduct two international training courses and one international seminar for public officials mainly from Asia and the Pacific region. UNAFEI will also be involved in other important regional and inter-regional projects. Most of these activities have been planned in line with UNAFEI's continuing policy to make every effort to contribute to international endeavours regarding matters of urgent necessity in close co-operation with the United Nations, the governments of Asia and other regions, and related organizations and institutions. The following are several work programmes for the year 1993.

I. Regular Training Programmes

1. The 93rd International Seminar

The 93rd International Seminar will be held from 1 February to 5 March 1993 with the main theme "Policy Perspective for Organized Crime Suppression."

The alarming threat and acknowledged gravity of the offences committed through organized crime have been urging many countries to reform their administration and legislation in various segments of criminal justice. Facing its transnational nature, the world community has also been required to establish more effective mechanisms in international co-operation to combat this heinous crime.

Needless to say, it is the law enforcement which plays the most crucial role in combating organized crime. However, criminal investigation by law enforcement agencies is sometimes being hampered by insufficiency of the staff and its training, lack of investigatory technique, and inappropriate legislation.

One of the most important and effective investigative methods is the following of the money trail of organized crime syndicates. However, law enforcement agencies sometimes face difficulty in achieving their purpose because banks and other financial institutions, in some cases, resort to the principle of secrecy.

Report and testimony by victims or other witnesses are indispensable in investigating organized crime. However, these are also, in some cases, hard to obtain because they are usually reluctant to give necessary co-operation to investigative and other authorities, being afraid of the threat of organized crime. Schemes for the protection of ordinary citizens against violence and intimidation need to be urgently explored to gain more support from the community. These schemes may include the provisions for ways of shielding the identities of witnesses from the suspect or accused, accommodation and physical protection, relocation and monetary support.

Organized crime members have been strengthening their unity by their extremely strict rules which sometimes include death against a betrayer of the organization. Therefore, it is extremely difficult to get the necessary information from them on criminal offences as well as on their organization. Of course, criminal justice administrators should make every effort to persuade them to part from their organization. However, the introduction of other relevant and appropriate measures, such as interception of telecommunications or use of electronic surveillance, should be also explored with due consideration for human rights safeguards.

Emphasis should also be placed on the application of technical and organizational measures designed to increase the effectiveness of the prosecutorial and sentencing authorities. More effective rehabilitative measures of organized crime offenders should be examined.

Although organized crime is expanding its activities into more sophisticated and complicated acts which deserve criminal sanctions, some of them have been left uncriminalized because of the lack of due consciousness on the part of criminal justice legislators. Such acts may include, in some countries, money laundering, computer crime, acts of opening and operating accounts in false names and so forth. Organized crime is sometimes committed through institutions, corporations or enterprises. However, many countries have not yet established appropriate measures that would prevent or sanction such criminal activities. Forfeiture of the proceeds of crime represents one of the most significant developments in many countries. However, the range of this sanction is limited to the specific offence in some countries.

Additionally, as organized crime can be seldom suppressed by criminal sanctions alone, there may be a need for reform in civil, fiscal and administrative legislation relating to the control of organized crime which would compliment the criminal justice methods in controlling organized crime.

The world community has been endeavouring to facilitate efficient international co-operation for the suppression of organized crime activities by utilizing various measures, such as the International Criminal Police Organization (INTERPOL) activities, bilateral and/or multilateral treaties on extradition and mutual legal assistance and other forms of international co-operation, including international conferences and meetings among criminal justice practitioners in charge of organized crime control. The Multinational Asian Organized Crime Conference has been organized annually since 1991 among circum-pan-Pacific Countries for the expansion of international co-operation in this field. However, the transnational dimensions of organized crime require the further development of new and effective co-operative arrangements on a more comprehensive basis. Therefore, the possibility of other measures should also be sought, for instance a universal and/or regional register of sentences for organized crime, a data base system containing law enforcement, financial and offenders' records, and comparative research and data collection related to organized crime.

Against such a background, it is an urgent task for criminal justice administrators to explore efficacious and appropriate policy perspectives for the suppression of organized crime.

The following items will be among the major topics to be covered in discussions:

(1) Efficacious and appropriate criminal justice policies for organized crime control including:
   (a) effective investigation and prosecution of organized crime
   (b) appropriate trial procedure and adjudication for organized crime offenders
   (c) proper treatment of organized crime offenders
(2) Innovative legislation for organized crime suppression
(3) Development of international co-operation for organized crime control and the role of the United Nations.

2. The 94th International Training Course

The 94th International Training Course will be convened from 12 April to 2 July 1992 on "Current Problems in Correctional Treatment and their Solution."

The correctional administration in the world has been developing and attaining excellent results. In Asia and the Pacific region, the ultimate objective of correction is the rehabilitation of offenders. There are some effective measures being used as a part of institutional treatment of prisoners in these countries.

All of these countermeasures should be expected to contribute to the reduction and control of crime primarily by way of facilitating the resocialization of offenders.

However, correctional administrations in Asia and the Pacific region are confronted with many problems which hinder the implementation of the Standard Minimum Rules for the Treatment of Prisoners; for example, overcrowding of prison populations, increasing of drug related prisoners and aged prisoners, shortage of treatment specialists such as psychologists, psychiatrists, social workers, vocational and educational instructors.

In this course, therefore, efforts will be made to facilitate the development of treatment measures in correctional institutions through (a) analyzing current systems and practices

of custodical treatment in the respective countries, (b) searching for appropriate solutions to problems confronted, (c) examining the main factors which disturb the effective implementation of the Rules.

Overcrowding is one of the serious and chronic problems to be tackled by correctional administrators in the region. This is a complex problem, and may not be solved by only the endeavor of correctional administration. It should be discussed from a wide point of view such as prompt disposition of criminal procedure, development of non-custodial measures, and decriminalization of minor offence, etc.

More than 30 years have passed since the Standard Minimum Rules for the Treatment of Prisoners were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955 and approved by the Economic and Social Council of the United Nations in 1957. The Rules play an important role in development of correctional administration in the world. However, it seems that many countries in Asia and the Pacific region are faced with many problems which prohibit the implementation of the Rules. Therefore, the actual situation of implementation of the Rules should be discussed and the factors which impede the implementation of the Rules should be analyzed in order to solve these problems.

It is desirable that the offenders should be treated in accordance with their specific characteristics. Recently, in many countries, drug related prisoners, aged prisoners, women prisoners and foreign prisoners are increasing in correctional institutions. It is advisable that these offenders should be categorized scientifically, and be treated based on their characteristics.

Correctional work is based on human resources, and in this sense, staff training is absolutely indispensable. An effective and efficient system for the training of correctional personnel should be established in order to overcome the ever-increasing difficulties as mentioned above.

The importance of staff training must be always kept in the mind of policy-planners in criminal justice administration. Well-trained staffs with professional skills and knowledge are certainly the indispensable fundamentals, based upon which successful administration of correctional treatment can be developed and implemented. Therefore, staff training is another momentous issue which needs thorough and joint examination. In addition, in order to develop correction, wide areas of research on correctional work is also indispensable. It can be said that establishment of a scientific classification system for prisoners, development of effective treatment technology, investigation of the correctional treatment of prisoners, etc. are needed.

The aim of this training course is to provide participants with an opportunity to study and discuss various contemporary problems concerning the treatment of offenders in correctional institutions and their effective development.

Accordingly, the following items will be among the major topics to be covered in discussion:

(1) Practical measures to alleviate the problem of overcrowding
   (a) actual situation of overcrowding and its analysis
   (b) construction of new facilities
   (c) application of community-based treatment
   (d) prompt application of criminal procedure
   (e) other effective policies
(2) Extent of implementation of the Rules

(a) actual situation of implementation of the Rules
(b) factors of disturbance for the implementation
(c) effective countermeasures for the implementation

(3) Current trends of prisoners and appropriate treatment
(a) drug related prisoners
(b) aged prisoners
(c) foreign prisoners
(d) women prisoners
(e) others

(4) Staff training and development of research
(a) recruitment and training system
(b) international co-operation for staff training
(c) research of development of treatment skill
(d) research methods of measurement of effect of correctional treatment
(e) application of result of research for correctional treatment.

3. The 95th International Training Course

The 95th International Training Course will be held from September to November 1993. The prospective theme of the Training Course will be "Effective Countermeasures against Crimes Related to Urbanization and Industrialization—Urban Crime, Juvenile Delinquency and Environmental Crime."

II. International Meetings and the Overseas Joint Seminars

1. The Overseas Joint Seminar

The Joint Seminar between the Malaysian Government and UNAFEI entitled "Effective Countermeasures Against Organized Crime" will be carried out from 10 to 23 January 1993 in Kuala Lumpur, Malaysia under the financial auspices of Japan International Cooperation Agency (JICA).

This Seminar will be a continuation of the previous Joint Seminar in Malaysia, which was conducted jointly by the Royal Malaysia Police and UNAFEI in 1984. The prospective participants in the Seminar are policy-makers, high-ranking administrators and other experts working in the field of criminal justice administration: the police, the prosecution, the judiciary, the corrections, the probation services and academia.

The Seminar will attempt to provide the participants with a discussion forum where they can share their views and jointly seek solutions to various problems related to organized crime facing criminal justice administrations of both Malaysia and Japan. The sub-topics for discussion will be actual situation of organized crime in each country; issues related to investigation of organized crime; issues related to prosecution of organized crime; trial and sentencing regarding organized crime; innovative countermeasures against organized crime; international co-operation in controlling organized crime; participation of community in suppressing organized crime; and rehabilitation of organized crime offenders.

2. International Seminar on Organized Crime in Asia

A seminar entitled "International Seminar on Organized Crime in Asia" will be held on 18 and 19 February 1993 at UNAFEI. It has been planned jointly by the Criminal

Affairs Bureau of the Ministry of Justice, Japan, the Criminal Investigation Bureau of the National Police Agency, Japan and UNAFEI.

As a background for the seminar, there was an international conference sponsored by the U.S. Department of Justice, entitled "Multinational Asian Organized Crime Conference" held in San Francisco, the United Sates, from 24 to 26 September 1991 in which the following countries participated: Australia, Canada, Hong Kong, Japan, Republic of Korea, Malaysia, Netherlands, New Zealand, Singapore, Thailand and U.S.A. This seminar will be a joint meeting of those coming from the participating countries of the multinational conference and the participants of the 93rd International Seminar of UNAFEI.

The main theme of the seminar will be "Effective International Co-operation to Suppress Organized Crime in the Asian Region."

3. Regional Training Course on Drugs in Bangkok

First meeting of "Regional Training Course on Effective Countermeasures against Drug Offences and Advancement of Criminal Justice Administration" will be held in Bangkok, Thailand from 8 to 19 March 1993. The meeting will be organized by the Office of the Narcotics Control Board (ONCB) in Bangkok. This project was originally planned by UNAFEI with the financial assistance from Japan International Cooperation Agency (JICA), within the framework of its Third Country Training Programme.

The prospective participants will be from India, Indonesia, Malaysia, the Philippines, Singapore, Brunei, China, Hong Kong, Pakistan, Cambodia, Laos, Viet Nam, Sri Lanka, Bangladesh, Nepal, Papua New Guinea, Korea and Thailand.

For the first session of the Course, the issues on implementation of the U.N. Vienna Convention in 1988 will be the focus.

III. Conclusion

It is a great honour for the Director of UNAFEI to submit this report which summarizes the Institute's endeavours during 1992, hoping that this will be accepted with much satisfaction by the United Nations and the Government of Japan, and that further advice will be furnished in order for UNAFEI to improve its programmes.

Since its establishment 30 years ago, UNAFEI has made the utmost efforts to meet the needs of the region as well as the international community in the fields of crime prevention and treatment of offenders.

Due to the close co-operation and assistance given by the United Nations, the Government of Japan, the Japan International Cooperation Agency, the Asia Crime Prevention Foundation, governments inside and outside of the region, visiting experts, ad hoc lecturers, former participants and various other organizations, UNAFEI has been able to attain its aims and has gained a favourable reputation within the international community.

This report is respectfully submitted to the United Nations and the Government of Japan in compliance with Section 1 (a) of the letter exchanged between the United Nations and the Government of Japan in March 1970.

Appendix

Distribution of Participants by Country (90th–92nd)

Country	90 (Seminar)	91 (Course)	92 (Course)	Total
Argentina			1	1
Botswana	1			1
Brazil		1		1
Chile			1	1
China	1		1	2
Colombia			1	1
Equador	1			1
Fiji	1	1	1	3
Hong Kong	1			1
India		1	1	2
Indonesia	1	1	1	3
Kenya	1			1
Korea	1	1	1	3
Lesotho		1		1
Malaysia	1	1	1	3
Morocco	1			1
Nepal			1	1
Nigeria	1			1
Pakistan	1	1	1	3
Papua New Guinea	1	1		2
Peru	1			1
Philippines	1	1		2
Saudi Arabia	1			1
Singapore	1	1	1	3
Sri Lanka	1	1	2	4
Swaziland	1			1
Tanzania	1		1	2
Thailand	2	1	2	5
Venezuela	1			1
Zimbabwe		1		1
Japan	7	10	12	29
Total	29	25	29	83

APPENDIX

The 90th International Seminar

Outline of the Seminar Programme

1) Self-Introduction and Orientation for the Seminar	2	Hours
2) Visiting Experts' Lectures	14	
3) Faculty Lectures	4	
4) Ad hoc Lecture	1	
5) Individual Presentation Sessions	29	
6) General Discussion and Report-Back Sessions	12	
7) Workshop (Role of Prosecutor) and Report-Back Session	9	
8) Observation Visits	10	
9) Saitama Tour	4	
10) Kansai Tour	12	
11) Shizuoka Tour	6	
12) Closing Ceremony	2	
13) Reference Reading and Miscellaneous	13	
Total	118	

List of Participants

Mr. Seabe Maboka
Assistant Superintendent of Botswana
Police Force
Botswana

Mr. Minghui Yang
Engineer/Chief of General Office
The Forensic Science Institute of Beijing
China

Mr. Carlos Calahorrano
Adviser of General Commander
Ministry of Government
Ecuador

Mr. Paras Ram
Superintendent of Police, Holding the Post of Divisional Crime Officer
Western Division Fiji Police Force
Fiji

Mr. Poon Jee-chung
Superintendent of Police
Royal Hong Kong Police
Hong Kong

Mr. Rahardjo, Boediman
Public Prosecutor
Public Prosecutor Office
City of West Jakarta
Indonesia

Mr. John Williams Owiti Nyan'gor
Provincial Police Headquarters
Kenya

Mr. Jang Jin-won
Public Prosecutor
Seoul District Public Prosecutors' Office
Korea

Mr. HJ Kamaruddin Bin Hamzah
Officer in Charge of Police District
Petaling Jaya
Malaysia

Mr. Oucharif Mohamed
Deputy-Director
Head of the Division of Criminal Studies and International Cooperation, Ministry of Justice
Morocco

Mr. Akhtar Ahsan
Joint Secretary
Ministry of Interior Federal Secretariat
Islamabad
Pakistan

Mr. Vele Noka
Deputy Public Prosecutor
Public Prosecutors' Office
Papua New Guinea

Mr. Pedro Contrera Cuba
Assistant of the Chief of the Finance Department, Capital Police Force
Paraguay

Ms. Rosa Isabel Alva Vasquez
Director Executive of Justice General Direction
Ministry of Justice
Peru

Ms. Emetri J. Amoroso
Director I
Parole and Probation Administration
The Philippines

Mr. Al-Shuaibi Khalid F.
Captain, Liaison and Investigation Officer
Dhahran Police Station
Saudi Arabia

Mr. Seng Kwang Boon
Deputy Senior State Counsel
Attorney-General's Chambers
Singapore

Mr. Thrima Vithanage Sumanasekara
Deputy Inspector-General of Police
Southern Range
Police Department, Ministry of Defense
Sri Lanka

Mr. Benson Mavuso
Assistant Commissioner of Police
Royal Swaziland Police Headquarters
Swaziland

Mr. William John Maina
Judge of the High Court
High Court of Tanzania
Tanzania

Mr. Achapon Petchakarl
Judge Attached to the Ministry
The Court of Appeals
Bangkok
Thailand

Mr. Chaiyot Wiputhanupong
Senior Public Prosecutor, Assistant Divisional Director to Litigation Division
The Office of the Attorney General
Thailand

Mr. Otoniel Jose Guevara
Chief Inspector
Ministry of Home Affairs
Venezuela

Mr. Norio Fukuda
Director
General Affairs Division, Tokyo Detention House
Japan

Mr. Masao Horikane
Superintendent of Police, Deputy Director
Traffic Enforcement Division, Traffic Bureau, National Police Agency
Japan

Mr. Takashi Kobayashi
Professor (Public Prosecutor)
1st Division, Research and Training Institute of the Ministry of Justice
Japan

Mr. Masaharu Miura
Public Prosecutor
Yokohama District, Public Prosecutors Office
Japan

Mr. Tetsuji Nagaoka
Judge
Tokyo District Court
Japan

Mr. Kenji Yamada
Director
3rd Examination Division, Kanto Regional Parole Board
Japan

(Observer)
Mr. Toshiro Ito
Professor (Public Prosecutor)
2nd Division, Research and Training Institute of the Ministry of Justice
Japan

List of Participants' Papers

1) *Mr. Seabe Maboka (Botswana)*
Effective and Appropriate Means for the Police to Obtain the Public's Trust and Cooperation towards Police Activities and to Further Improve the Ability of Investigation and Strategies of Crime Prevention
2) *Mr. Menghui Yang (China)*
The Effort and Practice of China's Public Security Organs in Fight and Prevention of Crime: A Broad Survey
3) *Mr. Carlos Calahorrano (Ecuador)*
Origin and Prevention of Delinquency in Ecuador
4) *Mr. Paras Ram (Fiji)*
Quest for Solutions of the Pressing Problems of Contemporary Criminal Justice Administration
5) *Mr. Poon Jee-chung (Hong Kong)*
The Police Public Relations and Justice System in Hong Kong
6) *Mr. Rahardjo, Boediman (Indonesia)*
Solving the Basic Problem in Executing Criminal Justice in the Republic of Indonesia
I. Act on the Public Prosecutor of the Republic of Indonesia
II. Various Basic Problems in the Execution of Criminal Justice
7) *Mr. John Williams Owiti Nyan'gor (Kenya)*
Present Situation of Criminal Justice in Kenya
8) *Mr. Jang Jin-won (Korea)*
Prosecution System in Korea
9) *Mr. HJ Kamaruddin Bin Hamzah (Malaysia)*
Quest for Solutions of the Pressing Problems of Contemporary Criminal Justice Administration
10) *Mr. Mohamed Oucharif (Morocco)*
Crime Prevention and Criminal Justice in Morocco
11) *Mr. Akhtar Ahsan (Pakistan)*
Administration of Criminal Justice in Pakistan
12) *Mr. Vele Noka (Papua New Guinea)*
Desirable Forms and Functions of Public Prosecution in Papua New Guinea
13) *Mr. Pedro Contrera Cuba (Paraguay)*

Crime Prevention in Paraguay
14) *Ms. Rosa Isabel Alva Vasquez (Peru)*
Innovations in the Penal and Penitentiary System in Peru
15) *Ms. Emetri J. Amoroso (The Philippines)*
Non-Custodial Measures for Dealing with Offenders in the Philippines Criminal Justice System
16) *Mr. Al-Shuaibi Khalid F. (Saudi Arabia)*
Commercial Forgery and Imitation Criminal Acts in the Kingdom of Saudi Arabia
17) *Mr. Seng Kwang Boon (Singapore)*
Singapore Experience in Criminal Justice System
18) *Mr. Thrima Vithanage Sumanasekara (Sri Lanka)*
Crime Prevention (Quest for Solution of the Pressing Problems of Contemporary Criminal Justice Administration)
19) *Mr. Benson Mavuso (Swaziland)*
Crime and Crime Prevention in Sawaziland
20) *Mr. William John Maina (Tanzania)*
The Administration of Justice in Tanzania
21) *Mr. Achapon Petchakarl (Thailand)*
Court Role Related to the Problems of the Delay of Trial and the Alternative to Imprisonment
22) *Mr. Chaiyot Wiputhanupong (Thailand)*
Application of the Measures of Safety in Thailand
23) *Mr. Otoniel Jose Guevara (Venezuela)*
Criminal Situation in Venezuela—An Overview
24) *Mr. Norio Fukuda (Japan)*
Foreign Inmates in Japanese Penal Institutions: Problems and Measures
25) *Mr. Masao Horikane (Japan)*
Measures for Police:
1. To Secure Confidence and Co-operation of People
2. To Promote Crime Investigation Capabilities
3. To Promote Crime Prevention
26) *Mr. Takashi Kobayashi (Japan)*
The Functions and the Features of a Public Prosecutor in Japan
27) *Mr. Masaharu Miura (Japan)*
Characteristics of the Role of Japanese Public Prosecutor—The Power of Investigation and the Discretionary Power of Prosecution
28) *Mr. Tetsuji Nagaoka (Japan)*
Actual Situations of the Criminal Justice in Japan
29) *Mr. Kenji Yamada (Japan)*
Community-based Treatment in Japan

Lecturers and Lecture Topics

1. Visiting Experts' Lectures
1) *Mr. Philip B. Heymann*
The Problem of Intimidation in Criminal Justice Systems
2) *Mr. Ramon U. Mabutas, Jr.*
Combatting Delay(s) in Criminal Justice Administration (Philippine Experience)
3) *Mr. Robert J. Chronnell*
The Future of the Crown Prosecution Service in England and Wales
4) *Mr. Robert J. Green*
The Creation and Development of the Crown Prosecution Service
5) *Mr. Joseph M. Whittle*
The United States System (An Overview)
6) *Mr. Hetti Gamage Dharmadasa*
Prison Overcrowding and Its Countermeasures, Strategies for a Wider Use of Non-Custodial Measures
7) *Mr. Thomas Hutt*
Criminal Prosecution in the Federal Republic of Germany; Developments in Crime, with Particular Reference to Organised Crime; Tasks of the Prosecu

tion Authorities and Strategies for Effective Countermeasures

2. Ad Hoc Lecture

Mr. Mark Findlay
Police Authority in a Community Setting: Essential Connections between Respect and Shaming

3. Faculty Lectures

1) *Mr. Hiroyasu Sugihara* (Director)
   a) The Recent Activities of UNAFEI
   b) Legal Consciousness of Japanese People
2) *Mr. Hiroshi Nakajima* (Deputy Director)
   Current Trends of Criminal Activities and the Practice of Criminal Justice in Japan

The 91st International Training Course

Outline of the Curriculum

1) Self-Introduction and Orientation for the Course	2	Hours
2) Visiting Experts' Lectures	20	
3) Faculty Lectures	13	
4) Ad Hoc Lectures	22	
5) Individual Presentation Sessions	26	
6) Group Workshops	22	
7) Special Workshops	8	
8) Plenary Meetings and Report-Back Sessions	16	
9) Small Group Visit and Fieldwork	10	
10) Visits of Observation	42	
11) Study Tours	24	
12) Field Recreation and Other Activities	18	
13) Evaluation and Individual Interviews	5	
14) Closing Ceremony	2	
15) Reference Reading and Miscellaneous	12	
Total	242	

List of Participants

Mr. Paulo Cezar Ramos De Oliveira
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G.P.O.
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Central Reserve Police Force
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Dep. Kehakiman
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Principal Probation Officer
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Lesotho

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Senior Superintendent of Prisons
Prisons Department
Malaysia

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Central Jail Staff Training Institute,
Ministry of Interior
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Papua New Guinea

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Probation Service, Ministry of Community Development
Singapore

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Chilaw Division
Shri Lanka

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Legal Counsel Division, Office of the Attorney General
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Mr. Clifford Zion Muwoni
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Zimbabwe

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Mr. Masaki Tamura
Assistant Judge
Takasaki Branch of Maebashi District and Family Court
Japan

Ms. Masayo Yoshimura
Senior Psychologist
Tokyo Juvenile Classification Home
Japan

List of Participants' Papers

1) *Mr. Paulo Cezar Ramos De Oliveira (Brazil)*
Non-Custodial Punitive Measures and the Brazilian Penal System
2) *Mr. Mohammed Jahir Khan (Fiji)*
Treatment of Offenders in Fiji
3) *Mr. Mohammed Izhar Alam (India)*
Division of Cognizable and Non-Cognizable
4) *Mr. Adi Sujatno (Indonesia)*
Institutional Treatment of Offenders and Non-Custodial Treatment of Offenders in Indonesia
5) *Mr. Kim, Ahn Shik (Korea)*
Implementation and Development of Non-Custodial Measures in Korea
6) *Ms. Tebello Mohlabane (Lesotho)*
Non-Custodial Measures in the Criminal Justice System of Lesotho
7) *Mr. Michael Hondikol Jianul (Malaysia)*
Non-Custodial Treatment of Offenders in Malaysia
8) *Mr. Kassim Nuruddin (Nigeria)*
Development of Non-Custodial Measures for Offenders
9) *Mr. Abdul Majeed Chaudhry (Pakistan)*
Non-Custodial Measures for Offenders in Pakistan
10) *Mr. Leo Chiliue Tohichem (Papua New Guinea)*
Treatment and Rehabilitation of Juvenile Delinquents
11) *Mr. Reynaldo G. Bayang (The Philippines)*
The Parole System in the Philippines
12) *Mr. Jerome, Arthur Balette (Seychelles)*
Crime Prevention and Probation Service of Seychelles
13) *Ms. Julita Bte Mohd Hussen (Singa-*

pore)
Probation in Singapore
14) *Mr. Solanga Arachchige Don Bernard Rufus Solanga Arachchi (Sri Lanka)*
Non-Custodial Measures for Offenders in Sri Lanka
15) *Ms. Naree Tantasathien (Thailand)*
Safety Measures as Non-Custodial Measures in Thailand
16) *Mr. Clifford Zion Muwoni (Zimbabwe)*
Non-Custodial Measures: Current Use, Problems and Effectual Development
17) *Mr. Kosuke Furuta (Japan)*
Volunteer Probation Officer System in Japan
18) *Mr. Tsuyoshi Iha (Japan)*
On Non-Custodial Measures for Stimulant Drug Offenders at the Stage of Criminal Investigation
19) *Mr. Hiroshi Iitsuka (Japan)*
Current Practice and Problems in Suspension of Execution of Sentence
20) *Mr. Kazuhiro Ishida (Japan)*
Detention System and Bail System in Japan
21) *Mr. Mitsuru Kurisaka (Japan)*
Outlines of Non-Custodial Treatment Measures in Japan and Their Problems
22) *Mr. Takashi Nagai (Japan)*
Imprisonment Disposition and Decarceration Disposition for Adult Correction
23) *Mr. Noriyoshi Shimokawa (Japan)*
The Effective Use of the Non-Custodial Treatment for Criminals: Problems about the Prosecutors Discretion and Non-Custodial Treatment in Japanese Criminal Justice Procedure
24) *Ms. Tae Sugiyama (Japan)*
Present Situation of Rehabilitation Aid Hostels
25) *Mr. Masaki Tamura (Japan)*
Treatment of Adult Offenders and Juvenile Delinquents by Court
26) *Ms. Masayo Yoshimura (Japan)*
Non-Custodial Measures in the Japanese Juvenile Justice System

Lecturers and Lecture Topics

1. Visiting Experts' Lectures
1) *Ms. Carol Ann Nix*
a) Boot Camp/Shock Incarceration—An Alternative to Prison for Young, Non-Violent Offenders in the United States
b) Alternatives to Incarceration for Drug Offenders in St. Joseph County, Indiana, United States—A Working Model
2) *Mr. Han, Youngsuk*
Current Status and Prospects for Non-Custodial Measures for Offenders in Korea
3) *Mr. Satyanshu Kumar Mukherjee*
Use and Effectiveness of Non-Custodial Measures with Particular Reference to Community Service Orders
4) *Mr. Ugljesa Zvekic*
a) Trends, Structure and Cost of Crime in the World
b) Research Process in Criminal Justice
5) *Mr. Bo Svensson*
a) Some Basics in Crime Policy
b) Alternatives to Imprisonment in Sweden

2. Ad Hoc Lectures
1) *Mr. Albert J. Reiss, Jr.*, Professor, Department of Sociology, Yale University, U.S.A.
Diversion in Contemporary United States and in Some Western Countries
2) *Mr. Tsuneo Furuhata,* Director-General of the Rehabilitation Bureau, Ministry of Justice
Rehabilitation Services in Japan: Present Situation and Problems

3) *Mr. Kiyohiro Tobita,* Director-General of the Correction Bureau, Ministry of Justice
Present Conditions and Some Problems in Correctional Administration in Japan
4) *Mr. Yutaka Takehana,* Chief Superintendent Attached to the Criminal Investigation Bureau, National Police Agency
Outline of Legislation Relating to Prevention of Unjust Acts by Boryokudan Members
5) *Mr. Hiromu Yoshimura,* Deputy Director, Criminal Affairs Department, Tokyo District Public Prosecutors Office
The Roles of Public Prosecutors in Japan
6) *Mr. Haruo Nishimura,* Professor, Kokushikan University
Basic Theories for the Community Based Treatment of Offenders
7) *Mr. Kunihisa Hama,* Director-General of the Criminal Affairs Bureau, Ministry of Justice
Some Issues in Criminal Justice Administration in Japan
8) *Mr. Ichitaro Ohno,* Judge, Tokyo District Court
Use of Non-Custodial Measures—Judge's Perspective
9) *Mr. Yoshikazu Ishii,* Lawyer
Use of Non-Custodial Measures—Defence Counsels Perspective
10) *Mr. Mitsuki Niregi,* Associate Professor of Psychology, Jichi Medical School
Probation, Counseling and Interview (Introduction to Microcounseling)
11) *Mr. Masaru Matsumoto,* Counsellor, Rehabilitation Bureau, Ministry of Justice
Probation Supervision
12) *Prof. Akira Kashiwagi,* Dean, Graduate School of Social Work, Shukutoku University
Probation and Casework

3. Faculty Lectures

1) *Professor Takashi Watanabe* (Director)
a) The Recent Activities of UNAFEI
b) Legal Consciousness of Japanese People
2) *Professor Hiroshi Nakajima* (Deputy Director)
Current Trends of Criminal Activities
3) *Professor Katsuyuki Nishikawa*
The Criminal Justice System in Japan (1): the Police and Prosecution
4) *Professor Osamu Ito*
The Criminal Justice System in Japan (2): the Court
5) *Professor Takeshi Koyanagi*
The Criminal Justice System in Japan (3): the Correction
6) *Professor Toshiko Takaike*
The Criminal Justice System in Japan (4): the Probation and Parole
7) *Professor Noboru Hashimoto*
United Nations Standard Minimum Rules for Non-Custodial Measures—The Tokyo Rules

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11) Study Tours	28	
12) Field Recreation and Other Activities	38	
13) Evaluation	2	
14) Closing Ceremony	2	
15) Reference Reading and Miscellaneous	13	
Total	248	

List of Participants

Ms. Cristina Ester Delucchi
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Ms. Sonia Silva
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Ms. Salote Kaimacuata
State Prosecutor
Office of Director of Public Prosecutions
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Deputy Commissioner of Police (Security)
Office of Commissioner of Delhi Police.
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Division of Civil and State Administration Affair, Attorney General's Office
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Pakistan

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Attorney General's Office
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Urawa District Public Prosecutors' Office
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Mr. Ryoji Terado
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Tokyo Probation Office
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List of Participants' Papers

1) *Ms. Cristina Ester Delucchi (Argentina)*
Criminal Justice and Crime Prevention Problem in Argentina
2) *Mr. Victor Jorge Diaz Navarrete (Chile)*
Organized Crime in Chile
3) *Mr. Xiaofeng Ren (China)*
Current Drug Problems in China and Effective Countermeasures Against Them
4) *Ms. Sonia Silva (Colombia)*
Situations and Characteristics of the Organized Crime in Colombia
5) *Ms. Salote Yali Kaimacuata (Fiji)*
The Current Situation of Organised Crime in Fiji
6) *Mr. P.R. Meena (India)*
Organized Crime in India
7) *Mr. Santoso (Indonesia)*
Indonesian Environmental Law and the Role of Attorney General's Office
8) *Mr. Shin Sang-Kyou (Korea)*
The Actual Situation and Effective Countermeasures Against Organized Crime of Korea
9) *Mr. Yeap Kum Thim (Malaysia)*
Corruption and its Control—the Malaysian Experience
10) *Mr. Jnan Kaji Shakya (Nepal)*
Organised Crime in Nepal—Trends and Practices
11) *Mr. Muhammad Javed Qureshi (Pakistan)*
Organised Crime Trend in Pakistan
12) *Mr. Ng Chee Sing (Singapore)*
A Brief on Organised Crime in Singapore
13) *Mr. G.A.L. Abeyratne (Sri Lanka)*
The Criminal Justice System in Sri Lanka
14) *Mr. H.A.J.S.K. Wickremaratne (Sri Lanka)*
Crime Situation in Sri Lanka
15) *Mr. Wilson Mwansasu (Tanzania)*
Crime Situation and Control of Organized Crime in Tanzania
16) *Mr. Surin Cholpattana (Thailand)*
Organized Crime in Thailand
17) *Mr. Nakorn Silparcha (Thailand)*
The Present Situation Regarding Organized Crime in Thailand
18) *Mr. Nariyuki Ando (Japan)*
Juvenile Delinquents as "Reserves" for Yakuza
19) *Ms. Ritsuko Hara (Japan)*

Actual Situation of Countermeasure to Boryokudan in Japanese Prison
20) *Mr. Hiroaki Higuchi (Japan)*
Effective Measures Against Organized Crime in Japan
21) *Mr. Katsuyuki Kani (Japan)*
Parole for Boryokudan Members in a Prison
22) *Mr. Yukio Mizunoya (Japan)*
Effective Investigation of Drug Traficking: Utilization of Wiretapping
23) *Mr. Junichi Sawaki (Japan)*
Maritime Safety Agency and Its Activities for Organized Crime Control
24) *Mr. Katsuhiko Shibayama (Japan)*
Present Condition of Organized Crime Groups (Boryokudan or Yakuza Groups) in Japan and Countermeasures Against Them
25) *Mr. Toshihiko Niibori (Japan)*
Effective Investigating Measures for Drug Trafficking Case
26) *Mr. Toshihiko Suzuki (Japan)*
On the Case in Which a Yakuza Group was Eradicated
27) *Mr. Ryoji Terado (Japan)*
Boryokudan Offenders and Probation in Japan
28) *Mr. Hiroshi Urata (Japan)*
Characteristics of Juveniles Related to Organized Crime Groups
29) *Mr. Katsuaki Ito (Japan)*
Organized Crime Relating to "Fuho-Syuro" (Illegal Work)

Lecturers and Lecture Topics

1. Visiting Experts' Lectures
1) *Mr. M. Enamul Huq,* former Inspector General of Police, former Director General, Department of Narcotics Control, Criminal Investigation Department, Bangladesh
   a) Organised Crime and Countermeasures in Bangladesh—A Third World Country
   b) "From a Stormy Today to a Better Tomorrow" Narco Traffic in Bangladesh and International Cooperation
2) *Mr. George W. Proctor,* Office of International Affairs, Criminal Division, the Department of Justice, the United States of America
   a) Organized Crime in the United States and the Legal Tools Used to Fight It
   b) International Cooperation in Organized Crime Cases
3) *Mr. Pierre Dillange,* Chief of the 11th Section, Paris Prosecution, France
   a) Narcotics and Laundering in France
   b) The French View of Organized Crime, and European Cooperation
4) *Mr. Chavalit Yodmani,* Secretary General of Narcotics Control Board, Thailand
   a), b) Quest for Effective Methods of Organized Crime Control

2. Ad Hoc Lectures
1) *Mr. Hans Joachim Schneider,* Professor, University of Muenster/Westfalia, Federal Republic of Germany
   a) Recent Criminological Research into Organized Crime
   b) Organized Crime and Its Control in the Federal Republic of Germany
2) *Mr. Mitchell J. Rycus,* College of Architecture and Urban
Planning, University of Michigan, Ann Arbor, Michigan, the United States of America
Urban Planning and Crime Prevention
3) *Mr. Kunihisa Hama,* Director-General Criminal Affairs Bureau, Ministry of Justice
Actual Situation of Criminal Justice Administration and Countermeasures against Organized Crime in Japan
4) *Mr. Hiroyasu Sugihara,* Director-Gen-

eral Rehabilitation Bureau, Ministry of Justice
Rehabilitation Services in Japan—Present Situation and Problems
5) *Mr. Kiyohiro Tobita,* Director-General Correction Bureau, Ministry of Justice
Correctional Treatment in Japan
6) *Mr. Yuki Furuta,* Director, International Affairs Division, Criminal Affairs Bureau, Ministry of Justice
Deprivation of Illicit Proceeds from Crimes—New Legislation for Deprivation of Illicit Proceeds from Drug Crime and Some Related Issues
7) *Mr. Seiji Kurata,* Researcher, Research Department, Research and Training Institute, Ministry of Justice
White Paper on Crime
8) *Mr. Yoshikazu Yuma,* Assistant Research Officer, Research and Training Institute, Ministry of Justice
Data Sources and Computer-Data-Handling System of Research and Training Institute

3. Faculty Lectures
1) *Professor Takashi Watanabe* (Director)
International Co-operation in Criminal Investigation: Selected Issues on the Framework of Mutual Assistance
2) *Professor Hiroshi Nakajima* (Deputy Director)
Current Trends of Criminal Activities
3) *Professor Tatsuya Inagawa*
The Criminal Justice System in Japan (1): Investigation and Prosecution
4) *Professor Osamu Ito*
The Criminal Justice System in Japan (2): the Court
5) *Professor Takeshi Koyanagi*
The Criminal Justice System in Japan (3): the Correction
6) *Professor Noboru Hashimoto*
The Criminal Justice System in Japan (4): Probation and Parole

4. C.J.S.J. Lecture
Mr. Shinichi Ebara,
Senior Superintendent, Chief of the First Training Office, International Research & Training Institute for Criminal Investigation (IRTICI), National Police Academy, Japan
The Criminal Justice System in Japan (4): the Police

ACPF and UNAFEI International Meetings

List of Experts

1. UNAFEI Alumni Members and Experts from Overseas

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Nepal

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Special Superintendent of Police
Special Branch Dhaka
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Dr. Cicero C. Campos
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Prison Headquarters
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Mr. J.B. George, Jr.
Professor of Law
New York Law School
U.S.A.

Mr. Tan Sri Mohd. Haniff Bin Omar
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Malaysia

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Mr. Prasert Mekmanee
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Department of Corrections, Ministry of Interior
Thailand

Mr. Josaia Naigulevu
Director of Public Prosecutions Office
Fiji

Mr. Abdelaziz Abdalla Shiddo
Advocate and Commissioner for Oaths
Member of UN Committee on Crime Prevention and Control
Sudan

Dr. Hira Singh
Director
National Institute of Social Defence, Ministry of Welfare,
India

Dr. Muhammad Shoaib Suddle QPM PSP
Deputy Inspector General of Police/ Deputy Commandant
National Police Academy
Islamabad
Pakistan

Mr. Suh Chung-Synn
Senior Chief Public Prosecutor
Chief of Seoul High Public Prosecutor's Office
Korea

Mr. Suchinta Uthaivathna
Police Lieutenant General, Member of National Police Commission, former Assistant Director General of the Royal Thai Police Department
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Mr. Yu Shutong
Adviser
Commission on Internal and Judicial Affairs, National People's Congress
China

2. *Experts from the United Nations and Regional Institutes*

Mr. Ko Akatsuka
Regional Adviser on Crime Prevention and Justice Administration, Social Development Division, Economic and Social Commission for Asia and the Pacific (ESCAP)

Dr. Duncan Chappell
Director of the Australian Institute of Criminology (AIC)

Mr. Matti Joutsen
Director of the Helsinki Institute for Crime Prevention and Control Affiliated with the United Nations (HEUNI)

Mr. Jorge A. Montero
Member of the UN Committee on Crime Prevention and Control, former Director General of the United Nations Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD)

Mr. Joseph V. Acakpo-Satchivi
Deputy Secretary of the Economic and Social Council, United Nations

Dr. Eduard Van Roy
Chief, Social Development Division, Economic and Social Commission for Asia and the Pacific (ESCAP)

Mr. Eduardo Vetere
Chief, Crime Prevention and Criminal Justice Branch, Centre for Social Development and Humanitarian Affaires, United Nations

APPENDIX

Distribution of Participants by Professional Backgrounds and Countries

(1st Training Course – 92nd Training Course, 2 U.N. Human Rights Courses and 1 Special Course)

(1962–Dec. 1992)

Region / Country	Judicial and Other Administration	Judge	Public Prosecutors	Police Officials	Correctional Officials (Adult)	Correctional Officials (Juvenile)	Probation Parole Officers	Family Court Investigation Officers	Child Welfare Officers	Social Welfare Officers	Training and Research Officers	Others	Total
Asia													**1,097**
Afghanistan	7	8	5	3									23
Bangladesh	12	7		10	4		4			5		1	43
Brunei	3												3
Cambodia		2	1	2	1								6
China	7		4	5							5		21
Hong Kong	11			4	21	3	9		1	3			52
India	12	10		30	6	1	1			2	6	2	70
Indonesia	14	18	12	19	10		3			4		1	81
Iran	5	11	8	8	6						2	1	41
Iraq	5	3	3	5	5	5					2		28
Jordan				2									2
Korea	10	3	40	5	14	4					3		79
Laos	3	4	3	9									19
Malaysia	14		2	31	25	7	3		1	5	3		91
Myanmar	3			1									4
Nepal	18	12	3	25								2	60
Pakistan	12	6	2	13	7	1	2				2	1	46
Philippines	16	5	17	25	8	3	8	3	1	4		5	95
Saudi Arabia	2			5	3						1	1	12
Singapore	10	16	4	10	10	3	9			3	1	1	67
Sri Lanka	21	13	6	16	17	1	10		1	2		1	88
Taiwan	12	4	2	2	1								21
Thailand	18	25	25	8	13	7	9	1		8	4	1	119
Turkey	1	1	1										3
United Arab Emirates	1												1
Viet Nam	10	5	2	1						4			22
Africa													**84**
Botswana				2									2
Egypt											1		1
Ethiopia	2			1									3
Ghana				2									2
Guinea			1	2									3
Kenya	4			5	5		2				2		18
Lesotho				1			2						3
Liberia											1		1
Mauritius		1											1
Morocco			1	4									5
Mozambique					1								1
Nigeria	1			2	5							1	9
Seychelles							1						1
Sudan	2		1	13	1						2		19
Swaziland				1									1
Tanzania	3	3	3	1	1								11
Zambia		1		1									2
Zimbabwe				1									1
The Pacific													**80**
Australia			1				1			1			3
Fiji	4	1	6	12	9								32
Marshall Islands				2									2
Micronesia							1						1
New Zealand	1			1									2
Papua New Guinea	5		2	7	6		1			1		1	23
Solomon Islands	1			1									2
Tonga	2	1		5	2						1		11
Western Samoa	1			1			1					1	4
North & South America													**80**
Argentina	2	2											4
Barbados				1									1
Brazil	2		3	7					1				13
Chile	1			1	2								4
Colombia	1	1	2						1			1	6
Costa Rica	2	3	2								1	2	10
Ecuador			1	4		1							6
Guatemala					1								1
Honduras				1									1
Jamaica	3				1								4
Panama				1								1	2
Paraguay				6									6
Peru	4	8	1								1	2	16
Saint Lucia	1				1								2
Venezuela				2							1		3
U.S.A. (Hawaii)								1					1
Japan	88	100	166	72	61	53	133	49	38	2	39	28	**829**
Total	**357**	**274**	**330**	**399**	**247**	**89**	**200**	**54**	**44**	**44**	**78**	**54**	**2,170**

RESOURCE MATERIAL SERIES
No. 43

UNAFEI

Introductory Note

The editor is pleased to present No. 43 in the Resource Material Series including materials from the 92nd International Training Course.

This issue contains materials produced during the 92nd International Training Course on "Quest for Effective Methods of Organized Crime Control," which was held from 7 September to 27 November 1992.

Section 1 consists of papers contributed by visiting experts.

Mr. M. Enamul Huq, former Inspector General of Police, former Director General, Department of Narcotics Control, Criminal Investigation Department, Bangladesh, in his paper entitled "Organised Crime and Countermeasures in Bangladesh—A Third World Country," explains the actual situation of organized crime in Bangladesh, introduces the structur of the police force and analyzes the current problems in the country.

Mr. George W. Proctor, Director, Office of International Affairs, Criminal Division, the Department of Justice, the United States , in his paper entitled "Organized Crime in the United States and the Legal Tools Used to Fight It," describes the organized crime groups in the United States and economic impact of organized crime and explains substantive and procedural legislation and law enforcement methods.

Mr. Pierre Dillange, First Deputy, Chief of the 11th Section, Paris Prosecution, France, in his paper entitled "Narcotics and Laundering in France," describes the actual situation of drug problems and money laundering in France and introduces laws and agencies to cope with them.

Mr. Chavalit Yodmani, Secretary General of Narcotics Control Board, Thailand, in his paper entitled "Quest for Effective Methods of Organized Crime Control," depicts current organized criminal activities and countermeasures against them then focuses on narcotics trafficking in the Asia-Pacific Region and analyses effective methods to control it.

Mr. Hans Joachim Schneider, Professor, University of Muenster/Westfalia, Federal Republic of Germany, in his paper entitled "Organized Crime in International Criminological Perspective," discusses characteristics of organized crime, introduces recent research on organized crime and analyzes causes of organized crime.

Mr. Mitchell J. Rycus, Professor, College of Architecture and Urban Planning, University of Michigan, Ann Arbor, Michigan, the United States, in his paper entitled "Urban Planning and Crime Prevention," discusses substantial roles of professional urban planners in crime prevention and control by introducing various approaches.

Mr. Anthony Roy Taylor, Chief Crown Prosecutor, Greater Manchester Area Office, the United Kingdom, in his paper entitled "A Provincial English Prosecutor's View of Organised Crime," introduces the role of the prosecutor, describes the structure of prosecution units and relevant statutory provisions against organized crime, and discusses some probelms and introduces some examples of the prosecution of cases.

Section 2 contains papers submitted by the participants of the 92nd International Training Course.

Section 3 includes Summary Reports of the Course.

The editor regrets that the lack of sufficient space precluded the publishing of all the papers submitted by the participants of the courses. The editor would like to add that, due to lack of time, necessary editorial changes had to be made without referring the manuscripts back to their authors. The editor requests their indulgence and understanding of this necessity which was required to meet editorial deadlines.

In concluding the Introductory Note, the editor would like to pay tribute to the contribution of the Japan International Cooperation Agency (JICA) for providing indispensable and unwavering support for UNAFEI courses and seminars from which these materials were produced. The editor also would like to express his gratitude and appreciation to all who so willingly assisted in the publication of this volume by attending to typing, printing, proofreading and in various other ways.

The editor also would like to take this opportunity to express his deepest appreciation to the continued financial and other supports rendered by the Asia Crime Prevention Foundation (ACPF) for various UNAFEI projects including the publication of this Resource Material Series.

April 1993

T. Watanabe

Takashi Watanabe
Editor
Director of UNAFEI

Materials Produced during the 92nd International Training Course, "Quest for Effective Methods of Organized Crime Control"

SECTION 1: EXPERTS' PAPERS

Organised Crime and Countermeasures in Bangladesh—A Third World Country

*by M. Enamul Huq**

"Confluence of legal justice and peoples' justice is the highway to a social justice state"—where the Legislature, Executive and the Judiciary are well aware of their respective domain's rights and obligations to make the rule of law a reality of the rule of life and society. To keep society from falling apart the first thing needed is law. And for law to be operational effectively in the interest of cohesion of society we have to have a sound system of Criminal Justice Administration. Generally the members of the Police force are supposed to be the protectors of law and how they enforce it is the concern of the relevant authorities of the Government. Truly speaking, Police is one of the main functioneries for the entire gamut of Criminal Justice—which is primarily composed of Code (Law) Constable (Police) Court (Judiciary) Correction (Jail). The problem of criminal administration demands national action where all the component partners are to play their role duly. Indeed they are supplementary and complementary to each other.

The concept of law changes from time to time and consequently the concept of crime also undergoes a transformation due to passage of time. The English word Crime that owes its genesis to the Greek expression "KRIMOS" or in Bengali and Sanskrit "Karma" meaning social order. Crime therefore signifies the sense of "an act that goes against social order." The concept of legal equality is a gift of the Eighteenth century—that of political equality a gift of the Nineteenth century and that of social and economic equality a gift of the Twentieth century. With the induction of the concept of social and economic equality in the realm of human thought sociological ideas have undergone a sea-change, and the concepts of law and crime have been a victim to this transformation. At the close of this century and before the dawn of the next one the world is becoming more and more interdependent—so too is crime.

Crime is an act committed in violation of a law prohibiting it or an act committed in violation of a law ordering it and for which a punishment has been prescribed by the law of the country. Sometimes the term is also associated with offence against morality which may be called sin or vices. Crime is almost co-existent with humanity. God in His infinite mercy has endowed humanity with all sorts of qualities which are necessary to behave normally. But for some reason or otherwise we find some people deviate from the natural norms of life and commit crime. Of them who are habitual i.e. repeater of the offence are termed as recidivist who become professional and to them morality or idealism, discipline or rationality is out of consideration. The notion of "permissible-impermissible" "good-bad" "fair-foul" are immaterial and they become prone to have their own way either singly or conjointly with others of similar aptitude

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and mentality, conviction and aspirations and thereby go into operation for furtherance of their common aims and objectives—if necessary through organised syndicate or group/split activities. Organised groups are involved in a wide range of criminal activities, e.g. racketeering, swindling, theft, robbery, armed assault, drug dealing and trafficking, trade in weapons, contraband, smuggling, murder, prostitution, gambling, profiteering, economic and banking fraud. The number of members of a criminal organisation in its structure—whether it engages in corruption, has international connections or other characteristics need not all be present for a definition of organised crime. It all depends upon circumstances and the activities.

The People's Republic of Bangladesh came into being in 1971. The country comprises about 144,398 sq. kilometers and is surrounded by Indian territory except for a short southeastern frontier with Burma and a coastal area in the south—the Bay of Bengal. It has a tropical monsoon climate and has become well known for the sufferings from periodic and recurrent cyclones and other natural disasters like drought and flood. The population is around 111.5 million of whom about 80% are Muslim and the majority of the remainder are Hindu, Buddhist and Christian. 95% of the people speak Bengali—the state language—and almost all educated persons can communicate in English—the rate of literacy being about 28%—having the target of 40% by 2000 A.D. Bangladesh is the most densely populated country in the world averaging 2,000 per sq. mile. In terms of average income it is one among the world's poorest countries. Apart from small city states the country is predominantly rural, and modest increases in the gross national product are slowed by extensive damage caused by widespread flood when two-thirds of the sea were submerged, transport and communication severely disrupted and growing crops destroyed and about 30 million people were left homeless with about one-fourth of the people left jobless.

Any consideration of the country and its Police has to be made in the light of the problems the country has suffered. Demands for more resources have to be set against competing needs and a restricted national budget and the abilities of the administration in the context of available opportunities and prevailing circumstances.

The outstanding problem of the Police administration today is maintenance of public order. It is needless to say, a very trying time. Growing disrespect for law and order is reaching intolerable proportions. We find increasing public concern over the mounting crime rate in our society, over the declining law and order and growing defiance of law. This threatens every home and the symptoms are visible on every street corner in villages and cities. We also find them in the public attitude towards the Police and in the reluctance of citizens to become involved in preserving law and order. In our country the entire social structure is changing from day to day. With new tensions and conflicts greater responsibility has been thrust upon the Police by these ever changing times. The maintenance of internal security is one of the greatest challenges that confront the policeman today. Without internal security there can be no Government and without constitutional Government there can be no freedom and the "Rule of Law" will remain a far cry. With that backdrop the police are required to maintain not only law and order but a hundred other non-police jobs which are thrust upon them and which they cannot do except at the cost of their main objective i.e. the prevention and detection of crime. Surely, this is going to tell upon the efficacy of the criminal administration.

The foundation of Bangladesh Police Administration is the Police Act of 1861 which created a Provincial Police under the control of an Inspector-General in each of the territories ruled by the British in the In-

dian subcontinent. Various supplementary acts have followed and the partition of India led to Pakistan and then Bangladesh. Bangladesh Police is a national force covering the whole country. In 1976 Metropolitan Police Force was established in Dhaka—the capital under a Police Commissioner. A similar force was established in 1978 in Chittagong in 1986 at Khulna in 1992 at Rajshahi. Women Police and Armed Police Battalion were introduced in 1976 also. All units of the Police administration including Metropolitan areas report to the Inspector-General who in turn reports to the Minister of Home Affairs. The total strength of the Police Department is 80,348 which includes operators, drivers and other auxiliary hands.

This force is to man 64 territorial districts, 2 Railway districts, comprising 526 Police Stations which include 21 Railway P. Ss., 29 Metropolitan P. Ss., 1 River P. S. and 321 Outposts. Besides, the Police personnel engaged for territorial jurisdiction there are centralised organs e.g. Special Branch, Criminal Investigation Branch, Armed Police Battalion, Telecommunication staff, Training Centre instructors. The main Training Academy is at SARDAH, Rajshahi set-up in 1911 which once used to cater to the needs of Assam, Bihar of India and the then West Wing of Pakistan.

For the entire force and the supervisory officers including that of Police Headquarters the available transport facility is too inadequate. Some of these are not serviceable at all. Police Department has some hospital facilities though not duly modernised. The central one is at Rajarbagh, Dhaka. The main wireless base is also at the capital. There are 34 horses in the Mounted Police which are at the Academy for training and at the capital for protocol purpose.

In the words of C. Gibbon "Society creates crime by singling out acts as bad and criminal." Definition of crime varies from society to society, from country to country and of course from time to time. So many old crimes have been "decriminalised" with the passage of time—on the other hand

Table 1: Total Strength of Police Department

1.	I.G.P.	1
2.	Addl. I.G.P.	6
3.	D.I.G.	15
4.	Addl. D.I.G.	8
5.	S.P.	125
6.	Addl. S.P.	103
7.	Senior A.S.P.	126
8.	A.S.P.	331
9.	Inspector (Un-Armed)	946
10.	Inspector (Armed)	351
11.	Sub-Inspector (Un-Armed)	3,420
12.	Sub-Inspector (Armed)	1,240
13.	Sergeant	459
14.	T.S.I.	70
15.	A.S.I.	2,712
16.	Havilder (Un-Armed)	1,231
17.	Havilder (Armed)	3,762
18.	Naik	3,765
19.	Constable (Un-Armed)	29,705
20.	Constable (Armed)	31,972
	Total	80,348

Table 2: Total Number of Territorial Units of Bangladesh Police

A. District		64
B. Railway District		2
C. Police Stations		526
1)	Dhaka Range	123
2)	Chittagong Range	130
3)	Rajshahi Range	123
4)	Khulna Range	99
5)	Railway Range	21
6)	River P.S.	1
7)	D.M.P.	14
8)	C.M.P.	6
9)	K.M.P.	5
10)	R.M.P.	4
Number of Out Posts		
1)	Town Out Posts	214
2)	Out Posts	65
3)	River Out Posts	41
4)	Floating Out Post	1

acts which were not within the preview of criminal intent are being interpreted as abatement or conducive factors for criminal incidence. According to Aristotle "Poverty is the parent of Revolution and Crime." If poverty is mainly understood as material poverty then the whole concept perhaps warrants reconsideration because economic crime shows that wealth alone does not necessarily result in less crime but in different forms of crime. Technological sophistication has made crime highly complex. For combating white collar crime law enforcers cannot confine themselves to the framework of outdated forms of prevention and detection—rather this has necessitated the same level of technological knowledge as that of the offenders, thus burdening the criminal justice institutions with additional expense for specialised techniques, manpower and equipment. This is all the more so when "Crime is hydraheaded—You chop one off and two others will grow."

In that backdrop in Bangladesh—a densely populated, underdeveloped country with repeated natural scourge and rising expectation of democracy from the teeming millions, the nature and quantum of organised crime is undoubtedly an interesting study. For the constraints of time and space the main feature of the prevailing scenario is noted below for analytical perusal.

Following is the table of criminal incidence during the last five years under major heads like Dacoity, Robbery, Burglary, Theft, Murder, Riot and others which shows that there has been steady increase every year.

The first half of 1992 i.e. from 1, 1, 1992 to 30, 6, 1991 when compared with the corresponding period of the previous year also shows the normal increased incidence of crime under the same heads as shown below.

Following are the details of crime incidence of the last fourteen years i.e. since the inception of the first Metropolitan Police at Dhaka—the capital. Here however it is worthwhile to note that there has been

Table 3: Transport Equipment of Bangladesh Police

1.	Car	39
2.	Jeep	438
3.	Pick-up	169
4.	Truck	404
5.	Microbus	5
6.	Ambulance	12
7.	Motor Cycle	568
8.	Wrecker	2
9.	Petrol Car	16
10.	Riot Van	2
11.	Launch	29
12.	Speed Boat Engine	248
13.	Speed Boat Hall	210
14.	Country-made Engine Boat	120

Table 4: Crime Incidence under Major Heads for Last 5 Years

Crime	1987	1988	1989	1990	1991
Dacoity	745	683	914	1,055	942
Robbery	663	623	783	828	949
Burglary	4,710	4,091	4,432	4,884	5,385
Theft	5,300	4,736	5,591	6,229	7,035
Murder	2,144	2,274	2,364	2,206	2,477
Rioting	5,901	6,503	5,707	6,365	6,612
Others	34,269	34,074	37,244	39,787	44,282
Total	53,732	52,912	57,005	61,354	67,682

Table 5: Camparative Crime Incidence up to 30th June, 1991 & 1992

Crime	Up to June '91	Up to June '92
Dacoity	558	514
Robbery	534	463
Burglary	2,617	2,507
Theft	3,604	3,424
Murder	1,232	1,259
Rioting	3,704	3,589
Others	22,054	23,498
Total	34,303	35,254

some fluctuation in the annual total figure but the trend more or less remains akin as starting with 8,694 in 1977—last year it ended with 12,631, special circumstances and drive, unnatural phenomenon and unanticipated happening of course are there for such variations or otherwise.

Since in Criminal Justice Administration due importance is attached to judiciary also—it is worthwhile to look into the process of investigation and trial to have a glimpse into the overall result thereof.

Besides the conventional crime as prevalent in the handbook of law and criminal procedure there have been certain new phenomena which are gradually gaining ground. For example there has been an increase in the number of crimes committed by juveniles which has been ascribed to social as well as environmental situations. Crime against women is also causing concern to the Police. With the utilisation of women's labour in offices and factories there has been considerable increase in the incidence of rape, kidnapping, molestation, eve-teasing and also acid throwing. Relevant sections of penal law had to be revised and the death penalty was incorporated to decrease the number of acid throwing cases. But because of lack of required service facilities and modern amenities many cases of women trafficking beyond the border has been detected and unfortunately there seems to be organised gangs for such nefarious trading of women and children. Similarly the attraction of quick profit and easy money has helped the smuggling business to a great extent and throughout the border belt this is being resorted to by the interested quarters—financing from within and outside the country. Even goods imported through foreign exchange are being taken out of the country without much hindrance. Violence and terrorism has become the order of the day throughout the world and Bangladesh is no exception specially the unrest in the educational campus and industrial sectors has eaten up a good deal of time of the law enforcer and the management.

Crime has been analysed in the last century from every aspect—biological, theological, sociological, psychological and economic. Today it is almost a truism to state that there is a relationship between crime and development. In other words—processes of social transformation are in some determined way connected with changes in the

Table 6: Crime Incidence of Dhaka Metropolitan Police Since Inception

Year	Dacoity	Robbery	Burglary	Theft	Murder	Rioting	Others	Total
1977	24	58	1,460	3,634	33	563	2,922	8,694
1978	36	52	1,211	3,501	36	791	3,859	9,486
1979	29	34	780	3,155	45	749	4,906	9,698
1980	14	46	495	3,076	65	840	5,190	9,726
1981	17	50	503	2,871	46	989	5,190	9,666
1982	10	59	693	3,469	34	503	5,416	10,184
1983	8	52	464	3,333	52	460	5,396	9,765
1984	21	98	688	3,531	60	817	5,438	10,653
1985	18	73	625	3,073	62	759	5,277	9,887
1986	11	68	602	2,214	57	511	4,929	8,392
1987	17	77	464	1,905	51	272	5,130	7,916
1988	13	69	323	1,599	76	141	4,949	7,170
1989	16	65	368	1,820	86	115	5,432	7,902
1990	15	105	587	2,181	99	211	6,839	10,037
1991	29	204	808	2,572	117	260	8,641	12,631

Table 7: Result of Investigation and Trial from 1986 to 1990

Crime	Time	No. of Cases	Result of Investigation			Result of Trial		
			Final Report	Under Investigation	Charge Sheet	Conviction	Acquittal	Under Trial
Dacoity	1986	17	7	–	10	3	3	4
	1987	21	12	–	9	3	2	4
	1988	17	6	–	11	–	2	9
	1989	24	5	–	19	2	–	17
	1990	22	7	1	14	1	–	13
Robbery	1986	72	42	–	30	6	12	12
	1987	102	46	1	55	11	15	29
	1988	89	39	–	50	14	10	26
	1989	90	29	–	61	16	10	35
	1990	119	44	1	74	9	7	58
Burglary	1986	670	589	–	81	25	41	15
	1987	535	457	1	77	33	34	10
	1988	436	367	–	69	21	35	13
	1989	576	508	1	67	17	20	30
	1990	723	639	1	83	18	25	40
Theft	1986	2,788	2,147	1	640	186	352	102
	1987	2,541	2,013	5	523	183	282	58
	1988	2,046	1,489	1	556	157	275	124
	1989	2,662	1,842	2	818	207	361	250
	1990	2,997	2,200	3	794	146	251	397
Murder	1986	58	24	–	34	2	2	30
	1987	46	13	1	32	4	8	20
	1988	67	22	–	47	5	8	32
	1989	88	33	–	55	5	5	45
	1990	86	35	5	46	4	–	42
Rioting	1986	1,000	365	2	633	29	371	233
	1987	959	339	–	620	25	495	100
	1988	760	222	–	538	24	355	159
	1989	961	257	2	703	25	391	287
	1990	1,241	400	3	838	26	294	518
Others	1986	3,677	1,209	20	2,448	591	788	1,069
	1987	3,514	1,080	15	2,419	455	760	1,204
	1988	3,644	1,040	7	2,617	632	915	1,070
	1989	3,482	980	14	2,488	425	755	1,308
	1990	4,765	1,634	56	3,075	239	808	2,028
Total	1986	8,282	4,383	23	3,876	842	1,569	1,465
	1987	7,718	3,960	23	3,735	714	1,596	1,425
	1988	7,079	3,185	8	3,886	853	1,600	1,433
	1989	7,883	3,653	19	4,211	697	1,542	1,972
	1990	9,953	4,959	70	4,924	443	1,385	3,096

levels and forms of crime and/or reactions to crime and the criminal question is interrelated with issues of development.

Apart from that, the crime is gradually becoming more and more transnational, regional, multinational and international. It may be mentioned that the syndicate of the white collar crime is quite active not only in the developed countries but also in the underdeveloped and developing countries. This has become almost a common feature and those who are engaged in such matters are well versed in and acquainted with international economics and state regulations. They are capable enough to find out their ways and means to attain their illegal objectives if necessary through underhanded dealings with the relevant state machinery, and it appears that the amount of loss and damage resulting from corporate crime is much greater than that arising out of common ordinary criminality.

Drug related illegal activities also exemplify the process of internationalisation of crime. Certain similarities in crime patterns between developed and developing countries are the result of increased economic and political interdependence. Bangladesh—because of its physical location and strategical significance occupies an important place in the domain of illicit drug trafficking. The "Golden Triangle"—the bordering areas of Myanmar, Thailand, Combodia and Laos produces and supplies a major part of heroin for land and sea routes. The bordering areas of Pakistan, Afghanistan and Iran known as "Golden Crescent" is another belt producing a large quantity of drugs. "Golden Ways" the recently blossomed drug producing areas bordering Nepal, Bhutan and India is not far from our border. Though Bangladesh is not producing any sort of Narcotic drugs like heroin, opium, hashish, etc. these are now available in the nooks and corners of the country and are obviously being smuggled in through illicit traffickers. Secret information reveals that the international drug traffickers in their attempt to find internal routes have selected Dhaka Airport and Chittagong or Khulna Sea Ports to dispatch their illicit and contraband goods to other parts of the world specially to the western hemisphere i.e. Europe and America.

As a signatory to the single Convention of Narcotic Drug 1961, the Convention of Psychotropic Substances 1971 and the Convention Against the Illicit Traffic on Narcotic Drugs and Psychotropic Substances 1988, and the SAARC Convention, 1991, Bangladesh enforces the drug laws through a special administration called National Narcotics Control Board. It comprises concerned Ministers and persons from Government or Non-Government sectors and its purpose is to prevent abuse and trafficking of drugs, identification of addicts, formulation of policies and guidelines for proper rehabilitation, treatment and development of personalities of drug addicts and effective, coordination of activities being carried out by Government/Non-Government agencies in combating the problem of the drug menace.

The Department of Narcotics Control (DNC) has been set up with extended power and adequate manpower to initiate various measures to intensify the war on the narcotic menace. A new law has been promulgated to replace several revenue oriented laws inherited from the colonial past. Stricter punishments, new provisions relating to presumption and cognizance of offence, confiscation of properties, physical and pathological examination of persons, examination of bank accounts and income tax files, prohibition of doubtful transfer of property, etc. are the special features of this law which has not only provided for imprisonment for life but also death sentence as maximum penalty for breach of this Act.

This gives an idea about the nature and trend of drug abuse of the recent past relating to seizure, arrest, etc. Department of Narcotics Control alone has filed 854 cases

Table 8

Name of Drug	No. of Cases	No. of Accused	Alamat
1990			
Heroin	147	171	15 Kgs. 9 1/2 gm.
Cocaine	3	10	3 Kgs.
Charas	10	14	15 Kgs. 562 gm.
Opium	15	10	6 Kgs. 452 gm.
Cannabis	667	585	4 Metric ton, 67 Kgs. and 261 1/2 gm. Plant—44,661 Cigarette—6,860
Pathidine	12	11	20,327 Ampoul
	854	801	
1991			
Heroin	251	290	14 Kgs. 481 gm.
Cocaine	4	5	2 Kgs. 545 gm.
Charas	19	18	5 Kgs. 428 gm.
Opium	2	1	55 gm.
Cannabis	648	539	1,111 Kgs. 794 gm. Plant—208,874 Cigarette—4,533
Pathidine	3	2	134 Ampoule
	927	855	
January–July, 1992			
Heroin	107	120	2 Kgs. 609 1/2 gm.
Cocaine	1	–	1 Kg. 500 gm.
Charas	3	3	4 Kgs. 100 gm.
Opium	1	1	105 gm.
Cannabis	376	292	456 Kgs. 883 gm. Plant—9,231 Cigarette—3,588
Pathidine	7	8	
	495	424	

and arrested 801 persons during 1990. Of these offenders 171 were for Heroin, 10 for Cocaine, 10 for Opium, 585 for Cannabis. Compared to that, 927 cases were registered against 855 persons in 1991 and 424 persons were arrested in 495 cases instituted up to July, 1992.

Highlights of the important convictions of the drug addicts and narco-traffickers since the reorganisation of the Narcotic Control Programme depicts that there have been stricter punishments like imprisonment for life and award of death sentences too irrespective of creed and nationality.

Preventive measures to reduce the demand of narcotics substance inside the country depends on consciousness, age and level of education of the people. Persons involved in the abuse of drugs are mostly in the age group of 21–30 years old. Unemployed youth and small businessmen are the main users of the drug. The result of the Central Treatment Centre at Tejgaon, Dhaka reveals the fact. In this hospital managed by

Table 9: Important Cases and Nature of Conviction and Nationality of the Drug Addicts and Narco-traffickers

	Cause of Cases	Nationality of the Convicts	Conviction
1.	Caught red-handed with 12 small packets of Heroin	Bangladeshi	4 years rigorous imprisoment
2.	Caught red-handed with 2 Kg. of Heroin at Zia International Airport	Sri Lankan	Both were sentenced to death
3.	Caught with 100 gms. of Heroin while entering Bangladesh through Saidpur border	Indian	Life term imprisonment (rigorous) + the 5,000/- fine in default of which another 1 year's imprisonment
4.	For trading in Heroin in black market	Bangladeshi	7 years rigorous imprisonment + fine of Tk.500/- in default of which 1 month's R.I.
5.	350 Cannabis plants were recovered from a woman Cannabis planter	Bangladeshi	4 years R.I.
6.	Caught while trafficking 1 Kg. Heroin from Pakistan	Pakistani	Life term imprisonment + fine of Tk.10,000/- in default of which 10 years R.I.
7.	On charge of keeping 1 Kg. Heroin	Bangladeshi	10 years R.I. + fine of Tk.5,000/- in default of which another 3 months R.I.
8.	Caught red-handed with 3.1 Kg. Heroin on arrival at Dhaka from Delhi	Nigerian	Death sentence
9.	5 Kg. of Heroin recovered by body search	Bangladeshi	Life term imprisonment
10.	The accused persons were arrested from Dhaka with 3 Kg. of Heroin	Pakistani & Bangladeshi	5 persons were sentenced to death & 2 persons were sentenced to 14 years punishment & fine of Tk.5,000/- in default 3 months R.I.

the Department of Narcotics Control, 1,489 persons were treated during the period of 13, August, 1988 to 14, March, 1990. An analysis of the sample at-random survey of the admitted patients in the hospital shows as follows.

Global experience makes it abundantly clear that no state can fight this ever-increasing menace alone. This is more so because narcotics trafficking by its very nature is a trans-national affair. This realisation is prompting more and more initiatives for regional and international co-operation in the fields of narcotic law enforcement and prosecution and trial of offenders under such laws. Due importance is being given to inter-agency co-operation within national boundaries e.g. Police, Custom,

Table 10: Salient Features of the Patients Relating to Age, Education and Professions

	No. of Patients	%
A. Age Structure		
Under 20 years	219	14.70
21–30	977	65.51
31–40	237	15.93
41– above	56	3.77
B. Status of Educ.		
Illiterate	481	32.30
Up to Class-V	282	18.30
S.S.C. Below	432	29.01
S.S.C. to Graduate	255	17.13
Post Graduate	39	2.72
C. Profession		
Businessmen	422	28.34
Driver	184	12.36
Students	138	9.26
Unemployed	376	25.25
Service Holders	169	11.35
Others	200	13.44

Bangladesh Rifles all must co-operate and collaborate with each other to bring about the strictest enforcement to bring the offenders to the book of justice. Judicial officers have also been exhorted upon for the needful within the framework of the new enactments. Non-Government agencies having their set-up both at home and abroad are equally reorganised to rise to the occasion to revamp their set-up to fight these ruthless and unscrupulous criminals whose organised crime and terrorism have assumed gradually new dimensions all over the world.

And we in Bangladesh have our prime objective to reduce the demand for drugs and hence have prepared the draft Five-Year Master Plan for strengthening the activities in this arena particularly through DNC with the active and direct support and co-operation of the United Nations Drug Control Programme. The required funds will be generated from voluntary contribution by donor member countries. The main aspects of the project are strengthening law enforcement and legal assistance, treatment and rehabilitation (to think of the addicts as patients, not as criminals) preventive education and information—linkage to other programmes.

In medicine the most effective and efficient way to combat illness is to prevent its occurrence. Similarly if laws are not broken there is no need to enforce them. We all know that no society has the resources to enforce law if there is predisposition to disobey it. Perhaps the most vivid example of this truth is the drug trade. There would be no drug trade if there were not drug users. If we are to address the problem of supply—as we must—we must also address the problem of demand. That means a major educational effort to change peoples' attitude towards drugs, pointing out the damage that drugs do. It means treatment and providing positive alternatives and a hopeful future for our children. Lasting solutions must come not only from our society and its interactions but more fundamentally from us providing our children with some understanding and sympathy and working with them to develop a value system that will bring the greatest good in this life and prepare them for the life to come. We need to motivate all in the spirit of Quaranic verse "Do not perish your destiny with your own hands" because the "Drug free family is the key base for the drug free society, country and world."

Criminal administration is now vastly different from what it was a couple of decades back. People around the world increasingly see a sound environment as central to a secure society—the detection and prevention of crimes against the environment takes on high priority. The illegal and uncontrolled transborder shipment of toxic waste and hazardous materials is one area for future focus. And it does involve other international arenas and agencies. So preventing crime and enforcement of law are gradually becoming complex and inter-dependent.

The degree to which the members of the Police force are successful in fighting crime domestically is more and more the function of how successful we are in fighting crime internationally. Very rightly the Japanese illustrious Philosopher Hagime Naramura said "Our sense of belonging to our world has never been keener than of present" because as Jonathan Swift said "we are so fond of one another because our ailments are the same."

But so, too the degree to which we are successful in fighting crime internationally will depend on how well we fight crime at home. This again reminds us that the power of big concerns gives them greater influence in relationship to small ones specially in the sharing of information and expertise of the developed and the developing nations which will make the degree of success more secure and thereby the law enforcement challenge of all nations will become gradually easier. Before I conclude it may be worthwhile to mention that we do not promise too much though we expect a lot. Some problems are insoluble and sometimes all one can do is to wait for the factors to change. Meanwhile we must bear in mind that the challenge is very clear—either we work separately and lose or work together and win. The choice is ours.

Organized Crime in the United States and the Legal Tools Used to Fight It

*by George W. Proctor**

CONTENTS

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I am honored to be here at the kind invitation of UNAFEI to discuss with you the status of organized crime in the United States and the laws we use to fight it.

As Director of the United States Department of Justice's Office of International Affairs (OIA) and a former Deputy Chief of the Organized Crime and Racketeering Section, I have seen, as have you, the pain, suffering, and human degradation that invariably follows when organized crime is allowed to grow.

In the view of some, the phrase organized crime often evokes images of glamour and excitement. This image is false. We in law enforcement know that the reality of organized crime is simply the stark brutality and banality of crime. As many of you are aware, the United States has unfortunately long suffered from organized crime.

In order to understand organized crime in the United States, it is first necessary to consider the multi-ethnic nature of American society. With the exception of native Americans, the United States is populated by immigrants. Members of each new immigrant group naturally tend to initially associate primarily with other members of that group before becoming more fully integrated into American society. A minority within each immigrant group either brought with them the criminal organizations that were formed in their country of origin, or formed new criminal organizations after they came to the United States. Invariably, the first victims of these criminal organizations are the members of their own ethnic group. For example, criminal groups often

extort protection payments from the owners of newly formed businesses. The minority criminal element within a particular ethnic group often tend to associate with other members of that ethnic group when carrying out their criminal activities. Accordingly, in the United States law enforcement authorities often describe organized criminal groups along ethnic lines. The references in this presentation to the criminal activities of particular ethnic groups should not be construed to impugn the integrity or the law abiding nature of the many ethnic groups that have graced the shores of the United States.

A. Profile of Organized Crime Groups and Activities

1. Description of Organized Crime Groups

During the last several decades there have been numerous Congressional hearings relating to Organized crime. In addition, Presidential commissions have also studied the phenomenon, including the President's Commission on Organized Crime, which produced a multi-volume work in 1986 describing the extent and nature of organized crime in the United States.[1] The most recent document outlining the current status of organized crime is the *Organized Crime National Strategy*,[2] which sets forth the strategy to be employed in combating the problem of organized crime and the priorities of that plan. This presentation draws on these and other studies, as well as my own prior experience as a Deputy Chief of the Department of Justice's Organized Crime and Racketeering Section.

a) La Cosa Nostra

For generations, the largest, most geographically dispersed, and most influential criminal group in the United States has been *La Cosa Nostra* (LCN), or the American Mafia. What exactly is the *La Cosa Nostra*? The basic structural unit of *La Cosa Nostra* (LCN) is the "family." The name "family" does not imply a blood relationship, although many members are related by either birth or marriage. Each family is an independent organization generally occupying a distinct geographic region, whose relations with other families are regulated by the "National Commission," which was established in the 1930s by Salvatore Luciano. The national commission regulates joint ventures between families, intervenes in family disputes, and otherwise supervises the operation of the LCN's illegal activities.[3]

Each family is organized along similar lines, and typically consists of a boss, underboss and/or counselor, members and associates. The number of members and associates varies among families. Besides being of Italian descent, a person must be proposed for membership by another member in the LCN, be accepted into the criminal organization by the other members, and have proved his reliability by the commission of criminal acts. Upon a candidate's acceptance, many families require him to take an oath swearing his allegiance and expressing his willingness to place the LCN before all else. All members are bound by *omertà*, or the code of silence, not to reveal the existence of the organization or cooperate with law enforcement authorities. Violations of *omertà*, are punished by death.[4]

LCN families have been located in: Boston, Buffalo, Chicago, Cleveland, Denver, Detroit, Kansas City, Los Angeles, Milwaukee, Newark, New Orleans, New York, Philadelphia, Rochester, St. Louis, San Francisco, San Jose, and Tampa. Some LCN families have established illegal operations in Miami and Las Vegas. New York has five LCN families, which are named for famous leaders, i.e., Genovese, Gambino, Colombo, Luchese, and Bonanno. Nationwide, there are approximately 1,700 members with the main concentration being in the northeastern United States. There are approximately 10 associates for every member. An associate is an individual, who

although not a member, acts for the benefit of the crime family.[5]

Some public officials are associates of organized crime and act on behalf of the criminal organization. These officials are most frequently corrupted by bribery, and act to protect the LCN from legitimate governmental authority.[6]

The LCN is involved in virtually all forms of criminal activity, including but not limited to: drug trafficking, illegal gambling, extortion, theft, fraud, prostitution, extortionate credit transactions, labor racketeering, embezzlement, money laundering, murder, highjacking, kidnapping, arson, corruption of public officials, kickbacks, burglary, smuggling, and forgery. In the northeastern part of the country, the LCN is heavily involved in labor racketeering, infiltration of the construction business, and importation of narcotics. The LCN families in the midwestern United States derive their principal revenue from illegal gambling, the infiltration of legitimate businesses and labor unions, and extortion of both legal and illegal businesses.[7]

The LCN, particularly families operating in the Miami area, has numerous criminal contacts with the Colombian cocaine cartels. The LCN also works closely with the Sicilian Mafia in the distribution of drugs.[8]

b) Colombian Cocaine Rings

How do the Colombian cocaine cartels operate? Colombian cocaine cartels are the ultimate source for the majority of cocaine that is smuggled into the United States. The members and workers handle all aspects of the manufacture and importation of the cocaine. Thus a single ring typically includes lawyers, bankers, chemists, wholesalers, and retailers. The rings have a far reaching impact; for example, they regularly use the financial systems of the Bahamas, Panama, and the Cayman Islands to launder their illegal profits.[9]

Although more than 500 Colombian drug trafficking organizations have connections with the Colombian cartels, the two largest are the Medellin and Cali cartels, named after the cities near which their operations are centered. The Medellin cartel was once dominant, but now the power of Cali cartel is growing rapidly. In addition, the Coast cartel is also emerging as a major force in cocaine distribution. The cocaine cartels align themselves with various para-military and guerrilla organizations to protect their drug distribution networks.[10]

The cartels smuggle cocaine into the United States through a variety of geographic areas. In the early 1980s Florida was the principal route through which cocaine was smuggled into the United States. In the mid-1980s, as law enforcement pressure on drug trafficking in Florida grew, the cartels began to shift their emphasis to Mexico. From Mexico drugs are easily being shipped into California. Currently, large shipments of cocaine enter the United States through Los Angeles, San Diego and Miami.[11]

Some Colombian cartels have a working relationship with LCN families, particularly those that have a presence in Miami. Additionally, the cartels also work with the Sicilian Mafia. As discussed later, there is now firm evidence that the Sicilian Mafia has formed an alliance with the Colombian cartels, and has coordinated shipments of cocaine and heroin to Europe.[12]

c) Sicilian Mafia, 'Ndrangheta and Camorra

What is the Sicilian Mafia, and how does it differ from the LCN, or the American Mafia? Besides the LCN there are other criminal organizations that originated in Italy and have operations in the United States. These organizations are: the Sicilian Mafia, the 'Ndrangheta, and the Camorra. Although these are still primarily located in Italy, all three organizations are involved in international drug trafficking and have various operations in the United States. The 'Ndrangheta originated in Calabria, the southern-most province of

Italy that is geographically close to Sicily. The Camorra's origins are traced to the city of Naples.

The nature and full extent of the criminal activity of these organizations in the United States is not known. However, members of the Sicilian Mafia were defendants in the well known "Pizza Connection" case involving the importation of heroin and cocaine into the United States.[13] In addition to drug trafficking, the Sicilian Mafia is involved in gambling, loansharking, extortion, weapons trafficking, murder, smuggling (drugs, aliens, jewelry, precious stones, etc.), arson, fraud, tax evasion, counterfeiting of United States currency, and the theft and receipt of stolen property. Furthermore, the Sicilian Mafia is heavily involved in money laundering, with a significant portion of illegal money being invested in legitimate businesses.

The precise relationship between the Sicilian Mafia and the LCN is not known. Although the two organizations cooperate on joint criminal ventures they are not known to be linked by any formal pact or agreement. Sicilian Mafia members are believed to be prohibited from engaging in criminal activity in the United States without first obtaining the approval of the boss of the LCN family in whose territory they desire to operate. The methods employed by the LCN and the Sicilian Mafia differ, in that the LCN generally does not direct acts of violence against law enforcement officials, while in Sicily the Mafia brutally murders public officials.[14] The murders of Italian Magistrate Giovani Falcone and other officials are the most recent example of its brutality.

The Sicilian Mafia also has a broader international influence than does the LCN. This influence is directly linked to its role in shipping illegal drugs produced in the Mideast, South America and other locations throughout the world. The Mafia, together with the LCN, is responsible for a significant portion of the heroin brought into the United States.[15] The 'Ndrangheta and the Camorra also have a significant criminal presence in the United States. These organizations are not as hierarchical in their structure as the Sicilian Mafia, are involved in the drug trade and generally maintain ties with both the Mafia and the LCN.

The Sicilian Mafia has recently forged a close alliance with the Colombian Cocaine cartels. The nature of this ongoing international criminal conspiracy was established in the successful international criminal investigation code-named operation "Green Ice." This criminal investigation, which was directed at the Colombian Cali Cocaine cartel, is an example of effective international law enforcement cooperation that is so necessary in the continuing struggle against organized crime. This operation was undertaken by law enforcement officials in Italy, Colombia, the United Kingdom, Canada, Spain, Costa Rica, the Cayman Islands, and the United States. The investigation focused on the money laundering operations of the Cali cartel, and resulted in the arrest of over 150 persons in six different countries and the seizure of over $44 million dollars. Among the significant persons arrested was Carlos Polania-Camargo, a Colombian banking official involved in the laundering of drug proceeds.

The investigation could not have occurred without the use of undercover agents, i.e., law enforcement officials who pretend to be private citizens interested in illegal activities. The investigation began when law enforcement officials, acting in an undercover capacity, established an import and export business in La Jolla, California, called Trans America's Ventures Associates. The undercover agents represented that this business imported leather, thereby providing a cover for the international transfer of large amounts of funds. The officials made it known that the business was willing to launder drug money for a 6 or 7 percent commission. Criminals interested in laundering their criminally derived property

were soon attracted to this business. During the course of the undercover operation, law enforcement agents moved approximately $44 million dollars for the Colombian cartels, and this was the approximate amount seized by law enforcement authorities when operation Green Ice was concluded.

Information gathered from operation Green Ice and other investigations show that the Colombian cartels are seeking the Assistance of the Sicilian Mafia in the laundering of drug proceeds, while the Mafia is seeking a source of cocaine for the growing cocaine market in Europe. The Mafia is using its expertise in heroin trafficking and money laundering to launder money through the newly emerging market economies in Eastern Europe. Operation Green Ice revealed just a small portion of the significant threat posed to the world economy by the financial power of the Colombian cartels and the Sicilian Mafia.

An additional example of the international nature of the Sicilian Mafia is the recent arrest by United States law enforcement officers of Italian national Giancarlo Formichi Moglia at the Honolulu Airport. Formichi Moglia is wanted in Sicily to stand trial on charges of drug trafficking. He is accused of having taken part in a criminal organization of the Mafia-type for the purpose of trafficking cocaine from Colombia to Italy.

Formichi Moglia's role was to launder the money used for the payment of the drug supplies through his firm "R.C.C. Enterprises" in Los Angeles, California. This firm, which traded gold and jewelry, had branches in Barcelona, Spain and Milan, Italy, as well as in Colombia. Between 1988 and 1990, Formichi Moglia's firm was responsible for laundering approximately 10 billion lira for Colombian drug smugglers through a bank in Geneva, Switzerland.

d) Asian Organized Crime in the United States

The activities of Asian organized crime groups in the United States is a topic of strong mutual interest to the United States and UNAFEI. Readers should be aware that the information presented concerning this topic represents the present understanding of United States authorities, and we welcome comments on, and corrections to, our understanding of the nature and origin of Asian organized crime groups.

1) Boryokudan

How does American law enforcement view the Boryokudan? Japanese criminal organizations are called *Boryokudan* or *Yakuza*. These crime groups have an organizational structure similar to the LCN, and are becoming increasingly involved in criminal activity in the United States. United States law enforcement understands that *Boryokudan* or *Yakuza* originated centuries ago in feudal Japan.[16] Japanese groups are engaged in criminal operations in the United States, and are located in many cities particularly on the West and East coasts.

Our law enforcement authorities understand that a *Boryokudan* group has a single chairman, who controls the overall operations of the group. Beneath him are several subordinates, who supervise the operation of the numerous soldiers who perform the day to day criminal activities of the group. As in the LCN, lower level members are obligated to send profits to the higher level members in the criminal group. The *Boryokudan* is highly competitive, and is so designed to maintain pressure on its members to produce criminally derived profits. As in the LCN, loyalty to superiors is considered paramount.[17]

Until recently the *Boryokudan's* activities in the United States have been limited to obtaining contraband for the Japanese market, including drugs, guns and pornography. *Boryokudan*, however, is starting to expand its criminal operations in the United States, particularly in Hawaii and on the

West Coast of the United States. *Boryokudan* members are involved with the LCN in illegal gambling operations, drug trafficking, and money laundering.

2) *Triads*

The Chinese criminal societies known as Triads have a growing presence in the United States. It is our understanding that Triads were originally formed as resistance groups to the Ching Dynasty in the 17th Century. Triad crime groups, after more than 200 years of underground existence, have developed an extensive secret culture. Many Triad groups have initiation ceremonies, which may include the mingling of blood by members and initiates and the recitation of loyalty oaths.[18]

During the nineteenth century, there was an influx of Chinese immigrants to the United States. Many of these immigrants formed benevolent associations known as Tongs. Tongs continue to function as business associations, ethnic societies, and centers for local politics. In addition, some Tongs serve as fronts for the criminal operation of the Triads. For example, the On Leon Tong, which has a substantial presence in Chicago, New York, Houston, and other cities, is criminally influenced.

Chinese criminal organizations are heavily involved in the importation of heroin into the United States. They control most of the heroin that originates in the Golden Triangle located at the juncture of Burma, Thailand, and Laos, and is shipped into the United States through Hong Kong, Singapore, Seoul, Tokyo, and Taipei.[19]

The Triads operating in the United States are involved in a wide variety of criminal activity.[20] Like the LCN, the Triads are involved in drug trafficking, illegal gambling, loansharking, alien smuggling, bank fraud and extortion. The Triads in the United States operate through certain Tongs and through youth gangs. Some conduct criminal activities in concert with LCN families, and maintain close criminal ties with Triads and other criminal societies located in Hong Kong, Taiwan, Thailand, and the People's Republic of China.[21]

There are at least four triad societies active in the United States. The United Bamboo Gang engages in a wide variety illegal activities, including: drug trafficking, bank fraud and alien smuggling. It is primarily located in Chicago, Houston, Los Angeles, and San Francisco. Members of the group murdered Henry Liu, a California journalist, and several of its members were convicted of federal crimes related to the murder. In the last several years the United Bamboo has begun to develop an international network it can use in obtaining weapons, drugs, false passports, and transportation to and from certain countries.[22]

The 14K Group, which we understand to be one of the largest Triad societies in Hong Kong, is associated in the United States with several other criminal organizations, and has inducted United States residents as its members. Members and associates of the 14K are believed to launder money and smuggle counterfeit United States currency from Hong Kong to San Francisco. The 14K is most active in New York, Los Angeles, San Francisco, Boston, and Houston.[23]

We think the Sun Yee On Triad in Hong Kong has allied itself with the New York-based Tung On Tong and its Tong gang. This alliance is believed to include the loaning of Triad members to the Tung On Tong for purposes of providing security for illegal gambling houses. Other U.S. cities with significant Sun Yee On activity include Philadelphia, Los Angeles, San Francisco, Boston, and Atlantic City. The Sun Yee On has a strong vertically structured organization.[24]

The fourth and final Triad society that has a significant influence in the United States is the Wo Hop To. This organization has affiliated itself with the Hip Sing Tong, through which it is attempting to challenge the Wa Ching Gang in San Francisco's Chinatown for control over various illegal

activity. This power struggle, has already resulted in numerous murders in San Francisco.[25]

3) Chinese street gangs

In addition to Triad societies, the United States faces a growing problem from organizations evolved from street gangs. These organizations are not Triads, but are rather separate organizations which on occasion work with a Triad. These organizations, unlike the LCN, are not hierarchically structured. They do, however, have a central leader and deputies who act under his general direction. These gangs are involved in extortion and the distribution of illegal drugs.[26]

Three of the most significant gangs in the United States are the Wah Ching, the Ghost Shadows, and the Flying Dragons. The Wah Ching, headquarters in San Francisco, is one of the most well established of the Asian gangs, and is believed to have 600 to 700 members and associates in the United States. As previously mentioned, the Wah Ching is currently in a power struggle with the Wo Hop To triad for control of the illegal activities in San Francisco's Chinatown. The Wah Ching organization controls many legal and illegal businesses in America, and has close ties to the Sun Yee On and 14K Triad societies in Hong Kong.[27]

The Ghost Shadows is an organized street gang that was formed in the early 1970's by a group of teenage immigrants from Hong Kohg. Today, the Ghost Shadows is actively involved in robbery, extortion, loansharking, and drug trafficking. The Ghost Shadows is affiliated with the On Leon Tong, and has members in numerous American cities.[28]

The Flying Dragons, another New York based street gang, is also involved in drugs, extortion, loansharking, and gambling. Together with its Vietnamese counterparts, the Chinese Flying Dragons gang is believed to have committed extortion and kidnapping in various cities along the east coast and in Dallas, Texas. The Flying Dragons is supported by the Hip Sing Tong, in return for its protection of the Tong and its interests.[29]

4) Vietnamese street gangs

Another form of organized crime is Vietnamese street gangs. In the United States, Vietnamese street gangs typically do not have the tight organizational structure of Chinese or Japanese organized crime groups, and have a much younger membership than other Asian organized crime groups. These gangs include both Vietnamese and Chinese-Vietnamese, called in the United States Viet-Ching, who are most likely to forge close alliances with Chinese organized crime groups.[30]

The Vietnamese gangs sometimes serve as extortionists or enforcers for Chinese organized crime groups. Other Vietnamese gangs specialize in violent home invasion robberies, often of other Vietnamese-Americans. The gangs are highly mobile and victimize Vietnamese in various parts of the United States. The Born to Kill gang, headquartered in New York City, is an example of the violent nature of these gangs. The Born to Kill group is believed to have been formed in 1988 by David Thai, who split off from the Flying Dragons. Many members of Born to Kill are in their teens or early twenties, and engage in a wide variety of criminal activity in New York, including extortions and armed robbery. Gang members frequently travel from New York to other states to commit armed robberies and crimes of violence that are frequently directed against Asian businesses.

5) Korean organized crime groups

Korean organized crime groups are starting to exert an international influence partially as a consequence of their association with the Boryokudan. Korean organized crime groups supply the Boryokudan with the material to manufacturer Crystal Meth-

amphetamine, often called "ice." In Hawaii, the Korean syndicate known as the Towa Ybai Jigyo—an affiliate of the Boryokudan —controls most of the Crystal Methamphetamine market.[31]

Korean organized crime groups are also involved in gambling, extortion, loansharking, prostitution, alien smuggling, and credit card fraud. Korean organized crime groups are apparently attempting to monopolize the Korean construction business in New York City. The New York City Police Department has estimated that Korean organized crime groups control the majority of "call girl" prostitution, as distinguished from street prostitutes. Korean gangs, such as the Korean Killers, the Korean Fu Ching, and the 24K, are starting to compete with Chinese street gangs in some cities. There currently is some Korean organized crime activity in Los Angeles, New York, Seattle, Baltimore, Chicago, Washington, D.C., and other cities with a significant Korean population.[32]

e) Mexican Narcotics Organizations

Over 150 drug distribution groups with sources in Mexico have been identified. A very few have been active in the United States for decades, but most have come into existence since South American cocaine began to be transhipped through Mexico. The older gangs began with the importation and distribution of heroin and marijuana produced in Mexico, but now almost all groups with Mexican sources also deal in cocaine.

f) Drug Distribution Gangs

1) California street gangs

Some of you might have heard about the "Bloods" and the "Crips." What exactly are these organizations? As more cocaine was shipped into the United States through the West Coast, there emerged in California dangerous street gangs that dominated the street level distribution of "crack" the potent and highly addictive form of cocaine. These organizations have moved into many other states, and pose a major problem for law enforcement. There are two major groups, the Crips and the Bloods. Each of these organizations is in turn composed of numerous smaller gangs called "sets." Law enforcement officials estimate that there are approximately 190 Crip sets and 65 Blood sets. These sets are believed to have a total membership of approximately 25,000. The sets are generally located in specific geographic areas, and some derive their name from a local street around which they are centered. These street gangs lack the sophistication of the LCN or Sicilian Mafia and often consist of juveniles, but they are very violent and profitable.[33]

2) Outlaw motorcycle gangs

What are outlaw motorcycle gangs? Essentially, they are groups of persons involved in illegal activities and who regularly ride together on motorcycles. There are four major motorcycle gangs involved in illegal activities: the Hell's Angels, the Outlaws, the Pagans, and the Bandidos. The gangs are heavily involved in the distribution of drugs and other illegal activity. In particular, the gangs are significant producers of methamphetamine and other stimulant drugs. Unlike cocaine, these drugs are produced inside the United States in clandestine laboratories frequently located in isolated rural areas. Law enforcement officials estimate the following membership statistics: Hell's Angels, 500–600; Outlaws, 1,200–1,500; Pagans, 700–800; Bandidos, 500.[34]

3) Jamaican posses

What are Jamaican posses? The Caribbean island of Jamaica gave birth to numerous drug trafficking organizations known collectively as the Jamaican posses. These gangs began as marijuana traffickers, but soon moved into the importation and distribution of cocaine. The Jamaican posses have been active in the United

States since 1984.[35]

There are approximately 40 Jamaican posses operational in the United States, Canada, Great Britain, and throughout the Caribbean. The combined membership of these gangs is believed by law enforcement officials to exceed 10,000. Many of the high to mid-level positions are held by natives of Jamaica, while the lower levels are occupied by Americans recruited from primarily black and poor urban areas. Jamaican posses are vertically integrated drug organizations that are heavily involved in the distribution of crack cocaine in the United States. The posses normally purchase cocaine from Colombians or Cubans in Jamaica, the Bahamas, California or Florida.[36] The posses then direct the distribution of the drugs. Drugs, drug paraphernalia, and weapons are stored in stash houses that supply street level distribution points generally located in rented houses or apartments known as crack houses, dope houses or gate houses. Members at the stash houses are responsible for resupplying the street-level distribution points.[37]

Jamaican organized crime groups are developing working relationships with California street gangs and Colombian drug cartels. The full nature and extent of that relationship is not known. The posses impose a strict code of silence on all their members. These groups are known for acts of extreme violence and torture undertaken to preserve their profits. The largest and most violent are the Shower, Spangler and Waterhouse posses. Internal violence and wars between these rival gangs have resulted in an estimated 350–500 murders during the last five years.[38]

Table 1: Organized Crime Estimates of Organized Crime Income by Type of Crime (Billions of 1986 Dollars)

		Total Criminal Gross Receipts			Total Criminal Net Income		
	O.C. Share	Low	Midrange	High	Low	Midrange	High
Heroin	100%	0.598	9.066	17.533	0.509	7.706	14.903
Cocaine	100%	1.450	13.046	24.643	1.392	12.552	23.711
Marijuana	100%	0.598	8.536	16.475	0.518	7.305	14.093
Loansharking (1)	100%	0.619	7.015	13.411	0.619	7.015	13.411
Illegal Gambling (2)	42%	2.348	2.348	2.348	1.878	1.878	1.878
Prostitution (3)	20%	0.000	3.332	6.728	0.000	2.665	5.675
Household & Personal Theft	20%	1.550	1.713	1.876	0.583	0.895	1.207
Shoplifting & Employee Theft	50%	3.752	4.879	6.007	2.099	3.049	4.000
Trucking Cargo Theft	100%	0.736	0.874	1.012	0.260	0.607	0.955
Air Cargo Theft	100%	0.032	0.041	0.051	0.032	0.035	0.037
Railroad Cargo Theft	100%	0.028	0.035	0.042	0.010	0.024	0.038
Fraud Arson	50%	0.006	0.253	0.500	0.005	0.202	0.400
Counterfeiting	30%	0.020	0.020	0.020	0.018	0.018	0.018
Cigarette Smuggling	100%	0.193	0.290	0.388	0.154	0.232	0.311
Total		11.930	51.449	91.035	8.077	44.185	80.637

2. Economic Impact of Organized Crime

What is the economic impact of organized crime in the United States? The most recent and comprehensive study of the economic impact of organized crime in the United States was undertaken in 1986 by Wharton Econometric Forecasting Associates, Inc. (Wharton). These figures are almost certainly out of date, but they are still the most comprehensive study of the economic effects of organized crime in the United States. This study determined that organized crime in the United States produced $47 billion dollars in illegal income. This amount represents 1.13 percent of the gross national product of the United States for 1986. In order to put this estimate into perspective, a comparison to other legitimate industries in the United States is helpful. At $47 billion, organized crime would be approximately the same size as all the metal producers (iron, steel, aluminum, copper, etc.), larger than the entire paper industry, larger than the rubber and tire industry, and about the same size as the textile and apparel industry.[39]

The Wharton study also estimated the income produced by organized crime based on the type of crime involved. This study provides a valuable insight into the nature and extent of organized crimes' criminal operations.[40]

Table 2: Assumed Percentage Increases in Industry Prices Due to Organized Crime Involvement

Industry	Percentage Increase in Price Levels
Construction	2.0%
Trucking & Warehousing	2.0%
Wastehauling	2.0%
Garment	1.0%
Wholesale & Retail Trade	0.5%
Personal & Business Services	0.5%
Banking & Real Estate	0.2%

In addition to money generated from criminal activity, organized crime has infiltrated labor unions and legitimate businesses. The infiltration has been principally conducted by the LCN, and has caused considerable damage to the economy. The following categories of businesses are those most affected by the LCN: food and liquor distribution and retailing, construction, legalized gambling, trucking and warehousing, waste hauling, entertainment and leisure (including clubs and hotels), motor vehicle sales and repair, the garment industry, real estate, and banking.[41] Wharton estimated the price increases in some of these industries caused by organized crime's influence. These increases are depicted in the Table 2.[42]

The LCN has also been able to control several major labor unions with a devastating effect on the well-being of the average member of the labor union. The LCN has long dominated the following labor unions: the International Longshoremen's Association; the Hotel Employees and Restaurant Employees International Union; the International Brotherhood of Teamsters; and the Laborers International Union of North America. This control over labor unions has given the LCN access to the pension and welfare funds of those unions. This influence adversely affects the financial stability of funds that American workers rely on to pay their retirement and medical expenses. LCN domination of Union pension and welfare funds enables it to have access to large sums of money, through loans made from the LCN-controlled funds. The LCN uses these funds to infiltrate legitimate businesses. In addition, LCN control of unions has been used to extort payoffs from employers and otherwise inhibit free competition in many industries.[43] The overall economic damage caused by organized crime is substantial. The Wharton study estimated that in 1986 organized crime caused a reduction in total economic output of $18.2 billion and a loss

of over 400,000 jobs.[44]

B. Substantive Legislation

1. Criminal Activity Engaged in by Organized Crime

What type of legislation is available in the United States to punish the organized criminal, and deter organized criminal acts? This presentation is limited to laws enacted by the Congress, which is the national legislature for the United States. Each of the 50 states that compose the United States are free to enact their own criminal laws insofar as those laws are consistent with the Constitution and national laws. In the United States, each individual state is the primary governmental body responsible for enacting and enforcing laws relating to public safety. Thus, there is no general national law against murder, robbery, burglary or rape, but instead 50 different sets of laws in the various states. However, more complex criminal activities can take on a national dimension that affects the overall economy of the United States. When this occurs, the national legislature will often enact laws relating to this criminal conduct if it finds the criminal conduct occurs in several states or affects the overall well-being of the country as a whole. The technical term used to describe this concept is "interstate commerce." The relationship between the national and state government is one of the important subjects of American constitutional law and is referred to as the concept of "federalism." The terms "federal" and "national" are used interchangeably and refer to the central government of the United States, as opposed to state or local, governments.

a) Illegal Drugs

As we all know illegal drugs are a major problem to all our nations. The laws of the United States prohibit the unauthorized distribution of drugs; such drugs are referred to as controlled substances and are classified according to schedules initially created by the national legislature.[45] These schedules are designed to reflect the potential for a drug's abuse and the existence of any medical purpose for the drug.[46] For example, drugs which are placed on Schedule I have a high potential for abuse and have no accepted use for medical treatment, while drugs on Schedule II have a high potential for abuse but do have a currently accepted medical use.

Because it is possible for drug traffickers to make a wide variety of drugs with a potential for abuse, Congress has authorized the Attorney General to place substances on the Schedule of Controlled Substances without prior legislative authorization and to change the classification of a substance. These rules made by the Attorney General are then published and regularly updated.

b) Extortion

United States' statutory law makes it illegal to obtain money through extortion.[47] What is extortion under United States law? There are four different types of extortion: 1) extortion through use of fear of physical violence; 2) extortion through the wrongful use of economic fear; 3) extortion through color of official right; and 4) extortion relating to the extension of credit or the collection of debts.

Fear of physical violence means an apprehension, concern or anxiety about physical violence that is reasonable under the circumstances. It is also illegal to obtain money or property through the wrongful use of economic fear. Because economic fear, unlike the fear of physical violence, is not inherently wrongful it is prohibited only when it is used to achieve a wrongful purpose. A wrongful purpose exists when the defendant has no lawful right to the property obtained. An example of the wrongful use of economic fear would be a contractor's threat to a sub-contractor to cancel a contract if the sub-contractor refused to pay illegal kickbacks to the contractor in excess

of the negotiated price of the contract. Regular competition by which one company sells a product or service at a lower price than another company is not prohibited.

Extortion by color of official right is also prohibited. This type of extortion occurs when a public official, through the use of his office, obtains money or property to which he has no official claim or right.

Yet another form of extortion involves the extension of credit which is to be collected through the threat of violence, commonly called loansharking. In regard to this offense, the government does not have to prove that a defendant threatened violence to collect a debt, but may simply prove that the debtor reasonably thought, based on the creditor's past conduct, that delay or failure in making repayment could result in violence.[48] It is also a separate criminal offense to use or threaten violence in order to collect any extension of credit. The threat of violence may be either explicit or implicit.[49]

c) Illegal Gambling

One of the principal sources of revenue for organized crime in the United States has always been gambling. Is gambling illegal in the United States? As discussed above, the 50 individual states are the principal governmental authorities responsible for prohibiting and prosecuting local criminal activity such as murder, rape, robbery, burglary and theft. Thus, the decision whether to make gambling illegal rests with the individual states. Some states have elected to make certain forms of gambling legal. National law with respect to gambling incorporates the laws of the individual states and prohibits gambling operations only if such operations are illegal in the state in which the gambling operation is located.[50] Furthermore, federal law also requires that the gambling operation be of a large size or be conducted on a national scale before it is prohibited by national law.

However, even where gambling itself is legal, organized crime has frequently infiltrated the legal gambling establishments in order to obtain tax free money by failing to report to the tax authorities the amount of money generated in the gambling establishments. The use of gambling as a means of laundering illegal money is also significant. There are also many people who are so addicted to gambling that they go deeply into debt. Organized criminals will frequently lend money to gambling addicts in order to encourage the addicts to patronize the gambling establishment and to collect usurious rates of interest. Often the indebted gambler is not able to repay these vast sums of money, and members of organized crime use violence to collect the illegal debt or involve the debtor in embezzlement, theft, or fraud schemes by which he can reduce his debt.

d) Fraud

The United States has a variety of statutes addressing the frauds frequently committed by organized crime. In order for fraud to be prosecuted under the national law there must be some connection with a national interest, e.g., the use of the national mail system, use of electronic communication between individuals or businesses located in different states, fraud directed toward the federally insured banking system, or fraud aimed at the security markets.

e) Interstate Transportation or Receipt of Stolen Property

Organized criminals frequently deal in stolen property. This often affects the nation as a whole because this property is frequently taken from interstate shipments or transported from one state to another. The national law of the United States prohibits either the interstate transportation or receipt of stolen property that has a value greater than $5,000.[51]

2. Participation in an Organized Criminal Activity

The United States has a wide variety of substantive legislation which is directed against organized criminal activity. This legislation was enacted over a long period of time and applies to all criminal activity, regardless of whether it is committed by individuals or associates of the organized crime groups discussed earlier in this presentation. However, the criminal activity of the American Mafia or LCN was the motivating factor behind the decision of the United States Congress to enact many of these laws. The violent and fraudulent activities of LCN were the subject of extensive Congressional hearings in the 1960s, which led to the Organized Crime Control Act of 1970. This act was a systematic effort to enact legislation having a direct impact on the crimes committed by members of organized crime.[52] Congress made five specific findings regarding the need for the Organized Crime Control Act:

1) Organized Crime in the United States is a highly sophisticated, diversified, and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud, and corruption;
2) Organized crime derives a major portion of its power through money obtained from such illegal endeavors as syndicated gambling, loansharking, the theft and fencing of stolen property, the importation and distribution of narcotics and other dangerous drugs and other forms of social exploitation;
3) This money and power are increasingly used to infiltrate and corrupt legitimate businesses and labor organizations and to subvert and corrupt the democratic process;
4) Organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the nation and its citizens; and
5) Organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities of those engaged in organized crime and because the sanctions and remedies available to the government are unnecessarily limited in scope and impact.[53]

a) Racketeer Influenced and Corrupt Organizations

What is the racketeering or RICO Act? The centerpiece of the Organized Crime Control Act of 1970 was the Racketeer Influenced and Corrupt Organizations Statute, which is commonly referred to by its acronym "RICO."[54] There are several types of possible RICO violations, however, the most commonly prosecuted violation is the illegal participation in the affairs of an enterprise through a pattern of racketeering activity.[55] In order to prove a violation of this portion of the RICO statute the government is required to prove four things: 1) the existence of an enterprise; 2) the person charged was employed by or was associated with the enterprise; 3) the person charged participated, either directly or indirectly, in the affairs of the enterprise; and 4) the person charged participated in the affairs of the enterprise through a pattern of racketeering activity, meaning the knowing commission of at least two acts of racketeering within ten years of each other.

The government is required to show that the defendant's participation in the affairs of the enterprise was through: (1) a pattern of racketeering activity by (2) the knowing commission of at least two racketeering acts within ten years of each other. The term racketeering act is defined in the RICO state in great detail, and virtually encom-

passes all serious criminal activity such as murder, robbery, drug dealing, fraud, and other serious crimes listed in the statute.[56] It is important to note that the statute requires *at least* two racketeering acts, and that those acts also form a pattern of racketeering activity.

The courts have interpreted the concept of a pattern of racketeering activity to mean that the racketeering acts had the same or similar purposes, results, participants, victims, or methods of commission or were otherwise interrelated by distinguishing characteristics and were not isolated events. The racketeering acts themselves must also constitute a threat of continued activity. This threat of continued activity may be established when the evidence shows that the racketeering acts are part of a long-term association that exists for criminal purposes or when the acts are shown to be a regular way of conducting the defendant's ongoing legitimate business enterprise.

The RICO law was a true legal innovation in that it was not directed toward any one criminal act, but was rather directed to all serious crimes conducted in a concerted manner by a group of individuals acting together for a common purpose. RICO took note of the way in which organized criminals conducted their criminal affairs, and then fashioned a legal prohibition for such conduct. The complexity of the statute is necessary because American judicial decisions have created a legal doctrine that prohibits the creation of a simple "status offense," such as being a member of the Mafia.

RICO is also significant because of the punishments provided, which include life imprisonment for some offenses and broad criminal and civil forfeiture provisions. It should be emphasized that RICO is not limited to cases involving the types of criminal organizations discussed earlier, but applies to any enterprise that conducts its activities through a pattern of racketeering activity. Thus, there have been RICO prosecutions of corporations, banks, stockbrokers, state law enforcement officials, and other corrupt public officials.

b) Continuing Criminal Enterprise

What is the Continuing Criminal Enterprise Act? A second statute directed toward organized criminal activity is the Continuing Criminal Enterprise (CCE) statute, which is designed to address the threat posed by large scale drug trafficking organizations.[57] The statute makes it illegal for someone to engage in a continuing criminal enterprise. The term continuing criminal enterprise is given a statutory definition, which like the RICO statute is descriptive of the factual functioning of criminal organizations. The CCE statute, unlike the RICO statute, is limited to drug trafficking organizations.

In order to establish a violation of the CCE statute, the government must prove four things: 1) the defendant violated the Federal Controlled Substances Act by committing at least three crimes in violation of that act;[58] 2) the defendant's criminal acts were part of a continuing series of violations; 3) the defendant obtained substantial income or resources from the series of violations; 4) the defendant undertook the criminal acts in concert with five or more persons with respect to whom the defendant occupied a position of organizer, supervisor or manager.[59]

3. Currency Regulations and Money Laundering

How does the United States cope with the ever-growing problem of money laundering? As a result of our experience with money laundering the United States has adopted a wide variety of laws that we have found to be of great assistance in combating of money laundering, although they involve difficult issues of enforcement and cost effectiveness.

a) Reporting Requirements

What are currency reporting regulations? Financial institutions, which are broadly defined to include a wide variety of businesses, must report all currency transactions over $10,000 to the government; failure to do so is a felony or major criminal offense. In 1989 there were almost 7 million currency transaction reports filed.[60] The value of these reports is not so much that they alert the government to ongoing criminal activity, but that they enable investigators to trace the flow of money and perhaps identify the participants. The reporting requirements may alert investigators to a geographic region that suddenly reflects an increase in currency transactions, indicating that the area has become a drug distribution point, or to a bank that is suddenly reporting suspiciously more or fewer currency transactions. The reports also can serve the important function of corroborating the testimony of cooperating witnesses. In addition, the mere fact that the failure to file a report is a criminal offense provides an alternative means of prosecution when proof of the original crime which generated the wealth is unavailable.

Following the enactment of these reporting laws, the United States discovered that many people sought to avoid the threshold reporting level by structuring their financial transactions so as to keep any one cash transaction under the statutory $10,000 amount. For example, a person would deposit $5,000 in three separate transactions instead of making a single cash deposit of $15,000. This structuring of transactions to avoid reporting requirements is now illegal when it is done for the purpose of avoiding the $10,000 reporting requirement. In addition, the law requires banks and other businesses to treat multiple currency transactions as a single transaction if the financial institution knows that the transactions are by, or on behalf of, any one person and involve deposits or withdrawals totaling more than $10,000 in cash in any one business day.[61]

b) Statutes Defining and Prohibiting Money Laundering

What type of specific laws do the United States have concerning money laundering? In 1986 Congress for the first time made money laundering a federal crime by enacting 18 U.S.C. §1956 & 1957.[62] In general terms these laws prohibit the laundering of money derived from most serious criminal activity. While it includes, it is *not* limited to money derived from drug trafficking.

Section 1956 (a)(1) makes it a crime for anyone, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, to conduct a financial transaction for the purpose of promoting certain specified illegal activity or hiding the true source of the funds.

Section 1956 also includes within the term "specified unlawful activity" an offense against a foreign nation involving the manufacture, importation, sale or distribution of a controlled substance. Thus, a financial transaction involving the proceeds of foreign drug offenses can violate the laws of the United States. In addition to a provision requiring the forfeiture of the ill-gotten gain, the defendant faces 20 years in prison and a fine of not more than $500,000 or twice the value of the property involved in the illegal money laundering transaction, whichever is greater.

The second statute specifically dealing with money laundering is 18 U.S.C. §1957. Section 1957 makes it a crime to knowingly engage or attempt to engage in a monetary transaction greater than $10,000, if that property is derived from unlawful activities specified in the statute. Section 1957 incorporates the definition of unlawful activities specified in Section 1956. Under Section 1957 the government is not required to prove that the defendant acted to promote the illegal activity, to conceal the existence of the illegal activity, or to conceal the source

of the funds. The government must only prove that the defendant engaged in a monetary transaction knowing that the funds were derived by illegal means. The statute reaches not only the money launderer but any person who engages in a transaction, knowing that it involves the proceeds of an illegal activity. For example, a luxury car dealer who profits from the sale of cars for cash which he knows are the proceeds of drug sales or some other illegal activity would be guilty of a violation of this law. Section 1957 also requires that the monetary transaction be greater than $10,000, while §1956 generally contains no such limitation. Finally, sections 1956 and 1957 provide for extraterritorial jurisdiction when the act is committed by a United States citizen outside the territorial jurisdiction of the United States and the transaction or series of related transaction exceeds $10,000. 18 U.S.C. §1956 (f); 18 U.S.C. §1957 (d)(2).

4. Corruption

How does the United States deal with public officials who are corrupted by organized crime?

a) Public Corruption in the Federal Government

United States law prohibits a public official of the United States from demanding, seeking or accepting a bribe. The same law prohibits anyone from giving, offering or promising a bribe to a federal public official,[63] and punishes the giving of a gratuity, meaning anything of value offered, requested, or transferred in connection with an official act, thus prohibiting even unsolicited payments.

In addition to the bribery provision, the United States has a wide variety of other laws addressing corruption and conflicts of interests in the federal government. For example, federal law permanently prohibits a former governmental employee from acting on behalf of any person in any matter in which he personally and substantially participated while employed by the government. Thus, a former governmental contracting officer may not renegotiate on behalf of a private company a contract for which he was responsible while employed by the government. This law further prohibits for a one year period any business contact between a former governmental employee with significant decision making authority and his former department or agency.[64]

b) Corruption in State Government

As previously observed, the 50 states are responsible for the day to day operation of local government, e.g., police and fire protection, construction of most roads, the granting of various operational licenses, etc. All states have laws protecting their governmental integrity.

The federal government also has many laws with which to battle local corruption. Portions of these laws have already been discussed. For example extortion includes the demand by a public official, state or federal, for money or a thing of value, other than his official compensation prescribed by law, in connection with his duties as a governmental official. The RICO statute, discussed in, *supra*, has also been used to prosecute corrupt public officials who have used their office to commit illegal acts involving bribery and other criminal activity. RICO prosecutions have been brought against state court systems, police departments, and state legislative officials. The mail fraud statute is also frequently used to prosecute corrupt public officials whose conduct serves to defraud the voters of their right to honest services from their elected officials.[65]

c) Private Corruption

Private corruption includes such acts as paying a business executive to influence the granting of a contract. It is prosecuted under the anti-fraud provisions discussed,

supra. In addition many state laws prohibit the stealing of funds from businesses and other forms of criminal activity. There are also federal statutes prohibiting particular conduct, such as price fixing agreements.

5. Penalties

What are the penalties for all of these laws?

a) Maximum Penalties

Criminals convicted under the RICO[66] and CCE[67] statutes may face up to life in prison without the possibility of parole. Criminals convicted of committing a murder in connection with a CCE violation can be sentenced to death.[68] Those convicted of drug trafficking can also be sentenced to life in prison,[69] while defendants convicted of money laundering can be sentenced up to 20 years in prison.[70] Defendants found guilty of receiving stolen property usually face a maximum of 10 years in prison,[71] while those convicted of fraud face up to five years in prison.[72] However, those guilty of fraud in connection with a federal financial institution usually face a maximum of 20 years in prison.[73] Federal law generally provides that for each felony offense a defendant may be fined a maximum of either $250,000 or twice the amount of his monetary gain or twice the victim's monetary loss.[74] In imposing a fine for a criminal offense, the court is required to consider the defendant's ability to pay the fine.

It is important to understand, however, that the penalties set forth above are the maximum possible sentences. The actual sentence is controlled by the *Federal Sentencing Guidelines*. The Guidelines fix a range for the defendant's sentence by considering the criminal history of the defendant and the seriousness of the offense for which he was convicted. The seriousness of the offense frequently depends on the degree of harm caused by the defendant's conduct. This is determined in a drug case by considering the quantity of drugs involved, in a money laundering case by considering the amount of money laundered, and in a stolen property case by evaluating the value of the stolen property.

b) Confiscation of Assets

How does the United States forfeit or confiscate assets derived from organized crime? A wide variety of laws allow the confiscation of assets. These laws are termed forfeiture provisions, and are found in the RICO statute,[75] the CCE statute,[76] other anti-drug laws,[77] and in many other federal criminal statutes. Each statute differs in particular provisions, but the drug laws are typical.

Under the drug laws the following property is subject to forfeiture: 1) any property constituting or derived from any proceeds in a drug offense; and 2) any property used or intended to be used, in any manner or part, to commit or facilitate the commission of a drug related offense, including land and buildings and personal property.[78]

As will be discussed more fully later in this paper, the recently adopted United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, commonly called the Vienna Convention, is an important legal tool to foster international cooperation in the fight against drug trafficking. One of the important, and often overlooked, provisions of that convention is Article 5 (7) which provides that each party to the convention "may consider ensuring that the onus of proof be reversed regarding the lawful origin of alleged proceeds or other property liable to confiscation, to the extent that such action is consistent with the principles of its domestic law and with the nature of the judicial and other proceedings."

The laws of the United States are in accord with the aforementioned provision of the Vienna Convention, and allow for certain rebuttable presumptions to be used in establishing the forfeitability of property in criminal drug cases. If a convicted drug

defendant acquired property during the time he was committing the drug offense, or within a reasonable time after such period, and there is no other likely source of funds, then the law provides that there is a rebuttable presumption that the defendant acquired the property with illegal drug proceeds. Of course, a defendant is free to offer evidence showing that property was obtained in a legal manner.[79]

C. Procedural Legislation

1. Mandatory as Opposed to Discretionary Principles of Prosecution

I will now discuss the legal mechanisms use to enforce the substantive penal laws I have described.

How is a person charged with a crime? Under federal law only a grand jury may formally charge a person with a serious criminal offense. A grand jury is a judicially formed body, composed of from 16 to 23 citizens, that has the legal authority to demand the production of evidence and the testimony of witnesses subject to certain recognized privileges. However, the prosecutor has absolute discretion over whether or not to request a grand jury to charge a person.

Although a prosecutor is not legally required to explain a decision not to prosecute, this discretion is subject to controls by senior prosecutors, as United States prosecutors are members of the executive branch and do not have judicial independence. A prosecutor has the authority to decide not to prosecute an individual in exchange for cooperation in the prosecution or investigation of other criminal offenses or offenders. A prosecutor also has discretion to enter into plea agreements, asking the court to impose a lower sentence based on the defendant's cooperation with law enforcement authorities. However, the actual sentence received by the defendant is the responsibility of the court. This prosecutive authority is frequently used, and is an important tool in obtaining evidence concerning other criminal activity.

The investigative agencies also have discretion to investigate without being required to report a criminal offense to a prosecutor or judge. This discretion is used by investigators to develop sources of information regarding criminal activity.

a) Evidence Gathering

1) Searches and electronic surveillances

How are searches and wiretaps conducted in the United States? The United States allows the use of court authorized electronic surveillance to gather evidence of serious criminal activity. This evidence gathering technique is subject to stringent safeguards designed to protect privacy rights.

The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures. In order to conduct most searches, law enforcement authorities must obtain a search warrant from a neutral judge who is constitutionally and organizationally independent of the police and the prosecutor.

In practice, a police officer normally executes an affidavit (a statement under oath) that sets forth specific facts demonstrating probable cause to believe that evidence of a crime will be discovered. The judge before whom the affidavit is executed decides if the facts set forth in the affidavit establish probable cause justifying the issuance of a warrant permitting the police to conduct the search. If the police search a location without a warrant (except in emergency situations), evidence derived from the search cannot be used against any defendant who has a reasonable expectation of privacy at the location of the search. This law is called the exclusionary rule of evidence, and it is strictly enforced by the courts.

Even more stringent procedures are followed in obtaining a court order for electronic interception of conversations in which no participant consents to the inter-

ception. Such surveillance requires authorization from a senior official of the Department of Justice, and probable cause that evidence of a crime will be intercepted and that other investigative procedures have failed or reasonably appear to be unlikely to succeed or would be too dangerous. The law also requires further safeguards to protect privacy interests.[80]

2) Undercover agents

How does the United States use undercover agents? United States practice allows the use of undercover agents, who are allowed to use recording devices to record conversations with the subject under investigation. This type of recording, unlike the electronic surveillance discussed *supra*, does not require a search warrant or a court order.[81] This is so because the Fourth Amendment protection does not extend to encounters which are voluntarily undertaken by the target of the investigation. The use of undercover agents is crucial to the effective enforcement of the criminal law.

3) Controlled delivery of drugs

Are controlled deliveries of drugs allowed in the United States? Controlled delivery of drugs are permitted under American law, and can properly form the sole basis for criminal liability. A controlled delivery of drugs generally takes two forms: 1) Drugs which have been discovered as a result of a search are delivered to the person to whom they were originally intended, who is then usually arrested following the delivery. 2) A cooperating witness arranges for a sale of a large quantity of drugs to a person who intends to resell those drugs to others. The target of the investigation is usually arrested upon the completion of the sale. In addition, criminal liability under United States law may be established solely by an undercover agent's purchase of drugs from the target of an investigation.

4) Testimony by accomplices

What is meant by accomplice testimony? Accomplice testimony is competent and admissible evidence in criminal trials in the United States. In the federal system the uncorroborated testimony of a single accomplice is sufficient to establish guilt beyond a reasonable doubt, but the court will instruct the jury to weigh it with greater caution than that of an ordinary witness, because of the accomplice's motives to falsify his testimony.

5) Evidence gained as a result of confidential informants

How does United States law enforcement use informants? Information supplied by confidential sources who do not testify is not admitted as evidence of guilt; however, law enforcement officials frequently use confidential sources to obtain a search warrant or an electronic surveillance order. In this context information supplied by such sources is valuable in the investigation of criminal offenses. The information supplied by a confidential source is not taken at face value, but must be corroborated by other information and investigation.

b) Immunized Testimony

What is immunized testimony? The Fifth Amendment to the United States Constitution provides that no person shall be compelled to be a witness against himself. When law enforcement officers arrest a suspect for a criminal offense, they are prohibited from questioning that person without telling him that he has a right not to talk to them. Moreover, the fact that a person chose to exercise this important constitutional right cannot be used against him in any subsequent criminal trial.

Because no person can be compelled to be a witness against himself, a person may refuse to testify if his testimony would be self-incriminating. To resolve this dilemma in instances where the government needs the testimony a federal prosecutor, with

the authorization of a senior official in the Department of Justice in Washington, D.C., can obtain a compulsion order from a federal judge, who orders the person to testify. This order gives the witness "use immunity"—that is it provides that nothing the person says while testifying can be used as evidence against him or to develop such evidence. If a person still refuses to testify, he can be incarcerated for refusal to comply with the court's order until he testifies, for up to a maximum of 18 months.[82]

2. Preventive Measures

a) Restriction of Liberty Prior to Conviction

Can criminal defendants be detained prior to their conviction? American law prohibits detention for investigative purposes. It is possible to detain a person after he has been formally charged with a crime, but before he has been convicted of that offense.[83] Under federal law, a defendant is entitled to a speedy trial after he has been charged with a criminal offense. This law requires that a defendant must be tried within 70 days,[84] but allows certain exclusions of time caused by procedural requests of the defendant such as the filing of pre-trial motions challenging certain evidence.

Although United States law allows pre-trial detention, such detention will not be ordered unless the government can establish that the defendant is likely to flee or would be a danger to the community if released.[85] If a defendant is released, he is usually placed on bond, which means that the defendant will forfeit a certain sum of money if he does not appear.[86] Often, this bond will be secured by property owned by the defendant or a relative if the relative is willing to agree with this procedure. Other conditions include restrictions on travel, and in some instances may include house arrest.

The strict rules of evidence which govern trials on the merits do not apply in detention hearings.[87] Therefore, the court can consider hearsay evidence in ruling on pre-trial detention. As a result of these procedures, the government is permitted to show a defendant's membership in an organized crime group as a relevant fact indicating the defendant's dangerousness to the community. Similarly, those charged with large scale drug trafficking and crimes of violence are often ordered detained either because of their danger to the community or the risk that they will attempt to flee or hide.

b) Detention Pending Appeal

What about detention pending appeal? If a defendant is found guilty of a criminal offense, the law reverses the presumption that the defendant should be released unless the government can establish a basis for his detention. After conviction there is a preference for detention while awaiting sentencing or pending appeal, unless the defendant can prove that he is not likely to flee or pose a danger to the safety of the community and that he is not likely to be sentenced to imprisonment or, after sentencing, that his conviction is likely to be reversed.[88]

3. Witness Protection Legislation

What is the Witness Protection Program? The United States operates a Witness Protection Program, under which witnesses are relocated and given new identities. This program is governed by numerous rules and procedures relating to the type of person permitted into the program. Before a person is accepted into the program a detailed review is conducted concerning the possible threat to the witness posed by potential criminal defendants and their associates. The witness protection program is available to accomplices who agree to testify against a defendant.[89]

The program authorizes the Department of Justice to perform the following services in addition to physical protection: 1) issuing documents to enable the witness and

his family to establish a new identity; 2) providing temporary housing for the protected witness and his family; 3) providing for the transportation of household furniture and other personal goods to a new location; 4) providing subsistence payments; 5) assisting the witness in obtaining employment; and 6) providing other necessary services to assist the witness in becoming self-sustaining. The Witness Protection Program protects immediate family members and close associates. The legislation authorizes the disclosure of the identity of the protected witness if that witness is under investigation or has been arrested for a serious criminal offense.[90]

In addition to the witness protection program, the investigative agencies can also provide some assistance in relocation such as cash payments. These arrangements are not as formal or as well funded as the witness protection program, but are sometimes available to persons who supply information on a confidential basis but who are not called upon to testify in a criminal proceeding.

D. Law Enforcement Methods

1. Intelligence Management

a) Arrangements for Collection of Intelligence

How do investigators gather evidence of organized criminal activity? As noted previously, the Federal Bureau of Investigation is the primary investigative agency responsible for investigating organized crime activities. In addition, other investigative agencies, such as the Drug Enforcement Administration, the Internal Revenue Service, the United States Customs Service, the Immigration and Naturalization Service, the Bureau of Alcohol, Tobacco and Firearms, the United States Secret Service, and other federal, state and local investigative agencies play an important part in attacking organized crime. Many of these agencies regularly meet and coordinate the information developed concerning organized criminal activities in their areas. The information concerning organized criminal activity is developed from a variety of sources as set forth.

b) Public Sources

The investigative agencies and prosecutors regularly make use of information available from public sources. For example, the President's Commission on Organized Crime conducted public hearings which provided much insight into the operation of organized crime families. In addition, other public sources such as newspapers and regulatory agencies can provide useful leads in the investigation and prosecution of organized criminal activities.[91]

2. Targeting Strategies

The FBI's Organized Crime program has successfully pursued, and continues to use, long-term, sustained investigations and resulting prosecutions to attack the LCN and other prominent organized crime groups posing significant threats to American society. This is entirely a proactive approach as opposed to reactive, and is based on intelligence-gathering efforts identifying major criminal conspiracies.

3. Criminal Intelligence and Evidence Gathering Techniques

There are seven key ingredients to successful organized crime cases, all of which are pursued under strict Attorney General Guidelines and/or statutory provisions: 1) Racketeering Enterprise Investigations; 2) Quality Informants; 3) Court Ordered Electronic Surveillance; 4) Undercover Operations; 5) Witness Security Program; 6) The RICO Statute; 7) Forfeiture of Assets.

In 1981, based upon an analysis of investigative and prosecutive successes, the FBI developed and initiated the Enterprise Approach to Investigations. Under this strategy, the organized crime enterprise itself

became the investigative focus, rather than the organization's members who commit particular violations. The RICO statute is an integral component of the enterprise approach. Even though existing intelligence on a particular organization may indicate, for example, that members of a group are generating illegal profits through the distribution of drugs or through control of a particular labor union, the investigation does not solely center on this criminal activity. These criminal organizations normally deal in multiple criminal activities for profit. An all-encom-passing attack on the organization for the entirety of the violations in which its members are engaged offers a much greater opportunity than did prior strategies to arrest and prosecute leading conspirators and their subordinates and to identify illicit profits for seizure and forfeiture to the government. The 1970 RICO statute provided the government with its most important prosecutive tool to address structured criminal organizations.

The prosecutor and the investigator work closely in organized crime cases. For example, the law requires that all electronic surveillance must be applied for and supervised by a prosecutor, who then has the responsibility for reporting the status and progress of that surveillance to the court that authorized that surveillance. Similarly, all orders for compelled or immunized testimony, described above, must also be applied for by a federal prosecutor. When this testimony takes place before a grand jury, discussed *supra*, only the prosecutor and the grand jurors are allowed to be present. Thus it is crucial that there be coordination between the prosecutor and the investigators at all steps of an organized crime investigation. There are, of course, distinct areas of responsibility, in that the function of the investigator is primarily related to the pre-trial preparation of a case, while the primary role of the prosecutor is the trial of the case before a jury. However, this division of responsibility is one that in most instances fosters cooperation at all stages of the case from the investigation through the trial.

E. Conclusion

When the United States first began a systematic effort to address the problems posed by organized crime it lacked many of the weapons needed to fight this problem. For example, the government did not have an electronic surveillance statute or a mechanism to compel testimony. These investigative and prosecutive tools were supplied, and the government was able to launch a large-scale and successful attack against the LCN. Although the LCN is still the dominant criminal organization in the United State, it does not wield the power that it once possessed. Indeed, the principal issue being discussed in the American organized crime program today is the extent to which resources dedicated to suppression of LCN activities should be reallocated to also address other criminal groups and urban street gangs.

As discussed in the beginning of my presentation, we have seen over the past decade an exponential growth in the international nature of organized crime. In furtherance of their own selfish and illegal economic ends, the organized criminals of the 1990's have forged alliances not just with criminals in their own country, but with criminals literally half way around the globe. Although strong, the bonds of these criminals can be broken, because they are not bonds forged through honor, but are rather bonds joined by greed and self-interest. My next presentation, will discuss the legal procedures that we in the United States use to foster international cooperation against organized crime.

Bibliography for Organized Crime

Books

Abadinsky, Howard. *The Criminal Elite: Profes-*

sional and Organized. 1983, Greenwood Press, Westport, CT.

Abadinsky, Howard. *The Mafia In America—An Oral History.* 1981, Praeger Special Studies, New York, NY.

Abadinsky, Howard. *Organized Crime.* 1985, Nelson-Hall Publications, Chicago, Ill.

Albanese, Jay S. *Organized Crime In America.* 1985, Anderson Publishing Co., Chicago, Ill.

Albini, Joseph L. *The American Mafia—Genesis of a Legend.* 1979, Irvington Publishers Inc., New York, NY.

Alexander, Herbert E. and Caiden, Gerald E. *The Politics and Economics of Organized Crime.* 1984, Lexington Books, Lexington, Va.

All American Distributors Corporation. *The Mafia Today.* 1977, Los Angeles, Ca.

Allen, Edward J. *Merchants of Menace—The Mafia; A Study of Organized Crime.* 1962, C.C. Thomas Publishing, Springfield, Ill.

American Enterprise Institute for Public Policy Research. *The Economics of Crime and Punishment.* 1973, Washington, D.C.

American Italian Historical Association. *An Inquiry Into Organized Crime.* 1970, Staten Island, NY.

Amir, Menachem. *Aging and Aged In Organized Crime.* 1989 *Journal of Offender Counseling, Services, and Rehabilitation.*

Arlacchi, Pino. *Mafia Business: The Mafia Ethic and Spirit of Capitalism.* 1986, Verso Editions, London, England.

Asbury, Herbert. *Gem of the Prairie: An Informal History of the Chicago Underworld.* 1986, Norhth Illinois University Press, Chicago, Ill.

Balsamo, William and Carpozi, George Jr. *Under the Clock: The True Story of the First Godfather.* No Date Yet, New Horizon Books, Far Hills, NJ.

Bequai, August. *Organized Crime—The Fifth Estate.* 1979, Lexington Books, Lexington, Va.

Berger, R.J. and Schmidt, J. *Crime and Deviance In America—A Critical Approach.* 1980, Wadsworth Corporation, Belmont, Ca.

Block, Alan. *East Side, West Side; Organizing Crime In New York, 1930–1950.* 1983, Transaction Books, New Brunswick, NJ.

Block, A.A. and Chambliss, W.J. *Organizing Crime.* 1981, Elsevier North Holland, Inc., New York, NY.

Bonn, R.L. *Criminology.* 1984, McGraw-Hill Inc., New York, NY.

Bynum, Timothy S. *Organized Crime In America: Concepts and Controversies.* 1987, Criminal Justice Press, Washington, D.C.

Conklin, John E. *The Crime Establishment: Organized Crime and American Society.* 1973, Prentice-Hall, Englewood Cliffs, NJ.

Critchley, David. *International Perspectives on Organized Crime: A Bibliography.* 1984, Vance Bibliographies, Monticello, Ill.

Dietz, Mary L. *Killing for Profit: The Social Organization of Felony Homicide.* 1983, Nelson-Hall Publishing, Chicago, Ill.

Doleschal, Eugene and Newton, Anne and Hickey, William. *A Guide To The Literature on Organized Crime: An Annotated Bibliography Covering the Years 1967–1981.* National Council on Crime and Delinquency, Hackensack, NJ.

Dubro, Alec and Kaplan, David E. *Japanese Mafia.* 1986, Addison-Wesley, Inc., Readingh, Ma.

Edelhertz, Herbert and Cole, Roland J. and Berk, Bonnie. *The Containment of Organized Crime.* 1984, Lexington Books, Lexington, Ma.

Ferguson, Robert W. *The American Way of Crime.* 1976, Praeger Corporations, New York, NY.

Fox, Stephen R. *Blood and Power.* 1990, Penguin Books, New York, NY.

Fraley, Oscar and Robsky, Paul. *The Last of the Untouchables.* 1988, P.B. Publishing.

Friel, Frank and Guinther, John. *Breaking the Mob.* 1990, McGraw-Hill Publishing, New York, NY.

Frost, Thomas M. and Seng, Mangus J. *Organized Crime In Chicago: Myth and Reality.* 1984, Loyola University Urban Center, Chicago, Ill.

Gambetta, Diego. *Fragments of an Economic Theory of the Mafia.* 1988, Archives Europeennes de Sociologie, London, England.

Gardiner, John A. *The Politics of Corruption.* 1970, Russell Sage Foundation, New York, NY.

Geis, Gilbert and Meier, Robert F. *Whilte-Collar Crime: Offenses in Business, Politics, and the Professions.* 1977, The Free Press, New York, NY.

Gibbons, D.C. *Society, Crime, and Behavior.* 1982, Prentice-Hall Inc., Englewood Cliffs, NJ.

Green, J.H. *Secret Band of Brothers.* 1980, Exposition Press, Hicksville, NY.

Greenburg, D.F. *Crime and Capitalism—Read-*

ings In Marxist Criminology. 1981, Mayfield Publishing, Palo Alto, Ca.

Hall, Richard. *Disorganized Crime.* 1989, University of Queensland Press.

Hammer, Richard. *The Illustrated History of Organized Crime.* 1989, Courage Books, Philadelphia, Pa.

Herbert, D.L. and Tritt, H. *Corporations and Corruptions—A Systematic Study of Organized Crime.* 1984, C.C. Thomas Printing, Springfield, Ill.

Homer, Frederic D. and Caputo, David A. *Guns and Garlic: Myths and Realities of Organized Crime.* 1974, Purdue University Studies, West Lafayette, In.

Ianni, Francis J. *Black Mafia: Ethnic Succession In Organized Crime.* 1974, Simon and Schuster, New York, NY.

Ianni, Francis J. *The Crime Society—Organized Crime and Corruption.* 1975, The New American Library, New York, NY.

Ianni, Francis J. *Ethnic Succession In Organized Crime.* 1973, U.S. Government Printing Office, Washington, D.C.

Ianni, Francis J. *A Family Business—Kinship and Social Control in Organized Crime.* 1972, Russell Sage Foundation, New York, NY.

Ianni, Francis J. *Organized Crime—A Social and Economic Perspective.* 1980, Russell Sage Publications, Beverly Hills, Ca.

Jones, Curtis C. and Stewart, Alva W. *Organized Crime: A Selective Checklist.* 1982, Vance Bibliographies, Monticello, Ill.

Kaplan, David E. and Dubro, Alec. *Yakuza: the Explosive Account of Japan's Criminal Underworld.* 1986, Addison-Wesley, Inc., Reading, Ma.

Kelly, Robert. *Organized Crime—A Global Perspective.* 1986, Rowman and Littlefield Publishers, Totowa, NJ.

Landesco, James. *Organized Crime In Chicago.* 1979, University of Chicago Press, Chicago, Ill.

Law and Business Inc. Staff and Mathews, Arthur F. *Civil RICO Litigation.* Date Not Set, Harbrace Journal.

Likins, Edgar A. *Sourcebook of Organized Crime Publications.* 1976, Indianapolis, In.

Maclean, Don. *Pictorial History of the Mafia.* 1976, Galahad Books, New York, NY.

Martin, Dr. Carol Ann. *Organized Crime and Its Dimensions.* 1981, Public Administration Series, Monticello, Ill.

Messich, Hank. *The Private Lives of Public Enemies.* 1973, P.H. Wyden Industries, New York, NY.

Mills, James. *The Underground Empire: Where Crime and Government Embrace.* 1986, Doubleday Books, Garden City, NY.

Nelli, Humbert S. *The Business of Crime: Italians and Syndicate Crime In the United States.* 1976, Oxford University Press, London, England.

New American Library, *The Crime Society.* 1976, New York, NY.

Pace, D.F. and Styles, J.C. *Organized Crime—Concepts and Controls Second Edition.* 1983, Prentice-Hall Publishers, Englewood Cliffs, NJ.

Peterson, Virgil W. *The Mob: 200 Years of Organized Crime.* 1983, Green Hill Publishers, Ottawa, Ill.

Philcox, Norman W. *An Introduction to Organized Crime.* 1978, C.C. Thomas Publishing, Springfield, Ill.

Pitkin, Thomas M. and Cordasco, Francesco. *The Black Hand: A Chapter In Ethnic Crime.* 1977, Littlefield, Ill.

Posner, Gerald L. *Warlords of Crime—Chinese Secret Societies—The New Mafia.* 1988, Penguin Group, New York, NY.

Potter, Gary Winfield. *A Case Study of Organized Crime In A Declining Industrial City.* 1989, Dissertation Abstracts International, University Park, Pa.

President's Commission On Organized Crime. *The Cash Connection.* 1984, Washington, D.C.

Reid, Edward. *The Anatomy of Organized Crime In America.* 1969, Regnery Company, Chicago, Ill.

Reynolds, H. *Cops and Dollars: Economics of Criminal Law and Justice.* 1982, C.C. Thomas Publishing, Springfield, Ill.

Rhodes, Robert P. *Organized Crime: Crime Control vs. Civil Liberties.* 1984, Random House, Inc., New York, NY.

Salerno, Ralph. *The Crime Confederation.* 1969, Doubleday Inc., Garden City, NY.

Smith, Dwight C. Jr. *The Mafia Mystique.* 1990, Universal Press of America.

Stuart, Mark A. *Gangster #2—Longy Zevillman: The Men Who Invented Organized Crime.* 1985, Lyle Stuart Printing, Secaucus, NJ.

Superintendent of Documents. *Organized Crime.* 1985, Washington, D.C.

Superintendent of Documents. *Organized Crime*

of Asian Origin. 1985, Washington, D.C.
United States Superintendent of Documents. *President's Commission on Organized Crime: America's Habit.* 1986, Washington, D.C.
Waller, Leslie. *The Mob: The Story of Organized Crime In America.* 1973, Delacorte Books.

Current Law Index (1980–1990)
"The Business of Organized Crime: A Cosa Nostra Family. *26 Crime and Delinquency.* 1980, p. 98–101. By Annelise Graebner-Anderson.
"Corporations, Organized Crime, and the Disposal of Hazardous Waste: An Examination of the Making of a Criminogenic Regulatory Structure." *24 Criminology.* 1986, p. 1–27. By Andrew Szasz.
"Criminal Law ... Racketeering." *67 A.B.A.J.* 1981, p 1032. By Rowland L. Young.
"Cross-Cultural Reflections of Organized Crime." *8 International Journal of Comparative and Applied Criminal Justice.* 1984, p. 63–74. By Frederick T. Martens and Frank Pulley.
"Determining the Scope of Legislation by Defining Organized Crime." *16 Suffolk University Law Review.* 1982, p. 71–99. By Valda Alden Winsloe.
"Donald Cressey's Contributions to the Study of Organized Crime: An Evaluation." *34 Crime and Delinquency.* 1988, p. 338–354. By Joseph L. Albini.
"Facism, Organized Crime, and Foreign Policy: An Inquiry." *4 Law Deviance and Social Control.* 1982, p. 53–84. By Alan A. Block and Marcia J. Block.
"Fighting Organized Crime: Special Responses To A Special Problem." *16 Rutgers Law Journal.* 1985, p. 439–494. By Joel M. Friedman et al.
"The Informal Regulation of Illegal Economic Activities: Comparison Between the Squatter Property Market and Organized Crime." *16 International Journal of the Sociology of the Law.* 1988, p. 91–101. By Alan Smart.
"In Praise of Organized Crime." *16 Rutgers Law Journal.* 1985, p. 853–867. By Parviz Saney.
"Media Magic, Mafia Mania." *49 Federal Probation.* 1985, p. 60–68. By Frederick T. Martens and Michelle Cunningham-Niederer.
"Organized Crime and a Free Society." *17 Australia and New Zealand Journal of Criminology.* 1984, p. 7–19. By Frank Costigan.
"Organized Crime and Civil Liberties." *59 Law Institute Journal.* 1986, p. 635. By Frank Paton.
"Organized Crime Control: Limits of Government Intervention." *14 Journal of Criminal Justice.* 1986, p. 239–247. By Frederick T. Martens.
"Organizing Law Enforcement As Well As Organized Crime." *45 Public Administration Review.* 1985, p. 712–717. By Rudolph W. Giuliani.
"The Politics and Mythology of Organized Crime: A Philadelphia Case Study." *15 Journal of Criminal Justice.* 1987, p. 473–484. By Phillip Jenkins and Gary W. Potter.
"Project: White-Collar Crime and a Survey of Law." *20 American Criminology Law Review.* 1982, p. 291–336. By Dexter Johnson et al.
"Prosecution of Organized Crime Infiltration of Legitimate Business." *16 Rutgers Law Journal.* 1985, p. 589–632. By Donald H.J. Hermann.
"Putting The Organized Crime and Corruption Debate in Perspective." *18 Australia and New Zealand Journal of Criminology.* 1985, p. 1–2.
"Racketeer Influenced and Corrupt Organizations (RICO): Basic Concepts with Criminal and Civil Remedies." *53 Temple Law Quarterly.* 1980, p. 1009–1048. By G. Robert Blakely and Brian Gettings.
"Recent Literature on Organized Crime." *14 International Journal of Legal Information.* 1986, p. 155–169. By James Werner.
"RICO: The Crime of Being a Criminal." *87 Columbia Law Review.* 1987, p. 661–764 and 920–984. By Gerard E. Lynch.
"Thinking About 'Organized Crime' and 'Corruption': Some Themes." *9 Legal Services Bulletin.* 1984, p. 243–245. By David Brown.
"What Lockheed and La Cosa Nostra Have In Common: The Effects Of Ideology On Criminal Justice Policy." *28 Crime and Delinquency.* 1982, p. 211-232. By Jay S. Albanese.

Index to Legal Periodicals (1980–1990)
"Determining the Scope of Legislation by Defining Organized Crime: Commonwealth vs. Thorpe." *16 Suffolk University Law Review.* 1982, p. 71–99.
"Hit 'Em Where It Hurts: RICO Criminal Forfeitures and White-Collar Crime." *80 Journal of Criminal Law and Criminology.* 1989, p. 197–292. By K.R. Spaulding.
"The National Crime Authority: An Evaluation." *13 Criminal Law Journal.* 1989, p. 233–250.

By C.T. Corns

"Organized Crime, Corruption, and Entrapment." *16 Rutgers Law Journal.* 1985, p. 439–489. By M.M. Stavsky.

"Process of Elimination: Understanding Organized Crime Violence." *45 Federal Probation.* 1981, p. 26–31. By J.J. Dintino and Frank T. Martens.

"RICO and the Professionals." *37 Mercer Law Review.* 1986, p. 627–646. By J.M. Smith and T.B. Metzloff.

"Shadows of Substance: Organized Crime Reconsidered." *46 Federal Probation.* 1982, p. 3–9. By Frank T. Martens and C. Miller-Longfellow.

"White-Collar Crime: A Symposium and a Legal Overview." *52 University of Cincinnati Law Review.* 1983, p. 378–463. By P. Marcus.

Social Sciences Index (1975–1990)

"An Organizational Approach to the Analysis of Political Terrorism." *29 Orbis.* 1985, p. 465–489. By M. Crenshaw .

"Asian Organized Crime." *58 FBI Law Enforcement.* 1989, p. 12–17. By L.L. Keene.

"Big Stakes In A House Of Cards." *99 Far East Economic Review.* 1978, p. 166–182. By P. Reuter.

"Brotherhood of Extortion." *26 Far East Economic Review.* 1984, p. 49–50. By E. Lau.

"The Concept of Criminal Organization." *17 British Journal of Criminology.* 1977, p. 97–111. By A.K. Cohen.

"Conflicting Images of Organized Crime." *Carolina Academic Press.* 1979. By F.D. Homer.

"Criminal Behavior—Readings In Criminology." *St. Martin's Press.* 1980. By D.H. Kelly.

"Criminal Organization in 16th and 17th Century London." *29 Social Problems.* 1982, p. 311–323. By J.L. McMullan.

"Cuomo and Those Rumors: Getting to the Bottom of the Mob Talk." *20 New York Magazine.* 1987, p. 44–46. By Nicholas Pileggi.

"Easy Sport: Research and Relevance." *35 Journal of Sociological Issues.* 1979, p. 166–182. By P. Reuter.

"Ethnic Vice Industry, 1880–1944." *42 American Sociology Review.* 1977, p. 464–479. By I. Light.

"European Drug Traffic and Traffickers Between the Wars: The Policy of Suppression and Its Consequences." *23 Journal of Sociological History.* 1989, p. 315–337. By A.A. Block.

"Forms, Manifestations, and Characteristics of Urban Delinquency." Universidad de Panama Instituto de Criminologia. 1978. By M.M. DeVillalobos.

"Gangland Loses Its Glamour." *201 Far East Economic Review.* 1978, p. 20–21. By S. Awanohara.

"Gangsters Succeed the Samurai." *99 Far East Economic Review.* 1978, p. 34–35.

"Gloom Among the Gangsters." *294 Economist.* 1985, p. 36.

"The Illusion of Success: A Case Study in the Infiltration of Legitimate Business." *48 Federal Probation.* 1984, p. 40–45. By F.T. Martens.

"Immigrant Organized Crime: A Tradition Is Reborn." *5 Police Magazine.* 1982, p. 26–71. By P.B. Taft.

"Individual Choice, Material Culture, and Organized Crime." *19 Criminology.* 1981, p. 3–24. By P.A. Lupsha.

"Informing on La Cosa Nostra: An Undercover FBI Agent Comes In From The Cold." *4 National Law Journal.* 1982, p. 6. By Larry Tell.

"Integrated Approach To Organized Crime." *53 Police Chief.* 1986, p. 84–86. By R.R. Dempsey.

"Introduction To Criminology—Theories, Methods, and Criminal Behavior." *Nelson-Hall Series In Sociology.* 1986, p. 531. By F.E. Hagan.

"Introductory Notes Concerning an Analysis of Organized Crime and Prolegomana from Montreal." *27 Canadian Journal of Criminology.* 1985, p. 179–194. By P. Tremblay and R. Kedzior. "Mob Justice." *294 Economist.* 1985, p. 49–50.

"Now A Chinese Mafia." *289 Economist.* 1983, p. 51.

"Old Fashioned Gangs." *134 Far East Economic Review.* 1986, p. 61–62. By J.H. Boyle.

"Organization Properties and Sex-Segregation in the Underworld: Building a Sociological Theory of Sex Differences in Crime." *61 Sociological Forces.* 1983, p. 1010–1032. By D.J. Steffensmeier.

"Organized Crime: A Canadian Approach." *55 Police Chief.* 1988, p. 32–34. By R.R. Schramm.

"Organized Criminal Activity in the Federal Republic of Germany." *55 Police Chief.* 1984, p. 76–79. By William Sielaff.

"Organized Crime In Australia." *55 Police Chief.* 1988, p. 12. By B.J. Boyle.

"Organized Crime Israel Style." *49 Police Chief.*

p. 42–43. By G.J. Bensinger.
"Organized Crime, RICO, and the Media: What We Think We Know." *46 Federal Probation.* 1982, p. 9–14. By S. Wynn and N. Anderson.
"Paragons, Pariahs, and Pirates—A Spectrum-Based Theory of Enterprise." *26 Crime and Delinquency.* 1980, p. 358–386. By D.C. Smith, Jr.
"Popular Vice." *99 Far East Economic Review.* 1978, p. 36–37.
"Pride and Prosperity Among Yakuza." *32 Japanese Quarterly.* p. 320–323. By M. Takagi.
"Process of Elimination: Understanding Organized Crime Violence." *45 Federal Probation.* 1981, p. 26–31. By J.J. Dinteno and F.T. Martens.
"Social Organizations of Deviants." *28 Social Problems.* 1980, p. 14–31. By J. Best and D.F. Luckenbill.
"Society, Crime, and Criminal Behavior." Prentice-Hall. 1982. By D.C. Gibbons.
"State-Organized Crime—The American Society of Criminology: 1988 Presidential Address." *27 Criminology.* 1989, p. 183–208. By W.J. Chambliss.
"Study of Corruption." *72 Political Science Quarterly.* 1957, p. 502–514. By E.L. McKitrick.
"Tattoos In Pin Stripes." *126 Far East Economic Review.* 1984, p. 49–50. By E. Lau.
"Tel Aviv's Ministers of Crime." *266 Economist.* 1978, p. 61.
"Urban Crime and Criminal Justice—The Chicago Case." *57 Journal of American History.* 1970, p. 619–635. By M.H. Haller.
"What Should Be Done About Organized Crime? (From Politics and Economics of Organized Crime.)" *National Criminal Journal.* 1985, p. 20. By G.E. Caiden.
"White-Collar Crime, Occupational Crime, and Legitimacy." *6 International Journal of Criminology and Penology.* 1978, p. 121–136. By J.M. Clarke.
"Yazuka Nostra." *301 Economist.* 1986, p. 40.

Miscellaneous Articles from Other Sources

"Corporate Criminology—Explaining Deviance of Business and Political Organizations." *12 Journal of Criminal Justice.* 1984, p. 11–19. By J.S. Albanese.
"Crime In African Countries." 35 *International Review of Criminal Policy.* 1979, p. 13–23. By E.P. Kibuka.
"Historians and the History of American Urban Crime." *6 Urban Life.* 1979, p. 20–40. By Mark H. Haller.
"History and Study of Organized Crime." *6 Urban Life.* 1978, p. 455–474.
"Mad Dog and Mafiosi: A Survey of Italy." *Economist.* 1990, v. 315, n. 7656.
"The Making of a Mafia Hit Man." *10 Cleveland Magazine.* 1981, p. 118–129.
"New Approaches to Mafia Seen In Recent Charges." *New York Times.* 1990, Column 5. By Selwyn Raab.
"Organized Crime." *48 Police Chief.* 1981, p. 20–40.
"Organized Crime—What Is It?" *2 Virginia Sheriff.* 1980, p. 5–9. By T.F. Coon.
"Steps Toward a Strategic Analysis of Organized Crime." *Police Chief.* 1980, p. 36–38. By Peter A. Lupsha.
"We Should Be Fearful." Master's Thesis Document. 1980, 155 pages. By M.R. Halian.

References

1. *President's Commission on Organized Crime, The Impact: Organized Crime Today* (1986).
2. *Attacking Organized Crime*: 1991 National Strategy, 1990 Program Report (1991).
3. *President's Commission on Organized Crime, The Impact: Organized Crime Today*, (1986) at page 37 (hereinafter cited as *Organized Crime Today.)*
4. *FBI Organized Crime Report—25 Years After Valachi*, at page 5.
5. *FBI Organized Crime Report—25 Years After Valachi*, at page 5; *Organized Crime Today*, at pages 40–41.
6. *Organized Crime Today*, at pages 29–31.
7. *Organized Crime Today*, at page 45.
8. Drug Trafficking: *A Report to the President of the United States* 23 (1989) (cited hereinafter as Drug Trafficking).
9. *Organized Crime Today*, at pages 117–118.
10. *Id.*, at page 19.
11. *Id.*, at pages 17–22.
12. *Drug Trafficking*, at page 23.
13. *Organized Crime Today*, at pages 51–58.
14. *Organized Crime: 25 Years After Valachi, Hearings before The Permanent Subcommittee on Investigations of the Committee on Governmental Affairs United States Senate*, 100th Cong., 2d Sess. at pages 49–62 (1988) (Testimony of Tommasa Buscetta, former

member of the Sicilian Mafia) (hereinafter cited as "Senate Hearings").
15. *Drug Trafficking*, at page 23.
16. *FBI Organized Crime Report*, at page 39.
17. *Organized Crime Today*, at pages 97–101.
18. *Organized Crime Today*, at pages 82–85.
19. *Drug Trafficking*, at page 26.
20. *Drug Trafficking*, at page 25.
21. *Id*, at pages 81–94.
22. *Statement of Robert S. Mueller, Assistant Attorney General Criminal Division, United States Department of Justice, before the Senate Permanent Subcommittee on Investigations Regarding Organized Crime, November 6, 1991* at pages 7–8 (Mueller testimony).
23. *Mueller Testimony,* at page 8.
24. *Mueller Testimony,* at page 8.
25. *Mueller Testimony,* at pages 8–9.
26. *Drug Trafficking,* at page 25.
27. *Mueller Testimony,* at page 10.
28. *Mueller Testimony,* at page 11.
29. *Mueller Testimony,* at page 11.
30. *Mueller Testimony,* at page 13.
31. *Mueller Testimony,* at page 14.
32. *Mueller Testimony,* at page 15.
33. *Drug Trafficking,* at pages 33–35.
34. *Drug Trafficking,* at pages 30–33. These motorcycle gangs are termed "outlaw" to distinguish them from innocent clubs whose members simply ride motorcycles for recreation.
35. *Drug Trafficking,* at pages 27–28.
36. *Id.* ,at page 28.
37. *Id.*
38. *Id.*, at page 29.
39. *Organized Crime Today*, at page 423.
40. *Organized Crime Today*, at page 463.
41. *Organized Crime Today*, at page 485.
42. *Id.*, at page 486.
43. *President's Commission on Organized Crime: The Edge; Organized, Crime, Business and Labor Unions*, at pages 1–31 (1986).
44. *Id.*, at page 425.
45. American penal laws relating to drugs are contained in Sections 801–971 of Title 21 of the United States Code. United States statutory law, that is the law passed by the national legislature of the United States, is compiled in a work entitled the "United States Code." This is not a code in the sense of the codes of the civil law countries such as France or Germany. It is rather a compilation of various statutes that were enacted over a period of time. The United States Code is divided into various titles, which are then subdivided into many sections. Each title of the code deals with a specific topic, for example, Title 21 contains laws relating to the regulation of drugs, including but not limited to criminal prohibitions. Title 18 of the United States Code contains many, but not all, of the criminal or penal provisions of United States Law. For example the penal provisions relating to drugs are contained in Title 21. Each title of the United States Code is divided into several sections. When referring to the United States Code the following citation form is used: the title is cited, followed by the abbreviation "U.S.C." and finally the section or sections of the code to which reference is made. Should anyone desire a copy of any of the statutes, or other documents referred to in this paper, the Department of Justice will be happy to supply copies.
46. These schedules are somewhat similar in structure to the schedules established in the various international conventions relating to drug trafficking. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, December 20, 1988, art. 1, 28 I.L.M. 493; Convention on Psychotropic Substance, February 21, 1971, art. 2, List of Substances in the Schedules, 32 U.S.T. 543, T.I.A.S. No. 9725: Single Convention on Narcotic Drugs, March 30, 1961, 18 U.S.T. 1407, T.I.A.S. No. 6298.
47. 18 U.S.C. §1951. This statute is commonly known as the Hobbs Act in honor of the Congressman who sponsored the legislation.
48. 18 U.S.C. 892 (a).
49. 18 U.S.C. 894 (a) (1).
50. National gambling law is found in 18 U.S.C. § 1955.
51. These provisions are contained in 18 U.S.C. §§ 2314 and 2315.
52. This act not only created new substantive criminal offenses, but enacted important procedural legislation as well. This procedural legislation is discussed in Section C, *infra.*
53. Senate Report, No. 91–617, 91st. Cong. 1st Sess., at pages 1–2 (1969).
54. The RICO statute is found at 18 U.S.C. §§ 1961–1968.
55. 18 U.S.C. § 1962 (c).
56. 18 U.S.C. § 1961. One significant feature of the RICO law is the inclusion of specific state

law offenses such as murder as racketeering acts under the RICO law. This inclusion has provided national law enforcement officials with important powers to prosecute offenses which due to a variety of circumstances, might otherwise have gone unprosecuted by state authorities.

57. 21 U.S.C. § 848.
58. The federal drug law is described in Section B (1) (a), *supra*, and is located at 21 U.S.C. §§ 801–907.
59. As is the case with the RICO statute, these four requirements or elements are not all contained as such within the statute, but were arrived at through the judicial process.
60. Congressional Research Service Library of Congress, *Report on International Drug Money Laundering; Issues and Options for Congress*, 101st Cong., 2d Sess., at page 16 (Committee on Foreign Affairs U.S. House of Representatives Print 1990).
61. 31 U.S.C. § 5324; 31 C.F.R. §103.22.
62. 18 U.S.C. §§ 1956 & 1957.
63. 18 U.S.C. § 201.
64. 18 U.S.C. § 207.
65. 18 U.S.C. §§ 1341, 1346.
66. 18 U.S.C. § 1963.
67. 21 U.S.C. § 848 (a).
68. 21 U.S.C. § 848 (e).
69. 21 U.S.C. § 841 (b) (1) (a).
70. 18 U.S.C. § 1956.
71. 18 U.S.C. §§ 2314, 2315.
72. 18 U.S.C. §§ 1341, 1343.
73. 18 U.S.C. § 1344.
74. 18 U.S.C. § 3571.
75. 18 U.S.C. § 1963 (b).
76. 21 U.S.C. § 848.
77. 21 U.S.C. §§ 853, 881.
78. 21 U.S.C. § 853 (a).
79. 21 U.S.C. § 853 (d).
80. 18 U.S.C. § 2518 (3).
81. 18 U.S.C. § 2511 (c).
82. 18 U.S.C. § 6001–05.
83. 18 U.S.C. § 3142.
84. 18 U.S.C. § 3161–62.
85. 18 U.S.C. § 3142 (e).
86. 18 U.S.C. § 3142 (c).
87. 18 U.S.C. § 3142 (f) (2).
88. 18 U.S.C. § 3143 (a).
89. 18 U.S.C. §§ 3521–3528.
90. 18 U.S.C. § 3521 (b) (1).
91. There is a wide variety of literature discussing organized crime written by journalists, and others. A partial listing of this material is set forth in the appendix. We, however, specifically make no representation whatsoever regarding the accuracy of the information contained in these publications.

Narcotics and Laundering in France

*by Pierre Dillange**

Narcotics have been perceived as a social danger for many years. However, the various aspects of that danger have come to light gradually, although awareness thereof has accelerated. The first aspect focused on was of course addiction and the intellectual decay and physical damage that it visits on its victims. Society was then obliged to attend to the criminality induced by drug abuse—not only the narcotics trade but all the types of theft and aggression committed by users to procure the funds required by their habit. Interest then turned to drug-derived money and its role in the logistics of organized crime. Finally, political and economic leaders now realize that dirty money (not only drug money) threatens the very foundations of our societies because of its corrupting power and the share of the world economy that it now represents.

Although a largely hidden economy is not easy to evaluate, the most reliable sources indicate that US$122 billion is generated by the drug traffic in the United States and Europe per annum.** That figure is close to the oil economy's annual sales and equivalent to over 10% of world trade.

No continent and no country is now safe from that scourge, although its scope varies and accurate statistics in regard thereto are hard to develop.

In the past 20 years the most powerful nations have taken up arms against the traffic. Especially since Richard Nixon, the presidents of the United States have regularly "declared war" on drugs, a war that has not yet been won. In 1980, the D.E.A. posited the quantity of cocaine smuggled into the United States at 40 tons; in 1986 the estimate rose to 140 tons. An operation as spectacular as the invasion of Panama and the arrest of General Noriega was only a media victory; Surinam is reported to have succeeded Panama almost immediately as the traffic's hub.

France is not exempt; although she is not a producer country and, since the French Connection was dismantled in the 1970s, has not played an important part in the trade, she is a user country and the laundering problem affects her in proportion to her banking system's position in the world economy.

After discussing drug addiction in France, its consequences and the campaign waged by the French police and courts, we will go into the laws adopted by France to deter laundering and how they have been implemented.

1. Narcotics in France

(1) Relevant Figures[1]

a) Drug arrests in France

1981:	13,850 including 831 dealers,	13,019 users, 3,054 user-dealers
1990:	34,213 including 5,198 dealers,	29,015 users, 4,159 user-dealers
1991:	45,063 including 5,303 dealers,	39,760 users, 5,449 user-dealers

b) Dealer arrests per type of drug

	Heroin	Marijuana	Cocaine
1981:	154	563	78

*Chief of 11th Section of Paris Prosecutors Office, France

**Report of the Financial Action Task Force on Money Laundering (FATF), published in April 1990. The Economist estimated the same amount in 1988 at $110 billion.

1990:	2,572	2,129	414
1991:	2,640	2,016	562

c) Drug seizures (kilograms)

	Heroin	Marijuana[2]	Cocaine
1981:	69	10,942	112
1990:	405	21,753	1,844
1991:	561	33,948	831

d) Dealer nationality

2,562 alien dealers, 48.31% of the total, were arrested in 1991. Almost 55% of that number were nationals of five countries:

Algeria:	582 arrests
Morocco:	497
Tunisia:	200
Senegal:	121
Turkey:	109

Arrests of nationals of some other countries rose materially in 1991:

Italy:	108 arrests—up	17.39%
Great Britain:	73	12.31
Mali:	71	31.48
Lebanon:	43	26.47
Ghana:	41	51.85

e) Overdose deaths

1981:	141
1990:	350
1991:	411

[1] Source: Office Central Pour la Répression du Trafic Illicite de Stupéfiants.

[2] Including grass, resin and oil; the bulk of the seizures are resin.

There were only 11 overdose deaths in 1971. 90% of such deaths in 1991 were caused by heroin. The second ranking cause was prescription drugs.

(2) Analysis

Circumspection is required in analyzing the foregoing statistics, which are not fully representative of the data to which they relate. They must be assessed in light of the following comments:

— Drug abuse and the narcotics traffic are "complainant-less" (although not victimless) crimes, and the rise in arrests reflects both an increase in the number of crimes and greater efforts on the part of the police, neither factor being easy to quantify.

— The terms user, user-dealer and dealer are those used by the police in classifying arrests, and do not necessarily correspond to the crimes if any for which those arrested are tried or convicted.

— The many drug users arrested and tried for other crimes are not included in the foregoing statistics.

— The listed overdose deaths are those reported as such to the police. Many others are certainly not so reported.

— About one-third of the users and nearly half of the dealers are arrested in the Paris area.

— The term dealer is not weighted in the foregoing statistics on the basis of the quantity or type of drugs sold.

Subject to those qualifications, the above figures reflect an ongoing advance in the use of and trade in narcotics in their most serious aspects, especially addict deaths.

As for the French "market" trend, it appears that cocaine's share is still modest, inasmuch as it is used by a small "elite" group.* Marijuana remains the most heavily used drug (70% of the users in 1991), but heroin is on a steady uptrend (use up 30% over 1990).

Concerning the users and user-dealers, it is noteworthy that in1991 the police arrested about 10,000 more users than in 1990 but the number of user-dealers declined 1%.

That state of affairs is probably due to

*According to a report by the Institute de Recherches en Epidémiologie de la Pharmcodépendance (IREP) to the Health Ministry in July 1992, however, cocaine use is rising and involves a larger fringe of the population, especially in the form of "crack" (a mixture of sodium bicarbonate and cocaine hydrochlorate).

the large part of the traffic, more particularly the user-dealer trade, attributable to aliens, most of whom entered France illegally or as tourists. That situation seems to be specific to France because of the laxity of her immigration controls and her long-standing ties with many north and black African countries.

That development should not be confused with illegal immigration, even though both types of migration are ascribable to the poverty of those countries: Black and north African traffickers rarely try to settle in France; they are recruited by specialists and hope to accumulate enough money in a short time to live for years in luxury at home.

Since that goal is relatively easy to attain because of the ratio of the standard of living in their native lands to the amounts at stake in the trade, the risk of imprisonment in France is acceptable. That risk: benefit ratio makes that type of traffic hard to deter.

The only positive factor in the recent heroin use statistics is the aging of the users; the percentage under age 25 has been decreasing for three years.

It is too soon to tell whether the decline is attributable to the government's deterrence policy or to other causes, or whether the use of substitutes is rising in the part of that population which is prone to drug addiction.

The last observation which will be made concerns the relationship between substance abuse and the crime that it entails. Aside from the crimes directly related to the traffic, it is hard to evaluate the criminality of drug addicts in relation to their need for money to support their habit (a heroin addict is estimated to need 1,000 French francs per diem).

Specialists believe that such crimes represent 40 to 70%, depending on the area, of crimes against persons and property, a range too wide to be meaningful. The Centre de Recherches Sociologiques Sur le Droit et les Institutions Pénales (CESDIP) will shortly publish the first adequately funded study of that question.

An empirical approach indicates that most of the "everyday offenses" dealt with by the night-court-type summary-trial divisions of the Paris Misdemeanor Court involve drug abusers and that serious crimes, such as armed robbery of stores, committed by addicts for small sums of money are trending upward.

This quick overview accounts for a recent poll's showing that most Frenchmen rank narcotics as the greatest danger.

(3) The Drug Addict Program

The current program assigns priority to prevention and cure in the case of mere addicts, prosecution in the case of user-dealers and user-criminals.

a) Treatment

The Act of December 31, 1970 (codified in the Public Health Code) provides the treatment framework. District attorneys, examining magistrates (one-man grand juries) and misdemeanor courts may order addicts to take detoxification cures or other medical treatment. If an addict agrees to do so, his case is *nol prossed* or he is put on probation depending on whether the treatment order was made by the district attorney, or by the examining magistrate or the court.

Most of such orders are made by district attorneys. If a case goes to the examining magistrate, the accused is usually charged with other crimes as well, and compliance with an addiction cure or treatment order is only one of several conditions of a suspended sentence and probation.

District attorneys make cure or treatment orders only in the case of addicts charged with no other crimes.

In Paris, computer-input of each case facilitates determination whether an accused has a prior record. Recidivists are tried and, if convicted, given firm prison

sentences in 50% of the cases.

Treatment orders were given to about 5,000 persons in Paris in 1991.

Such orders are carried out in exemplary fashion in Paris, where the police and the courts are efficiently backed by the Health and Social Affairs Department, which arranges for medical oversight by doctors and detoxification institutions.

Such medical and administrative oversight is less efficient in other parts of France, for lack of physical facilities or of conviction on the part of the local authorities.

b) Prosecution

The same Act of December 31, 1970 bases deterrence of the narcotics trade by means of prosecution.

The courts and police agree that the Act is adequate for their purposes. It allows them to discriminate according to the gravity of the offenses and authorizes punishment in keeping with the various types of drug-related criminal conduct ranging up to severe sentences for the most serious crimes.

The police and courts work hand in hand in Paris; their goals are the same and they agree on how to attain their objectives.

Firm prison sentences are handed down with stringency but discernment.

Mere users not cured of their addiction or who are repeat offenders are given short prison terms, at the end of which another effort is made to detoxify them.

Non-user street pushers are given approximate three-year terms.

Wholesale traffickers may be sentenced to as long as 20 years.

The draft new criminal code criminalizes the direction or organization of drug traffic.

Such offenders will be punishable by life imprisonment and so will be tried by assize (felony) courts.

That change is chiefly symbolic because the French courts have always dealt harshly with the largest traffickers.

The new code breaks little new ground as far as criminalization goes.

The French narcotics squads believe in their mission; even if each arrested dealer is immediately replaced, even if the traffic is far from being on a downtrend, they are not discouraged; the war against drugs is a matter of repetitious but unremitting daily work.

Of greatest concern to the French authorities are the decriminalization lobby and the difference in legislative approach (or de facto tolerance) between France and her neighbors, especially the Netherlands.

The foregoing observations concern the narcotics problem in France, almost as it can be grasped by the public at large. It is certainly an important problem but on a human scale, and is (more or less) containable by a national law and the police. Drug money laundering is a less familiar, international-scale problem whose consequences are fraught with greater threats than drug addiction and its direct effects.

2. Drug Money Laundering

This part of the report calls for two preliminary comments inasmuch as it is confined to a study of French laundering conceptions and practices:

- Only laundering of drug-derived money is discussed herein, since that is the only type of money-laundering which is criminal in France. However, the entirety of the following discussion is equally applicable to crime-derived money of all sources.
- Corruption of public authorities as a corollary of laundering will not be gone into either since that problem does not exist in France.

(1) General Observations Concerning Laundering

As mentioned at the inception of this report, the FATF estimates annual drug sales in the United States and Western

Europe at $122 billion, $85 billion of which is the traffickers' profit to be laundered.

The total amount for laundering is huge. If half of the $85 billion per annum earns interest at the rate of 9%, the profits accumulated from 1980 to 1990 total $820 billion, twice the amount of Latin America's debt.

The specialists in a single European country, Italy, estimate that criminal activity accounts for 12% of her gross domestic product. And the mafia has already invested so much money in listed companies that it can earn even more by manipulating the prices of their shares.

The new generation of such mafiosi knowledgeable in corporate finance is a cross-border threat to Europe as a whole.

In every country in which organized crime is powerful, it bribes officials and forges ties with the government.

Beyond people lie the economies and the banking systems which are actively or passively corrupted; criminal money is the mainspring of some economies. The American DEA uses the term "institutional degeneracy" to describe that development.

The foregoing quantitative observations and extreme examples demonstrate the danger to our societies.

The prediction of the futurologist Alvin Toffler that criminal groups will be the principal political and economic players in the twenty-first century is not unfounded.

By virtue of her importance as a financial center, France is one of the countries most vulnerable to those threats (five of her banks rank among the world's 20 largest). And as pointed out below, the very power of her banks impedes the build-up of a legislative arsenal against laundering.

But before going into those questions, the most widespread laundering schemes will be described.

(2) Laundering Methods

a) Transformation of Cash

The volume of cash generated by the narcotics trade confronts the traffickers with a major problem. That volume greatly exceeds the proceeds and so must be quickly converted into bank money or reinvested.

For that reason, the first line of defense against direct laundering is to require the banks to report all cash deposits in excess of a given amount ($10,000 in the United States) or to prohibit them from engaging in cash transactions in excess of a given threshold (150,000 francs in France).

Such provisions can be circumvented only by fractionation of the transactions, which stretches them out and entails a costly increase in the number of intermediaries involved.

"Stacking" is more efficient; it consists of proliferating the simultaneous use of the various possible methods of converting cash —purchase of travel checks, letters of credit, securities or other easily disposable personal property (gold, jewelry, cars, etc.).

The unofficial financial system can also be used for primary transformation of "tainted" money by converting it into foreign currency; it is still cash but its source is less obvious and the currency selected is usually of interest to the people involved in the ensuing laundering operations. The role of the unofficial banking networks in Asia ("hawalla") is far from negligible.

b) Recycling

The operations described above only enable the funds derived from the trade to be disguised; they do not resolve the problem of investment by the traffickers of their huge profits in the official economy, where they become lawful income.

Laundering properly so-called occurs at that stage—placements in banking institutions in the country where the money was earned through shell companies or figureheads ... unless the dirty money is simply accepted knowingly by the bank for a substantial consideration; or recycling of the money through tolerant "offshore" coun-

tries. The return of the money to its source country or "loan-back" can be accomplished by means of fake invoices or fictitious loans.

The famous New York "pizza connection" involved the use of fictitious loans from companies in tax havens to purchase a pizzeria chain, the lenders and the buyers of the chain being identical. Both the loans and the fictitious repayments generated apparently legal fund flows.

c) The Cost of Laundering

The cost to the drug dealers of the laundering methods just discussed, and the others, is high but acceptable if the laundering is successful in concealing the source of the funds. The dealers are prepared to pay up to 40% of the funds to be laundered, 25% in go-between commissions and 15% in consideration of the banks' cooperation.

d) The Principal Laundering Areas

These are empirical assessments which cannot be precisely quantified but with which many experts agree and which are also geo-economically logical:

— The United States, because of the concentration of illegal activities there.
— Canada, whose customs regulations do not restrict the import of property or currency from the United States. Crossing the Canadian border is a laundering operation in itself.
— The traditional tax havens such as Panama, the West Indies, the Channel Islands, Liechtenstein, Luxembourg, Malta, Singapore and Hong Kong, in which the French banks, like all the other financial institutions in the world of any size, have subsidiaries.
— International money centers like London and Switzerland, in which fund flows are numerous and which are propitious to the secrecy sought by the holders of funds of suspicious source.
— The eastern Europe countries, Hungary in the forefront, which welcome investment capital and are incurious about where it comes from.

(3) International Action

Action prompted by the international organizations' awareness of the scope of laundering is recent. On June 27, 1980, the Council of Europe recommended very general steps—identification of customers and cooperation with the police—to trace funds of criminal source.

The same recommendations were made in the "declaration of Basel" of December 12, 1988. That meeting of central banks lacked authority to make its resolutions mandatory but significantly influenced the banking business in the participating countries (practically all of the FATF countries, see infra).

The Vienna Convention of December 20, 1988 providing for deterrence of the narcotics trade in general and laying the groundwork for international cooperation to prevent laundering was adopted contemporaneously.

— It requires the signatory countries to criminalize the laundering of money derived from drug traffic.
— It authorizes extradition for such offenses among the signatory nations.
— It lays down the principles of administrative cooperation.
— It asserts the primacy of laundering investigations over bank secrecy.

By January 1992, 39 countries had ratified and two had approved the Vienna Convention.

The Convention's guidelines have been clarified and confirmed by the FATF (Financial Action Task Force on Money Laundering), which was founded at the fifteenth G7 summit in Paris in July 1989 and so comprises the United States, Japan, Germany, France, the United Kingdom, Italy and Canada. Eight other nations—Sweden, the Netherlands, Belgium, Luxembourg,

Switzerland, Austria, Spain and Australia —which are particularly vulnerable to or have special experience with laundering are associated with the Task Force.

The report issued by the FATF's experts in April 1990 "took stock" of the laundering problem and reiterated, detailed and broadened the Vienna Convention's guidelines in the form of 40 proposals for adoption of criminal laws and for international cooperation on that score.

The report accurately assesses the laundering problems and makes effective proposals, but it comes up against the limits placed by the market economy on determined anti-laundering programs. The concepts of transactional secrecy and noninterference in their customers' affairs which govern credit institutions' practices are scarcely compatible with the degree of transparency necessary to enable suspicious operations to be investigated.

That conflict is reflected by the lack of unanimity of the FATF's experts on several aspects of their report; they differ as to whether:

— Banks should be required or only authorized to report suspicious transactions to a supervisory authority.
— Centralized border cash controls should be subject to the proviso "that capital movements are not thereby hindered."

The experts' hesitancy in regard to those important questions unquestionably reflects the banks' influence, as discussed below.

The lax positions, even though in the minority, are important, especially in a European area without interior borders in which those positions will be the weak points of the deterrent system.

Annual evaluations of the application of the 40 recommendations are chaired by the member countries in rotation.

The last report (FATF III) issued with Switzerland in the chair was approved in Lugano on June 25, 1991. France's efforts to control laundering were positively assessed; her principal shortcoming is her failure to expand the laundering rules to crime-derived funds other than those generated by the narcotics trade.

The latest international authority to take a position on this question is the Council of Europe, which did so in its directive of June 10, 1991. European directives are generally broad and general, but this one is precise: it refers expressly to the Vienna Convention and the FATF's recommendations (the EEC as such has ratified the Convention and is a member of the FATF), which it adopts unconditionally.

The directive is like a "framework law" in two respects, however:

— In regard to the source of funds to be laundered, it leaves it up to each country to define "criminal activity"; recycling of drug derived money at least must be criminalized, but each country will decide whether to extend criminalization to funds of other criminal sources.
— The directive tacitly appeals to the responsibility of the financial institutions by emphasizing the fact that punishment is only one aspect of laundering deterrence; prevention is the province of those institutions. On that subject, the Council of Europe refers to its aforesaid recommendation of June 27, 1980 and to the Basel Group's declaration of December 1988 discussed above.

Finally, in a novel approach, the directive provides for establishment of an EEC "committee" (an offshoot of the Commission of the European Communities) to coordinate the implementation of the directive and keep it up to date. The "committee" may not intervene in individual cases.

(4) French Laws

It was in that context of proliferating incentive provisions that the French Par-

liament adopted a series of laws for deterrence of laundering of funds derived from the drug trade:

a) The Act of December 31, 1987

This Act added a third paragraph to §L.627 of the Public Health Code (the first two paragraphs criminalize and specify the punishment for dealing in narcotics) providing that anyone who "fraudulently facilitates or attempts to facilitate falsification of the source of (a drug trafficker's) income and assets or knowingly assists in any dissembling or in the conversion of the proceeds of such dissembling" shall be imprisoned for not more than ten years.

In the same spirit, the Act of December 23, 1988 amended §415 of the Customs Code by making it a criminal offense "to engage in or attempt a financial operation between France and another country, by shipment, import, transfer or barter, involving funds which the offender knows derived directly or indirectly from a violation of the (narcotics) laws."

Both of the foregoing Acts criminalize conduct.

b) The Act of July 12, 1990

This Act was directly prompted by the resolutions of the Vienna Convention and by—even though it falls short of—the FATF's recommendations.

The Act covers laundering of drug money only.

Its most significant provisions are:

1) The requirement that financial institutions report all operations suspectable of being in violation of §L.627 of the Public Health Code or §415 of the Customs Code to the Finance Ministry's TRACFIN (Traitement du Renseignement et de l'Action Contre les Circuits Financiers Clandestins) unit. The TRACFIN unit decides whether to file criminal charges. The banks are relieved of all criminal and civil liability to their customers for making the required reports. Concurrently with the administrative or judicial proceedings, the District Court of Paris can authorize seizure of the funds involved.
2) The Act imposes on the banks a duty of vigilance in the broad sense in regard to the identity of, and the reasons for unusual or complex operations engaged in by, their customers. That is one of the most problematic provisions of the Act.
3) A bank which breaches its obligations under the Act may be disciplined by the Banking Commission pursuant to the Banking Act.
4) The TRACTIN unit has 12 hours after a report of suspicion is filed to issue a cease and desist order.

The aforesaid sections of the Public Health and Customs Codes apply only to natural persons in the banks' employ. Determination of their guilt raises the problems of attributability inherent in every chain of command structure. The only punishment which can be imposed on a natural person under the Act of July 12, 1990 is a fine for informing the suspected person of the report made to the TRACFIN unit.

In the future, the banking institutions themselves will be subject to the punishments which the new Criminal Code prescribes for legal entities.

A decree issued on February 13, 1991 makes the banking industry as a whole responsible for implementing the oversight procedures required by the law.

(5) The Deterrent Agencies

a) The TRACFIN Unit

It was established on January 22, 1990 by the Ministry of Finance; it is headed by a senior Customs Department official and includes representatives of the police, customs, tax department and Justice Ministry.

The "reports of suspicion" required by law are filed with it and it concentrates and

sorts the laundering data in order to determine the cases in which criminal charges should be filed.

Agents of the principal French intelligence units attend TRACFIN meetings because one of the objectives of the government's National Intelligence Plan is the qualitative and quantitive improvement of intelligence concerning national and international white-collar crime.

b) OCRGDF

The Office Central de Répression de la Grande Délinquance Financière (OCRGDF) was also established in early 1990, in the Central Criminal Investigation Department.

It consists of police specialists who coordinate police activity in that field on a nationwide scale.

The district attorneys and examining magistrates refer the most important laundering cases to the OCRGDF for investigation.

c) The Banking Commission

This offshoot of the Bank of France chaired by one of its Vice-Governors is the bank disciplinary authority.

It is more interested in the economic orthodoxy than in the nature of the banks' operations. The role assigned to it by the Act of July 12, 1990 is theoretically important.

d) The Banking Industry's Special Investigatory Units

These units gather commercial intelligence in regard to customers' creditworthiness and the competition which is usually reliable but is for internal use only. They are not responsible for deciding whether reports to TRACFIN are required.

(6) Analysis of the Provisions

It must be conceded that French law has deficiencies and falls short of the FATF's recommendations:

— First, only laundering of drug-derived money is criminalized, whereas not only is money generated by other criminal activities frequently laundered but such funds are often mingled with drug money. The French provisions are inadequate on that score.
— The elements of the crime of laundering under French law include knowledge on the part of the banks and their employees of the source of the suspicious funds. That requirement is clearly unreasonable in view of the difficulty of proof of such knowledge (especially when only one type of laundering is criminalized).

It would not be realistic to reverse the burden of proof, but the FATF is considering a system of automatic reports in excess of a given transactional threshold.

As matters stand, laundering could be analogized to receipt of stolen goods under French law, a crime which also requires knowledge by the receiver that the goods were stolen. The courts have eased the burden of proof of such knowledge by admitting in evidence objective factors like the lack of registration of the purchase (if such registration is prescribed by law), the type of goods in which the person charged with receiving deals (second-hand goods, antiques or jewelry), and the lowness of the price paid for the goods received.

It is too early to predict whether an equivalent line of authority will develop in laundering cases, too few of which, as discussed below, are now pending with too slight prospects of conviction as the law now reads.

— The French laws do not expressly apply to foreign branches and subsidiaries of French institutions.

That hiatus is largely due to the influence and lobbying of the powerful Association Française des Banques.

The French banking industry takes a

dual approach: on the one hand it approves the criminalization of laundering in principle and (advisedly) welcomes the authority delegated to the Banking Commission by the government (which is tantamount to authorizing the industry to regulate itself), while on the other it opposes extension of the Act of July 12, 1990 and in particular anything resembling control of its operations.

The banking industry's positions were stated at a seminar on October 25, 1990 sponsored by the magazine "Banque et Droit" (which published the proceedings in a special issue), and more especially in Professor Michel Vasseur's discussion of the Act of July 12. Professor Vasseur, a well-known specialist in business and banking law and a member of the National Credit Council, has the banking industry's ear and sometimes acts as a sort of unofficial spokesman for the industry.

His comments on the deficiencies and difficulties of enforcement of the French Act, and his arguments against tightening-up the Act and so effectively in favor of de facto toleration of passive laundering, are of interest.

That approach is exemplified by his statement justifying limitation of bank cooperation to drug money: "Banks are not policemen."

a) The Gray Areas of the French Act

Professor Vasseur's comments relative to handling of the confidential data reported by banks in compliance with their duty of vigilance are equally relevant:

> If a bank advises the TRACFIN unit of its suspicions in regard to an operation which is unrelated to narcotics but violates some other law, TRACFIN in principle has no authority to make any use of the report.
>
> But §16 of the Act, which so limits TRACFIN's authority, also refers expressly to §40 of the Code of Criminal Procedure which requires every authority informed of the commission of a crime so to advise the district attorney.
>
> Likewise and complementarily, §L.101 of the Tax Procedures Book authorizes the government to take cognizance of judicial proceedings with a view to prosecution.*

There is a hiatus in the Act regarding the duty of identification of the real operators which complicates matters for the banks under certain circumstances: what of the professionals—lawyers and notaries—who handle transactions for other parties and are duty-bound to keep their principals' identities in confidence?

b) The Banking Industry's Justification of Laundering

It is obvious that the industry's position on this subject is not official ... nor specifically French:

- From the economic standpoint, part of the world fund flows has always been unknown or hidden; that does not justify their exclusion from the economy in which they contribute to the production of wealth. Excessive rigidity might lead to two economic circuits, one totally transparent, the other hidden.
- From the ethical standpoint, the professionals consider the principles of bank secrecy and non-interference with customers as economic pillars of democracy.
- From the standpoint of interbank competition: as discussed above, the spreads on laundered funds reportedly approximate 15%. And because of the amount of dubious money in circulation, an institution refusing to touch it would lose out to the competition. Such a competitive prob-

*That difficulty has not escaped TRACFIN's members, who, in their first report, make mention of the Finance Minister's undertaking not to use such information for tax purposes.

lem already exists inasmuch as anti-laundering laws are almost exclusively confined to the FATF countries.

— From the practical standpoint, the banks can point out that the American-type systematic oversight procedures are cumbersome, expensive and relatively unproductive. That is true in terms of the number of laundering cases detected and the amount of money seized, but, according to the FATF's experts, the first effect of the intensification of the detection procedures was to increase the go-betweens' commissions because of the risks incurred. In a war of this kind, every victory is precious, however small.

— In France, the banks can also take refuge behind the restrictions of the French Act ... which are largely of their own doing.

They are not bashful about reminding the political authorities that banking secrecy also covers information relative to campaign contributions and deposits by foreign heads of state.

(7) Opening Evaluation

There have not yet been any laundering prosecutions in France although several charges are under investigation by examining magistrates.

France is involved in the BCCI case, but only from the commercial angle of the failure of BCCI France. As in other countries, that bank, whose principal business was laundering, aroused indignation only when it turned out to be unable to discharge its liabilities.

In 1989, an examining magistrate undertook to seize funds belonging to General Noriega. There was no difficulty as far as his bank accounts were concerned, but the funds which had already been reinvested were a good deal harder to trace. All of the principal culprits were covered by diplomatic immunity.

A significant laundering case was recently brought to light by the anti-terrorist police. A bank and affiliated financial institutions arranged for large-scale laundering of money derived not only from narcotics but from violence and destined for a terrorist movement's war chest. The OCRGDF deserves much of the credit for this coup.

However, the prosecution is complicated by the involvement of funds of various sources (all dubious but not all drug-related), the difficulty of proving the institutions' awareness of the fraudulent nature of their actions, and the lack of cooperation by a neighboring country in which the terrorists are based.

That case exemplifies the weaknesses of French substantive law and the shortcomings of international cooperation. It appears that the lack of cooperation is based on domestic political considerations in the neighboring country. But, more broadly, it will unquestionably be difficult, for the same reasons as in the case of the banks, to disregard each country's economic interests.

The first step is to provide by law that action which is illegal at home is also illegal if taken abroad. An example from another field of the existing double standard which has to be abolished is that an offer of money in France to a public official for a contract is bribery and an offer of money in France to a corporate officer for a contract is commercial bribery, but payments made for the same purposes outside France are tax-deductible in France.

These reminders and examples, which are far from exhaustive, account for the disappointing results of the anti-laundering campaign, which reportedly leads to the seizure of less than 1% of the soiled money in circulation in the western countries.

The TRACFIN unit's first report issued in July 1992 shows that:

> The unit went on full stream in October 1991. It took that long after adoption of the Act for the implementing decree to be published (on February 13, 1991) and

for the necessary reporting arrangements to be made with the financial institutions covered by the Act and decree.

About 4,000 institutions in France (2,000 of them banks and credit institutions) are legally required to report suspicions.

Since February 1991, TRACFIN has received 373 such reports; the monthly average since February 1992 is 40.

The 373 reports have prompted 13 criminal charges:

— Seven were for laundering of drug money,
— Two have resulted in seizure of drug traffickers' funds,
— Four concerned offenses other than laundering.

The presumably laundered funds totalled 100 million francs.

What the TRACFIN report does not say is that, as pointed out above, it is unlikely that any of the accused can be convicted of laundering.

(8) Conclusion

Drug abuse: an uncontrolled development in response to which the authorities are able only to take note of its advance or retreat.

Laundering: an evil which is eating into the world economy with no effective reaction by the governments. These assessments are certainly too pessimistic; consciousness of the dangers has been raised, even though remedies are not easy to develop.

From the strictly French standpoint, the following conclusions can be offered:

Concerning substance abuse and the everyday narcotics trade, only stubborn perseverance can produce results in the form of detoxification of addicts and arrest and conviction of dealers. France's record may be nothing to crow over but the physical and legal means and the will to act exist as regards both deterrence and punishment. There is no reason to despair.

The campaign against laundering has been slow off the mark, and no significant progress can be made without law reform in three fundamental respects:

1) Extension of the criminalization of laundering to all money of fraudulent source.
2) Adoption of objective standards for proof of scienter.
3) Extension of the French banks' reporting duty to all of their off-shore subsidiaries and branches.

Implementation of those steps requires the professionals to look beyond their near term interests and to understand that laxity in this area will precipitate the degeneration of the system that they defend. There is no reason why they should not do so.

This fall the Finance Ministry will file a bill in Parliament "to raise moral standards in economic and financial affairs" which will inter alia extend TRACFIN's jurisdiction to all types of criminal money.

That is an encouraging and timely response to the inadequacies of the 1990 Act. It exemplifies the will to resist what President Mitterand, after his trip to Latin America in 1989, called the risk of a "failure of civilization."

Quest for Effective Methods of Organized Crime Control

*by Chavalit Yodmani**

PART I

Introduction

1. General Information about Organized Crime

1) Definition

There are various definitions of organized crime given by several sociologists and criminologists from various institutions. Most definitions are not different. Anyway, I would like to quote the definition adopted by the Royal Hong Kong Police which concluded that organized crime is a product of a continuing and self perpetuating criminal conspiracy to bring exorbitant profits from our society by any means fair or foul, legal or illegal. It survives on fear and corruption. By one means or another it obtains a high degree of immunity from the law. It imposes rigid discipline on underlings to do the dirty work while the top men of organized crime are generally insulated from the criminal act and the consequent danger of prosecution.

2) Types of Organized Crime

While a specific definition of organized crime stresses the three key dimensions of violence, provision of illicit services, and immunity, there is a variety of types of organized criminal groups as follows:

Traditional Crime Syndicates: These are comprehensive criminal organizations which place a high degree on the organized crime continuum. They are highly organized and characterized by hierarchy, restricted membership, secrecy, violence, provision of illicit goods, profit orientation, and the obtaining of immunity through corruption and enforcement. The examples of these groups are such as Yakuza, Triads,** Mafia, etc.

Nontraditional Syndicates: These are less comprehensive criminal groups which exhibit less development on the dimensions of the organized crime continuum. Large-scale narcotics smuggling organizations, white collar fraud groups, are examples, another is independent crime czars who control local vice operations.

Semiorganized Crime: These groups are generally smaller and less sophisticated and exhibit a shorter range of criminal goals. Examples are some motorcycle gangs as well as organized burglary and robbery rings.

Local, Politically Controlled Organized Crime: These are locally controlled organized criminal groups in which the local political and power structure is not simply corrupted or allies, but actual partners in running criminal operations.

National, Politically Controlled Organized Crime: In this type, organized crime operates in partnership with elements of the national power structure; national authorities actually participate in the planning and execution of criminal activities. The nineteenth-century Asian opium trade controlled and managed by European capitalist countries, which formed the capital for industrial development, may serve as an example of this type of organized crime.

International Organized Crime: Interna-

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**Explanation appears in the attached glossary.

tionally, organized crime is not confined to any single political area and can exist especially in two types of political climates: liberal democracies and corrupt dictatorships. Because laws of liberal democracies place a priority upon individual civil liberties, crime control can suffer; such laws make it difficult to crack down on organized criminals and their political allies.

At the same time, corrupt dictatorships are locations for convenient gambling resort areas particularly when organized crime figures simply cut in the authorities in return for unencumbered operations. Organized criminal groups other than black market groups do not appear to be publicized in communist countries, although the government itself operates much like organized crime in such countries.

2. Historical Background

According to "Criminal Brotherhoods" by Chandler, he claims that Western organized criminal groups had their beginnings with the Garduna in the 15th century Spain. Others such as the Italian Camorra, the Mafia, the French or Corsican Unione Corse and the American Cosa Nostra at least initially were secretive, ritualistic and feudal in structure.

In Africa, organized crime is described to be involved in highway robbery, illegal immigration, smuggling, drug traffic and poaching. There is little evidence of tribal successions or ringleaders in African organized crime.

For Asia, the Chinese triads are considered the most secretive and ritualistic of organized group. The British called them triads because of their highly ritualistic use of numerology, a belief in the magical significance of numbers. The number three and multiples of three were accorded major importance by these groups. The symbol of triad societies is depicted by an equilateral triangle with three equal sides representing the three basic Chinese concepts of heaven, earth and man. Their origin can be traced back to 2,000 years ago in China. These groups were heavily involved in the control of vice activities.

With the fall of mainland China to the Communists in 1949, many triads migrated to Hong Kong. These groups are still active in their illegal business which includes drug traffic. Since the late sixties members of triad gangs have immigrated and set up operations in the U.S., Canada and Europe. Most triads are engaged in prostitution, illegal gambling, extortion and heroin trafficking.

3. Current Situation of Asian Organized Crime

In general, Asian organized crime groups have expanded their criminal activities and have become entrenched and continued to grow especially in the United States where there is the growth of the Chinese population plus the massive influx of Vietnamese nationals. Asian organized crime appears to pose the most immediate and serious threat just after La Cosa Nostra or Mafia. Activities of these groups include protection rackets, gambling, prostitution, extortion, money laundering, armed robbery, home invasions, alien smuggling and heroin trafficking as well as new innovative areas such as computer chip theft.

Statistics and the reports of law enforcement indicate a resurgence of heroin importation fueled largely by Chinese crime groups. Southeast Asian heroin, which is also known as "China White" and is trafficked by Chinese crime groups, has assumed steadily increasing percentage of the U.S. heroin market share in recent years. There has also been an alarming increase in the purity of street level "China White" heroin in the U.S.

The threat of Asian criminal activity is aggravated by the fact that law enforcement had found these groups particularly difficult to penetrate and to prosecute. This can be partially attributed to the tradition-

ally closed nature of Asian communities in the U.S. and the fact that law enforcement personnel generally lack Asian language capabilities and understanding. This is one of the serious difficulties in dealing with the organized crime groups.

Apart from the prevalence of the Asian organized crime groups in the U.S., the existence of modern-day triads is most extensively documented in Hong Kong and to a lesser extent, Taiwan. Hong Kong is the undisputed capital of modern day triads, even though it is a criminal offense to be a member of a triad in Hong Kong. Triad activities are of a menace in two main ways. As far as the general public is concerned, it is the gang activity, the threatening behavior, the assaults, the intimidation and the blackmail that are most wearying. But triads are also deeply involved in organized crime: drugs, gambling, vice and protection rackets.

Current information indicates that there are at least 50 triad societies in Hong Kong including ten or more independent groups within the 14K Triad Society.* Also active in Hong Kong are some Mainland societies.

The triad and organized crime problem can be examined in three segments. These segments are interrelated. The first and central segment is the problem of triad office-bearers and the triad society they represent. The other two segments are organized crime syndicates and gangs. Triad office-bearers often control and dominate these organized crime syndicates and gangs.

4. Organization Structure

In terms of organization structure and management, the better organized triad societies have a central committee comprising a body of influential and senior office-bearers. The position of chairman and treasurer are elected from this body. The post of treasurer is indicative of central funding. Money is collected from office-bearers and members to finance the defence of an official who has been arrested in connection with the society's affairs and on special occasions when the society wishes to show its strength. The day to day activities are not all controlled or directed, but they may be sanctioned by the central body.

Virtually all triad societies form associations, registered either under the Societies Ordinance or the Companies Ordinance. They are thus able to hold meetings and elect office-bearers and bring some aspects of their activity within the law.

Some triad societies have no central committee and leadership is in dispute. These less well organized triad societies consist of members of individual street gangs under the control of a few office-bearers who cooperate with one another on an ad hoc basis.

In comparing organized crime in the United States, Australia and several other countries, with organized crime in Hong Kong, it is clear that there is a great deal of similarity in some respects such as organization structure and management and types of business that they invest, etc.

Current Organized Criminal Activities

1. Gambling

Gambling is a major source of income for organized crime. The gross income of some of the larger syndicates can be as much as thousands of millions of dollars. Gambling takes two forms, illegal casinos and bookmaking.

Bookmaking is the other form of illegal gambling which is becoming extremely sophisticated. Many bookmaking operators fall into the category of small scale and many belong to a syndicate. The small scale bookmakers need to be able to pass on bets to those higher up the scale if they do not have sufficient cash to be able to pay out

*Explanation appears in the attached glossary.

several tens of thousands of dollars. Syndicates are known to operate from the race tracks.

2. Prostitution

Prostitution is one of the illegal enterprises controlled by organized crime groups such as the Chinese triads or the Yakuza. Similar business such as nightclubs, massage parlours, brothels are also controlled or protected by these groups. This sex trade has gradually developed into the international syndicate of women trade. This is evident from the illegal immigration of Asian women to work in the U.S. Another example is the illegal import of women throughout Asia to Japan by the Yakuza. These women are promised legitimate jobs and good money. These women will be provided with forged passports and visas. Some of them are forced into sexual slavery but some are satisfied with their conditions as they earn more income than what they can make at home.

According to the Thai Embassy in Tokyo, the first 6 months of 1992 nearly 800 Thai women were deported from Japan. Most of them were forced into prostitution. They were sold to brothels operated by crime syndicates for about US$12,000 each. They had to work to repay the brothel up to US$28,000 each before they would receive any payment at all.

3. Drug Trafficking

Drug trafficking is another high profit activity run by the criminal groups. They may involve from street level to larger syndicates employing lookouts and couriers. Membership of a triad is usually necessary if a person deals at street level. If a dealer operates in an area where his society dominates then he can operate almost without any harassment from other gangs. With small syndicates not a great deal of money is in fact being made but it certainly allows the dealers to enjoy a reasonable standard of living. Traffickers no longer carry with them a hundred or more packets. They usually place individual packets at various locations, receiving money from customers who are then told to go to that location to pick up the drugs.

At the international level, the French connection, the heroin smuggling route from Turkey to New York by way of Marseilles, has been replaced by the Chinese connection. Heroin from Southeast Asia begins in the poppy fields of the Golden Triangle and continues through Hong Kong to the United States with the ultimate destination frequently New York City. The DEA's reports indicated a substantial increase in the proportion of Southeast Asian heroin entering the U.S., and the Southeast Asian heroin trade is increasingly dominated by the Chinese. 56% of all heroin seized by U.S. authorities was seized in New York. 70% of that heroin was found to be of Southeast Asian origin.

The average street-level purity of Southeast Asian heroin in U.S.A. in 1991 averaged 41% significantly higher than just three years ago. While the purity has steadily increased, the price of heroin has decreased. A unit of heroin (700 gms known as tua, a local Thai measurement) currently costs between US$60,000 and US$80,000 wholesale. That price increases when Chinese sell to non-Chinese, up to US$140,000 per unit.

4. Extortion

One of the primary activities of the organized criminal group is the systematic extortion of legitimate and illegitimate businesses. The amount of money extorted generally depends on the type of business involved and more importantly on the profitability of the business.

Protection racket is another form of extortion. By this method, the gangs will threaten the business owners or contractors. When the contractors do not pay they find their machinery has been destroyed. The next step, the gangs approach the con-

tractors and get them to employ watchmen to stop the damage. After the contractors have paid, they find that there are no watchmen provided but the damages cease.

Another tactic is that contractors are forced to employ a number of workers but only a few turn up to actually work. Nevertheless the wage bills show payment to many. Workers themselves, together with the gangs, may form registered associations to control the supply of labour and then demand exceptionally high wages which the contractors will be forced to pay in order to meet contractual deadlines.

A number of small businesses in the urban and rural areas are subjected to this kind of threat.

5. White Collar Crime

It is only recently that white collar crime (such as fraud and counterfeiting) has had any triad and organized crime involvement. But there are indications that white collar crime generally, particularly fraud planned by persons who are members of triad societies, using corruption and fear, is on the increase.

Syndicates supplying identity cards and travel documents are interlinked with syndicates supplying forged bankers orders and cheques which are used on an international basis by overseas organized crime groups.

Credit card fraud is on the increase and involves persons who are members of triad societies and who operate nightclubs and retail outlets.

One experience that the Thai police had with triads in relation to credit card fraud can be summarized as follows: with a long streak of economic expansion and resultant growing middle class, credit cards have been widely used in Thailand. For a number of years credit card companies and banks have constantly reported to the police the widespread incidence of card forgery and the trend is alarmingly increasing. According to police intelligence, a substantial share of incidents were perpetrated by Hong Kong criminal gangs associated to Hong Kong triads together with local Thai criminals. Several rackets were arrested over the years, yet the practice continues. A typical method of operation is to approach some cashiers in department stores in and around Bangkok area and offer to buy customers sales slips from them, or sometimes just information on the cards such as name and account number. When a customer is paying for merchandise with a credit card and if he or she is not looking, dishonest cashiers will make two copies of sales slips, one to be ordinarily processed while another is secretly tucked away. Sometimes they will just note down relevant information on the card. These extra slips of information will be collected by gang members and used to forge new cards. Counterfeited blank cards are often made in Hong Kong and sent to Thailand where relevant information is printed on cards and the forgery process completed. Forged cards are generally offered for sale in black markets but sometimes used by individual gang members on shopping sprees. As recently as July 3rd our Economic Crime Division, after several months of extensive investigation, was able to nab part of a forgery racket with international connections. Arrested in two separate raids are a Hong Kong Chinese, a French and a Thai assistant. The gang confessed to involvement in a forgery racket that has been active in Thailand for the last seven years. Twenty-three items including fake credit cards, passports, international driving licenses, official documents, faked seals and equipment to produce counterfeit papers were seized. Another member of the racket is still at large.

6. Loan-Sharking and Debt Collecting

Loan-sharking and debt collecting are very profitable forms of organized crime and range from syndicates operating from Macau, which escort debtors back to Hong Kong to collect payments and syndicates operating out of legally established finance

companies, to small-scale groups of a few criminals which get together to extend loans of a few thousand dollars.

Many small but respectable businessmen, who have had their credit and cheque discounting facility stopped by banks, resort to loan-sharks to try to overcome their business problems. Many of the loan-sharks advertise openly in the local newspapers.

Casino operators and illegal bookmakers allow some customers to bet on credit. When a customer loses, he may fall prey to loan-sharks. Often those loan-sharks have links with the casino operators and illegal bookmakers. Frequently, one of the links is membership of the same triad society. The loan-sharks cannot enforce repayment of their loans by legal means. They, therefore, resort to illegal means to enforce repayment. There are numerous reported cases which demonstrate that these illegal means may include violence or blackmail. The personnel employed by loan-sharks to enforce repayment are, in almost all cases, members of triad street gangs.

7. Alien Smuggling

Asian alien smuggling rings have been increasingly active in recent years. The largest influx of illegal Asian immigrants is currently from the rural and relatively poor Fujian Province of Mainland China to the U.S.A. The smugglers arrange for false documentation as well as the actual transportation.

After obtaining an exit visa from the People's Republic of China, aliens typically travel to Bangkok where they receive fraudulent identification papers. Stolen Taiwanese passports with valid United States tourist visas are sometimes photo-substituted and given to the alien. Aliens are then flown to their country before entering the U.S. by land, sea or air.

8. Money Laundering

Like other organized crime groups, Asian crime groups are involved in laundering the proceeds from their illegal operations. Such laundering is thought to be accomplished primarily through Asian bank networks located mainly in the U.S. and Hong Kong.

Some examples of money laundering techniques are as follows:

Today, almost all major violators are investing in real estate, many through foreign shell corporations located in countries where the government has no access to financial records. Foreign shell corporations, also known as "dummy corporations," are corporate entities, without substance or commercial purpose, that exist to deceive law enforcement authorities and act as a vehicle or conduit for transacting the proceeds of criminal activity. Couriers, often referred to as "mules," carry the money out of a country and deposit it in the accounts of the foreign corporations, and the shell corporations then issue loan agreements back to the dealers. Drug violators spend more money and live better than can be justified. When questioned, they are able to produce loan agreements showing that they borrowed large sums of money from the XYZ corporation which is usually in foreign countries where the Government cannot obtain information. The money the drug traffickers borrowed is in fact money previously placed on deposit in the bank accounts of the XYZ corporation.

Another money laundering technique developed recently is as follows. A courier enters a country and declares 1 million United States dollars ($). At customs in the airport the courier opens the briefcase with $100,000 in small bills, hoping the customs agent will not count it. If the agent does count it and discovers a shortage, the courier will have a check for $900,000 that does not have to be claimed. If questioned, the courier will make it appear to have been a mistake. If undetected, the courier passes though, obtains $900,000 and leaves the country with allegedly the same $1

million. If questioned on the way out of the country, the courier can merely state that a real estate transaction was not consummated and that he is leaving with the same amount of money as he brought into the country.

The most commonly practiced method of money laundering is referred to as the bank method. Traffickers take their cash to a bank and conduct any number of transactions. To increase the portability of cash, the trafficker may simply exchange bills of smaller denomination for larger ones. Cash is also exchanged for bank drafts, letters of credit, traveler's checques, etc. In some countries where reporting systems have been implemented requiring banks to report all cash transactions of $10,000 or more, the bank method of laundering has become more difficult to use without attracting attention. Traffickers have therefore developed mechanisms to circumvent this reporting requirement. Their efforts have included corrupting bank employees.

9. Home Invasion Robberies

Though this type of crime is not a frequent incident in the Asian countries, it is the most frightening aspect of Asian organized crime in the U.S. In a typical home invasion, gang members enter a home, tie up the inhabitants and terrorize, torture, beat and rob them.

Law enforcement has had a difficult time preventing and prosecuting home invasions. Many go unreported because of intimidation of victims and because of distrust of law enforcement among the Asian community.

10. Computer Chip Theft

The crime is especially attractive to Asian crime groups for several reasons. Such crime is very lucrative and difficult to detect and to prosecute. Computer chips are resold for 80% of their value. Since computer chips do not have registration numbers, they are very difficult to trace. Asian crime groups are positioned for computer chip because many Asians work for computer chip manufacturers and because there are markets for the chips in Southeast Asia. It has been estimated that computer chip theft is costing American companies millions of dollars each year.

Effective Methods of Organized Crime Control in General

There are a number of ways in which the control of organized crime should be pursued. These ways may be described as (1) education, development of awareness throughout the community, (2) civic action groups and crime commissions, (3) punitive enforcement.

Details of each method are as follows:

(1) Education

The most positive approach for controlling organized crime is to inform the police and the citizens of the magnitude and implications surrounding organized crime in a community. When they know the intricate route of money they will be reluctant to support or condone such an organization. At this point, economic sanctions will assist in drying up such pervasive actions.

Training should be organized to reach all personnel involved in organized crime control i.e. police, prosecutors and judges. Then there should be presentations to business groups and interested citizens. After that there should be intensive in-service training for specialists engaged in the arrest and prosecution of organized crime offenders.

(2) Civic Action Groups and Crime Commissions

Organized crime can be controlled but only with full citizen support to reveal the criminal acts that are most covert. There are two types of civic action groups. They may be classed as civic action citizens' groups and those established under the

framework of government. These two methods of suppressing organized crime are different; however, both look to the citizens as a main force for crime suppression. Civic action groups are usually ad hoc structures that attack a single problem, whereas the crime commissions are legally constituted bodies of government and should have a more lasting impact upon the overall organized crime problem.

The following are recommended guidelines to deal with organized crime summarized from statements made by various members of the National Association of Citizens Crime Commission (Organized Crime Concepts and Control by Denny F. Pace and Jimme C. Styles, 1975, p. 93–94):

— Public understanding.
— Planned citizen involvement.
— Generate community initiative. Examine the criminal justice functions and make recommendations to enforcement agencies for system improvement.
— Examine basic political systems
— Involve organized business efforts. Chambers of commerce and professional associations should encourage the stimulation of programs and seminars to educate and develop blueprints for action within business enterprises.
— Expand the system to include civil sanction. Civil justice for the purpose of reaching the racketeer, who moves into legitimate business field, must be explored.
— Encourage cooperation between criminal justice agencies.

As for the Citizens' Groups established under the framework of government, the following are the recommendations for eliminating organized crime which have been extracted from various speeches made by crime commission members (Ibid p. 95):

Citizens' Crime Commissions' Recommendations for Eliminating Organized Crime:

1. The Citizens Crime Commission must be free from political involvement, thus, financing from private sources are desirable.
2. Have a Commission in all major cities to act as an investigative "watch dog" representative of the public interest.
3. Expanded criminal intelligence is rapidly becoming a major function of Citizens' Crime Commissions.
4. A dedication to create a climate of community-wide support for innovative programs in juvenile and correctional programs.
5. The business community is encouraged to use the extensive files, research, and consultation services of the citizens' commissions.
6. The commissions have interest in legislative changes, and although not a lobbying agency, they are effective in having input into initiation of new laws.
7. Conduct periodic survey of criminal justice systems to determine if the best form of justice possible is being rendered.
8. Encourage public information campaign for special anti-crime programs and with continued emphasis upon organized crime.

Crime commissions come in a variety of forms and in many different degrees of effectiveness. A crime commission with or without legal structure is going to be worthless unless its findings are followed up with intensive investigations and prosecution. The crime commission consisting of ad hoc citizen representation is of questionable value unless its findings are followed up with intensive investigations and prosecution. The crime commission consisting of ad hoc citizen representation is of questionable value unless its members can forget political vindictiveness, petty jealousies, and personal aggrandizement.

(3) Punitive Enforcement

The methods of crime prevention previ-

ously referred to cannot be totally effective without intensive punitive enforcement at all levels of government. Local law enforcement is by and large willing to accept all available assistance at state and national levels. It is important to identify the role of the field officer at the local level. The field officer is an important link in the chain of communications that brings information to light through a thorough investigation. The field officer is in a position to identify those who are local organized criminals as opposed to those who have national confederation connections.

If organized crime is to be controlled, the enforcement pressure must come from both street level and specialized investigatory personnel.

PART II

Narcotics Trafficking in the Asia-Pacific Region

Current Drug Situation Worldwide

Though there is encouraging development in international cooperation, the drug abuse situation worldwide remains grim. Illicit production, trafficking and abuse of drugs, together with evidence and consumption continue to imperil public health in all countries, take a heavy toll in human lives and productivity, threaten political institutions, undermine economies and cause environmental devastation. According to the INCB 1991 report, it is noted that the trafficking organizations in South America, Western Europe and South-East Asia are engaged in a joint venture to smuggle heroin and cocaine and spread them to new countries and territories. This can be confirmed by the widespread heroin abuse in various regions and the expansion of cocaine to Africa, the Near and Middle East, South and Southeast Asia and Oceania. The problem becomes even more aggravated by the spread of the HIV infection by intravenous drug use and the birth to infected mothers of many critically ill and severely handicapped infants.

Narcotics Trafficking in the Asia-Pacific Region

The Asia-Pacific Region is the location of the major opium poppy cultivation sources i.e. the Golden Triangle which includes the areas of the Northern part of Thailand, the Northeastern part of Myanmar and the Northwestern part of Laos. This lecture will be mainly stressed on the problems from the Golden Triangle.

Drug Trafficking Routes from the Golden Triangle

Drugs from the Golden Triangle can be trafficked to the world market through India, China, Myanmar and Thailand.

India is used as a transit point for opium and heroin produced in Southeast and Southwest Asia. Narcotics from the Golden Triangle entered India through its Northeastern borderline before being further transported to Europe and North America.

As for China, besides facing an upsurge in opium and heroin abuse, the country has now developed as a transit route for heroin from the Golden Triangle to Hong Kong. Traffickers have significantly increased the movement of heroin through the Southern border provinces of Yunnan, Guangxi and Guangdong to Hong Kong, taking advantage of burgeoning commerce in the region. Increasing quantities are also smuggled through Ruili, Wanting and Mangshih and through Jinghong to Kunming for further transshipment to the third countries. In 1990, about 1.45 tons of heroin were seized in Yunnan province and during the first half of 1990, 2,216 cases of arrest were made whereas 749 drug offenders with 488 kgs of heroin and 269 kgs of opium were arrested in 1989. The amount of the seized drugs, however, constitutes only 5–10% of the total amount of drugs trafficked through the Southern border of China. It is estimated that 30% of heroin produced in the

Golden Triangle is smuggled through China to North America and Europe. The statistics of 1989 reveal that 50% of heroin seized in Hong Kong transited China, a trend which indicates that the route is gaining more popularity than the more traditional sea route from Thailand. However, all of the drugs were not Hong Kong bound as some of the drugs were also trafficked to the cities of Shanghai, Beijing and other sea and land transportation centres.

Drugs from Myanmar, as reported by foreign sources, are trafficked to the world market through Thailand, Southern China to Hong Kong, south through Rangoon and other Myanmar cities towards Malaysia and Singapore, and westward through India and Bangladesh. Some of the drugs are transported down to the Andaman Sea to western market via the South of Thailand, Malaysia, Singapore and Hong Kong.

Trafficking through Thailand is prevalent due to its convenient transportation network and its location as a major transportation centre in Southeast Asia.

Illicit Trafficking Routes from Thailand and Other Sources to Other Countries

Although Thailand produces less opiate drugs than other countries in the Golden Triangle, it remains a major outlet of the drugs from Southeast Asia to the world market and its role as such tends to expand with its flourishing economic prosperity since this prosperity has led to improved transport and export infrastructures. These modern and efficient infrastructures make it easier to smuggle drugs from this region.

Heroin and marihuana are two major drugs which are frequently intercepted while being smuggled out of the country. From the producing sources, some of the drugs are smuggled in for domestic consumption and some are smuggled out to the world market. Once moved from the main producing sources to Bangkok and other transit provinces in the country, drugs are smuggled out of the country by air, sea and land routes. Planes, fishing trawlers and ocean-going vessels, private sedans, passenger cars and trains are all used to move drugs out of Thailand. The statistical record on drug seizures revealed that there was an increase in the amount of drug trafficking to foreign destinations from 91 cases in 1989 to 179 case in 1990. Fifty cases of arrests were made during January–June 1991. It was noticeable that at the beginning of 1991, the illicit drug trafficking stopped due to the Persian Gulf war. The traffickers did not risk smuggling drugs out to the world market particularly to the USA and European countries since they had to face strict inspection at the airports especially at the Bangkok International Airport during war time. Drug smuggling efforts became active again after the end of the war especially during the months of August–September 1991. As for the first half of 1992, 236 kgs of heroin were already seized from 6,293 cases. It is expected that this year's record will not be much different from those of the previous years in terms of cases and offenders but the amount of the seized drugs will be less as there has been no big seizure so far.

(1) Sea Route

Previously, marihuana was the main drug which was trafficked to foreign destinations by sea route. But at present, an increasing quantity of heroin tends to be smuggled out via this route as the demand for heroin abroad is on the rise and trafficking by other routes cannot easily smuggle heroin in big amount.

During January–June 1991, heroin still remained the major drug which was intercepted. The statistics indicate a significant increase in the total amount of heroin seized both within the country and abroad, 882.33 kgs of heroin were seized during January–June 1991. Two major cases of arrest involving heroin smuggling by sea route were made during this period. One case was made at Chantaburi Province in which 378

kgs of heroin were seized. The other involving 454 kgs of heroin took place in the USA.

(2) Air Route

It is believed that there will be an increase in drug smuggling to foreign destinations by air route with Bangkok International Airport as the main departure point. African nationals especially Nigerians have been used as couriers. However, the use of African couriers in drug smuggling by air during January–June 1991 significantly decreased from 115 cases in 1990 to only 31 cases. The decrease is due mainly to cooperative efforts among the concerned agencies and the initiation of some countermeasures. The use of other nationals remain at the same level as that of the previous year. It is noticeable that smuggling by air cargo consignments continues to be a popular method. Four cases of air cargo consignments were intercepted during January–June 1991.

(3) Land Route

The bordering areas between Thailand and Malaysia in the South were the only land routes where drug could be trafficked from Thailand to that country. Besides being a drug market, Malaysia is a transit point of drug trafficking to the countries in other regions of the world including Europe and America. The smuggling could be done by private sedan, passenger cars, trains or just walking across the border.

In addition, drug trafficking through the use of mail has been frequently used. It has been widely used by refugees, foreign tourists and Thai drug traffickers.

Heroin Trafficking Network

Trafficking in heroin originating in the Golden Triangle through Thailand to other regions of the world is carried out at 2 levels as follows:

(1) *International Trafficking Network*: The international trafficking organization is a secret society connection. Most traffickers are Chinese people who have links with the producers, (minority groups along Thai-Myanmar border), the traffickers (Chinese living in Thailand, Malaysia, Singapore, Hong Kong), and the importers (Chinese in the USA and Europe, such as the Netherlands). This racial link helps facilitate the illicit drugs trade. Each year, bulk quantities of illicit drugs are smuggled. In May 1991, 378 kgs of heroin were seized in Chantaburi Province in the Eastern part of the country and in June 1991, 454 kgs of heroin were seized in the USA. Several criminal organizations were involved in these movements of heroin, most of which involved Chinese people. The sea route is frequently used because it is easy to avoid surveillance, bulk quantity can be smuggled and concealment method is less complicated than that used in air route trafficking.

(2) *Courier*: This group of traffickers is not as highly organized as the first group. The principals who are in foreign countries will send couriers into Thailand to meet with heroin suppliers in Bangkok and Chiang Mai (a northern province). Heroin will be smuggled out by air route using various concealment methods. Means of exportation include swallowing, concealment in traveling suitcases or personal belongings, body packing, or concealment in air freight shipment. Each lot of smuggled drugs is usually in a small amount.

African couriers, especially Nigerians continue to be involved in illicit drug trafficking. There is also an emerging trend of couriers from Lesotho.

In addition to African couriers, Chinese people who live in Hong Kong, Taiwan, etc. are also involved in this illegal activity. African and Chinese people are more preferred than Thais because of the English language ability. Most Thai people do not speak good English and this will be an obstacle in drug trade for the authorities can

easily identify the suspect.

In order to counteract the increasing numbers of Africans involved in drug trafficking, a series of measures have been initiated. These measures include abolishing the exemption of visa requirement for people from five countries in Africa; sending confidential records concerning Nigerian drug offenders' names, photographs, and fingerprints to the Nigerian authority directly responsible for narcotics law enforcement in order for them to make criminal records; applying tougher suppression programs against both couriers and dealers of African countries as well as seeking increased cooperation between enforcement agencies and export or cargo companies in order to identify the suspected consignments. The Nigerian authority itself also imposes a requirement that Nigerians obtain clearance from Nigerian Drug Law Enforcement Agency prior to applying for a visa for travel to Thailand. In 1990, 145 African people were arrested on 115 drug-related offences involving a total of 229.71 kgs of heroin. As for 1991, the number of arrests decreased to 67 cases with 71 offenders.

Concealment Methods

The methods used to transport illicit drugs are often very ingenious. Traffickers use a variety of means to transport drugs including automobiles equipped with concealed compartments, planes, buses, trains, legitimate delivery services, boats, fishing trawlers, ocean-going vessels, etc. Drugs are smuggled by couriers using various concealment methods such as concealment in traveling suitcases, hiding among personal belongings, body packing, swallowing method, etc. In addition to moving large shipments of the drugs, small quantities are often moved through the mails.

As far as Thailand is concerned, the most popular method used is concealment in traveling suitcases or overnight bags. Swallowing is also popular especially among African couriers. Some of them are able to swallow several hundred grams of drugs in balloons or condoms. The record seizure obtained in the swallowing method was 158 condoms with an estimated gross weight of 1,060 gms of heroin. Other methods used include concealment in a carton of soap by pressing heroin into the form of soap bars; concealment in the case of an electrical cord, in the core of lace's roll; concealment in post-cards, envelopes, books, postal parcels, etc.

Measures to Control Drug Trafficking

Narcotics Law Enforcement

Drug suppression and law enforcement in drug cases are more difficult than other crimes. Apart from being complicated, there are no damaged parties to come and complain to law enforcement officers since drug addicts themselves are damaged parties. Most importantly, trafficking in drugs generates huge profit. Some of it is laundered into legal business and some is invested in various outlaw business such as gambling houses, prostitution, and contraband trafficking which of course leads to more complicated social problems. Most of the profits from these businesses come to only some groups of people who are behind the drug scene, that is, the drug barons or drug kingpins or whatever we may call them.

This deep-rooted and serious drug problem must be eradicated all the way through, from the drug producing sources, trafficking routes to selling places, no matter how big or small. This requires cooperation and coordination among all concerned agencies, inside as well as outside the country. Pinpoint intelligence on the criminal activities of traffickers is required in order to identify and catch them. The ONCB Computer Centre serves as a central computerized intelligence centre providing such intelligence for narcotics law enforcement officers as well as users of concerned agencies that share the network. Narcotic drugs are often smug-

gled from the producing sources by various types of transportation such as private car, commercial truck, train, and public transportation service. Sophisticated concealment methods are also used such as body packing, false-bottom suitcases, concealment in cargo, etc. One of the strong deterrents to traffickers is the extradition which makes punishment for drug-related offences unescapable because they will have no haven or refuge. In addition, law enforcement agencies, customs services, and other concerned agencies have joined hands to tighten the control of movement through official points of entry, such as airports, seaports, and land border crossings, in order to deter illicit trafficking to foreign countries. The attack against the heroin refinery along the border is carried out whenever it is detected. Some types of chemicals essential for heroin production such as acetic anhydride, acetyl chloride which are smuggled from abroad have been intercepted from time to time. According to the Narcotics Act B.E. 2522 (1979), acetic anhydride and acetyl chloride are classified as narcotics of Schedule IV. A chemical control zone for ether and chloroform, which can be used in heroin production, was also set up to cover eight provinces in the north and five provinces in the south.

As drug traffickers have a large amount of money to spend, it is possible that they may use their illegal gains to build up their kingdom both in terms of personal and political power until they can take control of the national economy as well as have influence on the government. If the situation comes to this point, it will be too late to do anything as can be seen from the situation of some countries in South America where ministers, judges, and government officers including innocent people have been murdered by drug cartels. It is necessary that the financial base of drug traffickers be attacked. A new drug law has now been promulgated with the aim of tracing, freezing and confiscating the proceeds of drug trafficking, and to deal with drug conspirators who, until now, have eluded the reach of the law and have enjoyed the luxuries derived from their drug trade by keeping a safe distance from the drugs. We hope that this new law will have a deterrent effect on drug traffickers.

International Cooperation

The international drug trade poses a serious threat to the global society, economy and security. There are no countries which remain unaffected by drug threat. It is widely accepted that only through a broad cooperative international effort that we can defeat the problem. The world community has witnessed the devastating effect of the drug threat; thus a number of international drug control treaties have been concluded and various international conferences have been convened to strengthen international cooperation.

Effective Methods to Control Organized Crime in the Aspect of Narcotics Trafficking Control

Considering the structure of organized crime which operates in groups earning high income from various illegal activities and controlled by the ringleaders who manage to have immunity from the law, effective methods to deal with the problem should hit straight at those basic elements that are to destroy their networks and to rid them of their proceeds or assets so that they have no funds to continue their activities, and lastly to bring those topmen or those who mastermind the business to receive punishment. Those methods which will be contribute to the efforts to overcome organized crime in the aspect of narcotics trafficking control are the following:

1. Conspiracy Law

The principle of this conspiracy law is to bring all those concerned in committing crime to receive appropriate punishment,

for example, in the case of the illicit drug trafficking group it means all those who are involved ranging from couriers and dealers to financiers or even supporters or facilitators.

However, one point that should be taken into consideration when using this kind of law is evidence. There should be strong evidence and careful analysis before this offence be imposed to anyone otherwise it will be easily abused and lead to the violation of fundamental human rights.

2. Controlled Delivery

Controlled delivery is widely considered to be an efficient tool in identifying and neutralizing major organizers of international drug trafficking. This procedure involves allowing a delivery of illicit drugs, once detected, to proceed, under constant and secret surveillance, to the ultimate destination envisaged by traffickers.

This technique calls for close cooperation among drug law enforcement officers and agencies and requires careful planning and precise tactical execution by the authorized national services.

3. Forfeiture of the Proceeds of Illicit Drug Trafficking

The main purpose of this measure is to deprive the illicit drug trafficking group or the financiers of property and money to prevent them from continuing their illegal business even after serving their terms of punishment.

It is widely accepted that the profits of illicit drug trafficking are so large that individual drug seizures are not changing the overall picture. The volume of the property and money transactions, and especially of cash transfers, related to drug trafficking has increased so greatly that these transactions affect some national economies.

Drug dealers need money to produce, maintain and market their commodity, to silence witnesses, pay bribes, expand operations and to acquire new sources and new markets. No longer is money exchanged, hand to hand, in large deals. Deposits are made into accounts when funds are transferred. After that, money will be quickly laundered to hide the ill-gotten gains. Money laundering is the process by which drug traffickers conceal the existence, illegal source or illegal application of income, and then disguise that income to make it appear legitimate.

There are many types of businesses that lend themselves to the laundering of drug proceeds. Traffickers will purchase failing businesses that generate gross receipts from cash sales, such as hotels, currency exchange shops, restaurants, vending-machine companies and retail sales business. These failing businesses soon become very successful as the gross receipts are inflated by deposits of drug funds.

Besides this several traffickers like to invest in real estate and many through foreign shell corporations in, countries where there is no access to financial records.

Financial investigation to identify, seize and remove the illicit wealth of drug traffickers is considered the most effective tool in overcoming the problem of money laundering. Since this involves banks, trust companies and many financial institutions, the first step which should be taken is to make them understand the situation then ask for their cooperation. Sometimes it may be necessary to create new legislative mechanisms, either criminal or civil to seize most effectively those assets derived from drug-trafficking activity. Codes of conduct for banks and financial institutions to assist the authorities in tracing the proceeds of trafficking activities may also be introduced to efficiently accomplish the financial investigation.

4. Mutual Legal Assistance

The multinational aspects of illicit trafficking in drugs greatly complicate law enforcement, investigation and judicial counteraction. Witnesses, documents and other

evidence are often scattered in countries other than the country in which the offenders are brought to trial. Therefore, to ensure the international cooperation on mutual legal assistance, each government should amend or promulgate its law to allow for such kind of cooperation and at the same time establish a machinery to receive requests for mutual legal assistance from other governments. A number of countries have entered into or are negotiating bilateral and regional agreements for mutual legal assistance. This kind of cooperation should be promoted to the greatest extent possible to relax the rules governing bank secrecy in drug trafficking cases and to reduce the number of "safe havens" to traffickers.

Besides those suggested methods which have to be carried out continuously and simultaneously, all basic suppression measures have to be strengthened such as the structure of the responsible agencies, intelligence analysis and surveillance operations, etc. Most importantly is the cooperation both on domestic and global scales especially the latter level, and international organizations such as the UNDCP have to play key roles. The organization of this international training course by UNAFEI is a good example of the combined efforts which need to be promoted and extended.

Glossary

Triads: Triads are secret, cohesive, hierarchical organizations that exist primarily for criminal purposes. The existence of triads is most extensively documented in Hong Kong where the number of triad members is estimated to be in the tens of thousands, and to a lesser extent in Taiwan. Understanding triads, therefore, is important to understanding Chinese crime groups as a whole.

The 14K: This group was established by a Kuomintang general and still has ties to the Kuomintang Party. Members of the 14K are of Cantonese Origin and appear to be active in a variety of criminal activities, but are particularly active in heroin trafficking. Members of the 14K have been linked to heroin trafficking by law enforcement throughout the world.

Organized Crime in International Criminological Perspective

*by Hans Joachim Schneider**

I. Concept of Organized Crime

1. Definition Attempt

A definition of organized crime has been under debate for a considerable time since the experts have not been able yet to make out a common pattern or an organizational structure. This is because organized crime adapts its manifold activities to the changes in the economical and societal structures of our society very flexibly and thus reacts evasively upon societal means of control with great nimbleness. Still, a definition is required by law enforcement as well as by criminological research. It is prerequisite to know what one is looking for, upon what and how one has to react, and what one wants to research. Criminal investigation and penal judicial reaction instruments utilized in clearing up and combatting traditional criminality fail completely when applied to organized crime. Here, different measures have to be taken.

The most recent definition was given by the "President's Commission on Organized Crime"[1] in 1986. This commission distinguished between the three following components of organized crime:

— The criminal groups, the respective cores of which consist of people connected through their racial, linguistic, ethnic, or other ties;
— The protectors, those people who safeguard the interests of a group; and
— The support from society and specialists who perform voluntary services on an ad-hoc basis in order to maximize the gain of the group.

The commission defines a criminal group "a continuing, structured collectivity of persons who utilize criminality, violence, and a willingness to corrupt in order to gain and maintain power and profit. The characteristics of the criminal group, which must be evidenced concurrently, are: continuity, structure, criminality, violence, membership based on a common denominator, a willingness to corrupt, and a power/profit goal."[2]

According to the commission's opinion, protectors complement the criminal group. These are "corrupt public officials, attorneys, and businessmen, who individually or collectively protect the criminal group through abuses of statutes and/or privilege and violation of the law. Protectors include lawyers, judges, politicians, financial advisors, financial institutions, and businesses in the United States and worldwide. As a result of the protectors' efforts, the criminal group is insulated from both civil and criminal government actions."[3]

The protectors are part of the criminal group because they feel committed to its criminal goals. Society, victims of organized crime, and individual members of the public do assist them in their activities but do not belong to criminal organizations, according to the commission: "Social support includes individuals and organizations that grant power and an air of legitimacy to organized crime generally and to certain criminal groups and their members specifically. So-

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I dedicate this article to my honored colleague and friend Koichi Miyazawa, who marvellously organized and supported my numerous visits to Japan.

cial support includes public officials who solicit the support of organized crime figures; business leaders who do business with organized crime; social and community leaders who invite organized crime figures to social gatherings; and those who portray the criminal group or organized crime in a favourable and glamourous light."[4] Victims of organized crime assist it enlisting its illegal goods and services, e.g. drug addicts or customers of unlicenced bookmakers. Finally, organized crime relies in certain instances upon the services of specialists, e.g. pilots or chemists, who make its operations easier or feasible.

2. Ten Criteria

The concept "organized crime" is an ideal type, a generalization; it does probably not occur in its purest form, but is all the same a useful, heuristical tool for analysis[5]. The problem is found to a lesser extent in the term "crime," but more in the term "organization." It is not an easy matter to determine the degree of organization. This is because organized crime is a continuum; there are less organized, semi-organized, and highly-organized groups. In the different parts, countries, and regions of the world, it has differing manifestations in reality. The ideal type exists only in a modified form.

Using German and international criminological research, ten criteria have been isolated which are characteristic for organized crime and which are interlaced dynamically and are influencing each other mutually. From this angle, organized crime is a process which takes its course within the societal development. Criminal organizations are in a constant state of assembly and disassembly. According to the respective state of the societal process, there are early as well as terminal stages of criminal organizations. Organized crime is a learning process in which not only criminal groups participate, but which also extends into society and especially into the criminal justice system. The ten criteria are group characteristics which are realized with changing patterns according to the different and manifold activities of organized crime, e.g. drug trafficking, organized prostitution, or illegal waste disposal.

The following ten aspects[6] are characteristic of organized crime:

— It satisfies the demand in part of the public for illegal goods and/or services, which are prohibited by laws, which in turn are not accepted by certain parts of the population[7]. That is why there is a demand in parts of the public for those goods and services offered by organized crime. The crime industry is embedded in the requirement structure of the respective society which in turn is defined by its economic, social, and legal structure.
— It conducts its criminal activities in the fields of the lowest risk of punishment and arrest, the lowest initial effort and financial input, and the highest possible gain in the shortest possible time[8]. Victims are carefully chosen in order to minimize the risk. The risk of being discovered and tried is kept down by choosing crimes in which there is no direct victim involved (e.g. drug trafficking) or in which the victim usually does not report the crime to the police (e.g. illegal gambling, organized prostitution, usury, pornography dealing), in which the terrified victims do not report the crime for fear of retaliation (e.g. racketeering, payment in return for "protection") or in which the victim is impersonal and anonymous (e.g. organized insurance swindling through systematic arson), so that the criminal activity causes less fear and terror in the public and the ensuing damage can be passed on to an anonymous mass of people (e.g. insurance companies raise the insurance premiums).
— Organized criminality is core criminality, around which more criminality develops[9]. In this way, organized crime is surrounded by accompanying criminality. In order to

safeguard its criminal conduct, some of its own people are hurt or even murdered in the case that they cease to obey orders or become known to the police, in the case that they become too powerful or too weak, or if they develop emotional or mental instability. Furthermore, organized crime causes acquisition criminality: crimes against property (money or valuable goods) committed in order to pay for the expensive services or goods offered by organized crime. Finally, it entails follow-up criminality. This category comprises for instance crimes caused by addicts under the influence of narcotics. Usually, these are road traffic offences, damage to property, bodily harm, sexual offences, and arson.

— The criminal group has formed in order to perform illegal services and the distribution of illegal goods. It constitutes a society based on common interests, which is interdependent and has joined up for mutual profit and mutual help. It strives to gain economic profit, power and status, and is held together by a group feeling, through violent threats, and in extreme cases through the application of violence. The group is more than an amalgamation of individual members. It has own group interests. It has formed on a long-term basis and pursues its aims over a time period exceeding the life spans of individual members and outlasting changes in the top[10]. It is a group of professional criminals: people who make their living out of their criminal occupation, who master criminal, often skilled, techniques, who have distinct criminal careers behind them, and who have developed criminal self images and value notions, and also the ability to avoid the discovery of their offences and thus are beyond the reach of agencies of formal social control, e.g. criminal investigation departments of the police.

— Within each criminal group, strategic and tactical planning and task sharing prevails[11]. Every member has taken over a special role (division of labor), has specialized in a planning or execution task. The criminal act is performed jointly, e.g. in bank notes forgery and distribution by the initiator and planner, the provider of the finance, the photographer, the printer, and those who handle the distribution.

— The criminal groups follow subcultural norms, a sort of "unwritten law[12]." They follow the "honour of thieves." Each member owes the syndicate unconditional loyalty. No member is allowed in any circumstance to contact the police or other institutions or even ask for the authorities for protection or counselling. No member must draw the attention of the public or the authorities. Social visibility of organized crime is restricted, so that actions and actors can operate in the social dark zone unobtrusively and undiscovered.

— Although violence is the *ultima ratio* to keep up criminal group norms, in most cases it is first attempted to only threaten to use violence in order to keep social visibility down. All the same, the application of violence or the explicit or mostly unspoken threat of its use are essential components of the criminal group[13]. Violence or the threat to use it are applied as means of control and protection of the group against those members who neglect their duties and also against outsiders in order to protect the group and expand its power. Violence can be used as direct control mechanism, e.g. to silence a potential witness, or as an indirect control mechanism: A member is exemplarily punished for an infringement of group norms, and other group members are deterred from doing the same.

— A densely meshed net of illegal and legal activities is what organized crime wants to achieve; activities in the legal sector serve as a "second pillar" to camouflage illegal dealings and to take advantage of an economical "grey zone.[14]" Since police

and customs frequently blow operations, all possible efforts are made to launder illegally earned money in legal financial institutions. In order to invest the gained money as profitably as possible in legal businesses, it aims at gaining control over as many profitably legal enterprises as possible.

— Aides, protectors, and supporters inside the police, justice, politics, and the economy form a buffer around the criminal group[15]. Without this, organized crime would not be able to exist. They utilize the influence and respect which is part of their social and professional position to protect members of the group from effective criminal prosecution. Police officers supply the group e.g. with information about planned law enforcement measures. Attorneys intimidate witnesses of the prosecution so that they alter their previous statements. Supporters from industry launder illegal profits in financial institutions, casinos, and legal business dealings. They hide gains of this type in their legal bank accounts. Public figures are systematically coaxed, intimidated, or bribed by organized crime. The whole range of constitutional and liberal regulations is made use of in order to undermine the constitutional state. A variety of data protection regulations comes in handy.

— Organized crime is internationally oriented and supraregionally active with great mobility[16]. It utilizes modern means of transportation and communication: data processing, radio communication, aviation. It applies its crime technology flexibly; it makes full use of the economic and social infrastructure. All means of communication, namely telephone, telegraph, telex and radio are employed with great virtuosity. Today, it causes no great problem for the organized criminal to cover large distances with ease. State frontiers can easily be crossed by using modern forms of tourism which impede efficient border controls. Law enforcement agencies are forced to stop at their own country's borders in spite of formidable international cooperation.

II. Research of Organized Crime

If a group of organized professional criminals is determined to keep its criminal plannings and acts and also the inner structure of their group a secret at all costs, even that of murder or other acts of criminal violence, it is almost impossible to research organized crime on an empirical basis. At any rate, it would be wrong to claim that criminology is simply the application of sociological methods to offenders. The empirical criminological researcher has to adapt his/her methods to the societal conditions of his/her subject of research, to choose those methods which he/she can realize, and to gather that information which is available to him/her. Opinions vary greatly about the assumption that empirical research of organized crime bears the danger for life and liberty of the researcher. There is one opinion which claims that empirical research of organized crime is not dangerous at all[17]. Either way, criminal organizations are not easily penetrated from outside, and in any case, the never ending romantic myth of organized crime in society, which is carried by the mass media, influences the empirical criminological research of this phenomenon.

Empirical findings of organized crime up to now rest upon the following methods and materials: public or non-public hearings of parliamentary committees or expert commissions, protocols of telephone wiretapping and the installation of electronic surveillance, upon biographies of former high ranking ringleaders, government reports, participant and non-participant observation, upon interviews with informants who were members of criminal organizations, interviews with police officers in charge of investigations against organized crime, documents seized in police raids, and upon historical

documents from archives. With all these methods and materials there is the danger that they are applied and interpreted with their social desirability in mind. *Donald R. Cressey*[18] based his findings of organized crime upon information he had obtained from police officers combatting organized crime in special squads in the USA. *Hans Joachim Schneider*[19] participated in observations of the New York special unit of the police against organized crime and analysed files of this special squad on leading ringleaders in the USA and their connections with politicians and industrial tycoons. *Anton Blok*[20] had lived in the west Sicilian village Genuardo in order to be able to understand the Mafia as a "structured process" which has been in progress in this village community over the last one hundred years and still is. He tried to clarify the social relations within that village with the help of interviews. On the basis of archived documents he traced back these relations over a hundred years. *John A. Mack* and *Hans-Jürgen Kerner*[21] interviewed police officers who were entrusted with investigations against organized crime. In addition, they asked law enforcement agencies in Europe for written statements. Illegal bookmaking, the professional arrangement of race betting, numbers running, and loansharking were empiricaly researched by *Peter Reuter*[22] in New York City between 1965 and 1977. He interviewed four informants over two to three years on a regular basis. These were no leading figures in organized crime, but all had close personal links with such figures. In addition, he analysed documents which were seized in police raids and asked law enforcement officers and state attorneys for comments. Using the method of participant observation, *Patricia A. Adler*[23] attempted to monitor a drug dealing and smuggling ring in the southwest of the United States. She established a friendship with members of the subculture, won their confidence, and adopted a "peripheral member's status" during her daily participant observation. *Henner Hess*[24] researched the Sicilian Mafia by studying archived police reports and trial documents from the time between 1880 and 1890 in Sicilian archives. *Erich Rebscher* and *Werner Vahlenkamp*[25] interviewed experts on organized crime throughout the Federal Republic between November 1985 and June 1986. They asked 66 criminal investigations officers in the federal states and in the Federal Bureau of Criminal Investigations (Bundeskriminalamt) in charge of investigating organized crime for their opinions.

Making use of the method of participant observation, *Francis A.J. Ianni* and *Elizabeth Reuss-Ianni*[26] studied a syndicate, a criminal family, in New York City over four years. *Ianni*, who is of Italian extraction, happened to meet a member of a criminal family of Italian origin. Not before they had become relatively close friends did *Ianni* learn that he had befriended an organized professional criminal. *Ianni* decided to draw up a study about the organization of the criminal family employing the method of participant observation. He let his friend in on his secret, who then introduced him to his family and who advised *Ianni* to entrust each member of the family only with as much about his research as was absolutely necessary. Since *Ianni* was primarily interested in the inner structure and the dynamics of the family and only secondarily in their criminal activities, and since he also guaranteed his friend unconditional discretion and anonymity, he was able to conduct his research project without endangering himself unnecessarily. Obviously, the success of his research depended wholly upon the trust between the two friends. Although *Ianni* was no part of the family, he was one of their intimate friends. He could interview individual family members and their friends. He regarded the reliability and validity of his findings as guaranteed because he had directly observed the family over a long period of time and because he had interviewed several family members and their friends

about the same procedures.

All these empirical research projects rendered two fundamentally differing basic opinions. While hearings of parliamentary committees and expert commissions and also official governmental documentations in the USA brought about the opinion that there is a formal, hierarchically structured criminal organization in the United States (Cosa Nostra), a number of individual criminological researchers increasingly opine[27] that organized crime is only a loosely knit system of supporters and clients, a network of flexible connections, partnerships and acquaintanceships. *Peter Reuter*[28] has nevertheless discovered in the course of his empirical research that there are, in addition to numerous semi- and disorganized groups, centralized, high ranking groups in the region of New York, who have taken over the monopoly of dispute settlement. These two basic opinions are attributable to the different degree of influenceability of empirical researchers by media coverage of organized crime, but also to the state of research of the various tiers of organized crime. On higher, more central levels a rational, planned, and formal organization is required, whereas the basis might well consist of disorganized groups. It appears plausible that only group members—"insiders"—are able to report on the central, formal criminal organizations in hearings of parliamentary committees or expert commissions, whereas individual criminologists and criminal police practitioners, who are able to monitor organized crime only from outside, are more concerned with empirically researching the rank and file. In Western Europe, at least, there is the possibility that—with the exception of the Sicilian Mafia and the Neapolitan Camorra—no formally structured central criminal organization has yet formed. *Patricia A. Adler*[29] vividly and convincingly described the lifestyle of a drug dealing and smuggling organization, which she had observed. The members of this gang lived their lives in the fast lane, a blend of work and pleasure, full of travel, money spending, and parties. Hedonistic, lust oriented, euphoric, and irrational, they lived completely in the here and now. They attempted to escape the unpleasant duties of adult life and did not keep appointments. Being gamblers, they enjoyed the risk of drug trafficking and smuggling. Sexual promiscuity prevailed among them. Life was a gas to such an extent that nobody wasted a thought about paying the bills, whether there were enough narcotics to take them through the following day, or how the future should be planned. All this indicates that this dealing and distribution ring, monitored *by Patricia A. Adler,* can only be one operating on the consumer level. It does not appear plausible that the gigantic drugs market in the United States can be supplied with countless lust oriented groups of this type. The vast quantities of narcotics that are consumed in the United States and that are transported over great distances and past numerous obstacles require planned, reliable liaisons and rational investments; otherwise the drugs market would collapse in a matter of days.

III. Activities of Organized Crime

Organized Crime is engaged in a host of criminal activities[30], which are oriented flexibly to the illegal requirements in the societal process and can only be illustrated with a few examples as follows:

Theft of objects of art from churches and museums have markedly increased over the last few years, especially in Russia and Poland[31]. The cause for this can be found in the fact that wealthy Western European, North American, and Japanese members of the public are bent on owning genuine pieces of art to make their social status visible and to have sound investments. Since the stolen objects hardly ever reappear in the country in which they were stolen, an international criminal organization must have committed

the thefts. Organized crime is also involved in illegal excavations and in the illegal trade of cultural assets, and also of hunting trophies of near-extinct rare animals.

New markets for stolen motor vehicles have sprung up in Poland and Russia after the opening of the eastern borders of the Federal Republic of Germany[32]. Polish offender groups have opened acquisition organizations and marketing channels with German participation. Professional criminals who are equipped with special towing trucks supply the required and ordered vehicles, which then are altered by car specialists using spare parts from scrap yards. Forms and stamps for the production of false car documents are stolen by professional thieves. Professional forgers produce the documents. For the transport a whole network of couriers is used. In the countries of destination the stolen vehicles—mainly top model Mercedes, BMW, and Audi cars—are sold through a network of second hand dealers. Crime centres are Berlin and Hamburg. The cars are transported by road across the east German states, or by sea via Scandinavia, or else by rail via German goods depots[33].

Heroin still poses the greatest threat to Europe in organized drug trafficking. 75% of all drug casualties died from heroin consumption. The drug is smuggled into Europe from the countries of the "Golden Crescent" (Afghanistan, Pakistan, India) and the "Golden Triangle" (Thailand, Laos, Burma) by air via African countries or by road via Turkey and the Balcan route. Cocaine has gained growing importance during the eighties. This is because the US drug market is saturated and the US authorities employ tough measures to combat drug trafficking. Still higher profits are possible in Europe. Europe's centre for the smuggling of cannabis, heroin, and cocaine are the Netherlands. The heroin trade is in the hands of Turks, the cocaine trade is controlled by Columbians. Spain and Portugal play a major role as countries through which a high proportion of cocaine of South American origin passes. Important in this context is the almost uncontrollable transatlantic cargo container system. However, cocaine is also smuggled via air mail. Three or four hundred sea miles off Portugal's coastal waters the drugs are reloaded from freighters onto fish trawlers and then brought ashore—unnoticed because of the sheer number of fishing vessels[34]. In addition, the Columbian cocaine cartels have expanded their contacts with the Italian mafia and also penetrated the Japanese market[35].

In the USA, organized gangs have a major stake in the illegal disposal of dangerous waste[36]. In Europe, too, apprehensions are growing that organized crime might take over the toxic waste disposal industry[37]. At the end of the seventies, the state introduced minimum requirements and regulations in the disposal of toxic waste. Refuse containing poisons, explosive, self igniting, or even radioactive substances must not be dumped outside a licensed rubbish tip and then only under compliance with strict regulations. In consequence of these strict state disposal laws, the disposal of toxic waste became too expensive for certain American branches of industry. Since the state does not control its own regulations efficiently, illegal disposal companies are put in charge of the waste disposal. Politicians on the communal level are bribed. The "midnight rubbish men" tip the toxic waste into rivers, onto farmland, into forests, and into the sewerage. They poison the environment and endanger public health. Illegal transport companies and illegal refuse tips are owned—directly or indirectly—by organized criminals.

Large scale insurance swindle through organized arson has become another activity of organized crime in the USA[38]. Since mainly deserted buildings in urban slums are concerned, there is the possibility that this activity of organized crime spills over to Europe with its decaying building structures in e.g. central German conurbations, especially in the new federal states of East

Germany. In Boston, where more than a dozen arson syndicates are active, one arson ring with 32 members—among them real estate agents, insurance brokers, bank clerks, leading fire brigade employees—was tried and sentenced. It had concentrated its arson in urban districts with poor inhabitants from minorities. Banks deny people from these quarters loans. House owners allow their buildings to decay; many occupants leave their houses. Small shop keepers are forced to close their shops. Among people with small or middle incomes a lack of housing makes itself felt. Many owners cannot pay off their mortgages. The banks take over the derelict buildings. Organized criminals buy them off the banks; they pay the purchace price by taking out a mortgage from the same bank over almost the total purchase sum of the house. In this way, they buy a number of houses without investing much capital resources themselves. They take out more mortgages, so that their total value far exceeds the value of the building. The houses are over-insured on the strength of the mortgages. Finally, they put organized arsonists in charge of burning down the over-mortgaged and over-insured buildings. This arson not only causes considerable damage to objects; in Boston alone in 1981/2, more than 60 people were killed, mostly children and old people who were not able to escape the flames.

IV. Two Examples of Criminal Organizations

1. The Medellin and Cali Syndicates

In the years 1989 and 1990, at least 70% of the internationally traded cocaine came from Columbian refineries[39]. Four hundred to 700 tonnes of refined cocaine are smuggled out of Columbia each year. Seventy to 80% of all Columbian cocaine is produced by the Medellin and Cali syndicates, who have between US$10 and US$20 billion in foreign bank accounts. The Medellin syndicate consists of about 200 groups. It is relatively decentralized and amorphous; it is no bureaucracy in the *Max Weber* sense; it is rather a confederation. The cocaine paste is brought from Peru and Bolivia to Columbia; here, it is refined and afterwards shipped to North America, Europe, and Japan, where the cartels have all-embracing networks of wholesale and retail sellers. They employ a vast number of specialized staff; buyers of cocaine paste, chemists, pilots, wholesale dealers, money launderers, bodyguards, and professional killers. More than 4,000 murders in Columbia alone are attributable to the cartels. Hundreds of police and about 50 judges were killed over the last few years. The cartels own the enforcement instruments: private armies equipped with modern weapons, mercenaries, highly specialized professional killers. The cocaine dealers have penetrated the Columbian power structure on all levels. Corrupt civil servants from key ministries inform them about anti-drugs-campaigns and about relevant initiatives. The cartels supply the major political parties with money and they finance their election campaigns. 40% of all members of the Columbian Congress received contributions for their election campaigns from the cartels. Cocaine dealers build houses for the poor in Medellin and have the sewerage repaired. Schools, hospitals, and sports arenas were built in Columbia with their money. While the Medellin cartel was entangled in violent conflicts with the Columbian state, the Cali cartel has created a new distribution network in Western Europe and Japan. The Columbian criminal justice system is aged and cannot offer organized crime any resistance. Judges are poorly educated, underpaid, and are not adequately protected by the state. Only 1% of those accused of drug related offences are sentenced.

2. The Construction Industry in New York City

In 1990, the governor of the state New York, *Mario M. Cuomo*, received a compre-

hensive report[40] about the activities of organized crime in the New York construction industry by an expert commission, the "New York State Organized Crime Task Force." The New York construction industry is especially susceptible to blackmail. This is because the work of many involved workers in one building project: workers, electricians, carpenters, plumbers, bricklayers, heating contractors, needs to be coordinated in the construction schedule. Each construction phase is based upon the successful completion of the previous phase. Delays cause massive costs. Construction conditions in New York City are extremely complicated due to the difficult traffic situation and the requirements of high rise construction. On top of this comes the fact that building projects here, worth millions, sometimes billions of US-Dollars, offer considerable profits. Numerous trade unions, building contractors, and supply firms are dominated or influenced by organized crime. Since each construction contract in every construction phase is controlled by separate unions, organized crime is able to force the construction industry into paying for work which has never been performed, simply by threatening to delay or stop construction. Materials are invoiced which have never been delivered. The threat to hold up the construction progress or to stop it altogether even leads up to the situation that contractors pay massive sums to organized criminals out of their own free will in order to have a smooth and rapid construction process guaranteed. Cosa Nostra members, who never worked on a construction site, are on the contractors' payrolls. Organized crime is connected with politics; frequently, it pays for election campaigns. Public construction is susceptible to illegal agreements of the "competing" contractors about the cost estimates. This is because municipal and state clients are legally bound to invite offers from competing contractors. It is easy enough for these companies to determine through illegal agreements who will win the contract. Furthermore, companies may gain an advantage over competitors in that they receive information about the situation with regard to lucrative construction projects from bribed municipal or state officials. They then can quote their best price. The construction authorities in New York City are especially susceptible to corruption. These authorities are involved in every stage of the construction process. Officials can seriously delay the construction process through official supervision measures and thus push up the costs. An undercover researcher, who pretended to be a New York City construction official, was offered to be bribed 76 times in one year without asking for it once.

V. Patterns of Organized Crime in the Federal Republic of Germany

In the years 1985/86 the Bundeskriminalamt (Federal Bureau of Criminal Investigations) in Wiesbaden/Germany ordered an expertise from 66 crime investigators[41] involved in combatting organized crime. This survey of the organized crime situation in the Federal Republic of Germany yielded, among others, the following results: In the seventies and eighties, flexible and dynamic offender organizations (dynamically functioning structures) have emerged in the Federal Republic, especially in densely populated parts of the country. These are characterized by a loose, fluctuating structure and supplemented with autonomous, foreign groups with a more or less fixed hierarchical structure, which are based abroad and have penetrated the Federal Republic. These criminal "conglomerates" are carried by their solidarity of interests and are chiefly held together by their common aims and gains. They are led in a loose manner by dominating key figures who are advised by counsellors, and who choose specialists from a "pool of offenders"—a reservoir of active criminals—to conduct planned operations. These offenders with special criminal "know-how" are then assigned to

flexible groups with ever changing compositions according to the nature of the respective crime. Sandwiched between planning, execution, and counselling levels are communication and buffer tiers. Economic strength and useful "connections" are the power basis of the ringleaders.

Economic aspects and safety interests dictate the selection of crimes and victims. Preferred are offences which promise very high gains over a short period of time and with very little effort. The risk of being discovered and tried is kept down by choosing crimes in which there is no direct victim involved (e.g. drug trafficking) or in which the victim usually does not report the crime to the police (e.g. illegal gambling, corporate crime). Planning meetings of the leaders are usually held in places where police observation or electronic surveillance is almost impossible, e.g. in airport transit areas, at public events or out in the open on park benches, forest paths, or on dikes. In order to make telephone tapping impossible, a special language is used over the phone. Leaders can only be contacted through middle men or restaurants; telephone numbers are constantly changed, also public or car telephones are used. "Colleagues" are recruited in a selection process by which the potential accomplice is made dependent through amenities. Civil servants who in consequence of obviously disadvantageous character traits can easily be influenced (e.g. police officers as potential informants) are made "good friends" through an extremely intricate recruitment process and an ensuing flow of gifts. The police apparatus is put off balance by constant threats, bribery, and systematical slander of individual officers with the aim of crippling its efficiency.

VI. Causes of Organized Crime

Societal, group, offender, and victim causes all contribute to the causation of organized crime. These can be combined in the following causation model:

1. Societal Causes

Organized crime develops in a societal interaction process characterized by social disorganization (destruction of interhuman relations) and the weakness of the federal, state or municipal administration system (inefficiency of the criminal justice system, systematic use of private force)[42]. The reason for this social disorganization and the impotence of the legal power system may be the fact that the economic and societal development has got out of control due to its rapidity and to too many disturbance factors (heterogeneity of the society). Federal, state, and municipal authorities cannot sufficiently enforce the law any longer. Legal control becomes subject to power abuse. The legal power system might, however, cripple itself by straining its own control mechanisms (prohibition), which in consequence become blunt as enforcement instruments. Organized crime spreads fastest in societies with a disproportional regard for material values in contrast with too little emphasis on the legality of acquiring material goods and with a multitude of opportunities to accumulate illegitimate wealth[43]. The mass media mystify and glorify organized crime; its central figures are worshipped like heroes, negative heroes though they may be[44].

2. Group Causes

Due to structural deficiencies within society subcultures emerge (gang formation) which tolerate or even demand criminal value notions, ideals, and behavioural patterns. In due time alternative criminal structures, subcultural systems emerge. In this respect, those territories and cities with a tradition of illegal behaviour (Palermo, Chicago, New York, Medellin) are especially predisposed. Three differing opinions prevail about the organization of the subcultural systems:

— Opinion one[45] favours a bureaucratic, corporate model. Organized crime is a centralized, secret, monolithic social system,

a living social organism with a strict, bureaucratic composition. It has a hierarchical structure with authoritarian leadership; its emergence happens rationally planned and structured.

— Opinion two[46] holds that organized crime consists of several self contained criminal groups. About the pattern of these groups there are again several opinions and experiences: One opinion claims that organized crime is an informal network of connections between patron and client; within these networks "connections" are the dominating factors[47]. Another opinion prefers the model of a tightly connected, socially and economically integrated family. The criminal groups are families of southern Italian tradition, who not only have family bonds, but also form business entities, ignore the law, and participate in criminal activities[48]. According to yet another opinion, organized crime is built up from loose conglomerates of business people, politicians, union leaders, and policemen in order to coordinate the production and distribution of illegal goods and services, for which there is considerable demand[49]. One differing opinion claims that organized crime is an underworld professional community. There is a difference between those professional criminals who act directly and those professional criminals in the background who offer the former a host of services in exchange for a share of the criminal haul. Organized criminals are background entrepreneurs who make the risk of exposure to the police calculable. Law breakers require counsels, protectors, planners, who make their crimes easier[50].

— The third and final opinion favours an enterprise model. It assumes a spectrum of legality in business: At the one end of the spectrum there are legal enterprises, at the other end there are illegal enterprises. Organized criminals are criminal entrepreneurs. Organized crime is then—according to its nature—an extension and broadening of legitimate business principles into the field of illegality[51].

3. Offender and Victim Causes

Apart from society and group related causes, we find offender related causes (organized criminal career) in the causation model of organized crime. From the days of early adolescence the future organized criminal learns the criminal activities, attitudes, and value notions of organized crime in the subculture system of criminal groups. With subcultural support (group support) he/she at first successfully performs minor tasks. Social ties with socially conforming society and its groups (e.g. family, school) wear thin. He/she creates a dependent clientele, dependent upon him/her which is prepared to use force on the criminals behalf. Furthermore, the criminal creates a network of contacts with representatives of institutionalized, legal power. In the course of his/her criminal profession, confrontations with the criminal justice system are inevitable. Investigations are conducted, and the criminal is put to trial. However, he/she turns out to be the stronger party; the criminal justice system is unable to punish the criminal for breaking the law. An acquittal due to lack of evidence is ample proof that the defendant has friends in high places as well as on ability to have witnesses withhold information[52]. The criminal then regards him/herself as an organized criminal (criminal out of conviction) and is regarded by others as an organized criminal who demands "respect and fear."

Finally, the causation model of organized crime contains victim related aspects. As a product of disorganized society, of disintegrating groups (e.g. families, partnerships), desire for illegal goods and services emerges. The organized criminal makes use of this victimogenous situation. The victim collaborates—with or without intent—in the crime by failing to report the crime to the police in consequence of self interest or else his/her being threatened; the victim renounces to

ask the state enforcement apparatus for help because he/she has no trust in it. Frequently, the victim is fascinated by organized crime and admires the negative heroes, and this admiration stunts the victim's resistance.

VII. Penal Sanctions against Organized Crime and Their Application in the USA

It has proved inefficient in the USA to try and sentence ringleaders of organized crime as a means of controlling organized crime. This is because the economic infrastructure of organized crime remained intact. Organized criminals are not resociable in correctional custody because they are offenders out of conviction. The criminal organizations carry on with new ringleaders. Because of these failures, offender oriented investigation and control strategies were given up. Now, in investigation the authorities focus on the criminal organization and the identification of its economic infrastructure. Two goals are at the centre of attention:

— Crushing the criminal organization and its entanglement with legal business;
— Judicial separation of the key figures of organized crime from their economic infrastructure.

As a means of reaching these two goals, the law is employed: The 1970 "Racketeer Influenced and Corrupt Organizations Statute" (RICO) has been fully used since 1982 and has been successful since the late eighties[53]. In a single trial, all direct and indirect criminal activities of a criminal organization as well as the support from counsellors and supporters are tried and sentenced. Under the RICO statute there are two preconditions for a sentencing:

— A criminal enterprise, a criminal organization has to be identified;
— In connection with this criminal organization, two criminal acts have to have been committed. The first of these two has to have been committed after 1970. The second one has to be committed at least ten years after the first one.

Examples of criminal acts under the RICO statute are kidnapping, numbers running, arson, robbery, bribery, blackmail, pornography or drugs dealing, production of counterfeit money. If both requirements of the RICO statute are met, all identified members of the criminal organization and also their aides and protectors can be sentenced.

If both requirements are met, the following three sanctions may be employed as reactions:

— Restitution of three times the damage done to the victims of the criminal organization;
— Forfeiture of the entire remainder of the racketeering proceeds of the criminal organization and its members;
— Prison sentences of up to 25 years for organized criminals.

Even before the actual trial, "restraining orders" under criminal or civil law may be put into force, so that the criminal organization can be prevented from transferring the money beforehand.

During the trial against organized criminals, judges, prosecutors, and witnesses are in acute danger. For that reason, witness protection programmes have been developed which offer witnesses protection by relocating them to secret places and allocating them new identities. Subterranian bunkers have to be constructed—if required—for judges, prosecutors, and their families.

Under the 1986 "Money Laundering Control Act," money laundering can be punished with a fine of up to US$500,000 or double the amount of the laundered money, and also with a prison sentence of up to 20 years. The laundered sum can be blocked, frozen, or ceized.

VIII. Future Development of Organized Crime in the Federal Republic of Germany

In the years 1989/90, the Bundeskriminalamt (Federal Bureau of Criminal Investigations) conducted a second survey among experts[54]. This time, 26 scholars and leading police practitioners were interviewed on the subject of future developments of organized crime on the background of the European unification. The survey rendered the following results: The share of organized crime of all criminality will go up from 19% in 1988 to roughly 37% in the year 2000. The structurally loose and flexible connections between criminals will tighten and solidify. Offender mobility throughout Europe will rise dramatically with the abolition of border controls within Europe. Especially in the early stages of the European unified market organized crime will spread. Problem consciousness and the feeling of being threatened is still underdeveloped in the public opinion. Mass media do not truthfully or analytically report about organized crime; they rather treat the subject like some mystic, exotic phenomenon from the sphere of unreality. The wrongly accepted attitude "crook kills crook, which is just as well" still prevails in politics and in public opinion. Mass immigration of resettlers and people seeking asylum will result in an unhealthy development of the social structure, especially in conurbations (emergence of slums and ghettos). Growing economic and political inconsideration and scandals contribute to social disorganization, too, and facilitate the penetration of the economy, politics, the mass media, the criminal justice system, and science by organized crime.

Notes

1. President's Commission 1986.
2. President's Commission 1986, p. 25.
3. President's Commission 1986, p. 29.
4. President's Commission 1986, pp. 31–32.
5. Frank E. Hagan 1990, p. 472; confer (cf.) also Andrzej Marek 1992, pp. 21–36.
6. Howard Abadinsky 1990, pp. 4–8.
7. Jay S. Albanese 1991, p. 202.
8. J.G. Kozlov 1989, pp. 63–71.
9. Hans Joachim Schneider 1983, p. 372; H.J. Schneider 1984, pp. 176–177.
10. Jay Albanese 1989, pp. 4–6.
11. Hans-Dieter Schwind 1992, p. 375.
12. Hugh D. Barlow 1987, pp. 292–294.
13. Horst Krafczyk 1986, pp. 152–155.
14. Francis A.J. Ianni/Elizabeth Reuss-Ianni 1983, pp. 1096, 1104–1105; Denny F. Pace/Jimmie C. Styles 1983, p. 14.
15. George B. Vold/Thomas J. Bernard 1986, pp. 325–326; Duncan Chappell 1986, p. 286; D. Stanley Eitzen/Doug A. Timmer 1985, pp. 276–277.
16. Hans-Dieter Schwind 1987, p. 18.
17. Joseph L. Albini 1988, pp. 338–354, especially (esp.) p. 341.
18. Donald R. Cressey 1969, 1972.
19. Hans Joachim Schneider 1973.
20. Anton Blok 1974.
21. John A. Mack 1975; Hans-Jürgen Kerner 1973.
22. Peter Reuter 1983.
23. Patricia A. Adler 1985.
24. Henner Hess 1986.
25. Erich Rebscher/Werner Vahlenkamp 1988.
26. Francis A.J. Ianni/Elizabeth Reuss-Ianni 1972.
27. Ianni (see annotation (ann.) 26); Mack, Kerner (see ann. 21); Reuter (see ann. 22); Adler (see ann. 23); Hess (see ann. 24); Rebscher and Vahlenkamp (see ann. 25).
28. Reuter (see ann. 22), pp. 151–173.
29. P.A. Adler (see ann. 23), pp. 83–98.
30. Cf. in a general sense Abadinsky 1990 (see ann. 6), pp. 267–347; Piers Beirne/James Messerschmidt 1991, pp. 218–230.
31. Andrzej E. Marek 1986, p. 162; S.V. Djakov 1989, p. 18; Wieslaw Plywascewski 1992, pp. 88–94.
32. Stefan Rokicki 1992, pp. 169–172.
33. Dieter Küster 1991, p. 58.
34. Hagen Saberschinsky 1991, p. 186.
35. National Police Agency, Government of Japan 1992, p. 24, p. 31.
36. Alan A. Block 1991, pp. 79–115; Frank R. Scarpitti/Alan A. Block 1987, pp. 115–128.
37. Wojciech Radecki 1992, pp. 95–102.
38. James Brady 1983, pp. 1–27.

39. Rensselaer W. Lee 1991, pp. 3–39.
40. New York State Organized Crime Task Force 1990; James Jacobs 1991, pp. 49–54.
41. Erich Rebscher/Werner Vahlenkamp 1988.
42. John Landesco 1929; Anton Blok 1974.
43. Abadinsky 1990 (see ann. 6), pp. 46–47.
44. Paul Kooistra 1989.
45. Donald R. Cressey 1969, 1972.
46. Frank Costigan 1984, pp. 7–19; Menachem Amir 1986, pp. 173–191; Hiroaki Iwai 1986, pp. 208–233.
47 Joseph L. Albini 1971, 1981, 1988.
48. Francis A.J. Ianni/Elizabeth Reuss-Ianni 1972.
49. William J. Chambliss 1988, p. 151.
50. Mary McIntosh 1975; John A. Mack 1975; Hans-Jürgen Kerner 1973.
51. Dwight C. Smith 1975, 1978, 1980; Pino Arlacchi 1989; Patricia D. Adler 1985; Peter Reuter 1983.
52. Henner Hess 1986, pp. 53–63.
53. Rudolph W. Giuliani 1987, pp. 103–130; Abadinsky 1990 (see ann. 6), pp. 422–428.
54. Uwe Dörmann/Karl-Friedrich Koch/Hedwig Risch/Werner Vahlenkamp 1988.

References

Abadinsky, Howard: Organized Crime. 3rd edition (ed.), Chicago 1990.

Adler, Patricia A.: Wheeling and Dealing. An Ethnography of an Upper Level Drug Dealing and Smuggling Community. New York 1985.

Albanese, Jay: Organized Crime in America. 2nd ed. Cincinnati/OH 1989.

Albanese, Jay S.: Organized Crime: The Mafia Mystique. Joseph F. Sheley (editor) (ed.): Criminology. Belmont/CA 1991, pp. 201–217.

Albini, Joseph L.: The American Mafia. New York 1971.

Albini, Joseph L.: Reactions to the Questioning of the Mafia Myth. Israel L. Barak-Glantz/C. Ronald Huff (eds.): The Mad, the Bad, and the Different. Lexington/Mass., Toronto 1981, pp. 125–134.

Albini, Joseph L.: Donald Cressey's Contributions to the Study of Organized Crime: An Evaluation. Crime and Delinquency 34 (1988), pp. 338–354.

Amir, Menachem: Organized Crime and Organized Criminality among Georgian Jews in Israel. Robert J. Kelly (ed.): Organized Crime. A Global Perspective. Totowa/NJ 1986, pp. 173–191.

Arlacchi, Pino: Mafiose Ethik und der Geist des Kapitalismus. Frankfurt/M. 1989.

Barlow, Hugh D.: Introduction to Criminology. 4th ed. Boston, Toronto 1987.

Beirne, Piers/James Messerschmidt: Criminology. San Diego, New York, Chicago 1991.

Block, Alan A.: Perspectives on Organizing Crime. Dordrecht, Boston, London 1991.

Blok, Anton: The Mafia of a Sicilian Village 1860–1960. A Study of Violent Peasant Entrepreneurs. Oxford 1974.

Brady, James: Arson, Urban Economy, and Organized Crime: The Case of Boston. Social Problems 31 (1983), pp. 1–27.

Chambliss, William J.: On the Take. 2nd ed. Bloomington, London 1988.

Chappell, Duncan: From the Rum Rebellion to Nugan Hand: Perspectives on "Australian Roguery" and Organized Crime. Duncan Chappell/Paul Wilson (eds.): The Australian Criminal Justice System: The Mid 1980s. Sydney, Brisbane, Melbourne, Adelaide 1986, pp. 274–293.

Costigan, Frank: Organized Crime and a Free Society. Australian and New Zealand Journal of Criminology 17 (1984), pp. 7–19.

Cressey, Donald R.: Theft of the Nation. The Structure and Operations of Organized Crime in America. New York, Evanston, London 1969.

Cressey, Donald R.: Criminal Organization: Its Elementary Form. London 1972.

Djakov, S.V.: What is Organized Crime? (in Russian). A.I. Dolgova/S.V. Djakov: Organized Crime. Moscow 1989, pp. 16–20.

Dörmann, Uwe/Karl-Friedrich Koch/Hedwig Risch/Werner Vahlenkamp: Organisierte Kriminalität—wie groß ist die Gefahr? Wiesbaden 1988.

Eitzen, D. Stanley/Doug A. Timmer: Criminology: Crime and Criminal Justice. New York, Brisbane, Toronto, Singapore 1985.

Giuliani, Rudolph W.: Legal Remedies for Attacking Organized Crime. Herbert Edelhertz (ed.): Major Issues in Organized Crime Control. Washington, D.C. 1987, pp. 103–130.

Hagan, Frank E.: Introduction to Criminology. 2nd ed., Chicago 1990.

Hess, Henner: Mafia. Zentrale Herrschaft und lokale Gegenmacht. 2nd ed. Tübingen 1986.

Ianni, Francis A.J./ELizabeth Reuss-Ianni: A

Family Business. Kinship and Social Control in Organized Crime. London 1972.

Ianni, Francis A.J./Elizabeth Reuss-Ianni: Organized Crime. Sanford H. Kadish (ed.): Encyclopedia of Crime and Justice. Vol. 3. New York, London 1983, pp. 1094–1107.

Iwai, Hiroaki: Organized Crime in Japan. Kelly (ed.): Organized Crime. Totowa/NJ 1986, pp. 208–233.

Jacobs, James: Organized Crime in the New York City Construction Industry. Cyrille Fijnaut/James Jacobs (eds.): Organized Crime and its Containment. Deventer, Boston 1991, pp. 49–54.

Kerner, Hans-Jürgen: Professionelles und organisiertes Verbrechen. Wiesbaden 1973.

Kooistra, Paul: Criminals as Heroes. Bowling Green/OH 1989.

Kozlov, J.G.: What is Organized Crime? (in Russian). A.I. Dolgova/S.V. Djakov (eds.): Organized Crime. Moscow 1989, pp. 63–71.

Krafczyk, Horst: Gewalt im Zusammenhang mit organisierter Kriminalität. Bundeskriminalamt (ed.): Gewalt und Kriminalität. Wiesbaden 1986, pp. 152–155.

Küster, Dieter: Das Lagebild der organisierten Kriminalität in der Bundesrepublik Deutschland, illustriert anhand typischer Ermittlungsverfahren. Bundeskriminalamt (ed.): Organisierte Kriminalität in einem Europa durchlässiger Grenzen. Wiesbaden 1991, pp. 53–66.

Landesco, John: Organized Crime in Chicago. Chicago, London 1929.

Lee, Rensselaer W.: Columbia's Cocaine Syndicates. Crime, Law, and Social Change 16 (1991), pp. 3–39.

Mack, John A.: The Crime Industry. Westmead, Farnborough, Lexington/Mass. 1975.

Marek, Andrzej E.: Organized Crime in Poland. Robert J. Kelly (ed.): Organized Crime. A Global Perspective. Totowa/NJ 1986, pp. 159–171.

Marek, Andrzej: Organized Crime, Basic Patterns of the Problem (in Polish). Andrzej Marek/Wieslaw Plywaszewski (eds.): Criminological und Penal Aspects of Organized Crime. Szczytno 1992, pp. 21–36.

McIntosh, Mary: The Organization of Crime. London, Basingstoke 1975.

National Police Agency, Government of Japan: White Paper on Police 1991. Tokyo 1992.

New York State Organized Crime Task Force: Corruption and Racketeering in the New York City Construction Industry. New York, London 1990.

Pace, Denny F./Jimmie C. Styles: Organized Crime. 2nd ed. Englewood Cliffs/NJ 1983.

Plywascewski, Wieslaw: Organized Smuggling of Works of Art (in Polish). Andrzej Marek/Wieslaw Plywascewski (eds.): Criminological and Penal Aspects of Organized Crime. Szczytno 1992, pp. 88–94.

President's Commission on Organized Crime: The Impact: Organized Crime Today. Washington, D.C. 1986.

Radecki, Wojciech: International Turnover of Waste Product as a Potential Type of Organized Criminality (in Polish). Andrzej E. Marek/Wieslaw Plywascewski (eds.): Criminological and Penal Aspects of Organized Crime. Szczytno 1992, pp. 95–102.

Rebscher, Erich/Werner Vahlenkamp: Organisierte Kriminalität in der Bundesrepublik Deutschland. Wiesbaden 1988.

Reuter, Peter: Disorganized Crime. Cambridge/Mass., London 1983.

Rokicki, Stefan: Police Investigation and Evidential Procedures in Connection with Road Traffic of Cars Stolen Abroad (in Polish). Andrzej E. Marek/Wieslaw Plywaczewski (eds.): Criminological and Penal Aspects of Organized Crime. Szczytno 1992, pp. 169–172.

Saberschinsky, Hagen: Europa (West und Ost) als Absatzmarkt des illegalen Rauschgifthandels. Bundeskriminalamt (ed.): Organisierte Kriminalität in einem Europa durchlässiger Grenzen. Wiesbaden 1991, pp. 179–196.

Scarpitti, Frank R./Alan A. Block: America's Toxic Waste Racket: Dimensions of the Environmental Crisis. Timothy S. Bynum (ed.): Organized Crime in America: Concepts and Controversies. Monsey/NY 1987, pp. 115–128.

Schneider, Hans Joachim: Die Erben der Mafia. Organisiertes Verbrechertum in den USA. Monatsschrift für Kriminologie und Strafrechtsreform 56 (1973), pp. 353–362.

Schneider, Hans Joachim: Organisiertes Verbrechen. Hans Joachim Schneider (ed.): Kriminalität und abweichendes Verhalten. Volume 1, Weinheim, Basel 1983, pp. 367–380.

Schneider, Hans Joachim: Das organisierte

Verbrechen. JURA. Juristische Ausbildung, 1984, pp. 169–183.

Schwind, Hans-Dieter: Definition und Geschichte der organisierten Kriminalität im kurzen Überblick. Hans-Dieter Schwind/Gernot Steinhilper/Edwin Kube (eds.): Organisierte Kriminalität. Heidelberg 1987, pp. 17–21.

Schwind, Hans-Dieter: Kriminologie. 4th ed. Heidelberg 1992.

Smith, Dwight C.: The Mafia Mystique. Lanham, New York, London 1975.

Smith, Dwight C.: Organized Crime and Entrepreneurship. International Journal of Criminology and Penology 6 (1978), pp. 161–177.

Smith, Dwight C.: Paragons, Pariahs, and Pirates: A Spectrum-Based Theory of Enterprise. Crime and Delinquency 26 (1980), pp. 358–386.

Vold, George B./Thomas J. Bernard: Theoretical Criminology. 3rd ed. New York, Oxford 1986.

Urban Planning and Crime Prevention

*by Mitchell J. Rycus**

I. Introduction

The role of the professional urban planner is usually as an advisor to urban policy makers and other political bodies. Planners, as advisors, are frequently in a position to influence practices and procedures for the prevention and control of crime in the urban environment. In a number of reports published by the United Nations and other international criminal justice organizations[1] urban planners are mentioned prominently as a professional group that should be actively involved in crime prevention and control. However, it is usually in the context of architecture and other urban design factors, especially as they would relate to public housing, that the role of the urban (town, city) planner is mentioned.

It should be noted that the planning process, as a method of inquiry, developed by economic and social planners, as well as urban planners, has been suggested as a practical methodology for conducting complex interdisciplinary projects for a number of years. General planning approaches aimed at better understanding and controlling criminal activity were described around 25 years ago[2] for both centralized and market economies. However, this presentation will focus only on the role of the urban planner as a potential agent for the control and prevention of urban crime. Urban crime, sometimes referred to as ordinary crime, does not deal with such crimes as political corruption, international terrorism, most aspects of organized crime, etc.[3]

Urban planners are often the boundary spanners between other city professionals (viz., city engineers, landscape architects, public works department, housing department, transportation department) and community residents. In terms of crime prevention and control practices the at-risk populations for either becoming victims or offenders (or both) are immigrants, the elderly, the young, women of all ages (primarily as victims), and minorities. It is the responsibility of the urban planner to interact with these populations in their communities and neighborhoods. Although urban design and public housing are likely milieus where urban planners can influence crime prevention practices, there are other factors (political, social and economic) that bear on the urban environment where planners also have influence and some control.

What follows is a general overview of where urban planners can be more involved in the crime prevention and control process. Included in this overview is an outline of current urban crime prevention and control methods described and encouraged by the United Nations Vienna, Centre for Social Development and Humanitarian Affairs, Crime Prevention and Criminal Justice Branch (UNV, CSDHA/CPCJB).

II. Methods of Crime Prevention and Control

There are three elements needed to commit a criminal act; 1) opportunity, 2) ability, and 3) motive. Crime prevention methods are primarily directed at preventing someone from becoming a victim by reducing a potential offender's opportunities and

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abilities to commit crime; crime control methods are predominately directed at reducing a potential offender's motivation to commit crime through penal, social, cultural and economic interventions. Non-penal programs would, hopefully, redirect a potential offender's activities to socially acceptable behavior, while penal programs are designed to either punish, rehabilitate and/or detain the offender.

Crime prevention and control methods have been well defined over the past twenty years by social scientists and criminal justice professionals. Measures taken to address crime prevention are sometimes referred to as situational, or direct measures; measures for crime control are sometimes referred to as social, or indirect measures. For the purposes of this presentation, methods will simply be categorized either as crime prevention, or crime control, however, penal methods (correctional institution programs, penal codes, etc.) will be discussed here since urban planners, in general, have very little influence in this field.

In a recent U.N. survey of international crime prevention methods[4] four categories for crime prevention and control programs have been identified; 1) Social measures, 2) Situational measures, 3) Community Crime Prevention, and 4) Planning, Implementation and Evaluation. Planning, Implementation and Evaluation programs are not specifically measures that fall into either category of prevention or control, but are used to judge the effectiveness of prevention and control programs.

In addition to the U.N. report cited above a number of other U.N. documents and surveys as well as some recent books, monographs and articles[5] also catalogue or describe a variety of crime prevention and control methods. What follows is an outline of those measures with examples of current programs already implemented in a number of countries.

A. Crime Prevention Measures

Crime prevention is the more traditional focus of the criminal justice system and concentrates heavily on opportunity reduction techniques. Indeed, most pamphlets, publicity and the like generated by criminal justice agencies are directed at the idea of reducing opportunities for crime, and to influence the offenders' costs and benefits associated with committing a crime. Programs that impact on public transportation systems, parks, public housing, and other public spaces, as well as programs for private businesses and private housing require a variety of techniques in order to make them secure and avoid the appearance of being under siege (creating a fortress mentality). It should also be noted that, many crime prevention programs depend on the cooperation of a variety of public and private agencies, in addition to the criminal justice agencies.

FACILITY/AGENCY	EXAMPLES OF PROGRAMS
Police Agencies	Community Based Policing: neighborhood watch, mini-stations, consulting and counseling, school and preschool lectures.
Public and Private Housing, Public Spaces, Transportation, Private Businesses and Shared Public/Private Spaces	Target Hardening: locks, fences, alarms, design standards, publicity, insurance incentives. Target Removal: graffiti proofing, credit cards. Removing Means to Commit Crime: gun control. Increasing Risk to Offenders: property marking, package searches, surveillance; 1) formal (police and security people), 2) informal (community members in other roles), and 3) natural based on Crime Prevention Through Environmental Design (CPTED). Public Building and Public Space Design and Re-Design: codes, standards and zoning taking CPTED principles into account and targeting at-risk populations.

B. Crime Control Measures

In general, crime control measures are social programs designed to truly reduce crime not simply displace it, or increase the risk to the offender (which frequently increases the risk to the victim). Control methods aimed at crime reduction are long-term and hard to evaluate, but there seems to be international consensus that without control measures in place, most crime prevention measures are simply illusory, short-term or crime displacing operations.

Many social measures directed at crime control target youth[6], however, women, the homeless and other at risk populations are affected as well since the institutions and facilities which are influenced by such programs deal with broad segments of the population. It is also hoped that targeted populations will be favorably impacted by programs aimed at modifying the built environment. These efforts should also reduce the chances of an individual becoming either a victim or an offender, or both.

FACILITY/AGENCY	EXAMPLES OF PROGRAMS
Community and City Agencies	Involvement of Local Community in Planning Process. Establish Trust Among Local Population: particularly minorities and civil authorities.
Family Service Agencies	Crisis Intervention. Day Care. Employment Opportunities. Headstart. Health Care. Religious and Cultural Centers.
Funding Agencies	Local Economic Development.
Health Care Centers	Community Mental Health. General Health Care.
Multi-Agency Interactions	Youth Integrated Into Community. Local Crime Control Programs: involving police, politicians, residents and other formal and informal groups. Coordination Efforts Directed at Targeting Specific Offenses.
Public Housing Facilities	Subsidized Housing Policies. Needs Assessments for Residents.
Schools	Delinquency Prevention. Teacher/Parent Cooperation. Truancy Prevention. Vandalism Prevention.
Youth Activities	Counseling. Job Training. Recreation Centers.

C. Planning, Implementation, and Evaluation

Planning, Implementation and Evaluation measures are neither crime prevention nor control techniques, but they should help to determine which crime prevention and control measures are the most beneficial and useful to the international community. Through rational analyses and other analytical procedures, new programs may be discovered with some a priori idea of their costs and societal benefits. In addition, analytical procedures should be able to assess and judge the effectiveness of established programs[7].

PROCEDURE	EXAMPLES OF PROGRAMS
Rational Analyses	Demographic Analyses. Geographic Information Systems: spatial and social patterns. Statistical Analyses. Surveys.
Measure Development	Standard Measures and Indicators.
Implementation Needs	Funding Opportunities. Priority Setting. Program Development. Program Management.
Evaluation	Evaluation of Both Process and Outcomes. Description of Problems: limitations as well as successes. Information Exchange.

III. Role of Urban Planners in Crime Prevention and Control

It is no secret that crime prevention and control activities, as important as they are, are not considered the most interesting part of one's job for the majority of people in the criminal justice system. Since many of the above programs can either be influenced or coordinated by urban planners then it would seem appropriate that urban planners be asked to involve themselves in crime prevention and control activities especially in the areas described below.

A. Mediation, Coordination and Evaluation

There seems to be universal agreement that crime prevention and control should not be under the auspices of just one group of individuals or subject to one professional direction. There also seems to be general agreement that a multi-group, multi-disciplinary approach to developing programs to address crime prevention and control are necessary for discerning a real reduction in crime. Working groups consisting of police and other members of the criminal justice profession, social workers, politicians, community residents, planners, and other interested and affected individuals or organizations should also be working on crime prevention solutions. Coordinating such groups and managing decision assisting processes while dealing with conflict is a major undertaking, but urban planners have been involved with such procedures for a long time. Getting citizen input into expert and political decision making is a necessary function of the urban planner who has learned a variety of methods for social-group processing.

Program coordination for multi-agency projects also entails program evaluation and analysis. Most modern planning agencies (including agencies in many developing countries) are well into the computer age and may have at their disposal computer aided design facilities and geographic information systems (CAD/GIS). Both systems, are uniquely suited for the analysis and evaluation of complex urban projects and can be used in conjunction with other computer software to statistically evaluate crime reduction and crime prevention programs.

Applicable Planning Processes:

Conflict Mediation Procedures: Working with individuals and small groups to reduce (or, hopefully resolve) neighborhood and individual conflicts.

Strategic Planning: Systematic assessment of external factors, assessment of alternatives, situational analysis, development of strategic goals and objectives, implementation, evaluation.

Risk Analysis: Identification and quantification of risks, risk management and evaluation of risk reduction.

Gaming/Simulation: Design and analysis of complex urban social and environmental problems through group and individual interactions in a controlled setting.

Computer Applications: Geographic Information Systems for urban spatial analyses overlaid with social, economic, physical and other relevant data, statistical evaluation and forecasting.

B. Physical Planning and Urban Design

Public spaces are known as areas that could foster fear of crime and support criminal activity. Crime Prevention Through Environmental Design (CPTED) is a well documented[8] set of practices and procedures that address the design of public spaces (parks, pedestrian walkways, transit stops) in such ways as to reduce the opportunity for crime. Urban planners usually have oversight in approving site plans that may include shared public spaces. In addition, they work closely with park commissions and city landscape designers. As a result, urban planners are in a position to recommend urban design criteria incorporated into city landscape and park design

guides. Urban planners can also influence the private sector by recommending landscape guides for shared public spaces that reduce criminal opportunities.

The design and placement of public structures and walkways is also important in addressing issues of crime and fear of crime. Location and type of street lighting, pedestrian underpasses, transit booths, sidewalks, and other public facilities can be designed and located to minimize their use for criminal activity, or to discourage such activity. Good design, using CPTED concepts are available for such structures and urban planners can influence city departments to use equipment and facilities designed for safety.

The design of safe and secure buildings, particularly public housing structures is mostly the architects' responsibility. A large body of literature is available defining defensible and manageable space. But, for most cities, much of the built environment will be around for a long time and new construction in public housing will usually be a small percentage of the existing units (indeed, new construction in general is frequently only a very small percentage of total buildings). As a result, architectural design for security should be concentrated in re-design and retro-fitting current structures. In the meantime, building codes and building standards for new construction should be modified to include security issues. These codes are usually developed by city building and engineering departments, which can be influenced by city planning department recommendations.

Finally, private facilities can also benefit from good physical planning that addresses the issue of reducing criminal opportunities. CPTED applications are also well documented in the area of private housing facilities, businesses, banks (including automatic teller machines), industry and other private structures. Urban planners working with the police and private institutions (such as insurance companies and private security companies) can advise and offer design guides for physical security devices that may prevent and reduce (not just displace) crime without necessarily giving rise to a siege mentality.

Applicable Planning Processes:

Physical Design Guides: Landscaping for formal, informal and natural surveillance. Public structures, walkways, pedestrian underpasses—design criteria for surveillance and the use of graffiti and vandal resistant materials.

Re-Design Guides: Retro-fitting guides for public housing and other public facilities including transit stops and transit fare stations.

Land Use and Zoning: Crime reduction performance standards in zoning regulations, as well as, other city ordinances, codes and master plans.

Public Hearings and Presentations: Crime awareness and prevention techniques through publicity and presentations to community and neighborhood groups (could be part of community based policing).

C. Transportation Planning

Clean, safe and reliable public transportation is almost always under the responsibility of the planning department. Route location, stations and station access, as well as frequency of operation, cost of operation and other factors are also, in part the urban planner's responsibility. There is little doubt that an unsafe, or perceived unsafe transportation system puts the entire population at risk. A whole array of CPTED procedures exist that can reduce the fear of crime and reduce the opportunity for crime on or near transit facilities. Urban planners specializing in transportation planning have been working in this area for some time and can inform others on the use of design, physical planning and multi-agency cooperation in transportation crime prevention and reduction.

Applicable Planning Processes:

Transportation Planning: Routing and modal analyses to insure equitable access to all citizens, facility design criteria, underpass safety (especially for women), graffiti control, vandalism reduction, and crime prevention in general within the transit system, multi-agency program management.

D. Economic Development

Employment opportunities, job training and fair employment are frequently mentioned as necessary economic factors needed to control crime. Though these are long-term strategies and various approaches are not always agreed upon by land owners and land developers, politicians and economists[9], urban planners have been responsible in some countries for planning and implementing local economic development programs. Often these programs involve community residents in control (to some extent) of job allocation and construction. This tends to solidify the community towards the project and offer some economic opportunities to residents who might not have had such opportunities in the past.

Applicable Planning Processes:

Economic Development Planning: Developing enabling legislation and other procedures for local funding of community development programs. Working with local institutions (banking, loan and mortgage) to extend banking activities to depressed communities and neighborhoods.

Housing and Community Development Programs: Working with local neighborhood organizations (including ethnic, religious or culturally based groups) on job training and job creation projects. Public housing development and acquisition (including design criteria for the safety of the residents).

The areas described above are not meant to be exhaustive and certainly other areas exist where urban planners can be instrumental in crime prevention and control. Indeed, as stated earlier, almost all the measures of crime prevention and control detailed above overlap with traditional city planning practices. It is hoped that this presentation will help focus urban planners on urban crime problems as their problems. It is also hoped that criminal justice professionals are encouraged to take advantage of city planning agencies and their professional planning staff in the fight against urban crime.

Selected References

The references cited below were obtained at UNV, CSDHA/CPCJB and used to help develop the concepts presented here.

Atkins, S., Husain, S. and Storey, A., "The Influence of Street Lighting on Crime and Fear of Crime," U.K. Home Office Crime Prevention Unit, Paper 28, London, U.K.; 1991.

Berry, G. and Carter, M., "Assessing Crime Prevention Initiatives: The First Steps," U.K. Home Office Crime Prevention Unit, Paper 31, London, U.K.; 1992.

Buendia, Hernando Gomez, Editor, "Urban Crime: Global Trends and Policies," The United Nations University, Tokyo, Japan; 1989.

Clifford, W., "Crime and Development Planning," *The International Review of Criminal Policy,* No. 25, Dept. of Economic and Social Affairs, United Nations, New York, N.Y.; 1967.

Curtis, L.A., "10th Annual Report—Youth Investment and Community Reconstruction," The Milton S. Eisenhower Foundation, Washington; 1991.

Easteal, P.W. and Wilson, P., "Preventing Crime on Transport," Australian Institute of Criminology, Crime Prevention Series, Canberra, Australia; 1991.

Ekblom, P., "Getting the Best Out of Crime Analysis," U.K. Home Office Crime Prevention Unit, Paper 10, London, U.K.; 1988.

Geason, S. and Wilson, P., "Designing Out Crime—Crime prevention through environ-

mental design," Australian Institute of Criminology, Crime Prevention Series, Canberra, Australia; 1989.

Geason, S. and Wilson, P., "Preventing Graffiti and Vandalism," Australian Institute of Criminology, Crime Prevention Series, Canberra, Australia; 1990.

Junger-tas, J., Dijk, J.J.M. van, et al., "Crime Control Policy in the Netherlands—Five years of policy efforts," Minister of Justice of The Netherlands, The Hague, Netherlands; June, 1990.

Ramsay, M., "The Effect of Better Lighting on Crime and Fear: A Review," U.K. Home Office Crime Prevention Unit, Paper 29, London, U.K.; 1991.

United Nations Vienna, Centre for Social Development and Humanitarian Affairs, Crime Prevention and Criminal Justice Branch, "Economic and Social Consequences of Crime: New Challenges for Research and Planning," A/CONF. 56/7; 1975.

Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, "New Dimensions of Criminality and Crime Prevention in the Context of Development: Challenges for the Future," A/CONF. 121/18; 30 May, 1985.

Inventory of Comprehensive Crime Prevention Measures, "Crime Prevention and Criminal Justice in the Context of Development: Realities and Perspectives on International Cooperation," A/CONF. 144/9; 13 June, 1990.

"Prevention of Delinquency, Juvenile Justice and the Protection of the Young: Policy Approaches and Directions," A/CONF. 144/16; 2 July, 1990.

Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, "Crime Prevention and Criminal Justice in the Context of Development: Realities and Perspectives on International Co-operation," A/CONF. 144/6; 27 July, 1990.

Walczak, S., "Planning Crime Prevention and Control in Poland," *The International Review of Criminal Policy,* No. 26, Dept. of Economic and Social Affairs, United Nations, New York, N.Y.; 1968.

Waller, I., "Current Trends in European Crime Prevention: Implications for Canada," The Canadian Department of Justice; Communications and Public Affairs Office, Ottawa, Ontario, Canada; 1989.

Waller, I., "Putting Crime Prevention on the Map," II International Conference on Urban Safety, Drugs and Crime Prevention: European Forum on Urban Security, Paris, France; Nov. 18–20, 1991.

Webb, B. and Laycock, G., "Reducing Crime on the London Underground—An evaluation of three pilot projects," U.K. Home Office Crime Prevention Unit, Paper 30, London, U.K.; 1991.

Notes

1. e.g., Buendia, 1989; Junger-tas, 1990; UNV, 1975; Waller, 1991.

2. Walczak, 1968 and Clifford, 1967.

3. See Buendia, 1989, for a more complete definition of urban crime.

4. UNV, A/CONF. 144/9, 13 June, 1990.

5. Most of the references listed at the end fall into this category.

6. See UNV, A/CONF. 144/16, 2 July, 1990.

7. See Berry and Carter, 1992, and Ekblom, 1988.

8. A number of references to CPTED are cited at the end.

9. See Curtis, 1991, for a sample of the political problems associated with local economic development programs.

A Provincial English Prosecutor's View of Organised Crime

*by Anthony Roy Taylor**

Introduction

First, let me say how pleased and honoured I am to be allowed to share some of my thoughts and experiences with you. I look forward to hearing how organised crime is tackled by other agencies and jurisdictions and to taking home with me new and useful approaches to what is an ever increasing problem.

What can I, as a provincial prosecutor, tell you of the international or even national dimension of the part played by the police in the struggle against organised crime? Not as much, I suspect, as the prosecutors in jurisdictions which give the prosecutor control of the investigation of crime. As I will explain later, the functions of the policeman and the prosecutor in England and Wales are separate and distinct and we do not trespass on each other's territory. Having said that, it will become clear that our respective roles are beginning to merge in response to the problems posed by serious crime.

What special weapons does the prosecutor have at his command to deal with organised crime? Not as many, perhaps, as one would think. As I will explain, a few measures have been introduced specifically as an answer to the problem of serious crime (which is usually, but not always, the same thing as organised crime) but, in the main, the personnel, laws and procedures I use to prosecute organised violence are those that I use to prosecute the man who gives his wife a black eye. Some will say that this is an inadequate response—that organised crime requires special legislation, procedures and prosecutors to deal with it. They may be right—but I am not so sure. I have a feeling—a purely personal one—that with the odd exception here and there, the laws and procedures of a country should be adequate to cover the whole range of crime. Dishonesty is dishonesty, whether it involves the spontaneous theft of an item from a shop or the planned theft of millions of dollars from a bank. Murder is murder, whether it is committed by a jealous husband on his wife or by the Irish Republican Army (IRA) or the Mafia. While it is clear that we must do our utmost to detect and prosecute organised criminals to conviction, we must, I suggest, think long and hard before we seek to change, for them alone, such things as the rules governing the powers of the police in the detention and interrogation of suspects, the admissibility of evidence, the burden of proof or the general duty of fairness upon the prosecutor. We all have a strong and natural desire to see organised criminals brought to justice. I do, however, strongly believe that the long-term health of a system of criminal justice is harmed less by organised criminals going free than by even a few persons being wrongly convicted.

This is not a fanciful notion. In the 1970s, mainland Briton was the scene of a number of bomb attacks by the IRA. In Guildford, on the outskirts of London, and in Birmingham, large bombs were planted and detonated in bars: a coach carrying military and civilian personnel on the M62 motorway was similarly destroyed. Many innocent young lives were lost. Many more were maimed and horribly injured. In

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each case, suspects were fairly quickly arrested. Largely on the basis of what they said in interrogation and on the basis of scientific evidence, they were put before the courts, tried and found guilty. All were sentenced to long terms of imprisonment. Since that time, all their cases have been reviewed by the Court of Appeal. In every case the Court of Appeal found that they had been wrongly convicted. All are now at liberty. What went wrong? With the wisdom of hindsight it is now clear that some of those associated with the prosecution—police, scientific witnesses and prosecutors—felt under tremendous public pressure to bring the guilty persons to justice. In responding to this understandable pressure, it now appears that some of those involved may have tried too hard to secure a conviction, either in the manner of interrogation, the selective use of evidence or in a general reluctance to reveal the weakness of the prosecution case.

Clearly, such wrongful convictions are, to say the least, undesirable. Apart from any question of injustice to anyone wrongly imprisoned, if innocent men or women are in prison, the guilty are still at large. Probably worst of all, the confidence of the public in the criminal justice system is eroded. If magistrates and juries suspect that witnesses may not be telling them the whole truth, if they fear that the prosecutor may not be totally frank about the potential weaknesses in his case, they may feel an over-reluctance to convict even the guilty. When the public feels that it cannot rely upon openness and fairness in the courts, the whole equilibrium of a civilised society is in danger. In order to deal with this urgent and very real problem, a Royal Commission has been set up to take a long, careful and radical look at our criminal justice system. It will report in 1993 and we await its findings with interest.

The Role of the Prosecutor in England and Wales

In order to put in context the part played by the prosecutor in the struggle against organised crime, it is necessary to explain, briefly, his relationship with the police. It has not always been an easy one. In 1986 the Crown Prosecution Service was formed. Its role was to prosecute all crime in England and Wales. It replaced local prosecution services attached to local police forces. While the Crown Prosecution Service is a national service, it is divided into a number of areas. My area, for example, is Greater Manchester. It has a population of 2.5 million. We have some 320 staff of whom 125 are lawyers who go into court to prosecute. We deal with 100,000 cases per year and appear in approximately 100 courts every day. Subject to the few exceptions which I will mention later, all crime committed in our area is prosecuted by us and is never seen by our national headquarters in London.

The role of the crown prosecutor in England and Wales is somewhat different from that in other jurisdictions. Over the border in Scotland, for instance, the prosecutor has the power to direct the police investigation, to interview witnesses and to make the decision whether or not a person is brought before the court and for what offences. In England, the practice is somewhat different. Under normal circumstances, the police will investigate a crime, collect evidence, interrogate the suspect and charge him to appear before the court without any reference to the prosecutor. Normally, the first the prosecutor will know of a case is when a court date has already been fixed and the police send the file of evidence to him. From that moment, the prosecutor is in charge of the prosecution. He will review the file and decide first, whether there is sufficient evidence to justify a prosecution and, second, if there is sufficient evidence, whether it is in the public interest that the suspect should be prosecuted. In other words, the police do their job, take the decision to prosecute and only then does the prosecutor look at the

case to decide whether or not he agrees with the police decision. If he does not agree with the decision, he stops the case and the suspect is told he need not come to court. At the present time, the Crown Prosecution Service stops approximately 10% of all cases sent to it by the police. You will see, therefore—and this is the point of this explanation of the prosecutor's role—that the fight against crime in England and Wales is usually fought first by the police and then by the prosecutor. Some of you may find this odd. I must confess that I find it odd myself. The Royal Commission, which I mentioned earlier, is looking very carefully at other jurisdictions before deciding whether or not the present system can be justified.

Does this mean, therefore, that the prosecutor does not help the police enough in their struggle against organised crime but merely sits like some remote academic in his ivory tower, reviewing the papers sent to him by the police as if he were marking the examination papers of his students? Happily, this is not quite the case and I will now detail some specific responses already made by the prosecutor to face the growing threat of serious and organised crime.

Prosecution Units Set Up to Deal with Serious and Organised Crime

(a) The Fraud Investigation Group

Traditionally and perhaps unfortunately, society has adopted an ambivalent attitude towards fraud. There are many factors which contribute to this attitude. The man in the street is often less than concerned when large institutions such as banks, building societies and insurance companies are successfully targeted by organised crime. "It's not as if anyone gets hurt"—one might hear him say. The feeling exists that crimes are committed by "nasty people" and not by "nice people" wearing collars and ties. Often there is sometimes only a subtle distinction between fraud and normal business practice.

Furthermore, the investigation of fraud has not been of great interest to detectives. Indeed it has been looked upon by many to be somehow different from "normal" police duty. This may partly be due to the fact that many fraud investigations involve long-term attention to figures and paperwork requiring long hours of duty tied to a desk. Some senior officers abhor what they see as "inactivity"; it is not "real" police work. Additionally the public expect, even demand, that burglars, robbers and rapists be pursued and brought to justice with vigour and speed. It is hardly surprising therefore that the police find it difficult to give the necessary attention to the investigation of highly complex, time consuming frauds, even though the number of Fraud Squad officers in England and Wales has been increased from 588 in 1985 to 770 in 1992. Technical assistance is limited. The use of computers, an essential tool in the investigation of fraud, is not widespread and very few police forces have access to their own investigative accountants.

It is perhaps ironic that criminals have no such philosophical or resource problems. They have discovered that crime, in the form of fraud, can pay and pay handsomely, usually with minimal risk of lengthy prison sentences. Previously successful criminals have imitated what their American counterparts have been doing for many years by moving into areas of company formation, off-shore banking and inter-company transfers and they have no difficulty in obtaining the best support and advice, both technical and professional.

In purely financial terms, fraud is by far the most damaging of all crimes. In those terms the money involved in fraud compared to other crimes is quite staggering. To give you a perspective, the Association of British Insurers indicate that during 1990 the total loss for all burglaries in the whole of England and Wales was £800 million. The current estimated deficiency in *one* case being investigated by the Serious

Fraud Office, relating to the Maxwell (Robert Maxwell) Communications Group is in excess of £800 million. The Serious Fraud Office and the Fraud Investigation Group of the Crown Prosecution Service are currently dealing with cases involving approximately £5.5 billion.

In the late 1970s and early 1980s there was mounting political, media and public pressure to make the investigation and prosecution of fraud more efficient, expeditious and effective. In 1983 the Fraud Trials Committee chaired by Lord Roskill was appointed by the Lord Chancellor and the Home Secretary "to consider in what ways the conduct of criminal proceedings in England and Wales arising from fraud can be improved and to consider what changes in existing law and procedure would be desirable to secure the just expeditious and economical disposal of such proceedings."

One of the fundamental stumbling blocks identified by the Roskill Committee at an early stage was the singular lack of a unified approach by the various agencies responsible for conducting such investigations. There had grown up a form of loose co-operation between the Office of the Director of Public Prosecutions (D.P.P.), the Police and the Department of Trade and Industry (D.T.I.) whereby matters of sufficient seriousness, complexity or sensitivity were investigated by ad hoc groups made up of all interested parties. Prior to the Roskill Committee reporting, the Government took a major step in the right direction by announcing that the ad hoc arrangements would be placed on a permanent formal basis with the creation of the Fraud Investigation Group (F.I.G.) in 1985. F.I.G. was set up as an interdisciplinary team of prosecuting lawyers and accountants working in close liaison with police fraud squads reporting through a Controller directly to the Director of Public Prosecutions and the Attorney General. It forms, therefore, a part of the Crown Prosecution Service. The two main objectives of F.I.G. are (i) the speedy investigation and institution of proceedings in those cases where that course is justified and (ii) the early identification of those cases where an investigation is unlikely to result in criminal proceedings so that an investigation may be discontinued. It is expected that the police will report suitable cases to F.I.G. at the earliest possible opportunity after receipt by them. An early conference is then held to establish an investigation strategy. Regular meetings are held thereafter. The police are still responsible for obtaining the relevant evidence, the F.I.G. professional officer for bringing into the enquiry relevant experts and for co-ordination. The F.I.G. professional officer will guide the investigators towards those aspects of a case which he feels should attract the greatest concentration of resources. Co-ordination can therefore mean de facto direction. I say de facto direction because, as I have already mentioned, police officers and not prosecutors in England and Wales are responsible for the investigation of crime, although of course that direction does exist in many other jurisdictions worldwide.

(b) The Serious Fraud Office

The Roskill Committee reported in early 1986. They noted that F.I.G. represented a move towards greater co-operation and co-ordination between separate organisations. However they expressed concern that only two departments (D.P.P. & D.T.I.) were directly involved in those arrangements, that other organisations such as Inland Revenue and Customs and Excise were outside them and that the police in that area retained their independent investigative monopoly. The report's principal recommendation involved the creation of a unified organisation properly resourced (they were extremely critical of the Government's resource commitment to deal with fraud hitherto) with *statutory* powers of investigation to handle the *most serious* fraud cases. This led to the formation of an inde-

pendent body—the Serious Fraud Office (S.F.O.) in early 1988. The S.F.O. is staffed by lawyers, accountants and others with relevant experience. It works closely with the police (a core of officers from the Metropolitan and City of London police fraud squads work *within* the S.F.O. premises) the D.T.I., the Revenue and Customs and also City of London institutions such as the Securities and Investments Board, the Bank of England, the Stock Exchange and Lloyds. Its central concept is teamwork from beginning to end of a case. It *controls* investigation *and* prosecution.

Considering that the Crown Prosecution Service was set up by the Government in 1986 to enable the functions of investigation and prosecution to be separated, the joinder of those functions for the purposes of the S.F.O. may seem to be an opportunist violation of fundamental principle. However those with a less jurisprudential bent may see it as an essential response to the special problems which serious frauds produce.

Several powers were given by statute to the S.F.O. which contribute greatly to its effectiveness compared with police/F.I.G. investigations. Of enormous importance is the ability of the S.F.O., during the investigation, to *require* witnesses to answer questions and to produce documents. However perhaps the most controversial power is the S.F.O.'s right to require suspects who are later prosecuted to answer questions. The fact that those interviews abrogate the so-called "right to silence" (enshrined in English Common Law) does not mean that they necessarily break the privilege against self-incrimination (similarly enshrined). Such interviews cannot become evidence in a prosecution unless and until they are subsequently converted by the police, in the case of witnesses into statements or in the case of defendants into interviews and/or statements under caution. For political reasons connected with the Police and Criminal Evidence Act 1984 (which completely reviewed police powers) the police are *not* permitted to conduct S.F.O. type interviews. However where, on a prosecution for an offence, a person giving evidence makes a statement inconsistent with what he previously said to the S.F.O. he may be cross-examined accordingly and evidence may be called of his previous inconsistent statements. Further reinforcement is given to those S.F.O. powers in that it is a criminal offence:

1. To fail to comply with a requirement of the S.F.O. without reasonable excuse.
2. To deceive or mislead the S.F.O.
3. To conceal or destroy documents relevant to an S.F.O. investigation.

The factors which determine whether a case should be referred to F.I.G. or S.F.O. normally involve one or more of the following:

1. The facts and/or the law are of great complexity.
2. The sums of money at risk are substantial—in the case of F.I.G. in excess of £250,000 and in the case of S.F.O. in excess of £5 million.
3. There is great public interest and concern.

There has however been such a rise in large complex fraud cases since 1988 that, bearing in mind that S.F.O. puts a ceiling of 60 on its casework, F.I.G. is now dealing with a considerable number of cases, as you will hear in a moment, which appear to fall within S.F.O. financial criteria.

Examples of the types of cases with which F.I.G. and S.F.O. deal, subject to the criteria, are as follows:

1. Frauds upon government departments or local authorities.
2. Large-scale corruption.
3. Shipping and currency frauds.
4. Frauds with an international dimension.

5. Frauds involving nationalised industries and very large public companies.
6. Frauds committed in connection with Stock Exchanges or other financial and commodity exchanges and markets and frauds involving banking and the investment and management of substantial funds.

The S.F.O. has been and is involved in some enormous cases since its inception—the famous Guiness cases and the Barlow Clowes investment fraud to name but two. It is currently engaged in the massive investigations involving the collapse of the Bank of Commerce and Credit International (BCCI) and the Robert Maxwell empire.

A few examples of current major F.I.G. casework are as follows:

1. A maker of antique toys allegedly perpetrated a large fraud by obtaining finance to export toys to Japan and the U.S.A. when in fact he spent the money on a lavish lifestyle. £25 million is involved.
2. The British subsidiary of an Austrian company making track maintenance equipment has for some years secured many contracts worth millions of pounds from British Rail allegedly by lavishing gifts and entertainment on B.R. staff at all levels. A B.R. Director and a Member of Parliament have been sent for trial. £34 million is said to be involved.
3. Large-scale time-share frauds involving over 7,000 losers, extensive overseas enquiries and millions of pounds at risk.
4. A large-scale postage stamp fraud in which the accused who worked in the manufacture and distribution of stamps effectively defrauded stamp collectors worldwide by creating stamps bearing errors, thereby inflating their value which stimulated general trading in stamps and enhanced his business.
5. A mortgage fraud involving 35 defendants—many of them professional people—with £70 million involved.

In complex cases the traditional methods of presenting complicated schedules and tables of figures have proved daunting to the average member of a jury, if not to members of the legal profession. Computers regularly now present the figures in the form of charts and graphs which make them more readily understandable. This year for the first time, evidence was given in a fraud trial by a witness in Canada via international video link. In another case there was such a mass of documentary evidence that each member of the jury was provided with a computer type screen on which the evidence could be displayed and called back at a moment's notice.

In the event of a conviction for fraud what sentence can a defendant expect? Invariably sentences imposed by judges for fraud are light, in terms of immediate imprisonment. Armed robbery attracts draconian penalties; fraud does not. Society may in fact be expressing its fear of violence in such long sentences rather than its concern for vasts sums of money lost. There are those who say that some judges fail to appreciate that the nature of white collar crime has changed in the direction of attacks by organised crime groups upon the fabric of commercial life. Deterrence is needed—for there is little doubt that professional criminals take the probability of imprisonment into their calculations when determining the profitability of carrying out their schemes.

(c) Central Confiscation

The Central Confiscation Unit is a specialised unit within the Crown Prosecution Service. As will be seen later, a number of statutes have been passed in an attempt to deny to organised crime its main lifeblood—money. In very broad terms, this involves the confiscation of property arising from or nurturing serious crime, be it fraud, drugs, terrorism or whatever. Inevitably this is a fairly specialised field dealing, as it does, with such matters as urgent applications to

the court, to trace or freeze assets, liaison with other agencies at home and abroad and the enforcement of court judgements. Rather than attempt to spread the necessary expertise throughout the 2,000 prosecutors in England and Wales, the Crown Prosecution Service resolved to concentrate its expertise in one central unit which would both deal with cases in its own right and also assist provincial prosecutors to deal with their own cases.

(d) Special Casework Lawyers

As I have already explained, most crime, including serious crime, is dealt with in the regional offices without reference to Headquarters. It soon became apparent, especially in rural areas, that there was not a sufficient volume of serious crime to ensure that even senior prosecutors would handle enough serious crime to ensure that they acquired and maintained the skills required to deal with it. For this reason, each office has appointed a special casework lawyer. It is his job to deal with serious cases himself and to ensure that other prosecutors in his office dealing with serious cases have access to his expertise in relation to the more unusual aspects of work in a provincial office such as extradition, informers, undercover police operations, etc. It is, perhaps, worth noting that special casework lawyer posts also provide a useful career path for prosecutors who do not wish, or are not suitable, to follow the usual career path for lawyers which involves more and more of a management role the further one progresses.

Before I move on to outline some statutory responses to organised crime, let me mention a spontaneous development which is occurring in provincial prosecutor's offices. As I said before, the main duties of the prosecutor in England and Wales are to review cases sent to him by the police and, if appropriate, prosecute them before the courts. The police, in addition, however, are entitled to ask for advice at an early stage—even before an investigation begins—and the prosecutor is entitled to give such advice. The police have come to ask for such advice more and more as they come to accept that, with the financial cost of large operations being what it is, it is far better to ensure that the case is prepared in a way which will meet with the approval of the prosecutor. Far better this than to discover, at the end of a long and costly investigation, that vital and, perhaps, fatal mistakes have been made. In some areas, this development has moved a long way forward. This is usually in areas where the office of the prosecutor has been long established and a mutual trust has grown up. This is only to be expected for two reasons. First, in a jurisdiction where the prosecutor has no control over the police investigation, it is a matter of some sensitivity for the prosecutor to give the impression that he is telling the policeman how to do his job. Second, and just as important, the police officer must have absolute faith in the discretion of the prosecutor advising him. When dealing with organised crime, the lives of undercover officers are often at risk. They will not willingly seek the advice of anyone, inside the police force or otherwise, if they are not totally satisfied that the secrecy of their role will be maintained.

My own hope, as a manager, is that the trend towards more involvement of the prosecutor in the investigation will continue for three reasons. First, experience shows that more successful prosecutions result. Second, it gives our lawyers a new and interesting dimension to their work. Third, it helps to break down the very natural feelings of mistrust between policeman and prosecutor.

It is not without its difficulties. Our prosecutors find themselves treading a difficult path between the need to help the police investigation on the one hand and the need to remain totally independent on the other. How does the prosecutor bring totally independent judgement to bear on the

merits of a case if he himself has been closely involved in the preparation of that case? It is not easy. Say, for example, that the prosecutor advises the policeman that he may deny the suspect access to his lawyer during interrogation on the basis that he knows that the lawyer has a reputation for dishonesty and may alert other suspects or dispose of stolen property. When the defence lawyer, at the court of trial, wishes to challenge this exclusion, he may demand that the prosecutor himself give evidence to explain his decision and be subject to cross-examination. When this happens, we have the unwanted situation of the prosecutor becoming a witness. In order to assist our prosecutors to retain their independence while advising on an investigation, I have made a simple rule: Never do anything that puts you at risk of becoming a witness. So far, it has worked.

These, then are the main organisational steps that the prosecutor has taken to deal with serious and organised crime. I will now deal with some of the more important pieces of legislation that provide the prosecutor with the tools to do the job.

Statutory Provisions Designed to Assist the Fight against Organised and Serious Crime

(a) The Criminal Justice Act 1988

The motivation behind most organised crime is financial. Clearly, the detection, prosecution and imprisonment of major criminals is only to be counted as a partial success if they are allowed to retain the proceeds of their crimes. This statute extends and improves the ability of the prosecutor to seek to relieve the criminal of his ill-gotten gains. If it is felt by the police and the prosecutor that a suspect has benefited from the offences for which he will be prosecuted by at least £10,000 (the present minimum level), they may decide to ask the court to make a confiscation order whereby a stated amount is surrendered to the state.

It may be feared that the suspect or his associates will dispose of property before the order is made at the end of the trial. If this is the case, the prosecutor may apply (usually through the Central Confiscation Unit mentioned above) for a restraint order to the High Court. This is an order prohibiting the suspect or any other person from disposing of stated property until a confiscation order has been satisfied. The application is made by the prosecutor to a judge without the knowledge of the suspect or his legal representatives. He therefore has a clear duty to the court to make full and frank disclosure of *all* matters relating to the application. As he is very much dependent on the police for the information he provides to the court, he will require a written statement from the police that all matters have been disclosed by them.

Once a restraint order has been made, a copy of it will be served upon all those holding relevant property. It will warn them that disposal of the property could lead to fines or imprisonment.

Before the trial, a statement will be prepared for the court, setting out details of the amount by which it is believed the suspect has benefitted from his crimes together with details of his assets. If the suspect is convicted and the court wishes to make a confiscation order it will first satisfy itself of the amount by which the convicted defendant has benefitted from the crimes before the court. Once this has been done, it will go on to consider the amount of property held by the defendant which may be available to satisfy the confiscation order. This includes all property, whether within the jurisdiction or not, in which the defendant has an interest. A confiscation order is not made against specific property but requires the defendant to pay a specific sum of money. It is up to him to make arrangements to pay the confiscation order. If he does not pay in the time allowed, he will be liable to a term of imprisonment

specified in the order.

(b) The Drug Trafficking Offences Act 1986

This statute empowers the court to make a confiscation order in very much the same way as the Criminal Justice Act 1988—the difference being that it relates only to drug trafficking. As in the case of the C.J.A. 1988, it is open to the prosecution to apply for a restraint order and the prosecutor must supply to the court a statement setting out the benefits which it is alleged have accrued from the defendant's drug trafficking and his means.

There are, however, important differences:

(1) Once a person is convicted of drug trafficking the court is *required* to decide whether or not he has benefitted from it. If the court decides that the person has so benefitted, it *must* then assess the amount of the proceeds and make a confiscation order. In other words, confiscation orders must be considered in such cases—not just at the request of the prosecutor.
(2) At the hearing, the prosecution must prove that the defendant has beneffited. However, once that is done, the court may assume that all property held by the defendant and all income, going back over a period of six years, were received by him as the benefit of drug trafficking. In other words, in broad terms, it is up to the defendant to show that property has been legally obtained—a very big departure from the usual principle that a man is not required to prove his own innocence.
(3) Under the provisions of the Criminal Justice (International Co-operation) Act 1990, where a drug trafficking confiscation order has been made in a sum less than the total benefits received because the defendant does not have sufficient assets, the amount of that sum may be increased by the court if the defendant later acquires further assets or if further assets are discovered.
(4) The United Kingdom government now has bilateral agreements with Jersey, Guernsey, Isle of Man, Gibraltar, Australia, Bahamas, Canada, Mexico, Spain, Cayman Islands, Hong Kong, Switzerland and the United States of America in respect of drug trafficking. (It has bilateral agreements with Nigeria, Sweden and Italy in respect of all crime.) These agreements state that the governments of these countries will take action to enforce confiscation orders made in the United Kingdom against assets held in those jurisdictions, take restraint action against property held in those jurisdictions, undertake investigations and provide evidence.

(c) The Prevention of Terrorism (Temporary Provisions) Act 1989

As I indicated earlier, society must strike the difficult balance between protecting the rights of the individual and protecting itself. Terrorism is not, alas, a new phenomenon but some of the measures taken to deal with it are relatively new. As will be seen, they extend the powers of the police over suspected terrorists to a degree not known to the rest of the law in England and Wales. The reluctance of the legislature to see these powers extended for longer than necessary is indicated in the title of the statute itself and the requirement for its main provisions to be renewed annually by Parliament. In brief, the provisions of the statute are as follows:

(1) Any terrorist organisation named in the statute or nominated by the appropriate minister shall be a proscribed organisation.
(2) Membership and support of such organisations is a criminal offence.
(3) The minister may make an order in respect of a suspected terrorist excluding him from the United Kingdom.

(4) Collecting, supplying or holding terrorist funds is an offence. Moreover, any person or institution suspecting that he or it is holding terrorist funds may report that fact to the police in spite of any rule of confidentiality by which it would normally be bound. This provision has seen a massive increase in the volume of intelligence and information coming into the hands of the police from financial institutions and others. Indeed, so successful has it proved, that the limited numbers of police officers trained as financial investigators have had difficulty dealing with the reports they receive.
(5) There are provisions for the confiscation of terrorist funds similar to those already described.
(6) Persons arrested may, on the authority of the minister, be held for up to five days without charge.
(7) The courts are given authority to grant to the police, upon application, extended powers of search and seizure. Furthermore, if a senior police officer has reasonable grounds for believing that a case is one of great emergency and that in the interests of the State immediate action is necessary, he may give to a constable powers of search and seizure which could otherwise only have been given by the court.
(8) It is an offence for a person without reasonable excuse to fail to disclose information relating to terrorist activities.

(d) Police and Criminal Evidence Act 1984

Until this Act became law, there was no general power that enabled the police to enter premises to search for evidence held by someone who was not an arrested person. What was lacking was a general power to search for evidence at an early stage of an investigation. In particular there was no means, before a prosecution was started, of compelling the production of any material held in *confidence*, of which bank accounts are probably the commonest example. I emphasise that this was the position in the earlier stages of an investigation, before there was sufficient evidence available to justify prosecuting anyone. Once the prosecution had started, there was of course power to compel a witness to produce evidence to the court. The problem was that unless the police were aware of the evidence in the first place, there would be no prosecution. The result was that many police enquiries never started because evidence was inaccessible, and offences went undetected. This was particularly true of organised crime, where offenders could afford to spend time and resources making elaborate arrangements to conceal evidence.

Under the Act, the police may apply to a magistrate for a warrant authorising them to enter and search premises for evidence if there are reasonable grounds for believing that a serious arrestable offence has been committed and that the material sought is not subject to legal privilege is not excluded material or special procedure material.

"Excluded material" includes personal records, human tissue and journalistic material held in confidence.

"Special procedure material" includes material acquired in the course of business and held in confidence (such as bank records) and journalistic material not held in confidence.

If the police require access to special procedure material, the order of a judge is required. The holder of the material must be given notice of the hearing before the judge (save in exceptional circumstances) and is entitled to be present and make representations to the judge. The exceptional circumstances apply where there is reason to believe that the material may be destroyed or concealed if notice is given to the holder. In drug trafficking matters notice need not be given to the holder of the material.

These powers mean that under the

written authority of a judge a police officer can obtain access to bank accounts, investments, correspondence with professional advisers and the whole range of material held in confidence. Such material would have remained inaccessible under the earlier law. The existence of these powers has meant that it has been possible to undertake prosecutions for very serious offences that under the earlier law would never have seen the light of day.

These powers of search do have limits. Personal records, human tissue and journalistic material remain inaccessible, except in rare circumstances e.g. investigations into the theft of human tissue, or an investigation into unlawful drug trafficking where a medical practitioner's records contain evidence of such offences.

Material subject to legal privilege is immune from access. Broadly legal privilege applies to confidential communications between a legal adviser and his client, and others, for the purpose of giving advice or for the purpose of legal proceedings. There is one apparent exception. Legal privilege is destroyed if the material in question is held for an unlawful purpose. In 1988 the House of Lords held that the unlawful purpose could be that of anyone—it need not be the unlawful purpose of the lawyer or his client. In the case before the court a drug trafficker had used an innocent person to acquire property with the proceeds of the drug trafficking. A lawyer, equally innocent, acted for the innocent party in the acquisition of the property. The House of Lords held that legal privilege was destroyed and the police could have access to the correspondence passing between the lawyer and the innocent party.

On a number of occasions we have been able to advise the police, and to demonstrate to a judge, that a lawyer's accounts, and his correspondence with and on behalf of his client, were held for an unlawful purpose. The police have thus obtained access to the lawyers accounts and files.

(e) Criminal Justice (International Co-operation) Act 1990

The power to obtain access to such confidential material can be exercised on behalf of a Police Force outside the United Kingdom. Provided the offence being investigated would be a serious arrestable offence by the English definition, a Circuit Judge may order a search for the material on behalf of the overseas Police Force. The consent of the Secretary of State is required before an application can be made for such an order, but the power is there if it is needed.

These, then, are a few of the legislative responses made specifically to deal with serious and organised crime. In a paper of this length, they cannot purport to be exhaustive. In particular, I have spoken very little of the provisions for international co-operation. The subject is so vast that it justifies a paper in its own right.

Some Practical Problems Faced by the Prosecutor Dealing with Organised Crime

Before the trial of those suspected of organised crime begins, it is clearly the duty of the prosecutor to ensure that the full extent of their criminality is made clear to the court. If, for example, a number of men have been concerned together in the distribution and selling of drugs over a large part of England over a long period, it is quite possible that a large part of the case against them will consist of evidence of individual sales, say, on the street. It would be quite misleading, therefore, to charge them before the court with one or two isolated and apparently unconnected incidents. It is the duty of the prosecutor to make clear to the court the period of time during which the offences have occurred, the geographical extent of the operation and, above all, the extent of the planning involved. In our jurisdiction, this might well be done by charging them with a conspiracy to supply

drugs, thus allowing the introduction of all the relevant evidence. For this reason, the early involvement of the prosecutor in the police investigation can be useful. He can take an early view of what charges are most likely to be appropriate and advise the police of the necessary matters to be pursued in interrogation.

Large and lengthy cases do, of course, present serious resource problems to the local manager. One case in my area, for example, has involved up to five of our lawyers over a period of several years. I suspect that all of you find yourselves in the same position from time to time. One of the benefits of being a national service is that we are able to second prosecutors from one area to another for short periods to deal with such eventualities.

The prosecution of organised crime often involves considerations of the security of judge, jurors and, above all, prosecution witnesses.

As far as the judge and jurors are concerned, this is the responsibility of the court and the police. In a trial involving organised crime, the jury especially may require protection. It is a regrettable feature of crime today that approaches to jurors by or on behalf of defendants are becoming more common. This problem has been to some extent alleviated by the acceptance of majority verdicts. Whereas before a defendant could only be convicted with the unanimous agreement of all 12 jurors, a majority of 10 to 12 is now acceptable.

The physical protection of jurors is a difficult and sensitive matter. On the one hand, they are not entitled to know of the criminal antecedents of the men they are to try. If too many obvious measures are taken to protect them, it may look as though the prosecutor and the police are trying to give a bad impression of the defendants, hinting that they are evil men and to be feared. This might be taken as an attempt to influence the jurors and to prevent them from taking a fair and dispassionate view of the evidence. On the other hand, it is only fair, in certain cases, to take reasonable steps to ensure that no improper approaches are made to the jurors. Clearly the prosecutor has an interest in ensuring that this difficult balance is achieved and he should, I think, be involved in any pre-trial discussions.

Prosecution witnesses are obvious targets in trials involving organised crime. Until recently, their names and addresses were included in their statements of evidence served upon the defence before trial. Now, in all cases, their addresses are omitted.

In serious cases, witnesses who are thought to be at risk may, with the permission of the court, give their evidence from behind screens which conceal them from those sitting in certain parts of the court. We have found this particularly useful in the cases of civilian witnesses who are at risk and also undercover officers. Recently a trial judge refused to allow our prosecutor to use screens to protect the identity of undercover officers. This caused serious problems for the police. Not only did it put the officers in peril but it also meant that they could probably not be used in future operations as undercover officers. Clearly, when not all police officers are suited to undercover work and when the training of those who are is a long and expensive business, this is not a happy state of affairs. We are, at the moment, in the process of making the decision whether to continue the trial without screens or abandon it altogether.

One source of evidence to be found in cases of organised crime is the participating informant. By this I mean a person who has taken part in a crime which has already been committed or who will be taking part in a crime at some future date and who expresses a willingness to give evidence for the prosecution.

In the case of the crime not yet committed, the police will usually seek the advice

of the prosecutor as to how the informant should be handled. The latter will want to know, for example, that he himself will not risk prosecution. The need for this assurance causes clear problems for the prosecutor and the police. If the informant stops taking any part in the planning and execution of the offence, his fellow criminals will become suspicious and his usefulness as a witness may come to an end. On the other hand, if he takes too active a part in the offence—for example, by killing or seriously wounding somebody—he can hardly expect to escape prosecution. In such circumstances, the best the prosecution can do is to set out clearly the extent to which the informant may become involved without running the risk of prosecution. Moreover, the police and prosecutor will wish to ensure that the informant does not become the driving force behind the planned event. While it is no defence for his fellow criminals to claim that this was the case and that he was, in effect, an agent provocateur, it is our experience that a jury is unlikely to look kindly on the evidence of such a witness.

What of the other type of participating informant, namely, the man who admits to the police that he has taken part in a crime and now wishes to give evidence against his accomplices? His motives are likely to be selfish. What he is seeking is either immunity from prosecution or a reduced sentence. While the former is a possibility, it is rarely used. Normally, it is felt proper that a man should be prosecuted if he has taken part in a serious crime. In addition, of course, the jury may not be inclined to believe a witness who, the defence will suggest, is only telling his story to save his own skin. What is far more usual is for the sentencing court to be told of the assistance provided by the informant in the expectation that a lesser sentence will be imposed. This is a useful procedure in the case of all informants but one that must be handled with care. In order to protect the informant, it may be necessary to hand in secretly to the judge written details of the assistance provided by the informant. This would be done by the prosecutor not the police, and with the knowledge of the informant's legal representative. Once, many years ago, it was suggested to me by the police that the informer did not wish his legal representative to know that he was an informer. That particular incident caused me several anxious moments.

The personal safety of informants is largely a matter for the police rather than the prosecutor. This can be dealt with in appropriate cases by the provision of a new address or even a new identity. What, however, of those in prison? I am sure that, in the jurisdictions in which you all practise, the life of an informant in prison is, at best, an unhappy one and, at worst, a short one. This can be dealt with either by the transfer of the prisoner to the custody of the police or the granting of bail, in the case of unconvicted prisoners only, with a condition of residence at a police station. Before a prisoner is transferred to a police station the prosecutor must be consulted. He will wish to satisfy himself of the usefulness and reliability of the evidence to be given by the informant and that only the reasonable demands of the informant are met. The general principle applying to the handling of a resident informant is that care must be taken to ensure that no privilege is allowed which could prejudice any subsequent criminal proceedings by giving rise to allegations that improper conduct has occurred or inducements been given. Thus, the questions of diet, access to tobacco and alcohol, visits, letters, telephone calls, etc. are carefully looked at and, normally, agreed in advance.

I now come to a matter which is causing real problems for the criminal justice system in England and Wales at the moment. It is one to which we can find no easy answers.

The investigation of organised crime can

lead the police and the prosecutor into areas of great sensitivity. Informants may be willing to help the police with information but may not be willing to be used as witnesses at the trial. Undercover police officers may be employed to collect evidence. Unconventional and secret technical equipment may be used. Evidence may come to light which affects other current police operations or even national security. Clearly, the police and the prosecutor will be reluctant to reveal such matters to dangerous and sophisticated criminals. On the other hand, I suspect that it is accepted in the jurisdictions represented here that it is the duty of the prosecutor to ensure a fair trial. This must involve the disclosure to the defendant of material of which he is aware that may be of use to the defendant in the preparation of his defence. Some of our most recent and best publicised miscarriages of justice have arisen from cases where the Court of Appeal has held that inadequate disclosure has been made by the prosecutor—often for the best of motives. I do not pretend that we have all the answers but our present law on disclosure, put very briefly, is as follows:

(a) Where the prosecution has taken place a statement from a person whom they know can give material evidence but decide not to call him as a witness, they are under a duty to make him available as a witness for the defence. "Material evidence" means evidence which tends either to weaken the prosecution case or to strengthen the defence case.
(b) Unless there are good reasons for not doing so, the duty should normally be performed by supplying copies of the witness statements to the defence or allowing them to inspect the statements and make copies. Where there are good reasons for not supplying copies of the statements, the duty to disclose can be performed by supplying the name and address of the witness to the defence.
(c) In relation to statements recording relevant interviews with the accused, the defence are entitled to be supplied with copies of all such statements—subject to the possibility of public interest immunity.
(d) Public interest immunity is a concept which has been in existence for some considerable time. Our common law has always recognised that the public interest might require relevant evidence to be withheld from the defendant. Obvious examples are evidence dealing with matters of national security or disclosing the identity of an informant. Public interest immunity is not a privilege which may be waived by the prosecutor—it is a duty. Where he holds documents which, on the face of it, are immune he should decline to disclose them. The ultimate judge of where the public interest lies is not him but the court. The court has a difficult balancing exercise to perform. It may be shortly put: "Do the interests of justice in the particular case outweigh the considerations of public interest raised by the prosecutor?"

Simple rules—our only difficulty is in applying them!

Some Examples of the Prosecution of Cases Involving Organised Crime

(a) The Animal Liberation Front

The Animal Liberation Front (ALF) comprises the fanatical quasi-terrorist and extremist wing of the Animal Rights movement.

Its members or activists are dedicated to acts of economic sabotage and violence against designated targets.

Those targets comprise businesses and people involved in perfectly lawful activities including the meat producing industry and charities such as Imperial Cancer Research.

It is organised on the basis of individual "cells" in towns and cities throughout the United Kingdom.

There is a core "high-command" which directs the activities of those cells.

Some activists pass from one cell to another and some are part of the "high-command."

This means that certain activists are involved only in local conspiracies, others are involved in conspiracies in different parts of the country and some are involved in an overall national conspiracy.

Since 1988, the ALF has caused more damage to property by way of incendiary and explosive attacks and other methods than has ever been seen in peacetime in the United Kingdom.

It has been described as the most successful of any terrorist organisations in that it has successfully achieved many of its objectives by causing many businesses to cease trading and the intimidation of people who are "targeted."

In or about June 1991, the Police decided to set up a nationally co-ordinated investigation of the ALF.

It was decided that the investigation in the North of England would be co-ordinated through Greater Manchester Police and in the South of England, through the Northampton Police.

The investigations involved numerous Police Forces and a good deal of covert activity.

On being invited to have the conduct on behalf of the Crown Prosecution Service of the cases arising from the investigations of the Greater Manchester Police, it became immediately apparent that:

(1) There would inevitably be a considerable amount of cross-fertilisation of evidence and unused material against prospective defendants arising from the individual Police investigations which were being carried out nationally;
(2) That it was totally inappropriate for each CPS Area to deal in isolation with the prosecutions arising in their locality as a result of these investigations;
(3) If each defendant was to be prosecuted in a way which properly reflected his involvement in the ALF at a local or national level, an overview of all the evidence arising from each of the Police investigations would have to be obtained.

The CPS therefore set up a "Co-ordinating Committee" which would receive and consider all of the evidence from each and every one of the individual Police investigations into the ALF.

The conduct of the prosecutions was intended to and did remain within the province of the local CPS area in which the Police investigations had taken place.

The objects of the Committee were and are:

(1) To ensure there was proper "cross-fertilisation" of evidence which may have been obtained against certain defendants in one area and which was relevant to their prosecution in another area, and;
(2) To ensure that defendants were properly charged to reflect the true extent of their activities within the ALF;
(3) To ensure that following, for example, committal of one defendant by different areas, the various indictments were joined where appropriate and that defendant was sentenced and/or tried before one tribunal;
(4) To ensure full disclosure to the defence of unused material where for example unused material in one area was relevant to a prosecution of a defendant in another area;
(5) To co-ordinate a uniform approach to the issue of Public Interest Immunity in relation to the various covert activities carried out by the different Police Forces in their investigations.

It was evident from an early stage that all the defendants charged in the different areas were being represented by a co-ordinated defence team from two firms of London solicitors.

Having a co-ordinated CPS approach to these prosecutions had three extremely important benefits:

(1) In dealing with remands, dealing with bail applications in the Magistrates, Crown and High Courts, and the eventual committal hearings, the prosecuting lawyers were able to inform the Court of the true extent of each defendant's involvement in offending throughout the United Kingdom.
(2) Where there was "cross-fertilisation" the prosecutors were able to marshall the case and determine the precise wording and nature of the charge so that the defence could not argue double jeopardy where the prosecution sought to adduce the same piece of evidence in different cases in different areas.
(3) The question of unused material and Public Interest Immunity assumed paramount importance especially following the Court of Appeal decision in *R. v. Ward.*

Without co-ordination, the prosecutors were in serious danger of a situation occurring where:

(1) A defendant was successfully convicted and sentenced in one area but,
(2) There was unused material in another area relevant to that case and which the defence should have had access to and,
(3) Because the defence is itself co-ordinated, they would have been aware of that fact and,
(4) The successful conviction of a defendant in one area could well have been overturned on Appeal because of the existence of this unused material from another area.

The defendants being prosecuted as a result of this operation are now awaiting trial.

(b) Operation Gamma

Most people would not associate organised crime with the apparently mindless hooliganism which became an unfortunate feature in towns in which football matches were being held. Police intelligence uncovered the fact, however, that much of this violence, far from being mindless or random, was very carefully planned. As a result, the police in London successfully infiltrated a gang the leaders of which were brought to trial. Unfortunately, all were acquitted largely because the accuracy of the notes of evidence kept by the undercover officers was not accepted. As a result, the Greater Manchester police contacted the CPS at an early stage to ensure that such problems did not arise again. The first operation—Operation Omega—was directed against supporters of Manchester City Football Club. It resulted in the conviction of 25 out of 26 defendants.

Operation Gamma, the second operation, was directed against followers of Bolton Wanderers Football Club. It started in August, 1988 when six officers infiltrated various hooligan gangs. This involved socialising with gang members during the week and accompanying them to football matches at weekends. It soon became clear that these gangs were not quite as well organised as the Manchester City gang whose members had taken considerable trouble to plan their activities, even travelling long distances some days before a match to arrange meeting points and the best places at which to ambush rival supporters.

In January, 1989 after four months, we took a careful look at the evidence so far gathered. This consisted of statements from the undercover officers together with statements and video evidence from other officers who had not themselves infiltrated the gangs but had taken observations in sup-

port. In addition, a number of corroborative statements were taken from civilian witnesses. Clearly, these could not be approached at the time the incidents were happening as this would have risked revealing the identity of the officers. They were, therefore, traced thanks to the vigilance of the undercover officers who managed to memorise the car registration numbers of potential civilian witnesses.

As the prosecutors involved became more familiar with the operation and the people who had already become targets, they began an assessment of the evidence assembled against each target. Finally, as the way the prosecution would be conducted began to emerge, the potential defendants were divided into three separate groups. Group A—the smallest group, comprised the ringleaders and most serious offenders. Group B—regular offenders considered not quite as dangerous. Group C—those whose involvement was intermittent though not insignificant.

Eventually, 35 offenders were chosen for prosecution. There was a need to be selective not only over which offenders to place before the court but also over the offences to be charged. We chose not to charge every incident of misconduct but only the most serious, trying to make them as representative as possible.

As arrest day approached, agreement was reached with the police on a package for each defendant, outlining his part in the offences alleged, likely charges and, most important, an edited videotape containing evidence relating to that defendant. In addition, desirable approaches to the questioning of each defendant were agreed. For example, they would be asked whether they attended a certain match. If this was denied, they would then be asked whether or not they had committed any offences.

If the answer was negative, they would then be shown video film of the offence itself. In this way, the results of interrogation would prove more incriminating.

On the day of the arrests, two prosecutors were on hand in the operations room at police headquarters to give advice concerning detention, searches, conduct of interviews and charges. Some cross referencing was needed between the different interview teams when one defendant would implicate another and this would then have to be put to that other defendant in interview.

In an effort to maintain the credibility of the undercover officers, the police had enquired whether it would be possible to "charge" them and bring them before the court purporting to be genuine defendants. This would, of course, have helped the officers to stay undercover for future operations. The prosecutors advised, however, that while it was perfectly in order to purport to arrest these officers, no sort of deception should be perpetrated upon the court even if the justification for it might have been the continued investigation of serious offences. As things turned out, after the defendants had spent some time bickering among themselves, their attention shifted towards the undercover officers to such an extent that it was felt too risky to leave them in place.

The charges against the 35 defendants were framed so as to deal with the matter by way of three separate trials. In the end, these did not prove necessary and all 35 entered pleas acceptable to the prosecution.

(c) Operation China

Like other major cities, Manchester suffers from a flourishing illicit drugs trade. As elsewhere, the police response to this has been to set up a specialised Drugs Squad. While drugs of various types are sold throughout the city, there has been a tendency for drugs dealers to congregate in certain areas. This has led, inevitably, to rivalry between gangs. Two major such gangs were the Pepperhill Mob and the Gooch Close gang. Over a period of five years there had been eight murders and countless other acts of violence. Residents

were terrorised as these two gangs fought for control of the drugs trade in Alexandra Park, a run-down inner city council estate.

By the beginning of 1991, some of the Pepperhill Mob had been imprisoned after investigations into a series of shootings and stabbings but the Gooch Close gang continued to trade in drugs upon the estate. Some were earning £3,000 per week from selling £15 and £20 fixes of heroin to buyers from all over the Northwest of England.

Early in 1991 the police discussed with prosecuting lawyers how this problem could best be tackled. First, it was agreed that the nature of the problem had to be identified. This was not easy. The part of the estate concerned was uninhabited, with empty houses being used by dealers to store drugs, weapons, etc. Eventually, however, thanks to modern technology, video film was obtained over a period of six days. This period of filming clearly demonstrated how the gang had created a genuine drugs market place. The geography of the area made it ideal for dealers to operate as they could observe anyone approaching the area and, if necessary, disperse into the maze of pedestrian walkways. From the film, the police not only acquired good information upon which to base their plans, they also acquired good evidence of an existing and thriving market place in case it should later be suggested at the trial that a market place had been created by purchases made by undercover police officers.

In May, 1991 the police started the second phase of the operation—the purchase by undercover police officers of drugs from suspected dealers. They bought drugs on 39 occasions. On all but one occasion, heroin was the drug purchased. An undercover officer would only visit the market place when filming was taking place and when the officer monitoring the film was satisfied that suspected dealers were active. Once drugs had been purchased, they were handed to an exhibits officer for transmission to the laboratory for analysis in a manner agreed by the prosecution lawyers as making any suggestions of tampering unlikely. During the course of the whole operation, more than 300 transactions were recorded on 130 hours of video film.

For some weeks before the arrests were made, prosecuting lawyers spent a large amount of time at Drug Squad headquarters watching the video film. They discussed and evaluated the evidence relating to the various dealers with Drug Squad and undercover officers. It was decided that the evidence did not justify an overall conspiracy charge against all 22 defendants, so a separate tape was compiled for each. Advice was given on the contents of this tape, lines of questioning and coverage of the arrests by the news media.

At 6:15 a.m. one morning in August, some 200 police officers, many armed, arrested the suspects. With prosecuting lawyers in attendance to advise when required, they were interrogated and shown the tapes edited to refer to them individually. The approach was successful. Many were in a state of shock, unable to take in what had happened. One said he felt as if he had been shot!

Of the 22 defendants, 19 pleaded guilty. The three who pleaded not guilty were convicted. All, with the exception of a juvenile, were sentenced to terms of imprisonment for periods ranging from four and a half to seven and a half years.

SECTION 2: PARTICIPANTS' PAPERS

Organized Crime and Drug Problems in China

*by Xiaofeng Ren**

PART I: The Specific Provisions and Their Judicial Practices on Organized Crime

Introduction

One of the most serious threats to the public security in many countries is that of organized crime or joint crime. The social harmfulness it carries out is eradicational, therefore, searching for its peculiar characteristics, formulating more effective crime preventive measures and criminal justice policies for the fight against it, and implementing relevant laws are urgent tasks for criminal justice administrative department and criminal justice policy researching institutes. In order to exchange informations with my colleagues here, the following passage states some of the peculiarities of organized crime in China, and some judicial practices against it.

Organized crime is actually the "joint crime" in criminal law of P.R. China. "JOINT CRIME" refers to any intentional crime committed by two or more persons jointly. The circumstances of joint crime may have two stages: common joint crime and criminal groups; organized crime shall refer to the later accordingly.

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I. The General Situations and Types of Criminal Groups in China Since 1949

A short period after 1949, there were many criminal groups left from the old society. Through our constant efforts of uprooting, they had been completely broken down. From late 1970's as we carried out the policy of opening to the outside world, criminal groups, especially large numbers of hooligan groups began to reappear in the country. They were gravely destroying both public and private properties, creating disturbances, humiliating women or engaging in other hooligan activities. Chinese criminal justice departments have been carrying out a constant fight against those criminal groups. Since then, the organized criminal activities of criminal groups are under full control of the law. From the experiences of recent ten years we conclude that:

1. Most of the criminal groups which appeared after 1970's were new social groups rather than the heritage of the secret society in old China. The members were mainly assembled on the basis of common intentions of joint crime, so-called friendship and the assimilation of the surroundings. Obviously, they did not yet have a clear intention of being organized at the very beginning, and just assembled step by step during the joint commitment of specific crimes. According to their offences, they may be divided into these types: a) groups desiring property; b) sexually desirous groups; c) groups of those spiritually bar-

ren. a) The general characteristics of groups desiring property is to grasp money or other property illicitly. Criminals of this type have a common intention of making more fortunes through unlawful activities, so as to live a better life. They carry out actions of theft, swindling, forcibly seizing, frauding, smuggling, illicit speculating abducting and trafficking in human beings, thus disrupting public order and violating property owned both privately and publicly. The criminal groups of this type are as follows: theft groups, forcibly seizing groups, smuggling groups, illicit speculating groups, drug trafficking groups and abducting and trafficking in human beings groups, etc. Among them, drug trafficking groups, especially transnational drug trafficking and smuggling groups on the open sea are the most serious threats to the economic life and the public order of the country. b) The sex criminals generally have common libidinous interests. They have a belief that the final aim of their living is to have sexual comforts. Therefore, they take all kinds of ways to rape women or violate the same victim in succession and to humiliate women or engage in other hooligan activities, so as to satisfy their abnormal sexual desire. The clear intentions of their criminal actions and successful experiences would further stimulate them to commit crimes jointly. Rape groups, hooligan groups certainly belong to this type. c) Groups of those being spiritually barren, the links among them are the strong desires to be overabused. They often carry out some unusual anti-society measures to demonstrate themselves, thus to be spiritually satisfied. They organize counterrevolution groups, aiming to overthrow the socialist system and thus endanger the national security. They also organize and use feudal superstition, superstitious sects or secret society to carry out counterrevolutionary activities to disturb public order. Now we have such criminal groups of "counterrevolutionary groups," "secret gangs," and "superstitious sects." However, it is necessary to declare wholly that, from recent years experiences of judicial practices dealing with criminal groups, we could rarely find out one criminal group which only committed a single crime, most of them almost committed all crimes listed above. So we conclude that, any crimes would be committed once after the offenders break the laws and the social morality disciplines.

2. To analyse criminal groups from the members and their formations, we find out they may be divided into types of: a) criminal guild, which is mainly organized by those former colluders of a criminal activity and their surrounding friends. The principals and ringleaders are generally criminals with longer criminal history and rich experience of specific crime. Often, they have a strong motion of factionalist and then assemble on the basis of a common intention of joint crime, simultaneous experiences and the same backgrounds. The criminal groups of this kind often have some factionalist features, that's why they are named as "criminal guild," b) geographical assembly. The members of this kind of criminal group are mainly old friends, townfellows who have come from the same city or same districts, and usually speak the same accent, have a common surname or ancestor and even the same living habits. Most of them have a strong motion of provincialism and local flavour. This kind of criminal group could be quickly formed and comparatively more stable than other types. They would stay in one place or flee hither and thither constantly carrying out all kinds of criminal activities, c) trans-district guild and enlarged geographical assembly. Criminal guild and geographical assembly are the primary structure of criminal groups, while the trans-district guild and the enlarged geographical assembly are their advanced ones. The same criminal groups of different areas will be enlarged or united through go-betweens or other relations, and thus

form a large network of criminal groups. The same thing may happen to those geographical criminal groups, they could also be enlarged through each others' conflicts and bilateral uses. At this stage, the factionalist features of criminal guild and the local flavours of geographical assembly would gradually merge and a veritable professional criminal group be formed.

3. Looking through the development of those criminal groups and the harmfulness of their criminal activities, the criminal groups can be named: a) small delinquent group; b) criminal group; c) professional criminal group. a) Small delinquent group refers to those who are influenced by social environment, family and unhealthy thoughts in social life, and just carried out their first illicit or criminal activities. This kind of the criminal group is somewhat loose and blind. The main members are those disappointing students and ne'er-do-wells in the society. They often carry out most of their criminal activities just in their own districts and do little harm to the people compared with the other groups. But needless to say, they are the reserve forces of criminal groups later, and therefore, the hotbed for future criminals. b) Criminal groups are naturally assembled by some of the above delinquents as they accumulated a wealth of criminal experiences and improved criminal techniques as they grew up. They would quickly form a sinister crew of new and old-time criminals already existing in the society. c) The professional criminal groups—After many times severe punishments and crack-downs, some criminals in criminal groups and some single ones would strengthen their intentions of committing crimes, accumulate criminal experience, and make criminal action as their profession. Meanwhile, their experiences tell them it is necessary for them to form an alliance to handle the situation. Then, they would take all chances and possibilities to ally and assimilate other criminals, thus to engage in organized crimes. This kind of criminal group is the highest level and the most harmful of all.

The harmfulness brought by the above three structures of criminal groups are increasing progressively, though their absolute numbers decrease by degrees from the low level stage of delinquent to the professional criminals. Therefore, if we are slack in our work of preventing and controlling, the situation would be a vicious circle of simultaneous increasing of the numbers of lower stage and higher stage criminal groups.

Based on the analysis of above three items, to speak succinctly, criminal groups in Chinese society are just at the preliminary stages of organized crime. It is a matter for rejoicing that the criminal groups like some in other countries have not yet formed. But, because of the constant infiltrations of international criminal groups, the chances and the possibilities for those big-time criminal groups in Chinese society to come into contact with the criminal groups abroad increase constantly, especially as those international drug trafficking groups try to make China an important passage way. It is estimated that the criminal groups at home and abroad have a certain degree's contact with each other. Thus the situation should be taken seriously.

II. The Laws on Organized Crime

1. The General Provisions of Criminal Law of P.R. China

According to general provisions of the criminal law, criminal group is the advanced form of joint crime. Article 22 reads: "a joint crime refers to an intentional crime committed by two or more persons jointly" and article 23 confines a principal criminal to any person who organizes and leads a criminal group in carrying out criminal activities or playing a principal role in a joint crime, and a principals criminal shall be

given a heavier punishment unless otherwise stipulated in the specific provisions of this law. An "accomplice" refers to any person who plays a secondary or auxiliary role in a joint crime, and shall, in comparison with a principal criminal, be given a lighter or mitigated punishment or be exempted from punishment. A person who is compelled or induced to participate in a crime shall, according to the circumstances of his crime and in comparison with an accomplice, be given a mitigated punishment or be exempted from punishment. Anyone who instigates a person under the age of 18 to commit a crime, shall be given a heavier punishment (Article 25).

The above provisions are the fundamental legal basis for us to judge and identify criminal groups.

2. The Specific Provisions of Criminal Law on Criminal Groups

In the adopted *Decision of the Standing Committee of the National People's Congress on Severe Punishment of Criminals Who Are Gravely Destroying the Economy* in 1982, articles of 118, 152, 171, 173 of the criminal law were amended. In 1983, *The Decision of the Standing Committee of NPC on Severe Punishment of Criminals Who Are Gravely Jeopardizing Public Security* revised the article 160, 141, 99, etc. of the criminal law.

The original articles and the revised are compared below:

Article 118—Whoever, makes a regular business of smuggling or illicit speculation, smuggles or speculates in huge amounts, or is the ringleader of a group that smuggles or engages in illicit speculation shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and may concurrently be sentenced to confiscation of property.

Article 152—A habitual thief or habitual swindler or anyone who steals, swindles or forcibly seizes a huge amount of public or private property shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and may concurrently be sentenced to confiscation of property.

Article 171—Whoever manufactures, sells or transports opium, heroin, morphine or other narcotic drugs shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention and may concurrently be sentenced to a fine.

Whoever manufactures, sells or transports the narcotic drugs mentioned in the preceding paragraph continually or in large quantities shall be sentenced to fixed-term imprisonment of not less than five years, and may concurrently be sentenced to confiscation of property.

Article 173—Whoever, in violation of the laws and regulations on protection of cultural relics, secretly transports precious cultural relics for export shall be sentenced to fixed-term imprisonment of not less than three years and not more than ten years, and may concurrently be sentenced to a fine; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and may concurrently be sentenced to confiscation of property.

The decision of 1982 amended the above four articles with ". . . if the circumstances are especially serious, the offender shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment or death penalty, and may concurrently be sentenced to confiscation of property."

Article 160—Where an assembled crowd engages in affrays, creates disturbances, humiliates women or engages in other hooligan activities that undermine public order, if the circumstances are flagrant, the offender shall be sentenced to fixed-term imprisonment of not more than seven

years, criminal detention or public surveillance.

Ringleaders of hooligan groups shall be sentenced to fixed-term imprisonment of not less than seven years.

Amendment: Ringleader of hooligan groups, persons who engage in hooligan activities with lethal weapons hence making the circumstances serious or causing the circumstances especially serious by the hooligan activities, may be sentenced to punishment heavier than stipulated in the specific provision of the criminal law and may be sentenced up to the penalty of death.

Article 141—Whoever abducts and traffics in human beings shall be sentenced to fixed-term imprisonment of not more than five years; if the circumstances are serious, the offender shall be sentenced to fixed-term imprisonment of not less than five years.

Amendment: Ringleader of the criminal groups that abducts and traffics in human beings, and if the circumstances of abducting and trafficking in human beings are especially serious, the offenders may be sentenced to punishment heavier than the heaviest stipulated in the specific provision of criminal law and may be sentenced up to the penalty of death.

III. The Principles Abided by in the Dept. of Criminal Justice to Identify Criminal Groups

According to *The Joint Explanatory Memorandum of SPC, SPP, and MPS on Some Current Practical Problems Concerning Criminal Groups,* when handling a case of criminal groups, the criminal justice departments at all levels, should abide by the principles as follows:

a. Stick to the demands of criminal groups and tally with the actual circumstances. According to the memorandum, a criminal group demands following five fundamental characteristics: 1) with three or more than three persons, with principle participants fixed or basically fixed, 2) assembled constantly to carry on one or several grave criminal activities, 3) with identified ringleaders, no matter how the leaders were elected, 4) to carry out their criminal activities intentionally and premeditatedly, 5) the harmfulnesses caused by their criminal activities to the society or the dangerousness of them are both especially grave.
b. The principle of "bearing appropriate criminal responsibility according to the actual circumstances of the crime." Ringleader as mentioned above refers to any criminal who has the role of organizing, planning, or directing a criminal group or a crowd assembled to commit a crime. Ringleaders should bear criminal responsibility for all intentional crimes committed by criminal group. The other members in the group shall bear criminal responsibilities for the actual criminal activities they engaged according to their specific role or function. The offenders shall bear criminal responsibility of his own for the activities not of the intentional crimes committed by the group jointly. A criminal group which commits a single crime shall be identified as the specific crime group; while the criminal group which commits several crimes, shall be identified according to its major crime committed. These members of criminal groups or the criminals in joint crime commit several crimes shall be sentenced to combined punishment for the crimes.
c. Stick to the principle of "handling and trying the case of criminal group as a whole." When handling and trying joint crime cases, especially those of criminal groups, the courts should stick to the principle of handling and viewing the case as a whole, only those escaped members of criminal groups may be tried separately. Meanwhile, the facts of the commitments and the circumstances of

the crime should be clear, the evidence should also be reliable, and the nature of the crime should be correctly determined, the case should be prosecuted and tried as a whole, and refrain from the action of separation, hence to avoid incorrect determination of the charge and the nature of the crime even to avoid the missing of some names in the list of criminals in some cases.

d. In conducting criminal proceedings the people's courts, the people's procurators and the public security organs must strictly observe the criminal procedure law and any other relevant stipulations of the laws, thus safeguarding the lawful rights and interests of the defendant. According to the relevant provisions of criminal procedure law and others, the public security organs are responsible for investigation, detentions, and preliminary examination in criminal cases. The people's procurators shall be responsible for approving arrests, conducting procuratorial work (including investigation) and initiating public prosecution. The people's courts shall be responsible for adjudication. No other organs, organizations or individuals shall have the right to exercise such powers. Most important of all, the people's courts, the people's procurators and the public security organs shall divide the responsibilities, coordinate their efforts and check each other to ensure the correct and effective enforcement of the law. All these are just the peculiar characteristics of Chinese system of criminal justice.

PART II: Current Drug Problems in China and Effective Countermeasures against Them

Introduction

Any Chinese won't forget it was the so-called opium war which broke in 1840 that began the modern history of the country. The war broke out as a result of Chinese government's action to ban import of opium, which seriously affected British merchants. In the end, China was forced to open five coastal ports and cede Hong Kong to Britain, and allow the open sale of imported opium in the country. From then until 1950's, the merchants of the imperialist countries had been continuously dumping opium into China, carrying their economic and cultural invasions, which made the country poor, weak, backward and swamped by drugs. At that time, not only did the drug addicts lose their family fortune, but were disgracefully named "the East Asian sick men." Since 1949 when P.R. China was founded, it took no more than 3–4 years for us to clean up narcotics and some other social "ulcers" such as brothels and gambling. At this period, the drug problems went from restlessness to its elimination for which China gained the fame of "none drug" country that was among few in the world. However, as we began to carry out our open policy toward foreign countries, when we had more and more general affairs with outside world, international criminal groups began secretly invading the land, making drug problems resurgent in the country simultaneously. During the middle and late 1980's, great quantities of drug began pouring into China from abroad, and spreading from Yunnan, Guangxi border area to the mainland. China has become one of the victims of international drug trafficking. Drug crime offences in the land have reached the top compared with the past 40 years. As far as areas of the inundation of drug is concerned, drug crime offences are found more or less in almost every part of the country. Thus, the tasks of anti-drug abuse and eradication of drug trafficking have become an important item in our comprehensive administrative of public security. Drug crime is considered to be one of the most sophisticated organized crimes.

I. The General Situation of Drug Crime Offence in Recent Years

The amount of drug seized, especially that of the superfines has rapidly increased.

In Yunnan province more than 65,000 liang (10 liang = 0.5 kg) of opium were seized in 1980, yet the same amount has been tracked down in the first half of 1987 only, and 537,455 liang from 1983–87 with average of 107,400 liang yearly, that's 40% more than the opium seized in 1980. In the early 1980's only no more than 10 grams of heroin was ferreted out, however, the heroin seized in the same province has reached the amount of 82,797 grams in 1986. During the first 5 months in 1988, a total of 213,929 grams was found. In 1989, 998.35 kg of heroin and other superfines were seized, the weight was 73.8% more than of 1988 in the same area. During the first season in 1990, the provincial police dept. seized 398.55 kg of opium, 371.85 kg of heroin, 83,750 injectional pieces of morphine and others. The circumstances in other provinces of China are not so satisfying either, though it's not as serious as Yunnan. Take Gansu, a small northwestern province for example, for one reason or another, is chosen by drug traffickers and smugglers to be the collecting and distributing centre in the northwestern part of the country. The amount of drug seized there has been astonishing in recent years. We had tracked down 15,530 grams of opium in 1985, 56,775 grams in 1987, 12,793 grams of different sorts of narcotics (20.5% of which was heroin) in 1988. The drug seized rose to be 48,926 grams of every kind (21.1% of heroin) in 1989. In 1990, it turned out to be 87,358 grams in which heroin accounted for as much as 71%. During the first half of 1991, 32,079 grams were seized, of which 27,022 grams were heroin.

The steadily rising amount of drug seized especially that of the superfines all over the country, on one hand tells us that the country seeks to wipe out the evils of the drug trafficking, the nation's police force has achieved a great success in the struggle against drug, while on another, it indicates that the drug crime offence in the country is becoming more and more serious.

The number of narcotic cases uncovered and the suspected drug traffickers seized increased yearly.

Guangdong police arrested 121 suspects in 1984, while in 1987, the number doubled. In Guangxi province, 217 suspects were arrested, with 211 of them were sued during eighteen months from Jan. 1987 to June 1988, that was 22 more than the total in two years of 1985 and 1986. Yunnan province uncovered 2,163 drug crime cases in 1987, 1,003 in the first five months of 1988, and 3,028 in 1989. In the first season of 1990, some 578 drug crime cases were uncovered in the same area. The same thing happened in Gansu province, the uncovered drug crime cases had increased step by step from 33 in 1985 up to 1,334 in 1990. During the first five months of 1991, all 357 drug crime cases were uncovered, though the number was not as many as that of 1990, the absolute number was by no means great for a small province. In Yunnan, there were as many as 549 uncovered cases with a single amount of more than 50 liang opium each in 1985, that's 44.2% more than the same kind of cases in 1984. According to the statistics, one could rarely find a single case in a lawsuit relating more than 100 liang opium or 10 grams heroin in the early 1980's, while things were quite different during recent years.

The god-condemned habit of drug addiction poisoned a large number of youngsters, and they formed an underground drug consuming market in China, thus further stimulating the activities of illicit drug trafficking. Although drug addiction was eradicated in the early 1950's after the founding of P.R. China, drug abuse problem became more and more serious

in the country as drug trafficking and other drug-related crimes began reappearing in the 1980's. As a result, a secret drug consuming market was formed. According to statistics from public security dept. China had 148,500 registered drug addicts by the end of 1991, and more than 80% of them were young persons. Although the number could not be quite accurate, such a large number would be enough to give drug dealers a further incentive and form a rather serious threat to our social order and public security.

To most of the young people today, narcotics or drug abuse is something completely new. It's the result of curiosity that many young drug addicts began to have this habit. Thus, the reappearing of the problem together with its social harmfulness are really imcomparable and beyond our estimation. We realized from the experience of recent years that:

1) drug addiction could put an end to one generation, hurt them both physically and culturally;
2) it could pollute the social environment. More drug addicts in society would lead to a great rise of crime offence in public order and other drug-related crimes such as theft, prostitution, robbery, swindle, etc.;
3) it could also spread certain kinds of diseases, especially "AIDS" infected through blood;
4) furthermore, it would become a further incentive to the illicit drug trafficking, for drug addiction provides the smugglers with the market, while in turn, drug trafficking supplies narcotics for the consumers.

From all of the above, the situation of drug problems in China can be concluded as one of the most sophisticated organized crimes with different spheres as smuggling, trafficking, dealing, consuming and other coordinated processes.

II. Possible Tendency of Drug Crime in China

Through investigating and researching drug crimes, compared with some other countries in the world, it is still a new matter of not more than ten years in China. In the following ten years, we'll witness illegal drug trafficking, especially that of superfines, and more illegal poppy planting will remain a problem, yet drug addiction would be less, and as a result, the drug-related crimes involving property would be less too. If we keep up with the work of eradication of drug abuse, it is not possible for us to wipe out the evils of drug crime within ten or more years. The following evidence would support my forecast:

1. China has a large contiguous area with some drug resource countries of "Golden Triangle Area." International smugglers see China as a profitable market and a very important passageway to Hong Kong and other countries or regions, which undoubtedly results in China as a victimized neighbor. According to the statistics by China's top narcotics official, Mr. Wang Fang, only last year, China arrested 829 foreign traffickers, including 605 from Burma, 107 from Vietnam, and 43 from Hong Kong. Through another information, via to the combined attack to drug trafficking by Thailand and Burma, some underground drug factories in these countries were forced to move north where near Chinese boundary. It's estimated that factories in this area have increased to as many as twenty. If they pour 10% of their products into China or spread them out through China, things would be quite different for us in our anti-drug struggle. It's obvious that we could hardly change the condition of a victim unless the illegal drug trafficking from the outside is completely stopped.
2. Driven by the astonishing profits of

illegal drug trafficking and poppy planting, some Chinese people in some rural areas began to plant opium poppy illegally. Before now, opium poppy and other raw materials have been found planted in some provinces and regions such as Yunnan, Guangxi, Gansu, etc. These provinces have rooted out almost 300 mu of them in recent years. The number indicates that we should keep our eyes open to the illegal planting. Of course, a certain period of time is still needed before we get rid of it completely.

3. Huge profits makes it almost impossible for drug trafficking to be eliminated autonomously. Accordingly, opium is priced 8 yuan per liang abroad and the price for the same amount increases to 12–15 yuan on the border, 150 yuan in Kunming, the capital city of Yunnan province, and then it soars up to 1,500–2,000 yuan in Guangzhou. Illegal heroin trafficking is making even more astonishing profits. One gets a net profit of 400–500 thousand U.S. dollars through smuggling one kg of heroin into U.S. from Thailand. A small bag (0.1 gram) of heroin in central area of China is priced 15–30–60 yuan. So, "one makes future through one single time out of ten, one smuggler died leaving several rich generations" become the "incentive" or "energy" for those drug traffickers to risk dangers of penalty to death or life imprisonment continuously.
4. The criminal activities of drug crime in China seem to have more and more organized features, its illegal acts tend to be expanding from the traditional criminal offences. The illegal drug trafficking groups have tried every kind of way to expand the sphere of their heinous undertakings geographically, to take full advantage of newly developed facilities of communication and transportation. All these make things more difficult for us. Therefore, a certain period of time is still needed for the urgent improvement of our equipment and immediate skill-training of the police force to keep up with the steps.
5. As mentioned above, a certain amount of drug-consuming market still exists in China today. China has about 140,000 registered drug addicts, and most of them are young persons. It is an urgent task for the government to help them to quit the addiction. Rejoicingly that, the country is now confident about its ability in eradication of drug addiction. Through several years of continuous efforts of our anti-drug dept., a large number of drug addicts have been won back successfully. What's more, we've helped many youngsters give up their bad habit of drug abuse before it's too late by rehabilitation through labour. Simultaneously, pressures coming from the addict's family, social environment, their physical and spiritual sufferings make them wake up, and therefore weaken the drug consuming market in China. Now, we're much experienced in the works of quitting drug addiction.

To state succintly, drug crime in China will remain a focal point in our criminal policy and in the daily work of our judicial department. We still have a long way to go before we reach the final success. Of course, nothing is too difficult if you put your heart into it.

III. Major Countermeasures Taken by the State against Drug Crime

In the late 1980's, the Chinese government initiated eight emergency measures, so as to fight against the seemingly overwhelming drug problem, which had brought distinguished effects in the implementation.

1. Establishment of National Narcotics Control Commission (NNCC)

From June 24–26th 1991, NNCC held its first nationwide conference in Beijing.

During the conference, the participants from all over the country discussed the urgent situation of drug crime in China, dealed with the problems in our anti-drug countermeasures, settled many urgent practical problems such as improvement of equipment, police training projects, etc. The conference also called on the national cooperation among the provincial police forces and international cooperation in the fight against drug crimes. Now NNCC has become the headquarters and the coordination center of national anti-drug forces.

2. Implementation of "Strategic Anti-Drug Initiative (SAI)"

The plan, adopted and put into effect in 1985, contends the following: In order to wipe out all evils of drug crime and other related social problems, the whole nation should first, resort to tough measures including the imposition of the death penalty for convicted big-time traffickers, so as to curb the growing headache of drug trafficking. Secondly, a consistent anti-drug campaign would be held to help those addicts to give up their habit, and alert others to the harmfulness of drugs thus to prevent spreading of drug addiction, and to minimize and do away with the drug consuming market step by step, then cutting down the cooperation links between the illegal drug trafficking and drug addiction. Thirdly, the police force should keep carrying on the parallel tactics of "tracking down the big-time dealers, cutting down the head; watching out for the street pedlars, cleaning up the streets." Judging by the current implementation of "SAI" in recent years, the plan has been proved to be effective and workful.

3. Unify All Social Forces against Organized Drug Crime

To carry out the policy of "Comprehensive Administration of Public Security (CAPS)" in the whole society. The main idea of CAPS policy is to minimize and prevent crime, create a better social environment, wipe out all social factors which could induce crime, and thus to destroy the social basis of criminals, and isolate them from the society simultaneously. Actually speaking, the policy of "CAPS" is the practical use of systematic theory in the field of sociology. "Comprehensive" is to make a full understanding of all social problems and the relations among them through the way of analyses then get them controlled in an integrated system. While "Administration" is to make all the elements in the system go in order in the light of the scientific rule. When it is applied in the sphere of public security, the theory requires governments (local and state) and all social communities (state or private) to be organized to take methods of every kind (political, economic, administrative, educational, cultural, law) to crack down on the offenders, and rehabilitate criminals, remove the hidden dangers of crime constantly and promote the continuous growth of healthy atmosphere in the society. It also requires governors of different social community be responsible respectively for their duty in the attribution to the public security, and the public security situation of their community would be measured quantitatively as an important factor for their representation of duty. Meanwhile the initiatives of the masses of different social groups, enterprises, schools, resident's committees are also required to bring into full play. The characteristics of "CAPS" policy are as follows: 1) to organize or unify all social forces under the government; 2) to make full use of different methods in controlling the situation of society; 3) to aim at taking severe measures against crime and try all kinds of ways to transform criminals, to remove the causes of crime and destroy the social basis of all crimes to get the situation of public security under thorough control. The idea of our "CAPS" was raised in the late 1970's and adopted by the government in 1982 after three years experiment in some prov-

inces. Good results have been reached since its practice in the whole country, and have gained a worldwide interest and recognition. In his report submitted to the U.N. Mr. David Peter (the regional consultant of Prevention of Crimes and Criminal Justice) had mentioned that "we find it is necessary to give publicity to the Chinese system and method in preventing crimes by means of relying on the masses."

4. Take Actions in Tracking down the Illegal Drug Trafficking and Smuggling

From 1985 to the end of 1990, we've uncovered about 30 thousand drug criminal cases, arrested 20,878 suspects, in which 16,702 were sentenced (1,056 were sentenced to life imprisonment or death penalty). In 1991, the Chinese police force had cracked down 8,344 drug criminal cases, seized 1,980 kg opium, 1,919 kg heroin, 328 kg marijuana, 33 kg morphine, 308 kg ephedrine, 48 tons of chemical preparations for heroin. Meanwhile, 8,080 suspects were arrested in the country, 5,285 of them were sentenced (866 were put to life imprisonment or penalty to death). Chinese customs also made a great contribution to the fight against drug smuggling. Since 1991, 31 customhouses uncovered 62 drug smuggling cases, seized 311.72 kg heroin and other narcotics. In order to deal with some foreign drug smuggling forces, the country equipped all customhouses with inspecting equipment and chemical examination labs. They also strengthen international cooperation with customs of Thailand, Burma, Japan, Hong Kong and other countries or regions.

During recent years' anti-drug struggle, we find the following methods to be effective:

a) To make clear the upper and lower clues in one single case in order to "follow the vine to get the melon."
b) To establish an effective secret force to meet with these big-time smugglers.
c) To do more essential works of masses thus to arouse them taking active part in the counterbattles.
d) To strengthen comprehensive control of the society, especially the control of those floating populations, therefore to block up any possible loopholes for drug criminals.

5. Uprooting the Mother Plants of Narcotic Drugs, Such As Opium Poppy and Marijuana Constantly

According to the law, whoever illegally cultivates mother plants of narcotic drugs, shall be forced to uproot them. Whoever cultivates opium poppy of not less than 500 plants but less than 3,000 plants or any mother plants of other narcotic drugs in relatively large quantities, shall be sentenced to fixed-term imprisonment and shall be sentenced concurrently to a fine. By the end of 1991, we had uprooted 3,600 thousand plants of opium poppy in the whole country.

6. Provide All Kinds of Convenient Facilities for the Drug Addicts for Quitting Their Habits or Force Them to Quit by Rehabilitation through Labour

According to the statistics given by the top official of NNCC, China had 148,539 registered drug addicts by the end of 1991. In recent years, 232 rehabilitation centers were established, 41,227 addicts were forced to quit their addiction there. Meanwhile, 40,600 were self-treated or educated. For those drug addicts, we have four measures to choose. The first methods is to deliver a notice to those fledgling addicts or their family which requires them to quit within a certain period of time, and it also requires the help from the local communities, units, especially the addict's family, to urge them to give up their habit. The second one is to encourage those enterprises or factories to establish rehabilitation centers of their own for their drug addicts. The third one is to establish state owned quitting centers in

those addicts-heavy populated areas. Drug addicts can go and rehabilitate there voluntarily, or to be sent forcedly. The latter is to quit the addiction through labour. Persons who ingest or inject narcotic drugs again after being forced to quit may be subjected to rehabilitation through labour and shall be forced to quit during the period, according to the newly adopted *Decision on the Prohibition against Narcotic Drugs*. From recent years experience, the last methods seems to be more effective than others. The specific method is to connect pharmaceutical quitting with forced quitting, mainly by means of the latter, lay stress both on their nourishment and physical training, help them to overcome their biological dependence and urge them to rectify their bad mentality, and strength-control according to the law meanwhile take care of their daily life, as an integrated quartet. The above four measures helped many addicts out of the sea, radically keeping the consuming market within limits.

7. The Work of the Legislative Branch

In order to provide legal weapon for the anti-drug struggle, The National People's Congress adopted several new acts, and some articles of criminal law concerning the theme were complemented or amended. Some local congresses have also enforced several local acts according to their own situation.

With a view to severely punishing criminal activities as smuggling, trafficking in, transporting and manufacturing narcotic drugs and illegal cultivation of their mother plants, the *Decision on Prohibition against Narcotic Drugs* was adopted by the standing committee of the seventh NPC.

8. Develop Active International Cooperation with Some Neighboring Countries and Those among Provinces

The prevention of drug crime, the most sophisticated transnational crime, is far beyond the efforts of any single country or a single province within a state, so China has strengthen its international cooperation with several neighboring countries or regions in the field of anti-drug struggle recently. As a result, some signal cases were uncovered collaboratively. Meanwhile, provinces have strengthened their inter-province cooperation, and have gained excellent effects. In 1989, for instance, under the direct leadership of Ministry of Public Security, four provincial police bureaus successfully cracked a big-time drug trafficking group jointly, as many as 70 traffickers including one big-time smuggler from Burma were arrested.

The above eight countermeasures, rather eight respects of our anti-drug struggle have been proved to be effective and suitable for the situation.

IV. Problems and Shortcomings in Our Work

More police are needed, equipment especially, those special inspection instruments, transportation tools and communication devices, need to be improved immediately. Meanwhile, it's also an urgent problem for us to have those anti-drug personnel, especially those greenhands, to be trained both with special knowledge of narcotics and special skills of tracing, seizing, and other investigation techniques.

More efforts should also be made to carry out the policy of eradication of drug addiction. Being hampered by the restrictions of investigation methods, insufficiency of investigation technique we have not yet gotten an accurate number of the drug-addicts in the whole country. Among the measures taken for the quitting of the drug addiction, the fourth one has proved to be the most effective. However, the present five fingers in the fight seem to be not as helpful as a fist.

We have not yet established an effective system to trace, seize and confiscate the illegal proceeds and assets of the drug

traffickers, therefore, it seems that those big-time traffickers could only be sentenced to imprisonment but without their assets confiscated.

Many "fine tunings" are urgently needed in some parts of the "Comprehensive Administration of Public Security" policy, for example, it's necessary to:

1) Put into effect the principle of "all responsibility goes to the person in charge" so as to encourage the leaders to be fully responsible for their duty;
2) Strengthen the establishment of the local mass communities and urge them to take an active part in the work of comprehensive administration;
3) Government's attention should be centered on the links that have a bearing on the situations as a whole;
4) More efficiency is needed in the work.

V. Suggestions

"Unite all social forces, take measures of every kind, wipe out the evils of drug crime within ten or more years" is the final task we have already set. Against such a background, the following suggestions would be raised:

1. To make known the current situations of the drug problem to the public, so as to encourage more people to take active part in the work.
2. The parallel tactics of "tracking down the big-time fish, hitting the point; watching out for the pedlars, cleaning up the street" seems more effective and convenient.
3. Strengthen drug addiction quitting measures. Drug addiction and trafficking are in turn the causes and results of each other, thus they heighten or lessen relevantly.
4. Uprooting the mother plants of opium, and other raw materials of narcotics constantly before it is too late.

Appendix

Decision of the Standing Committee of the National People's Congress on the Prohibition against Narcotic Drugs

(Adopted at the 17th Meeting of the Standing Committee of the Seventh National People's Congress on December 28, 1990)

With a view to severely punishing such criminal activities as smuggling, trafficking in, transporting and manufacturing narcotic drugs and illegal cultivation of their mother plants and strictly prohibiting drug ingestion and injection, so as to protect citizens' physical and mental health, maintain social security and public order and ensure the smooth progress of the socialist modernization drive, the following decision is made:

1. As used in this Decision, the term "Narcotic drugs" means opium, heroin, morphine, marijuana, cocaine and other narcotics and psychotropic substances that are liable to make people addicted to their use and that are controlled by relevant regulations of the State Council.
2. Whoever smuggles, traffics in, transports or manufactures narcotic drugs and comes under any of the following categories, shall be

sentenced to fixed-term imprisonment of fifteen years, life imprisonment or death and shall concurrently be sentenced to confiscation of property:

(1) persons who smuggle, traffic in, transport or manufacture opium of not less than 1,000 grams, heroin of not less than 50 grams or other narcotic drugs of large quantities;
(2) ringleaders of gangs engaged in smuggling, trafficking in, transporting or manufacturing narcotic drugs;
(3) persons who shield with arms the smuggling, trafficking in, transporting or manufacturing of narcotic drugs;
(4) persons who violently resist inspection, detention or arrest, the circumstances being serious; or
(5) persons involved in organized international drug trafficking.

Whoever smuggles, traffics in, transports or manufactures opium of not less than 200 grams but less than 1,000 grams, or heroin of not less than 10 grams but less than 50 grams or any other narcotic drugs of relatively large quantities shall be sentenced to fixed-term imprisonment of not less than seven years and shall concurrently be sentenced to a fine.

Whoever smuggles, traffics in, transports or manufactures opium of less than 200 grams, or heroin of less than 10 grams or any other narcotic drugs of small quantities shall be sentenced to fixed-term imprisonment of not more than seven years, criminal detention or public surveillance and shall concurrently be sentenced to a fine.

Whoever makes use of minors or aids and abets them to smuggle, traffic in, transport or manufacture narcotic drugs shall be given a heavier punishment.

With respect to persons who smuggle, traffic in, transport or manufacture narcotic drugs more than once and are not dealt with, the quantity of narcotic drugs thus involved shall be computed accumulatively.

3. It shall be prohibited for any person to illegally possess narcotic drugs. Whoever illegally possesses opium of not less than 1,000 grams, or heroin of not less than 50 grams, or any other narcotic drugs of large quantities shall be sentenced to fixed-term imprisonment of not less than seven years or life imprisonment, and shall concurrently be sentenced to a fine; whoever illegally possesses opium of not less than 200 grams but less than 1,000 grams, or heroin of not less than 10 grams but less than 50 grams, or any other narcotic drugs of relatively large quantities shall be sentenced to fixed-term imprisonment of not more than seven years, criminal detention or public surveillance, and may concurrently be sentenced to a fine; whoever illegally possesses opium of less than 200 grams, or heroin of less than 10 grams, or any other narcotic drugs of small quantities shall be punished as provided in the first paragraph of Article 8 of this Decision.
4. Whoever shields offenders engaged in smuggling, trafficking in, transporting or manufacturing narcotic drugs, whoever harbours, transfers or covers up, for such offenders, narcotic drugs or their pecuniary and other gains from such criminal activities, or whoever conceals or withholds the illegal nature and source of their pecuniary and other gains from trafficking in narcotic drugs shall be sentenced to fixed-term imprisonment of not more than seven years, criminal detention or public surveillance, and may concurrently be sentenced to a fine.

   Conspirators to a crime mentioned in the preceding paragraph shall be deemed as accomplices in the crime of smuggling, trafficking in, transporting or manufacturing narcotic drugs and punished as such.
5. Acetic anhydride, ether, chloroform and other substances that are usually used in the manufacture of narcotics and psychotropic substances shall be strictly controlled in accordance with relevant regulations of the state. Illicit transportation or carrying of such substances into or out of the territory of China shall be strictly prohibited. Whoever illegally transports or carries into or out of the territory of China any substance mentioned above shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance, and shall concurrently be sentenced to a fine; where large quantities are involved, the offender shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years, and shall concurrently be sentenced to a

fine; and where relatively small quantities are involved, the offender shall be punished in accordance with relevant provisions of the Customs Law.

Whoever provides other persons with substances mentioned in the preceding paragraph, while knowing that those persons manufacture narcotic drugs, shall be deemed as an accomplice in the crime of manufacturing narcotic drugs and punished as such.

If a unit commits any illicit or criminal act prescribed in the two preceding paragraphs, the person(s) directly in charge and other person(s) directly involved in it shall be punished as provided in the two preceding paragraphs, and the unit shall also be subject to a fine or a penalty.

6. Whoever illegally cultivates mother plants of narcotic drugs, such as opium poppy and marijuana, shall be forced to uproot them. Whoever commits any of the following acts shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance, and shall concurrently be sentenced to a fine:
   (1) cultivating opium poppy of not less than 500 plants but less than 3,000 plants or any mother plants of other narcotic drugs in relatively large quantities;
   (2) cultivating any mother plant of narcotic drugs again after being dealt with by the public security organ; or
   (3) resisting the uprooting of such mother plants.

   Whoever illegally cultivates opium poppy of not less than 3,000 plants or any mother plants of other narcotic drugs in large quantities shall be sentenced to fixed-term imprisonment of not less than five years, and shall concurrently be sentenced to a fine or confiscation of property.

   Whoever illegally cultivates opium poppy of less than 500 plants or any mother plants of other narcotic drugs in relatively small quantities shall be punished by the public security organ with detention of not more than 15 days, and may also be punished with a penalty of not more than 3,000 yuan.

   Persons illegally cultivating opium poppy or any mother plants of other narcotic drugs who voluntarily uproot them before harvest may be exempted from punishment.
7. Whoever lures, aids and abets, or cheats others into drug ingestion or injection shall be sentenced to fixed-term imprisonment of not more than seven years, criminal detention or public surveillance, and shall concurrently be sentenced to a fine.

   Whoever forces others to ingest or inject narcotic drugs shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years, and shall concurrently be sentenced to a fine.

   Whoever lures, aids and abets, cheats or forces minors into ingesting or injecting narcotic drugs shall be given a heavier punishment.
8. Whoever ingests or injects narcotic drugs shall be punished by the public security organ with detention of not more than 15 days, and may simply or concurrently be punished with a fine of not more than 2,000 yuan, and the narcotic drugs and the instruments used for drug ingestion or injection shall concurrently be confiscated.

   Whoever is addicted to drug ingestion or injection shall, in addition to being punished as provided in the preceding paragraph, be forced to quit the addiction and be subjected to treatment and education. Persons who ingest or inject narcotic drugs again after being forced to quit may be subjected to rehabilitation through labour and shall be forced to quit during the period.
9. Whoever provides shelter for others to ingest or inject narcotic drugs and sells narcotic drugs therein shall be punished in accordance with the provisions of Article 2.
10. For medical, teaching and research purposes, the competent department of public health administration of the state may, in accordance with provisions of laws and administrative rules and regulations, designate specific places and pharmaceutical factories to cultivate or manufacture limited quantities of, mother plants of narcotic drugs, or narcotics and psychotropic substances. Units and persons who are allowed by law to engage in manufacture, transportation, administration or utilization of state-controlled narcotics and psychotropic substances shall strictly observe the regulations of the state concerning the control of such substances.

    Persons who are allowed by law to engage in manufacture, transportation, administra-

tion and utilization of state-controlled narcotics and psychotropic substances and who, in violation of relevant regulations of the state, provide such substances to persons who ingest or inject narcotic drugs shall be sentenced to fixed-term imprisonment of not more than seven years or criminal detention, and may concurrently be sentences to a fine. Persons who provide such substances to drug smugglers or traffickers, or, for the purpose of profit, to persons who ingest or inject narcotic drugs shall be punished in accordance with the provisions of Article 2 of this Decision.

If a unit commits any illicit or criminal act prescribed in the second paragraph of this Article, the person(s) directly in charge and other person(s) directly involved in it shall be punished in accordance with the provisions of the second paragraph of this Article, and the unit shall be punished with a fine.

11. Any state functionary who commits any crime prescribed in this Decision shall be given a heavier punishment.

    Persons who were punished for crimes of smuggling, trafficking in, transporting, manufacturing or illegally possessing narcotic drugs commits a crime prescribed in this Decision again shall be given a heavier punishment.

12. Uncovered narcotic drugs, illegal proceeds from drug-related crimes, gains from such proceeds and the funds and means used for commission of the crimes shall all be confiscated. The confiscated drugs and instruments used for drug ingestion or injection shall be destroyed or disposed of otherwise in accordance with state regulations. All gains from fines or penalties or confiscations shall be turned over to the State Treasury.

13. This Decision shall be applicable to citizens of the People's Republic of China who commit the crimes of smuggling, trafficking in, transporting or manufacturing narcotic drugs outside the territory of the People's Republic of China.

    With respect to foreigners who, after committing the crimes mentioned in the preceding paragraph outside the territory of the People's Republic of China, have entered the territory of China, the Chinese judicial organ shall have jurisdiction and this Decision shall apply, with the exception of those who shall be extradited pursuant to the international conventions or bilateral treaties to which China has acceded to or concluded.

14. Persons committing the crimes prescribed in this Decision who perform meritorious service by informing against or exposing other drug-related crimes shall be given a lighter or mitigated punishment or be exempted from punishment.

15. Citizens shall have the duty to inform against and expose illicit or criminal acts prescribed in this Decision. The state shall award persons who inform against or expose criminal activities such as smuggling, trafficking in, transporting or manufacturing narcotic drugs and persons who perform meritorious service in the prohibition against narcotic drugs.

16. This Decision shall enter into force as of the date of promulgation.

The Current Situation of Organised Crime in Fiji

*by Salote Yali Kaimacuata**

Country Paper

To seek to define precisely the term organised crime is an unenviable task thwart with much difficulty. Analogous terms used to describe the so-called victimless crime include "fraud," "economic crime," "white collar crime," "corporate crime," "corruption" and the list goes on. The terms do not describe the same illegal conducts but are in some cases interchangeable. For example, it is easily assumed that "organised crime" and "corruption" are inextricably and fundamentally linked. For the purposes of this paper I will be interchanging each term for the other.

According to popular mythology and in most theoretical treatments of the subject corruption is considered a fundamental element of organised crime. Their usage is dependent on who you are addressing or what the media lingo of the moment happens to be. However, when it comes to the crux, how one describes the criminal activity matters not as investigation techniques are the same.

The Chairman of the National Crime Authority to the Fourth International Anti-Corruption Conference in Sydney 1989, Peter Faris Q.C. stated:

> "One major source of confusion in any debate about the concepts 'corruptions' and 'organised crime' is a disagreement that exists over what the terms actually means."

He went on to say:

> "If corruption has been a difficult term to pin down 'organised crime' has proved even more elusive. It is only a slight exaggeration to say that there are almost as many definitions of organised crime as there are people writing about it."

The Current Situation and Characteristics of Orgnised Crime in Fiji

Sections 376 and 377 of the Penal Code (Laws of Fiji—Chapter 17) whilst not offering a definition of corruption creates and confines the offenses to corrupt practices and secret commissions. Section 376 outlaws the accepting, obtaining, agreeing to accept and attempting to obtain any inducement for the doing, or forbearing to do, any act or favour. It is primarily directed at public officials and those officials who deal with them in the context of corrupt practices.

Whilst corruption in the public sector is frequently aired, it is wrong to assume that no other form of corruption exists. It all depends of course upon the meaning one attributes to the terms corruption and/or organised crime. Consider also what happens in the private sector; the corporate jungle; behind the closed doors of boardrooms where many a plan of industrial espionage or just plain fraud has been borne. It is not beyond those in the highly competitive industrial and commercial zoo in which we live and work to buy information on a competitor in order to gain an advantage in the market place. Such form of corruption

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within its sphere of organised crime is more difficult to detect, investigate and prosecute but should not be overlooked as it is just as harmful to society; perhaps even more so because of the climate of apathy within which it flourishes.

Organised criminal activities reflect a number of common elements. There is in most cases an element of systematic or pre-planned organisation that is shrouded with secrecy; the criminal activity appears to be repetitive; the enterprise is often protected by the involvement of public officials and/or corporate organisations where the activities more often than not generate large profits.

How Prevalent Is Organised Crime in Fiji?

Despite the fact that within the Pacific there is numerous smaller populous and numerous smaller economies, operators and agents of organised criminal activities have already begun to move down to the Pacific.

Following the events of 1987 that occurred in Fiji, the interim Government keenly pursued a policy of deregulation of the national economy. Towards that end it developed a system of Tax Free Zones and privatisation designed amongst other things to attract foreign investments. The features included an income tax holiday for a period of 13 years, not withholding tax on interest, dividends and royalty paid abroad and freedom to repatriate capital and profit. Needless to say there has been marked response with notable investments in the garment and furniture industries. The government also offered parallel incentives to potential investors in the tourist industry.

There is some evidence that these institutions, like the banks and financial centres in other territories, were target of investments of funds gained illegally. Given the developments in Europe and co-operative effort to develop transnational mechanisms to combat money laundering and its obvious linkage to trade access issues, it must be considered reasonable to assume that the money laundering facilities available in the participating countries were no longer available with ease, hence the likelihood of regions like the Pacific being targeted. As they were merely designed to be "cleaned" within the system before they were again repatriated to their original sources, these funds because of their transient nature were capable of destabilising the economies of developing countries.

The following is a typical case. In 1990, the Fiji Police investigated a complex series of transactions that originated in Hong Kong. The funds were subsequently invested to purchase substantial shares in a large hotel situated on the Coral Coast, Fiji's main tourist area. The lady was charged with multiple fraud counts.

The Asian influence in the Pacific is quite apparent. A product of the Indian and Chinese migration has been the development of "Hundi/Hawala," and "Chop Shop/Chitt" banking respectively, two known types of underground banking systems. Using legitimate businesses, remittance houses, money lenders/changers as fronts, underground banking systems generate funds by over-invoicing of imports, retaining abroad excess foreign exchange; under-invoicing of exports, in which foreign exchange intended to be repatriated is retained abroad; bogus imports, where foreign exchange released is retained abroad for non-existent import; retention abroad of unspecified balance of commission by commission agents; encashment of airline tickets after performing a short leg of the journey, etc. An extensive range of documentary frauds have also been prevalent in the recent years.

The above very briefly is what can be considered to be new trends in criminal activities. They demand different perspec-

tive for law enforcers and administrators of justice.

In the recent past our concern had been in a large part the trafficking of illicit drugs and the incidence of terrorism. The former had been facilitated by our central location in the network of air and shipping services connecting North America and Asia on one side and New Zealand and Australia on the other. The concern about the latter was largely compounded by the events of 1987, and caused some degree of paranoia when the attempted hijack of an Air New Zealand 747 took place at Nadi and the shipment of a large quantity of arms was discovered.

The response of the Governments in the Pacific region has been positive and supportive. The relative position of each economy has necessitated some degree of co-operation and mutual assistance to ensure not only effective investigation and prosecution, but also uniformity in approach.

Except in Australia and Vanuatu where some legislation had been put in place Australia has in place the following:

(a) Proceeds of Crimes Act 1987.
(b) Mutual Assistance in Criminal Matters Act 1987.
(c) Cash Transaction Reports Act 1988.

Most other island states are now considering domestic legislations which among other things will render laundering of and dealing in property being proceeds of crime an offence capable of being the subject of extradition proceedings. In some states, this is very much an issue given their existing economic and political environment. If they decide to do so then they must almost by necessity consider as well asset tracing legislation and cash transaction legislation to ensure that the financial elements of criminal activities are impounded. This could be a case of political will. In Fiji, a Proceeds of Crime Legislation is being currently evolved which proposes to empower the Courts to order seizure of all properties, the proceeds of criminal activities.

In addition measures will have to be evolved to minimise the use of off-shore financial centres and banks as facilities for money laundering. Asset tracing provisions for instance, to have a meaningful effect must operate in an environment where bank secrecy laws cannot impede proper course of criminal investigations and the giving of assistance to another state to aid the proper administration of criminal justice. The proper relationship between the concept that banks owe a duty of confidentiality to their clients and the concept that banks should not participate in the commission of an offence (or conceal the commission of an offence) is well documented.

Related to the above discussion is a perennial question of effective extradition. The minimum requirement would allows its executives to respond to requests for surrender of fugitive criminals. Such a law must preserve the state of its sovereign rights to refuse extradition in certain exceptional cases, while enabling it to surrender fugitives to another state in cases where to do so would not offend its fundamental principles of public policy.

In Fiji, the principle Act governing extradition of fugitives is the Extradition Act. It is similar to those covered by the Commonwealth arrangement (the "London Scheme") favouring a simple concept of dual criminality and minimum penalty. There is also an option for participants to adopt on a bilateral basis a modification of the evidentiary requirements so as to abolish the strict application of the rule against hearsay.

Having made these remarks, I believe that it is quite apparent that mutual assistance between states is necessary.

Co-operation between front line law enforcement agencies and between governments is essential to the success of any

campaign to defeat criminal activity that crosses national boundaries. Such co-operation should encompass liaison and assistance at the investigative and at the prosecutorial stages and, in resulting criminal or civil action, divert the proceeds of their crimes away from the criminals.

Effective co-operative schemes embody elements covering all levels of law enforcement. At the "front line" level, membership in Interpol by most countries is recommended as a desirable first step. Bilateral police liaison and co-operation is another essential component of an effective co-operative regime, as is liaison between customs agencies.

In the modern world, an essential element of an effective co-operative scheme is one which permits one country to use its investigative and prosecutorial tools (including compulsory measures such as search and seizure) on behalf of the investigation and prosecution authorities of another country.

Any successful scheme for co-operation in the enforcement of criminal laws must facilitate:

- the making available of evidence including documentary and other real evidence;
- the provision of records;
- the location of witnesses and suspects;
- the execution of requests for search and seizure;
- the service of documents;
- the provision of assistance to encourage witnesses to give testimony or provide assistance in the requesting country; and
- the location, restraining, forfeiture and (where appropriate) repatriation of the proceeds of crime (including assistance in the recovery of pecuniary penalties).

Corruption and Its Control—The Malaysian Experience

*by Yeap Kum Thim**

Introduction

A study and discussion on the topic of corruption and its control is relevant and in line with the main theme of this course. An effective investigation and prevention programme on corruption is indispensable to our quest for effective methods of organised crime control; for organised crime cannot prosper without corruption. The quickest way to fortune is through the exploitation, extortion, terror, and crime which involves breaking the law and a risk of conflict with the law enforcement agencies. This risk can best be minimised by corrupt payment to those officials whose duty is to uphold the law. Therefore such acts like trafficking in dangerous drugs, control of prostitution, gambling, loan sharking and extortion are most profitable when officialdom is blind and seduced by money and other advantages.

Corruption and Its Classification

For the purpose of this paper, corruption is defined as the use of public power for private profit, preferment, or prestige, or for the benefit of a group or class in a way that constitutes a breach of law or of standards of high moral conduct. Corruption involves a violation of a public duty or a departure from high moral standards in exchange for (or in anticipation of) personal pecuniary gain, power, or prestige.

The general classifications of corruption that are common to all countries would include the following:

1) Payment to Inspectional Services of Government entities/enterprises e.g. construction inspection, licensing inspections, health and food establishment inspections/regulations, fire inspections, weights & measures inspections, factory inspections and the like.
2) Fraud in Public Programmes e.g. social welfare schemes, religious aids, low-cost housing allocation and the like.
3) Diversion of Government Revenue e.g. tax frauds, customs-duty evasion, undervaluation of transactions in immovable property and the like.
4) Corruption in the Criminal Justice System e.g. police taking bribes from offenders, prison authorities taking bribes from criminals, fixing of cases by attorneys, judges and the like.
5) Kickbacks for receiving Government contracts, business and trade licenses, forest logging concessions and the like.

Role and Functions of Anti-Corruption Agency

In Malaysia, the task and responsibility of detecting, preventing and controlling corruption and corruption-related crime rest primarily on the Anti-Corruption Agency (ACA). The ACA is formed by an Act of Parliament. It is an independent investigative body whose principal officer is the Director General who is appointed by His Majesty The King on the advice of the Prime Minister under whose portfolio it comes.

The functions of the ACA include the following:

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1) To conduct anti-corruption campaigns.
2) To collect and collate intelligence.
3) To investigate into corruption and corruption-related crime.
4) To prosecute corruption offenders.
5) To prepare and submit investigation and disciplinary reports.
6) To conduct studies and put up recommendation to rectify weaknesses and avenues for corruption in existing government administrative systems and procedures.
7) To conduct vetting pertaining to promotion exercises, optional retirement, conferment of service awards, etc.
8) To formulate and implement other preventive measures such as conducting surprise checks and visits, dialogue sessions with other departments and joint operations with other law enforcement agencies.

Legal and Administrative Powers of ACA

To enable ACA to effectively carry out these functions, it is equipped with both legal and administrative powers as provided for under the following statutes:

1) The Anti-Corruption Agency Act, 1982

An Act to establish the Anti-Corruption Agency, to vest powers on officers of the Agency and to make provisions connected therewith.

2) The Prevention of Corruption Act, 1961 (Revised 1971)

This Act provides for the more effectual preventions of corruption. It provides for powers of search and seizure, legal obligation of public to give information, special powers of investigation including inspection of bankers' books, order to suspect to declare his assets and that of his family members. (This Act can be considered the most comprehensive of the anti-graft legislation currently in force in Malaysia.)

3) The Emergency (Essential Powers) Ordinance, No. 22, 1970

This Ordinance was passed during the State of Emergency that was proclaimed following the political turmoil of the 13th May, 1969 disturbances. It was enacted under the constitutional provision of Clause (2) of Article 150 of the Federal Constitution. It is aimed at bringing to book renegade politicians and public servants who abuse their positions and office for private gain. Besides conferring powers of investigations, search and seizure, it also provides for order to freeze and forfeit money obtained in the commission of corruption in any bank, and order prohibiting any transactions of property obtaned corruptly.

4) The Criminal Procedure Code

The Criminal Procedure Code provides for wide ranging powers to the plice (ACA officers) to effectively carry out its duties. It includes, powers to summon witnesses to provide information, to detain and interrogate suspects, to search for and seize articles, documents used in the commission of an offence, etc.

5) The Public Officers (Conduct and Discipline) (Chapter D) General Orders 1980

This is an administrative general order governing the conduct and discipline of public officers. By virtue of Service Circular No. 12/1967 and No. 17/1975, issued by the Public Services Department, all Heads of Government Departments are administratively obliged to act on disciplinary reports prepared and submitted to them by ACA for appropriate action, touching on breach of the code of conduct which stipulates *inter alia*, that:

(a) an officer shall not subordinate his public duty to his private interests.
(b) an officer shall not conduct himself in such a manner as is likely to bring his private interests into conflict with his public duty.
(c) an officer shall not conduct himself in

such a manner likely to cause a reasonable suspicion that—

(i) he has allowed his private interests to come into conflict with his public duties so as to impair his usefulness as a public officer;

(ii) he has used his public position for his advantage.

(d) conduct himself in such a manner as to bring the public service into disrepute or to bring disrepute thereto.

(e) lack efficiency or industry.

(f) be dishonest.

(g) be irresponsible.

Organisational Structure of ACA

The organisational structure of the ACA is contained in a six-fold division for the allocation and segmentation of the work of the Agency. These divisional areas are made up of the following:

1) Intelligence Procurement Division;
2) Investigation Division;
3) Prosecution Division;
4) Prevention Division;
5) Training Division;
6) Administrative Division.

The Intelligence Procurement Division is charged with the responsibility of gathering and processing information on corruption, providing technical aids support and surveillance work. The Investigation Division is charged with the task of investigating complaints, reports and allegations on corruption and submitting investigation papers for the perusal of the Prosecution Division headed by a Senior Federal Counsel seconded from the Attorney General's Office. A number of Deputy Public Prosecutors and Investigating officers work under his authority and supervision. The Prevention Division, on the other hand has been entrusted with the task of identifying opportunities and avenues for corruption and take appropriate remedial action. Public awareness programmes are also handled by this division. In fact, in the last few years greater emphasis has been placed on the prevention programme approach in controlling corruption by stepping up related activities in this area.

The Training Division is responsible for overseeing the overall training needs of the department including liaison with both local and foreign agencies to keep up with the latest techniques and procedures being developed in the control against corruption and corrupt practices. Lastly, the Administration Division looks after the services and financial needs of the department. Unlike the other divisions, this division is primarily staffed by officers from the common-user pool who may be transferred out of this department, if required to do so by the relevant authorities.

Problem of Corruption

The problem of corruption is a worldwide phenomenon. No country can seriously claim to be devoid of it. The common problem areas encountered by most countries including Malaysia are as follows:

1) It produces within the community attitudes which will distort proper values and undermine the assumptions of fairness and stability.
2) It breeds injustice for it enables those who pay to obtain favours to which the applicant is not entitled.
3) It offends those moral values which relate achievement and reward to honest endeavours.
4) It demoralises the taker who is guilty not only of unjust enrichment but of an abuse of the authority rested in him by the state by receiving tribute from those with whom he should deal in a detached and equitable manner.
5) It causes widespread bitterness among those who cannot or will not pay.
6) It distorts standards by enabling less de-

serving ones to reach their goals ahead of those of greater merit.
7) It leads to the control of authorities by criminal elements.

Workable Solutions in Combating Corruption

Entrusted with the unenviable task of fighting and containing corruption and other corruption-related crimes, the ACA has been constantly formulating and implementing programmes proven to be effective. It is found that an environment most conducive to ACA's fight against corruption should ideally contain the following elements:

1) A well-equipped, dedicated and effective workforce in its department.
2) A powerful legislative framework within which the ACA can operate effectively.
3) An effective and incorruptible legal and judicial system which is prepared to treat corruption as a serious crime and to impose severe sentences as deterrent to others and as a sign of the outrage of society at this offence.
4) A constant education and re-education of the public on the evils of corruption and to instill in them the obligation to co-operate with and to assist ACA to wipe out this menace.

Conclusion

Various measures have been suggested and employed to control corruption. Each and every measure taken singly will make only a limited impression on the overall problems of corruption. It is esential therefore for law enforcement agencies entrusted with the unenviable task of combating corruption and corruption related offences to adopt a concerted and multi-facetted approach of an effective investigation, prosecution and prevention programme.

Appendix I

Events in the Development of Anti-Corruption Measures in Malaysia

Period 1—Prior to Independence (1957)

1873 Corruption codified as an offence in the Penal Code—Straits Settlement.
1893 Corruption codified as an offence in the Penal Code—Malay States.
1938 First Separate Statute on Corruption—Prevention of Corruption Enactment, No. 23 of 1938.
1941 Commission of Inquiry to enquire into Conduct and Management of Mine's Department (Shearn's Report).
1950 Prevention of Corruption Ordinance.
1952 Amendment to Ordinance.
1953 Commission of Inquiry to enquire into matters affecting the Integrity of the Public Services (Taylor's Report).

Period 2 — Post-Independence (1957–1969)

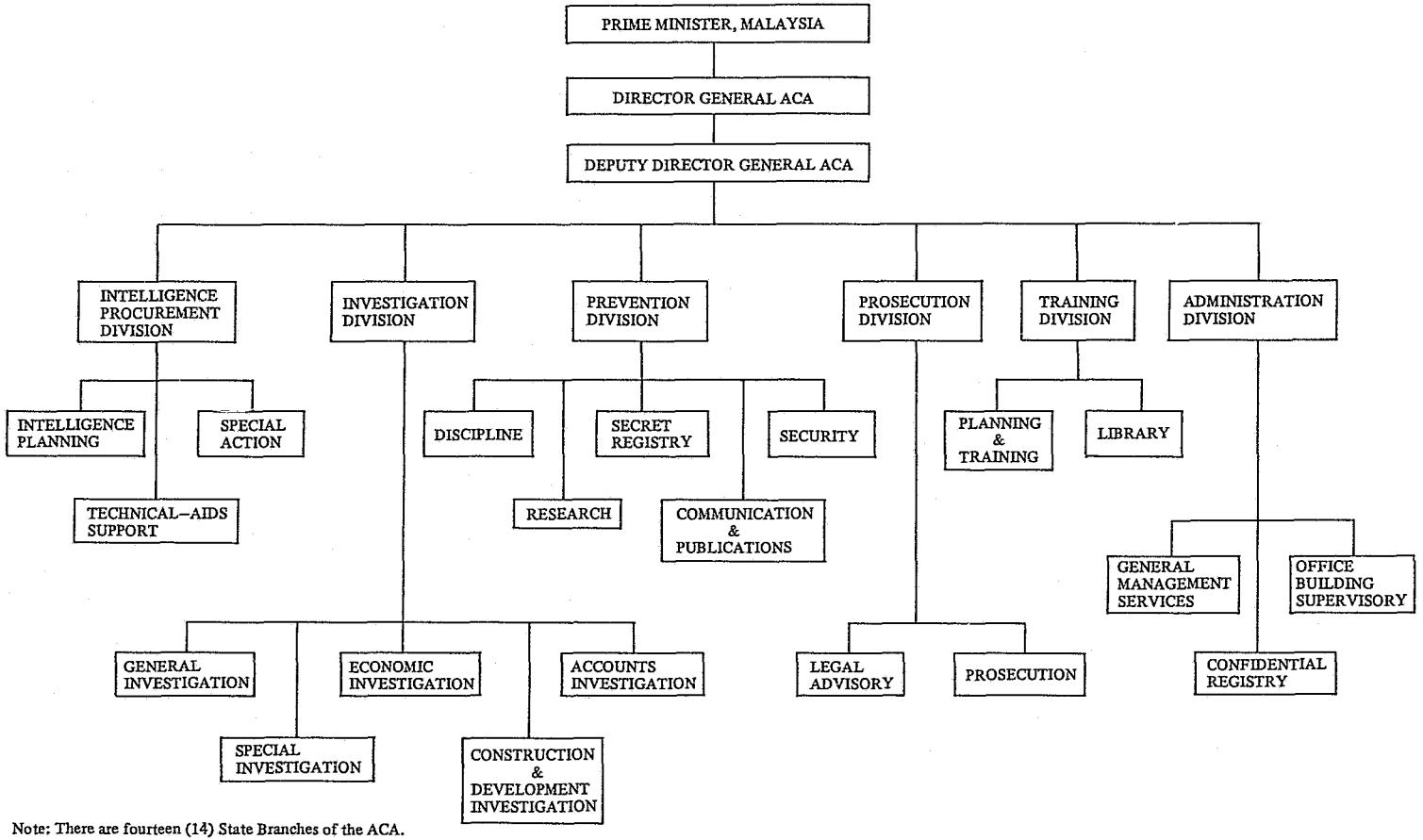
1958 Shah Nazir Alam Committee Report.
1959 Special Crimes Branch (within Criminal Investigation Department—Police Force) and Anti-Corruption Unit (in Prime Minister's Department) created.
1960 Anti-Corruption Unit transferred from Prime Minister's Department to Home Affairs Ministry.
1961 Prevention of Corruption Ordinance, revised and replaced by Prevention of Corruption Act.
1967 Amendments to Prevention of Corruption Act, Anti-Corruption Agency formed by merger of Special Crimes Branch and Anti-Corruption Unit, located within Home Affairs Ministry.
1968–1970 Anti-corruption Agency, reorganised; regional set-up replaced by branch office set-up; organisational growth and development—training, "closed" service, etc.

Period 3 — Post 1969–1970

1969–1970 Review of General Orders, Chapter "D" pertaining to Disciplinary Matters in the Civil Service.
1971 Prevention of Corruption Act revised.
1973 Anti-Corruption Agency replaced by National Bureau of Investigation, created by Act of Parliament—located in Prime Minister's Department.
1976 NBI placed under Law Ministry and Attorney General's Office.
1980 NBI placed under the Prime Minister's Department Further Review of General Orders, Chapter "D" pertaining to Disciplinary Matters in the Civil Service.
1982 NBI replaced by Anti-Corruption Agency created by Anti Corruption Agency Act.

Appendix II

ORGANISATIONAL STRUCTURE OF ACA MALAYSIA



Note: There are fourteen (14) State Branches of the ACA.

Appendix III

Offences Investigated by ACA

1. Prevention of Corruption Act 42/61

Sec. 3(a)—corruptly solicit or receive or agree to receive for himself or of any other person.

Sec. 3(b)—corruptly give, promise or offer to any person whether for the benefit of that person or of another person.

Sec. 4—corrupt transaction with agents.

(a) Corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, ..., any gratification .....

(b) Corruptly gives or agrees to give or offers any gratification to any agent ....

(c) Knowingly gives to an agent, or if an agent knowingly uses with intent to deceive his principal, any receipt, account or other document .....

Sec. 7—corruptly procuring withdrawal of tenders.

Sec. 8—bribery of member of legislature.

Sec. 9—bribery of member of public body.

Sec. 10—obstruction of search.

Sec. 11—abetment of commission of offence outside Malaysia.

Sec. 12—duty of public officer to whom a gratification is given or offered .....

2. Emergency (Essential Powers) Ord. 22/70

Sec. 2(1)—corrupt practice by any member of the administration or any Member of Parliament or the State Legislative Assembly or any public officer, ... The whole of this Ordinance.

3. Customs Act 1967

Sec. 137—offering or receiving a bribe.

4. Penal Code (Prescribed Offences)

Sec. 161—public servant taking a gratification other than legal remuneration, in respect of an official act.

Sec. 162—taking a gratification in order, by corrupt or illegal means, to influence a public servant.

Sec. 163—taking a gratification, for the exercise of personal influence with a public servant.

Sec. 164—punishment for abetment by public servant of the offence above defined.

Sec. 165—public servant obtaining any valuable thing, without consideration, from person concerned in any proceeding or business transacted by such public servant.

Sec. 213—taking gifts, etc., to screen an offender from punishment.

Sec. 214—offering gift or restoration of property in consideration of screening offender.

Sec. 215—taking gift to help to recover stolen property, etc.

Appendix IV

Statistics on Investigations and Prosecutions by ACA (1985–1992)

Subject	Year						
	1986	1987	1988	1989	1990	1991	1992 (June)
Information/Complaints Received	6,666	6,967	6,791	8,217	7,387	6,789	3,838
1. From ACA Hq.	1,616	1,842	1,902	2,639	2,333	1,700	1,000
2. From ACA States	5,050	5,125	4,889	5,578	5,054	5,089	2,838
3. Sources of Information							
1) Unofficial—Flying Letters, Telephone Calls, Newspapers	3,014	3,069	3,224	4,114	3,753	3,335	1,713
2) Official Letters from Individuals	1,634	1,958	1,779	2,193	1,844	1,579	1,050
3) From Government Departments	231	112	74	99	81	70	45
4) Complainant Comes in Person	453	474	413	437	330	393	195
5) From ACA Officers	1,321	1,302	1,246	1,352	1,358	1,398	823
6) Official Letters from Police	9	45	38	14	13	12	10
7) From Public Complaints Bureau	4	7	17	8	5	2	2
Form of Action							
1. Inquiry Paper	2,168	2,548	2,582	2,936	2,818	2,991	1,536
2. Investigation Paper	537	553	528	509	425	416	242
3. Refer to Police	307	281	299	420	293	229	104
4. Refer to Public Complaints Bureau	1	4	23	5	5	7	6
5. Refer to Other Government Departments	1,284	1,272	1,217	1,754	1,381	1,168	603
6. Refer to Writer	–	–	262	534	360	250	155
7. N.F.A.	1,303	1,453	1,406	1,549	1,435	1,226	887
Arrests							
1. Government Officers	174	156	179	153	151	118	109
2. Members of Public	96	125	139	101	87	103	73
3. Politicians	–	1	3	–	1	5	–
Prosecution (Court Cases)							
1. Nos. Prosecuted in Court							
1) Government Officers	135	123	138	128	128	73	52
2) Members of Public	55	102	94	95	65	83	96
3) Politicians	–	–	1	–	–	5	3
2. Nos. Convicted							
1) Government Officers	60	57	72	87	84	69	31
2) Members of Public	40	59	69	85	43	56	39
3) Politicians	1	–	–	–	–	–	–
3. Nos. Acquitted							
1) Government Officers	30	35	60	46	55	46	29
2) Members of Public	20	17	16	15	24	22	16
3) Politicians	1	–	1	–	1	1	–
4. Nos. Discharged Not Amounting to Acquittal	20	17	24	31	20	31	7
5. Nos. Charges Withdrawn	37	39	15	8	16	3	4
6. Nos. Cases Pending	903	1,171	949	599	557	529	205
7. Appeal Cases							
1) Conviction Affirmed	14	14	8	12	8	21	15
2) Conviction Quashed	12	9	6	13	4	16	12

Statistics on Prevention by ACA (1986–1992)

Subject	Year						
	1986	1987	1988	1989	1990	1991	1992 (June)
Lectures/Dialogue/Briefing	172	195	297	302	289	281	120
1. Breakdown According to Sector							
1) Government Department	131	121	206	194	200	176	84
2) Statutory Body	16	30	44	38	26	57	26
3) Government Enterprises	–	–	2	1	3	4	–
4) Private Sector	–	1	–	–	1	1	–
5) Educational Institutions	18	37	39	54	42	38	10
6) Associations/Societies	7	4	3	14	16	5	–
7) Politicians	–	2	3	1	1	–	–
2. Lectures (by Invitations)	158	160	229	253	245	222	91
3. Lectures (ACA Sponsored)	14	35	68	49	44	59	29
4. No. of Participants	13,371	15,327	26,220	23,647	29,136	20,915	10,875
Seminar/Workshop	–	–	2	3	11	2	1
Exhibitions	–	–	3	8	9	11	3
News Reports (Corruption Related Offences)	145	344	691	1,344	1,721	1,652	1,152
1. Utusan Malaysia/Mingguan Malaysia	31	46	111	242	328	333	262
2. Utusan Melayu/Utusan Zaman	38	48	78	158	224	235	164
3. Berita Harian/Berita Minggu	17	61	125	219	239	315	250
4. Watan	–	66	5	64	136	79	26
5. New Straits Times/New Sunday Times	22	76	226	279	357	297	174
6. Malay Mail/Sunday Mail	–	4	20	29	30	29	133
7. The Star/Sunday Star	37	43	126	205	266	237	21
8. Nanyang Siang Pau/Sin Chew Jit Poh	–	–	–	143	134	122	122
9. Local Magazines	–	–	–	5	7	5	–
Radio/TV Programmes	–	2	5	10	5	18	7
Surprise Checks	53	10	42	22	26	19	8
Official Visits to Other Departments	4	31	48	150	134	170	54
1. HQ Staff	2	25	33	26	16	16	3
2. States Staff	2	6	15	124	118	154	51
Roadblocks with Other Agencies	9	75	77	32	94	221	36
1. Police	–	14	16	6	16	30	9
2. Road Transport Department	5	36	52	9	34	44	9
3. Customs	1	5	–	7	6	2	1
4. Anti-Smuggling Unit	3	6	2	–	6	–	2
5. Others	–	14	7	10	32	145	15
Disciplinary Reports	151	85	150	100	195	105	244
Investigation Reports	23	18	32	16	56	18	3
Vetting (General Service Circular No. 1/1985)	7,220	5,791	10,264	9,659	11,252	15,437	5,754
1. Promotion	3,839	3,395	4,841	3,981	5,873	8,618	2,494
2. Optional Retirement	417	310	455	531	582	1,379	607
3. Conferment of Awards (Federal)	2,008	1,093	1,566	1,724	1,606	1,640	1,146
4. Conferment of Awards (States)	241	861	3,132	3,278	3,112	3,656	1,433
5. General Purposes	707	132	270	145	79	144	74

Organized Crime Trend in Pakistan

*by Muhammad Javed Qureshi**

A. Introduction

It has rightly been observed in the "course outline" of the information booklet on Prevention of Organized Crime** that one of the most serious threats to the society in many countries is that of organized crime. It will not be out of place to repeat the introduction of organized crime, so that each one of us should refresh his knowledge and assess its damage for the country and society. Organized crime has been representing a danger for economic, political and social institutions and injuring the peaceful life of the public. In some countries, the criminal undertakings of organized crime have been discouraging domestic and foreign investment adversely affecting the daily flow of economic activities and thus undermining sound economic growth as well as political and social stability. In some cases, an organized crime group constitutes a state within the state, running a full-fledged parallel economy.

Organized crime has been expanding its illegal acts from its traditional offences such as murder, robbery, gambling and prostitution, which are even now a serious threat to the public, to more complicated and sophisticated offences. These offences may include illegal transactions in the stock market or futures market including insider dealing, large scale fraud victimizing many citizens, illegal drug trafficking often conducted beyond national borders, money laundering, environmental crime, offences infringing on the cultural heritage of the people and so forth.

Organized crime has also been expanding the sphere of its heinous undertaking geographically, taking full advantage of newly developed facilities of international communication and transportation and hampering the efforts of trace and seizure by law enforcement officers of its illegal proceeds.

It has been getting more difficult for the present criminal justice system to respond to this situation. Although it is indispensable in dealing with organized crime offence appropriately in criminal justice proceedings to identify the principal offenders among organized crime group members, it is sometimes a very hard task to achieve, being hampered by the restrictions of investigation methods, insufficiency of investigation technique, inappropriate evidential rules and so forth.

B. State of Affairs in Pakistan

In Pakistan, only the Drug Trafficking can be termed as organized crime. The country also faces the problem of illegal manufacturing of Arms/Ammunition and its smuggling inside and to the neighboring countries. The area of cultivation of narcotics and manufacturing of the Arms/Ammunition lie in the same region of the country that is its northern part. The pattern and roots of its smuggling are also the same. The Arms/Ammunition is mainly smuggled and consumed inside the country while the drugs trafficking is really a problem as the majority of its produce is smuggled to Western countries through the neighboring

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**General Brochure for the 92nd International Training Course.

states.

Drug abuse and trafficking, a source of grave social, economic and personal distress, is a matter of great concern to us. Also the commitment to reduce the demand for and supply of illicit drugs in Pakistan and narcotics trafficking is high on the Government's list of priorities.

The conditions which give rise to drug abuse and narcotics trafficking in today's society are many and complex and cannot be treated by simple remedies. The international character of drug trafficking and the vast movement between source, transit and consumer countries, is a sophisticated phenomenon, which has to be discussed in detail and necessary remedies must be sorted out to save humanity from this curse.

Pakistan is located in a narcotics producing region, where opium and cannabis have not only been produced for centuries but where consumption of traditional narcotics like opium and charas (Hashish) were unfortunately part of our heritage. Heroin, however, a narcotic created and used in the West, came to Pakistan only recently after "Soviet Intervention" in Afghanistan, the Iranian Revolution and promulgation of Islamic laws in Pakistan in 1979. Opium vendors were totally stopped and production, processing, trafficking, possession, sale, trade and use of all intoxicants including narcotic drugs was totally prohibited under Prohibition (Enforcement of Hadd) order 1979.

So thousands of tons of opium were stocked with the opium dealers in the tribal areas of N.W.F.P. and they could not be smuggled via Afghanistan or Iran to the European countries. International drug Mafia and the dealers then established Heroin Laboratories in the tribal belts, because the tribal area was almost a law-free zone providing the best facilities to the drug Mafia. The heroin menace like a plague has swept through much of the country, destroying lives, sowing crimes. Within the past few years the drug epidemic has invaded every country and is gnawing at the fabric of law, stability and health in a majority of countries. The impact is often drastically underestimated although the consequences are enormous.

The two areas in Asia that produce most of the world's opium are the "Golden Crescent," comprising Pakistan, Iran and Afghanistan, which produce 800–1,200 tons of opium annually and the "Golden Triangle" which includes the mountainous regions, where Thailand, Burma and Laos meet. It produces 500–600 tons.

In 1979 Pakistan produced 800 metric tons of opium. This amount has been reduced to only 40 metric tons in 1985. The Government of Pakistan continued its efforts, with the assistance of the international community to make Pakistan "entirely free of opium production" and used aerial spray techniques to destroy the illicitly grown poppy crops during the last two years.

Afghanistan has recently appeared as one of the biggest opium producing sources in the region and is not only fulfilling the demands of narcotics addiction in Pakistan, but is the biggest source of a "raw supply" to the "Mobile Illicit Heroin Laboratories" on both sides of the Afghanistan/Pakistan border. Till December 1987 almost 105 clandestine laboratories in the tribal areas of N.W.F.P. were demolished by the Enforcement authorities in Pakistan. So the smugglers diverted their attentions toward "Baluchistan" where the "Chaghai Hills" and the Afghan Refugees Camps provided them a safe shelter. In 1988, Pakistan Narcotics Control Board, with the help of Frontier Corps, Baluchistan conducted raids at Afghan Refugee Camps, and recovered huge quantities of narcotics. Pakistan Narcotic Control Board, Quetta had also taken a drastic action against the narcotics smugglers inside the Quetta city and smashed three big dens in an encounter. There continued a ruthless firing for almost 11 hours, in which two smugglers and

two public men were killed and Law Enforcement Staff members were also injured seriously including a D.S.P. So it has been learned that the Heroin Laboratories functioning in Baluchistan have been shifted to no man's land near Pak : Afghan border inside the areas under the administrative control of "Afghans."

C. Pak : Iran Belt

One of the four provinces of Pakistan, Baluchistan comprises 347,190 square kilometers of land and is linked with Iran on two sides. Its third side is linked with the sea and the fourth touches Northwest Frontier Province, Sind and Punjab.

This long border belt comprises desert ranges and mountainous lands also linking with the sea in the south. The border belt is providing thousands of tracks and routes to the smugglers active on both sides of the belts. They use not only the labourers crossing the border on foot but also the camels and donkeys. But the real challenge to the law enforcement authorities are the narcotics traffickers traveling in "Caravan" of vehicles (containing 30–40 vehicles) fully guarded with automatic weapons including, anti-aircraft, rocket launchers, bombs, hand grenades and 7.65 M.M. rifles. The smugglers travel from Landi Kotal to Rabat and enter into Iran bound for Turkey. They always travel on the border belts and wherever they feel, or observe any danger when they enter into the territories of the other country.

Opium and cannabis are also brought into Pakistan from Afghanistan via, Zhob, Chaman, Chagai Hills, dumped at Gulistan, Panjpai, Girdee Jungle and again taken to Turkey via Iran. It has also been learned that the international drug Mafia is also active near and around Rabbat (Koh-e-Sultan), where the Pak Iran and Afghanistan Boundaries meet. Some Heroin Laboratories are also reported to be functioning inside the Afghan territory in this area. These smugglers are so strong that they not only dare to encounter Iranian border forces but also the Frontier Corps operating on the Pak Iran/Afghan belts. Though a lot of narcotics are safely taken/crossed from the borders yet some good seizures have also been effected in the past few years by F.C./Coast Guards/Levies and Customs near the border/seabelts.

As Turkey is situated between Asia and Europe, so transit trafficking involving heroin and cannabis takes place in Turkey. So all the narcotics coming from Afghanistan/Pakistan via Iran are stocked/dumped in Turkey and then onward trafficked out of the country mainly by sea to Europe and the U.S.A.

D. Check & Control

Pakistan and Iran should share the intelligence reports and information regarding the narcotics trafficking/movements and also chalk out a plan to establish Joint Narcotics Task Forces on both sides of the borders. Enhancing co-operation at the operational level between Pakistan and Iran is a prerequisite for more effective action to reduce narcotics trafficking.

Both the countries should equip their anti-narcotics agencies with automatic weapons, patrol vehicles and sufficient, skilled manpower.

There should be meetings between the Pakistan Narcotics Control Board and Iranian Anti-narcotics Agency on a quarterly basis to develop good relations and share the intelligence information and initiate actions/operations against the narcotics traffickers.

Regional co-operation within the framework of meetings of Heads of Narcotics Law Enforcement agencies of Iran, Pakistan and Turkey should also be held to study the multi-dimensional issue and to assist each other and strengthen their capabilities to guard their sea-coasts and border belts.

The Pakistan Narcotics Control Board has recently drafted/proposed new drug laws known as "Dangerous Drugs Act 1989," which is a most comprehensive enactment dealing with all suspects including special provisions for prosecution and jurisdiction and providing deterrent punishments including death sentence to the narcotics smugglers. All the sources, including mass media should be deployed to get the approval of the parliament as early as possible.

Pakistan shares with Iran and the rest of the world a deep concern over the increasing frequency of incidence of illicit manufacturing and smuggling of drugs. It is the conviction of the Prime Minister that not only regional but worldwide concerted efforts must be made through unreserved and whole-hearted collaboration among all nations to eradicate the scourge of the drug problem.

E. Enforcement of Laws against Drug Traffickers

All the major anti-drug laws enacted in Pakistan before 1979 prohibited unauthorized possession, transport, sale or import and export of drugs. But they dumped all drugs together and did not differentiate between offences pertaining to drug abuse and drug trafficking. The Opium Act 1878 and Dangerous Drugs Act 1930, provided a uniform punishment of two years of imprisonment and a fine for almost all types of drug offences.

The Prohibition (Enforcement of Hadd) Order 1979 for the first time provided different sentences for abusers, pushers, dealers and manufacturers. The offences of illicit import, export, transport, manufacturing and processing were made liable to five years imprisonment, with whipping up to 30 stripes and a fine, while possession of intoxicants was made punishable with imprisonment of up to two years.

But in December 1983, punishments were enhanced for heroin and cocaine traffickers and financiers. Now possession of heroin exceeding 10 grams or opium exceeding one kilogram and trafficking or financing of these drugs has become liable to a life sentence (25 years).

F. Constraints of Law Enforcement against Drug Traffickers

a) General Problems

Law enforcement against drug traffickers generally suffers from certain serious limitations.

Proactive law enforcement against drug traffickers is less cost effective. It involves huge operational costs for the detection of a minuscule proportion of total drug trafficking. For instance, in the U.S.A., nine cabinet departments and 30 federal agencies with budgets of billions of dollars could, on average, interdict or divert only 10 percent of drug trafficking.

In a country like Pakistan, with limited resources (i.e. manpower, equipment, transport, communication, skill and training, forensic facilities, etc.), vast inaccessible terrain, and numerous trafficking routes and exits, the chances of interdiction get further diminished.

Pakistan has also become a conduit for heroin produced in the countries lying on its western borders. Under the existing conditions it is difficult to effectively block these routes. Thus, even if heroin trafficking from the local sources is successfully interdicted, heroin from Afghanistan would continue to find its way to the local as well as the international market as long as the demand exists.

The sizable seizures of heroin indicate that heroin trafficking in Pakistan is in the offing of joining the ranks of organized crime. The collection of intelligence and other evidence against organized drug syndicates and their godfathers is an intricate matter having international ramifications. The wide divergence of legal proce-

dures, lack of coordination and varied political considerations of different countries thwart effective action against drug rackets.

Corruption of law enforcing agencies at both ends is one of the principal lubricants of heroin trafficking from Pakistan to the U.K. and the U.S.A. Heroin trafficking is a highly profitable venture which lures traffickers against all odds and risks. Heroin which costs £2 a gram in the Tribal Areas of Pakistan and Afghanistan fetches £15 per gram in Karachi, £60 to £80 in London, and has a street value of £150 per gram in New York.

b) Specific Problems

Apart from the general handicaps discussed above, there are certain specific problems of law enforcement against drug trafficking in Pakistan.

1) Inadequate Coordination among Various Agencies

There are over a dozen agencies involved in the enforcement of law against drug traffickers in Pakistan. Their operational areas are defined and each derives its independent identity from the statutes. Except for the PNCB, all of them also perform other security and law enforcement duties.

The mutual co-operation among different agencies falls short of the desired level. Very sincere efforts made by various agencies individually without enlisting assistance of other agencies prove on occasions, unproductive.

Recently, some measures have been taken in order to promote better coordination among different agencies. In 1982 six Joint Task Forces Comprising officials from the PNCB, Police and the Excise Department were established. From the third quarter of 1985 the PNCB has started dissemination of computerized collated intelligence on drug trafficking through a quarterly Intelligence Digest. Moreover, under "Drug Control Regional and Inter-regional Coordination Officers Project" 19 Drug Liaison Officers from seven countries have been stationed in Pakistan.

2) Legal and Procedural Bottlenecks

The promulgation of H.O. 1979 has brought considerable uniformity in the narcotic laws, yet numerous federal and provincial drug legislation remain in force. It has been observed that the anomaly created by various statutes failed to check the underground traffic of narcotics and different set of courts vested with authorities under these enactments without any coordination failed to award exemplary punishments to the traffickers. Furthermore, the limited number of courts overburdened with other judicial work cannot handle drug cases on a priority basis. The prolonged trials on the one hand weaken prosecutors' involvement in the cases, and on the other, provide offenders with opportunities to strengthen their defence. Moreover the higher standards of evidence required for prosecution are generally not forthcoming. Often the prosecution's evidence is considered insufficient and invariably no independent witnesses are available at places where drug trafficking raids are conducted.

G. Treatment of Offenders (Addicts)

After discussing the various issues of "Prevention of Organized Crime" it would be in fitness of things to have a look into the area of "treatment of offenders," as the drug addicts are the persons who suffer directly—both economically and healthwise—by this "organized crime."

(1) Addiction and Punishment

The punitive response to drug addiction has been widely debated in the Western countries. It is argued that punishment of drug abusers has created more problems than it has resolved. The drug laws do more "damage" to society by giving birth to numerous side effects, i.e. criminal activities

of addict, drug trafficking, etc. It is also pointed out that the law enforcement excludes the agencies that could play a positive role in controlling drug abuse and thus leads to further expansion of drug abuse.

These observations may be more pertinent to the Western drug culture, yet they do indicate the likely consequences of sole reliance on a law enforcement approach generally. Thus, law enforcement measures alone may not be of much help in prevention and control of drug abuse.

The effectiveness of law in a particular society depends upon numerous factors and no straightforward analogy can be drawn under different cultural, social and political conditions. However, there is an emerging trend away from strict law enforcement approach against drug abusers. Some of the European countries, such as the Netherlands, Italy, and Spain, have decriminalized the abuse of certain drugs.

As no single approach offers a complete solution, therefore, drug abuse policies, as far as practicable, should include all options keeping in view individual needs of the drug abuser on the basis of the facts collected by various sources, such as law enforcement agencies, psychiatrists, doctors and social workers, etc.

(2) Development of Treatment and Rehabilitation Facilities in Pakistan

Drug addiction, until very recently, was not recognized as a health problem. Drug addicts as claimants on limited resources for health care, aroused little sympathy as compared with patients suffering from other diseases.

In 1976 the PNCB launched a five-year programme (1976–1981) to establish pilot treatment centers throughout the country. Before that, not only was there a paucity of in-patient, detoxification facilities and trained medical staff, the general practitioners were also hardly trained in the management of drug addicts. By July 1977 there were only three small detoxification centers established in Peshawer, Karachi and Hyderabad. But it was after the promulgation of Prohibition (Enforcement of Hadd) Order 1979—when opium vending shops were closed and registration of opium addicts in hospitals was started—that the development of treatment facilities became imperative. Presently, 27 detoxification and treatment centers are functioning in Pakistan as against an estimated number of 100,000 heroin abusers.

Despite the heavy caseload the rate of successful detoxification in most of the centers is encouraging. A study of four detoxification centers in Karachi found that 68.3 percent of the patients were successfully detoxified within an average treatment period of eight days. But in the absence of proper follow-up, aftercare and rehabilitation efforts, 80 percent of them relapsed.

This brief review indicates that by and large the treatment and rehabilitation programmes are still in their embryonic stage and have yet to take an integrated form, especially the services of social workers are almost non-existent.

In the Western countries the "therapeutic communities" are a popular method of rehabilitation. A therapeutic community is a generic term used to describe various types of residential institutions organized by addicts on a self-help basis, which aims to "restructure" the personality of addicts by dealing with "underlying" causes of addiction. They aim to establish a drug-free status of an addict, develop vocational skills and promote personal and interpersonal awareness.

The basic idea of "therapeutic communities" may present some solutions for the problems faced by Pakistan. In order to overcome the existing shortage of professional medical social services and in-patient treatment facilities, the establishment of such therapeutic communities—where ex-addicts are associated with treatment and rehabilitation as para-professional

staff along with skeletal professional staff—may prove useful.

The family, however, remains the primary source of support and after-care in Pakistan. As treatment in most cases is arranged by the family, it is imperative that rehabilitative facilities should seek full co-operation and involvement of the family. Above all, there is a need to mobilize the community as a whole to show positive attention towards detoxified addicts. They should be provided with help and guidance in solution of their problems in order to prevent their relapse to drug abuse.

A Brief on Organised Crime in Singapore

*by Ng Chee Sing**

Organised Crime in General

In Singapore there are no "Mafia"-type of organised crime groups. The closest to this type of organised crime is the secret society. Even then the threat posed and the problems caused by these secret societies are insignificant when compared to the well-organised "Mafia"-type groups in the United States of America and elsewhere in the world.

Although smaller forms of organised crime do exist in Singapore, these are usually loose groups of criminals scattered all over the island. The crimes committed are housebreaking, theft of motor vehicle, pickpocketing and shoplifting. There are also rare occasions of goldsmith robberies and drug trafficking. In most cases, each of these groups consists of a few members numbering about two to seven persons, with each group operating independently of the others. These groups are only said to be organised in that:

a) plans are drawn up and all necessary preparations are made before committing the crime;
b) adequate and appropriate equipment is obtained;
c) the method of operation (modus operandi) used by a particular group remains invariably the same; and
d) the target victim(s) and/or the location of crime for a particular group often has the same basic characteristics.

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In the succeeding paragraphs, a synopsis is given on the past and present situation of secret societies in Singapore.

Secret Societies in Singapore

Secret Societies in the Past

Secret Societies were rampant in the 50's. These were the triad societies which were well-organised and followed elaborate triad initiation ceremonies. The gangs were hierarchical and they usually operated cohesively among themselves for the common objective of protecting their trade and business interests, be they legitimate or otherwise. Many notorious criminals those days were linked to these triad societies. During their hey-days in the late 50's, they were responsible for as many as 50 secret society incidents a month in Singapore. Their reign of terror eventually prompted the strengthening of the law, particularly the Criminal Law (Temporary Provisions) Act which underwent several amendments since its enactment in 1955 to combat this menace. In consequence, along with the successful enforcement action of the police, many of these triad societies were cracked down upon and became defunct.

Present-Day Secret Societies

The present-day secret societies are derived from the earlier well-organised triad societies. Although most of them are still named after the old triad gangs, they are in essence more like street corner gangs. Most of the triad and secret society gangs within the same grouping are not necessarily affiliated to each other. In fact, they often fight each other.

In recent years, old traditional rituals

and practice of the triads have been abandoned or simplified to suit present conditions. With rapid urbanisation, there are now very few places in Singapore that could facilitate the clandestine initiation ceremonies for new secret society members. As a result, new generations of triad members have been known to undergo modified forms of initiation ceremonies. Even then, the number of such simplified ceremonies have been on the decline. Besides, the older triad members have failed to impart their knowledge and expertise to the younger generation. In contrast to the older triad and secret societies, present-day triad and secret societies are loosely formed by groups of youngsters living in the same neighbourhood. Their criminal activities are mainly confined to criminal assaults, unlawful assemblies, settlement talks and riotings.

Today in Singapore, there are very few people well versed in Triad society matters. This is because of the fact that old members are dying out and the risk of arrest by the police has made organisation of any elaborate initiation ceremonies extremely difficult. Nevertheless, each secret society gang is normally controlled by a leader known as the "headman." Sometimes, there are even two "headmen" in a gang, known respectively as the "Dark Headman" and the "Light Headman." The ranks and roles of the gang members have also become so loosely defined that in most cases, most gangs are led only by a "Headman." It is apparent then that the headman should always receive the most severe punitive action from the authority if the activities of his gang are to be crippled.

Present-Day SS Involvement in Crime

The criminal activities of the present-day secret society members are mainly confined to criminal assaults, unlawful assemblies, settlement talks and riotings. These incidents generally arise out of disputes over trivial matters, sometimes of a pecuniary nature. Police experience would suggest that there have been little SS involvements in violent crimes or serious property offences nowadays. However, when illegal betting centres were operating at their height in Singapore in the early 80's, there were indications that many of the secret society members involve themselves in illegal bookmaking and horse-punting which are rather lucrative.

Extortions Committed by Secret Society Members

The number of extortions committed by the secret society members, a common offence amongst them in the past, has been on the decline in the recent years. In 1987, 14 cases were reported. In 1988, nine cases and in 1989 the number was eight cases. In 1990, the number increased to 17 cases and in 1991, the number decreased to three cases. The small number of such crimes committed by secret society members may be attributed to the fact that when committing extortions, the secret society members are easily exposed and would attract immediate police attention. On the other hand, members of the public have also been resistant towards such crimes.

There are therefore rarely any protection rackets run by the secret society members. The public generally are no longer as fearful to the threats of secret societies, and with the closer rapport with the police, most people report such incidents to the authority.

SS Situation

The present SS situation is well under control. In 1988, there were only 10 secret society incidents (including five murders) reported, compared to the six incidents (including three murders) reported in 1987. In 1989, there were three incidents (including one murder). This increased to 16 incidents (including one murder) in 1990.

The number of such incidents for 1991 is nine incidents (including one murder). A secret society incident is defined as any clash or confrontation between two secret society gangs or an attack or assault by two or more secret society members on a person or a group of persons over any issue which has some secret society connotation. As compared with the late 50's, the decrease in the number of SS incidents was substantial. In the late 50's, an average of as many as 200 incidents was reported a year in Singapore. The prompt arrest of the SS members singled out by the police has, in many instances, prevented clashes among the rival gangs. This explains, in part the decrease of the SS incidents over the years.

Police Arrests

A total of 330 persons was arrested for their association with secret society activities in 1991. 72 were placed on records with the Registrar of Societies. 27 were issued with Detention Orders while 91 were placed on Police Supervision Orders.

Profile

The profile of secret society members is as follows:

a) Age
   The majority of the secret society members are of the 15 to 19 age group, a trend since 1981.
b) Race
   By racial composition, Chinese formed the majority, followed by Malays and Indians.
c) Educational Level
   Though the majority had only primary education, an almost equal number had secondary education. A very small proportion, however, had no formal education at all.
d) Occupation
   Occupationally, most of them are unskilled workers.

In short, one can profile a typical secret society member as a person who is likely to be between 15 to 19 years of age, with primary or no education, and has been either an unskilled worker or unemployed.

Long-Term Measures to Reduce Secret Society Membership

The following measures are taken by the police to prevent young people from getting involved in SS activities:

Boys' Clubs

The "Youth Liaison Scheme" was implemented in 1982 to provide healthy sports and other recreational activities for potential juvenile offenders. The clubs organise various activities to keep youngsters off the streets as well as to divert their excess energy and attention into creative and constructive hobbies. A total of 14 such clubs were established. The total membership of all existing clubs stands at about 5,776. The response from the youths has been good.

School Talks

As average age of school drop-outs found being involved in secret society activities was 13.7 years, it was apparent that primary and secondary school students should be counselled on the evil of secret societies. To this end, educational talks have been given to students of all primary, secondary schools and vocational institutes on the danger and consequences of getting involved in secret society activities.

Video on Anti-Secret Societies

Besides the school talks, in 1990 the police produced a video film titled "Bullies and Cowards." This video focuses on the evils and consequences of secret societies and were distributed to all primary, secondary schools and vocational institutes. They are used by school staffs during moral-education classes to educate the students against joining secret societies.

Warning and Counselling

The police programme of pre-emptive measures include warning and counselling of minors involved in SS activities, in the presence of their parents. About six months after the warning, the minors will be re-called to CID for an interview. This serves to remind them that they are constantly monitored by the police and serves as a deterrence.

Prisons Visit Programme

A recent programme carried out by the police in liaison with Prisons Department is the "Visit to Prisons programme." Minors warned for involvement in SS activities are sent on a visit to Prisons Department where they see for themselves, the harsh reality of prison life. This serves as a scare-tactic to deter youngsters from being involved in gang activities and risk being arrested by police.

Close Liaison with School Staffs

Other than the above programme, the police maintains close and direct rapport with senior school staffs to monitor possible involvement of students in SS activities. Feedback from the schools thus far has been encouraging.

Conclusion

In conclusion, the present secret society activities in Singapore are well under control. One must understand that a total eradication of secret societies may not be possible due to the "herd" instinct in the human nature especially among the teenagers. The present objective of the police is to annihilate in total, any secret society gangs by arresting as many, if not all, of the gang members.

Annex 1

A Precis on the Laws Relating to Serious and Organised Crime in Singapore

In Singapore there are no permanent organised crime gangs like the "Mafia-type" groups. There are various factors which have led to this favourable crime situation in Singapore. Some of these are the physical geography of the island, the socioeconomic situation, the police factor and the existing laws in Singapore.

The specific laws essential in curbing organised crimes in Singapore are the Criminal Law (Temporary Provisions) Act, the Kidnaping Act and the Arms Offences Act.

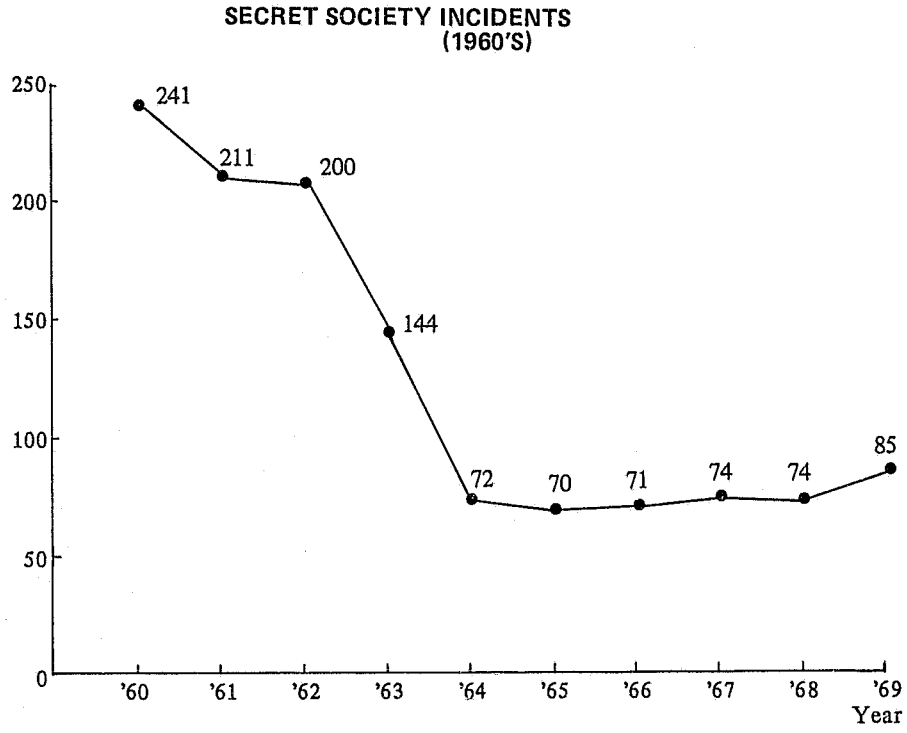
The Criminal Law (TP) Act, Chapter 67 is the most "feared" statute amongst the criminal fraternity in Singapore. This Act empowers the Minister to order the detention of an offender without trial, if witnesses are afraid or unwilling to testify against him in court due to fear of reprisals and other reasons. Under the Act, a person who has committed a grave offence or who is seriously involved in triad activities may be detained for an indefinite period of time although his detention is subjected to annual review. After this period of detention, he will be placed on a "day-release" scheme for a period of a year. Upon completion, he will be placed on police supervision and be subjected to various restrictions e.g. remaining at home during stipulated hours, for a period of two to three years. The Act had been immensely successful in tackling the local triad fraternity and reducing it to its present state. (Please see Annex 2 on the number of triad-related incidents reported between the 1960s and 1980s).

The Kidnaping Act, Chapter 151 was enacted in 1961 to curb offences such as kidnaping for ransom, etc. The hideous nature of such offences had induced the enactment of the Act for which the penalty for the offence of kidnaping for ransom is death. Even those with secondary roles like abetting the offence are punishable with imprisonment of not more than 10 years and caning. It is highly probable that the harsh penalty for such offences had brought about the rarity of such offences for the last five years, where only one case was reported and dealt with. The twp offenders in the case were convicted in July 1992 and sentenced to death.

Under the Arms Offences Act, Chapter 14, any person found in unlawful possession of a firearm may face a sentence of up to life imprisonment, whereas a person who trafficks in firearm or who uses a firearm in the commission of an offence may be sentenced to death if found guilty. Those found consorting also face the same penalties. Anyone convicted of using an imitation firearm in the commission of an offence is liable to be punished with imprisonment not exceeding 10 years and three strokes of the cane. This Act has helped control the organised crime situation in Singapore, in particular where offences relating to firearms are concerned. (Please see Annex 3 for the number of such offences reported for the past five years).

The Criminal Law (Temporary Provisions) Act, the Kidnaping Act and the Arms Offences Act are some of the statutes in Singapore which were enacted for specific deterrent effects. They go a long way to reflect the legislative support the police derive from the government in its bid to combat and control crime.

Annex 2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(1960'S)
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200
150
100
50
0
241
211
200
144
72
70
71
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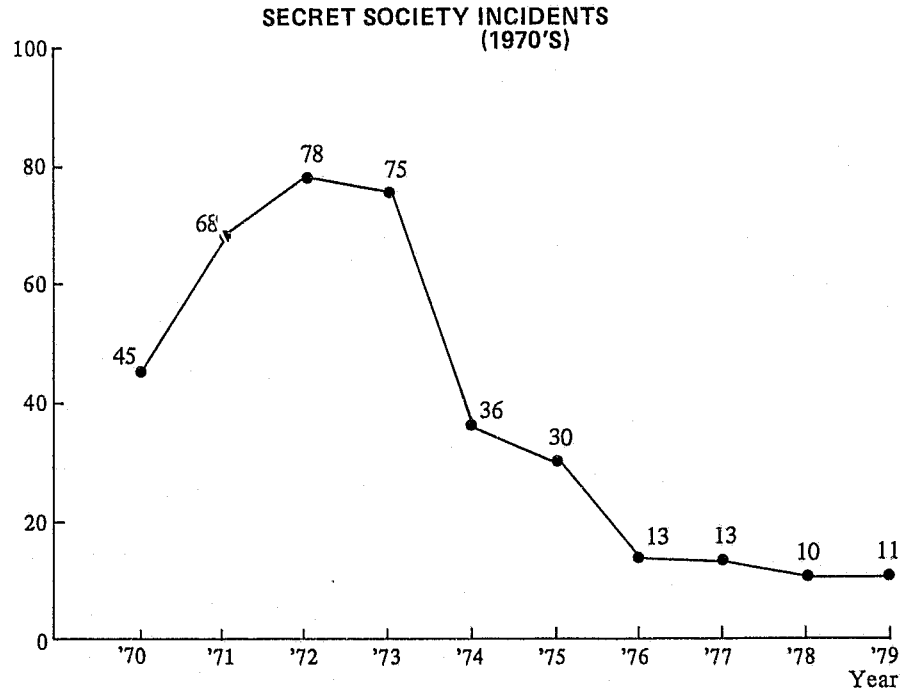
85
'60
'61
'62
'63
'64
'65
'66
'67
'68
'69
Year


SECRET SOCIETY INCIDENTS
(1970'S)
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45
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78
75
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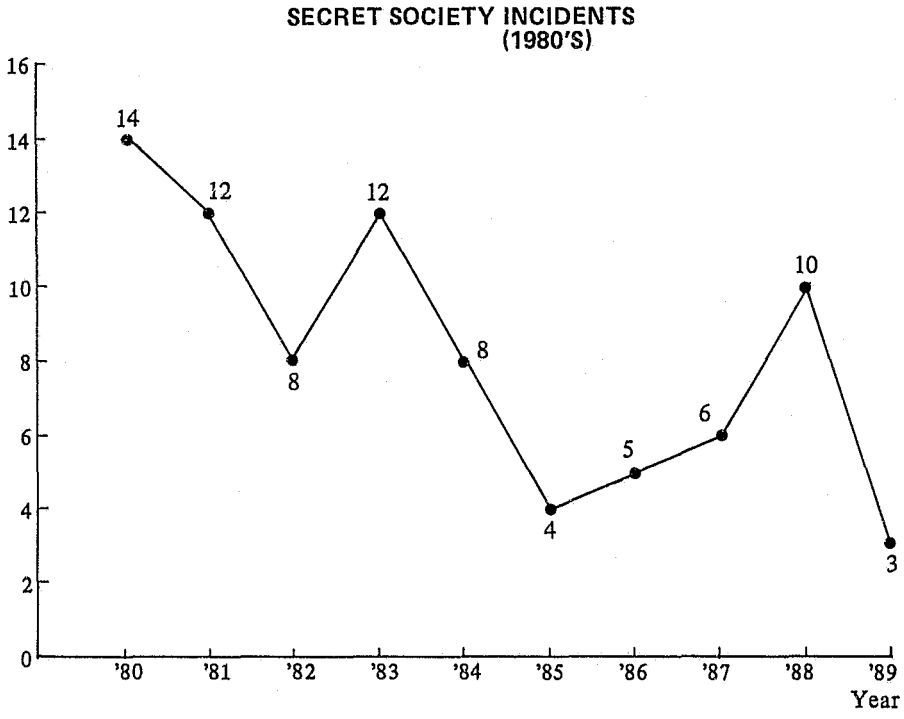
'79
Year

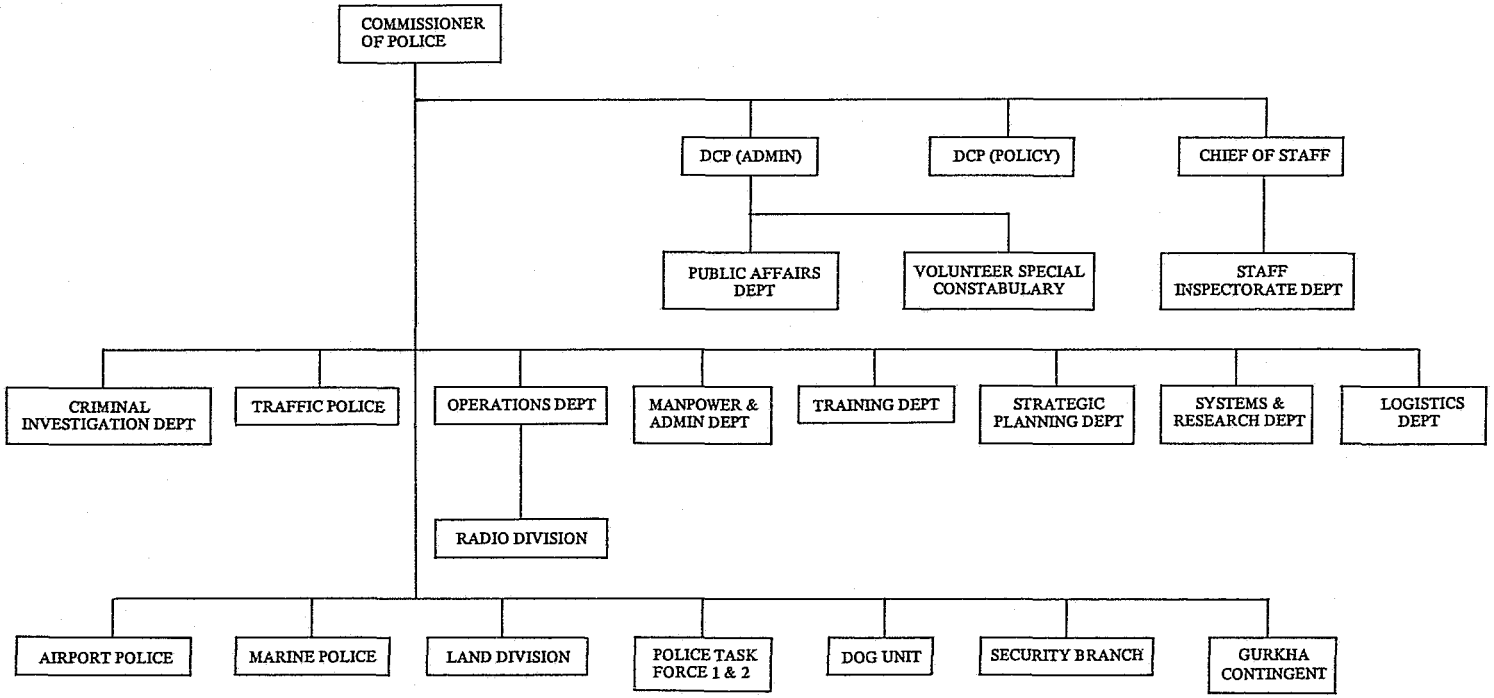


Annex 3

Offence	1987	1988	1989	1990	1991
Firearm Robbery	12	9	6	9	1
Unlawful Poss. of Firearm	5	8	12	7	23

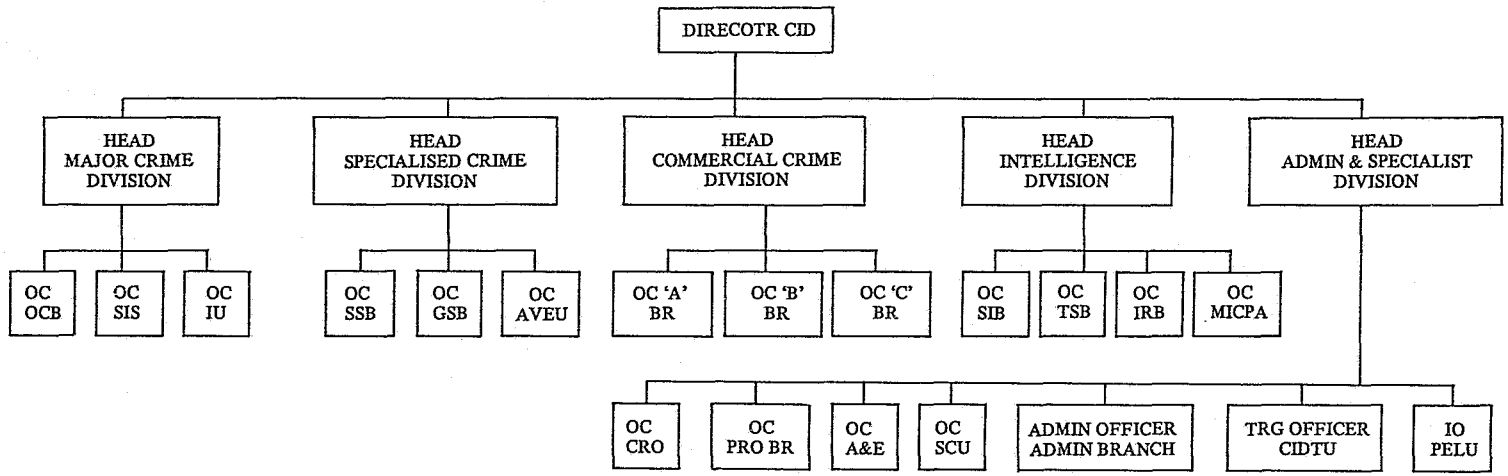
Annex 4

REPUBLIC OF SINGAPORE POLICE ORGANISATION STRUCTURE



STRENGTH : SENIOR OFFICERS : 503
JUNIOR OFFICERS : 6519
SCNS (SENIOR) : 249
SCNS (JUNIOR) : 1997
SCNS (VC) : 1016

ORGANISATION STRUCTURE OF CID



Annex 6

No. of Selected Offences by Year

Offences	1990	1991	1992 (Jan–Jun)
Murder	44	50	14
(No. SS murder)	(1)	(3)	(1)
Firearm Robbery	9	1	2
Rape	111	74	45
Housebreaking	3,790	3,520	1,582
(HB by Day)	1,322	1,009	357
(HB by Night)	2,468	2,511	1,225

Annex 7

The Republic of Singapore Police

The Republic of Singapore Police is tasked with managing the crime situation in the country, together with the primary duties of protection of life and property, and the enforcement of the various written laws and legislation of the country.

The Criminal Investigation Department (CID) is directly responsible for overseeing the overall investigations into all crime cases reported in the country. Director CID, sets the pace for the investigation standards of all investigators. He is responsible for the maintenance of the very high standards that are expected of our investigators.

Land Divisions

Not all crime investigations are undertaken by the CID. Singapore is divided into seven (7) land divisions known as Divisional Headquarters. These stations are strategically located in public housing estates where the concentration of our population is found, except for the Central Police Headquarters which is located in the Republic's business district.

Each of these stations has two roles to play. The Patrol Section which does the physical preventive policing within its boundary. The patrol section is responsible for attending all distress calls from the general public. They would also be the first to arrive at most crime scenes on being dispatched after a "999" is placed. Apart from the patrol section, there is the Neighbourhood Police Post (NPP) which was set up following the Japanese Koban System. This system has effectively brought the police to the people's doorstep and has helped foster a better working relationship between the people and the police. This has also given the police a more positive public image.

The other section in the Divisional Headquarters is the Crime or Investigation Section. This section is responsible for the investigation of all routine matters and general crimes (e.g. missing person, theft, house-breaking and theft, vandalism, shoplifting, etc.). Each Divisional

Investigation Section has a Head Investigation (HI) and he is assisted by two Chief Investigation Officers (CIO) who take charge of the Routine and Crime investigations respectively. Under the CIOs come the Senior Investigation Officers (SIO) and a team of Investigation Officers (IO) and Assistant Investigation Officers (AIO).

The Head Investigation of each Divisional Headquarters is answerable to the Director CID for the crime situation and management in his own division and also the standard of all investigators under his charge.

Criminal Investigation Department

The Criminal Investigation Department, headed by an Assistant Commissioner of Police, is responsible for the investigation of all serious and complex crimes, major disasters and cases which are by their nature sensitive. The Criminal Investigation Department is sub-divided into Divisions, and each of these branches specialises in a particular field. Some conduct investigations while others provide the technical, forensic and logistical support. The divisions are:

(a) Major Crime Division;
(b) Specialised Crime Division;
(c) Commercial Crime Division;
(d) Intelligence Division;
(e) Admin & Specialist Division.

Each of the divisions is inter-dependent on one another in the solving of a crime or during investigations into a major disaster. However, each is a specialist division by itself and their primary responsibilities are different from each other.

(a) Major Crime Division

The Major Crime Division is headed by a Superintendent of Police and comprise the Special Investigation Section (SIS), the Organised Crime Branch (OCB) and the Interrogation Unit (IU).

Special Investigation Section

The primary duties of the Special Investigation Section (SIS) is the investigation of all homicides, kidnaping for ransom and all major disasters in the country. It is headed by a Deputy Superintendent of Police and under his charge are six Inspectors and six Staff Sergeants who are investigators. They are assisted by five field teams, each comprising four junior officers and headed by a Staff Sergeant.

There was an increase of 13.6% in the number of murders last year as compared to 1990. This is believed to be an aberration. However, as most cases (especially passion related ones) are non-preventable, they must be matched by a high clearance rate. The above average solution rate of 74% achieved by the branch for the past two years serves as a pace-setter for the coming years.

Organised Crime Branch

The Organised Crime Branch is also headed by a Deputy Superintendent of Police and he has four senior officers and 21 junior officers under his charge. This branch is responsible for the investigation of all offences under the Firearms and Explosive Acts. Their primary duties are the investigation of firearm robberies, cases of illegal possession and discharge of firearms, rape-cum-robberies and all organised or syndicated crimes.

Strategies

The Organised Crime Branch, in keeping with the crime trends and patterns, is presently adopting the following strategies to track known and emerging groups of goldsmith and firearm robbers:

a) instituting a standard post-robbery search-and-ferret drill involving deployment at the Causeway, Airport, known illegal entry/exit points, known rendezvous and staging points, both locally and across the causeway;
b) instituting a standard post-robbery drill on selected targets;
c) call for legislation to control and regulate the sale of ski-masks;
d) devising a better system of border/causeway policing;
e) call for the legislation to control and regulate second-hand dealers and pawnbrokers and the requirement of a longer retention period before gold items are melted.

(b) Specialised Crime Division

The Specialised Crime Division is headed by a Superintendent of Police and comprise the Secret Societies Branch (SSB), the Gambling Suppression Branch (GSB) and the Anti-Vice

Enforcement Unit (AVEU).

Secret Societies Branch

The Secret Societies Branch (SSB) is tasked with the suppression of secret societies and related activities in the Republic. This branch is headed by an Assistant Superintendent of Police. He is assisted by teams led by Inspectors, who are given the responsibility of policing one divisional area. They are responsible for all secret society activities within the area under their charge.

Secret societies came into existence in Singapore over a century ago. During the early 19th century, owing to the difficult conditions in China, the Chinese migrated to South East Asia and the Malayan Archipelago in large numbers. They not only brought with them their religions and customs but also their triad traditions. Those early immigrants settled in groups and in order to protect their interests and to maintain their communal integrity, they revived the practice of the Triad Society in Singapore.

As the population grew, the Triad Societies set up protection rackets. They would give protection to gambling dens, brothels and smuggling syndicates in return for monetary gains. Other societies grouped together and monopolised certain trades like stevedoring, transport and mining. Disputes and fights broke out between the various gangs. From the different factions thus formed, emerged today's secret societies.

In modern Singapore, all secret societies may therefore be classified as belonging to any one of the seven groups, namely, the "18," "24," "36," "108," "08," "Independent" and the "Ji It" groups. Under each group there are several secret society gangs. Each has a strength of active members varying from a handful of 20 or so.

The first significant threat which the secret societies posed in Singapore was in 1854, when a serious riot between two gangs left 400 people dead and many injured. Thus, in 1870, the first steps were taken by the then government, with the setting up of the office of the Protector of the Chinese. From then, the laws have been changed or modified many times to keep up with and to suppress the secret society menace. Today, the law under which secret societies and their members are dealt with is the Criminal Law (Temporary Provisions) Act. Under this law, an active secret society member can be detained up to 16 days during which period a case would be submitted to the Minister of Home Affairs for the issuance of a Detention Order (one year in the first instance) or a Police Supervision Order (to remain in-doors between 7 pm and 6 am daily) for a period of three years. No Detention Order or Police Supervision Order would be issued without the concurrance of the Attorney General. Testimonies against the detainees/supervisees are treated as secret and identification is done through photographs. The detainee may be released by the police at any time during the 16-day period if evidence does not justify his further detention. Subjects can also be prosecuted in Court for specific offences if there is evidence to the effect.

Strategies

The following strategies have been mooted to keep the secret society problem under control and if possible to eradicate the menace:

a) close monitoring of various groups on the ground by using incidents as an index of the state of unrest and as a starting point for intelligence gathering on hitherto unknown groups;
b) continuance of the secret society monitoring plan in schools, including improving of existing talks by introducing video programmes;
c) identifying operational grounds where secret society members and other groups control, work or own. For this, a computer data base is already in operation;
d) tackling afresh illegal moneylending and associated problems such as the use of strong-arm tactics, including the feasibility of improved laws.

Gambling Suppression Branch

The Gambling Suppression Branch is headed by a Deputy Superintendent of Police and the branch is tasked with the suppression of illegal gambling activities in the Republic. This branch has in recent years been waging an all-out war against illegal bookmaking operating within our public housing estates which are known as Mini-Turf Clubs (MTC) and illegal bookmaking and betting at the licenced Bukit Turf Club (BTC). In the heydays of the MTCs, hundreds of people (punters and bookies) would gather at hawkers' centres and void decks of flats in the housing estates to place and receive bets ille-

gally. This was blatant and becoming an eyesore and the GSB promptly moved in on them. Their sustained efforts brought about the following results:

a) the attendance nuisance of the MTCs and the sense of public insecurity in the housing estates have been dramatically reduced;
b) the blatant illegal betting at the BTC has been eliminated and such activities are now carried out in a rather discreet and low-key manner.

Strategies

The following strategies are being employed to keep abreast of the situation:

a) constant vigilance to prevent a resurgence of the MTC problem;
b) locate illegal Betting Information Centres and Broadcasting Centre which emerge in place of those smashed;
c) revise existing enforcement priorities by shifting focus from those who are in peripheral gaming activities to the kingpins;
d) keeping abreast with the latest in modern day technologies and to look into the various possibilities before they are actually used by the syndicates, i.e. keeping one step ahead of them.

(c) Commercial Crime Division

As the name goes, the Commercial Crime Division is tasked with the investigation of complex commercial cases. Financial and economic crimes are gaining ascendancy, commensurately with Singapore's status as an affluent society and financial centre. Given this, some of the scams and areas of concern that are likely to have significant impact on the public and business community have to be identified.

The aforementioned problems would have to be tackled with a varying degree of urgency, involving a wide variety of strategies such as:

a) changing the enforcement philosophy from one of reacting to reports to the development of pre-emptive intelligence to comprehensively deal with the matter before a large segment of the public is adversely affected;
b) designing control instruments that can help regulate and self-police the situation;
c) implementing a public alert system which incorporates preventive advice.

(d) Intelligence Division

Although intelligence gathering is the basic tool employed for the successful solution of any crime, and it has been around even since the first detective was born, one cannot overemphasise the need for a constant upgrading in the methods of intelligence gathering and their effective dissemination. The Intelligence Division of the Republic of Singapore Police is tasked with this all-important mission.

We hope to improve our intelligence capabilities and attain a much higher level of professionalism to fight the criminals of the coming years.

Conclusion

Having addressed the various problems faced in the investigation of crime in the Republic of Singapore and the many counter strategies we have formulated and put into practice, it is now left for me to add what the Republic of Singapore Police expects to attain by the year 2000. We expect to achieve excellence by maximising our potential, develop ourselves and by the year 2000, be an advanced Police Organisation in policing strategy, professional competence and technology.

SECTION 3: REPORT OF THE COURSE

Summary Reports of the Rapporteurs

Session 1: Current Situation, Characteristics of Organized Crime and Legislation to Control It in the Sixteen Participating Countries

Chairperson:	*Mr. Prahlad Rai Meena (India)*
Co-Chairperson:	*Mr. G.A.L. Abeyratne (Sri Lanka)*
Rapporteur:	*Mr. Jnan Kaji Shakya (Nepal)*
Co-Rapporteur:	*Ms. Cristina Ester Delucchi (Argentina)*
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I. Introduction

Technological advance and increased interrelation among nations due to sophisticated communication systems and modes of transportation have resulted in the extension of the boundaries of crime assuming international dimension. Utilization of the opportunities of this transitional era has caused an upsurge in transnational crime.

Indulgence in these crimes is affected by organized crime groups who have through a process of evolution developed their own sophisticated criminal techniques so much so that in some instances they surpass the control capabilities of individual countries. Crime, therefore, is a complex and multidimensional phenomenon being projected as harmful not only to national communities but also to international communities, apart from the exposure of innocent citizens to indiscriminate violence, thus generating feelings of insecurity among them. The illegal activities of these organized groups debilitate development especially in the third world countries as scarce resources are dissipated in an effort to stem the tide of crime. As the roots of criminality lie deep in the modern society itself an attempt has to be made to critically analyze and evaluate the state of organized crime in particular societies.

Preceding this it should be borne in mind that the complex organizational structure of organized criminal groups which at times frequently uses the structural model of the legitimate industrial and commercial world is capable of financing itself. In addition, to shroud their illegal activities with blanket cover, taking advantage of the growth of multinational corporations and financial institutions these criminal groups often obviate evidentiary trails and succeed in leaving no trace of themselves.

The concomitant pooling of criminal intelligence and talents has consequently rendered their operational methods more innovative. There is a greater global awareness of the disastrous and degenerating effect of crime both in national and international communities. This has been manifested by reflection of the growing solidarity in the fight against certain types of criminality.

In view of the frequency and lethal impact of crime systematic strategies and different approaches have to be adopted by the criminal justice system which has to

face this affliction with a motivation of prevention and control of crime.

The objective of this report is to make a logical and systematic analysis of the state of organized crime as prevalent in selected countries with this motivation as the main factor. It is appropriate at this juncture to examine the scope and the characteristics of organized crime. Whatever steps are taken, uniformity in the procedural, penal and evidence laws of cooperating nations must be ensured otherwise divergence in the laws of investigation and procedure in the respective countries as well as recognition of certain offences will hamper any progress that could be attained. Therefore culture, social norms, religion and other concepts forming the foundation of respective nations should be taken into account and drafting of national legislation accordingly may be explored with regard to the prevalence or anticipation of emergence of any particular type of crime that may be envisaged in the future.

II. Nature and Characteristics of Organized Crime

The definition of organized crime has been discussed on various occasions and various definitions have been given by different authorities, scholars and conferences. The group decided to quote the following two definitions to give an idea about what organized crime actually is.

The Royal Hong Kong Police defined organized crime as; "A product of a continuing and self perpetuating criminal conspiracy to bring exorbitant profits from our society by any means fair or foul, legal or illegal. It survives on fear and corruption. By one means or another it obtains a high degree of immunity from the law. A way of life, it imposes rigid discipline on underlings to do the dirty work while the top men of organized crime are generally insulated from the criminal act and the consequent danger of prosecution."

The working paper entitled "Effective National and International Action Against (a) Organized Crime (b) Terrorist Criminal Activities," which was prepared by the Secretariat for The United Nations Eighth Congress held in Havana, Cuba in 1990, characterized the phenomenon as "a series of complex criminal activities carried out on a large scale by organizations or other structured groups, with financial profit and the acquisition of power as the predominant motives, by establishing, maintaining and exploiting markets for illegal goods and services. These are crimes often transcending national boundaries and linked not only with the corruption of public and political figures, through graft or collusion, but also with threats, intimidation and violence."

It seems to be almost impossible to choose one definition for organized crime and also it is not necessary for our group, whose main task is to analyze the current situation of organized crime in each country. Therefore, the group considered it not essential to go into further details in defining organized crime but to focus its attention in the characteristics of organized crime.

Based upon the above discussion the following characteristics can be attributed to organized crime:

1. It has profit-making activities in order to continue and survive. These include drug trafficking, illegal gambling, bookmaking, organized prostitution, usury, extortion, gunrunning, organized armed assault or rioting, robbery, racketeering, money laundering, counterfeiting, smuggling and organized fraud or cheating or even theft of priceless works of art, etc.
2. Within each criminal group strategic and tactical planning and task sharing prevail.
3. The criminal groups follow subcultural norms, a sort of "unwritten law." They follow the "honor of thieves." Each group

member owes the syndicate unconditional loyalty. Unobtrusiveness and secrecy are given utmost considerations in the group behaviour.

4. Success in operation of organized criminal activities being of paramount importance, leadership is an essential factor to generate enthusiasm and to infuse competence into the members. In most cases, therefore, the leader is individualistic and authoritarian. Ambition and confidence are his assets. The projection of his image depends upon his reputation of influence, power, strength (physically and otherwise), and affluence. There are sub-leaders and counselors, though individual dominance may be present within the members of the group, and unquestionable loyalty and implicit obedience to the leader are characteristic.
5. A densely meshed net of legal and illegal activities is envisaged and in the process legality is resorted to for the purpose of camouflage.
6. Though corruption and physical violence were characteristically reflected in crime in the context of the developing complexities of modern society, ultra-sophisticated methods of criminal activities are becoming more and more apparent.
7. Organized criminality leads to a plethora of crimes which in turn results in a breakdown of the economic, social and political stability of the country.
8. Beneficiaries of organized crime within the framework of the criminal justice system, law enforcement agencies and political parties, form a protective buffer around the criminal groups enabling them to have the necessary support, aid and protection which they need to thrive upon.
9. Though originally crime was confined within the boundaries of a particular country, the modern technological advances have made it possible for organized criminal groups to internationally orient themselves to supra-regional activities.
10. Furthermore, though there are exceptions to the rule it is a manifest tendency that recidivists are more prone to recruitment in organized criminal groups.

In classification of organized criminal activities caution has been exercised with regards to inclusion of terrorism within the ambit of organized criminal groups. This is due to the fact that most terrorist organizations are activated by political and ideological objectives but in the realization of these objectives terrorist groups are inclined to indulge in drug trafficking and arms smuggling for fund-raising purposes and for their own use. In instances of this nature they have been included as belonging to organized criminal groups.

On the basis of the systematic logical analysis that is attempted in sequence, the presence of and legislative response to the prevalent state of organized crime in the selected countries will now be explored.

III. Summary of Current Situation, Characteristics and Legislation of Organized Crime in Each Country

(a) Argentina — Area: 2,767,000 sq. km, Population: 32.32 million

Current Situation and Characteristics of Organized Crime

No Mafia, Triad or Yakuza type of organization has ever existed in Argentina, excepting some small gambling groups that raise illegal lotteries. In the past, there has been organized crime to support subversive and guerrilla activities such as kidnapping, extortion, and selling of protection. However, after a bloody time from the early 1970's to the early 1980's, those activities have ceased.

As regards to drug trafficking, it is not

organized. However, small groups operate in the trafficking of drugs. These groups mainly consist of foreigners who use Argentina as a transit-point.

Another noteworthy crime is money laundering committed by a small and well connected ring of very influential people.

Legislation

The Penal Code deals with offences committed by these small groups, but no specific law exists to combat with organized crime.

(b) Chile — Area: 757,000 sq. km, Population: 13.17 million

Current Situation and Characteristics of Organized Crime

Chile is afflicted with terrorism, a malady, that is far more severe now than it was during the reign of the past government. The terrorist group is known as Frente Patriotico Manuel Rodriguez. After some structural changes that it underwent as the past government came to an end, this organization is now called the Frente Autonomo Manuel Rodriguez.

Recently, the action of the above group has affected Chilean society, especially the capital of Chile. This group attempts against society on any number of criminal activities. The members of this organization commit murder, injury, kidnapping, attempt to assault political, judicial, military, police or religious authority, by using explosive or inflammatory devices and so on to accomplish any terrorist act.

Regarding drug trafficking, it is increasing, because Chile is being used as a transit pass by the traffickers. Chile seems to be a fertile country that offers the propitious conditions for money laundering. The law protects at all cost the banking secrecy making it extremely difficult to find out whether money has been laundered or not. It has been estimated that Chile transacts over one hundred million dollars a month through money laundering.

Legislation

The government created the National Council for Narcotics (CONASE) in 1990 which is in charge of formulating legal measures to fill the empty spaces of the law. Now included in the law are the preliminary plans against drug consumption, trafficking and trade. There is no legal provision in the statute for the confiscation of illegal proceeds.

Furthermore, this measure about drug trafficking includes provisions about the importation and commercialization of those inputs that are used for cocaine and other drugs, such as sulphuric acid, acetone and soda ashes.

(c) China — Area: 9.6 million sq. km, Population: 1,139.06 million

Current Situation and Characteristics of Organized Crime

One of Asia's biggest and most populous countries, the People's Republic of China seems to have the disturbances of criminal groups from the late 1970's as China carried out the policy of opening to the outside world. In the criminal law of the country organized crime is the joint crime which refers to any intentional crime committed by two or more than two persons jointly. The circumstances of joint crime may have two stages: common joint crime and criminal groups. But to be specific, organized crime is the one committed by criminal groups.

Most of the criminal groups that appeared after the 1970's were new social groups rather than the heritage of the secret society in old China. According to their offences they may be divided into the following groups: Groups desiring for property; groups desiring sexual satisfaction; and spiritually barren groups. Theft, swindling, forcible seizure, fraud, smuggling, speculation, abduction, human and

drug trafficking are committed by the groups desiring property. Serious, however, are the trans-national drug trafficking and smuggling groups on the open sea that have adverse effect on the economy and public order of the country. Rape, humiliation of women and other hooligan activities are carried out by the groups desiring sexual satisfaction. The spiritually barren are those groups which aim at counter-revolution, and the overthrow of the socialist system, endangering national security.

For further analysis, the criminal groups can be classified into the following three categories:

a) Criminal guild, which consists of the principals and ringleaders with long criminal history having rich experience in specific crime. They tend to live in factions.
b) Geographical assembly of criminals, which consists of their friends or townfolks of the same city or same district usually speaking the same dialect. These groups are comparatively stable.
c) The trans-district guild and enlarged geographical assembly, which are their advanced forms covering criminals of different areas, united through go-betweens or other relations, while criminal guild and geographical assembly are the primary structure of criminal groups.

Looking through the development of those criminal groups and the harmfulness of their criminal activities, the criminal groups can be named as the following:

a) Small delinquent group which refers to the group of those who are influenced by some anti-social environment, family and unhealthy thoughts in social life, and who just carry out their first illicit or criminal activities.
b) Criminal groups which consist of some of the above delinquents as they accumulate a wealth of criminal experiences and improved criminal techniques as they grow up. They would quickly form a sinister crew of new and old-time criminals already existing in the society.
c) The professional criminal groups. After having experienced several times the severe punishments and crack-downs, some criminals in the groups would harden their intention of committing crimes, accumulate criminal experience and undertake crime as their main profession.

A remarkable feature is that the criminal groups in China have not yet developed so dangerously as they have in other countries. However it has been suspected that the criminal groups at home and abroad have got a certain degree of contact with each other the situation of which should be taken seriously.

Drug crime, the most serious crime in China, has invaded almost every part of the country. During the middle and the late 1980's great quantities of drug began pouring into China from abroad and they began to spread from Yunnan, Guangxi border area to the mainland.

In 1991, the Chinese police force had cleared 8,344 drug criminal cases, seized 1,980 kg opium, 1,919 kg heroin, 328 kg marijuana, 33 kg morphine, 308 kg ephedrine and 48 tons of chemical preparations for heroin. Meanwhile, 8,080 suspects were arrested in the country.

China had 148,500 registered drug addicts by the end of 1991, and more than 80 percent of them were young persons.

Legislation

Provisions of criminal law on criminal groups are very specific. The law provides the offender a fixed term imprisonment of not less than ten years, life imprisonment or death penalty and the confiscation of property depending upon the seriousness of the crime. These crimes may include smuggling or illicit speculation in huge

amounts, swindling, theft, forcible seizure of a huge amount of public or private property and the violation of the laws and regulation on the protection of cultural relics. Ringleaders of hooligan groups, persons who engage in hooligan activities with lethal weapons and ringleaders of the criminal groups abducting and kidnapping in human beings may be sentenced to death if the circumstances are especially serious.

In the late 1980's National Narcotics Control Commission (NNCC) was established. It is the headquarters and the coordination center of national anti-drug forces. Most important is the decision of the standing committee of the National People's Congress on the prohibition against narcotic drugs that was adopted in 1990. Accordingly, a maximum punishment of fixed term imprisonment of fifteen years, life imprisonment or even death is provided in accordance with the gravity of the cases to those who smuggle, traffic in, transport, or manufacture narcotic drugs.

(d) Colombia — Area: 1,139,000 sq. km, Population: 32.99 million

Current Situation and Characteristics of Organized Crime

Organized crime in Colombia works in a different manner depending on what kind of criminal organizations they are. They are divided into two large groups, the first one for ideological reasons and the second one for economic reasons.

These organizations, a few years ago exercised more power than the government. The structure and behaviour of these two organizations are pretty similar. They work, divided in big groups all around the country, each group in a specific area which is handled by one boss and several subordinates. They work in close collaboration, and protect each other. They commit serious crimes such as extortion, smuggling of arms, drug trafficking murder, etc. The number of these crimes has been increasing every year.

Violence is used to control and to protect the group and to expand its power. They follow subcultural norms like a kind of "Code of Honor." No member can leave the group for fear of being killed by the criminal organizations that are nearly impenetrable.

Colombia was one of the most important producers, exporters and consumers of marijuana, and it is now a major processor of cocaine and also an intermediary in the international cocaine market. Drug trafficking is divided into two different cartels, the Cali Cartel and the Medellin Cartel. After years of fighting, the government has succeeded in subduing the Medellin Cartel, therefore the Cali Cartel, now, is bigger than the Medellin Cartel. It is the world's top producer of cocaine and has seized control of the wholesale market in the United States and Europe. According to the DEA (Drug Enforcement Administration of the United States), it produces 70% of the cocaine reaching the United States and 90% of the drug sold in Europe. This cartel is diversifying its activities; it is starting up a new profitable operation dealing with heroin.

Furthermore these criminal groups have been causing tremendous impact upon Colombia's economy. Although they produce more than 700 tons of drugs per year that represent approximately US$15,000 million, it has accelerated inflation in the country's economy.

The cartels are well equipped with modern weapons. Arms are being smuggled in from Miami by the criminal groups through the corrupt connivance of some government officials. Many policemen and judges were killed over the last few years by the members of the cartels.

Legislation

In Colombia there is a special judicial system dealing with drug crimes. It consists of the public order judges (regional

judges). The trial procedure is different and this kind of trial is not open to the public because in most cases the offenders are very powerful and dangerous to the society and even to the judges. Except for the general provision in law which provides for confiscation of property, weapons or other things used in the commission of offences or the proceeds resulting from the commission of the crime, there is no special legislation to deal with the confiscation of illegal proceeds.

The collaboration of DEA seems to have been very beneficial to Colombia. Its information on new techniques of investigation has coincided with the creation of policies and methods that have helped to control organized crime.

(e) Fiji — Area: 18.000 sq. km, Population: 750,000

Current Situation and Characteristics of Organized Crime

Fiji is a new country that gained independence in 1970. Fiji is composed of 300 islands, but only on 100 islands do people live. Fiji is situated at the centre of the Pacific Ocean, which makes it the transit point of air and shipping services connecting North America and Asia.

Due to this geographical location trafficking of illicit drugs has been found in Fiji since the 1970's. But all of the offenders in this trafficking are foreigners. The offenders are, however, sentenced to life imprisonment in serious cases.

Legislation

Specific legislation that controls organized crime is lacking in Fiji. Process of crime legislation is being currently evolved which proposes to empower the Court to order seizure of all properties, arising out of the proceeds of the criminal activities.

(f) India — Area: 3,287,263 sq. km, Population: 827.06 million

Current Situation and Characteristics of Organized Crime

In the Indian context, organized crime means systematic violation of law by the gangsters, goondas, dadas, musclemen and lumpen elements of the underworld, thriving on crime and vice to earn high profits. This in turn has been exerting a growing adverse effect on the nation's industry, business, social organizations, educational and political institutions. The fund raising activities include gambling, prostitution, extortion (including kidnapping and abduction), gunrunning and drug trafficking.

The roots of organized crime in India can be traced back to the Zamindari system wherein piaks and lathials were used for grabbing the land of other people with forcible collection of loans and rents. Later on, an organized secret system of crime notoriously known as "thuggee" was prevalent in most parts of the country. Subsequently criminal groups were named as "criminal tribes" but since the independence of India they have vanished. The Second World War added three more evils of blackmarketing, black money and bribery in the country.

Organized crime in India is localized and none of the gangs can be said to operate at the national level. In each city small gangs are operating in illegal activities. Villages are almost free of any organized crime. However, drug trafficking and smuggling of arms seem to be more organized in the cities. These crimes have extra-territorial links too.

Organized crime is mainly centred in big cities but the northern part of the country faces more serious forms of organized crime. Organized gangs also take active part in elections in some parts of the country. These gangs are used to capture votes by foul means.

Legislation

Indian law has realized the gravity of the situation. Section 34 of Indian Penal

Code makes all members of the criminal gang equally liable for the offence committed by any member of the gang. Section 120-B deals with criminal conspiracy. It envisages that all members of the conspiracy are held liable for the whole act done during commission of a crime by any member of the conspiracy. Even an abettor is also held liable for crime. Criminal intimidation and committing riot are acts entailing joint liability in India. Hiring and conniving at hiring of persons to join unlawful assembly is also considered a serious offence and every member of such offending group is liable. Allowing premises to be used for criminal purpose is also a crime. Agent or occupier of a building where a crime is committed with his connivance is also considered to be jointly responsible. Promoting enmity between different groups on ground of religion, race, place of birth, residence and language, etc. and doing acts prejudicial to maintenance of harmony are treated as grave crimes and every member of such offending group is held liable to the acts of the whole group.

Besides, the Arms Act 1959 deals with possession, transportation and manufacturing of illegal arms and ammunition, and the guilty can be awarded punishment up to seven years of imprisonment.

To deal effectively with more serious form of organized crime, two laws namely the National Security Act and the Terrorist and Disruptive Activities (Prevention) Act have been promulgated which provide provisions for two years preventive arrest and also long-term imprisonment depending on the offence committed respectively. There are provisions for enhanced punishment to deal with recidivism. Similarly, a new act namely Narcotic Drug and Psychotropic Substances Act 1985 deals with drug abuse which provides the offender a maximum punishment of imprisonment up to 20 years with a fine of Rs.200,000. There are provisions of presumptions in the law which could be drawn with regard to proceeds acquired through illegal means such as bribery and smuggling. This illicit proceed can be confiscated after due process of law. The burden of proof lies on the accused to prove innocence. In India, banks are sharing secrets of accounts with the investigating authorities.

Over and above, there are certain provisions in Criminal Procedure Code for preventive arrests. When the police is convinced that it is essential to effect arrest to prevent a cognizable offence, a person can be detained. Even a common man can arrest a criminal in certain circumstances. Habitual offenders and previously reconvicted criminals can also be detained under section 110 (G) Criminal Procedure Code. As a preventive measure a habitual criminal can be externd from a particular area for two years after observance of due process of law.

India has ratified the Vienna convention and is also a signatory of the SAARC convention.

(g) Indonesia — Area: 1,905,000 sq. km, Population: 179.3 million

Current Situation and Characteristics of Organized Crime

Indonesia consists of 13,000 islands, 30% of which are inhabited. Two-thirds of the population live in the Java island. Area of the Java island is only 7% of the whole country. Therefore, population density of the Java island is very high. Industrialization in certain urban centres has created vast migration to the cities. In these cities, migrants who are seeking jobs have increased.

There are some offences that are committed by criminal groups in Indonesia. These offences include motor vehicle theft, robbery and smuggling of electric appliances from Singapore. Each criminal group is formed by only three to five members who belong to low classes, and the members do not have strong ties with each other.

These groups do not have useful connections with other criminal groups either. Criminal groups in Indonesia are thus not well organized. In Indonesia, drug offences are not serious problems.

Legislation

In 1961, POLRI (Kepolisian Republic Indonesia), the Police became a part of the Indonesian Armed Force (ABRI). POLRI supported by the Army that is commanded by the ABRI commander has the responsibility to eradicate the criminal groups usually within three months from the day that the criminal group is found. This is one of the reasons why there is no serious organized crime in Indonesia.

Although there is no definition of Organized Crime in the statute, in Penal Code and other statutes, (Environmental Law, Anti Corruption Law, etc.), control of firearms and control and confiscation of illicit proceeds have been provided.

(h) Japan — Area: 377,835.2 sq. km, Population: 123.54 million

Current Situation and Characteristics of Organized Crime

Boryokudan (yakuza) is a typical example of a criminal organization which tends to commit organized crime in Japan. "Boryoku" means violence and "dan" means group, so "Boryokudan" means violent group. Boryokudan is defined by the police as "an organization that may collectively and habitually commit violent crimes, taking advantage of its organizational or collective power."

The special characteristics of Boryokudans include a high incidence of criminal acts, a distinctive principal of organization, the establishment of Nawabari (gang territory) and the pursuit of unlawful profits. Boryokudans constitute a kind of "family," where the boss is the quasi-father and the men under the boss are the quasi-children. They form a large pyramidical structure with the boss at the top and the subordinates at the bottom.

By the end of 1991, there were about 3,300 Boryokudan groups with a membership of about 91,000. Certain broad-based groups like the Yamaguchigumi, Inagawa-Kai and Sumiyoshi-Rengokai have expanded their spheres of influence very significantly. Thus, at the end of 1991, the three groups had about 56,100 members. Yamaguchigumi had 38.9% of all Boryokudan members.

In Japan, under the constitutional guarantee of freedom of assembly and association, the establishing of such a group as Boryokudan by itself is not illegal. The problem is that the members of Boryokudan tend to commit crimes. About 90 percent of Boryokudan members have criminal records; approximately 30% of all incarcerated prisoners are Boryokudan members. Those statistics prove that Boryokudan members are highly prone to commit crimes. As such the existence of Boryokudan is a serious social problem.

A survey in 1990 shows that the annual income of all the Boryokudan groups approximated 1,302 billion yen, 80.3% of which were illegal earnings. Traditionally, Boryokudans derive their illegal revenues through such activities as trafficking in stimulant drugs, bookmaking and protection rackets.

The proceeds of such criminal activities amount to a high percentage of total Boryokudan income. In 1990, stimulant drug trafficking constituted 34.5% of all the Boryokudan income, gambling and bookmaking 16.9% and protection money 8.7%.

Most drug abuse in Japan involves stimulant drugs. Since 1981, more than 20,000 persons have been arrested each year for stimulant drug offences. It has been estimated that the Boryokudans acquire about 450 billion yen annually through their control by the importation of and trafficking in stimulants.

To indicate the dominance of Boryoku-

dan organizations in the area of drug trafficking in 1990, 6,581 Boryokudan members were arrested for stimulant drug offences (43.8% of all persons arrested in that category). Recently, Boryokudans have begun to expand their trafficking activities beyond stimulant drugs to cannabis, which is supported to some extent by the fact that 20.7% of all persons arrested for cannabis offences were Boryokudan members.

Traditionally they made illegal gambling houses and got money in the form of admission fee from customers. Nowadays, Boryokudans operate gambling dens and are also involved in the operation supply of gambling game machines. They also commit illegal bookmaking. In Japan, gambling constitutes a crime with exceptions for some types of racing run by local governments. To take advantage of these legal gamblings Boryokudans make private counter of bet ticket earning a huge amount of money.

Boryokudan groups extort payments from the owners or operators of entertainment and amusement businesses, under such pretexts as providing protection for or providing space to them, or by compelling them to purchase commodities or rent equipment at an unreasonably high cost.

They have attempted, recently, to extract illegal and unfair gain by injecting themselves into the legitimate personal and business related activities of citizens. Examples are money lending and out of court settlements of traffic accidents. Such forms of intervention are typically accomplished through the use of force or threat. Intervention in civil affairs generates 7.3% of the total Boryokudan income.

Corporations and other legal entities are the mainstay of the Japanese economy and enterprise profits are enormous. For these reasons, criminal activities aimed at corporations generally prove more lucrative than those targeted against individuals. Company racketeering constitutes 3.4% of the total Boryokudan income.

Ordinary citizens have come to feel threatened by the frequency of conflicts among Boryokudan organizations. In 1990, for example, there were 27 instances of struggles among Boryokudan groups.

Boryokudan members have accounted for more than 200 cases of firearms use each year since 1985; the 249 instances in 1988 brought about the death of 28 people and the wounding of 60.

Despite Japanese system of rigorous firearms control, the Boryokudans seem to be able to find enough firearms to go around. They have equipped themselves with armories that include automatic rifles and hand grenades in addition to handguns. These weapons have been either concealed in legitimate cargo and smuggled into the country from the Philippines, the United States or other countries, or manufactured illicitly in Japan itself. From 1988 the seized figure of handgun named "Tokalef," which is made in China, is increasing. In 1991, the seized figure of "Tokalef" was 265 which is 27.8% of total seized firearms.

The extra-territorial activities of Boryokudan appear to be directed primarily at procuring contraband like firearms and stimulant drugs, and at establishing safe havens abroad. They also have been profiting from the brokering of illegal employment of foreign workers in Japan. Recently, women-trafficking from the Philippines, Thailand, etc. is also increasing.

Legislation

Japan has framed a number of statutes that can be invoked against Boryokudan.

In order to protect the witness (mainly against Boryokudan) intimidation of a witness is punishable.

Under the Law Concerning Punishment of Physical Violence and Others, some crimes which are usually committed by the Boryokudan members, are more severely punished. For example, the offender who commits the violence, intimidation or destruction of property with the help of more

than two persons, using the threat of such an organization, is given a maximum of three years imprisonment, while in the Penal Code a maximum of two years imprisonment.

No law controlling the existence and the activities of the Boryokudan itself has been formulated. However, in March 1992, a new law, Law on the Prevention of Irregularities by Gangsters, was enforced. The Law prohibits certain activities of designated Boryokudan members, and the public safety commission can take necessary measures including the restriction on the use of Boryokudan office. The person who violates the Law can be given a minimum of one year imprisonment. It is reported that some Boryokudan members resigned and some Boryokudans were dissolved because of the enforcement of this Law.

There is no special law against the fund-raising capacity of the Boryokudans. But there are some laws that prevent Boryokudan members from participating in some businesses, for example, real estate business, finance business, etc.

The law against money laundering of illegal profits from drug trafficking was enacted on October 5, 1991 and was enforced on July 1992.

Abuse of drugs (stimulant drug, cannabis, cocaine, heroin, LSD, opium) is severely controlled. Even if the offender personally uses the drug, he or she will be sentenced to imprisonment. The maximum punishment of drug smuggling is life imprisonment.

According to the Law on Control of Firearms and Sword, nobody can possess firearms and swords without special license. The illegal possession of firearms and swords and the illegal importation of handguns or other firearms are strictly punished.

(i) Republic of Korea — Area: 99,000 sq. km, Population: 42.79 million

Current Situation and Characteristics of Organized Crime

Among the various types of organized crime in Republic of Korea, at present two types particularly appear to be connected with international criminal organizations: organized violence and drug trafficking. The same criminal group does not commit these two types of crime. Drug traffickers, generally, are not violent.

There is no such specific name of organized violence group as Yakuza or Mafia in Korea, but the members of organized violence groups are sometimes called "Chojik Pongnyok Pe," which means "the member of organized violence groups." This group has connection with Japanese Yakuza on a small scale under the method of promotion of mutual friendship. But that connection does not seem to be serious yet. Organized violence has been in existence since a long time ago. In the 1970's their criminal activities were limited to some entertainment and amusement areas. But in the 1980's they have expanded their territories.

Traditionally, members of the violence group extort payments from the owners or operators of entertainment and amusement businesses, under such pretexts as providing alcohol, girls, etc. They establish gambling houses and lend money with a high rate of interest. Recently, they have been making money by intimidation or intervention in the legitimate personal activities or racketeering activities directed at business entities.

Several years ago stimulant drug was illegally manufactured in Korea. Because now most drug-supplying rings have been rooted out, it has become a consumer country, and like most other countries drug abuse has been increasing in Korea.

The drug trafficking groups dissolve themselves as soon as their end is met,thus they form a temporary organization only.

Legislation

Korea has in place a number of statutes

that can be invoked against organized crime.

Korea has three principal bodies of legislation on drugs: the Narcotics Act; the Psychotropic Medicine Control Act; and the Marijuana Control Act. Under these laws, a person who imports, exports, manufactures, prepares, sells or packages dosages of these drugs for profitable or habitual purposes may be sentenced to death or to a term of imprisonment from a minimum of ten years to life.

The Act Concerning the Punishment on Violent Crime stipulates in article 4 that in case a group or organization with intention to commit the crimes is organized, the ringleader shall be punished by death, the leaders by life imprisonment with labour or not less than five years imprisonment and the members by not less than one year imprisonment. By 1988, this act was seldom applied but from January 1989 to June 1991, a total of 1,536 members of violence group was on trial under this act.

A special law, the Act of the Protection of Society, provides effective measures against organized crime. The purpose of this act is to provide for means to facilitate the return to society of and for community safeguards against the offenders who are considered to present a danger of recidivism and to need special training, rehabilitation and treatment by sentencing them under protective decree.

According to the Law on Controlling of Fire-Arms, Sword and Explosives nobody can possess firearms and swords without special license in Korea. The illegal possession of firearms and swords carries the maximum of two years imprisonment. The illegal manufacturing or importation of firearms is punished to the maximum of five years imprisonment.

(j) Malaysia — Area: 330,307 sq. km, Population: 18 million

Current Situation and Characteristics of Organized Crime

Organized crime in Malaysia is carried out collectively by members who in some way share strong family or ethnic ties or similar social and economic background and subscribe to a rigid patriarchal system governed strictly by enforceable norms and expectations which demand strong adherence and commitment. In Malaysia other than secret societies bearing a very strong resemblance to Singapore and a constituent of loosely knit petty criminals, the criminological view is not inclined to subscribe to the view that crime is organized in Malaysia.

A general survey of the crime situation indicates a downward trend between the years 1989 to 1990. The types of common offences are robbery using firearms, theft of motor vehicles, house burglary and theft. These routine run-of-the-mill type criminal cases are contained by the crime prevention branch of the Malaysian police which was set up in 1986.

Offences of a more serious magnitude but positively incapable of being classified as organized crime would be arms smuggling. The dadah or drug trafficking problem, the commercial crime of money laundering and forgery of credit cards have also been practiced with little success.

The smuggling of firearms into the country is being carried on, but there is no indication of the existence of any syndicate dealing with illegal firearms in the country. Statistics also reveal that the incidence of licensed firearm holders committing crime was negligible. However, the firearms ordinance enacts harsh penal sanction for violation of the law by possessing firearms without license.

The dadah or drug trafficking problem had its origin from the British colonial occupation when drugs were introduced by unscrupulous labour contractors to the hundreds of thousands of Chinese and Indian labourers whose background reflected

a history of cannabis and opium smoking. In 1910 the colonial government exercised monopolistic control and after the Geneva conference on opium of 1924 the government restricted sales of opium to bona fide registered opium smokers. In 1945 opium was totally banned, but the damage was already done and gradually drug trafficking via Thailand through both legal and illegal entry points continued to flow unabated.

Money laundering in 1989 amounted to 4,500 cases of commercial crime involving $130 million. Malaysia proposes the establishment of a central data bank which, though it may not solve the problem of money laundering, will create a trail for an investigator, as access will be gained to a syndicate's fortune usually deposited in several banks and financial institutions. In any event statistics of 1990 and 1991 reveal a drastic decline in the rate of money laundering and significantly does not reveal the involvement of any organization.

The forgery of credit cards was one sphere in which the hand of an organized group was reflected in one sole episode in 1991. The authorities in Malaysia have succeeded in detecting the existence of a credit card forgery syndicate with international links to swindle companies in Malaysia and abroad with a total sum of $17.2 million. Nine members of the gang were apprehended and reportedly jewelry to the value of $400,000 believed to have been the proceeds from the fraud were also recovered.

Legislation

The government, aware of the crime situation in drugs, enacted the Dangerous Drugs Act of 1952. This regulated the import, export, manufacture, sale and use of certain dangerous drugs and delineated the jurisdiction of the courts over drug trafficking. The amendment to this Act in 1983 authorized police and customs officers to intercept postal articles and telephone or telegraphic communication subject to certain safeguards. A mandatory death penalty could be imposed for offence of trafficking in dangerous drugs. The Dangerous Drugs (Special Preventive) Act 1985 also ensures special preventive detention measures. The increased vigilance of the law enforcement agencies and the strict laws resulted in Malaysia's drug trafficking and abuse problem being brought well under control with a steady remarkable decline being registered.

The Malaysian authorities verily believe that corruption and organized crime are inextricably interwoven and intertwined. Accordingly an anti-corruption agency has been formed since 1967. The Prevention of Corruption Act 1971, the Emergency Essential Powers Ordinance 1970, the Criminal Procedure Code, the Public Officers (Conduct and Discipline) General Order, the Customs Act and the Penal Code being the general legislation relied upon to combat crime organized or otherwise. A central bureau consisting of various law enforcement organs have been in existence to fight organized crime even in its present negligible, nebulous form.

(k) Nepal — Area: 147,181 sq. km, Population: 18.92 million

Current Situation and Characteristics of Organized Crime

Situated on the lap of the Himalayas, Nepal is traditionally a peaceful country. Compared to the developed countries, the crime record of Nepal can be considered to be negligible. The only organized crime worth mentioning is the one related to drug addicts and its trafficking.

There seems to be no progressive growth of this crime since the fiscal year 1988–89. Yet there has been a marked increase in the crime cases dealing with narcotic drugs in the year 1991-92. There were 294 such cases in the fiscal year 1988–89, 227 in 1989–90, 218 in 1990–91 and 317 in 1991–92.

Legislation

The Narcotic Drugs (control) Act was adopted in 1976. A narcotic offender is subject to a penalty of Rs.1,000 or a jail term of one month or both in mild cases and Rs.2 million or 5 to 20 years jail term or both in grave cases. On top of this penalty, the property earned on this account deserves to be confiscated, the drug quantities seized are destroyed publicly and the informer rewarded.

Nepal has ratified the Vienna convention and is a signatory of the SAARC convention on drug abuse.

(l) Pakistan — Area: 796,000 sq. km, Population: 112.05 million

Current Situation and Characteristics of Organized Crime

The history and background of organized crime in Pakistan is similar to that of India. Pakistan became a separate country in August 1947. Hence it is needless to say that the crime pattern and crime situation in both countries has remained identical. However, due to change in administrative, economic, political and religious fields, Pakistan has its own problems of organized crime.

Organized crime in Pakistan has been expanding its illegal activities from its traditional offences such as murder, robbery, gambling, etc. to more complicated and sophisticated offences. Instances of the latter types of crime are drug trafficking, illegal manufacturing and smuggling of arms inside and outside the country, money laundering and so on.

Illicit manufacturing of arms and ammunition in certain parts of the country is causing a serious threat to the internal security, peace and order of the country, and also causing serious concern to the security and integrity of some of the neighbouring countries. The factories manufacturing arms are located just on the Pak-Afgan border.

Pakistan is situated in the "Golden Crescent" area of Asia where 800 metric tons of opium was produced in 1979. Of course consumption of opium and hashish had been an unfortunate tradition in Pakistan. Heroin, however, a narcotic created and used in the West, came to Pakistan only recently after Soviet intervention in Afghanistan and after the Iranian Revolution.

Pakistani drug traffickers joined hand with international Mafia after the promulgation of Islamic laws in Pakistan in 1979, whereby opium vendors were totally stopped and production, processing, trafficking, etc. were prohibited. So thousands of tons of opium were stocked in tribal areas of North West Frontier Province. Then Pakistani drug traffickers with the help of foreign counterparts established heroin laboratories in the tribal areas, because tribal area is a law-free zone.

Afghanistan has recently appeared as one of the biggest opium producing sources in the region. The real challengers to the Pakistani law enforcement authorities are the drug traffickers traveling in caravan of vehicles (containing 30–40 vehicles) fully guarded with automatic weapons including anti-aircraft, guns, rocket launchers and bombs, etc.

As Turkey is situated between Asia and Europe, so transit trafficking involving heroin and cannabis takes place in Turkey. Hence, all the narcotics coming from Afghanistan/Pakistan via Iran are stocked in Turkey and then onward trafficked out of the country mainly by sea to Europe and the United States.

Legislation

Inadequate coordination among the various law enforcing agencies had resulted in the ineffective solution of the drug problem. But after the promulgation of Islamic laws in 1979, establishment of Tark Forces in 1982 and posting of 20 liaison officers from different countries, the situation has quite improved. Now there is a separate min-

istry for the Narcotics control.

Pakistan has signed the Vienna convention of 1988 and a new law on dealing with the drug problem and organized crime is in the offing. It will not only incorporate the recommendations of the Vienna convention but the death penalty has also been proposed as the maximum punishment.

To deal with the problem of illicit arms and ammunition, new laws have been introduced in 1990–91 and speedy trial courts under the head of Session Judge have been established. Now a maximum punishment of 14 years may be awarded for the manufacturing and possession of illicit arms.

Of course, the above law provides the scope for confiscation of illicit proceeds of the organized crime but its actual application is very difficult as this money is often invested under fake names and the present evidential system is insufficient to take account of it. One important reason for ineffective control is that the formal Penal Code is not applicable in tribal areas where the manufacturing of illicit arms and ammunition and heroin takes place.

(m) Singapore — Area: 620.5 sq. km, Population: 2.73 million

Current Situation and Characteristics of Organized Crime

The Republic of Singapore became an independent sovereign nation in 1965. It consists of 50 odd islands within its territorial waters. The lack of organized crime groups is conspicuous when an analytical study of Singapore is made. Perhaps one of the main reasons for this favourable position may be the physical geography of the island, the socio-economic situation, the existent deterrent laws of Singapore, the competence of the law enforcement agencies and the public resistance to crime. The closest to the type of organized crime groups are the secret societies in Singapore which compared to other international criminal syndicates pale into insignificance. These secret societies bear very slight resemblance to the Triad societies of the past and their members are generally known by the following characteristics:

They are between the years of 15–19 years, composed of Chinese, Malays and Indians, with the majority having primary as well as secondary education, with only a small percentage having no education at all. These members are occupationally unskilled workers.

Their organization stems from a certain amount of planning, preparation, the obtaining of adequate and appropriate equipment, and the modus operandi and the targets and locations bearing the same similarities.

The crimes committed are robberies, criminal assaults, unlawful assemblies, extortion, rioting and drug trafficking. The members group themselves ranging from two to seven persons and resemble street corner gangs. Each group operates independently of the other. They often fight with each other. The loosely formed groups of youngsters living in the same neighbourhood who band themselves in this manner are led by a leader called the headman. It has been found that at times there are two headmen, one called the dark headman and the other, the light headman. Statistics reveal that crimes committed by these gangs are quite insignificant.

Drug trafficking, factually speaking, is present but in a very minute form compared to other countries. Opium, morphine and cannabis are used by addicts. Most of the drug distribution units/networks in Singapore were broken by 1979 and it is reported that currently drugs are being pushed by loosely knit small-time traffickers known as ant traffickers having a small clientele. These ant traffickers are responsible for smuggling small quantities of drugs into Singapore. Irrespective of bumper harvest

in the golden triangle area since 1982 narcotic drugs are reputed to be scarce in Singapore with the retail prices being very high. The Misuse of Drugs Act 1973 has contributed greatly to the success of drug control in Singapore.

Legislation

Basically modeled on the Indian Penal Code and Code of Criminal Procedure the last amendment to the penal code was in 1984 and the Criminal Procedure Code was enacted in 1955 with relevant changes. The laws are predicated on the earlier code and Penal Code.

Special legislation in the form of the Criminal Law (Temporary Provision Act), the Kidnapping Act and the Arms Offences Act has been enacted. The drug laws are very stringent and provide for the imposition of the death sentence and life imprisonment terms. The Criminal Law (Temporary Provision Act) of 1955, empowers the Minister of Home Affairs to detain offenders without trial if witnesses are intimidated to testify against wrongdoers. Indefinite period of detention awaits any offender involved in grave crime or secret society activity. Police supervision after release is envisaged. The Kidnapping Act of 1961 imposes death penalty for kidnapping for ransom. Aiding and abetting are also punishable with imprisonment of not less than ten years and corporal punishment. The Arms Offence Act imposes life imprisonment for unlawful possession of firearms whereas a trafficker in or user of firearms in the commission of an offence can also be sentenced to death upon conviction. Anyone using an imitation firearm in the commission of an offence can also be sentenced with imprisonment not exceeding ten years.

With regard to the confiscation of illegal proceeds of crime, the Singapore legislature has enacted a law in 1992 which envisages the seizure of illegal proceeds from drug trafficking and money laundering.

(n) Sri Lanka — Area: 66,000 sq. km, Population: 16.99 million

Current Situation and Characteristics of Organized Crime

Sri Lanka comprises four primary communities. An ethnic group has commenced waging war with the Sri Lankan government in the northern and eastern regions of the island. The strategic location of Sri Lanka in the Indian sub-continent has increased its vulnerability to be used as a transit point for the southwest Asian drugs diverted through India bound for the African, European and other Western markets. Now, the conflict in the north and the east has also contributed to the trafficking in narcotic drugs in an increased capacity. Intelligence investigations conducted by foreign law enforcement agencies disclose that 80% of the Sri Lankans jailed in Italy, France, Spain and West Germany for drug trafficking offences belong to this ethnic community. They are well established and organized in these countries and have clandestine facilities for both smuggling and distribution of drugs.

Sri Lanka being a convenient transit route also serves the golden crescent region drug dealers. Air passengers including foreigners from India, Pakistan and Germany have been detected trafficking drugs with 28 Sri Lankan nationals in 1991 smuggling drugs especially heroin in moderate quantities.

Another organized crime namely cheating by foreign employment agencies was rampant a couple of years ago but is now severely on the decline. The crux of the offence was the establishment of an agency with or without foreign collaborators, temporarily in a fashionable or impressionable building in a city. The unemployed or underemployed poverty stricken rural folk were enticed with eye catching advertisement in the mass media with the promise of very high wages in oil rich Middle East and Arabian countries. The applicants sent

to foreign countries have been stranded without any recourse or in some instances women sent as housemaids to potential employers either end up unpaid or inhumanely treated, ultimately terminating their dreams of fruitful employment in brothels as prostitutes.

In order to provide remedial measures the state established the foreign employment bureau under the Ministry of Labour. Now this type of crime has decreased sharply. The cases reported in 1991 were 3,354, whereas reported cases for 1992 from 1st January to end of June 1992 have been 552 only.

Legislation

Narcotics Law is enforced in Sri Lanka by three state agencies: the police, customs and excise departments. The police has a central enforcement organization called the Police Narcotics Bureau while the two other agencies have specialised units for narcotics. Very recently, another specialised unit named Bureau of Special Operations has been established which deals with narcotic-terrorism, smuggling, narcotics and other related offences in the multi-jurisdictional sphere.

Legislative measures were stepped up as follows: 1) the police was empowered to retain narcotic suspects for a period of seven days, that is beyond the permissible period of 24 hours. 2) the power of granting bail was reserved to the high court and that too, under exceptional circumstances. 3) the law provided for the confiscation upon conviction of any boat, vessel, vehicle aircraft or air borne craft or equipment which has been used for conveyance of a prohibited article. 4) witnesses were given wider protection in that identity of the informants are protected. 5) fines have been enhanced and 6) the death sentence or life imprisonment was introduced in 1984 for possession of any quantity of heroin over two grams.

The National Dangerous Drugs Control Board established in 1984 under the Ministry of Defence which hitherto formulated and reviewed national policy relating to prevention and control of drug abuse and treatment by rehabilitation of drug users had power to receive and call for information and particulars from individual organizations and public corporations including government departments also.

In the area of combating this curse Sri Lanka became a signatory to the South Asian association for Regional Co-operation (SAARC) convention on the suppression of terrorism. Last but not the least is the enactment of the Prevention of Terrorism Act no. 48 of 1979, bestowing wide powers of detention of suspects to the Ministry of National Security in Sri Lanka.

In conclusion, it might be mentioned that in Sri Lanka, money laundering that originated about three years ago through finance companies was abruptly halted by the enactment of the Central Bank Act no. 78 of 1988. Control and confiscation of illicit proceeds as opposed to confiscation of any article used in the commission of offences is not regulated by law. Therefore there is no provision in law for the control and confiscation of illicit proceeds. The control of firearms is achieved by the Firearms Ordinance which defines the meaning of firearm and the means by which permission can be sought from the state to possess and use a firearm.

(o) Tanzania — Area: 945,037 sq. km, Population: 25.64 million

Current Situation and Characteristics of Organized Crime

In the context of Tanzanian legislation, organized crime is interpreted to mean any offence or non-criminal culpable conduct which is committed in combination or from whose nature, a presumption may be raised that its commission is evidence of the existence of a criminal racket in respect of acts connected with, related to or capable

of producing the offence in question.

The common characteristic in these offences, is the existence of a criminal racket in respect of acts related to the offence in question. The best example is murder arising out of revenge, planned robbery, house breaking and drug trafficking. In 1991 for example out of 1,315 murder cases reported to the police, more than 599 cases were organized. In the same year, there were 296 organized robbery cases.

Taking advantage of the newly developed facilities of international communication and transportation, some organized crimes have begun to expand the sphere of their operation. These offences are drug trafficking, motor vehicle thefts, violation of foreign exchange regulations, etc. There are cases in which cars stolen are recovered in some other countries.

Legislation

The Economic and Organized Crime Control Act, 1984 provides modified investigation and trial procedures. New penal prohibitions and enhanced sanctions and remedies of compensation and restitution are also embodied in the Act especially where the commission of the offence of which a person is convicted involves or causes injury or damage to any person or property of any person. Under this Act, a person is guilty of the offence of organized crime who:

a) Organizes, manages, directs, supervises or finances a criminal racket;
b) Knowingly furnishes advice, assistance or direction in the management of the business or affairs of a criminal racket with intent either to reap profit or other benefit from such act or to promote or further the criminal objective of the criminal racket; or
c) Being a public official, and in violation of his official duty, intentionally promotes or furthers the objective of a criminal racket by inducing or committing any act or omission. A person guilty of organized crime can be punished for imprisonment not exceeding 15 years.

There is another law, The Proceed of Crime Act, which provides confiscation of the proceeds of organized crime.

There is a provision of control of crimes by people's militia which is defined as an organized group of people, operating with the authority of the Government for law enforcement purpose. People's militia are given powers of arrest and search as are vested in a police officer of the rank of constable. The term also includes traditional defence groups who patrol in streets in shifts at night.

(p) Thailand — Area: 514,000 sq. km, Population: 57.2 million

Current Situation and Characteristics of Organized Crime

The organized crimes occurring in Thailand are mostly connected with drugs luring women and logging cases which are often committed by groups of some powerful persons or high level government officials. Depending on the region organized crime in the country can be classified as follows:

a) International organized crime. The most notorious are criminal activities of the Japanese Yakuza which lure the women to be prostitutes in Japan. The most powerful criminal organizations are the San Yee On, 14k, Wo Shing Wo, Yamaguchi-gumi and Taiwan's Bamboo Union which induce local Thai criminals to organize with each other and to expand their activities all over the country.
b) Urban organized crime. In Bangkok, most of the criminal activities include gambling, extortion, share manipulation, money laundering, etc. committed by mostly white-collar criminals.
c) Rural organized crime. This includes not only such crime as committed in the

cities but also other crimes like logging, drug trafficking, etc. As the poppy growing along the Thai-Burmese-Laos border area is called "Golden Triangle," it makes Thailand the route of trafficking drugs to the outer world.

Legislation

Narcotics Act was enacted in 1979. According to this Act, narcotic drugs are classified into five different categories. Death penalty is awarded to the offender who produces, imports or exports the narcotics of category I (heroin).

Act on Measures for the Suppression of Offenders in An Offence Relating to Narcotics was enacted in 1991. According to this Act the authority can trace, seize and confiscate the illegal assets and also search dwelling place or person in the case where there is a reasonable ground to suspect.

IV. Evaluation

(a) Crime Situation

The above brief but analytical crime scenario of the sixteen countries makes it amply clear that each country does suffer from one form or other of organized crime. There is the difference of degrees but the ailment is showing cancerous symptoms. Therefore it is essential to diagnose it and control its spread before it enters deeply into the socio-economic and political institutions of the entire world.

The crime situation indicates that most of the developing countries have still not come into the full grip of organized crime as the Western countries and the United States. However, due to rapid change in the means of communication, transportation and industrialization the crime situation is worsening day by day.

(b) Crime Pattern and Legislation

Crime pattern of sixteen countries, reviewed so far, shows that five different kinds of organized crime are seen to be common and imminent in most of the countries. Drug trafficking is found in almost all the countries with some differences in its gravity. It is basically used as a fund raising activity by the organized criminal groups. Drug trafficking has now extended to such a magnitude that the whole world is worried about its spread and consequences. Among the sixteen countries the most seriously affected are Colombia, Pakistan and Japan whereas China suffers from domestic consumption of drugs being poured into the mainland by international traffickers. Countries like Argentina, Chile, Fiji, Sri Lanka and Thailand serve as the transit points for drug trafficking. While Indonesia seems to be nearly immune from the drug problem, harsher punishment provided by the laws has prevented its proliferation in Malaysia and Singapore.

Illicit manufacturing and smuggling of arms are posing a serious threat to Japan, Colombia, India, Pakistan and Sri Lanka. Smuggling of arms and ammunition is being carried out by militant groups and also by the organized gangs to commit crime. Laws made so far to contain this crime in these countries seem to be still inadequate or ineffective while Colombia lacks specific laws on arms control.

Money laundering which is the process of cleaning the illegitimate proceeds of crime by investing in legal ventures, is found prevalent in Argentina, Chile, Malaysia, Pakistan and Thailand. With rapid economic growth, crimes relating to money laundering are committed in a sophisticated way, detection of which is an immensely difficult task for the law enforcement agencies as the banking institutions maintain strict secrecy, as far as the clients' transactions are concerned. Time is now ripe for those countries having insufficient legislation against money laundering to brood over and enact laws so that property earned Illegally could be detected and harsher punishment awarded to the criminals.

Countries like Thailand, India and Ja-

pan do have organized prostitution and women trafficking in these countries is also a major problem. Prostitution is found in different forms in other countries also. Organized gangs run brothels, and under this cover, many other crimes such as rape, extortion and assault are committed. Prostitution dens are, thus, the breeding places of criminal activities. Laws against prostitution seem to be either insufficient or ineffective in these countries.

Extortion is seen to be a common phenomenon in India, Colombia, Japan, Korea and Thailand. Generally small groups commit such offences resorting to threat and criminal intimidation in some of these countries. But in Japan, the Boryokudans have made extortion as their stable source of revenue while the same can be said to the organized violence group of Korea. While the new law that Japan has enforced in March 1992 is expected to curb the illegal activities of the Boryukudans significantly, lawmakers of other countries should also take this into account and follow a stringent punishment for the organized criminal groups.

The absence of adequate laws to counter the economic crimes like money laundering, usury, etc. is clearly seen in most countries. Excepting China, Korea, Japan and Tanzania, no separate law has been formulated to deal with organized crime in the remaining countries. Most of these countries have shown grave concern toward drug offences and almost all of them have provided stringent punishment for these offences.

(c) Recommendations

The foregoing discussion implies the need of combating organized crime at national and international levels. To combat organized crime at the national level, it is now high time to formulate separate laws to deal with it. Under the auspices of the United Nations Economic and Social Council, a conference for the adoptions of a convention against illicit traffic in narcotic drugs and psychotropic substances was held in Vienna in 1988 and far reaching decisions were taken to amend domestic laws and enhance international cooperation. The Congress aimed at uniform legal procedure in the world to deal with drug offences. Their production, manufacture, extraction, preparation, sale, financing, possession, cultivation, conversion or transfer of property were to be made offences by all signatory countries. It had suggested forfeiture of property earned through drug crimes and also suggested very stringent and heavy penalties. Among the participating sixteen countries, twelve countries namely Argentina, China, Colombia, India, Indonesia, Malaysia, Pakistan, Chile, Sri Lanka, Japan, Nepal and Tanzania are signatories and out of them Chile, China, India, Japan, Pakistan, Nepal and Sri Lanka have ratified the convention while Fiji, Korea, Singapore and Thailand have not yet signed. However, Singapore and Thailand recently enacted domestic law including provisions which implement the contents of the Vienna Convention.

It was rightly decided in various U.N. deliberations for the creation of new offences. Legislation on these matters would apply to narcotic offences, organized fraud and money laundering, etc. as well as the proceeds of such offences. These laws would, *inter alia*, require public officials, local administrators and politicians to disclose their assets and authorise the officials to investigate cases of sudden enrichment. The Australian Proceeds of Crime Act 1987, has envisaged new offences of money laundering and organized fraud.

Further, domestic laws may be enacted to do away with bank secrecy for criminal matters. Investigating agencies and courts may be empowered to have access to bank data.

It is said that prevention is better than cure and, therefore, detailed preventive

programs designed to deter potential offenders, reduce opportunities for crime and make its commission more conspicuous need to be framed and implemented. Raising public awareness of the operation and extent of organized crime and mobilizing public support for its prevention and control are important elements of a concerted strategy. Mass media may need to be closely involved in furthering preventive programmes. An important preventive strategy is to examine the characteristics of legal and illegal markets serviced and exploited by organized crime groups and to adopt new regulatory policies to increase competition. These may consist of the legalization of the goods sold on the illegal markets, as has been done by some countries for alcohol, gambling, and as is frequently proposed by some for drugs.

Co-operative witnesses and informants have successfully contributed in many countries to the prosecution and conviction of many organized crime members. However, it is very important that sufficient protection be provided for witnesses and for the direct victims of organized crime. New laws are to be formulated to protect witnesses and victims and provision of enhanced punishment for accused of such offences may be made explicit.

In 1985 the Seventh United Nations Congress adopted the "Milan Plan of Action," which affirms that it is "imperative to launch a major effort to control and eventually eradicate the destructive phenomena of illicit drug trafficking and abuse of organized crime both of which disrupt and destabilize societies." Out of the three resolutions adopted by this Congress one was to exhort countries to legislate laws for the tracing, monitoring and forfeiting of the proceeds of crime. Malaysia has answered to the call by legislating the Dangerous Drugs (Forfeiture of Property) Act, 1988 which empowers the authorities to trace, seize and confiscate illegal proceeds from drug trafficking. It is desirable to enact laws on these lines at the earliest so that growth of organized crime can be curtailed. This law will empower the law enforcement agencies to gain access to documents required to follow the trail. Under this legislation, certain types of transactions would have to be reported to a specified agency. These would include large-scale cash transactions, suspected transaction, and foreign currency export and import over a prescribed level.

If effective control of organized criminal activities is to be attained, improved methods of data collection will have to be introduced. This requires strengthening the resources of law enforcement agencies.

V. Conclusion

It is obvious now that most of the participating countries having suffered from some form or other of organized crime need to effectively curb them by taking recourse to long-term and short-term measures. Short-term measures include pressuring the law enforcement agencies to crack down upon organized criminal groups without any reservation, creation of separate investigating agencies and courts dealing with organized crime as well as enactment of separate laws on organized crime empowering the authorities to forfeit and confiscate the illicit proceeds of organized crime.

Long-term measures encompass socio-economic and political reforms to get rid of the deep rooted causes of organized crime, such as poverty, unemployment and the widening gap between the rich and poor, rehabilitation programs based on community co-operation and reforms in existing criminal justice systems of the countries concerned.

While there is an urgent need to implement the aforesaid domestic measures, these will not suffice. It is essential to integrate modalities of international co-operation, including those concerned with extradition, mutual assistance in crim-

inal matters, and the transfer of criminal proceeds and criminals. Moreover, frequent international and regional gatherings and meetings for exchange of ideas and experiences will be of great help to arrive at a common strategy against organized crime at the international level. Nations from all the continents have to rise above their national interests to achieve this goal of global prosperity and security.

Session 2: Development of More Effective Methods in Controlling Organized Crime in Criminal Justice Administration

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Introduction

1) A Brief Definition of Organized Crime

It is an extremely difficult task to comprehensively define a strict regime for the characteristics of organized crime. As the objective of this study is focused entirely on the enhancement of various enforcement measures to control organized crime, a scholastic approach towards the meaning of organized crime was abandoned and the following definition held by the First International Symposium on Organized Crime in 1988 was adopted:

> "Any enterprise or group of persons engaged in a continuing illegal activity which has as its primary purpose the generation of profits irrespective of national boundaries."

The definition is by no means an exhaustive expression of organized crime and similarly, to give a definitional umbrella for all types of organized criminal activities is as perplexing. For the purposes of this study, reference made about organized crime will be conveniently limited to the same common denominating offences like drug-trafficking, trafficking in firearms, money laundering, prostitution, ganbling, fraud or extortion, being offences commonly perpetrated by organized crime syndicates globally.

2) Need for More Effective Methods

There is a growing awareness in many countries of the vast adverse social and economic impact brought about by organized crime. Of particular concern to the enforcement agencies is the internationality of such criminal activities which sometimes span across two or more countries. Despite varying efforts carried out to combat organized crime, e.g. laws being amended or enacted to impose heavy deterrent punishment and establishment of specific agencies to tackle such activities, organized crime is far from being suppressed. If anything, such criminal activities have become very sophisticated, frustrating in many instances, the cumbersome and outdated traditional forms of policing and other enforcement actions. It is with this backdrop of events that it is felt imperative that modern and more effective methods in controlling organized crime be introduced and developed.

There are various reasons why enforcement actions against organized crime are unsuccessful and the following are some common factors:

(a) Lack of comprehension about the substance and operation of organized crime;
(b) Organized crime syndicates are usually well-armed and equipped, sometimes even better than the investigating authorities;
(c) Failure by investigating authorities to trace and seize illicit proceeds of organized crime syndicates, thus allowing the syndicates to retain and maintain their economic foundation;
(d) Syndicate leaders and the members alike receive light sentences;
(e) Organized crime members being treated as other ordinary offenders in that they have ease of bail, thereby affording them the opportunity to pervert the course of justice by threatening witnesses, removing evidence, etc.;
(f) Dispensable underlings of such syndicates are often the ones arrested and the syndicate leaders, the "brains" behind the operations are rarely arrested; and
(g) In the case of drug offences, investigating authorities fail to take follow-up actions in drug hauls, therefore, drug manufacturing factories remain undiscovered.

To successfully combat organized crime, it is essential to strike at the heart and core of the syndicate. There must be a change in approach in that actions taken must no longer be aimed at just the perpetrators of the crime but also at the "brains" behind the scene, and at the economic foundation of the syndicate. This is to ensure the dissolution of the syndicates and not merely delay their other criminal intents. The group recognizes that effective enforcement measures are only a component of a multiplicity of factors that affect the level of crime and in this instance organized crime, in any state but it is not within the scope of this report to discuss those other factors. The group's concern is focused specifically on the development of more effective methods in controlling organized crime and this is explained in two stages. At the first stage, the following measures during detection, investigation and prosecution are discussed:

(a) Wiretapping;
(b) Undercover investigation and utilization of informants;
(c) Controlled delivery in investigation of drug related offences;
(d) Innovative measures to trace and seize illicit proceeds;
(e) Identification of principal offenders; and
(f) Detention and bail.

At the second stage which is during the trial and adjudication of the organized crime offender, the following are discussed:

(a) Current evidential rules;
(b) Sentencing policy; and
(c) Speedy trial.

More Effective Methods (Part I)

1) Wiretapping

The use of wiretapping is a topic commonly shrouded by controversies. Questions of constitutionality and violation of human rights expressed by local liberalists has in many jurisdictions restricted or aborted in toto the use of this type of investigative tool. Such constitutional debates aside, the group embarked on a study of the usefulness of wiretapping. Wiretapping was defined simply as the interception of a telephone conversation between parties without their knowledge, using equipment that is inserted into the electronic circuit between the transmitter and receiver. The group acknowledged the existence of other electronic surveillance systems such as "bugging," interception of facsimile message, mobile phone conversation, etc. The accelerated pace of modern technological development raises other issues and anomalies which the group recognizes but cannot

address in this particular study.

There is no doubting the effectiveness of wiretapping as a means of obtaining information, not only against organized crime but other crimes in general as well. Wiretapping may be a necessity in certain crimes, where the criminal parties keep their movement and plans an absolute secret and there are virtually no other feasible means for investigating authorities to obtain such information. Such crimes commonly include drug trafficking, prostitution, gambling, etc. committed by organized syndicate crime groups which frequently employ the use of telephone to perpetrate the offence. For example, an order for drugs is received from a buyer or an order for a prostitute is made by telephone whereby the parties designate a secret rendezvous where the transfer of drug and prostitution are carried out. Only the parties to the telephone conversation know the transfer point. Therefore, it is very difficult for investigating authorities to obtain pertinent information which will assist in their investigation and clarify the substance of the crime committed.

The profit gained from drug trafficking, prostitution and gambling constitutes one of the main monetary sources for organized crime groups. As organized syndicates seek more sophisticated methods in order to avoid detection and arrest by investigating authorities, the increasing use of more sophisticated methods by such groups contribute greatly to their financial standing as the risks of being detected and prosecuted are minimized.

In some countries, wiretapping has become an indispensable method of investigation. Issues concerning the balance between employing the use of wiretapping and the safeguards against abuse and therefore violation of human rights were skillfully handled. The group then discussed at length the appropriate measures to be adopted to introduce wiretapping as an acceptable tool of investigation. Except for a few countries like the United States, most of the participating countries at the current course do not have specific provisions for wiretapping. The easiest way out is to legislate to legitimize wiretapping. However, in some jurisdictions, investigating authorities do wiretap despite the absence of specific legislative provisions, the question that remains is how to safeguard the method against abuse. In such instances, much of the control is left to the departmental authorities that carry out the exercise of wiretapping.

It is essential then that there are stringent rules and safeguards to govern the use of wiretapping. But leaving the very sensitive issue of wiretapping to investigating authorities is probably not a good option. Which then is the most competent to act as the controlling body? Is the controlling body to be localized or centralized? What duties/purposes are to be served by the controlling body? What types of crime justify wiretapping?

The above are some pertinent questions that should be competently handled before wiretapping can be effectively adopted without undesirable consequences. The group agreed that the safeguards can be implemented by means of the following: User discretion, Judicial control, or Statutory control. Firstly, user discretion is presumably the most effective at the operational level, expedient without bureaucratic hassles. However, there is a danger of the investigating authorities in granting such permission to its own agents, independently without review, therefore, the risk of abuse is highest with this approach. Secondly, for absolute judicial control, the Japanese judicial precedent serves as a model reference. Numerous conditional requirements, employed as a measure of control, must be satisfied before a Judge allows a warrant to be issued under the title of Warrant of Inspection. Examples of these conditions are:

(a) The seriousness of the crime:
(b) The indispensability of wiretapping as an instrument of investigation;
(c) The extremely high probability of the conversation being about criminal activities;
(d) The very low probability of the telephone being used for other legitimate purposes;
(e) The duration and time of wiretapping are strictly fixed;
(f) The presence of a third party; and
(g) That wiretapping must cease when normal calls resume.

In Japan, the judiciary is virtually the controlling body which possesses absolute discretion to decide on the appropriateness of wiretapping in any given circumstances. As such, it is appropriate to point out that the conditions under which the warrant of investigation is issued is therefore interpreted as providing legitimacy to wiretapping in Japan, in the absence of specific legislative provisions.

It was unanimously agreed that ideally, statutory control should be provided for. Specific statutory provisions may be introduced to govern the use of wiretapping, at the same time addressing issues of constitutionality and human rights. Statutory control can consolidate the circumstances concerning the issuing of warrant for wiretapping, and can also be an expedient method encompassing both user discretion and judicial control as well. The group made a distinction between the American approach to wiretapping under the Omnibus Crime Control and Safe Streets Act 1968, and the Japanese method. In the American situation, wiretapping can be engaged to pre-empt the commission of an offence, whereas in Japan, the warrant of inspection is issued only after an offence has been committed. It must be borne in mind that the Japanese judicial precedence referred to be seen in the context of its particular circumstances, and for the purpose of this study serves only to illustrate the measures of control that can be employed. It does not indicate the type of crime in which wiretapping be used nor is it a final prescription in the general requirements for the issue of a warrant for wiretapping.

Finally, the group concluded that specific legislation for wiretapping should be enacted as is the case in the United States. The American experience may serve as a reference for countries contemplating the process of legislating to provide for the legality of wiretapping as a tool of investigation and even as a means to produce evidence.

2) Undercover Investigation

The term undercover investigation speaks for itself. Field operations are of two types, overt and covert. The latter refers usually to undercover operation which involves disguise and pretension. Included in this is the commonly known "sting" operation where a suspect is instigated or induced into doing something which could bring about his arrest. In an undercover operation, subsidiary or incidental criminal acts may sometimes be committed. Some countries have provisions in law to protect an agent who commits a "necessary" criminal act, as in the case of handling drugs, while performing undercover investigations. The next issue then arises: what kind of crimes are they "permitted" (so to speak) to commit? And must these crimes be incidental (not premeditated) or are both types to be condoned? The situation differs according to each country system and there is really no such thing as an "ideal" situation. It is envisaged that it would be good that there be legal provisions to encompass both kinds of situations, having regard also for comprehensive safeguards to prevent any possible abuse.

"Sting" operations are commonly preferred as they are uncomplicated, despite the inherent restrictions imposed. In such operations, the targeted suspect should

never be pressured or forced to commit an offence. He should only be induced or tempted, to the extent whereby his own greed overcomes him and on his own volition, he commits an offence or an illegal act.

Another type of undercover operation involves the handling or taking up of a case by an official, incognito. The official, usually an enforcement officer would hide his true identity posing as someone else, and by placing himself in a strategic position or role, he would be able to move about to ferret out information and intelligence.

A third form of an undercover operation is penetration of a syndicate by using an extremely well-trained agent. This type of operation usually involves a complex assignment which may place the undercover agent in a dangerous situation. He gets himself in a position to be inducted into the syndicate and then act and work within the syndicate for a period of time. While doing so, he reports periodically only to his immediate superior or contact-person to keep the agency informed of the syndicate's plans or actions. He passes on information and intelligence as the occasion demands. Being part of the syndicate, he is in the best position to decide when the syndicate should be busted. This is a long drawn-out undercover operation and is known to be used only by very few countries. This type of operation is said to be extremely effective for penetrating and breaking up permanent organized crime syndicates like the mafia, triads, etc. where it is virtually impossible to obtain sensitive information about the gangs except from within themselves.

An important aspect of undercover operation is the selection of an agent. It would be unusual to find ordinary citizens volunteering for such kind of undercover work. Logic dictates that agents are enforcement officers employed for such work as they are specially trained persons or are experienced in the very nature of the tasks assigned to them. In many instances, police officers are used in such operations but in some situations, cooperative lesser offenders are willing to undertake such assignments, usually in a bid to exculpate themselves from their earlier offences. The choice of agents is an extremely difficult and complex one. There are no easy solutions for it and it can only be emphasized that selection and planning are crucial aspects of such work.

3) Utilization of Informants

The necessity of utilizing informants lies in the fact that they complement the police and investigating agencies in gathering useful information. In fact, informants are often measured as the extent of an enforcement agency's capability for the collection of information and intelligence. But utilizing informants also brings about its own problems. For example, an informant may be a "double" agent supplying phony information to the investigating agency, at the same time obtaining information on the progress of the investigations, to be fed to the syndicate or offenders for reward. Also the informant, not being a trained police officer or investigator, may lack the professionalism required, therefore limiting his ability and the veracity of his information. Ethical issues and weaknesses may arise about putting a civilian in a risky situation as that of a trained police officer or investigator. Essentially, there are no guidelines or boundaries set out about how far an informant is expected or permitted to act, as contrary to a police officer or investigator.

The shortcoming discussed above may be remedied by undertaking specific measures to ensure proper and effective utilization of informants. It is necessary that the nature and type of informants be screened and chosen very carefully. Firstly, their motive should be ascertained to ensure genuineness of purpose. Next, there should be properly structured administration of informants.

One approach is by a specific central con-

trolling body which registers informants, checks periodically the performance of informants and delegates the supervision of informants to the operational or field officers for regular liaison, while the local operational or field authorities merely utilize the informants. On the other hand, it is also possible for the local operational or field authorities to independently administrate and utilize their own set of informants. Thirdly, as regards incentives and/or rewards, it was mentioned that for informants who are offenders (usually for lesser offences), some trade-offs may be expected for valuable information, e.g. a promise to waive prosecution in exchange for the information they pass or obtain on a far more serious crime. Where the informant is not an offender, a reward usually in the form of cash may be given by the department concerned. Of course, each case must be considered on its own merits in regards as to whether to give a reward and the amount of the reward. Proper guidelines must be set out for this system, for strict adherence. In some countries such rewards given are not legally or officially sanctioned but are handled and contained within the investigative budget.

Protection of informants must be addressed if their utilization is to be effective. Key points include protection from disclosure of their identity, protection from organized crime syndicates and even from other enforcement agencies, in the case of the informant being an offender himself. A good example is that of Thailand. There, whilst in court the prosecutor is not required to disclose the identity of an informant although he may introduce evidence that an informant was used. This right is only exempted where there are no other witnesses except the informant. Although there are no specific statutory provisions for such matters, it is an exemplary model of judicial discretion applied to safeguard the interest and safety of informants, to a reasonable extent.

However, the group reached the consensus that for more effective use of informants, it may be essential for legislation to be passed to articulate the use and protection of informants, giving due consideration to other issues involving the administration and reward of informants as well.

4) "Controlled Delivery"

The internationality of organized crime, especially in drug related offences, has seen organized crime syndicates of different countries merging and carrying out illicit activities which span across two or more national boundaries. Detection of the origin and recipient of such illicit goods are made extremely difficult due to lack of sophisticated enforcement methods and absence of international or even domestic cooperation, between different enforcement agencies. To get around the problem of internationality there must be some extent of agreement and cooperation between national and domestic enforcement agencies. One such type of cooperation can be through the process called "controlled delivery" which is particularly effective against drugtrafficking cases.

"Controlled delivery" as defined by the 1988 United Nations Conference for the Adoption of the Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, is "the technique of allowing illicit or suspicious consignment of narcotic drugs, psychotropic substances, or substances substituted for them, to pass out of, through or into the territory of one or more countries, with the knowledge and under the supervision of their competent authorities, with a view to identifying persons involved in the commission of offence established in accordance with article 3, paragraph 1 of the Convention." It is reported that Thailand, India, the Philippines, France, Germany and the United States of America had been carrying out similar forms of techniques likened to "controlled delivery" in dealing with drug

offenders and it may be the experience of such countries which formed the basis of discussions for the convention in 1988. The laws of many countries have not specifically addressed the issue of controlled delivery. In fact some may even perceive it as an illegal activity, to knowingly allow the importation and re-exportation of illicit drugs in the country covered in the route of the smuggling process. However, with the explicit declaration of the United Nations conference in 1988 that controlled delivery is an effective and legitimate technique to combat drug-trafficking, it is exhorted that member countries should without doubt explore this avenue and technique, in unification.

But what are the merits and demerits of controlled delivery? Is it truly as effective as it may seem? It was discussed at length the process involved and the necessary adaptations to be implemented by the relevant authorities. In its discussion, the group unanimously agreed that controlled delivery is indeed a useful method, benefiting especially the recipient country. It is also agreed that it is clearly the most effective method for the disclosure and arrest of the whole network of a particular organization and not just the runners who carry out the errands involved in the smuggling process. However, on the other hand, in case of failure in the operation of "controlled delivery," instead of having at least a drug haul, the drugs will actually enter the market. With this understanding, it is, therefore, clear that "controlled delivery" though a simple concept demands of itself a high level of skill and professionalism, teamwork and cooperation between agencies. How successful the operation of controlled delivery would thus depend on how close the cooperation, coordination and monitoring is between the involved agencies, both internationally and domestically.

With regards to the registration of the case, its investigation and finally prosecution—where does the case start and where does it end? How is it decided? Who decides? Sometimes, two or even more cases may be registered at various destinations. The most effective approach would be to register the entire series of transactions as one. How this is resolved would depend on the cooperation between the national agencies involved. On the other hand, to prevent conflict of interests, legislation is called for not only domestically but also on the international front.

The legislation would require investigating authorities of the countries through which the drugs passed, to reserve intervention and investigation and allow the drugs to continue their route to the intended destination. As for the country of origin of the drugs, the investigating authorities would also forestall arrest of the culprits who manufactured and exported the drugs, at least until there is a consensus with the other involved countries for the timely arrests of the entire network of offenders. As mentioned, the drug smuggling route may involve other countries in transit and, as such, more than two countries may eventually be involved in the subsequent planned interception and arrests of offenders. This is best guided by an agreed, uniformed set of legislation providing for all the appropriate actions by the participant countries.

At the domestic scene, it is probably an easier task for controlled delivery to be performed. For countries which are merely transit points for the drug smuggling network, the local authorities would have to conduct very professional monitoring of the movement of the drug consignment and ensure that the customs and police agencies cooperate to carry out covert surveillance of the persons involved in the illicit operation and the whereabouts of the drug consignment itself. Before the consignment leaves the country, the local authorities should alert their counterparts of the intended destination.

Regarding recipient countries, simple utilization of how controlled delivery can be

carried out domestically is shown by the most recent case which occurred in Tokyo, this year in early August. In this case, the effectiveness of controlled delivery was proven when enforcement agencies cooperated and coordinated with each other to carry out an arrest. The Tokyo customs officials were tipped off by the Metropolitan Police Department that a package of cocaine with a street value of about ¥26 million had left Colombia for Tokyo. The package was detected by customs officials who then allowed the package to pass and reach its delivery destination, where four suspects were eventually arrested. Applying the controlled delivery investigation method the police successfully arrested two other major cases of drug-smuggling within the same month. These successful arrests were as a result of the adaptation of the new approach introduced in Japan in October 1991 in which the police and customs officials deliberately allow narcotics to pass through customs in the hope that smugglers at the receiving end are flushed out as well.

To address the concern of a failed operation and the drugs entering the market, it was proposed that the investigating authorities of countries of the drug-route take actions to substitute the drugs with other substances before allowing them to pass. The feasibility of such a measure is questionable although it certainly addresses the concern of the drug entering the market. In many instances, the drugs may actually be carried about by the trafficker himself (or even strapped to his body, as evidenced in many cases) and substitution is virtually impossible. As for large consignments which pass through the custom offices, it may be possible to substitute the drugs. Whether to do so then would really depend on the circumstances at that time, and also on the level of competence and confidence of the investigating authorities concerned.

5) Innovative Measures to Trace and Seize Illicit Proceeds

The importance of being able to displace the economic foundation of an organized crime syndicate in order to deprive it of its resources cannot be overemphasized. To illustrate, studies have shown that the Boryokudan in Japan had been estimated to have obtained at least ¥453 billion in 1991 through its activities whilst organized crime in the United States produced about US$47 billion in illegal income (1986). The untainted economic foundation or infrastructure that remained despite the arrest of some syndicate members may be the most significant factor for the continuing existence of such syndicates despite enforcement actions. There is therefore a real need to study the measures available to successfully suppress organized crime syndicates by depriving them of their financial resources.

According to the Vienna Convention 1988, some important discussions took place on the following issues concerning the tracing and seizure of illicit proceed:

(a) Criminalization of profits of illicit proceeds;
(b) Forfeiture of profits from illicit proceeds;
(c) Forfeiture of all illicit proceeds where traceable;
(d) Forfeiture of equivalent value of illicit proceeds where illicit proceeds are not traceable;
(e) Freezing procedures; and
(f) Other processes.

At the same time, it was urged that member nations adopt the proposals of the convention to legislate for sanctions to enable the enforcement agencies to carry out investigations into such illicit proceeds. As to the meaning of illicit proceeds, it was declared as any property derived from or obtained, directly or indirectly through the commission of an offence. Property in this context may be defined as assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangi-

ble, and legal documents or instruments evidencing title to or interest in such assets. To effectively cope with organized crime, participating countries should first seriously consider adopting the guidelines set by the Vienna Convention. Legislation may be introduced to enable investigating authorities to trace, search and seize illicit proceeds of crime. And in this legislation, thorough explanations of illicit proceeds of crime should encompass other money or properties obtained by means of using the illicit proceeds, regardless of the transformation in nature, the time thereof and regardless that the said money or properties being transferred or vested in the possession of other persons. The definition should also include the claims, benefits and debts owing to the offender as a result of the use of illicit proceeds.

The next essential issue concerns the onus of proof. In such cases, the onus of proof should be reversed regarding the lawful origin of illicit proceeds or other property liable to confiscation. For example, if the offender acquired property during the time of the offence, or within a reasonable time after the offence, and there being no other likely source of funds, then the law should provide that there is a rebuttable presumption that the defendant acquired the property with illegal proceeds.

At the international level, there is a need for the establishment of International Mutual Assistance to trace, seize and confiscate the illicit proceeds situated beyond national boundaries as a means of reciprocity. One good example of this is Thailand which has introduced the "Act on International Criminal Mutual Assistance" which came into force on 7th July, 1992.

What is to become of the seized illicit proceeds? An organized crime control fund is viable for the purpose of funding organized crime control. The forfeited properties including donations, government subsidies and any benefits arising from such operations should go into such a fund to enhance the operation against organized crime.

The advantages and disadvantages of the proposals for more innovative measures outlined above raise interesting issues. For example, changing the burden of proof to facilitate prosecution necessitates the attachment of the illicit proceeds to authorities during the trial. This could cause some problems in the case of an innocent victim of organized crime, or a third party who in good faith, had legitimate transactions with the syndicate. Investigating authorities should pay careful attention where there are interested parties in the seized proceeds or properties.

Forfeiture should be permitted only after a proper and judicial disposal inquiry into the illicit proceeds to ensure appropriate apportioning of the proceeds to rightful or deserving claimants. In some countries, to aid investigation and confiscation of illicit proceeds, the issue of burden of proof is stretched further. For example, in the United States the confiscation proceedings against organized crime syndicates are by way of civil suits. Hence the investigating authority need only show that the syndicate had gained a property during the commission of an offence or within a reasonable time after that period, and that there is no other likely source of funds. Thereafter the onus of proof immediately shifts to the offender who needs to rebut the presumption, on a preponderance of facts, that the property was legally acquired. This is an excellent and ingenious measure adopted by the American authorities and should be emulated by other states.

6) Identification of Principal Offenders

Next, the group went on to discuss the need and process involved in identifying principal offenders in organized crime operations. In this context, principal offenders may be regarded as the major figures who are the more culpable persons in organized crime operations or in the case of structurally hierarchical syndicates like the

Mafia or Boryokudan, the heads or managers of the syndicates. Organized crime usually involves a high level of secrecy, and victimless crimes (e.g. drug trafficking or gambling). In victimless crimes, there would be no independent witnesses or victims to testify on the structure or operation of the syndicate. If the head of the syndicate is involved in directing or planning the operation, i.e. behind the scene, then even in "victim-targetted" crimes, he will probably remain unidentifiable except maybe by his accomplices or subordinates. This is due to the level of secrecy and distribution of work in the operations where most of the physical evidence (e.g. drugs) would implicate only the runners handling the actual transactions. In any case, it would appear therefore that the recourse available to prosecutors against principal offenders (in the absence of undercover agents), would be through the testimonial evidence of the runners or subordinates who handle the transactions.

However, many of these members of organized crime operations when arrested, may not testify against the principal offenders for any of the following reasons:

(a) For fear of self-implications, leading to prosecution;
(b) For fear of reprisals for themselves or their families;
(c) Because of a common bond/relationship/ comradeship; or
(d) Because of a promise of reward by the organization upon release from prison/ detention; and/or reward for their families.

In (c) and (d) above, the situation may be overcome by effective interrogation and current investigation methods, while (a) and (b) are situations where such prevalent methods tend to fail in persuading such suspects to testify against a principal offender or the organization. To overcome situations (a) and (b), it may be necessary for the authorities to offer these suspects plea bargaining, immunity from prosecution, and/or state protection.

Granting of immunity from prosecution to potential defendants (usually "low-level" accomplices) to obtain testimony against a principal offender is usually practicable in two forms. According to the American approach, (highlighted as it has been well-developed), the first form is by way of "formal" immunity granted through legislation. "Formal" immunity is of two kinds: "use" immunity and "transaction" immunity. The second is "informal immunity" which is an informal negotiation carried out by both defence counsel and prosecutor with the cognizance of a judge.

"Use" immunity protects a witness only against the use of the immunised testimony either directly in a prosecution against him for that particular offence, or indirectly in the development of leads as to that or any other offence. "Transaction" immunity is a blanket protection for a witness against prosecution for the particular crime or transaction on which he testified. If, while being questioned, he is led by the prosecutor to answer to a different or second crime, etc., that immunity is passed on and the witness is protected from prosecution of that latter crime as well.

Informal immunity involves an agreement reached by the prosecutor with a witness through his counsel and which is usually documented, recorded and registered before the court. The set-back with informal immunity is that there are no penal sanctions against a witness who subsequently turns hostile in court. Recourse may be inadequate as they are usually in the form of light penalties for a charge of false declaration or contempt of court. It would be advantageous for prosecution if express legislation were available listing the conditions and pre-requisites for immunity. The only question remaining is whether legislation should be open about the issues of "use" or "transaction" immu-

nity. There are complexities attached to the problem and it is for the legislators to word the provisions in such a way to encompass both types of immunity, affording the prosecution to select the more relevant version according to each specific situation. Informal immunity may require a lot of judicial interpretations of events and is therefore not recommended, nor would it be required if legislation is passed for immunity.

Plea bargaining is a process whereby a prosecutor negotiates with the defendant in exchange for a plea of guilty in any of the following situations:

(a) To reduce the charge to a less serious charge;
(b) To reduce the number of charges against the defendant; and
(c) Sentence bargaining.

The process is usually carried out with the cognizance of a judge. Plea bargaining may not be as attractive an option to a potential defendant in view of the possibility of immunity from prosecution. However, in many countries where immunity is nonexistent or not practicable, plea bargaining is a very useful option. In some countries, suspension of prosecution is practiced and this is an alternative as well, and may be particularly viable in a situation where a witness may be expected to renege on his/her promised undertaking.

Formal protection of a witness should be sanctioned by legislation to include provisions for housing facilities, protection of witness' family, and at the extreme, reemployment and a new identity. This may prove to be an extremely costly affair and thus deemed unacceptable in many criminal administration systems. But, for "betraying" major organized criminal syndicates, the need to protect witnesses is imperative and must be considered seriously. A definite assurance for the witness would be provisions by legislation. In selecting a potential defendant(s) to testify against a principal offender(s), the following can be adhered to:

(a) The defendant (witness) should be amongst the least culpable in the criminal acts;
(b) The least number of defendants (witness) is to be used in order to obtain the necessary conviction of principal offenders;
(c) The defendant (witness) must be screened for genuineness to cooperate; (for this, legislation for immunity should provide severe penalties for witnesses turning hostile);
(d) In countries where no proper protection for witnesses can be afforded, it may be prudent to use witnesses who need very little support from the authorities for protection (finance, etc.); and
(e) Last but not the least, the defendants to be used as witnesses must possess sufficient information or testimony to assist in the conviction of the principal offender(s).

7) Detention

The main role of pre-trial detention is to ensure the subsequent successful trial and conviction of the offender. Secondary roles of such detention may include the collection of evidence or further information against the offender, his accomplices or simply to pre-empt further criminal acts by the offender or his accomplices. As detention of an offender encompasses all these purposes and perhaps more, the period of detention of offenders, in particular organized crime members, is an important issue. Organized crime criminals are a different breed of offenders in that they are far more sophisticated, resourceful and more likely to resort to violence to pervert the course of justice. Hence, there is a real need to decide on the following issues concerning pre-trial detention:

(a) Duration of detention period;
(b) Non-communication or segregation of criminals amongst themselves or with outsiders;
(c) If communication is permitted, it should be controlled, e.g. letters to/from offenders to be screened and conversations should be monitored; and
(d) Should visits be allowed, it may be useful to conduct follow-up surveillance actions against the visitors.

Concerning the duration of pre-trial detention, this varies very much according to each criminal justice system. Very often this is provided for by statutes and in most countries without legislation catering specifically to organized crime, the period of detention may be insufficient or inappropriate.

But what is exactly the appropriate or effective duration of detention? The group feels that it may not be possible to come to any conclusive evaluation of a definite "effective" duration, given the numerous factors involved in the investigation of a crime and the many different meanings of organized crime. The group however agrees that though there is no definite yardstick for an appropriate duration of detention, organized crime offenders should be treated differently from ordinary offenders and in this respect, pre-trial detention for organized crime offenders should generally be longer, taking into account the nature of organized crime and the multi-faceted investigations that are required for such crimes.

Given the nature of organized crime gangs, there is also a real need to prevent communication amongst the offenders who are detained. As a general rule, it is a fact that most offenders (accomplices), even for general crimes, are often segregated. This is especially necessary for organized crime offenders and really cannot be overemphasized. Organized crime gangs like the Boryokudan and the Mafia pledge allegiance to each other and should not be allowed to be within earshot of each other to afford them the opportunity to remind each other of this allegiance, and discuss their reactions to the investigators. Visits by outsiders, as a general rule should be disallowed. But for some criminal justice systems, it may be virtually impossible to prevent this from taking place. In the absence of any other recourse, and the visits are permitted, communications between the offender and the visitor must be carefully monitored. This can be carried out by having the investigator within earshot of the conversation or by hidden surveillance systems, e.g. "bugging" the room. Letters written or received by the offenders should be carefully screened, and decoded if need be, to verify the information contained therein. It may also be useful to carry out follow-up surveillance actions on the visitors, where necessary, as it may not be surprising to uncover further leads or attempts by the gang to remove or destroy evidence.

8) Bail

In most criminal justice systems, bail can be offered before and after trial. Soon after the arrest and detention of an offender, bail is usually offered to the offender after the completion of investigations. This is usually a legislative provision and the conditions attached to the issue of bail differ according to the respective criminal justice systems. One fact which is common, however, is that serious crimes like murder or firearm offences are sometimes non-bailable or are treated very differently from less serious offenders. In this respect, organized crime offenders should be treated as serious crime offenders and have their right to bail waived or severely restricted. This is essential as most organized crime gangs have sufficient financial resources and can raise incredibly large amounts of money to meet bail.

Once out of detention it is not uncommon for these gangs to attempt to threaten or bribe witnesses, destroy evidence or even

raise allegations against the investigators in order to disrupt the proceedings against them. The first recommendation that was presented by the group was to refuse bail to organized crime offenders. In Singapore, serious crime offenders e.g. murderers, are usually remanded till their prosecution in court, the detention by police being asked for and granted by the court.

There are serious constitutional issues raised but these should be rationally measured against the nature and consequences of organized crimes. However, the group did not pursue the discussion of the various possible constitutional issues arising as these were not within the ambit of the report.

Concerning the bail of an offender who seeks trial upon prosecution in court, principally, the offender is considered innocent at that stage of the trial and therefore as a general rule, the offender should not be unnecessarily detained except for the purpose of the trial. Considerations like preventive detention do not usually arise. This norm however may need to be changed in the case of organized crime. It may be imperative that the offenders are detained between the time the case is first heard and the actual trial, to prevent them from tampering with the witnesses and evidence. For example, in Japan, where bail is applicable only after prosecution, the court can refuse bail in major crimes including organized crime even after prosecution. Only in such situations as where the offenders actually cooperate or confess to the offences prescribed against them and there is no possibility for them to destroy evidence, bail may be allowed.

More Effective Methods (Part II)

1) Change of Current Evidential Rules

There are no special provisions addressing the issue of evidential rules in court against organized crime offenders, in any of the member countries of the group. It was agreed that it may be necessary to treat organized crime offenders differently, in respect of evidential rules as they are of a different breed altogether from ordinary offenders. Organized crime offenders are getting increasingly sophisticated, utilizing their financial resources. Rigid adherence to traditional views of evidential rules definitely work in favour of organized crime which operates with absolute disregard for law and rules. Hence, expedient measures need to be taken to adapt the current rules of evidence to beat organized crime at its game if the syndicates are to be successfully eradicated. Apart from earlier discussions, which in most instances also require legal sanction touching on aspects of evidence, the following were proposed as potent and effective changes:

(a) Countermeasure against witnesses who hesitate to testify in court;
(b) Relaxation of the rule concerning evidence to prove criminal conspiracy;
(c) Introduction of presumption rules regarding membership of an organized crime syndicate;
(d) Organizing separate trials when there are co-defendant gangsters; and
(e) Use of satellite examination of witnesses, when necessary.

During trials of organized crime offenders, it is not uncommon for an extremely cooperative witness to suddenly hesitate to testify or turn hostile altogether while in court. A common reason for this could be that the witness had felt threatened by the presence of other syndicate members amongst the audience in court. Emptying the courtroom or screening members of the audience before admitting them to court are feasible to circumvent such situations. In Japan the prosecutor has the prerogative to confer with the witness concerning the audience before the trial commences, and if necessary, make requests to the court to examine the witness on a date other than that

fixed for public trial or at a place other than the court. The examination in both cases may be closed to the public.

Also in Japan, where oral testimony is directly contradictory to an earlier written statement, the public prosecutor may produce the written statement of the witness recorded before a public prosecutor, not only to impeach the witness' credibility, but also to contend as an avenue of evidence. The prerequisite for such statements to be admissible as evidence is that there exist special circumstances, because of which the court may find that they are more credible than the testimony given before the court.

Regarding criminal conspiracy, during investigations and trials, an offender often goes to great lengths to deny involvement of any accomplices in the crime and usually insists that he acted solely on his own in order to protect the identity of his syndicate. In return the offender would be commended highly by his organization for his act. In such a situation, the qualification of the hearsay rule needs to be relaxed to a reasonable extent, sufficient to permit the hearsay evidence to show the criminal conspiracy existing within the crime. Evidence showing the defendants' membership to a syndicate should be treated in court as an aggravating factor against the organized crime offender. Character evidence should also be admissible, as an exception for organized crime offenders.

Trials could be restructured by separating the cases of co-offenders thus enabling evidence of a defendant to be used against the other in a separate trial. This rules out possible collaboration by the co-offenders and is especially effective if the trials are held almost simultaneously. The use of satellite examination of witnesses could help overcome some of the difficulties encountered with hesitant witnesses. This would act also as a means of protection for the witness. In addition the non-disclosure of the witness' name or address in court would add positive psychological assurance to potential witnesses and can be considered as providing some form of protection for the safety of the witnesses.

The above are but some of the measures raised by the group to adapt current evidential rules to cater to organized crime offenders. For the brevity of the report, the group decidedly agreed that it would be unable to discuss these exhaustively. At the same time, it acknowledges the probable existence of other adaptations outside the member countries of the group.

2) Sentencing Policy

Sentencing policy is a decision-making process for determining what to do with a convicted offender. For example, how long are they to be incarcerated for? What kinds of penalty should be applied? When are they to be made eligible for parole, etc. To adequately answer such questions, one must first address the significance of punishment. Is it purely punitive? Or, is it an instrument of re-educating an offender and thereby, a means of rehabilitation? Is it a special general crime prevention programme? If so, what are the objectives to be achieved through sentencing policies?

For the purposes of this workshop, the group addressed the issue of sentencing policy only with regards to organized crime offenders. In many countries, no special policy exists to deal specifically with offenders of organized crime. Offenders who are gangsters are not usually penalised for being a syndicate member. Often the sentence passed is determined only on the evidence and gravity of the offence, as is the case with any general criminal offender. In Japan, the Boryokudan members' status in their criminal organization is taken into consideration during sentencing and high ranking gangsters are often punished more severely than subordinates. It is the group's view that it is imperative to implement innovative and effective sentencing policies for organized crime as such crimes cause more devastating social and economic im-

pact than unsyndicated crimes and sentences should be deterrent, and distinct from those for general crimes.

Some inherent difficulties in focusing on such a sentencing policy were then discussed during the workshop. The disparity of sentencing is one of the most crucial problems when we consider the problems of sentencing policy. Sentencing of organized crimes is no exception. Due to the impact of localism, a wide range of influences affect judicial decision making. An accumulating body of literature suggests that judges are influenced by the traditions and mores of the region in which their courts are located. Second is the influence of third parties such as politicians, influential citizenry, criminal organizations, etc. Sentencing must be free from the influence of such groups, be they visible or otherwise, or organized crime will not be deterred at all by enforcement actions.

Next is the issue of adherence to precedents. Judges tend to follow precedents, set by judges of similar cases in the past. Recognition must be given that organized crime activities require special treatment in that the sentences must be more stringent in cases involving organized crime syndicates notwithstanding the facts of the case being similar with those committed by unsyndicated offenders. After all, organized crime unscrupulously defies all boundaries and rules. If the activities are to be effectively controlled within the existing criminal administration system, it may be necessary for unprecedented shifts in the treatment and sentencing of the case, appropriate to the social and economic gravity caused by the crimes. It was then proposed that specific sentencing guidelines be set up for organized crime encompassing the following:

(a) Uniformity in decision making as opposed to localism;
(b) Deterrent sentences distinct from penalties for other general crimes;
(c) Specific attention to be drawn to the devastation of the crime on the social and economic situation;
(d) Pre-sentencing investigation to prove the offender's status in the criminal organization; and
(e) Offender's previous conviction record.

3) Speedy Trials

A speedy trial may be defined as a trial conducted according to prevailing rules, regulations and proceedings of law free from arbitrary, vexatious and oppressive delays. It is necessary to conduct speedy trials for the following reasons:

(a) Memory becomes impaired with the passage of time;
(b) Witnesses may become ill, incapacitated, become unavailable or die;
(c) Physical evidence becomes more difficult to obtain, identify and may become contaminated, thus adversely affecting prosecution;
(d) Due to the passage of time the community's demand for retribution is likely to wane and be replaced by a sense of compassion for the person prosecuted for an offence long forgotten;
(e) To maximise the deterrence effect;
(f) To prevent extended bail during trial in order to stop the offender from committing further crimes;
(g) A witness or witnesses may be harassed, bribed or even murdered; and
(h) To prevent opportunity for falsification or fabrication of evidence by the offender and interested parties.

In the case of organized crime offenders, the likelihood of some or all of the above occurring is even greater. Thus it is necessary for the judiciary to ensure speedy trials for organized crime offenders. Where principal offenders are tried, the requirement for a speedy trial is even more crucial. It was agreed that the onus lies with the prosecutors to request the presiding judge

to give priority for speedy trial of cases involving organized crime offenders. However, speedy trials are not without problems. An example would be the burden not only on the public prosecutor, but also on the defence counsel to be thoroughly prepared at short notice for an effective speedy trial. Moreover, both parties would need to verify and agree on all the contentious issues to be mentioned in the trial. There would be no merit in conducting a speedy trial, if the above arrangements are not regimentally carried out prior to trial, as the case would be unnecessarily postponed. The judiciary should discipline defaulting defence counsels who fail to cooperate or who repeatedly make a request for unnecessary delays or postponements for hearing their cases. If speedy trials were to be given the appropriate priority and become the norm in practice, it would greatly assist in curbing organized crime. Notwithstanding the necessity of speedy trials, the court should permit the postponement or delay in trial of such offences for the following reasons:

(a) Unavailability of evidence material to the prosecutor in a case where there exist reasonable grounds to believe that such evidence will be made available at a later date; and
(b) Allowing the prosecutor additional time to prepare the case thoroughly, in the event of newly discovered evidence.

The above exceptions to a speedy trial should be carefully adhered to by the judiciary to prevent organized crime offenders from being acquitted on technicalities. It should not be the prerogative of the defence to demand a speedy trial, especially when for some suspicious reason, witnesses become intimidated to testify, or evidence becomes unavailable. Speedy trial is an essential weapon advocated against organized crime but the extent of its applicability will differ according to the state of affairs in each criminal justice system. In a system with an already existing backlog of cases, it may take some time before the concept of speedy trial can be implemented. Whichever the case, it is essential that all states must strive towards the eventual realisation of speedy trials for organized crime offenders, to successfully complement the efforts of enforcement agencies in curbing organized crime.

Conclusion and Recommendations

It is pertinent to note that most law enforcement authorities would require to some extent, reinforcement or restructuring to accommodate the operation of the effective methods discussed at length in this report, against organized crime. As such, sufficient priority must be accorded to the enforcement agencies so that funding and budgetary concerns do not hinder them from operating successfully. Due to the vastness and internationality of such crimes, cooperation between different national law enforcement authorities is an absolute necessity. To achieve efficient exchange of information and mutual assistance, cooperating countries should adopt the resolutions of the Vienna Convention 1988, and hence a certain uniformity in their approach and interpretation of organized crime.

For most countries which do not have legislative provisions relating to organized crime, it is recommended that a special legislation be created, incorporating all of the enforcement measures enunciated in this report and more. By doing this, there will be no unnecessary disruption to the current laws. Existing models of such legislation (e.g. the Organized Crime Act of the United States) are also available, for study and adaptation according to the requirement and favour of each indigenous criminal justice system.

Presently, many countries are utilizing computers for searching and matching of fingerprints and maintenance of criminal

records, so that they can access and select relevant information easily and instantly from a single controlling centre. Countries which have not begun to utilize computers, should hasten to take advantage of computerising their system at least to take care of the more mundane and time consuming part of their investigative work. As each law enforcement authority has useful information concerning its local criminal organizations, by centralising and processing this information in one centre, it may be able to better contrive effective methods to combat criminal organizations. Examples of such use of computers are the "expert systems" utilized by certain law enforcement agencies in the United States.

Up to now, many discussions have taken place about more effective methods to control organized crimes in an ideal criminal justice system. In reality however, each country has a unique and indigenous criminal justice system of its own and the substance of criminal organization or the content of organized crime differs in each country. Therefore, not all the methods discussed are easily implemented. Even if implemented, there will be varying degrees of success in each country. Notwithstanding the variance of factors involved regarding the adoption of the methods discussed, every enforcement agency would do well to adhere to the following:

(a) To pay attention to the methods which other countries are successfully employing against organized crime and continually study the possibility of adopting such tested methods for their own systems;
(b) Even if there are no pertinent provisions in the law, agencies should not be negligent to contrive new methods by interpreting relevant provisions flexibly and appropriately. Regarding this point, the situation of wiretapping in Japan which was mentioned previously, is an excellent example.

Session 3: Improvement of Conditions and Integrated Strategy for Eradication of Organized Crime

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I. Introduction

The seven members of our group were from five countries i.e. Chile, Indonesia, Malaysia, Sri Lanka and Japan. In fulfilling our group task of examining the improvement of conditions and integrated strategy for the eradication of organized crime, we agreed to conduct research and report on the following.

a) Strengthening the structure of law enforcement agencies.
b) Community based activities for eradicating organized crime.
c) Protective measures for victims and so forth from the threat of organized crime.
d) Institutional and community based treatment for organized crime offenders.

In this regard, group members were required to report on the situation of their countries as well as researching and reporting generally on the situation of the countries of the other course participants

which included Argentina, China, Colombia, Fiji, India, Korea, Nepal, Pakistan, Singapore, Thailand and Tanzania.

II. Harms of Organized Crime

Organized crime has been posing a danger for economic, political and social institutions and threatening the peaceful life of society. In some countries, the criminal undertakings of organized crime have been discouraging domestic and foreign investments, thus adversely affecting the daily flow of economic activities and undermining sound economic growth as well as political and social stability. Furthermore, the illegal activities of organized crime have a fundamental linkage with the occurrence of widespread corruption which consequently impairs the rational decision making process required by public administration and breeds social injustice. Moreover, in some cases, an organized crime group constitutes a state within a state, running a full-fledged parallel economy occasionally stronger than that of the legitimate country, and even organizing international conferences with sister organizations from other countries. In eradicating organized crime and preventing its unlawful acts, it is essential to destroy its social and economic basis and to isolate it from society by not only strengthening the present structure of law enforcement agencies but also to step up community based activities in co-operation with the mass-media, NGOs (non government organizations), banks, post office, Bar Association, etc.

III. Strengthening the Structure of Law Enforcement Agencies

1. Various Agencies and Responsibilities

1) Police Department

This is one of the most important agencies in the criminal justice system in each country. In South East Asia, East Asia, and South America, there is special legislation to regulate Police Organization and its responsibility. Generally the duty of the police are (1) the maintenance of law and order, (2) the prevention and detection of crime, (3) effective implementation of various other laws.

Generally the police are empowered to investigate all crime cases. Crime has in recent years become increasingly sophisticated, particularly those types of crime involving economic crimes, syndicates, criminal organization gangs, etc. In order to effectively combat these crimes, the police requires specialized and up-to-date training with sophisticated equipment. However in many countries, the police department do not have access to such facilities. Even police personnel do not have sufficient effective training courses. Subsequently their investigative techniques and skills are not adequate to combat organized crime. In order to overcome such weaknesses, effective training and retraining courses should be provided to as many of them as possible. Modern and up-to-date equipment such as the use of computer-aided investigation techniques to assist investigating officers are recommended.

The group observed that some of the participants' countries for example Sri Lanka, Tanzania, Malaysia and Singapore are holding regular regional conferences with their neighbouring countries to exchange intelligence, to coordinate investigation and to obtain mutual co-operation. We are of the view that other countries which have not done so, should do the same.

To effectively eradicate organized criminal activities, community involvement is very important. In this regard it is observed that in Japan, the koban system stresses the importance of close and cordial relationship with members of the local community and it has been proven to be very effective in crime prevention. Subsequently other countries like Singapore and Malaysia have adopted this system.

2) Narcotic Control Agency

As its name suggests, this agency is entrusted with the task of controlling and combating drug trafficking and drug abuse. In most countries this task is given to the police who are regulated and empowered under the relevant Narcotic Control Law with the exception of a few countries. For example, in Pakistan a Ministry of Narcotics Control has been being set up to supervise and coordinate the day-to-day operation of the running of the Pakistan Narcotics Control Board Narcotics Enforcement Unit, the Customs Department, and the Police. In Japan, the police of each local autonomous body, including the Tokyo Metropolitan Police, are charged with the primary responsibility for the investigation of drug cases. However, criminal investigations also can be conducted by law enforcement authorities designated as special judicial police, for example narcotics control officers assigned to the Narcotics Control Office of the Ministry of Health and Welfare, narcotics control officials of prefectural governments and offices of the Maritime Safety Agency.

Organized crime groups (Boryokudan) engage in trafficking of addictive drugs as their traditional form of raising money. It has been estimated that these boryokudan groups acquire about 450 billion yen annually (34.8% of their total income) through their control of the importation of and trafficking in stimulant/addictive drugs. Most of our countries have realized the seriousness of illicit drug trafficking committed by such organized groups and have both short- and long-term policies and international co-operation aimed at its eradication. These measures include legislating heavier punishment for such offenders including the death penalty currently practised by Indonesia, Malaysia, Singapore, Sri Lanka, etc. Special laws are also being enacted to seize and confiscate proceeds of crime related to drug trafficking, for example Dangerous Drugs (Forfeiture of Property) Act of Malaysia 1988 and The New Law On Deprivation of Illegal Proceeds from Drug Crimes in Japan.

After reviewing the existing roles of these agencies in the respective countries, the group is of the view that a central organization with specially trained personnel and sophisticated equipment is in the best position to carry out the responsibility of tackling narcotic control problems.

3) Public Prosecutor's Office

This is another important component of the criminal justice system in every country. In some countries, for example in Japan, Indonesia, Korea, and Colombia, one of the main characteristics of a criminal investigation is that public prosecutors have the power to investigate all kinds of criminal cases on their own initiative and without any involvement of the police and other law enforcement agencies. But generally crime investigation is handled by the police at the initial stage. Prosecution of criminal matters in courts is an essential duty of this agency. In successful investigation of criminal cases, the mutual co-operation between public prosecutors and the police is an indispensable factor. In Japan the code of criminal procedure provides that there shall be mutual co-operation and coordination on the part of public prosecutors and the Prefectural Public Safety Commission and Judicial Police Officials regarding criminal investigation. Accordingly it is one of the most important tasks of a public prosecutor to provide the police with advice from the legal or evidential viewpoint. This form of interaction not only avoids the risk of confusedly collecting all kinds of unnecessary and trifling information but also helps to screen out weak cases containing crucial defects in terms of factual or legal elements constituting the crime and to prevent hasty arrest. However this close working relationship of the public prosecutor and the police has yet to be established in some countries.

4) Judicial Service

This is another important component of the criminal justice system in every country being studied. Basically in these countries, there exists the 3 levels of courts namely the court of first instance like the Magistrate Court, Summary Court, District or Sessions Court followed by the High Court and the Supreme Court which is the Court of Final Appeal. In all these countries, the independence of this component from the Legislative and Executive is very clearly defined. Nevertheless, the group observed that in practice, in some countries there exists political interference in the judicial system.

The group also noted that in some countries like Sri Lanka and Colombia, judges and other judicial officers are threatened and killed on many occasions after conducting trials on serious criminal cases particularly drug related offences. In view of this situation, the group decided to recommend special protection to these officers especially during the period of hearing of such cases. This situation is aggravated by the shortage of judges, legal officers and other supportive staff in the judicial system. In view of this problem, there is a serious backlog of cases. This group voiced its concern that such backlog would also affect the trial of organized crime cases. As such to effectively contribute towards organized crime eradication, the sufficiency of judges, other judicial officers and supporting staff must be seriously looked into. In this context, it is recommended that the judicial services should have a detailed study of the benefits of computerization to improve its overall efficiency. The group is confident that with these, organized crime offenders can be speedily tried, and punished accordingly.

5) Tax Agency

Another important law enforcement agency in most countries is the tax offices of the Inland Revenue Department. To successfully carry out the normal functions of ensuring the smooth activities of the government machinery, budgetary financing (both operating and development) are met by the collection of taxes, for example income tax, corporate tax and consumption tax. The collection of such form of taxes are generally regulated by the Income Tax Act and the Foreign Exchange Regulations Act. There are a number of investigators in Japan who investigate tax violation cases by organized crime groups. Organized crime groups, especially well established ones have already become "an enterprise." Even if the syndicate leader and its members are imprisoned, the group itself will still continue to exist. In order to inflict serious damage on such an organization, it is very useful to rid it of its income. With such huge incomes which the group has generated, the recruitment of members can easily be carried out to replace those who are put behind bars. So it is necessary to heighten the levy on the income of organized crime groups especially in countries where the confiscation of illegal income (not being confined to income based on drug transactions as in USA) is still not being adopted. Taxation itself is not concerned with the source of income and thus cannot "siphon off" the total income from such organizations. Since organized crime groups do not report their income to the tax agency, most of their illegal income will be "siphoned off" when the additional tax (as suggested) is levied. Hence the group proposes that if law enforcement agencies find evidence proving that organized crime groups have violated the tax law in the process of their investigation, they should report it to the tax agency. The tax agency on the other hand should seriously consider strengthening taxation on organized crime groups and to impose such levy when tax violation by such groups is brought to its attention.

6) Immigration Office

Organized crime groups have expanded their activities to every part of the world.

Consequently prostitutes or members of organized crime groups have gone transnational. So, the role of the immigration office is very important in checking people going in and out of the country.

In Japan the Immigration Bureau under the Ministry of Justice is entrusted with the task of regulation and control pertaining to immigration matters as provided for under the Immigration Control Act including the detention and deportation of those who have overstayed and those who have entered the country illegally. On the other hand criminal investigation and prosecution are undertaken by the police and public prosecutor respectively. Offences committed by organized crime groups in violation of the Immigration Control Act are aiding the illegal entry of foreign workers and providing necessary assistance to prostitutes who enter the country on false/forged passports. The same situation can also be found in some other countries.

In Malaysia the immigration department plays an equally important role in eradicating organized crime by actively monitoring and preventing the inflow of illicit drugs and firearms by illegal immigrants particularly along the Malaysia-Thai border and the various immigration checkpoints across the country.

The immigration office should strengthen the checking of the movement of members and associates, etc. of organized crime groups. Other suggestions should be considered as follows:

a) Strengthening the relationship between the agencies in charge of controlling organized crime groups and the Immigration office. For example the agencies in charge of controlling organized crime groups could furnish details of members of such groups to the immigration office. If the immigration office knows of their incoming or outgoing the immigration office should report it to the agencies concerned.
b) Some countries are so short of staffs that they cannot cope with the increasing volume of work. So, steps should be taken to recruit more staff.

In view of the above overall situations, in the respective agencies, we want to propose the following measures as a way of strengthening law enforcement agencies.

(1) Strengthening the co-operation among the agencies

The circumstances in each country are quite different.

The establishment of a new agency in charge of supervising the activities of existing agencies for crackdown on organized crime groups may be considered to overcome weaknesses in inter-agency co-operation.

(2) Strengthening of the co-operation within each agency

Although it is thought that sectionalism is a universal phenomenon, this should be refrained from especially with regard to countermeasures against organized crime groups. In some countries, informants are merely personal assets of each investigator. And sometimes the co-operation among the stations does not work well because of rivalry spirit. Such situations are not helpful to countermeasures against organized crime groups. So, it is necessary to strengthen the co-operation in each agency, by centralizing power and information. The next concrete measures should be considered:

a) Budget for operation should be easily available.
b) Co-operative investigation should be valued more than independent investigation. In Singapore, if the police station knows the facts concerning secret societies, it reports to the Criminal Investigation Department and acts accordingly.

(3) Improving the investigative ability

As general recommendations will be made later, here, we will propose the more concrete ones.

(a) From now, it is expected that many of countries will legislate the confiscation system of illegal profits of organized crime groups, at least based on drug transaction, according to the Vienna Convention 1988. If such system is established, it is inferred that organized crime groups will hide away their illegal profits by using effectively the knowledge of international transaction, accounts, up-to-date transaction like futures dealing and so on. In order to detect and seize the illegal profits which are hidden away skillfully, it should be considered that law enforcement agencies adopt the following methods to gain ability and knowledge: (1) the ability of reading between lines of complicated account books, (2) the knowledge about commercial transaction, especially international transaction, bank transaction, up-to-date transaction like futures dealing and so on, (3) wide scope with regard to the trend of not only the home country but also foreign country in order to monitor the trend of organized crime groups, (4) the conversational ability of foreign languages. English, Spanish and Japanese may become necessary, judging from the present situation of organized crime. With regard to the examination of the accounts it will be useful to consider the following: (1) employing people who have knowledge of accountancy, (2) sufficient training for such people (for example the agency sends him on loan to another agency which has expertise on accounts like the tax agency). For example in Malaysia and Singapore, some law enforcement agencies employ and train people who study accountancy at university.

(b) Computer literacy is very important. There are many examples of computer use, for example automated fingerprint identification system and investigation using data-base.

2. Countermeasures against Corruption

In order to insulate themselves from governmental criminal and civil actions, organized crime groups invariably have to bribe and corrupt officials of law enforcement agencies and other persons. To effectively combat organized crime and to gain the confidence of society at large in law enforcement agencies in general and the criminal justice system in particular, stern actions must be taken to ensure the system is free from this menace.

In this respect some of the countries have Anti-Corruption Agencies/Units to independently detect, investigate and prosecute public officials who work in connivance with organized crime groups in return for pecuniary or other forms of rewards or favours. Examples of such agencies include the Corrupt Practices Investigation Bureau Singapore, Anti-Corruption Agency Malaysia, Commission on Counter Corruption Thailand, Bribery Department of Sri Lanka, etc.

Realizing the difficult task of collecting and collating evidence on the corrupt dealing of public officials with that of Organized Crime Groups, certain countries have already made legislative and administrative provision to make it an offence for public officials who maintain a standard of living which is beyond their official involvements or other legitimate private means if any; or in control/possession of pecuniary resources or property (movable/immovable), the value of which is disproportionate to his official emoluments and any legitimate private means. For example in Hong Kong, the Prevention of Bribery Ordinance makes it punishable by imprisonment and fine while in Malaysia and Sri Lanka the administrative power for departmental actions is vested in the Public Officials General Order and the Establishment Code.

The group has voiced its concern over the low salary and other emoluments currently being paid to public officials in some of the countries which many result in some

of them being involved in corrupt practices. It is therefore recommended, budget permissible, that salaries and other forms of rewards be paid accordingly so that public officials can enjoy a decent standard of living.

3. Coordination and Co-operation among Related Agencies

Undeniably to eradicate organized crime, the various law enforcement agencies have to work in consonance and co-operation to avoid any conflict which may undermine its effectiveness. The importance of interdependence of these agencies can never be over-emphasized. The integration of the system and the coordination of such agencies should be initiated from the top level of government. The highest ranking officials of these agencies should hold regular discussions among themselves and agree to commit themselves and the resources of their respective agencies to the common policies that could be arrived at. The policies should be translated into more specific issuances and guidelines which should be handed down to the lower levels for their observance and implementation. Similar coordinative efforts should be pursued at the lower levels. Better integration and closer coordination will no doubt result in the avoidance of conflicts and contradictory policies and practices. These will prevent, or at least minimise, waste of human and financial resources.

In this respect it is noteworthy to find that in most countries the related agencies have been working closely to combat organized crime, for example in Korea, the Joint Investigation Headquarters Against Violent and Organized Crime established in every Public Prosecutor's Office to direct and supervise the activities of the police. Moreover periodical conferences under the supervision of the Korean Public Prosecutor's Office held to discuss investigation techniques and relevant policies help to foster closer rapport and quicker implementation of suggestions and recommendations. In Malaysia, to improve interdepartmental co-operation, the National Central Bureau (NCB) concept of Interpol is given substantive meaning by actually bringing together, formally, as many agencies as possible that have important roles in investigation and prosecution. Among others they include the Attorney-General's Chambers, the Police, the Anti-Corruption Agency, Customs and Excise, the Central Bank, the Income Tax Department, the Registrar of Companies, the Immigration Department, the Registrar and Inspector of Motor Vehicles, the Commission of the Securities and Stock Exchange, the Prison Department, and the Welfare Services Department. In having such a bureau, interdepartmental coordination and co-operation can be strengthened, research planning and implementation can be harmonised while access to one another's data-bases can be greatly facilitated. Moreover by this approach, all the departments have automatic access to Interpol facilities through the NCB.

IV. Community Based Activities for Eradicating Organized Crime

Besides the traditional approach of imposing criminal sanctions by strengthening the structure of law enforcement agencies, non-judicial countermeasures in eradicating organized crime should be given equal importance. In Japan presently, anti-boryokudan organizations exist in 47 prefectures for the purpose of eradicating the boryokudan through concerted public and private efforts in the form of publicity campaigns against them and surveillance of their activities, etc. Efforts toward the elimination of boryokudan offices, which serve as the base of a boryokudan's illegal activities, have become one of the effective methods used by the anti-boryokudan movement. The Police have actively supported and co-operated with residents in these activities. An important technique is the

commencement of civil lawsuits seeking the removal from a neighborhood of a boryokudan office. As a result, 191 offices were removed throughout Japan in 1990. In addition to that, the community also forms its own prefectural anti-gang organizations and encourages the formation of voluntary industry-wide anti-gang organizations to prevent organized company racketeering. BTRK (Boryokudan Taisaku Renraku Kyogikai) was set up in July 1992 by the police with co-operation of prominent businessmen who are members of the Japan Federation of Economic Organizations (Keidanren) aimed at mutual co-operation and exchange of information on organized criminal activities particularly those adversely affecting the business community. Voluntary organizations aimed at assisting organized crime group members who are planning to secede their membership of organized crime groups were established in some prefectures. The primary aim is to ensure that the members can support themselves financially by offering them suitable and stable jobs. For example, the Fukushima Prefecture has established a voluntary organization involving about 70 companies aimed at assisting former Boryokudan members. Since its establishment on 3 Feb. 1992 four members of Boryokudan were able to secure jobs as of 31 Aug. 1992.

In Malaysia co-operation and efforts of the community are harnessed to cope with rising crime activities particularly in drug trafficking and its abuse. In this respect The National Association Against Drug Abuse (PEMADAM), an NGO, is very active. It is set up with the aim of co-operating with government agencies in all efforts to eliminate the unlawful production of and dealing in drugs and drug abuse in any form, to eliminate and conduct research into drug abuse and to rehabilitate drug dependents and to foster public consciousness of the problem of drug abuse and to nurture the spirit of voluntary service to the community in those efforts. Besides the M$1 million (about 50 million yen) annual grant provided by the government, the community including banks, and the business sectors donate generously to fund its activities which include public lectures, seminars, exhibitions, bulletins, use of mass media, etc. with help of the Information Department.

Meanwhile in Sri Lanka, crime prevention programmes are planned by the police and with the help of voluntary organizations the public are educated on how to eradicate and prevent organized criminal activities. Regular meetings are also held with the business community including banks and post offices to instill in them the need to be security conscious particularly in the transportation of cash, forgery (counterfeiting) in currency notes, stamps and checks. The mass media on the other hand has also been helpful in educating the public to avoid being victims of terrorist attacks.

In Korea, a nationwide narcotics control movement and publicity campaigns are being organized by social associations, the mass media educationists and the other groups.

So far, we have introduced the examples of some countries. Organized crime groups exist occasionally based on the social conditions, etc. of each country. In Japan, there are some conditions which support the boryokudan movement. Firstly there are some people who make use of boryokudan for several reasons. In Japan, it takes a lot of time and money to file a civil suit. So, in some cases of collecting small loans, some creditors attempt to get back their money by enlisting the assistance of boryokudan members. Moreover some movies advertise Giri and Ninjo of Yakuza, which, no longer in existence among today's Yakuza (Giri means social duty and Ninjo means warmheartedness) ignoring the dirty reality of Yakuza's daily life.

Community based activities for eradicat-

ing organized crime inflict serious damages on the social and economic foundations supporting organized crime groups. Although these activities are not so conspicuous as crackdown, they steadily undermine organized crime groups. It is therefore suggested that the mass media should highlight the reality and danger of Yakuza's daily life.

V. Protective Measures for Victims, Witnesses of Organized Crime

The importance of protecting victims and witnesses is particularly pertinent at a time when the law enforcement community is faced with a dramatic increase in organized crime particularly those involving violence and threat to life. As violent attacks and threat increase, it follows that retribution against anyone assisting law enforcement efforts to curtail such crimes will increase too. It therefore, becomes essential to protect those individuals, regardless of their motivation, who co-operate with enforcement agencies at great personal risk. Bad experiences can be found in many countries, for example, in Thailand often witnesses are threatened or sometimes murdered before they can provide useful information to track down organized crime offenders, without any form of government compensation and assistance. In Sri Lanka also could be found many instances where the witnesses were killed while returning from court after giving evidence. In some cases criminals are daring enough to eliminate witnesses in the vicinity of courthouses. Worse still in Colombia, judges and prosecutors were threatened and killed particularly in cases involving organized crime groups.

Most of the countries being studied realize the importance of protecting their victims and witnesses in order to effectively combat organized crime. But unfortunately they are hampered by the lack of financial and human resources to afford a comprehensive witness protection programme. Despite this handicap certain countries for example Malaysia have legislated certain laws like Criminal Intimidation Act, Official Secrets Act and certain provisions in the CPC and Evidence Act to maintain secrecy of its informers and victims (investigation stage), protecting witnesses from being asked insulting questions and questions adducing bad character, excluding members of the public during a trial on ground of public policy or expediency (trial stage) to provide for compensation to crime victims by convicted offender. In Japan, criminal intimidation of a witness is punishable under Article 105-2 of the Penal Code while protection given to a witness during the trial stage is provided for under Article 227, 228 and 304-2 of the Code of Criminal Procedure. But, it is not enough. Compared with other countries, the witness system in the U.S.A. is very effective. So we will introduce a survey of that system.

(a) If an offense involving a crime of violence, etc. is likely to be committed against the witness in the official proceeding concerning an organized criminal activity or other serious offense, the Attorney General may provide for the relocation and other protection of the witness.

(b) The people who can get protection are not limited to witnesses. A Potential witness, an immediate family member or close associate of a witness are also included.

(c) Besides a crime of violence, the offence directed at the witness, etc. includes the crime of obstruction of justice and State offence whose nature is similar to either such offence.

(d) As long as the danger to that person exists, the Attorney General shall institute such protection as he determines is necessary.

(e) The protection is as follows:

1) Suitable documents are provided to enable the person to establish a new identity or otherwise protect the person.

2) Housing for him is provided.
3) Transportation of household furniture and other personal property to a new residence is provided.
4) A payment to meet basic living expenses for such times as the Attorney General determines are provided. A sum is determined in accordance with regulation issued by the Attorney General.
5) Assistance for his obtaining employment is made.
6) Other services necessary to assist the person in becoming self-sustaining are provided.

(f) Before determining whether to protect or not, the Attorney General shall obtain information relating to the suitability of the person including his criminal history and psychological evaluation. And if the Attorney General decides that the risk to the public outweighs the need for that person's testimony, after taking the various factors into consideration, the Attorney General shall not provide the protection.

(g) Before providing protection, the Attorney General shall enter into a memorandum of understanding with witness, etc. The main contents are as follows:
1) The witness, etc. shall testify in and provide information to all appropriate law enforcement officials concerning all appropriate proceedings.
2) The witness, etc. shall not commit any crime.
3) The witness, etc. shall comply with legal obligations.

(h) Marshal service provides protection under the supervision and adjustment of the Department of Justice. This system is very expensive. But, if the circumstances are serious, it should be studied.

The U.S.A system itself does not change the evidence law and judicial system. Although many countries adopt the hearsay rule and jury system, if these systems are maintained strictly, the protection of witnesses will become difficult and the conviction of organized crime group members will become difficult, too. In short, with respect to organized crime, it may be necessary to change such rules and systems although it depends on the situation of the country.

So, it may be good to consider the following suggestions, if the case is concerned with organized crime groups:

1) The witness discloses his name and other information only to the judge and he is not exposed to the cross-examination by the defendant.
2) The judge examines the witness and the judgement of his credibility is trusted to the judge.
3) Hearsay and jury system are reformed to the necessary extent.

On Jan. 1, 1981, The Crime Victims Benefits Payment Law in Japan took effect. This law is to provide that the State pay crime victims benefits to the bereaved family of a person unexpectedly killed by a criminal act of damaging human life or body, or to a person who unexpectedly incurred serious incapacity thereby. At the same time the Crime Victim Assistance Fund set up primarily from donations of voluntary organizations to finance the education of victims' children up to the tertiary level has benefitted 1,045 persons from payment of ¥683 million. In the Federal Republic of Germany the first Law to include victim interests was the Victim Compensation Act, 1976, while in 1987 the first Victim Protection Act came into force improving the position of crime victims in criminal proceedings. Meanwhile Victim Assistance Programmes initiated by a group of volunteers is aimed at educating the public and those people who come in contact with the victim by making them aware of the mental and social damage suffered by the victim as the result of the offence. At the same time such programmes also provide information and counseling services to better prepare the victim for the criminal proceed-

ings which tend to be very distressing, both socially and mentally.

VI. Institutional and Community Based Treatment for Organized Crime Offenders

Considering the country reports presented by the previous participants this subject has been dealt with but only briefly. On perusing the Resource Material Series, the group noted that overcrowding of prisons is common to most of the participant's countries, for example in Thailand, Sri Lanka and Malaysia. Subsequently organized crime offenders may influence ordinary inmates. In analysing such a situation it has been suggested by the group that the organized crime offender be kept in a separate cell under strict supervision. For example, in Chile, serious crime offenders have been located in a separate prison section in order to have an adequate and strict control of their behaviour and influence, while in Sri Lanka, criminals who have committed drug offences and other serious crimes are incarcerated in separate cells.

The group further observed that in some countries, organized crime offenders are supervised by public officials who are not adequately trained. In order to remedy this situation, such officials should be given specific training in the handling of organized crime offenders. This type of training should not only be given to prison and correctional officials but also to probational officers who supervise organized crime offenders after their release from the prisons. To re-socialize them into the community after their release, the Malaysia prison authorities have encouraged factories to be set up by private enterprises in the prisons. Such industries include the manufacturing of furniture and related wood products, and the manufacturing of current products.

Among the countries on which studies were undertaken by the group, Japan has the most comprehensive approach in its institutional and community based treatment for organized crime offenders. As reported in the "White Paper on Crime 1991," in Japan, it was estimated that in 1990 the number of prisoners who were Boryokudan members was 12,132 or 30.4% of the total convicted prisoners. Realising that essentially an organized crime offender commits to benefit his organization and not necessarily for his personal gain, the Correction and Rehabilitation Bureau of the Ministry of Justice have been constantly taking measures to ensure that each organized crime offender is properly corrected and rehabilitated to ensure that he will secede from his organization.

In order to achieve correctional objectives and to effectively implement correctional treatment, the Correctional Administration is organized according to the following:

1) Correction Bureau;
2) Regional Correction Headquarters;
3) Training Institute for Correctional Bureau;
4) Prisons, Juvenile Prisons and Detention Houses;
5) Juvenile Training Schools and Juvenile Classification Homes;
6) Women's Guidance Home.

The guidelines on how to manage and treat Boryokudan members as Japanese prisoners are summarized into the following four points.

(a) With regard to the allocation of Boryokudan prisoners, the principle of distribution to wider locations is set. One of the measures is to classify them in order to dispersively allocate convicts of the same affiliation, or antagonistic convicts into different prisons on a nationwide basis.

(b) Within a given prison, conflicting gang inmates are dispersed separately, for example, with assignment of different cell blocks or prison workshops. High risk in-

mates who are threatened by intimidation from others or candidates for manipulation over others have to be housed in single-cells.

(c) All the prisoners are treated equally and fairly. As for the treatment of prisoners, no distinction or discrimination is made, even if they might have been Boryokudan leaders, subordinates, or just ordinary citizens.

(d) The guidance to abandon Boryokudan group membership is practised actively.

The group therefore, suggests that the treatment programme for organized crime offenders should have the following components:

a) Treatment of organized crime members
   1) Classification and categorization of organized crime offenders into those having willingness to abandon their membership, those who are borderline, and those having entirely no willingness to renounce membership;
   2) Work programmes, vocational training or academic education depending on the individual needs;
   3) Moral education;
   4) Individual and group counseling;
   5) Physical training and recreation; and
   6) Availability of religious activities to those inclined.
b) Actions should be taken to recruit more professional staff, such as counselors, psychologists and psychiatrists to complement the uniformed staff.
c) There should be a comprehensive care treatment to ensure that guidance is given to inmates, while they are in prisons and after the release, to help them make a clear break from the organized crime group.

In Japan in 1990 a new categorised treatment system depending on the crimes committed and social background of offender, etc. was introduced. Cases in which the nature of the problem was overwhelming and which needed to be regarded as important from an administrative point of view have been categorised into eleven categories. The aims of this categorised treatment system are to conduct more efficient treatment, to focus on the characteristic points and to make probationary supervision effective based upon the decided categories through examining of knowledge of the offender's problem, type of crime, tendency of delinquency and the background of his/her family or education, etc. The probation officer determines the particulars in consideration of certain category-selected items and establishes an individual treatment plan. He takes into consideration reference items noted in the treatment policy according to the presumed category and establishes a treatment plan individually. Accordingly, organized crime offender is one of the eleven categories determined. In Japan the Probationary Supervision Manual of Categorised Treatment System for Boryokudan (Organized Criminals) is as follows:

a) Make efforts to search for the actual situation of the lifestyle of the offender, the relationship between the offender and his criminal group and the trends of that criminal group.
b) Arrange some friendly relations between the offender and others and give advice on changing the atmosphere of his daily life by changing residence, etc. Try to obtain for the offender release from the organized criminal group in which he is a member.
c) To investigate and understand the motivation to enter that criminal group, the background of his entering the group, the offender's status in that criminal group, the offender's family situation and the degree of difficulty in leaving the organized criminal group. Make approaches to the group to allow the offender release from the group through or with the help of the Police Agency.

d) To allow the offender to leave the criminal group, seek advice and help from the family members and Police Agencies. Their understanding of and co-operation with the Probation Office should be also asked.
e) Advise the offender to work correctly and continuously.
f) When the offender is an expected parolee from prison, during his staying in prison, arrangement of his leaving from the criminal group should be initiated.
g) When several probationers who belong to the same organized criminal group are under supervision, the V.P.Os in charge should make frequent communication with each other.
h) Depending upon the case, the probation officer directly treats the probationer and visits his house several times to understand his actual situation.
i) During the process of probation supervision, sometimes, the probation office takes action, for example, to call and summon the probationer or interrogate him.

In addition to the comprehensive supervisory activities, aftercare services are also vigorously pursued. In this regard, the Co-operative Employees consisting of about 3,800 concerned companies and individual enterprises of the local community have been assisting released prisoners including those involved in organized criminal activities to secure jobs. Rehabilitation Aid Hostels were also established in order to rehabilitate offenders including organized crime members. As of 1992, the number of Rehabilitation Aid Hostels throughout Japan is 96. Besides these, the Women's Associations for Rehabilitation Aid (WARA) composed of about 189,100 women volunteers are also concerned about helping to prevent crime in the community and to rehabilitate offenders by providing financial and other supports.

VII. General Recommendations

The group, after much discussion and deliberation, recommends that all countries should adopt the recommendations stated hereunder, to the best of their ability, taking into consideration their cultural, socio-economic and political situations, in order to achieve an improvement of the conditions and an integrated strategy for eradication of organised crime.

(1) Legislating specific laws to deal with organized crime e.g. of Japan, Organized Crime Control Act 1970 of USA. Consideration should be given to the necessity of establishing a specialized agency to deal with oragnized crime.

(2) Major emphasis should be placed on the application of technical and organizational measures designed to increase the effectiveness of the investigative and sentencing authorities including prosecutors and the judiciary. Furthermore, courses on professional ethics should be incorporated into the curricula of law enforcement and judicial training institutions.

(3) Better training to upgrade skills and professional qualifications of law enforcement and judicial personnel should be undertaken to improve effectiveness, consistency and fairness in national criminal justice systems. Regional and joint training programmes should be developed in order to exchange information on successful techniques and new technology.

(4) Attract more qualified and committed staff in diverse fields by offering attractive schemes of service with generous fringe benefits.

(5) Planning processes designed to integrate and coordinate relevant criminal justice agencies that often operate independently of one another. In this context it is suggested that all countries should study the benefits derived from the Malaysia concept of a National Central Bureau (NCB).

(6) Research in relation to corruption, its

causes, nature and effect, its links to organized crime and stepping-up of anti-corruption measures. If necessary to legislate new laws or amend existing laws stipulating more deterrent punishment for those involved in corruption offences related to organized crime activities.

(7) Establish appropriate mechanisms for the protection, and introduce relevant legislation as well as allocate sufficient resources for the assistance and relief of victims and witnesses of organized crime e.g. USA's Witness Protection Programme.

(8) Heightening public awareness, changing community attitudes and mobilising public support in organized crime eradication programmes.

Session 4: International Co-operation in Controlling Organized Crime

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1. Introduction

The group consisted of lawyers, sociologists and psychologists working in different departments as follows; three are public or state prosecutors, one senior police officer, a lecturer in International Law, a senior immigration officer and a senior psychologist in the Juvenile Classification Home.

Although members of the group work in different departments, they are directly involved in the administration of criminal justice. This report therefore is a result of the group discussion based on the knowledge drawn from the national standpoint and experience of each member under the supervision and wisdom of the advisors.

Before discussing the modalities of international co-operation in controlling organized crime, the group first observed that organized criminal activities are increasing in complex forms and widening dimensions. With the advancement in technology and communication in the world today, the mobility of criminals has also increased due to fast travel facilities. A criminal can easily commit crime in one country and avoid arrest or prosecution by fleeing into another country.

With these developments, organized crime now is a major problem of national and international dimensions with devastating effects which extend beyond national frontiers. It hampers the economic, political, social and cultural developments in different countries and threatens the fundamental freedoms and peace, stability and security of the people in their respective countries.

In some countries organized crime like drug trafficking, has spoiled national economies, thus undermining national development projects. Vast sums of money derived from such illegal activities are "laundered" through foreign transactions.

When countermeasures are taken, organized criminals retaliate with violence against state power thus breeding other criminal activities like terrorism, illegal sale or possession of firearms, etc. Linked to cultural subversion, is theft of works of art and articles as has been indicated by Indonesia. This also subverts the cultural heritage of nations.

The group further observed that, although many different organized crimes are committed in different parts of the world, the most serious which extend their reach far beyond national frontiers are crimes such as drug trafficking, money laundering, terrorism, trafficking in human beings, forgery (mainly of travel documents), hijacking, kidnapping, taking of hostages, etc.

While the nature of these crimes vary, there are features which are common to all of them. Some of the most common features are:

(1) Organized crimes are committed in groups by skilled criminals who have distinct criminal careers.
(2) The commission of crime is planned sometimes on a long-term basis coupled with task sharing (criminal racket).
(3) Organized criminals use modern infrastructured means (great mobility).
(4) One organized crime may breed some other crimes e.g. corruption, forgery, etc.
(5) Organized criminals constitute society based on common interest with their own sub-culture, wanting to gain high economic profit.
(6) Sometimes violence, threat is used to keep social visibility down and as a means of control and protection of members of the group.

The above features differ from those obtaining in simple organized crimes committed in some developing countries where you find mutual interest groups which co-operate on a case to case basis without a permanent feeling of belonging to the group. There is no long-term planning but the group meets only to provide logistics and technical know-how in the commission of the intended crime.

The marked increase of organized criminality in many states, has stimulated public and professional concern about the courses of action to be taken in order to deal effectively with cross-border organized crime. Members of the group expressed that in such a situation, *only a collective response among states* is the answer to the problem and this can only be achieved by *mutual assistance through international co-operation.*

This being the situation, members of group 4 had ample time to discuss the efforts taken at national, regional and international levels through treaties and conventions, all of which are aimed at attaining international co-operation to combat organized crime.

2. Modalities of Co-operation

(1) Extradition of Fugitive Offenders

As the mobility of criminals is increasing, enabling them to cross international borders with ease and escape punishment. the United Nations, in its effort to combat organized crime has adopted various kinds of model treaties, the latest one in 1990 which would help member states to attain international co-operation through extraditions. Extradition as ordinarily defined, "is the formal surrender of a fugitive criminal by one state in which the criminal has sought refuge to another state where the offence was committed so as to undergo prosecution or punishment."

These model treaties have exhaustively dealt with the obligation of requested states to extradite or prosecute fugitive offenders who have committed extraditable offences. Aspects of judicial determination and grounds for denial of extradition such as political offences, rules of double criminality and speciality are among the exception as embodied in the model treaties.

However members of the group expressed that their countries have extradition legislations which call for agreements to be made with other foreign states with respect to the surrender of fugitive criminals. Many have already made treaties with other countries on reciprocal agreements and have embodied principles of double

criminality, speciality, political offences, etc. Tanzania for example has extradition treaties with Zambia, Kenya, Uganda and Australia. Draft proposals are underway to finalize agreements with Malawi, Angola, Mozambique, Botswana and Zimbabwe.

Japan has an extradition treaty with U.S.A. Thailand also has extradition Act of 1929. China has extradition provisions in a legal package covering some aspects on international co-operation, while Colombia also has an extradition treaty with U.S.A.

In the case of countries in the South Asia Association for Regional Co-operation (SAARC), which include Bangladesh, Sri Lanka, India, Pakistan, Nepal, Bhutan and Maldives, extradition is done not under a legal treaty but on the basis of convention agreed upon by member states.

Some members of the group also expressed that where there is no treaty or convention in their countries extradition of a fugitive offender is sometimes done on reciprocity basis or on what others call international courtesy. But this depends on the political goodwill of the requesting and requested states.

Discussing the effectiveness of extradition legislation of each member state, members of group 4 unanimously agreed that while the existing legislations do to a certain extent fulfill what is required in international co-operation, some of the exceptions embodied in the legislations allow courts to interpret them in such a way which seem to favour criminals, thus thwarting the whole effort of combating organized crimes.

The group discussed these factors which if interpreted wrongly could be a hindrance to a successful extradition of fugitive offenders as follows:

A. Principle of Political Offences

One of the grounds for denial in extradition is when the fugitive criminal has committed a political offence or offence of a political character. This is also one of the principles under international law. The group unanimously agreed with this principle only on absolute cases of political character like treason, etc. The members critically observed that the interpretation of political offences given by some courts to include even incidental or related offences, some of which are far remote from the factual situation should be avoided. A terrorist who uses a bomb attack on a passenger plane killing hundreds of innocent people, taking of hostages, hijackings, kidnappings for ransoms are some of the examples where criminals should not be allowed to escape punishment on the mere pretext that what he did was political. The group commented that the definition of political offences given by some scholars and judges to mean even incidental offences which form part of political disturbance should be interpreted very sparingly not to include most extreme acts of barbarism against innocent citizens. Each case should be examined on its merits based on the factual situation.

B. Principle of Speciality

Under this principle, extradition of a fugitive offender cannot be granted if the requested state believes on reasonable grounds that the offender will be prosecuted in a requesting state for an offence other than an offence for which request is made. The group agreed that this principle is vital and valid because of the intrinsic value of humanity.

C. Principle of Dual Criminality

This is also a principle under international law that an offence for which request of extradition is made should be an offence in both states. This principle was unanimously agreed upon by all members of the group on the ground that a person should not be deprived of his/her liberty for a behaviour which is not an offence under the law of a requested state. Doing this would be to infringe the United Nations Conven-

tion on the Fundamental Basic Principle of Human Rights which in some countries is also embodied in their constitutions.

However, members cautioned that when examining whether the offence is punishable in both states, regard should be given to acts if they constitute an extraditable offence by both states, and not by merely examining the name or category of the offence. Example was given that an offender was extradited to U.S.A. from Japan on a conspiracy charge of smuggling heroin. Japan does not have a conspiracy charge but accepted extradition because through interpretation, the facts revealed that the offender was an accomplice to the offence of smuggling heroin, which is extraditable under the Japanese law.

D. Extradition of Nationals

Under the Geneva Convention, states are under no obligation to extradite their nationals who commit offences in foreign countries. Many states hesitate to surrender their nationals to foreign states for prosecution.

However many extradition legislations are silent on this principle except a few like the Japanese extradition treaty with the U.S.A. which gives power to a requested state to extradite its nationals on its discretion. Since this treaty became effective in 1980, Japan has surrendered three Japanese nationals to U.S.A.

Mexico is another example which under its constitution can extradite its nationals.

Korea also has extradition treaties with Australia, Canada, Brazil, Spain, Paraguay, Argentina, Mexico and Thailand. Under these treaties, requested states can extradite their nationals.

There are two views on whether states should extradite their nationals. Those who refuse to extradite their nationals argue that, states have the right to protect their nationals, so any breach of the law should be dealt with under domestic laws. Those who are in favour of extraditing nationals of requested states argue that, foreigners owe allegiance to the laws of the country where they reside, so any breach of the law should be punished in the country where laws are breached.

The group discussed in detail this subject matter and unanimously agreed that, extradition of nationals should be the discretion of the contracting states and must be specifically stated in the treaty. Except the Colombian participant who maintains the principle of non-extradition of nationals, the rest were of the view that in extreme or serious cases like drug trafficking, hijacking, or terrorism, which cause terror among the world community, extradition of nationals who commit such crimes should be mandatory. The group added that even in some other cases where extradition of nationals is discretional, and requested states refuse to extradite their nationals, effort should be made to prosecute them under their domestic laws, bearing in mind the principle of double criminality. In this way, our effort to combat international organized crimes will yield fruits.

E. Extraditable Offences

In some countries, like most commonwealth countries, offences upon which both states agree to be extraditable are enumerated in the extradition treaty and legislations. In other countries extraditable offences are determined by placing certain limits of punishment. For example certain treaties stipulate offences whose punishment is not below three years imprisonment as a requirement for an extraditable offence.

The members of group 4 noted some difficulties in both approaches. Treaties/ Legislations which enumerate extraditable offences, may face the difficulty of equal definition and interpretation by both states. And the placing of limits on punishment also depends on whether one state views the offence as serious, because punishment should equal the seriousness of the offence,

and this also depends on the societal and economic values of the state.

However the group agreed that the determination of extraditable offences should be up to the discretion of the contracting states, provided that the process of surrender of fugitive criminals is effected.

Alternatively the group noted further that, under the immigration laws of most member states, a fugitive offender can be refused entry and deported to his country on information from a requesting state that the criminal committed or was convicted of an offence. This can only be possible where there is good co-operation on the exchange of information between the countries concerned.

(2) Hot Pursuit of Fugitive Offenders

Another kind of international co-operation which is very much related to extradition is "Hot Pursuit."

Hot Pursuit literally means the pursuing of a person who has committed an offence in one country and runs to another country in order to evade arrest or prosecution. The pursuit is done by police of a country in which the offence is committed.

Tanzania for example has legislation known as the Hot Pursuit (fugitive offenders) Act (No. 1 of 1969) which calls for neighbouring states to make agreements of pursuit of fugitives or offenders in their region.

So far Tanzania has made agreements under this law with Kenya and Uganda which also have similar laws. Thailand has made agreements with Malaysia and they have established joint authorities who have the duty to control and suppress organized crimes like customs evasion, trafficking in human beings, etc. committed along Thailand-Malaysia borders.

Members of the group expressed their views and indicated that the principle of Hot Pursuit does not exist in many group member states but unanimously agreed that it is vital in order to promote international co-operation and deal effectively with criminals who think they can evade punishment by seeking shelter in other states.

(3) Mutual Assistance in Criminal Matters (Investigations)

A. Mutual Assistance in Investigation

Mutual assistance in criminal investigations is another kind of international co-operation.

All members of the group agreed on the necessity and usefulness of international co-operation relating to investigations, because investigations into a certain country cannot be done by foreign investigators on the principle of jurisdiction and territorial sovereignty of states.

Being aware of the escalation of organized crime, both national and transnational and recognizing the importance of mutual assistance in criminal matters as the only effective way of dealing with complex aspects of international organized crime, the United Nations *adopted a model treaty on mutual assistance in criminal matters as a useful framework that could be of assistance* to states interested in concluding bilateral agreements aimed at improving co-operation in matters of crime prevention. The model treaty spells out among other things, the scope of assistance, contents of requests for assistance, grounds for refusal of assistance, etc.

Discussion on this topic started with each member of the group explaining the position of his/her country as follows:

Tanzania

Tanzania has legislation on mutual assistance in criminal matters (Act No. 24 of 1991). Under this act, when the Minister for Justice is satisfied that reciprocal provisions have been made by any foreign country to facilitate the provision to Tanzania of assistance in criminal matters, he may by order published in the gazette declare that the provision of this act shall, subject to such conditions and modifications, apply

in relation to such foreign country.

The scope of mutual assistance rendered includes:

(a) The obtaining of evidence, documents or other articles;
(b) The provision of documents and other records;
(c) The location and identification of witnesses or suspects;
(d) The execution of requests for search and seizure;
(e) The making of arrangements for persons to give evidence or assist in investigations;
(f) The forfeiture or confiscation of property in respect of offences;
(g) The recovery of pecuniary penalties in respect of offences;
(h) The interdicting of dealing in property, or the freezing of assets, that may be forfeited or confiscated, or that may be needed to satisfy pecuniary penalties imposed, in respect of orfences;
(i) The location of property that may be forfeited, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences; and
(j) The service of documents.

But a request shall (mandatory) be refused if in the opinion of the Attorney General:

(a) The request relates to the prosecution or punishment of a person for an offence that is, by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character;
(b) There are reasonable grounds for believing that the request was made for prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, sex, religion, nationality or political opinions; or
(c) The request relates to prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Tanzania, would have constituted an offence under the military law of Tanzania but not under the ordinary criminal law of Tanzania; or
(d) The granting of the request would prejudice public safety, public order, defence or the economic interests of Tanzania; or
(e) The request relates to the prosecution of a person for an offence in a case where the person has been acquitted or pardoned by a competent court or authority in the foreign country or has undergone the punishment provided by the law of that country, in respect of that offence or of another offence constituted by the same act or omission as that offence; or
(f) Except in the case of a request under section I, the foreign country is not a country to which this Act applies. A request by a foreign country for assistance may (discretion) be refused if in the opinion of the Attorney General,
  (1) The request relates to the prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Tanzania would not have constituted an offence against the law of Tanzania; or
  (2) The request relates to the prosecution or punishment in respect of an act or omission where, if it had occurred in Tanzania at the same time and had constituted an offence against the law of Tanzania, the person responsible could no longer be prosecuted by reason of lapse of time or any other reason; or
  (3) The provision of the assistance could prejudice an investigation or proceedings in relation to a criminal matter in Tanzania; or the provision of the assistance would, or would be likely to, prejudice the safety of any person, whether in or outside Tanzania; or the provision of the assistance would impose an excessive bur-

den on the resources of Tanzania.

Any request for assistance shall be made by or to the Attorney General.

Thailand

The law governing international co-operation in criminal matters in Thailand is The Act on Mutual Assistance in Criminal Matters 1992.

The Central Authority or person who is responsible for coordinating in mutual assistance under this law is the Attorney General or any person designated by him.

Thailand has signed a treaty with U.S.A. which has not yet come into force. However, under this act, Thailand may provide assistance to any requesting state (on reciprocity basis) even though a treaty on mutual assistance does not exist.

Mutual assistance can be provided in the following matters:

(a) Taking statements;
(b) Providing documents, records and evidence;
(c) Executing requests for search and seizure;
(d) Locating persons;
(e) Initiating criminal proceedings on request;
(f) Taking testimony, documentary/material evidence;
(g) Confiscation of property;
(h) Transferring or receiving detained persons for the purpose of taking evidence.

Thailand may refuse the request for mutual assistance if such request:

(a) Would prejudice its sovereignty, security, and national essential interests;
(b) Is relating to political offence.

A request shall be refused if such request:

(a) Relates to a military offence;
(b) Relates to an offence not punishable by both the requesting and requested states, unless provided otherwise by the treaty.

The execution of the request can be postponed if in the opinion of the Central Authority it will interfere with the investigation, inquiry, prosecution or any criminal proceeding being conducted in Thailand.

China

China has no specific law on mutual assistance in criminal matters, but has several treaties with other foreign countries, namely, Poland, Mongolia, Rumania, Turkey, Cuba, and Russia.

The "central authority" prescribed in these treaties differs from one to another just according to the unique circumstances of the participating countries. The scope of mutual assistance provided in the treaties is also different but mainly in respect to the following matters:

(1) Protection of witness;
(2) Interrogation of the defendant and taking statements;
(3) Providing documents, records, and evidence;
(4) Executing requests for search and seizure;
(5) Inspection, examination and expert evaluation;
(6) Transferring detained persons for the purpose of taking evidence;
(7) Other investigational or evidence collection related to procedural activities.

In practice, Chinese Criminal Justice Authority holds the position that: mutual legal assistance should be provided on the basis of the principle of respect for national sovereignty, jurisdiction, legal system of the respective countries, and of non-interference in the internal affairs of the states. Assistance can be refused for the following reasons:

(1) If it is prejudicial to its national security or public orders;
(2) If it is related to a political offence;
(3) If it is against the international concept of dual criminality; and
(4) Others.

When there is no treaty, requesting or requested assistance from China can be provided on a case by case basis through the diplomatic channel.

Colombia

The Code of Criminal Procedure of Colombia provides for mutual assistance in criminal matters to foreign states but mutual assistance is mostly done by way of treaties and conventions. Only if there is no treaty or convention with a requesting state does Colombia resort to the Code of Criminal Procedure. Colombia has a treaty with the U.S.A. which also has not yet come into force, but can use this method with other countries on a discretionary basis.

Any request for mutual assistance is made through the diplomatic channel by the Ministry of Foreign Affairs, but in cases like drug trafficking, terrorism, etc. which fall under the jurisdiction of public order judges who are called Regional Judges, request can be made directly through the Attorney General.

Assistance can be provided or sought in the following matters:

(1) Executing requests relating to criminal matters;
(2) Taking of testimony or statements of persons;
(3) Effecting the production, preservation and authentication of documents, records or articles of evidence;
(4) Effecting the appearance of a witness, or expert before a court of the requesting state;
(5) Locating persons;
(6) Serving and/or providing judicial records, documents, evidence and information.

However, assistance can be refused if:

(1) It is against public or private rights and guarantees;
(2) It is prejudicial to the interests of the state;
(3) If the offence upon which assistance is sought is a political or military offence.

Japan

Japan also has legislation for international assistance in investigation and on judicial assistance to foreign courts. Requests are made by diplomatic channel through the Ministry of Foreign Affairs.

Matters for assistance under the law include:

(1) Interrogation of persons relevant to a case;
(2) Requiring an expert to make inquiry or non-compulsory inspections of a matter under dispute;
(3) Requiring owners/possessors of documents or other materials to submit those;
(4) Execution of requests for seizure and search;
(5) Application to a judge for examination of a witness;
(6) Requiring public offices or private organizations to make reports on necessary matters.

Assistance to a foreign state can be refused in the following circumstances:

(1) If the request for assistance is a political offence;
(2) If the offence upon which request is made is not an offence under the laws of Japan (dual criminality);
(3) If the requesting state has not given assurance that it will honour a request of the same kind if made by Japan;
(4) If the requesting state does not indicate in writing that the evidence sought is indispensable for the investigation.

Korea also has a mutual assistance treaty with Australia. It has also treaties with the U.S.A. and Canada which have not yet come into force.

After discussing in detail various legislations regarding legal mutual assistance by various countries, the group expressed some problems which may or have already arisen on matters such as obtaining evidence or testimony from one country for use in trial by a court of another country.

The group unanimously agreed that the difference in legal systems with different standards of proof and rules of admissibility, evidence taken in a foreign country may not necessarily be admissible in another country. A member from Japan for example pointed out that written statements provided by commissioned foreign investigation are regarded in Japan as hearsay and cannot be admissible if the exceptions provided under the law are not fulfilled. An example of this conflict of laws is that a testimony of a witness taken in Japan and given to the United States judicial authorities cannot be admissible in the U.S. courts unless the witness is cross-examined. But under Japanese law, a defendant or accused and his defense counsel from U.S.A. cannot be allowed to cross-examine a witness in Japan.

As a solution to this problem, the group recommended that both requesting and requested states should consult each other promptly at the request of either, concerning any point of law in relation to a case upon which request is made.

Alternatively the group noted with concern one decision of the Italian Supreme Court which confirmed a principle that may now be considered well established in Italy that:

> "Evidence taken abroad is valid and admissible in criminal proceedings carried out in Italy when such evidence has been lawfully taken in accordance with the laws of the foreign state that supplied the assistance and is not in conflict with the Italian order public."

But again what constitutes "order public" is something which requires further discussion and is open for debate; because as one scholar commented, "the taking of evidence without the rights of defense will be contrary to the Italian 'order public.' "

Another anticipated problem voiced by members of the group is the unlikelihood of success in obtaining evidence from bank records in offences like money laundering because of the domestic laws governing bank secrecy.

Some members pointed out the existence of domestic laws in their countries whereby courts may issue a monitoring order directing financial institutions to give information relevant to an investigation about financial transactions conducted through an account held by a particular person.

This was accepted by the group and it was recommended further that states should react positively by revising laws which shield illicit proceeds of dangerous criminal groups.

(a) Mutual assistance through letters rogatory

This is another kind of international assistance whereby courts or legal institutions of different countries exchange assistance in civil and criminal matters through letters rogatory. The exchange is done on a reciprocal basis. This assistance is sometimes called "Judicial Assistance."

Letters rogatory are the most common means used by some countries like the U.S.A. to request or render mutual assistance in the investigation and prosecution of transnational crimes.

Procedurally, letters rogatory requests are made by a court or tribunal in the requesting country to a court or tribunal in the requested country which executes the requests by utilizing its own process of ex-

ecution.

Execution of the request is done as a matter of comity and is within the discretion of the requested court or tribunal depending on the attitude of the courts of the two countries towards each other, the diplomatic relations between the two countries and the character of the proceedings which underlie the request.

The use of letters rogatory as a means to secure the assistance of another country in such an investigation has several advantages to the requesting country. (1) The request can be addressed to countries which have legal systems which are different than that of the requesting country. (2) The technique can be used as needed on a *case by case basis* without the need for prior negotiation of a mutual assistance agreement or treaty. (3) The fact that letters rogatory invoke the inherent power of issuing orders by the court of the requested country, permits the testimony and production of documents to be compelled from an otherwise unco-operative witness or institution. Testimony authenticating documents which are produced can also be compelled, usually in a form which can be used in court.

However, the use of letters rogatory also presents some procedural disadvantages, among which are the following: (1) Execution of requests *is usually discretionary in the courts* of the requested country. The absence of prior undertaking of co-operation i.e. treaty by the requested country means there is no assurance that the evidence will ultimately be obtained. (2) In many countries, particularly those whose legal system is based on English common law, letters rogatory requests will not be honoured during the investigation stage. Assistance is limited to those instances where *criminal charges have been filed.* (3) Similarly, if the laws of the requesting state provide an opportunity for defendant or accused to cross-examine, a request for assistance made during the investigation stage may have to be repeated after charges are filed to permit the defendant or accused to exercise his right of cross-examination. (4) Use of letters rogatory is a time-consuming process. An application must be made by the investigating or prosecuting authority of the requesting country to a competent domestic court or tribunal. The tribunal then transmits the request to a court of the requested country, which in turn executes the request. If the laws of the requested country provide for notice of the request to the defendant or accused, a challenge to the execution of the request may create further delay. Challenges to the proceeding made by unco-operative witnesses may also create a delay in execution of the request.

Despite the problems and delays which can arise in the use of letters rogatory to secure international assistance, such requests are still a particularly useful tool in transnational crime cases. Use of letters rogatory enables the requesting country to *compel production of evidence* which resides in the requested country, and which *may not be otherwise available.*

Courts in some countries like the U.S.A. have been given statutory authority to honour letters rogatory requests from courts and tribunals from other countries.

Letters rogatory requests may be used to secure such matters as testimony, production of documents, etc. Requests may be granted also to provide evidence in both civil and criminal proceedings.

For avoidance of any problem which may arise due to different legal systems between the requesting and requested countries, courts have discretion to permit a representative of the requesting court or tribunal to participate in or supervise the taking of testimony and the production of tangible evidence during the execution of a request.

The international judicial assistance through the medium of letters rogatory among states is desirable in order to fight organized crime jointly.

(b) Agreement between states on controlled delivery

Under article II of the U.N. (Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was adopted in the Vienna Convention 1988, transit states, if permitted by the basic principles of their respective domestic legal systems, shall take the necessary measures within their possibilities to allow for the appropriate use of controlled delivery at the international level on the basis of agreements or arrangements mutually consented to, with a view to identifying persons involved in drug offences and to take legal action against them.

Japan has already enacted new law which provides provisions on controlled delivery. Controlled delivery is therefore a procedure or technique of allowing illicit or suspected consignments of narcotics to pass through or into the territory of one or more countries with the knowledge and under supervision of their competent authorities with the view to identify not only the trafficker but the receiver and entire syndicate if possible.

The group agreed that the policy is good as a countermeasure against both demand and supply of narcotic drugs. Some members explained that they don't have domestic laws on controlled delivery but such a control is done domestically as a method of investigation through surveillance.

However, the group noted that for the control of delivery to be effective internationally, it requires thorough co-operation between states through international organizations like Interpol to communicate quickly and circulate information on any suspected consignment destined for a certain place. Surveillance of such consignment can start right from the source to the point of delivery. This also calls for an improved means of communication in the member states.

(c) Co-operation in forfeiture or confiscation of illicit proceeds

It is a known fact that illicit proceeds of crimes are often transferred to foreign countries, therefore international mutual assistance is necessary for their effective deprivation.

The most important event in the area of international co-operation regarding forfeiture or deprivation of illicit proceeds is the adoption of the Vienna Convention 1988 which focuses on the deprivation of illicit proceeds, and execution of foreign sentences of forfeiture. It is a great change from past conventions relating to narcotic drugs which mainly control production or flow.

Some of the main characteristic points of the convention are as follows:

(a) Criminalization of money laundering of illicit proceeds from drug offences;
(b) Forfeiture of illicit proceeds;
(c) Forfeiture of all properties converted from illicit proceeds;
(d Freezing of forfeitable properties;
(e) Execution of foreign sentence of forfeiture;
(f) Freezing of forfeitable properties for foreign procedure.

This convention aims at assisting U.N. member states in the control of drugs, forfeiture of illicit proceeds from drugs and international mutual assistance in the forfeiture of illicit proceeds.

Out of all U.N. member countries, only 64 countries have ratified the convention. Countries of the participants in this course which have ratified the convention are: Japan, China, Chile, India, Sri Lanka, Nepal and Pakistan.

As a result of this convention, some countries have already enacted statute laws which provide for criminalization of money laundering and mutual assistance in the execution of foreign sentences of forfeiture and freezing for foreign countries. Assistance to foreign countries is given in accord-

ance with laws for international mutual assistance in criminal investigation.

The new law of Japan, for example, *"The law for special measures of narcotic and psychotropic substance and other related laws to prevent activities promoting illicit trafficking of controlled drugs under international co-operation 1991"* provides for criminalization of money laundering and forfeiture or freezing of illicit proceeds and execution of foreign sentences of forfeiture and freezing for foreign countries. Under this law, financial institutions are required to report suspicious transactions to the Ministry of Finance.

However, assistance is restricted to drug related offences and can be rendered under the principle of dual criminality.

There are few other countries which have domestic laws on forfeiture of illicit proceeds and laws on international mutual assistance which provide for execution of requests of seizure and forfeiture for foreign countries.

In Thailand, the new law known as *"Act on measures for the suppression of offences relating to narcotics 1992,"* provides for criminalization of money laundering and forfeiture or freezing of illicit proceeds of crime relating to narcotics and for the first time, prescribes conspiracy relating to narcotics as an offence punishable under the law.

It is important for all states to adopt same measures in order to fight drug trafficking and its illicit proceeds effectively.

B. International Co-operation on the Transfer of Proceedings

Another model treaty which was adopted by the United Nations in its 8th Congress held in Havana, Cuba 1990, is on the transfer of proceedings, also aimed at helping member states to attain international co-operation to combat organized crime.

Under this model treaty, when a person is suspected of having committed an offence under the law of a certain state, which is a contracting party, that state may request another state which is also a contracting party to take proceedings in respect of this offence.

One of the requirements under this treaty is that a suspected person should be ordinarily a resident or a national of the requested state.

The basic purpose of the transfer of proceedings is that:

(a) An early return of foreign offenders to their home countries is likely to improve social rehabilitation based on the local conditions pertaining in the state of the offender;
(b) To reduce prison population in the requesting state;
(c) In their home countries, offenders have a wider chance of being heard and defended, thus protecting the fundamental human rights of an individual.

The model treaty also provides that acceptance of a request for transfer of proceedings may be refused by the requested state if:

(1) The suspected person is not a national or ordinary resident in the requested state;
(2) The act is an offence under military law, which is not also an offence under ordinary criminal law;
(3) The offence is in connection with taxes, duties, customs or exchange;
(4) The offence is regarded by the requested state as being of political nature;
(5) The act upon which request is based, would not be an offence if committed in the requested state.

If the suspected person is held under custody in a requesting state, he may express his interest to the transfer of proceedings or the requesting state shall allow him to present his views on the offence and transfer of proceedings unless he has ab-

sconded.

When the requested state accepts the request to take proceedings, the requesting state may continue to render judicial assistance or assistance in any further investigation until the requesting state is informed that the case is finally disposed.

After going through all the provisions of the model treaty, members of the group workshop made an account of the situation in their respective countries. Most of the member countries have no statute law for transfer of proceedings except Thailand which under the International Mutual Assistance Act 1992, gives foreign states the right to request Thailand to initiate prosecutions of its nationals.

However members of the group agreed that, international co-operation on this aspect is very vital, but again Japan expressed doubt on the admissibility of evidence collected in a foreign country as explained earlier.

But looking at different articles of the model treaty, this doubt can be cured by revising the domestic laws in accordance with Art. 11 which provides that:

> "As far as compatible with the law of the Requested State, any act with a view to proceedings or procedural requirements performed in the requesting state in accordance with its law shall have the *same validity* in the Requested State, as if the act had been performed in or by the authorities of that State."

Finally the group recommends that because extradition, mutual assistance in investigations and transfer of proceedings are closely connected to each other, states enacting their laws on mutual assistance should consider and take into account these three matters as one package.

C. Transfer of Supervision of Offenders

Another U.N. model treaty relating to international co-operation is on the transfer of supervision of offenders.

Under this treaty, where a person is convicted and sentenced, the sentencing state may request another state (administering state) in which the accused is a national, to take responsibility for applying the terms of the decision (transfer of supervision).

Transfer of supervision can be effected in the following conditions:

(1) If the person is convicted and placed on probation without sentence having been pronounced;
(2) Given a suspended sentence involving deprivation of liberty;
(3) Given a sentence, the enforcement of which has been modified (parole) or conditionally suspended, in whole or in part, either at the time of the sentence or subsequently.

The requested state may refuse acceptance of transfer of supervision of offenders where:

(1) The act on which the request is based is not an offence in both states (dual criminality);
(2) The sentenced person is not an ordinary resident in the administering state;
(3) The act is an offence under military law (not also an offence under ordinary criminal law);
(4) The offence is in connection with taxes, duties, customs and exchange;
(5) If the offence is regarded by the administering state as being of a political nature.

The reasons for the adoption of the model treaty are explained in the preamble as follows:

(1) Transfer of supervision can contribute to an increase in the use of alternatives to imprisonment;
(2) Supervision in the home country of the offender contributes to an earlier and

more effective reintegration into society (social rehabilitation) than in a foreign country where the offender has no roots.

Discussing whether this co-operation can effectively control transnational organized crimes, members of the group first explained that, none of their countries have statute laws on the subject and unanimously agreed that this model treaty is suitable to people who commit ordinary simple crimes and are sentenced or placed on probation or parole.

The group added further that, such treaties are not suitable to hard-core criminals who are supposed to be dealt with more seriously and effectively in prisons.

D. Transfer of Foreign Prisoners

Related to the model treaty on transfer of supervision of offenders, is a model agreement on the transfer of foreign prisoners adopted by the 7th U.N. Congress in Milan in 1985 and adopted by the general assembly.

It is believed that the social resettlement of offenders should be promoted by quickly facilitating the return of persons convicted of crime abroad to their home country to serve their sentence.

The transfer may be requested by either the sentencing state or administering state and an opportunity must be given to verify the free consent of the prisoner.

It's a general rule that the prisoner shall have at least six months of the sentence remaining to be served.

Costs of transfer shall be borne by the administering state which may also adopt the sanction to the punishment prescribed by its own law for the offence (but imprisonment shall not be converted to a pecuniary sanction).

Among all the member group countries, Thailand has a statute law on the transfer of prisoners called The Act of International Co-operation and Execution of Penal Sanction, 1984. Besides this law, Thailand has made treaties with the U.S.A., Canada, Spain, Italy, France and Portugal. There are 4 French and 4 Americans eligible for transfer under this law.

Members of the group noted with concern that an agreement by the administering state on the transfer of prisoners should be aimed at dealing with the criminal severely, fully making use of the provision which says that:

> "In the case of continued enforcement, the administering state shall be bound by the sentence determined by sentencing state. *It may however adapt the sanction to the punishment prescribed by its own law for the offence, but* a sentence involving deprivation of liberty shall not be converted to a pecuniary sanction."

(4) Interpol (ICPO)

Discussing international co-operation through international organizations, members of the group agreed that, international organizations like International Criminal Police Organizations (ICPO) play a big role in the international struggle against organized cross-border crimes. It was stated further that Interpol with more than 150 member states plays a leading role in promoting utmost mutual co-operation among the criminal police organizations. The organization has 4 specified bureaus dealing with economic crimes, drug problems, terrorism and counterfeit of currencies.

The organization meets annually and discusses the problems of crime and develops mechanisms useful for the prevention and suppression of crime in its general assembly. The channels of Interpol through "international notices system" and "broadcasting system" are very important and effective in the exchange of information and inquiries. The notice system is used in apprehending, locating and checking suspects, witnesses, dead persons, and stolen property and disseminating photographs, and other records of criminals to member states

for information or action.

The exchange of information/inquiries are processed either by direct transmission of messages between the National Central Bureaus (NCBs) of member state police or through the secretariat.

However some members pointed out the attitude of some member states of not responding promptly to inquiries from other member states. The group stressed the importance of quick response to inquiries so as to have a coordinated effort in the fight against international organized crimes.

It was also pointed out by a member from Japan that Interpol is very useful in the exchange of information among member states.

From 1982 to 1991 for example, Japan National Police Agency received general information from ICPO in 71,629 cases and investigated 3,631 cases through Interpol initiated by National Police Agency.

However, the member expressed doubt on the admissibility of information or evidence obtained from foreign countries through Interpol in Japanese courts for reasons explained earlier (supra). In Thailand such evidence is admissible because courts do not strictly apply hearsay rule, regarding this kind of evidence and may take judicial notice as public documents.

The group emphasized the need for international co-operation in the exchange of information through Interpol and pointed out that differences in the legal system can be solved by revising domestic laws in conformity with the model treaty on mutual assistance which under Art. 14 allows availability of persons to give evidence or assist in investigations in the contracting states.

(5) Regional Meetings between Law Enforcing Agencies of Neighbouring States

In the absence of formal legal treaties, experience has shown that regional meetings between law enforcing agencies also play a big role in promoting co-operation and mutual understanding between states.

In Africa for example, regular annual meetings between chiefs of police of Tanzania, Zambia, Zimbabwe, Angola, Mozambique, Botswana are held to discuss cross-border crimes affecting their countries and adopting joint programmes of action.

Through these meetings, resolutions on mutual assistance are adopted and implemented by member states. Through this co-operation, property like motor vehicles stolen in one state and recovered in the other, are returned to the original owner in the country where the vehicle was stolen. There has been constant exchange of information and intelligence on criminals and the modus operandi adopted by these criminals on various crimes, etc.

Regional meetings between SAARC countries (Bangladesh, Bhutan, India, Nepal, Pakistan, Sri Lanka and Maldives) have also promoted good mutual understanding between these countries and mutual assistance on various matters relating to criminal matters is provided upon agreements reached thereto.

Singapore, Malaysia and Indonesia are also good examples where regional meetings have promoted good co-operation in the exchange of information and intelligence relating to cross-border crimes affecting these countries.

A special conference known as "Multinational Asian Organized Crime Conference" was held in San Francisco, U.S.A. in 1991 to discuss the control of organized crime. Representatives of eleven countries attended, which were Japan, U.S.A., Canada, Thailand, New Zealand, Australia, Hong Kong, Korea, the Netherlands, Malaysia and Singapore. A similar conference is expected to be held in February 1993. The group recommends that our recommendations should be raised in this conference for further discussion.

There have been other meetings or conferences between countries of Asia and the Pacific Region in which Japan and China have participated in discussions relating to

organized crime and crackdown on narcotic drugs.

Countries in the Organization of American States (O.E.D.) of which Colombia is a member, also meet to discuss and resolve problems. One of the main points likely for discussion in these international meetings is the free smuggling of firearms and the control of chemicals exported from foreign countries for use in cocaine processing.

Thailand and India have also participated in meetings held by the Afro-Asian Association to discuss generally legal mutual assistance. In addition, Thailand has held meetings with the U.S.A. and the U.K. relating to the control and confiscation of proceeds of crime, investigation techniques in offences relating to counterfeit of credit cards, etc.

There is a great need to intensify regional co-operation through constant meetings in order to coordinate efforts and stimulate discussions on matters of mutual concern.

3. Conclusion and Recommendations

After a series of discussions among group members on different issues and topics relating to international co-operation, the group workshop resolved that, as there is a rapid increase in transnational organized crime, there is a great need for *a collective* response by the international community and greater co-operative efforts by governments in order to combat organized crime effectively. No single government at present can deal by itself with the problem of organized crime.

For this and other reasons the group recommends as follows:

(1) The United Nations, in its crime prevention and criminal justice programme should continue to devise strategies which would assist member states in the development of measures to deal with organized crime effectively.

(2) In order to fight organized crimes with coordinated efforts states should enter into bilateral or multilateral treaties geared at suppressing organized crimes. Negative attitudes caused by lack of urgent necessity among states must be abandoned.

(3) Countries should as much as possible modernize or modify their domestic laws to meet international concepts for more effective and appropriate measures against organized crimes. This modification should include such areas as:
   (a) Surrender of property acquired as a result of the offence or which may be required as evidence if extradition of an offender is allowed (Art. 13 of the model treaty on extradition).
   (b) Non-admissibility of evidence recorded in foreign countries (e.g. testimony or statements) could be solved if countries relax the strict application of hearsay rule. So that statements of this kind acquire admissibility provided the genuineness of the statement is established.
   (c) States which have not signed or ratified the Vienna Convention and which also have not enacted statute laws on forfeiture of proceeds of crime should do so with utmost urgency.
   (d) Bank secrecy is one of the hindrances when investigating illicit proceeds of crime. For countries which have not revised their statutes to waive bank secrecy, special effort should be made to do so in conformity with Art. 4 of U.N. Model Treaty on Mutual Assistance which provides that, "assistance should not be refused solely on the ground of secrecy of banks and similar institutions."

(4) Financial and technical assistance through U.N. organizations are essen-

tial especially to developing countries, which are facing for example the problem of cultivation of narcotic drugs, so that they can substitute the cultivation with other lawful cash crops. Equally important is the assistance in modern monitoring and investigatory equipment to countries which are used as transit zones by drug traffickers.

(5) Emphasis should also be geared towards the training development programmes, seminars, and conferences offered by institutions like UNAFEI whose task is to study, develop and explore modern techniques on crime prevention. The Commonwealth Fraud Unit can also be singled as an example. It holds annual conferences of experts from member states to explore techniques of dealing with international commercial crimes with emphasis on "money laundering."

(6) Taking into account the nature of financial crime nowadays which normally includes fraudulent evasion of income tax, custom duties, violation of regulations concerning financial transactions, foreign exchange and export and import of commercial commodities, countries which reject mutual assistance in relation to financial crime should revise their domestic laws and provide wider assistance for the investigation of financial crime.

(7) International co-operation in the exchange of information through Interpol and other international/regional organizations must be intensified.

(8) Regional conferences between law enforcement agencies (police, prosecutors/attorneys, judicial authorities) should be encouraged in order to plan effective methods of controlling organized crimes and promote mutual understanding between them.

(9) International co-operation through exchange of experts in the form of "field attachment" should be encouraged between states in order to facilitate exchange of experience and assistance on legal procedures when mutual assistance is requested.

(10) There should be a special modified extradition act on serious specific offences like hijacking, drug trafficking, terrorism, etc. in order to facilitate the extraditions of fugitive offenders on such crimes and overcome the problems inherent in the present legislations.

We hope that these measures may to a certain extent assist the world community and each member state to cope with the growing challenges of transnational criminality.

Lastly but not least, the group is indebted to the Director of UNAFEI Mr. Takashi Watanabe for his lecture on international co-operation in criminal investigation. His lecture enriched our ideas and has contributed much to the success of this report. The group owes him a debt of gratitude.

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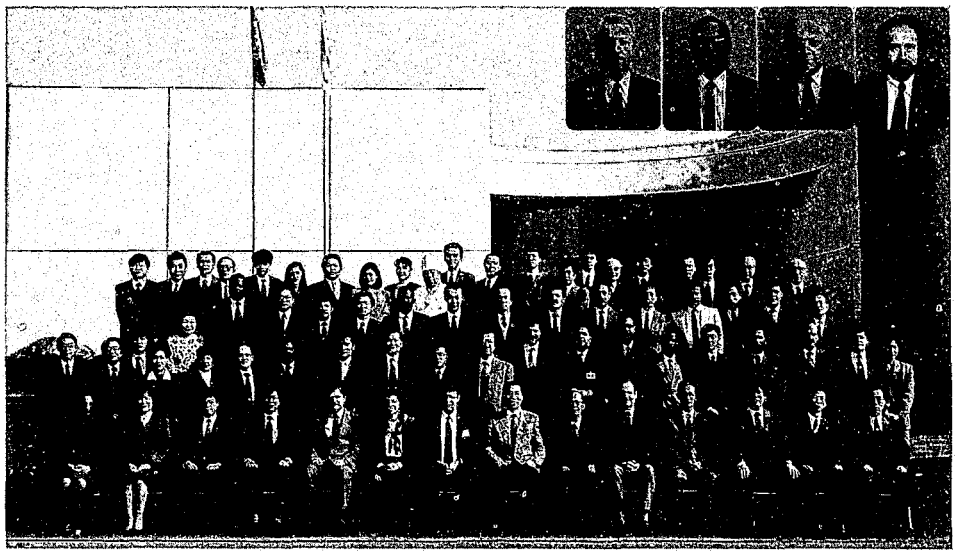


On Top: Hutt (Visiting Expert), Dharmadasa (Visiting Expert), Whittle (Visiting Expert), Findlay (Ad hoc Lecturer)

4th Row: Iizuka (Staff), Endo (Staff), Yoshida (Staff), Kaneko (Staff), Korogi (Staff), Shimizu (Staff), Takahashi (Staff), Shirakawa (Coordinator), Nagato (Staff), Asano (Chief Cook), Inoue (Staff), Takashima (Staff), Someda (Staff), Kai (Staff), Jimbo (Staff), Tokuda (ACPF), Ito (Japan), Fukuda (Japan), Asano (Staff), Takizawa (ACPF), Kuchii (ACPF)

3rd Row: Saitoh (Staff), Owiti (Kenya), Poon (Hong Kong), Rahardjo (Indonesia), Jang (Korea), Mavuso (Swaziland), Horikane (Japan), Kobayashi (Japan), Contrera (Paraguay), Sumanasekara (Sri Lanka), Miura (Japan), Noka (P.N.G.), Yamada (Japan), Guevara (Venezuela), Nagaoka (Japan)

2nd Row: Koyanagi (Faculty), Nishikawa (Faculty), Ichikawa (Staff), Amoroso (Philippines), Alva (Peru), Hashimoto (Faculty), Maina (Tanzania), Chaiyot (Thailand), Seng (Singapore), Achapon (Thailand), Nagashima (Faculty), Khalid (Saudi Arabia), Oucharif (Morocco), Ram (Fiji), Maboka (Botswana), Yang (China), Kamaruddin (Malaysia), Ahsan (Pakistan), Calahorrano (Ecuador), Hirooka (JICA Coordinator)

Seated: Tuttle (Linguistic Adviser), Takaike (Faculty), Ito (Faculty), Ariff (Course Counsellor), Green (Visiting Expert), Mrs. Heymann, Heymann (Visiting Expert), Sugihara (Director), Mabutas (Visiting Expert), Chronnell (Visiting Expert), Yu (Course Counsellor), Nakajima (Deputy Director), Ozaki (Faculty), Nagano (Chief of Secretariat)

The 91st International Training Course
(UNAFEI, April 13–July 3, 1992)

On Top: Svensson (Visiting Expert), Zvekic (Visiting Expert), Reiss (Ad hoc Lecturer)

4th Row: Kanai (Staff), Ishii (Staff), Kai (Staff), Shimizu (Staff), Sakumi (Staff), Nishino (Staff), Iwasaki (Staff), Konno (Staff), Takashima (Staff), Asano (Chief Cook), Ogawa (Staff), Kibata (Staff), Takahashi (Staff), Kaneko (Staff), Maeda (Staff), Nagato (Staff), Mizumoto (Coordinator), Hirooka (JICA Coordinator), Jimbo (Staff), Kuchii (ACPF)

3rd Row: Saitoh (Staff), Furuta (Japan), Tamura (Japan), Ichikawa (Staff), Nagai (Japan), Ishida (Japan), Shimokawa (Japan), Kurisaka (Japan), Oliveira (Brazil), Balette (Seychelles), Jianul (Malaysia), Kim (Korea), Tohichem (P.N.G), Bayang (Philippines)

2nd Row: Tokuda (ACPF), Hirakawa (Staff), Sugiyama (Japan), Tantasathien (Thailand), Izhar (India), Kassim (Nigeria), Muwoni (Zimbabwe), Sujatno (Indonesia), Chaudhry (Pakistan), Khan (Fiji), Solanga Arachchi (Sri Lanka), Hussen (Singapore), Mohlabane (Lesotho), Iha (Japan), Iitsuka (Japan), Yoshimura (Japan)

Seated: Tuttle (Linguistic Adviser), Hashimoto (Faculty), Inagawa (Faculty), Takaike (Faculty), Ito (Faculty), Mukherjee (Visiting Expert), Nix (Visiting Expert), Watanabe (Director), Han (Visiting Expert), Nakajima (Deputy Director), Ozaki (Faculty), Nishikawa (Faculty), Koyanagi (Faculty), Shibata (Chief of Secretariat)

The 92nd International Training Course
(UNAFEI, September 7–November 27, 1992)

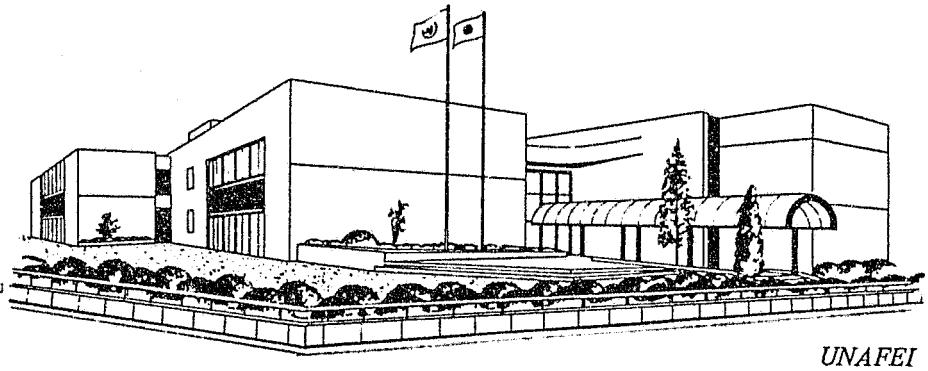
On Top: Yodmani (Visiting Expert), Dillange (Visiting Expert), Proctor (Visiting Expert), Sharma (Visiting Expert), Ratledge (Visiting Expert), Scherpenzeel (Visiting Expert)

4th Row: Kanai (Staff), Saitoh (Staff), Sakumi (Staff), Tokuda (ACPF), Asano (Chief Cook), Nagato (Staff), Ichikawa (Staff), Takahashi (Staff), Takashima (Staff), Kai (Staff), Konno (Staff), Maeda (Staff), Kawabe (Staff), Hirooka (JICA Coordinator), Okamoto (Coordinator), Iwasaki (Staff), Ogawa (Staff), Nishino (Staff), Kuchii (ACPF)

3rd Row: Jimbo (Staff), Hirakawa (Staff), Terado (Japan), Sawaki (Japan), Higuchi (Japan), Kani (Japan), Shakya (Nepal), Silparcha (Thailand), Ito (japan), Niibori (Japan), Shibayama (Japan), Urata (Japan), Cholpattana (Thailand), Ando (Japan)

2nd Row: Ishii (Staff), Delucchi (Argentina), Hara (Japan), Mwansasu (Tanzania), Kaimacuata (Fiji), Santoso (Indonesia), Yeap (Malaysia), Wickremaratne (Sri Lanka), Ren (China), Qureshi (Pakistan), Meena (India), Abeyratne (Sri Lanka), Suzuki (Japan), Diaz (Chile), Silva (Colombia), Ng (Singapore), Shin (Korea)

Seated: Tuttle (Linguistic Adviser), Hashimoto (Faculty), Inagawa (Faculty), Takaike (Faculty), Ito (Faculty), Schneider (Ad hoc Lecturer), Watanabe (Director), Huq (Visiting Expert), Mrs. Huq, Nakajima (Deputy Director), Ozaki (Faculty), Nishikawa (Faculty), Koyanagi (Faculty), Shibata (Chief of Secretariat)



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