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APPENDICES I to XIII
A manual that stipulates the legal and procedural framework is a ‘sine qua non’ for the efficient working of any organisation, especially for a specialised and sensitive organisation like the Vigilance & Anti-Corruption Bureau. While many other States already have their Vigilance and Anti-Corruption Manuals, the Vigilance & Anti-Corruption Bureau, Kerala could fulfil this long-felt need only now with the consolation “better late than never”.

This manual refers, wherever needed, to relevant Government Orders, Departmental Circulars and legal pronouncements pertaining to Vigilance & Anti-Corruption work. It will undoubtedly be of immense help to all officers in this Bureau in carrying out their functions and discharging their day to day duties. To the new entrants this manual could double-up as a reliable guide and an invaluable resource aid.

But for the initiative taken by Shri. V. Krishnamoorthy IAS, Additional Chief Secretary, Home and Vigilance in according sanction for our proposal to engage the services of Shri. S. Jamal IPS (Retd, Supdt. of Police) and the dedicated and meticulous work of Shri. S. Jamal backed up by his 27 long years of yeoman service in this department, this manual would not have seen the light of day. I am sure, Shri. Jamal will long be remembered for this lasting contribution.

I appreciate the valuable contribution of S/Shri. (1) K. Sukumaran Nair, IGP-I, (2) Netto Desmond, IGP-II, (3) P. Chandrasekharan, DIG-I, (4) Dr. N.C. Asthana, DIG-II and (5) K.V. Vijayakumar, SP (Int.) in helping me to shape this manual.
No work, however comprehensive, can be expected to be beyond improvisation and improvement, especially at the first attempt. Any suggestions for improving it are most welcome and will be appreciated.

(A.V. Subba Rao)
Director
Vigilance & Anti-Corruption Bureau
Kerala

Thiruvananthapuram
22 February 2001
Preface

Even though the Vigilance & Anti - Corruption Bureau in its present set-up came into being in 1964, a Manual embodying all the instructions germane to the various facets of Vigilance activities that would have served as a ready reference and a guidance-book by the officers working in the Bureau, remained a desideratum so far.

2. In order to fulfil the above need, Government in GO (Rt.) No. 77/2000/Vig. dt. 19.4.2000, authorised me to prepare a comprehensive Manual for the Bureau within a period of 9 months. Though the time-frame made the task highly challenging, the unremitting assistance and cooperation received from the Bureau, which I had served for a span of 27 years, helped me to complete the work in time.

3. As the Manual is mainly meant for the officers and staff working in the Bureau, emphasis has been laid on the Bureau’s operational procedures, methods of enquiry/ investigation, legal provisions and important judicial rulings relating to bribery, corruption etc. The authority like Government Orders, departmental instructions court rulings etc. on which the instructions given in the Manual are based has been cited in the margin along-side the instructions to facilitate quick reference to them, if required.

4. I acknowledge my deep gratitude to the Government, especially Shri. V. Krishnamurthy IAS, Additional Chief Secretary, Home & Vigilance, for having reposed their faith in me by entrusting this responsible task. I am indebted to Shri. A.V. Subba Rao IPS, Director, VACB for the sagacious
advice and encouragement given to me at every stage of preparation of the Manual and for having gone through the text with assiduity.

5. My thanks are due to Shri. A.I. Netto Desmond IPS, Inspector General of Police, under whose direct supervision, the work regarding the Manual was completed, for his useful suggestions and guidance. I also wish to express my thanks to Shri. K. Sukumaran Nair IPS, Inspector General of Police, Shri. P. Chandrasekharan IPS and Dr. N.C. Asthana IPS, Deputy Inspectors General of Police and Shri. K.V. Vijayakumar IPS, Superintendent of Police, for their valuable suggestions and advice for making suitable amendments and improvements in the text, wherever necessary.

6. My thanks are also due to Shri. G. Murukesan, Inspector of Police, Special Investigation Unit, Thiruvananthapuram for rendering valuable service by collecting the requisite records and information to be incorporated in the Manual and Shri. A. Joseph, Police Constable, for his sense of dedication and his indefatigableness in providing computer support and Smt. D. Radhamma, Confidential Assistant, for her secretarial assistance.

7. It is hoped that the Manual would serve as an effective *vade mecum* for the officers/staff of the Bureau to perform their duties in a knowledgeable, confident and competent manner.

Thiruvananthapuram

S. Jamal IPS (Retd.)

22 February 2001
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CHAPTER I

ORGANISATION AND STRUCTURE

Retrospect

The Vigilance & Anti-Corruption Bureau is a specialised agency of the Government of Kerala designed to combat and control corruption among its public servants. Invested with wide investigative/enquiry powers derived from statutory provisions and Government/Department orders, the Bureau undertakes the investigation of cases registered under the provisions of the Prevention of Corruption Act and any offence under any other Act committed in the same transaction and conducts enquiries into complaints of misconduct and misdemeanour on the part of the public servants.

2. The recommendations of the Santhanam Committee on Prevention of Corruption had resulted in the creation of the Central Bureau of Investigation and the strengthening of the Vigilance mechanism existing in the States. The Kerala Government, vide G.O.(MS)No. 525/Home dt.21.12.1964 (Appendix I ) ordered the formation of an independent Department to be known as the Vigilance Division under the administrative control of a Director designated as Director of Vigilance Investigation. This replaced the erstwhile X-Branch of the Police unit. The Director of Vigilance Investigation functioned as the Head of the Department and his post was made equal in status to that of the Inspector General of Police, then heading the State Police force (now DGP).

3. The Organisation continued to be known as Vigilance Division till 1975 when it was renamed as Vigilance Department vide Government letter No.5520/A1/75/Vig. dt. 27.8.1975. The nomenclature of the Vigilance Department was subsequently changed to Vigilance & Anti-Corruption Bureau by Government vide G.O.(P) No. 15/97/Vig. dt. 26.03.1997.

STRUCTURE

4. (1). The Bureau has its headquarters at Thiruvananthapuram and it functions under the overall
control and supervision of a Director who is of the rank of
DGP/ADGP. The Director, who functions as and wields the
administrative and financial powers of the Head of the
Department is assisted in administrative and investigative
matters by Inspectors General of Police/Deputy Inspectors
General of Police/ Superintendents of Police.

(2). The work of the Bureau is closely monitored and over­
seen by the Vigilance Department in the Secretariat under
the Principal Secretary to Government, Home & Vigilance.

(3). The organisation, its working and the procedure relating
to the investigation and enquiries conducted by the Bureau
are spelt out in detail in GO (P) No.65/92/Vig. dt. 12.5.1992
(Appendix II) and GO (P) No.18/97/Vig. dt. 5.4.1997
(Appendix III).

District Units

5. (1). A Unit of the Bureau functions in each one of the
following 14 Revenue districts of the State.

1. Thiruvananthapuram 8. Thrissur
2. Kollam 9. Palakkad
3. Pathanamthitta 10. Malappuram
5. Kottayam 12. Wayanad

(2) A Deputy Superintendent of Police heads the Unit,
and as the Unit is notified by Government as a ‘police
station’ under Sec.2(s) of the Criminal Procedure Code, he
functions as its Station-House Officer and as such exercises
the powers conferred by the various statutes in the
registration, investigation and prosecution of cases. He is
assisted in the investigation and enquiries by Inspectors of
Police/other subordinate police officers and in the
administration of the office by the ministerial staff posted in
his office.

Range Units

6. The above 14 District units have been grouped under
four Range Units, each headed by a Superintendent of Police
assisted by two Deputy Superintendents of Police and an Inspector of Police and other executive and ministerial staff. The 4 Range Units are given below:

<table>
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<td></td>
<td>Pathanamthitta</td>
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<tr>
<td>II Eastern Range</td>
<td>Alappuzha,</td>
<td>Kottayam</td>
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<td>Idukki</td>
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<tr>
<td>III Central Range</td>
<td>Ernakulam</td>
<td>Ernakulam</td>
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<td>IV Northern Range</td>
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Special Cells

7. The Special Cells are generally entrusted with the investigation of Vigilance Cases relating to the amassment of disproportionate assets or the Confidential Verification of information pertaining to it. The Superintendent of Police, who heads the Cell is assisted by two Deputy Superintendents of Police and other officers. Each of the three Special Cells, headquartered at Thiruvananthapuram, Ernakulam and Kozhikode, have state-wide jurisdiction.

Special Investigation Unit (SIU)

8. The headquarters of the Special Investigation Unit, headed by a Supdt of Police, is at Thiruvananthapuram. The Superintendent of Police is assisted by four Dy Supdts of Police, 9 Inspectors of Police and other field officers, ministerial staff etc. Important Vigilance Cases/Vigilance Enquiries with state-wide ramifications are entrusted to this Unit.
Intelligence Branch

9. This Branch, functioning in the Directorate, is headed by a Superintendent of Police. His main duties are the maintenance of dossiers on corrupt public servants and the collection of information about corrupt officials/practices.

Technical Staff

10. (1) An Executive Engineer (Civil), an Assistant Executive Engineer (Civil), an Executive Engineer (Mech.) and an Accounts Officer have been drafted to the Bureau to assist the Bureau in conducting enquiries/investigation/surprise checks and other duties as assigned by the Director. The two Civil Engineers and the Mechanical Engineer are usually taken on deputation from the State/Central Public Works Departments. The Accounts Officer is generally taken on deputation from the office of the Accountant General (A&E) Kerala.

Civil Engineers

(2) The two Civil Engineers help the officers of the Bureau to properly evaluate the civil works carried out or in progress. Their services are also utilised in evaluating the cost of construction of the buildings and other structures which are the subject matter of the disproportionate asset cases under investigation.

Mechanical Engineer

(3) The Executive Engineer (Mech.) is to assist the Bureau in the inspection of plants and machinery and to supervise the repairs and upkeep of the vehicles of the Bureau.

Accounts Officer

(4) The services of the Accounts officer are utilised for computing the assets, income, expenditure etc of the accused public servants involved in disproportionate asset cases investigated by the Bureau. He also assists the Bureau in evaluating the procedures adopted for the appointment of employees and the sanctioning of emoluments to them and the purchasing of stores.
Legal Adviser/Additional Legal Advisers

11. (1). One Legal Adviser and five Additional Legal Advisers render advice and assistance to the Bureau. Prosecution of cases in the 3 Special Judge's courts located at Thiruvananthapuram, Thrissur and Kozhikode and the Tribunal Enquiries in the Vigilance Tribunals at Thiruvananthapuram and Kozhikode are conducted by the Legal Adviser/ Additional Legal Advisers. They also furnish Legal opinion on cases/enquiries referred to them by the officers of the Bureau.

(2). The Additional Legal Advisers are appointed by the Government in the Home & Vigilance Department by recruitment from qualified advocates/APPs. The post of Legal Adviser is a promotion post (see chapter XIV).

Staff Pattern

12. (1). All the Police personnel working in the Bureau are posted from the Police Department on transfer. The selection of the personnel is made by the Director in consultation with the Director General of Police.

(2). The technical Staff are drafted on deputation from the State or Central Government Departments/Offices.

(3). The Legal Staff are appointed by Government.

(4). The ministerial staff are recruited through Public Service Commission

13. Rules of Conduct and Discipline and Disciplinary Authority

(a) Executive Staff

(1). The members of the Indian Police Service working in the Bureau are governed by All India Services (Discipline and Appeal) Rules, 1968 and the All India Services (Conduct) Rules, 1969. The officers belonging to the Kerala Police Service and the Kerala Police Subordinate Service are governed by the Kerala Police Departmental Inquiries Punishment and Appeal Rules, 1958 and the Kerala Government Servants' Conduct Rules, 1960 and the Standing Orders of the Bureau.
(2). The Disciplinary authority for executive staff of and
below the rank of Head Constable working in the Bureau is
the Superintendent of Police (Intelligence) and that of the
Sub Inspector and Inspector of Police is the Director. The
Disciplinary authority of the Police officers of and above the
rank of Deputy Superintendent of Police is the Government,
except as provided in the Kerala Police Departmental
Inquiries, Punishment and Appeal Rules 1958.

(b) Ministerial Staff

(1). The ministerial staff working in the Bureau are governed
by the Kerala Civil Services (Classification, Control and
Appeal) Rules, 1960, the Kerala Government Servant’s
Conduct Rules 1960, Manual for Disciplinary Proceedings,
the Manual for Office Procedure and the Standing Orders of
the Bureau.

(2). The Disciplinary authority for the clerks is the
Superintendent of Police (Intelligence) while that for the
Junior Superintendents and above is the Director.
CHAPTER II

FUNCTIONS, POWERS AND JURISDICTION

14. The main functions of the Bureau:

(a) To effectively combat corruption and misconduct on the part of the government servants and other public servants of the State. But, the Bureau does not, except on specific requests made by the following Departments/Organisations to the Government, enquire into the allegations of misconduct against the public servants working there.

(1) The Judicial Department

(2) The Legislature Secretariat

(3) The Kerala Public Service Commission.
   (For a discussion on Govt. servants and public servants See Chapter XII)

(b) The Bureau takes up investigation/enquiry on the following types of offences/allegations.

(ii) Any dishonest or intentionally improper conduct or abuse of powers.
(iii) Gross negligence or dereliction of duty.
(iv) Misuse of any public money or property.

(c) The Bureau takes up investigation of cases of misappropriation of public moneys exceeding an amount of Rs.50,000. All other cases of defalcation including the funds of Cooperative societies (irrespective of the amount involved) will be dealt with by the regular police, unless otherwise directed by the Government.
(d) The Bureau conducts surprise checks to establish the truth regarding information received from various sources about suspected case of corruption and intimate, the results of the surprise checks to the Government.

(e) The Bureau conducts Vigilance Enquiries (VE) in to the matters referred to the Director for enquiry by the Government. But the Bureau does not initiate Vigilance Enquiries *suo motu* on complaints received directly by the Bureau. They are forwarded to the Government for further orders.

(f) If at any stage during a Vigilance Enquiry conducted by the Bureau there are reasonable grounds to believe that the public servant has committed an offence under the PC Act, the Vigilance Enquiry is stopped at that stage and a crime case registered and investigated after obtaining sanction from the Director.

(g) All the reports on Vigilance Enquiries, Vigilance Cases, Surprise Checks etc after examination and approval by the Director are forwarded by him with suitable recommendations to the Government in the Vigilance Department for further action.

(h) The Bureau lays charge-sheets in Vigilance Cases before the courts of the Special Judges after obtaining necessary Prosecution Sanction.

(i) Officers of doubtful integrity are kept under surveillance by the Bureau. Dossiers are opened and maintained by the Bureau on corrupt officers on the orders of the Director.

(j) The Bureau collects information regarding corruption or malpractices or misconduct on the part of public servants and the Director communicates all such information confidentially to the Government in the Vigilance Department for appropriate action.
(k) The Bureau collects intelligence on corrupt officials and processes the information with utmost confidentiality. The Director may order a ‘Confidential Verification’ for ascertaining whether a particular information/ complaint calls for a Vigilance Enquiry.

(l) The Bureau strives for catching corrupt public servants red-handed by laying traps.

(m) The Bureau takes up Vigilance Cases against those public servants who have amassed wealth disproportionate to their known sources of income.

Powers

15. All Police personnel working in the Bureau continue to be ‘Police officers’ and as such they can exercise all the powers vested in them under various Acts/Rules.

16. The offices of the 14 District Units, the offices of the 4 Range Supdts of Police, the offices of the 3 Supdts of Special Cell, the office of the Supdt of Police, Special Investigation Unit, Thiruvananthapuram and the office of the Director VACB, have been notified by the Government as ‘Police Stations’ under Sec. 2(s) of the CrPC, thereby empowering them to register and investigate crime cases.

17. In exercise of the powers conferred under the first proviso of Section 17 of the PC Act, 1988 Govt., vide Notification No. 12094/C1/88/Vig. dt. 2.3.1993 (Appendix IV) have authorised all Inspectors of Police of the Bureau to exercise the powers of investigation and arrest mentioned in that proviso.

18. However, an offence under Sec.13(1)(e) of PC Act (disproportionate asset case) shall not be investigated without the order of a Police Officer not below the rank of a Supdt of Police as required in the second proviso of Sec. 17 of the PC Act.

Jurisdiction

19. The Director, the Inspectors General of Police, DIGs, the Supdt of Police (Int.), the Supdt of Police (SIU), the SPs of Special Cells at Thiruvananthapuram, Ernakulam and
Kozhikode and the officers attached to their offices have jurisdiction throughout the State in so far as the work of the Vigilance & Anti-Corruption Bureau is concerned. The Range Supdts of Police, Range DySPs and Range Inspectors of Police exercise jurisdiction over their respective Ranges. The Deputy Supdts of Police in charge of the District Units and the subordinates under them exercise jurisdiction over their respective districts.

**Special Judges’ Courts**

20. (1). In order to try the Vigilance Cases registered and investigated by the Bureau for offences under the Prevention of Corruption Act and other related offences, the State Government have appointed 3 Special Judges, designated as Enquiry Commissioner & Special Judges. The 3 Special Judge’s Courts are located at Thiruvananthapuram, Thrissur and Kozhikode. The Special Judge’s Court at Thrissur was established as early as 1957 (Government Proceedings No.X (A) 2-602/57/AC dt.8.8.1957) and the one at Thiruvananthapuram in 1986 (G.O (MS) No.152/86/Vig. dt.26.9.1986) and the other at Kozhikode in 1990 (G.O. (MS) No.139/90/Vig. dt. 20.9.1990).

(2) The territorial jurisdiction of the three courts as demarcated by the Government in Notification No. 255/C3/91-1/Vig. dt. 1.4.1991 (SRO Nos. 488/91 to 492/91) is as follows (Appendix V).

<table>
<thead>
<tr>
<th>Name of Court</th>
<th>Revenue Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Enquiry Commissioner &amp; Special Judge’s Court, Thiruvananthapuram</td>
<td>Thiruvananthapuram, Kollam, Pathanamthitta and Alappuzha</td>
</tr>
<tr>
<td>2. -do- Thrissur</td>
<td>Thrissur, Kottayam, Ernakulam and Idukki.</td>
</tr>
<tr>
<td>3. -do- Kozhikode</td>
<td>Malappuram, Palakkad, Kozhikode, Wayanad, Kannur, and Kasaragode</td>
</tr>
</tbody>
</table>

(3). All the Special Judges’ Courts are circuit courts, presided over by judges of the rank of Sessions Judge, appointed by the High Court of Kerala.
Vigilance Tribunals

21. (1). There are two Vigilance Tribunals in the State, one at Thiruvananthapuram and the other at Kozhikode. The Vigilance Tribunal at Thiruvananthapuram was constituted by Government vide GO (Rt.) No.71/76/Vig. dt. 27.3.1976 and the one at Kozhikode vide GO(MS)No.91/90/Vig. dt. 21.6.1990. The Tribunals have been established by Government in exercise of the powers conferred by Rule 3 of the Kerala Civil Services (Vigilance Tribunal) Rules, 1960. The Tribunal conducts detailed enquiries into the allegations against the State Government employees and after the enquiry, forwards its findings along with its recommendations to the Government. The Tribunals are appointed by the Government either from the Legal Adviser/Additional Legal Advisers or by appointment from competent practising advocates.

(2). In addition to the two Vigilance Tribunals, Government in the above Notification (SRO 489/91) have appointed the three Enquiry Commissioners & Special Judges to be the Vigilance Tribunals also for their respective jurisdictions.

Jurisdiction of the two Vigilance Tribunals

(3). The territorial jurisdiction of the two Vigilance Tribunals functioning at Thiruvananthapuram and Kozhikode, as specified by Government in Notification No. 8165/C2/90/Vig-1 dt. 11.4.1991. (SRO No. 542/91) is as follows: (Appendix VI)

<table>
<thead>
<tr>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vigilance Tribunal</td>
</tr>
<tr>
<td>Thiruvananthapuram</td>
</tr>
<tr>
<td>Thiruvananthapuram, Kollam, Pathanamthitta, Alappuzha, Kottayam, Idukki and Ernakulam.</td>
</tr>
<tr>
<td>Vigilance Tribunal</td>
</tr>
<tr>
<td>Kozhikode</td>
</tr>
<tr>
<td>Trissur Palakkad, Malappuram, Kozhikode, Wayanad, Kannur and Kasaragode</td>
</tr>
</tbody>
</table>
CHAPTER III

DUTIES AND RESPONSIBILITIES

22. Director

(i) The Director, as the Head of the Department, exercises all the administrative, financial and disciplinary powers assigned to him by the Government. The Bureau functions under his overall control, supervision and orders.

(ii) The Director initiates Vigilance Enquiries (VE) into the matters referred to him by Government. However, he may order a Confidential Verification (CV) on information/complaints received directly by the Bureau.

(iii) Petitions containing allegations of nepotism, deliberate delay in the disposal of official matters and violation of departmental orders are forwarded to the concerned Heads of Departments, by the Director for necessary action and report. (The words necessary action and report are not there in the G.O., but they appear to be implicit.)

(iv) Except in Trap cases, the registration of crime cases, when it is revealed during the course of an enquiry that the accused has committed an offence under the PC Act is done only after obtaining sanction from the Director.

(v) Investigation of crime cases received from local police/units are taken up only on the orders of the Director.

(vi) All Enquiry/Factual/Surprise Check reports are forwarded to Government with the recommendation of the Director after his examination and approval.

(vii) The selection of police personnel to be posted in the Bureau is made by the Director in consultation with the DGP.

(viii) Intra-departmental transfers of ministerial staff and members of the executive staff up to the rank of Inspectors of Police are ordered by the Director.
The opening, maintenance and closure of dossiers on corrupt officers and the surveillance of officers of doubtful integrity are done under the orders of the Director.

The Director conducts annual inspections of the registers and records maintained by the IG/DIG/and Superintendents of Police (Range, Cell and Special Investigation Unit).

The Director arranges training course to the Vigilance officers for Government Departments/Secretariat/Public Sector Undertakings with the Institute of Management in Government.

The Directorate has been notified as a ‘Police Station’ with jurisdiction over the entire State and the police officers of and above the rank of Inspector of Police working in the Directorate have been empowered to exercise the powers of a police officer in charge of the Police Station.


1. To prepare self-contained scrutiny notes on all ERs/FRs received from the Superintendents of Police under their control and put them up to the Director with recommendations about the course of further action to be taken.

2. To order Confidential Verification/Surprise Check etc on the source information received from the Units.

3. To monitor the progress of the Vigilance Enquiries/Vigilance Cases under way in the units under their control and to ensure their speedy disposal.

4. To initiate/review the Confidential Reports of officers under them.

5. To take action on the Directorate files dealing with enquiries, investigations and administrative matters pertaining to their Units and put them up to the Director for orders or perusal, wherever necessary.

6. To conduct personal enquiry/investigation and forward reports on enquiries/cases entrusted by the Director.
7. To scrutinise the Weekly Reports, Monthly Review Reports, Quarterly Assessments Reports, Monthly Proceedings etc so as to assess the work output of the Deputy Superintendents of Police/Superintendents of Police of their Units and the progress made by them in their enquiries/investigations.

8. To conduct inspection of the units under them and to forward the Inspection Reports to the Director.

9. To carry out the tasks, if any, entrusted to them by the Director through various Circulars/Office Orders.

10. To conduct inspection of the seats of the Directorate dealing with crimes and petitions.

24. Superintendent of Police (Int.)

1. To function as the Head of office for the Directorate in regard to administrative matters and to discharge his duties as Subordinate Controlling Officer in respect of financial matters, subject to the control and guidance of the Director.

2. To sign on behalf of the Director, all fair-copies or communications originated in crime and enquiry files addressed to the Government; the drafts of which have been duly approved by senior officers.

3. To supervise the functioning of the Intelligence Branch in the Directorate, the Civil and the Mechanical Engineers and the Accounts Officer drafted in the Bureau.

4. To collect intelligence on Vigilance-related matters.

5. To screen all Source Reports received from District/Range units etc and to initiate further action on them.

6. To scrutinise all petitions/complaints received directly by the Bureau and take further steps.

7. To take necessary action for opening dossiers on corrupt officials and oversee its maintenance/transfer/closure etc.
8. To maintain Personal Files of the Ministerial Staff of the Bureau and to obtain/prepare their Confidential Reports and Promotion Rolls.

9. To conduct inspection of seats in certain sections in the Directorate.

10. To attend to any other duties and responsibilities assigned to him by the Director.

25. Intelligence Branch

This Branch, headed by a Superintendent of Police functions in the Directorate under the charge of an Inspector General of Police. The Superintendent of Police is assisted by an Inspector of Police and other executive staff.

1. To maintain Nominal Index of corrupt officials and such other indices prescribed from time to time.

2. To attend to the opening, maintenance, transfer and closure of dossiers relating to corrupt officials on the orders of the Director.

3. To collect information on corrupt officials/practices through field enquiries, and by scrutinising paper-cutttings, journals and other publications and bring them to the notice of the Director.

4. To collate information received from Range and Unit staff and initiate further action, wherever found necessary.

5. The Inspector of Police is to remain present in the Legislative Assembly along with the Superintendent of Police (Intelligence) till the end of zero hours during the entire Assembly sessions irrespective of whether the discussions/debates relate to the VACB or not.

6. To attend to any other duty assigned by the Director and other superior officers.
26. Superintendent of Police Range/Special Investigation Unit

1. To see that the Deputy Superintendents of Police under his jurisdiction function effectively and that the cases/enquiries pending in the Units are speedily disposed of.

2. To forward, after scrutiny, all ER/FRs received from the Deputy Superintendents of Police, with his forwarding endorsement to the Director. Reports in which Prosecution/TE is recommended, the Forwarding Endorsement shall be submitted along with the legal opinion obtained from LA/ALA.

3. To monitor the progress of the cases pending trial in the courts and the enquiries pending in the Tribunals.
4. To order the conduct of Surprise Checks, in exigent cases without referring the matter to the Directorate.

5. To forward to the Director the Monthly Review Reports in respect of cases/enquiries of the Units.

6. To hold monthly Conferences of Deputy Superintendents of Police to review the progress of cases/enquiries and forward the Monthly Proceedings to the Directorate.

7. To maintain an unobtrusive watch over the officials for whom dossiers are opened and forward quarterly reports to the Directorate.

8. To conduct personal investigation of cases/enquiries as ordered by the Director and to forward the reports and to function as Station House Officer of his Unit.

27. Superintendent of Police, Special Cell

1. To conduct personal investigation/enquiries into cases of acquisition of disproportionate assets and other matters referred to him by the Director.

2. To maintain close supervision over the progress of the Vigilance Cases investigated and the Vigilance Enquiries conducted by the Range Deputy Superintendents of Police and Inspector under him and to ensure their speedy disposal.
3. To order the conduct of Surprise Checks, in exigent cases without referring the matter to the Directorate.

4. To forward to the Director the Enquiry/Factual Reports of his unit with his Forwarding Endorsements, Reports in which Prosecution/TE is recommended, the Forwarding Endorsement shall be submitted along with the legal opinion obtained from the LA/ALAs.

5. To register Vigilance Cases within 10 days of receipt of orders in this connection from the Directorate and to lay charge-sheet in the court within 15 days of receipt of Prosecution Sanction through the Directorate and to function as Station House Officer of his Unit.

6. To keep a close watch over the progress of the cases pending trial in the Special Judges Courts and the enquiries pending in the Vigilance Tribunal.

7. To gather information personally and through his subordinate officers regarding the amassment of disproportionate assets by public servants and process it so as to enable the Bureau to take further action like Confidential Verification/registration of case.

8. To process and take further action on such information communicated to him by the District Units as ordered in Director’s Circular No.4/2000.

28. **Deputy Superintendent of Police**

1. To exercise the statutory powers as Station House Officer of the Unit, which is a ‘Police Station’

2. To see that cases are registered within 10 days of receipt of orders from the Directorate and charge-sheets are filed within 15 days of receipt of prosecution sanction. He is also to forward the ER’s/FR’s under his hand and seal.

3. To see that all periodical reports, returns, statements, diaries, Confidential Reports etc are forwarded to the concerned authorities in the form prescribed and within the deadline fixed in the orders of the Director.
4. To exercise effective control over the work of his subordinates and to see that reports on enquiries/investigations entrusted to him and the Unit are forwarded in time and in accordance with the relevant instructions.

5. To see that maximum number of Traps and Surprise Checks are conducted by collecting the requisite information.

6. To see that summons/notices issued by the Special Judge's Court/Vigilance Tribunal are served promptly and to ensure that the testimony of the witnesses is in tune with their statements given before the Investigators/Enquiry Officers.

7. To monitor the progress of the cases pending trial in the Special Judge's Courts and the enquiries pending in the Vigilance Tribunals, with a view to ensure successful and effective prosecution.

8. To attend the Special Judge's Court when the trial of important cases of his Unit is in progress.

9. To maintain an unobtrusive watch over the officials for whom dossiers are opened and to forward quarterly reports to the Directorate. He is also to take initiative to get Dossiers opened in respect of deserving officials.

10. To see that the administration of the unit is carried out efficiently.

29. **Legal Adviser/Additional Legal Advisers.**

(a) To scrutinise the Factual Reports/Vigilance Enquiry Reports etc forwarded from the VACB Units and to give legal opinion regarding the findings and recommendations in these reports.

(b) To provide guidance and advice to the officers of the Bureau during the course of investigation/enquiry conducted by them

(c) To conduct prosecution of Vigilance Cases charge-sheeted in the Special Judge's Courts.
(d) To lead prosecution evidence in the Enquiries pending in the Vigilance Tribunals.

(e) To scrutinise judgements and give legal opinion regarding the scope for appeal in cases that ended in acquittal and the feasibility of filing revision for enhancement of sentences in the cases that ended in conviction. He must also bring to the notice of the Director any adverse comments made in the judgements by the courts about the investigation/investigation officers so as to enable the Director to take suitable follow-up action.

(f) To perform any other functions and duties allotted to him by the Director.

(See Chapter XIV titled Legal Assistance for the Bureau for detailed information regarding the duties and functions of the LA/ALAs)
CHAPTER IV

ADMINISTRATIVE POWERS

30. The Administrative Powers delegated to the Director and the Supdt of Police of the Vigilance & Anti-Corruption Bureau vide G.O.(MS)No.2/83/Vig.dt.25.3.1983 and G.O.(MS) No.1353/ Vig. dt.19.12.97 are enumerated below:

(Incidentally, no administrative powers have been delegated either to the Dy Inspr Genl of Police or the Inspr Genl of Police).

I. Director

1. To sanction tour outside the State in respect of all subordinate officers with due regard to economy.

- do -

2. To sanction condemnation of articles which the Director is competent to purchase according to rules.

- do -

3. To sanction investigation of all arrear claims which are not more than five years old, in respect of officers up to the rank of Insprs of Police and all the ministerial staff, subject to Art.56 of the Kerala Financial Code, Vol. I.

- do -

4. To sanction surrender of earned leave of subordinate officers up to the rank of Dy Supdt of Police.

5. To sanction medical reimbursement above Rs. 5,000/- after due verification by the DMOs/Director of Health Services.

(a) Original work for office accommodation

To accord administrative sanction for Budget works for office accommodation, the cost of which does not exceed Rs.1 lakh, subject to Budget provision and general approval of the Government with regard to the items of work to be taken up in a year.
(b) Other original works

To accord administrative sanction up to Rs.50,000/- subject to Budget provision.

II. Superintendent of Police

1. To sanction investigation of all arrear claims except time-barred claims (which are not above 3 years old) of officers up to the rank of Sub Inspr of Police and all the non-gazetted ministerial staff subject to the condition in Art.56 KFC-Vol. I.

2. To sanction leave/surrender leave/ initiation of papers connected with pension, gratuity etc. in respect of Executive and Ministerial staff under his control.

3. To accord administrative sanction for original works upto Rs.50,000/- (fifty thousand only) in the case of office accommodation, subject to Budget provisions.

4. To sanction increments/grade fixation/pay fixation in respect of the PCs/HCs/SIs/LDCs/UDCs/Head Clerks/Typists/CAs and Drivers.

5. To maintain the service books of PCs/HCs/SIs/LDCs/UDCs/Head Clerks/Drivers/Typists/CAs and Part-time Sweepers.

6. To scrutinise and to take follow up action on Daily Diaries of Vehicles of officers under his administrative control.

7. To award minor punishments to those below the rank of Insprs of Police and all Non-Gazetted or ministerial staff.

8. To draw pay and allowances of the constabulary under his jurisdiction. The attendance and acquittance roll of the constabulary will be forwarded by the Dy Supdts of Police concerned to the Superintendent of Police by the 15th of every month. If for any reason, the pay is to be drawn before the first of the month (after 25th) the attendance will be drawn up as on 10th of the month, and if it is to be drawn on any day prior to 25th the attendance will be drawn up as on 5th. The pay bill will be prepared in the office of the Superintendent of
Police, encashed and the amount forwarded to the concerned units through Money Memos on the date of encashment itself. After disbursement, the acquittance roll with proper 'paid certificate' will be returned to the Supdt of Police by the disbursing officer. The Supdt of Police will in turn forward the pay bill of the constabulary along with attendance lists, Paid Acquittance, Statement of bills cashed and the monthly return to the office of the Director, Vigilance & Anti-Corruption Bureau by the 5th of every succeeding month.

9. To sanction Provident Fund Temporary Advances upto 3 months pay or half the amount in the credit of the subscriber in the Fund whichever is less as stated in G.O. (P) No.323/2000/Fin. dt. 14.2.2000 to all subordinates under him. However, applications for sanction of NRA will be forwarded in prescribed proforma to the office of the Director.

10. To countersign the TA Bills of all officers below the rank of Dy SPs. TA claims will be admitted by the office of the Director subject to monthly and quarterly ceiling fixed from time to time.

11. To sanction re-imbursement of medical expenses up to Rs. 5,000/- of all officers whose TA Bills, the Supdt of Police is empowered to countersign, subject to the admissibility of claim.

12. To sign and pass orders and to draw contingent bills relating to officers under the control of the Supdt of Police, subject to Budgetary provisions and sanction of competent authority to incur the expenditure.
CHAPTER V

FINANCIAL POWERS

31. In G.O. (MS) No.2/83/Vig. dt. 25.3.1983; Govt. have enumerated the financial powers of the Director, IG, DIG and Supdt. of Police of the VACB. Subsequently, in G.O.(MS) No. 1353/97/Fin.dt. 19.12.97 the financial powers exercised by the Director and other senior officers have been enhanced in respect of certain existing items while powers have been delegated in respect of certain new items. The financial powers now being exercised by the Director, Inspr Genl of Police, DIG, and Supdt of Police in the light of the G.Os. referred to above as well as subsequent G.Os. are given below. (It has been made clear in the second G.O. that the delegation of powers is subject to Budgetary Provisions, relevant rules and the economy orders issued by the Government from time to time).

<table>
<thead>
<tr>
<th>Particulars of expenditure</th>
<th>Monetary ceiling fixed</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. DIRECTOR</td>
<td></td>
</tr>
<tr>
<td>1. To sanction non-recurring contingent expenditure.</td>
<td>Rs.30,000/- (in each case).</td>
</tr>
<tr>
<td>2. To incur expenditure to meet the charges for investigation.</td>
<td>Rs.3,000/- (in each case).</td>
</tr>
<tr>
<td>3. To sanction legal assistance to Police officials of and below the rank of Dy SP to defend themselves against prosecution for acts done during official duty.</td>
<td>Rs.2,000/- (in each case).</td>
</tr>
<tr>
<td>4. To sanction local purchase of stationery.</td>
<td>Rs.3,000/- (at a time) (annual limit Rs.30,000/-)</td>
</tr>
<tr>
<td>5. To sanction repairing, leaning, painting &amp; varnishing of furniture.</td>
<td>Rs.3,000/- (in each case) (annual limit Rs.30,000/-)</td>
</tr>
</tbody>
</table>
6. To incur petty expenses, the power to incur expenditure when no specific rules cover regulation of expenditure Rs.1,000/- (at a time)

7. To sanction repair of deptl. vehicles in unapproved workshops. Rs. 2,000/- (in each case)

8. To sanction printing of forms etc. (annual limit Rs.10,000/-) Rs.2,500/- (at a time)

9. To reward police personnel. Rs. 500/- (per person)

10. To purchase books and maps for library subject to rules. Rs.75,000/- (annual limit)

11. To sanction renting of private buildings. Rs.2,500/- (in each case)

12. To sanction disposal of unserviceable articles in auction. Rs.20,000/-

13. To incur expenditure for the purchase of Stores subject to Store Purchase Rules. Rs.4,00,000/- (annual limit)

14. To sanction repairs of Deptl. vehicles including purchase of spare parts and retreading of tyres of motor vehicles subject to the monetary limit following the prescribed procedure. Rs.10,000/- (at a time)

15. To verify and sanction medical reimbursement claim (vide G.O. (MS)No.232/99/H&FWD dated 18.6.99.) Rs.5,000/- (in each case)

16. To sanction Temporary Advance/Non-Refundable Advance of GPF (vide GO(P)No.323/2000/Fin. dated 14.02.2000) Up to 75% of credit balance and if the credit balance exceeds Rs. 1 lakh no monetary limit.

II. INSPECTOR GENERAL OF POLICE

1. To sanction non-recurring contingent expenditure Rs.15,000/- (in each case)
<table>
<thead>
<tr>
<th></th>
<th>Authorization Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>To incur expenditure to meet the charges for investigation</td>
</tr>
<tr>
<td>3.</td>
<td>To sanction local purchase of stationery</td>
</tr>
<tr>
<td>4.</td>
<td>To incurs expenditure for repairing, cleaning, painting, varnishing of furniture.</td>
</tr>
<tr>
<td>5.</td>
<td>To sanction rewards to police personnel</td>
</tr>
<tr>
<td>6.</td>
<td>To sanction purchase of periodicals and newspapers for official use</td>
</tr>
</tbody>
</table>

### III. DEPUTY INSPECTOR GENERAL OF POLICE

<table>
<thead>
<tr>
<th></th>
<th>Authorization Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>To sanction expenditure to meet charges for investigation of crime case.</td>
</tr>
<tr>
<td>2.</td>
<td>To sanction local purchase of stationery</td>
</tr>
<tr>
<td>3.</td>
<td>To sanction rewards to police personnel</td>
</tr>
<tr>
<td>4.</td>
<td>Non-recurring contingent expenditure</td>
</tr>
<tr>
<td>5.</td>
<td>To sanction condemnation of unserviceable articles (upto a book value of)</td>
</tr>
<tr>
<td>6.</td>
<td>To incur expenditure for printing and binding charges</td>
</tr>
<tr>
<td>7.</td>
<td>To sanction payment of advertisement charges subject to the approval of rates by the Director, Public Relations Department.</td>
</tr>
<tr>
<td></td>
<td>Description</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>8.</td>
<td>To sanction payment of rent of private buildings taken on rent for office building</td>
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<td>9.</td>
<td>To sanction purchase of furniture from Govt. agencies</td>
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<td>10.</td>
<td>To sanction incurring of petty expenses of a trivial nature</td>
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<td>11.</td>
<td>To sanction photographic charge</td>
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<td>IV.</td>
<td>SUPERINTENDENT OF POLICE</td>
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<tr>
<td>1.</td>
<td>To incur expenditure to meet the charges for investigation of crime case</td>
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<td>2.</td>
<td>To sanction local purchase of stationery</td>
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<td>3.</td>
<td>To incur expenditure for repairing, cleaning, painting, varnishing of furniture</td>
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<td>4.</td>
<td>To sanction rewards to police personnel</td>
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<td>5.</td>
<td>To sanction purchase of furniture from Govt. Agencies subject to Stores Purchase Rules</td>
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<td>6.</td>
<td>To sanction purchase of periodicals and newspapers for official use</td>
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<td>7.</td>
<td>To sanction disposal of unserviceable articles and stores in auction upto the book value</td>
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<td>8.</td>
<td>To incur expenditure for and binding in private presses in emergent cases</td>
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<td>Description</td>
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<td>9</td>
<td>To sanction write-off of stores on account of deficiency, depreciation or other causes</td>
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<td>10</td>
<td>To sanction non-recurring contingencies</td>
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<td>11</td>
<td>To incur expenditure under office expenses</td>
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<td>12</td>
<td>To sanction refreshment charges for guest lecturers and participants in the Seminars</td>
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<td>13</td>
<td>To sanction Temporary Advance from GPF account</td>
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<td>14</td>
<td>To sanction payment of advertisement charges subject to the approval of rates by the Director of Public Relations</td>
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<td>15</td>
<td>To sanction rent for private buildings taken on rent for office buildings</td>
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<tr>
<td>16</td>
<td>To sanction purchase of spare parts and repairs of motor vehicles</td>
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<td>17</td>
<td>To sanction local purchase of furniture including steel furniture</td>
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<td>18</td>
<td>To sanction photographic charges</td>
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**Note:** Expenditure from the amount of Rs.200/- sanctioned by way of Permanent Advances to the offices of the Director, VACB and the Supdt of Police, Special Investigation Unit, Thiruvananthapuram, and the District units at Thiruvananthapuram, Kollam, Alappuzha, Kottayam, Idukki, Thrissur, Palakkad, Malappuram and Kannur, is recouped on the orders of the concerned Supdts of Police.
CHAPTER VI

VIGILANCE ENQUIRY

32. Scope

(i). A Vigilance Enquiry conducted by the Bureau will lead to any of the following results:

(1) Registration of a Vigilance Case by the Bureau.
(2) An Enquiry by the Vigilance Tribunal.
(3) Departmental action against the Suspect officer.
(4) Registration of a case by the local police/CBCID.
(5) Recommendation to Government for rectifying any system failure/defects found in the working of the Department concerned.
(6) No further action as the allegations could be found unsubstantiated in evidence.

(ii). Government have empowered the Bureau to conduct only one type of formal enquiry i.e. Vigilance Enquiry. The Director, therefore, initiates only Vigilance Enquiries on all matters referred to him by Government for enquiry.

No Suo motu enquiry

33. The Bureau should not initiate Vigilance Enquiries, suo motu, even when a complaint is made in person or in a signed petition. The Bureau should invariably refer such complaints promptly to Govt. in the Vigilance Department, which will issue necessary instructions in the matter.

Types of misconduct enquired into

34. The Bureau will make enquiries into allegations of misconduct on the part of the public servants in the State, viz. dishonest or intentionally improper conduct or abuse of powers as a public servant, gross negligence or dereliction of duty, misuse of any public money or property, violation of Government Servants’ Conduct Rules etc.
35. (i) The Bureau, however, will not, except on the specific request from the competent authorities of the Judicial Dept., the Legislature Secretariat and the Kerala Public Service Commission, enquire into the conduct of their officers. Allegations of misconduct, which do not amount to criminal offences, will be brought to the notice of the concerned authorities of these Departments/Institutions at the discretion of the Government. These organisations will be free to request Government to cause enquiries made into these charges by the Bureau and the Government may cause such enquiries to be made and make available the results of the enquiries to the concerned Departments/Institutions.

Central Government employees

(ii). Instances of corruption and misconduct relating to the public servants under the Central Govt. received by the Bureau may be brought to the notice of the appropriate authorities.

Vigilance Enquiry in the Universities

(iii). Rule 69, Part III, Chapter 4 of the First Statutes of 1977 of the Kerala and Calicut Universities lays down that in the case of enquiries into the allegations against the Vice-Chancellor, Pro-Vice-Chancellor, Controller of Examinations, the Registrar and the Finance Officer, the Director, VACB, shall take up the enquiry only on the specific request of the Chancellor and that the Enquiry Report should be submitted to the Chancellor. However, as regards the teachers and members of the non-teaching staff of these Universities, the Director shall conduct the enquiry on receipt of requests from the Registrars of these Universities and that the Enquiry Reports shall be forwarded to the Registrars. Similar provisions are likely to exist in the case of other Universities in the State and this fact may be kept in mind before embarking on Vigilance enquiries in respect of the officers and staff of Universities.

Role of Administrative Departments

36. (i) When matters are referred to the Government in the Vigilance Dept. by other Departments of the Secretariat, the Secretaries of these Departments will record specific reasons in
the file, why the particular matter cannot be effectively and adequately enquired into by the Head of Department/Senior Officer of the Department and why it is necessary for the matter to be enquired into by the Bureau. Proposals for Vigilance enquiry without the specific remarks of the Secretaries concerned will not be entertained by the Vigilance Department.

(ii) Petitions containing allegations of Departmental irregularities which do not involve questioning of witnesses outside the Department will be sent by the Government to the Departmental Vigilance Officers. Those containing serious allegations and involving questioning of witnesses outside the Department will be sent by the Government to the Director, VACB for enquiry.

(iii) The concerned Departments should themselves deal with allegations of nepotism, causing avoidable delay in the disposal of Government business, and violation of Departmental Standing orders. The Department should ordinarily conduct enquiries into cases of corruption and malpractices in which only the Departmental Officers are involved. Only those cases which cannot be effectively and adequately enquired into by the Departments will be referred to the Government for decision as to whether Vigilance enquiry should be ordered or not.

Units to intimate details of enquiry to Directorate

37. Supdt of Police/Deputy Superintendent of Police will report the following information to the Directorate, VACB within 15 days of the receipt of the petition sent to them for enquiry.

1. Enquiry Ref. No.
2. Name(s) of Suspect Officer(s) with designation, present place of posting and date of retirement.
3. The name and designation of his immediate superior.
4. List of allegations.
5. Allegations which are earmarked for enquiry.
6. Information on deptl. enquiry initiated/in progress, if any,

Pseudonymous/anonymous petitions

38. (i) When a petition on the basis of which an enquiry is ordered by the Government is found to be pseudonymous, the
Director will report the fact to the Government and such petition will be treated as anonymous.

(ii) Anonymous petitions containing specific allegations when received by the Government, are sent to the Director for necessary action and report. Those which are of a vague and general nature are forwarded to him for necessary action only.

(iii) As soon as a reference is received by the Unit for Vigilance Enquiry, the Unit should take immediate steps to ascertain the pseudonymity/anonymity of the petition. In case the petition is found to be pseudonymous/anonymous, this fact may be reported to the Directorate within three weeks positively. It may also be reported whether the petition contains any specific allegations that can be subjected to a meaningful enquiry. If so, the Unit will inform the Directorate and go ahead with the Vigilance Enquiry. Only in instances where the allegations are of a vague and general nature, should the petition be returned to the Directorate along with the report sent by the Units.

Acknowledgement for petitions - wording

39. While sending acknowledgements to the petitions received direct in the District Units and other offices, the fact that the petition had been transmitted to the Bureau, need not be mentioned. What is required by the Units/Offices is only to intimate the petitioner that his petition has been received and that necessary action is being taken.

Listing out the allegations

40. The Dealing Sections in the Enquiry Branches of the Directorate will list out the allegations in the petitions received from Government for Vigilance Enquiry or received direct from members of the public or received and forwarded by Units and put them up to the DIG/IG concerned for further action.

Priority to cases of retiring officials

41. (i) Public servants against whom allegations are dealt with in Vigilance Enquiry will be referred to as ‘Suspect Officers’. The date of retirement of Suspect Officers should be intimated to the Directorate along with the other details within 30 days of receipt of all petitions. When the Suspect Officers are not immediately identified, the dates of retirement should be
ascertained and reported to the Directorate as soon as they are identified. The information should be furnished only after reference to the concerned documents. In cases where dates are available in the connected records in the Malayalam Era the Enquiry Officer should find out the corresponding English dates and embody this data also in his report. The date of retirement of the Suspect Officer should be entered in item No.9 of the Petition Register.

(ii). Top priority should be given to the references concerning officers who are to retire shortly and their Enquiry reports should be forwarded to the Directorate at least one month prior to the date of retirement of the Suspect Officers so that further action, if any, can be taken against them in time. If in any instance, the enquiry cannot be finalised in time a special report showing the date of retirement of the Suspect Officer, the allegations against him, the nature of evidence and the allegations that are likely to be substantiated should be sent to the Directorate at least a month before the date of retirement of the Suspect Officer, so that Directorate can address Govt. to consider the question of withholding the sanction of pension, if deemed fit.

Monitoring by the S Ps

(iii). The Supdts of Police, Range/Cell in the Monthly Review of their Units should specifically earmark enquiries to be attended to by Unit officers, giving specific reasons for fixing the priority. The Supdt of Police should monitor the progress made in such references during the subsequent months and any lethargy noticed should be brought to the notice of the Enquiry Officer. If the date of retirement of the Suspect Officer is within a period of 3 months the enquiry should be assigned top priority. If there is any specific direction from the Hon. High Court for completing an enquiry within a specified time, such enquiry should be taken up on a priority basis and the deadline strictly adhered to.

Assistance of technical experts

42. For proving or interpreting Departmental Rules, Regulations, Standing orders, Circulars etc, particularly in allegations relating to technical departments, a competent officer, holding a post superior to that of the Suspect Officer, who is not likely to have any undue personal interest in the
Suspect Officer, should be questioned for an authoritative interpretation and the application of the relevant orders. Care should, however, be taken to ensure that the superior officer chosen for such examination is not himself involved in or suspected to be involved in the irregularities under enquiry.

**Format of Vigilance Enquiry Report**

43. A revised format for submission of Vigilance Enquiry Reports has been prescribed in Director's Circular No.2/97. It has been made clear in the above Circular that details to be furnished under each heading would be as laid down in Director's Circular No.11/79.

**Form and Content of Enquiry Report**

44. Director's Circular Nos.44/65, 19/66, 55/66, 19/70, 21/71, 8/72, 11/79 etc contain exhaustive instructions regarding the details to be incorporated in the different paragraphs of the proforma fixed for preparing the Vigilance Enquiry Reports. The enquiry officers will go through the above mentioned Circulars as well as other relevant Circulars so as to improve the content and quality of the Vigilance Enquiry Reports prepared by them.

**Time-limit for Enquiry Reports**

45. A time limit of three months is fixed by the Government for completing a Vigilance Enquiry. If the Enquiry is not completed within this period the Director shall forward a Special Report to Government in the Vigilance Dept. showing the result of the enquiry made so far and indicating the probable time required for completing the enquiry.

**Forwarding of Enquiry Reports**

46. After completing the enquiry, in which the signed statements of witnesses shall be recorded, the Deputy Supdt of Police of the Units concerned shall forward a detailed report showing the allegations, the evidence collected and the result of the enquiry on each item to the Supdt of Police concerned who will scrutinise it and forward the same with his report to the Director, through the DIG/IGP concerned for transmission to Government.
Revision of Reports

47. When the Units forward a Vigilance Enquiry Report (either originally or after revision) to the Range Supdts of Police, the Dy SP of the Unit should intimate that fact, with date, direct to the Directorate immediately. If the Range Supdt of Police returns the Vigilance Enquiry report to the concerned Unit for revision etc or when he forwards it to the LA/ALA concerned for opinion, he should send an intimation to the Directorate.

Action by the Directorate

48. All enquiry reports received in the Directorate after examination and approval by the Director shall be forwarded by him to the Government in the Vigilance Dept. Where the recommendation in the report is for an enquiry by the Vigilance Tribunal, the opinion of the Legal Adviser/ALA will also be attached. A draft Memo of Charges with a Statement of Allegations will also be attached to the Enquiry Report and the connected records forwarded to the Government. On receipt of the Vigilance Enquiry reports, the Government will decide what further action should be taken in the matter. The matter shall be referred by the Government to the Vigilance Tribunal or for Departmental action according to merits.

Subsidiary recommendations

49. Whenever subsidiary recommendations are made for recovery of tax amounts, stamp duty etc or administrative steps to be taken by other Departments, a separate, brief, and self-contained report dealing with the particular subject matter shall be enclosed with the Enquiry Report for transmission to the concerned Department for appropriate action. That a self-contained report is enclosed shall be mentioned in the covering letter.

Draft complaint

50. The concerned Vigilance Units will prepare a ‘draft complaint’ and enclose it with the Enquiry Report forwarded to the Director, when it is felt that a registration of a case by local police is desirable. This draft complaint will also be forwarded to the Government from the Directorate when registration of case by the local police is recommended.
Violation to be specified

51. In the case of allegations substantiated in evidence, it is necessary to mention as to which law, rule or order etc is violated and how.

Reputation of the Suspect Officer

52. Report necessary on all Suspect Officers /Accused

(1). The general reputation of the suspect officer involved in an enquiry/investigation conducted by the Bureau has to be furnished in the Enquiry/Factual report irrespective of the fact that the allegation against him is substantiated in evidence or not.

Standard terminology for assessment of reputation

(2). Reputation will normally be assessed in one of the following four standard ways as is found applicable. Reference to previous enquiries conducted should be mentioned under category (4) below though there may or may not be such references in respect of category (3).

(i) “The local reputation of ............. is very good and the allegation(s) is/are suspected to have been made on account of personal malice against him”.

(ii) “The local reputation of ............. is satisfactory and so far there has been no ground for any suspicion regarding his integrity”.

(iii) “The local reputation of ................. is not satisfactory, even though there has been no fact so far to substantiate the adverse reputation”.

(iv) “The local reputation of ................. is bad and in previous enquiries allegation were found substantiated against him”.

Assessment to be objective

(3). The assessment of the reputation is to be made on the basis of general impression prevailing and not merely on the
facts individually verified and substantiated. However, the assessment should be sufficiently objective and based on reliable sources. The Head of the Unit should personally satisfy himself if the assessment is made by officers working under him.

Reporting of bad reputation

(4) When the local reputation of the Suspect Officer is assessed as being not satisfactory or bad and recorded accordingly in the concerned para of the Vigilance Enquiry Report, a separate Confidential Report detailing the reasons for such assessment should be forwarded by the Enquiry Officer.

Reports on Gazetted/Non-Gazetted officers

(5) When the Suspect Government Servant is a Gazetted officer the DySP will send a separate Confidential Report to the Directorate through the SP detailing the reasons that prompted him to come to the conclusion of the unsatisfactory/bad reputation of the Suspect Officer. In the case of non-gazetted officers similar report will be prepared and kept on record in the Unit concerned under the personal custody of the DySP. The reports received in the Directorate will be put up to the Director for orders about further action to be taken in the matter.

Responsibility of the Range Superintendent of Police

(6) The Range Superintendents of Police should see that such separate reports are obtained from the DySP and forwarded with their comments to the Superintendent of Police (Int.) in name cover. The Range Superintendents of Police in their letter to the Directorate forwarding the Factual/Enquiry reports should indicate having complied with the above instructions, wherever necessary.

Legal opinion

53. (i) While forwarding the Enquiry Reports, the formal opinion of the Addl. Legal Adviser regarding the scope for registering a case etc. need not be obtained and forwarded along with the Enquiry Report.

When Tribunal Enquiry is recommended
Enquiry Reports in which Tribunal Enquiry is recommended will be forwarded to the LA/ALA by the Dy. SP under intimation to the Supdt of Police. The LA/ALA will forward the Enquiry Report with the connected records with his legal opinion to the SP, who will prepare his Forwarding Endorsement considering the legal opinion also and forward the Enquiry report and the connected records to the Directorate. The Supdt of Police should forward a copy of their Forwarding Endorsement to the LA/ALA also, so as to enable them to know the views of the Supdt of Police regarding the findings in the Enquiry Report.

In other cases

The Supdt of Police may also seek legal opinion from LA/ALA on Enquiry Reports other than those in which Tribunal Enquiry has been recommended, if it is necessary to seek clarification on certain legal issues and the LA/ALA shall offer their opinion on reports thus referred to them by the S.P. But such legal opinions need not be forwarded to the Directorate.

Enquiry regarding Disproportionate Assets

The following 6 (six) Basic Statements should invariably be prepared and incorporated in the Vigilance Enquiry reports where allegation pertains to possession of disproportionate assets.

1. Assets at the beginning of the check period.
2. Assets at the end of the check period.
3. Assets acquired by the Suspect Officer and his family during the check period.
4. Income of the Suspect Officer and his family during the check period.
5. Expenditure of the S.O. during the check period.
6. Likely savings of the Suspect Officer during the check period.
Action for raising false allegations

55. When in a Vigilance Enquiry it is proved that the allegations raised against the public servant are false, the Enquiry officer shall send a separate report along with the Enquiry Report regarding the scope of taking action under section 182 IPC. On receipt of orders from the Directorate, further action as laid down in sec. 195 CRPC will be initiated against the petitioner. It may be noted that the court will take cognizance of an offence under sec. 182 IPC only on the complaint in writing of the public servant to whom the false information was furnished.
CHAPTER VII

VIGILANCE CASE

Registration of Vigilance Cases.

56. (i). If at any stage, during the Vigilance Enquiry conducted by the Bureau, there are reasonable grounds to believe that the public servant has committed an offence under the Prevention of Corruption Act, the Vigilance enquiry will be stopped at that stage and a crime case registered in respect of that allegation and investigated after obtaining sanction from the Director.

(ii). If the Dy SP of the Unit considers, based on the findings of a Vigilance Enquiry/Confidential Verification/ Surprise check that, prima facie, there is adequate material to register a case in the Vigilance Police Station, he will send a report to the Directorate through the concerned Supdt of Police with all relevant information indicating the suitability of registering a case and await instructions. No crime case will be registered in the Vigilance Police Station without instructions from the Directorate except in Trap cases, for the registration of which no such sanction is necessary.

Request for investigation by Bureau.

57. The Government in the Vigilance Department is the competent authority for ordering enquiry by VACB into the complaints/allegations referred to it. Under no circumstances will a request for enquiry be accepted directly by the Bureau from any agency other than the Vigilance Department in the Government.

Pre-registration enquiry into corruption cases-legal position

58. The present legal position envisages that before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour and a first information report is lodged against him there must be some suitable preliminary enquiry into the allegations by a responsible officer. It should, however, be clearly noted that such preliminary check-up should not be in the nature of any
regular investigation and should not result in undue delay in registering a case* (P. Sirajuddin Vs State of Madras (AIR 1971 SC 520)).

Guidelines for registering the FIRs

59. When there are complainants who are conversant with the facts of the case, a case can be registered by recording their statements. In other instances, the cases will have to be registered suo motu. The gist of the result of the enquiry clearly bringing out the ingredients of the offences will be embodied in the FIR. It should also indicate that a preliminary check-up was conducted on the basis of a petition/Govt. directive and that the preliminary check-up disclosed a prima facie case under any or some of the Sections of the PC Act.

(i) Care should be taken to see that the FIR is brief. The names of witnesses questioned and the details of records perused during the preliminary check-up/Confidential Verification need not be shown in the FIR. It will be advisable to consult the LA/ALAs before drafting the FIR, wherever the officers think it necessary.

(ii) A Vigilance case should be registered within 10 days of getting orders to that effect from the Directorate.

No case to be registered against officials of Judicial Dept.

60. No case shall be registered against the higher or subordinate officers of the judiciary even when specific complaints are received in the Units in view of orders of the

Case Law

* Preliminary Enquiry

"Merely making some preliminary enquiries upon receipt of information from an anonymous source or a source of doubtful reliability for checking up the correctness of the information does not amount to collection of evidence and so cannot be regarded as investigation. In the absence of any prohibition in the Code, express or implied, I am of opinion that it is open to a Police Officer to make preliminary enquiries before registering an offence and making of full scale investigation into it."

Bhagwat Kishore Joshe Vs State of UP. A.I.R. 1964 SC. 221.
Directors Circular No.22/83.

Directors Circular No.10/97.

Directors Circular No.9/96.

Govt. in letter No. 2924/A1/77/Vig. dt. 6.7.1977 and letter No.2548/C1/79/Vig.dt. 26.9.79. in which Govt. had made it clear that before any investigation is made or any trap is laid against officers of the Judicial Dept., the High Court should be consulted and for this purpose the Director, VACB should take up the matter with the Government, wherever necessary. Hence complaints, if any, received by the Units/Offices should be forwarded to the Directorate for further action.

Registration of case under court orders

61. Whenever a direction from a Special Judge u/s 156(3) CRPC either to ‘investigate’, ‘register and investigate’ etc is received by any officer of the Bureau, the copy of the court orders and the connected papers should be sent to the Directorate for orders. The officer concerned may keep the Special Judge’s Court informed of such a step taken by him.*

New Form for FIR

62. In order to ensure uniformity vis-à-vis the Police Department, FIRs will be registered in the Vigilance Police Stations in KPF 25 and Final reports will be sent in KPF 29-1,2 & 3. It may be ensured that counterfoils are retained in the Book.

Case Law

* Magistrate cannot order investigation of offences under the PC Act

“The only court which has jurisdiction to try the case involving offences under the Act is the Special Judge’s court. This is clear from Sec.4 of the Act which says that notwithstanding anything contained in the Code the offences specified in the Act shall be tried only by a Special Judge. The Act provides that only a person who is or has been a Sessions Judge shall be qualified for appointment as a Special Judge. The cumulative effect of such provisions is that only a special judge is competent to take cognizance of the offences specified in the Act. No magistrate can therefore take cognizance of such offences. If a magistrate cannot take cognizance of certain offences, he has no power to order investigation either under Sec. 156(3) of the Code in respect of such offences.”

Navab Rajendran Vs State of Kerala
1994(1)KLJ 346
Numbering of Crime Cases

63. The number assigned to a crime case in Vigilance Police Station will consist of three components.

(a) Letter V.C. (meaning Vigilance Case).
(b) Serial No. of the case and year.
(c) The three letter code assigned to each District Unit (e.g. VC 1/97/EKM).

Wireless/Teleprinter message to be sent to the Directorate

64. Immediately on registration of the case, a wireless message containing the following details will be sent to the Directorate. Units located at Thiruvananthapuram will send the message through special messenger. A copy of the message will be marked to the Range Supdt of Police.

(a) V.C. No.
(b) Sections of Law.
(c) Date of registration.
(d) Directorate reference; if applicable.
(e) Name and designation of accused (in trap cases only).

Special report

65. Within 2 days of the registration, a Special Report containing recommendations for administrative action against the accused (such as transfer, suspension etc) along with a copy of the FIR will be sent from the Units direct to the Directorate, marking a copy to the Range Supdt of Police. The accused need be questioned only in trap cases (and not in other cases) before the submission of the Special Report.

Cases of Misappropriation

66. Misappropriation of Govt. funds exceeding Rs. 50,000/- by Govt./Public servants only will be investigated by the Bureau. All other cases of defalcation of public moneys and properties including the funds of the Co-operative Societies, irrespective of the amount involved, will be dealt with by the regular police. However, Government have clarified in G.O.(P)No.80/94/vig. dated 6.10.1994 that even these cases, if so directed by the Government, would be investigated by the Bureau.
Offences under the PC Act

67. The Bureau shall take up investigation of all offences made punishable under the Prevention of Corruption Act, 1988, along with any other offence under any other Act committed in the same transaction or any conspiracy/attempt/abetment to commit the above offences.

Investigation teams

68. Investigation of cases of the Bureau shall be conducted by Investigation Teams headed by the DySP/Inspr of Police in the Vigilance Units assisted by other police personnel of the Unit.

Discussion with LA/ALA

69. (1). Immediately after the registration of the FIR, the Investigating Officer should prepare a plan of action and should hold a formal discussion with the LA/ALA concerned about the requirements of evidence in the case, the details of records to be seized, handwriting samples to be got tested in the Forensic Science Laboratory (FSL) etc. There should be more discussions with LA/ALA during the course of the investigation, if found necessary, about the collection of all material evidence in the case. The LA/ALA should also make it a point to hold discussions with the Investigating Officer before preparing their legal opinion. This, no doubt, will go a long way in helping the LA/ALA to clear any doubts or inconsistencies felt by them in the evidence collected and to prepare correctly the draft charges, Sanction Orders etc.

(2) The Investigating Officers should record a detailed note covering all the points discussed with the LA/ALA and the legal advice tendered by him in detail. One copy of the note should find a place in the CD file and the second copy should be forwarded to the concerned Supdt of Police within a week of the date of discussion.

Sustained investigation

70. Priority will be given to the disposal of old cases. The tendency of the officers newly posted to a Unit taking up the least complicated/recently registered cases for investigation must be discouraged. Ordinarily, no crime case should remain unattended for the entire duration of a calendar month. If the
Investigating Officer, for any reason, finds it difficult to travel outside his headquarters, subordinate officers may be suitably authorised to obtain papers, for summoning witnesses, making local enquiries etc the details of which should be duly entered in the case diary to be prepared by the Investigating Officer. In all Vigilance Cases, a monthly C.D., indicating the remaining investigation to be conducted, should be written. It goes without saying that no two monthly CDs should be identical in content and this aspect may be verified by the Supdts of Police while they review the pending cases every month.

**Docket Sheet**

71. (1). Docket sheets in the following format will be placed as facing sheet on every case diary which should not be folded or bundled.

- Case Diary Docket.
- Name of Police Station.
- First Information Report No.
- Date of report
- Section of law
- Names of accused
- Date of CD
  Details of work done

(2) Entries regarding the investigation conducted on each day will be entered in the Docket Sheet. The Investigating Officer will, on transfer, record as the last entry in the docket the number of pages in the CD file and the date of handing over and affix his signature. The successor officer will certify having taken over the file with/without complete details as the case may be and report to the Superior Officers inadequacies, if any, noticed in the records handed over to him.

**Factual Report**

**Preparation and forwarding of Factual Report**

72. (1). After completion of the investigation a report giving the facts, evidence and circumstances in each case (both for and against the prosecution) shall be forwarded by the Deputy
Superintendent of Police to the Superintendent of Police concerned, who will forward the same along with his Forwarding Endorsement to the Director, through the IGP/DIG of Police concerned for further transmission to Government (In cases personally investigated by the Supdt of Police or other senior officers, the Factual Report will be prepared by them). The final decision on a Factual Report either to prosecute an accused or subject him/them to an enquiry by Vigilance Tribunal or other wise will be taken at the Directorate after assessing the quality and quantum of evidence.

**Scrutiny and approval by the Directorate**

(2) The Factual Reports, after examination and approval by the Director, shall be forwarded by him to the Government in the Vigilance Department. Where the decision in the case is for prosecution the Director shall forward along with it, copies of FIR, statement of witnesses, mahazars and all other connected documents relied upon for the proposed prosecution as well as the opinion of the LA/ALAs to the Sanctioning Authority.

**Forwarding of advance copy**

(3) In order to avoid any delay, one copy of the Factual Report with copies of the statement of witnesses and accused should be forwarded to the Directorate directly by the Unit concerned and the remaining copies of the Factual Reports with the enclosures (including exhibits) shall be sent to the Range Supdt of Police for scrutiny.

**Enclosures of Factual Reports**

(4) The Factual Reports should be submitted in triplicate with the following enclosures:

2. Copies of the mahazar/inventory/search list (in triplicate).
4. Exhibits (Office no. of the file and pages, name of the register etc to be maintained).
Subsidiary recommendations in the Factual Report

5. Subsidiary recommendations for the recovery of short-paid sales tax, income tax, stamp duty etc or other administrative steps to be taken by other Departments if made in the Factual Reports apart from the main recommendation, the Unit head will forward a separate, concise self-contained report dealing with the particular subsidiary recommendation along with the Factual Report to the Directorate for transmission to the concerned department for appropriate action. The fact that a self-contained report is enclosed may be mentioned in the covering letter.

Audit Reports not enough for registering cases

73. Audit Reports, Statutory enquiry reports, preliminary enquiry reports etc should not be forwarded by the Departments to the VACB for taking necessary action, without making any attempt to scrutinise such reports for identifying the items in which action by the Bureau is required. It may be noted that the Audit Reports by themselves are not sufficient for the registering of a case by the Bureau. A responsible departmental officer must file a complaint regarding the commission of an offence for registering a case and proceeding according to law. The above procedure may be followed by the Depts before the Bureau authorities are required to register cases against public servants under the provisions of the PC Act/IPC on the basis of Audit Reports.

Review of technical examination reports by the CTE

74. In an enquiry or investigation by the Bureau, when a technical inspection is got conducted by a technical examiner not belonging to the office of the Finance Inspection (Works) Wing, the report of such officer, if considered necessary by the Director VACB, may be referred to the Chief Technical Examiner of the Finance Inspection (Works) Wing for scrutiny and remarks. On receipt of such report, the CTE will examine the matter, if necessary by conducting an inspection of the work and discussing with the Technical Officer who had conducted the original inspection, and forward his remarks to
the Bureau as early as possible indicating the acceptability or otherwise of the original technical inspection and his revised findings if any, based on his own inspection. The report of the Bureau will be finalised taking into account the remarks in the CTE's report.
CHAPTER VIII

CONFIDENTIAL VERIFICATION

Collection of intelligence and conduct of verification

75. The Bureau shall collect intelligence on corruption and corrupt officials and process the information with utmost confidentiality. The Director, VACB may order the conduct of Confidential Verification on information or complaint received by the Bureau to ascertain whether the allegations raised therein call for a formal enquiry (Vigilance Enquiry). While recording the statement of witnesses is a sine qua non in the case of Vigilance Enquiry, Confidential Verification will be done in complete secrecy without recording the statements of witnesses or conducting other open field enquiries that may compromise its confidentiality.

Objective

76. One of the objectives of Confidential Verification is to see that the reputation of the Suspect Officer/Department/Organisation concerned is not adversely affected even before a Vigilance Enquiry is embarked upon. The Enquiry Officers will adhere to the following points that will help to ensure the confidentiality of the enquiry to a great extent.

(a) As far as possible no written requests should be given to officers concerned.

(b) Documents need only be perused. If necessary their photocopies may be obtained.

(c) No original documents need be taken over or statement of witnesses recorded.

Format of Report

77. The report of the Confidential Verification should be prepared in the prescribed format shown below.
49
1. Introduction
2. Particulars of S.O.
3. Allegations.
4. Particulars of persons contacted.
5. Documents relied upon.
6. Discussion of evidence.
7. Conclusion.
8. Reputation of S.O.
10. Signature of the Enquiry Officer with name and designation.

78. The Confidential Verification report should be forwarded within 15 days of receipt of the reference.
CHAPTER IX

SURPRISE CHECK

Scope and objective

79. Where information is received by the Bureau about a suspected case of corruption in which there is no individual to come forward and furnish details sufficient to register a case, but there may be scope to establish the truth by an in situ (on the spot) physical verification, an officer of the Vigilance Department shall meet the appropriate higher authority of the Department concerned and furnish him with the relevant details and the type of surprise check recommended.

Vigilance angle necessary

80. The Bureau shall strictly abide by the orders of the Government as given in para 16 G.O.(P)No.65/92/vig. dt.12.5.92 as to the purport of the surprise check. Surprise Checks on matters that have no Vigilance angle and which hinge on purely administrative matters should be avoided. While seeking orders for the conduct of the surprise check, the Superintendent of Police shall ensure that the information is reliable. The Deputy Superintendent of Police/ Superintendents of Police shall evaluate properly the Source Information received before seeking orders for the Surprise Checks. Surprise checks that do not yield any worthwhile results may make the position of the Bureau rather awkward, not to speak of the wasted resources and time.

Requisition from the Bureau

81. Ordinarily, if the request is made to the Head of a Department, the officer of the Bureau will deliver to him a letter from the Director/Inspector General of Police /Deputy Inspector General of Police concerned containing the above mentioned facts. A similar letter from the Superintendent of Police will be delivered in the case of other departmental officers. In emergent cases where action is required before the letter can be obtained from the Director or the Superintendent of Police, the request will be made in person by an officer not
below the rank of Deputy Superintendent of Police who will also hand over a requisition letter to the concerned departmental authority. (Specimen requisition letter is given in Appendix VII)

The role and response of the Department concerned

82. In the absence of either the Head of Office or the superior officer, the Vigilance officer may avail the services of an officer of equal rank belonging to the Department concerned and available locally, but who does not have administrative control over the office where the check has to be conducted. Failure to cooperate with the officials of the Vigilance Department on such written requests will be punishable under sec.100(8) of the Criminal Procedure Code and Sec.187 of the Indian Penal Code.

83. The officer who is approached thus shall either immediately conduct the surprise check as requested by the officer of the Vigilance Department or give a reply in writing to the officer of the Vigilance Department who meets him stating the grounds as to why it is not feasible to conduct it in the manner requested. The officer of the Vigilance Department should also be present during the arrangements made for the surprise check and also during the actual check.

Joint Mahazar

84. The role of the departmental officer conducting the Surprise Check is limited to the preparation of the joint mahazar (inventory) which will be signed by himself and the officer of the Bureau and he is under no obligation to make any report to the Head of his Department. The Surprise Check Report will be prepared by the officer of the Bureau after conducting necessary verification.

Technical assistance

85. Officers of the Vigilance and Anti-Corruption Bureau will avail themselves of the services of technically qualified officials of any Govt. agency to assist them in the conduct of surprise check.

Recovery of loss not deterrent enough

86. Recommendations for recovering from the public
servant/contractors/convenors etc the loss sustained by Govt. for the use of sub-standard or insufficient quantity of materials or misuse of materials by them (e.g., in connection with construction and maintenance work) will not have much of a deterrent effect on corrupt public servants. On the other hand, they are likely to develop a feeling that they can get away by paying back, if detected, the large amounts they have purloined for themselves in the construction / maintenance works. In all deserving cases, especially in cases in which large amounts are involved, crime cases should be registered and investigated.

**Surprise Check during Vigilance Enquiry**

87. A surprise check can be very useful or effective in proving certain types of allegations being enquired into by the Bureau. A surprise check involves the preparation of a joint mahazar (inventory) describing the physical and visible aspects of a person or thing. Hence, when the physical state or presence of a thing is the fact in issue a surprise check provides definitive evidence. When such facts are to be established or disproved in a vigilance enquiry the due procedures of a surprise check may be adopted. But the Bureau officers shall resort to surprise check procedures very judiciously, having regard to the circumstances of the allegation being gone into. The findings of the surprise check shall be incorporated in the Vigilance Enquiry report itself and no separate surprise check report is necessary in this connection. But care should be taken not to misuse the authority of check for conducting house-searches during Confidential Verification/ Vigilance Enquiry conducted into allegations of amassment of disproportionate assets.

**Common allegations relating to execution of works-Illustrative Examples**

Source Informations containing allegations received by Bureau in regard to execution of works generally center on the following:

1. Use of sub-standard material.
2. Sub-standard construction.
3. Deviation from approved plan.
4. Unjustified extension of time.
5. Departmental material or labour when the contract does not specify the same.
6. The contractor removing or diverting materials supplied departmentally.
7. Inflated measurements (of earthworks/metal etc) for paying the contractor more.
8. Not following proceedings relating to administrative and technical sanctions and advance payments etc.
Assistant of the Engineers of the Bureau

88. The services of the Engineers attached to the Bureau shall be utilised for conducting surprise check of construction works costing 5 lakhs or above. If they are not available and the surprise check cannot wait, the assistance of the engineers from other organizations may be utilised.

89. The concerned Engineers of the Bureau participating in the surprise check shall be provided with the relevant documents, if requested by them, for enabling them to prepare their Special Reports.

Surprise Check Register in Units

90. A Surprise Check Register shall be maintained in all Units of the Bureau for recording, chronologically, the details of the surprise checks conducted by the Unit. The format of the Register is given in the Circular No1/96. Each surprise check conducted shall be assigned a serial number. This shall consist of letters SC followed by the Serial No. of the particular surprise check and the year and the three letter code assigned to each unit (e.g. SC 1/2000/EKM).

Continued

Metal used for road work

In order to assess correctly the quantity of metal used in road work, the entire quantity of metal in a well defined area of the road shall be scooped out and measured. The volume of metal so obtained would represent the corresponding un-compacted volume of metal used for that area of the road. Any shortage of metal observed by this method may be computed as the quantity of metal short supplied/used. (Director's Circular No. 5/96)

Earth filling in embankments

There is considerable difference between the rates of ordinary earth-filling and filling of earth under controlled conditions of compaction. Earth filled has to be consolidated with power rollers at definite layers. The experience is that top layer might have attained adequate compaction, while the earth below would either be loose or not properly consolidated as per specifications. Making excavation in the embankment will help to arrive at a correct conclusion. If the earth is observed to be loose or contains stones or other materials bigger in size than the minimum thickness of the layer of rolling specified, the filling shall be treated as having been done by ordinary filling. The rate admissible in such cases would be for the ordinary filling only.
Disruption of work to be avoided

91. In certain instances, the Departments concerned discontinue the work after the Surprise Check citing non-receipt of further instructions from the Vigilance authorities. This not only leads to disruption of works in which the public is interested but also results in the loss of public funds. The head of the Unit, at whose instance the Surprise Check is conducted, therefore, shall take a decision, taking into account the various facts and factors revealed in the check whether to ask the Department to put the work on hold or allow them to proceed with it. If there is no objection for the continuation and completion of the work, a report to this effect may be forwarded by the Head of the Unit to the Superintendent of Police who, in turn, will inform the Department concerned accordingly. The Surprise Check report forwarded by the Unit should also contain the above facts.
CHAPTER X

TRAP

92. A successful trap is a vital piece of telltale evidence to prove the alleged demand of illegal gratification by the accused public servant from the complainant and its subsequent acceptance by him in furtherance of the demand. A trap, in other words, is nothing but the means of detecting a crime by catching the criminal "flagrante delicto". But an unsuccessful trap will not only cause obvious embarrassment to the Bureau but will also dent the reputation of the public servant, not to speak of the possible victimisation of the complainant by the public servant and his department. Hence, when laying a trap, proper fore-thought and planning are sine qua non. Every trap has its own characteristics and as such it is difficult to lay down any hard and fast procedures to cover every possible situation. The officers laying the trap will, therefore, have to improvise the mode and technique of the trap according to the exigencies of the situation without, of course, compromising the legal requirements or the evidentiary importance. The officers of the Bureau will bear in mind the following instructions while laying traps and investigating them.

Section under which case to be registered/investigated

93. When it is decided to register a case on a complaint of demand of illegal gratification by the public servant, the FIR should be registered under Section 7 of the Prevention of Corruption Act, 1988. The complainant, no doubt, should be the person from whom the bribe was demanded. When the

Case Law

No stigma for traps

"Ex Cathedra condemnation of all traps and associate witnesses is neither pragmatic nor just, nor is it fair to denounce all public servants indiscriminate. It is not possible to accede to the theory that the trapping of the corrupt officials in the usual course is a polluted procedure. The general denunciation of investigating officers as a suspect species also ill-merits acceptance".

Som Prakash Vs State of Delhi
1974 ISCWR 396 (SC)
trap proves successful, Sections 13(2) read with section 13(1) (d) of the Act should also be added to Section 7. A report regarding the alteration of Section shall be forwarded to the Special Judge’s Court.

**Secrecy to be maintained**

94. The officer laying the trap should ensure that complete secrecy is maintained about the proposed trap. Every member of the trap party need know only as much as is necessary to enable him to perform the task assigned to him.

**Exact words of demand to be given in the F.I. Statement**

95. The exact words used by the accused while demanding the bribe should be incorporated verbatim in the F.I. Statement. While recording the statement of the witness, referred to in the F.I. Statement, of having been present and overheard the demand, the words used by the accused while demanding the bribe should also be reproduced verbatim as is mentioned by the complainant in his F.I. Statement.*

**Properties of Phenolphthalein powder**

96. Phenolphthalein powder, which is a coal tar product is available in the form of a light powder and it remains colourless in acid and neutral media, but turns pink in alkali media (like lime-water or sodium carbonate solution). Anthracene powder can also be used for smearing on the currency notes but its presence is not visible to the naked eye except when viewed under ultra-violet rays when the blue florescence it emits can be detected. Because of the practical difficulty of carrying an ultraviolet lamp to the place of payment of the bribe, the Bureau generally makes use of only phenolphthalein powder for laying traps.

**Case Law**

*Independent corroboration of demand not necessary*

There is no question of the Court insisting upon any independent corroboration of the complainant in regard to the demanding of bribe before the trap was laid. When a given complainant first visits a public servant for doing or not doing some task for him, he does not go to him as a trap witness. He goes there in a natural way for a given task. To require him to take a witness with him at that stage would amount to attributing to the complainant a thought and foreknowledge of the fact that the accused would demand bribe.

*Rajinder Kumar Sood Vs State of Punjab*

1983 Cr. L.J. 1338
Proof for conscious acceptance

97. Both sides of currency notes to be used for payment as illegal gratification have to be coated evenly with a thin layer of phenolphthalein powder either digitally or with the help of a soft brush. When the currency notes smeared with phenolphthalein powder are touched or pocketed by the bribe-taker his hand or clothes respectively will collect a few specks of the powder. When the hand or clothes of the bribe-taker is dipped in lime water or sodium carbonate (washing soda) solution, it will turn pink in colour, a sure indication that he had consciously accepted* the currency notes.

Case Law

Judicial approval for use of phenolphthalein powder

The Supreme Court in Raghbir Singh Vs State of Punjab (AIR 1976 SC 91) had ruled that “where a trap is laid for a public servant, it is desirable that marked currency notes which are used for the purpose of trap are treated with phenolphthalein powder so that the handling of such marked currency notes by the public servant can be detected by chemical process and the court does not have to depend on oral evidence, which is sometimes of a doubtful character, for the purpose of deciding the fate of the public servant”.

*Conscious acceptance

When once it is proved that a gratification has been accepted, the presumption under Section 4 of the PC Act shall at once arise. It is a presumption of law and it is obligatory on the court to raise it in every case brought under Section 4. The words “unless the contrary is proved” mean that the presumption raised by Section 4 has to be rebutted by proof need not be such as is expected for sustaining a criminal conviction. It need only establish a high degree of probability. If moneys where recovered from the pockets of the two accused persons which were not their legal remuneration then there can be no further question of showing that these moneys had been consciously received by them.

State of Assam Vs Krishna Rao
AIR 1973 SC 28

(2) Where there is conclusive proof with regard to the recovery of the currency notes from the hand or pocket of the accused, difficulty of adducing evidence of corroboration with regard to the negotiation of the accused with the complainant must be taken as paled down into insignificance. That is more so when no material prejudice is caused to the accused. A defence plea of planting any incriminating object in answer to a charge to be successful must be or, at any rate, should reasonably appear to have been made without the knowledge or acquiescence of the accused.

P. Krishna Pillai Vs State of Kerala
1989 (1) Crimes 700
Preparation of lime water/Sodium Carbonate solution

98(1). Considering the relative advantages of sodium carbonate (washing soda) solution in distilled water, the officers of the Bureau shall also use the above solution for conducting the phenolphthalein test in the place of lime-water solution according to convenience/availability.

(2). The standard quantity of sodium carbonate (washing soda) for preparing the solution will be one tea-spoonful for a glass of water (250 ml.). In case lime-water solution is used it should be prepared by mixing lime with water till the solution becomes milky white in colour. The lime water/Sodium Carbonate solution should be prepared at the scene in the presence of the witnesses and the sample of this solution must be taken before subjecting the fingers of the accused or the currency notes to the phenolphthalein test. Fresh sodium carbonate solution/lime water should be used for every occasion when the test is to be conducted to prove the presence of the phenolphthalein powder on the person or the wearing apparel of the accused or any other matter with which the accused had come into contact. The samples of the coloured solution after each test should be collected and kept in separate bottles duly labelled and sealed with date and time and with the signatures of the witnesses and the officer who conducted the trap on the labels of the bottles.

Public servants to witness/assist traps

99. Government in GO (P) No. 65/92/Vig. dt. 12.5.1992 (para 19) have instructed that all Government servants/public servants should render all help and cooperation whenever they are approached by the officers of the Bureau for assisting or witnessing a trap or the conduct of enquiry/investigation in Vigilance cases. Government have also made it clear that any reluctance, refusal or non-cooperation noticed on the part of officers will be viewed seriously by Government and appropriate penal action taken against them.

Securing of witnesses

100. The officers of the Bureau should try to secure really independent and reliable departmental witnesses, (preferably public servants of sufficient seniority, with some years for superannuation) to witness the trap, so that their evidence
would inspire confidence in the mind of the court to come to a definitive conclusion regarding the guilt of the accused. The Head of the Unit should meet the Controlling officer of these witnesses in advance and ensure their presence from the time of recording of the F.I. Statement.

**Phenolphthalein powder to be applied in the presence of witnesses.**

101. The smearing of the phenolphthalein powder on the bribe currency notes should be done by an officer of the Bureau in the presence of the two witnesses, whose services have been obtained for witnessing the trap. The F.I. statement of the complainant recorded in the Unit should be read over to the above witnesses. The phenolphthalein test should also be demonstrated to the complainant and the witnesses and its significance explained to them.

**Pre-trap mahazar to be signed by witnesses**

102. A pre-trap mahazar should be prepared in the office, in the presence of the two witnesses, incorporating the details like denominations and the serial numbers of the currency notes, treating of the bribe money with phenolphthalein powder, demonstration of the phenolphthalein test and the identity of the officer who had applied the powder on the notes. If any independent witness accompanies the complainant this fact should also be incorporated in the mahazar. The mahazar should be read over to the witnesses and the complainant and it should be got signed by them. That the mahazar was read over to them should also be mentioned in the mahazar. The officer who applied the powder and the officer who recorded the F.I Statement and registered the FIR should also sign the mahazar.

**The officer who applied phenolphthalein powder to stay back**

103. The officer of the Bureau who applied the phenolphthalein powder on the currency notes and demonstrated its reaction in the sodium carbonate/lime water solution in the Bureau office should be asked to stay back and should not follow the trap party so as to avoid any possible confusion.
Complainant to be properly briefed

104(1). The complainant should be given strict instructions to hand over to the accused the bribe money as it is and not in an envelope or container so that conscious acceptance can be proved by the positive phenolphthalein test.

(2) The complainant himself should produce the bribe money to be paid to the accused public servant and it should not be supplied by the Bureau officers.*

(3) The complainant should be told to behave in a normal and relaxed manner and to keep his emotions under control when he meets the accused so as not to raise any suspicion in the mind of the accused.

(4) Unless specifically directed by the accused, the complainant should not place the bribe money in the drawer of a table or inside a diary or register so as not to give room for the counter-charge that the complainant had tried to foist a false case.

(5) He should not shake hands with the accused or touch any part of his body.

(6) He should not be allowed to carry additional money in his pocket as it is likely to get mixed up with the bribe money treated with phenolphthalein powder. Investigating officers will bear in mind that the presumption under Sec. 20 of the PC Act can arise against an accused only when he is found to have been in conscious possession of the illegal gratification. They should, therefore, take all possible precautions to see that in trap cases the illegal gratification is not offered in a manner which can cast a reasonable doubt about its conscious receipt and possession by the recipient public servant.

Case Law

* Supply of bribe money by Police condemned

"The detection of crime may become different if intending offender especially in cases of corruption are not furnished opportunities for display of their inclinations and activities. Where matters go further and the police authorities themselves supply the money to be given as bribe severe condemnation of the method is merited".

Shiv Bahadur Singh Vs State of Madhya Pradesh
AIR 1954 SC 322
The complainant should enter the place where the accused public servant is available only after visually ensuring that the member of the trap party to whom he has to relay the agreed signal has taken up position in the vicinity of the place. The members of the trap party and the witnesses should not stay together in groups, but get merged in the local back-ground so that no suspicion is aroused. Vehicles used for transporting the trap party should be left far behind.

**Signal by the complainant**

105(1). The complainant should relay the mutually agreed signal after payment of the bribe money to the accused. The signal should be specific and simple and not artificial so that no time is lost between the receipt of the signal and the recovery of the tainted money from the accused public servant.

(2). When the complainant gives the pre-arranged signal the trap party should rush to the scene without any loss of time. The officer who is in charge of the trap party should reveal his identity and also introduce the witnesses to the accused public servant.

**Attempt to tamper with evidence by accused**

106. Care should be taken to see that the public servant does not wash or clean his hands on seeing the trap party or try to destroy the bribe money or that he takes to his heels or resort to any desperate act. None of the members of the trap party should touch the hands of the public servant or shake hands with him.

**Trap party /witnesses to subject themselves for search**

107. The officers of the trap party and witnesses should subject themselves for prior body search between them to avoid any possible allegation of planting of incriminating material. This fact should also be incorporated in the Recovery mahazar.

**Trap party /witnesses to subject themselves for test**

108. Thereafter, the leader of the trap party and witnesses should dip their fingers in the sodium carbonate/lime water solution. A sample of the solution should be taken in a bottle and sealed and labelled to be forwarded to the court.
Conduct of Phenolphthalein test

109. The accused public servant should be requested to subject himself to the phenolphthalein test. If he agrees, the test should be conducted before he has occasion to touch the bribe money again for producing it or for any other purpose. If the accused refuses to do so, this fact should be recorded in the Recovery mahazar and further investigation proceeded with.

Questioning of the accused

110. If the test proves positive, the accused may be arrested and questioned as to what he did with the bribe money obtained by him from the complainant. The conduct of the accused when he is questioned by the officer of the Bureau, his demeanour as well as his reaction like trembling, pleading for mercy, remaining speechless etc are admissible in evidence under Section 8 of the Evidence Act. Further, the statement of the accused leading to the discovery of the bribe money is admissible not only under section 8 but also under section 27 of the Evidence Act. It would be better if the bribe money is taken out of the person of the accused by one of the witnesses, so as to pre-empt any possible defence plea of planting by the officers of the trap party.

Identification of bribe money

111. The bribe money recovered should be got counted and its serial numbers compared with that mentioned in the pre-trap mahazar prepared at the Vigilance Police station by one of the witnesses. The currency notes should be dipped in the sodium carbonate solution/lime water and the fact that the solution and the dipped portion of currency notes has turned into pink colour should also be recorded in the Recovery mahazar.

Phenolphthalein test on wearing apparel etc

112. If the accused has kept the bribe money in the pocket of his shirt/pant, as the case may be, the pockets of these apparel should also be subjected to the test. If he had not kept the amount on his person but had secreted it in a purse, diary envelope, etc. these articles should also be subjected to the test. In all these cases fresh solution should be used and the apparel as well as the article in which the money was kept should be seized after detailing the facts in the Recovery mahazar.
Statement of the accused *

113. The public servant should necessarily be given an opportunity to give his version as soon as the recovery of the bribe money is made. Failure to do so will enable the accused public servant to come up with a fabricated version, subsequently to suit his defence and to befuddle the prosecution case.

Recovery mahazar to contain all the details

114(1). All the above facts should be described at length and in proper sequence in the Recovery mahazar prepared at the scene to be signed by the witnesses. An endorsement to the effect that mahazar was read over to the witnesses and admitted by them to be correct should also be made in the mahazar.

(2) While describing the phenolphthalein test in the Recovery mahazar the colour formed in the lime-water/Sodium Carbonate solution should be mentioned as “pink” and not by any other name. The term “pink” should also be used as such in all records prepared in Malayalam also, without attempting to record any Malayalam equivalent. The term pink should also be used in the 162 statements and case diaries.

(3) The mahazar should be prepared meticulously so as not to leave out any vital information.

Signature of accused to be obtained in Disclosure Statement

115. In Jaikaran Singh Vs State of Punjab (AIR 1995 SC 2345) the Supreme Court has emphasised the need for obtaining signature or thumb impression of the accused in the Disclosure Statement recorded under section 27 of the Evidence Act. This is

Case Law

* The Statement of the accused

“Where the accused gives a spontaneous explanation right at the moment when the crime is committed the explanation become res gestal within the meaning of Section 6 of the Evidence Act. Even if such a statement is of doubtful admissibility in a case of corruption because the investigation could be said to have started before the statement was made it should be admissible, especially when it is exculpatory statement as the conduct of the accused under Section 8 of the Evidence Act.

C.N. Peters Vs State
AIR 1959 All. 483
a major change from the procedure and practice followed in the past. The judgement is applicable in the trap cases of the Bureau. The investigating officers should obtain the signature of the accused in the Recovery mahazar containing Disclosure Statement of the accused.

Seizure of documents

116. All incriminating documentary evidence having a bearing on the case and all other relevant papers and files connected with the case which are dealt with by the accused and others in the office should be seized immediately.

Residence of the accused to be searched

117(1). Immediately after the trap, the residence of the accused should be searched or arranged to be searched, if found necessary and all incriminating papers including the personal diary if any, of the accused, which have a bearing on the case or which reveal reasonable suspicion regarding his conduct and integrity should be seized under a mahazar. The same witnesses who took part in the trap may also be taken for witnessing the search, if possible.

(2) Any document, material etc found in the residence of the accused during the search and which are conducive to the initiation of criminal proceedings against him for acquisition of disproportionate assets should be seized/documentated by describing them in detail in the mahazar.

Recording of statements of witnesses/complainants

118. All concerned witnesses, particularly the witnesses accompanying the trap party and those found at the time of the trap should be questioned and their statements recorded. The further statement of the complainant should be recorded and the events that unfolded after he left the Vigilance Police Station with the bribe money to be paid to the accused should be brought out in detail in his further statement. The statements of witnesses whose evidence is highly material to the prosecution case may be got recorded promptly u/s 164 CRPC if found necessary.

Time limit for completion of investigation

119. Government in GO (P) No. 18/97/Vig. dt. 5.4.1997 have stipulated that investigation of trap cases should be
completed within three months. It, therefore, follows that the trap cases should be given priority over all other cases. Questioning of all witnesses should be as quick as possible and it should be ensured that the time limit of three months is adhered to except for very valid reasons.

**Samples to be sent to the court**

120. The sealed bottles containing the samples should be sent to the Special Judge's court as expeditiously as possible with a request that the samples should be sent to the Chemical Examiner for report as to the presence of phenolphthalein powder in the solution.

**Speedy intimation to the Directorate**

121. Immediately after registering a trap case and the arrest of the accused in a successful trap case, the Head of the Unit should send a telex or wireless message to the Directorate containing bare particulars of the case. The message should reach the Directorate within 24 hours positively. In case of any delay in communication, the facts may be informed over phone to the concerned IG/DIG in the Directorate.

**Arrest Report/Custody Report**

122(1). In trap cases immediately after the arrest of the accused a written communication will be sent to the immediate superior of the accused. This may be done under the signature of the Bureau officer who has made the arrest. This will be called the "Arrest Report". On the third day after the arrest the Head of the concerned Unit (SP or Dy. SP) must send a report to the superior officer (of the accused) who is competent to place the accused under suspension, intimating him whether the accused has been released on bail or has been in custody for more than 48 hours. This will be called "Custody Report". A copy each of the Arrest Report and Custody Report should be enclosed with the Special Report sent to the Directorate.

(2) The Special report on the trap case with all the required particulars should be sent by the Deputy Superintendent of Police concerned to reach the Directorate within 5 days of the registration of the case.
Posting a witness near the scene

123(1). As far as possible while laying the trap, an independent witness should be posted in a strategic place so that he could overhear the conversation between the complainant and the accused and watch the exchange of bribe money.*

(2). The conversation between the accused and the complainant at the time of acceptance of bribe money by the latter should be elicited from the complainant and the witness, if any, in their statements under Section 162 CRPC.

Site Plan

124. A site plan of the scene of occurrence should be prepared, showing accurately the relative positions of the accused, the complainant, the witnesses, the officer who laid the trap, the members of the trap party, the doors and windows of the room, its descriptive particulars etc. The site plan should be got attested by the trap witnesses and members of the trap party and should form part of record of investigation.

Hostile reaction at the scene of trap

125. The members of the trap party should keep their cool even under extreme provocation on the part of the accused or his colleagues/well-wishers. No coercive methods should be used under any circumstances while eliciting information from the accused or witnesses available at the scene or in the recovery of the bribe money. If any hostile reaction or trouble is anticipated at the scene of the trap, arrangements may be made in advance under strict secrecy to get necessary police assistance at short notice.

Case Law

* Independent witness sent with the complaint

"It is not a rule that along with the complainant another independent witness should accompany. Some times too many persons or even one stranger along with a trap witness may create suspicion in the mind of the accused to behave differently".

Raja singh Vs State
1995 Cr. L.J. 955 (mad)
Further action on unsuccessful traps

126. In the event of failure of the trap, the investigating officer shall proceed with the investigation of the case to find out whether evidence is available to corroborate the demand for illegal gratification made by the accused, which itself is an offence punishable under Section 7 of the PC Act, 1988. On the basis of the evidence gathered in this connection, he would forward the Factual Report recommending Prosecution/Tribunal Enquiry or Departmental action as warranted by the facts and circumstances of the case. If no evidence is forthcoming to support the demand, the Factual Report recommending no further action against the accused may be forwarded to the Director and on receipt of the orders of the Director, the final report in the case treating it as Mistake of Fact may be submitted to the Special Judge's Court without delay.

Disposal of currency notes involved in trap cases

127. Currency notes being the material object in trap cases are received back in the Units from the court after the disposal of the case for return to the parties concerned. The Deputy Superintendent of Police of the Unit should ensure that in all such cases, the same currency notes themselves (which figured as M. O. in the case) should be returned to the parties concerned either personally or through messenger and receipts obtained from them mentioning the Serial No. and descriptive particulars of the notes. When the party concerned is far away and its delivery cannot reasonably be made through messenger, a receipt as mentioned above should be obtained in advance and the currency notes should be sent to him by registered post, acknowledgement due.
CHAPTER XI

POSSESSION OF DISPROPORTIONATE ASSETS

Ill-gotten wealth

128. Every public servant, or for that matter every individual acquires assets by means of savings from his earnings after meeting the usual expenses. If however, a public servant has been making illegal gains by corrupt practices, the volume of his savings are bound to increase which, in turn, would bolster the quantum of his assets. Naturally, the assets so acquired by him are likely to be disproportionate to his known sources of income. The Criminal Misconduct by the public servant as defined in Sec. 13(1) (e) of the Prevention of Corruption Act, 1988 hinges on the above premise.

129. It has generally been found that dishonest public servants acquire assets utilising their ill-gotten earnings and hold such assets either in their names or in the names of their relatives or friends. It is common knowledge that the cumulative effect of the bribes taken over a period of time by the public servant will be discernible only through the assets in his possession or reflected in his lavish life style or the huge amounts spent by him for the education of his children, their marriage etc. To establish an offence under sec. 13(1) (e) of the PC Act, all that is necessary is to prove that the public servant is in possession of assets in his name (or benami) which is disproportionate to his known sources of income and which he is unable to satisfactorily account for.*

Case Law

* Satisfactorily account

"The emphasis must be on the word ‘satisfactorily’ and the legislature has thus deliberately cast a burden on the accused not only to offer a plausible explanation as to how he came by his large wealth, but also to satisfy the court that his explanation was worthy of acceptance.

CSD Swamy Vs State
(AIR 1960 SC 7)
Known Sources of Income.**

130. The term public servant should be taken to include his family and any others who are dependent on him. Property includes both movable and immovable, and assets should mean the total value of the movable and immovable properties possessed by the public servant in his name (or benami) at the time of checking. The explanation given under sec.13(1) (e) of Prevention of Corruption Act stipulates that “known sources of income” means income received from any lawful source and the receipt of which has been intimated to the concerned authorities as required under the provisions of any Law (e.g. Income Tax Act) Rules (Conduct Rules) or Orders (issued by Government/Department/Organisation). In other words, the public servant cannot plead for the benefit of any income including agricultural income derived illegally or undeclared or the gifts he had received without taking prior permission as envisaged in the Conduct Rules. The above statutory explanation is aimed at effectively thwarting the wild and patently false claims usually raised by accused public servants regarding their sources of income.

Case Law

**Known Sources of income

1. “Known sources of income means sources of income known to the prosecution after a thorough investigation and the onus of satisfactorily accounting for it is not as heavy an onus as is on the prosecution to prove its case beyond all possibility of doubt. The Govt. servant is to satisfactorily account for disproportionate assets and not to prove his claim with mathematical exactitude beyond all possibility of doubt”.

H.K. Mohanty Vs State of Orissa
(1973 (1) SLR 1121)

2. “If the prosecution has failed to disclose all the sources of income of an accused person, it is always open to him to prove those other sources of income which have not been taken into account or brought into evidence by the prosecution.”

CSD Swamy Vs State
(AIR 1960 SC 7)
Pre-registration Verification.

131. Investigation of cases of disproportionate assets usually takes several months to complete and naturally the accused public servant undergoes considerable hardship and mental anguish during this period. In the circumstances, a case of disproportionate assets should be registered only after conducting a careful confidential verification and after ensuring that there is a reasonable scope for a successful prosecution. The Supreme Court has clearly spelt out the necessity of such a cautious approach thus: “Before the public servants is charged with acts of dishonesty which amount to serious misdemeanour or misconduct and a first information is laid against him, there should be some suitable preliminary enquiry into the allegations by a responsible officer” (P. Sirajudin Vs State of Madras- AIR 1971 SC 520).

Confidential Verification of disproportionate assets

132. Source Reports or petitions disclosing allegation of possession of disproportionate assets received in the Directorate will be sent to the Units for Confidential Verification instead of an open enquiry. The Unit should collect all the requisite information called for in the proforma prescribed in Director’s Circular No. 15/96. The Enquiry Officer is expected to collect and compile the details in utmost secrecy and to use his discretion in arriving at the figures of income, expenditure, assets etc of the Suspect Officer. Under no circumstances, should the Suspect Officer get wind of the verification being done by the Bureau. Secrecy is the soul of the entire process of fighting corruption and as such utmost secrecy need to be maintained till the premises of the accused are searched.

Forwarding of report

133. On completion of the verification, the Confidential Verification report containing all details called for in the proforma referred to in the proceeding paragraph will be sent to the IGP/DIG concerned in name cover. The purpose of the Confidential Verification is to convince the Directorate that there is sufficient ground for registration of a crime case against the S.O.
Choice of Check Period

134. In a case of disproportionate assets, a check period is selected by the investigating officer. If the assets acquired during the check period are grossly disproportionate to the likely savings (Income – Expenses) of the same period the prospect of launching a successful prosecution against the public servant are bright. The word disproportionate literally means relatively too large or too small. It, therefore, follows that a slight excess will not be sufficient to warrant a conviction in a court of law or in a Departmental enquiry.

135. There can be no general rule or criterion valid for all cases in regard to the choice of the Check Period. But fairness demands, that the period fixed should not be too small as such a move would not usually find favour with the court. The decision of the Supreme Court in State of Maharashtra Vs Pollonji Darabshaw Daruwalla (1988 Crl.L.J. 183(SC) excerpted below has left the choice of the check period to the discretion of the prosecution.

“In order to establish that a public servant is in possession of pecuniary resources and property disproportionate to his known sources of income, its is not imperative that the period of reckoning be spread out for the entire stretch of anterior service of the public servant. The choice of the period must necessarily be determined by the allegations of fact on which the prosecution is founded and rests. However, the period must be such as to yield a true and comprehensive picture of the known sources of income and the pecuniary resources and property in possession of the public servant either by himself or through any other person on his behalf which are alleged to be disproportionate. In the facts and circumstances of the case a ten year period cannot be said to be incapable of yielding such a true and comprehensive picture. The assets spilling over from the anterior period, if their existence is probabilised, would, of course, have to be given credit on the income side and would go to reduce the extent and quantum of the disproportion. It is for the prosecution to choose what according to it is the period, which having regard to the acquisitive activities of the Public Servant in amassing wealth characterise and isolate that period for a special scrutiny”.

136. The Supreme Court ruling quoted above lays down in un-
ambiguous terms that the full service period of the accused need not be taken as the Check Period and it could be a shorter period fixed by the investigation officer keeping in view of the acquisitive activities of the public servant. It is to be mentioned, in this connection, that the last date of Check Period would normally be date on which search was conducted. The date of commencement of check period would be chosen in such a manner that it would include the phase during which the public servant started acquiring large assets as this would help the prosecution to explain properly the rationale behind the choice of the Check Period. The CV/VE should be conducted and completed within the stipulated time so as not to afford any opportunity to the Suspect Officer to create evidence helpful to him.

S.P. to authorise investigation.

137(1). At the time of registration of the case the Supdt of Police concerned should issue a specific order to the Dy SP or the Insp of Police for investigating the case, as this is a legal requirement under the second proviso to Sec.17 of the Prevention of Corruption Act, 1988.

Sections relevant

(2). If the check period commences from a date prior to 9.9.1998 i.e. the date of coming into effect of the new PC Act and ends subsequent to 9.9.1988, the FIR and the Charge sheet should contain both Section 5(1) e of PC Act, 1947 and its analogous Section 13 (1) (e) of PC Act 1988, and also their penal Sections as it would make the legal position safe for the prosecution.

Search

138. Immediately after the registration of the case, the residence, office room etc of the public servant and such other places as may be found necessary, should invariably be searched after obtaining warrants from the Special Judge’s Court under Sec. 93(1) (c) of the Criminal Procedure Code, 1973. Some cardinal points to be borne in mind while conducting the searches are given below:

(i) Cash should be seized only if the amount is very large. Otherwise, it should only be mentioned in the Inventory/Search list.
(ii) In the case of the jewellery only the weight and make of the ornaments need be mentioned in the inventory with the remarks that its value would be assessed after ascertaining the date of acquisition. Jewellery should be seized only when the quantity is abnormally large.

(iii) All the relevant documents pertaining to the financial transactions of the public servant and the members of his family should be seized. Documents showing investments in the names of others should also be seized as they are indicative of the benami ownership/investment by the public servant.

(iv) It is important to find out the bank lockers maintained by the public servant and his family members. This can be done by a tactful questioning of the public servant and the members of his family, or by locating the bank locker receipts or by identifying the locker keys which have a typical appearance. If any locker is located or such key found, the key should be seized mentioning the fact in the inventory and the locker concerned sealed immediately. The Bank Manager should be requested in writing not to permit the operation of the locker till it is searched. The search of the locker should be conducted by making the public servant himself open the locker (Sec. 91 CRPC) or by obtaining a search warrant if the public servant refuses to open the locker (Sec. 93 CRPC) (See Para 177, Chapter XIII).

(v) Imported articles (electric, electronic etc) without Customs-clearance papers should be seized.

(vi) The odometer readings of all motor vehicles owned by the public servant and his family members, and the details of the vehicles should be recorded in the inventory/search list.

(vii) All articles of value found in the places of search should be described in the inventory/search list. It is to be noted that the valuation of the articles wherever indicated in the inventory/search list should be as at the time of its acquisition and not on the date of search.
Director to be intimated over phone about search conducted

139(1). At least just before the searches are commenced following the registration of Disproportionate Asset cases, the concerned Unit heads should pass on the information to the Director, VACB about the matter. It possible, before fixing the date of search the Director should be consulted.

(2) The Dy SP/SP should also suggest in their reports whether the case, when registered, would be investigated by themselves or an Inspector of Police under them. This will facilitate the issue of the order empowering such investigation as laid down in the proviso to Sec. 17 of the Prevention of Corruption Act, 1988 either by the Directorate or the concerned Supdts of Police and thereby avoid delay in obtaining the sanction from Supdts of Police at a later stage.

(3) Although Inspectors of Police are authorised to conduct the search, these searches shall be organised by the Supdt. of Police concerned and should be conducted by the Investigating Officer in the presence of the DySP. Prior clearance should be obtained by the Units from the concerned IGP/DIG, keeping in view the need for confidentiality.

First phase of investigation

140. As soon as the searches are over, the Investigating Officer should take the following steps as expeditiously as possible.

(1) Take urgent action, in appropriate cases, to file an application in the Court of the District Judge for attachment of property under the Criminal Law Amendment Ordinance, 1944.(See para 145 infra)

(2) Request the Directorate to address Government for obtaining from the public servant the particulars in Statements-I to VI.

(3) Address the concerned authorities for various documents and particulars such as pay and allowances, personal files, Annual Property Statements, details of postings, bank documents, certified copies of sale/purchase deeds, details from Income Tax/Agricultural Income Tax Depts/LIC, educational expenses of children etc.
(4) Request the Executive Engineer, PWD, for inspecting the buildings and to furnish the cost of construction, taking into consideration the actual rates prevailing during the period of its construction and not for their 'valuation' as this usage is misleading.

**Benami Assets**

**Director's Circular No.14/97.**

141(1). Where any person purchases property in the name of another, for his own benefit, with no intent to make that other person the beneficiary thereof, it is called a 'benami transaction'. The Supreme Court has ruled in a few cases that the burden of proving a purchase to be benami is on the person so alleging. There is no accepted formulae or criterion to prove that a transaction is benami. However, if the Investigating Officer can let in evidence in support of the following points the court may be inclined to accept the prosecution charge in this regard.

(i) The source from which the money for the purchase of the property emanated.

(ii) The nature, possession and manner of use of the property after the purchase.

(iii) Motive, if any, for giving the transaction a benami colour.

(iv) Socio-economic status of the parties and the relationship if any, between the claimant and the alleged title holder.

(v) The custody of the title deeds, tax payment receipts, receipts of payment made to Housing Societies.

(vi) Correspondence, if any, between the public servant and benami owner. In case of investments, the evidence of officials of the bank/organisation with reference to the role of the public servant in obtaining the loan.

(vii) Evidence of the tenants of the property and the neighbors as to the de facto possession of the property by the public servant.

(2). If it is decided to treat the public servant as the actual owner of a benami property, it then becomes necessary to add the income derived from that property to the earnings of the public servant.
142. Where it is considered necessary to obtain the required details under the provisions of Rule 38 of the Kerala Government Servants' Conduct Rules, 1960 from any Government Servant, a confidential report will be sent to the Director by name stating briefly the relevant facts and reasons so that Government may be addressed by the Director for obtaining from the concerned Government Servant a full and complete statement of movable and immovable properties held or acquired by him or any member of his family and the means by which they were acquired. The report to the Director should contain the name and address of the family member and his/her age, his/her exact relation to the accused Government servant and the circumstances pointing to the fact that he/she is dependent on the Government servant and the reasons for the suspicion that he/she may be in possession of property benami on behalf of the Government servant.

143. The Govt. of Kerala have prescribed six standard sets of forms as shown hereunder for obtaining details under Rule 38 of the Conduct Rules.

I. Statement of immovable property belonging to or under the control of a Government servant in his/her name or in the name of others.

II. Statement of immovable property possessed by a Government servant in his/her name or in the name of any other and disposed of within a specified period.

III. Statement of movable property belonging to a Government servant either in his/her own name or in the name of others.

IV. Statement of movable property possessed by a Government servant either in his name or in the name of others and disposed of within a specified period.

V. Statement of movable property (investment and cash) belonging to a Government Servant either in his/her own name or in the name of others.

VI. Statement of movable property (investment) belonging to Government servant either in his/her own name or in the names of others and disposed of within a specified period.
(The above Statements, if so required, should include details of the means by which or the source from which such property was acquired)*)

Special Property Statements as on 1.1.1976.

144. Government had obtained the Special Property Statements of the Government employees as on 1.1.1976. These Special Property Statements would be of immense help to the Investigating Officer as they provided an admitted version of the details of the movable and immovable assets held by the Government servant and the members of his family as on 1.1.1976. Such Special Property Statements of the husband and wife, in case they were both in service on 1.1.1976, may be obtained from their officers.

Attachment of Property under the Criminal Law Amendment Ordinance, 1944.

145(1). During the course of the investigation of a case of disproportionate assets, if it is considered necessary to get the properties (including benami) of the accused public servant acquired by the commission of any offence under the PC Act attached so as to pre-empt the sale/transfer of such properties by him, a detailed report for taking such a step should be forwarded to the Government by the Director. The offences for which properties can be attached as per the above Ordinance comprise all the offences punishable under the PC Act, 1988 and Sections 409, 411, 414 and 420 IPC, where the property concerned belongs to the State. The Government can authorise under Sec.3 of the above Act, any person to file an application in the court of the District Judge within the local limits of whose jurisdiction the

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Case Law

* Testimonial Compulsion not attracted

Art 20(3) of the Constitution provides that no Government servant accused of any offence shall be compelled to be a witness against himself ("Testimonial Compulsion). As the Kerala Government Servant's Conduct Rules, 1960, has been made by Government, in exercise of the powers conferred by the proviso to Art. 309 of the Constitution and as the accused Government servant is required to file the details of his property to Government, the protection provided by Art. 20(3) of the Constitution is not infringed.
accused ordinarily resides or carries on business, for attachment of money or other property procured by the commission of the offence. If such money or property cannot be attached for any reason, other property of the accused as nearly as may be equivalent to the money or property procured by the commission of the offence may be attached.

(2) On filing of the application, the District Judge shall, subject to conditions laid down in Sec.4 of the Ordinance, order ad interim attachment and issue notice to affected persons.

(3) After hearing objections, the District Judge shall under Sec.5 pass an order making the ad interim attachment absolute or vary it or withdraw it.

(4) The attachment order would be valid for one year from the date of the ad interim attachment (Sec.10). This can, however, be extended by the District Judge on the application of the authorised person. If, in the meantime, cognizance of the offence is taken (i.e. charge-sheet is filed) the attachment shall continue until further orders are passed by the Special Judge who has now been vested with the power to order, during trial, the continuation of the attachment.

(5) Attachment of property is to ensure that the fine amount imposed by the court, taking into consideration the extent of disproportionate assets proved (See Sec.16 of the PC Act, 1988), can be collected by the court.

(6) It may be noted that during the investigation it is the District Judge who is empowered to order the attachment while the Special Judge acquires this power only after the charge-sheet is filed in his court.

Scrutiny of Documents

146. The documents seized in the search should be subjected to meticulous and repeated scrutiny and the clues obtained from them pursued in a systematic and sustained manner. The clues obtained during scrutiny must be pursued methodically and vigorously. In this connection the guidelines issued in Director’s Circular No.9/93 should be adhered to. The success of an investigation of a case of disproportionate assets depends mainly on the methodical and speedy enquiries conducted as
any delay or perfunctoriness on the part of the Investigating Officer may result in the destruction/suppression of valuable evidence or fabrication of misleading evidence.

Computing the income when the spouse of the Suspect Officer/accused is also employed.

147. In cases where the spouse of the accused public servant is also having independent income from business, employment etc., it will be wrong and misleading to come to a conclusion of his/her assets being disproportionate on the basis of the income of the accused/Suspect Officer alone. In order to get a correct and complete picture of the income of the family of the accused/Suspect Officer, it is necessary to take into account the income of the spouse for which the following steps have to be taken.

(i) The salary and other particulars of both the husband and wife should be obtained from their respective offices or the concerned Treasuries.

(ii) The Annual Landed Property Statements of the husband and wife should be obtained from the authorities authorised by Government to keep such statements.

(iii) The special Property Statements in Forms-I to VI of the husband and wife should be obtained through the Government as envisaged in Rule 38 of the Kerala Government Servant's Conduct Rules, 1960,

(iv) The Special Property Statements as on 1.1.1976 submitted by the husband/wife to the Government/Department if they were in service on that date should be obtained from the concerned authorities.

(v) The purchase of property in the name of the husband or the wife and the source from which and the means by which the purchase was financed should be clearly established. Evidence should also be collected to show whether the price of the property was paid by the husband or the wife or both of them, and if by both of them, how much was contributed by each of them.
Valuation of assets, income and expenditure of the public servant during the Check Period

Assets acquired during the Check Period

148(1). In cases where the public servant had assets while joining service or he had acquired it during the period prior to the beginning of the check period, it becomes necessary to determine, as precisely as possible, the total value of the assets possessed by the public servant at the beginning of the check period for deducting the same from the value of the total assets which the public servant is found to be in possession at the end of the check period. It is by this process the investigating officer can arrive at the total value of the assets acquired by the public servant during the check period. It is often seen that the public servant concerned may claim to have been in possession of substantial assets before the commencement of the check period and it is incumbent on the Investigating Officer to verify each such claim thoroughly.

(2) Assets as mentioned earlier, is the aggregate value of both movable and immovable properties. It, therefore, follows that the unraveling of any undisclosed assets of the public servant at the close of the check period is one of the most vital points of investigation of a case of disproportionate assets.

Immovable assets

149. The immovable assets include houses, flats, house-sites, agricultural and other lands etc. The purchase price of the properties or buildings can be accurately determined with reference to the registration documents, the stamp duty paid, the fee paid to the document writers etc. Assets belonging to the public servant and those held by him in benami names are also to be included in the total value of the assets. The cost of construction of the buildings put up by the public servant during the check period should be got assessed by the concerned Executive Engineer (PWD) taking into consideration the actual rates prevailing during the period of construction of the buildings concerned. The Executive Engineer should be requested to furnish along with his Valuation Assessment Certificate the data on the basis of which the valuation has been made.

Movable assets

150. It may not be possible to enumerate the various kinds of
immovable assets which one can acquire. The Investigating Officer should obtain the requisite information as detailed under paragraph 142 supra about the following categories of movable assets of the public servant through Government.

(a) Credit balances in Savings and Current accounts, Fixed Deposits, Cumulative Deposits and Recurring Deposits in Banks and Post Offices. Fixed Deposits and Debentures in companies, firms, finance companies etc. should also be computed.

(b) National Savings Certificates, Indira Vikas Patras, National Savings Schemes, Savings Accounts etc. in Post Offices and Bearer Bonds.

(c) Investments in Unit Trust including in Master Shares. Prices at which they were purchased (and not their face value) should be computed.

(d) Shares and debentures in companies (Prices at which they were purchased (and not their face value) should be computed).

(e) Policies of L.I.C. such as Jeevan Akshay, Jeevan Dhara etc. (Payment of life insurance premia to LIC could be included in expenditure and not in assets).

(f) Loans given to private persons.

(g) Cash.

(h) Bullion.

(i) Ornaments, jewellery, including pearls and precious stones.

(j) Furniture, carpets etc.

(k) Cars, Motor – Cycles, Scooters, Cycles etc.

(l) Televisions, Radiogram, Radio – set, Gramophone, Air-conditioner, Air Coolers, Tape – recorders, Mobile phone etc.
(m) Sewing machines, washing machines, geysers, cooking range, mechanical gadgets etc.

(n) Costly items like watches, pens, decoration pieces, fire – arms etc.

(o) Cattle – wealth, stud animals, kennel etc.

(2) It may be borne in mind that it is the actual cost paid at the time of acquisition of the movable assets by the public servant and not their prices prevalent at the time of investigation that should be taken into consideration. This principle applies to movable as well as immovable assets. A careful scrutiny of Income Tax Returns and Wealth Tax Returns, where these have been filed, may yield useful hints for further investigation.

**Income and Receipts**

151. Generally, the income of a public servant includes the following:

(a) Pay, allowances and honoraria
(b) TA & DA
(c) Income from immovable property
(d) Income from movable property
(e) Income from agricultural property
(f) Income from miscellaneous sources
(g) Income from gifts
(h) Loans and advances
(i) Profits on disposal of assets

(a) **Pay & allowances and honoraria**

(1) So far as pay and allowances are concerned, there should not be much difficulty as the same can be obtained from the concerned Treasuries/Offices etc. The salary income should normally be taken on net basis after deduction of Income Tax, GPF, LIC premium, repayment of motor vehicle loans etc. which has the corresponding effect of including these items under the total expenses calculated.
(2) As regards honoraria, while most of the details should be available from the income tax returns or the treasury records of official records per during to the public servant, certain items like earnings from writing in newspapers/journals, or delivering lectures, appearing on TV programmes etc may not be easily available. In such cases the public servant should be specifically asked to furnish the relevant particulars of all such amounts and the details given by him should be cross-checked with relevant sources.

(b) TA & DA

Though TA & DA are meant to reimburse the public servant his out-of-pocket expenses and should not ordinarily be a source of income there are circumstances where a certain percentage of these allowances can reasonably be expected to be saved. Any claim of such savings of TA/DA put forth by the public servant should be allowed by the investigating officer after careful consideration.

(c) Income from immovable property

(1). This can be derived in three different ways viz. (1) sale proceeds of property (2) compensation arising in cases of acquisition of property by Government etc and (3) income by way of rent or yield from agricultural property etc.

(2). Such income can be determined from relevant records like personal Books of Accounts of the public servant, Agreement deeds/Sale deeds, documents pertaining to compensation for acquisition of property and in the cases of rental income by rent receipts and lease agreements and by examination of tenants concerned. Further verification can also be made by reference to Income Tax returns and by the examination of bank accounts of the public servant and Municipal records.

(d) Income from movable property

(1). Such income maybe derived in a number of ways, important among them being:

(i) Dividends on shares
(ii) Interest of securities/debentures
(iii) Interest on Time Deposits etc

(iv) Profits or sale proceeds arising out of sale of shares, securities, debentures and other movable assets.

(2). The details of income from shares, securities, deposits etc can be obtained from the companies or firms or the banks concerned. Regarding profits on sale of movable articles, this information can be obtained by examining the relevant records or examining persons having knowledge of such transactions. This can be further verified from the Income Tax returns and bank accounts and also the Annual Landed Property Statements of the public servant.

(e) Income from Agricultural property

The public servants involved in a disproportionate assets case often tend to inflate the income from such property. This requires a very detailed investigation with reference to the size of the agricultural holdings, nature of land, types of crops raised, relevant revenue records/Rubber Board records, commodity price indices etc, assessment of the yield and of inputs such as expenditure on irrigation, purchase of seeds and fertilisers, wages of labour etc. For arriving at the net income from the agricultural property, Village Officers and neighboring cultivators may be examined and evidence adduced. Where agricultural income tax has been paid by public servant, the Tax Returns filed by him should be scrutinised. The investigation in this connection should be sustained and methodical and should be completed with alacrity so that there is no opportunity for the public servant to manipulate the records.

(f) Income from miscellaneous sources

(1) This is a very important head under which the public servant may claim, among others, receipt of sizeable amounts as well as jewellery from his in-laws at the time of his marriage or subsequently, receipt of money from his share of ancestral property or from his parents or money received from relatives employed abroad or from rental of buildings. Such transactions have to be probed with due circumspection and have to be accepted only after thorough check.

(2) Any claim made by the public servant regarding the income received from such sources as over-draft account, matured
Insurance policies, withdrawals from Provident Fund, Income tax rebates, reimbursement of medical expenses etc must be verified before such claims are allowed or disallowed.

(g) Income from Gifts

(1). This is an item in which the public servant generally makes tall claims to explain his assets and as such the investigating officer has to guard himself from being taken for a ride by the public servant. The Investigating officer has, therefore, to verify the financial status of the donors and whether they were in a position to make such gifts to the accused public servant as is claimed by him. If the gifts are made on stamp paper, a scrutiny of the relevant stamp papers (date of printing) and the date on which they were purchased is sometimes likely to serve useful purpose.

(2). The fact that the Gift Tax Act has been abrogated with effect from October 1998 and the ceiling for the payment of Wealth Tax has been raised to Rs. 15 lakhs would, not doubt, make the efforts of the investigating officer more onerous for disproving the wild claims of the public servant regarding gifts of money received.

(h) Loans and Advances

When loans and advances are taken by the public servant from Government or other financial institutions/statutory bodies etc there would be no problem for the investigating officer to allow these amounts. Difficulties, however, arise only in cases where he claims to have taken loans from near relatives and friends. If he claims receipt of a number of temporary loans from numerous relations, friends etc it is necessary for the investigating officer to make searching enquiries about the financial capacity of the creditors and the source from which the amounts were with drawn/raised by them for advancing the loan. In this connection the Income Tax records and bank accounts of the creditors require a through probe. If the loans have been repaid partly by the public servant during the check period the amount repaid should be added to his expenditure.
(i) **Profits on disposal of assets**

The rule to be followed in such cases is that if an asset has been acquired and sold during the check period the profit or loss thereupon should be included in the income or expenditure as the case may be. The sale proceeds as such would not come into computation. However, if an asset possessed by the public servant is disposed of by him during the check period, the full sale proceeds shall be included in his income. Alternatively, the value of the asset can be included in his asset at the beginning of the check period and the profit or loss thereon by its disposal may be included in his income or expenditure as the case maybe. Care should be taken not to include such assets in the beginning of the check period and at the same time including the entire sale proceeds in his income.

**Computation of expenditure**

152. The expenses of a public servant may fall into two categories viz. verifiable and non-verifiable items.

(a) (i) **Verifiable expenditure**

1. House rent
2. Electricity and water charges
3. Education expenses of children, tuition fees, donations for admissions in schools, capitation fees for securing seats for professional courses etc.
4. Maintenance of conveyance
5. Club expenses
6. Payment for cable TV
7. Payment of Insurance premium and contribution to Provident Fund
8. Losses on disposal of assets
9. Income tax payment other than deduction at source
10. Building tax, land tax etc.
(11) Bank charges and interest paid on over-drafts and loans
(12) Medical expenses
(13) Expenses on pleasure trips, visits to temples, holy places etc.
(14) Re-payments on loans, advances etc.

(ii) Certain expenses incurred for the marriage of children may also sometimes be verifiable e.g. rental for marriage hall, decorations, Video and photographs, payment to caterers, conveyance charges etc. Full details of the verifiable items of expenditure, wherever possible, should be collected by the investigating officer with supporting documentary evidence.

(b) Non-verifiable expenditure

The items of expenditure in this regard would include house-hold expenses comprising (i) Kitchen & living expenses and (ii) other house- hold expenses.

(i) The Kitchen and Living expenses would include expenditure on rations and groceries, sugar, tea, milk, bread, butter, biscuits, eggs, poultry, fish, vegetables, fruits, cooking oil, gas, fuel, newspapers, magazines, expenses on hobbies etc.

(ii) The other household expenses include wages of servants, expenditure on barber and washerman, smoking, drinks and any other items which can reasonably come under this heading and which are not dealt with the major head “Expenditure”. It may be emphasised that while computing these expenses the number of dependents, (adults and children) as well as servants provided with free board and/or lodging may be taken into account. A knowledge of indices of living applicable to the corresponding strata of society during the material period would facilitate the correct computing of expenses for household of the public servant. A scrutiny of the bank accounts of the public servant might also reveal money withdrawn regularly by him for meeting his household expenses.

(iii) The expenses referred to above are mostly non-verifiable, unless of course the public servant has kept a regular record of his expenses. The determination of these expenses becomes all the more difficult as the
estimates given in this connection by the public servant may be too low and that of the Investigating Officer tends to be high. Whenever information is available from the Bureau of Economics and Statistics Department, the same may be collected and made use of in estimating the living expenses of the public servant and family. No hard and fast rule can be laid down for assessing the Kitchen expenses of the public servant but it would be desirable to take a liberal attitude and give the benefit of doubt to the public servant.

(iv) The check period may be sub-divided into smaller portions for a more accurate determination of the various parameters as the smaller block may conform better to the size of the family, promotions earned by the officer and the place of his posting etc. The broad indicators for estimation of household expenses, where there is no better method of calculation are (i) the size of the family (ii) the living standard of the family as evidenced by the household articles recorded in the search list/inventory prepared at the time of search (iii) living standard as reflected by the clothing items, jewellery etc (iv) the style of living as shown by club and other entertainment expenses, the mode of travelling, maintenance of cars and other vehicles and the mileage done, expenses on domestic servants, the maintenance of pets, the expense incurred on religious and other ceremonies etc.

**Preparation of Statements I to IV**

153. After the investigation has been finalised the Investigating Officer should prepare the following four statements.

**Statement No.I**

Assets at the beginning of the check period.

**Statement No.II**

Assets at the end of the check period.

**Statement No.III**

Total income during the check period.

**Statement-IV**

Total expenditure during the check period.
154. Once the above four statements have been prepared by the Investigating Officer, it may not be difficult to compute the quantum of disproportionate assets acquired by the public servant during the Check Period. If the total expenditure (Statement-IV) is subtracted from his total income (Statement-III) we get the likely savings of the public servant during the Check Period. Likewise, if we deduct the assets at the beginning of the Check Period (Stt-I) from the assets acquired by him during the end of the Check Period (Stt-II) the assets acquired by him during the check period are arrived at. If this assets exceeds the likely savings substantially, a case against him under Sec.13(1) (e) of PC Act is made out. If the assets acquired by him during the check period are substantially disproportionate* to his known sources of income the case against him becomes much stronger and the possibility of getting a conviction becomes higher.

Case Law

* Disproportion

(1). “The legislature has not chosen to indicate what proportion of the income would be considered disproportionate and the court may take a liberal view of the excess assets over the receipts of the known sources of income”.

H.D.Mohanty Vs State of Orissa
(1973(I)SLR 1121)

(2). “Since the excess was comparatively small; being less than ten percent of the total income, it would not be right to hold that the assets found in the possession of the accused were disproportionate to his known sources of income so as to justify the raising of the presumption under sec.5(3).

Krishnanand Agnihotri Vs State of MP
(AIR 1977 SC 796)
CHAPTER XII

OBTAINING OF RECORDS

155. During the course of a Vigilance Enquiry or investigation of a Vigilance Case it may become necessary to obtain or seize files/official papers/documents etc from different departments of the State or Central Government, local bodies, public undertaking, banks etc. The procedure to be observed for obtaining the required document is detailed below:-

From the Secretariat

156(i). If in the course of any enquiry, the records of the Secretariat are required, the Director, VACB or the Inspectors General of Police concerned may address the Secretary to Government of the Department concerned requesting facility to peruse or to take over/hand over the records to any officer of the Bureau authorised for the purpose.

Office of Heads of Departments

(ii) If the records in the office of the Heads of Departments are required, the Deputy Inspector General of Police or the Superintendents of Police of the Bureau may address the Head of the Department concerned requesting facility to peruse or to hand over the records to any officer of the Vigilance Department authorised for the purpose.

Other offices

(iii) If the records in any other subordinate offices are required, the Deputy Superintendent of Police concerned will request the Head of Office concerned who will arrange to make them available at such place and in such manner as may be found most convenient.

(iv) It should be ensured that all requisitions for records from Regional, District and other subordinate offices are sent only by the Unit Deputy Superintendent of Police, and not by the individual investigating or enquiry officers. While requisitioning records from other departments/offices, extreme
care should be taken that only records essential for the investigation/enquiry or those that relate to specific works or projects for which the enquiry has been ordered, are asked for.

**Delay to be avoided**

(v) The records should ordinarily be made available to the Bureau within one week of requisitioning. In cases of delay, the officers of the Bureau will be free to make personal visits to the offices where the records are kept for the purpose of securing them.

**Government to be informed**

(vi) If the records required for Vigilance Enquiry are not made available to the Bureau even after 15 days of the initial request, the matter should be taken up with the Head of Department concerned, who will issue specific and clear instructions to the subordinate officer concerned. Cases of causing deliberate hindrance or delay to the enquiry will be reported to Govt. in the Vigilance Department for initiating disciplinary action against the officer/officers concerned.

**Officers to issue proper acknowledgement**

157. Whenever an officer of the Bureau takes over records from any office/department/individual he should give a proper acknowledgement for the same. Apart from his signature, his name, designation and office should be indicated. The name should be written in block letters. The form indicated in Annexure-A to Director's Circular No.9/86 shall be used for this purpose.

**Register of records**

158. Every Enquiry/Investigating Officer shall maintain a Register of records/material objects taken over during enquiry/investigation. This will be a permanent record and the details of the records/material objects taken over shall be entered in the Register under the column headings given in Annexure-B of Director's Circular No.9/86. It will be the personal responsibility of the Investigating/Enquiry officer to keep in safe custody the records/material objects retained by him as per the above register. The officer will be accountable for any loss/tampering.
Returning of Records

159. After the disposal of a crime case or Tribunal Enquiry or final decision by the Government in regard to other enquiries, the documents will be returned to the unit concerned to be handed over to the Department/Office concerned. The acknowledgement obtained from the Office/Department concerned should be forwarded to the Directorate for retention as a permanent record. Till such acknowledgement is received, the entry in the Register should not be rounded off.

Works not to suffer

160(1). It should be ensured that during a Surprise Check/Vigilance Enquiry or investigation of Vigilance Case only documents essential for the enquiry in hand are taken. Even if initially a large number of Measurement Books etc are taken for scrutiny, those unnecessary for the enquiry should be returned to the officer concerned at the earliest, under intimation to the Superintendent of Police concerned and the Directorate.

Sufficient money to be withheld

(2). Even in cases/enquiries where it is felt that sub-standard work has been done, or misappropriation of cement or any other irregularity is detected, the Unit Deputy Superintendent of Police may write to the Executive Engineers concerned that although irregularities have been noticed, the Bureau has no objection to the release of the percentage of the amount due to the contractor, provided that sufficient money is withheld to safe-guard the Government's interest. In such cases too photocopies of the M Book entries ( or of other documents ) relating to the work under investigation/enquiry may be furnished to the E.E to enable him to make the payment.

PWD to be given photo-copies of records

(3) In the course of investigation/enquiries a number of records relating to the execution of several public works are being taken into custody by the officers of the Bureau. These include M.Books, Field Books and files relating to the invitation and acceptance of tenders etc. These records are retained with the investigating/enquiry officers till the investigation/enquiry is over. Non-availability of these records prevents the Departments concerned from carrying out works which are not
in dispute. The reason is that the details of such works are also recorded in the same M.Books and Field Books which are in the custody of the Bureau. In order to obviate this difficulty, in all cases in which an M.Book or a Field Book or file containing entries relating to more than one work is seized, photo-copies of the entries relating to the works which are not in dispute and for which payment can be made, should be taken and made available to the concerned PWD officers duly authenticated by the Deputy Superintendent of Police concerned without much delay. A copy of the letters sent to the PWD officers should in every case be marked to the Deputy Superintendent of Police concerned and to the office of the Director for information.

Obtaining copies of documents from Sub Registrar’s Office

161. The Heads of Units shall depute an officer of the Bureau to prepare the copy of the required document from the Sub Register’s office and get it authenticated by the Registering Officer. The relevant instructions in the Kerala Registration Rule and the Kerala Registration Manual are extracted below:

**Kerala Registration Rule – 158:-**

Govt. officers of the Kerala State who may require to search the registers or to take copies of entries for bona fide public purposes shall be permitted to do so, without payment of any fee.

**Kerala Registration Manual–Order 557(a):-**

Govt. officers are permitted to search and take down copies of documents for public purposes without any payment. A certificate of encumbrances requisitioned by such officers for such purposes is also free from fee. They shall however, depute a subordinate officer for making the requisite searches and preparing copies. Such copies shall be compared, attested and sealed by the Registering Officer.
CHAPTER XIII

INVESTIGATION

Officers authorised to investigate offences under the PC Act.

162(1). No Police Officer below the rank of Dy Supdt of Police of the State shall investigate any offence punishable under the PC Act as laid down in Sec.17(c) of the PC Act, 1988. But, the first proviso to the above Section empowers such investigation by a police officer not below the rank of an Inspr. of Police if authorised by the State Govt. in this behalf by a general or special Order. The second proviso further clarifies that an offence under sec.13(1) (e) of the PC Act shall not be investigated without the order of a police officer not below the rank of a Supdt of Police.

(2) Govt. in Notification No. 12094/C1/88/Vig. dt. 2.3.93 (S.R.O. No.790/93) have authorised police officers not below the rank of Inspectors of Police of the State to investigate any offence punishable under the PC Act without the orders of a Magistrate of the First Class or to make arrest therefore without a warrant.

Inspectors of Police to be properly authorised

163. Whenever Inspectors of Police are entrusted with the investigation of Disproportionate Asset cases, it should be ensured that they are properly authorised in this connection by the Superintendent of Police.

VACB Offices/Units notified by Govt. as ‘Police Stations’

Central Range, Ernakulam and Northern Range, Kozhikode and the Special Cells, Tvm, Ernakulam and Kozhikode and the offices of the 14 District Units in the State as "Police Stations" to register and investigate crime cases. The Offices/Units and their respective jurisdictions are given below:

### VACB Offices/Units declared as Police Stations and their jurisdiction

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Office</th>
<th>Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Office of the Director, VACB, Thiruvananthapuram</td>
<td>Whole State of Kerala</td>
</tr>
<tr>
<td>2.</td>
<td>Office of the Supdt of Police, Special Investigation Unit, Thiruvananthapuram</td>
<td>-do-</td>
</tr>
<tr>
<td>4.</td>
<td>Office of the Supdt of Police, Special Cell, Thiruvananthapuram</td>
<td>Whole State of Kerala</td>
</tr>
<tr>
<td>5.</td>
<td>Office of the Supdt of Police, Eastern Range, Kottayam</td>
<td>Revenue districts of Alappuzha, Kottayam and Idukki</td>
</tr>
<tr>
<td>7.</td>
<td>Office of the Supdt of Police, Northern Range, Kozhikode</td>
<td>Revenue districts of Malappuram, Wayanad, Kozhikode, Kannur and Kasaragod.</td>
</tr>
<tr>
<td>8.</td>
<td>Office of the Supdt of Police, Special Investigation Team, Brahmapuram Diesel Power Plant, Ernakulam</td>
<td>Whole State of Kerala</td>
</tr>
</tbody>
</table>

10. Office of the Supdt of Police, Special Cell, Kozhikode

DISTRICT UNITS

11. Office of the Dy Supdt of Police, Thiruvananthapuram, Revenue district of Thiruvananthapuram

12. Office of the Dy Supdt of Police, Kollam, Revenue district of Kollam

13. Office of the Dy Supdt of Police, Pathanamthitta, Revenue district of Pathanamthitta

14. Office of the Dy Supdt of Police, Alappuzha, Revenue district of Alappuzha

15. Office of the Dy Supdt of Police, Kottayam, Revenue district of Kottayam

16. Office of the Dy Supdt of Police, Ernakulam, Revenue district of Ernakulam

17. Office of the Dy Supdt of Police, Idukki, Revenue district of Idukki

18. Office of the Dy Supdt of Police, Thrissur, Revenue district of Thrissur

19. Office of the Dy Supdt of Police, Palakkad, Revenue district of Palakkad

20. Office of the Dy Supdt of Police, Malappuram, Revenue district of Malappuram

21. Office of the Dy Supdt of Police, Kozhikode, Revenue district of Kozhikode

22. Office of the Dy Supdt of Police, Wayanad, Revenue district of Wayanad
23. Office of the Dy Supdt of Police, Revenue district of Kannur

24. Office of the Dy Supdt of Police, Revenue district of Kasaragod

Obtaining documents from the office of the Accountant General.

165. Govt. of India, Ministry of Home Affairs in their letter No. 2561/68-AVD-II dt.21.8.2968 (CBI Delhi’s No.21/3/58-RD dt. 3.9.68) have authorised the Director, VACB to requisition the documents from the office of the Accountant General. Whenever originals of contingent bills, vouchers, cheques etc are required for the purpose of investigation of a case, the Dy Supdt of Police/Supdt of Police should forward a requisition to the Director, as soon as the case is registered, so that the Accountant General can be requested by the Director for making available the documents. The requisition should contain the following information.

I. Contingent Bills

(1) Contingent Bill No.
(2) Office to which claim relates.
(3) Head of Account under which the amount was drawn.
(4) Amount of bill (Gross and Net).
(5) Name of the Treasury/Sub Try where the bill was encashed.
(6) Date of encashment
(7) Voucher No. of the Treasury
(8) Date of despatch from the Treasury to the Accountant General

(Note: Details of Sl.No. 7 & 8 above to be ascertained from the Treasury concerned).
II. Cheques

(1) Cheque No. and office of issue.
(2) Amount of cheque.
(3) The name of the person in whose favour it was drawn and by whom issued.
(4) Name of Try/Bank where it was encashed.
(5) Date of encashment.
(6) Voucher No. of the Treasury
(7) Date of despatch from the Treasury to the Accountant General

(Note: Details of Sl.Nos. 6 & 7 above to be obtained from the Treasury concerned).

Expeditious action by Directorate

166. On receipt of such details required in Director’s Circular No.20/83 the file will be put up by the concerned section to the Superintendent of Police (Int.) who will depute the I B Inspector to obtain these records from the office of the A.G., to avoid delay in correspondence. The records, thus, obtained will be forwarded to the Units concerned for further action.

Obtaining documents from Posts & Telegraphs Department.

167. Section 92(1) of CRPC provides that if any document, parcel or thing in the custody of the Postal or Telegraph authorities are required for the purpose of any investigation, inquiry, trial or other proceedings under the CRPC any District Magistrate, Chief Judicial Magistrate or High Court may direct the Postal or Telegraph authorities to deliver the documents etc to such person as such Magistrate or Court directs. Under Section 92 (2) of CRPC any other Magistrate or Supdt of Police may require the Postal or Telegraph authorities to cause a search to be made for and detain such documents etc pending the orders of any such District Magistrate, Chief Judicial Magistrate or Court.
OBTAINING DOCUMENTS FROM THE INCOME TAX DEPARTMENT

168(1). According to provisions of the Income Tax Act, officers of the Dept. are prohibited from disclosing any information contained in any statement made, return furnished or accounts or documents produced before them under the provisions of the Income Tax Act or in evidence, affidavit, depositions given during the course of any assessment proceedings under the Act. However, the above prohibition does not apply to the disclosure of such information in certain cases. Under Notification No. S.O. 2048 issued by the Ministry of Finance (Dept, of Revenue), Government of India (published in the Gazette of India, Extra ordinary Part-II, Sec.3 (ii) dt.23.6.1965) the disclosure of such information including the production of such document or record is permitted:

"to any officer or Dept. of the Central Govt. or of a State Govt. for the purpose of investigation into the conduct and affairs of any public servant or to a court in connection with prosecution of the public servant arising out of any such investigation".

(2). Government of India have also issued orders in Notification No.1056 dt. 23.8.1975 of the Ministry of Finance, Dept. of Revenue and Insurance empowering the Directors of VACB to requisition information relating to any assessee in respect of any assessment made under the Income Tax Act, 1961 or the Indian Income Tax Act, 1922. The Director of Income Tax (Vigilance) New Delhi in letter No.F.16/(53)/ Vig/88/145 dt. 10/11 April 1988 (Appendix IX) had also issued instructions to the Income Tax authorities to furnish information/ records to the CBI and other State Vigilance agencies for the purpose of investigation or enquiry. In case of enquiry, the request for information/record should be made by the officer of the rank of Supdt of Police or above.

Seizure of original records for the purpose of investigation

169(1). During the course of investigation of cases, originals of the relevant documents should be taken in custody under a seizure list as generally copies of documents cannot be marked as Exhibits, being inadmissible in evidence.
However, there is an exemption to the above procedure as far as the documents of Co-operative Societies are concerned. Sec.103 of the Kerala Co-operative Societies Act, 1969 read with Rule 32 of the Kerala Co-operative Societies rules, 1969 permit the production of certified copies of the documents of a Co-operative Society.

**Certified copy admissible in evidence**

(2). It is necessary to point out here that section 4 of the Banker’s Books Evidence Act, 1891 has provided that a certified copy of any entry in a Banker’s Book shall, in all legal proceedings, be received as prima facie evidence of the existence of such entry and shall be admitted in evidence to the same extent as the original entry.

**Inspection of Banker’s Books and obtaining certified copy of the relevant entry**

170. Sec.18 of the Prevention of Corruption Act, 1988, lays down that a police officer who is empowered to investigate any offence punishable under the above Act, if he considers it necessary to inspect the Banker’s Books for the purpose of investigation or enquiry into such offences, may inspect the Banker’s Books and take or cause to be taken certified copy of the bank accounts and that the bank shall assist the police officer in the exercise of his powers under this section. It has been made clear in the section that the above power shall be exercised by any police officer below the rank of the Superintendent of Police only if he is specially authorised in this behalf by a police officer of and above the rank of a Superintendent of Police.

**Maintenance of Register of Records/Materials taken over**

171. During investigations and enquiries conducted by the Bureau, a large number of documents are taken over from other Departments/Offices. It is essential that these documents should be properly acknowledged, securely stored and on completion of enquiry or investigation, forwarded to the appropriate authorities, who have to take a final decision in Crime Cases/Tribunal Enquiry/Departmental Enquiries, etc. As a large number of enquiries/investigations are being conducted in a Unit simultaneously, it is very important that documents taken for a particular case/enquiry are not mixed
up with those relating to other cases/enquiries. It is also necessary that at a given time, details of all documents available in a Vigilance Police Station should be properly entered in a register, both for the information of the officers concerned and to enable senior officers to check it occasionally.

172 (1). Every Enquiry/Investigating Officer will maintain a “Register of Records/Material Objects taken over during Enquiry/Investigation”. This will be a permanent Record. The details of the Records/Material Objects taken over shall be entered in this Register under the Column headings indicated at Annexure ‘B’. Deputy Inspectors General of Police and Superintendents of Police should also open such a register to enter details relating to investigations/enquiries personally handled by them.

Safe Custody of records/material objects

(2) It will be the personal responsibility of the Investigating/Enquiry officer to keep in safe custody the records/material objects retained by him as per the Register. The officer will be accountable for any loss/tampering.

DySP to inspect register

173. The Unit Deputy Superintendent of Police should inspect the registers maintained by all officers posted under him once a month. The registers should be invariably put up for the perusal of the Superintendents of Police and Deputy Inspectors General of Police during their visits.

Handing over the Register to successor or new Enquiry/Investigating officer

174(1). On transfer or retirement or in the event of the officer proceeding on leave (except Casual Leave), he will hand over this register and the records to his successor-in-office. The procedure laid down in H.Q.Circular 8/86 should be followed for handing over the records.

(2) In case an Enquiry/Investigation is transferred to another officer of the same Unit or to another Unit, the enquiry/crime file together with the Records/Material Objects taken over during the enquiry/investigation should
be handed over to the other officer and a formal acknowledgement obtained. Against the entries of such records in the Register, this fact may be mentioned citing the reference number and date of the order transferring the enquiry and the date of acknowledgement. The officer who has taken over the enquiry/investigation will enter the details of the Records/Material objects in the Register maintained by him.

When Material Objects are to be sent to court

175. The material objects should be despatched to Court without any delay. The Material objects should be sent through special messengers and the formal acknowledgement of the Court obtained and kept in the Crime File.

Recording of statements u/s 164 CRPC

Witnesses

176(1). In several crime cases the core of the evidence against the accused rests on the evidence of important independent witnesses. Recording of statements of such vital witnesses u/s 164 CRPC will, no doubt, strengthen the case, even if the case ends in a Tribunal enquiry. If the accused is an influential person (e.g. Police Officer) or where the accused is absconding or is likely to go abroad or where the witnesses are relatives of the accused or where there is every possibility of the witness being won over or influence, the statement of such witness should be got recorded u/s 164 CRPC. If the witness resiles from his 164 statement, the presiding officer can proceed against him under sec.193 IPC for perjury.

Accused

(2). Confessional statements by the officer, if he voluntarily comes forward, should be got recorded by the competent Magistrate as quickly as possible under Sec. 164 CRPC. All necessary precautions laid down under section 281 CRPC should be observed in this connection.

Admissibility of tape recorded conversation

(3). An accurate and fool-proof tape-record of the
Identification parade

177(1). Even though the result of identification parade conducted at the stage of investigation is not a piece of substantive evidence and cannot be the basis of conviction by itself, it, however, provides a very good piece of corroborative evidence and greatly enhances the credibility of the evidence of identification given in the court. Hence, where the accused officers are unknown to witnesses and where the witnesses can identify them by sight, an identification parade of the accused should be held at the earliest opportunity. It may be borne in mind that the value of an identification parade is much less, if it is held after a considerable period of the arrest of the accused or if it is held long after the occurrence. Hence, investigating officers will see that the identification parades are held, in suitable cases, without loss of time.

Case Law

Admissibility of Tape-recorded conversation—Supreme Court rulings

(1) "If a statement is relevant an accurate tape record of the statement is also relevant and admissible. The time and place and accuracy of the recording must be proved by a competent witness and the voices must be properly identified. One of the features of magnetic tape recording is the ability to erase and re-use the recording medium. Because of this facility of erasure and re-use, the evidence must be received with caution. The court must be satisfied beyond reasonable doubt that the record has not been tampered with”.

Yousuffali Esmail Nagree Vs State of Maharastra
AIR 1968 SC 147

(2) “Tape-recorded conversation is admissible provided that the conversation is relevant to the matter in issue, that there is identification of the voice and that the accuracy of the conversation is proved by eliminating the possibility of erasing the tape-record. A contemporaneous tape – record of a relevant conversation is a relevant fact and is admissible under Sec. 8 of the Evidence Act”.

R.M.Malkani V State of Maharashtra
(AIR 1973 SC 157)
Police officer not to be present

(2) Whenever it is necessary to get a suspect identified by witnesses who claim to be able to identify him, an identification parade should be held for the purpose. It should be noted that the identification parade has to be held in the presence of a Magistrate and two or more respectable persons. No Police Officer should take part in the proceedings nor should he be present at the place where the identification parade is held as identification parade directed and supervised by a Police Officer is held to be inadmissible in evidence as it is hit by section 162 of the Criminal Procedure Code (Ramkishan Mithanlal Sharma and others Vs State of Bombay (1955 Cri. L.J. 196 Supreme Court).

Production of documents or articles from a locker of a bank

178. Section 91 of the CRPC empowers any officer-in-charge of a Police Station to issue a written order or any court to issue summons requiring the person in whose possession or power the required document or thing is believed to be, to attend and produce it or produce it at the time and places stated in the order or summons. Where a document or other articles including cash, ornaments etc are kept in a locker of the Safe Deposit Vault of a bank, the documents or articles are said to be

Case Law

Testimonial Compulsion

Article 20(3) of the Constitution enjoins that no person accused of any offence shall be compelled to be a witness against himself. The following points raised as to the scope and applicability of this privilege have been decided by the Supreme Court in State of Bombay Vs Kathi Kalu Oghad (AIR 1961 SC 1808)

(a) A statement made by a person before he is actually accused of an offence is not hit by Art.20(3)
(b) The mere questioning of an accused person by a police officer resulting in a voluntary statement which may ultimately turn out to be incriminatory is not “compulsion”. Giving finger impressions or specimen writings or showing parts of body for identification are not included in the expression to “be a witness”. Hence, taking of impressions of thumb, foot, palm or fingers, or taking specimen writings of an accused person for comparison or holding a parade for identification of a person accused of an offence cannot be called “testimonial compulsion”.
in the possession of the person in whose name the locker is hired. Hence, whenever it is found necessary to have a document or thing in a locker produced for the purpose of investigation a search warrant under the provisions of sec.93(1) CRPC should be obtained and executed.

**Questioning of officials of the office of the Accountant General**

179. The Inspection Report files maintained by the office of the Accountant General will not be made available for the purpose of investigation. However, A.G.’s office will render such assistance as the investigating agencies find necessary for elucidation of any technical details on any specific points made in the Inspection Reports/Objection Memos. The questioning of the concerned Audit Staff and recording of their statements by the Investigating officer is to be done in the office of the A.G. in the presence of an officer duly nominated for the purpose by the A.G.

**Under-valuation of property – intimation to Income Tax authorities**

180(1). The income Tax Act, 1961 provides as follows:

Section 52(2): Without prejudice to the provisions in Sub Sec.(1), if in the opinion of the Income Tax Officer, the fair market value of a capital asset transferred by an assessee as on the date of transfer, exceeds the full value of the consideration declared by the assessee in respect of the transfer of such capital asset by an amount of not less than fifteen per cent of the value so declared, the full value of the consideration for such capital asset shall, with the previous approval of the Inspecting Assistant Commissioner be taken to be its fair market value on the date of its transfer”.

(2) It will be seen from the above that the appropriate Income Tax Authority has the power to levy tax on the basis of the fair market value of a capital asset where the value of the consideration declared by an assessee in respect of the
transfer of such asset is substantially lower than the fair market value. Investigating and Enquiry officers who come across specific cases of such transfer of capital that would attract the provisions of the Income Tax Act Sec. 52(2) quoted above shall forward a Special Report containing relevant particulars to the Directorate so that the matter may be brought to the notice of the appropriate Income Tax authorities for taking further action.

Investigation after filing of charge-sheet

181. Clause 2 (1) of Sec.173 CRPC lays down that as soon as the investigation of a case is completed the officer – in-charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Govt. However Clause (8) enjoins thus: “Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections(2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-sections (2)”.

Further investigation only with the formal permission of court

182. It has been held by the Supreme Court in Randhir Singh Vs State (1997 Cr. L.J 779(SC)) that the magistrate on his own can not order further investigation after having taken cognizance of the offence on the basis of police report. The Supreme Court had, earlier, made it clear in Ramlal Narang Vs State (Delhi Administration) (AIR 1979 SC 1791) that despite the fact that a Magistrate had taken cognizance of the offence upon a police report submitted under section 173 of CRPC, the right of the police to further investigate was not exhausted and the police could exercise such right as often as necessary when fresh information came to light. The Supreme Court, however, has set the following condition precedent for such further investigation in the above judgements:
"We think that in the interests of the independence of the magistracy and the judiciary, in the interests of the purity of the administration of criminal justice and in the interests of the comity of the various agencies and institutions entrusted with different stages of such administration, it would ordinarily be desirable that the police should inform the court and seek formal permission to make further investigation when fresh facts come to light”.

Accused need not be heard

183. The Supreme Court has subsequently laid down that the court is not obliged to hear the accused before any such formal permission is issued *

QUESTIONED DOCUMENTS

Nature of Examinations carried out by the Forensic Science Laboratory, Kerala

184. The Forensic Science Laboratory attached to the Crime Branch C.I.D. of the Kerala Police carries out the following types of examinations with regard to disputed documents seized during investigation of cases and furnishes its expert opinion.

Case Law

* Accused need not be heard

“There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As law does not require it, we would not burden the Magistrate with such an obligation.

Viswanatha Maharaj V State of Andhra Pradesh
(1999(2) Cri. L.J. SC 272)
To determine the authorship or otherwise of the questioned writings by a comparison with known standards.

(ii) To detect forgeries in questioned documents.

(iii) To determine the identity or otherwise of questioned typescripts by comparison with standards.

(iv) To determine the identity or otherwise of seal impressions.

(v) To decipher erased (mechanically or chemically) or altered writings.

(vi) to determine whether there have been interpolations, additions or over-writings and whether there has been substitution of papers;

(vii) to determine the order or sequence of writings as shown by cross strokes and also to determine the sequence of strokes, creases or folds of the questioned documents where additions are suspected to have been made;

(viii) to detect any tampering in wax seal impressions and impressions letters etc.

(ix) to decipher secret writings; and

(x) to determine the age of documents, and other allied handwriting problems.

Precautions to be taken with regard to the handling of Questioned Documents.

185.(a) Documents should not be subjected to frequent or careless handling and should from the very beginning be properly protected either by placing them between sheets of blank papers or preferably between thin, transparent sheets of celluloid.

(b) Documents should not be exposed to moisture of any kind or to strong sunlight and should never be carried in the pockets of one's wearing apparel where they are
likely to be affected by body heat or moisture or get worn out, wrinkled or soiled.

(c) Documents should not be cut or torn or trimmed or mutilated in the slightest degree.

(d) Documents should not be folded or unfolded unnecessarily and a new fold should never be introduced.

(e) Documents should not be touched with an eraser of any kind, nor should adhesive labels be applied.

(f) Documents should not be punched or pinned but paper clips should be used where necessary.

(g) No additions, such as underlining features thought to be significant, should ever be made in the documents. The identification marks should be applied with colour pencils where they are least likely to interfere with the writing and should be as limited as practicable and clearly recognised as such.

(h) Tracings of documents should never be resorted to. For purposes of record, photography is the advisable and safe method.

(i) All documents sent for examination should be packed and sealed in stout covers or packings to avoid damage during transit.

(As regards the submission of documents for examination, submission of standard writings, questioned signature on cheques etc detailed information can be had from Kerala Police Departmental Circular No. 60/67, 69/72, 7/73 and 25/76).

**Expert opinion on Questioned Documents**

186. Only cases in which the opinion of the Hand-writing Expert is absolutely essential need be referred to the Director, FSL. In every such case, a report showing the details of the case and the reasons why it is absolutely necessary to obtain the evidence of the Hand-writing Expert together with the opinion of the LA/ALA in this regard concerned should be forwarded by the Supdt of Police to the Directorate for further action. A Requisition Form duly filled in the
Proforma given in Appendix X shall also be forwarded with the report.

**Questioning of witnesses in jail**

187. If it becomes necessary to question a prisoner in the course of an investigation/enquiry, the Supdt. of Police may, by letter addressed to the Supdt. of the jail, authorise any police officer therein specified, to interrogate any prisoner and that officer shall thereupon be permitted to interrogate such prisoner. (Kerala Police Manual–Para 789)

**Questioning of Judicial officers**

188. The officers of the Vigilance & Anti-Corruption Bureau will bear in mind that they should not question Judicial officers with regard to the nature and content of their Judgements as such a step has been forbidden by Government in letter No.62720/F8/67 – 2/Home dated 7.12.1967.

**Compliance with the directions of the High Court**

189. Government in Circular No. 12930/B1/82/P&ARD dated 19.11.1982 have instructed all Heads of Departments and other officers, including Secretariat Officers, that in

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**Case Law**

**Raising of presumption**

"When once it is proved that a gratification has been accepted, the presumption under sec 4 of the PC Act shall at once arise. It is a presumption of law and it is obligatory on the court to raise it in every case brought under sec. 4. The words “unless the contrary is proved” mean that the presumption raised by sec. 4 has to be rebutted by proof need not be such as is expected for sustaining a criminal conviction, it need only establish a high degree of probability. If moneys were recovered from the pockets of the two accused persons which were not their legal remuneration then there can be no further question of showing that these moneys had been consciously received by them”.

State of Assam Vs Krishna Rao.
AIR 1973 SC 28
matters where the High Court directs the Government or the officers to pass orders within a stipulated time, all necessary steps should be taken to comply with the said direction within the stipulated period itself. In cases where it is found not possible to comply with the directions of the Court, within the stipulated time, due to genuine reasons, the concerned officer, instead of (i) sending letters/telegrams/telex messages, to the

Case Law

Offence committed in several places

“If an offence is committed in more than one place the order of every magistrate within whose jurisdiction the offence or part of the offence was committed is not necessary in order to enable the investigation to be carried on. All that is necessary is that the magistrate who makes the order under sec. 5A should have territorial jurisdiction over the place where any part of the ingredients of the offence look place”.

Union of India Vs Maj. I.C. Lala etc. 1973 ISC WR 869

Permission of Magistrate necessary for officers (other than the Investigating Officer) carrying out searches

“Sometimes simultaneous searches are required to be conducted during the course of an investigation and the investigating officer requests other officers to conduct them. The making of a search is also a part of the investigation and it would be necessary to obtain a Magistrate’s permission. Hence officers below the rank of Assistant Commissioner of Police/Deputy Superintendent of Police, who are required to conduct searches in such circumstances, should obtain the requisite permission from any Magistrate having jurisdiction over the place or where any part of the ingredients of the offence has taken place incorporating in the application, inter alia, the fact that permission to investigate the offence has been initially obtained by a particular officer from a particular Magistrate”.

Criminal Revision Application No.837 of 1963 (Bombay High Court) State Vs Banarsilal Jhunjhunwalla

Decisions of Supreme Court/High Court

“When confronted with two irreconcilable decisions of the Supreme Court delivered by benches of equal strength, the later of the two decisions should be followed as the later judgement should be a statement of the further development and elaboration of the law.”

Narender Singh Vs State of Maharashtra 1981 Cri. L. J. 772

“Art 141 of the Constitution provides that the law declared by the Supreme Court shall be binding on all courts within the territory of India. This Article gives a constitutional Status to the theory of precedent in respect of the law declared by the Supreme Court. But such law can be declared only in judgements determining each question of law which arises in the case by laying down the principles involved”.

Hitendra Nath Goswami Vs State of Assam 1984 Cri. L.J. 1558(Guwhati)
Advocate General or(ii) waiting for any reminder/reply from him, should personally go over to the office of the Advocate General, Ernakulam at least five days before the expiry of the stipulated time to prepare and sign the necessary application for extension of time so that the High Court can be moved for extension of time before the time already granted expires.

**High Court to deal with corruption in the judiciary**

190. “Since the control over the subordinate judiciary and the provisions of Art.235 of the Constitution vests with High Court, a separate Vigilance Organisation to deal with cases of corruption against subordinate judiciary and its staff may function under the direction and control of the High Court.”

(Govt. of India Memo No. 218/1/77-AVD II dated 16.2.1977 (Dept of Personal and Administration Reforms)

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**MISAPPROPRIATION**

**Prosecution need not prove the precise mode of conversion**

(i) “To establish a charge of criminal breach of trust the prosecution is not obliged to prove the precise mode of conversion, misappropriation or misapplication by the accused of the property entrusted to him or over which he has dominion”

J.M. Desai Vs State of Bombay
AIR 1960 SC 889

(ii) The fact that the accused refunded the amount when the act of his defalcation came to be discovered does not absolve him of the offence committed by him.

Vishwanath Vs. State of J&K
AIR 1983 SC 1974

**Reinstatement in service and refund of amount does not absolve of the offence**

(iii) The attitude of the Department in re-instating the respondent in service has nothing to do with the proof of the offences. The fact that the respondent subsequently remitted back the amounts also will not exonerate him from liability. Even temporary misappropriation is an offence. An offender cannot escape criminal liability by remitting back the amount at a later stage.

A.Muraleedharan Vs State of Kerala
1986 Crl. L.J. 904 (Kerala)

**Accused acquitted under sec. 13(1)(c) – whether can be convicted under sec.409 IPC**

The offence of criminal misconduct punishable under sec. S(2) r/w 5 (1) (c) of the PC Act, 1947 is not identical in essence, import and content with an offence under sec.409 IPC. There can be no objection to a trial and conviction under sec.409 IPC even if the accused has been acquitted of an offence under sec. 5(2) of the PC Act.

State Vs V. Agnihotri
AIR1957 SC 592
Consent of State Govt. for CBI investigation

191. The State Govt. in G.O.(Rt.) No.1147/89/Home dt. 7.3.1989 have accorded consent to the extension of powers and jurisdiction of all members of the Delhi Special Police Establishment to the whole of the State of Kerala for investigation of the following offences:-


(b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction.

Public Servant

Distinction between Govt. Servant and Public Servant

192. A conjoint reading of Sections 14 and 17 of the Indian Penal Code would show that the term Govt. Servant denotes any officer or servant continued, appointed or employed in India by or under the authority of the Central or the State Government.

193. According to Sec. 21 of IPC the term public servant denotes a person falling under any of the 11 categories given therein, whether appointed by Govt. or not. Sec.2(c) of the Prevention of Corruption Act, 1988, contains a wider categorisation of as to who would constitute public servants* for the purpose of the said Act. It needs mentioning here that the Kerala Legislature had enacted the Kerala Criminal Law Amendment Act, 1962 (Appendix XI) by which persons falling under 8 categories described therein had been brought within the ambit of the term ‘public servant’.

*Case Law

(i) Chief Minister

"These facts, therefore, point to one and only conclusion and that is that the Chief Minister is in the pay of the Govt. and is, therefore, a public servant within the meaning of sec.21 (12) of the Penal Code".

M. Karunanidhi V Union of India
AIR 1979 AC 898
Government company defined

194. In item (iii) of Sec.2 (c) of the Prevention of Corruption Act, 1988 (Appendix XII) any person in the service or pay of a Govt. company as defined in Sec.617 of the Companies Act, 1956 is a public servant. Sec.617 reads as follows. “Government Company means any company in which not less than fifty one per cent of the paid up share capital is held by the Central Government or any State Government or Governments, or partly by the Central Government and partly by one or more State Governments and includes a company which is a subsidiary of a Government Company as thus defined”.

195. It can be seen from the above that the terms ‘Government Servant’ and ‘Public Servant’ are not synonymous and that the latter term encompasses a wider spectrum of employees. Therefore, while all ‘Government Servants’ would be ‘Public Servants’ all ‘Public Servants’ need not be ‘Government Servants’.

Lok Ayukta

Public Servant in the Kerala Lok Ayukta Act

196. The definition of public servant as given in sec.2(o) of the Kerala Lok Ayukta Act, 1999 includes a wider range of persons. ‘Public servant’ here means a person who is or was at any time the Chief Minister, Minister, MLA, Govt. servant, office-bearer of a Trade union, District and State level office-bearers of a political party, office-bearers of private educational institutions etc.

Case Law

(ii) Minister

"Minister of a State is paid from its public exchequer, he is paid for doing the duty entrusted to him as a Minister and, therefore, on the analogy of the observations relating to the Chief Minister, he must also be held to be a public servant".

R. Balakrishna Pillai V state of Kerala
1996(1) KLJ 112

(iii) MP/MLA

"There is, therefore, no doubt in our minds that a Member of Parliament or a Legislative Assembly, holds an office and that he is required and authorised thereby to carry out a public duty. In a word, a Member of Parliament or Legislative Assembly is public servant for the purposes of the said Act (Prevention of Corruption Act, 1988).

P.V. Narasimha Rao V State (CBI/SPE)
AIR 1998 SC 2120
Functions of the Lok Ayukta

197. The Lokayukta comprising one Lok Ayukta and two Upa-Lokayuktas conducts investigation and enquiries in accordance with the provisions of the Kerala Lok Ayukta Act, 1999. The Lok Ayukta deals with the following allegations against public servants.

(a) If he has abused his position as a public servant to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person.

(b) If he was actuated in the discharge of his functions as a public servant by personal interest or improper or corrupt motives; or

(c) If he is guilty of corruption, favouritism, nepotism or lack of integrity in his capacity as such public servant. (“Corruption” includes anything made punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1988.)

Lok Ayukta can utilise the services of any officer/investigating agency of the State

198. Section 16(3) (a) of the Lok Ayukta Act, 1999, provides that the Lok Ayukta or the Upa Lok Ayukta may for the purpose of conducting investigation under this Act utilise the services of any officer or investigating agency of the State Government or may require any public servant or any other person who, in his opinion, is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document. (Section 11 of the Act)

Lok Ayukta and cases investigated by the Bureau

199. Sec.8 of the Lok Ayukta Act 1999, provides that the Lok Ayukta or the Upa Lok Ayukta shall not conduct any investigation under the Act in the case of a complaint involving a grievance in respect of any action, taken in the exercise of powers in relation to determining whether a matter shall go to court or not (Section 8 of the Act). In other words, the Lok Ayukta will not conduct any investigation if the grievance raised before it happens to be the subject matter of a criminal case under investigation by the Vigilance & Anti-corruption Bureau.
OMBUDSMAN

Functions and Powers

200(i). This is a one member authority having served as the Judge of the High Court to be appointed by the Governor on the advise of Chief Minister for conducting enquiries/investigations of allegations of corruption/mal-administration/irregularities against the public servants working in the Local Administration departments. The term ‘public servant’ is defined in Section 271(g) of the Kerala Panchayat Raj (Amendment) Act, 1999 while ‘allegation’ is defined in Section 271(b)(a) of the Act.

(ii). The Ombudsman enjoys the judicial powers of a civil court trying a case under the Civil Procedure Code, 1908. It has the power to call for a public document or its copy from any office (Section 271 k(d)) and requisition the assistance of any public servant working in any Government Department and such public servant is bound to render such assistance without prejudice to his official duties (Section 271, I (3)). The Ombudsman, however, shall not take further proceedings on criminal offences committed by a public servant.

CENTRAL BUREAU OF INVESTIGATION (CBI)

201(i). The Special Police Establishment, a specialised agency constituted by Government of India in 1941, now forms a Division of the CBI and functions under the administrative control of the Ministry of Personnel, Public Grievances & Pensions. The Director, CBI, also functions as the Inspector General of Police in-charge of the SPE u/s 4(2) of the Delhi Special Police Establishment Act, 1946. The SPE has two divisions i.e. (1) Anti-Corruption Division and (2) Special Crimes Division. The Anti-Corruption Division will investigate all cases registered under the Prevention of Corruption Act, 1988 against Government servants working under the Central Government. If an offence under any other section of IPC or any other law is committed along with offences of bribery and corruption mentioned above, it will also be investigated by the Anti-Corruption Division.
The Anti-Corruption Division will also investigate cases against Public Servants in the Public Sector Undertakings under the control of the Central Government and cases against the public servants of State Governments entrusted to the CBI by the State Government and serious departmental irregularities committed by the above mentioned public servants.

(ii) The following are the offences investigated by the Anti-Corruption Division.


(b) Attempts, abetments and conspiracies in relation to or in connection with any of the above and any other offences committed in the course of the same transaction.

(iii) The Special Crime Division Investigates all cases of economic offences and all cases of conventional crimes such as offences relating to internal security, espionage, sabotage, narcotics and psychotropic substances, antiquities, murders, dacoities/robberies, cheating, criminal breach of trust, forgeries, dowry deaths, suspicious deaths and offences under other laws notified under Section 3 of the DSPE Act. Incidentally, it is the Ministry of Home Affairs that oversees the working of the Special Crime Division.

(iv) The Special Police Establishment enjoys with the respective State Police Force concurrent powers of investigation and prosecution under the Criminal Procedure Code. However, to avoid duplication of efforts, an administrative arrangement has been arrived at with the State Government according to which:

(a) the cases which substantially and essentially concern the Central Govt. employees or the affairs of the Central Govt., even though involving certain State Govt. employees, are to be investigated by the SPE. The State Police is, however, kept informed of such cases and they will render necessary assistance to the Special Police Establishment during investigation; and
(b) the cases which substantially and essentially involve the State Govt. employees or relating to the affairs of a State Govt. even though involving certain Central Govt. employees, are investigated by the State Police. The S.P.E. is informed of such cases and it extends assistance to the State Police during investigation if necessary. When the investigation made by the State Police authorities in such cases involves a Central Govt. employee, requests for sanction for prosecution of the competent authority of the Central Govt. will be routed by the State Police through the Special Police Establishment.

(v) Under Sec.6 of the Delhi Special Police Establishment Act, 1946, no member of the said establishment can exercise powers and jurisdiction in any area in a State without the consent of the Government of that State.

**Arrest or Detention – Mandatory Requirements**

202. Following are the 10 mandatory requirements laid down by the Supreme Court of India in D.K. Basu Vs State of West Bengal (1996 (8) Supreme Court 581 decided on 18/12/1996) to be followed by Police in all cases of arrest or detention.

(1) The Police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the Police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.
(3) A person who has been arrested or detained and is being held in custody in a Police Station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the Police where the next friend or relative of the arrestee lives outside the district or town through the Legal aid organisation in the district and the Police Station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of his right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the Police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries if any present on his/her body, must be recorded at that time. The Inspection Memo must be signed both by the arrestee and the Police Officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for the tehsils and districts as well.
(9) Copies of all the documents including the memo of arrest referred to above should be sent to the Illaqa Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A Police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the Police Control room it should be displayed on a conspicuous notice board.

(Failure to comply with the requirements mentioned above shall, apart from rendering the concerned officer liable for departmental action, also render him liable to be punished for contempt of Court and the proceedings for contempt of court may be instituted in any High court of the country having territorial jurisdiction over the matter).
CHAPTER XIV

LEGAL ASSISTANCE FOR THE BUREAU

Composition

203. A Legal Adviser and five Additional Legal Advisers render advice and assistance on all matters concerned with the Bureau and they also conduct prosecution of cases, in the Special Judges Courts and the Vigilance Tribunals. While the Legal Adviser and 2 Additional Legal Advisers are head-quartered in Thiruvananthapuram, 2 Additional Legal Advisers are head-quartered in Kozhikode and one Additional Legal Adviser in Kochi. The Additional Legal Advisers are appointed by Government in the Home and Vigilance Department and the Legal Adviser is promoted from among the Additional Legal Advisers. They function under the administrative control of the Director, V & ACB.

FUNCTIONS AND JURISDICTION

I. Legal Adviser

The Legal Adviser exercises general supervision and administrative control over the work of the Additional Legal Advisers based at Tvpm, Ernakulam and Kozhikode. He renders legal opinion on files referred to him by the Supdts of Police, Special Investigation Unit, Tvpm and the Supdts of Police, Special Cells, Tvpm and Kozhikode in which Prosecution/T.E. is recommended and on any other files referred to him by the Director/Government. He conducts prosecution of cases in which charge-sheets have been filed from Special Investigation Unit, Thiruvananthapuram and Special Cell, Thiruvananthapuram. He will also conduct prosecution of cases in the Vigilance Tribunal Thiruvananthapuram in respect of the Units in Thiruvananthapuram, Kollam, Pathanamthitta, Alappuzha, Kottayam, Idukki, Ernakulam and Kasaragode. He will prepare draft Prosecution Sanction Orders as well as draft charge sheet in vigilance cases and draft Memo of Charges in respect of Vigilance Cases/Enquiries in which Tribunal
Enquiry is recommended (He will furnish legal opinion in files, other than those in which Prosecution/T.E. is recommended, as and when referred to him by the concerned Superintendents of Police). He distributes the files received from the Heads of Units of Thiruvananthapuram, Kollam, Pathanamthitta and Alappuzha between the two ALA for furnishing their legal opinion.

II. Addl. Legal Advisers – Unit I and Unit – II, Tvpm.

(1) Files seeking legal opinion referred to him by the Units of Thiruvananthapuram, Kollam, Pathanamthitta and Alappuzha will be attended to by the Additional Legal Advisers, Unit I and Unit II, as distributed by the Legal Adviser. They will furnish their legal opinion, prepare draft charge sheets/ draft Memo of Charges/draft Prosecution Sanction Orders etc in respect of the above files. They will also render legal opinion on other files referred to them by the Supdt of Police, Southern Range/Director.

(2) Addl. Legal Adviser, Unit I will conduct prosecution of Vigilance cases of the Thiruvananthapuram and Kollam Units in which charge-sheets have been filed in the Special Judge’s Court, Thiruvananthapuram.

(3) Addl. Legal Adviser, Unit II will conduct prosecution of Vigilance cases pertaining to the Units of the Pathanamthitta and Alappuzha

(4) The ALA I & II will attend the Special Judge’s court and the Vigilance Tribunal if so instructed by the Legal Adviser.

III. Addl. Legal Adviser, Kochi.

He will render legal opinion in respect of the files forwarded to him by the Units of Ernakulam, Idukki, Kottayam, Thrissur as well as by the Supdt of Police, Central Range Ernakulam and Special Cell, Ernakulam. His other duties and functions will be similar to those mentioned under the Addl. Legal Advisers, Thiruvananthapuram. He will conduct prosecution of Vigilance cases pending trial in the Special Judge’s Court, Thrissur, having been charge-sheeted by the units/offices mentioned above.
IV. Addl. Legal Advisers, Unit I & Unit II, Kozhikode

(1) The Addl. Legal Adviser, Unit I Kozhikode will render legal opinion in files referred to him by the units of Wayanad Malappuram and Palakkad while the ALA, Unit II will render legal opinion in respect of files received from Kozhikode, Kannur and Kasargode Units. They will also furnish legal opinion on files referred to him by the Supdt. of Police, Northern Range/Director.

(2) The ALA, Unit I will conduct prosecution of all Vigilance Cases in which charge-sheets have been filed in the Special Judge’s court, Kozhikode by the units of Palakkad, Malappuram and Wayanad.

(3) The ALA Unit II will appear in all enquiries referred to the Vigilance Tribunal, Kozhikode by Govt. in respect of the districts of Thrissur, Palakkad, Malappuram, Kozhikode Wayanad, Kannur and Kasargode.

(4) Their nature of work will be akin to those of the Addl. Legal Advisers of Thiruvananthapuram and Kochi.

Proforma for furnishing Legal Opinion

204 (1). The opinion furnished by the LA/ALA should be self-contained and complete in all particulars and should not refer to the previous opinions furnished by them or the points raised by them in earlier correspondence with the DySP/SP.

(2) The LA/ALA should furnish their legal opinion in the format given in Director’s letter date 15.2.2000.

Legal Opinion where Prosecution/Tribunal Enquiry is recommended.

205. Factual Reports/Vigilance Enquiry Reports in which Prosecution/Tribunal enquiry is recommended will be forwarded by the Heads of Units to the LA/ALA under intimation to the Supdt of Police concerned. The LA/ALA will forward the FR/ER with connected records and their
legal opinion to the Supdt of Police who will prepare his forwarding endorsement taking into consideration the legal opinion also and forward it with the Enquiry reports and the records to the Directorate. A copy of the Forwarding Endorsement should be forwarded by the S.P. to the LA/ALA also so as to enable him to know the views of the S.P. regarding the findings in the FR/ER.

When legal opinion need not be forwarded

206. The LA/ALA shall offer his opinion on files (other than those in which Prosecution/Tribunal Enquiry is recommended) referred to him by the Supdt of Police. However the Supdt of Police, will treat such legal opinion received from the LA/ALA as part of informal consultation and the same shall not be forwarded to the Directorate along with their Forwarding Endorsement.

207. The formal opinion of the Addl. Legal Adviser regarding the scope for registering cases/ conducting of Tribunal Enquiry need not be obtained and forwarded to Directorate by Heads of Units in respect of Vigilance Enquiry conducted by them, though the Enquiry Officer, if found necessary, may consult the Addl. Legal Adviser at any stage of the enquiry.

Opinion of LA/ALA on scope for appeal

208(1). The Legal Adviser/Addl. Legal Adviser concerned will obtain copy of the judgement and forward the same with his opinion regarding the scope for appeal or the adverse remarks, if any, made by the Court regarding the investigation or the investigating officers to the Supdt of Police concerned within 10 days of the pronouncement of the judgement. The Supdt of Police will forward the same to the Director with his remarks on the above two points.

Director to be informed of the disposal

(2) The LA/ALA should intimate the Director as quickly as possible the nature of disposal of the cases in which he appears before the Court of the Special Judge and mark a copy of the letter addressed to the Director to the concerned Supdt of Police and Dy Supdt of Police for their information.
Fortnightly Report on files pending scrutiny

209. The LA/ALA will forward a fortnightly report on the files pending scrutiny with them in the following proforma to the Directorate before the 20th and 5th of every month.

A. Files pending scrutiny at the beginning of the fortnight (date).
B. Files received for scrutiny during the fortnight.
C. Files scrutinised and forwarded to SP during the fortnight.
D. Files returned to Dy. SP for further investigation/enquiry etc.
E. Reports pending scrutiny at the end of the fortnight.

Monthly Progress Reports of cases pending trial

210. The Addl. Legal Advisors mentioned below should forward Monthly Progress Reports of all cases pending trial in the three Special Judge’s Courts to the Directorate before the 10th of the succeeding month.

(i) Special Judge’s Court, Tvm. Addl. LA – II, Tvm.
(ii) Special Judge’s Court, Thrissur. Addl. LA, Ernakulam.
(iii) Special Judge’s Court, Kozhikode. ALA – I, Kozhikode.

(2) The Progress report should be in the following proforma.

Progress Report of cases pending in the Court of the Special Judge ..........for the month of ........

<table>
<thead>
<tr>
<th>Sl. Unit</th>
<th>VC</th>
<th>CC</th>
<th>Name of accused</th>
<th>No. of witnesses examined, posting turned Hostile</th>
<th>Judge</th>
</tr>
</thead>
<tbody>
<tr>
<td>No.</td>
<td>No.</td>
<td>No.</td>
<td>accused</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
</tr>
</tbody>
</table>

(3). In the Progress Report the pending cases should be arranged according to their length of pendency, the oldest case being on the top of the list and the one charged last at
the bottom. A copy of the Progress Report should be marked to the LA.

**Review of the work of ALAs**

**Director's Circular No. 15/91**

211. The Legal Adviser will review the work of the ALAs every quarter. He will also hold a meeting of the ALA's for discussing the latest court rulings and other salient issues concerning Vigilance Cases. A copy of the Minutes of the meeting shall be forwarded by the LA to the Director for information.

212. Government may, on the recommendation of the Director, appoint Special Prosecutors for any specific case or category of cases for the purpose of aiding the investigation, conducting prosecution etc.
CHAPTER XV

PROSECUTION

Jurisdiction of the Special Judge’s Courts

213. The territorial jurisdiction of the three Special Judge’s Courts at Thiruvananthapuram, Thrissur and Kozhikode comprise the following revenue districts. Vigilance cases registered and investigated by the Vigilance Police Stations functioning in these districts are tried by the said courts (see para 20 supra).

1. Special Judge’s Court, Thiruvananthapuram, Kollam, Pathanamthitta, and Alappuzha
2. Special Judge’s Court, Thrissur Kottayam, Idukki, Ernakulam and Thrissur
3. Special Judge’s Court, Kozhikode Palakkad, Malappuram, Kozhikode, Wayanad, Kannur and Kasargod

Powers of the Special Judge

214. Sections 3 & 4 of the Prevention of Corruption Act, 1988 empower the Special Judges to try any offence committed by the public servants, punishable under the Prevention of Corruption Act or any conspiracy or attempt, or abetment to commit any such offence. While trying any such case, the Special Judge may also try any offence other than an offence mentioned in the Prevention of Corruption Act, 1988 with which the accused may, under the CRPC, 1973, be charged at the same trial.

PROSECUTION SANCTION

Under Section 19, PC Act

215. Sec. 19 of the Prevention of Corruption Act, 1988, lays down that no court shall take cognizance of an offence punishable under sections 7, 10, 11, 13 and 15 of the Act, alleged to have been committed by a public servant except
with the previous sanction* of the authority in the Govt./organization competent to remove the public servant from his office. Such sanction, however, is not required if he is not a Public Servant when the court takes cognisance of the offence.

**Under Section 197 CRPC**

216. (i) "Because of the use of the phraseology when any person who is or was a judge or a Magistrate or a public servant in Sec.197, sanction under 197 for the prosecution of a public servant would be necessary not only when the accused public servant was such at the time of commission of the offence but also when he has ceased to be such a public servant later at the time of taking cognizance of the offence. Sec.197 is intended to give larger protection to the public servant than what was available under Sec.197 of the old CRPC and to continue the same even when he had ceased to hold office". (Rajender Kumar Sood Vs The State of Punjab 1982 Crl.L.J. 1718).

**Protection of 197 not applicable to public servants of Public Sector Undertakings.**

(ii) "The protection by way of sanction under Sec.197 of CRPC is not applicable to the officers of the Govt. Companies or the Public Undertakings even when such Public Undertakings are 'State' within the meaning of Article 12 of the Constitution on account of deep and pervasive control of the Government."

Mohamed Hadi Raja etc V State of Bihar (1998(4) SC 343)

**Case Law**

Sanction order is not an idle formality

"The grant of sanction is not an idle formality or an acrimonious exercise but a solemn and sacrosanct act which afford protection to the Govt. Servants against frivolous prosecutions, and must, therefore, be strictly complied with before the prosecution can be launched against the public servant concerned".

Mohd Iqbal Ahamed Vs State of Andhra Pradesh (1979 CrLJ 633)

**Object of the Section**

"It is not the object of the section that a public servant who is guilty of the particular offence mentioned in Sec.6 of the Act, (PC Act, 1947) should escape the consequences of his criminal act by raising the technical plea of invalidity of sanction. The section is a safe guard for the innocent and is not a shield for the guilty".

Gurubachan Sing Vs State (AIR 1970 Del.102)
(iii) "Whether sanction is required under Sec.197(1) will depend upon the facts of each case. If the act complained or are so integrally connected with the duties attaching to the office as to be inseparable from them, then sanction under 197(1) would be necessary, but if there was no necessary connection between them and the performance of those duties, the official status furnishing only the occasion or opportunity for the acts, then no sanction would be required".

K.S.Prabhakar Vs BSS Karkhane  
(1995 Crl.L.J 2289 (KAR))

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**Case Law**

**Cognizance by Court**

"The relevant date with reference to which a valid sanction is sine qua non for taking cognizance of an offence committed by a public servant required by Sec.6 (now Sec. 19) of is the date on which the court is called upon to take cognizance of the offence of which he is accused".

R.S.Nayak Vs A.R.Anthulay  
(AIR 1984 SC 684).

**Examination of Sanctioning Authority**

"If the sanction order is self-contained and its language can show that there was an application of mind by the sanctioning authority, it is a good sanction. Failure to examine sanctioning authority is, therefore, not fatal to prosecution cases".

Viswanathan Vs State of Maharashtra  
(1995 Cr.L.J.2571 (Bombay)).

**No sanction necessary for ex-public servant**

"A public servant who committed an offence mentioned in the Act, while he was public servant can be prosecuted with the sanction contemplated in sec. 19 of the Act, (PC Act,1988) if he continues to be public servant when the court takes cognizance of the offence. But if he ceases to be a public servant by that time the court can take cognizance of the offence without any such sanction. In other words, the public servant who committed the offence while he was a public servant is liable to be prosecuted whether he continues in office or not at the time of trial, or during the pendancy of the prosecution".

Kalicharan Mahapatra Vs State of Orissa  
(AIR 1998 SC 2595)

**Act when connected with official duty**

"Obviously he did this in the discharge of his duties as Minister. It is therefore clear that the act alleged (120 B) is directly and reasonably connected with his official duty as a Minister, and would, therefore, attract the protection of Sec.197(1) Cr.P.C."

R.Balakrishna Pillai Vs State of Kerala.  
(AIR 1996 SC 901)
No sanction necessary for prosecuting an MLA

217. "Though an MLA would come within the fold of the definition of public servant as given in Sec.2(c) of the PC Act he is not the type of public servant for whose prosecution under the Act, previous sanction as required under Sec.19 is necessary". (Habibulla Khan Vs State of Orissa. AIR 1995 SC 1123).

Permission of Chairman of Rajya Sabha/Speaker of Lok Sabha to be obtained for prosecuting a M.P.

218. Since there is no authority competent to remove a MP and to grant sanction for his prosecution under Sec. 19(1) of the PC Act, 1988, the court can take cognizance of the offences mentioned in Sec. 19 (1) in the absence of sanction, but till provision is made by Parliament in that regard by suitable amendment in the law, the prosecuting agency before filing charge sheet in respect of an offence punishable under sec.7, 10, 11, 13 and 15 of the Act against a M.P. in a Criminal Court, shall obtain the permission of the Chairman of the Rajya Sabha / Speaker of the Lok Sabha as the case may be". (P.V.Narasimha Rao Vs State. (CBI/SP) AIR 1998 SC 2120)

Appointing authority to be correctly ascertained

219. The authority who appointed the accused should be correctly ascertained. Entries in the Service Book of the accused concerned should invariably be checked and photocopy obtained wherever possible. The LA/ALA concerned should verify this aspect at the time of preparing draft Sanction Orders and also when charge-sheets are filed before the court.

220. It is possible that on rare occasions, an accused Govt. servant in a crime case might have been appointed directly by Government, in relaxation of normal rules, on the ground of his parent or guardian 'dying in harness'. In all such cases the prosecution sanction order should be obtained from Government and not from the authority, who as per rules, is competent to appoint or dismiss persons in that category or post. This points to the absolute necessity of finding out in each case, the actual Appointing Authority, with reference to the Service Books. In such cases, the Under
Secretary in the concerned Government Department who will be questioned by the Investigating Officer should be asked to clarify that the accused Government servant in question was appointed by the Government as a special case under certain special circumstances (to be specified in the statement).

**Examination of the authority who issued the Prosecution Sanction**

221. The officer who issues the order sanctioning the prosecution of the accused should invariably be questioned and his statement recorded, with reference to the sanction order issued by him, so that he is made aware of the provisions of the law under which he has issued the prosecution sanction. This should be done within 10 days of the Sanction being received and before the case is charge-sheeted.

**Aspects to be brought out in the statements**

222. When Sanctioning Authorities are examined the following aspects should be brought out:

(i) That he / she has carefully perused the case records forwarded by the Director, VACB that he had acquainted himself with the provision of the Law/section of law and that he/she considers that a prima facie case warranting prosecution of the accused public servant has been made out.

(ii) That he/she is the authority competent to dismiss the accused public servant from service. (The appointing authority unless it is the Govt. need not always be the authority competent to dismiss the public servant). Any departmental orders in this connection should be perused and copy obtained. In case of any doubt, it would be better to obtain sanction from a higher authority, whose competence to accord sanction, there is absolutely no dispute.

**Addl. Secretary/Deputy Secretary to issue Sanction Order**

223(1). Government, in G.O.(MS) No.57/99/Vig. dated 28.6.99, have ordered that sanction for prosecution of public
servants under the Code of Criminal Procedure, 1973 and
the Prevention of Corruption Act, 1988 in regard to cases
investigated by the Vigilance & Anti-corruption Bureau will
hereafter be issued by the Additional Secretary to
Government and Deputy Secretary to Government
concerned in the Vigilance Department of Government.

(2) Here it may be mentioned that Rule 12 of the Rules of
Business of the Government of Kerala has laid down that
"Every order or instrument of the Government of the State
shall be signed by a Secretary/Additional Secretary/Joint
Secretary/ Deputy Secretary/Under Secretary or an
Assistant Secretary or by such other officer as may be
specifically empowered in that behalf and such signature
shall be deemed to be the proper authentication of such order
or instruments”.

Union Government to issue Sanction Order for All India
Service officers

224. "Art. 311(1) of the Constitution lays down that no
person holding a civil post under the Union or a State shall
be dismissed or removed by an authority subordinate to that
by which he was appointed. The principle of the law is that
what a subordinate officer is empowered to do can be done
by his superior also. Therefore, any authority superior to the
appointing authority can remove a public servant from his
post”. (State of Maharashtra Vs G.P.Shahane – 1973
Mah.LJ.314). It follows that an authority superior to the
appointing authority can accord sanction for prosecution. It
is to be mentioned here that the sanction of the Union
Government would be necessary for the prosecution of a
person employed in connection with affairs of the Union.
e.g. All India Service Officers (IAS, IPS etc) working in the
State, as he is removable from office only by the Central
Government.

Further records required by Government of India for
issuing Sanction Order

225. Government of India (Department of Personnel and
Training) in their letter No. 107/5/2000 AVD.I dt.
11.10.2000 addressed to the Government of Kerala have
called for the following records also when Sanction Orders
for prosecuting officers of All India Services are sought for
from Government of India.
(i) Elaborate draft Sanction Order giving brief details of the income, expenditure and assets (both movable and immovable) of the officer and his family members during the check period (Applicable only in DA cases).

(ii) The relevant paragraphs in the statement made by the accused public servant regarding the above (Applicable only in DA cases)

(iii) Authenticated English version of the statements of the witnesses.

(1) The LA/ALAS and the Heads of Units should, therefore, forward to the Directorate the above records also in cases where Sanction Orders are required from Government of India for prosecuting officers of All India Services.

Facts constituting the offence to be mentioned in the Sanction order

226(1). The Supreme Court has held in Somnath Vs Union of India (AIR 1971 SC 1910) that the facts constituting the offence for which the public servant is to be prosecuted should be mentioned in the Sanction. If the facts constituting the offence charged are not shown in the Sanction then the prosecution must prove by extraneous evidence that those facts were placed before the Sanctioning Authority.

Public Servant not to be heard

(2). The grant of sanction being an administrative act the need to provide an opportunity of hearing the accused does not arise Sec. (SP CBI Vs Deepak Choudhary – AIR 1966 SC 186)

Scrutiny of Sanction

227. The Prosecution Sanction received from the concerned Sanctioning authorities should be scrutinised thoroughly before laying the charge-sheet with a view to ensuring that no error/mistake have crept in the Sanction Order and that the officer issuing the sanction is not lower in rank to the Appointing Authority.
Delay in the issue of Sanction Order

228. Govt. of Kerala in Circular letter No.6098/A1/76/Vig. dt.2.9.76. had instructed all Heads of Departments and the Departments of the Secretariat that Sanction Order should be given or refused within a period of two months of receipt of the connected papers as otherwise it would result in avoidable delay in presenting the charge-sheet before the court.

Prosecution Sanction regarding employees of Companies/ Corporations

229. Government in U.O. Note No.4573/B3/73/Vig. dt. 22.5.1974 have laid down that if the authority competent to remove the employees of the Companies/Corporations against whom prosecution sanction is to be issued is the Board of Directors, sanctions have to be obtained from the Board. The Board has to discuss the matter and adopt a resolution in the Board for prosecution of the employees concerned. The Executive officers can communicate the sanction by order of the Board, if they are so authorised by the bylaw. The Board cannot delegate the powers to executive officers of the companies/corporations as long as they are not competent to remove the employees from service.

Preparation of draft charge-sheet

230. Draft Charge-Sheet in the Vigilance Case in which prosecution is recommended in the Factual Report will be prepared by the concerned units only after Prosecution Sanction along with the connected documents is received from the Directorate. Before laying the Charge-Sheet in the court, the Investigating Officer and the Addl. Legal Adviser concerned should ensure that the Sanction has been accorded by the Authority competent to remove the accused from service at that point of time. In case a change in the level of the competent authority is caused by the promotion etc of the accused, the Directorate should be immediately approached by the Head of the Unit for obtaining revised sanction.

Laying of charge - sheet

231. All the Heads of Units will ensure that the charge-sheet is filed in the court within 15 days of receipt of
Prosecution Sanction from the Directorate. If this could not be done, the fact may be urgently intimated to the Directorate specifying the reasons for the delay and the probable date within which the charge-sheet could be filed.

COURT PROCEEDINGS

Intimation of C.C.Nos.

232. The C.C.Nos. assigned by the Court of the Special Judge for the charge-sheets filed should be ascertained by the Heads of Units and intimated to the Directorate as soon as the charge-sheets are taken to file.

Vacation of stay orders in cases under trial.

233. All orders issued by the High Court staying the proceedings of the cases under trial will be intimated to the Directorate by the Heads of Units without any delay. They will take necessary steps to get the stay orders vacated as early as possible under intimation to the Directorate. The vacation of the stay order and the resumption of trial in the Court of the Special Judge should be informed to the Directorate in time.

Intimation of court orders, judgements etc

234. Pronouncement of judgements and important orders passed or steps taken by the Special Judge like framing of charge, should be intimated to the Directorate by the Heads of Units as soon as such orders stay proceedings and granting of bail are pronounced or steps taken, by telephone followed by Fax/ T.P. Message in the case of units outside Thiruvananthapuram and through urgent letters by the Units in Thiruvananthapuram.

Appeal

Follow-up action on judgement

235. The LA/ALA concerned will apply for the copy of the judgement on the same day of judgement and obtain the same from the court of the Special Judge, forward the same
with his opinion within 10 days as to the scope of preferring appeal and pointing out the adverse remarks, if any, made by the Court in the judgement to the Supdt of Police. The Supdt of Police will ensure that the copy of the judgement and the opinion of the LA/ALA with his own remarks regarding the feasibility of preferring appeal reach the Directorate within 20 days of pronouncement of the judgement, so that the matter could be examined in the Directorate and at the Government level and timely action taken to prefer appeal, if required. The fact that in the ordinary course the period for filing appeal is only 90 days should not be lost sight of by the concerned officers.

Filing of appeal before High Court

236. (1) Govt. is the final authority

“When proposals for filing appeals in the High Court are sent to the Advocate General, the entire records of the case, together with certified copies of the Judgements of trial court and appellate court are to be forwarded to the Advocate General sufficiently in advance so that the Law officers get reasonable time to study the case in detail and take a final decision on the scope for filing appeal before the expiry of the appeal period”. (Government letter No. 3579/C5/72/Home dt. 27.9.72)

(2) The Heads of units should ascertain and report the filing of appeal in the High Court against the judgement of the court of the Special Judge, either by the convicted accused for setting aside the conviction, or by the State for enhancement of conviction or reversing the acquittal. The Appeal number of the High Court and the date of filing of Appeal etc should be intimated to the Directorate, without any loss of time.

(3) Government in Circular No. 8701/E1/2000/Vig. dt. 2.12.2000 have clarified that the authority for taking decision in the matter of filing appeal in the High Court against the judgements of the Enquiry Commissioner and Special Judge vests with the Government and that Government in consultation with the Director, VACB and the Advocate General would issue orders for filing appeal in the High Court in such cases and that the District Collectors/Heads of Departments should not take up the matter directly with the Advocate General.
Disposal of appeals by High Court

237. The disposal of appeals by the High Court should be ascertained and intimated in time to the Directorate by the Heads of Units. Later on, a copy of the judgement should be obtained and forwarded to the Directorate. The Heads of Units will see that subsequent filing of appeals in the Supreme Court either by the convicted accused or the State and its disposal by the Supreme Court should be ascertained then and there and intimated to the Directorate. A copy of the judgement of the Supreme Court shall be obtained and forwarded to the Directorate by the Heads of Units.

Intimation of conviction particulars

238. A Govt. servant convicted on a criminal charge is liable for dismissal or removal from service for which Disciplinary Authority has to initiate urgent action invoking the special procedure as provided in Rule 64 of the Manual for Disciplinary Proceedings or other Rules applicable. This is possible only if the details of conviction are formally conveyed to the authority competent (Authority who issued Prosecution Sanction ) to remove the convicted official from service. Hence, as soon as a Govt. servant is convicted in a Vigilance case, the Head of Unit concerned should intimate the details of conviction to the authority who issued the prosecution sanction. A copy of the judgement, as soon as it is received, should also be forwarded to the above Authority. The Heads of Units/Supdt of Police should intimate the Directorate of having complied with the above instructions while forwarding the details of conviction and the copy of the judgment to the Directorate.

Return of records

239. As soon as prosecution proceedings are finalised in the courts of the Special Judge, the Heads of Units will take speedy action to obtain the records/MOs etc from the court and hand over them under proper acknowledgement to the officers/persons from whom they were seized/taken over.

Supply of copies of documents, statements, etc

240. According to the provisions of section 173(5) of the
Criminal Procedure Code, before the commencement of the trial the prosecution is required to furnish to the Magistrate, a copy of the F.I.R. and of all other documents or relevant extracts thereof, on which the prosecution proposes to rely, including the statements, confessions, if any, recorded under section 164 of the Criminal Procedure Code and the statements recorded under sub-section (3) of section 161 of the Criminal Procedure Code of all the persons whom the prosecution proposes to examine as its witnesses. Therefore, the Magistrate should be furnished with the copies of the statements and documents mentioned above, as soon as the charge-sheet is filed. The Investigating Officer may furnish all such copies to the accused as stipulated in Section 173(7) of the Criminal Procedure Code, subject to the provisions of Section 173(6) of the Code.

Handing over statements of witnesses to the Special Judge

241(1). Copies of 162 statements of witnesses in the charge-sheet should without fail be made available to the Special Judge through LA/ALA. The case diary file of the case should always be kept ready with the officer of the Bureau who attends the court so that it can be made available to the Judge, whenever called for. The Heads of Units should invariably mention in the report being sent to the Director after laying the charge-sheet about the handing over of the copies of 162 statements of all witnesses to the LA/ALA to be given to the Special Judge.

2(2) Legible, readable copies of statements of witnesses and documents should be forwarded to the court to facilitate their being made available to the accused. It will be the duty of the Investigating Officer and the Deputy Superintendent of Police of the Unit to ensure that this is done.

Authenticating the Prosecution documents

242(1). In order to ensure that no errors or mistakes have crept into the copies of the statements of the witnesses made available to the counsel of the accused, the Heads of Units should bestow personal attention in comparing the copies taken with the originals. Copies of the case diaries should be verified and certified to be the true copies of the originals by the Charging Officer as provided under Rule 19 of the Criminal Rules of Practice, Kerala, 1982.
(2) The Statements of witnesses should be properly authenticated by the Investigating Officer/Enquiry Officer who records them. The signatures of the officers should always be dated. Every statement should indicate the date on which the witness was questioned and the place where he was questioned. This is to avoid complications at the time of examining the witnesses.

Final Report to Court when Prosecution not sanctioned/decided

243. In all cases in which prosecution is not sanctioned/decided, a final report as appropriate to the particular case will be submitted by the Heads of Unit to the Special Judge under intimation to the Directorate as soon as the orders of the Government are received referring the case to the Vigilance Tribunal or for Departmental action. Government reference No. and date and the gist of the Government order will also be furnished in the Final Report.

Action when witnesses turn hostile

244. The tendency of witnesses to turn hostile in order to secure the acquittal of an accused in a trial or to exculpate a Suspect Officer in a Vigilance enquiry, no doubt, causes much concern and embarrassment to the Bureau. It is, therefore, the responsibility of the officers concerned to see that witnesses are kept steady in trials and enquiries without being persuaded or prevailed upon to testify falsely or incorrectly for the benefit of the accused/Suspect Officer. Despite the best efforts of the officers of the Bureau if the witnesses turn hostile, the concerned officers should take expeditious action against such witnesses/petitioners/complaints so as to institute action against them under sections 182 or 193 or 211 IPC, or Departmental action as such a step would act as a deterrent to others.

False complaint – action under Section 182 IPC

245. Section 182 IPC contains penal provisions against complainants who give false complaints to a public servant against any person with the ulterior motive of harassing him. Giving a false complaint against a public servant to an officer of the Bureau, comes within the definition of the above
offence. The procedure to be followed for initiating action under section 182 IPC is outlined in section 195 (1) CRPC. It is mandatory that a written complaint in this connection should be filed before the Magistrate having jurisdiction either by the public servant to whom the false complaint was given or by the superior officer under whose administrative control that public servant is. Such a complaint can be made before the Magistrate in instances where a signed complaint was given and the complainant subsequently turns hostile either during the trial or enquiry or disciplinary action by sending affidavits contrary to his original signed complaint.

False evidence - action under section 193 IPC

246(1). Section 193 IPC contains penal provisions against persons who intentionally give false evidence in any stage of judicial proceedings. But for taking action under this section, there must be a finding by the court that the witness is guilty of the offence of perjury by giving false or fabricated evidence. Mens rea is an essential ingredient of the evidence of perjury. The mere fact that a statement made by a witness turns out to be wrong or inaccurate does not make him liable for punishment. He must make the statement deliberately and must know or believe it to be false or must not believe it to be true.

(2). The procedure to be followed for initiating action under section 193 IPC is mentioned under section 195 CRPC. The court in question or a superior court which has administrative control over that court must file a written complaint before the concerned Magistrate having jurisdiction. It may be noted that this section does not apply to the proceedings of the Vigilance Tribunal.

False criminal proceedings - action under section 211 IPC

247(1). A person who institutes or causes to be instituted a criminal proceedings to cause injury to any person or falsely charges any persons with having committed an offence comes within the purview of section 211 IPC. The procedure to be followed in a case under this section is as enumerated under section 195 CRPC which states that no court shall take cognizance of this offence except on the complaint in writing of a court or of some other court to which it is subordinate.
Section 211 IPC also does not apply to enquiries before the Vigilance Tribunal. The three sections viz. 182, 193 and 211 IPC are applicable to Government servants as well as private parties. A Government or Public servant making a false complaint against another Government or public servant is as much liable for prosecution under the relevant provisions of the Indian Penal Code as in the case of any other member of the public. The language used in the relevant sections of the Indian Penal Code does not in any way make a distinction or difference between a Government or Public Servant and a member of the public in the matter of commission or prosecution of such offences.

**Service of summons**

248. Summons received from the Special Judge/Vigilance Tribunal should be properly and promptly served on the addressees and returned to the court well before the due date with necessary endorsement about the service of the summons. Change of address, if any, of the witnesses should be intimated to the court/Vigilance Tribunal in time so that the summons could be sent to the witnesses at their proper addresses.

**O.P./Writ Appeals in the High Court**

249. With a view to ensuring prompt follow-up actions in O.P./Writ appeals filed in the High Court of Kerala, the Superintendent of Police, Vigilance & Anti-corruption Bureau, (CR) Ernakulam will function as liaison officer and he will sign Statement of Facts, Counter-affidavits etc. on behalf of the Director, Vigilance & Anti-corruption Bureau whenever required urgently. He will depute one officer on every working day from the Range for collecting details of O.P./Writ appeals from the office of the Advocate General, Ernakulam. The details so gathered should be communicated to the Directorate, to concerned Range/Unit in time under intimation to the concerned Additional Legal Adviser, Vigilance & Anti-corruption Bureau. It will be ensured that no delay occurs in gathering the details and filing of the Statement of Facts connected with Vigilance Enquiries/Vigilance Cases.

**Directions of High Court – processing in the Directorate**

250. Whenever any communication relating to Writs and Appeals before the High Court is received in the Directorate
it should be currented and passed on to the concerned Section clerk by the Inward Section Clerk immediately. The Section clerk who deals with the matter should take immediate action in complying with the directions issued by the High Court. The file pertaining to the matter will be taken to the Section Head and to the Superintendent of Police (Int.). If necessary, the file will be shown to the Administrative Assistant and Manager in person. If the Superintendent of Police (Int.) is not present in the office the file will be taken direct to the Director and if the Director is not present the file will be taken to the Inspector General of Police and urgency explained.

Implementation of Court Orders

251(1). Once the final order of the High Court is received the officers concerned should implement it within the stipulated time so as to avoid any contempt of Court proceedings. In case it is found not possible to do so due to any reason, a responsible officer should go over to Advocate General’s Office to file affidavit and petition for extension of time at least a week before the expiry of the time limit.

(2) In order to watch the implementation of the Court directions, a register should be maintained in the Directorate in the proforma prescribed.

Government’s responsibility

252. “It needs no reiteration that when a court like the Enquiry Commissioner and Special Judge is established, the object is to deal with persons involved in abuse of official power, warranting action under the Prevention of Corruption Act and other allied statues. But if the prosecuting agency and for that matter the State Government is of the view that there may not be material to proceed in a criminal case, it is proper that it should be done after consideration of all relevant aspects and not in a routine manner. Detailed analysis of factual position and materials and evidence on record should be done and thereafter the course should be adopted. If it is otherwise done, the purpose of any proceedings against corrupt officials and establishment of courts to deal with such matters would be frustrated”

[ From the judgement dt.8.3.2000 of Shri. Arijit Pasayat, Chief Justice, Kerala High Court in OP. No.30788/99-(s)].
Filing of Statement of Facts

253. When Statement of Facts are filed by the officers of the Bureau whether in their direct capacity as respondent or on behalf of the Director, they should do so by carefully applying their mind. Whether a Suspect Officer/Accused is to be continued under suspension, whether his reinstatement can be recommended, whether a case is to be charge-sheeted or finally reported, whether any recovery to be effected etc. are matters to be decided in the Directorate after assessing the evidences available in each instance. No commitments should be made by the officer filing the Statement of Facts without getting prior clearance from the Directorate on such matters.

CHAPTER XVI
TRIBUNAL ENQUIRY

254. The Kerala Civil Services (Vigilance Tribunal) Rules, 1960, is applicable to all the Government servants in the State and the term 'corruption' shall have the same meaning as 'criminal misconduct' under section 13(1) of the Prevention of Corruption Act, 1988. It may be pointed out here that Government, vide G.O.(P)No.134/90/Vig. date 7.9.1990, renamed the Kerala Civil Services (Disciplinary Proceedings Tribunal) Rules, 1960 as Kerala Civil Services (Vigilance Tribunal) Rules and re-designated the Tribunal for Disciplinary Proceedings as Vigilance Tribunal.

Cases against Gazetted officers

255. The Government may refer any case or classes of cases to the Vigilance Tribunal that they consider shall be dealt with by the Tribunal. However, all applicable cases relating to Gazetted officers in respect of matters involving corruption shall necessarily be referred to the Tribunal.

Cases referred by other Departments

256. If, on a complaint or other information received and after such investigation, if any, as may be deemed necessary, the Disciplinary Authority or the Appointing Authority or any officer or authority empowered by Government in this behalf, is satisfied that there is a prima facie case for taking action against the Government servant before the Tribunal, the authority shall forward to Government all records of the case.

257. The Departmental authorities may also send to the Govt. the records of cases other than corruption which they think fit to be enquired into by the Tribunal and the Government shall decide whether they shall be enquired by the Tribunal or not.

Report of Tribunal to Government

258. After all the evidence and arguments have been heard, the Tribunal shall record its findings in respect of each charge
and in case the Government servant is held guilty of any charge, the Tribunal shall recommend to Government the punishment to be imposed. The Government shall either consider the report of the Tribunal and the records of the enquiry or send these to the concerned disciplinary authority for further action and final disposal in accordance with the relevant rules relating to the consideration and disposal of the report of an Inquiry Authority in respect of the Government servant.

**Legal opinion recommending Tribunal Enquiry**

259. The Vigilance Enquiry Report in which enquiry by Vigilance Tribunal is recommended will be forwarded to LA/ALA by the Dy SP under intimation to the Supdt of Police. The LA/ALA will forward the Enquiry Report with connected records and legal opinion to the Supdt of Police, concerned who will prepare his Forwarding Endorsement after an examination of the legal opinion and forward the Enquiry Report to the Directorate.

260. In Vigilance Enquiry reports forwarded to Govt. by the Director, VACB, in which he has recommended for a Vigilance Tribunal Enquiry, the opinion of the Legal Adviser/ALA should also be attached. A draft Memo of Charges with Statement of Allegations to be issued to the Govt. servant should also be forwarded along with the report. On receipt of the report, Government may refer the matter to the Vigilance Tribunal for further action or for departmental action, according to merits.

261. Supdts of Police and Dy Supdts of Police of the Bureau shall extend full co-operation to the Vigilance Tribunal, Legal Adviser/Addl. Legal Advisers in the speedy completion of the Tribunal Enquiry and will ensure prompt presence of the witnesses before the Tribunal as and when summons are received.
CHAPTER XVII

DEPARTMENTAL ACTION

Rules framed by Central/State Government

262. The provisions of the All India Services (Conduct) Rules, 1968 are applicable to the All India Services Officers, (IAS, IPS & IFS) and disciplinary action is launched against them on the basis of the All India Services (Discipline and Appeal) Rules, 1969. Likewise, the Kerala Government Servants’ Conduct Rules, 1960, governs the work and conduct of the members of the State Government. However, disciplinary proceedings are taken against the members of the Kerala Police under the provisions of the Kerala Police Departmental Inquiries, Punishment and Appeal Rules 1958, supplemented by the provisions of the Manual for Disciplinary Proceedings issued by Government of Kerala. Disciplinary action against the members of the State Government are taken under the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960, and the Manual for disciplinary Proceeding. It needs mentioning here, that the Kerala Legislature Secretariat Service (Control and Appeal) Rules, 1982 regulate the disciplinary proceedings against the staff of the Kerala Legislative Assembly.

Parallel Departmental Enquiry

263. When an enquiry against a Government Servant is pending in the VACB, the Head of Department shall not initiate a parallel Departmental enquiry on the same allegations but shall wait for the completion of the enquiry by the Bureau.

Case Law

“A Disciplinary Proceedings is not a criminal case and the standard of proof is that of preponderance of probability and not proof beyond reasonable doubt”.

SARDAR BAHADUR V UNION OF INDIA
(SLR 1972 SC 355)

“The Departmental Enquiry is not an empty formality. It is a serious proceedings intended to give the officer concerned a chance to meet the charge and prove his innocence.”

JAGADISH PRASAD SAXENA Vs MADHYA PRADESH
(AIR 1961 SC 1070)
Administrative Departments to handle Vigilance Enquiry Reports

264. Departmental action on the basis of Vigilance Enquiry Reports against Government Servants will be taken by the concerned Administrative Departments in the Secretariat. Such reports will not be forwarded to Heads of Departments by the Administrative Departments, who will see that action is initiated and final orders issued by them (Administrative Departments) in consultation with the Vigilance Department of the Secretariat.

Oral Enquiry/Non-Oral Enquiry against officers/staff of VACB – time-limit

265. The Departmental Enquiry ordered against the Executive Staff and the Ministerial Staff of the Bureau should be completed within a period of six months in the case of Oral Enquiry and three months with regard to Non-oral Enquiry. Monthly Progress Reports regarding the pending Departmental Enquiries should be forwarded to the Directorate in the name cover of the Supdt. of Police (Intelligence) by the 10th of every month, in the proforma given below:

1. No. and date of enquiry file.
2. Name of the Enquiry Officer.
3. Date of receipt of the file for enquiry.
4. Name and designation of the delinquent.
5. Charge in brief.
6. No. of witnesses to be examined.
7. No. of witnesses examined and documents marked.
8. No. of witnesses examined and documents marked during the month.
9. Reasons for the delay.

Vigilance Enquiry Reports - privileged portions

266. The Conclusions and Recommendations of the Enquiry Officer, which may be supplemented by the endorsement of the Supdt. Of Police/Director, Vigilance & Anti-Corruption Bureau and the opinion of the Legal Adviser to the Vigilance & Anti-Corruption Bureau should be treated as privileged and the accused Government Servant
should not be allowed access to them under any circumstances. These records are strictly not “records pertaining to the case” as that expression is used in Rule 15(2)(a) of the KCS (CC&A) Rules, 1960. The Heads of Departments and all Disciplinary Authorities shall, therefore, not allow the delinquent Government servants to peruse and take extracts from these records and that they should be properly kept away from the delinquent Government servants.

**Disciplinary action – after retirement**

267. If any recovery has to be made from a delinquent officer in order to make good any loss caused to the Government as a result of his negligence or fraud committed by him while he was in service, action as contemplated in Rule 3, Part III KSR will be taken. The Departmental Proceeding if instituted while the employee was still in service shall be continued after his retirement and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service. If it was not instituted before his retirement it shall be instituted only with the sanction of the Government and shall not be in respect of any event that took place more than four years before such institution. A Departmental proceeding shall be deemed to be instituted on the date on which the Memo of Charges is issued to the employee or pensioner or if the employee has been placed under suspension from an earlier date on such date (The Public Service Commission shall be consulted before final orders are passed).

**Issue of Non-liability Certificate to those retired from service**

268. In case where departmental/judicial action are pending and continuing under Rule 3 part III Kerala Service Rules, if the quantification of liability has not been done within 3 years of retirement as provided in the Note 3 under Rule 3 part III Kerala Service Rules, Non Liability Certificate should be issued on the assumption that there is no established liability and any loss detected thereafter has to be made good either through civil proceedings as provided under Ruling No. 6 under Rule 116 part III Kerala Service Rules, or recovered from the persons who are responsible to conclude the departmental proceedings including Vigilance investigation.
Para 75,
Manual for Disciplinary Proceedings and Director's Circular No.10/91.


GO(Rt.) No.259/74/ Vig. dated 26.11.1974.

Assistance by Bureau

269. When disciplinary action against a Government servant is taken up on a report from the Vigilance & Anti-Corruption Bureau, the officer conducting the enquiry may intimate the Director, VACB, the exact date of enquiry sufficiently in advance so that arrangements may be made by the Bureau for the production of witnesses and for the officers of the Bureau, who conducted the enquiry to be present at the Departmental enquiry for assisting the Inquiry Officer.

When crime case is pending

270. Departmental action should be initiated and proceeded without waiting for the finalisation of cases pending in courts against officers involved in misappropriation, defalcation etc. In other words, Departmental Proceedings should go forward alongside the cases before the courts so that action does not become time-barred on any account. But the final orders in the Disciplinary Proceedings shall be issued only after the decision of the court is known. Departmental action to fix responsibility and to make recovery where necessary, should also proceed simultaneously without waiting for the findings of the court or the Vigilance & Anti-Corruption Bureau.

Loss of Govt. money – disciplinary action to commence before date of retirement

271. The Manual for Disciplinary Proceedings contains the following instructions regarding the initiation of disciplinary proceedings against retiring Government servants involved in charges of causing pecuniary loss to Government.

Rule 61 (A): “Notwithstanding any thing contained in para 61 and taking into account the provisions of Rule 3 of Part III of the KSR, in a case where a loss of Government money is involved and the Government servant it to retire shortly, it will be necessary to initiate disciplinary proceedings against the Govt. servant by serving the Memo of Charges framed against him/her under acknowledgement before the date of his/her retirement on superannuation. Further action on the disciplinary proceedings may be held in abeyance in case charges have been laid before the court on the same matter, till the disposal of the case charged before the court”.

Holders of Civil posts covered by Art. 311

272. Employees of public undertakings or of independent corporate bodies are not holders of civil posts and are not covered by Art. 311 of the Constitution except Government servants who are on deputation to such undertakings or corporate bodies.
CHAPTER XVIII

SUSPENSION

In cases/enquiries conducted by the Bureau

273. Whenever a case falling under any category enumerated in para 6 of G.O. (P) 65/92/Vig. dt.12.5.92 is registered or an enquiry is contemplated or initiated against any Government/Public Servant and if Government feel it necessary in the interest of a fair investigation or enquiry; the Government servant concerned may either be placed under suspension* by Government in the Vigilance Department or the Vigilance Department may request the concerned Department to suspend or transfer him. The Head of Government/Office/Government Undertakings concerned shall, without fail and with the least delay, comply with such direction ordering the suspension/transfer of the official concerned and report compliance to Government in the Vigilance Department, under intimation to the Director, Vigilance & ACB.

When necessary in Public interest

274. Rule 10 of the Kerala Civil Services (Classification Control And Appeal Rules) 1960 of the Government of Kerala provides that a Government servant may be placed under suspension by an authority competent to do so if such action is considered necessary in public interest under the circumstances mentioned below:

Case Law

* Suspension defined

"Suspension is a temporary privation of a public servant's office or privilege. His powers, functions and privileges remain in abeyance but he continues to be subject to the same discipline and penalties and to the same authorities".

K.P. Roy Vs State of West Bengal
AIR 1952 CAL 796
(a) Where disciplinary proceeding against him are contemplated** or are pending

(b) Where a case against him in respect of any criminal offence is under investigation or trial; or

(c) Where final orders are pending in the disciplinary proceedings and if the appropriate authority considers that in the prevailing circumstances, it is necessary in public interest that the Government servant should be suspended from service.

Deemed Suspension

(d) A Government servant who is detained in custody whether on a criminal charge or otherwise for a period exceeding 48 hours shall be deemed to have been suspended w.e.f. the date of detention, by an order of the Appointing Authority. Rule 7(1) of the Kerala Police Departmental Inquiries Punishment and Appeal Rules, 1958, Rule 10 of the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960 and Rule 57, KSR Part-I also contain similar instructions.

Guidelines issued by Government of India regarding suspension of public servant

275. In deciding whether a Government servant should be placed under suspension, public interest should be the sole

** Suspension when said to be contemplated

"Before a Govt. servant is placed under suspension there must be serious allegations of misconduct against the servant and there should be a prima facie satisfaction that the allegations are true. It is clear that either there should be a preliminary enquiry and a prima facie satisfaction or there must be material available which would indicate prima facie grounds for action against the member and those grounds should be established to the satisfaction of the departmental superior or to any authority to whom such superior is subordinate. When Rule 7(1)(a) is read with Rule 6 of the Kerala Police Departmental Inquiries, Punishment and Appeal Rules it is clear that an enquiry can be said to be contemplated against a member of a service only when a prima facie case for enquiry is established".

K. Veeramani Vs State of Kerala
1974 KLT 630.
guiding factor and the Disciplinary authority has discretion to take its own decision taking all factors into account such as;

(i) Where continuance in office of the Government servant will prejudice the investigation, trial or inquiry (e.g. apprehended tampering of documents, influencing witnesses etc.)

(ii) Where his continuance in office is likely to seriously subvert discipline in the office in which he is workings;

(iii) Where his continuance in office will be against the wider public interest such as where there is a scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of Government to deal strictly with officers involved in such scandals, particularly those involving corruption.

(iv) Where preliminary enquiry has revealed that a prima facie case is made out against a Government servant which would justify his prosecution/disciplinary proceedings which is likely to end in his conviction/or dismissal removal or compulsory retirement from service.

276. The Central Government Directive also enumerates the following types of misdemeanour where suspension may be desirable.

(i) Offence or conduct involving moral turpitude.

(ii) Corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gain.

(iii) Serious negligence and dereliction of duty resulting in considerable loss to Government.

(iv) Desertion of duty or

(v) Refusal or deliberate failure to carry out written orders of superior officers.

277. The cases and the stage of the proceedings where the CBI will be fully justified as per the above Directive in advising suspension are given below:
(i) in a trap case where the Government servant has been caught red-handed

(ii) where a prima facie case has been made out for possession of disproportionate assets after a search has been conducted.

(iii) where a charge-sheet has been filed in a court against a Govt. servant for specific acts of corruption or any other offence involving moral turpitude.

(iv) where a charge-sheet has been issued to a Government servant for imposition of major penalty alleging specific acts of corruption or gross misconduct involving moral turpitude.

Suspension when takes effect

278. Suspension shall take effect from the date of communicating the orders placing the Government Servant under Suspension. It is the communication of the order which is essential and not its actual receipt by the Government Servant.

Suspension to be justified

279. If at any point during the course of an enquiry or investigation the enquiry officer/investigating officer is convinced that continuance of the Suspect Officer/accused under suspension is no longer required he is at liberty to report that matter to the Director for taking it up with Government. Officers of the Bureau should ensure that suspension of a Government servant is recommended only in deserving cases and re-instatement is not recommended arbitrarily and without any valid reason. The officers of the Bureau should also ensure that enquiries/investigation in which officers have been kept under suspension are completed as expeditiously as possible.

280. Suspension should be resorted to only when it is really justified as recommendations for suspension should be made with reference to the gravity of the offence, the necessity to remove the officer from the discharge of his duties immediately and the penalty that is likely to be imposed in case the charge is proved.
Government to be informed

281. According to Govt. Circular No.6122/E3/99/Vig. dated 5.7.99, all Heads of Departments should inform Government in the Administrative Department concerned and also the Director, VACB, details of orders placing under suspension officers caught in Vigilance Trap cases. Such intimation shall be made either by Fax or T.P. message. Heads of Departments will be responsible for any administrative complications arising out of failure to do so.

Review of Suspension

Committee Constituted by Government

282(1). In order to review the cases of suspension regularly and periodically Government vide GO(MS) No.21/90/Vig. dt.23.1.1990 have constituted a committee consisting of the following officers.

(i) Secretary, (Home & Vigilance)
(ii) Director/Inspector General of Police, VACB.
(iii) Secretary Personnel & Administrative Reforms Dept.
(iv) Law Secretary or his representative
(v) Joint Secretary (Vigilance) Member Convenor.

The Committee will meet once in four months. All the cases of suspension made on the basis of enquiries/investigation made by the VACB will be placed before the committee. The committee will examine individual cases with reference to the guidelines and recommend the cases for re-instatement of the officers or other-wise. The committee may also suggest modifications to the guidelines for consideration of Government, wherever necessary. The committee will also consider the cases in which the courts have made observations and make suitable recommendations to Government. Individual representations received by Government in-between the meetings of the Committee will be placed in the next meeting of the Committee.

(2). All cases in which an officer has been under suspension for more than 6 (six) months shall be reviewed and decision taken based on the merits of each case. In cases where orders
of suspension have been issued by other Departments of the Secretariat/Heads of Departments etc. the review will be done by the Secretaries to the Departments/Heads of the Departments as the case may be and orders issued after obtaining the views of the Vigilance Department in the Government.

Revocation of Suspension

283. Government in Circular No. 9713/C1/91/Vig. dt.21.5.1992 (See Appendix XIII) have instructed that suspension shall be revoked without prejudice to the pending proceedings in all Vigilance cases including Trap cases if the officers have been under suspension for more than 2 years even if the cases have not been charge-sheeted, except in cases where the Director, VACB furnishes sufficient reasons to prolong the period of suspension beyond 2 years.

Posting

284. The Govt. Circular referred to in the preceding para requires that the re-instatement of the Public/Government servant and/or his re-posting in the same place from where he was suspended/transferred shall be ordered only with the concurrence of Government in the Vigilance Department. In cases where orders of suspension were issued by Government in the Vigilance Department re-instatement will be ordered only by the Vigilance Department in consultation with the Director, VACB. Officers on re-instatement should be posted to non-sensitive posts far away from the place/district from where they were suspended, to the extent possible.

Disconnection of residential telephone

285. The facility of residential telephone shall not be extended to a Government servant who has been placed under suspension. The authority placing a Government servant under suspension shall ensure that the residential telephone of the Government servant is disconnected on the date from which the suspension order takes effect. Similar instructions were also issued by Government in Memo No.91427/ M1/65/PD dt. 29.11.1965.
CHAPTER XIX

VIGILANCE CELLS IN GOVT. DEPARTMENTS/ORGANISATIONS

Vigilance Cell

286. The administrative Vigilance set-up in all departments including those of the Secretariat and all Public Sector Undertakings will be known uniformly by the name 'Vigilance Cell'.

Posting of Vigilance Officers

287. Officers of adequate seniority, preferably those at the number two level in each organisation will be designated as Vigilance Officer to head the Vigilance Cell. Appointment of Vigilance Officers shall be ordered by the Vigilance Department of the Secretariat after obtaining Vigilance clearance from the Director, VACB. The Vigilance Officer shall be answerable only to the Head of the Department or the Chief Executive.

Training of Vigilance Officers

288. The activities of the Vigilance Officers will be co-ordinated by the Vigilance Department of the Secretariat, by prescribing periodical reports and returns, arranging training, conducting review meetings etc. Training will be given to the Vigilance Officers at regular intervals. This could be done by the I.M.G.; according to a well-devised training programme. Alternatively, the training could be undertaken by the Director, VACB, with the faculty drawn from various disciplines.

Matters to be dealt with by Depts/Organisations.

289(1). The Heads of Departments And Vigilance Officers of the various Departments/Organisations shall not ordinarily depend on the VACB for making any enquiry with regard to matters to be dealt with by them. They will themselves deal with the following matters without referring them to the VACB.
(a) Nepotism.
(b) Causing avoidable delay in the disposal of Govt. business.
(c) Violation of Departmental Standing Orders.

(2). The Department should ordinarily conduct enquiries into cases of corruption and malpractices in which only the Departmental Officers are involved. Only those cases which cannot be effectively and adequately enquired into by the Departments will be referred to the Government for decision as to whether Vigilance enquiry should be ordered or not.

(3). Complaints/petitions relating to Departmental irregularities which do not involve questioning of witnesses outside the Department and which, prima facie, do not amount to Criminal Misconduct as defined in Sec.13 of the Prevention of Corruption Act, 1988, will be entrusted to the Vigilance Cell for enquiry and report. If the enquiry by the Vigilance Cell discloses sufficient grounds for action by the VACB, a request to this effect shall be made by the Department/Organisation to the Vigilance Department in the Secretariat.

Request for enquiry by Bureau - reasons to be convincing

290. When matters are referred to the Vigilance Department in the Secretariat, the Secretaries of the Departments concerned will record specific reasons in the file, why the particular matter cannot be effectively enquired into by the Vigilance Officers of the Department/Organisations and why it is necessary for the matter to be enquired into by the VACB. Proposals without specific remarks of the Secretaries concerned will not be entertained by the Vigilance Department in the Secretariat.

Petitions without Vigilance angle

291. Petitions received in the Vigilance Units of the Bureau which do not have a vigilance angle will be sent to the District level officers of the concerned Departments and such petitions received at the Directorate, shall be forwarded to the Heads of Departments concerned.
Parallel Departmental enquiry prohibited

292. When an investigation/enquiry against a Government Servant/ Public Servant is pending in the VACB, the Vigilance Officers of the Departments/Organisations concerned shall not initiate a parallel enquiry on the same allegations, but shall wait for the completion of the investigation/enquiry by the Bureau.

Heads of Departments to be intimated of the enquiry

293. In all enquiries in which information regarding parallel Departmental enquiry is reported in col.6, the Directorate will send a confidential communication to the Head of the Department/office concerned requesting not to proceed Departmentally until the finalisation of the Vigilance Enquiry. But, at any time during the course of the Vigilance enquiry of SP/Dy SP has reason to believe that a Departmental enquiry into the same allegations(s) is in progress, he may write to the Departmental Enquiry Officer to discontinue the enquiry in view of the orders issued by Government in Para 13 of G.O.(P) No.65/92/ Vig. dt. 12.5.92.

Follow-up by Vigilance Department

294. Vigilance Department in the Secretariat will closely pursue the Vigilance Enquiry reports referred to the Departments for taking Departmental action.

Review of Punishment

295. Government in the Vigilance Department will have the power to review the punishment awarded by the Heads of Departments/Disciplinary Authority in all cases of Departmental action initiated by them on the basis of a report from the VACB.

Annual Conference of Vigilance Officers

296. There should be an annual conference of all Vigilance Officers, presided by the Minister in-charge of the Vigilance Department. At this conference, all important issues relating to the Departmental Vigilance will be discussed and appropriate decisions taken.
297. The members of the public when they come forward with information or complaints to assist the Vigilance Department should be fully protected and their identity kept confidential. Petitions received from the Director, VACB of Vigilance Investigation or from Government in the Vigilance Department should be suitably dealt with by the Head of the Department/Vigilance Officer of the concerned departments keeping in mind the importance of the above facts instead of forwarding such petitions in original to lower administrative authorities for disposal.
CHAPTER XX

PREVENTIVE VIGILANCE

Collection of information about corrupt practices and corrupt public servants

298. The Bureau is not to confine itself merely to taking action on petitions and complaints received by them. After all, such complaints are received only in a small proportion of cases in which Govt. officers have indulged in corruption. In the others, both the givers and receivers of bribes being beneficiaries, there is no incentive for any one to come up with complaints. It is clearly the duty of the officers of the Bureau by dint of hard work and display of initiative and determination to unearth such cases of corruption and take all necessary measures to see that the concerned corrupt officers are exposed and got punished.

Need for prompt action on information gathered

299. It is necessary, therefore, that every officer of the VACB should assume the role of an Intelligence officer besides being an investigating/enquiry officer, for collecting intelligence of corrupt activities, particularly in sensitive establishments. The Bureau has been given adequate powers in the matter of exposing misconduct by conducting surprise checks in the Government offices and establishments and this procedure should be fully availed of as it provides a healthy effect on maintaining integrity in public services as well as creating a favourable public attitude to the Bureau. The Vigilance Units should cultivate reliable sources at major offices of the sensitive departments and act upon information received with promptness combined with correct procedure and meticulous attention. It should be the earnest effort of the officers of the Bureau to leave no stone unturned to get information of demands of bribes by corrupt officers and to organise and lay successful traps to book them.
DOSSIERS

Maintenance of Dossiers on corrupt officials

300. In cases where there is information that an officer is corrupt and it is felt that a watch maintained by the Bureau may lead to the detection of his corrupt practices, a chosen officer shall be directed to make confidential enquiries about the conduct of the officer from time to time and record the results of such enquiries in a dossier to be maintained by and kept in the personal custody of the DIG or the Supdt of Police in the Directorate of the Bureau. Enquiries made in this connection should be very confidential.

How dossiers are opened

301. Dossiers in the Format prescribed as Appendix I of Director’s Circular No.3/78 will be opened by the Intelligence Branch in the Directorate on the orders of the Director on the following categories of Government/public servants.

(a) A Person in service who has come to adverse notice i.e. allegations of corruption or misconduct having been found substantiated against him more than once and hence suspected to be habituated to corrupt activities.

(b) A Person in service about whom there is suspicion regarding serious corruption or misconduct and it is considered necessary to maintain continuous confidential watch so as to establish grounds, if any, for instituting a detailed enquiry or investigation later.

302. Keeping in mind the above provisions, the Range Superintendents of Police, Deputy Superintendents of Police, Inspectors of Police of Range Intelligence Staff and Deputy Superintendents of Police of Units should periodically review the cases of Suspect Officers in their jurisdiction, make specific enquiries and forward proposals with adequate particulars to the Superintendents of Police (Intelligence) for opening dossiers in deserving cases. The Superintendents of Police (Intelligence) who is in-charge of the Intelligence Branch in the Directorate will examine the Nominal Index Register once in a month, find out whether there are any case fit to be considered for opening dossiers and submit a note with proposals to the Director through the DIG.
303. On receipt of orders from the Director, the Intelligence Branch will prepare a draft dossier by collecting information to make entries up-to-date under parts I to VI in the Dossier File. If necessary, the Superintendent of Police (Intelligence) will collect the requisite information from the Range Deputy Superintendents of Police or other authorities concerned. The draft dossier so compiled will be put up to the Director for scrutiny and approval. On approval, two copies of the Dossier with entries neatly typed will be prepared and assigned a serial number after making entry in the Register of dossiers. The number once assigned to a dossier should not be re-assigned to another even after the former is closed.

304. One copy of the dossier will be sent to the Superintendent of Police of the concerned Range to be kept in his personal custody and acknowledgement obtained. All entries in the Dossier will be attested by him.

TRANSMISSION OF DOSSIER FROM ONE RANGE SP TO ANOTHER

305. When the public servant for whom dossier has been opened is transferred to a post outside the Range, the Range Superintendent of Police will forward his dossier to the Superintendent of Police (Intelligence), intimating the transfer and the post and place to which that officer is posted. The Intelligence Branch in the Directorate will then take action to transmit the dossier to the concerned Range Superintendent of Police.

Surveillance and submission of Quarterly Reports

306(1). It will be the responsibility of the Range Deputy Superintendent of Police to set up sources and maintain a close and progressive watch over the activities of the officers whose dossiers are maintained in his Range. For this purpose he will keep in close touch with the concerned District Units, make his own searching enquiries and keep himself abreast of all matters relating to the officers for whom dossiers are maintained. On the basis of such observations he will submit to the Range Superintendent of Police, a comprehensive quarterly report, in duplicate (indicating the date and place where enquiries were made) on the conduct and activities of these officers to reach him before the 5th of the first month of each quarter.
(2). Facts of special importance relating to the officers for whom dossiers have been opened will be reported to the Superintendent of Police (Intelligence) immediate and should not be kept pending till the submission of the quarterly report. The quarterly reports will be kept in a separate file attached to the dossier, after making relevant entries in Parts VII and VIII.

Responsibility of Range Superintendent of Police

307. On receipt of such quarterly reports, the Range Superintendent of Police will scrutinise and satisfy himself about the effectiveness of the watch maintained by the Range Deputy Superintendent of Police and the correctness of the reports, make necessary entries in Part VII and VIII of the dossier retain one copy with the dossier and forward the other copy with his remarks to the Superintendent of Police (Intelligence), Directorate so as to reach him before the 15th of the first month of each quarter. It is the personal responsibility of the Range Superintendent of Police to see that the above instructions are strictly adhered to.

Register of dossiers

308. A “Register of Dossiers opened and closed” will be maintained in the proforma given in Annexure-II in the Director's Circular No. 3/78

When dossiers can be closed

309. Dossiers need not be maintained for the entire service of the officers. They may be closed under the orders of the Director taking into account the following.

(a) When there is no adverse entry for a period of 5 years.

(b) At any other time when circumstances justify such a course.

(c) Dismissal, removal, retirement or death.

Re-opening of dossiers

310. A dossier once closed may be re-opened under the orders of the Director in the event of availability of acceptable evidence regarding the resumption of corrupt activities by the officer, or other relevant circumstances.
Secrecy

311. Complete confidentiality shall be maintained in all matters and records relating to the surveillance of the officers for whom dossier is maintained and the correspondence made thereon.

Property Statements

Scrutiny

312. Rule 37 of the Kerala Government Servants’ Conduct Rules 1960, provides that all Government servants except those in the last grade must submit to the concerned authority an Annual Property Statement in the prescribed form before the 15th of January of each year, showing all the immovable properties which he was in possession or in which he had interest at the close of the preceding calendar year.

Suspicious cases to be reported to Government for enquiry by VACB

313(1). In G.O. (MS) No. 36/Public dt. 16.1.1962 it had been ordered by Government that the Heads of Departments and officers should scrutinise the Property Statements immediately on their receipt and that suspicious cases should be referred to the Vigilance Department for investigation. Government in para 18 of G.O.(P) No. 65/92/Vig. dt. 12.5.1992 have reiterated that the Heads of Departments who, on scrutiny of the Property Statements received by them from the subordinates, find grounds for suspicion should refer such cases to the Government in the Vigilance Department for getting the matter enquired into/investigated by the Bureau. The result of enquiry/ investigation shall be forwarded to Government by the Bureau.

(2) The timely scrutiny and further action will bring to light the acquisitive activities of corrupt public servants so that criminal proceedings can be launched by the Bureau against deserving officers.

Loopholes in Rules and Regulations-remedial action

314. As one of the objectives of the Bureau is to suggest measures for improvement of administration and prevention of serious lapses, it is felt necessary that the
enquiry/investigating officers should send separate reports pointing out the loopholes noticed in the rules and regulations with their suggestions for remedial action by way of amendment of the Rules/Procedures for consideration of the concerned organisation and Government. These suggestions will be brought to the notice of the Government by the Director for taking remedial action.

**CHIEF TECHNICAL EXAMINER**

**Finance Inspection Technical Wing**

315(1). This is a technical unit that functions under the Finance Department of the Government. The head of the unit, designated as Chief Technical Examiner, is an officer in the cadre of the Chief Engineer and he is also an ex-officio Additional Secretary to Government. The Chief Technical Examiner and the technical staff under him (Executive Engineers and Assistant Executive Engineers) are posted on deputation from the State and Central Government Services.

**Powers**

(2) Government, in GO(P) No.489/97/Fin. dt. 16.4.1997 have empowered the Wing to conduct inspections and take follow-up action on the works carried out by all the Government departments/bodies etc. receiving aid from or through the Government.

(3) **Main functions of the Wing**

(a). To inspect the important engineering works while they are in progress or after they are complete and to forward reports to the Government in the Finance Department. Observations made on the basis of the inspections are communicated to the concerned authorities for rectification of defects or for recovery of over-payments etc. The Wing initiates, suo motu, disciplinary action through the Administrative Departments against the erring officials for the serious lapses noticed. The inspections by the Wing are aimed at ensuring, inter alia, the following.

(i) That the quality of work according to specifications is maintained
(ii) That the execution of the work is as per schedule
(iii) That Agreement conditions are strictly observed.
(iv) That no excess use of materials/labour takes place.
(v) That the rates allowed are reasonable.
(vi) That there is no ambiguity as to the conditions/
    descriptions/specifications especially in the case of
    negotiated contracts.

(b). To check a percentage of bills in which payments have
    been made, (with reference to the Measurement Books) to re-
    check the measurements recorded and verify the quality of
    the work executed.

(c). To offer advice to Government on technical points in
    audit objections, draft paras, bills, contracts etc.

(d). To provide technical advice and assistance to the
    Director, VACB whenever called upon by the Bureau.
316. The Santhanam Committee on the Prevention of Corruption had, as early as 1963, clearly emphasised that training courses should be organised for Vigilance officers and that the training programme should include instruction in the various Laws and Rules, Departmental procedures, methods of investigation, collection of information and processing the same as well as instructions in statutory procedure in Departmental Proceedings, keeping in view the following larger objectives.

1. Better acquaintance with the sociological background of the problem of corruption.

2. Appreciation of the positive aspects of Vigilance work.

3. The nature and magnitude of the problem, the need for dynamism and the setting up of incidental checks and balances.

4. The development of a wider perspective of Vigilance work.

**Training scheme for Executive officers**

317. In G.O.(P)No.18/97/Vig. dt. 5.4.97 Govt. have stressed that regular training shall be given to the police officers working in the Bureau in order to familiarise them with the latest techniques of investigation etc. and that officers shall be deputed to CBI Training Centre at Delhi for the above purpose. Govt. have also stressed the need for organising in-service training for the officers of the Bureau by the Director.

318. Being a specialised agency formed to combat and curb corruption and to expose the other grave irregularities committed by the public servants, it should be the endeavour of the Bureau to impart adequate knowledge of the legal
provisions, Government orders and Departmental instructions covering all aspects of Vigilance work to the executive officers working in the Bureau especially the newcomers to equip and enable them to handle all facets of Vigilance work with conviction and skill and above all with a spirit of social conscience and commitment which the society expects from them.

319. Annual training course comprises a period of six working days with classes both in the forenoon and afternoon sessions organised under the auspices of the Directorate of the Bureau. The Orientation Programme given below is intended mainly for the officers who are newcomers to the Bureau. However, with suitable selection of topics it can also be used for Refresher Courses to be conducted for officers who have put in longer service in the Bureau, for honing their skills and improving the quality of their output.

Course content

320. I. Constitution of India.

(i) Constitutional provisions relating to the framing of Rules regulating the recruitment and conditions of service of Government Servants (Art.309).

(ii) Doctrine of 'pleasure' and constitutional safeguards against its misuse (Art.310).

(iii) The principles of Natural Justice and its application in the conduct of Disciplinary Proceedings. General concept of the functions of Appointing/Disciplinary/Appellate authorities (Art.311)

(iv) Constitutional protection available to the persons accused in criminal cases(Art.20)

II. Kerala Civil Services (Classification, Control and Appeal) Rules, 1960.

III. Kerala Police (Departmental Inquiries Punishment and Appeal) Rules, 1958;
V. Kerala Civil Services (Vigilance Tribunal) Rules, 1960
VII. Case Law—important judgements relating to Disciplinary Proceedings.
VIII. Important Government orders regarding the set-up and working and procedure of the VACB (viz. G.O.(P)No.65/92/Vig. dt.12.5.92, G.O.(P)No.1 8/97/ Vig. dt. 5.4.97 etc).
IX. Government orders and Departmental instructions on Enquiry/ Confidential Verification / Investigation / Surprise Check etc.
In-depth analysis of the salient features of the provisions of the Act.
XI Criminal Law Amendment Ordinance, 1944.
An overview of the procedures to be followed for attaching the property acquired by accused involved in Disproportionate Asset and other IPC cases.
XII Case Law—Important Court rulings on cases of Disproportionate Assets, Trap, Misappropriation, Criminal Conspiracy, Raising of presumption etc.
XIII Investigation of Disproportionate Asset Cases.
XIV Investigation of Trap cases.
XV Investigation of Misappropriation Cases.
XVI Surprise Check.
Government orders/Departmental instructions governing surprise check. Conduct of check, preparation of report etc.
XVII. Confidential Verification - Collection of evidence without alerting the suspect officer especially with regard to allegations of acquisitions of disproportionate assets. Preparation of report—relevant departmental Circulars.
XVIII. Report-Writing.

Preparation of Enquiry Reports/Factual Reports on the basis of Departmental instructions.

XIX. Collection of Vigilance intelligence regarding corrupt practices and corrupt public servants for follow-up action.

XX. Conduct and behaviour of officers of VACB towards public and officers of other Government Departments/ Organisations.

Methodology

321. The regular theory classes shall be taken as classroom lecture sessions, both in the forenoon and afternoon. The opening session shall be set apart for registration, inauguration and introduction and others for regular lectures and discussions and the last session for feedback, evaluation and valedictory function. One session shall be earmarked for the senior officers to interact with the participants for appreciating the difficulties encountered by them in their official work.

Evaluation

322. A test shall be conducted at the end of the course. A resume of the course, the marks obtained by each officer and worthwhile suggestions to improve the course content, any deficiency noticed etc. shall be brought to the notice of the Director by the officer-in-charge of the Training Course immediately after the course is over.

Faculty

323. Classes shall be conducted by competent persons drawn from VACB, IMG, Secretariat, or other Departments (both serving and retired) or others well-versed with the above subjects.

Training Scheme for Ministerial Staff

324. Induction courses for the newly-appointed Ministerial Staff and Refresher Courses for those working in the Bureau should be conducted every year. The programme for the
training course shall cover, as far as possible, the following topics. The classes shall be handled by experienced senior officers of both the Executive and Ministerial Wing of the Bureau and other competent officers from outside.

Course content


2. Important Government orders pertaining to the set-up/working and procedure of the Bureau, with particular reference to G.O. (P) No.65/92/Vig. dt. 12.5.1992 and G.O.(P) No.18/97/Vig. dt. 5.4.1997.

3. Financial and Administrative powers of the Director/IG/DIG/SP.

4. Processing of Vigilance Enquiry Reports/Factual Reports. Relevant penal sections of the P.C. Act, and IPC-Prosecution Sanction.


6. Manual of Office Procedure – Attendance, Late attendance etc.


8. Maintenance of Petition Register, Crime Register, Prosecution Register, Tribunal Enquiry Register.

9. Maintenance of Vehicle Diary/MTR-Processing of bills relating to repairs of vehicles, purchase of spare parts etc.


14. Medical Reimbursement.

15. Leave calculation-sanctioning of Surrender Leave.


17. Important Departmental Circulars.

18. Maintenance of Note File/Correspondence File, noting, drafting of letters etc.

19. OP & Appeal filed in High Court, Court orders preparation of Statement of Facts etc.


(2). In addition to the above, Ministerial staff of the Bureau will be sent for the Orientation courses conducted by the IMG, in Thiruvananthapuram as well as its Regional centers at Ernakulam and Kozhikode.
Several periodicals are prescribed to be sent to the office of the Director, Vigilance & Anti-Corruption Bureau by the SPs, Dy SPs, LAs and ALAs etc. Similarly, a good number of periodicals are to be sent from the office of the Director to Government, Accountant General, Director General of Police, Supdt. of Government Presses etc. A consolidated list of such periodicals had been given as appendix A & B of Director’s Circular No.1/86. Subsequently, a few more periodicals have been added to the above list vide Director’s Circulars 10/93 and 6, 7 and 8/97. It had been enjoined in Circular No.1/86 that all concerned should ensure that the dates fixed for the receipt of the periodicals are strictly adhered to.

PERIODICALS DUE IN THE OFFICE OF THE DIRECTOR

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Periodical No.</th>
<th>Name of Periodical</th>
<th>Date when due in the office of the Director</th>
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<tbody>
<tr>
<td>1</td>
<td>1/A</td>
<td>Budget Estimate Part-I</td>
<td>31st August</td>
<td>All SP’s DySPs, LA and ALAS of VACB.</td>
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7. 16/H Recommendation for the award of Presidents Police and Fire Service Medals 31st March and 30th September of every year All SPs, DySPs. Government Endt. 3006/ SSI/63/Home, dated 2nd August 1963.

III. QUARTERLY

8. 19/Q Payments of Rs.10,000/- and above made to contractors and other non-officials By the 15th of January, April, July and October All SPs, DySPs, LA, ALAs.

9. 22/Q Result of enquiries made in respect of Government Servants for whom Dossiers are maintained All SPs. Circular No. 29/65 of the Director

10. 23/Q Purchase of stores - Petition against registered firms who fail to quote or commit default of supplies All SPs, DySPs, LA/ALAs. Government Circular No. 2484/A2/82/ S.P.D., dated 24th May 1982.

11. 24/Q Assessment report on the work done by the officers of VACB (except that of S.Is) By the 30th January, April, July and October All SPs of VACB. Circular No. 12/83 and No.16/97 of the Director
12. 25/Q  Maintenance of F.B.S. By the 15th All SPs.  
Accounts of January, DySPs, L.A/ April, July & October  
& October

13. 26/Q  Quarterly review of All SPs. Order No.B6  
performance of Order No.B6  
Units. 30343/85, of  
25th of December  
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IV. MONTHLY

14. 29/M  Statement of All SPs,  
Expenditure succeeding DySPs, LA  
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(1) District-wise abstract under each sub-head
(2) District-wise statement of bills cashed under each sub-head
(3) District-wise statement of contingent bills cashed under each detailed head
(4) District-wise statement of T.A. Bills cashed.

15. 31/M  Monthly Business statement All SPs, Circular No.  
10th of the DySPs, LA 1/65 of  
succeeding month and ALAs. Director

16. 32/M  Railway warrants issued by Bureau All DySPs. G.O.(Ms.)  
10th of the 584/64/dated  
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month 1964.

17. 33/M  Statement of cases posted in the court of the E.C. and ALAs.  
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### PERIODICALS DUE FROM THE OFFICE OF THE DIRECTOR

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<tr>
<th>Sl. No.</th>
<th>Periodical number</th>
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<tr>
<td>1</td>
<td>1/A</td>
<td>Budget Estimate, Vigilance and Finance Part-I</td>
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Note 2 to Rule 181 of K.S.R. Part III.
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<td>26.</td>
<td>39/M</td>
<td>Details of deputation of Government Servants to Foreign Service.</td>
<td>A.G.</td>
<td>20&lt;sup&gt;th&lt;/sup&gt; of every month</td>
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<td>Government Circular No.64/83/Fin., dated 10&lt;sup&gt;th&lt;/sup&gt; October 1983.</td>
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<tr>
<td>27.</td>
<td>40/M</td>
<td>Statement of crime cases and enquiries pending in the VACB.</td>
<td>Vigilance Department</td>
<td>10&lt;sup&gt;th&lt;/sup&gt; of every month</td>
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CHAPTER XXIII

ADMINISTRATIVE SET-UP OF THE DIRECTORATE

327(1). The Director, VACB is assisted by Staff Officers (IG, DIG etc) for the supervision and control of the various ministerial branches in the Directorate.

(2). Subject to the over-all control of the Director, the Manager, Administrative Assistant and the Accounts Officer supervise the working of the Ministerial Staff in the Directorate. The administrative work is, at present, distributed among the Branches referred to as A (Establishment), B (Accounts), C (Crimes), E (Enquiry), G (Administration), M (Materials) and R (Cashier/Tapals/Records). The work of each Branch mentioned above is over-seen by a Senior Superintendent/Junior Superintendent.

(3). As per para 2 of Art. 108 of the Kerala Financial Code, Vol. I and Rule 163 (g) Part V of the Kerala Treasury Code Vol. I, the Manager, is authorised as the drawing and disbursing officer of the ministerial staff, drivers and the contingent staff of the Directorate. He is authorised to sign the pay bills of the ministerial staff and the drivers of the Directorate, Provident Fund Bills, contingent bills, Bus warrant bills, S.S. expenditure of the Directorate and the bills relating to loans and advances, GIS, FBS, S.L.I and refunds relating to the entire staff.

328. The Manager is also in overall charge of the following 5 Branches viz. A, B, G, M and R.

(i) A. BRANCH (Establishment)

This Branch deals with the transfers and postings of executive and ministerial staff, pension papers of non-gazetted executive staff (constable to S.I.), fixation of pay of drivers, Training Programmes of executive and ministerial staff, leave/transfers/postings/ fixation of pay and sanctioning of increment to the ministerial staff of the Directorate, preparation of seniority list, issue of NOC to executive staff and NLC to drivers, processing of pension papers of non-gazetted executive staff, leave/leave surrender of ministerial staff, maintenance of their Service Books etc.
The Accounts Officer is in supervisory charge of the B Branch (Accounts). The main works dealt with in this Branch are preparation of the contingent bills of the Directorate, maintenance of SBs and Leave Surrender of contingent employees, preparation of medical reimbursement and PF bills of all ministerial staff and drivers of the Directorate, TA Bills of officers of and above the rank of Superintendent of Police, Legal Staff and ministerial Staff of the Directorate, Internal Audit, Pay Audit, and settling of Bus & Railway warrants, Budget, AG’s audit, Audit objections, Reconciliation of accounts in the District Treasuries of pay bill, contingent medical reimbursement, TA and accounts of the gazetted officers, withdrawal of pay and allowance of ministerial staff and drivers of the Directorate and pension of all gazetted officers, ministerial staff and drivers. The files relating to the above are put up to the higher authorities through the Manager.

This Branch attends to the files dealing with Quarterly Assessment Reports, Rewards, Police Medals Disciplinary Action, installation etc of telephones, Annual Landed Property Statements, Motor Accident Claims, summons, admission and closure of Provident Fund, sanction of GPF advance to ministerial staff of the Directorate, NRA to ministerial, Executive and Legal staff etc, medical reimbursement claims of ministerial staff and executive officers of and above the rank of Superintendent of Police, uniform allowance etc of executive staff, House Building Advance, issue of identity cards to all executive/ministerial staff, maintenance of FBS accounts of executive staff, admission to SLI, GIS, their closure etc.

This Branch deals with the collection, custody and distribution of stores, purchase and maintenance of motor vehicles, Maintenance/repairs of all vehicles where the expenditure is above RS. 3,000/- maintenance of vehicle diaries of vehicles attached to the Directorate and offices of the LA/ALAs etc.

The Cashier is responsible for the custody of cash, cash transaction, maintenance of cash books and connected records.
The other seats in this Branch deal with the distribution of Tappals its despatch, maintenance of records, distribution of old records with the assistance of the Record Keeper, etc.

329(1). C. BRANCH (Crimes)

This Branch deals with Vigilance Cases pertaining to the 14 District Units and the Special Cells (Thiruvananthapuram, Ernakulam and Kozhikode) and the Special Investigation Unit, Thiruvananthapuram. The prosecution of cases filed in the Special Judge’s Courts (Thiruvananthapuram, Thrissur and Kozhikode) and the Tribunal Enquiry pending in the Vigilance Tribunals at Thiruvananthapuram and Kozhikode are also dealt with in this Branch.

(2). E. BRANCH (Enquiry)

Files relating to the Vigilance Enquiry in respect of the 14 District Units and the offices of the Superintendents of Police, Southern Range, Eastern Range, Central Range and Northern Range and the Superintendent of Police, Special Cells, Thiruvananthapuram, Ernakulam and Kozhikode and the offices of the Superintendent of Police, Special Investigation Unit are dealt with in this Branch.

330. Administrative Assistant

(1). The Vigilance Enquiry files relating to the Southern Range, Thiruvananthapuram and the enquiry files of Special Investigation Unit, Thiruvananthapuram Special Cells, Thiruvananthapuram, Kozhikode, Ernakulam are routed through the Administrative Assistant before they are put up to the concerned DIG’S/IG’S.

(2). Files regarding the Business Statement, LA Interpellations, Administration Report, Periodicals and Miscellaneous correspondence relating to crimes and enquiries and NOC clearance to officials of other Departments etc are also routed through the AA to the Superintendent of Police (Int.).

Ministerial staff in SP’s offices/units

331. Sufficient number of ministerial staff both at the clerical and supervisory level are posted in all the offices of the Superintendent of Police, Special Investigation Unit, Thiruvananthapuram the 4 Ranges and the 3 Special Cells for
dealing with the crime/enquiry files, maintenance of records and other monetary transactions for which administrative and financial powers are assigned to the Superintendent of Police.

(2). In all the 14 District Units of the Bureau one clerk each is posted for assisting the Deputy Superintendent of Police.

Monthly inspection of seats

332. Inspectors General of Police, Deputy Inspectors General of Police, Superintendent of Police (Int), Manager, Administrative Assistant and Accounts Officer will conduct monthly inspections of seats in the different branches as shown below. They should regularly rotate the seats chosen so as to cover all the seats in 3 months. In order to avoid inspection of the same seat by several officers during the month, Administrative Assistant should consult the Deputy Inspectors General of Police and the Inspectors General of Police as the case may be and the Accounts Officer and Manager with the Superintendent of Police (Int) to decide the specific seats to be inspected by each officer.

(1) Inspectors General of Police

Three seats dealing with crimes and enquiries.

(2) Deputy Inspectors General of Police :-

Two seats dealing with crimes and enquiries

(3) Superintendent of Police (Int.):-

One seat each of A C and F Section. One seat from any of the remaining Sections.

(4) Manager:-

One seat each of C and F Sections and Records, Inward and Despatch.

(5) Administrative Assistant :-

Four seats each dealing with enquiries.

(6) Accounts Officer :-

One seat each from A, C, E and G Sections.

The Inspection Remarks of the above officers will be put up promptly to the Director.
Outsiders seeking information on matters dealt with by the Directorate

333. If any staff of the Vigilance Directorate is contacted by any interested individual or journalist or politician seeking information on Vigilance matters, it should be immediately reported to the Superintendent Police (Intelligence). Such report should be made irrespective of the fact that the information sought is not being dealt with by the staff contacted. Matters dealt with in the files of the Directorate are confidential information as far as members of public and the employees of other Government offices are concerned as provided in para-155 of the Manual of Office Procedure and unauthorised disclosure of any such information would attract punitive action.

Attendance of Ministerial Staff

334. As per GO (MS) No. 199/PD dt. 18.5.1966 the working hours for all Government Offices in the City of Thiruvananthapuram will be from 10.15 AM to 5.15 PM. The Manual of Office Procedure in para 157 lays down the need for attending office punctually, para 159 about marking the attendance and para 160 about the action to be taken against those attending office late.

335(1). All Officials of and above the rank of Junior Superintendents and all the Confidential Assistants will mark their attendance in an Attendance Register maintained by the Superintendent of Police (Intelligence). Another Attendance Register for other members of the Ministerial Staff will be maintained by the Manager.

(2) The Attendance Register maintained by the Manager will also be put up to the Superintendent of Police, Intelligence at 10.30 AM.

(3) Attendance for the afternoon session will be marked at the time of departure from office, for which the Registers will be made available by the Superintendent of Police/Manager only after 5 PM.

(4) Permission upto one hour may be granted by the Superintendent of Police (Int.)/Manager. In all cases, the actual time of arrival/departure should be noted in the Attendance Register.
(5) Separate Late Attendance Registers will be maintained by Superintendent of Police (Int.) and Manager. At the end of every month decision on forfeiting of one Casual Leave for every 3 late attendance will be taken by Superintendent of Police/Manager and the decision communicated to the Leave Section for issue of orders. The fact should also be noted in the Attendance Register in red ink.

Identity Cards

336(1). The officers and Staff of the Bureau are expected to carry with them their Identity Cards whenever they are on official duty.

(2) Identity Cards in respect of S.Is and above will be signed by the Inspectors General of Police and the Deputy Inspectors General of Police concerned according to their jurisdiction.

(3) Identity Cards of the ministerial staff and that of PCs, HCs and ASIs of the Bureau will be signed by the Superintendent of Police (Int.)

Guidelines for the safe delivery of records sent from the Directorate.

337(1). In order to ensure that the documents/covers sent from the Directorate to the Government/other offices are delivered at the correct address properly and safely, the following procedures office order have been laid down by the Director in Office Order No.3/85 (B6-7873/85) dated 22.3.85.

Important cover/bundle to be delivered to the Confidential Asst. of the Officer

(2) When documents are forwarded to any office either for the issue of Prosecution Sanction or for other action, the officer concerned should be addressed either by a D.O. letter or sent in name cover. The cover/bundle should be delivered to the Confidential Assistant of the officer concerned and his/her acknowledgement obtained in the Local Delivery Book. The Confidential Assistant should be requested to furnish his/her name and the date of receipt of the documents in question while signing the Local Delivery Book. The office seal should be got stamped against the entry in the Local Delivery Book. This is to ensure safe delivery of the covers/documents at the proper address.
(3) In case the Confidential Asst. of the addressee is not available, the cover may be delivered to the officer himself. If the officer refuses to receive the cover, it should be brought back to the office and taken back the next day for delivery to the Confidential Asst.

Acknowledgement Slip and Local Delivery Book

(4) An acknowledgement slip should be sent along with the cover on which the signature of the Confidential Assistant/the Officer should be obtained. This acknowledgement should then be handed over to the concerned Section Clerk in the Directorate through the Manager. This will be in addition to the signature to be obtained in the Local Delivery Book.

(5) All other covers not addressed by name may be delivered in the Inward Section of the office of the addressee. Here also, the person receiving the covers should be requested to sign in full in the Local Delivery Book adding his name and designation and the date of receipt of the covers. The office seal should be asked to be stamped against the entry.

Responsibilities of Despatch Clerk

(6) The entries in the Despatch Register and the Local Delivery Book in this office should be made personally by the Despatch Clerk. He should get the dated acknowledgement of the Motor Cycle Orderly who is entrusted with the covers for delivery in the Despatch Register.

(7) The name of the Motor Cycle Orderly entrusted with the tappals should be written clearly in column 4 of the Local Delivery Book. There should be sufficient space between the entries in this book to provide for the stamping of the office seal of the recipient officer.

(8) Covers which could not be delivered at the office of the recipient for any reason, should be returned to the Despatch Clerk who should keep them in safe custody till the next working day when they should again be handed over to the Motor Cycle Orderly for delivery.
(9) In respect of the other covers, the Despatch Clerk should peruse the Local Delivery Book and verify if they have been properly delivered at the correct address. If not, the matter should be immediately brought to the notice of the manager who will in turn arrange for their recovery from the office where they were delivered by contacting the Superintendent/Manager of that office over telephone.

(10) Other covers addressed to the Government should be delivered in the Section of the Department concerned. Covers addressed by name should, however, be delivered to the Confidential Asst. of the addressee as mentioned in Paras 1 to 4 above.

Verification by Manager

(11) The Manager who is in charge of the Despatch Section, should ensure that the above instructions are followed without fail by the Despatch Clerk. He should periodically verify the contents of or the addresses on the covers being sent out, the entries in the Despatch Register and the Local Delivery Book and suitably instruct the Despatch Clerk whenever necessary.
338. The registers to be maintained in the various offices of the VACB are enumerated below:

(a). **By the offices of LA/ALAS/Supdts of Police/Dy Supdt of Police.**

1. Long Roll
2. Pay Bill Register
3. Register for Local Purchases.
4. Disposal of Unserviceable/Condemned Articles.
5. Register of Vehicles.
6. Register of Trunk Calls and Phonograms
7. Skeleton Book of Chalan
8. Acquittance Roll.
9. Register-cum-Broad Sheet for FBS
10. Personal Register
11. Periodical Register
12. Despatch-cum-Stamp Account Register.
13. Local Delivery Book
15. Stock Register of Books and Forms.
16. Stock Register of Stationery Articles.
17. Bill Book.
18. Permanent Advance Register.
20. Contingent Register.
22. Cash Book
23. Register of RBR
25. Salary Check Register.
26. Register of Tyres
27. Register of Handloom Clothes Purchased.
28. Court Fee Stamp Register
29. GPF Bill Register.
(b). By the offices of the Legal Adviser/Additional Legal Advisers

1. Register of Quotations.
2. Tribunal Enquiry Register.
3. Prosecution Register.
4. T.A. Check Register.
5. T.A. Advance Register
6. Medical Reimbursement Register

(c). By the offices of the Superintendents of Police/ Deputy Superintendents of Police.

1. MTR
2. Register of Quotations Received
3. Motor Transport accessories and spare parts Register
4. Petition Register
5. Crime Register
6. Prosecution Register
7. Tribunal Enquiry Register
8. Process Register
9. Register of Records Obtained for Verification, their Movements etc.
10. Register of Completed Note Books of Constabulary
11. Visiting Remarks Book
12. Inspection Book
13. Register for Service copying sheet book
14. T.A. Check Register
15. T.A. Reimbursement Register
16. Service Book Movement Register

Weekly Diary

Objective

339(1). The Weekly Diaries should properly reflect the work turned out by the officers during the week, especially the progress achieved in the enquiry/investigations handled by them. Hence, the diaries should be prepared with due care and attention and should contain adequate details so as to enable the supervisory officers to assess correctly how the officers have properly utilised their time and how much progress they are able to make during the week in regard to the references/cases pending with them.
Specific details necessary

(2). In the Weekly Diary the duties performed should not be shown merely as ‘attending office work’, ‘did scriptory work’ etc. The reference no. and subject matter of the case/enquiry, the nature of the enquiry/investigation conducted on the day including the names of the witnesses, if any, questioned and the place/places at which the enquiry/investigation was conducted etc. should be specifically mentioned.

(3). The LA/ALA should also mention in their Weekly Diaries the details of the crime cases in which they have been consulted with draft charge sheets by the Units and the lacunae if any, noticed, therein and the nature of advice/instructions given.

(4). Routing and filing of the Weekly Diaries

(i) Weekly Diaries of Superintendent of Police, Legal Advisers, Accounts Officer and Executive Engineer/Assistant Executive Engineer will be sent to the Inspector General of Police through the Deputy Inspector General of Police concerned.

(ii) Weekly Diaries of Deputy Superintendent of Police will be submitted to Superintendent of Police concerned. Superintendent of Police will forward them to the Inspector General of Police through Deputy Inspector General of Police concerned after scrutiny.

(iii) Weekly Diaries of Additional Legal Advisers will be submitted to Legal Adviser, Thiruvananthapuram and the Legal Adviser will forward them to the Inspector General of Police/the Deputy Inspector General of Police concerned after scrutiny.

(iv) The above mentioned Weekly Diaries will be filed in the T section in the Directorate after necessary action.

(v) Weekly Diaries up to the rank of Inspectors of police will be filed by the Superintendent of Police concerned after scrutiny.

(vi) All Weekly Diaries should be dealt with confidentially and sent to the concerned officers in name cover.
(5) Any remarks passed on the Weekly Diaries will be communicated by the recording officer to the concerned and a copy of such communication attached to the Weekly Diaries before sending the same to the next officer.

Weekly Diaries to be filed in the concerned office

(6) The Weekly Diaries are part of the confidential documents of the concerned offices and its copies should be filed in the office of the concerned officers. In the case of the DySPs these should be handed over to their successors when they leave the Unit on transfer, so that they could be referred to, in future, if required.

Monthly Proceedings of Units

340(1). The purpose of these Proceedings is to enable the Head of the Unit and the supervisory officers to assess the performance of the Unit in general and that of the individual officers in particular during a month under review. It is, therefore, imperative that all work done by each member of the Unit finds a place in the Proceedings.

(2) The Proceedings of each unit in the format prescribed in Director's Circular No. 19/83 and as modified by Circular No. 11/95 should be forwarded in triplicate by the Unit DySP to his Superintendent of Police by the 15th of the following month. Two copies of the proceedings shall be forwarded by the Superintendent of Police along with his review to the Directorate by the 20th of the month. The Monthly Proceedings of each unit will be sent to the Directorate by the Superintendent of Police separately without waiting for the receipt of the Proceedings from all Units.

(3) Remarks on the Monthly Proceedings as well as the Review of the Superintendent of Police made by the concerned authorities of the Directorate will be forwarded to the Unit concerned with copy to the Range Superintendent of Police from the Directorate.

Monthly Review Report

341(1). The purpose of the Review Report is to give as exact an idea as possible to the supervisory officers about the facts elicited or evidence collected so far in regard to allegations
against the Suspect/Accused Officer. These Reports should enable the supervisory officers to understand the lines on which the remaining enquiry/investigation will be conducted and what more remains to be done for completing the enquiry/investigation.

(2). A free play of one year in crime cases and three months in Vigilance Enquiry is allowed for their completion. If the investigation/enquiry is not complete within the above time-limit, monthly Review Reports should be sent in to the Director. The Review Reports in all crime cases/Vigilance enquiries will be prepared by the officer conducting the particular investigation/enquiry and should be submitted under his signature through the Dy SP in – charge of the Unit. Except in the case of the Review Reports prepared by the Dy SP, he will furnish his remarks in all other Review Reports received by him and forward these reports to the Supdt of Police.

Quarterly Assessment Report

342(1). The Quarterly Assessment Reports, containing a detailed account of the work turned out/progress made in respect of the Cases/Enquiries pending with the S.I. of Police, Inspectors of Police, Deputy Superintendent of Police and Superintendent of Police, shall be submitted by them in the prescribed proforma.

(2) All S.I’s. of Police, Inspectors of Police shall submit their Quarterly Assessment Reports to the Unit Deputy Superintendents of Police before the 15th of the first month of the next quarter. The Deputy Superintendent of Police shall forward these reports with his remarks along with his own report to the Range Superintendent of Police/Superintendent of Police concerned so as to reach the latter before the 20th of the same month.

(3) The minimum quarterly quota of work fixed for an officer is the disposal of 1 crime case and 3 Vigilance Enquiries. The yardstick laid down for computing the performance is 2 Vigilance Enquiries for 1 crime case or 2 Confidential Verification/3 Surprise Checks for 1 Vigilance Enquiry. However, Confidential Verifications and Surprise Checks will not be considered as substitute for Vigilance Enquiry and will be taken as extra output only. Where there is no disposal of any kind during the quarter an adverse memo will be issued to the officer and the same will be placed in his CR file.
(4) The Superintendent of Police should scrutinise these reports, cross-check them with the Weekly Diaries of the officers and forward the Quarterly Assessment Reports of Inspectors of Police and Deputy Superintendents of Police with his remarks to the Director through the DIG/IG by the 30th of the month. The Quarterly Assessment Reports of the S.I.s need not be sent to the Director and they shall be reviewed and filed by the Superintendent of Police.

(5) Remarks of the superior officers recorded in the Quarterly Assessment Reports will be communicated to the Officer concerned with copies to the Unit Deputy Superintendents of Police/Range Superintendent of Police/Superintendents of Police. In case of an adverse or critical remark, it will be forwarded to the officer concerned in duplicate through the Unit Deputy Superintendents of Police (in case of Inspectors) and through Superintendent of Police/Range Superintendent of Police (in case of Deputy Superintendents of Police) and acknowledgement of the officer obtained and filed in the Directorate.

Annual Confidential Reports

343(1). Government in G.O. (P) No. 344/PD. dt. 22.8.1966 have issued detailed instructions regarding the preparation, maintenance and custody of Confidential Reports on Government Servants. As regards the Reporting Officers and the Reviewing Officers of the executive staff working in the VACB, Government have issued further instructions in G.O.(MS) No. 197/81/GAD dt. 16.6.1981.

(2). The report on Gazetted officers and Non-Gazetted Officers should be written up in Form A and B respectively given in G.O. (P) No. 344/PD dt. 22.8.1966. The report should be prepared and submitted half-yearly for the first 3 years of his entry into service and during the probation period in the promoted posts. After words Annual Reports covering the period from 1st January to 31st December should be prepared and forwarded.

(3). The Head of the Unit should prepare the CRs of the officers working under him and forward them to the Reviewing Officer for his comments during January in respect of the
Annual Confidential Reports. The CRs of the Head Constables and ASIs will be reviewed by the Superintendent of Police concerned who will keep the CRs in their custody. But all the CRs of Sub Inspectors and above will be forwarded to the Directorate for review and, after they are got noted by the concerned officers, they will be kept filed in the Personal Records of the officers maintained in the Directorate. But in the case of the Sub Inspectors, the CRs will be reviewed and having got noted by the officers, will be returned to the Superintendent of Police for maintaining the same.

Visiting Remarks by Superintendent of Police

344(1). The Superintendent of Police should visit each unit under him every month and leave written instructions in regard to pending investigations and enquiries.

(2). The following points should invariably be covered during every monthly visits to their units, by the Superintendent of Police. They may include any other points found required or relevant but the notes should, however, be brief and to the point.

(3). Points to be looked into during monthly visits.

(1) Last visit of S.P. Extent to which earlier instructions have been carried out.

(2) Whether compliance reports on the instructions of DVI/IG/DIG have been sent in time.

(3) Investigations and enquiries completed since last visit.

(4) Number of crime cases and enquiries pending as on date of visit and their year-wise break-up (date of registration of each case and date of receipt of petition for enquiry from Directorate be indicated).

(5) Detailed examination of Trap cases and instructions issued to I.O. for compliance before next visit.

(6) Detailed examination of disproportionate asset cases and instructions issued to I.O. for compliance before next visit.

(7) Scrutiny of cases (other than those in Cols.5 and 6)
pending over six months, and examination of reasons for delay. Instructions for compliance before next visit. Whether C.Ds. are up-to-date etc.

(8) Scrutiny of enquiries pending for over four months and reasons for delay-instructions for compliance before next visit.

(9) Number of S.Cs. conducted since last visit and number in which reports sent to Directorate Number of S.Cs. remaining to be conducted with date of receipt of instructions from Directorate or S.P.

(10) Cases in which sanction to prosecute has been received, but not charge-sheeted, with reasons for delay.

(11) Whether any case remains to be registered, after receipt of instructions from Directorate.

(12) Administrative matters.

(4). The visiting remarks shall be sent in duplicate to the Deputy Superintendent of Police of the Unit. One copy should be pasted in the Inspection Book immediately. It is left to the Superintendent of Police to decide whether a compliance report need be insisted upon. In any case compliance of instructions should be checked up during the next monthly visit.

(5). Two copies of the Visiting Remarks shall be sent to the Directorate. Visiting Remarks should be typed on one side of the sheet only. This is to enable clipping the remarks relating to crimes/enquiries in the concerned files maintained at the Directorate.

VACB Bulletin

345. A monthly VACB Bulletin will be issued from the Directorate for the guidance of the officers of the Bureau. As a contemporaneous record of activities of the Bureau and as a ready source of information the Bulletins are of vital importance. The Bulletins will be brought forth by the 15th of succeeding month and shall contain the following information
SECTION I

CASE REGISTERED/DISPOSED OF DURING THE MONTH

A. Crime Cases Registered
B. Crime Cases ordered for Prosecution
C. Crime Cases ordered for Tribunal Enquiry
D. Crime Cases ordered for Departmental Action.

SECTION II

CONVICTIONS/PUNISHMENTS IN CASES/ENQUIRIES

A. Crime Cases

(i) Conviction or Acquittals
(ii) Departmental Punishments
(iii) Otherwise disposed of

B. Enquiries

(i) Punishments awarded by Government
(ii) Punishments awarded by Departments

SECTION III

ABSCONDING ACCUSED AND THOSE TRACED

A. Absconding accused in Vigilance Cases
B. Absconding accused apprehended

SECTION IV

CIRCULARS/STANDING ORDERS ISSUED DURING THE MONTH

A. By Government
B. By Director
SECTION V

REFERENCE MATERIAL

(A) New laws of Vigilance interest and reviews and comments thereon.

(B) Important Court rulings and extracts from judgements.

(C) Extracts from Gazettes of CBI, Police and Governments and other publications.

(D) Extracts from News papers, journals, books etc. on matters of Vigilance interest.

SECTION VI

ADMINISTRATIVE AND MISCELLANEOUS MATTERS

A. Appointments, postings and transfers.

B. Rewards and punishments.

C. Loss of Identity Cards and Railway Warrants.

Handing over Notes

346. An officer transferred out of the Bureau, or from one Unit to another, should prepare a Handing-over Note for his successor. This should also be done when an officer retires while serving in the Bureau, or when he enters on long leave. Handing-over Notes by Superintendents of Police/Deputy Superintendents of Police should contain a general survey of the activities of the Units/Unit under them. This Note should contain a brief reference on all crime cases and enquiries being handled by the officer. It should also contain a detailed list of crime files and enquiry files handed over/taken over as indicated below: [This is given only as an example.]

<table>
<thead>
<tr>
<th>Crime Files: No.</th>
<th>Total pages</th>
<th>Date of last CD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cr. No. 3/84</td>
<td>456 Pages</td>
<td>Last C.D., dated 15.4.1986</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Enquiry File: No. B3-14326/85</th>
<th>Total pages</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>34 pages</td>
<td>including statements</td>
</tr>
<tr>
<td></td>
<td>of 10 witnesses.</td>
<td></td>
</tr>
</tbody>
</table>
(2) Files/documents taken over for the purpose of investigation or enquiry from other Departments, should be listed out under each entry for the respective crime case/enquiry concerned. It will be the responsibility of the Unit Deputy Superintendent of Police to ensure that all officers under him comply with these instructions. Superintendents of Police should ensure that Deputy Superintendents of Police under them prepare the Handing-over Note and the list, when they are transferred out. The Handing-over Note and the lists should be prepared in triplicate. One copy should be forwarded along with the CTC to the Directorate, where they will be maintained as a permanent record, one copy will be retained by the officer transferred out and the third copy should be retained in the Unit.

Officers of the Bureau to maintain cordial relationship with other Departments.

Behaviour to be polite

347(1). The Vigilance Department has been given the power to enquire into matters concerning all other Departments in the State. It is of utmost importance, therefore, that the behaviour of the officers engaged in Vigilance enquiry/investigation or surprise check should be restrained and exemplary.

Misuse of power to be avoided

(2) Officers in the VACB should never let personal matters intrude in their official work nor should they give any room for another Department to feel that they are misusing their powers to settle personal scores.

Correspondence to be courteous

(3). In their correspondence with officers of other departments, the officers of the Bureau should be extremely polite. However, cases of deliberate non-cooperation on the part of the officers of the Departments should be brought to the notice of the Director through the Superintendent of Police for taking up with Government.
GOVERNMENT OF KERALA

ABSTRACT

Strengthening of Vigilance Machinery – Appointment of Director of Vigilance Investigation-Orders issued.

HOME (S) DEPARTMENT


Order

The question of strengthening the Vigilance machinery in the State has been engaging the attention of the Government for some time past. Government have now decided that there should be a separate Vigilance Division for more effective investigation of cases of corruption and misconduct on the part of public servants. Accordingly they are pleased to direct that the present ‘X’ Branch Police will form a separate department known as the Vigilance Division and that will be under the administrative control of a Director who will function as the Head of the Department. The headquarters of the Director will be at Trivandrum. In order to implement the above orders the Government are pleased to sanction the creation of a post of Director of Vigilance Investigation on a pay of Rs. 2,250/- p.m. The post will be of a status equal to that of the Inspector General of Police.

2. The expenditure on this account will be met from “23 Police (h) (ii) X-Branch”.

3. The Government are also pleased to appoint Shri M. Gopalan, Director of Civil Defence as the Director of Vigilance Investigation.

4. The Director of Vigilance Investigation will also be in charge of the work relating to Civil Defence, Home Guards and Fire Services. G.O.(MS) No. 33/Home dated 18.1.1963 will stand modified to the extent indicated above.

5. This order issues with the concurrence of the Finance Department.

(By order of the Governor)

C.K. Kochukoshy
Secretary to Government.
APPENDIX II
(Referred to in para 4, Chapter I)

GOVERNMENT OF KERALA

Abstract

VIGILANCE DEPARTMENT – SET-UP, WORKING AND PROCEDURES – REVISED ORDERS – ISSUED

VIGILANCE (C) DEPARTMENT


Read:-
1. G.O. (P) No. 14/83/Vig. dated 7.10.1983
2. G.O. (P) No. 150/90/Vig. dated 5.10.1990
3. Letter No.TS (2) 21797/91 dated 17.9.1991 from the Director of Vigilance Investigation.

ORDER

In the Government Order read as 1st paper above Government have issued orders regarding the set-up, working and procedure relating to the investigation/enquiries by the Vigilance Department. Subsequently, in the Government Order read as 2nd paper above, Government have brought about certain modifications to para 13 (4) and (5) of the above Government Order. In the letter read as 3rd paper above the Director of Vigilance Investigation has proposed certain modifications to the above Government Orders. Government have examined the question and the following orders are issued on the organisation, working and procedure relating to the investigation and enquiries by the Vigilance Department, in supersession of the Government Orders read above.

PART I

1. Organisation, Control and Supervision of the Vigilance Department:

(i) Organisation: The Vigilance Department with the following zonal areas and jurisdiction will function under the control and supervision of the Director of Vigilance Investigation who will be assisted by such number of Inspectors General of Police, Deputy Inspectors General of Police and Superintendents of police as the Government may, from time to time, decide.

<table>
<thead>
<tr>
<th>Zonal areas</th>
<th>Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Thiruvananthapuram</td>
<td>Thiruvananthapuram Revenue District</td>
</tr>
<tr>
<td>2. Kollam</td>
<td>Kollam Revenue District.</td>
</tr>
<tr>
<td>3. Alappuzha</td>
<td>Alappuzha Revenue District</td>
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</tbody>
</table>
4. Pathanamthitta Revenue District
5. Kottayam Revenue District
6. Idukki Revenue District
7. Ernakulam Revenue District
8. Thrissur Revenue District
9. Palakkad Revenue District
10. Malappuram Revenue District
11. Kozhikode Revenue District
12. Wayanad Revenue District
13. Kannur Revenue District
14. Kasaragod Revenue District

(i) The Director of Vigilance Investigation, the Inspectors General of Police the Deputy Inspectors General of Police, the Superintendent of Police (Intelligence), the Superintendent of Police, Headquarters, the Superintendents of Police, Special Cell at Thiruvananthapuram and Kozhikode and the officers attached to their offices will have jurisdiction throughout the State in so far as the work of the Vigilance Department is concerned. The Range Superintendents of Police, Range Deputy Superintendents of Police and Range Inspectors will exercise jurisdiction over their respective Ranges. The Deputy Superintendents of Police in charge of Zonal Units and the subordinates under them will exercise jurisdiction over their respective Zonal areas.

(ii) The strength of each of the Zonal Units will be as determined by Government on the recommendation of the Director of Vigilance Investigation from time to time.

(iii) The selection of the personnel to be drawn from the Police Department will be made by the Director of Vigilance Investigation in consultation with the Director General of Police.

(iv) The officers and men selected for the Vigilance Department will work in that Department normally for three years.

2. **Nature of duties:** The object of the Vigilance Department is to combat effectively corruption and misconduct on the part of Government Servants and public servants, particularly at the higher levels. The work of the Vigilance Department will be confined to:

(i) Government Servants of the State, in respect of crime cases and allegations of misconduct; and

(ii) other public servants ad defined in section 2 (c) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and the Kerala Criminal Law
Amendment Act 1962 in respect of offences coming under the Prevention of Corruption Act and Indian Penal Code. The Vigilance Department can, however, bring to the notice of the appropriate authorities cases of corruption or misconduct among the servants of the Central Government. The Vigilance Department will not, except on the specific request of the Departments concerned, enquire into the conduct of officers of the following Departments:

1. The Judicial Department;
2. The Legislature Secretariat; and
3. The Kerala Public Service Commission.

3. Addressing communications:- All communications to the Vigilance Department should be addressed to the Director of Vigilance Investigation, Thiruvananthapuram.

4. Procedure for initiating Vigilance Enquiries and related matters:-

(i) Investigation of cases coming under the Prevention of Corruption Act and the Indian Penal Code will be undertaken by the Vigilance Department under the provisions of the Criminal Procedure Code;

(ii) The Vigilance Department should not initiate enquiries *suo-motu*, even when a complaint is made in person or in a signed petition. The Vigilance Department should invariably report such complaints promptly to Government in Vigilance Department which will issue necessary instructions in the matter;

(iii) The Director of Vigilance Investigation shall initiate a preliminary enquiry\(^1\) in matters referred to him for enquiry. He may himself order a detailed enquiry\(^2\) when he is satisfied that there is scope for a detailed enquiry.

(iv) Petitions for enquiry by Vigilance Department received by Heads of Departments and others should invariably be forwarded to Government in the Vigilance Department for further action;

(v) Director of Vigilance Investigation on receipt of petitions containing allegations mentioned in para 12 (a) will send them to the Head of the Department concerned for taking appropriate action into the matter and the Head of Department will take necessary action after conducting a proper enquiry;

(vi) The Vigilance Department will keep under surveillance officers of doubtful integrity.

\(^1\) Modified as Vigilance Enquiry vide GO.(P)No. 18/97 Vig. dt. 5.4.1997

\(^2\) Modified as Confidential Verification vide the above G.O.
5. **Requisitioning of Records by the Vigilance Department:**

(i) If in the course of any enquiry, the records of the Secretariat are required, the Director of Vigilance Investigation or the Inspector General of Police concerned may address the Secretary to Government of the Department concerned requesting facility to peruse or to take over/hand over the records to any officer of the Vigilance Department authorised for the purpose;

(ii) If the records in the office of the Heads of Departments are required, the Deputy Inspector General of Police or the Superintendents of Police, Vigilance Department may address the Head of the Department concerned requesting facility to peruse or to hand over the records to any officer of the Vigilance Department authorised for the purpose;

(iii) If the records in any other subordinate offices are required, the Deputy Superintendent of Police of the Headquarters Units, Special Cells and Zonal Units concerned will request the Head of Office concerned who will arrange to make them available at such place and in such manner as may be found most convenient;

(iv) The records should ordinarily be made available to the Vigilance Department within one week of requisitioning. In cases of delay, the officers of Vigilance Department will be free to make personal visits to the offices where the records are kept for the purpose of securing them;

(v) If the records are not made available to the Vigilance Department even after 15 days of the initial request, action may be taken as indicated below:

   In case the documents are required for an enquiry, the matter should be taken up with the Head of Department concerned who will issue specific and clear instructions to the subordinate officer concerned. Cases of causing deliberate hindrance or delay to the enquiry will be reported to Government in the Vigilance Department for initiating disciplinary action against the officers/officers concerned;

(vi) Before the original records are handed over to the officers of Vigilance Department, the Head of Offices shall take sufficient photocopies of the required documents in the presence of the Vigilance officers.

6. **Types of cases:** - The Vigilance Department shall take up investigation/enquiry of cases falling under the following categories: -

(i) Offences of criminal misconduct by public servants as defined in the Prevention of Corruption Act, 1988;
(ii) Any dishonest or intentionally improper conduct on the part of a public servant or abuse of powers as a public servant;

(iii) Gross negligence or dereliction of duty;

(iv) Misuse of any public money or property;

(v) Misappropriation involving Government or public servants in which the amount exceeds Rs25, 000. All other cases of defalcation of public moneys and properties, including funds of co-operative societies, irrespective of the amount involved will be dealt with by the regular police, unless Government direct other-wise.

(vi) Abetment of the above offences.

7. Enquiry Report:

(1) A time limit of three months is fixed for completing an investigation/enquiry. If the investigation/enquiry is not completed within this period, the Director of Vigilance Investigation will forward a special report to Government in the Vigilance Department showing the result of the investigation/enquiry so far made and indicating the probable time required for completing the investigation.

(2) After completion of an enquiry, the Deputy Superintendent of Police of the Units concerned shall forward a detailed report showing the allegations, the evidence collected and the result of the enquiry on each item to the Superintendent of Police, Vigilance Department concerned who will scrutinise it and forward the same with his report to the Director of Vigilance Investigation through the Inspector General of Police/Deputy Inspector General of Police concerned for transmission to Government. Statements of witnesses questioned shall be recorded.

(3) All investigation/enquiry reports of the Vigilance Department after examination and approval by the Director of Vigilance Investigation shall be forwarded by him to Government in the Vigilance Department. On receipt of the report the Government will decide what further action should be taken in the matter. The case shall be referred to the Vigilance Tribunal or for departmental enquiry according to merits for further action as provided for in the relevant rules,

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3 Modified as Rs. 50,000 vide GO (P) No. 18/97/Vig. dt. 5.04.1997.
4 Modified vide GO (P) No. 80/94/Vig. dt. 6.10.1994.
(i) Where the recommendation in a factual report is for prosecution the Director of Vigilance Investigation will also forward along with the report:

(a) First Information Report.
(b) Statements of witnesses, Mahazars and all other connected documents relied upon for the proposed prosecution.

(ii) Where the recommendation in a report is for prosecution or for a Vigilance Tribunal enquiry, the opinion of the Legal Adviser to the Vigilance Department will also be attached. A draft charge with a statement of allegations will also be attached to the enquiry report besides forwarding all documents relied upon for the proposed Tribunal enquiry.

8. Registration of cases: -

(1) If at any stage during the preliminary enquiry conducted by the Vigilance Department there are reasonable grounds to believe that the accused Government servant has committed an offence under the Prevention of Corruption Act, the preliminary enquiry will be stopped at that stage, and a crime case registered and investigated after obtaining sanction from the Director of Vigilance Investigation.

(2) After completion of the investigation, a report giving the facts, evidence and circumstances in each case both for and against the prosecution shall be forwarded by the Deputy Superintendent of Police concerned to the Superintendent of Police concerned who will submit the same to the Director of Vigilance Investigation through the Inspector General of Police concerned for transmission to Government. In cases personally investigated by the Superintendent of Police or other Senior Officers of factual report will be prepared by them.

(3) In case where it is decided to prosecute an officer for the above offences, a charge sheet will be laid before the Special Judge after obtaining the necessary legal sanction.

(4) When it is considered necessary to transfer a crime case from a local police station/unit to the Vigilance Department, the concerned Superintendent of Police of the District/Unit should forward the same to the Director of Vigilance Investigation, Thiruvananthapuram, who will decide whether it is a fit case to be investigated by the Vigilance Department and if so, take further action by registering the case in the Vigilance Department or otherwise return the case to the Local Police/Units.
9. **List of Suspect Officials:**

In Cases where there is information that an officer is corrupt and it is felt that a watch maintained by the Vigilance Department may lead to the detection of his corrupt practices, the Inspector General of Police, the Deputy Inspector General of Police or the Superintendent of Police, Vigilance concerned shall direct a chosen officer of the Vigilance Department to make confidential enquiries about the conduct of the officer from time to time and record the results of such enquiries in a dossier to be maintained by and kept in the personal custody of the Deputy Inspector General of Police or the Superintendent of Police, Vigilance Department. Whenever such dossiers are opened the fact should be reported to the Director of Vigilance Investigation. Enquiries made in this behalf should be very confidential.

10. **Identity Cards:**

Identity cards under the hand and seal of the Director of Vigilance Investigation shall be issued to the officers of the Vigilance Department.

11. **Anonymous Petitions:**

Anonymous petitions which are vague or general in nature need not be enquired into. Decisions in this regard will be taken only by the Director of Vigilance Investigation. Petitions containing specific allegations which are capable of verification will be followed up.

12. **Reference to Vigilance Department:**

The Heads of Departments and Vigilance Officers of the various departments shall not ordinarily depend upon the Vigilance Department for making any enquiry with regard to matters to be examined and dealt with by them.

(a) They will themselves deal with the following matters without referring them to the Vigilance Department.

(i) Nepotism;
(ii) Causing avoidable delay in the disposal of Government business;
(iii) Violation of departmental standing orders.

(b) Where there is strong suspicion regarding the Commission of an offence under the Prevention of Corruption Act the information should be furnished to Government for follow up action by the Vigilance Department.
(c) Other cases in which the assistance of the Vigilance Department is considered necessary, will also be referred to the Government in the Vigilance Department who will issue necessary instructions to the Director of Vigilance Investigation.

(d) When cases are referred to the Vigilance Department by other Departments of the Secretariat, the Secretaries of the Department concerned will record specific reasons in the file, why the particular case cannot be effectively and adequately investigated by the Head of Department/a senior officer of the Department, and why it is necessary for the case to be investigated by the Director of Vigilance Investigation. Proposals for Vigilance Investigation without the specific remarks of the Secretaries concerned will not be entertained by Vigilance Department.

13. Departmental Action: -

(1) When an investigation/enquiry against a Government Servant is pending in the Directorate of Vigilance Investigation, the Head of Department/Officer concerned shall not initiate a parallel departmental enquiry on the same allegations but shall wait for the completion of the investigation/enquiry by the Director of Vigilance Investigation.

(2) Government in the Vigilance Department will have the power to review the punishment awarded by the Heads of Departments and subordinate officers in all cases of departmental enquiries, initiated on the basis of a report from the Director of Vigilance Investigation.

(3) Departmental action on the basis of Vigilance Enquiry reports against officers whose appointing authority is Government will invariably be taken by the concerned Administrative Department in the Secretariat. Final orders will be passed only in consultation with the Vigilance Department. The file should be circulated to the Minister concerned and Minister in-charge of Vigilance before issuing orders.

(4) In case of officers whose appointing authority is the Head of Department or District Collector, the Administrative Department shall immediately send the Vigilance Enquiry report to them for taking departmental action. However, if for any reason the Administrative Department considers that the case should be handled directly by them, it may be done. Departmental action on the basis of Vigilance reports will not in any case be dealt with by a subordinate authority lower that the Head of Department/District Collector. The final decision taken will be intimated by the Head of Department/Collector to the concerned Administrative Department with copy to the Vigilance Department in the Secretariat. If the Administrative Department feels that the punishment imposed is not adequate, action to enhance the punishment imposed may be taken in consultation with Vigilance Department under Rules 31 and 37 of
Kerala Civil Services (Classification, Control and Appeal) Rules. The Vigilance Department also may if considered necessary, initiate *suo motu* proceedings to enhance the punishment in consultation with the concerned Administrative Department.

14. **Scrutiny of Records:**

In most cases it may suffice for the purpose of investigation or enquiry to refer to records without taking them over. Certified copies of such records would alone be required in some cases. The safety of such records would also be of importance, if they are required to be produced during the trial or enquiry. The Administrative Authority having the custody of any records required in connection with an investigation or enquiry by the Vigilance Department and which are not taken over by the latter shall make satisfactory arrangements for their safe custody. If it is considered desirable that the records shall be transferred to the custody of a different or higher authority in the interest of the safety of the records, the Administrative Authority may do so in his own initiative or the Director of Vigilance Investigation may address the Administrative Authority concerned.

15. **Suspension or transfer of Government Servants against whom proceedings are taken:**

Whenever a case alleging corruption is registered or an enquiry is initiated against any Government servant by the Directorate of Vigilance Investigation and he feels it necessary that in the interests of a fair investigation or enquiry, the Government servant concerned should be either placed under suspension or transferred, the Director may forward a report to the Government in the Vigilance Department recommending such a step. Government after considering the recommendation will issue necessary orders in the matter. The Heads of Department/Office/Government Undertakings concerned shall, without fail and with the least delay, comply with such directions, ordering the suspension/transfer of the official concerned, and report compliance to Government in the Vigilance Department, under intimation to Director of Vigilance Investigation. The reinstatement of the Government servant and/or his reposting in the same place from where he was suspended/transferred shall be ordered only with the concurrence of Government in Vigilance Department. In cases where orders of suspension were issued by Government in the Vigilance Department, reinstatement will be ordered only by the Vigilance Department, in consultation with the Director of Vigilance Investigation.

16. **Surprise Check:**

(1) Where information is received by the Vigilance Department about a suspected case of corruption in which there is no individual to come forward and furnish details sufficient to register a case, but there may be scope to
establish the truth by a surprise check, an officer of the Vigilance Department may meet an appropriate higher authority of the Department concerned and furnish him with the relevant details and the type of surprise check which is recommended in the case.

(2) In the absence of either the Head of the office or the superior officer, the Vigilance Officer may avail the services of an office of equal rank belonging to the concerned Department and available locally, but who does not have administrative control over the officer where surprise check has to be conducted. Failure to co-operate with the officials of Vigilance Department on such requests will be punishable under section 100 (8) of the Criminal Procedure Code and Section 187 Indian Penal Code.

(3) Ordinarily if the request is made to the Head of a Department the officer of the Vigilance Department will deliver to him a letter from the Director of Vigilance Investigation/Inspector General of Police (Vigilance) concerned containing the above mentioned facts. A similar letter from the Superintendent of Police will be delivered in the case of other departmental officers. Where in emergent cases action is required before the letter can be obtained from the Director or the Superintendent of Police the request will be made in person by an officer not below the rank of Deputy superintendent of Police who will also hand over a letter containing all the particulars mentioned above.

(4) The authority who is approached thus shall either immediately conduct the surprise check as requested by the officer of the Vigilance Department or give a reply in writing to the officer of the Vigilance Department who meets him stating the grounds why it is not feasible to conduct it in the manner requested. The officer of the Vigilance Department should also be present during the arrangements made for the surprise check and the actual check.

(5) On completion of the surprise check, the authority conducting the check should submit a report to the Head of the Department (with a copy to the Deputy Superintendent of Police, Vigilance concerned) within 10 days positively indicating inter alia the following:

- (i) Irregularities noticed, if any;
- (ii) Officer/Officers responsible;
- (iii) Action proposed to be taken.

(6) On completion of departmental action, the result should be intimated by the Head of the Department to Government in Vigilance Department and to the Director of Vigilance Investigation.

Procedure revised vide G.O.(P) No. 18/97/Vig. dt. 5.4.1997.
17. Collection of information about prevalence of corruption and malpractice: -

In the course of the general watch kept by the Vigilance Department information may also be received regarding malpractices of an individual or general misconduct on the part of a category of Government servants or employees of Public Sector Undertakings. The Director of Vigilance Investigation will communicate all such information confidentially to the Government in the Vigilance Department for appropriate action.

18. Scrutiny of Property Statements: -

In G.O.(MS) No. 36/Public dated 16.1.1962 it has been ordered that the Heads of Departments and officers should scrutinise the property statements immediately on their receipt and that suspicious cases should be referred to the Vigilance Department for investigation. Heads of Departments and officers who, on scrutinising the property statements received by them from their subordinates, find grounds for suspicion, should refer such cases to the Vigilance Department for enquiry/investigation through Government in the Vigilance Department. The reports of Investigation or enquiries conducted on such references may also be forwarded to Government by the Vigilance Department.

19. Assistance to the Vigilance Department: -

All Government servants and other public servants (except those in the Judicial Department) shall render all helps and co-operation whenever they are approached by the officers of the Vigilance Department for assisting or witnessing a trap or in the conduct of an enquiry/investigation in Vigilance cases. Any reluctance, refusal or non co-operation noticed on the part of officers will be viewed seriously by government, and appropriate penal action taken.

By order of the Governor,

C.P. NAIR
Commissioner & Secretary
(Home and Vigilance Departments).
APPENDIX III
(Referred to in para 4, Chapter I)

GOVERNMENT OF KERALA

Abstract

VIGILANCE DEPARTMENT – VIGILANCE AND ANTI-CORRUPTION BUREAU–WORKING OF THE DEPARTMENT–FURTHER ORDERS ISSUED.

VIGILANCE (C) DEPARTMENT

G.O.(P)No. 18/97/Vig. Dated, Thiruvananthapuram. 5th April, 1997.

2. G.O.(Rt.) No. 104/96/Vig. dated 18.7.1996.
4. G.O. (Ms) No.16/97/Vig. dated 31.3.1997.

ORDER

In the Government Order read as second paper above, Government constituted a committee to review the working of the Vigilance machinery in the State and make recommendations for its improvement. The recommendations contained in the report of the Committee have been examined by Government in detail. Government are now pleased to issue the following orders:

(1) The existing practice of conducting preliminary enquiry and detailed enquiry will be dispensed with. There will be only one form of formal enquiry viz. Vigilance Enquiry(VE).

(2) The Director, Vigilance and Anti-Corruption Bureau may conduct ‘Confidential Verification’ for ascertaining whether a particular information or complaint calls for a formal enquiry. This will be done without recording the statement of witness and in total confidentiality.

(3) Anonymous petitions containing specific allegations, when received by Government, will be sent to the Director, Vigilance and Anti-Corruption Bureau for necessary action and report. Those which are of a vague or general nature will be forwarded to him for necessary action.

(4) When a petition on the basis of which an enquiry is ordered by Government is found to be pseudonymous Director, Vigilance and Anti-
Corruption Bureau will report the fact to the Government and such petition will be treated as anonymous.

(5) Petitions containing allegations of departmental irregularities, which do not involve questioning of witnesses outside the Department, will be sent to departmental vigilance officers. Those containing serious allegations and involving questioning of outside witnesses will be sent to the Director, Vigilance and Anti-Corruption Bureau for enquiry.

(6) The Vigilance and Anti-Corruption Bureau should collect intelligence on corrupt officials and process the information with the utmost confidentiality. The Director of Vigilance & Anti Corruption Bureau will personally arrange to get the information confidentially verified.

(7) A list of officers of doubtful integrity will be maintained by the Vigilance and Anti-Corruption Bureau.

(8) Petitions received in Vigilance units of the Vigilance and Anti-Corruption Bureau which do not have a vigilance angle will be sent to the District level officers of the concerned Departments. Such petitions received at the Vigilance Bureau will be forwarded to the heads of Departments concerned.

(9) The Vigilance and Anti-Corruption Bureau will pay better attention to trap cases.

(10) The Vigilance and Anti-Corruption Bureau will bestow greater attention on cases of disproportionate assets.

(11) In future only cases of misappropriation involving an amount of not less that Rs. 50,000 will be investigated by the Vigilance and Anti-Corruption Bureau.

(12) The time limit for enquiry/investigation will be fixed as follows:

(a) Vigilance Enquiries : 3 months
(b) Investigation of trap cases : 3 months
(c) Investigation of assets cases : 12 months
(d) Investigation of other cases : 6 months
(e) Enquiry by Vigilance Tribunal : 6 months

(13) The procedure for surprise check will be revised as follows:

The role of departmental officer conducting the surprise check will be limited to preparation of the joint mahazar (inventory) which will be signed by himself and the officer of the Vigilance and Anti-Corruption Bureau. He
need not prepare a surprise check report or submit a report to the head of Department. The surprise check report will be prepared by the officer of the Vigilance and Anti Corruption Bureau after conducting necessary verification.

Officers of the Vigilance and Anti-Corruption Bureau will be allowed to avail themselves of the services of technically qualified officials of any Government agency to assist them in the conduct of surprise checks.

(14) Investigation of cases will be conducted by investigation teams headed by the Deputy Superintendent of Police/Circle Inspector in the Vigilance unit and assisted by other police personnel in the unit.

(15) Regular training will be given to police officers working in the Vigilance and Anti-Corruption Bureau in order to familiarise them with latest techniques or practices of investigation etc. They will be deputed to the Central Bureau of Investigation Training Center at Delhi for this purpose. Inservice training will also be organised by the Director, Vigilance and Anti-Corruption Bureau.

(16) The Vigilance set up in the various Departments of the Government will be adequately strengthened. Instructions will be issued separately.

(17) Vigilance Department in the Secretariat will closely follow up the Vigilance enquiry cases referred to the departments for taking disciplinary action.

(18) A comprehensive Vigilance Manual will be prepared by the Director, Vigilance and Anti-Corruption Bureau and submitted to Government for approval.

The Orders contained in the G.O. read as 1st paper above will stand modified to the above extent.

By order of the governor,

M.MOHANKUMAR
Additional Chief Secretary.
APPENDIX IV
(Referred to in para 17, Chapter II)

Kerala Gazette No.18 dated 4th May 1993.

GOVERNMENT OF KERALA

VIGILANCE (C) DEPARTMENT

NOTIFICATION

No.12094/C1/88/Vig. Thiruvananthapuram, 2nd March 1993.

S.R.O. No. 790/93:- In exercise of the powers conferred by the first proviso to section 17 of the Prevention of Corruption Act, 1988 (Central Act 49 of 1988), the Government of Kerala hereby authorise police officers not below the rank of an Inspector of Police to investigate any offence punishable under the said Act without the order of a Magistrate of the First Class, or to make arrest therefor without a warrant, within the area of jurisdiction of the particular police station to which the police officer is attached for purposes of investigation, provided that an offence referred to in clause (e) of sub-section (1) of section 13 of the above said Act shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

By order of the Governor,

C.P. NAIR,
Commissioner and Secretary.
(Home and Vigilance)

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

As per section 17 of the Prevention of Corruption Act, 1988 (Central Act 49 of 1988), investigation of any offence punishable under the Act, or any arrest therefor without a warrant within the State of Kerala can be made only by a Deputy Superintendent of Police or a Police Officer of equivalent rank. But as per the powers conferred by the first proviso of section 17 of the Act, The State Government is competent to issue a general or special order authorising a Police Officer not below the rank of Circle Inspector of Police to Investigate any such offence. Hence as per the powers conferred on the State Governments in the first proviso of section 17 of Prevention of Corruption Act Government propose
to authorise Inspectors of Police in the Vigilance Department to investigate any
offence punishable under the PC Act 1988 without the orders of a Magistrate of
the First Class, or to effect an arrest therefor without a warrant, within the area
of jurisdiction of the particular Police Station to which the Police Officer is
attached for the purpose of investigation, provided that an offence referred to in
clause (e) of sub section (1) of section 13 shall not be investigated without the
order of a Police Officer not below the rank of a Superintendent of Police.

The notification is intended to achieve the above purpose.

APPENDIX V
(Referred to in para 20, Chapter II)
GOVERNMENT OF KERALA

Vigilance (C) Department

NOTIFICATIONS


S.R.O.No. 488/91.- In exercise of the powers conferred by sub-section (1) of section 3 of the Prevention of Corruption Act, 1988 (Central Act 49 of 1988) and in supersession of Notification No. 7533/C2/90-1/Vig. dated the 30th August, 1990 published as S.R.O.No. 1205/90 in the Kerala Gazette Extraordinary No. 841 dated the 30th August, 1990, the Government of Kerala hereby appoint the Judges mentioned in column (2) of the schedule below to be Special Judges to try offences specified in the said section within the area of jurisdiction shown against each in column (3) thereof, namely:

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Name of Judges</th>
<th>Area of Jurisdiction (Revenue District)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Shri P. Somachudan Nair</td>
<td>Thiruvananthapuram, Kollam, Pathanamthitta and Alappuzha.</td>
</tr>
<tr>
<td>2.</td>
<td>Shri. A Haridasan</td>
<td>Kottayam, Idukki, Ernakulam and Thrissur</td>
</tr>
<tr>
<td>3.</td>
<td>Shri Moidu Ahammed Nissar</td>
<td>Palakkad, Malappuram, Kozhikode, Wayanad, Kannur and Kasaragod</td>
</tr>
</tbody>
</table>

II

Dated, Thiruvananthapuram, 1st April, 1991

S.R.O.No. 489/91.- In exercise of the powers conferred by rule 3 of the Kerala Civil Services (Vigilance Tribunal) Rules, 1960, and in supersession of Notification No. 7533/C2/90-II/Vig. dated 30th August, 1990 published as
SRO No. 1206/90 in the Kerala Gazette Extraordinary No. 841 dated the 30th August, 1990, the Government of Kerala hereby appoint the Enquiry Commissioners and Special Judges mentioned in column (2) of the Schedule below to be Vigilance Tribunals mentioned in column (3) with jurisdiction over the areas shown against each in column (4) thereof in addition to the Vigilance Tribunal. Thiruvananthapuram already appointed by Notification No. 909/C2/81-/Vig. dated the 26th May, 1981 namely:-

**SCHEDULE**

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of Enquiry Commissioners and Special Judges</th>
<th>Name of Tribunal</th>
<th>Area of Jurisdiction (Revenue Districts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Shri P. Somachudan Nair Enquiry Commissioner And Special Judges, Thiruvananthapuram</td>
<td>Vigilance Tribunal</td>
<td>Thiruvananthapuram Kollam, Pathanamthitta and Alappuzha</td>
</tr>
<tr>
<td>2.</td>
<td>Shri A. Haridasan, Enquiry Commissioner and Special Judge, Thrissur</td>
<td>Vigilance, Tribunal, Thrissur</td>
<td>Kottayam, Idukki, Ernakulam and Thrissur</td>
</tr>
<tr>
<td>3.</td>
<td>Shri Moidu Ahamed, Nissar Enquiry Commissioner And Special Judge, Kozhikode</td>
<td>Vigilance Tribunal, Kozhikode</td>
<td>Palakkad, Malappuram, Kozhikode, Wayanad, Kannur and Kasaragod.</td>
</tr>
</tbody>
</table>

**III**

No. 255/C3/91-III/Vig. Dated, Thiruvananthapuram, 1st April, 1991

S.R.O.No. 490/91.- In exercise of the powers conferred by sub-section (2) of section 9 of the Kerala Enquiries and Summons Act, 1960 (24 of 1960) and in supersession of Notification No. 7533/C2/90-III/Vig. dated the 30th August, 1990 published as S.R.O.No 1207/90 in the Kerala Gazette Extraordinary No. 841 dated the 30th August 1990, the Government of Kerala hereby invest the Enquiry Commissioners and Special Judges, Thiruvananthapuram, Thrissur and Kozhikode appointed as Vigilance Tribunals under Notification-II, the powers of a Civil Court while trying suits under the code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of
the matters referred to in clauses (a), (b), (c), (d) and (e) of the said sub-section within their respective jurisdiction.

IV


S.R.O.No. 491/91.- Under clause (iv) of sub-rule (1)of rule 8 of the Kerala Police Departmental Enquiries, Punishments and Appeal Rules, 1958, and in supersession of Notification No. 7533/C3/90-IV/Vig. dated the 30th August, 1990 published as S.R.O.No 1208/90 in the Kerala Gazette Extraordinary No. 841 dated the 30th August 1990, the Government of Kerala hereby appoint the Enquiry Commissioners and Special Judges, Thiruvananthapuram, Enquiry Commissioner and Special Judge, Thrissur and Enquiry Commissioner and Special Judge, Kozhikode appointed as Special Judges and Vigilance Tribunals under Notification I and II respectively to be Tribunals for the purpose of conducting enquiries in respect of cases including pending cases against members of the Kerala Police Service and the Kerala Police Subordinate Service within their respective jurisdiction.

V


S.R.O.No. 492/91.- Under rule 4 of the Kerala Civil Services (Vigilance Tribunal) Rules, 1960, the Government of Kerala hereby refer all the cases within the Districts of Kottayam, Idukki and Ernakulam pending before the Vigilance Tribunal, Thiruvananthapuram, to the Vigilance Tribunal, Thrissur and refer all the cases within the districts of Palakkad, Malappuram, Kozhikode, Wayanad, Kannur and Kasaragod pending before the Vigilance Tribunal, Thrissur to the Vigilance Tribunal, Kozhikode appointed under Notification II to proceed with and complete the enquiries in such cases by that Tribunal.

By order of the Governor,

C. RAMACHANDRAN.
Secretary to Government (Vigilance)
As per G.O.(Ms) No 139/Vig. dated 20-9-1990 sanction was accorded for the establishment of a new Court of Enquiry Commissioner and Special Judge with headquarters at Kozhikode. Shri Moidu Ahammed Nissar, District Judge, now working as Executive Director, Kerala State Legal Aid and Advice Board, Ernakulam is appointed as the Enquiry Commissioner and Special Judge, Kozhikode in G.O. (MS)No. 57/91/Vig. dated, 1.4.1991. Consequent on the appointment of Shri Moidu Ahammed Nissar as Enquiry Commissioner and special Judge, Kozhikode, Government have decided to redefine the jurisdiction of the three Courts of Enquiry Commissioners and Special Judges, i.e. Thiruvananthapuram, Thrissur and Kozhikode, in consultation of the Honourable High Court of Kerala. It is necessary to invest them with powers to deal with enquiry Commissioner and Special Judge Courts and which are likely to be transferred to them in future.

(i). The Enquiry Commissioners and Special Judges, Thiruvananthapuram, Thrissur and Kozhikode have to be appointed as Special Judges to try offences specified in section 6 of the Criminal Law Amendment Act, 1952 (Central Act 46 of 1952) within their respective jurisdiction.

(ii). In exercise of the powers conferred under rule 3 of the Kerala Civil Services (Vigilance Tribunal Rules) 1960, Enquiry Commissioners and Special Judges, Thiruvananthapuram, Thrissur and Kozhikode have to be appointed as Vigilance Tribunals Thiruvananthapuram, Thrissur and Kozhikode with jurisdiction over their respective areas in addition to the Tribunal for Disciplinary Proceedings, Thiruvananthapuram, who has statewide jurisdiction.

(iii). The Enquiry Commissioner and Special Judges, Thiruvananthapuram, Thrissur and Kozhikode appointed as Vigilance Tribunals have to be invested with the powers of a Civil Court while trying suits under the code of Civil Procedure, 1908 in respect of the matters referred to in clauses (a), (b), (c), (d) and (e) of sub-section (2) of section 9 of the Kerala Enquiries and Summonses Act, 1961 (24 of 1936).

(iv). In accordance with clause (iv) of sub-rule (1) of rule 8 of the Kerala Police Departmental Enquiries, Punishment and Appeal Rules, 1958, the Enquiry Commissioner and Special Judges, Thiruvananthapuram, Thrissur and Kozhikode have to be appointed as Tribunal for the purpose of conducting enquiries in respect of cases including pending cases against the members of the Kerala Police Service and Kerala Police Subordinate Service within their respective jurisdiction.
(v) In accordance with rule 4 of the Kerala Civil Services (Vigilance Tribunal) Rules, 1960, all pending cases before the Vigilance Tribunal, Thiruvananthapuram from local areas which are brought under the jurisdiction of the vigilance Tribunal, Thrissur are to be referred to the enquiry Commissioner and Special Judge, Thrissur and all the pending cases before the Vigilance Tribunal, Thrissur from the local areas which are brought under the jurisdiction of the Vigilance Tribunal, Kozhikode are to be referred to the Enquiry Commissioner and Special Judge, Kozhikode.

The Notifications are intended to achieve the above objectives.
APPENDIX VI
(Referred to in para. 21, Chapter II)

KERALA GAZETTE (Extraordinary)
Dated 11.4.1991

GOVERNMENT OF KERALA
Vigilance (C) Department

NOTIFICATIONS

No. 8165/C2/90/Vig.-1 Dated, Thiruvananthapuram, 11th April, 1991.

S.R.O.No.542/91.- In exercise of the powers conferred by sub-rule (a) of rule 3 of the Kerala Civil Services (Vigilance Tribunal) Rules, 1960 and in supersession of notification NO. 909/C2/81-1/Vig. (1) dated the 26th May, 1981 published as S.R.O.No. 630/81 in Part I of the Kerala Gazette No. 22 dated the 2nd June, 1981 the Government of Kerala hereby constitute the following Vigilance Tribunals with headquarters at Thiruvananthapuram and Kozhikode mentioned in column(2) of the Schedule below with jurisdiction over the areas specified in column (3) thereof and appoint Shri N. Vasu, Advocate, Kottarakkara (Planthottathil house, Poovattoor West, Mavady P.O., Via Puthoor, Kollam District) as Vigilance Tribunal, Thiruvananthapuram with effect from the date of assuming charge along with additional charge of the Vigilance Tribunal, Kozhikode till a person is appointed as Vigilance Tribunal, Kozhikode, namely:-

SCHEDULE

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of Vigilance Tribunal</th>
<th>Area of jurisdiction (Revenue District)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Shri N. Vasu, Vigilance Tribunal (in charge), Kozhikode</td>
<td>Thrissur, Palakkad, Malappuram, Kozhikode, Wayanad, Kannur and Kasaragod</td>
</tr>
</tbody>
</table>

By order of the Governor,

C. RAMACHANDRAN,
Secretary to Government (Vigilance)
Shri N. Vasu, Advocate, Kottarakkara (Planthottathil house, Poovattoor West, Mavady P.O., Via Puthoor, Kollam District) is appointed as Vigilance Tribunal, Thiruvananthapuram with charge of the newly created post of Vigilance Tribunal, Kozhikode under Rule 3 of the Kerala Civil Services (Vigilance Tribunal) Rules, 1960 as per G.O. (MS)No. 59/91/Vig. dated 4.4.1991 to deal with enquiry cases. Since he is put in charge of the Vigilance Tribunal, Kozhikode also till a person is appointed at Kozhikode. Shri Vasu will have to attend the enquiry cases under the area of jurisdiction of the Vigilance Tribunal, Kozhikode also besides the cases coming under the area of the Vigilance Tribunal, Thiruvananthapuram. This notification is intended to achieve the above purpose.

II

S.R.O.No. 543/91.- In exercise of the powers conferred by sub-section (2) of section 9 of the Kerala Enquiries and Summonses Act, 1960 (24 of 1960) and in supersession of Notification No. 909/C2/81-1/Vig. (II) dated the 26th May, 1981 published as S.R.O.No. 631/81 in Part I of the Kerala Gazette No. 22 dated the 2nd June, 1981, the Government of Kerala hereby invest Shri N. Vasu, Vigilance Tribunal, Thiruvananthapuram appointed under the Kerala Civil Services (Vigilance Tribunal) Rules, 1960, with the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the matters referred for in clauses (a), (b), (c), (d) and (e) of the said sub-section.

By order of the Governor,

C. RAMACHANDRAN,
Secretary to Government (Vigilance).

Explanatory Note

Shri N. Vasu, Advocate, Kottarakkara has been appointed as Vigilance Tribunal, Thiruvananthapuram with charge of the Vigilance Tribunal, Kozhikode. He has to be invested with powers under the Enquiries andSummonses Act. This notification is intended for the above purpose.

III

S.R.O.No.544/91.- Under rule 4 of the Kerala Civil Services (Vigilance Tribunal) Rules 1960 and in supersession of notification No. 909/C2/81-1/Vig. (III) dated the 26th May, 1981 published as S.R.O.No. 632/81 in Part I of the Kerala Gazette No. 22 dated the 2nd June, 1981, the Government of Kerala hereby refer to Shri N. Vasu appointed as Vigilance
Tribunal with headquarters at Thiruvananthapuram to proceed with and complete the enquiries in cases arising in the State and with are pending enquiry before the Vigilance Tribunal, Thiruvananthapuram, and those which may be transferred from the offices of the Enquiry Commissioners and Special Judges, Thiruvananthapuram, Thrissur and Kozhikode.

By order of the Governor,

C. RAMACHANDRAN,
Secretary to Government (Vigilance)

Explanatory Note

Shri N. Vasu, Advocate, Kottarakkara has been appointed as Vigilance Tribunal, Thiruvananthapuram with charge of the Vigilance Tribunal Kozhikode. As he is put in charge of the Vigilance Tribunal, Kozhikode also he has to deal with and complete enquiries in cases arising in the State and which are pending enquiry before the Vigilance Tribunal, Thiruvananthapuram and also those cases transferred from the Enquiry Commissioners and Special Judges, Thiruvananthapuram, Thrissur and Kozhikode. This notification is intended for the above purpose.

IV

S.R.O.No 545/91.- Under clause (iv) of sub-rule (1) of rule 8 of the Kerala Police Departmental Inquiries, Punishment and Appeal Rules, 1958 and in supersession of the Notification No. 909/C2/81-1/Vig. (iv) dated the 26th May, 1981, published as S.R.O.No. 633/81 in Part I of the Kerala Gazette No. 22 dated the 2nd June, 1981, the Government of Kerala hereby appoint Shri N. Vasu, Vigilance Tribunal, Thiruvananthapuram to be the Tribunal for the purpose of conducting enquiries against members of the Kerala Police Service and the Kerala Police Subordinate Service in respect of cases arising in the State and which are pending enquiry before the Vigilance Tribunal, Thiruvananthapuram and those which may be transferred from the offices of Enquiry Commissioners and Special Judges, Thiruvananthapuram, Thrissur and Kozhikode.

By order of the Governor,

C. RAMACHANDRAN,
Secretary to Government (Vigilance).
Explanatory Note

Shri N. Vasu, Advocate, Kottarakkara has been appointed as Vigilance Tribunal, Thiruvananthapuram with charge of the Vigilance Tribunal, Kozhikode. He as to be invested with powers for conducting enquiries against members of the Kerala Police Services and the Kerala Police Subordinate as required under the Kerala Police Department Inquiries, Punishment and Appeal Rules, 1958. This notification is issued for the above purpose.
From

The Dy. Supdt. of Police,
Vigilance & ACB,
..........................

To

..........................
..........................

Sir,

Sub:- Surprise Check - conduct of - request - reg.

Ref:- (1)Para 16 of G.O.(P)No.65/92/Vig dt. 12.5.92.
(2)Para 13 of G.|O.(P)No.18/97/Vig dt. 5.4.97.

This is to inform you that a Source information received by the Vigilance & Anti-Corruption Bureau has alleged commission of serious irregularities in an office under your jurisdiction/administrative control.

2. An immediate surprise check as envisaged in the G.Os. cited is, therefore, found necessary to verify the truth of the Source information. The surprise check may be conducted by you or arranged to be conducted by one of your competent subordinate officers in the presence of the Vigilance officers. During the surprise check it shall be necessary to draw up a joint mahazar (inventory) enumerating the facts revealed as enjoined in Govt. order second cited.

3. Further details regarding the surprise check will be communicated personally to you or the officer authorised by you at the time of the surprise check.

4. Your co-operation and urgent action in the matter will be appreciated.

Yours faithfully

Dy. Supdt of Police
APPENDIX VIII
(Referred to in para 164, Chapter XIII)

KERALA GAZETTE (Extra ordinary)
GOVERNMENT OF KERALA
Vigilance (C) Department
NOTIFICATIONS

No. 10058/C1/2000/Vig. Dated, Thiruvananthapuram, 4th December, 2000

S.R.O.No. 1118/2000: - In exercise of the powers conferred by clause(s) of section 2 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and in supersession of the notification No.3215/C1/79/Vig. dated 1st January 1980 and published as S.R.O.No. 123/80 in the Kerala Gazette No. 5 dated the 29th January, 1980, and subsequent amendments issued to it from time to time, the Government of Kerala hereby declare that the buildings specified in column(1) of the Schedule below shall be police stations with effect from 4th December, 2000 with jurisdiction over the areas specified against each in column (2) thereof:

SCHEDULE

<table>
<thead>
<tr>
<th>Buildings</th>
<th>Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings No. T.C.12/38 to 12/42 near Post Master General Junction, Thiruvananthapuram in which the Directorate of the Vigilance and Anti-corruption Bureau is housed.</td>
<td>Whole State of Kerala</td>
</tr>
<tr>
<td>Buildings No. T.C. IV/1690, Belhaven, Kowdiar, Thiruvananthapuram in which the office of the Superintendent of Police, Vigilance and Anti-Corruption Bureau, Southern Range, Thiruvananthapuram is housed.</td>
<td>Revenue districts of Thiruvananthapuram Kollam and Pathanamthitta.</td>
</tr>
<tr>
<td>Buildings No. XLI/1802 (Old No. 1267), Kalejah Buildings, Sivarama Menon Road, Kochi-18 in which the office of the Superintendent of Police, Vigilance and Anti-corruption Bureau, Central Range, Kochi is housed.</td>
<td>Revenue districts of Ernakulam, Thrissur and Palakkad.</td>
</tr>
</tbody>
</table>
4. Buildings No.V/16, 17, 18 of Kottayam Municipality in which the office of the superintendent of Police, Vigilance and Anti-corruption Bureau, Eastern Range, Kottayam is housed.

5. Building No. 1/860 (1st Floor, Northern portion Kacheri Village, Kozhikode City in which the office of the Superintendent of Police, Vigilance & Anti-corruption Bureau, Northern Range, Kozhikode, is housed.

6. Buildings No. XVII/2047, XVII/2048 and XVII/2049, Poojappura, Thiruvananthapuram in which the office of the Superintendent of Police, Vigilance and Anti-corruption Bureau Special Investigation Unit, Thiruvananthapuram is housed.

7. Building No. TC.IV/1690, Belhaven, Kowdiar in which the office of the Superintendent of Police, Vigilance & Anti-Corruption Bureau, Special Cell, Thiruvananthapuram is housed.

8. Building No. 43/1279, Kannanchentodu road, Pachalam P.O., Kochi in which the office of the Superintendent of Police Vigilance and Anti-corruption Bureau, Special Cell, Ernakulam is housed.

9. Building No. 5/1393, 1st Floor, P.K.Building, Nadakkavu, Kozhikode in which the office of the Superintendent of Police, Vigilance and Anti-corruption Bureau, Special Cell, Kozhikode is housed.

10. Building No. 45./452 and 45/453 Cheranallur Village, Ernakulam in which the office of the Superintendent of Police, Special Investigation Team for Brahmapuram Diesel Power Plant is housed.
**District Units**

11. Building No. T.C. IV/1690, Belhaven, Kowdiar, Thiruvananthapuram in which the office of the Deputy superintendent of Police, Vigilance & Anti-Corruption Bureau, Thiruvananthapuram unit is housed.


13. Building No. XII/956 (1) 1st Floor of Laheth Building, Pathanamthitta Municipality in which the Office of the Deputy Superintendent of Police, Vigilance and Anti-Corruption Bureau, Pathanamthitta is housed.


15. Building No. V/16, 17, 18 of Kottayam Municipality in which the Office of the Deputy Superintendent of Police, Vigilance and Anti-Corruption Bureau, Kottayam is housed.

16. Building No. XLI/1802, (Old No. 1267) Kalejah Building, Sivarama Menon Road, Kochi-18 in which the Office of the Deputy Superintendent of Police, Vigilance & Anti-corruption Bureau, Ernakulam is housed.

17. Building No.VI/175 (Old No. VI/166), of Thodupuzha Municipality in which the Office of the Deputy Superintendent of Police, Vigilance & Anti-corruption Bureau, Idukki is housed.


22. Building No. MP-III/1045,1046 and 1047 (Old No. III/938, 939 and 940) of Meenangadi Panchayat in which the Office of the Deputy Superintendent of Police Vigilance & Anti-Corruption Bureau, Wayanad is housed.


24. Building No. KMC-II/435, KPR. Rao Road, Kasaragod Municipality in which the Office of the Deputy Superintendent of Police Vigilance & Anti-Corruption Bureau, Kasaragod is housed.

II

S.R.O.No.1119/2000:- In exercise of the powers conferred by clause (O) of section 2 read with Section 36 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and in supersession of the Notification II No.
3215/C1/79/Vig. dated 1st January, 1980 and published as S.R.O.No 124/80 in the Kerala Gazette No. 5 dated 29th January 1980, the Government of Kerala, hereby notify that all police officers of and above the rank of Inspectors attached to Directorate, Vigilance & Anti-corruption Bureau and Offices of the Superintendents of Police, Vigilance & Anti-corruption bureau, Southern Range, Central Range, Eastern Range, Northern Range, Special Cells Kozhikode, Thiruvananthapuram, Ernakulam, Special Investigation Unit and Special Investigation Team investigating allegations against Brahmapuram Diesel Plant and Deputy Superintendents of Police Thiruvananthapuram, Kollam Pathanamthitta, Alappuzha, Kottayam, Idukki, Ernakulam, Thrissur, Palakkad, Malappuram, Wayanad, Kozhikode, Kannur and Kasaragod of the Vigilance and Anti-Corruption Bureau may exercise the powers of an officer-in-charge of the police station within the jurisdiction of the respective police stations, notified under Notification I published as S.R.O.No. 1118/2000.

By order of the Governor,

V. KRISHNAMURTHY,
Additional Chief Secretary to Government.
APPENDIX IX
(Referred to in para 168, Chapter XIII)

Appendix to Circular No.3/89.

No.CC-5/C/89-90/DCIT (Vig).

Office of the Chief Commissioner
of Income-tax (Karnataka, Goa and
Kerala) Bangalore, Date ......

To

All the Commissioners of Income-tax/
Deputy Commissioner of Income-tax/
Assistant Commissioners of Income tax/
In Karnataka and Kerala charge.

SUB:- Production of information/records to the
Central Bureau of Investigation and other
Police agencies-regarding-

A gist of the instructions of the Director of Income-tax (Vigilance),
New Delhi on the above subject is communicated below for information.

(N. SRINIVASAN)
Deputy Commissioner of Income-
tax (Vig)
For Chief Commissioner of
Income-tax
(Karnataka, Goa and Kerala),
Bangalore.

Copy to: DCIT (HQ) (Admn), O/o CCIT, Bangalore w.r.t. his Circular
No.CC/Circular/89-90/DCIT (HQ) (Admn) dt. 10.4.89.

Gist of letter of Director of Income-tax (Vigilance) New Delhi in File
No.F.16/(53)/Vig/88/145 dated 10/11.4.88.

When the Central Bureau of Investigation requires information/records
relating to assessments made under Direct Tax Laws of persons against whom
the Central Bureau of Investigation have registered formal cases under sec.154
of Criminal Procedure Code, the same should be made available promptly after
ensuring that the proceedings under the Direct Tax Laws are not allowed to get
time barred. These instructions will also apply to requests made by State
Vigilance or Police authorities or Lok Ayuktha enjoying powers of police agencies under the Criminal Procedure Code

2. The Central Bureau of Investigation, certain State Vigilance or Police authorities which have been notified for this purpose under sec. 138(1) (a) (ii) of the Income-tax Act are also entitled to seek information in respect of assessments even where no formal cases under sec. 154 of the Criminal Procedure Code have been registered. The request in such cases has to be made by an officer of the rank of Superintendent, CBI or by an officer of higher rank. The records or information may be made available when asked for after ensuring that proceedings under the Direct Tax Laws are not allowed to get time barred.
APPENDIX - X
(Referred to in para 186 Chapter XIII)

Requisition form for examination of Questioned Documents

1. Date

2. Crime No. and Section of Law

3. Police Station and District

4. Particulars of questioned writings or signature along with the detailed description of the documents containing such writings and signatures. (The questioned writings or signatures may be encircled with red pencil and given marking such as Q1, Q2, Q3, etc.)

5. Particulars of documents and exact locations therein of erasures, alterations, obliterations, interpellations, etc, which are alleged to have been made

6. Particulars of the standard writings

   (i) Writings or signatures written in the normal routine and preferably near about the period of questioned writings and signatures by the persons concerned for comparison with the questioned writings and signatures. (These writings may be encircled with the red pencil and given markings such as A1, A2, A3, etc.)

   (ii) Particulars of exemplars, i.e., specimen writings and signatures written to dictation by the persons concerned for comparison with the questioned writings and signatures. (These writings may be given markings such as S1, S2, S3, etc.)

The age of writer, his name and any of his physical conditions, such as extreme illness, infirmity or injury to his hand or fingers or his mental condition, etc., which are likely to
affect the writings may be endorsed on each sheet of specimen writings or signatures and be taken by the Investigating agency in the presence of the Magistrate or in the presence of other witnesses

7. Serial – wise questionnaire giving the exact nature of examinations required to be made

8. Mode of despatch of documents (through special messenger and if so, his name and designation/insured post/registered post whether the documents were sent in a sealed cover or unsealed cover)

9. Name, Signature and Designation of the Investigating Officer
KERALA CRIMINAL LAW AMENDMENT ACT, 1962

(Act 27 of 1962)

All Act to amend the Indian Penal Code and the Prevention of Corruption Act, 1947, in their application to the State of Kerala.

Preamble:- WHEREAS it is expedient to amend the Indian Penal Code and the Prevention of Corruption Act, 1947 in their application to the State of Kerala, for the purposes herein after appearing:

BE it enacted in the Thirteen Year of the Republic of India as follows:

1. Short title, extend and commencement:-

(i). This Act may be called the Kerala Criminal Law Amendment Act, 1962.

(ii). It extends to the whole of the State of Kerala.

(iii). It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. Amendment of section 161, Central Act 45 of 1860:- In Section 161 of the Indian Penal Code (Central Act 45 of 1860) after the explanation relating to "a motive or reward for doing" the following explanation shall be inserted, namely:-

'Public servant':- For purposes of this section and sections 162, 163, 164, 165 and 165 A, the words "public servant" shall denote, besides those who are public servants under section 21 or who are deemed to be public servants within the meaning of that section under any law for the time being in force, persons falling under any of the descriptions hereinafter following, namely:-

(i). Every officer in the service or pay of the Travancore Devaswam Board or the Cochin Devaswam Board;

(ii). Every officer in the service or pay and every member of the Wakf Board constituted under the Wakfs Act, 1954 (Central Act 29 of 1954)

(iii). The president and every member of a village court or village Panchayat Court;
(iv). Every member of the Board of Directors or of the executive or managing committee and every officer or servant of a co-operative society registered or deemed to be registered under the law relating to co-operative societies for the time being in force;

(v). Every member of the governing body and every officer or servant in the service or pay of a society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 or the Societies Registration Act, 1860, and receiving aid or grant from the Govt.

(vi). Every teacher or other officer or servant of the University of Kerala;

(vii). Every examiner of a University Examination or a Government Examination;

(viii). Every Manager, or teacher or servant of an educational institution which receives or has received aid or grant from the Government or the University of Kerala.

3. Amendment of Central Act 2 of 1947:-

In the Prevention of Corruption Act, 1947 (Central Act 2 of 1947):

(i) for section 2, the following section shall be substituted, namely:--

"2. Interpretation :- For the purpose of this Act, "public servant" shall have the meaning assigned to it under the Explanation to section 161 of the Indian Penal Code as amended by the Kerala Criminal Law Amendment Act, 1962".

(ii). In section 5A, for the words, figures and letter, under section 161, section 165 or section 165 A, the words figures and letter "under sections 161, 162,163,164,165 or 165A" shall be substituted;

(iii). In sub-section (1) of section 6, after clause (b), the following clause shall be inserted namely:--

(iv). in the case of a person falling any of the descriptions mentioned in items (i) to (viii) in the Explanation relating to "public servant" in section 161 of the Indian Penal Code as amended by the Kerala Criminal Law Amendment Act, 1962 save by or with the sanction of the State Government".

Published in Kerala Gazette Extraordinary No. 172 dated 31st December 1962.

Received the assent of the President on 25-12-1962
APPENDIX XII
(Referred to in para 194, Chapter XIII)

(Central Act No. 49 of 1988)
An
Act

to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

1. Short title and extent:-

(1) This Act may be called the Prevention of Corruption Act, 1988.

(2) It extends to the whole of India except the State of Jammu and Kashmir and it applies also to all citizens of India outside India.

2. Definitions:-

In this Act, unless the context otherwise requires,-

(a) “election” means any election, by whatever means held under any law for the purpose of selecting members of Parliament or of any Legislature, local authority or other public authority;

(b) “public duty” means a duty in the discharge of which the State, the public or the community at large has an interest;

Explanation:- In this clause “State” includes a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or
controlled or aided by the Government or a Government company as defined in Section 617 of the companies Act, 1956 (1 of 1956);

(c) "public servant" means:-

(i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;

(ii) any person in the service or pay of a local authority;

(iii) any person in the service or pay of a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956);

(iv) any Judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons any adjudicatory functions;

(v) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court;

(vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority;

(vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

(viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;

(ix) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government company as defined in Section 617 of the Companies Act 1956 (1 of 1956);
(x) any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board;

(xi) any person who is a Vice-Chancellor or member of any governing body, professor, reader, lecture or any other teacher or employee, by whatever designation called, of any University and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;

(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.

Explanation 1: Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.

Explanation 2: Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

CHAPTER II

APPOINTMENT OF SPECIAL JUDGES

3. Power to appoint Special judges:-

(1). The Central Government or the State Government may, by notification in the Official Gazette, appoint as many Special Judges as may be necessary for such area or areas or for such case or group of cases as may be specified in the notification to try the following offences, namely:-

(a) any offence punishable under this Act; and

(b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a).
(2). A person shall not be qualified for appointment as a Special Judge under this Act unless he is or has been a Sessions Judge or a Additional Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1973 (2 of 1974);

4. **Cases triable by Special judges:-**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), or in any other law for the time being in force, the offences specified in Sub-section (1) of Section 3 shall be tried by Special Judges only.

(2) Every offence specified in Sub-section (1) of Section 3 shall be tried by the Special Judge for the area within which it was committed, or, as the case may be, by the Special Judge appointed for the case, or where there are more Special Judges that one for such area, by such one of them as may be specified in this behalf by the Central Government.

(3) When trying any case, a Special Judge may also try any offence, other than an offence specified in Section 3, with which the accused may, under the Code of Criminal Procedure, 1973, (2 of 1974), be charged at the same trial.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) a Special Judge shall, as far as practicable, hold the trial of an offence on day-to-day basis.

5. **Procedure and powers of special Judge:-**

(1). A Special Judge may take cognizance of offences without the accused being committed to him for trial and, in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973, (2 of 1974), for the trial or warrant cases by Magistrates.

(2). A Special Judge may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof and any pardon so tendered shall, for the purposes of Sub-sections (1) to (5) of Section 308 of the Code of Criminal Procedure, 1973, (2 of 1974), be deemed to have been tendered under Section 307 of that Code.

(3). Save as provided in Sub-section (1) or Sub-section (2), the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as they are not inconsistent with this Act, apply to the proceedings before a special Judge; and
for the purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Judge shall be deemed to be a public prosecutor.

(4). In particular and without prejudice to the generality of the provisions contained in Sub-section (3), the provisions of Sections 326 and 475 of the code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to the proceedings before a special Judge and for the purposes of the said provisions, a Special Judge shall be deemed to be a Magistrate.

(5). A Special Judge may pass upon any person convicted by him any sentence authorised by law for the punishment of the offence of which such person is convicted.

(6). A Special Judge, while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944 (Ord. 38 of 1944).

6. Power to try summarily:-

(1). Where a Special Judge tries any offence specified in Sub-section (1) of Section 3, alleged to have been committed by a public servant in relation to the contravention of any special order referred to in Sub-section (1) of Section 12A of the Essential Commodities Act, 1955 (10 of 1955) or of an order referred to in clause (a) of Sub-section (2) of that Section, then notwithstanding anything contained in Sub-section (1) of Section 5 of this Act or Section 260 of the Code of Criminal Procedure, 1973 (2 of 1974) the Special Judge shall try the offence in a summary way and the provisions of Sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this Section, it shall be lawful for the Special Judge to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Special Judge that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Judge shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in accordance with the procedure prescribed by the said Code for the trial of warrant cases by Magistrates.
(2). Notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974) there shall be no appeal by a convicted person in any case tried summarily under this section in which the Special Judge passes a sentence of imprisonment not exceeding one month, and of fine not exceeding two thousand rupees whether or not any order under Section 452 of the said Code is made in addition to such sentence, but an appeal shall lie where any sentence in excess of the aforesaid limits is passed by the Special Judge.

CHAPTER III

OFFENCES AND PENALTIES

7. Public Servant taking gratification other than legal remuneration in respect of an official act:-

Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Explanations: -

(a) “Expecting to be a public servant”. If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) “Gratification”. The word “gratification” is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) “Legal remuneration”. The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.
(d) "a motive or reward for doing". A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.

8. **Taking gratification, in order, by corrupt or illegal means to influence public servant:**

   Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

9. **Taking gratification, for exercise of personal influence with public servant:**

   Whoever accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant whether named or otherwise to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall also be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.
10. **Punishment for abetment by public servant of offences defined in section 8 or 9:**

Whoever, being a public servant, in respect of whom either of the offences defined in section 8 or section 9 is committed, abets the offence, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

11. **Public servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant:**

Whoever, being a public servant, accepts or obtains or agrees to accept or attempts to obtain for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

12. **Punishment for abetment of offences defined in section 7 or 11:**

Whoever abets any offence punishable under section 7 or section 11 whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

13. **Criminal misconduct by a public servant:**

(1). A public servant is said to commit the offence of criminal misconduct:

(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or

(b) if he habitually accepts or obtains or agrees to accepts or attempts to obtain for himself of for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from
any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

(c) if he dishonestly or fraudulently misappropriated or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or

(d) if he,-

   (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

   (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

   (iii) while holding office as a public servant, obtains for any other person any valuable thing or pecuniary advantage without any public interest; or

(e) if he or any person on his behalf, is in possession or has at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation :- For the purposes of this section, “known sources of income” means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

14. Habitual committing of offence under sections 8, 9 and 12 :-

    Whoever habitually commits –

    (a) an offence punishable under section 8 or section 9; or

    (b) an offence punishable under section 12.
Shall be punishable with imprisonment for a term which shall be not less than two years but which may extend to seven years and shall also be liable to fine.

15. **Punishment for attempt:**

Whoever attempts to commit an offence referred to in clause (c) or clause (d) of sub-section (1) of section 13 shall be punishable with imprisonment for a term which may extend to three years and with fine.

16. **Matters to be taken into consideration for fixing fine:**

Where a sentence of fine is imposed under sub-section (2) of section 13 or section 14, the court in fixing the amount of the fine shall take into consideration the amount or the value of the property, if any, which the accused person has obtained by committing the offence or where the conviction is for an offence referred to in clause (e) of sub-section (1) of section 13, the pecuniary resources or property referred to in that clause for which the accused person is unable to account satisfactorily.

**CHAPTER IV**

**INVESTIGATION INTO CASES UNDER THE ACT**

17. **Persons authorised to investigate:**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) no police officer below the rank:

(a) in the case of Delhi Special Police Establishment, of an Inspector of Police;

(b) in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of section 8 of the Code of Criminal Procedure, 1973 (2 of 1974) of an Assistant Commissioner of Police;

(c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank,

shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:
Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be or make arrest therefor without a warrant:

Provided further that an offence referred to in clause (e) of sub-section (1) of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

18. **Power to inspect banker’s books:**

If from information received or otherwise, a police officer has reason to suspect the commission of an offence which he is empowered to investigate under section 17 and considers that for the purpose of investigation or inquiry into such offence, it is necessary to inspect any bankers’ books, then, notwithstanding anything contained in any law for the time being in force, he may inspect any bankers’ books in so far as they relate to the accounts of the persons suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries therefrom, and the bank concerned shall be bound to assist the police officer in the exercise of his powers under this section:

Provided that no power under this section in relation to the accounts of any person shall be exercised by a police officer below the rank of a Superintendent of Police, unless he is specially authorised in this behalf by a police officer of or above the rank of a Superintendent of Police.

**Explanation**: In this section, the expressions “bank” and “bankers’ books” shall have the meanings respectively assigned to them in the Bankers’ Book Evidence Act, 1891 (18 of 1891).

CHAPTER V

SANCTION FOR PROSECUTION AND OTHER MISCELLANEOUS PROVISIONS

19. **Previous sanction necessary for prosecution** :-

(1). No court shall take cognizance of an offence punishable under sections 7, 10, 11, 13, and 15 alleged to have been committed by a public servant, except with the previous sanction:-
(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other Authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything contained in the Code of Criminal procedure, 1973 (2 of 1974) –

(a) no finding, sentence or order passed by a Special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation:- For the purposes of this section:-

(a) error includes competency of the authority to grant sanction;
(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.

20. **Presumption where public servant accepts gratification other than legal remuneration:**

   (1) Where, in any trial of an offence punishable under section 7 or section 11 or clause (a) or clause (b) of sub-section (1) of section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7 or, as the case may be without consideration or for a consideration which he knows to be inadequate.

   (2) Where in any trial of an offence punishable under section 12 or under clause (b) of section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

   (3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn.

21. **Accused person to be a competent witness:**

   Any person charged with an offence punishable under this Act, shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

   **Provided that:**

   (a) he shall not be called as a witness except at his own request;

   (b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial;
(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless:

(i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or

(ii) he has personally or by his pleader asked any question of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or any witness for the prosecution; or

(iii) he has given evidence against any other person charged with the same offence.

22. The Code of Criminal Procedure, 1973 to apply subject to certain modifications:

The provisions of the Code of Criminal Procedure, 1973, (2 of 1974) shall in their application to any proceeding in relation to an offence punishable under this Act have effect as if,-

(a) in sub-section (1) of section 243, for the words “The accused shall then be called upon”, the words “The accused shall then be required to give in writing at once or within such time as the Court may allow, a list of the persons (if any) whom he proposes to examine as his witnesses and of the documents (if any) on which he proposes to rely and he shall then be called upon” had been substituted:

(b) in sub-section (2) of section 309, after the third proviso, the following proviso had been inserted, namely:-

“Provided also that the proceeding shall not be adjourned or postponed merely on the ground that an application under section 397 has been made by a party to the proceeding”.

(c) after sub-section (2) of section 317, the following sub-section had been inserted, namely:-

“(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judge may, if he thinks fit and for reasons to be recorded by him, proceed with inquiry or trial in the absence of the accused or his pleader and record the evidence of any witness subject to the right of the accused to recall the witness for cross-examination”.
(d) in sub-section (1) of section 397, before the explanation, the following proviso had been inserted, namely:-

"Provided that where the powers under this section are exercised by a Court on an application made by a party to such proceedings, the Court shall not ordinarily call for the record of the proceedings:--

(a) without giving the other party an opportunity of showing cause why the record should not be called for; or

(b) if it is satisfied that an examination of the record of the proceedings may be made from the certified copies."

23. **Particulars in a charge in relation to an offence under section 13 (1)**

(c) :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) when an accused is charged with an offence under clause (c) of sub-section (1) of section 13, it shall be sufficient to describe in the charge the property in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 219 of the said Code:

Provided that the time included between the first and last of such dates shall not exceed one year.

24. **Statement by bribe giver not to subject him to prosecution**: -

Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an offence under sections 7 to 11 or under section 13 or section 15, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution under section 122.

25. **Military, Naval and Air force or other law not to be affected**: -

(1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under the Army Act, 1952 (45 of 1950), the Air Force Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957), the Border Security Force Act, 1968 (47 of 1968), the Coast Guard Act, 1978 (30 of 1978) and the National Security Guard Act, 1986 (47 of 1986).
(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), the court of the special Judge shall be deemed to be a court of ordinary criminal justice.

26. **Special Judges appointed under Act 46 of 1952 to be special Judges appointed under this Act:**

   Every special Judge appointed under the Criminal Law Amendment Act, 1952, for any area or areas and is holding office on the commencement of this Act shall be deemed to be a special Judge appointed under section 3 of this Act for that area or areas and, accordingly, on and from such commencement, every such Judge shall continue to deal with all the proceedings pending before him on such commencement in accordance with the provisions of this Act.

27. **Appeal and revision:**

   Subject to the provisions of this Act, the High Court may exercise, so far as they may be applicable, all the powers of appeal and revision conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court as if the court of the special Judge were a court of Session trying cases within the local limits of the High Court.

28. **Act to be in addition to any other law.**

   The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this Act, be instituted against him.

29. **Amendment of the Ordinance 38 of 1944:**

   **In the Criminal Law Amendment Ordinance, 1944:**

   (a) in sub-section (1) of section 3, sub-section (1) of section 9, clause (a) of section 10, sub-section (1) of section 11 and sub-section (1) of section 13, for the words “State Government”, wherever they occur, the words “State Government or, as the case may be, the Central Government” shall be substituted;

   (b) in section 10, in clause (a), for the words “three months”, the words “one year” shall be substituted;
(c) in the Schedule:-

(i) paragraph 1 shall be omitted;

(ii) in paragraphs 2 and 4,-

(a) after the words “a local authority”, the words and figures “or a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by Government or a Government company as defined in section 617 of the Companies Act 1956 (1 of 1956) or a society aided by such corporation, authority, body or Government company” shall be inserted;

(b) after the words “or authority”, the words “or corporation or body or Government company or society” shall be inserted;

(iii) for paragraph 4 A, the following paragraph shall be substituted, namely:-

“4A. An offence punishable under the Prevention of Corruption Act, 1988”;

(iv) in paragraph 5, for the words and figures “items 2,3 and 4”, the words, figures and letter “items 2,3,4 and 4A” shall be substituted.

30. Repeal and saving:-

(1) The Prevention of Corruption Act, 1947 (2 of 1947) and the Criminal Law Amendment Act, 1952 (46 of 1952) are hereby repealed.

(2) Notwithstanding such repeal, but without prejudice to the application of section 6 of the General Clauses Act, 1897 (10 of 1897) anything done or any action taken or purported to have been done or taken under or in pursuance of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under or in pursuance of the corresponding provision of this Act.

31. Omission of certain sections of Act 45 of 1860:-

Sections 161 to 165A (both inclusive) of the Indian Penal Code shall be omitted, and section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply to such omission as if the said sections had been repealed by a Central Act.

* * * * *
GOVERNMENT OF KERALA

(Vigilance (c) Department)

No. 9713/C1/91/Vig.
Thiruvananthapuram, Dated: 21.5.1992

CIRCULAR

Sub: - Vigilance Department – Review of cases of officers who are placed under suspension – revised instructions – issued

Ref: - Circular No. 2870/C2/90/Vig., dated 26th October, 1990 of Vigilance (C) Department.

The meeting of the Review Committee constituted as per GO(MS) 21/90/Vig, dated 23.1.1990 held on 30.12.1991 recommended certain modifications to the existing guide lines for the reinstatement of officers kept under suspension in connection with Vigilance cases. Government have examined the matter in detail and are pleased to issue the following guidelines in supersession of the instructions contained in the Circular read above.

(i) In cases where suspension orders were issued by Government in the Vigilance Department the existing practice of review by the Vigilance Department will continue.

(ii) In cases where orders of suspension were issued by other departments of the Secretariat/Head of Departments etc. the review will be done by the Secretaries to the Departments/Head of the Department as the case may be and orders issued after obtaining the views of the Vigilance Department.

(iii) Suspension shall be revoked without prejudice to the pending proceedings in all Vigilance cases including trap cases if the officers had been under suspension for more than 2 years even if the cases have not been charge-sheeted, except in cases where the Director of Vigilance Investigation furnishes sufficient reasons to prolong the period of suspension beyond 2 years.
(iv) All cases in which an officer was under suspension for more than 6 months will be reviewed, and decision taken based on the merits of each case.

(v) The officers on reinstatement should be posted to non-sensitive post far away from the place/District from where they were suspended.

C.P. NAIR,
Commissioner and Secretary.
(Home and Vigilance)