

Thesis
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ECONOMIC CRIME IN MALAYSIA : AN ANALYSIS INTO THE CHANGING
ROLE OF THE POLICE.

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Doctoral of Philosophy

by

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This research is dedicated to

my wife, Siti Rahmah and our children

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ABSTRACT

Economic recession took effect in Malaysia in late 1984 and continued through 1985 and 1986. During this period, there was a sudden surge in economic crime. Its scale has increased over recent years. When economic crime is on the increase, the costs to society are also increasing, not only in terms of money and property stolen by perpetrators, but also in terms of loss of confidence and respect by the public at large in our government. With the present rapid growth in business and commercial activities, economic crime has found a fertile ground. Economic crime is a 'growth industry'. Unless we study it, understand it, and develop tools to deal with it effectively, we may be witnessing only the beginning of a phenomenon that could undermine the social, economic and political stability of the country.

Today's cost of economic crime in Malaysia is estimated to be more than \$200 million a year. It victimises thousands of individuals. It undermines the very legitimacy of our institutions. With continued innovation in information and communications technologies, the dimensions of the problem expand; yet our legal and business systems cannot cope with what is happening today. In the opinion of the researcher, there can be little doubt that economic crime will continue to

rob society as it has in the past. Despite its current scale, there has not been a study of economic crime in Malaysia. The reason is obvious; for a researcher to embark on a study in this particular area of criminal activity, there would need to be the accessibility to the highly sensitive data on such activities (while recognising that not all the crimes are detected). Many of the agencies charged with investigation and prosecution of these non-traditional crimes, quite correctly, do not make their detailed findings public. Aggregated data, which are made available to the public, are often not sufficiently specific for research purposes. The secrecy of the Government agencies is necessary in order for them to function effectively as law enforcement instruments.

Sutherland [1977, page 38] noted that explanations for crime could not be found in poverty alone; criminality is a much more complex phenomenon. For example, he noted that poverty is no explanation for crimes of the rich and the professional segments of the society. It is noted by this researcher in his three years experience as the Head of Banking and Financial Investigations at the special unit of the Commercial Crime Department, Police Headquarters, Kuala Lumpur, that the problems in dealing with economic crimes could not be addressed in the same manner as in traditional crime. Studies were needed to explain and understand these crimes. From this knowledge base, there would be a better opportunity to formulate policy strategies to address the problems.

This research, even though focussing in Malaysia, is meant to act as a springboard for future research within the researcher's organisation, the Royal Police Force of Malaysia, and also at least be useful for new Developing Countries which may have to encounter a similar economic crime phenomenon.

The study also examines the major economic institutions in Malaysia such as cooperatives, insurance and stock-exchange and concludes that some of the main causes of economic crime are problems of management.

They are:

- * poor quality and laxity of discipline and management;
- * financial and technical mismanagement in the operation of companies;
- * breaches of the law;
- * poor documentation and record keeping practices;
- * inadequate and ineffective control system.

The findings of the research survey shows that the causes of economic crime in Malaysia are consistent with situational, opportunity and personal pressures. Economic crime in Malaysia is largely due to people who are in position of trust, who have abused their powers in a situation of poor accounting practices. Economic crime could possibly be prevented by improving the system of auditing, improving the management information system and improving the management environment.

TABLE OF CONTENTS

| | PAGE |
|--|-------------|
| DEDICATION | (i) |
| ACKNOWLEDGEMENTS | (ii) |
| ABSTRACT | (iii) |
| LIST OF TABLES | |
| LIST OF FIGURES | |
| LIST OF CHARTS | |
| <u>CHAPTER ONE: INTRODUCTION</u> | |
| 1.1 Introduction | 2 |
| 1.2 Definition of the area of research | 4 |
| 1.3 Possible causal variables | 5 |
| 1.4 The first level of research | 10 |
| 1.5 Hypothesis | 11 |
| 1.6 Interplay of causal factors | 13 |
| 1.7 Conclusion | 15 |
| <u>CHAPTER TWO: ECONOMIC CRIME IN MALAYSIA</u> | |
| 2.1 Objective of the chapter | 18 |
| 2.2 Introduction | 19 |
| 2.3 Definition of economic crime | 22 |
| 2.4 Some of the methods used to commit economic crime | 28 |
| 2.5 Coping with growing problems of economic crime | 31 |
| 2.5.1 Introduction | 31 |
| 2.5.2 Detection | 31 |
| 2.5.3 Investigation | 34 |
| 2.5.3.1 Duties of investigator | 35 |
| 2.5.3.2 Problem of classification of offences | 37 |
| 2.5.3.3 Using scientific evidence | 38 |
| 2.5.3.4 Access to bank accounts | 40 |
| 2.5.3.4.1 Foreign banks | 41 |
| 2.5.3.5 Obtaining evidence from other official bodies | 42 |
| 2.5.4 Prosecution | 42 |
| 2.5.5 The economic crime offender | 44 |
| 2.6 Investigative strategies | 45 |
| 2.7 Problems of jurisdiction | 47 |
| 2.7.1 Extradition of wanted persons between Singapore and Malaysia | 49 |
| 2.7.1.1 Malaysia's position | 50 |
| 2.7.1.2 Singapore's position | 52 |
| 2.8 Scale of the known | 53 |

CHAPTER THREE: TRADITIONAL EXPLANATIONS FOR CAUSES OF CRIME

| | | |
|------|--|-----|
| 3.1 | Objective of the chapter | 63 |
| 3.2 | Introduction | 64 |
| 3.3 | Traditional explanations | 69 |
| 3.4 | Biological explanation of crime | 71 |
| 3.5 | Psychological explanation of crime | 73 |
| 3.6 | Sociological explanation | 77 |
| 3.7 | Moral development explanation | 82 |
| 3.8 | The multifactor explanation | 89 |
| 3.9 | Understanding corporate crime | 91 |
| 3.10 | Understanding fraud | 95 |
| | 3.10.1 Differential of opportunity | 97 |
| | 3.10.2 Theory of concealment | 98 |
| | 3.10.3 Theory of deviation | 99 |
| | 3.10.4 Theory of minimum and general collusion | 99 |
| 3.11 | Conclusion | 101 |

CHAPTER FOUR: RESEARCH METHODOLOGY

| | | |
|-----|--|-----|
| 4.1 | Objective of the chapter | 104 |
| 4.2 | Introduction | 105 |
| 4.3 | Definition of research | 105 |
| | 4.3.1 Research purpose | 106 |
| | 4.3.2 Research process | 107 |
| | 4.3.3 Research methods and methodology | 108 |
| 4.4 | Types of research | 108 |
| | 4.4.1 Exploratory research | 110 |
| | 4.4.2 Descriptive research | 114 |
| | 4.4.3 Experimental research | 115 |
| 4.5 | Collection of data | 116 |
| | 4.5.1 Primary data | 118 |
| | 4.5.1.1 Mailing method | 118 |
| | 4.5.1.2 Interview method | 120 |
| | 4.5.2 Secondary data | 121 |
| | 4.5.3 Questionnaire | 122 |
| | 4.5.3.1 Questionnaire design | 122 |
| | 4.5.3.2 Questionnaire development | 125 |
| | 4.5.3.3 Pilot testing of questionnaire | 126 |
| 4.6 | The sample | 129 |
| 4.7 | Summary | 131 |

CHAPTER FIVE: A STUDY OF CASES OF INTEREST AND OTHER LITERATURE

| | | |
|-----|--|-----|
| 5.1 | Objective of the chapter | 133 |
| 5.2 | Introduction | 134 |
| 5.3 | Facts on five selected cases of interest | 134 |
| | 5.3.1 Case 1 | 135 |
| | 5.3.2 Case 2 | 137 |
| | 5.3.3 Case 3 | 139 |

| | | |
|---------|---------------------------|-----|
| 5.3.4 | Case 4 | 141 |
| 5.3.5 | Case 5 | 143 |
| 5.4 | The 325 cases of interest | 145 |
| 5.4.1 | Offences | 146 |
| 5.4.2 | Organisations | 147 |
| 5.4.3 | Victims | 149 |
| 5.4.3.1 | Race | 149 |
| 5.4.3.2 | Age | 150 |
| 5.4.3.3 | Occupation | 150 |
| 5.4.3.4 | Education | 151 |
| 5.4.3.5 | Income | 152 |
| 5.4.4 | Perpetrator | 152 |
| 5.4.4.1 | Race | 153 |
| 5.4.4.2 | Age | 154 |
| 5.4.4.3 | Occupation | 155 |
| 5.4.4.4 | Income | 155 |
| 5.4.4.5 | Education | 157 |
| 5.4.5 | Amount losses | 158 |
| 5.5 | Causations variables | 159 |
| 5.6 | What is C.B.T | 160 |
| 5.7 | Conclusion | 160 |

CHAPTER SIX: ECONOMIC CRIME PROBLEMS AT MAJOR INSTITUTIONS

| | | |
|--------|---|-----|
| 6.1 | Objective of the chapter | 161 |
| 6.2 | Deposit taking cooperatives | 163 |
| 6.2.1 | Growth of the cooperatives | 163 |
| 6.2.2 | Problem with the Co-operative Societies Rule, 1949 | 164 |
| 6.2.3 | Business strategy and financial management | 167 |
| 6.3 | Insurance | 168 |
| 6.3.1 | Definition | 168 |
| 6.3.2 | Historical background if insurance in Malaysia | 169 |
| 6.3.3 | Insurance operative framework | 171 |
| 6.3.4 | Consumer responds to insurance | 171 |
| 6.3.5 | Needs for supervision of insurance | 172 |
| 6.3.6 | Problems and challenges faced by insurance industry | 172 |
| 6.3.7 | Effect of recession of insurance | 173 |
| 6.3.8 | High management and acquisition cost | 175 |
| 6.3.9 | Frauds in insurance | 176 |
| 6.3.10 | Reinsurance | 176 |
| 6.3.11 | Credibility of insurance | 177 |
| 6.3.12 | Assumed supervision by the central bank | 177 |
| 6.3.13 | New corporate mission of insurance industry | 178 |
| 6.4 | Stock exchange | 179 |
| 6.4.1 | Historical background of securities industry | 180 |
| 6.4.2 | Regulating laws | 180 |
| 6.4.3 | Legislative trend | 182 |
| 6.4.4 | Frauds in securities industries | 183 |

| | | |
|-------|------------------------------------|-----|
| 6.4.5 | Investigations | 184 |
| 6.5 | Computer Crime | 187 |
| 6.5.1 | New laws needed for computer crime | 190 |
| 6.6 | A remedial analogy | 191 |

CHAPTER SEVEN: MALAYSIA POLICE FORCE: POLICE POWERS,
ORGANISATION AND ROLE IN ECONOMIC
STABILITY

| | | |
|-------|---|-----|
| 7.1 | The objective of this chapter | 198 |
| 7.2 | Introduction | 199 |
| 7.3 | Economic Situation of Malaysia | 200 |
| 7.4 | Police Powers | 204 |
| 7.5 | Police Organisation | 206 |
| 7.5.1 | The Management Branch | 208 |
| 7.5.2 | The Special Branch | 208 |
| 7.5.3 | The Criminal Investigation Department | 209 |
| 7.5.4 | The Internal Security and Public Order Branch | 211 |
| 7.6 | The management of the police | 212 |
| 7.6.1 | Authoritarian style | 214 |
| 7.7 | Police role in economic stability | 215 |
| 7.7.1 | Investigative activities to deal with qualitative changes in crimes and worsening investigative environment | 216 |
| 7.7.2 | Promotion of comprehensive measures against organised crime groups | 216 |
| 7.7.3 | Promotion of sound development of juvenile and purification of social environment surrounding them | 217 |
| 7.7.4 | Promotion of measures to protect consumers | 217 |
| 7.7.5 | Realisation of a safe automobile society | 218 |
| 7.7.6 | Promotion of improvement of Police equipment in response to changing police surroundings | 218 |
| 7.7.7 | Promotion of better communication with public | 219 |
| 7.7.8 | Promotion of tourism | 219 |
| 7.8 | Conclusion | 220 |

CHAPTER EIGHT: THE FORMATION OF SPECIAL UNIT IN
COMMERCIAL CRIME INVESTIGATIONS

| | | |
|-------|---|-----|
| 8.1 | Objective of the chapter | 222 |
| 8.2 | The need for special unit | 223 |
| 8.3 | Policy planning | 228 |
| 8.3.1 | The types of crime to be dealt with | 230 |
| 8.3.2 | The approach towards handling complaints from the public | 231 |
| 8.3.3 | The stressed placed on different available remedies, particularly whether there will | |

| | | |
|-------|---|-----|
| | be emphasis on civil as well as criminal action | 231 |
| 8.3.4 | The manner of disposing of cases | 232 |
| 8.3.5 | The combination of non-economic crimes functions with the economic crime unit | 233 |
| 8.4 | Initial operations | 233 |
| 8.5 | Liaison | 234 |
| 8.6 | Investigation | 236 |
| 8.7 | Performance evaluation | 240 |
| 8.8 | Evaluation | 241 |
| | 8.8.1 Evaluation needs of the Department Financial Administrato | 241 |
| | 8.8.2 Evaluation needs of the Treasury Department | 242 |
| | 8.8.3 Evaluation needs of the Economic Crime unit | 242 |
| 8.9 | Design of self evaluation | 243 |
| | 8.9.1 Determination of goals | 244 |
| 8.10 | Establishment of performance criteria | 250 |
| 8.11 | Development of data collection and analysis plan | 251 |
| 8.12 | Statement of expectations | 251 |
| 8.13 | Training for investigators | 253 |
| | 8.13.1 Informal training | 254 |
| | 8.13.2 Informal cross-agency training | 255 |
| | 8.13.3 Formal training for economic crime investigator | 257 |
| | 8.13.3.1 Investigative accounting | 258 |
| | 8.13.3.2 Tracing of money | 260 |
| | 8.13.3.3 Use of newspaper | 260 |
| | 8.13.3.4 Computer fraud | 260 |
| | 8.13.3.5 Shopping and decoys | 261 |
| | 8.13.3.6 Interviewing victims, informants and witnesses | 262 |
| | 8.13.3.7 Interrogation of suspects | 264 |
| | 8.13.3.8 Organisation investigative information | 265 |
| | 8.13.3.9 Decision-making in the course of an investigation | 266 |
| 8.14 | Conclusions | 267 |

CHAPTER NINE : ENFORCEMENT AND APPLICABILITY OF LAWS

| | | |
|-----|---------------------------------|-----|
| 9.1 | Objective of the chapter | 269 |
| 9.2 | Introduction | 270 |
| 9.3 | Categories of draconian laws | 272 |
| | 9.3.1 Laws under emergency rule | 272 |
| | 9.3.2 Laws under peace time | 272 |
| 9.4 | Recent amendments to Laws | 276 |
| 9.5 | Conclusions | 278 |

CHAPTER TEN: ANALYSIS

| | | |
|-------|---|-----|
| 10. | Analysis | 280 |
| 10.1 | Investigators | 281 |
| 10.2 | Victims | 283 |
| 10.3 | Perpetrators | 286 |
| 10.4 | Professionals | 288 |
| 10.5 | Analysis tools | 290 |
| 10.6 | Observations between the groups | 294 |
| | 10.6.1 Age | 294 |
| | 10.6.2 Working experience | 296 |
| | 10.6.3 Education | 298 |
| | 10.6.4 Income | 301 |
| | 10.6.5 Status rating | 306 |
| 10.7 | Causal and possible remedial variables | 309 |
| | 10.7.1 Causes of economic crime | |
| | - Investigators | 322 |
| | 10.7.2 Causes of economic crime | |
| | - Victims | 326 |
| | 10.7.3 Causes of economic crime | |
| | - Perpetrators | 329 |
| | 10.7.4 Causes of economic crime | |
| | - Professionals | 332 |
| 10.8 | Relationship of causal factors | 341 |
| 10.9 | Power abuse | 343 |
| 10.10 | Position in trust | 344 |
| 10.11 | Mismanagement by directors | 345 |
| 10.12 | Poor accounting records and unduly liberal accounting practices | 346 |
| 10.13 | Heavily influenced by politicians | 348 |
| 10.14 | Significance of recession that brings unfavourable conditions to industry with other causations | 349 |
| 10.15 | Hypothesis testing | 351 |
| 10.16 | Research findings | 356 |

CHAPTER ELEVEN: POSSIBLE REMEDIES AND CONCLUSIONS

| | | |
|------|--|-----|
| 11. | Possible remedies | 366 |
| 11.1 | Correlation of remedies | 369 |
| 11.2 | Suggested remedial action at state level | 370 |
| | 11.2.1 Moral and religious development | 371 |
| | 11.2.2 Aggressive participation of mass media | 372 |
| | 11.2.3 Research, planning and implementation | 373 |
| | 11.2.4 International cooperation | 373 |
| 11.3 | Suggested remedies at organisational level | 375 |
| | 11.3.1 Fact Finder International Ltd | 375 |
| | 11.3.2 Jack Bologna Corporate Checklist | 376 |
| | 11.3.3 Yusoff's checklist | 377 |
| 11.4 | Areas of immediate concern for future policies | 383 |
| 11.5 | Recommendation for future research | 388 |
| | 11.5.1 Prerequisite for future research | 388 |

| | | |
|------|---------------------------------|-----|
| 11.6 | Suggestions for future research | 391 |
| 11.7 | The way ahead | 392 |

| | | |
|------------|--|-----|
| References | | 394 |
|------------|--|-----|

LIST OF TABLES

| | | |
|------------|---|-----|
| Table 2.1 | : Economic crime cases against other criminal cases for the year 1981 to 1989 | 58 |
| Table 5A | : Breakdown of cases by offences | 146 |
| Table 5B | : Breakdown of cases by organisation and amount of losses | 147 |
| Table 5C | : Breakdown of cases by company and amount of losses | 148 |
| Table 5D | : Breakdown of victim by race | 149 |
| Table 5E | : Breakdown of victim by age | 150 |
| Table 5F | : Breakdown of victim by occupation | 151 |
| Table 5G | : Breakdown of victim by education | 152 |
| Table 5H | : Breakdown of victim by income | 153 |
| Table 5I | : Breakdown of perpetrators by race | 153 |
| Table 5J | : Annual admissions - Convicted prisoners by race for the year 1985-1987 | 153 |
| Table 5K | : Breakdown of the known perpetrators by age | 154 |
| Table 5L | : Annual admission in 1985-1987 - Convicted prisoner by age | 154 |
| Table 5M | : Breakdown of the known perpetrators by occupation | 155 |
| Table 5N | : Breakdown of the known perpetrator by income | 156 |
| Table 5O | : Annual Admission for 1985-1987 - Convicted prisoners by monthly income | 156 |
| Table 5P | : Breakdown of cases by perpetrator's education | 157 |
| Table 5Q | : Annual admission for 1985-1987 - Convicted prisoners by level of education | 157 |
| Table 8.1 | : Breakdown of offences for 1987 to 1989 | 226 |
| Table 8.2 | : Breakdown of investigated for 1987 to 1989 | 227 |
| Table 8.3 | : Commercial crime statistics of Singapore Police Force from 1984 to 1988 | 229 |
| Table 8.4 | : Value of property lost of Singapore Police Force | 229 |
| Table 8.5 | : Networth and Expenditure computation | 239 |
| Table 10.1 | : Frequency percent of respondents | 281 |
| Table 10.2 | : Breakdown of Police officers by number of working years | 282 |
| Table 10.3 | : Breakdown of Police officers by number of years as investigative officer (I.O.) | 282 |
| Table 10.4 | : Breakdown of I.Os by number of | |

| | | |
|---------------|--|-----|
| | investigating papers | 283 |
| Table 10.5 | : Breakdown of victims by organisations | 284 |
| Table 10.6 | : Breakdown of victims by number of working years | 285 |
| Table 10.7 | : Breakdown of victims by value of losses | 285 |
| Table 10.8 | : Breakdown of cases by offences | 287 |
| Table 10.9 | : Breakdown of cases by value of losses | 287 |
| Table 10.10 | : Breakdown of perpetrators by number of working years | 287 |
| Table 10.11 | : Breakdown of professionals by their professions | 289 |
| Table 10.12 | : Breakdown of professionals by their organisations | 290 |
| Table 10.13 | : Breakdown of professionals by their working experience | 290 |
| Table 10.14 | : Breakdown of respondents by age | 295 |
| Table 10.15 | : Breakdown of respondents by working experience | 297 |
| Table 10.16 | : Breakdown of respondent's education by country | 299 |
| Table 10.16A: | Breakdown of respondent's education by number of years | 300 |
| Table 10.16B: | Breakdown of respondent's education by institutions | 302 |
| Table 10.16C: | Breakdown of respondent's education by stream of studies | 303 |
| Table 10.17 | : Breakdown of respondents by annual income | 305 |
| Table 10.18 | : Status rating | 308 |
| Table 10.19 | : Causes of economic crime - All respondents | 320 |
| Table 10.20 | : Causes of economic crime - Causes ranking | 339 |
| Table 10.21 | : Possible remedies | 340 |
| Table 11.1 | : Situation - Opportunity - Personal signals | 380 |

LIST OF FIGURES

| | | |
|-------------|--|-----|
| Figure 1.1 | : Research structure | 3 |
| Figure 1.2 | : The influence factors | 14 |
| Figure 3.1 | : Concentration of causation between traditional crime and economic crime | 70 |
| Figure 3.2 | : Understanding Corporate crime | 96 |
| Figure 3.3 | : Differential opportunity | 97 |
| Figure 3.4 | : Minimum and maximum collusion | 101 |
| Figure 4.1 | : Research process in flow chart | 117 |
| Figure 6.1 | : The security framework | 197 |
| Figure 8.1 | : Organisation structure of Commercial Crime Division, CID (as in June 1990) | 224 |
| Figure 8.2 | : Organisation structure of Commercial Crime Division, CID (as in June 1990) | 225 |
| Figure 8.3 | : Matrix for data -gathering plan | 252 |
| Figure 10.1 | : Model of causations of economic crime | 365 |

LIST OF CHARTS

| | | |
|-----------------|--|-----|
| Bar Chart 10.1 | : Breakdown of investigating officers by numbers of investigating papers | 284 |
| Bar Chart 10.2 | : Breakdown of respondents by age | 295 |
| Bar Chart 10.3 | : Breakdown of respondents by working experience | 297 |
| Bar Chart 10.4 | : Breakdown of respondent's education by country | 299 |
| Bar Chart 10.4A | : Breakdown of respondent's education by number of years | 300 |
| Bar Chart 10.4B | : Breakdown of respondent's education by institution | 302 |
| Bar Chart 10.4C | : Breakdown of respondent's education by stream of studies | 303 |
| Bar Chart 10.5 | : Breakdown of respondents by annual income | 305 |

LIST OF APPENDICES

| | | |
|---------------|---|------------|
| Appendix I | : Types of economic crime | 403 |
| Appendix II | : Comparative Procedure | 409 |
| Appendix III | : List of 325 cases of interest for the year 1987-1989 | 420 |
| Appendix IV | : Prison special treatment to Abdullah Ang a) Straits Time report on 13th August, 1989 b) New Sunday Times report on 21st September, 1989 | 426 427 |
| Appendix V | : List of variables | 428 |
| Appendix VI | : Example of International Affidavit | 431 |
| Appendix VII | : Example of questions by the Police | 432 |
| Appendix VIII | : Map of Malaysia | 434 |

| | | |
|-----------------|---|-------------------|
| Appendix IXa-c | : Organisation of the Royal Police of Malaysia | 435 |
| Appendix X | : a) Letter accompanying questionnaire b) Questionnaire c) Computer Code File | 438 439 451 |
| Appendix XI | : Fact Finder Checklist | 453 |
| Appendix XII | : Baseline control areas | 461 |
| Appendix XIII | : Computer fraud techniques and Countermeasures | 463 |
| Appendix XIVa-b | : Link diagrams depicting an actual 22.2 million fraud from Central Bank | 466 |
| Appendix XV | : Criminal Breach of Trust (CBT) | 468 |
| Appendix XVI | : Conviction of a lawyer in economic crime | 471 |

TOPIC

ECONOMIC CRIME IN MALAYSIA: An analysis into
the changing role
of the Police.

BY YUSOFF NOOK

CHAPTER ONE

1.1 INTRODUCTION

This research studies the causes of economic crimes in Malaysia, giving special focus to the changing roles of the Police. It is an attempt to discover the main causes of economic crime and to explore the related problems. This research is carried out by :

- * a review of the literature on economic crime and its definitions;
- * desk research, studying 325 cases of economic crime;
- * a research survey of four groups of respondents, specifically the investigators, victims, perpetrators, and professionals;
- * analysis and presentation of the research data;
- * discussion of the findings, particularly with regard to future police activities.

The overall structure of the research is shown in figure 1.1.

FIGURE 1.1: RESEARCH STRUCTURE

| | | |
|--|---|--|
| <u>Discussed with groups involved in the research</u> | <u>Survey of literature about economic crime and definition</u> | <u>Definition of terminologies used in the research</u> |
| <u>Evaluate key factors as found in the literature</u> | <u>Survey of literature on the economic crime and it causes</u> | <u>Identification of Research methodologies Application of most suitable methodology or methodologies for research</u> |
| <u>Evaluate key factors as found in the cases</u> | <u>Desk study on 325 economic crime cases of interest.</u> | |
| | <u>Research survey on the groups i.e. the investigator, victims, perpetrators and professionals</u> | |
| | <u>Analysis</u> | |
| | <u>Presentation of the analysis</u> | |
| | <u>Discussion of the findings</u> | |

Checklists Hypothesis Evaluation Policy-Strategies Recommendations

1.2 DEFINITION OF THE AREA OF RESEARCH

The area of research that this study focuses on is economic crime cases (or well-known in Malaysia as commercial crime cases) in Malaysia. As discussed in Chapter Two, a single, unambiguous definition of economic crime is hard to derive. Its meaning varies from country to country. For the purpose of this study, economic crime encompasses the aspects of fraud, business crime, commercial crime, white collar crime and corporate crime.

This research covers an analysis of a sample of identified economic crime cases committed between 1981 and 1989 in Malaysia. Special focus is given to the 325 cases committed between the years 1987 to 1989 as summarised in Appendix III. These cases are scrutinized in great detail to discover:

- * the social background of perpetrators;
- * the educational and professional levels of the perpetrators;
- * the main causes of the crimes.

In addition, primary data collection was completed to complement these secondary sources. A questionnaire survey was undertaken. The target groups were:

- * investigators;
- * victims;
- * perpetrators;
- * professionals.

Owing to the diversity of economic crimes and their broad social, economic and political implications, the following categories of cases are covered:

- * cases committed by individuals;
- * cases committed by the corporation or management.

While some particular cases have received much publicity, this research represents the first systematic examination of economic crime in Malaysia. All the chosen cases are examined in detail.

1.3 POSSIBLE CAUSAL VARIABLES

Research in moral development, along with psychological and sociological explanations of crime, has greatly contributed to the understanding of economic crime because there are multiple causes of crime. For the purpose of this research, the researcher confines himself to these theoretical approaches, because:

- * it is observed that most authors in this area of study such as Sutherland, Cressey, Box, Bequai, Bologna, Comer and Levi applied moral development, psychological and sociological explanations in explaining economic crimes;
- * it is observed through the personal experience of this researcher as an investigating officer in economic crime cases that moral development, psychological and sociological explanations are most appropriate and founded in explaining the circumstances and origin of economic crime;
- * it is observed from a detailed study of 325 cases of economic crime in Malaysia by this researcher, that the explanatory variables could be easily categorised into situational, opportunity and personal types in line with moral development, psychological and sociological explanations.

The explanatory framework of economic crime can be viewed as the combination of forces that produce a fraudulent or illegal act. Three general factors can be identified :

- * situational pressures;
- * opportunities to commit an offence;
- * personal integrity.

Situational pressures refer to the immediate pressures individuals experience within their environment. The most

overwhelming pressure is usually high personal debts or financial losses. Low incomes contribute to financial pressures; gambling, stock-market "playing" and expensive habits or tastes are generally the most frequent causes of intense financial pressures. Situational pressures can also be generated by strong peer group influences and even by official company directives to :

- * achieve unrealistic performance objectives;
- * encourage individual staff to commit crime for the company, rather than against the company. This happens in different situations, such as where the company faces the threat of losing its business license, delisting from the stock exchange or has a cash shortage.

The opportunities to commit an offence refer to the opportunities that individuals create for themselves, as well as opportunities created by the company through careless internal controls. Individuals can create opportunities to commit offences by increasing their knowledge of the company's operations, by advancing to a position of trust and by being the only person who knows a particular procedure, such as computer programmers. A company can increase the opportunities for employees to commit economic crime by allowing related party transactions, by having a complex business structure, by

using several different auditing firms, or by having a very weak system of internal controls. Anything that contributes to the capability of perpetrating or hiding economic crime increases the opportunities for it.

A typical example where an individual and a company creates an opportunity for economic crime offences is illustrated by a case where the researcher himself was involved in the investigation. It is the case of criminal breach and theft involving the sum of \$22.2 million belonging to the Central Bank of Malaysia (Bank Negara Malaysia) which took place in early July, 1988. In this case, an ordinary clerk of the Bank managed to fraudulently transmit \$22.2 million from Central Bank to Bank Bumiputra Malaysia Ltd (BBMB) through the account of an accomplice. The accomplice with the help of a number of perpetrators withdrew the money from BBMB soon after it was deposited; the total sum of \$22.2 million. The sum of about \$4.00 million has been recovered out of which \$3.00 million was from Swiss Bank and Australia-New Zealand Bank: both banks are based in Singapore. The bank clerk was arrested in Indonesia. He was subsequently charged for criminal breach of trust under section 409 of the Penal Code or alternatively for theft in the building under section 380 of the Penal Code. He pleaded guilty for the offence of theft and was sentence to five years imprisonment. An accomplice who is a lawyer was charged later for abetting the offence. He claimed trial for the offence. He was found guilty on 17th of May, 1991 and was sentence to four

years imprisonment [see Appendix 17]. It is observed from the investigations that there was a poor supervision carried by the clerk's Head of Section. The bank only lodged a police report four months after the offence took place.

Personal integrity refers to the personal code of ethical behaviour each person adopts. While this factor appears to be a straight forward determination of whether the person is honest or dishonest, research on moral development indicates that the issue is more complex. For example, a person can be honest today but dishonest tomorrow. Some individuals have developed a general trait of honesty that is called high personal integrity. These individual would normally be expected to act honestly at all times, unless the situational pressures or opportunities to be dishonest were extremely strong. An illustrative example is another case where it involves the Religious Department of Johore, Malaysia. The head of this Religious Department had committed a breach of trust involving a million dollars of religious yearly contributions from fellow Muslims for the whole State. He was charged with criminal breach of trust, and the case is still pending its hearing.

The facts remain that, by being the head of a religious institution for a State, he should by his designation be regarded as an honest man. He used his official religious status (status which is regarded in Malaysian religious culture as "pure and clean"), misused his power over the controls of

money to betray his fellow Muslims. From this case, it could be said that individuals with low personal integrity may or may not behave honestly, depending on the situation. There may be certain situations which they consistently behave honestly. However their honesty is not generalisable across all situations, and is not internalised as a personal value. Their behaviour is influenced more by the situation, such as:

- * the opportunity to be dishonest;
- * the probable gain from cheating;
- * the likelihood of getting caught;
- * the severity of punishment;
- * the perceived need for more money.

Most individuals are between the two extremes. They generally believe in honesty, but can be tempted by convenient opportunities and intense situational pressures.

1.4 THE FIRST LEVEL OF RESEARCH

In order to complete correct analyses and be successful with this research, it is important for the researcher to be able to select operational variables that could be classified under the situational, opportunities and personal dimensions. The variables taken should be as near as possible to what has been highlighted by the previous economic

cases shown and by the past literature. To achieve this end, as well as conducting a detailed literature review, a study analysis of 325 economic crime cases of interest in Malaysia was undertaken by the researcher.

To avoid the implications of the Official Secrecy Act, which is binding on the researcher, all the cases studied are cases that have been dealt with publicly. In gathering information about cases, an extensive search is conducted to identify all published accounts of the company. In addition, a large number of other citations are collected and reviewed. The case information is carefully analysed to determine which of the variables found in the earlier literature are present in the cases. The variables are listed. The most frequented cited variables are selected to be used for framing the survey questionnaire.

1.5 HYPOTHESIS

The main working hypotheses are developed in the course of examining the literature review and studying 325 cases of economic crime. Within the context of the model used in this study which sees the causes of economic crime in Malaysia to be linked to situational, opportunity and personal pressures, the following hypotheses are tested:

- * Economic crime is attributable to a strong influence by politicians.

- * Economic crime is attributable to recession that brings unfavourable conditions to industry.

- * Economic crime is attributable to personal satisfaction which find excitement and prestige of "beating" someone or a system.

- * Economic crime persists because of poor and liberal accounting practices.

- * Economic crime persists because of people attempting to live beyond their means.

- * Economic crime persists because of high personal and organisational debt.

- * Economic crime persists because of mismanagement by Directors.

- * Economic crime persists because of people with poor referees or no adequate screening.

1.6 INTERPLAY OF CAUSAL FACTORS

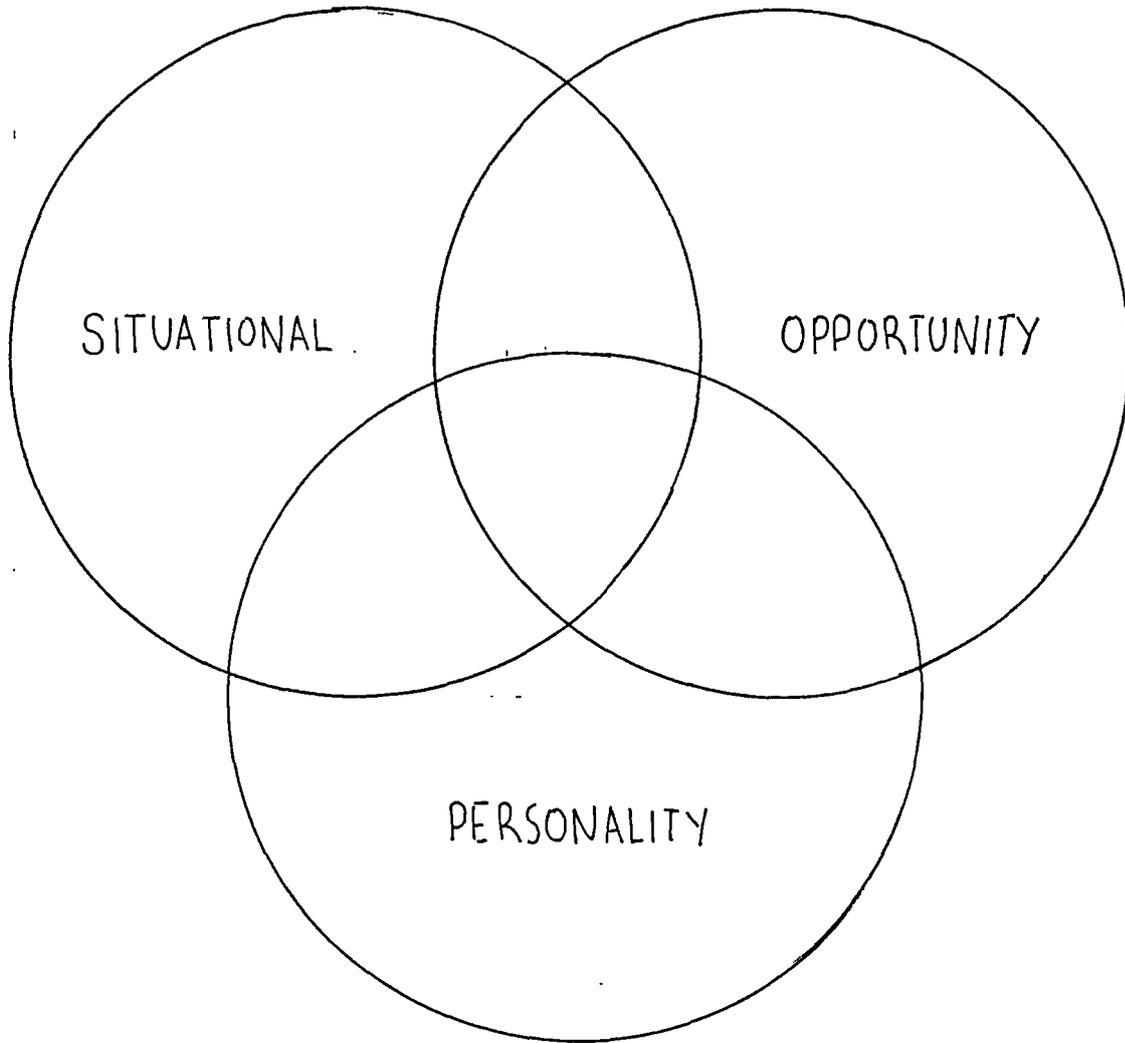
The diagram in figure 1.2 indicates that the decision to commit an economic crime is determined by the interaction of all three forces:

- * situational;
- * opportunity;
- * personal.

The three forces interact to determine whether a person will or will not commit an economic crime. A person with a high level of personal integrity, but opportunity or pressure to commit economic crime, will be most likely to behave honestly. However, the likelihood of economic crime increases as individuals with less personal integrity are placed in situations with increasing pressures and greater opportunities to commit economic crime.

In the model shown in figure 1.2, all the factors contributing to economic crime accumulate in each case until the force is sufficient to result in an illegal act taking place. For example, fraud could theoretically occur under any situation if a person is motivated enough, even in the absence of specific

Figure 1.2 The influence factors



opportunities or pressures. Most likely, a situational pressure at a personal level, such as a debt or loss, would have to be combined with predisposition to particular dishonesty in order for a crime to take place. Pressures at the organisational level, such as others who have cheated or a lack of accounting controls, would also increase the likelihood of crime being committed. Opportunities in general, or a specific opportunity in an individual case increases the potential for crime. Further removed but still relevant are the societal factors that may provide conducive attitudes, such as the rationale for double standards (one at home another at work). Lack of immediate punishment or absence of threat may influence taking a risk and being dishonest, even if an individual has a strong, generalised honesty characteristic. He may theoretically withstand the cumulative pressure of all the factors described, although some may argue that "every person has a price".

1.7 CONCLUSION

This research represents the first systematic examination of economic crime in Malaysia. The implications of this research are many. It could create some remedial functions to the problem such as:

- * procedures and checklists,
- * hypotheses and future research,
- * evaluation,
- * policies and strategies,
- * recommendations.

From the exploratory studies and hypothesis testing, the results could provide a more accurate understanding of the causes of economic crime. The variables could be formulated into a checklist or checklists to be used by investigators in their investigations. The victims and professionals could use these checklists in assessing the strengths and weaknesses of their organisations.

In this research the researcher tested eight hypotheses. Hypotheses testing results could assist narrowing down the understanding of economic crime in Malaysia and it could be developed in further research on the subject. It is frequently said that economic crimes in Malaysia are due to the recession, mismanagement by directors, undue influence by politicians and so on. This study provides an empirical investigation for the Malaysian public. There is a need for an evaluation of institutions that are directly responsible for the control of economic crime, especially the newly introduced Department of Serious Commercial Crime Unit of the Police. Its objective is to play the main role in combatting economic crime in Malaysia. Evaluation is needed in its investigation, detection,

prosecution and training programmes. The Government of Malaysia has to play a leading role by having an explicit and active policy on this important matter. It is crucial to have clear policies from the Government, in order to assist people responsible to come out with sound strategies, rather than to behave with uncertainties. This research comes out with positive recommendations to be taken by all the parties concerned.

This research provides, a contribution to the academic world and members of the public in giving more awareness to the problems of economic crime. Above all this research is meant to act as a springboard for future research within the researcher's organisation and in addition at least be useful for the new developing countries who may have to encounter a similar economic crime phenomenon.

CHAPTER TWO

ECONOMIC CRIME IN MALAYSIA

2.1 OBJECTIVE OF THIS CHAPTER

The objective of this chapter is to provide a background discussion on the subject of economic crime. It entails the problem of definitions and lists types of cases classified under economic crime. There is also an introductory discussion of the economic crime trends in Malaysia and some of the major problems faced in coping with them in the areas of detection, investigation, prosecution and so on. It explains the significance of the study and the contribution of this research in the area of economic crime. However it is not an exhaustive review of definitions but merely highlights some issues about economic crime in Malaysia pertaining to methods, size, investigative strategies etc. A detailed review of the literature follows in Chapter 3. This chapter consists of:

- * introduction;
- * definition of economic crime;
- * some of the methods used to commit economic crime;
- * coping with growing problems of economic crime;
- * investigative strategies;

- * problems of jurisdiction;
- * scale of the known.

2.2 INTRODUCTION

"Economic Crime is the fastest-growing business in the world, without much risk of getting caught, because of provisions of secrecy and non-taxation (on funds in transit). It is time economic crime was widely recognised as an offence against society." (Blum,1984,page 1).

Malaysia can be divided into two District Regions, Peninsular Malaysia and East Malaysia (see map Appendix VIII). Peninsular Malaysia comprises twelve States, extends south-east from the Thailand border to the island Republic of Singapore; East Malaysia, comprising Sabah and Serawak, lies to the north-western part of the island of Borneo and shares a common land-border with Indonesia Kalimantan. The two regions are separated by about 400 miles of sea - South China Sea.

Malaysia covers an area of 329,758 square kilometres and has a population of 17.4 millions in 1989 with per capita income of M\$5,559.00. It has about three hundred miles of coast, and about 16,999 miles of road. Malaysia has a cosmopolitan population consisting mainly of ethnic Malays, Chinese, Indian,

- * many economic crimes require the commission of ordinary crimes, for example the theft of documents or simply "breaking and entering";
- * the more "sophisticated" (economic) criminals can often hide behind "expendable" ordinary criminals, who can be used to perform the "visible" part of the economic crime;
- * the incidence of detection of the "true" economic criminal is not high. Indeed, if he or she is detected while working with an "ordinary criminal", it is the latter who is likely to have a criminal record on which a Tribunal will concentrate, producing in effect a shift of blame to perhaps the less dangerous delinquent. As an example, a lorry driver is normally charged for smuggling but not the owner of the goods.

Public awareness of economic crime has certainly increased recently. Nonetheless, there is still more misinformation about this type of crime than about "conventional crime". The majority of economic crime is hidden. Economic crime is rendered invisible by:

- * its complex and sophisticated planning;
- * non-existent or weak law enforcement and prosecution;
- * the lenient legal and social sanctions.

Dayaks, Kadazan and Iban. The official religion of the country is Islam.

Economic crime covers a wide range of issues. It has many dimensions:

- * social;
- * political;
- * economical.

It involves the existence of significant and sophisticated organised operations. It is one of the most serious and growing problems that countries, both developed and developing, face today. There is at present an undermining of the social, political and economic fabric of the developing world; among other things, it is caused by the increase in economic crime.

Economic crime has what had been called a "mushroom effect" in that the criminals tend to expand into other areas of criminal or non-criminal activities with their easily obtained funds. This situation is especially true in the context of organised crime, where contacts with other criminals and business spheres are often strong. There is also an increasing tendency for "economic criminals" to have links or relationships with "ordinary criminals" because:

Indeed, there is a failure to reaffirm or reinforce collective sentiments on moral boundaries.

2.3 DEFINITION OF ECONOMIC CRIME

Crime is an unlawful act against the State and has punishable sanctions. Saunders defines crime as:

"A crime, as opposed to a civil injury, is an act which is forbidden, or the omission to perform an act which is commanded by the common law, by statute or by regulations made by a subordinate authority; the remedy for which is the punishment of the offender at the instance of the State." (1977, page 90).

The term "economic" is used generally to cover activities pertaining to the economy. Putting the words together the term "economic crime" is relatively unfamiliar. A more frequent evocative phrase is "white-collar crime", which was made popular by Sutherland (1983, page 7) in relation to violations of laws by person in the upper socio-economic class especially by professionals in corporations and business organisations.

Economic crime is a generic term with many dimensions social, economical and political. "White collar crime", on the other hand, bears the definition suggested by Sutherland (1983, page 7) as:

"White-collar crime may be defined approximately as a crime committed by a person of respectability and high status in the course of his occupation."

He goes on by saying that white-collar crime:

"... is a crime taken in rather an extended sense, to include conduct made unlawful and punished by administrative as well as by criminal jurisdiction."

His thesis stated positively, that:

- * persons of the upper socio-economic class engage in criminal behaviour;
- * this criminal behaviour differs from the criminal behaviour of the lower socio-economic class (principally in the administrative procedures which are used in dealing with the offenders);
- * variations in administrative procedures are not significant from the point of view of causation of crime.

Sutherland's work on white-collar crime was clearly influenced by his earlier investigation of professional theft (Sutherland, 1937). He came to regard white-collar criminals as the upperworld counterparts of the professional thieves. To him for both groups, illegal activity was an integral part of occupational efforts, and for both groups there was no loss of

prestige among colleagues because of criminal activity. Both sets of activities also required considerable training, guidance and specialised skill. White-collar criminals often think themselves as honest men (Karl Schuessler, 1973 ,pages 95-96), because they rationalised the particular criminal conduct as appropriate in given situation. These crimes are usually violations of trust, either "duplicities" or "misrepresentations", placed in the person (or the corporation, for that matter) by virtue of their occupational norms and relatively high position in the society.

Economic crime is found in most European criminal law either by a specification of such crimes in a special statute, or as the consequence of a functional definition again contained in the law. These statutes also specify a particular procedure which is followed in the prosecution of such crime (see,for example Leigh (1980, page 15)). West German law for example specifies that economic crimes are those such as:

- * issuing of cheques without funds;
- * company fraud (that strike at the focus and function of business).

Economic crime is not recognised explicitly in Malaysian law, although there are a number of statutes to cover business activities. In practice, "economic crime" in Malaysia covers:

* commercial crime cases such as fraud, theft, criminal breach of trust, cheating, embezzlement and so on.

A simple and operational definition of "economic crime" is very difficult to produce. No single, unambiguous and consistent definition exists, particularly covering different countries. Perhaps accurately, different states of economic crime achievement, refers to a different set of "criminal activities".

The differences in economic crime, especially between developed and developing countries, arises because our intuitive understanding varies and is heavily influenced by our own social, political and economic structures and value systems. Leigh (1982, page 6) explained that the perception of criminal acts varies from society to society as he puts it:

"...notion of crime and of economic crime is no domain of the criminal law bounded by notions of moral fault. Not all crime respond to common morality: not all conduct commonly regarded as immoral is criminal"

In the United States and the United Kingdom, economic crime is to a large extent associated with organised crime syndicates, including the Mafia. Typically, their activities include:

- * money laundering;
- * tax evasion;

- * securities fraud;
- * commodity and real estate fraud;
- * insurance and shipping fraud;
- * criminal action in relation to specific product.

In Appendix 1, there is more comprehensive list of "economic crime".

In Malaysia, economic crime is a new term which is not fully understood. Its scale depends on how great is the loss or how sophisticated the method used to commit such crime or how strongly it contributed to economic, social or political instability in the country. It is more associated with the people who hold professional positions or power in business activities.

Box's (1983, page 53) interpretation of economic crime is more relevant in the context of Malaysia as most of the serious commercial crime cases are committed by people who held important positions in the organisation such as directors, accountants, and lawyers. These facts were also illustrated in the study of 325 cases of interest by the researcher.

Box has defined corporate crime as "a crime of economic domination or of the powerful". According to him, of all crime committed by the powerful people, the following crimes stand out to be linked with recession. They are:

- * bribery;
- * corruption;
- * espionage;
- * arson;
- * price fixing;
- * tax evasion;
- * fraud;
- * false labelling;
- * misleading advertizing;
- * paying less than the legal minimum wage;
- * not complying with health and safety laws and regulations and environmental destruction.

Herbert Edelhertz (1970, page 3), defines white-collar crime as " an illegal act or series of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, or obtain business or personal advantage."

Michael Levi (1987, preface xiii) seems to agree with Wheeler, Weisburd, and Bode's definition and states that 'white-collar crimes are economic offences committed through the use of some combination of fraud, deception, or collusion'.

For this discussion, particularly in the context of Malaysia, a suitable definition of economic crime is:

- * any illegal act of business activities committed against the laws of the State, punishable by

fine or imprisonment or both. It centres on the integral element of economic exploitation which could result in economic, social and political disorders.

More specifically in this research, economic crime includes fraud, commercial crime, white-collar crime, corporation and business crime and other related crimes which involve business activities.

The effects of economic crimes are very serious. Billions of dollars illegally siphoned from the corporations and country. (A typical example is \$M2.5 billions BMF scandals in Hong Kong). If this crime phenomenon is not studied and controlled it could bring a devastating effect to Malaysia as a new developing country.

2.4 SOME OF THE METHODS USED TO COMMIT ECONOMIC CRIME

There are a number of ways of committing economic crime including:

- * fraud;
- * theft;
- * forgery
- * perjury;

- * cheating;
- * corruption;
- * manipulation and abuses relating to securities, commodities, real estate, bank credits, insurance and other loans.

According to Leigh (1982:15), police sources have described to him at least twenty eight different kinds of frauds currently practised in Britain. Eighteen of them found in his book "The Control of Commercial Crime" are:

- * ordinary theft and fraud;
- * looting the company and theft;
- * management fraud and incidental crime;
- * management fraud and secondary banks;
- * take-over and looting;
- * investment in things such as agriculture fraud;
- * investment in securities such as Stock Exchange dealings;
- * insider trading;
- * cheques, credit cards and letter of credit;
- * marine fraud;
- * cube-cutting;
- * discounting or factoring frauds;
- * advance fee frauds;
- * bankruptcy fraud;
- * bribery and corruption;

- * computer fraud;
- * revenue and custom frauds;
- * frauds on the common market.

However, Leigh did not quantify the relative importance of the different types of economic crime (say for example in £s).

Management and ordinary fraud seem to account for most of the economic crime committed in Malaysia. The elements of fraud centre on:

- * act of theft, that is, obtains possession, concealed or unconcealed;
- * concealment, that is, hiding the loss or misrepresentation of a physical, personal or commercial fact;
- * conversion, that is, converting benefits to any form the thief prefers by way of cheques, fake credit or goods.

Often these elements are closely interconnected. For example, manipulation of records may take place before or after its related act. Conversion may be arranged before the theft act or before or after the false credit has been manipulated. (See, Comer 1977, page 91 for more details).

2.5 COPING WITH GROWING PROBLEMS OF ECONOMIC CRIME

2.5.1 Introduction

Some economic crimes remain undiscovered. Economic crime is often discovered by chance or much after the whole transaction has taken place. For example, the offences committed in the affair of Deposit Taking Cooperatives in Malaysia occurred in the period, early 1970s to early 1980s, and it was only discovered in 1986. Unfortunately, often, it is effectively too late for the victim because:

- * the company is in liquidation or the owner(s) is (are) bankrupt;
- * the unavailability or quality of evidence to convict the criminal(s).

2.5.2 Detection

Detection is also hampered by the complexity and technicality of offences requiring specialised officers. Investigation by the police only commences on the complaint made to them by a victim, a would-be victim or by an organisation which has reasons to believe a fraudulent or malpractice activity has occurred.

In cases where it involves particular types of organisation, such as the banks, cooperatives or public listed companies, there is often no readily identifiable loser and the loss may be distributed to the depositors or shareholders. (Indeed, to avoid the risk of loss of confidence, financial services organisations often prefer not to disclose such economic crimes, even if they have been discovered). The investigators have to identify and interview dissatisfied shareholders. This task is time consuming as the numbers of shareholders that could be reached normally goes into thousands. Police statements have to be recorded from them. Before recording the statement, the investigating officer has to read the whole case and frame the questionnaire needed to "systemise" the evidence. The questionnaires are normally set up after the investigators themselves understand the normal operational system of the organisation and where the perpetrator(s) deviated from the system. An example of such a questionnaire is given in Appendix VII.

There are obviously instances where the complaints made are not true. Allegations may be the result of mistrust between partners or directors. It is also possible that complaints are made as the result of personal malice. There are cases where the complainants who had found out that he or she had insufficient evidence in the civil proceedings and they need to discover more evidence from the other party(s). They make

attempts to secure evidence by lodging police reports with the hope that the police can do a "fishing trip" for them.

Once proactive enquiries are started by the police, it is quite common for other areas of fraudulent activities to be discovered and it becomes necessary to develop a strategy to regulate the path of enquiry. Investigation relies heavily on documentary evidence. In practice, there is a real danger of destruction of vital evidence. Moreover, it is more difficult when the documents needed are in foreign countries. In a world where a person can go from Malaysia to anywhere else on earth in less than 24 hours, where money can be transferred from a bank account in one country to one in another in seconds and where a person in Malaysia can speak with a person twelve thousand kilometers away in England instantly, it is no surprise that it is not only harder to detect and control but also very expensive to bear financially the costs of securing witnesses to give evidence. The costs of securing the attendance in court of a foreign witness can be large and be a significant deterrent. This can cause smaller nations to give up or not to attempt a prosecution. The normal procedures taken by Malaysian police are through the assistance of Interpol. However, not all foreign countries have extradition treaties with Malaysia. Taiwan, for example have a sizable number of wanted economic criminals from Malaysia.

Economic crime knows no boundaries. Criminal are able to use national boundaries as shields against detection and investigation. To overcome this problem, there is a need for mutual cooperation between countries. Police cooperation between neighbouring countries, such as Singapore, Brunei, Indonesia, Thailand and Hong Kong, is possibly the best solution to overcome some of the problems. The researcher in his three years experience with Commercial Crime Division has had the opportunity to go to Singapore, Indonesia, Hong Kong and Japan for the following reasons:

- * recovering money from foreign banks;
- * recording of affidavits accepted as evidence by Malaysian Courts. This method can cut the cost of bringing witnesses from abroad, (see, for example, the affidavit taken from abroad given in Appendix VI);
- * extraditing wanted persons back to Malaysia;
- * attending Court cases;
- * recovering material exhibits;
- * establishing relations and building cooperation networks for future compliance.

2.5.3 Investigation

Police investigations in criminal cases are provided under section 109 of the Malaysian Criminal Procedure Code. The

provision of this section empowers a police officer not below the rank of Sergeant or any police officer in charge of a police station to investigate matters reported to them. They may without an order of the Public Prosecutor exercise all or any of the special powers given in the Criminal Procedure Code in relation to police investigations. The special powers are:

- * power to arrest;
- * power to require attendance of witnesses;
- * power to question the witnesses by recording statements;
- * power to record statements of accused person and admitted as evidence;
- * power to record statements and confessions;
- * power of search;
- * power to detain;
- * power to require bond for appearance of complainant and witnesses.

2.5.3.1 Duties of investigator

The main duties of an investigator are :

- * to receive complaints and classify them to the appropriate section of the law. If the case is found to be criminal in nature, he has to commence the investigation. If the

classification falls under civil matters, that is civil breach of contract, questionable business ethics or contractual misunderstanding, he must advise the complainant accordingly or refer them to appropriate agencies for the necessary actions.

- * to initially try to identify the scope of crime committed in criminal cases, that is those matters that suggest a possible breach of criminal law.

- * to collect the material evidence to establish the identity and degree of participation of those who took part in the activity in cases where it is discovered that there is a case of breach of the criminal law.

- * to put up a complete investigation paper aimed at the accused person(s) for the purpose of prosecution with:
 - crime summary
 - recorded statement
 - summary of evidence
 - list of exhibits
 - list of witnesses

- * to scrutinize the evidence and put the necessary recommendations to the Attorney General's Office for a decision (as required under Section 120 of the Criminal Procedure Code).

2.5.3.2 Problem of classification of offences

Economic crimes raise several problems. At the lower end of the scale, there are a great many economic crimes which require little specialist experience and are dealt with satisfactorily by local police units in exactly the same way as other offences. It is considered that in such cases the only problem of significance that presents itself to the police is the increasing volume of such allegations with their obvious resource implications.

In classifying offences by investigation Officers, there is a possibility of some cases being under classified to avoid "over-work". A clear example of this when a victim came to Police Station to lodge a police complaint about a dud cheque given to him by a customer which comes under a clear offence of cheating, an offence under section 420 of the Penal Code. The investigation Officer may classify this complaint as "dispute over payment" which is a non-seizable offence, giving an option to the victim to refer the matter to the Magistrate that is creating a civil claim. At times it could be done intentionally or unintentionally due to incompetence to grasp the subject matter of the grievances made by victims. A careful scrutiny is needed by the supervising officer to ensure under-classification does not occur. Under classification can result in:

- * fair justice not being given to the victim;
- * an apparent encouragement for criminals to continue committing offences;
- * a distortion of records kept by the police, undermining the real extent of economic crime.

2.5.3.3 Using scientific evidence

The rapid developments in the field of forensic science have been a considerable asset to the police in the fight against crime in general. However, their benefits are less evident in the investigation of economic crime, as compared with conventional crime. Indeed, technological advances are making detection more difficult in some instances because of the growing sophistication of the criminals. For a conventional crime, there is nearly always:

- * a scene of crime to investigate;
- * blood samples;
- * fibres;
- * fingerprints;
- * footprints;

which can provide the police with clues to the offender(s).

In the case of economic crime, no such scene of crime exists. The nearest equivalent may be the office or warehouse from which the fraudulent operation was carried out. The difficulty of treating this situation in the same way as an ordinary scene of crime is that it has normally been visited by a vast number of persons over time; moreover economic crime cases are frequently reported late.

Particular forensic examinations relevant to the investigator of economic crime include:

- * the chemical development of fingerprints from documents;
- * the examination of handwriting, particularly signatures;
- * the identification of the make of the typewriter that produced particular documents and the comparison of a typewritten sample with a given typewriter;
- * the detection of erasures and alterations;
- * an ink analysis and, where lines overlap, the determination of which line was the first one to be written;
- * the reproduction of writing and printing on charred documents;
- * the reproduction of indented impressions on the paper below which the perpetrator has written;
- * the identification of documents altered by manipulation

of photocopies;

- * the tampering of chassis and engine numbers of certain products (where chassis and engine numbers are altered from the original).

2.5.3.4 Access to bank accounts

Access to the bank account of a person who is suspected of economic crime can provide the most valuable evidence of all. However, the banks are guarded by their customers' right to secrecy under clause 97 of the Banking and Financial Institutions Act, 1989 (page 116) which states:

" No director or officer of any licenced institution, whether during his tenure of office, or during his employment, or thereafter, and no person who for any reason, has by any means access to any record, book, register, correspondence, or other document whatsoever, or material, relating to the affairs or, in particular, the account, of any particular customer of the institution, shall give, produce, divulge, reveal, publish or otherwise disclose, to any person, or make a record for any person, of any information or document whatsoever relating to the affairs or account of such customer..."

In most cases, the police can access a bank account on an application made to the Central Bank of Malaysia under the provisions of clause 99(1)(h) of the said Act or by means of a judicial order. As a general rule, the authorities will not

issue an order if it is considered the investigator is solely on a "fishing expedition". It is necessary for the officer to specify:

- * the official number of the police report of the investigation;
- * the nature of the offence;
- * the suspected perpetrators name and number of the account;
- * the name of the bank;
- * the name and designation of the investigator;

before an order in writing will be issued by the Central Bank of Malaysia. Normally the order is sent direct to the concerned bank with a copy of that order to the Investigating Officer. (In Malaysia, by virtue of this Act, all banks and financial institutions, foreign or local, are governed by the Bank Negara).

2.5.3.4.1 Foreign banks

As far as foreign banks abroad are concerned, the problems of getting information faced by Malaysian police are quite similar to the problems faced by their European counterparts. Investigators rely on the mutual cooperation through Interpol or through official assistance by police of neighbouring countries. From personal experiences of the researcher, a

sum of \$3 million Malaysian dollars was recovered from ANZ Bank and Swiss Union Bank in Singapore with the assistance of police officers from Commercial Crime Branch (CCB), Singapore. As the problem of economic crime is global, there is an urgent need to extend active, mutual cooperation between countries.

2.5.3.5. Obtaining evidence from other official bodies

Much of what has been said in relation to obtaining evidence from bank accounts applies equally to evidence from other confidential sources. Documents which pass from solicitor to client or vice-versa are privileged. The degree of access that the investigator has to records compiled for other purposes is frequently restricted. The investigator has to convince the custodian that the document known to exist is of vital importance to the investigation. The police officer investigating the case, not below the rank of an Inspector, may issue an order to require production of specified documents (under the provision of Section 51 of the Criminal Procedure Code).

2.5.4 Prosecution

It is a matter of procedure under Section 120(i) of the Criminal Procedure Code that every police investigation should

be completed effectively without unnecessary delay. As soon as it is completed, the officer investigating the case should submit the investigating paper to the Public Prosecutor for the necessary decisions. In practice, this is normally done through the "proper channels", that is the investigating officer submits the paper to the Head of Department or Unit who then later transmits it to the Public Prosecutors' office. He may present himself personally with the investigating paper to the Public Prosecutor.

In most conventional crime cases, the police themselves take the decision to arrest and hold in custody the perpetrators before prosecuting them and subsequently presenting the case papers as "fait accompli" to the Deputy Prosecutor. However, this situation is not common in economic crime cases where directives from the Attorney General's office are normally sought at an early stage. In complicated economic crime cases or where the actors belong to the VIP group or are of national interest, legal opinion and supervision is frequently necessary from the time of starting the investigation until the time it ends. Therefore, the process is slightly divergent from the normal system where the Public Prosecutor does not interfere with the accused person before the completion of the case.

This technical divergence, prosecutorial supervision between the accusatorial and inquisitorial systems, is somewhat more

artificial in complicated economic crime cases than in other conventional cases. There are advantages and disadvantages of this process. It depends on who looks at it. For the police it may turn out to be an "umbrella" for taking decisions. For the Attorney General, this is a method of control in cases where other implications, such as politics, may arise. For the perpetrators, it could be seen as unfair if the people who are going to prosecute are involved in the investigating work of the police.

2.5.5 The economic crime offender

In dealing with an economic crime offender, experience shows that the investigator will invariably discover that the offender will exploit every possible legal safeguard to protect himself from prosecution. He is not the ill-informed petty criminal. He has chosen a criminal career. He has been unable to accept the rules of society for its protection and preservation. He has decided to exploit the element of trust and good faith upon which honest trading is based. He did not behave prudently most of the time. From the outset, it is likely that he will have thought out what he believes to be the perfect defence to any interference by the authorities.

From the earliest stage of investigation, the accused will normally 'rely on' the services of an expensive professional lawyer. After the seizure of documentary evidence he will persistently petition for the immediate return of such documents. Following up this demand with threats of civil claims against the police for loss of business. Time taken by the investigator to continually justify grounds for action often has a real opportunity cost with regard to pursuing the case and looking for the evidence necessary to complete the investigation.

Economic crime can contain a high political component, which results in investigators having to respond to queries from politicians. Sometimes, questions are raised in Parliament. Even after convictions, some perpetrators manage to 'penetrate' the prison's authorities to have VIP treatments while serving their sentence [See Appendix IV]. Some do receive pardons from the Pardon Board.

2.6 INVESTIGATIVE STRATEGIES

In Malaysia in recent years, the government has recognised that the existing procedures for detection, investigation and prosecution of economic crime are inadequate. A number of actions have been implemented since 1986 because of the recognised seriousness of the problem including:

- * institutional changes such as the development of the Commercial Crime Unit in the Royal Police Headquarters and the limited reorganisation of the Attorney General's Department;
- * expansion of and the development of supervisory power of the Central Bank of Malaysia (Bank Negara Malaysia).
- * statutory amendments and new guidelines for investigators and prosecutors;
- * recruitment and selection of qualified personnel for investigative work.

Within the Commercial Crime Unit steps have been taken to enhance professionalism in combatting economic crime. Actions include:

- * developing close relationships with other professional bodies such as auditors. Greater reliance is being placed on intelligence, and formal and informal networks are being extended and strengthened.
- * improving methods of acquiring intelligence on certain areas of business activity and also on groups or persons targeted for investigation;
- * improving the methods of surveillance;
- * improving specialised training for investigators, given both locally and abroad.

In the absence of a qualified team of investigators, any powers that may be introduced to assist in tracing assets of persons suspected of major crimes are often purely academic. For example,

- * in the United States, the success in the field only became possible after adequate specialist training had been forthcoming for both the Federal Investigating Officer and the Attorney.

- * in Canada, selected officers attached to the Royal Canadian Mounted Police are trained to a level of accountancy which is sufficient to enable them to undertake the required level of detailed investigations.

2.7 PROBLEMS OF JURISDICTION

In addition to the problem of domestic legislation, there are difficulties when the circumstances and proceedings of the crime take place outside the territorial jurisdiction of Malaysia. The Malaysian government must consider its attitude to jurisdiction - generally to foster the development and application of mutual assistance agreements. The Malaysian police so far tackle this problem with satisfying cooperation with Commonwealth countries such as Great Britain, Hong Kong, Singapore, and Australia. This situation occurs because all

these countries have reciprocal extradition of Fugitive Acts; there are also little differences in their legal system of investigation, prosecution and trial. (See Appendix II for a comparison of procedures between selected countries).

However, there are difficulties in this area of law as was stated by Chaikin at the meeting of Commonwealth Law Minister in Sri Lanka in 1983. He mentioned that:

" the provision of judicial assistance in criminal matters to another state obviously involves a number of considerations which the lawyer is only partly qualified to determine. Apart from such issues as jurisdiction constitutionality, procedure and evidence, there are political and diplomatic factors which may well in practice turn be of greater significance. Of course at the heart of many of the considerations is the question of political and legal sovereignty"...

and

" ...unless governments are at least prepared to envisage a degree of mutual cooperation which may in theoretical terms be justified as a sharing of sovereign powers, or as a manifestation of domestic sovereignty, there is little point in pursuing the question on international judicial assistance in criminal matters."

The Malaysian authorities need to give urgent consideration to making significant advances in the area of judicial cooperation at an international level. It is one of the first important

steps towards achieving the seizure of assets transferred or bought by organised criminals overseas.

Currently, quite a number of wanted criminals from Malaysia move to Taiwan. They are not only safe from arrest due to the lack of an extraditing treaty, but also, having evaded the law, they have been and are continuing to be able to transfer their wealth which was derived from crime. There are two main issues to address:

- * international cooperation, especially on prosecution;
- * access to funds deposited by criminals.

2.7.1 Extradition of wanted persons between Singapore and Malaysia.

This is a real example of how the Malaysian Police and their Singapore counterparts solved an extradition problem for an offender wanted in Singapore. An arrest was made in Malaysia and due to conflicts in the laws and procedures, the arrestee could not be made available in Singapore. The contradiction centres on the powers of arrest given by the two Acts in Malaysia as compared to similar Acts used in Singapore. The two Acts used by Malaysian are:

- * the Summons and Warrants (Special Provisions) Act (SWA) 1971;
- * the Commonwealth Fugitives Criminal Act 1967 (CFCA).

And the laws used by Singaporean are:

- * the Extradition Act 1958(EA);
- * Singapore Criminal Procedure Code.

2.7.1.1 Malaysia's position

Extradition of offenders from Malaysia to Singapore are governed by the Summons and Warrants (Special Provisions) Act (SWA) 1971 and the Commonwealth Fugitives Criminal Act 1967 (CFCA). With respect to the SWA, this Act would only apply in summons cases, that is in cases where the punishment is below 6 months imprisonment or in cases where a Warrant of Arrest (WA) has been issued in addition to, or in lieu of, a summons. The circumstances in which a Warrant of Arrest may be issued in lieu of a summons or in addition to a summons are governed by Section 47 of the Malaysian Criminal Procedure Code. The procedure for the execution of a warrant issued in lieu of, or in addition to, summonses are reflected in Section 5 SWA. The pertinent point here is that even in cases where a warrant has been issued in addition to, or, in lieu of a summons, the case against the accused must be a summons's case.

With respect to the CFCA, the cases in which this Act is applicable is reflected in schedule 1 CFCA. The circumstances for which a person could be arrested for extradition, include offences committed by that person which if committed in Malaysia would lead to imprisonment for a year or more or death. Part III of the Act clearly spells out procedures to adopt for the return of fugitives to Singapore. Section 10(1) requires the Warrant issued in Singapore to be endorsed by a Malaysian Court before it can be executed. Section 11(1) describes the procedure after arrest where the accused must be brought before a Magistrate Court which,

" ...should enquire into the case in the same manner and shall have the same jurisdiction of powers, as nearly as may be, as if the case were one triable by him."

This means that there has to be enquiry, where the prosecution would have to present evidence to substantiate a prima-facie case against the accused before the Malaysian Court can release the accused to Singapore.

Thus, as a summary, in order to extradite an accused person from Malaysia to Singapore the Malaysia Court has to recognise:

- * in the case of summons cases, there must be a warrant issued in lieu of a summons;
- * in the case of criminal offences, the offence must carry an imprisonment of one year or more or death.
- * there is a need for endorsement by the Malaysia court to

the warrant issued by Singapore Court;

- * there is a need to satisfy a Malaysian court with prima-facie evidence in the form of an enquiry before an arrested person can be released to Singapore.

2.7.1.2 Singapore's position

The extradition of criminals from Singapore to Malaysia is governed by Part V of the Extradition Act 1958 (EA). While Section 33 and 34 of the EA sets out the endorsement procedures before the warrant is executed, which is similar to the Malaysian procedure (see Section 10 CFCA), the proceedings after apprehension, as stated in Section 35 EA, are somewhat different. This Act does not require the Magistrate to hold an enquiry. All that is required is for the Magistrate to be satisfied that the warrant was duly endorsed under Section 33 and 34, and, once satisfied, he can issue an order for the accused to be handed over to the Malaysian police. However, there are exceptions to this procedure which are contained in Section 36 EA. These exceptions are in respect of the following circumstances:

- * the trivial nature of the offence committed;
- * the accusations, were made in bad faith or against the interest of justice;
- * the lapse of time.

In the case of warrants issued in lieu of or in addition to summons, Singapore is governed by Section 54 while in Malaysia Section 5(1) of the SWA 1971 applies. Singapore Criminal Procedure Code also has Section 55 governing the endorsement of a warrant and a warrant issued in lieu of summons (where the defendant named in the summons failed to appear before the Court). Malaysia does not have a corresponding Section in Malaysia Criminal Procedure Code. Thus, it differs in that Malaysia does not cover the same procedures with regard to warrant of arrest as in Singapore. Hence for seizable offences in Singapore, CFCA applies giving the needs of an enquiry by the Court into the substance of the offence.

From the two positions with regard to extradition procedures, it appears that Singapore's position is more accommodating to the enforcement agencies. As such the Malaysian police have accommodated their Singapore counterparts by putting the necessary recommendations for SWA and CFCA to be amended. What needs to be done is that Section 5(1) of SWA is to include Warrant of Arrest. And Section 11(1) of SWA is to suspend with the enquiry to substantiate a prima-facie case into the offence.

2.8 SCALE OF THE KNOWN

In 1964, the founder of the Cambridge Institute of Criminology estimated that, no matter how high the official crime

statistics might be, no more than 15 per cent of all crimes committed are ever brought into the open, leaving 85 per cent of the crime hidden or unaccounted for. This situation is due to a combination of the following factors:

- * inaccurate reporting, subject to biased recording or simply undiscovered.
- * crime not reported because victims are indignant, grieved or distressed.
- * unreported public property offences, no specific individual victims, such as tax evasion, welfare and social security "scrounging", corporate fiddles and business crime.
- * customs offences, sale tax offences, offences related to agriculture (such as supplying of lower quality fertilisers), bribing practices by manufacturers, which are difficult to detect.
- * ignorance of embezzlement and other commercial fraud.

As I have described earlier that economic crime in Malaysia is 'hidden', secretive and sensitive, most of the serious crimes are not reported to the police. If reported, some are not recorded as crime. The reported crime are often underclassified from criminal offences to civil matters by the investigating officers. This is done out of sheer laziness or to cut work loads. More often inexperienced officer may not know what constitute a criminal offence.

Hough and Mayhew (1983 and 1985) conducted Crime Surveys for the British Home Office and concluded that unreported crime is not serious. However such surveys can only provide partial view of the 'dark figure' of crime, as they exclude crimes committed by and against organisations. It would be more accurately if there were business crime victimization surveys with which to compare crime statistics. Apparently it is quite similar in Malaysia, there is no crime victimization surveys conducted.

Official statistics are compiled on a wide range of topics including the amount of crime of different types, the number of known offenders and the number of cases solved. The main source of official statistics on crime in Malaysia is the annual compilation of Crime Statistics by the Police. The importance of crime statistics could be categorised into two:

* it concerns offences known to to the police. These are known about either because they have been reported by victims or witnesses or because they have been discovered by the police themselves. Such statistics have been traditionally used to measure the extent of crime in society and as a basis for examining trends in crime patterns. They are also used as a basis for explanations of crime by seeking to correlate levels of crime statistically with levels of other phenomena such as recession.

there are statistics on offences which are cleared up by the police which are used to measure of police

effectiveness in dealing with the extent of crime.

The extent to which we can rely on official statistics to measure the extent of crime or a basis for explanations represents one of the classic disputes in criminology (Eglin,1987). There are three methodological positions (Jupp.1987, page 47): the realist, the institutionalist and the radical, each of which represents a distinctive connection between official data and a particular theoretical position. The realist position is closely associated with the positivist use of data. The basic assumption is that crime represents an attribute of society and of groupings within society and that this attribute can be objectively measured by crime statistics. It recognises that there are gaps and flaws in such statistics but these are not so great as to obviate their use. It is viewed that the victim surveys could be the means by which gaps and flaws can be partially corrected.

The institutionalist position is closely associated with micro-sociological theories. This starts from the premise that crime statistics do not represent objective indices of society's criminality but are indicators of the organisational processes and every day interactions by which certain kinds of actions and individuals come to be defined as criminal. This position emphasises methods of research which focus on these processes and interactions and particularly upon subjective aspects such as meanings, definition and stereotypes.

The radical position, whilst not denying the importance of organisational processes and every day interactions, emphasises that such processes and interactions are the product of wider social structural arrangements, particularly those relating to class conflicts. Therefore, official crime statistics are themselves products of these wider structural arrangements and should be treated as such.

Thus the three positions suggests differing ways in which statistics should be handled and asks differing questions of them.

The impact on the scale of economic crime in Malaysia from the current economic slowdown in 1985 are clear from Table 2.1. From 4,946 cases and \$54,815,794.64 losses in 1984, it increased to 8,157 cases and \$88,976,052.71 losses in 1985. However, it is unclear whether economic crime would have remained a "hidden factor" if the economy had continue to boom. The statistics also show the value of losses from economic crime cases significantly increased during the 1980s. In the number of cases, economic crime only represents about 12% of the total crime committed in Malaysia. In terms of value, however, the total loss of property is about 50% of the total loss from all other crimes. Moreover, while the numbers of cases has dropped from the 1985 peak year, there continues to be an increase in the value of property loss (losses in criminal cases of property were also on the increased). It is

very significant in 1988 with a total loss of \$214,156,700.14 giving an average of \$50,318.77 per case.

Table 2.1: Economic Crime Cases Against Other Criminal Cases For The Year 1981 To 1989

| Year | Number of Cases of Economic Crime | Losses in E. Crime | Average | Criminal Cases of Property | Losses in Criminal Cases of Property | Average |
|------|-----------------------------------|--------------------|-----------|----------------------------|--------------------------------------|----------|
| 1981 | 2,289 | 6,816,151.81 | 2,977.78 | 52,361 | 88,156,615.93 | 1,683.63 |
| 1982 | 2,172 | 28,620,179.35 | 13,176.87 | 59,577 | 83,598,910.07 | 1,403.20 |
| 1983 | 3,163 | 38,104,486.03 | 12,046.94 | 54,148 | 113,704,730.78 | 2,099.88 |
| 1984 | 4,946 | 54,815,794.64 | 11,082.85 | 31,688 | 137,069,032.03 | 4,325.58 |
| 1985 | 8,157 | 88,976,052.71 | 10,907.93 | 63,691 | 167,803,897.99 | 2,634.65 |
| 1986 | 3,373 | 73,701,725.95 | 21,850.49 | 82,314 | 138,954,601.51 | 1,688.10 |
| 1987 | 4,813 | 153,900,000.00 | 31,975.89 | 73,927 | 168,711,432.09 | 2,282.13 |
| 1988 | 4,256 | 214,156,700.14 | 50,318.77 | 68,064 | 187,244,919.11 | 2,715.10 |
| 1989 | 4,591 | 167,314,732.08 | 36,444.07 | 69,133 | 157,899,553.87 | 2,283.99 |

Source: Malaysia Police Annual Crime Statistics, 1981-1989

As economic crime is affecting the fabric of Malaysia's sound economy, it is receiving enormous attention from both politicians and the general public. Increases in both cases and/or value of losses from economic crime will jeopardise the confidence of the members of the public and also foreign investors in respect of business activities in Malaysia. So

far, there have been nine major cases that could have undermined public confidence. These are:

- * The loss of \$(M)2.5 billion in Hong Kong by Bumiputra Finance Ltd., a subsidiary company of the main bank in Malaysia (Bank Bumiputra Malaysia Bhd.). Several criminal cases associated with this loss have been brought against the key people of the company. A former director of Bumiputra who was extradited from the United Kingdom to Hong Kong in November 1986 pleaded guilty in the High Court in January 1987 to two offences of conspiracy to defraud Bumiputra involving US\$137 million and two offences of accepting an advantage involving over HK\$15 million. After a sentence of four and a half years imprisonment had been imposed, the Attorney General sought a review of the sentence and, in April, the Court of Appeal increased the sentence to ten years imprisonment. In October the same year the former director was refused leave to appeal to the Privy Council against sentence. Another former director of Bumiputra had been ordered to be extradited from the United Kingdom to Hong Kong on 41 offences of theft, conspiracy to defraud, conspiracy to steal, false accounting and acceptance of advantages, involving in excess of HK\$6 billion (Independent Commission Against Corruption, 1988, page 8). An appeal against the decision has been lodged and the case is still pending. One other former director of Bumiputra was

arrested in France in 1988. The French courts have refused to extradite and further courses of action are being considered. The major obstacle that extradition cannot be brought as there is no extradition treaty between these two countries. (Note that the figure of \$M2.5 billions was not in the statistic above as this crime was committed in Hong Kong).

- * The failure of Pan-El in Singapore which created a loss of \$5.5 billion due to the collapse of share markets. The former head of the Malaysia Chinese Association, Tan Koon Swan, was convicted in Singapore and also in Malaysia. This case is discussed in Chapter III.

- * The Deposit Taking Cooperatives (DTC) scandal that resulted in the total loss of \$(M)600 million that affected 588,000 investors. A number of Directors, including two Government Ministers, have been prosecuted and are now serving jail sentences.

- * The loss of \$673 million by Perwira Habib Bank as the result of illegal activities by the staff and customers. The majority of the depositors of this bank are army personnel. Some of the staff and VIP customers had been prosecuted. Two of its Directors were detained under the Internal Security Act 1967. It was argued in a habeas corpus (the production of the body) proceeding in the High

Court by the Public Prosecutor that the losses by the bank could bring dissatisfaction from members of the army which could bring disorder and threaten national security. However, this argument was not accepted by the Court.

* The loss of \$(M)500 million by the Cooperative Central Bank (CCB) as the result of manipulation by staff and Directors. A number of staff, Directors and customers have been charged. There are two extradition proceedings currently being processed on two Directors who fled to Australia; the Malaysian Government has failed to extradite them, and the cases are now at the appeal stage.

* Investigations of fraud in a few banks which are still in progress by the Central Bank of Malaysia (Bank Negara Malaysia) and the police, including:

- * United Asian Bank;
- * Bank of Sabah;
- * Lee Wah Bank;
- * Oversea Trust Bank;
- * Oriental Bank.

* The affairs of Deposit Taking Institutions (most of the institutions were unlicensed) not being able to repay the depositors. The total money involved is \$115(M) millions from the period of three years (1984-1986).

- * An insurance fraud, involving at least 20 insurance companies, with the total loss of about \$(M)600 millions. This case mainly involves false claims approved by staff and Directors.

- * The \$(M)22.2 millions fraud of the Central Bank (Bank Negara Malaysia) by a clerk and few accomplices. A clerk of the said bank was sentenced to five years imprisonment, while a lawyer who has abetted him was sentenced to four years imprisonment.

The increase in the incidence of such crime is very worrying. A number of questions are raised as to the causes of such crimes. Some people blame the staff and Directors for incompetence in handling the institutions. Others blame the politicians and economic recession. While the reasons are many, unless there are positive actions taken, public confidence will be jeopardised. The much more worrying trend present today is the development, growth and increasing sophistication of organised syndicates. This is perhaps due to modern development of technology in communications and rapid growth of some industries. An extended comprehension of this economic crime phenomenon should provide the foundation for prescriptive recommendations to improve the methods for prevention and investigation.

CHAPTER THREE

TRADITIONAL EXPLANATIONS FOR CAUSES OF CRIME

3.1 OBJECTIVE OF THE CHAPTER

The causes of economic crime can perhaps be better explained by linking them to an understanding of crime as a whole. This chapter briefly explains the development of criminological theory - that is, an attempt to explain crime. It focuses on the three major orientations which have emerged in the last hundred years. The biological school searches for the causes of crime in the physical and constitutional characteristics of the criminal. The psychological school seeks an answer to the problem of crime in man's mental process. The sociocultural school locates the roots of criminality in the social environment rather than the individual. As there is a wide range of contributory factors, most researchers strive to reconcile the propositions of these three approaches, viewing crime as a product of complex and multiple factors. The explanations of economic crime concentrate more on the sociocultural and psychological school; thus, sociological and moral explanations need to be given. In addition, there are theories on a corporate front such as corporate crime and corporate fraud which the researcher feels it is equally

important to understand, given the large number of economic crimes committed by companies. This chapter gives the rationale why this research has been pursued along the line of psychological, sociological and moral development theories.

Thus this chapter consists of:

- * introduction;
- * traditional explanations;
- * biological explanations of crime;
- * psychological explanations of crime;
- * sociological explanations of crime;
- * moral development explanation;
- * multi-factor explanation;
- * understanding corporate crime;
- * understanding fraud;
- * conclusions.

3.2 INTRODUCTION

On the theoretical explanations of the causation of economic crime, the significant contributions include:

- * Sutherland's differential association theory;
- * Cressey's non-sharable problem;
- * Merton and Durkheim's theory of anomie;
- * Burgess and Akers's principle of operant conditioning.

These theories have provided the foundation insights for this research. Of the four theories, Sutherland's theory of "differential association" has been widely accepted as being highly relevant to white-collar crime (Sutherland:1961). He contended that criminality is a function of the ratio of associations favourable to crime to those unfavourable to crime. According to him a complete explanation of white-collar crime is not possible:

" A complete explanation of white-collar crime cannot be derived from available data.

The data which are at hand suggest that white collar crime has its genesis in the same general process as other criminal behaviour is learned in association. The hypothesis of differential association is that criminal behaviour is learned in association with those who define it favourably. A person in an appropriate situation engages in such criminal behaviour if and only if the weight of the favourable definitions exceed the weight of unfavourable definitions."

Sutherland's hypothesis did not cover all cases and was not a universal explanation of all white collar crime. He pointed out that the stigma of criminality is lacking when certain laws are violated. Thus, evasion of income tax, a custom duty, computer program licences and video piracy can become acceptable crimes. Sutherland pointed out in his work that a company that creates a climate of honesty can reduce losses.

This point is very important as far as the business world is concerned because it calls for honest leadership.

Donald Cressey attempts to explain the lone embezzler. According to him, an embezzler undergoes three stages before committing a crime. The stages are:

- * non-shareable financial problem;
- * solved by violation of trust;
- * rationalised with the person's conception of himself as an honest and trusted employee.

While Merton and Durkheim formulated a theory of anomie. This theory explains that:

- * all people have aspirations in life;
- * crime breeds in the gap between opportunity and aspiration.

Burgess and Akers (1966, pages 128-147) claimed in their learning theory that crimes are determined by the environmental setting according to principles of operant conditioning. Operant conditioning is concerned with the relationship between behaviour of organisms and their environment. It gathers knowledge about behaviour from the experimental study of the effects on behaviour of systematic changes in the surrounding environment. It attempts to understand behaviour by gaining

knowledge of factors that modify behaviour (Reynolds, 1968 pages 1-2).

There are some differences between traditional crime and economic crime. Hartung (1965, pages 125-136) argues that the criminal violator of financial trust and the career delinquent have one thing in common: Their criminality is learned in the process of symbolic communication, dependent upon cultural sources of patterns of thought and action, and for systems of values and vocabularies of motives. But according to him the career of the trust violator is quite different. The differences are:

- * he is likely not to have a previous record even though typically he is middle-aged when detected;
- * his education, occupation, residence, friends, and leisure-time activities usually set him in a social class higher than that of ordinary criminal;
- * even though his crime is deliberate and he attempts to avoid detection, he fails to plan for securing of immunity if caught;
- * even though he may be three or four times older than the ordinary criminal, his arrest constitutes a serious crisis for him that he cannot take in his

stride. His arrest and conviction and attendant publicity are a disgrace to him.

Despite its importance, economic crime remains a neglected subject. According to Box (1983), between 1974 and 1983, five books of readings on corporate, governmental, and powerful crimes have been produced (Geis and Meier, 1977; Geis and Stodland, 1980; Erman and Lundman, 1978; Douglas and Johnson, 1977; and Johnson and Douglas, 1978). In addition, there have been research monographs in corporate law enforcement in America (Clinnard and Yeager, 1980), in Australia (Hopkins, 1978), in Britain (Carson, 1981; Carson and Martin, 1974), and in Canada (Goff and Reason, 1978). Moreover, there has been a detailed examination of corporate behaviour in the North Sea oilfields (Carson, 1983) and transnational pharmaceutical corporations (Braithwaite, 1983). Bequai (1978) has summarised the facts of corporate and white collar crime. Conklin (1977), Ermann and Lundman (1982), and Pearce (1976) have proposed some theoretical understanding. Most writers attempt to give some causes to the problems of economic crime. For example Box (1983, page 64) argued a simple hypothesis:

" when these environmental uncertainties increase, so the strain towards corporate activities will increase".

He derived a model to assist the understanding of corporate crimes. According to him, the motive for corporate crimes is the rational solution to problems created by contradictions between corporation and environment. For example

prioratisation of profit (growth, market control) could result amongst competitors in:

- * industrial espionage;
- * illegal competition from price fixing to arson.

Comer (1985) has developed some ideas on corporate fraud. His theories are based on:

- * the differential of opportunity;
- * concealment;
- * deviation;
- * minimal and general collusions.

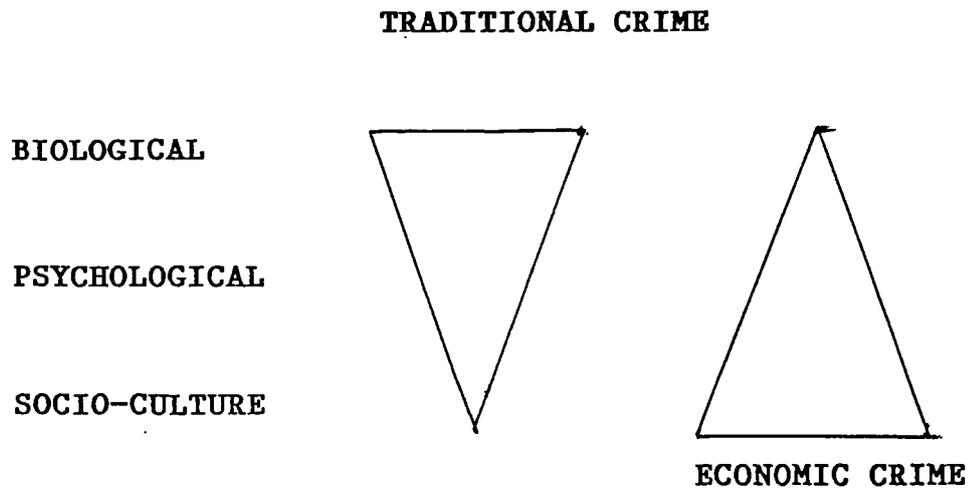
Both Box's model on corporate crime and Comer's theories on corporate fraud will be discussed in the later part of this chapter.

3.3 TRADITIONAL EXPLANATIONS

In order to understand economic crime, it is also crucial to understand traditional or conventional crime. This is because the explanations to the causation of economic crime are linked to explanations of traditional crime. Gibbons (1973, pages 324-353) claimed that the situation of criminology is similar to that of medicine: there is not one form of sickness, there

are many. Furthermore, there is not a single cause of illness; there are a number of causes. It is an old argument because everything is unique, but the degree of generalisations varies. Each crime must be examined as a unique case in which the causes of economic crime and its perpetrators are possibly different from other crimes. It is also probable that the various types of economic crime have different causes and are perpetrated by many kinds of people. However, from the experience of this researcher, who has investigated more than a hundred cases of economic crimes and traditional crimes, the explanations differ in that while traditional crime concentrates on biological, psychological and socio-culture, economic crime concentrates more on socio-culture and psychological. There is a reverse of forces of concentration between the two types of crimes as illustrated by figure 3.1.

**Figure 3.1: Concentration of Causation between
Traditional Crime and Economic Crime**



3.4 BIOLOGICAL EXPLANATION OF CRIME

The biological approach focuses on biological, somatological or anthropological models. This orientation was first established at International Criminal-Anthropological Congress at the end of 19th century. Simply stated, it is argued that a criminal is biologically different from normal human beings. His criminal conduct, in other words, originates in his somatic abnormalities. Such studies have been carried out by Lombroso (1835-1909), an Italian physician. For instance he performed an autopsy on a noted criminal. In the course of this autopsy, he discovered a number of physical abnormalities in the criminal's brain. Lombroso formulated the view that criminals were atavists, or genetic throwbacks to a primitive form of human species. He maintained that the generic criminal type could be identified by a number of characteristics including:

- * facial asymmetry;
- * eye defects;
- * ear peculiarities;
- * excessive long arms;
- * other abnormalities.

His ideas were published in the volume, "Criminal Man". In the later editions, numerous other criminal causal factors were mentioned and added to the notion of reversion to a primitive biological type. Others whose work falls within this

orientation are Way, who strongly believed in somatic causes of crime; August Drahms, who collected a vast amount of data to prove that man's biological make-up is responsible for crime. Lombroso's biological explanation was discredited by Goring who in 1913 studied 3000 English convicts. He claimed that Lombroso's hypothetical physical anomalies were no more frequent in convicts than among non-convicts. Hooton in 1939 concluded that criminals are organically inferior and that crime is the result of the impact of the environment upon "low-grade human organisation" (Hooton,1939). Kretschmer, who also supported the biological idea, classified men by specific physical characteristics and related the characteristics to their temperamental differences (Kretschmer,1925). Sheldon (1949) studied the connection between body type and delinquent tendencies. Johannes Lange and Fran Exner concluded that criminality is hereditary. In the sixties, abnormalities in human sex-chromosomes was argued to be a causative factor within the framework of the biological theories (Casey et.al,1966).

There are a number of continuing research projects in this area especially in the areas of endocrine, neurological and chemical factors. However from the literature so far, and crime records produced by both the Police and Prisons of Malaysia, it is not possible to conclude that crime is caused by biological factors.

3.5 PSYCHOLOGICAL EXPLANATION OF CRIME

The psychological approach to crime is clearly distinct from the biological approach. Psychological theories seek answers to crime problems in mental processes, regardless of any physical stigma or disorder. The criminal's psyche or mind is held responsible for his negative response to a legal command. Family trees and hereditary aspects were linked with crime and deviance. Psychoses, defects of the central nervous system, neurasthenia, and inadequate mental ability have all at varying times been blamed for crime. Sigmund Freud's contributions opened the way to the understanding of psychodynamics in the development of criminal conduct. Like Lombroso, Freud modified his basic hypothesis several times, paying increasing attention to societal factors. Freud's psychoanalytic theory made an assumption that behaviour is largely the product of unconscious psychological-biological forces, drive or instinct, that are not directly perceived by the person. The theory hypothesizes that there are three parts of the personality:

- * the id;
- * the ego;
- * the super-ego.

The id, with its desire to satisfy wants immediately, is usually credited with criminal motivation. Criminal acts are committed by those who do not control the raw, uninhibited

impulses of the id. Since most of the id's influence is from the sub-conscious or unconscious, the crime perpetrator is seldom aware of the real influences or causes of his criminal activity. Freud believed that behaviour is a consequence of development sequences that are regulated by innate characteristics and cumulative experiences. To illustrate the above points, for example, A walks along a road and finds a purse containing £1000.00. His first reaction is that he will take it as £1000 could satisfy him on a lot of things (especially in a situation where no one saw him taking the purse). At this stage, his id is controlling him. But when he opens the purse he found an address of his close friend. He will be starting to ask questions whether it is wrong to take the money, especially as it belongs to his own friend. His consequent behaviour will be much influenced by his past experiences and the moral values accepted by him. He may or may not return the money, depending on the influence of his inner characteristics and cumulative experiences.

The ego is the part of personality that interacts with external reality. The ego organises the thought processes and governs actions. It mediates between the instinctual impulses of id, the demands of the environment and the standard of the super-ego. The super-ego, which is often equated with the "conscience", is the motivational drive that keeps the person from committing anti-social acts. It is generally believed that the conscience is learned from parents. And going back to

the above illustration, if A's super-ego is to be rich at any cost he will probably have taken the money. But if his past experiences show that it would be morally wrong to take a friend's money and it is an offence in law, his superego would probably be controlled. He will then return the money. Thus, this theory could suggest that crime results from an undervalued conscience, stemming from a lack of parental identification or other moral enforcement. Such crime might also be symptomatic of other underlying problems involving guilt, frustration or conflict.

Freudian psychologists argue even today that behaviour is largely a product of biosocial drives that are unrecognised, unconscious, and generally not understood by the violator. Criminal conduct is frequently an expression of repressed instincts and faulty socialisation. As criminal behaviour is often thus grounded in the unconscious, the offender can learn to control his activity only if he gains insight into the nature of his unconscious.

Abrahamsen (1960) suggests that the criminal behaviour is related to an interplay of causative factors. Although socioenvironment factors have an influence on the individual, his psychological and personality characteristics strongly affect how he will react to his environment. Criminal behaviour, it is important to recognise at the outset, is a result of many causative factors. A criminal act(C) is the sum

of a person's criminalistic tendencies(T) plus his total situation(S) divided by the resistance(R) of which he is is capable:

$$C = \frac{T + S}{R}$$

The external criminal situation, according to him, is the total environmental situation, including all the stresses and strains that contribute to the mobilization of a person's criminalistic tendencies. The internal criminal situation, on the other hand, is the individual's psychological state. His ability to resist is related to his emotional, intellectual, and social conditioning, which have an impact on his superego, and to his response of his ego to a situation confronting him. The degree to which an individual is able to resist criminogenic factors depends upon the extent of his previous resolution of his unconscious inner desires or motive and his degree of emotional maturity (Abrahamsen,1960,pages 30-38). This explanation is useful in that criminal conduct could be resisted if individual characteristics such as moral or religious training are strongly against it. In the prevention of economic crime it is important to ensure that the individual's corporate culture is not criminal. Moral or religious training should be included in the in-service training programs of the corporation.(28 respondents suggested

that executives should be given religious training as one of the ways to prevent the occurrence of economic crime).

In contrast to psychoanalytic theory, learning theory [details to be discussed in the next paragraph] claims that crime, like all behaviour, is determined by the environmental setting according to principles of operant conditioning. According to operant conditioning, individuals will do what is reinforced or conducive. Examples of unfavourable reinforced conditions include:

- * opportunity;
- * lacking moral education;
- * weak law enforcement;
- * no risk.

Criminal behaviour is supposedly made conducive by operant conditioning. The urge to commit crime depends on the conducive variables within individuals such as heavy debt, living beyond means, poor supervision, lenient sentence and so on, and it is reinforced by money or goods. It may also be reinforced by revenge, power, control, prestige or even social approval.

3.6 SOCIOLOGICAL EXPLANATION

The sociological explanation focuses on man's surroundings. Tarde's (1890) "Law of Imitation", explaining crime in terms of

"learned behaviour". This discussion is probably one of the earliest of sociological explanation (Tarde,1890) followed by Breckenridge and Abbot who examined "delinquent neighbourhoods in Chicago" in 1912. They proposed "delinquent areas" after locating the official residences of the delinquents. The most outstanding American adherent of Tarde's theory was Sutherland who developed the theory of "differential association" in 1939 in his penetrating analysis of the "Professional Thief". Durkheim (1951) developed the concept of anomie, the idea that the weakening or absence of the rules and norms may lead to deviant behaviour. Merton (1957) developed further Durkheim's concept within the American social structure. He contends that access to approved modes of acquiring success symbol is restricted or completely absent for a considerable portion of the population. Sutherland's "differential association" theory and Cressey's (1978) "non-sharable need" theory are prominent and the most convincing theories explaining economic crime within the socio-cultural explanation.

As it has been suggested above, Sutherland's view is one of the most convincing explanation of economic crime. In his view, criminal behaviour is linked to a person's association with a criminal environment. People encounter various social influences such as drinking, smoking, gambling, and womanising throughout their lives. Some individuals have social interactions with individuals having criminal tendencies and can become criminals as a consequence of this association.

The major elements in Sutherland's differential association theory can be summarised as follows (Sutherland and Cressey, 1978):

- * criminal behaviour is learned, it is not inherited, and the person who is not already trained in crime does not invent criminal behaviour;
- * it is learned through interaction with other people, through the process of verbal communication;
- * the learning of crime includes learning the techniques of committing the crime, and the motives, drives, rationalisations and attitudes that accompany it;
- * a person becomes delinquent because of the excess of definition (or personal relations) favourable to the violation of the law over definitions unfavourable to the violation of the law.

The essence of Sutherland's argument is that criminal behaviour is engaged in by people who have accumulated enough feelings and rationalisations in favour of law violation to outweigh their pro-social definitions. Criminal behaviour is learned and will occur when the perceived rewards from criminal activity exceed the rewards of lawful behaviour. It is a matter of trade-offs and worth taking the risk.

A related, but alternative, sociological theory of economic crime was proposed by Cressey (Cressey,1949). He defined the problem as a "violation of a position of trust" that the person original took in good faith. To quote from his work:

" Trust persons become trust violators when they conceive of themselves as having financial problem which is non sharable, and aware that this problem can be secretly resolved by violation of the position of financial trust, and are able to apply to their conduct in that situation verbalizations which enable them to adjust their conceptions of themselves as users of the entrusted funds or property!"

(Cressey, 1949 page 30)

There must be:

- * a nonsharable problem;
- * an opportunity for trust violation;
- * a set of rationalizations that define behaviour as appropriate in given situation.

None of these elements alone would be sufficient to result in economic crime; all three elements must be present.

Evidence for Cressey's theory was founded on in-depth interviews with those convicted on trust violations. He claimed that all of the cases he studied conformed to the above

three stage process. Through the experience of this researcher, this theory is very applicable in Malaysia. A number of cases in Malaysia, especially the five mentioned in Chapter Four, support this theory. A typical example is the case of P.P. v. Tan Koon Swan, involving the head of the Malaysia Chinese Association Party, Mr. Tan Koon Swan, who was also the Managing Director/Advisor of a Chinese Cooperative based organisation. He is a leader of some charisma. During the global recession at the end of 1985, he had difficulties with his investment company Pan El in Singapore due to the share collapse. In his attempts to "run away" from the problems in Singapore, he took \$M23 million from the Cooperative based organisation under the pretext of making an investment, but he used the money for his own interests. He pleaded guilty to a criminal breach of trust, whereby he was convicted and sentenced to 30 months imprisonment with a fine of M\$1 million (there is an element of plea bargain in this case). However, on appeal his imprisonment was reduced to 18 months and the fine was quashed. Violation of trust is the element of this particular case and it links to his non sharable problem, that is the collapse of the stock market; opportunity for violation of trust, that is his position as Managing Director/Advisor and head of the MCA party; set of rationalisation that define behaviour as appropriate in a given situation- that it is borrowed for a while and after all he is responsible for the past success of the Cooperative. This author while conducting this research has had the opportunity

of interviewing him after his release from prison. He claims that the disbursement of \$M23 million was approved and within the knowledge of the main Directors of the Cooperative. This claim illustrates the rationalisation issue mention earlier, i.e., a criminal act is appropriate in a given situation.

3.7 MORAL DEVELOPMENT EXPLANATION

Moral development explanations provide considerable insight into the possible causes of economic crime. Honesty is a "moral behaviour". Management fraud, embezzlement, kickbacks, bribes, and theft are all forms of dishonest behaviour. When an executive misrepresents a business transaction or steals from a company, he is said to behave dishonestly. When a computer technician manipulates the computer system to place a fraction of the cent from each employee's payroll into a hidden account that he can withdraw from, he is behaving dishonestly. When a purchasing agent receives kickbacks by arranging to make purchase orders and payments for more merchandise than is received, he is behaving dishonestly.

The moral development literature makes several contributions towards the understanding of economic crime by helping to:

- * solve the dilemma of whether or not honesty is a general personality trait, and whether or not individuals are either wholly honest or dishonest;
- * describe why individuals behave honestly in some situations and dishonestly in others;
- * explain which forces contribute to the development of honesty and how honesty can be taught.

The above three factors are materially important in cases of economic crime especially in the context of Malaysia. Economic crimes in Malaysia are sometimes committed by people with positions of respect; people with high education, high earnings, high social and economic status. Sometimes, cases are committed by the least suspected persons because of their status. It is difficult to explain that the head of a religious institution (a person who is said to be close to God) would have committed criminal breach of trust with the money belonging to the poor. It is difficult to explain why the Directors, including the Chairman, from a respectful position such as a senior Ministers could have committed a criminal breach of trust of money belonging to poor cooperative depositors who were their vote supporters. There must be strong outside forces present that contribute to their honesty or dishonesty.

Some researchers have argued that moral behaviour is situationally specific; people will behave according to how they have been taught to act in each particular environment. This suggest that honesty is situational. People will be honest in some situations and dishonest in others. People will commit economic crime when it is convenient, or when they have done it successfully before in similar situations.

According to "Carson's Laws"(Carson, page 4):

- * no one is completely honest;
- * honesty is a variable that can be influenced for better or worse;
- * temptation is the father of dishonesty;
- * greed, not need, triggers temptation.

The opposite of situational honesty is the idea of general honesty, which claims that individuals acquire an overall personality or character trait of "honesty" and behave consistently at all times and in different situations. Therefore, a meticulously honest person should be honest in all situations regardless of the temptation; a person who tends to be dishonest should behave dishonestly whenever it is expedient.

Moral development research suggests that the truth lies somewhere between these two extremes. For some individuals

honesty is a situational specific behaviour; for other individuals, it is a general personality trait. It appears that the difference between general honesty and situational specific honesty results from two characteristics of a person's relationship with other important individuals, such as parents or employers. It depends on:

- * the degree of consistency in administering positive reinforcement for honest behaviour and punishment for dishonesty;
- * the verbal labelling of situations, that it is wrong to steal or wrong to disrespect the elders, to develop a general view of what is honest and what is dishonest.

However, all situations requiring honesty need to be consistently defined to evoke consistent responses of honesty. Inconsistently defined behaviour, such as condemning dishonest acts of stealing in one situation but the willingness to accept a cheap stolen good in another situation, represents situational dishonesty. If the parents, employers or the government are not consistent (it is difficult to be consistent in today's world) in their definition of honesty and dishonesty, the result at best would be specific honesty. As an illustration, a business executive would not necessarily behave honestly in all situations. An executive who would not think of manipulating stock prices, financial reports, or

accounting procedures might willingly participate in an illegal kickback scheme. This is probably due to the act of illegal kickback though being condemned as dishonest but it is very unlikely to be reported by the person who makes the offer. Executives may probably behave honestly in all situations only if they have learned to correctly identify and label the honest responses. And if they have been consistently rewarded for honesty and punished for dishonesty. The general honesty of employees is thus determined by the development experiences they have had, both as children and during their earlier work experiences. For this reason, it is important that organisations clearly define for their employees what is dishonest behaviour. Also swift and predictable consequences should be widely publicised and judiciously executed. Thus, it is important for the parents, employers, the government (especially people in power) to set good examples by being consistent with no double standards to provide positive reinforcements for honest behaviour as it will produce socioethical resistance to crime.

Schafer and Knudten (1970) suggest that delinquency and crime are a product of the interaction between an individual's socioethical resistance capability (SER) and the pressures to participate in crime (CP), which reveals the degree of the individual's limited socioethical responsibility (LSER). In the form of an equation, the relationship is:

$$\frac{\text{SER}}{\text{CP}} = \text{LSER}$$

According to them when socioethical resistance and crime pressures are of equal strength, they may cancel each other out and leave a criminometric average that may be balanced or weighted in favour of one or other factor. If the criminometric average tends to favour crime pressures, criminal conduct is likely to occur. On the other hand, if it is balanced or is weighted in favour of socioethical resistance, the tendency for crimes to occur is lessened. This explanation is quite similar and an extension of Abrahamsen's explanation on criminal behaviour. The pressure to participate in crime could be reduced or lessened by an individual's socioethical resistance capabilities. It also rests on the individual characteristics towards criminal behaviour. This means that the definition, character and incidence of delinquency and crime are relative to the cultural, social, organisational, small-group and personality factors and forces which produce to shape them. The individuals' tendency to ignore or to neutralise limits placed upon their actions by the culture, society or subculture, their social class or social status. Their ability to resist pressures which call for violation placed upon them by their group roles; and their individual personality characteristics which largely determine their tendencies toward deviant or criminal action (Knudten, 1977,

page 248). This gives an assumption that if the existing culture of the corporations such as banks, cooperatives, insurance companies is criminal, and the society accepts it, then it strengthens the individual's characteristics towards criminal behaviour. Thus it can be argued that it is important to ensure the culture of a corporation is not criminal. And it is equally important for the society not to condone such behaviours. However, apart from the assumptions, both the above explanations could not be tested.

The argument on morality could be developed further so that environment could influence the personality of the individual. For example, if there are too many night-clubs, gambling and vice dens, pubs in a certain area, it could bring about an increase in crime because it increases the psychological and environmental pressures the individual must respond to. According to Bloch and Geis(1962), if an individual is continually exposed to a series of primary relationships oriented to criminal or illegal conduct, or if the individual is placed in situations that fail to reinforce this generic status while creating areas of tension and conflict, criminal conduct is likely to occur. If primary relationships reinforce his generic status, a person may commit criminal acts. On the other hand, if the same primary relationships create tension and conflict for the individual, he may move to resolve the tension between his self-concept and actual social situations engaging in criminal conduct.

Carr (1950) sees crime in terms of shortcomings of personality, environmental pressures against conformity, and the interaction of personality in environment. If factors encouraging conformity outnumber pressures leading to deviance, an individual is likely to conform to social mores. The reverse, will occur if pressures encouraging deviance outnumber pressures supporting conformity. The conforming and deviating factors are products of both the individual and the environment. In his hypothesis of deviation-differential, he suggests that the product of the internal and environmental conforming factors minus the product of internal and environment deviating factors yields a dominant conforming or deviating differential. The former leads to conforming behaviour and the later leads to criminal conduct. Thus this suggests that moral studies should be encouraged in the early age of individuals and be continued as a continuous process throughout life.

3.8 THE MULTI-FACTOR EXPLANATION

This orientation attempts to synthesize the concerns of biological, psychological and sociological explanations. The pioneers of the modern multi-factor orientation were Prins from Belgium and Von Listz from Germany, who together with the Dutchman Hamel, established the International Association of Penal Law. They made efforts to rationalise the discrepancies

between the three major groups of single factor theories. Liszt (1905) conceived an approach which he called the "Global Science of Criminal Law", attempting to reconcile the differing disciplines with the goal of developing an intergrated theoretical understanding of crime.

The multi-factor explanation of crime has been applied by most criminologists since the 1970s. Two English studies of delinquency can serve as illustrations of multi-factor approaches. West and Farrington (1973, page 191) investigated the long-term development of delinquency in a longitudinal sample of 400 school boys selected at the age of eight and studied closely for more than ten years. The range of factors investigated was typical of the broad strategy of multi-factor approaches, with the longitudinal method lending itself especially suitable to the investigation of changes over time in attitude and behaviour. The authors discerned,

" A statistical correlation does not necessarily imply a direct causal link, and the statistical importance of these fine background factors does not mean that they were the essential causes of delinquency.... No amount of statistical analysis on correlations discovered in social surveys is likely to succeed in showing conclusively which particular elements are most to blame. It seem that certain adversities are linked with delinquency and that an accumulation of these adversities makes a delinquent outcome more probable."

Factors that were found to be important causes of the delinquent behaviour included low family income, large family size, parental criminality, low intelligence and poor parental behaviour. Sutherland and Cressey (1970) argued that:

"neither a statement of one factor (a single factor) nor a series of such statements (multiple factors) about crime is a theoretical explanation."

That is, what is required is a single theory which organises and relate the variables, whatever their number. As they state:

"If criminology is to be scientific, the heterogeneous collection of "multiple factors" known to be associated with crime and criminality should be organised and integrated by means of an explanatory theory which has the same characteristics as the scientific explanation in other fields of study, that is, the conditions which are said to cause crime should always be absent when crime is absent" (Sutherland and Cressey, 1970, page 72).

It is now accepted as conventional wisdom in criminology that, as Vold (1958) phrased it:

"Crime must be reorganised clearly as not being a unitary phenomenon but as consisting of many kinds of behaviour occurring under many different situations. No single theory therefore should be expected to provide the explanations for many varieties of behaviour involved"(Vold, 1958, pages 313-14).

3.9 UNDERSTANDING CORPORATE CRIME

Box(1983) argues that crimes against corporations must be distinguished from crimes by corporations, and from criminal corporations. Levi (1988) broadly distinguished frauds against individuals and frauds against businesses. In this study the author investigated not only crimes committed on individuals

and corporations but by corporations on individuals and on corporations. Thus it is appropriate to look at some of the theories on corporate crime and fraud.

There are few studies which focus directly on the issue of economic crime such as corporate crime and fraud. These studies though not covering all aspects of economic crime play an important contributions to this field. Box (1986, page 83) explained that the characteristic of the corporation and its goal-seeking entity makes a corporation inherently criminogenic. When the legitimate opportunities for goal achievement are limited and constrained, the corporation will operate in uncertain and unpredictable environments. Thus encouraging the executives to consider alternative means which include law avoidance, evasion, and violation. It will be pursued if the alternatives are evaluated as superior to other strictly legitimate alternatives.(See figure 3.2)

There are five major environmental uncertainties which potentially interfere with a corporation's ability to achieve goals. They are namely:

- * Competitors - technological breakthrough; price structure; marketing techniques; mergers; new and expanding markets;
- * Governments - extending regulation to cover more corporate activities either through new laws or

- tougher enforcement of existing laws;
- * Employees - any collusive activity, but especially those joining trade unions pursuing 'militant' wage settlements and making 'radical' demands on altering conditions of work/employment;
 - * Consumers - especially when demand for product is elastic and consequently fickle, or when 'consumerism' is prevalent and making highly visible any dubious corporate practice;
 - * Public - especially through a growing 'environmentalist' sensitivity to conserving fresh air, clean countryside, and natural resources.

The contradictions between corporate goal-achieving behaviour and each of the above environmental uncertainties creates a strong strain towards innovative behaviour which can stretch over the spectrum of law abiding, law avoiding, law evading, law breaking. For example, the problem with competitors will result in tax evasion, with employees will result in paying less than the minimum wage; with consumers will result in fraudulent advertising or adulterated goods and with the public will result in polluting the air, land and sea. It is argued by Box that when these environmental uncertainties increase so the strain towards corporate criminal activities will increase.

Other factors that intervene to transform this motivational strain into actual crimes are:

- * ideology;
- * law enforcement;
- * opportunity.

In the case of ideology, the corporate officials are able to transform motives which make corporate crime possible into actual behaviour because they operate in a subculture of 'structural immoralities'. It consist of precepts and customs that are delicately balanced between convention and crime. It posits objectives that may be attained through crime but also other means. It allows crime but it is not considered the preferred path. It has norms and sentiments which are beliefs that function as extenuating conditions under which crime is permissible, thus allowing a sub-culture that softens criminal acts and assumes the appearance of not really breaking the law.

In the respect of law enforcement, many corporate activities depend on what is perceived by the violators on the certainty of being caught and the severity of the punishment. If the two factors are in their favour than the tendency to commit crime would be higher.

Opportunity is the third major structural feature facilitating corporate crime. There are three dimensions:

- * the relationship between corporations and enforcement agencies;

- * the nature of laws against corporate activities;
- * the power of corporations to intervene in the process by which corporate behaviour becomes incorporated in criminal law.

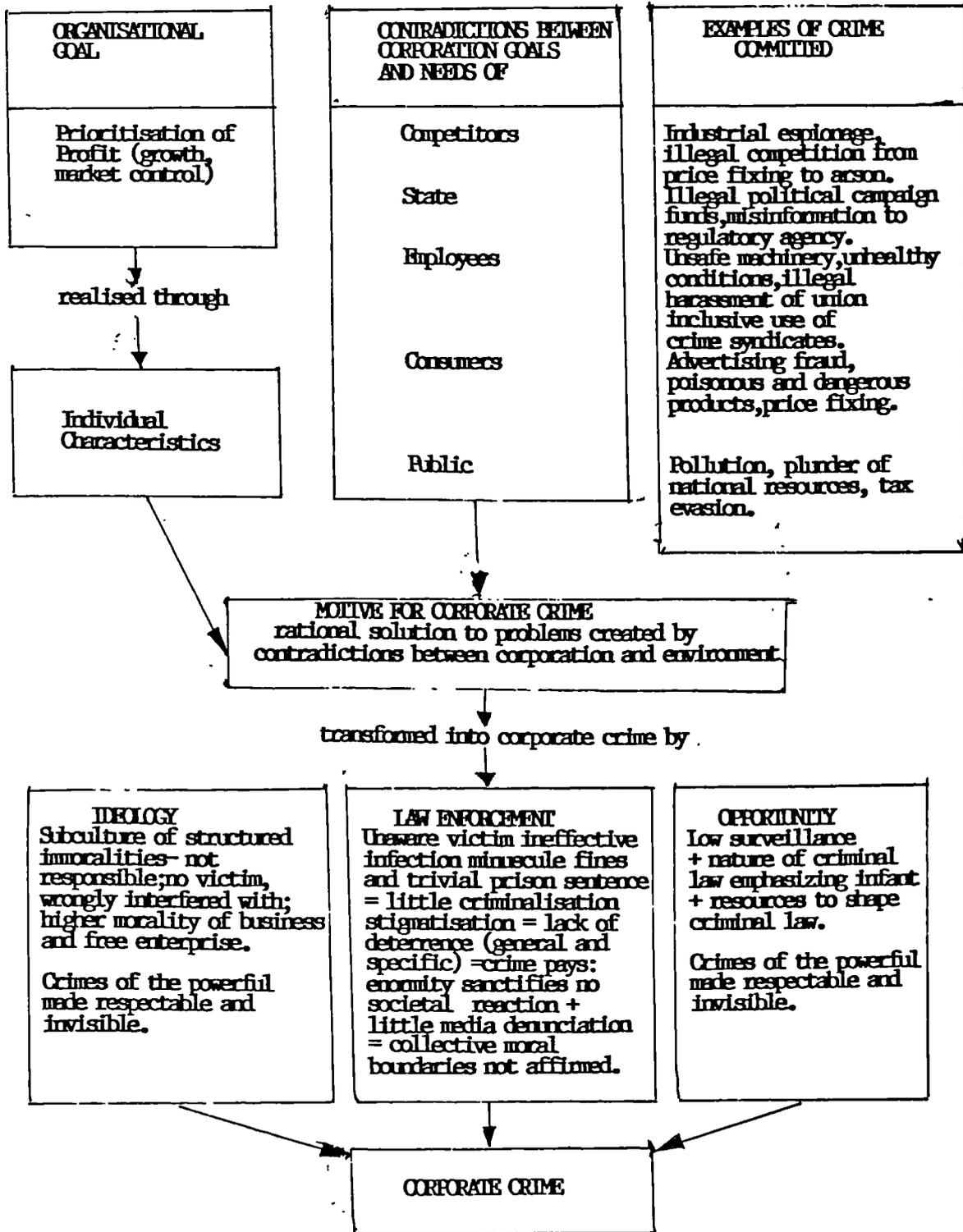
The lenient system of law enforcement constitutes a kind of opportunity structure denied to those subjected to rates of prosecution and the imposition of severe sanction. From the above argument it can be inferred that when the environmental uncertainties increase so the strain towards corporate criminal activities will increase. This is illustrated as diagram in Figure 3.2 below (Box, 1986, page 64).

3.10 UNDERSTANDING FRAUD

Comer[1985] in his book "Corporate Fraud" suggest four essential theories on fraud, namely:

- * Differential of Opportunity;
- * Theory of Concealment;
- * Theory of Deviation;
- * Theory of Minimal and General Collusions.

FIGURE 3.2: UNDERSTANDING CORPORATE CRIME



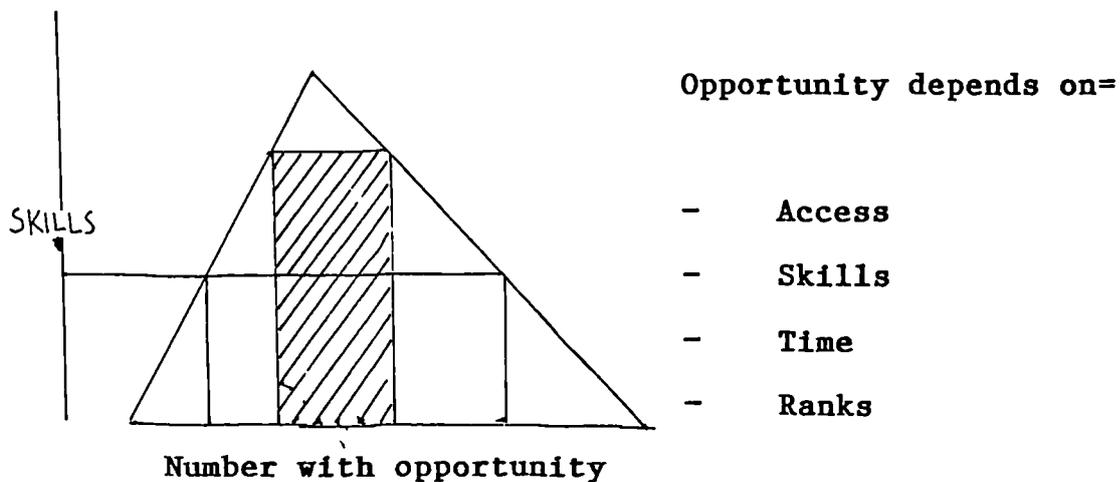
Source: Steven Box, *Power, Crime and Mystification*, Tavistock Publication Ltd, London, 1986, P.64.

3.10.1 Differential of Opportunity

According to this theory all people have the opportunity to commit fraud against their employers, suppliers and customers of their employers, third parties and government departments. This opportunity is given by four factors:

- * the access the perpetrator has or can contrive to the premises, accounts, assets and increasingly more important, to computer systems;
- * skill in identifying the opportunity of exploiting opportunities;
- * time in planning and committing the crime;
- * their rank within the organisation concerned.

3.10.1.1 Figure 3.3 Differential Opportunity



Of the above factors, access is possibly the most important and will be achieved under one of the two conditions. No matter how highly motivated a person might be to commit crime he can only do so where there is an opportunity. The majority of corporate fraud, according to Comer, occurs through breach of trust by employees and others to whom access is granted. In this respect it is important for the companies to have adequate screening policies especially in recruiting employees for the position of trust. Levi (1988, page 11) suggested that the first line of defence against fraud is entry control. This may be applied both to people we recruit and to people with whom we do business.

3.10.2 Theory of Concealment

Concealment is an essential ingredient of most systems of fraud. It can be said to be manipulation or misrepresentation of a physical, personal or commercial reality intended to :

- * hide, disguise or alter an account/ inventory discrepancy before, during or after the act of theft.
- * disguise, confuse or delay the recognition of the thief's guilt (to avoid location of blame) or to establish a plausible excuse for dishonesty.

- * enable the thief to obtain or to continue to obtain a dishonest advantage by deception.

3.10.3 Theory of Deviation

Deviation from accepted procedures are the first signs of fraud. Criminals often conceal their dishonesty as plausible breaches of rules and procedures. Police investigations normally start looking into the deviations from accepted behaviour or procedures and obtain explanations of them. This is normally done because they indicate direct evidence of economic crime and also because they are important discussion points during the interviews with witnesses or interrogations with suspects.

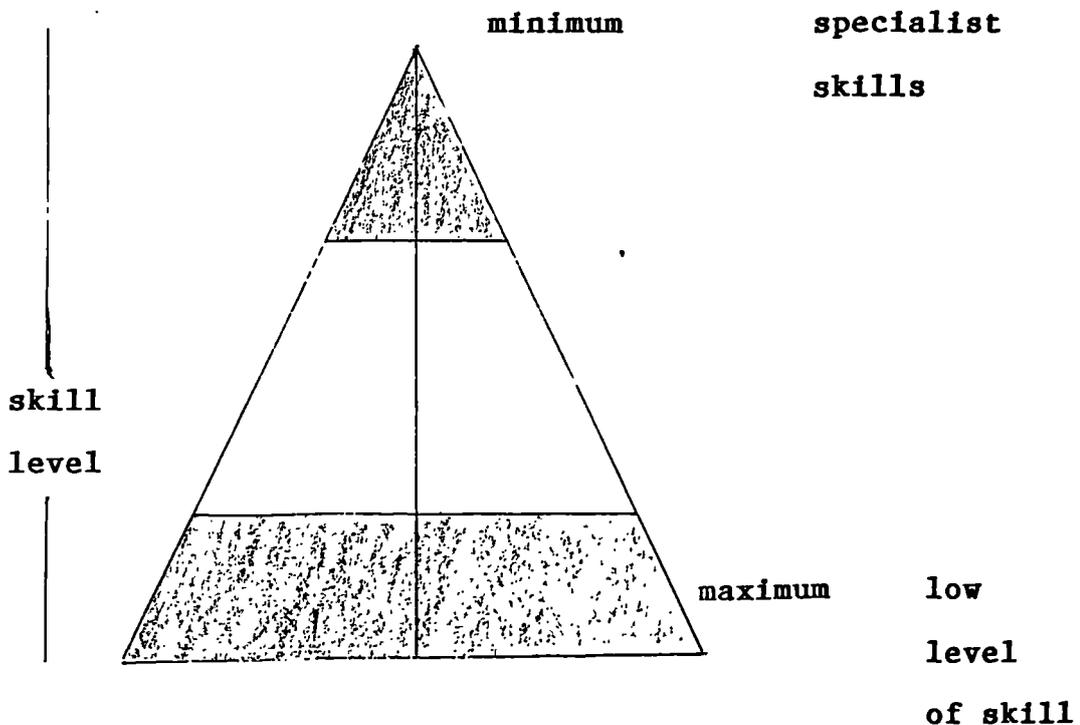
3.10.4 Theory of Minimum and General Collusion

Collusion in fraud occurs under two distinct circumstances (see figure 3.5):

- * to provide the necessary opportunities, resources or skills to commit fraud (minimum collusion);
- * to share the benefits of fraud among the maximum number of people (institutionalised fraud or general collusion)

The largest number of frauds are committed by people using low skill levels: although they may not account for the largest losses (Comer,1985, page 24). Opportunity for fraud is extended by collusion. Specialist skills may be required to commit an illegal act at minimum collusion and relatively low levels of skill are required to commit an illegal act at maximum collusion. Maximum collusion takes place to the greatest extent possible so that all employees are involved and united in a common criminal pursuit. Whereas at minimum level the number may be small but at times the sum of money involved may be of magnitude.

3.10.4.1 Figure 3.5 Minimum and Maximum Collusion



3.11 CONCLUSION

The development of criminological theory explaining crime, while dependent upon the past, is not sufficiently well-defined to make redundant the development of new ideas. It is now no longer adequate to describe the causes of crime in terms of:

- * "born criminal";
- * mental problems;
- * bad socialisation;
- * poverty;
- * recession;
- * unemployment
- * generic status;
- * pressing event.

Much more is involved. No crime takes place within a social (and political) vacuum; rather, crime is a product of all elements involved in human association, growth, and interaction. It is much more difficult in the area of economic crime where crimes committed by people of high status in position, wealth and education. There has been no specific theory of economic crime based on the empirical findings. There are a number of general models discussed earlier which explain deviancy but fail to provide conclusive and critical information on problems of criminal policy. However, theory-critical multi-factorial analysis of empirical data would seem to be a medium range alternative.

Economic crime is traditionally associated with high status and

respectable offenders: the crime of the powerful and corporate crime. The issues in economic crime are more complex as economic crime differs in several ways with traditional crime (Spencer, 1965 pp. 233-266). It differs to:

- * the clear consensus of the kind of behaviour that should be considered criminal;
- * the relationship between the economic criminal and his victim is quite different from the usual relationship between criminal and victim;
- * the regulation and control of economic crime requires methods quite different from the ordinary process of law enforcement. (It should be viewed on three levels: internal methods of regulation or profession; administrative control by an appropriate government agency; and judicial control by the use of the criminal law and criminal sanctions.)

Croall(1989), while arguing that there is much exaggeration in the distinction between 'conventional' and white-colour crime, suggested that models attempting to explain such crime must take account of the complexities of market and structural factors as they affect different groups of offenders: corporations, employees, small business and 'criminal business'.

Future studies on economic crime should address these complex issues. What is needed in the studies such as this is to bring order out of diversity and multiplicity.

This research is pursued along the line of diversity and multiplicity within the frameworks of psychological, sociological and moral development. The conceptual structure is formulated along the line of these theories, in that economic crime depends on the interaction of situational, opportunity and personal pressures. Three forces interact and interplay to determine whether the person will or will not commit economic crime. An individual will not be at the same place on the honesty platform in all situation. An individual could be overcome by situational pressures and convenient opportunities to commit economic crime. What could be seen in preventing such crimes is whether the opportunities to commit economic crime can be so tightly controlled that economic crimes will be deterred regardless of the level of personal honesty and situational pressures.

CHAPTER FOUR

4. RESEARCH METHODOLOGY

4.1 OBJECTIVE OF THE CHAPTER

The objective of this Chapter is to explain the research methodology used, especially the primary data collection, the definition of the population, the sampling frame and the subsequent sampling design, a pilot study to test the questionnaires, working hypotheses and the actual surveys. It also explains the reasons for adopting a questionnaire-based approach and the development of the questionnaires. In addition, as the structure of the questionnaire was in part driven by the desired statistical analyses, there is a discussion of the data collected. The data collected and the returned questionnaires were analysed to show the main causes of economic crime. This chapter consists of the following:

- * introduction;
- * definition of research;
- * types of research;
- * collection of data;
- * sample;
- * summary.

4.2 INTRODUCTION

" All progress is born of inquiry. Doubt is often better than over-confidence, for it leads to inquiry and inquiry leads to invention".

Hudson Maxim (1986, page 7)

Research comprises defining and redefining problems, formulating and testing hypotheses, collecting, organising data and evaluating data; making deductions and statistical inferences from the data analyses and reaching conclusions. Lastly, it involves careful testing of the conclusions to determine whether they fit the formulated hypotheses.

4.3 DEFINITION OF RESEARCH

Redman and Mory (1923, page 10) define research as a

"...systematic effort to gain new knowledge."

Slesinger and Stephenson in "The Encyclopaedia of Social Sciences" define research as

"...manipulation of things, concepts or symbols for the purpose of generalising to extend, correct and vary knowledge, whether the knowledge aids in construction of theory or in the practice of an art (Social Science Encyclopaedia, page 1930).

Howard and Sharp (1985, page 6) define research as

"...the seeking through methodological processes to add to one's own body of knowledge and, hopefully, to that of others, by the discovery of non-trivial facts and insights."

Kothari defines research as

"...systematic method consisting of enunciating problem, formulating a hypothesis, collecting of facts or data, analysing the facts and reaching certain conclusions either in the form of solution(s) toward the conceived problem or in certain generalisations for some theoretical formulation" (Kothari, 1986, page 2).

In short research inculcates scientific and inductive thinking and it promotes the development of logical habits of thinking and organisation. It provides the basis for nearly all government policies and has its special significance in solving various operational and planning problems of business and industry. It is equally important for researchers in studying social relationships and in seeking answers to various social problems such as economic crime phenomena.

4.3.1 Research purpose

In terms of this investigation of economic crime in Malaysia, the purpose of the research is to discover answers to questions through the application of scientific procedures which include descriptive, analytic, applied, fundamental, qualitative,

quantative, conceptual and empirical. Each application has its main specific purpose. Generally the purpose falls under four broad groupings:

- * to gain familiarity with a phenomenon or to achieve new insights into it;
- * to portray accurately the characteristics of a particular individual, situation or a group;
- * to determine the frequency with which something occurs or with which it is associated with something else;
- * to test a hypothesis of a relationship between variables.

4.3.2 Research process

The research process normally involves the following:

- * defining the research problem;
- * extensive surveying of the literature;
- * formulating hypotheses;
- * preparing the research design;
- * determining sample design;
- * collecting data;
- * analysing data and testing hypotheses;
- * generalising and interpreting;
- * writing-up conclusions.

4.3.3 Research methods and methodology

Research methods may be understood as those methods/techniques which are used for conducting the research. Research methodology is a way to systematically solve research problems. When we discuss research methodology we not only discuss the research methods but also consider the logic behind the methods we use in the context of the research study and explain why we are, or are not, using a particular method or technique so that the results are capable of being evaluated by others.

4.4 TYPES OF RESEARCH

There are many types of research, but there are two basic approaches. They are:

- * quantitative approach;
- * qualitative approach;

The quantitative approach involves the generation of numerical data which can be subjected to rigorous statistical analysis in a formal and rigid fashion. This approach can be further sub-classified into:

- * inferential,
- * experimental,
- * simulation.

The purpose of the inferential approach to research is to form a data base from which to infer characteristics or

relationships of a population. This usually means research where a sample of a population is studied (questioned or observed) to determine its characteristics, and it is then inferred that the population has the same characteristics. An experimental approach is characterised by much greater control over the research environment and in this case some variables are manipulated to observe their effect on other variables. A simulation approach involves the construction of an artificial environment within which relevant information and data can be generated. This can permit an observation of the dynamic behaviour of a system (or its sub-system) under controlled conditions. The term 'simulation' in the context of business and social sciences applications refers to

" ...the operation of a numerical model that represents the structure of a dynamic process. Given the values of initial conditions, parameters and exogenous variables, a simulation is run to represent the behaviour of the process over time."(Meir, Newell and Dazier,1969,page 1)

A qualitative approach to research is concerned with subjective assessment of attitudes, opinions and behaviour. Research in such a situation is a function of the researcher's experiences, insights and impressions. Such an approach to research generates results either in non-quantitative form or in the form which are not subjected to rigorous quantitative analysis. Generally, the techniques of focus group, projective techniques and in-depth interviews are used.

This research of economic crime in Malaysia embarked using both quantitative and qualitative approaches using mainly exploratory and descriptive methods. It also used experimental approaches in the later part of this research where hypothesis testing of relationships between variables were carried out.

4.4.1 Exploratory research

This type of research either explores areas which are new or is an extension of existing research. It is also termed formulative research. The researcher conducting this type of study is expected to have little or no knowledge about the problem or solution under investigation. The researcher will formulate a problem for more precise investigation or develop the working hypotheses from an operational point of view. It emphasises the discovery of ideas or insights. It is flexible enough to provide opportunity for considering different aspects of a problem under study. Inbuilt flexibility is needed because the research problem, broadly designed initially, is transformed into one with more precise meaning in exploratory studies, which may necessitate changes in the research procedure for gathering relevant data. Three methods commonly used in exploratory studies are:

- * the survey of relevant literature;
- * the analysis of 'insight-stimulating' examples;
- * the experience survey .

All available literature concerning economic crime was surveyed and examined before a definition of the research problem was made. The researcher's approach to this was by getting acquainted with relevant theories on crime in general and giving emphasis to theories associated with economic crime. The researcher also looked at reports, records, as well as other relevant literature. Equally important it is necessary to ensure the availability of data and other materials for operational purposes. The available data served to narrow the problem itself as well as the technique that could be used. For this research, the available statistics are:

- * Malaysia Crimes Statistics from 1978 to 1988;
- * Commercial Crime Statistic from 1981 to 1989;
- * Prison Statistics from 1984 to 1987.

An analysis of 'insight-stimulating' examples is also a fruitful method for suggesting hypotheses for research. This task was undertaken in this research by way of a desk-study of 325 'cases of interest' for the years 1985 to 1989. 'Cases of interest' is defined by the Malaysian police as cases which involve one of the following:

- * substantial losses (substantial is not specified and varies from State to State depending on economic and geographical factors. Normally \$50,000 and above is said to be substantial)
- * VIPs or other prominent figures;
- * sophisticated or new modes of operation

in committing crimes;

* national security and political implications.

From these cases, the main variables were derived and validated and used in formulating questions for the questionnaire.

An experience survey was carried out by discussing the problem of economic crime with working colleagues in the Commercial Crime Unit at Police Headquarters, Kuala Lumpur, with retired senior police officers, with a number of politicians including the Deputy Minister of Home Affairs. People with experience such as investigators, victims, professionals and to certain extent the perpetrators were consulted to enlighten the researcher on different aspects of the study of economic crime. They helped the researcher to sharpen not only the formulation of the specific problem on the subject, but also they have given insights into a general approach to the problem, techniques that might be used and possible solutions.

The survey of experience by this researcher was not only conducted while undergoing this research but was also utilised the earlier part of his official duties. (The researcher has had twenty years of experience as a police officer, fifteen years of it involved in criminal investigation. He was attached for three years 1986-1988 to the Commercial Crime Unit. His last position was as Head of Banking and Financial Institutions Investigations holding the rank of Superintendent)

Applying the three methods the researcher was able to rephrase the problem into analytical or operational terms and develop working hypotheses. The conceptual structure is formulated in terms of theories of psychology, sociology and moral development (as discussed in Chapter Three), in that economic crime is depended on the interaction of three forces namely:

- * Situational pressures;
- * Opportunity pressures;
- * Personal pressures.

The hypotheses of this research are:

- * Economic crime is attributable to a strong influence by politicians.
- * Economic crime is attributable to recession that brings unfavourable conditions to industry.
- * Economic crime is attributable to personal satisfaction which find excitement and prestige in "beating" someone or a system.

- * Economic Crime persists because of the poor and liberal accounting practices.

- * Economic crime persists because of people attempting to live beyond their means.

- * Economic crime persists because of high personal and organisational debt.

- * Economic crime persists because of mismanagement by Directors.

- * Economic crime persists because of person with poor referees and no adequate screening.

Thus, in an exploratory research study which leads to insights and hypotheses, whatever approaches are used, the only thing that essential is that it must continue to remain flexible so that many different facets of the problem may be considered as and when they arise and come to the notice of the researcher.

4.4.2 Descriptive research

This type is the most frequent type of research. It includes surveys and fact-finding enquiries of different kinds

with the major purpose of giving a description of the state of affairs as it exists at present. It can describe the characteristics of a particular individual, or of a group. It is important in this type of research for the researcher to make provision for protection against bias and attempt to maximise reliability, with due concern for the economical completion of the research study. It is an approach which provides a vast amount of data about many social situations. It is essential in this type of research, that the researcher is able to define clearly what he wants to measure and must find adequate methods for measuring it, along with a clear definition of the 'population'. In this research the questionnaire survey was carried out on 272 respondents comprising of investigators, victims, perpetrators and professionals to determine the main causes of economic crime in Malaysia.

4.4.3 Experimental research

This type of research is also known as hypothesis-testing research study where the researcher tests the hypothesized relationship between variables. The study requires procedures that not only reduce bias and increase reliability, but will permit drawing inferences about causality. In this research, the SPSS-X (Statistical Package for Social Science-Extended Version) computer package was used. Relationships between

variables were tested by analysis of variance(ANOVA) and analysis of co-variance(ANOCOVA).

The exploratory-descriptive-experimental research undertaken by this researcher took the following process (see figure 4.1):

- * Defining the research problem;
- * extensive reviewing of literature;
- * formulating hypotheses;
- * designing research including sample design;
- * collecting data (execution);
- * analysing the data and testing hypotheses;
- * generalising and interpreting, including writing conclusion.

4.5 COLLECTION OF DATA

There are two types of data available namely:

- * primary data;
- * secondary data.

Primary data is information collected for the first time. It is original in character. Secondary data is that which has been collected by someone else and which may have already passed through the statistical process. They may be relevant to another problem, but it is highly unlikely that the data were collected for the secondary purposes for which they will now be applied.

4.5.1 Primary data

The primary data in this research are collected through surveys. Communication with respondents (that is, investigators, victims, perpetrators and professionals) is made through mailed questionnaires or through personal interviews. Of the 600 questionnaires sent or handed out, 257 people responded by mailing or handing the questionnaires back (72 investigators; 64 victims; 18 perpetrators and 88 professionals). An additional 15 perpetrators responded by way of interviews. The primary data are also collected through content analysis of annual reports, newspapers, and investigation reports of 325 cases of interest.

4.5.1.1 Mailing method

The method of collecting data by mailing the questionnaires to the respondent is most extensively employed in this research. It is felt to be more suitable than other approaches of data collection because of:

- * it is low in cost when the universe is large and widely spread geographically;
- * it is free from the bias of the interviewer and respondents can answer in their own words;
- * it ensures that the respondents have adequate time to give well thought out answers;

- * it includes the respondents, who are not easily approachable such politicians and Ministers;
- * it allows a larger sample to be used, and thus the results should be more dependable and reliable.

However, there are some disadvantages in mailing questionnaires. They include:

- * it has low rate of return of completed questionnaires;
- * it can have bias due to different kind of response;
- * it can only be used only when respondents are educated and cooperating;
- * it has the possibility of ambiguous replies or omission of replies altogether to certain questions; interpretation of omissions is difficult;
- * it is difficult to know whether willing respondents are truly representative;
- * this method is likely to be slow.

The disadvantages are well understood by the researcher and steps to reduce or overcome the disadvantages were taken:

- * pilot-testing was done before the actual survey was carried out;
- * personal follow-up by the researcher of key people, such as a personal letter to the Head of the Commercial Crime Unit for his personal attention and a request made to his officers; similar requests were made to a few Heads of the organisations and close friends for their personal

attention;

- * interviews were carried out on the perpetrators when the response by way of mailing was felt to be inadequate.

4.5.1.2 Interview method

The interview method of collecting data involves presentation of oral-verbal stimuli and reply in terms of oral-verbal output. This method could be carried out either through personal interview or telephone interview.

Howard and Sharp (1985) stated that a major advantage of the interview method is that a "higher quality" of information is obtained. Many questions that could not be included in postal questionnaires, either because of the difficulty of answering them or because the answers could not be properly recorded in the questionnaires, could be included in the interviews. Thus, interviews could be seen as a means of getting a lengthy and complex questionnaire filled in. Interviews are also especially suitable if the number of respondents required is smaller than that in postal surveys.

The interview method allows for greater flexibility and control in the process of questioning and in the context which questions are asked and answers given. By using this method, the researcher may be able to expand upon the questions asked in cases where the respondents may be puzzled by a particular

aspect or meaning of the questionnaire. In other words the researcher will be able to accommodate the discussions to fit the needs and understanding of the respondents.

There are several disadvantages associated with using the interview method. One of the major disadvantages is that open ended interviews may not be capable of being analysed statistically and thus the analyses of these interviews may be descriptive and narrative in nature. A researcher using this technique may end up with a set of opinions of the respondents which may not be possible to analyse comparatively. If the interviews were not properly conducted and analysed, the end result could be seen as only a subjective review of opinions expressed during the interviews.

In this research, as it is proven from the pilot testing that poor response came from the perpetrators in answering questionnaires (4 out 20 respondents responded) and only 33 respondents answered from 150 questionnaires sent, it was decided by the researcher to add an interview with the perpetrators. It was decided to have a structured personal interview by using predetermined questions, that is, the same questions as in the mailed questionnaires.

4.5.2 Secondary data

Secondary data in this research are collected through both

published and unpublished data. Published data are available from companies's Annual Reports, Police Department annual crime reports and the Malaysian Prison's Department annual report. Examples of such published data are:

- * Annual Crime Reports for the year 1978-88
- * Malaysian annual Prisons Statistics for 1984-1987.
- * Press reports and literature on economic crime.

Unpublished reports are obtained through the help of various agencies in the public and also private sector such as:

- * Annual Commercial Crime Cases for the year 1981 to 1989.
- * Decisions by the Courts in Commercial Crime cases.

4.5.3 Questionnaire

4.5.3.1 Questionnaire design

As was discussed earlier, the main bulk of the survey was carried out by way of mailed questionnaire. One of the main problems with the mailed questionnaire method is the response rate. Bailey (1978, page 138) listed ten variables that could affect the number of questionnaires returned:

- * sponsorship of the questionnaire;
- * length of the questionnaire;
- * attractiveness of the questionnaire format;

- * nature of the accompany letter requesting cooperation;
- * ease of filling out the questionnaire and posting it back;
- * inducement offered to reply;
- * characteristic of people to whom the questionnaire is sent;
- * type of mailing;
- * time of the week, month, or year when the questionnaire is posted;
- * nature of follow-up.

However, according to Black and Chapman (1976 page 396), three factors are considered to be most important:

- * questionnaire length;
- * questionnaire content;
- * anonymity.

According to them, it is a common belief that short questionnaires will be returned or completed more often than longer ones. However, there is no conclusive evidence to support this belief. The questionnaire used in this research consisted of twelve pages printed on both sides of the paper making it only six sheets (see Appendix V). The first page is used to state briefly the objective of the questionnaire together with a pledge of confidentiality of information provided and anonymity of respondents. Instructions regarding the completion of the questionnaire were also given on this

page. Although this questionnaire is considered long, it was felt to be a minimum length to accomplish the objectives of the study.

Another factor that had been considered was the questionnaire content. There are certain questions that could not be answered by the respondents. For example questions on the accounts of the clients or cases which are still under the progress of investigations or cases that had not been dealt with by the Court. Like in the United Kingdom, in Malaysia, there are statutes that prohibit the disclosure of information by officers in the public and private sectors. For example, the Banking Act 1990 prohibits bank officers from disclosing details concerning their clients; the Official Secrets Act (1986), which affects those officers working in public sectors, to disclose the contents of "classified" documents. Thus, in order not to infringe the law, and to elicit greater responses, the emphasis of the questionnaire was on the personal views regarding the research topics and, as far as possible, questions requiring specific disclosures by the respondents were avoided.

Anonymity of the respondents was of prime importance in carrying out this survey, especially as it was known that the researcher is a police officer.

4.5.3.2 Questionnaire development

The questionnaire used in this study was developed from:

- * the previous studies that had been conducted in developed countries;
- * the literature review and desk study of 325 economic crime cases of interest;
- * the result of a pilot-testing study conducted by this researcher in January, 1990.

The questions used in this study were designed to be self-explanatory, easily read and easily answered.

The purpose of the questionnaire was to determine the views of the respondents on the causes and possible remedies of economic crimes in Malaysia. The questionnaire was divided into three parts:

- * background of respondents;
- * social status of respondents(including family) in terms of income and education, perceived economic power, social prestige, and social political influence.
- * causes of economic crime and possible remedies.

All but three questions were close ended. Two of the close-ended questions, were based on a six point scale:0 (No importance) to 5 (Extremely important). The background of the respondent comprises page 2 to 4 of the questionnaire

consisting of questions regarding the background of respondents including age, sex, religion, nationality, marital status, numbers in the family, number of children. The social status of the respondent comprises page 4 to 7 of the questionnaire consisted and included: country in which education received, numbers of study years, type of institute, highest qualification, stream of studies, highest education of parent, present occupation, income, working experience, perceived economic power, social prestige and social/political influence of respondent and parents. Questions relating to causes of economic crime and possible remedies cover pages 8 to 12. It consisted of questions regarding the respondent's profession and organisation. A number of open ended question asked for opinions about why people commit crimes, cases of interest, reasons for interest. Close ended questions asked for their views on the causes of economic crime and possible remedies. There are in all 35 questions.

4.5.3.3 Pilot testing of questionnaire

An early version of this questionnaire was pretested, prior to a pilot survey which was carried out in Malaysia in November and December 1989. Though the format of the initial questionnaire had some differences, including additional open-ended questions and definitions to certain words used, there were only minor differences between the early version and the final version of the questionnaire.

The early version of the questionnaire was pretested among the academic staff of the School of Accountancy, Business, Computing and Economics at Stirling and MBA and MSc students from Malaysia, who were already employed in Malaysia. Minor modifications were made to improve the clarity of some of the questions especially to the definitions of the words theft, cheating, fraud, forgery, criminal breach of trust and embezzlement.

The amended version of the questionnaire was used in the pilot study in Malaysia. A pilot study is necessary in order to validate the questionnaire. According to Moser and Kalton (1971), a pilot study provides the following guidance:

- * the adequacy of the sampling frame from which it is proposed to select the sample;
- * the variability within the population to be surveyed to determine an efficient sample design as the decision on sample size requires some knowledge of the variability of population;
- * the none-response rate to be expected so that the probable numbers of refusals and non-contact can be roughly estimated;
- * the suitability of the methods to collect data with their costs, accuracy and response rates;
- * the adequacy of the questionnaire in terms of the ease of handling them in the field, the efficiency of its layout, the clarity of its definitions, wording, and so on.

As the result of the pilot survey, changes and alterations were

made to the questionnaire. They are:

- * the number of possible causes to question 34 was increased from 35 to 37. To questions 34 and 35 the word 'other' are added giving the opportunities for respondents to add their own opinion of additional variables. Under 'other', five lines were allocated giving more space for the respondents to answer. To the questions 19 and 23, the word 'annual' was added before the word 'income' as some of the respondents are used to monthly income.
- * for the pilot, the questionnaires were posted in January, 1990, this was to make sure that the respondents are available (as holidays and transfers in Malaysia normally taken in December). A total of 80 questionnaires were sent out (20 for each targeted group, that is, investigators, victims, perpetrators and professionals). All questionnaires were assumed to be received as none was returned by the post.
- * the number of respondents was 43, comprising of 16 investigators, 11 victims, 12 professionals and only 4 from perpetrators. The same questionnaires were pilot tested on perpetrators by way of personal interview using the assistance of two staff attached to the Commercial Crime Unit, Police Headquarters, Bukit Aman, Kuala Lumpur. 10 questionnaires were received back in early April, 1990. The response from the perpetrators was not to the satisfaction of the researcher. It was decided that personal interview would be conducted with perpetrators in

the actual survey, in order to increase the number of respondents. It came to my attention that the coded numbers on the questionnaire would 'frighten away' the respondents, especially the perpetrators. Thus the code numbers were deleted in the final questionnaires.

From the results of the pilot study it was possible to estimate the numbers of the questionnaire to be sent out to respondents. The quota that the researcher had in mind was 75 respondents for each group. The figure 75 is derived from the approximate total number of investigators attached to the Commercial Crime Unit at Police Headquarters. From the pilot-testing the researcher discovered that it was not a problem to get 75 respondents from the investigator group, as the researcher still held some 'command' over the unit even though he was away from it for about three years. Also the researcher intended to extend the questionnaire to other main States in Malaysia which also have about the 75 police officers attached to their Commercial Crime Units. The same number of 75 was targeted for victims, perpetrators, and professionals in order to 'balance' the opinions.

4.6 THE SAMPLE

In research involving a survey, the ideal situation would be to select a "representative" sample, that is to draw or select individuals from a population in such a way that the sample

represents the population being studied. If such a sample could be obtained, then the results produced could be generalised for the whole population.

Such a sample could only be obtained if a sampling frame exists; that is, if there exists a list of all the investigators, victims, perpetrators and professionals. Unfortunately, such a list especially of victims, perpetrators, and professionals does not exist. As an alternative, the researcher decided to use:

- * investigators who are currently serving and who have had commercial crime investigation experience;
- * victims who could be identified from the investigations records from the year 1985 to 1989;
- * perpetrators who have been questioned by the police who are also available from the records for the year 1985 to March, 1990;
- * professionals from the well-established institutions such as banks, government agencies, public companies, and so on.

As for the victims and professionals, it is important to have a fair distribution of the organisations they represent. Guidance for the distribution of the questionnaire was taken from the study carried out on 325 cases of interest which are discussed in Chapter Five. What is important in selecting the sample is that since the main objective of this study is to

find the causes of economic crime in Malaysia, it would be appropriate to have opinions from those people who have knowledge and experience on the subject. It is felt by this researcher that the investigators, victims, perpetrators and professionals are the 'qualified' respondents.

10.7 SUMMARY

In summary, the research methodology chosen in this study takes into account research that is systematic, logical, empirical and replicable. Two approaches were considered in carrying out this survey:

- * the mailed questionnaire;
- * the interview.

Each of these methods has its advantages and disadvantages. However, in view of the objectives of this research, and the constraints in terms of time, place and cost under which this study was conducted, it was decided that the postal questionnaire technique was most suitable and mainly used.

In designing the questionnaires the factors taken into considerations are:

- * clarity of words;
- * minimum length to achieve objective;
- * anonymity and confidentiality.

The questionnaire was pretested and a pilot survey was conducted using both mail and interview methods. An appropriate

sample frame was used to cover investigators, victims, perpetrators and professionals. The information received consisted mainly numerical data and the answers to the questionnaires could be coded and processed through the computer. The SPSS-X program was used to analyse the data. Various statistical methods were used to analyse the data.

Above all, the nature of this research (where the data is often 'hidden', secretive and sensitive), the perspective taken, its approach, the data collection, analysis, and so on is founded on what best could be achieved from the limited resources without violating the rules and laws of the Country. The past working experience of this researcher in this field is an added asset.

CHAPTER FIVE

5. A STUDY OF CASES OF INTEREST AND
OTHER LITERATURE

5.1 OBJECTIVE OF THE CHAPTER

The objective of this chapter is to discuss the findings of the study of 325 'cases of interest' by the researcher. Five cases of interest (three of which were investigated by the researcher) are highlighted in detail as all the cases have been dealt with by the Court. Statistical comparisons are also made between the characteristics of the victims and perpetrators of economic crime cases of interest and in the general characteristics of convicted prisoners in Malaysia. The cases are analysed in terms of offences, organisations, race, age, occupation, education and income. The possible causal variables are analysed and listed. This has assisted the researcher in formulating hypotheses and the framework for the questionnaires in this research. The main offence disclosed from this study is Criminal Breach of Trust (CBT), thus a discussion of the elements and ingredients that constitute CBT is considered to be helpful for this research. This chapter will consists of the following:

- * introduction;
- * facts on five selected cases of interest;
- * the 325 cases of interest;
- * what is CBT;

* conclusions.

5.2 INTRODUCTION

As discussed in Chapter Four 'cases of interest' is defined as cases which involve a substantial sum of money or peculiar modus operandi or it involves people of high social status or cases that have national and political implications. For the purpose of this research, the researcher has reviewed all the cases of interest investigated for the years 1987, 1988 and 1989. The cases also cover some which took place in 1985 and 1986. The list of the cases reviewed is as appendix "III". This desk research has the following purpose:

- * to find the possible causes of the crime;
- * to find the social status and education of the complainants and perpetrators;
- * to find any differences between economic crime and traditional crime (pertaining to perpetrators);.
- * to confirm or refute the theories discussed earlier;
- * to mention some of the cases of interest in detail;
- * to link the findings with subsequent studies.

5.3 FACTS ON FIVE SELECTED CASES OF INTEREST

There are five cases of interest that are worth mentioning in this research. They are:

5.3.1 Case 1

Public Prosecutor v. Tan Koon Swan

Facts of the case

On the 16th of May, 1986 a police report was lodged vide Jalan Bandar Report No.8517/86 alleging that \$43,000,000.00 belonging to Multi-Purpose Holdings Bhd (MPHB) had been misappropriated. It also stated that out of this amount \$23,000,000.00 had been remitted to Singapore on 22nd November, 1985.

MPHB was incorporated on 18th August, 1985 with an authorised capital of M1,000,000,000.00 with a paid up capital of M\$751,028,249.00. Its registered office was at 4th Floor, ENE Plaza, Jalan Pudu, Kuala Lumpur.

The principal nature of business carried out by MPHB were:

- * housing development and property investment;
- * trading and marketing of commodities;

As at 22nd November, 1985 the Board of Directors of MPHB comprised of, inter alia:-

- * The accused Tan Koon Swan (Managing Director - Operations)
- * Dato Oon Seng Lee
- * Chin Keng Ming (Company Secretary)

As at the same date, the Executive Committee of the Board of Directors (EXCO) comprised of, inter alia:-

- * The accused Tan Koon Swan
- * Dato Oon Seng Lee

In accordance with the decision of the Board of Directors at its meeting on 10th August, 1977 the Exco was given the powers to make any investment or project which did not exceed M\$5,000,000.00. The Exco had to seek the approval of the Board of Directors if the investment or project exceed M\$5,000,000.00. As a matter of practice, the accused was entrusted with the task of exploring the possibilities and viabilities of investments and making the necessary recommendations to the Board of Directors.

By a Circular Directors' Written Resolution dated 21st November 1985, MPHB was desirous of applying to Malayan United Finance Bhd (MUFB) and Malayan United Bank Bhd (MUBB) for banking facilities of up to M\$22,000,000.00 or additional working capital facilities. In pursuance thereof, it was resolved, inter alia, that:-

- * MPHB was authorised to apply for and accept:-
 - (i) term loan facilities of M\$20,000,000.00 from MUFB

(ii) overdraft facilities of up to M\$2,000,000.00 from MUBB.

- * the above said facilities of M\$22,000,000.00 be deposited with Oversea-Chinese Banking Corporation Limited, of No.65, Chulia Street, Singapore (OCBC, Singapore) to be held in trust for N.M.Rothschild and Sons (Singapore) Limited (ROTHSCHILDS) for re-deployment as and when an investment opportunity for MPH B arises.
- * a bank account in the name of MPH B be opened with MUBB, Jalan P.Ramlee, Kuala Lumpur and that the said bank be authorised to honour all cheques, promissory notes, bills of exchange and other negotiable instruments for any amount without limit provided they are signed jointly, inter alia by any two of the following persons:-
 - (i) the accused Tan Koon Swan
 - (ii) Dato Oon Seng Lee
 - (iii) Chin Keng Ming
 - (iv) Siow Fong Yoo

On the morning of 21st November, 1985 at the office of MPH B at 4th Floor, ENE Plaza, Jalan Pudu, Kuala Lumpur, Chin Keng Ming was informed by the accused that a loan of S\$20,000,000.00 had been arranged with MUBB. The accused then instructed Chin Keng Ming to prepare the application letter for the said loan and to ensure that the said S\$20,000,000.00 was remitted to OCBC, Singapore by 12.00 p.m. on 22nd November 1985.

On the same day Chin Keng Ming received further instruction from the accused to issue a Letter of Authority to MUBB. The letter requested MUBB to confirm with OCBC, Singapore that a sum of S\$20,000,000.00 would be made available to them for disbursement on the instruction of the accused and stated that MPH B undertook to reimburse MUBB for any sum up to S\$20,000,000.00. The said letter of authority to MUBB was dictated by the accused and signed by Chin Keng Ming and Dato Oon Seng Lee.

Pursuant to this Letter of Authority, an Application for Outward Remittance form was then completed and signed by Chin Keng Ming and Siow Fong Yoo on 22nd November, 1985. The said S\$20,000,000.00 (which is equivalent to M\$23,200,000.00) was then deposited with OCBC, Singapore to be held in trust for Rothschild and to be disbursed on the instruction of the accused.

Vide a letter dated 25th November, 1985 the accused authorised Rothschild to instruct OCBC, Singapore to remit the said sum of S\$20,000,000.00 to the account of M/S Price Waterhouse, Singapore held at the Standard Chartered Bank of No.6, Battery Road, Singapore. M/S Price Waterhouse was then to the Steering Committee of Banks elected to look into the

affairs of Pan-Electric Industries Limited, Singapore and was also the custodian of funds to be deposited by the accused in accordance with an agreement reached between the accused and the said Steering Committee on 23rd November, 1985.

On 25th November, 1985 S\$20,000,000.00 was credited into the account of M/s Price Waterhouse (Account No.01-051-7330-4) held at the said Standard Chartered Bank from OCBC, Singapore on the instruction of Rothschild. On the next day, M/s Price Waterhouse received a telex notification from the accused which stated, inter alia, that the crediting of the said S\$20,000,000.00 into the account of M/s Price Waterhouse formed part of the amount referred to in the agreement reached between the accused and the abovementioned Steering Committee on 23rd November, 1985.

In November, 1985 the accused had an interest in Pan-Electric Industries Limited, Singapore as two publicly listed companies in the control of the accused i.e. Sigma International Limited and Growth Industrial Holdings Limited held a substantial shareholding in Pan-Electric Industries Limited.

It is therefore clear that pursuant to the instruction of the accused the sum of S\$20,000,000.00 was debited on 22nd November, 1985 from the account of MPH B held at MUBB. The said transaction was made not for the benefit of MPH B but for the benefit of the accused by virtue of his interest in Pan-Electric Industries Limited. Further, although the amount involved exceeded M\$5,000,000.00, there was no approval by the Board of Directors of MPH B for this transaction. As such, the said transaction was in violation of the Circular Directors' Written Resolution dated 21st November, 1985 and the decision of the Board of Directors at its meeting on 10th August, 1977.

The accused pleaded guilty and was sentenced to 18 months imprisonment.

Tan Koon Swan was a Minister in Malaysian Cabinet and also a President to a main Chinese political party, the Malaysian Chinese Association (MCA). Prior to this he served a 2 year sentence for criminal breach of trust in Singapore for the Pan-Electric affairs.

5.3.2 Case 2

Deputy Public prosecutor v Mohamad Abdullah Ang Swee Kang

Facts of the case

Malaysia Overseas Investment Corporation (MOIC) was incorporated on 28.4.83 in pursuance of a joint venture agreement signed between nine parties (one of which was MAA Holdings Sdn Bhd.) to "cooperate with each other for the purpose of investing overseas, expanding or furthering Malaysian international trade, and to function as a body for trade and investment purposes." MAA Holdings Sdn Bhd (MAA) owns 666,670 shares in MOIC which represents 13.4 % of the equity of MOIC. The accused and his wife own 163,502 shares in MAA which amount to 33.3% of the equity. He was, and still is, a Director of MAA at all material times.

Since the incorporation of MOIC, the accused was appointed its Managing Director until his resignation on 11.9.1985. As the Managing Director, the accused had full management and financial control of the company. He had been entrusted with dominion over money belonging to MOIC, including those in the various bank accounts operated by MOIC.

In addition to his interest in MOIC, the accused had other business interests. One of these interests was NARSPRO Sdn.Bhd. (NARSPRO) which is a joint venture to establish rubber manufacturing factories in the district of Kubang Pasu, Kedah. Under a joint venture agreement dated 27.11.84, MAA holds 20% equity in NARSPRO. NARSPRO had a contract with LON TAI CHEMICAL INDUSTRIAL CO.LTD. of Taiwan to purchase machinery plant costing US\$220,000.00 for the manufacture of household gloves. In pursuance of this contract, NARSPRO paid US\$66,000.00 as initial payment and was to have established a Letter of Credit (LC) for US\$132,000.00 with the balance of US\$22,000.00 to be paid on commission of the plant. However, NARSPRO was unable to open the required LC to fulfil the terms of this contract due to lack of funds. The accused then agreed to open the required LC.

The accused then directed that an application be made to Malayan Banking Bhd. on 28.1.85 to use the bank facility of MOIC to open the said LC. Although MOIC had no interest whatsoever in NARSPRO, the accused signed the said application as an authorised signatory of the account of MOIC with Malayan Banking Bhd. Subsequently, Malayan Banking Bhd. Letter of Credit No.KL 84-0238 dated 29.1.85 for the sum of US\$132,000.00 was issued with LON TAI CHEMICAL INDUSTRIAL CO.LTD named as its beneficiary.

When the machinery plant arrived in Penang on 25.3.85, NARSPRO was still unable to pay Malayan Banking Bhd. for the said LC. The accused then decided that MOIC would pay Malayan Banking Bhd. for the LC. On his instruction, a sum of M\$338,808.80 was paid to Malayan Banking Bhd. from MOIC's account with Citibank, Medan Pasar Branch, Kuala Lumpur. This payment was effected through Citibank cheque No.472278 dated 9.4.1985. Malayan Banking Bhd then released the shipping

documents for the machinery plant which is now commissioned in Jitra, Kedah.

Therefore, the said payment of M\$338,808.80 was not for the benefit of MOIC and was made without the knowledge nor approval of the Board of Directors of MOIC. On the other hand, in view of his interest in NARSPRO through MAA, the accused had benefited from the transaction.

The accused was charged for criminal breach of trust an offence punishable under Section 409 of the Penal Code which he pleaded guilty. He was sentence to 8 years imprisonment. However on appeal his sentence was reduced to 4 years.

There was allegation that when the accused was in the Prison of Kajang, Kuala Lumpur he was given a "special VIP treatment" by the prison officers which came as a big publicity in the Press [See Appendix "IV "]. The Home Office instructed that the officers involved be suspended and a Board of Inquiries was set up. It is very interesting in the sense that the economic crime perpetrator could penetrate Government institutions not only while in the course of investigations as discussed earlier but could also penetrate out the prison wall while serving a sentence.

5.3.3 Case 3

Deputy Public Prosecutor v Hew Ah Choo

Facts of the case

Selangor Hawkers and Petty Traders Co-operative Society Berhad (SAKKAP) commenced operations on 20th March, 1972 with its membership open to all hawkers and petty traders in the State of Selangor as well as to persons directly and indirectly involved with the welfare of such hawkers and petty traders.

Dato Dr Tan Tiong Hong was the Chairman and Adviser of SAKAPP and on his request, Mr. Tan Seng Soon became a member and was then appointed to the Board of Directors where he held the position of Secretary. From police investigations, the accused who was appointed a director of SAKAPP on 24th February, 1978 and entrusted with the task of reviving its business activities, had control over the management affairs of SAKAPP (including dominion over the funds of the co-operative). He eventually assumed office of Chairman in April 1983.

The Executive Committee(EXCO) of SAKAPP, on the 2nd July,1982 and 3rd November 1982 approved the following respective loan applications:

(a) Chow Fook Leng

The loan application of Chow Fook Leng dated 1st July 1984 was approved as SAKAPP Loan No.SL 0144. The amount of the loan was not recorded in the minutes book of the meetings of the EXCO. However, the said loan application stated the amount applied for was M\$100,000.00. This loan was unsecured.

(b) Loo Siew Kwong

The loan application of Loo Siew Kwong dated 16th November, 1983 was approved as SAKAPP Loan No. SL.0174. The amount of loan was again not recorded in minutes book of the meetings of the EXCO. But the said loan application stated the amount applied for was M\$50,000.00. This loan was also unsecured.

The Directors who approved these two loans were:

- * The accused;
- * Dato Dr.Tan Tiong Hong (Chairman)
- * Tan Seng Soon
- * Hew Sin Keow

Both Chow Fook Leng and Loo Siew Kwong were, at the material time, Directors and employees of Aero-Leisure Corporation(M) Sdn Bhd. The accused was Chairman of this company. He and his family company, Hew Thai & Sons Holdings Sdn Bhd. held a sum of 180,000 shares out of a total of 500,000 shares.

The M\$100,000 which was applied for by Chow Fook Leng was paid to him in three payments:

| <u>Date</u> | <u>Amount</u> |
|-------------|---------------|
| 1.7.82 | \$40,000.00 |
| 13.7.82 | \$10,000.00 |
| 15.7.82 | \$50,000.00 |

On the instructions of the accused, 8 further payments totalling \$325,000.00 were made in 1982 and 6 further payments totalling \$334,000.00 were made in 1983 to Chow Fook Leng although the latter did not submit any new loan applications. Rather, these further 14 payments were made in pursuance of the same loan application dated 1st July,1982 in respect of which \$100,000.00 had already been disbursed. This money amounting to \$659,000.00 was channelled into Aero-Leisure Corporation (M) Sdn. Bhd.

The \$50,000.00 which was applied for by Loo Siew Kwong was paid to him on 16th November, 1982. On the instructions of the accused, 3 further payments totalling \$188,000.00 were made to Loo Siew Kwong although the latter did not submit any new loan application. Rather, these further 3 payments were made in pursuance of the original loan application dated 16th November, 1982 in respect of which \$50,000.00 had already been disbursed. The said \$188,000.00 was again channelled to Aero-Leisure Corporation (M) Sdn Bhd.

It was the normal practice of Dato Dr. Tan Tiong Hong, Tan Seng Soon, Hiew Voon Yau and Koh Ang Lee to pre-sign blank cheques. These cheques were then handed over to the accused. The accused was therefore the ultimate signatory and had sole discretion in the disbursement of these cheques.

For the purpose of this case, police investigations revealed that whenever Aero-Leisure Corporation (M) Sdn Bhd was in need of funds, either Chow Fook Leng or Loo Siew Kwong would so inform the accused. The accused would then instruct the relevant officials of SAKAPP to release sums of money, in the amounts to be specified by him, to Chow Fook Leng and Loo Siew Kwong. The total sum of money released and paid into Aero-Leisure Corporation (M) Sdn Bhd. through Chow Fook Leng and Loo Siew Kwong were \$659,000.00 and \$188,000.00 respectively. These payments were made without the approval of the EXCO and vide the blank cheques which were already presigned by the other signatories and kept in the custody of the accused.

The accused was charged for criminal breach of trust, in his capacity as director, in respect of the total sum of \$847,000.00 belonging to SAKAPP, under Section 409 of the Penal Code. He was sentenced to 9 years imprisonment.

5.3.4 Case 4

Deputy Public Prosecutor v Dato Kee Yong Wee

Facts of the case

Acting on a report lodged on 11th December, 1986 by Bank Negara (Central Bank), Police investigation was initiated into possible criminal offences by some of the Directors of Young Malaysian Economic Development Cooperative Society Ltd (KOMUDA). One of the investigation was focused on the proposed acquisition of 40 million shares in Malaysian Resources Corporation Bhd (MRCB) from Kee Chan Holdings Sdn Bhd.

This proposal to acquire 40 million MRCB shares for a total consideration of \$38,000,000.00, to serve as a public vehicle for the business activities of KOMUDA was first submitted to 37th EXCO of KOMUDA held on 18th March, 1986. Following a briefing by the Hon. Secretary, Koh Kim Swee, the EXCO agreed in principle to proceed with the acquisition. The vendor for this transactions was Kee-Chan Holdings.

Dato Kee Yong Wee, the chairman of KOMUDA holds 50% equity in Kee-Chan Holdings. Dato Kee Yong Wee was present and continued to preside over the meeting when the discussion was conducted as well as when a decision was taken by the EXCO on the proposed acquisition. The records of this meeting also indicated that Dato Kee Yong Wee did not declare his interest in Kee-Chan Holdings as a vendor of the 40 million MRCB shares.

The price agreed for the shares was 95 cents when the prevailing market price was between 40-50 per share. The rationale given for the excessive price was that Kee-Chan Holdings would be able to deliver 40 million shares and thus give KOMUDA a significant interest in MRCB. Statement recorded from the General Manager who prepared the preliminary report tendered to the 37th EXCO indicated that the briefing given by Koh Kim Swee reflected an evident bias in favour of the acquisition and that this evident bias was conveyed in Koh Kim Swee's instructions to him when he was asked to prepare the preliminary report. At the 38th meeting of the EXCO of KOMUDA conducted on 25 March 1986, the EXCO agreed 'in principle' to proceed with the acquisition. Based on this approval 'in principle', Koh Kim Swee instructed that a cheque of \$1.9 million to be prepared. This cheque No.519104 dated 25th March, 1986 for \$1.9 million was then given to Kee-Chan Holdings on signing of the Memorandum of Understanding between Kee-Chan and KOMUDA on 26 March 1986 and cleared that same day. The terms of the Memorandum provided that a further \$1.9 million was to be paid on the execution of Sale and Purchase Agreement (SPA) and this \$1.9 million together with the earlier \$1.9 million paid on the execution of the Memorandum of Understanding was to represent the 10% down payment of the price. Paragraph 5(b) of the Memorandum states also that the balance of the purchase price of \$34.2 million was to be paid in 22 monthly instalments with the first of these instalments only to be made within one month from the date of the SPA to be executed subsequent to this Memorandum.

At the 40th EXCO held on 6th May 1986 the Deputy Minister of Culture, Youth and Sport, Wang Choon Wing in his capacity as Hon. Treasurer of KOMUDA voiced reservations on the proposed acquisition and suggested that more time should be given to consider this investment. On conclusion of the meeting the 40th EXCO decided to proceed with the acquisition. Subject to a report to be tendered by the General Manager of KOMUDA. This decision of the 40th EXCO was reflected in minutes of the

40th EXCO. A report was in fact prepared and tendered by the Hon. Secretary Koh Kim Swee at 41st EXCO held on 28th May, 1986.

Contrary to the decision of the 40th EXCO that the acquisition would be subject to a report by the General Manager, a cheque No. 519095 dated 7 May, 1986 for \$1.9 million was prepared on the instructions of Koh Kim Swee. Cheque was signed by Dato Kee Yong Wee, Wang Chin Weng, and Yeoh Yuen Chong and was cleared on 7th May, 1986.

On 5th of June 1986 Koh Kim Swee again instructed that a further payment of \$1.4 million be made out to Kee-Chan Holdings. This was made vide cheque No. 532892 dated 5th of June, 1986 and was cleared on 7th June, 1986. This cheque was signed by Dato Kee Yong Wee, Yeoh Yuen Chong and Koh Kim Swee.

The Sale and Purchase Agreement dated 11 June, 1986 was subsequently executed with Dato Kee Yong Wee, Koh Kim Swee, and Wang Choon Wing signing on behalf of KOMUDA. The SPA on execution superseding the Memorandum of Understanding. Thus the above payments were made before the execution of the Sale and Purchase Agreement and without the approval from the Registrar-General of Cooperatives.

Investigation also reveal that of the 1,739,000 MRCB share scripts delivered to KOMUDA under the Sales and Purchase Agreement dated 11th of June, 1986, 1,550,000 shares were purchased by Kee-Chan Holdings on the open market at prices below that paid by KOMUDA to Kee-Chan Holdings where Dato Kee Yong Wee has an interest in the said company.

Dato Kee Yong Wee (a former Deputy Minister of Trade and Industries) was charged with criminal breach of trust together with Wang Choon Weng, the Deputy Minister for Culture and Youth and Sport, Yeoh Yuen Chong, the Vice-Chairman of KOMUDA and Koh Kim Swee, the Hon. Secretary for KOMUDA. There is a plea bargaining in this case where Dato Kee Yong Wee pleaded guilty and was sentenced to the total of 30 months imprisonment and charges on others were dropped. However Wang Choon Weng the Deputy Minister of Culture pleaded guilty to another charge of criminal breach of trust where he was sentenced to 6 months imprisonment. The facts are in the next case.

5.3.5 Case 5

Deputy Public Prosecutor v. Wang Choon Weng (then he was Deputy Minister for Culture and Youth and Sport)

Facts of the case

The accused (Wang Choon Weng) is a Director and a shareholder in Ruban Enterprise Sdn Bhd.

On the 19th day of May, 1981, by a circular resolution, the Board of Directors resolved to purchase 52 acres of land at Mukim 17, Daerah Timur Laut, Pulau Pinang at a consideration of \$14,529,247.00. The Board of Directors also resolved to pay as brokerage to various persons at a cost of 10 cents per sq.ft. totalling \$253,623.00 towards the purchase of the aforesaid land.

Pursuant to the said resolution, the accused approved and paid to himself two cheques for the sum of \$50,000.00 and \$61,000.00 respectively on 26.11.82 and 3.12.82 as advance payment of the said brokerage.

Subsequently further sums amounting to \$235,623.00 were approved by accused and paid to various persons as brokerage which amount corresponded with the circular resolution passed on 19th of May, 1981.

The approval and payment of \$346,623.00 as brokerage by the accused was contrary to the resolution passed on 19th of May, 1981. The overpayment of \$111,000.00 without any prior approval of the Board of Directors therefore constituted the offence of the criminal breach of trust.

Investigation into the company's account also revealed that a sum of \$100,000.00 vide cheque No.083 794 was approved and paid by the accused to himself on 3th of May, 1984 as commission payable for the purchase of land.

The approval and payment of the last mentioned amount of \$100,000.00 was also without the approval of the Board of Directors and constituted the offence of Criminal Breach of Trust. All the payments by way of cheques were signed by the accused as the sole signatory. It is also noted that from 18th of August, 1982, Ruban Enterprise Sdn. Bhd. took a loan from Supreme Finance and that between 3rd of June, 1983 to 31st of May, 1984 a cooperative KOMUDA bought a total of 1,052,000 shares in Ruban Enterprise Sdn Bhd making it the Single largest shareholder. The accused was the Honorary Treasurer of KOMUDA and Dato Kee Yong Wee was the Chairman in the case mentioned in para 3.5.

From five examples, quite similar explanations could be found on analysing the case contents. The causal variables are:

* in position of trust;

- * power abuse;
- * incompetence of staff and directors;
- * mismanagement of staff and directors;
- * poor accounting and auditing;
- * political influence;
- * recession has affected their organisation.

In the second case it was also revealed that special treatment was given to the economic crime perpetrator in Prison, which has brought a scandal to the Prison service in Malaysia. A major reorganisation of the Prison took place after this incident. However this incident remains as a typical example of what economic crime perpetrators can do to penetrate the investigative and custodial institution.

5.4 THE 325 CASES OF INTEREST

. The 325 cases reviewed are cases of interest investigated after the establishment of the special Commercial Crime Unit at Police Headquarters, Bukit Aman, Kuala Lumpur. The researcher has taken the opportunity of this study to peruse the files with the intention of identifying the relevant factors for the Research. Only in cases where they were dealt with by the Courts (as in the above five cases,) could the researcher elaborate in detail without being subject to contempt of Court or an offence under the Official Secret Act

(OCA) 1986. This is the first attempt to study cases of economic crime in detail. It is hoped that further research will be carried out from this point onward.

From the 325 cases of interest as per appendix III the following factors are established:

5.4.1 Offences.

Table:5A Breakdown of cases by offences

| <u>Type of offences</u> | <u>No.of cases</u> | <u>Percentage</u> |
|-------------------------|--------------------|-------------------|
| CBT | 160 | 49.23% |
| Cheating | 134 | 41.23% |
| Forgery | 21 | 6.46% |
| Others | 10 | 3.08% |

The 10 cases under the classification of "others" comprising of 3 offences under the Financial Act, 5 cases under the Cooperative Act and 1 case each under the Commodity Act and Company Act.

5.4.2 Organisations

Table: 5B Breakdown of cases by organisation and amount of loss

| Type of Organisation | No. of Cases | Percentage of cases | Amount lost (\$) | Percentage of Amount |
|----------------------|--------------|---------------------|-----------------------|----------------------|
| Individual | 48 | 14.77% | 13,957,585.37 | 3.37% |
| Cooperative | 51 | 15.69% | 74,463,223.31 | 18.00% |
| Government Agency | 13 | 4.00% | 10,394,736.29 | 2.51% |
| Bank | 31 | 9.54% | 45,652,635.40 | 11.03% |
| Company | 172 | 52.92% | 262,688,132.47 | 63.48% |
| Miscellaneous | 10 | 3.08% | 6,666,132.59 | 1.61% |
| TOTAL | 325 | 100 | 413,822,691.43 | 100% |

From Table 5B, the breakdown of cases by organisation according to the highest order are company(172 cases), Cooperative (51 cases), Individual (48 cases), Bank (31 cases), Government Agency (13 cases) and Miscellaneous 10 cases.

From Table 5C, the 5 types of companies that have the highest number of cases are property (35), financial (22), Service (17), Trading (11), Manufacturing (9). Leasing companies have 4 cases, but the losses total \$20,221,855.60 making an average of exceeding \$5 millions per case.

Table 5C Breakdown of cases by company and amount of losses

| Type of Company | No of cases | Percentage of cases | Amount loss(\$) | Percentage of amount |
|------------------|-------------|---------------------|-----------------------|----------------------|
| Property | 35 | 10.77% | 114,906,419.80 | 27.77% |
| Financial | 22 | 6.77% | 66,821,010.00 | 16.15% |
| Service | 17 | 5.23% | 4,733,609.16 | 1.14% |
| Trading | 11 | 3.39% | 5,054,473.73 | 1.22% |
| Manufacturing | 9 | 2.77% | 4,664,001.80 | 1.13% |
| Building | 8 | 2.46% | 6,458,497.50 | 1.56% |
| Insurance | 9 | 2.77% | 5,754,117.11 | 1.39% |
| Import/Export | 5 | 1.55% | 3,642,224.07 | 0.88% |
| Logging | 4 | 1.23% | 1,760,000.00 | 0.42% |
| Construction | 4 | 1.23% | 1,652,842.17 | 0.40% |
| Credit | 4 | 1.23% | 1,598,800.00 | 0.39% |
| Tour/Travel | 4 | 1.23% | 1,374,692.07 | 0.33% |
| Leasing | 4 | 1.23% | 20,221,855.60 | 4.87% |
| Transport | 3 | 0.92% | 716,650.00 | 0.17% |
| Lottery | 3 | 0.92% | 600,273.58 | 0.15% |
| Investment | 3 | 0.92% | 6,105,478.12 | 1.48% |
| Shipping | 2 | 0.61% | 4,495,405.00 | 1.09% |
| Engineering Firm | 2 | 0.61% | 3,824,752.99 | 0.92% |
| Motors | 2 | 0.61% | 1,314,651.00 | 0.32% |
| Printing | 2 | 0.61% | 447,888.87 | 0.11% |
| Supermarket | 2 | 0.61% | 382,645.39 | 0.09% |
| Securities | 2 | 0.61% | 1,173,710.16 | 0.28% |
| Hotel | 2 | 0.61% | 539,524.48 | 0.13% |
| Family | 1 | 0.31% | 1,000,000.00 | 0.24% |
| Video | 1 | 0.31% | 922,750.00 | 0.22% |
| Deposit Takings | 1 | 0.31% | 600,000.00 | 0.15% |
| Brewery | 1 | 0.31% | 371,529.00 | 0.09% |
| Money Changer | 1 | 0.31% | 250,000.00 | 0.06% |
| Product | 1 | 0.31% | 200,000.00 | 0.05% |
| Tax Free | 1 | 0.31% | 220,000.00 | 0.05% |
| Marketing | 1 | 0.31% | 200,000.00 | 0.05% |
| Car Hire | 1 | 0.31% | 140,000.00 | 0.03% |
| Electrical | 1 | 0.31% | 144,362.00 | 0.04% |
| Furniture | 1 | 0.31% | 112,009.00 | 0.03% |
| Airlines | 1 | 0.31% | 16,000.00 | 0.01% |
| News Agency | 1 | 0.31% | 267,962.00 | 0.07% |
| TOTAL | 172 | 52.92% | 262,688,132.47 | 63.48% |

Out of the 10 miscellaneous cases, 6 are legal firms with the total losses of 5,684,000.00; 1 is a College with the loss of 128,360; 1 is a club with the loss of 700,000.00; 1 is an Estate with the loss of 154,108.59; 1 is a political party with no losses.

5.4.3 Victims

A victim is defined as a person who has been directly or indirectly affected or victimised by the economic crime. In this research the victims are those who have come forward to lodge an official complaint to the police.

5.4.3.1 Race

Table 5D Breakdown of Victim by Race

| <u>Race</u> | <u>Male</u> | <u>Female</u> | <u>Percentage</u> |
|-------------|-------------|---------------|-------------------|
| Chinese | 195 | 4 | 58.02% |
| Malay | 90 | 9 | 28.86% |
| Indian | 37 | - | 10.78% |
| Singaporean | 2 | - | 0.59% |
| American | 2 | - | 0.59% |
| Hong Kong | 1 | - | 0.29% |
| Korean | 1 | - | 0.29% |
| Taiwan | 1 | - | 0.29% |
| Australian | 1 | - | 0.29% |
| <hr/> | | | |
| TOTAL | 330 | 13 | 100.00% |
| <hr/> | | | |

From Table 5D, the Chinese comprises of 58.02% (195) of the

victims. 28.86% (90) are Malays and 10.78% (37) are Indians. This is understandable as the Chinese are the majority in business in Malaysia.

5.4.3.2 Age

Table 5E Breakdown of Victim by Age

| <u>Age Group</u> | <u>Numbers of Complainant</u> | <u>Percentage</u> |
|------------------|-------------------------------|-------------------|
| BELOW 21 Years | 0 | 0 |
| 21 - 29 Years | 14 | 4.08% |
| 30 - 39 Years | 144 | 41.99% |
| 40 - 49 Years | 133 | 38.78% |
| 50 - 59 Years | 36 | 10.49% |
| 60 and above | 16 | 4.66% |
| <hr/> | | |
| TOTAL | 343 | 100.00% |
| <hr/> | | |

The majority of the victims are above 30 years old. There is no victims under 21 years old.

5.4.3.3 Occupation

As illustrated in Table 5F, most of the victims are Executive and above. [Executive is a person responsible for a project, activity or business. He is normally having the function of carrying plans, orders, laws, etc, into effect. As in the case of Malaysia an executive normally holds a diploma or a degree as an entry qualification. Middle Executive is referred to

person who has five to ten years experience in an organisation. While Senior executive is referred to person who has ten years an above working experience and who holds key position in an organisation.] This could be said also that responsible persons from the organisations came forward to lodge police complaints.

Table 5F Breakdown of victim by Occupation

| <u>Position</u> | <u>No.of Complainant</u> | <u>Percentage</u> |
|-------------------------------|--------------------------|-------------------|
| Senior Executive and above | 89 | 25.95% |
| Middle Executive | 70 | 20.41% |
| Executive | 146 | 42.56% |
| Clerical and under | 31 | 9.04% |
| Not Known | 7 | 2.04% |
| <hr/> | | |
| TOTAL | 343 | 100.00% |
| <hr/> | | |

5.4.3.4 Education

Table 5G Breakdown of victim by Education

| <u>Level of Education</u> | <u>No.of Cases</u> | <u>Percentage</u> |
|---------------------------|--------------------|-------------------|
| University | 147 | 45.23% |
| College | 74 | 22.77% |
| Senior Cambridge | 83 | 25.54% |
| Under SC | 21 | 6.46% |
| <hr/> | | |
| TOTAL | 325 | 100.00% |
| <hr/> | | |

The majority of the victim received a University education.

5.4.3.5 Income

Table 5H Breakdown of victims by Income

| <u>Monthly income</u> | <u>No.victim</u> | <u>Percentage</u> |
|-----------------------|------------------|-------------------|
| Unemployed | 5 | 1.46% |
| Under \$500 | 0 | 0 |
| \$500- \$749.00 | 3 | 0.88% |
| \$750- \$999.00 | 14 | 4.08% |
| \$1000-\$1500.00 | 67 | 19.53% |
| \$1500-\$1999.00 | 72 | 20.99% |
| \$2000-\$2499.00 | 58 | 16.91% |
| \$2500-\$2999.00 | 60 | 17.49% |
| \$3000 and above | 57 | 16.62% |
| Not known | 7 | 2.04% |
| <hr/> | | |
| TOTAL | 343 | 100.00% |
| <hr/> | | |

A large number of the victims received income of more than \$1000.00 per month. 57(16.62%) of the victims received an income of \$3000 and above. It is only 22(6.42%) of the victims received less than \$1000 per month.

5.4.4 Perpetrator

A perpetrator is defined as a person directly or indirectly responsible for the commission of economic crime. In this

research the perpetrators are persons who were called by the police either as a suspect or an accused.

5.4.4.1 Race

Table 5I. Breakdown of perpetrators by race

| <u>Race</u> | <u>No. of person</u> | <u>Male</u> | <u>Female</u> | <u>Percentage</u> |
|--------------|----------------------|-------------|---------------|-------------------|
| Chinese | 271 | 263 | 8 | 61.17 |
| Malay | 129 | 119 | 10 | 29.12 |
| Indian | 40 | 39 | 1 | 9.02 |
| Dutch | 1 | 1 | | 0.23 |
| American | 1 | 1 | | 0.23 |
| Filipinos | 1 | 1 | | 0.23 |
| Total | 443 | 424 | 19 | 100% |

Table 5J. Annual Admissions-Convicted Prisoners By Race for the Year 1985-1987

| <u>Ethnic Group</u> | <u>Male</u> | | | <u>Female</u> | | | <u>Total</u> | | | <u>Percentage</u> | | |
|---------------------|---------------|---------------|---------------|---------------|--------------|--------------|---------------|---------------|---------------|-------------------|------------|------------|
| | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| Malay | 8,460 | 9,665 | 9,308 | 283 | 357 | 352 | 8,743 | 10,022 | 9,660 | 36.9 | 40.3 | 38.62 |
| Chinese | 5,362 | 5,945 | 5,960 | 87 | 107 | 124 | 5,449 | 6,052 | 6,084 | 23.1 | 24.3 | 24.32 |
| Indian | 3,040 | 3,093 | 2,662 | 44 | 55 | 54 | 3,084 | 3,148 | 2,716 | 13.1 | 12.6 | 10.86 |
| Others(Malaysian) | 1,265 | 820 | 715 | 25 | 43 | 37 | 1,290 | 863 | 752 | 5.5 | 3.5 | 3.00 |
| Others(Foreign) | 4,620 | 3,796 | 4,655 | 449 | 1,004 | 1,148 | 5,069 | 4,800 | 5,803 | 21.4 | 19.3 | 23.20 |
| TOTAL | 22,747 | 23,319 | 23,000 | 888 | 1,566 | 1,715 | 23,635 | 24,885 | 25,015 | 100 | 100 | 100 |

Source: Prison Statistic for Year 1985-1987
 prepared by Research Division, Prison Headquarters,
 Kajang, Malaysia.

From Table 5I, the Chinese represent the most numbers of perpetrators in committing economic crime. In comparison from Table 5J i.e. convicted prisoners by age, the Malay represent the most perpetrators in traditional crime.

5.4.4.2 Age

Table 5K Breakdown of the known Perpetrators by Age

| <u>Age Group</u> | <u>No.of Perpetrators</u> | <u>Percentage</u> |
|------------------|---------------------------|-------------------|
| BELOW 21 Years | 1 | 0.22% |
| 21 - 29 Years | 14 | 3.16% |
| 30 - 39 Years | 132 | 29.80% |
| 40 - 49 Years | 229 | 51.70% |
| 50 - 59 Years | 55 | 12.41% |
| 60 and above | 0 | 0.00% |
| Age Not Known | 12 | 2.71% |
| <hr/> | | |
| TOTAL | 443 | 100.00% |

Table 5L Annual Admission in 1985-1987 -Convicted Prisoner by Age

| <u>GROUP AGE</u> | <u>Number of Prisoners</u> | | | <u>Percentage</u> | | |
|------------------|----------------------------|--------|--------|-------------------|---------|---------|
| | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| BELOW 21 YEARS | 2,616 | 2,740 | 2,679 | 11.1% | 11.0% | 10.71% |
| 21 - 29 YEARS | 13,378 | 13,820 | 11,941 | 56.6% | 55.5% | 47.74% |
| 30 - 39 YEARS | 5,774 | 6,573 | 8,153 | 24.4% | 26.4% | 32.59% |
| 40 - 49 YEARS | 1,519 | 1,356 | 1,847 | 6.4% | 5.5% | 7.38% |
| 50 - 59 YEARS | 253 | 328 | 320 | 1.1% | 1.3% | 1.28% |
| 60 and above | 95 | 68 | 75 | 0.4% | 0.3% | 0.30% |
| <hr/> | | | | | | |
| TOTAL | 23,635 | 24,885 | 25,015 | 100.00% | 100.00% | 100.00% |

From Table 5K, the largest number of perpetrators are between the age group of 40 to 49 years old. Comparing to Table 5L, the ages of the prisoners in prison for the main traditional crime, the most numbers of prisoners are between the ages of 21 to 29 years old.

5.4.4.3 Occupation

Table 5M. Breakdown of the known Perpetrators by Occupation

| | <u>No. of Perpetrators</u> | <u>Percentage</u> |
|-------------------------------|----------------------------|-------------------|
| Senior Executive and above | 246 | 55.53% |
| Middle Executive Executive | 57 | 12.87% |
| | 65 | 14.67% |
| Clerical and below | 52 | 11.74% |
| Not known | 23 | 5.19% |
| <hr/> | | |
| TOTAL | 443 | 100.00% |
| <hr/> | | |

From the Table 5M, most of the perpetrators are from the Senior Executive and above.

5.4.4.4 Income

From Table 5N, most perpetrators received income more than \$3000 and above. It can be concluded that most of the perpetrators are from high income group within the context of

Malaysia society. Judging from Table 50, about 97% of the total population of Malaysian prisoners (about 25,000) are drawing incomes under \$750. About 25% of the prisoners are employed. Thus we can conclude that most of the high income group of Malaysia society do not commit traditional crimes.

Table 5N Breakdown of the known Perpetrators by Income

| <u>Monthly Income</u> | <u>No. of Perpetrators</u> | <u>Percentage</u> |
|-----------------------|----------------------------|-------------------|
| Unemployed | 5 | 1.13% |
| BELOW \$500.00 | 7 | 1.58% |
| \$500 -\$749.00 | 13 | 2.94% |
| \$750 -\$999.00 | 21 | 4.74% |
| \$1000-\$1,499.00 | 53 | 11.96% |
| \$1500-\$1,999.00 | 67 | 15.13% |
| \$2000-\$2,499.00 | 58 | 13.09% |
| \$2500-\$2,999.00 | 70 | 15.80% |
| \$3000.00 and above | 126 | 28.44% |
| Not known | 23 | 5.19% |
| <hr/> | | |
| TOTAL | 443 | 100.00% |
| <hr/> | | |

Table 50 Annual Admission in 1985-1987 - Convicted Prisoners by monthly income

| <u>Monthly Income</u> | <u>No. of Prisoners</u> | | | <u>Percentage</u> | | |
|-----------------------|-------------------------|--------|--------|-------------------|-------|--------|
| | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| UNEMPLOYED | 3,118 | 6,443 | 6,297 | 13.2% | 25.9% | 25.17% |
| BELOW \$250.00 | 8,493 | 7,072 | 4,881 | 35.9% | 28.5% | 19.51% |
| \$250-\$499.00 | 8,583 | 7,247 | 9,287 | 36.3% | 29.1% | 37.13% |
| \$500-\$749.00 | 2,482 | 2,740 | 3,696 | 10.5% | 11.0% | 14.78% |
| \$750-\$999.00 | 714 | 1,078 | 496 | 3.0% | 4.3% | 1.98% |
| \$1000-\$1499.00 | 204 | 225 | 249 | 0.9% | 0.9% | 0.99% |
| \$1500 and above | 41 | 80 | 109 | 0.2% | 0.3% | 0.48% |
| <hr/> | | | | | | |
| TOTAL | 23,635 | 24,885 | 25,015 | 100% | 100% | 100% |
| <hr/> | | | | | | |

5.4.4.4 Education

Table 5P Breakdown of cases by perpetrators' education

| <u>Level of Education</u> | <u>No. of cases</u> | <u>Percentage</u> |
|---------------------------|---------------------|-------------------|
| University | 52 | 16.00% |
| College | 107 | 32.92% |
| Senior Cambridge | 138 | 42.46% |
| Other lower than SC | 28 | 8.62% |
| <hr/> | | |
| Total | 325 | 100.00% |

Table 5Q Annual Admission for 1985-1987-Convicted prisoners by level of Education

| <u>Level of Education</u> | <u>Male</u> | | | <u>Female</u> | | | <u>Total</u> | | | <u>%</u> | | |
|---------------------------|-------------|--------|--------|---------------|------|-------|--------------|--------|--------|----------|------|-------|
| | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| No formal schooling | 2,174 | 1,827 | 3,427 | 390 | 897 | 981 | 2,564 | 2,724 | 4,408 | 10.8 | 11.0 | 17.62 |
| Standard 1-3 | 4,174 | 4,148 | 3,508 | 170 | 178 | 217 | 4,344 | 4,326 | 3,725 | 18.4 | 17.4 | 14.89 |
| Standard 4-6 | 5,146 | 4,880 | 6,867 | 227 | 295 | 305 | 5,373 | 5,175 | 7,172 | 22.7 | 20.8 | 28.67 |
| Form 1-3 | 6,622 | 7,122 | 6,371 | 61 | 105 | 133 | 6,683 | 7,227 | 6,504 | 28.3 | 29.0 | 26.00 |
| Form 4-5 | 4,414 | 5,147 | 2,998 | 20 | 60 | 48 | 4,434 | 5,207 | 3,046 | 18.8 | 20.9 | 12.18 |
| Form 6/College | 189 | 177 | 121 | 15 | 31 | 26 | 204 | 208 | 147 | 0.9 | 0.8 | 0.59 |
| University | 28 | 18 | 8 | 5 | 0 | 5 | 33 | 18 | 13 | 0.1 | 0.1 | 0.05 |
| TOTAL | 22,747 | 23,319 | 23,300 | 1,566 | 888 | 1,715 | 23,635 | 24,885 | 25,015 | 100 | 100 | 100 |

Source:Prison Statistic for the year 1985-1987

Prepared by Research Division,Prison Headquarters,Kajang Malaysia.

From Table 5P, there 52(16.00%) cases where the perpetrators are University graduates. In Malaysia, the basic qualification for a clerk or similar post is the Senior Cambridge(presently Malaysian Certificate of Education). It demonstrates that in order to have a first 'power' or trust given one has to have a

basic qualification of Senior Cambridge or Malaysia Certificate of Education. Where judging from Table 5Q, in traditional crimes more than 99% of the prisoners are below the Senior Cambridge or Malaysia Certificate of Education. It can be concluded that education could determine the nature of crime committed.

5.4.5 Amount losses

From the total of 325 cases reviewed for the period of 1987-1989, the total amount of loss is \$413,822,691.43 giving the average loss per case of \$1,273,300.59. The breakdown as per organisation is as follows:

| <u>Type of Organisation</u> | <u>No. of Cases</u> | <u>Amount loss(\$)</u> | <u>Av. Amount of loss</u> |
|-----------------------------|---------------------|------------------------|---------------------------|
| Individual | 48 | 13,957,585.37 | 290,783.03 |
| Cooperative | 51 | 74,463,223.31 | 1,460,063.20 |
| Government Agency | 13 | 10,394,736.29 | 799,595.10 |
| Bank | 31 | 45,652,635.40 | 1,472,665.66 |
| Company | 172 | 262,688,132.47 | 1,527,256.58 |
| Miscellaneous | 10 | 6,666,132.59 | 666,613.26 |

In term of losses per case, the company represents the largest amount i.e. \$1,527,256.58. The three highest losses in the sector of company are property, financial and leasing: the property sector having 35 cases with the average of \$3,283,040.57; the financial sector having 22 cases with the

average of \$3,037,318.64; and the leasing sector having 4 cases with the average losses of \$5,055,463.90.

5.5 CAUSATION VARIABLES

It was mentioned in Chapter Four, that the purpose of the desk study of cases of interest and literature review amongst others is to explore the causal variables of economic crime. A thorough search for relevant variables that could cause or are related to economic crime was conducted from the literature reviewed and 325 cases. Content analysis carried out consisted of reviewing the description of each case and noting the presence or absence of the variables. Carefully analysis of the case material helped to determine the consistency between the variables found in the 325 cases reviewed. Causal variables derived by the researcher from recorded facts of cases of interest and the literature reviewed was based on the three concept model(see figure 1:2 of Chapter One). The main variables derived are listed as Appendix V. These variables assisted the researcher in formulating questionnaires at a later stage. The main variables chosen will be used in the research survey which is to be carried out by the researcher to further determine the causation of economic crime by getting opinions from the four targets, that is the investigators, victims, perpetrators and professionals.

5.6 WHAT IS CBT

Criminal breach of trust(CBT) seems to be the most numerous type of offence committed in the 325 cases of interest. 160 (49.23%) cases are committed by perpetrators in this study. It is worthwhile to determine what is CBT in Malaysian law. CBT is elaborated as in Appendix XVII. In short CBT is an offence where a person dishonestly uses or disposes of property which have been entrusted to him by any direction of the law or on any legal contract, express or implied.

5.7 CONCLUSIONS

This Chapter helps the researcher to appreciate the main causes of economic crime. It also established the major differences between economic and traditional crime in Malaysia in terms of the characteristics of perpetrators especially in income, education, occupation and age. This study of 325 cases of interest had assisted this researcher into selecting causation variables; formulating and developing questions and framework of the survey questionnaire. It also gives the breakdown of economic crime by organisations; this profile is important to determine the fair distributions of the questionnaires and also assist to formulate future strategies and policies for the Commercial Crime Unit.

CHAPTER SIX

6. ECONOMIC CRIME PROBLEMS AT MAJOR INSTITUTIONS

6.1 OBJECTIVE OF THE CHAPTER

The objective of this Chapter is to discuss the economic crime problems at major institutions. From the studies in Chapter Five of the 325 cases of interest in Malaysia, economic crimes occur mostly at major institutions such as co-operatives, companies and banks. The five institutions suffering the highest losses are property companies, cooperatives, financial institutions other than banks, banks, and leasing companies. This Chapter explores the problems such as structure, management and laws governing these institutions which could be regarded as common problems to all institutions in Malaysia. For this purpose, the researcher focuses on three areas - cooperatives, insurance, and stock exchange. Computer crime is also an anticipated problem in Malaysia. Discussion on this subject is inevitable when discussing economic crime. Lastly, the researcher attempts to discover what could be done to resolve some of the problems discovered. Thus the contents of this chapter will consist of:

* deposit taking cooperatives;

- * growth of the cooperatives;
- * problems with the Co-operative Societies Rule,1949;
- * insurance;
- * definition of insurance;
- * historical background of insurance in Malaysia;
- * insurance operative framework;
- * consumer responses to insurance;
- * needs for supervision of insurance;
- * problems and challenges faced by the insurance industry;
- * effect of recession on insurance;
- * high management and acquisition costs;
- * frauds in insurance;
- * reinsurance;
- * credibility of the insurance industry;
- * assumed supervision by the Central Bank;
- * new corporate mission of insurance industry;
- * stock-exchange;
- * historical background of securities industries;
- * regulating laws;
- * legislative trend;
- * frauds in the securities industries;
- * investigations;
- * computer crime;
- * new laws needed for computer crime;
- * a remedial analogy.

6.2 DEPOSIT TAKING COOPERATIVES

Of all the cases studied in the earlier chapters, the DTC scandals created a huge outcry amongst large members of the public and politicians. This was because most cooperatives in Malaysia are founded on a political base. Another factor is that cooperative members are mostly the wage-earners and the poorer section of Malaysian society. Many of the perpetrators are persons who held high positions in the business sector and political arena. Some politicians involved included Government Ministers. The opposition parties took this fiasco as a golden opportunity to attack the Government and try to win support from voters, as such cases are highly publicised and followed extensively by the local media.

6.2.1 Growth of the Cooperative

In the early years, the cooperative movement was introduced into Malaysia as a means to solve the problems of indebtedness amongst farmers and low wage-earners. The movement was intended to assist these low-income groups in solving their social-economic problems. As such, the Co-operative Act 1948 was enacted to encourage the formation and growth of co-operatives. Prior to the 1970s, the co-operative movement typically had one branch engaged in mutual help activities, such as consumer loans. To finance their activities, the co-operatives were allowed to take deposits from their members and

non-members provided their by-laws permitted such activities and subject to the approval of the Registrar-General of Co-operative Societies, Malaysia. In line with the development of the co-operatives, the Act was further amended in 1976 to enable urban co-operatives to invest their surplus funds in trade and industries.

The effect of these developments was a rapid growth of co-operatives into deposit-taking activities to finance their multi-purpose operations. Many businessmen used the opportunity to 'initiate' co-operatives and establish branches as deposit-collecting centres to fund their business. Some even used their funds to take-over public companies. Some with vested interests found their way into the co-operative movement and took advantage of the enabling provisions in the Act to serve their own ends. They exploited the 'weaknesses and loopholes' in the Act and brought about problems.

6.2.2. Problems with the Co-operative Societies Rule, 1949

The problems faced by the deposit-taking co-operatives originate from the inadequacy of the regulatory powers provided in the co-operative laws. The Co-operative Societies Rules, 1949, which was introduced to regulate the activities of the co-operatives, contain the following main provisions:

- * Rule 12(1)- a cooperative can only borrow funds to be used in its business (which include deposit-takings) up to the limit 'as the Registrar-General may impose from time to time'.
- * Rule 12(2)- the maximum limit of indebtedness must also be approved by the AGM of a co-operative.
- * Rule 12(3)- every registered society shall maintain such amount of liquid funds at any one time as the Registrar-General may stipulate.

In addition, under the Registrar-General's guidelines to Section 33 of the Co-operative Societies Act, 1948, surplus funds should be invested only in bank deposits or government securities or in the purchase of land, subject to the approval of the Registrar-General. The rules, however, did not equip the regulatory authority to act quickly to control and punish any infringement against the rules.

Additionally, there are weaknesses in the Co-operative Act, 1948, which include the following:

- * Co-operatives are allowed, under Section 30, to form and extend loans to subsidiary companies without the prior approval of the Registrar-General. Notification is, however, required unless loans are granted to sub-subsidiaries, in which case there is no need to notify the Registrar-General.

- * Directors can cover up losses by revaluing the assets of the co-operatives and issuing bonus shares to members under Section 33A.
- * The co-operative, and not the Directors, are liable for fines imposed for late submission of accounts to members. Additionally, accounts of sub-subsidiaries do not have to be submitted to members.
- * It is not easy to prosecute Directors for mismanagement because the law under Section 57A protects those who claim to be carrying out the aims of the Act and have acted in the 'economic interest of the members'.
- * Section 31 of the Act allows co-operatives to collect deposits to enable them to finance their own projects. The intention was for the co-operatives to develop their projects first, before deposits could be collected. The DTCs however embarked on the collection of public deposits without any specific project in hand. As a result, many of the co-operatives were unable to service the interest on deposits taken. To overcome this, they resorted to further deposit taking.

Because of the inadequacies in the laws and the practical difficulties of Jabatan Pembangunan Koperasi (JPK) to enforce rules, the co-operatives were able to expand their branch

network and collected deposits in total disregard for the rules. The incomplete and irregular returns submitted by co-operatives did not present JPK with accurate information of the state of affairs of the co-operatives under its supervision. Additionally, JPK does not have powers as a lender of last resort.

The worsening situation resulted in the suspension of 24 co-operatives in July, 1986. On 20th July, 1986 a law Promulgated of Essential (Protection of Depositors) Regulations, 1986 was passed to address the problems. These 24 co-operatives investigated have 588,000 members, 630 branches, total deposits of \$M1.5 billion and 3000 employees.

6.2.3 Business strategy and financial management

The business strategy of the majority of suspended 24 co-operatives were inappropriate. They were grossly under capitalised, having borrowed high interest short-term deposits to finance long term investments which eventually yielded insufficient or no income to service debt. This problem was further compounded by an apparent widespread lack of control which resulted in gross mismanagement of funds. Some examples are:

- * over-investment in land and property;
- * over-commitment in loss making or non-generating subsidiaries and associates;

- * speculative investment in the sharemarket;
- * imprudent and, in certain cases, interest free lending to Directors or Directors-controlled companies and other interested parties;
- * fraudulent misappropriation of funds;
- * utilisation of funds in transactions which allude to conflict of interest.

The co-operatives have too many assets tied up in property and shares. They have also insufficient cash to meet deposit withdrawals and cannot withstand the continuing interest burden. As a result, the estimated net return to depositors for each Malaysian ringgit of deposit range from \$0.30 to a full recovery of \$100.00.

6.3 INSURANCE

6.3.1 Definition

Enid A. Marshall (Enid A. Marshall, page 542) defines insurance as:

"Insurance is a contract by one person, called the 'insurer or (especially in marine insurance) the 'underwriter' undertakes, in return for a money consideration called the 'premium', to indemnify another person, called the 'insured' or the 'assured', against possible loss, or to make a payment on the happening of a specified event involves some uncertainties."

According to Bell's Principles S.457,

"It is essential to the contract of insurance that there shall be a subject in which the insured has an interest, a premium given or engaged for a risk of run."

An according to Scottish authority in case of Scottish Amicable Heritable Securities Association Ltd v. Northern Assurance Co (1883) 11 R 287, where Lord Justice-Clerk Moncrieff define insurance as:

"... a contract belonging to a very ordinary class by which the insurer undertakes, in consideration of the payment of an estimated equivalent beforehand, to make up to the assured any loss he may sustain by the occurrence of an uncertain contingency. It is a direct, not accessory obligation like that of a surety."

In short for an insurance contract there must be:

- * a benefit;
- * an event insured against involves some element of uncertainties;
- * an insurable interest;
- * an event insured against which is outwith the control of the insurer.

6.3.2 Historical background of insurance in Malaysia

In 1957, when Malaysia gained her Independence, there were no more than 93 insurance companies of which only six were

domestic companies. The balance were foreign owned. In 1963, the total premium income was M\$99 million, with the total assets of M\$238 million, of which life funds accounted for M\$175 million and general funds, M\$63 million. In the 1970s and 1980s, the insurance companies have grown by an average of 16.7% per annum to a total asset size of M\$6.3 billion at the end of 1987. By comparison, the commercial banks in Malaysia have grown at an average of 19.3% per year to \$86 billion at the end of 1987 or nearly 14 times larger than insurance companies. The 60 insurance companies in Malaysia today have just about the same asset value as the 12 merchant banks. At the end of 1987, these merchant banks managed a total portfolio of funds of just over M\$1 billion, 20% more than the corporate equity held by the life and general insurance companies as a group. Thus, the insurance companies, which as a group is potentially one of the most important institutional investors in the corporate capital market, accounted for only 3% of the total assets of the entire Malaysian financial system, compared with 70% for the banking sector.

In contrast, the insurance companies in Japan account for 11% of the assets of the Japanese financial system. The single largest life insurance company in Japan alone accounts for one per cent of the total market capitalisation of the Tokyo Stock Market. Insurance companies in the United Kingdom account for 15% of their financial system in terms of asset size and 12% of all quoted shares held in British public companies. There is considerable potential for insurance in Malaysia: only one out

of 10 Malaysians have life policy, as against 93% of all Japanese. The ratio of life policies in force accounted for only 76% of GNP in Malaysia in 1987, and as against 1985 data of 322% in Japan and 103% for Australia. The insurance industry remains the 'prospect' of the financial system and has yet to make itself felt as a major force in the development of the capital market in Malaysia.

6.3.3 Insurance operative framework

Insurance is an institution which allows the reduction of risks for individuals and enterprises, and accumulates funds to pay against claims due to risks which can be estimated with measurable degrees of uncertainty. Insurance really works on the law of large numbers. It spreads the event of a risk of loss to a specific person or enterprise amongst all persons who pool together their resources against that loss. The insurance company is the intermediary that organises the risk pool. It holds the premiums in trust for the policy holders and pays the policy holders in the event of the insured loss occurring.

6.3.4 Consumer responses to insurance

In general, it is true to say that most consumers in Malaysia are not always aware of the need to insure. A consumer normally buys insurance because he is obliged to, as

in the case of a life policy on acquiring a house, or because he is persuaded of the benefits of the insurance by an insurance salesman or broker. Although it is more obvious that a life insurance policy is a form of life savings for individuals or enterprises, that is, putting regularly a sum or premium away for later use.

6.3.5 Needs for supervision of insurance

In essence, insurance funds, first and foremost, provide a risk reduction service for the community and are therefore important financial intermediaries. In addition to their function as a hedger of risks for the community, they are also custodians of public funds. It is this latter area, which overlaps with the role of the banking system and necessitates the requirement for supervision of insurance activities.

6.3.6 Problems and challenges faced by the insurance industry

The insurance industry is faced with numerous problems and structural challenges. The laissez-faire legacy of Malaysian colonial history has resulted in a large number of branches of foreign insurance companies being established in Malaysia. While this had provided good risk protection to the fledging commerce and industry of the pre-Independence era, this situation did not continue for an independent modern Malaysia. Foreign branches are at best agents for their head

offices. For them, there is only the need to have a good sales force to sell head office developed policies, with no real urgency to develop in Malaysia underwriting and management expertise, as well as the professional skills that are vital to the promotion of the domestic capital markets. Malaysia has been quite successful in restructuring the industry in compliance with the New Economic Policy, with the foreign equity content of the 51% locally incorporated insurance companies down to 32.1%, and with the Bumiputra equity shares of insurance companies, the brokers and loss adjuster to 31.1%, 69.9% and 36.5% respectively. However, the 60 insurance companies in Malaysia have a total gross premium base of M\$2 billion. Of the 77 statutory funds in 1986, 62 had total assets of less than M\$50 million. By contrast, the net premium income of the fifth largest Japanese non-life company alone is M\$5.7 billion ringgit, almost the total asset size of the Malaysian industry (life and non-life) as a whole. In short, Malaysia does not have any domestic insurance agents. In contrast, at least, there are two Malaysian banks in the world's top 500 banks.

6.3.7 Effect of recession on insurance

It is obvious that structural weaknesses of the fragmented industry were swept aside in the boom years of the 1970s and early 1980s. Unfortunately, the recession of 1985/86

revealed starkly the basic flaws in the structure. The symptoms found are as follows:

- * after more than a decade of uninterrupted growth in the 1970s and early 1980s, the insurance industry had to contend with sharply lower rates of growth. The general sector recorded a growth rate of only 1.6% in 1987, compared with -2.9% in 1986. Similarly, the life sector experienced a sharp decline in new business premiums of 11.8%, compared to positive rates of growth in the life sector, the forfeiture rates have risen to a level in which one in the three life policies had been forfeited.

- * from 1984 onwards, the general insurance industry has consistently suffered underwriting losses. The underwriting margin deteriorated from -1.3% in 1984 to -7.8% in 1986, and even with the improvement in the economy in 1987, the underwriting margin still -6.9%.

Several factors have been attributed to these adverse trends. Foremost has been the pressure to maintain the premium flow, which has triggered intense competition in the industry. Faced with declining market shares, many insurers were engaged in a 'price war' to defend their turf at any cost. In these cases, the resulting influx of the claims for losses could only be met by delays in claims settlement and payment, and in deliberate under-provision for their claims. Caught in this vicious

circle, some companies have to keep on writing more policies in order to survive, postponing the problems to the future.

6.3.8 High management and acquisition costs

Another factor which has contributed to the decline in underwriting margin was the high management and acquisition costs, which amounted to nearly 50% of the earned premium income for 1987, for both life and general companies. There are 65,000 life agents and an estimated 30,000 general agents in the market, many of them untrained. To maintain market share, insurance companies have to give high commissions to these agents, something in excess of Inter-Company Agreements. High pressure selling, misleading of consumers as to their rights and benefits, absconding with premiums collected - all these are blatant examples which had led the Malaysian consumer to become increasingly disenchanted with the industry, as reflected in more than 2,000 complaints being received in 1987 alone. When the consumer perceives that he is not benefiting from the service provided by the insurers and that the individuals and companies he is dealing with are not trustworthy, he will vote with his feet. The result is a shrinking industry instead of a healthy vibrant one.

6.3.9 Frauds in insurance

A major curse of the industry is the emergence of fraud, particularly in motor insurance. In 1987, total claims on the motor insurance alone amounted to M\$504.2 million. The lost ratios are likely to increase not only from motor theft, but also from accidents, fraud and rising costs of spare parts. In Malaysia, while the motor theft record had risen by 55.5% to 2,684 cases in 1986. Many parties are involved in this fraud, including not least some insurance company staff. The industry has agreed to establish a Task Force to deal with this problem, to be chaired by Bank Negara and comprising members from relevant Government agencies including the Police, Road Transport Department, Kuala Lumpur City Hall and the insurance industry.

6.3.10 Reinsurance

At the moment the local market's dependency on foreign reinsurers is on the rise. The percentage of reinsurance premiums to written premiums was 25.6% in 1987, compared with 24.1% in 1986. Malaysia paid M\$306.2 million in 1987 to overseas reinsurers. The sector most dependent on outside Reinsurance was Marine Aviation and Transmit (MAT) with 45.9% of the written premiums in 1987, followed by Fire at 37% and "miscellaneous" 27.8%.

6.3.11 Credibility of the insurance

All in all, the credibility of the insurance industry is at stake in the face of growing public concern and dissatisfaction. The corporate culture of the industry has to be scrutinised in the light of its responsibility toward society at large. Nothing can be more damaging to the industry in the long term than a group of disgruntled and frustrated policy holders. This issue of public confidence in the professional competence and integrity of the industry is crucial to the future of the industry. Ordinary people will simply not save with the industry if they have no confidence in this or that insurance company.

6.3.12 Assumed supervision by the Central Bank

Insurance business and matters connected with insurance are governed by the Insurance Act 1963 (Act 89). Prior to 1st April 1989, the supervision of the Insurance industry was under Accountant General of Malaysia. Central Bank assumed supervision of the insurance industry since 1st April 1988 making the Governor of the bank the Director General of Insurance. Since taking over its supervision, a number of key issues and policies involving industries have been discussed namely:

- * poor quality and laxity of management discipline;
- * financial and technical mismanagement in the operations of a

- number of companies;
- * breaches of the law;
- * poor documentation and record keeping practices;
- * inadequate controls of ineffective systems.

Three cases involving breaches of the law has been passed to the Police in 1988 (the researcher is involved in the investigation in two of the cases involving Pacific and Insurance and Talasco Insurance Bhd; both papers have been completed). In respect of the Pacific and Orient, certain criminal actions have been recommended to the Attorney General for his decision. In respect of Talasco Insurance Bhd, the Principal Officer has been charged for criminal breach of trust under Section 409 of the Penal Code. To tighten the organisational structure, 40 staff of the Director General Insurance office were moved to Bank Negara (Central Bank) and have been supplemented with 65 Bank Negara staff to strengthen inspection monitoring and the policy development areas.

6.3.13 New corporate mission of insurance industry

Bank Negara's corporate mission in the insurance industry are:

- * to purposefully build a healthy and strong insurance industry in Malaysia as a major component of the financial system, particularly the capital market;
- * to effectively enforce the Insurance Act 1963 and its

regulation;

- * to foster the highest standards of professionalism, integrity and efficiency in the industry, particularly through training and education;
- * to reduce the foreign exchange outflow through greater retention of insurance risks within Malaysia;
- * to ensure that policy holder receive courteous, fair and equitable treatment in their dealings with insurance companies.

6.4 STOCK-EXCHANGE

The securities industry has a crucial role to play in the mobilisation of funds necessary for growth and investment in the corporate sector. Given the right environment and right sense of direction, the stock market can be the important focal point of the nation's economy. Kuala Lumpur Stock Exchange (KLSE) is a vital institution as it provides the mechanism, which brings together the players in the market - generating funds for the public listed companies to operate. It also provides opportunities for investors to participate in that economic activity, or make the best use of their investible funds.

6.4.1 Historical background of securities industries

Securities industries in Malaysia have their roots in the 19th Century. During the period between 1879-1900, trading was primarily for the tin and later the rubber industries. Now the KLSE has a total of 290 counters being quoted on this on single board and a second board has just been introduced to the public.

The 290 counters Quoted on the Board of KLSE are divided into nine sections namely:

- * industry;
- * finance;
- * hotels;
- * properties;
- * oil palms;
- * tins;
- * dollar rubbers;
- * debenture/loan/stock/bond.

Trading is active in most of the counters, with the industrial section normally being the most heavily traded of the nine sections. This is partly to the fact that it occupies 163 counters out of 290 listed counters.

6.4.2 Regulating Laws

Prior to 1973, the KLSE was basically governed by the

Companies Act 1965. On 27th December, 1976, the Securities Industries Act was passed specifically for the regulation of Malaysian securities industry. Following the crash in share prices in 1982, the Government of Malaysia introduced the Securities Industry Bill, 1982 which was gazetted in March, 1983. This new Act replaced the 1973 Act but all matters regarding regulations, instructions, orders and decisions made under an accordance of the repealed Act remained valid and binding.

The main features of the new Act are as follows:

- * the establishment of a consultative body known as the Capital Issues Committee (CIC);
- * the appointment of persons to the Committee of a stock exchange;
- * the power of the Minister of Finance to amend the rules of the stock exchange after consulting the CIC and the stock exchange's Committee;
- * the addition of new provisions for the trading of securities;
- * the provisions for the powers of the Registrar of Companies in various matters, especially in his conduct of investigations.

6.4.3 Legislative trend

In Malaysia, the trend has been towards greater participation by the government in the regulation of the securities industry. The policy and philosophy behind governmental intervention in the regulation can be summarised as follows:

- * the growth of an orderly market;
- * investor protection;
- * the harnessing of resources towards achieving national interests;
- * the achievement of political goals.

The first three points listed above can be seen by the provisions for full disclosure of material facts, administrative control through governmental approval for the establishment of stock exchanges and licensing of its members and anti-fraud provisions as found in Part III, IV, and Parts VI & X of the Securities Industry Act, 1973. As for the achievement of political goals, this can be seen from the New Economic Policy of the government, which is implemented in the securities industry by way of the Capital Issues Committee (CIC) and Foreign Issues Committee (FIC).

6.4.4 Frauds in the securities industries

Part IX of the new Act was primarily designed to prevent securities fraud such as:

- * "wash sales" and "matched sales";
- * market rigging;
- * false or misleading statements;
- * insider trading;
- * conflict of interest;
- * short-selling.

Of the above six, Insider Trading is one that is prevalent in stock markets all over the world, and the same is true in Malaysia. Section 132(2) of the Companies Act 1965 provides provisions prohibiting an officer or agent of a company from making improper use of any information acquired by virtue of his position as officer or agent of the company to gain advantage for himself or any other person either directly or indirectly or to cause detriment to the company. Section 132(4) making the persons liable to compensate any person who is deprived of the benefit either actual or potential or who suffers loss as the result of the use of such information.

Section 134 is an equivalent of Section 68 and 69 of the British Companies Act 1980 in which a Director has to disclose details concerning any shares in or debentures of a company or corporation deemed to be related under the Companies Act, 1965,

which are held by or in trust for the Director, directly or indirectly, or in which he has a beneficial interest.

Under the new Securities Act, two new provisions have been added to deal specifically with insider trading in securities listed on KLSE. Section 89 stipulates all officers, employees and agents of a corporation, or officers of a stock exchange who are, or are in relation to a, dealing in securities of the corporation by themselves or any other person, are prohibited from making improper use to gain whether directly or indirectly. They could not take advantage for themselves or any other person through specific confidential information acquired by virtue of their positions as officers, agents or employees of the corporation or officers of the stock exchange. Section 89(1) of the Securities Act is largely equivalent to Section 132A and 132B of the Companies Act 1965, in which prohibition applies only to the information if generally known, might reasonably be expected to effect materially the prices of the subject matter of the dealing. 'Agents' are defined to include a banker, advocate and solicitor, auditor, accountant or stock broker of the corporation and any person who is or at any time in the preceding six months has been knowingly connected with the body of the corporate.

6.4.5 Investigations

Police have no direct powers to investigate matters

pertaining to the Companies Act and Securities Act. However, they still can resort to an investigation by applying for 'Order to Investigate' (OTI) under section 108(ii) of Criminal Procedure Code from Public prosecutor. If any acts comes within the provisos of the Penal Code and if it is 'seizable' in nature, then the police may have the powers for investigation. Ordinarily, the investigation is conducted by the powers of the Minister. Section 102 of the Securities Act provides where it appears to the Minister to be in the national or public interest to order an investigation into matters relating to securities dealings. The Minister may direct the Registrar to arrange such an investigation. The direction shall be by way of an instrument in writing specifying the matters to be investigated and whether investigation is to be carried out by the Registrar or an inspector to be appointed by the Registrar. In the case of an Inspector, section 103(1)(c), the Minister may also specify the particular person to be appointed as Inspector and terms and conditions of the appointment. Such appointments and terms and conditions will be gazetted.

The report of investigations will be available to the Minister. A copy of the report or a part thereof may be made available to a person to whose affairs the report relates to a material extent, unless the Minister is of the opinion that there is good reason for not divulging the contents of the report or part thereof, or that the legal proceedings have been or might be instituted and the report might unduly prejudice the

proceedings. Nevertheless, a Court before which the legal proceedings have been brought may order a copy of the report or part thereof to be given to that person.

By section 114(6) of the said Act, the Minister may, if it appears to him from the report of the investigation that an offence has been committed, refer the matter to the Public Prosecutor for his direction. Section 114(7) provides that if a civil liability arises, the Minister may cause proceedings to be brought in the name of the person who suffered loss, if the Minister is of the opinion that it would be in the public interest to do so. Section 125 empowers the person so entitled to claim compensation to the first-named offender damages as the result of the purchase or sale by him of securities at the price affected by the offending act or transaction.

From the legal framework it is quite clear that in order to be effective in enforcement of any fraud lies much on the co-operation between the stock exchange and the Registrar and other regulatory bodies. Recent experience has shown that legal provisions alone will not be effective. There is a growing need for the Kuala Lumpur Stock Exchange (KLSE) and Registrar to work in tandem towards the successful regulation of the securities industry. In criminal matters pertaining or resulting from the investigation, there is need to liaise immediately with the police. It is the contention of this researcher that it would be more desirous, effective and time

saving if the police are given the direct powers of investigation under the Company Act 1965 and the Securities Act 1983 particularly on important offences such as insider trading.

6.5 COMPUTER CRIME

Looking forward for Malaysia, many western economies are suffering the impact of computer crime. Lloyd (1990, pages 163-177), in his essay on Computer Crime, identified three broad categories of computer crime; the classification is dependent upon the role played by the computer. They are:

- * the involvement of a computer in the scheme to secure unlawful financial advantage or the unauthorised amendment or deletion of data;
- * the unauthorised use of a computer system or securing of unauthorised access to data held therein;
- * the theft of information.

The incidence of computer crime is not large. In Kuala Lumpur and Petaling Jaya, for the year 1987-1989, only five cases were discovered by the police. The significant case was the involvement of the computer by a financial clerk in the scheme to secure unlawful financial advantage. In this case, the financial clerk entered fictitious entries in the computer roll. At the end of the month after receiving the most

current input from the financial clerk, the computer would print out the payroll cheques for each employee. This stack of cheques was then delivered to the clerk, who ran each cheque through a cheque designer and delivered the packets of cheques to each branch of the company for payment to the employees. Over about two years, the clerk created some fictitious employees. He did it by "hiring them", manufacturing hourly time records for each and then inputting this data mixed with the regular payroll data to the computer. The computer printed out pay cheques for the non-existent employees along with the real ones. The financial clerk changed the name of the "hired" employees with fictitious name every month in order to avoid suspicion and detection. As a result, the clerk siphoned about \$500,000.00 of the company's money and left. However to date no criminal actions have been taken against the clerk, probably due to lack of solid evidence.

Parker [1980], a leading expert in computer crime, made the following predictions which turned out to be true in America and the United Kingdom in the 1980s. He predicted that:

- * organised crime will make its debut in computer crime;
- * organised crime will use career criminals and ex-cons trained in computer technology by prison rehabilitation programmes (computer technology training programmes are one of the most popular);
- * organised crime will force "honest" computer personnel to

help them defraud systems;

- * the amount of loss per incident will rise from the present figure of US\$500,000;
- * professional data processing criminals will be more skilled and less likely to be detected;
- * terrorist groups and unfriendly nations will use computers to wreak havoc on businesses.

Computer crime must be an anticipated problem for Malaysia. There is a need for a comprehensive study on the extent of computer crime in Malaysia. Such a study would reveal whether it is necessary for the police to take extra precautions against computer crime. The police should work with computer vendors and software houses to determine how widespread is computer crime. If the offences are serious enough and the probability of them happening in Malaysia great enough, then certain recommendation should be made to the Government. The recommendation should emphasise the need for new laws to counter computer crime. A study should be made also on different types of computer crime taking place in other countries especially in the United States and England, because similar offences can be anticipated in Malaysia in the future.

However, the challenge of the computer to law enforcement is not only to catch the computer criminal but also to imaginatively apply it to assist the detection and investigation of crime.

6.5.1 New laws needed for computer crime

As computer crime is an anticipated problem, new laws should be created to fight it. The Malaysian Penal Code should be amended, a new law should be introduced similar to the American Computer Fraud and Abuse Act 1987. Under the American law, it is an offence to electronically break into an information storage system to steal or alter computer data. At the moment, the Copyright Act 1987 offers software copyright protection where computer software was clearly defined as a literary work. The amendment of the relevant sections of the Penal Code is necessary to accommodate computer crime. Computer crime must be spelled in out in specific terms.

At the moment, in Section 22 of the Penal Code, it is stated that such property is intended to include corporal property of every description, except land and things attached to the earth. Thus, information and data could come under the definition of property as defined under Section 22. Under Section 378 of the penal code, whoever intended to take dishonestly any movable property out of the possession of any person without that person's consent, or moves that property in order to such taking, is said to commit theft. The offender for theft could be jailed for up to three years or fined or both. Under Section 403, whoever dishonestly misappropriates or converts to his own use any movable property, can be jailed for up to two years, or fined, or both. The Code also covers the offences such as damaging or altering information. Under

Section 477A, Whoever wilfully and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, shall be punished with imprisonment up to seven years, or with fine, or with both. However computer crime is not mentioned and it is left to the individual Magistrates who hear the case to make necessary interpretations. It is felt that this section should be amended to incorporate computer crime to avoid inconsistency of interpretations. The Police so far have succeeded in the conviction of a former computer programmer of Cold Storage (M) Bhd who falsified accounts in the company's Jaya Card Data System. The accused, a 25 years old Peter Chow Pee Teck, was sentenced to a year in jail in April, 1989 for creating two dummy accounts into which he transferred a total sum of \$64,084.13

6.6 A REMEDIAL ANALOGY

From the study into the area of co-operatives, insurance and stock-exchange, the clear problems of the managements are:

- * poor quality and laxity of discipline and management;
- * financial and technical mismanagement in the operation of companies;
- * breaches of the law;

- * poor documentation and record keeping practices;
- * inadequate control and ineffective system.

The above problems could be ratified to a certain extent by improving the management system and security control. On improving the management system in preventing fraud on business, Levi (Levi M., 1988, pages 11-15) suggested that the first line of defence is entry control. Entry control applies to both people we employ and people with whom we do business. There is a need of vetting employees or member of professional associations to ensure that they are "fit and proper persons". The second line of defence is internal management systems and compliance monitoring (for internal fraud) and credit worthiness checking (for external only). He suggested that newly appointed directors should be exposed to training programmes on their responsibilities under Companies Act because some of them may not realise that they have special legal obligations such as avoiding wrongful trading. Dismissed employees should not be admitted on places which contained sensitive data. There is a need for better information-sharing strategies between organisations e.g. building societies and banks. This could prevent credit frauds such as multiple mortgages on one property. Levi believed that by employing reliable staff (with adequate references and fidelity insurance); good systems regularly monitored by internal auditors and supervisors; and company policy of dismissal and prosecution for fraud, backed up by a much more substantial

police presence and expertise could reduced such crime.

A good network security system is an analogous example that need necessarily be adopted by various institutions in Malaysia(especially in institutions where extensive computer networks are used). Coopers & Lybrand [1988] have conducted comprehensive studies on network security system of 22 major organisations in UK and Europe, recommended organisation to adopt a methodical, comprehensive and well-founded approach to network system security. The essential elements of these networks are:

- * establish a corporate security policy;
- * assign managerial responsibility for security;
- * establish a security awareness program;
- * define security requirements for existing and new systems in terms of confidentiality, integrity and availability;
- * implement the minimum set of baseline controls as defined in the companion volume;
- * use sound risk analysis techniques to identify where additional system-specific controls are required;
- * ensure security control are subject to continuing management;

The study has assessed the strength and weaknesses of the 22 organisations' security networks. By combining the strong points with their experience, they produce a set of guidelines for improving the security of network systems. The bedrock of

the security foundation is laid with three fundamental principles. The first principle comprises of:

- * confidentiality
- * integrity and
- * availability.

The second principle is that three levels of security control are required. They are:

- * prevention of security breaches;
- * detection of security breaches;
- * recovery from security breaches.

These three security controls must be a balanced set sufficient to satisfy the stated security requirement.

The third principle is that security is important enough to command the attention of senior management, whose authority and involvement are essential if the barriers to achieving approved levels of security.

The foundation for security requires:

- * the creation of a formal Corporate Security Policy Statement, including statement of principles, statements of direction and statements of responsibility;
- * the allocation of security responsibilities to specify

individuals equipped with experience, authority and tools to fulfil them and

* the creation of high level of security awareness.

A security control is a policy, method, procedure, device or programmed mechanism to satisfy one or more of the security requirements of an organisation. An organisation should have base-line security controls in the following areas[full list see Appendix XII]:

- * Physical and Environment Security Controls;
- * Computer Operations;
- * Configuration Security;
- * Network Operation Security;
- * Documentation Security;
- * Support Services;
- * Data Security;
- * Administration of Security;
- * Telecommunication Security;
- * Contingency Planning.

In Appendix XII, the list given under physical and environment security controls was not a complete list. It is a representative list of the area commonly found in the 22 companies understudy.

Physical and Environment Security Controls and Computer Operations have been demonstrated to have the most consistent

and strongest baseline controls. The remaining nine areas have fewer identified controls but those listed in Appendix XII are either at present or emerging as standard areas for baseline controls. Thus it should be considered for inclusion within the security baseline.

For certain organisation additional controls are needed in the sense that baseline controls will by themselves, seldom provide an adequate level of control across all application systems. Thus in considering each individual application system, it is necessary to consider:

- * specific security requirements of the application system in terms of confidentiality, integrity, and availability
- * control objectives and
- * select appropriate types of security controls needed to satisfy the requirements.

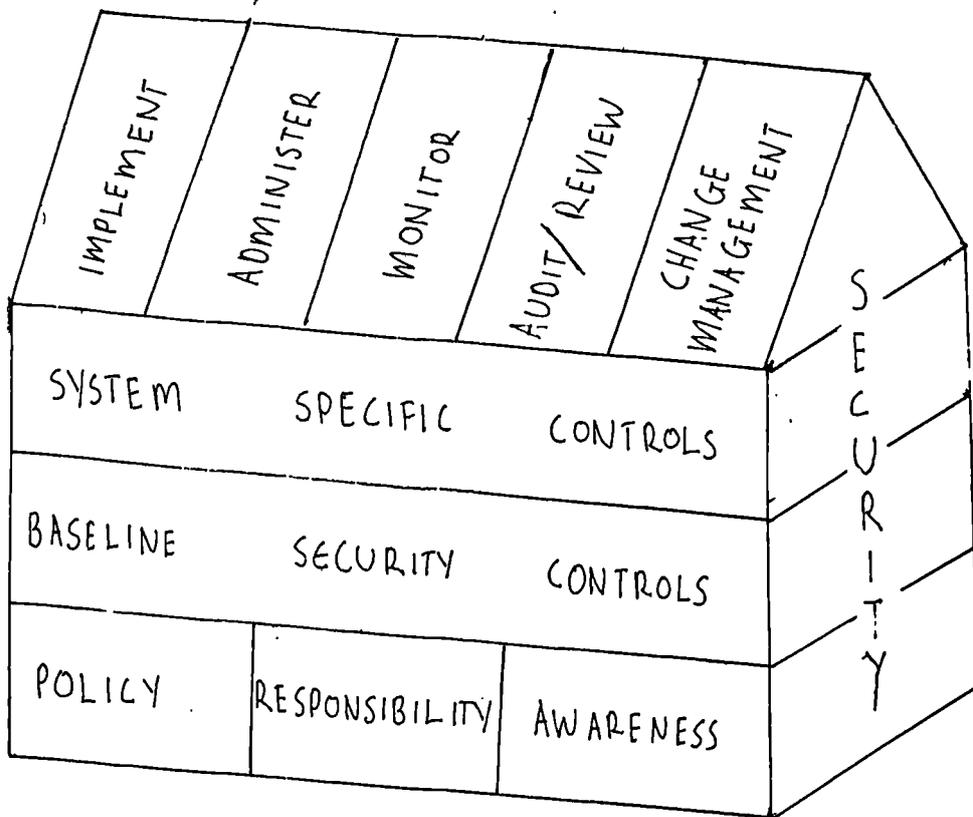
The effective security structure depends on effective arrangements. Thus the task of security management to ensure the proper [see figure 6.1]:

- * implementing security controls;
- * administering them;
- * monitoring them in day-to-day operation so that the occurrence of disruptive events is detected and followed up;
- * subjecting the security controls to regular

independent audits; and

- * handling the high volume of change that will be constantly occurring.

Figure 6.1 The security Framework



Source: Cooper & Lybrand, 1988, The security of network systems-
Report 3 page 57

CHAPTER SEVEN

7. MALAYSIA POLICE FORCE: POLICE POWERS,
ORGANISATION AND ROLE IN ECONOMIC STABILITY

7.1 OBJECTIVE OF THIS CHAPTER

The objective of this Chapter is to discuss police power, organisation and role in the maintenance of economic stability in Malaysia. As mentioned in Chapter One, the second dimension of this research is to explore changing roles of the police to prevent economic crime; this Chapter and the next three Chapters will focus on these issues. It is felt quite important in this research to know about police powers in order to understand the jurisdictions and limitations of the police performing their duties. This Chapter elaborates on the duties of the police as specified currently in law. It also describes the structure of the police organisation and a description of how the police are managed; the applicability of an authoritarian style of management and how it assists in attaining a common objective. The police should play a major role in security ensuring economic stability. A short discussion of the Malaysian economy, especially Malaysia's New Economic Policy (NEP), which gives the framework of the economic future. This Chapter also looks into the activities under-taken by the police which could be viewed as a public image of the police ensuring a continuous support the people.

It is believed that such crimes could be effectively solved through the people. As such this Chapter will consists of:

- * introduction;
- * economic situation of Malaysia;
- * police powers;
- * police organisation;
- * the management branch;
- * the special branch;
- * the criminal investigation department;
- * the internal security and public order branch;
- * the management of the police;
- * police role in economic stability;
- * conclusions.

7.2 INTRODUCTION

The Royal Federation of Malaya Police comprises a number of formerly separate police forces, each with its own traditions and history. The history of the police dates back to the year 1806 when the first police force was raised in Penang under the command of a Superintendent. On Malaysia Day, 16th September, 1963, when the states of Malaya, Singapore, North Borneo (Sabah and Sarawak) were formed into the Federation of Malaysia, the police forces of the four states were unified as components of a single service under the command of an Inspector-General. The new service was named the Royal Malaysian Police (Police Di Raja Malaysia). The

unification of the four separate police forces with differing histories, traditions, conditions of service, laws to enforce and procedures in a newly-formed nation presented considerable problems of organisation and command. The Force has, however, been moving toward standardisation and uniformity as rapidly as possible by adopting the most useful and efficient aspects of organisation and procedures from the systems which were inherent within the components.

In August 1965, the state of Singapore seceded from the federation of Malaysia and become an independent state. As a result of this change, the Singapore Police Force separated itself formally from the Royal Malaysian Police. However, very close rapport and cooperation continues to exist between these police forces. The total strength of the Malaysia force is 76,555 and expected to increase to 120,000 by 1994. The ratio of overall strength is 1 :227. It is worthy to note the fact the ratio of Police involved in actual policing job, i.e. the General Duty and C.I.D. is 1 : 628. The Minister of Home Affairs is responsible for police affairs in Malaysia.

7.3 ECONOMIC SITUATION OF MALAYSIA

As the threat to the security of the country has diminished greatly with the improved overall security situation of South-East Asia, Malaysia has concentrated more financial and other

resources towards the industrial development of the country. This is a specially urgent task for the government which was committed to the objectives of New Economic Policy which ended in 1990. By 1990, the disparity in the distribution of the economic wealth of the nation, the allocation of opportunities for employment, and for education at the tertiary level has been reduced across the various racial groups forming the population of the country. The successful implementation of this policy, which was launched in 1970, agreed to by leaders of the diverse racial component groups and subscribed to by the majority of the people, is essential to provide the basis for the long-term future stability of the nation.

The New Economic Policy (1970-1990) has brought a sound framework for the post-1990 Economic Policy (1990-2000). The growth rate of the Malaysia economy averaged 7.5% p.a. in 1970s, 4.9% p.a. in the period from 1980-1986 and picked again to 6.7% p.a. for the period from 1987-1988 and 8.5% p.a. for the period of 1989-1990.

On the question of economic growth during 1972 to 1988, it might be useful to compare the growth rate of the Malaysia economy with the rest of the world as a whole, with the developed countries and newly industrialised countries such as Taiwan, India, Hong Kong, and neighbouring countries such as Singapore and Thailand. Malaysia was able to achieve a growth rate during the period that is much more rapid than for the world economy as a whole and other developed countries as the

United States, Japan and Europe. The prospects for the long-term growth of the Malaysia economy are considered by many experts as good. The baseline projection for Malaysia by Onishi, a Japanese scholar who operates a world economic model, forecasts a long-term growth rate of around 7 per cent per annum to the year 2000, while his alternative projections ("optimistic" or "pessimistic") adds or subtracts an average of about 1 per cent from the base trend. (In 1991 Malaysia achieved growth rate of 9.5%). Shinohara another eminent Japanese economist, projected that, at a growth of 4% per annum, Malaysia's real GDP per capita should reach US \$3638 by the end of the ten-year period. According to the Malaysian Institute of Economic Research (MIER), if Malaysia can achieve a more efficient management of the economy at macro- and micro-levels and improve the contribution of other factors such as technology, innovation, skill, entrepreneurship, etc, an additional of 1.5 - 2.0% may be added to the annual growth of the output as projected above - approaching the long-term growth target of the income doubling plan. Malaysia has to undertake the necessary structural adjustments in order to achieve a higher rate of industrialisation if it wants to attain this GDP growth rate and reach NIC status by year 2000, if not earlier, depending on the success of the global restructuring and the economic and political environment. On 10th of July, 1991 the Sixth Malaysia Plan (SMP) has been tabled by Prime Minister Datuk Seri Dr. Mahathir Mohamad in Parliament. SMP projects total public and private sector

expenditure of M\$810 billion over the next five years. The private sector is expected to spend 77% or M\$706 billion to the public sector's M\$104 billion. The highlights of the SMP are:

- * the Malaysian economy to grow at an average rate of 7.5% during the five-year period compared with the 6.7 % during the Fifth Plan;
- * Malaysia's population to reach 20.26 million by 1995 from 18 million in 1990;
- * the Gross National Product to be about M\$205 billion by 1995, almost double the current level;
- * the Per capita income to rise to M\$10,200 from about M\$6,400 at present;
- * employment projected to grow at 3.2% per annum and over a million new jobs expected to be created by 1995;
- * the security sector allocation increased to 15.3 % - from M\$2.53 billion to M\$8.4 billion.

According to Dr. Mahathir, the private sector must be the engine for growth for the economy. It is a strong foundation for the nation to attain the objective of becoming a fully developed nation by the year 2020. However, according to him hard work would be needed to sustain these achievements.

The above policies could improve the overall welfare of the Malaysia people and could to a certain extent reduce the anti-social elements. However, this economic success could also be a good breeding ground for economic crimes.

7.4 POLICE POWERS

The Royal Malaysia Police in its present organisation has been instituted under the Police Act No.41/67, which replaced the Police Ordinance 1952, and other relevant laws for some of the states, to enable the inclusion of the police forces of Sarawak and Sabah into the national police when the two states joined the Federation of Malaysia in September, 1963. The Sarawak Constabulary and the Sabah State Police lost their identities completely as they merged into the federal police. In similar manner, it was the merger of the police forces of the federated and the unfederated Malay states in 1945 that formed the national police.

The constitution of the Royal Malaysia Police is given under Section 3(3) of the 1967 Police Act.

"The Force shall subject to the provisions of the this Act be employed in and throughout the Federation (including the territorial waters thereof) for the maintenance of law and order, the preservation of the peace and security of the Federation, the prevention and detection of crime, the apprehension and the prosecution of offenders and the collection of security intelligence."

It is further elaborated to spell out the duties of the police under Section 20 and 21 of the Act as follows:

" Section 20 (3)

Without prejudice to the generality to the foregoing provisions or the provisions of any other law, it shall be the duty of a Police officer to carry out the purposes mentioned in subsection (3) of section 3; and he may take such lawful measures and do such

lawful acts as may be necessary in connection therewith, including-

- (a) apprehending all persons whom he is by law authorised to apprehend;
- (b) processing security intelligence;
- (c) conducting prosecutions;
- (d) giving assistance in the carrying out of the provisions of any law relating to revenue, excise, sanitation, quarantine, immigration and registration;
- (e) giving assistance in the preservation of order in the ports, harbours, and airports of the federation, and in enforcing maritime and port regulations;
- (f) executing summonses, subpoenas, warrants, commitments and other process lawfully issued by any competent authority;
- (g) exhibiting information;
- (h) protecting unclaimed and lost property and finding the owners thereof;
- (i) seizing stray animals and placing them in a public pound;
- (j) giving assistance in the protection of life and property;
- (k) protecting public property from loss or injury;
- (l) attending the criminal courts and, if specially ordered, the civil courts and keeping order therein; and
- (m) escorting and guarding prisoners and other persons in the custody of the police.

Section 21 (1)

It shall be the duty of police officers -

- (a) to regulate, control and divert any traffic;

- (b) to keep order on public roads, streets, thoroughfares and landing places, and at other places to which public have access; and
- (c) to prevent obstruction on the occasions of assemblies and processions on public roads and streets, and in any case, when any road, streets, thoroughfare, landing place or ferry may be thronged or liable to be obstructed."

The Royal Malaysia Police is responsible for the internal security of the nation as well as for the collection of security intelligence. These responsibilities are in addition to, and above, the traditional police responsibility in a democratic society. Malaysia has been facing the threat from the insurrection of the communist party of Malaya as well as, later on, the communist party of Malaysia since June 1948 and 1975 respectively (Malaysia is formed on 16th of September, 1963). The police has been selected to be the agency to deal with the situation, and the Internal Security Act 1967 has provided effective legislation giving wide powers and authority to act accordingly.

7.5 POLICE ORGANISATION

The organisation of the police is structured to provide the best possible framework by which it can carry out its duties and discharge its responsibilities as enunciated in its constitution. Each area of responsibility forms a functional division, which is headed by a Director who carries

the rank of a Commissioner of police. He is responsible for his branch of the police to the Inspector-General of police, though for the more important branch and depending on the circumstances, he would report direct to the Minister of Home Affairs. There are four such functional divisions in the police:

- * the management branch;
- * the special branch;
- * the criminal investigation department;
- * the internal security and public order branch.

The Inspector-General, his deputy, the police and their retinue of staff, the research and planning unit and the disciplinary unit both forming part of the secretariat of the Inspector-General, form the top management of the Royal Malaysia Police force. They are all placed together with the four directors and their respective staff, at the federal police headquarters' complex at Bukit Aman, Kuala Lumpur. Each state has a police headquarters located in the capital of the state, and the police contingent there duplicates the organisation structure at the federal headquarters. This similar organisation is also duplicated down to the most of the districts. (See appendix "IXa", "IXb", "IXc" for the details of the organisational structures for the federal and the state levels of the Royal Malaysia Police).

7.5.1 The Management Branch (A - branch)

The management of the police is mainly done through this branch. All administrative functions from the recruitment of personnel, handling of service matters, training, promotion, transfer and the formulation of policy including the police regulations and standing orders, are all dealt with by this branch. It also deals with licensing, public functions and public relations. It processes and co-ordinates the preparation of budgets for the four branches, and in a similar manner prepares the master plan for the development of the police as a whole organisation. It provides the logistical support to all the branches as well as the ancillary services of the signal branch for all forms of communication, and the transport branch for the various types of vehicles.

7.5.2 The Special Branch (E- branch)

The special branch has played a vital role in keeping the security forces and the government informed of the activities of the Communist terrorists, particularly during the first (1948-1960) and the second (1960 to date) emergencies (this is confined to security areas proclaimed by the King). It developed the expertise to process and interpret accurately security intelligence to keep the government always ahead and the security forces on the top of the situation. Apart from

this, it keeps an overall scrutiny on all activities which have bearing or may produce an adverse effect on the security of the nation, such as the public polemics on what are termed as sensitive issues. These are issues of religion, race and the position of the rulers. In view of its importance and its special role since the very beginning of the short history of the nation, this branch has priority over all other branches of the police in terms of manpower, logistics and other resources. As the very stability of the country often depends on how quickly and effectively any particular problem is addressed, the government has to ensure that the Special Branch of the police is always resourced adequately. This Branch is often used by the Commercial Crime Unit in giving technical aid to their investigations.

7.5.3 The Criminal Investigation Department (D -branch)

The Criminal Investigation Department (CID) comprising at its peak an establishment of 15% of the total personnel of the police force of 75,000, in early 1987, had not been getting much attention until the early eighties. With the decline in the security threat from the Communist terrorists, the public gained sufficient confidence to begin to level criticism at the police for the increase in crime. Although the crime situation in the country had not deteriorated markedly, there was considerable public outcry on

the crime situation in the country particularly in respect of violent crimes. As a result several specially selected Special Branch officers were brought into the Criminal Investigation Department at all levels of the organisation, in the early eighties. Following that move, the department was reorganised and given new vitality so that it could take on the challenging task of dealing with the 'outbreak' of the menace of drug addiction when it almost suddenly emerged and spread widely among the youth of the country. In early 1984, the anti-narcotic branch was formed within the criminal investigation branch to specially deal with the situation. It was able to make such an impact with the number of arrests of the drug traffickers by the end of 1986 that, with the mandatory capital punishment on being found guilty, Malaysia become known as an area to be avoided for drug trafficking. Similarly, in early 1985, a new unit for fraud and such 'white collar crime' was formed in the commercial crime branch of the Criminal Investigation Department to deal with specially delicate cases involving leading personalities and reputable politicians of the country. This resulted in several convictions of such personalities, including Ministers of the federal government. This unit started with 18 selected officers with business and law qualifications. In early 1989, the federal government of Malaysia has approved the total strength of 117 officers. The organisational structure of the unit is as in figure 9.1. It is a more comprehensive unit if compared to a similar commercial crime unit of the Singapore Police as in figure 9.2.

Detailed discussion of the commercial crime unit will be presented in Chapter Ten.

7.5.4 The Internal Security and Public Order Branch (B- branch)

The Internal Security and Public Order Branch is the para-military limb of the police and is made up of all the fighting and the operational units. It comprises the following units:

- * the police field force as infantry unit;
- * the federal reserve unit as the riot unit;
- * the mounted unit is the horse unit;
- * the air wing;
- * the marine police.

About 37% of the personnel of the police force have been allocated to this branch, with nearly 25,000 in the field force forming the twenty battalions of the present four brigades. A fifth brigade would have been formed had the security threat continued to persist in the eighties. However, as the security situation improved, the personnel for this brigade were re-allocated to the general duty leaving only token elements for the brigade headquarters. This in fact indicates the flexibility of the police force and also reflects the versatility of the personnel. In spite of the personnel being interchangeable from the general duty to the field force and

vice versa, the field force as a whole has very good record for jungle operation in terms of dealing with the Communist terrorists. The field force also performs the dual function of the fighting unit, and the normal police duties of crowd control, rescue work in any disaster, and anti-crime patrols.

The air wing, made up of light aircrafts and helicopters is responsible to:

- * carry out coastal patrols mainly for detecting smuggling of drugs and firearms into the country;
- * assist in jungle operation to locate enemy positions and cultivations for their supply.

Three helicopters will be in operation this year for combatting crime in the City of Kuala Lumpur.

The marine branch is responsible for patrolling the territorial waters of Malaysia for the maintenance of the internal security of the nation.

7.6 THE MANAGEMENT OF THE POLICE

As shown from the diagram of the force the police is a hierarchical organisation (see Appendix IXa-c). It has a centralised authoritarian style of management. It has a para-

military wing and the organisation has a military role; it is often regarded to be in the unenviable position of neither a military nor a civilian department. It attained this position because of its role in the historical development of the nation, to which it had been given the weight of the legislation under section 7 and 10 of the Police Act as follows:

Section 7:

- " (1) The Yang di-Pertuan Agong may, in time of war or other emergency, employed the Force or any part thereof to serve in conjunction with the Armed Forces of the Federation or any Local Forces established under any law, or otherwise in the defence of the Federation:

Provided that any part of the Force so employed shall continue to be under the command of the Inspector-General or such other police officer as may have been appointed for the purpose.

- (2) For the purpose of this section the expression "the Force" includes all bodies established or raised for police duties under the provision of this Act."

Section 10 (1):

"The Yang di-Pertuan Agong may, on a request in that behalf being made by a Government of a territory outside the Federation, by order direct such part of the Royal Malaysia Police as to him seems expedient to carry out police duties in such territory and he shall in such order specify the purposes for which such direction is made..."

Yang di-Pertuan Agong is the constitutional ruler.

7.6.1 Authoritarian style

The authoritarian style of management is not unique for a police organisation, though in the Royal Malaysia Police this has been more emphasised mainly due to the need to fight a 'civil war' during the first emergency. This rigid style of management has been carried on to the present with some relaxation in some of the branches of the four police departments, particularly in the special branch. Although no research has been done in this area, it has been long felt that the management style had brought about the stifling of activities among the personnel including the senior officers. It is the contention of this writer that a police officer down to the level of the constable would be more productive if he is not encumbered or inhibited by such regimental rules and regulations to which he is expected to adhere strictly to perform his work. In policing work the constable on the beat and patrol has to face the need to use his discretion and to make almost 'split second' decisions quite often in the course of his tour of duty if he is to be effective, just as the senior officers do, though the urgency may not be similar. It is most interesting to note that similar observation had been made on a study of the London Metropolitan Police on the adverse effects of an authoritarian style of management (Smith and Gray, 1983 page 300).

"The style of management of the force is shaped on the military model and essentially authoritarian.....

The emphasis on issuing instructions is allied to a reliance on set procedures rather than end results. It leads to control by checking that instructions are obeyed and procedures followed rather than by attending to whether objectives have been achieved. The converse is a lack of consultative approach to decision making. This lack of consultation leads to a failure to get officers to adopt goals and norms that are useful for the organisation as guiding principles of their own behaviour."

7.7 POLICE ROLE IN ECONOMIC STABILITY

The Royal Malaysia Police as the national police has a unique and important role in almost every phase in the social and economic development of the country. It has been in the forefront fighting the insurgent Communist party of Malaya and, later, the Communist party of Malaysia, and maintaining security for the stability of the nation in terms of racial harmony by attending immediately to any situation of racial conflicts. At the same time, it is performing the role of the traditional police in the prevention of crimes and the detection of criminals, and the maintenance of law and order and of the peace and tranquillity of society. Some of the activities under-taken by the police to promote public safety are as follows:

- * investigative objectives to deal with sophisticated crime;
- * promotion of comprehensive measures against organised crime syndicates;

- * promotion of sound development of juvenile;
- * promotion of measures to protect consumers;
- * realisation of a safe automobile society;
- * promotion of improvement of police equipment in response to changing police surroundings;
- * promotion of better communications with public;
- * promotion of tourism.

7.7.1 Investigative activities to deal with sophisticated crimes

As a consequence of social and economic changes, the nature of crimes has been changing and the investigative environment has worsened. To cope with this situation, the police have endeavoured to increase their capacity of scientific, wide-area and international investigation. At the same time, they are implementing measures to ensure people's understanding of and cooperation in their investigative activities.

7.7.2 Promotion of comprehensive measures against organised crime syndicates

In order to eradicate crimes by organised crime syndicates and destroy their organizations, the police has conducted a concentrated crackdown on gangster syndicates, drug

syndicates, smuggling syndicates, gambling and anti-vice syndicates and other designated organised crime syndicates which are highly prone to commit offences. In addition, they cooperate with other organisations and bodies as well as the general public to carry out a variety of activities for eliminating such syndicates.

7.7.3 Promotion of sound development of Juvenile

For the purpose of preventing juvenile delinquency and promoting the sound development of juveniles, the police intend, in collaboration with parents, schools and communities, to step up efforts to encourage guidance activities for juvenile delinquents, counselling services for minors and enlightenment activities to enhance norm-abiding consciousness among juveniles.

7.7.4 Promotion of measures to protect consumers

The police has carried out the necessary crackdown on economic crimes and other crimes affecting citizen's life seriously. Police play major roles in advising consumers in its effort to prevent widespread of such crimes, through the Public Relation Department of the Police. Public cooperations are vital to ensure success.

7.7.5 Realisation of a safe automobile society

To check the rising trend of traffic accidents and realize a safe automobile society, the police have provided systematic traffic safety education and careful administration for drivers in consideration of the reality of traffic and people's needs. Other measures to be introduced include systematic improvement of traffic safety facilities, provision of correct traffic information, maintenance of a good driving environment through appropriate traffic control and a concentrated crackdown on heinous violations of traffic rules which cause a high risk and public nuisance.

7.7.6 Promotion of improvement of police equipment in response to changing police surroundings.

Police surroundings are changing both quantitatively and qualitatively. To cope with this, the police will expand their equipment, such as vehicles, vessels and airplanes. Once expanded they should be carrying out research and development of communication facilities, equipment and materials by the introduction of high technology.

7.7.7 Promotion of better communications with public

Proper communication with citizens is the basis of the effective performance of duties by the police, and it is necessary to improve these communications through every police activity. At the moment the unit of Public Relation is well equipped at the Police Headquarters, Bukit Aman, Kuala Lumpur. However to enhance their communications with the public the facilities should be extended to all of their stations across the country to make themselves real agencies for the public.

7.7.8 Promotion of tourism

To boost tourism in the country, the Royal Malaysian Police have formed a new unit called the Tourist Police. The main functions of the unit are:

- * to achieve government aims in developing tourist industry in the country and internationally;
- * to give service and protection to tourists from within and outside the country;
- * to prevent crime committed against tourists.

With the formation of this unit, it is expected that the tourism will expand. The tourist would feel secure and eventually it is hoped it will become one of the most popular tourist resources in this region.

7.8 CONCLUSIONS

It is apparent that the role of the Royal Malaysian Police has been shaped by various changing needs of the society and the nation. Being part of the governmental machinery, the police need to be dynamic in their approach to cope with the ever-changing demands. As such, activities designed to promote nation-building will be given greater impetus. However public cooperation will be the main criteria for success. With the Government's urgent approval of additional man power of 117 men for the Commercial Crime Unit, it is recognised that the future burden in combatting economic crimes lies on the police. Both the Government and members of the public have high expectation of this Unit. They will monitor the successes and failures of this unit. As such it is now the responsibility of officers of this Unit to:

- * receive and consider complaints alleging economic crime activities and investigate such of these complaints as he considers practicable;
- * examine the practices and procedures of Government departments, public bodies, business institutions, in order to facilitate the discovery of economic crimes and to secure the revision of methods of work or procedures which, in the opinion of the police, may be conducive to economic crime activities;
- * instruct, advise and assist any person, on the latter's

request, on ways in which economic crime activities may be eliminated by such person;

- * advise heads of Government departments, public bodies, business institutions of changes in practices or procedures compatible with the effective discharge of the duties of such departments, public bodies and business institutions which the police thinks necessary to reduce the likelihood of the occurrence of economic crimes;
- * educate the public against the evils of economic crimes;
- * enlist and foster public support in combatting economic crimes.

CHAPTER EIGHT

8. THE FORMATION OF THE SPECIAL UNIT IN COMMERCIAL CRIME INVESTIGATIONS

8.1. OBJECTIVE OF THE CHAPTER

This chapter focuses on the formation of the special unit in the Commercial Crime Investigation within the Department of Criminal Investigations. The unit was formed in response to the increasing problems of economic crime which surfaced in 1985 and 1986. The chapter seeks to explain the rationale behind the structures, roles and functions of the unit as an organisation, which is also compared with the structures of a similar unit in the Singapore Police. This researcher headed the sub-unit, that is Head of Banking and Financial Institution Investigation from November, 1986 to October, 1989. He is able to discuss some of the main problems in:

- * investigations carried out by the unit that need to be reviewed;
- * goal and criteria for performance evaluation;
- * training programs.

These three areas seem to be lacking within the unit and affect its efficiency. The researcher, based on his study into 325 cases of interest and other literature, offers some

suggestions and recommendations for future improvements. For example, performance evaluation should be based on, amongst other things, the causal factors of crime and the factors should be comprehended to help to formulate future policies. On training programmes, who should be targeted the 'generals' or the 'soldiers', this is discussed in this chapter. Thus this Chapter consists of:

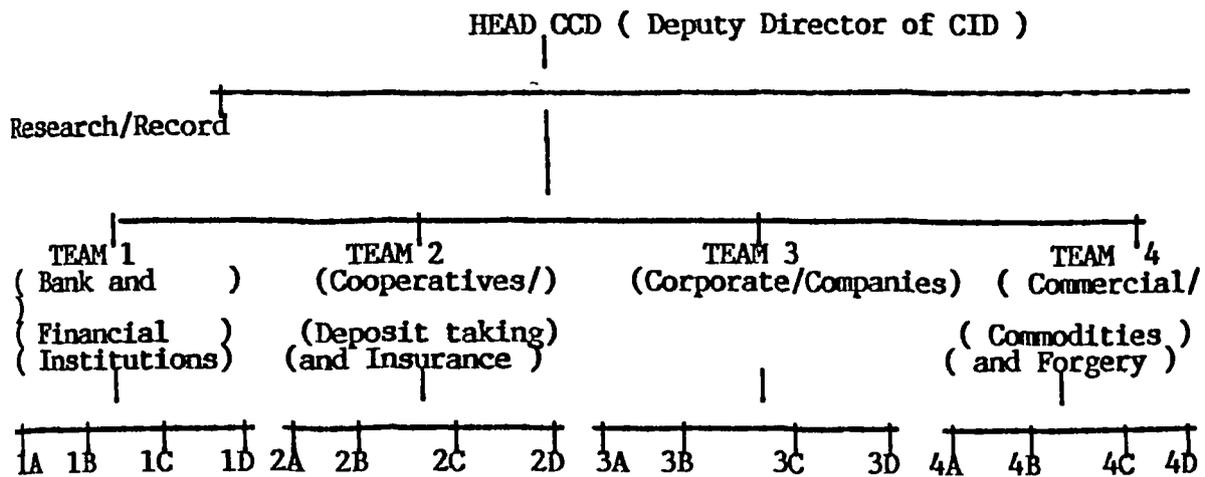
- * the need for a special unit;
- * policy planning;
- * initial operation;
- * liaison;
- * investigation;
- * performance evaluation;
- * evaluation;
- * design for self evaluation;
- * establishment of performance criteria;
- * development of data collection and analysis plan;
- * statement of expectation;
- * training for investigators;
- * conclusions.

8.2 THE NEED FOR A SPECIAL UNIT

In late 1985 and early 1986 several reports on various malpractices surfaced in some economic sectors in Malaysia. In response to the public outcry, a special unit of

Commercial Crime Investigations was formed at Bukit Aman Headquarters in August 1986. It started with 18 police officers borrowed from various establishment within the force. It was only in February, 1989 when the full establishment of 117 Officers was approved by the Public Service Commission. The structure of the special unit indicated in figure 8.1.

Figure 8.1 : ORGANISATION STRUCTURE OF COMMERCIAL CRIME DIVISION, CID
(AS IN JUNE, 1991)



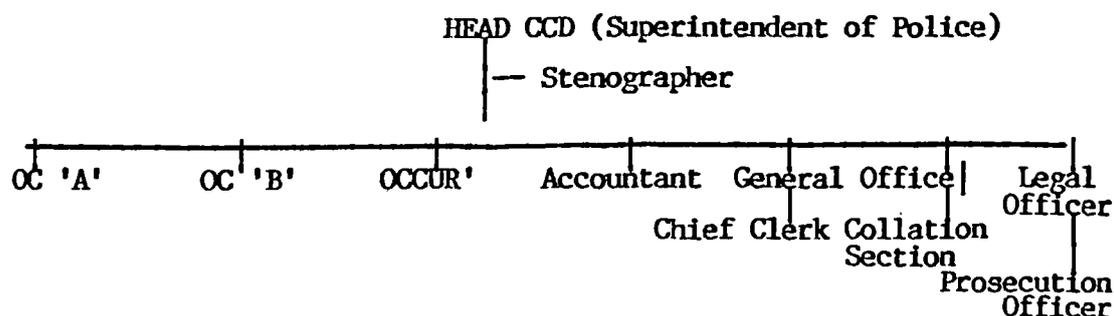
TOTAL STRENGTH

| | |
|----|---------------------------------|
| 1 | Senior Asst. Commissioner |
| 4 | Superintendent of Police |
| 17 | Deputy Superintendent of Police |
| 22 | Asst. Superintendent of Police |
| 41 | Chief/Inspector of Police |
| 22 | Constables |
| 1 | Extra-Constable |
| 9 | Stenos/recorders. |

117

As compared to the similar unit in Singapore Police, their organisation structure is given in figure 8.2.

Figure:8.2 ORGANISATION STRUCTURE OF COMMERCIAL CRIME DIVISION,CID
(As in June,1991)



APPROVED STRENGTH

| | |
|----|-----------------------|
| 1 | Superintendent |
| 2 | Deputy Superintendent |
| 1 | Asst. Superintendent |
| 13 | Inspectors |
| 12 | Sargeants |
| 13 | Corporals |
| 4 | Constables |
| 7 | Civilian |

53

The special task of this unit is to investigate reports of malpractices which possess economic crime implications. As a result, in 1988 the police were able to control and suppress crime of this nature. In 1988 the number of economic crime cases has dropped by 11.53% from 4,813 cases in 1987 to 4,258 cases in 1988 . Out of 4258 cases reported 1,219 or 28.6% have

been solved. Statistics according to the break down of offences for 1987/89 are given in Table 8.1.

TABLE 8.1 BREAKDOWN OF OFFENCES FOR 1987 TO 1989

| <u>OFFENCES</u> | <u>1987</u> | <u>1988</u> | <u>1989</u> |
|-----------------|--------------|--------------|-------------|
| Cheating | 2,796 | 2,046 | 1831 |
| C.B.T. | 1,133 | 929 | 891 |
| Forgery | 344 | 245 | 255 |
| Forged currency | 260 | 982 | 1485 |
| Others | 280 | 56 | 129 |
| <u>Total</u> | <u>4,813</u> | <u>4,256</u> | <u>4591</u> |

There was a sharp increase in term of losses in 1988 (\$214,156,700.41) compared to 1987 (\$153,900,000.00), recording an increase of 39.8% (also refer to Table 2.1). However the losses for the year 1989 decreased significantly to \$136,209,671.60. Since the establishment of this special investigation unit, the following sectors of the economy have been investigated as given in Table 8.2.

TABLE 8.2 BREAKDOWN OF INVESTIGATED CASES FOR 1987 TO 1989

| <u>Type Of Business Institutions</u> | <u>No. of Cases</u> |
|--------------------------------------|---------------------|
| Deposit taking Cooperatives | 41 |
| Deposit-taking Institutions. | 37 |
| Banks and Fin. Institutions. | 21 |
| Corporate Sectors | 45 |
| Employee Provident Funds | 19 |

[Note: The figures are given up to the end 1989]

However cases in counterfeit currency increased nearly four fold from 260 cases in 1987 to 982 cases in 1988. In 1989 this figure increased to 1485 cases with the total losses of \$2,735,066.00 and \$US 40,200.00. The amount involved in 1988 is not as much as in 1987. The amount of US currency involved in counterfeiting has also shown a sharp drop from US\$840,610 to US\$28,420. Indonesian rupees involved in counterfeiting have dropped from 16,610,000.00 to 440,000.00. This may be due to the fact that many world currencies, after the global recession, are showing instability and the exchange of these currencies in Malaysian business transaction would have been difficult. The volume of Singapore dollars involved in counterfeiting, although still in small domination, has shown

an increase from S\$450.00 to S\$1,850.00. This increase could possibly be due to the fact that the Singapore currency is gradually on the rise as compared to the Malaysian Ringgit. Furthermore, there is an increase of Singaporeans crossing the Johore causeway for shopping. The most noticeable is the buying of petrol where it has caused a great concern to the Singapore authorities due to the loss in petroleum duties. Singapore counterfeit currency, if not checked, may gradually increase in volume in Malaysia if the present value of Singapore dollars continue to fluctuate as it prevails today.

As a matter of comparison the commercial crime statistics of Singapore are given in Table 8.3 and 8.4.

8.3 POLICY PLANNING

There are five major policy questions which were considered at the planning stage of the special unit of Commercial Crime, which affect to a greater or a lesser degree the way in which the unit was set up. These are:

- * the types of crimes to be dealt with;
- * the approach towards handling the complaints from the public;
- * the stress placed on different available remedies, particularly whether there will be emphasis on civil as well

TABLE 8.3 COMMERCIAL CRIME STATISTICS OF SINGAPORE
POLICE FORCE FROM 1984 TO 1988

| | <u>1984</u> | <u>1985</u> | <u>1986</u> | <u>1987</u> | <u>1988</u> |
|---------------------------|-------------|-------------|-------------|-------------|-------------|
| CHEATING | 1195 | 1372 | 1716 | 1496 | 1590 |
| CRIMINAL BREACH OF TRUST | 375 | 473 | 487 | 462 | 495 |
| COUNTERFEITING | 344 | 291 | 249 | 136 | 265 |
| FORGERY | 197 | 183 | 169 | 190 | 206 |
| TRADE MARKS ACT | 92 | 110 | 126 | 285 | 119 |
| CHIT FUNDS ACT | 10 | 11 | 7 | 9 | 8 |
| COMPANIES ACT | 8 | 3 | 5 | - | 1 |
| FALSIFICATION OF ACCOUNTS | 1 | 1 | - | 1 | - |
| OTHERS | - | 4 | 6 | 55 | 2 |
| TOTAL | <u>2222</u> | <u>2448</u> | <u>2765</u> | <u>2634</u> | <u>2686</u> |
| No of Cases Cleared Up | 705 | 708 | 976 | 720 | 812 |
| Percentage of | 31.7% | 28.9% | 35.3% | 27.3% | 30.2% |

TABLE 8.4 VALUE OF PROPERTY LOST OF SINGAPORE POLICE FORCE
1984-1988

| | <u>All Offences</u> | <u>Commercial Crimes</u> | |
|------|---------------------|--------------------------|-----------|
| 1983 | 190,746,200 | 79,845,837 | (41.9%) |
| 1984 | 121,966,639 | 47,296,642 | (38.8%) |
| 1985 | 196,348,295 | 126,771,267 | (64.6%) |
| 1986 | 127,811,157 | 62,778,340 | (49.1%) |
| 1987 | 202,850,658 | 61,544,915 | (30.3%) |
| 1988 | 182,303,199 | 68,874,825 | (37.8%) |

[Source:Obtained by the researcher from the office of Singapore CCD with the permission of Head of CCD]

- as criminal action;
- * the type and manner of disposition of cases; and
- * combining non-economic crime functions with the economic crime unit.

8.3.1 The types of crimes to be dealt with

The major decision to be made regarding the types of crimes is whether the special unit will specialise in certain types of crimes, such as company frauds or consumer frauds or banking frauds, or will handle all forms of the economic crime which come to the attention of the Police. The relative emphasis has major implications for determining what background and skills the staff will need, office space to be assigned and relationships which have to be established with local, state, federal, and private agencies. Thus looking at the pattern of the economic crime for the previous years, it was concluded the the unit be divided into six main sub-units namely:

- * Research and Records;
- * Prosecution;
- * Team 1[Banking and Financial investigations];
- * Team 2[Cooperatives/Deposit taking/Insurance];
- * Team 3[Corporates/Companies investigations];
- * Team 4[Commercial/Commodities and Forgery].

8.3.2 The approach towards handling the complaints from the public

The approach taken by this unit towards handling complaints is clearly related to the first policy decision, regarding types of economic crime dealt with. Opinions differ strongly among officers about what is the best posture for an economic crime unit with respect to handling complaints from members of the public. Some argue that this is a time-consuming and hopelessly inefficient method of uncovering and responding to economic crime, preventing the unit from adopting a proactive, preventive approach to combatting economic crime. Others argue that it is an important public service to provide a place to which members of the public can complain, and receive prompt attention. This activity is important as it provides intelligence about patterns of crimes that could not be obtained elsewhere. It was decided that the members of the public could lodge any complaint at the nearest police station in their district or they could complain direct to this unit. The research and record section handles all the complaints received, and distributes them to the various team according to the nature of the complaints.

8.3.3 The stress placed on different available remedies, particularly whether there will be emphasis on civil as well as criminal action

Remedies are not limited to criminal and civil litigation. Police officers are instructed to receive all forms of the complaints and at the District level, the officer-in-charge of the District is to decide a form of remedy appropriate to the nature of the complaint. If it is a civil matter, the complainant will be advised to refer the matter to the Magistrate. In matters where criminal and civil litigation is not appropriate, the matters are referred to other agencies, encourage resolution of disputes through binding arbitration, or adopt a host of other approaches.

8.3.4 The type and manner of disposition of cases

Officers of this unit have not yet agreed whether the economic crime unit or other specialised divisions within their offices, should try their own cases, or whether the trial should be handled by the office of Attorney General. Those who opposed trial by the unit argue that economic crime cases are complex and require mastery of a substantial body of facts, and thus should be handled in court by the Deputy Public Prosecutors at Attorney General Office who currently have a specialised division to tackle the problems. Those who support assigning trials to officers of the unit argue that effective trial work requires familiarity with the case in which the unit officers have access to the case from the very beginning. At the moment the unit has 15 officers with law degree qualifications and a prosecution section is responsible to

peruse all investigating papers before transmitting it to the office of Attorney General with necessary recommendations.

8.3.5 The combination of non-economic crime functions with the economic crime unit

At the moment the officers are selected from various experiences and backgrounds. There is no accounting section created under this unit which is felt very necessary to tackle the economic crime cases. However officers with accounting and business degree are preferably selected for this unit and those without accounting and business qualifications will be trained as part of in-service training or career development programmes. At the early stage of establishing this unit a group of Accountants were seconded to this unit from Central Bank and the Public Service Commissions.

8.4 INITIAL OPERATIONS

The first objective of the unit has carried out is to develop investigations and cases which not only represent significant investigative and prosecutive activity, but which will enhance the ability of the unit to develop more and better cases, and which fit into the overall policies established by the unit. The unit has dealt with cases of prominence where such cases can come to light from the press, from other

agencies, from tips or informants, or from victims' complaints.

Doing this there are some organisational approaches which the unit has followed which has increased its abilities to select the cases they consider most important, without appearing unresponsive. One of the approaches is to maintain liaison with District officers responsible for economic crimes and other agencies to which various matters can be referred. This approach carries some risks; if the District officer or another agency to which the unit refers a case fails to follow through appropriately, the unit as well as the District officer or agency may suffer the blame. To overcome this a constant monitoring by the Research/Record Section has been carried out to ensure proper actions taken and submitting results. The criteria used for determining what crimes will be concentrated on, or what level of loss constitutes a serious offence, are resolved at the discretion of the Head of CCD after some discussion with the appropriate Team Head.

8.5 LIAISON

The special CCD unit operates, to a greater or lesser degree, in conjunction with other investigative and prosecutive agencies at the local, state, and federal levels. A crucial task for a new unit was to establish working contacts with such other agencies as early as possible.

Referrals from other agencies, particularly those without their own investigative and prosecutive authority, are an important source of information about new and ongoing economic crimes, as well as a valuable source of assistance in investigations. Other agencies can also provide a good source of advice on matters which the economic crime unit does not have authority or interest to pursue. In particular the unit refers non-criminal matters, or matters which are prosecutorially unattractive, which come to their attention to agencies such as the Central Bank, the Registrar of Cooperatives, Registrar of Business. Those agencies in return refer matters which have a potential for criminal prosecution to the the economic crime unit. Good liaison makes it possible to call on appropriate investigative or regulatory agencies for specific information not available to the unit. As a case is developed, for example, other agencies such as Central Bank can be contacted to see whether there are foreign transfer of money by the perpetrators, whose information will strengthen the case.

Working closely with other investigative agencies has been proven to be effective not only pertaining to training procedures but also the solving the cases. The researcher's contact with officers from CCD, Singapore and Independent Commission Against Corruption (ICAC), Hong Kong has resulted in fruitful investigations in the M\$22.2 million scandal of the Central Bank. The researcher managed to recover 3 million from

the Swiss Union Bank in Singapore with the assistance from Singapore CCD. A number of affidavits were taken from witnesses in Hong Kong with the assistance from officers of ICAC.

Cooperation with other police units at district or state level can also occur on a broader level than referral or assistance on individual cases. The unit can make use of their community relations programme, using the police community storefronts as a resource for reporting consumer complaints. Police officers at the district level are included in training conferences on economic crime, to inform them generally of the functions of the CCD in combatting economic crime and to help to train them in identification of the elements of these crimes.

8.6 INVESTIGATION

Investigation is central to the activities of an economic crime unit. Only rarely does the unit prosecute cases for which they have not conducted their own investigations, and never will they prosecute a major case in which they have not at least attempted to corroborate independently investigations conducted by others. Many of the problems of investigation have been discussed in Chapter One. Basically investigators have relied on six basic investigative techniques to solve crimes:

- * the development of informants;
- * use of the undercover agents;
- * laboratory analysis of physical evidence;
- * physical and electronic surveillance;
- * interrogation;
- * where permitted by law, wiretapping.

Each of the these techniques has resulted in varying degrees of success. However, it is observed that the investigation in the financial area of the perpetrator was not broad enough. The reluctance to broaden the scope of their investigations in the financial area is understandable; it was caused, in part, by an inhibition that has existed amongst most present investigators that financial transactions, for the most part, were difficult to investigate unless the investigator had an accounting background. Rather than take positive action to overcome this inhibition, many investigators took a negative approach and merely dismissed the need to investigate financial leads by rationalizing their minimal evidentiary value.

As we have discussed earlier most of the economic crime resulted from greed for wealth and are motivated by the same common denominator- a desire for financial gain and power that its command. In this contention it is the view of the researcher that the application of the net worth-expenditure principle wherever and whenever possible. Application of the Net-Worth-Expenditures Principle is a mathematical computation designed to determine the total accumulation of wealth and

annual expenditures of an individual. The principle has been used by Income Tax and Inland Revenue, for the purpose of determining tax-payers income tax liabilities, primarily in those instances where no books or records of income and expenses have been maintained by tax-payers from which a determination of tax liability could be made. An illustration of Net-worth and Expenditures computation of a perpetrator is given in table 8.5. Basically this principle attempts to explain incomes and expenditures of a perpetrator. From the table 8.5, it illustrates the Networth and Expenditures computation, other living expenses, such as food, medical care, clothing, interest, taxes, contributions and so on have not been taken into account. Evidence of expenditures of this nature would further increase the amount of unexplained source or sources of income expended by the perpetrator. Accordingly it would give the investigator greater leverage in applying these techniques. If information concerning day to day living expenditure is readily available to the investigator, it should be obtained and documented in a similar manner. If it is not obtained in the course of investigation, the facts on daily expenses could be obtained by way of cross-examination of the per perpetrator in the course of trial.

This tool is widely used by the Department of Income Tax and Inland Revenues, and, if properly applied by this unit, can greatly enhance the success of the investigation of cases where illegal profits are acquired. It is the researcher's

Table 8.5 Net-worth And Expenditures Computation

| NET WORTH AND EXPENDITURES COMPUTATION | | | | | |
|---|-----------------|-----------------|-----------------|------------------|-----------------|
| <u>ASSETS</u> | <u>31/12/87</u> | <u>31/12/88</u> | <u>31/12/89</u> | <u>31/12/90</u> | <u>Page No.</u> |
| Checking Account-Bank A | \$ 300 | \$ 1,100 | \$ 3,600 | \$ 4,300 | |
| Saving Account-Bank B | 200 | 2,100 | 7,400 | 9,200 | |
| Condominium Apartment | | 65,000 | 65,000 | 65,000 | |
| Furniture Store-Capital Investment | 15,000 | 15,000 | 15,000 | 15,000 | |
| Securities: | | | | | |
| 200 shares ABC | | | | 20,000 | |
| 200 shares DEF | | | | 5,000 | |
| Motorcars: | | | | | |
| 1988 Mercedes 230E | 104,500 | 104,500 | 104,500 | -0- | |
| 1990 BMW 7 Series | | | | 113,500 | |
| 1990 Mercedes 300 | | | | 206,500 | |
| Diamond Ring | | | | 5,000 | |
| TOTAL ASSETS | \$ 120,000 | \$ 187,700 | \$ 195,500 | \$ 343,500 | |
| <u>LIABILITIES</u> | | | | | |
| Mortgage-Condominium Apt. | | \$37,500 | \$27,500 | \$17,500 | |
| Motorcar Loan | | | | 100,000 | |
| TOTAL LIABILITIES | -0- | \$37,500 | \$27,500 | 117,500 | |
| Net Worth | \$ 120,000 | \$ 150,200 | \$ 168,000 | 226,000 | |
| Less Net Worth Prior Year | | 120,000 | 150,200 | 168,000 | |
| Increase in Networth | | 30,200 | 15,800 | 58,000 | |
| Add: Identified personal Expenses: | | | | | |
| Loss on Trade in of Mercedes 1988 | | | | \$60,000 | |
| Travellers Cheques | | | \$20,000 | | |
| Rolex Watch | | | | 5,000 | |
| TOTAL EXPENDITURES | | \$30,200 | \$37,800 | \$123,000 | |
| Income from Furniture Store | | 16,250 | 11,750 | 14,375 | |
| <u>INCOME FROM UNIDENTIFIED SOURCES</u> | | <u>\$13,950</u> | <u>\$26,050</u> | <u>\$108,625</u> | |

experience, that all investigators, can and, when appropriate, should investigate financial leads and analyse financial transactions in the same competent and professional manner as demonstrated by their development of interrogation skills, networks of informants and overall application of investigative innovativeness.

It takes evidence to get a conviction, and in the area of today's economic crime, the need to gather evidence of perpetrator's financial transactions has become critical. Moreover, it is not speculative evidence, but credible concrete evidence that can convince the Court.

8.7 PERFORMANCE EVALUATION

From the outset in the operation of the special unit of CCD, it is important to maintain an informal process of monitoring ongoing performance of the unit. Such performance evaluation can contribute to budget justification efforts, to more effective administration of unit resources, to periodic review of unit policies, and to an assessment of the value of particular prosecutive services for the community. This is done by the Research and Record Section. Part of this process is a periodic assessment of the objectives and direction of the unit; part of it is a matter of keeping a record of what activities have been undertaken in a manner which illustrates

the benefit of such activities. In short it relates to each other the two aspect of unit operations -- goals on the one hand, and accomplishments on the other.

8.8 EVALUATION

Recognition that fighting economic crime necessarily will use resources that otherwise might be deployed elsewhere and, therefore, that it essential for the unit not to be defensive in forwarding arguments on opportunity cost. On the contrary, the pressure for evaluation should be viewed as a management asset, producing positive benefits for the unit staff in their relationship with the Police administrators and the Treasury Department for funding sources. In addition, such a posture will prove beneficial to the unit Head and unit members as they go about their work.

8.8.1. Evaluation needs of the Department Financial Administrator

A financial administrator or an officer responsible for financial matters of this unit must be armed with considerable information in order to assist the unit in getting financial support from the Treasury. He has to be continually supplied with information, evaluative in nature, which provides him with feedback concerning his decision on funds. This will

also assist him to forward the necessary recommendations for extra funding from the Treasury Department. The unit which pursues self-evaluation carefully and seriously will be at some advantage in relating to the needs of the Police in the annual budget.

8.8.2 Evaluation needs of the Treasury Department

The Treasury Department is responsible for the annual allocation of funds to the Police. Such funds carry with them evaluative requirements that too often are viewed as troublesome meddling, especially in the laying out justifications for the funds. This is not a healthy interpretation of such requirements. Funding resources, like operating agencies, have hard choices to make concerning where they will expend their limited resources. This explained their need for both prior information and on-going feedback concerning their funding choices. A sound self-evaluation plan that set against stated objectives and priorities such as training facilities, travelling expenses, technical equipments, can assist an economic crime unit both in meeting the evaluative needs of an external funding source and in fulfilling its own information needs.

8.8.3 Evaluation needs of the economic crime unit

Efforts in economic crime enforcement are sometimes novel ventures for the police, the roles and expected performance criteria for those participating in them can be somewhat ambiguous. Therefore it often will be unclear to unit members what expectations they should have of themselves. This can easily cause the economic crime effort to impede.

The situation can be easily overcome by supplying the unit head and unit members with adequate and continuous feedback concerning their efforts should be the goal of a sound self-evaluation plan. What follows is a design for self-evaluation of economic crime enforcement efforts. Its purpose is to provide general guidelines applicable to many kinds of economic crime enforcement efforts. This will highlight general information needs related to self-evaluation, and to describe the process of evaluation.

8.9 DESIGN FOR SELF EVALUATION

There are four fundamental steps involved in a sound self-evaluation. They are:

- * determination of unit goals and objectives;
- * clear statement of criteria bearing on achievement of goals and objectives;
- * development of plan for collection and analysis of information related to performance;

- * statement of expectations concerning goal attainment.

8.9.1 Determination of goals

Ideally self-evaluation of an economic crime enforcement effort should begin at the the planning and pre-implementation stage. This is because it is at this point that careful enunciation of reasonable goals and accompanying objectives capable of being measured or otherwise assessed, can occur. Unless specification of goals and objectives is undertaken, there is little basis on which an evaluation can proceed. Clarification of the unit's mission, in other words, must occur in order to assess its performance in relation to that mission.

Goal determination is not ordinarily an evaluative step that can be undertaken in a vacuum. Participants in such a determination should include relevant agency and administrative staff, the designated unit head, the representative of the police planning section and few members of the unit staff.

As we have discussed in this research, economic crime enforcement has some unique dimensions that make the determination of goals and objectives a particularly difficult undertaking. Economic crime represents a complex and extremely

varied range of conduct. One cannot simply set up the goal of "reducing economic crime" because it would be meaningless. Instead, it is necessary for evaluative purposes to settle on what economic crime activities, or specific types of conduct does the unit seek to reduce. Secondly, economic crimes in general are believed to go substantially unreported. Add to this the number of agencies and levels of government which have a responsibility of some kind to deal with various economic crime abuses. It is highly unlikely that any one agency could possibly be the repository of even the events that are reported in given jurisdiction. Instead, the reported events are likely to surface in many different agencies. To approach economic crime generally as an enforcement problem with a view to reducing it is to set a goal, performance toward which is impossible to measure or adequately assess. Finally, because of the variety of acts and actors embraced within the concept of economic crime, it is unlikely that even the most talented, well-staffed and organised enforcement unit could successfully respond to more than a few segments of the activity.

Setting goals and related objectives in the economic crime area, then, is largely a process of specifying and limiting the focus of an enforcement effort to some manageable portion of this crime area given available resources. Recognising that enforcement effort cannot do everything, there must be some determination of what best can be done and what

can be done well with the staff, resources, and the time available and the jurisdictional powers possessed.

What can be done well is largely a function of staff characteristics and resources. What can be done, on the otherhand, must relate primarily to an assessment of what is occurring in the unit's environment. Such an assessment should seek to answer the following questions:

- * What abuses are taking place and at what frequency?
- * How are these being responded to ?

The unit should review carefully the major abuses affecting its jurisdiction as against the current responses to this abuses. Where a major abuse is not meet with a response, or is adequately met, the unit should then determine if it can be appropriately and effectively provide the response needed.

There are a number of approaches in setting goals and accompanying objectives that might be chosen for economic crime effort. Some example are :

- * setting goals with reference to victim groups;
- * selecting goals with reference to specific abuses;
- * setting goals with respect to the development of the expertise.

And example of victim-oriented goal and accompanying objectives would be the following:

Goal: To reduce and to prevent the victimisation of members of the Cooperatives from their funds being subject to fraud or misappropriated by the staff of the Cooperatives.

Objectives: * informing members of the cooperatives on how to avoid being victimised by such frauds or misappropriation;

- * increasing the reporting rates of members of the cooperatives victimised by such crimes
- * assisting victim members in filing complaints and pursuing official redress in their behalf;
- * securing appropriate remedial action (restitution and mediation outcomes) for members who have been victimised.

Setting out goals on the basis of selected offences relies heavily on two factors:

- * the presence of adequate information from which intelligent selection can be made;
- * the planning of the subsequent effort to provide the resources necessary adequately to address the offences selected.

Lacking either of the above factors, use of this method of goal determination is reduced to a hollow exercise that will provide little guidance or sense of mission for a subsequent economic crime unit. From this research we observed that property based companies are mostly involved in economic crime activities. Perhaps the sensible goal on this point as far as this research is concerned would be on land fraud. Thus an example of abuse-related goals and attendance of objectives material to this study could be as follows:

Goal: To reduce the incidents of land fraud within the property based company.

By

Objectives: * thoroughly investigating real estate and land transfer practices in Malaysia;

- * alerting the public to tactics of the land fraud specialist;
- * increasing the reporting of questionable practices concerning the sale of land by public;
- * enlisting the aid of real estate professionals to report abuses in their industry;
- * seeking criminal prosecution and maximum criminal penalties in land fraud cases developed by the unit;
- * assisting other jurisdictions in prosecuting land fraud operators that come to the unit's

attention but are not within its powers(Police have limited powers within the Land Code of Malaysia).

Setting goals with respect to the development of expertise in the unit to respond to a range of economic crime activities is also a sensible strategy. This goal will encourage the economic crime effort to undertake cases of greater significance and impact on the public. This frequently is for cases of greater complexity and difficulty, which are more time-consuming and demanding of investigative resources (example M\$22.2 million scandal of Central Bank, BMF affairs and Insider Trading cases). Enhanced skills and related willingness to take on new challenges in familiar areas is also likely to encourage unit personnel to exercise these skills in the challenge presented by new forms of economic crime that emerges from time to time. In addition the capacity to deal with particular economic crimes often will facilitate their recognition as prosecutable offences.

An example of an expertise-development goal and accompanying objectives could be:

Goal: To substantially improve the capacity of this unit to respond successfully to problems of economic crime.

BY

- Objectives: * taking advantage of special training programs designed to enhance or impart economic crime investigative skills;
- * improving the quality of investigative and case preparation materials for official processing;
 - * undertaking investigations in novel and complex cases and bringing them to satisfactory conclusions;
 - * completing complex investigative tasks in cooperation with other agency;
 - * improving the satisfactory delivery of services to victims of economic crime.

8.10 ESTABLISHMENT OF PERFORMANCE CRITERIA

Acceptable criteria by which performance can be evaluated in relation to those goals could then be established. The process should involve maximum participation of the unit staff as well as the unit head and planning personnel. It is obvious that "accepted criteria" must reasonably relate to the goals and objectives to which they are applied. Thus, if the major objective of the unit is to secure criminal penalties for particular abuses, an accepted criterion of performance should relate to cases accepted by a prosecutor, rather than those to which civil outcomes applied. Sound performance criteria can

provide managerial guidance and essential measurement to supervisors as well as contributing to unit evaluation.

8.11 DEVELOPMENT OF DATA COLLECTION AND ANALYSIS PLAN

In order to have a sound self-evaluation system one has to decide what kinds of information will be needed to determine whether the performance criteria have been met. The research officer of the unit has to see that the information needed for the evaluative effort is sufficient enough for management of a well-organised and supervised unit. He has to come forward with a data collection plan. This data collection plan for evaluation should provide the unit supervisors with information needed to manage their units. The kinds of information needed depends on the stated goals, objectives and criteria adopted by the whole unit. For example if the goal is to reduce the incidents of land fraud in the property based companies, the sensible data gathering plan would be as illustrated in figure 8.3.

8.12 STATEMENT OF EXPECTATIONS

The formal statement of expectations with respect to both the short and long term is necessary for a sound evaluation design. This is essential to avoid confusion or

Figure 8.3 Matrix for Data-Gathering Plan

MATRIX FOR DATA-GATHERING PLAN

| CRITERIA | INFORMATION NEEDED | SOURCE OF INFORMATION |
|---|--|--|
| what changes occurred in patterns of reporting questionable land sales? | initial number of land sale complaints. changes in numbers of report and complaints changes in kind of complaints received | complaints received file |
| what proportion of land fraud cases were presented for criminal prosecution | number of land fraud cases developed, compared with all cases outcomes of all cases number criminally prosecuted | investigations files- past & completed- closed on-going |
| what proportion of target population received information? | size of target population how many persons in population received information | Census statistics local office on aged Investigator's activity files Public service groups Land office records |

moving towards wrong targets. This could be done by going through the statistics and facts of the cases and do some forecasts such as what is expected to occur in the next three

months as opposed to the last six month. Studies of the activities that are most prominent. Statements of expectations will help the unit's day to day operations and could assist in preparing for monthly or quarterly summaries for the unit.

By doing the above process it will assist a economic crime effort not only in attaining its goals, but also in clarifying the process and documenting the milestones that are the substance and tokens of that achievement. And also equally important to evaluate the benefits against the costs of this type of policing.

8.13 TRAINING FOR INVESTIGATORS

From the research on police investigators in Malaysia, it is observed that officers are not adequate trained. The professionals and victims are more trained. The perpetrators are better trained. The police therefore should address training to the selected officers with a view to producing first-rate 'economic crime' investigators. Candidates for the position of an investigator require further training to develop a high level of professional skill, even if they have prior investigative experience. Police officers who have other crime investigative experience should be oriented toward new types of investigative techniques, such as:

- * more subtle ways of talking with witnesses and interrogating suspect;
- * more care in the planning of arrests;
- * more familiarity with an audited paper trail.

It is felt that investigators who have had experience in criminal breach of trust in companies may not have adequate experience to other types of criminal activity such as insider trading or land fraud or computer fraud. The appropriateness of particular training techniques approaches depends very much on resources. Thus it depends on how the Financial Ministers and other politicians view the need for skilled investigators and how convincing the police Department is in persuading them. There are three ways in which investigators can be trained, namely:

- * informal on-the-job training;
- * informal cross-agency training;
- * formal training.

8.13.1 Informal training

On the job training is frequently implemented by starting the new investigator off on a simple cases, working at a desk next to an experienced investigator. The trainee might sit in on some interviews, interrogations and meetings of the experienced investigator. Or the experienced investigator can team up with the trainee so that they can work complex cases

together. The trainee's background and the needs of the unit should determine which is most appropriate.

Some experienced investigators may be particularly effective as trainers and should be given recognition for their efforts. The progress of the trainees should be evaluated in periodic three-way conferences between the trainee, the experienced investigator, and the supervisor of investigation. Involving the supervisor will tend to minimise any tendency for the investigator to "keep" the trainee's effectiveness by keeping him as an assistant longer than necessary for his training.

In a new unit like the present, one form of training is to train the unit as a whole on the job - that is, the new investigative staff can be assigned cases more on the basis of their value in training than for their value in other respects. The staff as a whole, as individuals or as teams, might be assigned relatively simple cases at the beginning of their training, in which they have a good chance of being successful. Furthermore, if such cases are likely to generate much public interest, then a successful prosecution can encourage the new unit to acquire even more skill.

8.13.2 Informal cross-agency training

One variation of on-the-job training is to

temporarily assign investigators to work in agencies which are either similar to, or functionally closely allied to, the trainee's own unit. For example, the police officers could be attached to the Ministry of Trade, Central Banks, Attorney General's Office for certain period of time, after which they could return to their own unit, where they become a reservoir of certain areas of economic crime investigative skills. This method of training could be taken at international level, for example, attaching police officers at the United Kingdom Fraud Squad or Hong Kong's Independent Commission Against Corruption which are seen to be effective. When the trainee returns to his unit, he is replace by another trainee from the same unit or other department of the Police force. The trainees most likely to benefit would be those who already have other crime investigative experience such as robberies, murders and so on, but who need to learn some special skills involved in economic crime investigation. Cross-agency training would be most useful in metropolitan areas such as Kuala Lumpur where there are many and are more likely to be a host of agencies which are difficult to learn about from outside. The cost could be cut down by having exchange relationships among agencies.

Some of the advantages of cross-agency on-the-job training are:

- * they have all the strengths of on-the-job training mentioned above;
- * close personal ties can be established between the

agencies which otherwise might hold each other at a distance, thereby facilitating communication and cooperation;

* personnel in each agency will have a better understanding of the other and therefore be better able to work together.

* the trainee does actual productive work during his training.

8.13.3 Formal training for economic crime investigator

There is no one way to do formal training. Since the unit is frequently new, it may sometime necessary to train a whole squad. There are a number of advantages to train them together as a unit, either separately or in a training programme with other trainees. The squad can get to know and trust one another in a situation in which the pressure to work on cases is absent. They can learn to cooperate, to share information and ideas as they help each other through the training. If the officers have already had experience in economic crime investigation, their knowledge can be shared as part of the training programme. Similarly, if an officer had some experience in a particular trade, such as insurance fraud or land fraud, can make a special contribution. Such sharing of expertise of either an investigative or trade nature may be useful particularly if certain types of new economic crime schemes such as 'pyramids' are currently spreading.

A continuous training scheme should be developed for the unit not only higher echelon persons in the unit but to include all police officers and and clerical line including receptionists. The development should be focus on special investigative techniques needed for economic crime investigation such as:

- * investigative accounting;
- * tracing of money;
- * use of newspapers;
- * computer fraud;
- * shopping and decoys
- * interviewing victims and the informants and witnesses;
- * interrogation of suspect;
- * organising investigative information;
- * decision-making in the course of an investigation.

8.13.3.1 Investigative accounting

The depth of training in accounting that is necessary for investigators will vary with the type of cases they investigate, the availability of professional investigative accountants, and so on. Nevertheless, it can be argued that all investigators of this unit should have enough knowledge of accounting at least:

- * to know when to recognise that accounting help is needed;
- * to know what questions can and should be put to accountants; and
- * to know how to evaluate what accountants give to them.

The above knowledge is essential because most accountants can best help the investigator when they are oriented in what to look for. Of course it will be a strong asset if an investigator himself is a professionally qualified accountant. Perhaps this type of training should be divided into two parts:

- * it should be conducted by an investigator-trainer who has used accounting help, and give his perspective on where and how to call on it;
- * it should be conducted by an investigative accountant, or an auditor who has worked with law enforcement illustrating his lecture with specific cases.

It is noted that short courses on double-entry bookkeeping where many example of ledgers, balance-sheets, and so on have been shown to help investigators greatly.

8.13.3.2 Tracing of Money

Officers should receive a detailed description of the ways in which money and cheques are processed through and among banks and other business, with a glossary and guidelines. Individual exercises should be given to officers on bank records, credit card records, and so on., to trace money. Copies of such material used in actual cases can be readily made, thus this could cut costs down.

8.13.3.3. Use of Newspaper

The use of media, principally newspapers, can be helpful. Covers should be made on local and international media such as Straits Times, Business Times, Wall Street Journal etc, for stories and advertisements which have rather substantial economic crime implications. Discussions on a particular stories or advertisements should be made in morning meetings. Probably from the discussions in serious matters a pro-active investigations should be initiated straight away before any complaints were made.

8.13.3.4 Computer Fraud

Since it is anticipated that a computer fraud is on the rise, it is important that investigators become at least familiar with the functioning and issues involved in them,

without becoming computer experts. They should know enough to recognise when they need to enlist a computer expert and what questions to ask him. Presentation of the following issues are helpful to investigators :

- * importance of computers,
- * definition of computers,
- * knowledge of different systems,
- * knowledge of computer terminology,
- * use of computers in business and accounting,
- * the types of fraud.

8.13.3.5. Shopping and Decoys

Trainees should be given adequate practice in shopping or inviting a solicitation by a fraud operator by a variety of role-play technique- shopping with respect to investment frauds, consumer frauds, land frauds, and so on. One of the aspects of the situation that needs to be emphasised should be to make the "shopping" as believable as possible to the suspect. Therefore a proper disguise is needed. Another aspect is making the investigator as effective as possible in gaining information from observation and from conversations, to gain the most from possibly fraudulent statements by suspects.

In this area of investigations at some stage they need to use decoys. The whole process of setting up a decoy

needs to be examined and observed from both a legal and technical point of view, including the use of experts.

8.13.3.6 Interviewing Victims, Informants and Witnesses.

Investigators need to develop skills in interviewing beyond the initial contact. The training should be introduced with a discussion of the differences between interviewing victims, informants and witnesses on the one hand and interrogating suspects on the the other. Practical exercises could be made by breaking the trainees into group of three. Two members of the group should be given a short descriptions of roles, with the third acting as observer-commentator. Such descriptions would not be very difficult to prepare since they emerge from experience. Each of the participants can be given paragraph descriptions of the situation from their points of view. The practice situations should be as difficult as possible, such as:

- * a victim who is reluctant to admit having been hoodwinked;
- * a witness who also was partially involved in a scheme;
- * an informant whose motives are highly questionable;
- * a potential witness who may been bought off;
- * a witness who may not stand up in court;

- * a victim who might be using law enforcement as a collecting agency;
- * a victim and a party to a civil suit who might be using law enforcement as an agency to fish for favourable evidence, and so on.

It would be well to have a series of such problems, with the trainees rotating their positions, and the observation of the trainees commenting on their performance after each problem. The intention of the above exercises is to see whether:

- * the interviewer secures detailed, explicit information;
- * the interviewer secures or learns about all relevant documents;
- * the interviewer determines something about the motives of the witnesses;
- * the interviewer establishes enough rapport to assure continued cooperation with the investigation;
- * the interviewers develop any further lead.

The same sorts of exercises can be done with interviews with government officials, other investigators, and businessmen. They should give special concerns for the issues involved with interviewing these people, such as vulnerability to pressures,

their concern for their own organisational needs, political problems they may have, and so on.

8.13.3.7 Interrogation of Suspects

The approach to the interrogation of suspects in economic crime is quite different from the suspect in non-economic crimes. This is because the suspects here are generally brighter, more verbal, more knowledgeable and more personable than non-economic criminals. Thus it is always important to approach the suspect from a position of maximum strength in advance.

From the past experience of this researcher the main difficulty arises from the fact that economic crime suspects often have higher community status than ordinary suspects. In addition, they are surrounded by many props to support their facades of legitimacy - all of which tend to place the investigator in a very difficult position unless his case is already well developed and also he has a very strong sense of personal security which will sustain him in such situations. So the key to successful interrogation is intensive preparation and such command of the facts of the case as will strengthen the role of the investigator and undercut the confidence of the suspect being interrogated. To elaborate this situation in a training process would be stressing on the case examples of "impressive" suspects on:

- * how they attempted to "spin" investigators;
- * what tactics were used to cope with these attempts;
- * what types of preparation and counter methods were involved in both successful and unsuccessful investigator action to obtain information in the face of the suspect's evasive and misleading manoeuvres.

8.13.3.8 Organising investigative information.

It is obviously possible for an investigation to produce so much information that it would be very difficult for one person to keep track. The use of computers and other techniques to store data should be immediately seriously considered by the unit.

Ways in which data are stored either in a computer or in an investigator's notes can be organised so that the organisation of a complex scheme can be made easily available for the use by the investigator. By doing so he can see *patterns*, missing links in the investigative process, and so on. This problem process of keeping track of all the data is a vital one, not only when the schemes are complex, crossing between and among businesses and people, but also when a number of different investigators agencies become involved in the investigation. Very useful devices for keeping track of both the scheme and the information about the scheme are Link Network Diagram and Time Flow Diagram as shown in Appendix XVI

a-b. Link Network diagrams can show the association between events, persons, organisations, and so on, when there is little concern over exact sequence in time of the associations. A Time Flow Diagram can be used in cases in which sequences and times are important to understand. These diagrams can be used to communicate to supervisors, prosecutors and judges.

8.13.3.9 Decision-making in the course of an investigation.

One of the basic problems in any investigation is the decision as to whether to continue to investigate, how to continue to do so, whether to join with other agencies, and so on. Adequate training should be given on this issue as to make the trainees aware of possible alternatives and considerations, and to give them some practice at making such decisions. In this way, they are more likely as investigators to give some thought to their decisions, and to stop frequently to think through next steps.

As a summary, a comprehensive training programmes in economic crime investigations mentioned above is to achieve in investigators a sense of the importance and worth-whileness of their mission - maximising their investigative professionalism. Their works could be relied by the prosecutor or Attorney General in the prosecution of perpetrator(s).

8.14 CONCLUSIONS

In the march towards high standards of professionalism, the police themselves on occasion, have overlooked line performance as the basic point of departure. This oversight has resulted in a loss of perspective and a general failure to recognise the relationship between organisation and the attainment of police objectives. An accelerated professional tempo in the Malaysian Police requires the application of patterns of management and administration based upon the dynamics of performance in the field of operations. Operating strength in the line merits acceptance as a controlling factor of high validity in the organisation of the Police department. "Line power" or "line capability" concerns the quality and quantity of performance at the point in police organisation where the delivery of the police service is actually made - the line. The training programmes should focus on the line.

The line operations of the police department are directed toward the execution of plans in the field where contact is made with police objectives. The objectives include the protection of life and property, maintenance of the peace and public order, control and prevention of crime and vice, traffic control, and a large number of regulatory responsibilities. Line performance is, therefore, the point at which the investment in management and administration comes to

a focus and at this point that the return on the expenditure of public funds for police service may be measured.

Line performance is a product of the kind and amount of work performed in the effort to realise police objectives. Maximum work standards are determined by the quality and quantity of power available in the line. Thus, the line power is an expression of the competence exercised in the field of operations of a department. The manner in which they are articulated through organisation and administration into a training programme. It is hope that the recommended performance evaluation and training programmes will significantly generate power to the line to combat economic crime effectively. To achieve this, Senior police officers must be willing to devolve responsibilities.

CHAPTER NINE

9. ENFORCEMENT AND APPLICABILITY OF LAWS

9.1. OBJECTIVE OF THE CHAPTER

The objective of this chapter is to discuss some of the draconian laws in existence in Malaysia. These laws have previously been used on 'hardened criminals'. This chapter attempts to discuss whether these laws could be justifiably extended and enforced to perpetrators of Economic Crime. There are two cases in 1987 where the Malaysian police applied the Internal Security Acts 1967 to detain perpetrators without trial in connection with their involvement in economic crimes. However they were released by the High Courts of Malaysia when writs of Habeas Corpus were made. The problem faced by the police is to convince the Court that cases of economic crime could bring about instability to the national security of the country. Courts normally and rightly interpret the subject of national security 'objectively' (example: according to the value of the property stolen or number of persons victimised) whereas the police would like it to be interpreted 'subjectively' (example: according to how serious members of the community say the offence is). In spite of the problems faced so far in the application of these laws on economic crime perpetrators, the police must work within existing legislation.

This chapter consists of :

- * introduction;
- * categories of draconian laws;
- * laws under emergency rule;
- * law under peace time;
- * recent amendments to law;
- * conclusions.

9.2. INTRODUCTION

The militancy of the terrorist groups of the Communist parties, and the violence of the many secret societies such as the triad, underlined the need for tough, and in many respects draconian, laws. These laws were necessary to curb offences which have politically motivated objectives and are aggressively pursued through terrorism, subversion or other activities all resulting in the breach of national security. They are also to deal with criminals who operate viciously in gangs and create such terror that no informer would be a witness, nor (even with his safety assured to disclose his identity), far less to appear and testify in any court of law for fear of reprisal. Members of a gang have been known to resort to all kinds of evil deeds to maim or kill suspected informers and witnesses or members of their families. The most controversial of these laws is the Internal Security Act No.82/1960. It has been so formulated to deal specifically

with cases concerning the internal security of the country pertaining to violence, subversion (both political and economic), and any other acts designed to destabilise the nation.

The other law which has such sweeping power is the Emergency Ordinance No.5 of 1969 enacted specially to deal with the violent activities of gang members, who are involved in organised crimes including gaming, vice, the protection rackets and the trafficking of as well as the manufacture of psychotropic drugs. These two pieces of legislation, especially the former, have become the subject of a lot of controversy. It was one of the political issues often taken up by most of the opposition parties, to demand for them to be repealed now that the threat to the internal security of the nation has diminished.

The present laws that are commonly used on such offenders where the normal laws are inadequate to deal with the situation are of two categories. The first category of laws constitutes those enacted specially to deal with the situation under the circumstances of an 'emergency' prevailing in the country such as in a situation where there is grave threat to the internal security of the nation. The other category comprises laws which are applicable at all times for which the police, at the discretion of any senior officer (usually a CID officer), would use on members of syndicates and gangs involved in organised crimes. There is also a special law designed specifically to be

used on hardened criminals who have more than half a dozen previous offences of violent crimes.

9.3 CATEGORIES OF DRACONIAN LAWS

There are two categories of draconian laws. One is laws under emergency rule and the other is laws during peace time.

9.3.1 Laws under emergency rule

The first category of laws are the following:

- * the Internal Security Act No.82/1960;
- * the Emergency Ordinance No.5/1969.

9.3.2 Laws under peace time

The second category consists of the following laws:

- * The Crime Prevention Act No.13/1959
- * The Dangerous Drugs Act No.234/1952 and
- * The Restricted Residence Enactment (F.M.S.Cap.39).

The essence of the above laws is that all have provisions for the accused persons to be detained by the police for reasonable periods of time for the purposes of police investigation. Within the periods specified by the law, the police can then make application to the relevant authorities on prima facie

grounds, to have orders for detention or restriction issued on such persons either to be detained at the detention centre or to be restricted to certain specified areas of residence.

The legislation was enacted to cater for extreme cases involving activities of violence or threat of violence.

The criminal activities are carried out in a well-organised manner, such as those involving the theft of motor vehicles, which shows the highest increase by more than 146% over the period of seven years from 1980 to 1986; armed robbery and robbery without firearms which show an increase of 120% and 88.1% respectively, over the same period. The normal common laws are inadequate to deal with the situation, and some of the laws referred to above would then be applied for such cases.

Those often required to be used are:

- * the Emergency Ordinance,
- * the Prevention of Crime Act,
- * the Restricted Residence Enactment.

It has been much discussed whether the above laws could be applied to economic crime perpetrators. Article 5 by Clause (1) of the Federal Constitution provides that no person may be deprived of his life or personal liberty save in accordance with law. Thus one cannot kill or imprison a man unless authorised by law.

Clause (2) provides that, where a complaint is made to a High Court or any of its judges, that a person is being unlawfully detained, the court must inquire into complaint and unless satisfied that the detention is lawful, must order him to be produced before the court and release him. The complainant applies by a writ of habeas corpus. Habeas corpus may be brought only under the Criminal Procedure Code and is a criminal proceeding.

It is for the authorities to justify the detention. It is sufficient for him to produce a valid warrant or order of detention; if this has been done then the onus is on the complainant to show that the power of detention has been exercised "mala fide" or improperly.

For economic crime cases to date, the police have made a test case by detaining one Raja Khalid bin Raja Harun the ex-Chairman of Perwira Habib Bank for criminal malpractices including cases of cheating. The argument put by the prosecution that malpractices including cheating committed by the said Raja Khalid bin Raja Harun was a threat to security of the country as the losses of about M\$600 millions were sustained by the bank whose depositors mostly are soldiers.

Tan Sri Raja Khalid challenged the validity of the early detention before any case file was put up on him. The High Court Judge held that there was no evidence which disclosed

that Raja Khalid had acted in any manner prejudicial to the country, inter alia, that Raja Khalid's involvement in cheating the Perwira Habib Bank (PHB) was not a threat to security. He thought it was incredible that losses sustained by a public bank where the depositors also include members of the public at large could result in any organised violence by the soldiers as a result of his action in Perwira Habib Bank. Thus, the Court ordered his release. On appeal to the Supreme Court by the Public Prosecutor, the Court decided that the detention was legal as it was only for the Police to investigate whether Raja Khalid's activities may endanger the security of the country. According to the appeal Court, the Court did not have the right to the reasons why such actions were said to have an adverse effect on the security of the country. However, the Court was of the opinion that, if facts are furnished voluntarily, exhaustively and in great detail, as in this case, for consideration of the Court it was compulsory for the Court to study and make an impartial decision. In this case, the Police Officer responsible for the case explained freely though not necessarily in detail. Thus, the Supreme Court agreed with the trial judge on his conclusion.

Taking the above case into consideration, it is obvious that in the first instance the activities of those detained must fall within the scope of ISA, that is, prejudicial to public order and national security. It is already settled law in this country that, whilst the allegations of fact are not subject to

review by the court, the grounds of detention, as stated in the Detention Order, are open to challenge if alleged to be not within the scope of the legislation. Thus, the only question is for the Court to determine whether the grounds are within the scope of the Act (Karam Singh v. The Minister of Internal Affairs (1969)2 MLJ 129 and The Minister of Home Affairs & Anor v. Karpal Singh (1988) 3 MLJ 29). However, when the Courts quarried into the sufficiency of the grounds of detention and allegations of fact, the Court held that they were not a threat or are prejudicial to national security. In making its decisions, it appears that the Courts used objective tests to come up the conclusion whether or not the persons detained posed a threat or are prejudicial to the national security.

The Police is seriously looking into this aspect with a view to make appropriate recommendations to the Government to remedy the defect so that the question of the Court going into the subjective minds of the executives does not arise. This is to avoid many serious cases been thrown out by the Courts.

9.4 RECENT AMENDMENTS TO LAWS

In response to changing times and needs, some of the important laws have to be updated through amendments. The rights of the majority have to be protected against the demeanour of the few at all costs. Thus, the Government has,

and continues to brave the chorus of criticisms and opposition (for various reasons) to changes/amendments made to the Internal Security Act (ISA), the Societies Act, the Official Secret Act, Police Act and other legislation, from selected minorities. Recently the Inspector General of Police, Tan Sri Mohd Haniff Hj. Omar has suggested to the Government that laws should be passed to confiscate the proceeds gained from economic crime and compensation should be made to victims by the perpetrators. If this is taken on board by the Government it might deter the would be economic crime perpetrators.

The Amendments to the Societies Act 1966, passed during the Parliamentary Session 18 March 88, received mixed views from political parties and other organisations within the country and from outside the nation. Similarly reactions were also noted in respect of the Police Act, the Internal Security Act (ISA) and the Official Secrets Act (OSA).

In winding up the debate on the Amendments to the Societies Act, the Prime Minister of Malaysia clarified that the Amendments were necessary to ensure that the rights of the majority of the members of associations would not be adversely affected if a situation arose where one member threatened or held to ransom a million other members. The Amendments were meant to tighten any loopholes and uncertainty in the Act to smoothen its administration.

9.5 CONCLUSIONS

Whatever actions taken by the Government in correcting the criminal justice to enforce the law on economic crimes perpetrators, it is important to ensure there is no class bias. Class bias is broadly defined as any systematic tendencies for legal institutions to impose more severe punishments on categories of persons lower in wealth, status, or power than on any persons (or organisations) higher on any of those dimension. We have, for instance, an unemployed person committed theft of M\$13 worth of goods from a Supermarkets was sentence to five years imprisonment and an Executive Director committed criminal breach of trust of M\$4.4 millions belonging to shareholders was given only 1 day jail and a fine of M\$10,000.00. In handling crime control policy on economic crime perpetrators, there should be four propositions to be understood. They are:

- * economic crime does more harm and is more common than traditional serious crime;
- * because of the volume of economic crime, consistent and equitable enforcement is not even remotely attainable. More punitive treatment of economic crime perpetrators implies that they will be treated less equitably;
- * economic crime perpetrators can use their power: to prevent prosecution; to displace blame downward in the class structure; to place blame on the organisation rather than on

powerful individuals within it.

* because of this power of economic crime perpetrators, prosecutors have little option but to adopt policies that result in convicted economic crime perpetrators being treated more leniently than common criminals.

It is often been argued in Malaysia that the most fundamental inequality in the criminal justice system is that the crime of the powerful are both the most harmful and the least sanctioned. While the powerless are sanctioned severely often and severally. A just society would have many more economic crime perpetrators in prison than common criminals. Thus it is right that the draconian laws should be more rigorously applied to economic crime perpetrators.

CHAPTER 10

10. ANALYSIS

The object of this Chapter is to show the analysis of results of research which was carried out as explained in Chapter Three and Four. Important observations were highlighted between the groups i.e. investigators, victims, perpetrators, and professionals as regards to age, working experience, education and status ratings. The strength of causal and possible remedial variables were determined. The relationships between variables were tested including hypothesis testing to verify certain relevant statements. From the statistical testings this chapter gives a general insights of economic crime in Malaysia.

The rate of response of the respondents was very gratifying especially from investigators, victims and professionals. It was anticipated that the response from the perpetrators would not be to the same level, and this was overcome by using personal interviews in addition to the questionnaires sent out. In total, there were 272 respondents as shown in Table 10.1.

Table 10.1 RESPONDENTS

| | <u>FREQUENCY</u> | <u>PERCENT</u> |
|--------------|------------------|----------------|
| INVESTIGATOR | 72 | 26.5 |
| VICTIM | 64 | 23.5 |
| PERPETRATOR | 48 | 17.6 |
| PROFESSIONAL | 88 | 32.4 |
| | ----- | ----- |
| | 272 | 100.0 |

10.1 INVESTIGATORS

The investigators, consisting of 65 males and 7 females are police officers holding the ranks from Inspectors to Senior Assistant Commissioner of Police. The majority of the investigators are attached to the Commercial Crime Department at Police Headquarters, Bukit Aman, Kuala Lumpur. The rest hold various supervisory posts, such as Officer Incharge of Crime of a State (O.C.C.I.) and Officers Incharge of Police District O.C.P.D.). All the investigators have had sufficient investigative experience of economic crime cases to be useful and relevant for this study. They are from all over Malaysia. A number of the respondents were officers currently attending a

course in Diploma Police Science at Royal Malaysia Police College, Kuala Kubu Bahru, Selangor.

Most of the officers have been in the police force for a considerable period of time. The breakdown is shown in table 10.2:

Table 10.2 Breakdown of Police Officers by number of working years.

| <u>Number of Police Officers</u> | <u>Number of years working</u> |
|----------------------------------|--------------------------------|
| 10 | 1 to 5 years |
| 13 | 5 to 10 years |
| 49 | 10 years and over |

As to the number of years working specifically as investigative officers, the breakdown is given in table 10.3:

Table 10.3 Breakdown of Police Officers by number of years as investigative officer (I.O.).

| <u>Number of Police officers</u> | <u>Number of years as Investigative Officer(I.O.)</u> |
|----------------------------------|---|
| 40 | Between 2 to 5 years |
| 13 | Between 6 to 10 years |
| 12 | Between 11 to 15 years |
| 5 | Between 16 to 20 years |
| 6 | Over 20 years |

The numbers of investigating papers (IPs) prepared by each Investigating Officer (I.O) are as shown in Table 10.4 and Bar Chart 10.1.

10.2 VICTIMS

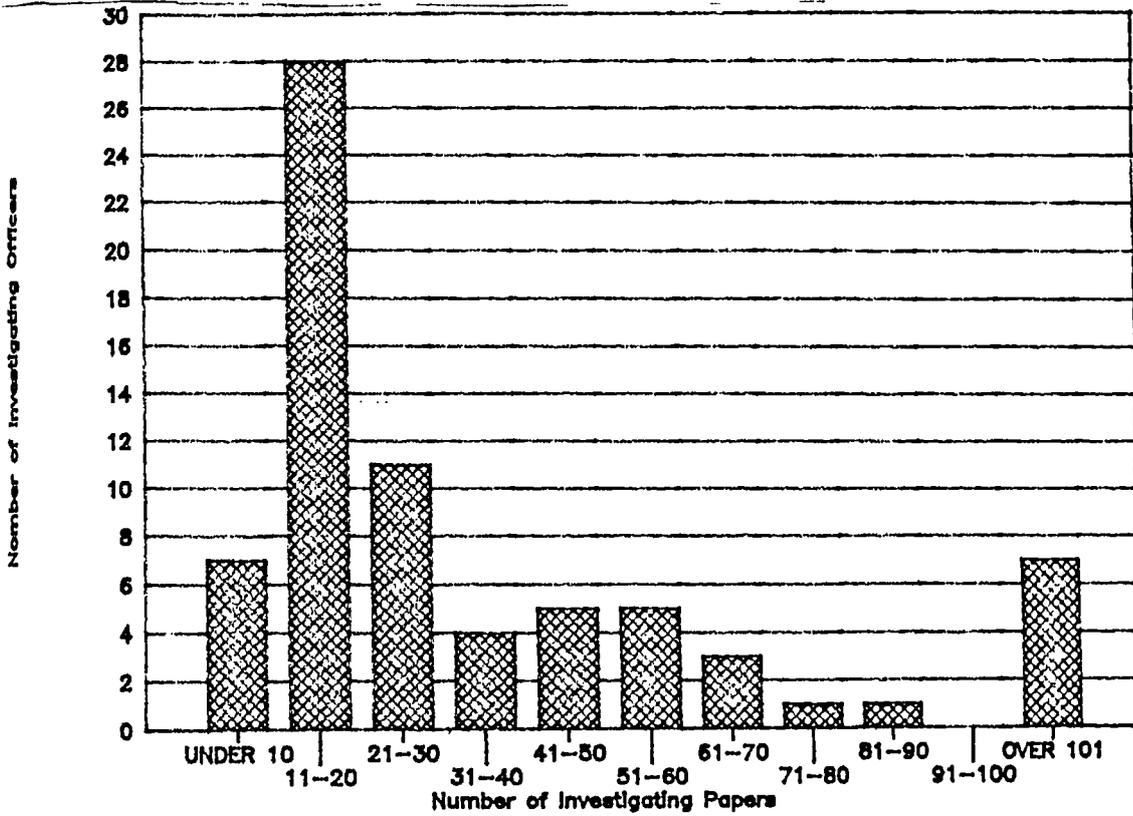
The victims are the people who have come forward to lodge police reports on economic crime cases. They were contacted through their addresses given to the police. Some were sent questionnaires directly to them by the researcher. Some questionnaires were handed over to them directly by the Investigating Officers at the Commercial Crime Department, Police Headquarters, in Kuala Lumpur. 64 victims replied comprising of 52 males and 12 females. Of these 64, 25 are Malays, 28 Chinese, 10 Indians and 1 other.

The victims are from various organisations. The breakdown of

Table 10.4 Breakdown of I.Os by number of Investigating Papers

| <u>Number of I.Os</u> | <u>Number of Investigating Papers(IPs)</u> |
|-----------------------|--|
| 7 | Less than 10 IPs |
| 28 | 11 to 20 IPs |
| 11 | 21 to 30 IPs |
| 4 | 31 to 40 IPs |
| 5 | 41 to 50 IPs |
| 5 | 51 to 60 IPs |
| 3 | 61 to 70 IPs |
| 1 | 71 to 80 IPs |
| 1 | 81 to 90 IPs |
| 0 | 91 to 100 IPs |
| 7 | 101 and above IPs |

Bar Chart 10.1 Breakdown of I.Os by number of IPs



the number of persons by organisations are as follows:

Table 10.5 Breakdown of victims by organisations

| <u>Number of Person</u> | <u>Percentage</u> | <u>Organisation</u> |
|-------------------------|-------------------|--------------------------|
| 5 | 7.8% | Individuals |
| 7 | 10.9% | Cooperatives |
| 5 | 7.8% | Government Bodies |
| 11 | 17.2% | Financial Institutions |
| 9 | 14.1% | Property-based companies |
| 9 | 14.1% | Services Companies |
| 6 | 9.4% | Manufacturing Companies |
| 7 | 10.9% | Banks |
| 5 | 7.8% | Others |
| === | ===== | |
| Total 64 | 100.0% | |
| === | ===== | |

As to their working experiences, the breakdown is given in Table 10.6.

Table 10.6 Breakdown of victims by number of working years

| <u>Number of Person</u> | <u>Percentage</u> | <u>No. of working years</u> |
|-------------------------|-------------------|-----------------------------|
| 6 | 9.4% | Between 1 to 5 years. |
| 7 | 10.9% | Between 5 to 10 years |
| 51 | 79.7 | More than 10 years |
| === | ===== | |
| 64 | 100 | |
| === | ===== | |

Of the number of cases reported to the police by victims, who completed questionnaires, the breakdown by value is as follows:

Table 10.7 Breakdown of cases by value of losses

| <u>Number of cases</u> | <u>Percentage</u> | <u>Amount of Loss</u> |
|------------------------|-------------------|-----------------------|
| 4 | 6.3% | Under M\$50,000 |
| 4 | 6.3% | M\$50,001-M\$100,000 |
| 4 | 6.3% | M\$100,001-M\$200,000 |
| 5 | 7.8% | M\$200,001-M\$300,000 |
| 4 | 6.3% | M\$300,001-M\$400,000 |
| 4 | 6.3% | M\$400,001-M\$500,000 |
| 39 | 60.9% | M\$500,001 and above |
| === | ===== | |
| 64 | 100.0% | |
| === | ===== | |

10.3. PERPETRATORS

The lowest response rate and absolute number of respondents who answered the mailed questionnaires were from the perpetrators. Out of 150 questionnaires sent out, only 33 people (22%) did reply. This situation was probably due to their involvement in economic crime activities, and, as such, deemed it best to remain away from any form of questioning. To overcome this problem, the researcher requested the assistance from police officers attached to Commercial Crime Department, Police Headquarters, Bukit Aman, in Kuala Lumpur to conduct personal interviews with perpetrators currently subjected to cases under their investigations. The same questionnaires were used. With their assistance 15 more respondents replied making a total of 48. It is this researcher's intention to recommend this form of interview is permanently adopted in this department because the data gathered should be used for future planning.

Of these 48 perpetrator respondents, 45 are males and only 3 are females. This reflects that economic crime cases are mostly committed by males. 47 are Malaysian and 1 Taiwanese. Of the 47 Malaysian, 9 are Malays, 29 Chinese, and 9 Indian. They have been committed or suspected to have committed in cases of:

Table 10.8 Breakdown of cases by offences

| <u>Number of Cases</u> | <u>Type of Offences</u> |
|------------------------|--------------------------|
| 1 (2.1%) | Theft |
| 17 (35.4%) | Cheating |
| 6 (12.5%) | Fraud |
| 5 (10.4%) | Forgery |
| 19 (39.6%) | Criminal Breach of Trust |

Their involvements in terms of money are:

Table 10.9 Breakdown of perpetrators by value of losses

| <u>Number of perpetrators</u> | <u>Percentage</u> | <u>Amounts of Loss</u> |
|-------------------------------|-------------------|-------------------------------|
| 11 | 22.9% | Under M\$50,000 |
| 7 | 14.6% | Between M\$50,001-M\$100,000 |
| 10 | 20.8% | Between M\$100,001-M\$100,000 |
| 1 | 2.1% | Between M\$200,001-M\$300,000 |
| 2 | 4.2% | Between M\$300,001-M\$400,000 |
| 3 | 6.3% | Between M\$400,001-M\$500,000 |
| 14 | 29.2% | M\$500,001 and above |
| ==== | ===== | |
| 48 | 100.0% | |
| ==== | ===== | |

Their working experiences are:

Table 10.10 Breakdown of perpetrators by number of working years

| <u>Number of Perpetrator</u> | <u>Percentage</u> | <u>Number of years working</u> |
|------------------------------|-------------------|--------------------------------|
| 1 | 2.1% | Less than 1 year |
| 10 | 20.8% | Between 1 to 5 years |
| 20 | 41.7% | Between 5 to 10 years |
| 17 | 35.4% | 10 years and above |
| ==== | ===== | |
| 48 | 100.0% | |
| ==== | ===== | |

The majority of the perpetrators (64.6%) have a working experience of under 10 years, and their average age is 34 years.

10.4. PROFESSIONALS

The number of responses from the professionals is excellent; 150 questionnaires provided 88 responses. This is due to the help of friends ("old-friends" network). Some of them were class-mates and University-mates who remain helpful and obliging. A number of them were Phd and Masters graduate from the University of Stirling currently attached to institutions such as Technology University of Malaysia, at Johor, Institute Technology Mara, at Selangor, National University of Malaysia, at Bangi, National Electricity Board Malaysia, in Kuala Lumpur, and Information Department of Serawak. People who assisted in distributing questionnaires to the corporate sectors include: Azman Abu Bakar, Managing Director of MUDA Holdings, Malaysia, Dato Yahya Yeop Ishak, Directors of MUDA Holdings and also a retired Commissioner of Police, Mustapha Ahmad, Managing Director of Bank of Islam, Kuala Lumpur, Dato Teo Ah Khian, Chairman of a Public Company, Gooi Hock Chuan, Deputy Public Prosecutor, Lee Chong Fook Assistant Commissioner of Police, Ramli Yusoff, Superintendent of Police and the Office of Ministry of Home Affairs, Kuala Lumpur.

Of the 88 professional respondents, 68(77.3%) are males and 20(22.7%) are females. All are Malaysian, comprising 39(44.3%) Malays, 44(50.0%) Chinese, 4(4.5%) Indians and 1(1.1%) other. They are from various professional backgrounds namely:

Table 10.11 Breakdown of professionals by their professions

| <u>Number of persons</u> | <u>Percentage</u> | <u>Professions</u> |
|--------------------------|-------------------|---------------------------|
| 7 | 8.0% | Lawyers |
| 4 | 4.5% | Prosecutors |
| 7 | 8.0% | Academicians |
| 6 | 6.8% | Politicians |
| 12 | 13.6% | Accountants |
| 2 | 2.3% | Magistrates |
| 6 | 6.8% | Senior Government Servant |
| 38 | 43.2% | Senior Executives |
| 6 | 6.8% | Others |
| ==== | ===== | |
| 88 | 100.0% | |
| ==== | ===== | |

They came from various organisation divided as:

Table 10.12 Breakdown of professionals by their organisations

| <u>Number of persons</u> | <u>Percentage</u> | <u>Organisations</u> |
|--------------------------|-------------------|------------------------|
| 5 | 5.7% | Individuals |
| 11 | 12.5% | Cooperatives |
| 16 | 18.2% | Government Bodies |
| 10 | 11.4% | Financial Institutions |
| 9 | 10.2% | Properties |
| 6 | 6.8% | Services |
| 8 | 9.1% | Manufacturing |
| 10 | 11.4% | Banks |
| 13 | 14.8% | Others. |
| ==== | ===== | |
| 88 | 100.0% | |
| ==== | ===== | |

Their working experiences are as follows:

Table 10.13 Breakdown of professionals by their working experience.

| <u>Number of persons</u> | <u>Percentage</u> | <u>No. of years of working</u> |
|--------------------------|-------------------|--------------------------------|
| 13 | 14.8% | 1 to 5 years |
| 12 | 13.6% | 5 to 10 years |
| 63 | 71.6% | 10 years and above |
| ==== | ===== | |
| 88 | 100.0% | |
| ==== | ===== | |

The majority of the professional respondents (71.6%) have more than 10 years of working experience.

10.5. ANALYSIS TOOLS

In this research, the SPSS-X (Statistical Package for Social Science-Extended Version) computer package in the University of

Stirling was used. Several statistical methods were used to explore and analyse the data obtained from the survey. They are:

- * simple Descriptive Statistics such as frequency, means and standard deviations:
- * measures of association for Contingency-Correlation Coefficients.

The answers from the questionnaires are classified into variables (refer Appendix XII-C). There are 86 variables divided into nominal, ordinal and interval and ratio data. Nominal data are numerical in name only, because they do not share any of the properties of the numbers. Ordinal data is setting up inequalities and indicate that bigger means more, so 3 is more than 1. Interval data is the differences formed which it allows to answer not only the question 'is 3 more than 1?' but also 'how much 3 more than 1?' (Herbert, 1990, page 81). Ratio scale is formed quotients i.e., it can perform all customary operations of mathematics. It includes all usual measurement or determinations of length, height, money amounts, weight, volume, area, pressures etc. It has an absolute zero measurement.

Since this research is a study of the causal factors involved in economic crime in Malaysia and remedial functions of the police, apart from testing statistically a range of hypotheses, it is crucial to explore certain 'qualities' or 'behavioural'

aspects of the perpetrators. Thus having this in mind the statistical tests were specially conducted to measure the statistical significance and degree of correlations between different causal variables. It also focussed on the relations of the poor groups, that is investigators, victims, perpetrators and professionals in terms of age, education, income, and social status.

The choice of tests that measure significance and correlation between variables depends on the data and its measurement (nominal, ordinal, interval and ratio) level. The tests that are commonly carried out are by:

- * Chi-square for measuring the significance of association between two attributes for nominal levels of measurement;
- * Gamma coefficient for variables using ordinal level of measurement;
- * Pearson's product moment correlation coefficient(r) for variables using interval or ratio of measurement;
- * ANOVA and ANOCOVA tests for hypotheses testing between variables.

At the early stage of the analysis where a descriptive, exploratory approach was required, to explain the frequency of the variables, the researcher used SPSS-X's CONDESCRIPTIVE function which gave out means and standard deviation. FREQUENCY was also used giving the number of frequencies and

percentage. CROSSTABS TABLES was later used to describe relationships between variables. Of the four types of test mentioned above three tests were used after taking the detail considerations of the types of measurements. They are:

- * Chi-square;
- * Pearson Correlation;
- * ANOVA and ANOCOVA.

By itself, Chi-square helps only to decide whether the variables are independent or related. It does not tell how strongly they are related. Part of the reason is that the sample size and table size have such an influence upon Chi-square value. The significance can be tested by stating the desired confidence level of 95% or 99%.

Pearson's Correlation tests the statistical linear correlation of two variables using interval or ratio levels. SPSS-X computes Pearson product-moment correlations for pairs of variables. It serves a dual purpose. Besides its role as an indicator of the goodness of fit of the linear regression, it is a measure of association indicating the strength of the linear relationship between the two variables.

In the case of hypotheses testing where it involves two or more variables, ANOVA and ANOCOVA tests were used in this research. This is because two or more way ANOVA could determine the interaction (that is, inter-relation between two independent

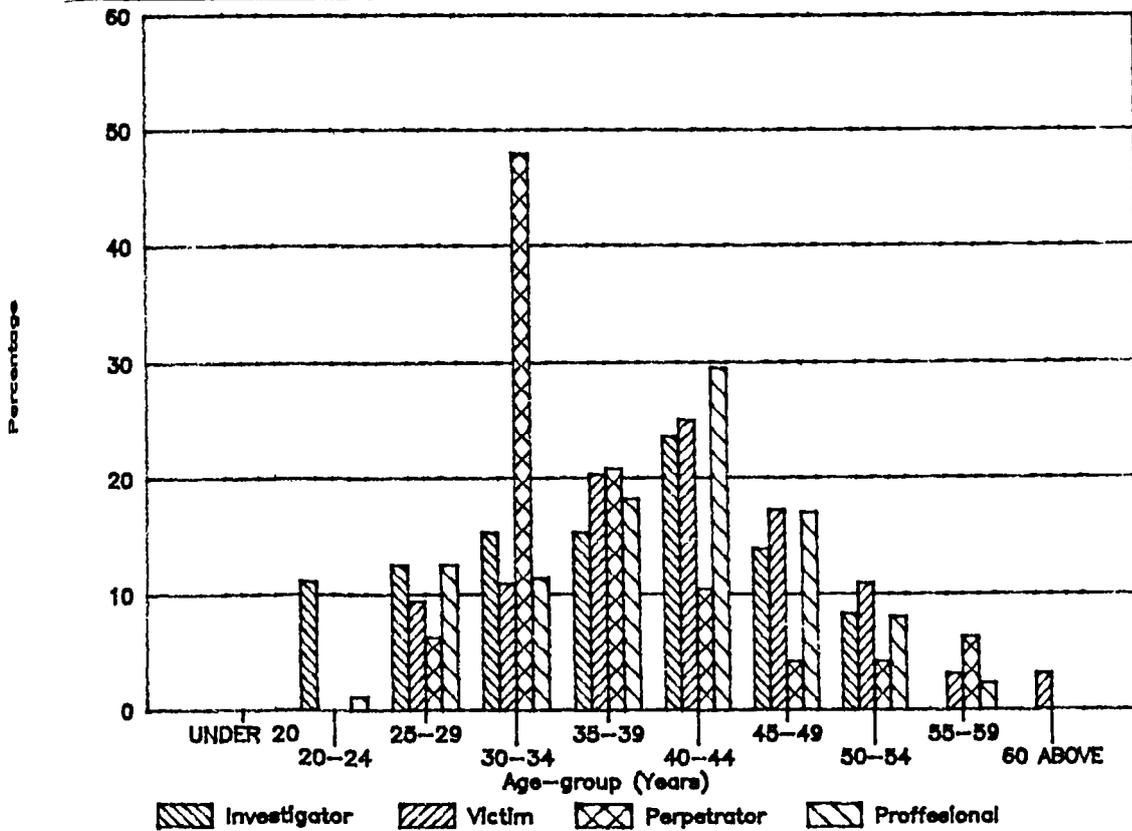
variables/factors), if any, between two independent variables affecting a dependent variable can as well be studied. While applying the analysis of Co-variance (ANOCOVA) technique, the influence of uncontrolled variable is usually removed by simpler linear regression method and the residual sums of square are used to provide variance estimates which in turn are used to make tests of significance.

10.6. OBSERVATIONS BETWEEN THE GROUPS

10.6.1 AGE

Most of the respondents in terms of age, are over 30 years old. Judging from the frequencies and percentage in Table 10.14. and Bar Chart 10.2, it is observed that the age of the respondents concentrated at the age of between 25 to 54 years with the highest of 64 respondents (23.5%) at the age between 40 to 44 years old. The perpetrators age concentrated at the age of between 30 to 34 years with 23 (47.9%) persons and age between 35 to 39 years with 10 (20.8%) person. The age of victims and professionals concentrated highest at between 40 to 44 years old with 16 (25.0%) and 26 (29.5%) persons respectively. Unlike for the traditional crimes discussed in Chapter five where convicted prisoners of Malaysia for the year 1985 to 1997 are concentrated with more than 50% between the ages of 29 years and below.

Table 10.14 Breakdown of respondents by age



Bar Chart 10.2 Breakdown of respondents by age

FREQUENCY AND PERCENT

| | <u>ALL RESPONDENTS</u> | <u>INVESTIGATOR</u> | <u>VICTIM</u> | <u>PERPEIRATOR</u> | <u>PROFESSIONAL</u> |
|---------------|------------------------|---------------------|---------------|--------------------|---------------------|
| UNDER 20 YRS. | | | | | |
| 20-24 YRS. | 9 (3.3%) | 8(11.1%) | - | - | 1(1.1%) |
| 25-29 YRS. | 29(10.7%) | 9(12.5%) | 6(9.4%) | 3(6.3%) | 11(12.5%) |
| 30-34 YRS. | 51(18.8%) | 11(15.3%) | 7(10.9%) | 23(47.9%) | 10(11.4%) |
| 35-39 YRS | 50(18.4%) | 11(15.3%) | 13(20.3%) | 10(20.8%) | 16(18.2%) |
| 40-44 YRS | 64(23.5%) | 17(23.6%) | 16(25.0%) | 5(10.4%) | 26(29.5%) |
| 45-49 YRS | 38(14.0%) | 10(13.9%) | 11(17.2%) | 2(4.2%) | 15(17.0%) |
| 50-54 YRS | 22(8.1%) | 6(8.3%) | 7(10.9%) | 2(4.2%) | 7(8.0%) |
| 55-59 YRS. | 7(2.6%) | | 2(3.1%) | 3(6.3%) | 2(2.3%) |
| 60+ YRS. | 2(.7%) | | 2(3.1%) | | |
| TOTAL | 272 (100%) | 72 (100%) | 64 (100%) | 48 (100%) | 88 (100%) |

10.6.2. WORKING EXPERIENCE

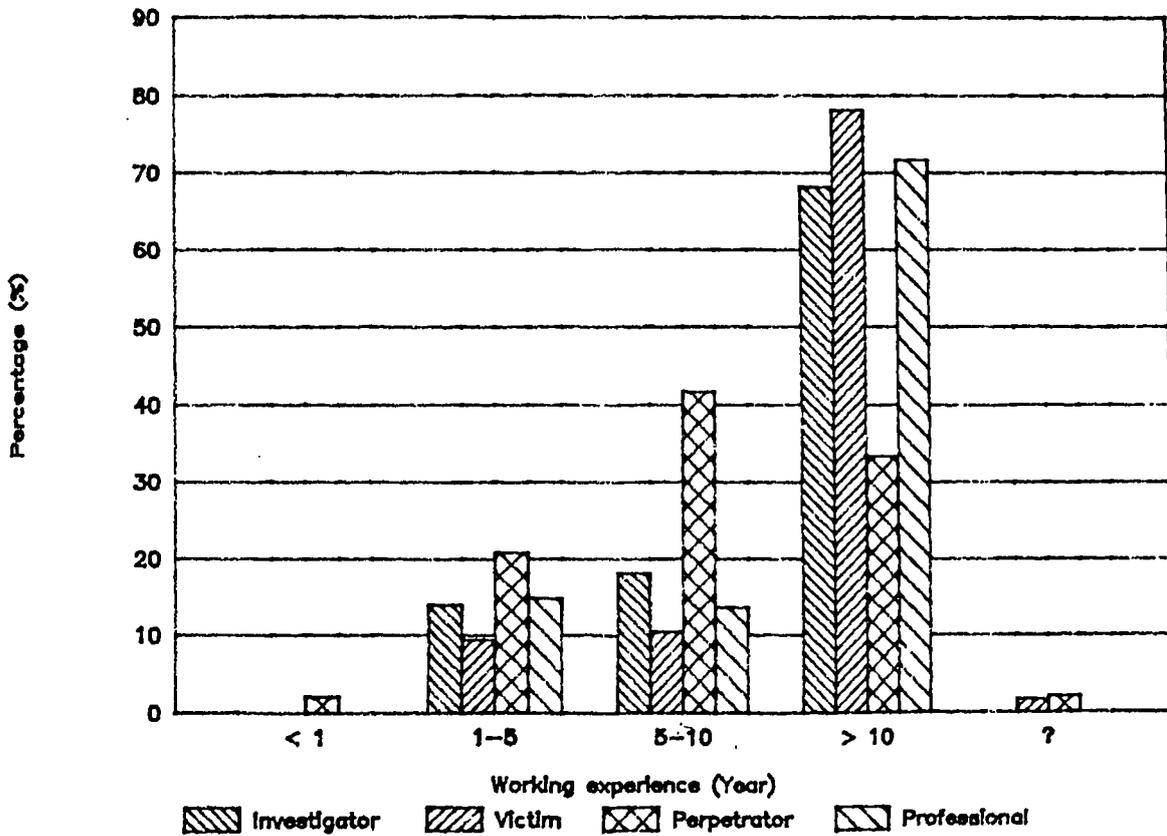
Working experience of the respondent is important in the sense that this research gauged opinions particularly in questions 34 and 35 of the survey questionnaire. Question 34 "From your experiences, please give grading of the significant reasons for causes of economic crime as listed below" is set to tap the knowledge into the causes of economic crime. And question 35 "Please grade the possible steps that can be taken to curb economic crime cases" is to establish the majority view on the remedies that could be taken to prevent the occurrence of economic crime. Thus working experience complements each other with age, education, and income.

From Table 10.15. and Bar Chart 10.3, it is observed that victims have most working experience. This also shows that it takes senior people in the organisations to come forward to lodge police reports of the crimes. The perpetrator has the lowest working experience, concentrating highest between 5 to 10 years with 20 (47.7%) persons. The investigator, victims and professional have highest concentration at 10 years working experiences and above with 49 (68.1%), 50 (78.1%), 63 (71.6%) persons respectively.

TABLE 10.15 Breakdown of respondents by working experience

| | <u>FREQUENCY AND PERCENTAGE</u> | | | | |
|--------------------|---------------------------------|--------------|-----------|-------------|--------------|
| | ALL RESPONDENTS | INVESTIGATOR | VICTIM | PERPEIRATOR | PROFESSIONAL |
| Less than 1 year | 1(0.4%) | 0 | 0 | 1(2.1%) | 0 |
| 1 to 5 years | 39(14.3%) | 10(13.9%) | 6(9.4%) | 10(20.8%) | 13(14.8%) |
| 5 to 10 years | 52(19.1%) | 13(18.1%) | 7(10.9%) | 20(41.7%) | 12(13.6%) |
| 10 years and above | 178(65.4%) | 49(68.1%) | 50(78.1%) | 16(33.3%) | 63(71.6%) |
| Unknown | 2(0.8%) | | 1(1.6%) | 1(2.1%) | |
| TOTAL | 272 (100%) | 72 (100%) | 64 (100%) | 48 (100%) | 88 (100%) |

Bar Chart 10.3 Breakdown of respondents by working experience



10.6.3. EDUCATION

Discussion under education includes country of education, years of education, institution of education and stream of studies. It shows in Table 10.16 and Bar Chart 10.4, the professionals have the most people receiving education overseas with 37 (42.0% persons, followed by the perpetrators with 20 (41.7%). The investigators are the lowest number of people receiving overseas education. This is an area to be ratified in order to have better trained investigators.

From Table 10.16A and Bar Chart 10.4A, perpetrators have more study years than the investigators. This shows perpetrators in economic crimes are better trained than investigators. Unlike the traditional crime, the statistics of Malaysia Prison for the year 1985 to 1987 shows that 98% of the total prisoners received education from Form 5 and below.

In respect of studying institutions, Table 10.16B and Bar Chart 10.4B show that the professionals received most education in Colleges and University, followed by perpetrators, investigators, and victims. The professionals have 77 (87.5%) university and college trained, while the perpetrators, investigators and victims have 38 (79.2%), 56 (77.8%) and 43 (67.2%) respectively. However the investigators have the

Table 10.16 Breakdown of respondent's education by country

| FREQUENCY AND PERCENTAGE | | | | | |
|--------------------------|-----------------|--------------|-----------|-------------|--------------|
| COUNTRY | ALL RESPONDENTS | INVESTIGATOR | VICTIM | PERPEIRATOR | PROFESSIONAL |
| Malaysia | 193(71.0%) | 68(87.5%) | 51(70.7%) | 28(58.3%) | 51(58.0%) |
| Overseas | 79(29.0%) | 9(12.5%) | 13(20.3%) | 20(41.7%) | 37(42.0%) |

Bar Chart 10.4 Breakdown of respondents's education by country

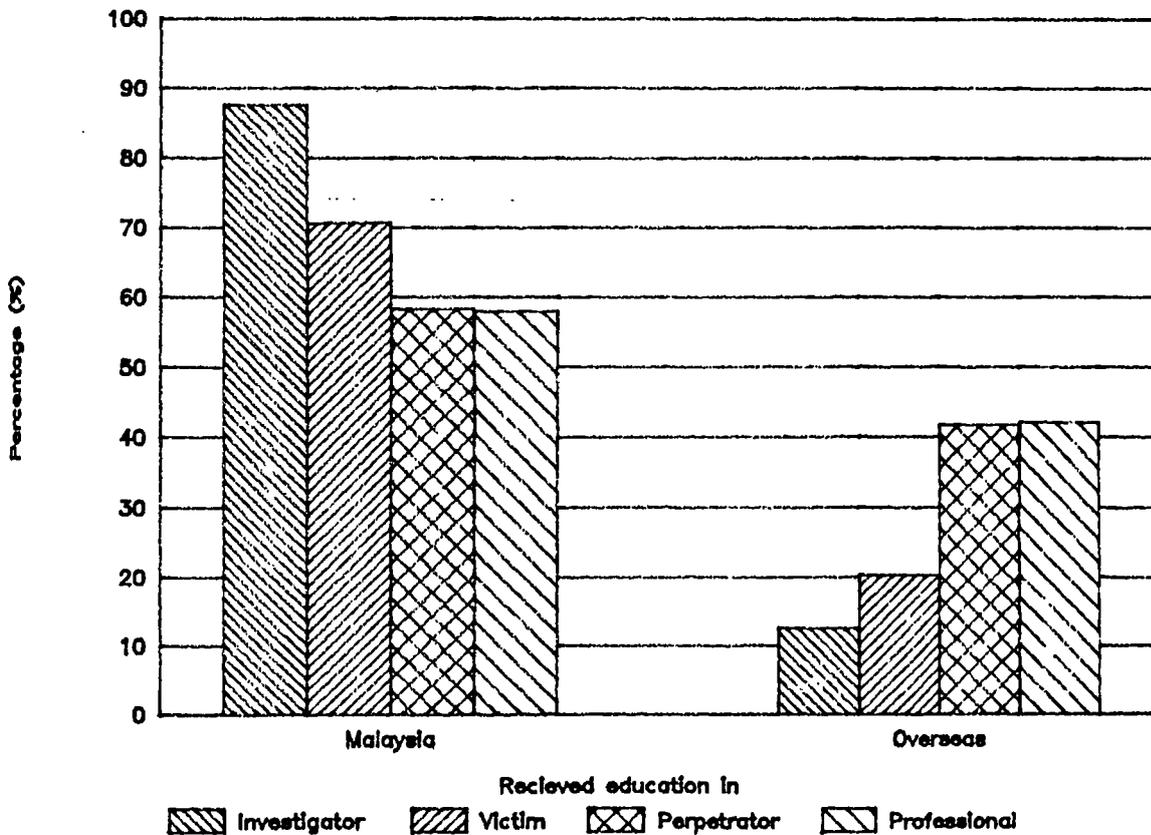
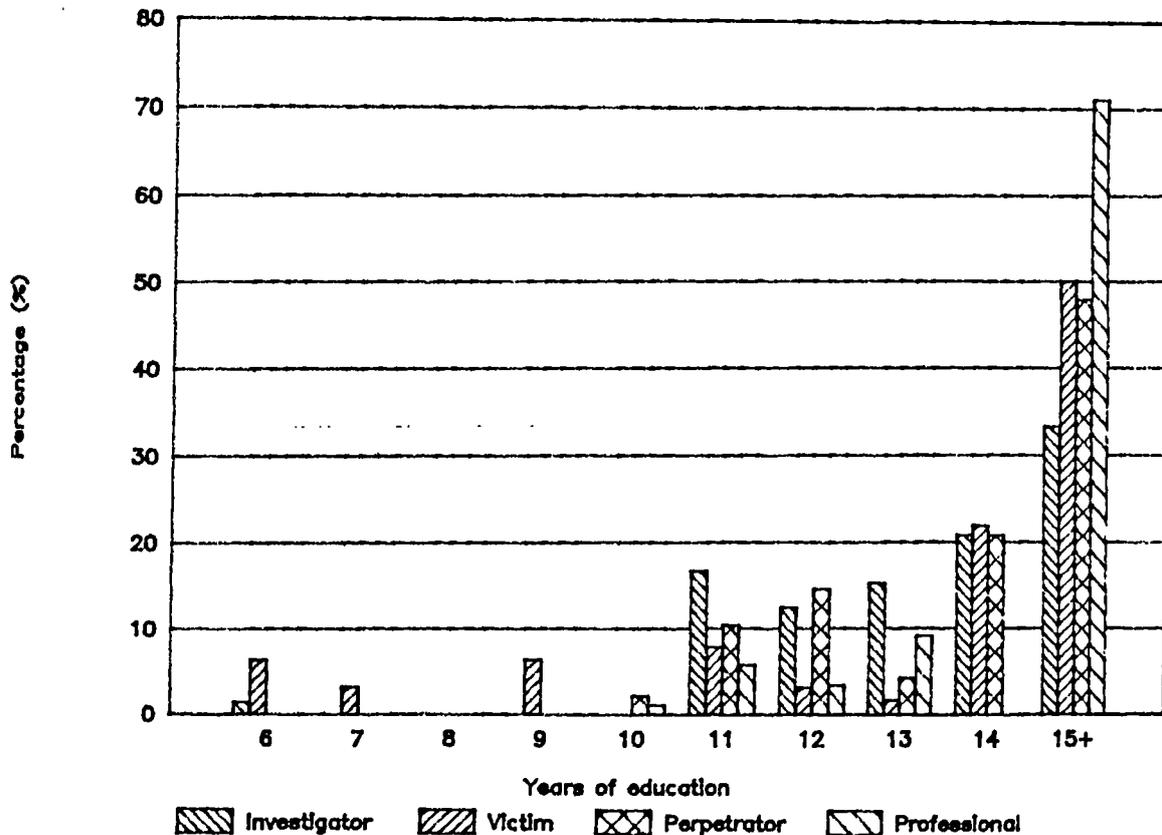


Table 10.16A Breakdown of respondents's education by number of years

| | <u>FREQUENCY AND PERCENTAGE</u> | | | | |
|--------------------|---------------------------------|-----------------|-----------------|-----------------|-----------------|
| | ALL RESPONDENTS | INVESTIGATOR | VICTIM | PERPETRATOR | PROFESSIONAL |
| 6 years | 5(1.8%) | 1(1.4%) | 4(6.3%) | 0 | 0 |
| 7 years | 2(0.7%) | 0 | 2(3.1%) | 0 | 0 |
| 8 years | 0 | 0 | 0 | 0 | 0 |
| 9 years | 4(1.5%) | 0 | 4(6.3%) | 0 | 0 |
| 10 years | 2(0.7%) | 0 | 0 | 1(2.1%) | 1(1.1%) |
| 11 years | 27(9.9%) | 12(16.7%) | 5(7.8%) | 5(10.4%) | 5(5.7%) |
| 12 years | 21(7.7%) | 9(12.5%) | 2(3.1%) | 7(14.6%) | 3(3.4%) |
| 13 years | 22(8.1%) | 11(15.3%) | 1(1.6%) | 2(4.2%) | 8(9.1%) |
| 14 years | 39(14.3%) | 15(20.8%) | 14(21.9%) | 10(20.8%) | 0 |
| 15 years and above | 150(55.1%) | 24(33.3%) | 32(50.0%) | 23(47.9%) | 71(80.7%) |
| | <u>272(100%)</u> | <u>72(100%)</u> | <u>64(100%)</u> | <u>48(100%)</u> | <u>88(100%)</u> |

Bar Chart 10.4A Breakdown of respondents's education by number of years



least university trained with 25 (34.7%) compared to victims, perpetrators and professionals who have 29 (45.3%), 23 (47.9%) and 69 (78.4%) respectively. Again in respect of educational background perpetrators have studied in better education institutions than investigators.

From Table 10.16C and Bar Chart 10.4C, 40 (45.5%) professionals, 30 (62.5%) perpetrators, 30 (46.9%) victims and 24 (33.4%) investigators were trained in management and commerce. Management and commerce are considered the relevant stream of education for business and economic activities. Perpetrators have better knowledge than investigators in area of business and economic activities. In general, most of the police officers who are not working as investigators in commercial crime divisions are trained in Arts.

10.6.4. INCOME

From Table 10.17. and Bar Chart 10.5, the group with highest annual income is the professionals, followed by victims, perpetrators and investigators. It is observed that investigators received only about half the income of the professionals, victims and perpetrators. In the total income (husband and wife) the perpetrators edged the victims.

Table 10.16B Breakdown of respondents's education by institutions

| | <u>FREQUENCY AND PERCENTAGE</u> | | | | |
|-------------|---------------------------------|----------------|----------------|----------------|----------------|
| | ALL RESPONDENTS | INVESTIGATOR | VICTIM | PERPEIRATOR | PROFESSIONAL |
| School | 37(13.6%) | 13(18.1%) | 16(25.0%) | 6(12.5%) | 2(2.3%) |
| Polytechnic | 21(7.7%) | 3(4.2%) | 5(7.8%) | 4(8.3%) | 9(10.2%) |
| College | 68(25.0%) | 31(43.1%) | 14(21.9%) | 15(31.3%) | 8(9.1%) |
| University | 146(53.7%) | 25(34.7%) | 29(45.3%) | 23(47.9%) | 69(78.4%) |
| | <hr/> 272(100%) | <hr/> 72(100%) | <hr/> 64(100%) | <hr/> 48(100%) | <hr/> 88(100%) |

Bar Chart 10.4B Breakdown of respondents's education by institutions

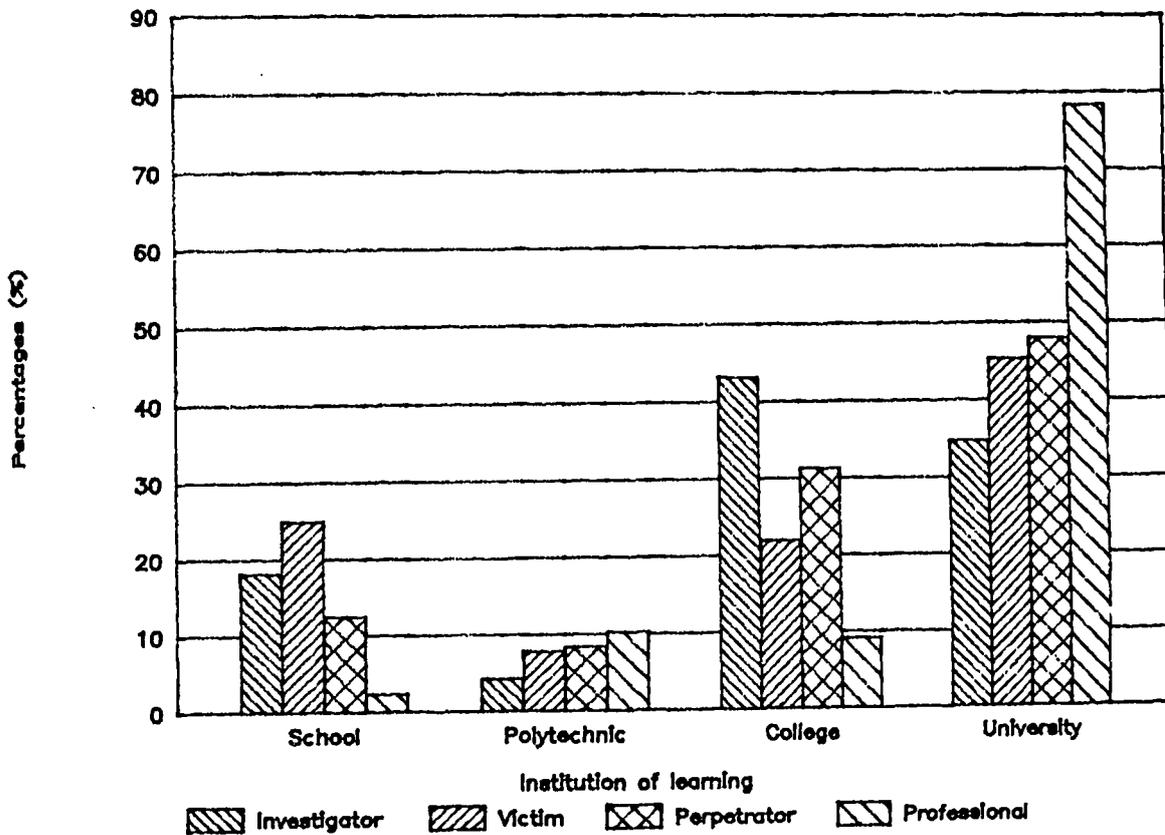
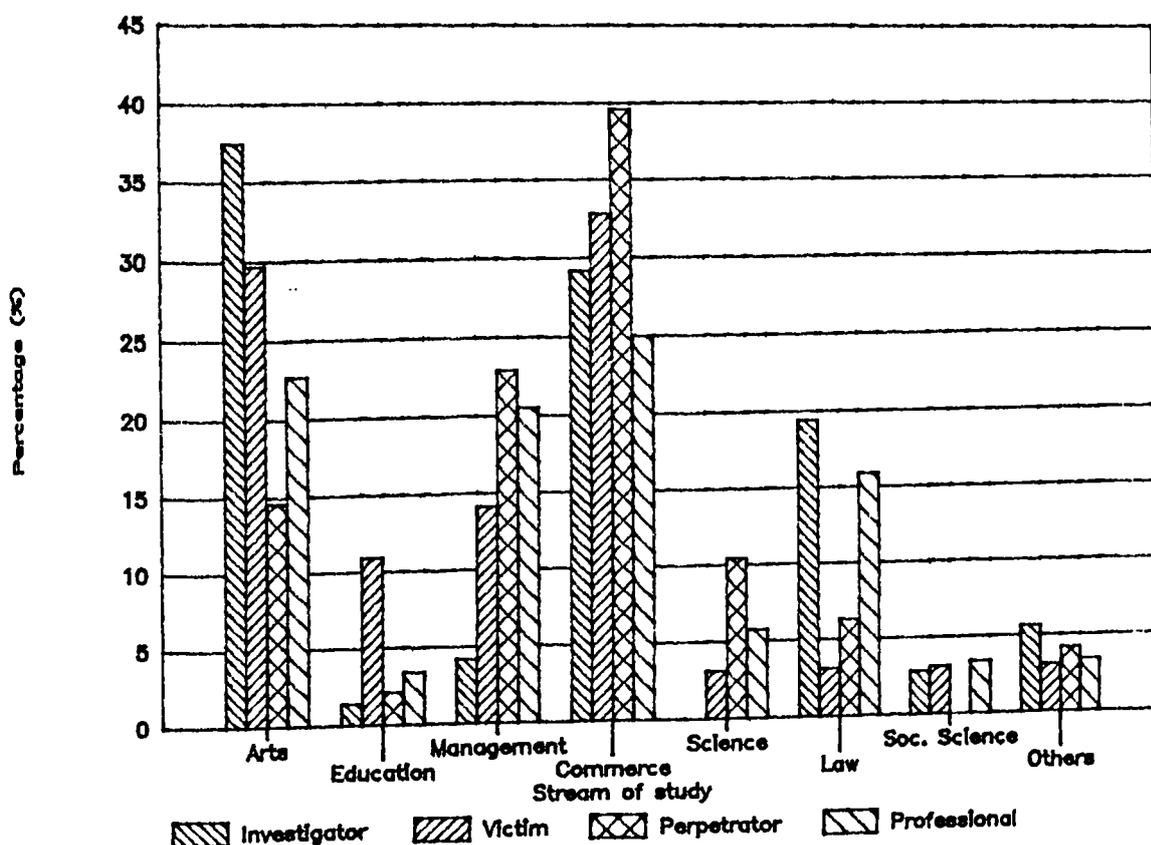


Table 10.16 Breakdown of respondents's education by stream of studies

| | <u>FREQUENCY AND PERCENTAGE</u> | | | | |
|----------------|---------------------------------|---------------------|------------------|--------------------|---------------------|
| | <u>ALL RESPONDENTS</u> | <u>INVESTIGATOR</u> | <u>VICTIM</u> | <u>PERPEIRATOR</u> | <u>PROFESSIONAL</u> |
| Arts | 73(26.8%) | 27(37.5%) | 19(29.7%) | 7(14.6%) | 20(22.7%) |
| Education | 12(4.4%) | 1(1.4%) | 7(10.9%) | 1(2.1%) | 3(3.4%) |
| Management | 41(15.1%) | 3(4.2%) | 9(14.1%) | 11(22.9%) | 18(20.5%) |
| Commerce | 83(30.5%) | 21(29.2%) | 21(32.8%) | 19(39.6%) | 22(25.0%) |
| Science | 12(4.4%) | 0 | 2(3.1%) | 5(10.4%) | 5(5.7%) |
| Law | 33(12.1%) | 14(19.4%) | 2(3.1%) | 3(6.3%) | 14(15.9%) |
| Social Science | 7(2.6%) | 2(2.8%) | 2(3.1%) | 0 | 3(3.4%) |
| Others | 11(4.0%) | 4(5.6%) | 2(3.1%) | 2(4.2%) | 3(3.4%) |
| | <u>272 (100%)</u> | <u>72 (100%)</u> | <u>64 (100%)</u> | <u>48 (100%)</u> | <u>88 (100%)</u> |

Bar Chart 10.4C Breakdown of respondents's education by stream of studies

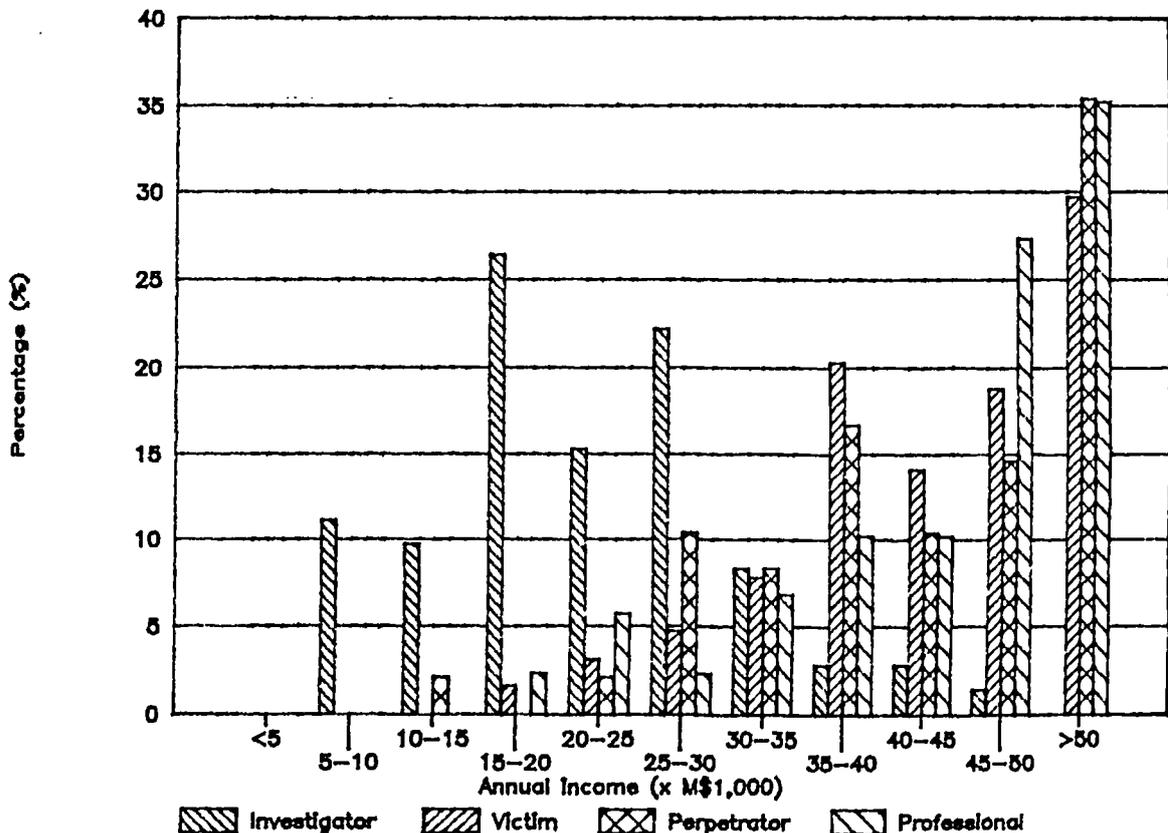


The average income of an investigators is \$18,228 per annum which is equal to \$1,519 per month. \$1,519 is the salary of Chief Inspector, Assistant Superintendent of Police and Deputy Superintendent of Police which ranges from \$1000.00 to \$2,700.00. In the context of salary of Government servant in Malaysia \$1,519 per month is the salary of Division A category. As such with that salary one can expect you to have your own family house and a car. With this illustration it signifies that the perpetrators of economic crime generally received legally a better income than Division A category Government officers. This situation is unlike traditional criminals who receive meagre incomes. From the statistic of annual admission of convicted prisoners for the year 1985 to 1987, more than 98% of the prisoners number 23,635 (1985), 24,885 (1986) and 25,015 (1987) received income less than \$999.00 per month. Out of these prisoners more than 80% come from low income group (i.e. an income less than \$500 per month) with 20,194 (85.4%) prisoners in 1985, 20,762 (83.4%) prisoners in 1986 and 20,465 (81.8%) in 1987. Traditional crime in Malaysia is clearly linked with poverty and other social problem such as drug addiction; unemployment; squatters; low education and so.

Table 10.17 Breakdown of respondents by annual income

| | <u>FREQUENCY AND PERCENTAGE</u> | | | | |
|------------------|---------------------------------|---------------------|------------------|--------------------|---------------------|
| | <u>ALL RESPONDENTS</u> | <u>INVESTIGATOR</u> | <u>VICTIM</u> | <u>PERPELRATOR</u> | <u>PROFESSIONAL</u> |
| Below \$5000 | 0 | | | | |
| 5-10,000 | 8(2.9%) | 8(11.1%) | 0 | 0 | 0 |
| 10-15,000 | 8(2.9%) | 7(9.7%) | 0 | 1(2.1%) | 0 |
| 15-20,000 | 22(8.1%) | 19(26.4%) | 1(1.6%) | 0 | 2(2.3%) |
| 20-25,000 | 19(7.0%) | 11(15.3%) | 2(3.1%) | 1(2.1%) | 5(5.7%) |
| 25-30,000 | 26(9.6%) | 16(22.2%) | 3(4.7%) | 5(10.4%) | 2(2.3%) |
| 30-35,000 | 21(7.7%) | 6(8.3%) | 5(7.8%) | 4(8.3%) | 6(6.8%) |
| 35-40,000 | 32(11.8%) | 2(2.8%) | 13(20.3%) | 8(16.7%) | 9(10.2%) |
| 40-45,000 | 25(9.2%) | 2(2.8%) | 9(14.1%) | 5(10.4%) | 9(10.2%) |
| 45-50,000 | 44(16.2%) | 1(1.4%) | 12(18.8%) | 7(14.6%) | 24(27.3%) |
| 50,000 and above | 67(24.6%) | 0 | 19(29.7%) | 17(35.4%) | 31(35.2%) |
| | <u>272 (100%)</u> | <u>72 (100%)</u> | <u>64 (100%)</u> | <u>48 (100%)</u> | <u>88 (100%)</u> |

Bar Chart 10.5 Breakdown of respondents by annual income



10.6.5 STATUS RATING

Status rating is discussed in the context of what the respondents perceived of their economic power, social prestige and social and political influence of themselves and their parents. From Table 10.18, the perpetrators have higher economic power rating than the rest of the respondents with means of 3.2 (value label: 1=highest, 2=very high, 3=high, 4=middle, 5=low, 6=very low and 7=lowest). The lowest economic power rating is the investigators with means of 4.0. The victims and professionals have mean of 3.8 and 3.4 respectively. However in the social prestige the perpetrators was in the lowest position with mean of 4.3 as compared to the highest professional mean of 3.9. The victims have means of 4.1 and investigators have 4.0. In social and political influence the perpetrators remain the lowest with mean of 4.6 as compared to the highest victims of mean 4.4. The professionals and the investigators have 4.5.

The parent of the perpetrators perceived economic power over the rest. The fathers of perpetrators have means of 2.8 followed by professionals with mean of 3.9, victims with 4.1 and investigators with 4.2. The mothers of perpetrators have means of 4.3, followed by victim with 4.8, investigators with 4.9 and professionals with 5.0.

In the social prestige, the fathers of the perpetrators 'took over' others with means of 4.1. Followed by investigators with 4.3 and professionals with 4.5. The mothers of investigators and perpetrators have higher position in social prestige with 4.9. Followed victims with 5.1 and professionals with 5.4. In social political influence, the perpetrators' fathers have a higher position with means of 4.4. Followed by investigators with 4.5, victims with 4.6 and professionals with 4.7. The mothers of investigators have a higher position in social influence with 4.9. Followed by perpetrators with 5.2, victims with 5.3 and professionals with 5.6.

From the comparison of education, income and status rating, perpetrators were in no way inferior to investigators, victims and professionals. In certain area perpetrators are better of then the rest. What are certain in that perpetrators of economic crime are well educated, have good income and from respected family. In contrast with criminals in traditional crimes who are most under poverty line, and not educated.

TABLE 10.18 . STATUS RATING

| | <u>ECONOMIC POWER</u> | <u>SOCIAL PRESTIGE</u> | <u>SOCIAL & POLITICAL INFLUENCE</u> |
|--------------|-----------------------|------------------------|---|
| | MEAN | MEAN | MEAN |
| INVESTIGATOR | 4.0 | 4.0 | 4.5 |
| VICTIM | 3.8 | 4.1 | 4.4 |
| PERPETRATOR | 3.2 | 4.3 | 4.6 |
| PROFESSIONAL | 3.4 | 3.9 | 4.5 |
| FATHER | | | |
| INVESTIGATOR | 4.2 | 4.3 | 4.5 |
| VICTIM | 4.1 | 4.5 | 4.6 |
| PERPETRATOR | 2.8 | 4.1 | 4.4 |
| PROFESSIONAL | 3.9 | 4.5 | 4.7 |
| MOTHER | | | |
| INVESTIGATOR | 4.9 | 4.9 | 4.9 |
| VICTIM | 4.8 | 5.1 | 5.3 |
| PERPETRATOR | 4.3 | 4.9 | 5.2 |
| PROFESSIONAL | 5.0 | 5.4 | 5.6 |

Value labels 1=Highest 2=Very High 3=High 4=Middle 5=Low 6=Very Low

10.7 CAUSAL AND POSSIBLE REMEDIAL VARIABLES

Questions 34 and 35 are designed to capture opinions from the respondents as to the causal of economic crime and the possible remedies available to prevent them. As mentioned in Chapter Four causal and remedial variables for the purpose of framing the questions especially questions 34 and 35 were taken from previous studies that had been conducted in developing countries, the literature review [Please see Albrecht W.S., Howe K. R. and Romney M.B., 1984 and Bologna J. 1984] and desk study of 325 economic crime cases of interest for the year 1987 to 1989 [please see appendix III]. Question 34 "From your experience, please give the gradings of the significant reasons for the causations of economic crime as listed below.", comprises of 43 variables grouped into five grouping namely:

- * V35 to V46 are grouped under Situational-Personal;
- * V48 to V51 are grouped under Situational-Business Circumstances;
- * V53 to V55 are grouped under Opportunity-Personal;
- * V57 to V62 are grouped under Opportunity-Business Circumstances;
- * V64 to V75 are grouped under Personality.

V35 to V46 are:

- * power abuse;
- * incompetence;

- * beating the system;
- * excessive gambling;
- * high debt;
- * living beyond means;
- * extensive stock market speculation;
- * loan shark involvement;
- * bad company- heavy expenses incurred on others
such as woman;
- * undue family commitments;
- * drugs and alcohol problems;
- * underpaid.

V48 to V51 are:

- * mismanagement by staff;
- * mismanagement by directors;
- * heavily influenced by politicians;
- * recession that brings unfavourable conditions
to industry.

V53 to V55 are:

- * in position of trust;
- * very familiar with operations (including
cover-up capabilities);
- * close association with cohorts and other key people.

V57 to V62 are:

- * does not have adequate personal screening policies when

- hiring new employees to fill the position of trust;
- * has a complex business structure;
- * does not require executive disclosure and examinations;
- * an absence of explicit and uniform personal policies;
- * does not have an effective internal/external auditing staff;
- * has a poor accounting records and unduly liberal accounting practices.

V64 to V75 are:

- * someone lacking in the development of personal morals;
- * a person who enjoys feeling of power influence, social status, an excitement associated with rapid financial transactions involving large sum of money;
- * a person without a well-defined code of personal ethics;
- * a person who is neurotic, manic-depression or emotionally unstable;
- * a person who is arrogant or egocentric;
- * a person with psychopathic personality;
- * a person with the threatened self-esteem;
- * a person who is intrigued by the personal challenge of subverting a system of controls;
- * a person who is too greedy;
- * a person with a criminal history;
- * a person who has questionable associate(s);
- * a person with poor referees.

Question 35 " Please grade the possible steps that can be taken to curb economic crime cases" comprises 9 variables pertaining to possible remedies. The variables V77 to V85 are grouped under possible remedies. They are:

- * improve on security system;
- * improve on auditing;
- * personnel screening;
- * improve on the planning skills;
- * improve on the organising skills;
- * improve on the coordinating skills;
- * improve on the motivational climate;
- * improve on management information system;
- * improve on the management environment.

Using the SPSS-X program to describe the variables, the following tables of means and standard deviations are constructed. They are:

- * Table 10.19- Causations to economic crime-All respondents
- * Causations of economic crime-Investigators
- * Causations of economic crime-Victims
- * Causations of economic crime-Perpetrators
- * Causations of economic crime-Professionals

Table 10.19 shows the result of perceived causation and perceived possible remedies of economic crime by all respondents. From this result it was possible to rank the

variables according to their unit means. The ranking of causation variables (V35 to V75) were divided into two categories named as ranks and group ranks. The ranks show the number of ranking of all 37 causation variables. The group ranks show the number of ranking according to the variable grouping as mentioned above. From table 10.19 the result of the test of variables that are grouped by situation-personal pressures according to their highest score are as follows:

- * "Power abuse" (V35) with means of 4.4;
- * "Living beyond means"(V40) with means of 3.9;
- * "High Debt" (V39)with means of 3.5;
- * "Bad company-heavy expenses incurred on others" (V43) with means of 3.4;
- * "Beating the system"(V37) with means of 3.3;
- * "Undue family commitment" (V44) with means of 3.2;
- * "Incompetence" (V36) with means of 3.2;
- * "Excessive gambling" (V38) with means of 3.1;
- * "Extensive stock market speculation"(V41) with means of 3.0;
- * "Loan shark involvement" (V42) with means of 2.9;
- * "Underpaid" (V46) with means of 2.7;
- * "Drugs and alcohol problems"(V45) with means of 2.1.

The result of the test of variables grouped under situational-business circumstances pressures according to their highest score are as follows:

- * "Mismanagement by directors" (V49) with means of 4.3;
- * "Heavily influenced by politicians" (V50) with means of 4.1;
- * "Mismanagement by staffs" (V48) with means of 4.1;
- * "Recession" (V51) with means of 3.6.

The result of the test of variables grouped under opportunity-personal pressures according to their highest score are as follows:

- * "In position of trust" (V53) with means of 4.5;
- * "Very familiar with operations" (V54) with means of 4.1;
- * "Close association with cohorts"(V55) with means of 4.0.

The result of the test of variables grouped under opportunity-business circumstances pressures according to their highest score are as follows:

- * "Has a poor accounting records and unduly liberal accounting practices" (V62) with means of 4.3;
- * "Does not have an effective internal/external auditing staff" (V61) with means of 3.7;
- * "Does not use adequate personal screening policies when hiring new employees to fill the position of trust"(V57) with means of 3.5;
- * "Has a very complex business structure"(V58) with means of 3.3;

- * "Does not require executive disclosure and examination"(V59)
with means of 3.1;
- * "An absence of explicit and uniform personnel policies"(V60)
with means of 3.1.

The result of the test of variables grouped under personality pressures according to their highest score are as follows:

- * "A person who is too greedy"(V72) with means of 4.1;
- * "A person who enjoys feeling of power influence"(V65) with
means of 3.6;
- * "Someone lacking in the development of personal morals"(V64)
with means of 3.4;
- * "A person with the threatened self-esteem"(V70) with means of
3.3;
- * "A person who has a questionable associate(s)" (V74) with
means of 3.2;
- * "A person without a well-defined code of personal ethic"(V66)
with means of 3.2;
- * "A person with a criminal history" (V73) with means of 3.1;
- * "A person who is arrogant of egocentric" (V68) with means of
3.1;
- * "A person who is intrigued by the personal challenge of
subverting a system of controls" (V71) with means of 3.0;
- * "A person with poor referee(s)" (V75) with means of 2.6;
- * "A person who is neurotic, manic-depression or emotionally
unstable"(V67) with means of 2.3;

- * "A person with psychopathic personality" (V69) with means of 2.0.

The result of the test of variables grouped under possible remedies according to their highest score are as follows:

- * "Improve on the system of auditing" (V78) with means of 4.3;
- * "Improve on management information system" (V84) with means of 4.3;
- * "Improve on the management environment" (V85) with means of 4.2;
- * "Improve on security system" (V77) with means of 4.2;
- * "Improve on the motivational climate" (V83) with means of 4.2;
- * "Improve on the coordinating skills" (V82) with means of 3.8;
- * "Improve on the organising skills" (V81) with means of 3.8;
- * "Improve on the planning skills" (V80) with means of 3.7;
- * "Personnel screening" (V79) with means of 3.7.

From the result laid out in Table 10.19, the first 6 highest mean scores of factors associated with economic crime by all respondents by statistical means are:

| <u>Variables</u> | <u>Means</u> |
|---|--------------|
| In position of trust (V53) | 4.5 |
| Power Abuse (V35) | 4.4 |
| Mismanagement by directors (V49) | 4.3 |
| Has a poor accounting records and unduly liberal accounting practices (V62) | 4.3 |
| Heavily influenced by politicians (V50) | 4.1 |
| A person who is to greedy (V72) | 4.1 |

Considering the causations under each group by all respondents,
the result of 3 highest by means are:

Situational Personal

- * Power abuse (V35)
- * Living beyond means (40)
- * High debt (V39)

Situational-Business Circumstances

- * Mismanagement by directors (49)
- * Heavily influenced by politicians (V50)
- * Mismanagement by staffs (V48)

Opportunity-Personal

- * In position of trust (V53)
- * Very familiar with operations (including cover-up capabilities) (V54)
- * Close associations with cohorts and key people(V55)

Opportunity-Business Circumstances

- * Has poor accounting records and unduly liberal accounting practices (V62)
- * Does not have an effective internal auditing staff(48)
- * Does not have adequate personal screening policies when hiring new employees to fill the position of trust(V57)

Personality

- * A person who is too greedy (V72);
- * A person who enjoys feeling of power influence (V65);
- * Someone lacking in the development of personal morals (V64).

The result from all respondents show that under situational-personal pressures, "power abuse", "living beyond means" and "high debt" are three strongest causation variables of economic crime. Under situational-business circumstances pressures,

"mismanagement by directors", "heavily influenced by politicians" and "mismanagement by staffs" are three strongest causation variables. Under opportunity-personal pressures, "in position of trust", "very familiar with operations", and "close associations with key cohorts and key people" are three strongest causation variables. Under opportunity-business circumstances pressures, "poor accounting records and unduly liberal accounting practices", "no effective internal auditing staff", and "no adequate personal screening policies" are the three strongest causation variables. Under personality pressures, "a person who is too greedy", "a person who enjoys feeling of power influence" and "someone lacking in the development of personal morals" are the three strongest variables.

The three highest possible remedies by all respondents are "improve on the system auditing", "improve on the management information system" and "improve on the management environment".

TABLE 10.19 CAUSATIONS OF ECONOMIC CRIME - ALL RESPONDENTS

| VARIABLES | MEANS | STD DEV | MIN | MAX | VALID NO. | RANKS | GROUP RANKS |
|-------------------------------|-------|---------|-----|-----|-----------|-------|-------------|
| SITUATIONAL PRESSURES | | | | | | | |
| PERSONAL | | | | | | | |
| V35 | 4.419 | .709 | 2 | 5 | 272 | 2 | 1 |
| V36 | 3.176 | 1.129 | 0 | 5 | 272 | 24 | 7 |
| V37 | 3.301 | .813 | 1 | 5 | 272 | 18 | 5 |
| V38 | 3.066 | .970 | 0 | 5 | 272 | 26 | 8 |
| V39 | 3.460 | .900 | 1 | 5 | 272 | 15 | 3 |
| V40 | 3.908 | .942 | 1 | 5 | 272 | 10 | 2 |
| V41 | 2.989 | .951 | 0 | 5 | 272 | 31 | 9 |
| V42 | 2.926 | 1.084 | 0 | 5 | 272 | 32 | 10 |
| V43 | 3.360 | .973 | 0 | 5 | 272 | 17 | 4 |
| V44 | 3.243 | .917 | 0 | 5 | 272 | 21 | 6 |
| V45 | 2.092 | 1.067 | 0 | 5 | 272 | 36 | 12 |
| V46 | 2.728 | 1.259 | 0 | 5 | 272 | 33 | 11 |
| BUSINESS CIRCUMSTANCES | | | | | | | |
| V48 | 4.136 | 1.009 | 0 | 5 | 272 | 6 | 3 |
| V49 | 4.309 | .754 | 0 | 5 | 272 | 3 | 1 |
| V50 | 4.143 | .818 | 2 | 5 | 272 | 5 | 2 |
| V51 | 3.577 | .877 | 1 | 6 | 272 | 13 | 4 |
| OPPORTUNITY | | | | | | | |
| PERSONAL | | | | | | | |
| V53 | 4.507 | .682 | 3 | 5 | 272 | 1 | 1 |
| V54 | 4.066 | .700 | 2 | 5 | 272 | 8 | 2 |
| V55 | 3.956 | .767 | 2 | 6 | 272 | 9 | 3 |
| BUSINESS CIRCUMSTANCES | | | | | | | |
| V57 | 3.467 | .819 | 0 | 5 | 272 | 14 | 3 |
| V58 | 3.287 | .960 | 0 | 5 | 272 | 19 | 4 |
| V59 | 3.062 | .872 | 0 | 5 | 272 | 27 | 5 |
| V60 | 3.051 | .887 | 0 | 5 | 272 | 29 | 6 |
| V61 | 3.680 | .916 | 0 | 5 | 272 | 11 | 2 |
| V62 | 4.279 | .848 | 0 | 5 | 272 | 4 | 1 |

PERSONALITY

| | | | | | | | |
|-----|-------|-------|---|---|-----|----|----|
| V64 | 3.441 | .959 | 0 | 5 | 272 | 16 | 3 |
| V65 | 3.636 | .865 | 1 | 5 | 272 | 12 | 2 |
| V66 | 3.213 | .854 | 0 | 5 | 272 | 23 | 6 |
| V67 | 2.250 | 1.092 | 0 | 5 | 272 | 35 | 11 |
| V68 | 3.059 | .963 | 0 | 5 | 272 | 28 | 8 |
| V69 | 2.029 | 1.030 | 0 | 5 | 272 | 37 | 12 |
| V70 | 3.261 | .973 | 0 | 5 | 272 | 20 | 4 |
| V71 | 3.044 | .963 | 0 | 5 | 272 | 30 | 9 |
| V72 | 4.110 | 1.036 | 0 | 5 | 272 | 7 | 1 |
| V73 | 3.110 | 1.091 | 0 | 5 | 272 | 25 | 7 |
| V74 | 3.224 | .887 | 0 | 5 | 272 | 22 | 5 |
| V75 | 2.599 | 1.072 | 0 | 5 | 272 | 34 | 10 |

POSSIBLE REMEDIES

| | | | | | | |
|-----|-------|------|---|---|-----|---|
| V77 | 4.228 | .758 | 2 | 5 | 272 | 4 |
| V78 | 4.316 | .756 | 2 | 5 | 272 | 1 |
| V79 | 3.662 | .770 | 2 | 5 | 272 | 9 |
| V80 | 3.743 | .797 | 1 | 5 | 272 | 8 |
| V81 | 3.824 | .733 | 1 | 5 | 272 | 7 |
| V82 | 3.842 | .754 | 1 | 5 | 272 | 6 |
| V83 | 4.224 | .767 | 2 | 5 | 272 | 5 |
| V84 | 4.265 | .799 | 2 | 5 | 272 | 2 |
| V85 | 4.246 | .699 | 2 | 5 | 272 | 3 |

Value label: 0= No important, 1= Less important, 2= Quite important,
3= Importance, 4= Very importance, 5= Extremely important.

10.7.1 Causations of economic crime- investigators

The statistical test of perceived causation and possible remedies of economic crime by investigators was carried out. The result of the test of variables grouped under situational-personal pressures according to their highest group ranks are:

- * power abuse (V35);
- * living beyond means(V40);
- * bad company-heavy expenses(V43);
- * Undue family commitments (V44);
- * underpaid(V46);
- * incompetence(V36);
- * high debt(V39);
- * beating the system (V37);
- * loan shark involvement (42);
- * extensive stock market speculation (V41);
- * excessive gambling (V38);
- * drugs and alcohol problems (V45).

The result of the test of variables grouped under situational-business circumstances pressures according to their highest group rank are:

- * mismanagement by staffs (V48);
- * heavily influenced by politicians (V50);
- * mismanagement by directors (V49);

* recession that brings unfavourable conditions to industry (V51);

The result of the test of variables grouped under opportunity-personal pressures according to the highest group rank are:

- * in position of trust (V53);
- * close association with cohorts and other key people (V55);
- * very familiar with operations (V54).

The result of variables grouped under opportunity-business circumstances according to the highest group rank are:

- * has a poor accounting records and unduly liberal accounting practices (V62);
- * does not have an effective internal auditing staff (V61);
- * has a very complex business structure (V58);
- * does not have an adequate personal screening policies when hiring new employees to fill the position of trust (V57);
- * an absence of explicit and uniform personnel policies (V60);
- * does not require executive disclosure and examinations(V59).

The result of the test of variables grouped under personality pressures according to their highest group rank are:

- * a person who is to greedy(V72);
- * a person who has questionable associates(V74);
- * a person with threatened self-esteem (V70);

- * a person who enjoys feeling of power influence (V65);
- * a person who is intrigued by the personal challenge of subverting a system of controls (V71);
- * a person with a criminal history (V73);
- * a person without a well defined code of personal ethic(V66);
- * a person who is arrogant or egocentric (V66);
- * someone lacking in the development of personal morals (V64);
- * a person with psychopathic personality (V69);
- * a person with poor referee(s) (V75);
- * a person who is neurotic, manic-depression or emotionally unstable (V67).

The result of the test of variables grouped under possible remedies according to their highest group rank are:

- * improve on system of auditing (V78);
- * improve on management system (84);
- * improve on the motivational climate (V83);
- * improve on the management environment (V85);
- * improve on the security system (V77);
- * improve on the coordinating skills (V82);
- * improve on the planning skills (V80);
- * improve on the organising skills (V81);
- * personnel screening (V79).

From the results of the investigators the three highest causal variables under situational-personal pressures are "power abuse", "living beyond means" and "bad company-heavy expenses". "High debt" was placed as number seven. Under situational-business circumstances, "mismanagement by staffs", "heavily influenced by politicians" and "mismanagement by directors" are the three most important variables. Under opportunity-personal, "in position of trust", "close association with cohorts" and "very familiar with operations" are the three highest variables. Under opportunity-business circumstances, "poor accounting records and unduly liberal accounting practices", "no effective internal auditing staff", and "has a very complex business structure" formed the three highest causal variables. "No adequate personnel screening policies" was placed fourth by the investigators. Under personality pressures, "a person who is too greedy", "person who has questionable associates", and "a person with threatened self-esteem" are the three most important variables. "A person who enjoys feeling of power influence" was placed fourth and "someone lacking in the development of moral codes" was placed ninth.

The three highest possible remedies as seen by the investigators are, "improve on the system of auditing", "improve on the management information system" and "improve on the motivational climate". "Improve on the management environment" was placed fourth.

10.7.2 Causes of economic crime-victims

Statistical test of perceived causal and possible remedies of economic crime by victims was carried out. The result of the test of variables grouped under situational-personal pressures according to their highest group rank are:

- * power abuse (V35);
- * living beyond means (V40);
- * incompetence (V36);
- * high debt (V39);
- * excessive gambling (V38);
- * beating the system (V37);
- * bad company-heavy expenses incurred on others (V43);
- * loan shark involvement (V42);
- * undue family commitments (V44);
- * extensive stock market speculation (V41);
- * underpaid (V46);
- * drugs and alcohol problems (V45).

The result of the test of variables grouped under situational-business circumstances pressures according to their highest group rank are:

- * mismanagement by directors (V49);
- * mismanagement by staffs (V48);
- * heavily influenced by politicians (V50);
- * recession that brings unfavourable conditions to industry (V51).

The result of the test of variables grouped under opportunity-personal pressures according to their highest group rank are:

- * in position of trust (V53);
- * very familiar with operations (V54);
- * close association with cohorts and other key people (V55).

The result of the test of variables grouped under opportunity-business circumstances pressures according to their highest group rank are:

- * has a poor accounting records and unduly liberal accounting practices (V62);
- * does not use adequate personal screening policies when hiring new employees to fill the position of trust (V57);
- * does not have an effective internal auditing staff (V61);
- * has a very complex business structure (V58);
- * an absence of explicit and uniform personnel policies (V60);
- * does not require executive disclosure and examinations (V59).

The result of the test of variables grouped under personality pressures according to their highest group rank are:

- * a person who is too greedy (V72);
- * a person who enjoys power influence (V65);
- * someone lacking in the development of personal morals (64);
- * person with a criminal history (V73);
- * a person without a well-defined code of personal ethics (V66);
- * a person who has a questionable associate (s) (V74);

- * a person who is intrigued by the personal challenge of subverting the system of controls (V71);
- * a person who is arrogant or egocentric (V68);
- * a person with threatened self-esteem (V70);
- * a person with poor referee (s) (V75);
- * a person who is neurotic, manic-depression or emotionally unstable (V67);
- * a person with psychopathic personality (V69).

The result of the test of variables that are grouped under possible remedies according to their highest group rank are:

- * improve on the system of auditing (V78);
- * improve on the security system (V77);
- * improve on the motivational climate (V83);
- * improve on management information system (V84);
- * improve on the management environment (V85);
- * improve on the organising skills (V81);
- * personnel screening (V79);
- * improve on the motivational climate (V82);
- * improve on the coordinating skills (V80).

From the result of the test responses by victims, the three highest causal variables under situational-personal pressures are, "power abuse", "living beyond means" and "incompetence". "High debt" was placed fourth. Under situational-business circumstances, "mismanagement by directors", "mismanagement by staffs", and "heavily influenced by politicians" are the three

highest scores. Under opportunity-personal pressures, "in position of trust", "very familiar with operations" and "close association with cohorts" are the three most important variables. Under opportunity-business circumstances pressures, "poor accounting records and unduly liberal accounting practices", "no adequate personal screening policies" and "no effective internal auditing staff" are the three highest causal variables. Under personality pressures, "a person who is too greedy", "a person who enjoys power influence" and "someone lacking in the development of personal morals" are the three highest most important variables. There is no difference with the result of all respondents under this grouping.

The three highest score for possible remedies by victims are "improve on the system of auditing", "improve on the security system" and "improve on the motivational climate". "Improve on management information system" was placed fourth.

10.7.3 Causes of economic crime- perpetrators

Statistical test of perceived causal and possible remedies of economic crime by perpetrators was carried out. The result of the test of variables grouped under situational-personal pressures according to their highest group rank are:

- * Power abuse (V35);
- * Living beyond means (V40);
- * Bad company-heavy expenses incurred on others (V43);

- * Undue family commitments (V44);
- * Beating the system (V37);
- * Incompetence (V36);
- * Extensive stock market speculation (V41);
- * Excessive gambling (V38);
- * Loan shark involvement (V42);
- * Underpaid (V46);
- * Drugs and alcohol problems (V45).

The result of the test of variables grouped under situational-business circumstances pressures according to their highest group rank are:

- * Mismanagement by staffs (V48);
- * Heavily influenced by politicians (V50);
- * Mismanagement by directors (V49);
- * Recession (V51);

The result of the test of variables grouped under opportunity-personal pressures according to their highest group rank are:

- * In position of trust (V53);
- * Very familiar with operations (V54);
- * Close association with cohorts and other key people (V55).

The result of the test of variables grouped under opportunity-business circumstances pressures according to their highest group rank are:

- * Has a poor accounting records and unduly liberal accounting practices (V62);

- Does not require executive disclosure and examinations (V59);
- Does not use adequate personal screening policies when hiring new employees to fill the position of trust (V57);
- Has a very complex business structure (V58);
- * Does not have an effective internal auditing staff (V61);
- * An absence of explicit and uniform personnel policies (V69);

The result of the test of variables grouped under personality pressures according to their highest group rank are:

- * A person with poor referee(s) (V75);
- * Someone lacking in the development of personal morals (V64);
- * A person who enjoys feeling of power influence (V65);
- * A person who is too greedy (V72);
- * A person with threatened self-esteem (V70);
- * A person who is arrogant or egocentric (V68);
- * A person who has a questionable associate (s) (V74);
- * A person with criminal history (V73);
- * A person who is intrigued by the personal challenge of subverting a systems of controls (V71);
- * A person without a well-defined code of personal ethics (V66);
- * A person who is neurotic, manic-depression or emotionally unstable (V67);
- * A person with psychopathic personality (V69).

The result of the test of variables grouped under the possible remedies according to the highest group rank are:

- * Improve on the management environment (V85);
- * Improve on management information system (V84);
- * Improve on the motivational climate (V83);
- * Improve on the coordinating skills (V82);
- * Improve on the security system (V77);
- * Improve on the organising skills (V81);
- * Personnel screening (V79);
- * Improve on the system of auditing (V78);
- * Improve on the planning skills (V80).

From the result of the test of the responded perpetrators, there is no different in the three highest causal variables grouped under situational-personal, situational-business circumstances, and opportunity-personal of perpetrators as compared to all respondents. Under opportunity-business circumstances, "poor accounting records and unduly liberal accounting practices", "do not require executive disclosure and examination" are the three most important variables. "No effective internal auditing staff was placed fifth.

The three highest possible remedies given by responded perpetrators are "improve on the management environment", "improve on management information system", and "improve on the motivational climate". "Improve on the system of auditing" was placed eight.

10.7.4 Causes of economic crime-professionals

Statistical test of perceived causal and possible remedies of economic crime by the professionals was also carried out. From the result of the test of variables grouped under the situational-personal pressures according to their highest group rank are:

- * Power abuse (V35);
- * Living beyond means (V40);
- * High debt (V39);
- * Beating the system (V37);
- * Bad company-heavy expenses incurred on others (V43);
- * Undue family commitments (V44);
- * Excessive gambling (V38);
- * Extensive stock market speculation (V41);
- * Loan shark involvement (V42);
- * Incompetence (V36);
- * Underpaid (V46);
- * Drugs and alcohol problems (V45).

The result of the test of variables grouped under the situational-business circumstances pressures according to their highest group rank are:

- * Mismanagement by directors (V49);
- * Heavily influenced by politicians (V50);
- * Mismanagement by staffs (V48);
- * Recession (V51);

The result of the test of variables grouped under the opportunity-personal pressures according to their highest group rank are:

- * In position of trust (V53);
- * Close associate with cohorts and other key people (V55);
- * Very familiar with operations (V54).

The result of the test of variables grouped under the opportunity-business circumstances pressures according to their highest group rank are:

- * Has a poor accounting records and unduly liberal accounting practices (V62);
- * Does not have an effective internal auditing staff (V61);
- * Does not have adequate personal screening policies when hiring new employees to fill the position of trust (V57);
- * Has a very complex business structure (V58);
- * Does not require executive disclosure and examinations (V59);
- * An absence of explicit and uniform personnel policies (V60).

The result of the test of variables grouped under the personality pressures according to their highest group rank are:

- * A person who is too greedy (V72);
- * A person who enjoys feeling of power influence (V65);
- * Someone lacking in the development of personal morals (V64);

- * A person without a well-defined code of personal ethics (V66);
- * A person with the threatened self-esteem (V70);
- * A person who is arrogant or egocentric (V68);
- * A person who has questionable associate (s) (V74);
- * A person with a criminal history (V73);
- * A person who is intrigued by the personal challenge of subverting a system of controls (V71);
- * A person with poor referee (s) (V75);
- * A person who is neurotic manic-depression or emotionally unstable (V67)
- * A person with psychopathic personality (V69).

The result of the test of variables grouped under the possible remedies according to their highest group rank are:

- * Improve on management information system (V84);
- * Improve on the system of auditing (V78);
- * Improve on the security system (V77);
- * Improve on the management environment (V85);
- * Improve on the motivational climate (V83);
- * Improve on the planning skills (V80);
- * Improve on the organising skills (V81);
- * Improve on the coordinating skills (V82);
- * Personal screening (V79).

From the result of the tests of the professionals, there is no difference in the three highest causal variables with all respondents under the situational-personal, situational-business circumstances, opportunity-personal and opportunity business circumstances.

The possible remedies given by professionals are "improve on the management information system", "improve on the system of auditing" and "improve on the security system". "Improve on the management environment was placed fourth.

From all the results recorded, it was possible to compile a more comprehensive view of causes and possible remedies ranking by all respondents: investigator, victim, perpetrator and professional. The Table 10.20 shows the comprehensive causal ranking. The six highest scores for causal factors of economic crime perceived by investigators are:

- * Has a poor accounting records and unduly liberal accounting practices (V62);
- * Power abuse (V35);
- * In position of trust (V53);
- * A person who is too greedy (V72);
- * Mismanagement by staffs (V48);
- * Heavily influenced by politicians (V50);

The six highest causes of economic crime perceived by victims are:

- * Mismanagement by directors (V49);

- * Power abuse (V35);
- * In position of trust (V53);
- * Mismanagement by staffs (V48);
- * Has a poor accounting records and unduly liberal accounting practices (V62);
- * Heavily influenced by politicians (V50).

The six most important causes of economic crime perceived perpetrators are:

- * In position of trust (V35);
- * Mismanagement by staffs (V48);
- * Has a poor accounting records and unduly liberal accounting practices (V62);
- * Power abuse (V35);
- * Very familiar with operations (including cover-up capabilities) (V54);
- * Heavily influenced by politicians (V50);

The six highest scores for causal variables of economic crime perceived by professionals are:

- * In position of trust (V53);
- * Power abuse (V53);
- * Mismanagement by directors (V49);
- * A person who is too greedy (V72);
- * Close association with cohorts and other key people (V55);
- * Very familiar with operations (including cover-up capabilities) (V54).

The three highest commonly perceived as causal explanations of economic crime by all respondents are:

- * In position of trust (V53);
- * Power abuse (V35);
- * Has poor accounting records and unduly liberal accounting practices.

Thus, we can generally conclude that economic crime in Malaysia is largely due to people who are in position of trust, who have abused their powers in a situation of poor accounting practices.

Table 10.21 shows the variables of possible remedies perceived by all respondent. The result of the statistical test was ranked by all and grouped respondents. The highest three ranking variables of possible remedies are:

- * Improve on the system of auditing,
- * Improve on management information system.
- * Improve on the management environment.

From the tests in this study it can be concluded that the three common variables of economic crime i.e. "in position of trust", "power abuse" and "has a poor records and unduly liberal accounting practices", could be prevented by "improve on the system of auditing", "improve on the management information system" and "improve on the management environment".

TABLE 10.20 CAUSES TO ECONOMIC CRIME - CAUSAL RANKING

| | <u>CAUSATION RANK</u> | | | | | | | | | |
|---|------------------------|-----------|---------------------|-----------|---------------|-----------|--------------------|-----------|---------------------|-----------|
| | <u>ALL RESPONDENTS</u> | | <u>INVESTIGATOR</u> | | <u>VICTIM</u> | | <u>PERPETRATOR</u> | | <u>PROFESSIONAL</u> | |
| | All Group | All Group | All Group | All Group | All Group | All Group | All Group | All Group | All Group | All Group |
| <u>A. SITUATIONAL PRESSURES</u> | | | | | | | | | | |
| <u>PERSONAL</u> | | | | | | | | | | |
| * Power abuse | 2 | 1 | 2 | 1 | 2 | 1 | 4 | 1 | 2 | 1 |
| * Incompetence | 24 | 7 | 17 | 6 | 13 | 3 | 29 | 7 | 32 | 10 |
| * Beating the system | 18 | 5 | 24 | 8 | 19 | 6 | 27 | 6 | 18 | 4 |
| * Excessive gambling | 26 | 8 | 31 | 11 | 18 | 5 | 32 | 9 | 27 | 7 |
| * High Debt | 15 | 3 | 19 | 7 | 16 | 4 | 15 | 3 | 16 | 3 |
| * Living beyond means | 10 | 2 | 8 | 2 | 12 | 2 | 7 | 2 | 9 | 2 |
| * Extensive stock market speculation | 31 | 9 | 27 | 10 | 28 | 10 | 30 | 8 | 28 | 8 |
| * Loan shark involvement | 32 | 10 | 25 | 9 | 25 | 8 | 33 | 10 | 29 | 9 |
| * Bad company-heavy expenses incurred on others eg. woman | 17 | 4 | 14 | 3 | 23 | 7 | 16 | 4 | 20 | 5 |
| * Undue family commitments | 21 | 6 | 15 | 4 | 26 | 9 | 19 | 5 | 25 | 6 |
| * Drugs and alcohol problems | 36 | 12 | 37 | 12 | 35 | 12 | 37 | 12 | 35 | 12 |
| * Underpaid | 33 | 11 | 16 | 5 | 32 | 11 | 35 | 11 | 34 | 11 |
| <u>BUSINESS CIRCUMSTANCES</u> | | | | | | | | | | |
| * Mismanagement by staff | 6 | 3 | 5 | 1 | 4 | 2 | 2 | 1 | 13 | 3 |
| * Mismanagement by directors | 3 | 1 | 7 | 3 | 1 | 1 | 9 | 3 | 3 | 1 |
| * Heavy influence by politician | 5 | 2 | 6 | 2 | 6 | 3 | 6 | 2 | 8 | 2 |
| * Recession that brings unfavourable conditions to industry | 13 | 4 | 12 | 4 | 15 | 4 | 23 | 4 | 15 | 4 |
| <u>B. OPPORTUNITY</u> | | | | | | | | | | |
| <u>PERSONAL</u> | | | | | | | | | | |
| * In position of trust | 1 | 1 | 3 | 1 | 3 | 1 | 1 | 1 | 1 | 1 |
| * Very familiar with operations (including cover-up capabilities) | 8 | 2 | 11 | 3 | 7 | 2 | 5 | 2 | 6 | 3 |
| * Close association with cohorts and other key people | 9 | 3 | 10 | 2 | 9 | 3 | 14 | 3 | 5 | 3 |
| <u>BUSINESS CIRCUMSTANCES</u> | | | | | | | | | | |

| | | | | | | | | | | |
|---|----|---|----|---|----|---|----|---|----|---|
| * Does not use adequate personal screening policies when hiring new employees to fill the position of trust | 14 | 3 | 23 | 4 | 10 | 2 | 20 | 3 | 17 | 3 |
| * Has a complex business structure | 19 | 4 | 22 | 3 | 21 | 4 | 21 | 4 | 21 | 4 |
| * Does not require executive disclosure and examinations | 27 | 5 | 33 | 6 | 31 | 6 | 13 | 2 | 22 | 5 |
| * An absence of explicit and uniform personnel policies | 29 | 6 | 29 | 5 | 24 | 5 | 28 | 6 | 24 | 6 |
| * Does not have an effective internal auditing staff | 11 | 2 | 9 | 2 | 11 | 3 | 22 | 5 | 12 | 2 |
| * Has a poor accounting records and unduly liberal accounting practices | 4 | 1 | 1 | 1 | 5 | 1 | 3 | 1 | 7 | 1 |

C. PERSONALITY

| | | | | | | | | | | |
|--|----|----|----|----|----|----|----|----|----|----|
| * A person lacking in the development of personal morals | 16 | 3 | 32 | 9 | 17 | 3 | 10 | 2 | 11 | 3 |
| * A person who enjoys feeling of power influence, social status, an excitement associated with rapid financial transactions involving large sum of money | 12 | 2 | 20 | 4 | 14 | 2 | 11 | 3 | 10 | 2 |
| * A person without a well-defined code of personal ethics | 23 | 6 | 28 | 7 | 22 | 5 | 31 | 10 | 14 | 4 |
| * A person who is neurotic, manic-depression or emotionally unstable | 35 | 11 | 37 | 12 | 36 | 11 | 34 | 11 | 36 | 11 |
| * A person who is arrogant or egocentric | 28 | 8 | 30 | 8 | 30 | 8 | 18 | 6 | 23 | 6 |
| * A person with psychopathic personality | 37 | 12 | 34 | 10 | 37 | 12 | 36 | 12 | 37 | 12 |
| * A person with the threatened self-esteem | 20 | 4 | 18 | 3 | 33 | 9 | 17 | 5 | 9 | 5 |
| * A person who is intrigued by the personal challenge of subverting a systems of control | 30 | 9 | 21 | 5 | 29 | 7 | 26 | 9 | 31 | 9 |
| * A person who is too greedy | 7 | 1 | 4 | 1 | 8 | 1 | 12 | 4 | 4 | 1 |
| * A person with criminal history | 25 | 7 | 26 | 6 | 20 | 4 | 25 | 8 | 30 | 8 |
| * A person who has a questionable associate(s) | 22 | 5 | 13 | 2 | 27 | 6 | 24 | 7 | 26 | 7 |
| * A person with poor referees | 34 | 10 | 35 | 11 | 34 | 10 | 8 | 1 | 33 | 10 |

10.8 RELATIONSHIP OF CAUSAL FACTORS

From the last statistic, it was found that the following causal factors came in the first place in each group. They are:

- * greed;
- * power abuse;
- * position of trust;
- * mismanagement by Directors;
- * poor accounting records and unduly liberal accounting practices.

And the three highest common variables are:

- * in position of trust;
- * power abuse;
- * poor accounting records and unduly liberal accounting practices.

The above factors were tested for linear correlations by Pearson's Correlation test. This is to see how linearly correlated the above factors are with other variables. The variable a person who is too greedy significantly linearly correlated at Pearson Correlation test (significant at 0.05 level) with:

- * beating the system;
- * drugs and alcohol problems;
- * living beyond means;
- * underpaid;
- * in position of trust;
- * very familiar with operations (including cover-up

capabilities);

- * absence of explicit and uniform personnel policies;
- * poor accounting records and unduly liberal accounting practices;
- * no effective internal auditing staff;
- * emotionally unstable;
- * intrigued by personal challenge of subverting a system of control;
- * threatened self-esteem;
- * power abuse;
- * undue family commitment;
- * close association with cohorts and other key people;
- * has questionable associate (s).

Causal variable "person who is too greedy" interacted with 16 other causal variables. It is highly significant at 99% level with the following causal variable:

- * beating the system;
- * living beyond means;
- * power abuse;
- * threatened self-esteem;
- * a person who is intrigued by the personal challenge of subverting a system of control.

From this research, it can be concluded that "too greedy" has a 99% level of significance with "beating the system", "living beyond means", "power abuse", "threatened self-esteem" and

"person who is intrigued by the personal challenge of subverting a system of controls".

10.9 POWER ABUSE

"Power abuse" is significantly correlated (Pearson Correlation tests, significant at 0.05 level) with the following causal variables:

- * heavily influenced by politicians;
- * person without well-defined code of ethic;
- * high debt;
- * does not have effective internal auditing staff;
- * an absence of explicit and uniform personnel policies;
- * a person who is arrogant or egocentric;
- * a person who is too greedy;
- * a person who has questionable associate (s).

It is also observed that power abuse is related and correlated at .001 level with:

- * a person who is too greedy.

From this test of this research, it can be concluded that power abuse has 99% level of significance with person who is too greedy.

10.10 POSITION IN TRUST

"Position in trust" is significantly correlated (significant at 0.05 level) with the following causal variables:

- * bad company-heavy expenses incurred on others;
- * mismanagement by directors;
- * has a poor accounting records and liberal accounting practices;
- * does not have effective internal auditing staffs;
- * a person who is too greedy;
- * extensive stock market speculation;
- * heavily influenced by politicians;
- * close association with cohorts and other key people;
- * very familiar with operations (including cover-up capabilities);
- * has a very complex business structure;
- * a person with a threatened self-esteem;
- * a person who is neurotic, manic-depression or emotionally unstable;
- * a person who is too arrogant or egocentric.

It is observed that causal variable "in position of trust" is highly correlated with "poor accounting records and unduly liberal accounting practices" (0.001).

From three tests, it can be concluded that "in a position of trust" is correlated at 99% level of significance with "poor accounting records and unduly liberal accounting practices.

10.11 MISMANAGEMENT BY DIRECTORS

"Mismanagement by directors" is significantly correlated at Pearson Correlation tests (significantly at 0.05 level) with the following:

- * undue family commitments;
- * incompetence;
- * bad company-heavily expenses incurred on others;
- * in position of trust;
- * absence of explicit and uniform personnel policies;
- * does not have effective internal auditing staffs;
- * heavily influenced by politicians;
- * a person with poor referees.

It is observed from the result that "mismanagement by directors" has the highest relationship and correlation (at 0.010 level with the following variable:

- * does not have an effective internal auditing staffs;
- * a person with poor referees.

From this test, it can be concluded that "mismanagement by directors" is correlated 99% level of significance with "does not have an effective internal auditing staffs" and "person with poor referees."

10.12 POOR ACCOUNTING RECORDS AND UNDULY LIBERAL ACCOUNTING PRACTICES

"Poor accounting records and unduly liberal accounting practices" is significantly correlated (significant at 0.05 level) with the following:

- * incompetence;
- * underpaid;
- * drugs and alcohol problems;
- * mismanagement by staffs;
- * heavily influenced by politicians;
- * in position of trust;
- * close associations with cohorts and other key peoples;
- * does not have an effective internal auditing staffs;
- * has a very complex business structure;
- * an absence of explicit and uniform personnel policies;
- * a person with poor referees;
- * a person who is too greedy;
- * a person who is intrigued by personal challenge of subverting a systems of control;
- * a person with a threatened self-esteem;
- * a person with criminal history;
- * excessive gambling;

- * bad company-heavy expenses incurred on others;
- * undue family commitments;
- * loan shark involvement;
- * high debt;
- * recession that brings unfavourable conditions to industry;
- * a person with psychopathic personality;
- * a person with questionable associate (s);
- * a person who is neurotic, manic-depression or emotionally unstable.

It is observed from the tests that poor accounting records and unduly liberal accounting practices are correlated with 24 other variables. It's strongest correlations at the 0.001 significant level are:

- * incompetence;
- * underpaid;
- * undue family commitments;
- * mismanagement by staffs;
- * in position of trust;
- * does not have effective internal auditing staffs;
- * intrigued by personal challenge of subverting a system of control;
- * person with threatened self-esteem;
- * person who has a questionable associates.

It is much spoken in Malaysia that the causes of economic crime are partly due to the involvement of politicians in the corporate sectors and the recession that brings unfavourable conditions to industry. This research is not complete if no attempt is made to explore the truth of these assumptions. Thus further tests were carried out on the two variables, namely, "heavily influenced by politicians" and "recession that brings unfavourable conditions to industry". The results are discussed in para 10.13 and para 10.14 respectively.

10.13 HEAVILY INFLUENCED BY POLITICIAN

The result of this test shows that "heavily influenced by politicians" significantly correlated with:

- * power abuse (0.05);
- * incompetence (0.001)
- * undue family commitments (0.001);
- * underpaid (0.001);
- * mismanagement by directors (0.001);
- * recession that brings unfavourable conditions to industry (0.001)
- * in position of trust (0.05);
- * no adequate personal screening policies when hiring new employees to fill position of trust (0.05);
- * does not have effective internal auditing staff (0.001);
- * has a poor accounting records and unduly liberal

- accounting practices (0.05);
- * lacking in the development of personal morals (0.05);
- * person who is emotionally unstable (0.05);
- * person with psychopathic personality (0.001);
- * person who is arrogant or egocentric (0.001);
- * person with criminal history (.05);
- * person who has questionable associates (0.001);
- * person with poor referees (0.05).

The variable heavily influenced by politician highly correlated at 0.001 level of significance with the following:

- * underpaid;
- * recession that brings unfavourable conditions to industry;
- * person who is arrogant or egocentric.

Thus from the test of this research, it can be concluded that heavily influenced by politician has 99% level of significance with underpaid, recession and person who is arrogant.

10.14. SIGNIFICANCE OF RECESSION THAT BRINGS UNFAVOURABLE CONDITIONS TO INDUSTRY WITH OTHER CAUSATIONS

From the result it was observed that recession that brings unfavourable conditions to industry correlated with:

- * incompetence (.001);
- * loan shark involvement (.001);
- * underpaid (.001);
- * heavily influenced by politicians (.001);
- * no adequate personal screening policies when hiring new employees to fill the position of trust(.05);
- * has a very complex business structure (.05);
- * does not have an effective internal auditing staff (0.05)
- * has a poor accounting records and unduly liberal accounting practices (.05);
- * lacking in the development of personal morals (.05);
- * person who is intrigued by the personal challenge of subverting a system of controls(.05);
- * person with criminal history(.05);
- * a person who has questionable associate(s) (.001);
- * a person with poor referees (.05).

The variable recession that brings unfavourable conditions to industry highly correlated at 0.001 level of significance with:

- * loan shark involvement;
- * underpaid;
- * heavily influenced by politicians;
- * person with questionable associates.

From the test of this research, it can be concluded that recession has 99% level of significance with loan shark

involvement, underpaid, heavily influenced by politicians and person with questionable associates.

10.15. HYPOTHESIS TESTING

There are eight working hypotheses of this research namely :

- * Economic crime is attributable to a strong influence by politicians.
- * Economic crime is attributable to recession that brings unfavourable conditions to industry.
- * Economic crime is attributable to a psychological factor which finds excitement and prestige in "beating" someone or a system.
- * Economic crime persists because of the poor and liberal accounting practices.
- * Economic crime persists because of people attempting to live beyond their means.
- * Economic crime persists because of high personal and organisational debt.

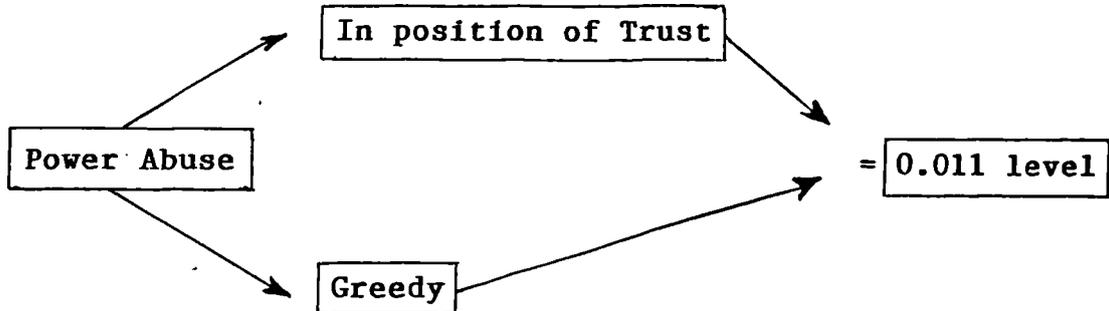
* Economic crime persists because of mismanagement by Directors.

* Economic crime persists because of people with poor referees and no adequate screening.

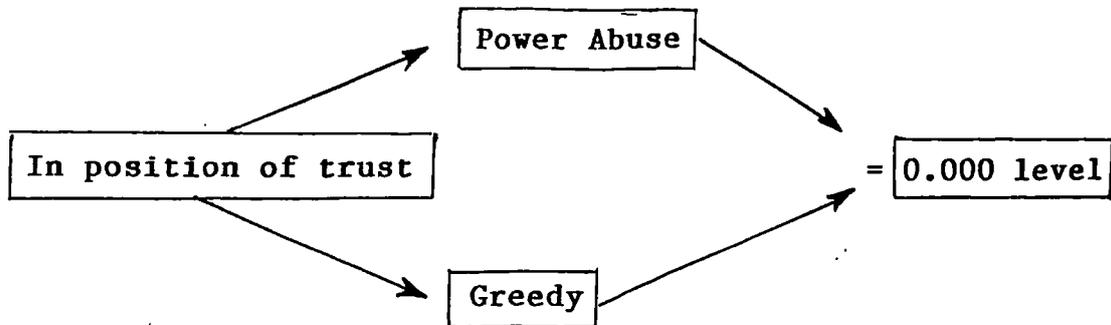
To accept or reject the above hypothesis the highest statistically tested ranking variables of each group: situational; opportunity; and personal pressures were taken and put to analyses of variance test (ANOVA). ANOVA technique was chosen because it could examine the significance of the difference amongst more than two sample means at the same time. It can also investigate into any number of variables which are hypothesised or said to influence the dependent variable. Two or more way ANOVA was used in this research to show interaction, if any, between two or more independent variables affecting a dependent variables.

Thus the highest ranking variable in situational grouping, power abuse (V35) BY the highest ranking variable in opportunity grouping, in position in trust (53) and the highest ranking variable in personal grouping, greedy (V72) were put to ANOVA test. The variables were then rotated by controlling the interdependent variables. From the tests it could be illustrated as follows:

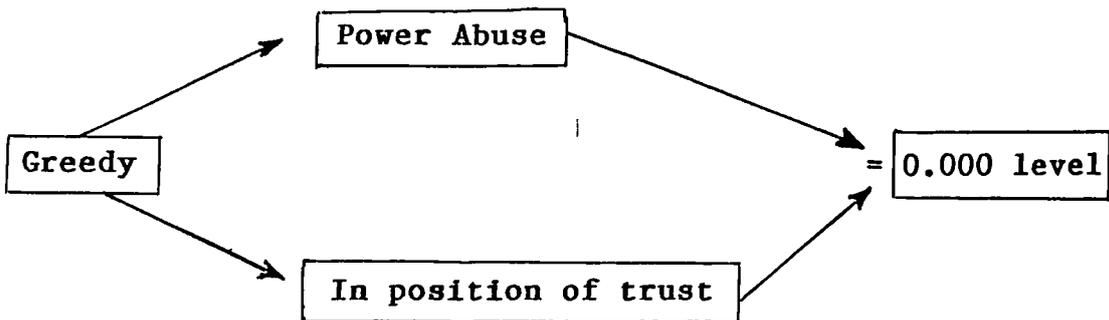
Test 1



Test 2



Test 3



It shows from the ANOVA testing that the variables In position of trust, Power abuse, and Greedy interacted at 99% level of significance.

Analysis of Co-variance (ANOCOVA) was used in addition to ANOVA to test all the hypotheses. It requires to assume that there is some sort of relationship between the dependent variables and the control variables.

In the hypothesis statement 'Economic crime is attributable to a strong influence by politicians', variables of power abuse (V35) BY in position of trust (V53) and greedy (V72) WITH heavily influence of politician were put to ANOCOVA test. The test shows that the null hypothesis economic crime is attributable to the heavily influenced by politician can be rejected at .077 level of significance.

In the hypothesis statement that 'Economic crime crime is attributable to recession that brings unfavourable conditions to industry', variables of power abuse (V35) BY in position of trust (53) and greed (V72) WITH recession that brings unfavourable conditions to industry (V51) were put to ANOCOVA test. The test shows that the null hypothesis economic crime is attributable to recession that brings unfavourable conditions to industry can be rejected at .418 level of significance.

In the hypothesis statement 'Economic crime is attributable to personal equation which find excitement and prestige in "beating" someone or a system', variables power abuse (V35) BY in position of trust (V53) and greedy (V72) WITH person who

intrigued by personal challenge of subverting a system of control (V71) and beating the system (V37) were put to ANOCOVA Test. The test shows that the null hypothesis economic crime is attributable to personal equation which find excitement and prestige in "beating" someone or a system can be rejected at .541 level of significance.

In the hypothesis statement 'Economic crime persists because of poor and liberal accounting practices', variables in position of trust (V53) BY power abuse and greedy (V72) WITH poor accounting records and liberal accounting practices (V62) were put to ANOCOVA test. The test shows that the null hypothesis economic crime persists because of poor and liberal accounting practices cannot be rejected at .001 level of significance.

In the hypothesis statement 'Economic crime persists because of people of attempting to live beyond their means', variables of greedy (V72) BY power abuse (V35) and in position of trust (V53) WITH living beyond means (V40) were put to ANOCOVA test. The test shows that the null hypothesis economic crime persists because people attempting to live beyond their means cannot be rejected at .001 level of significance.

In the hypothesis statement 'Economic crime persists because of high personal and organisational debt', variables power abuse (V35) BY in position of trust (V53) and greedy (V72) WITH high debt (V39) were put to ANOCOVA test. The test shows that the

null hypothesis economic crime persists because of high personal and organisational debt cannot be rejected at .031 level of significance.

In the hypothesis statement 'Economic crime persists because of mismanagement by Directors', variables power abuse (V35) BY in position of trust (V53) and greedy (V72) WITH mismanagement by directors (V49) were put to test. The test shows that the null hypothesis economic crime persists because of mismanagement by Directors can be rejected at .616 level of significance.

In the hypothesis statement 'Economic crime persists because of person with poor referee(s) and no adequate screening', variables power abuse (V35) BY in position of trust (V53) and greedy (V72) WITH person who has poor referee(s) (V75) were put to ANOCOVA test. The test shows that the null hypothesis economic crime persists because of person having poor referees and no adequate screening cannot be rejected at .009 level of significance.

10.15 RESEARCH FINDINGS

From all the tests of this research, it can be concluded the following:

* that the most causal variables of economic crime according to each group are:

- * "a person who is too greedy" under personality grouping;
- * "power abuse" under situational-personal grouping;
- * "in position of trust" under opportunity-personal grouping;
- * "mismanagement by directors" under situational-business circumstances grouping;
- * "has poor accounting records and unduly liberal accounting practices" under opportunity-business circumstances.

* that the highest common causation variables by all respondents are:

- * "in position of trust";
- * "power abuse";
- * "has poor accounting records and unduly liberal accounting practices".

* that the highest three possible remedies variables are:

- * "improve on the system of auditing";
- * "improve on management information system";
- * "improve on the management environment".

* that the variable "a person who is too greedy" correlated at 95% significant level with 16 other variables. It correlated at 99% significant with "beating the system", "living beyond

means", "power abuse", "threatened self-esteem" and "person who is intrigued by the personal challenge of subverting a system of controls".

* that the variable "power abuse" correlated at 95% significant level with 8 other variables. It correlated at 99% significant with "a person who is too greedy".

* that the variable "position in trust" correlated at 95% significant level with 13 other variables. It correlated at 99% significant level with "poor accounting records and liberal accounting practices".

* that the variable " mismanagement by directors " correlated at 95% significant level with 8 other variables. It correlated at 99% significant level with " does not have effective internal/external auditing staffs" and " a person with poor referees".

* that the variable "poor accounting records and unduly liberal accounting practices" correlated at 95% significant level with 24 other variables. It correlated at 99% significant level with "incompetence", "underpaid", "undue family commitments", "mismanagement by staffs", "in position of trust", "does not have effective internal auditing staffs", "intrigued by personal challenge of subverting a system of

control, "person with threatened self-esteem", and " person who has a questionable associates".

* that the variable "heavily influenced by politicians" correlated at 95% significant level with 17 other variables. It correlated at 99% significant level with "underpaid", "recession that brings unfavourable conditions to industry" and "person with arrogant or egocentric".

* that the variable "recession that brings unfavourable conditions to industry" correlated at 95% significant level with 14 other variables. It correlated at 99% significant level with "loan shark involvement", "underpaid", "heavily influenced by politicians", and "person with questionable associates".

From hypotheses testing, we can conclude the following:

* the null hypothesis that economic crime is attributable to a strong influence by politicians can be rejected.

* the null hypothesis that economic crime is attributable to recession that brings unfavourable conditions to industry can be rejected.

* the null hypothesis that economic crime is attributable to personal equation which find excitement and prestige in "beating" someone or a system can be rejected.

* the null hypothesis that economic crime persists because of poor and liberal accounting practices cannot be rejected be rejected at 0.001 of significance.

* the null hypothesis that economic crime persists because of people attempting to live beyond their means cannot be rejected at .001 level of significance.

* the null hypothesis that economic crime persists because of high personal and organisational debt cannot be rejected at .05 level of significance.

* the null hypothesis that economic crime persists because of mismanagement by Directors can be rejected.

* the null hypothesis that economic crime persists because of person having poor referees and no adequate screening cannot be , rejected at .001 level of significance.

The result of all the tests can now be illustrated by Figure 10.1..

The result of this research shows that the three highest commonly perceived causes of economic crime are "in position of trust", "power abuse" and "has poor accounting records and unduly liberal accounting practices". It can be concluded that economic crime in Malaysia is largely due to people who are in position of trust, who have abused their powers in a situation of poor accounting practices. A person with a high level of personal integrity and no opportunity pressures to commit economic crime will be most likely to behave honestly. The desire to commit economic crime will be more in person with less personal integrity and in a situation with increasing pressure and greater opportunity to commit crime.

It also appears from the result of this research, that economic crime may well prevail when situational, opportunity and personal pressures exist. Situational factors such as power abuse, living beyond means, high debt, perceived by opportunities such as in position of trust, very familiar with operations (including cover-up capabilities), close association with cohorts and other key people, and rationalised by personal level of integrity such as too greedy, lacking in the development of personal morals, enjoys feeling of power influence, social status and big money could causes economic crime.

In the case of business circumstances, situational pressures such as mismanagement by directors, staffs, and

heavily influenced by politicians, coupled with opportunities such as poor accounting practices, no effective internal auditing staffs and no adequate screening policies when hiring new employees to fill the position of trust and personal low integrity will favour the commission of economic crime.

The above causal explanations could be verified in the following actual four cases involving a businessman, a banker, a lawyer, and bank director. In a case of a businessman. The Criminal Affairs Division (CAD) of Singapore probe into the dealings of a former public listed company in Singapore revealed that a Malaysian businessman was the original seller of \$129m worth of forward contracts in shares to that company at an artificially inflated price. The said businessman controlled the company through another director. The company was unable to pick up the shares. Provisional liquidators were appointed when the company defaulted on a loan.

That businessman was charged with abetment to commit Criminal Breach of trust (CBT), cheating and share price manipulation. He pleaded guilty to one charge of abetment to commit CBT involving \$145,000. He was fined \$500,000 and sentenced to two years' jail.

The essence of the offence is that the accused engaged with another director in a conspiracy to dishonestly dispose of moneys belonging to the company in breach of a director's duty to the company. Consequently, that director violated S. 157(1) of the Companies Act (Reprint 1985) which prescribed that he

was to dispose of such property honestly.

In a second where a former officer of a foreign bank in Singapore was with the bank's fixed deposit department. He misappropriated and transferred money out of the bank either in the form of cash or cashier's orders totalling \$12.4m, purportedly on the instruction of a bank's customer.

That officer was convicted of CBT. The sentence was ten years' jail and a fine of \$120,000. He was also ordered to pay prosecution cost amounting to \$100,000.

He is appealing against both his conviction and sentence.

The third example is a case which involved a former lawyer. The accused was a former advocate and solicitor of the Supreme Court of Singapore. He was running his own firm. He was charged with six charges of CBT in his capacity as an agent of clients' moneys totalling \$1.8m held in the clients' account of his firm. The bulk of the money misappropriated from the clients' account consisted of moneys paid by clients for completion of property transactions, payment of stamp fees and also one large sum held as stakeholder. He was convicted and sentenced to six years' imprisonment.

The last example involved a bank director. In essence, this bank director admitted to having dishonestly disposed of \$3m belonging to a finance company, of which he was an executive director, by approving a loan to Company X in March 1984. That finance company allowed a block of shares it kept on behalf of

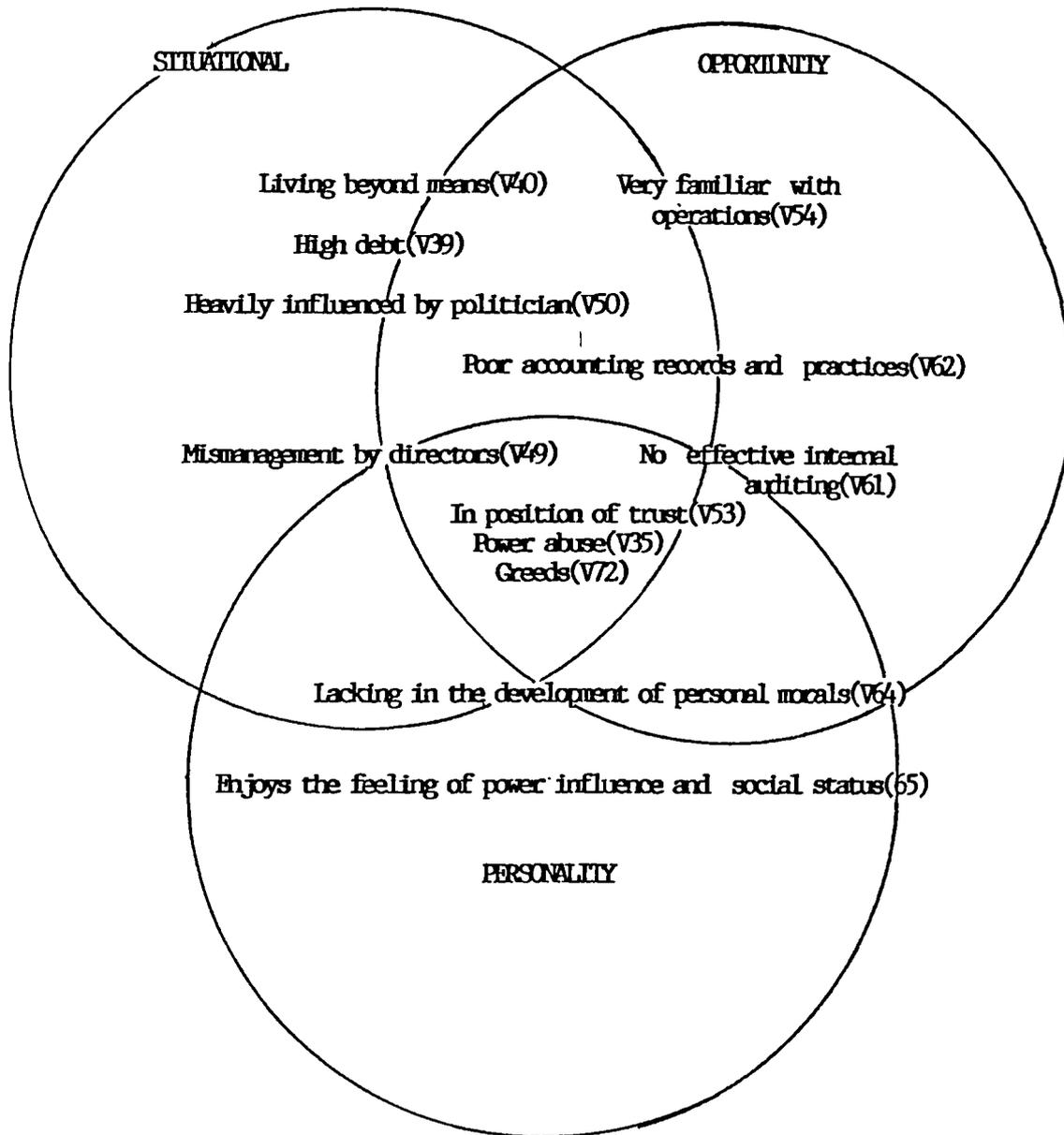
its head office to be used by Company X as security for a \$6m loan facility.

Company X was allowed to draw \$3m on the strength of those shares, which it did not actually own. But the very next day, when the money was credited to Company X's bank account, it was remitted to its head office in Hong Kong.

The accused was sentenced to 30 months' imprisonment.

This research shows that economic crime is serious offence. It can affect the standing of Malaysia's financial system. It affect the well-being of the people, Government and future generations. It is recognised that their complexity and sophistication have made them difficult to detect, investigate and prosecute. The instruments of economic crime will continue to change with the instruments of business. Factors like the development of the multinational corporate structure, the increased range and diversity of trading activities , the internationalisation of business and the ready accessibility of the ever-advancing computer technology will continue the unscrupulous with attractive opportunities. The greatest challenge is to keep abreast of such developments and meet the challenge. Economic crime could be possibly avoided and prevented by improvement in the system of auditing, improvement in the management of information system and improvement in the management environment. An emphasis on moral educations could also deter economic crime.

FIGURE 10.1- MODEL OF CAUSATIONS OF ECONOMIC CRIME



CHAPTER ELEVEN

11. POSSIBLE REMEDIES AND CONCLUSION

Developing the themes from Chapter Three, there are various explanations of why people commit economic crimes and other crimes.

Sutherland (1940) explained criminal groups by:

- * the theory of differential association states that criminal behaviour is learned when a person is regularly exposed to factors favouring crime.

Donald Cressey explained the lone embezzler through:

- * non-sharable financial problem
- * solved by violation of trust
- * rationalised with the persons conception of himself as an honest and trusted employee

Leton and Durkheim proposed a theory of anomie that:

- * all people have aspirations
- * crime breeds in the gap between opportunity and aspiration.

The study of 325 cases of economic crime in Malaysia and the survey carried out on 272 respondents who have had experience and knowledge in this area as - the investigators, victims, perpetrators and professionals - confirmed that situational, opportunity, and personal factors¹, interact with each other to bring about economic crimes.

Economic crimes could be motivated at many levels. It could be motivated at the national level with factors such as:

- * the economic uncertainty;
- * political instability;
- * business heavily influenced by politicians.

At an industry level, factors such as:

- * recession;
- * mismanagement by directors and staffs;
- * high debt;
- * absence of proper accounting records and procedures.

At a family level factors such as:

- * living beyond means;
- * undue family commitments.

At a personal level factors such as:

- * greed
- * lacking of personal ethic and personal moral.

In reality, no matter how highly motivated a person might be to commit crime, he/she can only do so where there is a perceived opportunity. Different people have different opportunities. According to Sutherland's theory of 'differential opportunity' it all depends on :

- * the access they have to properties, accounting records and computer equipments;
- * their skill;
- * the time available to plan and commit their act;
- * their ranks within the organisation.

Hence the study of economic crime focuses on the results of an interaction of situations, in which opportunities exist and there is personal motivation.

From this it can be concluded that the elements of economic crimes are:

- * opportunity;
- * an economic or psychological need;
- * a moral justification for committing economic crime;
- * a perceived low chance of detection for economic crime.

Taking into consideration driving or motivating factors of the crime the possible remedies in addressing security and control system should thus aim to:

- * restrict opportunities;
- * remove the economic/psychological benefits;
- * prevent rationalisation (internal criminals)
- * make the chance of detection with a follow-up of punishment appear high, before a criminal contemplating crime takes the first steps.

11.1. CORRELATION OF REMEDIES

On the possible remedies, the 272 respondents of this research seems to agree the nine suggested possibilities [see Table 10.18- possible remedies). There are 23 respondents emphasised on religious education as strong remedy to curb economic crime. Seven respondents suggested that power should not be given to one or two persons especially the powers of transacting a large sum of money. All the nine possible remedies are applicable in one way or another to curb economic crime. The result shows that improvement on system of auditing ranks number 1, improvement on the management of information system ranks number 2 and improvement on the management environment ranks number 3. The studies shows that the nine possible remedies statistically correlated with each other and in this sense it suggests that all the nine remedies are applicable in reducing economic crime.

The variable " improve on system of auditing" correlated at 95% significant level with:

- * improve on security system;
- * personnel screening;
- * improve on the organising skills;
- * improve on the coordinating skills;
- * improve on the motivational climate;
- * improve on the management environment.

The variables "improve on the management information system" and "improve the management environment" correlated at 99% significant level with the other variables. The other variables are:

- * improve on the auditing system;
- * Improve on the security system;
- * improve on the motivational climate;
- * improve on the coordinating skills;
- * improve on the organising skill;
- * improve on the planning skills;
- * personnel screening.

11.2. SUGGESTED REMEDIAL ACTION AT STATE LEVEL

Judging from the elements of the crime, strategically remedial actions should focus on reducing opportunities i.e. to reduce the problem rather than fight the detection. This is because it is the most practical and possible to do than the rest. There are many ways that could be done to reduce economic

crime. Each state has to devise a strategy in consonance with its prevailing of socio-economic development, political thinking and public awareness.

It is suggested that economic crime should be viewed with emphasis to a three prong strategy based upon community purpose, governmental realisation and international cooperation as follows:

- * a concerted plan of action against economic crime;
- * disruptive action against economic crime and
- * international cooperation to overcome economic crime.

These considerations do not, in any way, undermine the need to initiate, promote and develop programmes for the strengthening of social organs concerned with the development of society such as family, the education system, religion and community.

11.2.1 Moral and religious development

Under the impact of socio-economic changes and technological developments, the traditional role of the family as the principal agency for the protection and transmission of values has diminished. As the joint family is now being replaced by the nuclear family, erosion of moral standards is clearly evident. The social control functions are being gradually taken over by the more complex structures particularly the educational system. This has resulted in the loosening of bonds among members of the family and the weakening of religious and conventional values to maintain

family integrity.

It is, generally, accepted that the efforts to secure social justice from the viewpoint of social defence could be most beneficial when centred around the family as the primary unit of society. In the contemporary world, the educational system has acquired a unique position among the various agencies affecting our lives. The educational system has to cater progressively to the varying needs and problems in the face of prevailing socio-cultural and economic realities. Religious education would have a tremendous impact on a person to help remould his character to the extent acceptable by society. Hence, more emphasis should be placed on education aimed at humane values and good ethics in the school curriculum. It is universally accepted that public educational and religious guidance should be enlisted for the prevention and control of economic crime.

The effectiveness of family, religion and school as the primary agencies for the care and socialization of erring members of society, depends heavily on the support of the community and its institutions. Each community has its own network of inter-relationships, communication and corrective measures to regulate society.

11.2.2 Aggressive participation of Mass Media.

Among the most important policies that could be adopted in order to deal with economic crime effectively, an

integrated approach to economic crime prevention and criminal justice approach policies plus strategies ranks foremost among them. An aggressive propaganda should be based on a two prong strategy. First, towards the victim and second, towards the perpetrator. An aggressive programme by media to implant the thought of "Crime Does Not Pay", in each and every citizen of society, perhaps an ideal approach to the prevention of economic crime.

11.2.3 Research, Planning and Implementation.

There is a need to conduct a systematic research, both by the enforcement agencies and members of the public as to causes of economic crime. The research should be well outlined to include lacunae in the legislations, procedures, and investigations. On identifying the weaknesses, a concerted effort must be implemented effectively and a review done to ascertain and evaluate the end results.

In order to have an unbiased research, an independent body not connected with enforcement agencies should be appointed to carry out research and planning. On implementation by the agencies concerned, this independent body should undertake the task of evaluation. Preferably, a local university can be appointed to carry out this task.

11.2.4 International Cooperation.

The Royal Malaysian Police recognises that preventive measures within the country alone are not sufficient to effectively counter the incidence of criminality in the country and that the external factors must also be given due consideration. In this context it was felt that prevention must have an international dimension. There was a need to carry out the following steps in international cooperation:

- * development and conclusion of conventions for the region designed to control economic crime;
- * they must strengthen the obligation of states to prosecute or extradite offenders;
- * encourage the conclusion of special agreements with states that deny extradition of their own nationals, or other persons;
- * development of a code of ethics governing the granting of diplomatic immunity by foreign offenders;
- * request states to introduce measures controlling the purchases and disposing of assets abroad;
- * strengthening the role of the International Criminal Police Organisation (INTERPOL) by upgrading its international capacity;
- * establishment of a bilateral and multilateral law enforcement task force consisting of countries in the same region to police 'hot spots' of transnational crime, operating under comprehensive but strict guidelines to tackle transnational crime problems

common to them all.

11.3. SUGGESTED REMEDIES AT ORGANISATIONAL LEVEL

A few methods to improve controls (especially the entry controls which may take the form of vetting employees or members of professional associations to ensure that they are "fit and proper person") in an organisation have been suggested by previous studies such as by Levi (see Levi, 1988, pp 8-16). Fact Finder International Ltd and Jack Bologna Corporate checklist which will be discussed in this Chapter. From this research it is possible to formulate a checklist to suit the Malaysian environment after understanding the general conditions of economic in Malaysia.

11.3.1 Fact Finder International Ltd

Fact Finder International Ltd, a specialised investigation organisation based in London has developed a Job Sensitivity Analysis method based on the Differential of Opportunity Theory and on the interaction of personal motivation and job situation [see Appendix X]. It is a form of pre employment appraisal on staffs positions in the organisation, where the risks levels are calculated. Recommendations are made depending on the score achieved by each staffs's position responsibility. If the risk level is low than the level of clearance would be "standard reference checks or interview". When the score is

medium then "negative vetting" is recommended. When the score is between medium and high, the "basic positive vetting" is recommended. And when the score is high, the "full positive vetting and Fidelity Insurance is recommended". The score is derived by of a questionnaire developed by Fact Finder International based on 20 years experience in commercial and computer fraud investigation and prevention. The questions, divided into ten blocks, cover the key aspects of the "Differential of Opportunity Theory" and incorporate scores, depending on the significance of the job attribute in relation to fraud and other security risks. There is a degree of overlap between some of the questions, this is deliberately done for consistency in the answer. Points were given to each question. The sensitivity total should be used to determine the depth of pre employment screening necessary - the higher the points total, the more sensitive the job. It is recommended that any job producing a total of 600 points or more should never be filled unless the background of the candidate has been thoroughly checked by positive vetting methods.

11.3.2 Jack Bologna Corporate Checklist

Jack Bologna(1984) produced a corporate checklist which encompassed tools of managements of an organisations i.e. planning, organising, coordinating, motivational climate, management information system, management environment to assess the strength of control on crime in an organisation. Ratings

are given to each column where a clear management style could produce a tight control and makes crime unlikely. Weak management style will produce slack control which makes crime possible.

11.3.3 Yusoff's Checklist

The green, yellow and red signals checklist formulated in this research by this researcher could also be useful to use as a model for assessing particularly organisations. The causal factors could be extended to meet the need of individual organisations with specific objectives. In this model the factors are derived from the analyses of studies of 325 cases of interest and the research survey. Table 11.2. is example of the validated red flag list which is created from this study and this researcher has used this to examine the researcher's former personal cases :

- * PP vs Tan Koon Swan (Multi-Purpose Cooperative);
- * PP vs Dato Kee Yong Wee and Others (KOMUDA Cooperative);
- * PP vs Wang Choon Weng (Ruban Enterprise Ltd Company);
- * PP vs Harun (Central Bank of Malaysia);
- * PP vs Abdullah (Talasco Insurance);
- * PP vs Dato Mat Shah and another (Kesang Holdings);
- * PP vs Kamarulzaman (Amanah Finance Ltd.) and
- * PP vs Dato Yap Hock Seng (Perwira Habib Bank):

Seven of the cases have been dealt with by the Malaysian Courts. While another one awaiting the conclusions of the trials.

The score is given to each of the factors existing in the organisations. The number of scores is based on the ranking of variables in each grouping. The green, yellow and red signals are determined not only by the total scores but by the groups they belong to as the economic crime is the product of situational, opportunity and personal pressures. Recommendations of actions to be taken depends on the score points. If the score of A plus B plus C is below 30 the situation is said under 'green signal', the routine administration carried out is deemed adequate. The score of A plus B plus C is from 30 to 70 the situation is said to be under yellow signal. There is a need to carry an extensive auditing, screening, and tightening of security controls. When the score of A plus B plus C is from 70 upward, there is a need of 'urgent extensive auditing, investigation and official reports. Any misappropriation should lodge police reports immediately.

The checklist formulated from this research can be used by corporate sector, individuals and it is also useful to investigators. Investigators could utilise the checklist in making assessments of the individual or organisations under their attention. This is a new approach for police officers

to adopt in their investigations. If an extensive approach is used the investigators invariably learn more about an individual or the organisation. This will enable them to assist the investigators in formulating proper investigative questions or in recording official statements to be used for Court prosecutions. Statements recorded by investigating officers or officers not below the rank of a Sargeant made under 112 and 113 of the Criminal Procedure Code are usable and admissible as evidence in the Malaysian Court of Law.

When the work of by the investigators show that a "red signal" exists within a corporation, he/she could initiate a police report with a view to carrying out criminal investigations. This will save time without waiting for the victim(s) to make an official complaint.

Table 11.1. SITUATIONAL-OPPORTUNITY-PERSONAL SIGNALS

Individual on behalf/against
the Company

| SITUATIONAL-PERSONAL | POINTS |
|---|--------|
| 1. Power abuse | 10 |
| 2. Living beyond means | 8 |
| 3. High Debt | 7 |
| 4. Bad company-heavy expenses incurred on others e.g.woman | 7 |
| 5. Beating the system | 6 |
| 6. Undue family commitments | 5 |
| 7. Incompetence | 5 |
| 8. Excessive gambling | 4 |
| 9. Extensive stock market speculation | 4 |
| 10.Loan shark involvement | 4 |
| 11.Underpaid | 3 |
| 12.Drugs and alcohol problems | 2 |

SITUATIONAL-BUSINESS CIRCUMSTANCES

| | |
|---|---|
| 1. Mismanagement by directors | 9 |
| 2. Heavily influenced by politicians | 8 |
| 3. Mismanagement by staffs | 7 |
| 4. Recession that brings unfavourable conditions to industry | 6 |

OPPORTUNITY-PERSONAL

-
- | | |
|-------------------------|----|
| 1. In position of trust | 10 |
|-------------------------|----|
-
- | | |
|---|---|
| 2. Very familiar with operations (including cover-up capabilities) | 8 |
|---|---|
-
- | | |
|---|---|
| 3. Close association with cohorts and other key people | 7 |
|---|---|
-

OPPORTUNITY-BUSINESS CIRCUMSTANCES

-
- | | |
|--|----|
| 1. Has a poor accounting records and unduly liberal accounting practices | 10 |
|--|----|
-
- | | |
|---|---|
| 2. Does not have an effective internal auditing staffs | 8 |
|---|---|
-
- | | |
|--|---|
| 3. Does not have adequate personal screening policies when hiring new employees to fill the position of trust | 7 |
|--|---|
-
- | | |
|-------------------------------------|---|
| 4. Has a complex business structure | 6 |
|-------------------------------------|---|
-
- | | |
|---|---|
| 5. Does not require executive disclosure and examination | 5 |
|---|---|
-
- | | |
|---|---|
| 6. An absence of explicit and uniform personnel policies | 4 |
|---|---|
-

PERSONALITY

-
- | | |
|---------------|----|
| 1. Too greedy | 10 |
|---------------|----|
-
- | | |
|---|---|
| 2. Enjoys feeling of power influence, social status, an excitement associated with large sum of money | 8 |
|---|---|
-
- | | |
|--|---|
| 3. Lacking of development of personal moral | 8 |
|--|---|
-
- | | |
|------------------------------------|---|
| 4. With the threatened self-esteem | 7 |
|------------------------------------|---|
-
- | | |
|------------------------------------|---|
| 5. Has a questionable associate(s) | 6 |
|------------------------------------|---|
-
- | | |
|--|---|
| 6. Without a well-defined code of personal ethics | 5 |
|--|---|
-
- | | |
|--------------------------|---|
| 7. With criminal history | 4 |
|--------------------------|---|
-

| | |
|---|------------|
| 8. Arrogant and egocentric | 4 |
| 9. Intrigued by personal challenge of subverting a systems of control | 4 |
| 10. With poor referees | 3 |
| 11. Neurotic, Manic-depression, or emotionally unstable | 2 |
| 12. With psychopathic personality | 1 |
| TOTAL | 220 |

Weighting Factors

| Group | Factors | Score |
|--|-------------------------------------|---------|
| A: | 1. Situational-Personal Pressures = | [] |
| | 2. Situational-Business Pressures = | [] |
| B: | 1. Opportunity-Personal Pressures = | [] |
| | 2. Opportunity-Business Pressures = | [] |
| C: | Personality Pressures = | [] |
| COMBINATION OF SCORE A[]+ B[]+ C[]= [] | | |
| | TOTAL | [] |

| POINTS TOTAL OF A + B + C | SIGNAL | RECOMMENDED ACTION |
|---------------------------|--------|---|
| Below 30 | Green | Routine Administration |
| 30 to 70 | Yellow | Auditing/Screening/Security Controls |
| 70 to 220 | Red | Auditing/Investigation/Official Reports |

11.3 AREAS OF IMMEDIATE CONCERN FOR FUTURE POLICIES

The immediate future policies are:

- * The need for a new unified organisation to be responsible for all the functions of detection, investigation, and prosecution of serious economic crime cases should be examined forthwith. This should be looked upon seriously by the Police Department, Attorney General's Office and the Treasury.

- * The need for an independent monitoring body (the Economic Crime Commission) to be responsible for the study of efficiency with which economic crime cases are conducted and should make an annual report. The economic crime commission should observe the progress of the economic crime cases through the courts and examine and advise on the time taken and the causes of delays. One of the functions of this Commission should be to collect to key figures of time, cost, and other relevant material concerning the investigation, prosecution and trial of economic crime cases (See Roskill, 1986).

- * Inspectors appointed under section 196 and 197 of the Companies Act 1965 must report evidence of suspected crime as soon as it is discovered.

- * Powers of investigation comparable to those available to the Registrar of Companies under the Companies Act 1965 should also be conferred on the police.
- * The "Case Controller" should be responsible for the control of a serious economic crime from the time of discovery until verdict.
- * Prosecution counsel should be appointed at an early stage in the investigation of the serious economic crime cases to advise as to the direction of the investigation; and should conduct the prosecution case at any subsequent trial. Counsel must be prepared to adapt to the task of being a member of and leading a team of investigators and prosecutors.
- * The resources devoted to the pursuit of economic crime must be expanded as a matter of priority.
- * More expert accounting staff are likely to be needed in the Deputy Public Prosecutors' office. Permanent qualified accounting staff should be attached to the police economic crime unit.
- * Provision of a career structure for the officers in the economic crime unit is required.

- * An appropriate law reform agency should examine the issues relating to the substantive law of economic crime.

- * Power should be given to the Attorney General to issue 'transfer certificate', at any time before the commencement of committal proceeding, transferring a case to the jurisdiction of the High Court.

- * The issue of a "transfer certificate" should not be open to challenge by the defence by way of appeal or judicial review.

- * In any serious economic crime case brought to the High Court by transfer certificate or committal a judge with appropriate special experience should be nominated as the trial judge at an early stage after the transfer.

- * The judge should have the power to order that a document sought to be put in evidence by either the prosecution or the defence may be allowed in as evidence of the truth of its contents without formal proof.

- * The party seeking to put in a document without calling its maker or either a witness who can speak to it must give an indication of the nature and source of the document.

- * The judge should have power to order that a copy of the document should be admissible to the same extent as if the original of that document had been produced and strictly proved.

- * The judge should have the power to order that a deposition be admissible in evidence at the trial where the witness is not available, subject to the comment that it has not been tested by cross-examination.

- * Legislation should be sought to enable evidence to be taken on commission abroad for use in criminal trials in Malaysia.

- * Negotiation should be set in train with other countries to provide for reciprocal arrangements regarding the taking and receipt of evidence on commission.

- * Treaties and legislation should allow for the possibility of using live satellite links to enable evidence to be taken from a witness in other country.

- * The judge should be empowered to order the prosecution to prepare a case statement. The defence should be allowed to object to the contents of the prosecution's case statement. The judge should be entitled to order any necessary arrangement.

- * The law should be altered so that the defence are required to outlined in writing the nature of their case at the outset of the trial.
- * Court-rooms for economic crime cases should have adequate space for using overhead projectors.
- * Appropriate training for all those involved in economic crime cases should be provided.
- * Accountancy should be a compulsory subject in training for the Bar, either at the Bar examinations stage or during pupillage and for senior police officers confirmation examinations.
- * Post-qualification training in accountancy and information technology should be available for practising barristers, prosecutors, magistrates and judges and appropriate incentives for attendance should be devised.
- * Better training for police officers in the economic crime unit is required, together with courses in specialised subjects.
- * Appropriate disciplinary procedures and sanctions should be imposed when needless and wasteful delays take place in investigation and trial of economic crime cases.

11.5 RECOMMENDATION FOR FUTURE RESEARCH

It was mentioned earlier in Chapter Four, that to conduct research of this nature one has to encounter difficulties in gathering the data, as economic crime is often 'hidden', secretive and sensitive. This explained the perspective taken by this researcher, its approach, data collection, analysis and so on is founded on what best could be done in a limited situation. Having said that, however, it is necessary to have a continuous study in the form of further research in the area of economic crime in Malaysia. This is because, inspite of its current scale, there has not been a study of economic crime in Malaysia. It is now known that this research on the economic crime in Malaysia and an analysis on the changing roles of the Police is the first to be undertaken in the country. Thus being the first, it has now paved the way for further research to be carried out not only in Malaysia but by other countries in the region which experienced similar phenomenon of economic crime.

11.5.1 Prerequisite for future research.

Future research on economic crime in Malaysia has first of all to consider the following limitations:

- * The problem of survey method. The most appropriate method for conducting surveys of this nature in Malaysia is by

using the personal interview. This is because the perpetrators are not receptive to postal questionnaires. In personal interview more information and in greater depth can be obtained. Interviewers by his/her own skill can overcome the resistance, if any, of the respondents. A skilled interviewer can obtain very sensitive and personal data.

- * The problem of respondent selection. Any research in economic crime will be faced with suspicion and insufficient data. This is because the respondents especially the professionals, investigators and at time also the victims will only reveal 'on the need to know basis'. Unless they have confidence with the way the researcher handles their confidentiality, not much data would be available.

- * The problem of the Official Secret Act. Government servants or officers of both public and private sectors in Malaysia are governed by Official Secret Act 1987. The release of data by them is made within the frame-work of this Act. Thus when they are not sure whether the data could be released, they prefer to remain silent. Thus the researcher has to wait for official data either released or published annually or made available to the press. To overcome this situation the researcher could either go direct to the victims or perpetrators but this method is not only tedious but costly.

- * The problem of funds. Any research in economic crime which attempt to explore the opinions of investigators, victims, perpetrators and professionals in the whole country of Malaysia by way of personal interview will need a substantial amount of money in order to be successful. The travel and accommodation expenses alone can consume a large proportion of the funds. Not forgetting the 'tipping' and 'lunches' necessary to get good responses from the respondents. Thus it is best for research of this nature to be conducted by 'people of the institution' such as police officers, prison officers, auditors, bankers and academicians where funds are easily available. For example, this researcher's past working experience in this field is an added asset for the completion of this research.

- * The problem of threats. At this point of time there are no Mafia type of organisations in Malaysia. However, there are Secret Societies or Gangs which could be easily used by the perpetrators in committing economic crime. A research study on sensitive issues which involved these groups (including people in power) could pose threats to the researcher. (A good example is where an executive from Bank Bumiputra Malaysia Bhd was murdered in Hong Kong in 1983, while doing investigations on behalf of the Bank on its subsidiary namely Bumiputra Malaysia Finance (BMF) involving (M)\$2.5 billion scandals. His assailant was convicted for murder in Hong Kong). However, this could be anticipated in future if

the growth of economic crimes is not curbed by the authorities in time.

11.6 SUGGESTIONS FOR FUTURE RESEARCH

Based on the understanding that the above pre-requisites are taken into consideration, the following are recommended as areas where possible future research could be undertaken:

- * **Research on the influence of heavy sentence on economic crime.**

Lately the Malaysian governments has amended a number of pieces of legislation such as Companies Act 1965 and Bank Act 1990 bringing about heavier penalties to cases involving economic crime. This study could help to determine the effectiveness of heavier penalties on economic crime and related problems faced by Prosecutors and Courts.

- * **Research on business ethics in Malaysia.**

Research on this topic could enlighten the business world in determining whether Malaysian businessmen adhered to the required business norms and ethics. This researcher has some suspicion that some unaccepted norms and ethics have been absorbed as 'a way of life' in the business sector. Such

activities, to mention a few, the government or political party 'kick-back'; illegal loans to subsidiaries and associate companies, subsidies to supporters of the ruling political party.

*** Corporate corruption in Malaysia.**

Research on this topic is understandably difficult to get hard data. But attempts should be made as this area is of concern to businessmen. Some of the crime within corporations is perfectly 'hidden' to the knowledge of members of the public. Unfair practices by corporate officials will jeopardies the economic progress of an honest individual businessman. In the long term it will result in a cancerous phenomenon that could not be avoided in Malaysian culture of business practices. This could be seen when good contracts are only given to members of political parties or 'people with connections' or the 'Royals' of Malaysia.

11.7 THE WAY AHEAD

At the completion of this research, what is the way ahead in combatting future economic crimes could be summarised as follows:

- * there must be a clear, flexible and comprehensive law not riddled by loopholes and uncertainties;

- * there is a need for improvement in detection, investigation, surveillance, e.g. cognitive mode investigation;
- * there is a need to improve facilities of collecting evidence;
- * there is a need to streamline trial procedures;
- * there is a need to increase prosecutions for technical offences;
- * there is a need to increase the efficiency of law enforcement;
- * there is a need for alternative enforcement measures and sanctions;
- * there is a need to expand administrative enforcement such as Ministry of Trade, Department of Cooperative, Customs & Exercise Department, Corruption Agencies and Inland Revenue;
- * there is a need to call for increased responsibilities of professionals e.g. lawyers and accountant, to inform of any irregularities.
- * there is a need for legislative and enforcement jurisdiction;
- * there is a need for international judicial assistance.

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APPENDIX I

TYPES OF ECONOMIC CRIME

In this Appendix some common types of economic crime are listed. Most of the cases came under the offences of criminal breach of trust, cheating, forgery and theft. There some other miscellaneous offences but normally not many in Malaysia. It is not mutually exclusive, and new variations of old themes are constantly being developed by the criminal community. In some serious cases the perpetrators locate and exploit some weakness in the system until the offence is discovered and measures are taken to prevent a repetition.

Advance fee related crime

The perpetrators pose as finance brokers, and purport to negotiate a large loan for a company or government. The deception may be elaborate, for example, involving forged documentation, meetings in hotels. In return for the loan, a percentage fee is payable in advance; and if the loan is large, the fee itself may be substantial. Once the fee has been paid, the perpetrators disappear. Sometime the perpetrators may succeed in obtaining collateral security for the loan, in which case they can liquidate this as additional profit in the crime. Closely related are crimes where advance fees are obtained for arranging mortgages.

Banking related crime

A bank may be used as a vehicle for crime: the perpetrators gain control, then obtain money from investors. The money goes directly or indirectly into the pockets of the perpetrators. In other cases, a reputable bank may be the victim of the crime. Borrowings mount up, perhaps over a lengthy period, amidst skilful deceptions, before the perpetrators disappear with money. A number of cases showed the involvement of the bank staffs including the directors collaborating with the perpetrators for example allowing large sums of money to be disbursed with no adequate collaterals.

Bankruptcy related crime

A dishonest business may be started, or an honest one put to dishonest use. In either case the perpetrators continue to trade although they have no prospect of paying their debts,

obtaining money or goods from others. The victim apart from businessman, may be one of the Inland Revenue Departments, where the company goes into liquidation owing large amounts of business and personal tax. The business is quickly reconstituted under another name. This often is called the "phoenix syndrome".

Charity related crime

The perpetrators obtain money from the public, ostensibly for the purpose of charity. The organisation involved may be considerable, with innocent members of the public acting as collectors or the name of VIPs are used. The perpetrators pocket a large proportion of the money thus collected by awarding themselves generous salary and expenses. At time a large amount of money collected may be misappropriated or embezzled by the trusted persons.

Cheque and credit card related crime

Perpetrators buy stolen cheques and credit cards and used them to obtain cash and goods. Careful planning may be involved, so the stolen cheques and cards are transported quickly to another part of the country, and people or businessman of previous good character are engaged to cash the cheques or claim the credited card.

Commodity related crime

The term "commodity" embraces so-called "soft" commodities, such as sugar and cocoa, as well as metals. The markets deal in "futures", that is contracts to buy or sell at a future date, and also in options to do so. Swings in prices may be sizable and rapid, and the operation of the market is complex. In the absence of a system of protection for private investors, there has in the past been much scope for the dishonest to take advantage of the unwary.

Computer related crime

Typically, the perpetrator gains access to a computer which controls the movement of money to be transferred to his credit at an account which may be out of the country. Computers may be also be used as tools in the commission of economic crime.

"Cube-cutting"

A fraudulent shipping agent, in dealing with customers, overestimated the size of the cargo or classifies it as being of a type subject to a higher tariff than it actually is. Then in dealing with the shipping line, the agent underestimates the bulk of the cargo, or describes it so that it is subject to a lower tariff. The agent is thus left with a fraudulent profit.

Cheque "cross-firing"

Perpetrators may deceive banks into providing free credit, by "cross-firing" cheques. X draws a cheque in favour of Y for a certain sum. Y draws one for the same sum in favour of X. X's cheque is paid into Y's account. A few days later, the cheque is presented for payment at X's bank. By then X has paid Y's into his account, and it takes several days to be cleared. The period can be extended by increasing the number of participants.

However this crime depends on the bank's willingness to pay out against uncleared cheques.

Discounting or factoring related crime

The perpetrators, purporting to operate a business, approach a merchant bank or other source of finance. The bank agrees to lend cash on the strength of orders received. False documentation is presented to the bank, or evidence of orders received, to obtain money which the perpetrators then pocket.

Franchise related crime

The perpetrators induce investors to buy franchises, perhaps with associated equipment or plant, for example in rubber glove making business, holding out the prospect of large returns on the investment. But once the payment has been made, the franchise proves worthless and equipment is not forthcoming.

Government subsidy related crime

Crime is perpetrated by submitting a false claim to the government department. A good deal of planning and skill may be used by the perpetrators to give credibility to the deception. Crime could be also committed by the agents of the

Government such as officers of RISDA (Rural Industry Settlement Development Authority). Claims made on non-existent projects.

Insurance related crime

Perpetrators may victimise an insurance company by submitting false claims. It is equally possible for a fraudulent insurance broker to swindle clients or insurance companies, by for example overcharging or falsifying application for insurance.

Investment crime generally

There is a wide scope for crimes on investors. Generous returns on money invested are often promised by the perpetrators. The first investors may be paid "dividends" out of the money received from later investors, thus promoting the crime and prolonging its life.

Long-firm crime or "fly by night"

The perpetrators set up in business as wholesalers. They place initial orders with suppliers, and pay promptly to establish their creditworthiness. Then large orders are placed. When the goods are received, they are quickly sold for what they will fetch and the perpetrators disappear.

Marine fraud

It is a well-established fraud to scuttle a ship and to make an insurance claim for the ship and the cargo. There is also scope for the perpetrators in swindling banks by the presentation of forged bills of lading, and in acting as a fraudulent shipping agent. Appropriating the goods entrusted to him for forwarding and also the money paid to him.

Overseas and local investment on land

The perpetrators attract investors in a scheme to develop land abroad. It may be holiday or permanent homes. To facilitate the deception the perpetrators may acquire a small amount of land or may make arrangements so that they are able to show plots to prospective investors.

Public sector corruption

Bribes and other favours are used by the perpetrators to corrupt public servants. The benefits received in return may take various forms, for example the acceptance of an uncompetitive tender, or shoddy work overlooked.

Revenue and Customs and Exercise related crime.

Elaborate documentation involving fictitious invoices would be created by perpetrators to show a minimal liability to Directors of Inland Revenue and Customs. Non-declaration of goods by active smuggling activities at border states especially at Singapore, Indonesia and Thailand borders.

Employee Provident Funds fraud

This form of crime consists simply of falsifying claims. Such crime may often be unsophisticated; but there are examples on record of well-organised claims made for large sum of money and involved intellectual perpetrators such as a lawyer.

Stationery and supplier fraud

The perpetrator makes contact with stationery buyer or store keeper of a large organisation, and obtains orders. Initially deliveries are made by the perpetrators as requested. Lax procedures within the company and collaborating with the store keeper, the claims could be made by presenting fictitious claim with no delivery made.

Stock Exchange related crime

Perpetrators operating in this area may pursue one of several different kinds of crime. They may induce investors to buy securities, they may manipulate the market, to influence the price of shares to their advantage; or they may indulge in "insider trading", that is, buying or selling upon the basis of inside knowledge not available to others, about matters likely to influence the price of securities.

Multi-level Marketing and Pyramid selling

Perpetrators promote scheme or arrangement for distribution of a commodity whereby a person may for valuable consideration in any manner acquire a commodity or a right or a licence to acquire the commodity for sale, lease or otherwise.

APPENDIX II

COMPARATIVE PROCEDURE

In this Appendix a brief descriptions of the machinery by which economic crimes are investigated and prosecuted in various different jurisdictions, and of the trial process. It focus on features of particular interest.

It is difficult to make direct comparisons between methods of investigation, prosecution and trial in different jurisdictions. It has been helpful to see a number of other jurisdictions both common law and civil law, have tackled or are proposing to tackle problems relating to economic crime in quite a similar system.

The jurisdictions cover in this Appendix are:

- * Scotland;
- * Northern Ireland;
- * Hong Kong
- * United State of America;
- * West Germany;
- * Australia;
- * Canada;
- * France;
- * Denmark
- * New Zealand;
- * Singapore

SCOTLAND

(i) Investigation and prosecution

Some Scottish police forces have their own fraud squads, and Scottish forces have their own training facilities, including training in fraud. They are able to use the information service provided by Metropolitan and City Police Company Fraud Department.

Conduct of prosecutions is almost entirely in the hands of public prosecutors, consisting of the Lord Advocate and his staff (the Crown Office) and the local procurators fiscal, who are answerable to the Lord Advocate. The Crown Prosecution Service for England and Wales will be similar to the Scottish system, but Scottish prosecutors exercise much greater control over criminal proceedings. Besides selecting charges they may generally choose the court of trial, and may engage in "plea bargain" independently of the judge.

(ii) Trial

In Scotland, fraud is an exceptionally wide offence at common law. It has been described as "the bringing about of some definite practical result by false pretences" [Gordon:1978:para 18-01]. Criminal proceedings in Scotland take two forms, summary procedure and "solemn" procedure- that is trial on indictment. The District Court, where magistrates sit, has summary jurisdiction only. The Sheriff Court has both summary and solemn jurisdiction. The High Court of judiciary has solemn jurisdiction only. Trial on indictment is broadly comparable with the system in England and Wales, but there are significance differences. The indictment sets out more fully what the prosecution aim to prove. Opening speeches are dispensed with, and the summing up the charge to the jury tends to be shorter. The jury of 15 decide by a simple majority, and can return verdicts of guilty, not guilty, and not proven.

One important feature of criminal procedure is "judicial examination", whereby an accused is brought before the Sheriff as soon as possible after arrest. This was historically a part of Scots procedure, but had become, by the beginning of the present century, almost a formality. (The accused occasionally made use of his right to make a declaration). However, the old practice of examining the accused was revived, in modified form, from the beginning of 1982. Whether or not he makes a declaration, the accused may now also be questioned by the procurator fiscal. In the latter event, the procurator fiscal may ask only questions designed to elicit any denial, explanation, justification or comment on the charge, or any confession to the Police, or any declaration. The accused is not under oath, and is not under an obligation to answer, but his answers or failure to answer may be commented upon at the trial.

NORTHERN IRELAND

(i) Investigation and prosecution

The police (The Royal Ulster Constabulary) have their own fraud squad. Serious offences of all description are prosecuted by the Director of Public Prosecutions for Northern Ireland, and the discretion whether to prosecute, and if so for what offences, lies with him rather than the police. There is no equivalent of the Fraud Investigation Group as in England.

(ii) Trial

The system of summary trial and trial on indictment is broadly similar to that applying in England and Wales. However, for a group of "terrorist" offences, defined by statute, trial on indictment takes place before a judge sitting alone in so-called "Diplock court". In jury cases, each accused is allowed 12 peremptory challenges. Fear of intimidation was the

principal reason for the introduction of trial by judge alone; but abuse of the peremptory challenge may also have helped to undermine the jury system. The procedure for trial by judge alone has been kept as close to ordinary procedure as possible.

HONG KONG

(i) Investigation and prosecution

The Royal Hong Kong Police Force has a Commercial Crime Bureau. The total number of the police officers working for the Bureau in 1985 was 230, with 54 support staff, of whom 9 were accountants. There has been a large increase since 1980 (97 officers with 34 support staff) reflecting a sharp increase in fraud under investigation.

Prosecutions are conducted by Crown prosecutors who are members of the Attorney-General's legal staff. There is a subdivision, known as Commercial Crimes Unit, employing a total of 19 legal staff.

There is also a Standing Liaison Committee for Commercial Crime, which has representatives from the police, the Independent Commission Against Corruption (ICAC) (concerned with frauds in which there is an element of bribery or corruption), the Attorney-General's chambers, the Official Receiver's Office, the Securities Commission, the Banking Commission, and the Monetary Affairs Office. Complaints of major fraud are considered by the Committee, which decides upon the appropriate line of investigation. The investigation will be carried out, as appropriate, by the police or by the ICAC. In the process of investigation, the Crown prosecutor will be involved at an early stage, and the practice is to employ an accountant from the private sector to analyse documents seized. Case conferences are held during the investigation, and word processors may be used to store documents.

(ii) Trial

The more serious offences (including those which come under the heading of fraud) may be tried either in the District Court, where a judge sitting alone has power to impose up to seven years' imprisonment, or in the High Court where the judge sits with a jury of seven. Save for the exceptional offences, which must be tried in the High Court, the Attorney-General is free to choose the court of trial.

Jurors are summoned at random. Each accused has five peremptory challenges, and jurors may also be challenged for cause or asked to stand by. In addition, special juries may be summoned. This seems to have happened only very rarely, but a list is still maintained. Jurors being chosen from ordinary jury list for their profession or position in a company.

In recent years there has been concern about the suitability of trial by jury for complicated commercial fraud cases, and concern has also been expressed about the lack of the necessary experience and background among District Court judges. In 1985 a Trial of Commercial Crime Bill was introduced proposing a system of trial by judge and commercial adjudicators in the more difficult fraud cases "so that trials may be conducted more efficiently, more quickly and with a better assurance that the right decision will be reached" [Explanatory Memorandum to the Bill, Gazetted on 1 March, 1985]. Clause 5(1) of the Bill enacted the Chief Justice to order trial by judge and three commercial adjudicators on the application of the defendant or the Attorney-General, where he was satisfied that:

- * the trial will involve an offence commonly called a commercial crime;
- * the evidence to be heard in the trial is likely to be difficult to understand or appreciate because of its technicality or quantity;
- * the justice of the matter would be best served by the accused person being tried by a judge and commercial adjudicator.

The term "commercial crime" was not further defined in the Bill. There was to be no appeal from the decision of the Chief Justice to make an order. Trial would take place in the High Court or District Court as appropriate. It would be for the judge to decide all matters of law and procedure. The commercial adjudicators would be full members of the court and equal with the judge in deciding questions of fact. Before retiring, the judge would direct the adjudicators in open court of law and sum up the evidence. The verdict of the court would be the verdict of a majority and would be announced in open court by the judge without any reasons being given.

In the District Court there is no formal pre-trial procedure, though at the joint request of counsel most District Court judges will agree to a pre-trial hearing. In the High Court, a Practice Direction effective from 1 January, 1985 provides for a pre-trial hearing and related matters. The prosecution may serve a notice to admit facts, or a notice that they intend to rely on a written statement and not to call a witness. The defence are expected to reply. At the pre-trial hearing before the judge, counsel will be expected to deal with range of matters relevant to the trial, such as the likely pleas, and whether the admissibility of evidence will be challenged, or whether points of law will arise. The judge will give such directions as appear to him necessary to secure the proper and efficient trial of the case.

Recent legislation has made provision for the admission of documents as evidence of their contents, including foreign documents, bankers' records and other records, and documents

receive in response to issue of letters of request by the High Court.

UNITED STATES OF AMERICA

(i) Investigation and prosecution

Many economic crimes are punishable under Federal law and may thus be dealt with by the Federal authorities. The Federal Bureau of Investigation will deal with investigation, and the prosecution will be conducted by the US Department of Justice, the Criminal Division of which has a section responsible for economic crime including fraud. Federal agencies enjoy a number of advantages, including the ability to operate across State boundaries.

Most States have their own specialised agencies to deal with economic crime. In California, for example, the Attorney-General's office has a Major Fraud Unit, and the larger counties in the State also have fraud prosecution units. In New York, the investigators employed at the Attorney-General's office are specially trained in fraud, many having an accountancy background. The office works where appropriate in harmony with other agencies, such as the tax authorities.

(ii) Trial

The constitution protects the right of the individual to trial by jury for all the more serious offences. Generally, the defendant may waive this right, with the agreement of the prosecution, in which case the trial takes place before a judge alone. (There is no procedure for trial by judge and assessors). Though there are no firm statistics, we understand this occurs in about 10 per cent of all cases. There are held to be advantages in trial by judge alone, including the swifter comprehension of the judge and the fact that the court can sit outside the conventional court hours. But there may also be disadvantages; the judge may be more generous in admitting evidence, for example, and this may tend to lengthen proceedings.

The indictment must contain a minimum of information, but in practice the prosecution usually prepare a much fuller document, to explain what they allege against the defendant. They may include explanation of how a transaction would have worked if the defendant had been acting honestly. The use of visual aids is well-established, and in complicated case the prosecution will devote careful attention to them, so that the details are presented to the jury as clearly as possible. In jury cases, judges give direction on the law, but do not sum up on the facts.

The Federal rules of evidence have recently been amended, and now include provisions whereby:

- * foreign business records may be admitted if accompanied by a certificate authenticating them;
- * "Summary" evidence is admissible—for example, an accountant may give evidence of the result of his investigation; without dealing with every separate transaction;
- * hearsay evidence may be admitted if it seems reliable and if fairness seems to require its submission.

WEST GERMANY

(i) Investigation and prosecution

The administration of justice in West Germany is based on the provinces, or Lander, all of which, however, apply a common criminal code. The code distinguishes between "ordinary" fraud and "economic crime", the latter category embracing serious fraud and other offences such as breach of trust and bribery, and tax and company law offences.

Economic crime is handled by specialised prosecution units working with the police, and including prosecutors, accountants, and the wirtschaftsreferent. The last mentioned is a key figure, under whom the accountants work. The emphasis throughout is on team work. The prosecutor has wide powers to search and seize documents, examine witnesses and can enlist the help of the tax authorities and other bodies where necessary.

As part of the investigation, the wirtschaftsreferent prepares a report for the prosecutor dealing with the alleged fraud and explaining the accounting and business aspects of it. He, like the rest of the prosecution unit, is expected to be impartial. Where there is sufficient evidence, the prosecutor must generally charge all those concerned, and has no discretion to limit the charges. This is an underlying principle of German Law (the legalitätsprinzip). If satisfied that there is sufficient evidence, the prosecutor prepares an indictment, which is a formal document and must include the report of the wirtschaftsreferent.

(ii) Trial

At the bottom of the hierarchy of courts is the local judge's court. The judge sits alone, and deals with minor offences. Above him is the lay court (schöffengericht) which sits with a judge and two lay members, and can impose up to three years' imprisonment. This court may deal with ordinary frauds.

Serious fraud comes within the jurisdiction of the court dealing with economic crime, the criminal chamber for economic matters (wirtschaftsstrafkammer). Here there are three professional judges and two lay members. The professional judges receive specialised training, and are likely to be allocated to economic crime for a substantial period. The lay members of the court are put forward by local town councils. They hold office for four years, and are chosen by ballot for each case.

The court is inquisitorial, examining the witnesses itself. The wirtschaftsreferent acts like a court expert. There is no pre-trial procedure as such: it is for the prosecutor to clarify the issues, so as to be able to decide whether there is sufficient suspicion of an offence. The court of trial must also consider whether to admit the charges, having regard to the state of the evidence. The decision is taken on the papers, before the start of the trial.

AUSTRALIA

(i) Investigation and prosecution

The administration of justice is organised on a State basis; though a National Crime Authority has been set up to deal with organised crime. Different States have different arrangements. Two examples may be mentioned.

In Queensland, the police force has a fraud squad which employs accountants and makes use of early contact with prosecuting lawyers. In New South Wales, a Corporate Affairs Commission was set up in 1970, to deal with all aspects of corporate activity. The Commission is responsible for the registration of companies and business names. It regulates the licensing and operation of the securities industries (including banks and stock exchanges), and has a wide variety of discretionary powers in relation to corporate affairs and company accounts. It deals with complaints about corporate fraud, usually coming from liquidators or creditors. Its Investigation Division includes accountants. When an investigation is concluded, the matter is passed to the Prosecutions Branch of the Legal Division, which handles the prosecution.

(ii) Trial

In most States (Tasmania is the exception) there is a three-tier system of courts. Magistrates' courts deal with summary offences, while trials on indictment may take place before the District Court (where the maximum sentence is limited) or before the State's Supreme Court.

The rules for challenging jurors differ from State to State. Several States permit additional jurors to be sworn, at the start of a long trial, in case replacement are needed. In Tasmania there is provision for a special jury. Admission to the special jury list depends on a juror's character, education, and intelligence. Special juries are rarely used, but there has been one recent case in which a special jury was empaneled at the request of the defence.

Not all States make provision for pre-trial proceedings. However, in South Australia the Rules of the Supreme Court have recently been amended, and the judge now has wide powers to give directions about the preparation of the case for trial. In Victoria, the Rules of the Supreme Court make provision for pre-trial hearings.

One State, New South Wales, introduced in 1979 a provision for trial by judge alone, at the option of the defendant. This is applicable to a range of "white collar" offences (defined by list) before the Supreme Court in its summary jurisdiction.

In 1985, the Law Reform Commission of Queensland published a Working Paper (WP No.28) entitled Legislation to Review the Role of Juries in Criminal Trials. The paper considers, as a separate subject, the trial of commercial crimes and conspiracies relating to them. It suggests the adoption of the system of summary trial applying in the Supreme Court in New South Wales, but with one fundamental difference, namely, that the consent of the defence would not be required to invoke the jurisdiction. The Commission also suggests that both the Supreme Court and the District Court should be invested with summary jurisdiction for certain specified offences of a commercial nature.

CANADA

(i) Investigation and prosecution

The Federal police force (the Royal Canadian Mounted Police) has a Commercial Crimes Section which employs officers trained in accountancy and financial matters. In the investigation of frauds, there is some overlap between the RCMP and Provincial forces; but large cases are likely to be dealt with by the former.

(ii) Trial

The right to trial by jury is governed by the Canadian Criminal Code and now also by the Canadian Charter of Rights and Freedoms. For a smaller number of the most serious offences, trial must take place before a judge and jury in the Supreme Court. But for a wide range of offences, including fraud

offences, a defendant can choose between summary trial and trial with or without a jury. The system of courts varies from province to province, but broadly speaking, a trial on indictment will take place either before the Superior or Supreme Court of the Province, or before a County or District Court. However, the Attorney-General can override the defendant's choice of court if the offence is punishable with more than five years' imprisonment, so as to require trial before the judge and jury. This is often done, especially where the allegation is one of the large-scale dishonesty. Alberta constitutes an exception: here all offences may be tried by a judge alone.

Most Provinces make use of visual aids in presenting fraud cases. Most have some kind of informal pre-trial procedure to clarify the issues for the trial. This might take place on the initiative of the judge or of the counsel themselves. In some Provinces the hearing takes place before the judge who will try the case, in others before a different judge.

FRANCE

(i) Investigation and prosecution

"Economic" offences are investigated by specialised sections of the police working under the supervision of the prosecutor, and the examining magistrate - the juge d'instruction. The latter plays a very important role in fraud cases: the police have few powers which they can exercise on their own initiative, but the juge d'instruction, on the application of the prosecutor has wide powers to order the examination and seizure of documents, the examination of witnesses under oath, surveillance (including telephone-tapping), and also the preparation of reports by an accountant or other expert. The juge d'instruction is thus able to control and direct the investigation. When the investigation is concluded, the juge d'instruction may commit the case to a higher court for trial.

(ii) Trial

Offences are classified either as "crimes", or the less serious as "delits". The latter are tried by the "Tribunal correctionnel", the court being made up of a President and two other judges. "Crimes" are dealt with in the Cour d'assises, where there is a president, two other judges, and a jury of nine. Conviction is by a vote of at least eight members of the Court, (in other words at least five jurors). The French code of Criminal procedure makes provision for specialised courts to deal with economic and financial offences; but this provision is applicable only to "delits".

There is no pre-trial procedure as such in the court of trial. At the trial, the procedure is inquisitorial: the court takes the initiative in questioning witnesses, though counsel are allowed to put or suggest supplementary questions.

DENMARK

(i) Investigation and prosecution

In 1973 a special unit was set up to deal with complicated commercial fraud cases. The State attorney's staff work with the police and hired auditors in the conduct of investigations. There is a central intelligence-gathering unit which assists district police and prosecutors.

(ii) Trial

Most criminal cases come before the District Court, where a judge sits with two lay members for trials, or on his own to deal with pleas of guilty. Where an offence is punishable with more than four years' imprisonment, the trial will generally take place before the High Court, where three judges sit with a jury of 12; however fraud and forgery are exempted from this provision.

There is also a Maritime and Commercial Court, with criminal as well as civil jurisdiction over the area of Greater Copenhagen (and other areas as well, if the parties agree). The court consists of the Chief Justice and Deputy Chief Justice, sitting with assessors.

In fraud cases, use is made of written material to supplement matters dealt with orally.

NEW ZEALAND

(i) Investigation and prosecution

A decision has recently been taken to create a specialised investigation unit, under the Registrar of Companies, involving both police officers and staff from the Commercial Affairs Division of the Department of Justice.

(ii) Trial

There are a two-tier system of courts. Magistrates have a more extensive jurisdiction than their English counterparts, and can impose up to three years' imprisonment. More serious offences are dealt with in the Supreme Court. Here all offences may be tried before a judge and jury (in which cases the verdict must

be unanimous). But unless the offence is punishable with 14 years' imprisonment or more, the defendant may apply for trial by judge alone. The judge may then order trial in this way if satisfied that it is in the interests of justice.

The procedure for trial by judge alone (which was introduced in 1979) is not restricted to fraud cases, but it has been little used. In 1981 (the first year in which figures were kept) there were no such cases. In 1982 there were three. In 1983, there were none. Of the 1982 cases, two concerned the allegations of theft by a person in a position of trust and one of attempting to defeat the course of justice.

SINGAPORE

(i) Investigation and Prosecution

There are a number of agencies that carry out investigation and prosecution in respect of economic crime in Singapore. The agencies are the Commercial Affairs Investigation Department; Corrupt Practices Investigation Bureau; Commercial Crime Unit, of Criminal Investigation Department, Anti-Pollution Unit, Ministry of Environment; Anti-Evasion Section, Inland Revenue Department; Enforcement, Prevention, Special and Special duties Branches, Custom and Excise Department; and Central Narcotic Bureau.

(ii) Trial

Prosecution is normally carried out by Deputy Public Prosecutor from Attorney General's office who supervised the investigation at a very early stage. Cases are heard both at District Criminal Court and High Court depending on the severity of the offences.

APPENDIX III

LIST OF CASES OF INTEREST INVESTIGATED FOR THE YEAR 1987-1989

1987

| | <u>OFFENCE</u> | <u>ORGANISATION</u> | <u>VICTIM</u> <u>R-A-O-E</u> | <u>PERPETRATOR</u> <u>R-A-O-E</u> | <u>AMOUNT LOSS</u> |
|---------------------|----------------|---------------------|---------------------------------|--------------------------------------|--------------------|
| 1. Rpt. 18/64/86 | CHE | Individual | M 60, Dr, U | I, 53, Lawyer, U | 657,476.00 |
| 2. Rpt. 20324/86 | CHE | Cooperative | C, 30, Ex., U | C, 50, Director, U | 3,300,000.00 |
| 3. Rpt. 5337/86 | CHE | T/ibur Co. | M 40, MD., U | I, 43, Manager, C | 959,968.00 |
| 4. Rpt. 3871/86 | Cheating | Transport Co. | C, 40, ED., U | M, 50, MD., C | 346,650.00 |
| 5. Rpt. 2069/87 | CHE | Timber Co. | C, 35, Ex., SC | C, 37, Ex., SC | 150,000.00 |
| 6. Rpt. 6767/86 | Cheating | Govt. Agency | M, 37, Fin. D., U | 23M, -, - | 500,000.00 |
| 7. Rpt. 84/87 | CHE | Fin. Co. | C, 56, Dir., - | C, 50, MD, Sc | 1,700,000.00 |
| 8. Rpt. 366/87 | CHE | Insurance Co. | I, 40, MD, U | M, 42, MD, U | 390,000.00 |
| 9. Rpt. 439/87 | Cheating | Constr. Co. | C, 35, MD, U | M, 40, Ex., Col. | 734,444.00 |
| 10. Rpt. 356/87 | Cheating | Credit Co. | C, 39, Mgr, U | C, 33, Ex., SC | 110,000.00 |
| 11. Rpt. 1138/87 | Cheating | Imp/Exp. Co. | A, 51, Dir, U | I, 43, Ex, Sc | 1,300,000.00 |
| 12. Rpt. 79/87 | Cheating | Bank | C, 35, Mgr, U | C, 40, MD, Col. | 190,000.00 |
| 13. Rpt. 157/87 | Cheating | Constr. Co. | C, 31, Clerk, Sc | C, 37, Clerk, Sc. | 358,398.17 |
| 14. Rpt. 767/87 | CHE | Car Hire Co | M, 33, MD, Col. | C, 35, Salesman, Sc | 140,000.00 |
| 15. Rpt. 54/87 | Cheating | Marketing Co | C, 34, MD, Col. | IMC, 30s, Ex., Col. | 200,000.00 |
| 16. Rpt. 251-265/87 | Cheating | Individual | C, 33, Clerk, SC | CF, 30, House wife, - | 482,494.00 |
| 17. Rpt. 284/87 | Cheating | Individual | C, 37, Prop, Sc | CF, 30, H/wife, - | - |
| 18. Rpt. 290/87 | Cheating | Individual | C, 34, Prop, Sc | CF, 30, H/wife, - | - |
| 19. Rpt. 310/87 | Cheating | Individual | C, 47, Ex, Sc | CF, 30, H/wife, - | - |
| 20. Rpt. 617/87 | Cheating | Brewery Co. | C, 45, Mgr, U | C, 41, Mgr, Col. | 371,529.00 |
| 21. Rpt. 36-41/87 | Cheating | Furniture Co. | C, 30, Ex, Sc | M, 30s, Ex, Col. | 112,009.00 |
| 22. Rpt. 359/87 | Cheating | Individual | M, 69, Esnr., Sc | M, 40s, H/wife, SC | 150,000.00 |
| 23. Rpt. 319-321/87 | CHE | Individual | C, 57, Farmer, - | C, 40s, Lawyer, U | 186,000.00 |
| 24. Rpt. 232-40/87 | Cheating | Fin. Co | C, 36, Mgr, Col. | C, 40, Mgr, Col. | 106,000.00 |
| 25. Rpt. 774/87 | Cheating | Individual | C, 34, Clerk, Sc. | CF, 40, H/wife, Sc | 120,000.00 |
| 26. Rpt. 353/87 | Cheating | College | C, 37, Dir, U | M, 40, Principal, U | 128,360.00 |
| 27. Rpt. 460/87 | CHE | Bank | C, 46, Mgr, U | ICIM, Ex, Col. | 118,420.00 |
| 28. Rpt. 1697/87 | CHE | Individual | S, 60, Esnr., Sc | C, 37, MD, Col. | 220,000.00 |
| 29. Rpt. 1982/87 | CHE | Leasing Co. | C, 35, MD, U | C, 37, Mgr, Col | 344,655.60 |
| 30. Rpt. 87/87 | CHE | Estate Mgt. | I, 38, Arl., Col. | M, 40, Mgr, SC | 154,018.59 |
| 31. Rpt. 498/87 | Cheating | Individual | C, 36, S/man, Sc | M, 44, Policeman- | 3,200.00 |
| 32. Rpt. 1390/87 | CHE | Constr. Co | M, 37, MD, U | M, 38, Lawyer, U | 180,000.00 |
| 33. Rpt. 954/87 | CHE | Credit Co. | C, 31, Mgr, U | C, 30s, Ex., Sc | 600,000.00 |
| 34. Rpt. 178/87 | CHE | Fin. Co | C, 31, Mgr, U | C, 33, MD, U | 195,000.00 |
| 35. Rpt. 974/87 | Cheating | Individual | I, 37, Labr., - | I, 34, Clerk, - | 100,000.00 |
| 36. Rpt. 2316/87 | CHE | Bank | M, 45, Mgr, Col. | M, 44, Mgr, U | 5,345,886.00 |
| 37. Rpt. 2406/87 | Cheating | Tax Free Co | C, 62, MD, Sc. | C, 40, Mgr, Sc | 220,000.00 |
| 38. Rpt. 590/87 | CHE | Property Co | 2C, 40s, Dir, U | C, 47, MD, U | 500,000.00 |
| 39. Rpt. 2599/87 | CHE | Individual | C, 48, B/man, - | C, 48, MD, Sc. | 268,295.00 |
| 40. Rpt. 1691/87 | Cheating | Imp/Exp. Co | T, 40, MD, U | 2C, 40s, Ex, Sc. | 200,000.00 |
| 41. Rpt. 401/87 | CHE | Lottery Co | C, 47, Mgr, U | C, 50, Mgr, Sc | 134,273.58 |
| 42. Rpt. 3076/87 | Cheating | Airlines | C, 45, MD, U | C, 40, Ex., Col | 16,000.00 |
| 43. Rpt. 1686/87 | Cheating | Bank | I, 33, Ex, U | - | 114,300.00 |
| 44. Rpt. 782/87 | Forgery | Eng. Consult. | M, 41, Esnr., U | M, 44, Mgr, Col | 124,752.99 |
| 45. Rpt. 440/87 | Cheating | Individual | C, 40, T/cher, Col. | C, 35, T/cher, Col. | 348,000.00 |
| 46. Rpt. 1288/87 | Cheating | Trading Co. | M, 42, Dir, Col. | C, 37, Clerk, Sc | 110,000.00 |
| 47. Rpt. 3283/87 | Cheating | Fin. Co. | M, 33, Mgr., U | C, 40, MD, Col. | 487,900.00 |
| 48. Rpt. 1070/87 | Cheating | Fin. Co. | C, 30, Ex, Col. | C, 40, MD, Col. | 136,500.00 |
| 49. Rpt. 733/86 | Cheating | Fin. Co. | C, 51, Mgr, Col. | C, 47, Mgr, Col. | 498,125.11 |
| 50. Rpt. 2414/87 | CHE | Manu. Co | C, 48, MD, U | C, 46, MD, U | 4,339,268.00 |
| 51. Rpt. 1756/87 | Cheating | Individual | C, 28, Ex., Col. | C, 37, Ex, Col. | 200,000.00 |
| 52. Rpt. 2522/87 | Fin. Act | Fin. Co. | C, 51, Ex, Sc. | 2C, 40s, MD, Sc | 14,000,000.00 |
| 53. Rpt. 605/87 | CHE | Shares Co. | M, 50, MD, U | I, 45, MD, Col. | 848,495.73 |

| | | | | | |
|-----------------------|-------------|---------------|---------------------|---------------------|--------------|
| 54. Rot. 1075/87 | Cheating | Individual | M, 53, Lawyer, U | Mf, 44, H/Wife, Sc | 1,000,000.00 |
| 55. Rot. 1369/87 | Cheating | Building Co. | M, 41, MD, Sc | M, 56, MD, U | 994,507.00 |
| 56. Rot. 1366/87 | CBI | Ser. Co. | C, 42, MD, U | Ditch, 48, MD, U | 719,701.37 |
| 57. Rot. 5998/87 | Cheating | Bank | I, 50, Mgr., Col. | - | 400,000.00 |
| 58. Rot. 2135/87 | CBI | Elect. Co | C, 47, Ex. Col. | I, 49, Storeman, - | 144,362.00 |
| 59. Rot. 1402-1429/87 | Cheating | Fin. Co. | C, 30, Mgr, U | C, 41, Mgr, Sc | 631,500.00 |
| 60. Rot. 5655/87 | Cheating | Individual | C, 67, - | C, 48, Mgr, Sc | 150,000.00 |
| 61. Rot. 1499/87 | Cheating | DICo. | C, 48, Teacher, Col | C, 51, MD, Sc | 600,000.00 |
| 62. Rot. 5970/87 | Cheating | Building Co. | C, 39, MD, Col. | C, 44, MD, Sc | 100,000.00 |
| 63. Rot. 452/87 | Forgery | Govt. Agency | M, 25, Policeman, - | F, 20, Labourer, - | 3,100.00 |
| 64. Rot. 5055/8 | Cheating | Ser. Co | C, 37, Ex. Col. | C, 40, Mgr, Sc | 106,968.67 |
| 65. Rot. 778/87 | CBI | Insu. Co | C, 41, Mgr, U | Mf, 34, Ex., Sc | 111,938.11 |
| 66. Rot. 3245/87 | CBI | Bank | M, 41, Mgr, U | M, 37, Ex. Col. | 300,000.00 |
| 67. Rot. 5323/87 | Cheating | Sport/IOIO | I, 48, Ex, Sc | M, 48, Labourer, - | 116,000.00 |
| 68. Rot. 1476/87 | CBI | Ser. Co. | C, 47, MD, Sc | C, 30, MD, Sc | 132,572.00 |
| 69. Rot. 3206/87 | Cheating | Fin. Co. | C, 33, Mgr, U | C, 51, Mgr, Sc | 122,000.00 |
| 70. Rot. 1037/87 | Cheating | Building Co | C, 35, Dir., Sc | 21, 40s, Exs., Sc. | 134,050.00 |
| 71. Rot. 3816/87 | CBI | Co-op | M, 49, Ex., Sc | M, 50, MD, Sc | 1,600,000.00 |
| 72. Rot. 6788/87 | CBI | Building Co | C, 49, - | ICIM, Dir., 50s, Sc | 2,772,700.00 |
| 73. Rot. 2003/87 | Cheating | Bank | C, 33, Ex, U | M, 47, MD, Sc | 150,000.00 |
| 74. Rot. 6209/87 | CBI | Fin. Co | C, 32, Ex, Col | M, 35, Mgr, Col | 105,000.00 |
| 75. Rot. 2468/87 | Forgery | Govt. Agency | M, 33, Ex, U | C, 41, MD, Col | 6,000,000.00 |
| 76. Rot. 1498/87 | Forgery | Individual | C, 43, Ex, Sc | I, 43, Ex, Sc | 146,500.00 |
| 77. Rot. 7570/8 | Cheating | Individual | C, 25, Dir, Col | C, 36, Ex, Sc | 100,000.00 |
| 78. Rot. 4538/87 | CBI | Building Co | C, 34, Ex, Col | C, 38, MD, Col | 309,650.00 |
| 79. Rot. 7648/8 | Cheating | Bank | M, 34, Ex, U | 3I, 25, Clerk, Sc | 500,000.00 |
| 80. Rot. 1857/87 | CBI | Ser. Co | Mf, 43, Ex, Col | Mf, 46, Dir, Col | 102,768.51 |
| 81. Rot. 4969/87 | Cheating | Fin. Co | C, 32, Mgr, U | C, 47, MD, Sc | 235,500.00 |
| 82. Rot. 4005/87 | Cheating | Govt. Agency | M, 52, Dir, U | I, 37, Clerk, Sc | 142,355.00 |
| 83. Rot. 8509/87 | CBI | Building Co. | C, 42, Dir, Sc | C, 44, Dir, Sc | 540,000.00 |
| 84. Rot. 244/87 | Cheating | Fin. Co | C, 35, Ex, U | 2C, 30s, Dir, Col | 127,000.00 |
| 85. Rot. 2491/86 | CBI | Bank | M, 50, Ex, Col | IMC, 40s, Col | 986,746.23 |
| 86. Rot. 4176/87 | Cheating | Building Co. | C, 62, Dir, Sc | C, 50, Dir, Sc | 1,200,000.00 |
| 87. Rot. 1881/87 | Cheating | Individual | I, 60, Mgr, Col | C, 58, MD, Sc | 205,000.00 |
| 88. Rot. 9397/87 | Cheating | Lottery Co. | M, 49, MD, Col | C, 50, - | 350,000.00 |
| 89. Rot. 8653/87 | CBI | Property Co. | C, 50, MD, U | Amer., 50, Ex, U | 192,683.00 |
| 90. Rot. 8429/87 | Cheating | Property Co. | C, 43, Mgr, Col | M, 46, MD, Col | 186,000.00 |
| 91. Rot. 3079/87 | Cheating | Property Co. | M, 39, Ex, Sc | M, 38, MD, Col | 150,000.00 |
| 92. Rot. 2053/87 | Cheating | Ser. Co. | C, 35, Ex, Sc | C, 33, Clerk, Sc | 103,970.00 |
| 93. Rot. 4089/87 | Cheating | Ser. Co. | M, 30s, Ex, U | C, 40, MD, Sc | 402,757.50 |
| 94. Rot. 2711/87 | Cheating | Ser. Co | C, 50, Mgr, Sc | M, 43, Mgr, Sc | 120,000.00 |
| 95. Rot. 10218/87 | Cheating | Bank | C, 33, Ex, U | C, 42, MD, Col | 500,000.00 |
| 96. Rot. 5185/87 | CBI | Club | I, 51, Ex, Sc | I, 53, Lawyer, U | 700,000.00 |
| 97. Rot. 5831/87 | Cheating | Hotel | M, 52, Mgr, Col | C, 43, Mgr, Sc | 290,000.00 |
| 98. Rot. 6255/87 | Cheating | Property Co | C, 35, G/Mgr, Col | C, 47, Ex, Sc | 314,000.00 |
| 99. Rot. 3134/87 | CBI | Property Cp | M, 56, C/man, U | C, 34, MD, Col | 250,188.55 |
| 100. Rot. 4433/87 | Cheating | Bank | M, 36, Mgr, U | C, 45, MD, Sc | 177,520.50 |
| 101. Rot. 10774/87 | Cheating | Export Co. | C, 47, Mgr, Col | C, 44, MD, U | 1,465,564.07 |
| 102. Rot. 11039/87 | CBI | Family Co. | M, 43, C/man, U | C, 48, Lawyer, U | 1,000,000.00 |
| 103. Rot. 11345/87 | CBI | Individual | C, 48, Dir, U | C, 46, Lawyer, U | 110,000.00 |
| 104. Rot. 7105/87 | CBI | Manu. Co. | C, 50, Dir, Sc | C, 37, Mgr, Sc | 639,154.00 |
| 105. Rot. 1029/87 | Cheating | Individual | C, 44, B/man, Sc | C, 46, B/man, Sc | 150,000.00 |
| 106. Rot. 3165/87 | Cheating | Coop | M, 51, Mgr, Sc | C, 50, MD, Sc | 348,162.00 |
| 107. Rot. 10689/87 | Forgery | Leasing Co. | M, 29, Ex, Col | M, 54, MD, Sc | 129,400.00 |
| 108. Rot. 11640/87 | CBI | Legal Firm | M, 44, Lawyer, U | M, 37, Clerk, Sc | 140,000.00 |
| 109. Rot. 2685/87 | Cheating | Individual | C, 37, Driver, - | C, 40, Clerk, Sc | 170,000.00 |
| 110. Rot. 4985/87 | Cheating | Prod. Co | Taiw, 65, Dir, - | C, 50, Dir, Sc | 200,000.00 |
| 111. Rot. 2990/87 | CBI | Investment Co | C, 32, Ex, Col | 2C, 40s, Dir, Sc | 157,214.12 |
| 112. Rot. 7757/87 | Forgery | Individual | M, 52, - | - | 122,000.00 |
| 113. Rot. 3099/87 | CBI | Property | C, 48, Dir, Col | IMC, 40s, Dir, Sc | 875,000.00 |
| 114. Rot. 7469-79/87 | Finance Act | Fin. Co | 10C, 30s, Ex, Sc | C, 41, MD, Col | 138,798.00 |
| 115. Rot. 4696/87 | Cheating | Bank | C, 40, Mgr, U | C, 53, Mgr, Col | 558,190.00 |
| 116. Rot. 4891/87 | CBI | Ser. Co | C, 44, Dir, U | C, 40, Mgr, Col | 578,694.00 |
| 117. Rot. 2635/87 | Cheating | Fin. Co | C, 31, Ex, U | C, 45, MD, Col | 1,900,000.00 |
| 118. Rot. 2636/87 | Cheating | Fin. Co | C, 31, Ex, U | C, 38, MD, Sc | 778,000.00 |
| 119. Rot. 13628/87 | CBI | Tour Co | M, 51, Ex, Sc | Mf, 35, MD, Col | 100,000.00 |
| 120. Rot. 3828/87 | Cheating | Transport Co | C, 7, Dir, - | C, 42, Ex, Col | 120,000.00 |
| 121. Rot. 2839/87 | CBI | Coop | C, 35, Mgr, Col | C, 51, C/man, U | 2,900,000.00 |
| 122. Rot. 8323/87 | Cheating | Individual | C, 43, - | C, 45, Clerk, Sc | 450,000.00 |
| 123. Rot. 2957/87 | CBI | Govt. Agency | M, 34, Ex, Col | M, 35, Ex, Col | 354,793.34 |
| 124. Rot. 5880/87 | Forgery | Individual | M, 40, Mgr, Col | M, 50, Dir, U | 100,000.00 |
| 125. Rot. 14538/87 | Cheating | Individual | Kor, 29, Ex, Col | Cf, 30, Clerk, Sc | 130,000.00 |

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|---------------------|---------------|--------------|-----------------|------------------|---------------|
| 126.Rpt.14325/87 | CBI | Bank | M,33,Ex,Col | C,38,MD,Col | 167,553.10 |
| 127.Rpt.14735/87 | Cheating | Bank | C,38,Driver,- | - | 226,000.00 |
| 128.Rpt.3710/87 | Cheating | Individual | Cf,31,Mgr,Sc | C,43,MD,Sc | 660,000.00 |
| 129.Rpt.15637/87 | Cheating | Bank | C,32,Ex,U | M,58,Doctor,U | 100,000.00 |
| 130.Rpt.15663/87 | CBI | Individual | M,48,Lawyer,U | M,43,Acct.,U | 628,000.00 |
| 131.Rpt.16663/87 | Commodity Act | Govt. Agency | Mf,Dir,48,U | C,42,Dir,U | 2,700,000.00 |
| 132.Rpt.10532/87 | CBI | Bank | C,38,Mgr,Col | C,38,Mgr,U | 500,000.00 |
| 133.Rpt.2829/87 | Cheating | Ser.Co | C,42,Mgr,Col | 3C,30s,Ex,Col | 344,000.00 |
| 134.Rpt.16819/87 | Cheating | Legal Firm | C,43,Lawyer,U | M,26s,Clerk,Sc | 600,000.00 |
| 135.Rpt.1610/87 | Cheating | Building Co | C,55,Mgr,Sc | M,50,Mgr,Sc | 407,590.50 |
| 136.Rpt.7215/87 | Cheating | Shares Co | M,23,Dir,U | M,34,Mgr,Col | 325,214.43 |
| 137.Rpt.16739/87 | CBI | Property Co | C,41,Ex,Col | C,37,MD,Col | 13,800,000.00 |
| 138.Rpt.16738/87 | CBI | Property Co | C,41,Ex,Col | C,39,Dir,Col | 12,938,250.00 |
| 139.Rpt.16737/87 | CBI | Property Co | C,41,Ex,Col | 2C,37s,Dir,Col | 14,300,000.00 |
| 140.Rpt.10947/87 | CBI | Coop | M,43,Lecturer,U | M,40s,Dir,U | 2,485,000.00 |
| 141.Rpt.11167/87 | Cheating | Ser.Co | C,38,Dir,Col | C,45,Mgr,Sc | 157,000.00 |
| 142.Rpt.3999/87 | CBI | Property | M,60,C/man,U | 1C1Cf,40s,Dir,Sc | 5,000,000.00 |
| 143.Rpt.16119/8 | CBI | Hotel | C,48,Ex,Sc | C,36,Ex,Col | 249,524.78 |
| 144.Rpt.16168/87 | Forgery | Legal Firm | M,48,Lawyer,U | IF,34,Lawyer,U | 1,700,000.00 |
| 145.Rpt.9850/87 | Cheating | Ser.Co | C,35,Mgr,Sc | C,43,Mgr,Sc | 328,735.00 |
| 146.Rpt.1345/87 | CBI | Property Co. | C,43,Dir,Sc | C,45,Dir,Sc | 805,000.00 |
| 147.Rpt.2061/87 | CBI | Printing Co | C,39,MD,Col | C,34,Clerk,Sc | 147,888.87 |
| 148.Rpt.17268/87 | CBI | Property Co | Mf,34,Ex,U | M,48,Lawyer,U | 802,992.00 |
| 149.Rpt.19160-62/87 | CBI | Supermarket | C,44,Mgr,Sc | C,37,Mgr,Sc | 127,195.39 |
| 150.Rpt.17519/87 | Forgery | Individual | M,70,Mgr,Sc | C,50,Mgr,Sc | 200,000.00 |
| 151.Rpt.6621/87 | Cheating | Fin. Co | M,31,Ex,Col | 111C,40s,Mgr,Sc | 1,001,687.00 |
| 152.Rpt.17675/87 | Forgery | Eng. Firm | M,25,Mgr,Col | C,45,Dir,Sc | 3,700,000.00 |
| 153.Rpt.4477/87 | CBI | Ser.Co. | C,35,MD,U | C,44,Acct.,U | 630,590.00 |
| 154.Rpt.18594/87 | CBI | Tour Co. | M,50,Lawyer,U | 1M1Mf,40s,Dir,Sc | 300,000.00 |
| 155.Rpt.5731/87 | Cheating | Coop | C,25,Driver,Sc | C,50,Dir,Sc | 552,502.81 |
| 156.Rpt.3003/87 | Cheating | Individual | I,42,Clerk,Sc | 2C,40s,Dir,Sc | 161,887.25 |
| 157.Rpt.4361/87 | Cheating | Bank | C,42,Mgr,U | M,40s,Ex,Col | 1,100,000.00 |
| 158.Rpt.7032/86 | CBI | Coop | C,37,Teacher,Sc | C,47,Dir,Sc | 150,000.00 |
| 159.Rpt.20818/86 | Coop Act | Coop | C,35,Mgr,Sc | C,47,Dir,Sc | 500,000.00 |
| 160.Rpt.5176/87 | CBI | Coop | C,56,Driver,- | C,56,Dir,Sc | 2,000,000.00 |
| 161.Rpt.8289/87 | CBI | Coop | C,50,Ex,Sc | C,53,Dir,Sc | 1,000,000.00 |
| 162.Rpt.20821/86 | CBI | Coop | C,34,Ex,Sc | C,47,Dir,Sc | 300,000.00 |
| 163.Rpt.20827/86 | Forgery | Coop | C,30,Ex,U | C,47,Dir,Sc | 150,000.00 |
| 164.Rpt.2075/87 | Cheating | Coop | C,30,Ex,U | C,42,Dir,Sc | 7,500,000.00 |
| 165.Rpt.10947/87 | Cheating | Insurance Co | C,30,Ex,U | C,42,Dir,Sc | 2,485,000.00 |
| 166.Rpt.11916/87 | Forgery | Insurance Co | C,42,Ex,Col | C,39,Dir,Col | 300,000.00 |
| 167.Rpt.10928/87 | Forgery | Insurance Co | C,42,Ex,Col | C,39,Dir,Col | 200,000.00 |
| 168.Rpt.1665/86 | CBI | Coop | C,30,Ex,U | C,48,C/man,Sc | 850,000.00 |
| 169.Rpt.7463/86 | CBI | Coop | C,30,Ex,U | C,42,Ex,Col | 300,000.00 |
| 170.Rpt.20090/86 | CBI | Coop | I,47,Ex,U | C,46,MD,Col | 1,345,000.00 |
| 171.Rpt.7599/86 | CBI | Fin.Co | I,47,Ex,U | I,50,MD,U | 450,000.00 |
| 172.Rpt.2839/87 | CBI | Coop | C,30,EX,U | C,51,C/man,U | 2,300,000.00 |
| 173.Rpt.7598/87 | CBI | Coop | I,47,Ex,U | C,42,MD,Col | 30,000.00 |
| 174.Rpt.12432/87 | CBI | Coop | I,47,Ex,U | C,42,MD,Col | 300,000.00 |
| 175.Rpt.1179/87 | CBI | Coop | I,47,Ex,U | C,42,MD,Col | 150,000.00 |
| 176.Rpt.14630/87 | CBI | Coop | I,47,Ex,U | C,42,MD,Col | 230,000.00 |
| 177.Rpt.17075/86 | CBI | Coop | C,30,Ex,U | C,53,C/man,Sc | 800,000.00 |
| 178.Rpt.10948/86 | CBI | Coop | C,30,Ex,U | C,53,C/man,Sc | 400,000.00 |
| 179.Rpt.14843/86 | CBI | Coop | C,30,Ex,U | C,53,C/man,Sc | 433,200.00 |
| 180.Rpt.6461/86 | CBI | Coop | I,47,Ex,U | 5C,40s,Dir,Sc | 2,100,000.00 |
| 181.Rpt.4969/86 | CBI | Coop | I,47,Ex,U | C,40,Dir,Sc | 44,550.00 |
| 182.Rpt.5610/87 | CBI | Coop | I,47,Ex,U | C,40,Dir,Sc | 405,000.00 |
| 183.Rpt.9552/86 | CBI | Coop | C,43,Ex,Sc | C,48,Dir,Col | 1,443,000.00 |
| 184.Rpt.4747/87 | CBI | Coop | C,43,Ex,Sc | C,45,Mgr,Col | 6,000.00 |
| 185.Rpt.132/82 | CBI | Coop | C,43,Ex,Sc | C,45,Mgr,Col | 10,000.00 |
| 186.Rpt.475/87 | CBI | Coop | C,43,Ex,Sc | C,45,Mgr,Col | 32,705.50 |
| 187.Rpt.127/87 | CBI | Coop | C,43,Ex,Sc | C,45,Mgr,Col | 20,000.00 |
| 188.Rpt.126/87 | CBI | Coop | C,43,Ex,Sc | C,45,Mgr,Col | 21,225.00 |
| 189.Rpt.95/87 | CBI | Coop | C,43,Ex,Sc | C,45,Mgr,Col | 38,001.40 |
| 190.Rpt.94/87 | CBI | Coop | C,43,Ex,Sc | C,45,Mgr,Col | 30,000.00 |
| 191.Rpt.93/87 | CBI | Coop | C,43,Ex,Sc | C,45,Mgr,Col | 35,000.00 |
| 192.Rpt.13318/86 | Coop Act | Coop | I,37,Ex,Sc | C,47,Dir,Sc | 20,000.00 |
| 193.Rpt.20823/86 | Coop Act | Coop | C,30,Ex,U | C,41,Dir,Sc | 200,000.00 |
| 194.Rpt.390/87 | CBI | Coop | C,30,Ex,U | C,48,Dir,Sc | 300,000.00 |
| 195.Rpt.28824/86 | CBI | Coop | C,30,Ex,U | 4C,50s,Dir,U | 34,000,000.00 |
| 196.Rpt.20825/86 | CBI | Coop | C,30,Ex,U | C,50,C/man,Sc | 2,000,000.00 |
| 197.Rpt.20091/86 | CBI | Coop | C,30,Ex,U | Cf,47,C/man,U | 500,000.00 |

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| 198.Rpt. 20822/86 | CBI | Coop | I,47,Ex,U | C,52,MD,Sc | 327,000.00 |
| 199.Rpt. 20819/86 | CBI | Coop | I,47,Ex,U | I,47,MD,Col | 450,000.00 |
| 200.Rpt.15950/87 | CBI | Coop | I,45,Ex,Sc | 2I,40s,Dir,U | 1,000,000.00 |

1988

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| 201.Rpt.5787/88 | CBI | Coop | I,45,Ex,Sc | 2I,40s,Dir,U | 340,000.00 |
| 202.Rpt.3041/88 | Coop Act | Coop | C,37,Ex,Col | C,53,Dir,Sc | 150,000.00 |
| 203.Rpt.6496/88 | CBI | Coop | C,30,Ex,U | C,47,Dir,Col | 430,000.00 |
| 204.Rpt.6004/88 | CBI | Insurance Co | I,47,Ex,U | C,45,Dir,Col | 332,000.00 |
| 205.Rpt.6388/88 | CBI | Insurance Co | I,47,Ex,U | C,45,Dir,Col | 300,000.00 |
| 206.Rpt.530/88 | CoopAct | Coop | C,30,Ex,U | C,43,Dir,Col | 157,000.00 |
| 207.Rpt.645/88 | Fin.Act | Leasing Co | C,32,Lawyer,U | C,47,Dir,Col | 347,800.00 |
| 208.Rpt.7903/88 | CBI | Property Co | C,32,Lawyer,U | 2MC,40s,Dir,U | 12,000,000.00 |
| 209.Rpt.6683/88 | CBI | Property | C,47,C/Mer,Col | 2MC,50s,Dir,U | 8,000,000.00 |
| 210.Rpt.18836/88 | CBI | Insurance Co | I,53,Ex,Col | 3C,40s,Dir,Col | 1,000,000.00 |
| 211.Rpt.7493/88 | Cheating | Printing Co | C,52,Prop,Sc | 3C,-,-,- | 300,000.00 |
| 212.Rpt.361/88 | CBI | Legal Firm | M,41,Lawyer,U | I,47,Clerk,Sc | 544,000.00 |
| 213.Rpt.87/88 | Cheating | Individual | C,35,Prop,- | C,41,Mer,Sc | 161,989.00 |
| 214.Rpt.183/88 | Cheating | Individual | M,71,Person,Sc | M,57,MP,Col | 2,400,000.00 |
| 215.Rpt.775/88 | Cheating | Bank | M,30,Mer,U | 2C,40s,Dir,Col | 200,000.00 |
| 216.Rpt.87/88 | Co.Act | Credit Co | C,22,Fisherman,- | C,51,MP,Sc | 400,000.00 |
| 217.Rpt.625/88 | CBI | Trading Co | C,37,Acct.,U | C,38,Mer,Sc | 219,637.77 |
| 218.Rpt.26/88 | CBI | Ser.Co | M,35,Mer,Col | 2M,29s,Mer,Sc | 116,942.90 |
| 219.Rpt.1373/88 | CBI | Property Co | M,54,Lawyer,U | C,47,MD,U | 3,600,000.00 |
| 220.Rpt.325/88 | Cheating | Manu.Co | C,67,Prop,- | C,-,-,- | 130,620.37 |
| 221.Rpt.1743/88 | Forgery | Individual | M,45,Lecturer,U | M,37,Ex,Sc | 135,000.00 |
| 222.Rpt.1822/88 | CBI | Property | S,34,Army,Sc | I,37,Mer,Col | 119,900.00 |
| 223.Rpt.1099/88 | CBI | Trading Co | C,42,Mer,Col | 2C,36s,Ex,Sc | 133,651.65 |
| 224.Rpt.530/88 | CBI | Shipping Co | C,51,MD,U | C,47,Mer,U | 3,495,405.00 |
| 225.Rpt.5157/85 | Cheating | Credit Co | C,47,Mer,U | M,43,Mer,U | 488,800.00 |
| 226.Rpt.2118/88 | CBI | Property Co | C,38,Ex,U | C,37,MD,Col | 2,722,500.00 |
| 227.Rpt.3567/88 | Cheating | Imp/Export Co | C,40,Dir,Sc | C,45,Dir,Sc | 523,400.00 |
| 228.Rpt.2416/88 | CBI | Trading Co | I,26,Dir,Sc | I,32,Dir,Sc | 1,000,000.00 |
| 229.Rpt.81/88 | Cheating | Individual | C,39,Prop,Sc | 4C,40s,-,- | 300,000.00 |
| 230.Rpt.2241/88 | CBI | Autoparts Co | C,40,Dir,Sc | C,45,Dir,Sc | 221,388.00 |
| 231.Rpt.924/88 | Cheating | Supermarket | C,28,Mer,Sc | C,43,MD,Sc | 255,450.00 |
| 232.Rpt.2918/88 | CBI | Property Co | C,28,Co,Sec,U | C,34,Mer,Col | 377,388.98 |
| 233.Rpt.2936/88 | Cheating | Bank | C,34,Ex,U | C,52,MD,U | 9,000,000.00 |
| 234.Rpt.1765/88 | Forgery | Trading Co | C,32,Dir,Col | C,34,Dir,Col | 1,399,000.00 |
| 235.Rpt.3337/88 | CBI | Govt.Agency | M,33,Police,Col | 2MC,20s,Police,Sc | 1,221.00 |
| 236.Rpt.3633/88 | CBI | Bank | I,39,Teacher,U | I,47,Mer,Col | 170,000.00 |
| 237.Rpt.3659/88 | Cheating | Property Co | C,44,Architect,U | M,53,MD,Col | 1,000,000.00 |
| 238.Rpt.907/88 | CBI | Property Co | M,53,MP,Sc | C,38,Mer,Sc | 281,773.13 |
| 239.Rpt.3882/88 | Cheating | Property Co | C,31,Acct,U | C,43,MD,Col | 1,750,000.00 |
| 240.Rpt.1380/88 | Forgery | Individual | C,75,-,- | C,35,Ex,Sc | 199,000.00 |
| 241.Rpt.4181/88 | Cheating | Individual | C,37,Dir,Col | 2C,37s,Dir,Sc | 45,000.00 |
| 242.Rpt.906/88 | CBI | Motor Co | C,39,Mer,U | C,37,Mer,Col | 1,093,201.00 |
| 243.Rpt.603/88 | Cheating | Individual | M,40,Prop,Sc | M,42,-,- | 324,000.00 |
| 244.Rpt.337/88 | Cheating | Individual | C,40,Contr,Sc | M,34,Contr,Sc | 180,000.00 |
| 245.Rpt.9347/88 | CBI | Bank | C,50,Mer,U | C,28,Clerk,Sc | 112,500.00 |
| 246.Rpt.8120/88 | CBI | Ser.Co | C,38,Mer,Col | C,27,Clerk,Sc | 69,292.09 |
| 247.Rpt.1834/88 | Cheating | Trading Co | C,65,Dir,Sc | C,43,Dir,Sc | 114,318.01 |
| 248.Rpt.7950/88 | Forgery | Trading Co | M,50,Dir,Sc | M,48,Dir,Sc | 262,966.30 |
| 249.Rpt.7877/88 | Forgery | Shipping Agent | C,40,GM,U | C,44,Mer,Col | 1,000,000.00 |
| 250.Rpt.2570/88 | Cheating | Money Changer | M,34,Doctor,U | I,40,Ex,Col | 250,000.00 |
| 251.Rpt.8765/88 | Cheating | Property | M,34,Dir,U | 2M,30s,Dir,Col | 5,000,000.00 |
| 252.Rpt.2394/88 | CBI | Legal Firm | I,60,Lawyer,U | 2MIM,30s,Clerk,Sc | 200,000.00 |
| 253.Rpt.5593/88 | Cheating | Manu.Co | Amer,34,Dir,U | C,38,MD,Col | 430,000.00 |
| 254.Rpt.12454/88 | CBI | Individual | C,48,Prop,Sc | M,42,Labourer,- | 50,600.00 |
| 255.Rpt.10587/88 | CBI | Bank | M,42,Ex,U | C,46,Lawyer,U | 130,000.00 |
| 256.Rpt.10213/88 | CBI | Bank | M,42,Ex,U | C,46,Lawyer,U | 19,018.21 |
| 257.Rpt.10308/88 | CBI | Bank | M,42,Ex,U | C,46,Lawyer,U | 544,407.65 |
| 258.Rpt.10305/88 | CBI | Bank | M,42,Ex,U | C,46,Lawyer,U | 30,000.00 |
| 259.Rpt.10209/88 | CBI | Bank | M,42,Ex,U | C,46,Lawyer,U | |
| 260.Rpt.13310/88 | Cheating | Bank | M,42,Ex,U | 7C,30s,Ex,Col | 1,250,000.00 |
| 261.Rpt.2254/88 | Cheating | Investment Co | C,33,Mer,U | C,34,Ex,Sc | 248,262.00 |
| 262.Rpt.14187/88 | Cheating | Trading Co | HK,40,Dir,U | 2C,37,Dir,Sc | 284,900.00 |

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| 263.Rpt.2471/88 | CBI | Trading Co | C,33,Mgr,Col | 2C,30s,SaleEx,Sc | 100,000.00 |
| 264.Rpt.614/88 | Cheating | Individual | C,45,Prop,Sc | 2M,45,Prop,Sc | 220,000.00 |
| 265.Rpt.6762/88 | Cheating | Trading Co | C,31,Mgr,Col | C,43,Mgr,Col | 800,000.00 |
| 266.Rpt.7862/88 | Cheating | Individual | M,47,Prop,Sc | Mf,43,Clerk,Sc | 231,000.00 |
| 267.Rpt.8157/88 | CBI | Trading Co | Mf,44,Dir,Sc | C,50,Dir,Sc | 630,000.00 |
| 268.Rpt.8859/88 | CBI | Ser.Co | Cf,44,Mgr,Sc | C,37,Dir,Sc | 300,000.00 |
| 269.Rpt.7399/88 | CBI | Property Co | C,42,MD,Col | C,38,Dir,Col | 381,020.00 |
| 270.Rpt.2854/88 | CBI | Govt.Agency | M,48,Ex,Col | C,57,Clerk,Sc | 295,990.00 |
| 271.Rpt.10602/8 | Cheating | Coop | C,38,Dir,Sc | C,43,Mgr,Sc | 99,392.40 |
| 272.Rpt.17046/8 | Cheating | Bank | C,33,Ex,U | - - - - | 115,747.40 |
| 273.Rpt.8119/88 | CBI | Coop | M,26,Ex,Sc | 2M,1,40s,Dir,Sc | 90,454.20 |
| 274.Rpt.6393/88 | CBI | Fin.Co. | M,40,Ex,U | 2MC,45s,Dir,U | 43,000,000.00 |
| 275.Rpt.8999/88 | CBI | Bank | M,40,Ex,U | 4M,40s,Ex,Sc/U | 22,200,000.00 |
| 276.Rpt.4320/88 | CBI | Fin.Co | M,40,Ex,U | 3M,40s,Dir,U | 500,000.00 |
| 277.Rpt.7218/88 | CBI | Leasing Co | M,40,Ex,U | 3MC,40s,Dir,U | 19,400,000.00 |

1989

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| 278.Rpt.599/89 | CBI | Govt Agency | M,40,Mgr,Col | I,37,Clerk,Sc | 350,000.00 |
| 279.Rpt.282/89 | Cheating | Transport Co | M,40,Mgr,Sc | C,44,-,- | 250,000.00 |
| 280.Rpt.66/89 | Cheating | Individual | C,40,Prop,Sc | M,50,Prop,Sc | 135,250.00 |
| 281.Rpt.684/89 | Cheating | Logging Co | C,41,Mgr,Col | C,42,Clerk,Sc | 160,000.00 |
| 282.Rpt.1902/89 | CBI | Fin.Co | M,37,Mgr,Col | 2M,35,Ex,Col | 398,000.00 |
| 283.Rpt.1189/89 | CBI | Govt Agency | M,40,Ex,Col | M,43,Ex,Sc | 2,900.00 |
| 284.Rpt.1190/89 | CBI | Govt Agency | M,40,Ex,Col | M,27,Ex,Sc | 3,000.00 |
| 285.Rpt.1605/89 | CBI | Property Co | I,58,Dir,Sc | 7I,45s,Dir,Sc | 4,000,000.00 |
| 286.Rpt.14776/89 | CBI | Investment Co | C,28,CoSec,U | 5MCI,45s,Dir,U | 5,700,000.00 |
| 287.Rpt.3211/89 | CBI | Property Co | I,66,Dir,Sc | M,ME,50s,Dir,Sc | 278,561.79 |
| 288.Rpt.3161/89 | CBI | Property Co | C,58,Dir,Sc | C,50,Dir,Col | 300,000.00 |
| 289.Rpt.3750/89 | CBI | Logging Co | C,45,MD,Col | C,40,Dir,Col | 700,000.00 |
| 290.Rpt.3647/89 | Cheating | Travel Co | 5I,30s,Unempl,Sc | I,38,Dir,Sc | 14,724.00 |
| 291.Rpt.1465/88 | CBI | Imp/Exp.Co | M,39,Mgr,Col | 4M,30s,Clerk,Sc | 153,260.00 |
| 292.Rpt.6331/89 | Co.Act | Manu.Co | M,42,Ex,Sc | 2C,36s,Dir,Sc | Adulterated Liq. |
| 293.Rpt.6658/89 | CBI | Govt Agency | M,27,Mst.,U | M,32,Clerk,Sc | 20,476.95 |
| 294.Rpt.3055/89 | CBI | Ser.Co | C,40,Mgr,Col | C,28,Ex,Sc | 245,710.35 |
| 295.Rpt.176/89 | Cheating | Manu.Co | C,37,Mgr,Col | C,46,Mgr,Col | 221,102.32 |
| 296.Rpt.2108/89 | CBI | Property Co | C,34,Mgr,Col | C,40,Dir,Col | 276,911.14 |
| 297.Rpt.872/89 | Cheating | Fin.Co | C,37,Mgr,U | Cf,45,Dir,Sc | 100,000.00 |
| 298.Rpt.7352/89 | CBI | Property Co | Mf,76,-,- | M,47,Dir,Col | 303,000.00 |
| 299.Rpt.5298-5304/89 | Cheating | Bank | M,37,Ex,Col | - - - - | 127,000.00 |
| 300.Rpt.404/89 | CBI | Video Co | C,43,MD,Col | C,45,MD,Col | 922,750.00 |
| 301.Rpt.5671/89 | CBI | Property Co | Mf,47,H/wife,Sc | C,51,MD,Col | 450,000.00 |
| 302.Rpt.5711/89 | CBI | Property Co | Mf,30,Clerk,Sc | C,51,MD,Col | 600,000.00 |
| 303.Rpt.3875/89 | CBI | Insurance Co | Cf,30,Co.Sec,U | 5C,40s,Dir,U | 635,179.00 |
| 304.Rpt.5882/89 | CBI | Property Co | Mf,34,Clerk,Sc | C,51,MD,Col | 120,000.00 |
| 305.Rpt.732/89 | Cheating | Bank | C,40,Ex,U | M,33,Ex,Col | 289,346.31 |
| 306.Rpt.2000/89 | CBI | Manu.Co | M,40,Acct.,U | - - - - | 900,000.00 |
| 307.Rpt.1999/89 | Cheating | Fin.Co | C,33,Ex,U | M,35,Mgr,Col | 210,000.00 |
| 308.Rpt.3784/89 | Cheating | Legal Firm | Amer.51,Lawyer,U | I,52,Lawyer,U | 2,500,000.00 |
| 309.Rpt.1955/89 | Cheating | News Agency | C,52,MD,Sc | C,47,Mgr,Sc | 267,962.00 |
| 310.Rpt.5295/89 | CBI | Property Co | C,50,MD,Sc | C,45s,Dir,Sc | 2,741,700.00 |
| 311.Rpt.3487/89 | Cheating | Ser.Co | M,30,MD,Col | M,33,MD,Col | 273,906.77 |
| 312.Rpt.3741/89 | Cheating | Manu.Co | C,30,Dir,Col | 2C,35s,Dir,Col | 1,200,000.00 |
| 313.Rpt.2179/89 | CBI | Manu.Co | M,52,MP,Col | C,50,Mgr,Col | 215,000.00 |
| 314.Rpt.1430/89 | Forgery | Individual | Mf,46,H/wife,Sc | M,50,MD,Col | 215,000.00 |
| 315.Rpt.1429/89 | Forgery | Individual | Mf,46,H/wife,Sc | M,50,MD,Col | 250,000.00 |
| 316.Rpt.1616/89 | Cheating | Individual | M,37,Clerk,Sc | M,33,Labourer,-, | 15,000.00 |
| 317.Rpt.3142/89 | Cheating | Individual | C,50,Driver,-, | C,47,Driver,-, | 202,76.06 |
| 318.Rpt.1780/89 | CBI | Property Co | M,40,Dir,Col | C,42,MD,Col | 484,551.25 |
| 319.Rpt.21330/86 | Cheating | Property Co | C,33,Mgr,U | C,52,MD,Sc | 20,005,000.00 |
| 320.Rpt.118+90/89 | Cheating | Govt Agency | I,47,Ex,Col | 7M,30s,-,- | 20,900.00 |
| 321.Rpt.216-17-19/89 | Cheating | Individual | 3M,45s,-,- | M,34,-,- | 24,000.00 |
| 322.Rpt.532/89 | Cheating | Const.Co | M,29,Ex,U | C,56,MD,Col | 380,000.00 |
| 323.Rpt.3142/89 | Cheating | Individual | C,50,Driver,-, | C,47,Clerk,Sc | 202,76.06 |
| 324.Rpt.1425/89 | Forgery | Pol./Party | M,50,Lawyer,U | M,47,Politician,U | - |
| 325.Rpt.5578/89 | Cheating | Logging Co | C,50,MD,Sc | 2MC,-,- | 750,000.00 |

ABBREVIATION

| | | | |
|---------|--|----------|---------------------|
| R-A-O-E | = Race, Age, Occupation, Education | Pol. | = Political |
| CBT | = Criminal Breach of Trust | Fin. | = Financial |
| M | = Malay | Co. | = Company |
| C | = Chinese | Insu. | = Insurance |
| I | = Indian | Imp/Exp. | = Import and Export |
| T | = Taiwan | Ser. | = Service |
| A | = Australian | Prod. | = Product |
| Amer | = American | Elect. | = Electrical |
| f | = Female | Coop | = Cooperative |
| Kor | = Korean | Eng. | = Engineering |
| Ex. | = Executive | Manu. | = Manufacturing |
| Dir | = Director | Constr. | = Construction |
| Mgr | = Manager | | |
| MD | = Managing Director | | |
| Chman | = Chairman | | |
| Prop. | = Proprietor | | |
| Prnc. | = Prisoner | | |
| H/wife | = Housewife | | |
| U | = University | | |
| Col | = College or Post-Secondary | | |
| Sc | = Secondary | | |
| - | = No secondary education or not available. | | |

CRIMINAL NEGLIGENCE
PRISON'S SPECIAL TREATMENT TO ABDULLAH ANG
(STRAITS TIMES REPORT ON 13th AUGUST, 1989).

New Sunday Times

AUGUST 13, 1989

Criminal negligence

THE Malaysian prison system has been revising its character in recent years in keeping with modern theories of penology. A convincing argument can be made for a more humane regime in prisons, particularly for prisoners whose crimes are of a comparatively less serious nature. Incarcerated amidst hardened criminals, enduring a dull routine that does not engage idle minds or hands, such prisoners may be conditioned to expect nothing and will leave prison with a sullen rage. This rage may be compounded by the stigma of a criminal record which may prompt rejection from family, friends and possible employers, and the prisoner may be compelled to confirm society's suspicions by resorting to crime again.

This was the reasoning that led to the pre-release rehabilitation programme, a programme designed to allow prisoners with just a few months left to their jail terms to acquire potentially useful job skills and to contribute to the community in useful projects. The current brouhaha over the unsupervised movements of Abdullah Ang in the months before his release yesterday should not call into question the validity of such a programme. What is in question is the implementation of it. Are all the other prisoners in the programme allowed such privileges as has been accorded to this one prisoner? If not, why was this one prisoner granted such generous freedom?

The fact that the prison authorities cannot immediately present an authoritative version, the fact that there are various and contradictory accounts of Abdullah Ang's movements (placing him at an orchid farm in Mantin, at his family's factory in Kuala Lumpur to pick up fertilisers or to settle personal matters, at another office to pick up plants), the fact that the prisoner was seen moving about freely without being accompanied by any prison warden, all point to a gross negligence or very trusting natures.

It is hoped our prison authorities have not misinterpreted the concept of an open prison system to mean one that is open to the smuggling in of dadah, open to the wishes of peripatetic prisoners. Criminals must pay. Crime shouldn't.

APPENDIX V

LIST OF VARIABLES

SITUATIONAL PRESSURE

PERSONAL

- * power abuse
- * incompetence

- * beating the system
- * excessive gambling
- * high personal debts
- * leaving beyond means
- * extensive stock market speculation
- * loan shark involvement
- * bad company expenses incurred

- * undue family commitments
- * excessive use of drugs which need heavy spending
- * underpaid
- * resentments of superiors
- * frustration usually with jobs
- * business failure

BUSINESS CIRCUMSTANCES

- * power abuse at the top management
- * incompetence of the Directors and management
- * heavily influenced by politicians
- * recession
- * high company debts
- * lack of working capital
- * heavy investment
- * heavy losses
- * too dependent on one or two products customers and transactions
- * excess capability
- * severe obsolescence
- * extremely high debt
- * pressure to finance expansion through current earnings rather through debt or equity
- * tight credit, high interest rates and ability to acquire credit
- * extremely rapid expansion through new business or product lines
- * profit squeeze (costs and expenses rising higher and faster than sales and revenue)
- * difficulty in collecting receivables
- * usually heavy competition (including low priced imports)
- * existing loan agreements with little flexibility and tough restrictions
- * progressive deterioration in quality of earnings
- * significant tax adjustment
- * long-term financial losses
- * fear of merger
- * suspension or deleting from stock exchange
- * politically motivated
- * existence of revocable and possibly imperilled licences necessary for the continuation of business
- * long business cycle
- * significant litigation, especially between stock brokers and management
- * need to gloss over a temporary bad situation

- and maintain management position and prestige
- * usually high profits with a cash shortage
- * urgent need for favourable earnings to support stock, meeting earning forecasts, etc

OPPORTUNITY PRESSURE

PERSONAL

- * poor leadership quality
- * politically associated
- * very familiar with operations (including cover-up capabilities)
- * in position of trust
- * close association with cohorts and other key people

BUSINESS CIRCUMSTANCES

- * no information about rules and disciplines
- * not require executive disclosures and examinations
- * no documented code of ethic
- * weak leadership
- * rapid turnover of key employees-quit or fired
- * not using adequate personal screening policies when hiring new employees to fill position of trust
- * absence of explicit and uniform personnel policies
- * no rotations or transfers of key employees
- * no operational productivity measurements and evaluation
- * has a dishonest management and/or environment
- * lack of personal evaluation
- * has a dominant top management
- * always operating on a crisis basis
- * pays no attention to details
- * too much trust in key employees
- * relatively few interpersonal relationships
- * does not have viable dissatisfaction and grievance outlets
- * has related party transactions
- * has very complex business structure
- * does not have an effective internal auditing staff
- * has an extremely large and decentralised firm
- * has a highly computerised firm
- * has inexperienced people in key position
- * controlled by politician
- * uses several different auditing firms
- * has a reluctance to give auditors needed data
- * change auditors often
- * hires an auditor that lack expertise
- * persistently brings unexpected information to auditors' attention
- * changes legal counsel often
- * has reluctance to give accounting information

- to their legal counsel
- * has several different legal counsels
- * has several different banks, none of which can see the entire picture
- * has continuous problems with various regulatory agencies
- * has strong political party based
- * has large year-end and unusual transactions
- * many adjusting entries required at the time of audit
- * supplies information to auditors at the last minute
- * has a poor internal control system or does not enforce internal control procedures
- * has unduly liberal accounting practices
- * has inadequate staffing in the accounting department

PERSONALITY PRESSURE

PERSONAL

- * lacking in the development of personal moral honesty
- * enjoys feeling of power, influence, and social status
- * enjoys feeling of excitement associated with rapid financial transactions involving large sums of money
- * without a well-defined code of personal ethics
- * suffering from neurotic, manic-depress or emotionally unstable
- * arrogant or egocentric
- * a psychopathic personality
- * threatened self-esteem
- * intrigued by the personal challenge of subverting a system of controls
- * has criminal history
- * has questionable associate
- * has poor referees
- * too greedy

APPENDIX VI

IN THE SESSIONS COURT IN MALAYSIA
AT KUALA LUMPUR IN THE FEDERAL TERRITORY

[In the matter of Kuala Lumpur Warrant of
Arrest No. of 1990.]

AND

[In the matter of the Return of ABC from
XDY country to Malaysia under the
Extradiction (Commonwealth Countries
Act No.-- of ADY Country]

BETWEEN

PUBLIC PROSECUTORAPPLICATION

AND

ABCRESPONDENT

AFFIDAVIT

I, YUSOFF NOOK, a resident of Malaysia, aged 39,
employed as Superintendent of Police, of Royal Malaysian
Police, residing at No.34, SS 21/44, Damansara Utama, Petaling
Jaya, Selangor affirmed and say as follows:-

2. Unless otherwise stated the facts deposed to herein
are from my personal knowledge.

3.,4.,5,etc are relevant facts....

AFFIRMED by the said YUSOFF NOOK)
at.....)
this..... day of June,1990)
at.....a.m./p.m.)

Before me,

I
certify that this is the original affidavit/true copy of the
affidavit of.....comparingpages and
.....exhibits "....." to"....." which were tendered in evidence.
.....

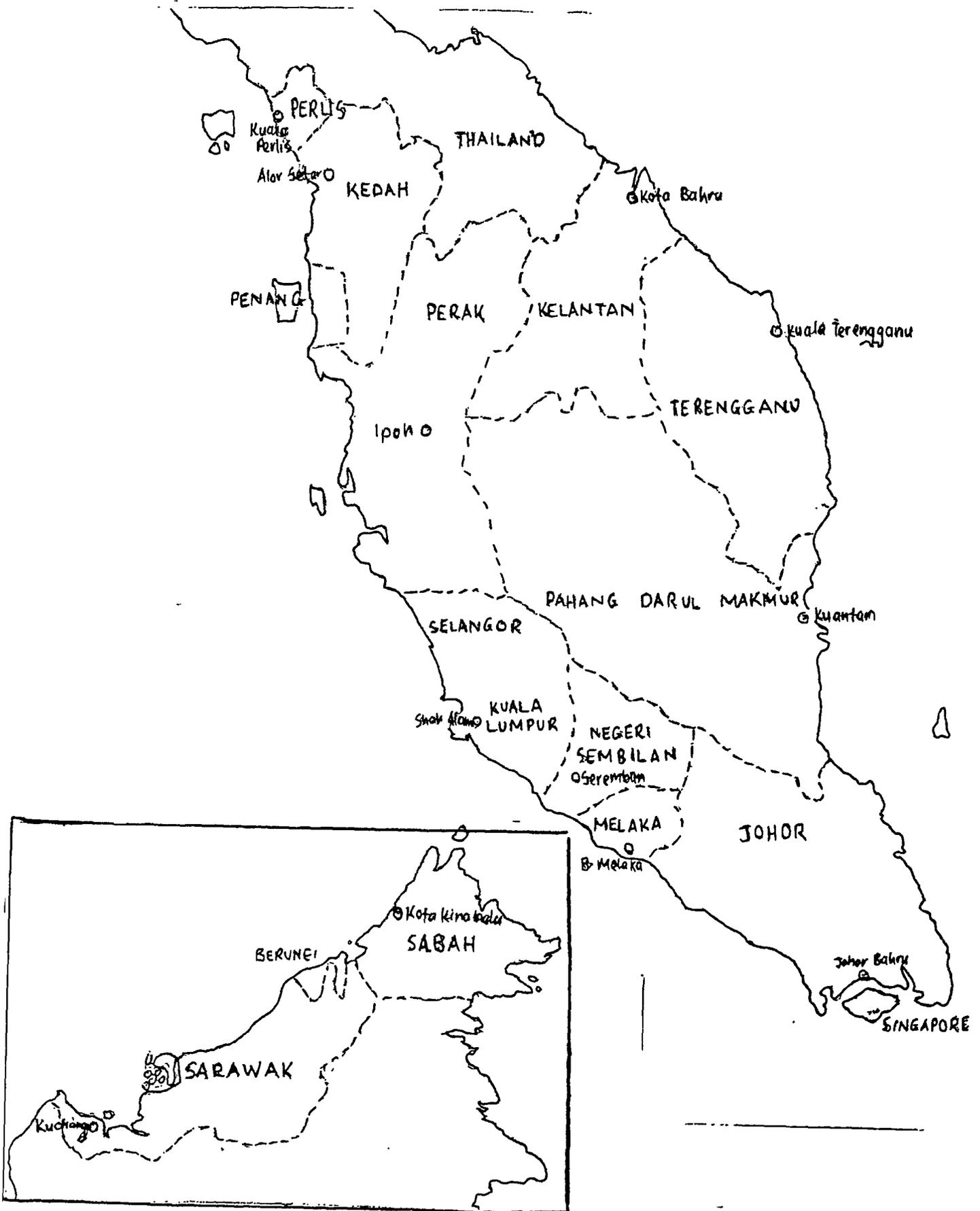
APPENDIX VII

EXAMPLE OF QUESTIONS IN A POLICE
STATEMENT

- Q1: Is AB a public listed company.
- Q2: Do you agree that its shareholders comprise various segment of the public and/or other public/private institutions.
- Q3. Do you agree that as a director your duty is to ensure interests of the shareholders come first.
- Q4. You are shown Article 112 of the Articles of Association, do you agree that the business of the company shall be managed by the Directors.
- Q5. Do you agree that under Article 102, the Directors may meet together for the despatch of business.
- Q6. Do you agree under Article 111, the Directors shall cause minutes to be kept in books of all resolutions and proceedings of meetings.
- Q7. Do you agree that in the conduct of business, the Directors should always place as paramount the shareholders interest.
- Q8. Where any benefit is to be given to another company, do you agree that these must be to companies that are subsidiaries and associates of AB.
- Q9. Would you agree to accord the same benefit given to subsidiaries/associates of AB to subsidiaries/associates not connected with AB.
- Q10. Would you agree that any such benefit should be restricted to subsidiaries/ associates within the AB group.
- Q11. Would you as a director, feel it is in the interest of AB to give advantages/benefits to companies not within AB group.
- Q12. Do you agree that considered as being within the group would be subsidiaries and associates of AB.
- Q13. Would you consider companies not subsidiaries and associates of AB to be within the same group as AB
- Q14. Do you agree that under the Money Lenders Ordinance, it is an offence to lend money on interest without a licence.
- Q15. Do you agree that where lending activities are conducted by AB, it should have a money lending licence as prescribed by law.
- Q16. Do you agree that under the Article of Association, no single director may commit the company unless it has been given authority under Article 113.
- Q17. Do you also agree that the ultimate authority vests in the Board of Directors.
- Q18. Where the Board exercises its powers, do you agree this must be recorded in the minutes under Article 111.
- Q19. Should AB wish to lend money to its subsidiaries/associates do you agree it must be by resolution of the Board.
- Q20. You are shown the minutes of Board No.11 date 12 August,

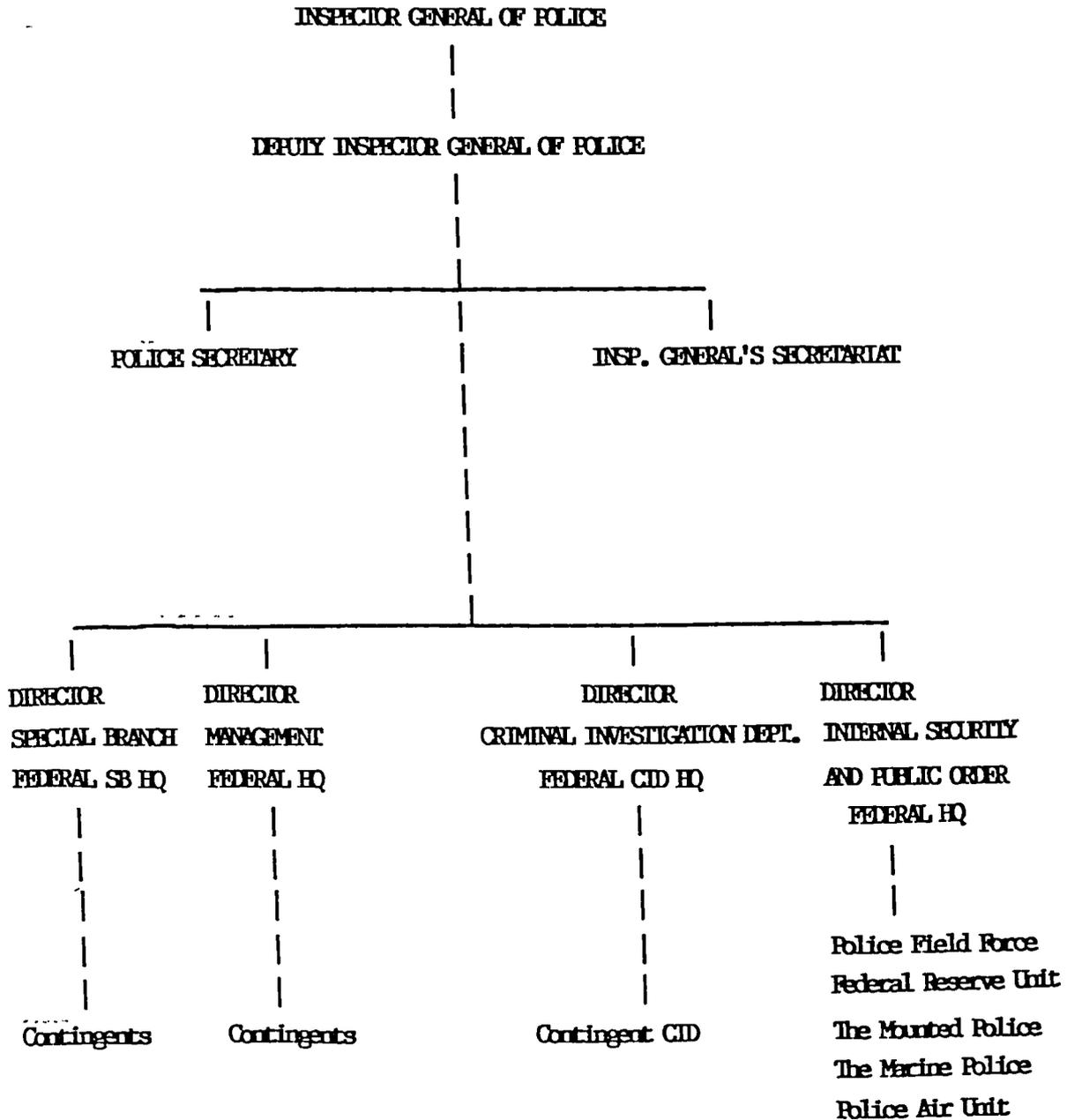
- 1976 where it resolved to lend \$5 millions to CCC Limited Company which is a subsidiary of AB, do you agree that this was approved by the Board.
- Q21. You are shown the resolution CR 22/86 dated 11th March, 1986 where it was resolved to lend \$30 millions to DDD, do you agree this was approved by the Board.
- Q22. You are shown the minutes of the 33 EXCO dated 22nd of May 1986, where it was resolved to advance \$3 millions to EEE, do you agree this was approved by the EXCO.
- Q23. Do you agree that in the light of the above minutes, loan can only be made with the approval of the Exco/Board.
- Q24. Do you also agree that the approvals were recorded consistent with Article 111.
- Q25. In the interests of the multitude of shareholders, do you agree loans given should only be to subsidiaries/ associates of AB.
- Q26. Where loans are given to companies not within the AB group, do you agree there must be justification for such loans since these can constitute an offence under the Money Lenders Ordinance.
- Q27. In the interests of AB, do you agree that where loans are given to companies not connected with AB, these must be secured and recorded in the minutes.
- Q28. Do you agree that if loans are given without security, the directors would be taking risks with the company's funds entrusted to them.
- Q29. Do you agree that in the light of previous minutes, the absence of approval means the Board never approved any particular loan.
- Q30. You are shown resolution CR 33/87 dated 22nd February 1987 where it is resolved " the management be and is hereby authorised to place the company's excess funds with any subsidiary or associate company within the group payable on demand" did you sign this resolution.
- Q31. Do you agree that this resolution is for the benefit of AB and its companies within the group.
- Q32. Do you agree that if it is intended by this resolution to benefit companies not within AB group, the resolution must be specific since funds of AB would be going out of the group.
- Q33. Do you agree that if it was intended to place funds of AB with other companies by use of a wide resolution, it would amount to an abdication of responsibilities by the Board of Directors.
- Q34. You are shown the Annual Reports of AB for 1987 and 1988, are EEE and FFF a subsidiary and/or an associate of AB.
- Q35. Would you consider EEE and FFF in the light of the reports being within the AB group.
- Q36. Is it intended by resolution CR 33/87 to include EEE and FFF within the group.
- Q37. In the final analysis, do you agree CR33/87 is intended to give authority to place excess funds within subsidiaries and associates within the AB group as reflected in the Annual Reports, and not to any other group.

MAP OF MALAYSIA



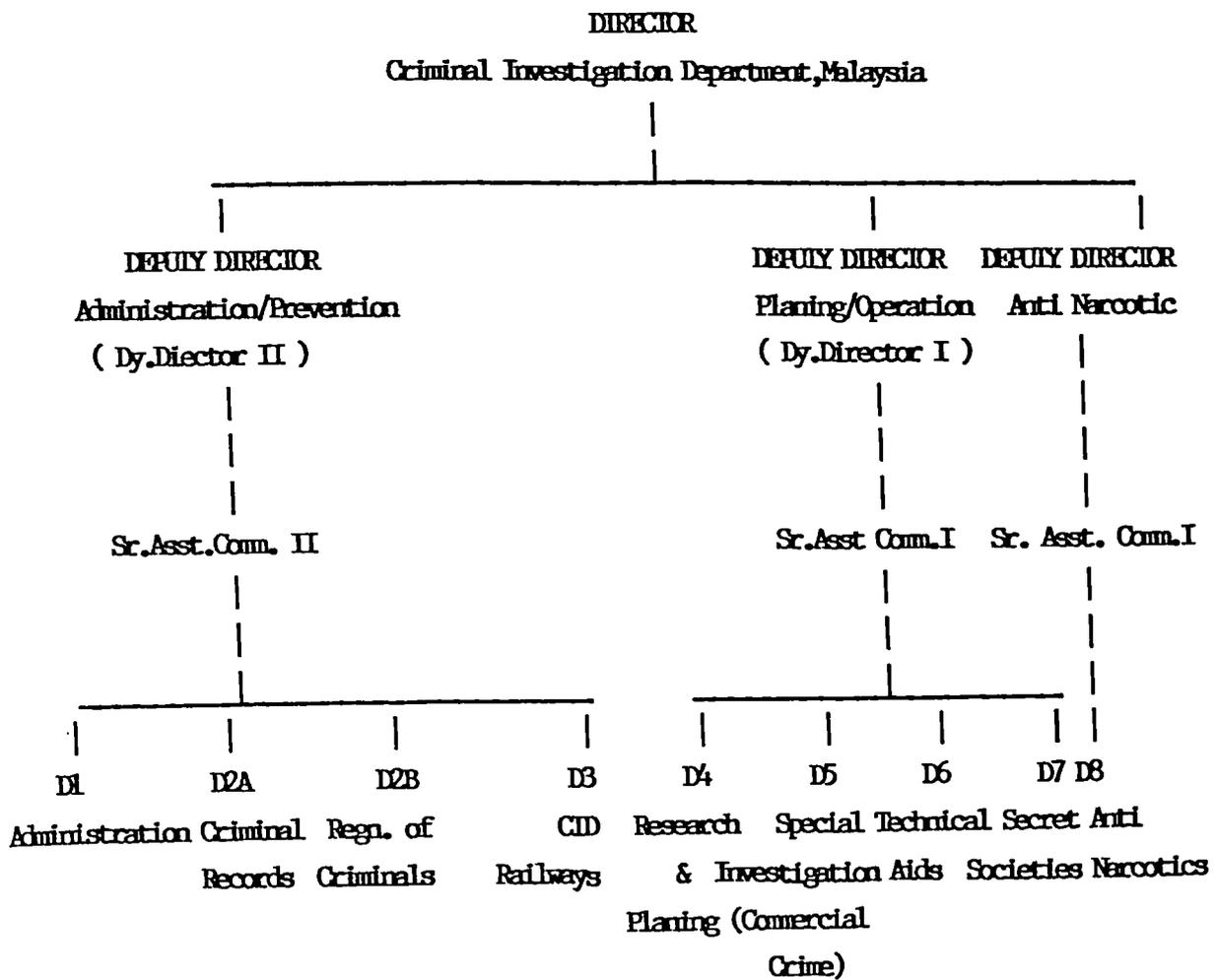
APPENDIX IXa

ORGANISATION OF THE ROYAL MALAYSIA POLICE
(Established under the Police Act No.41 of 1967)



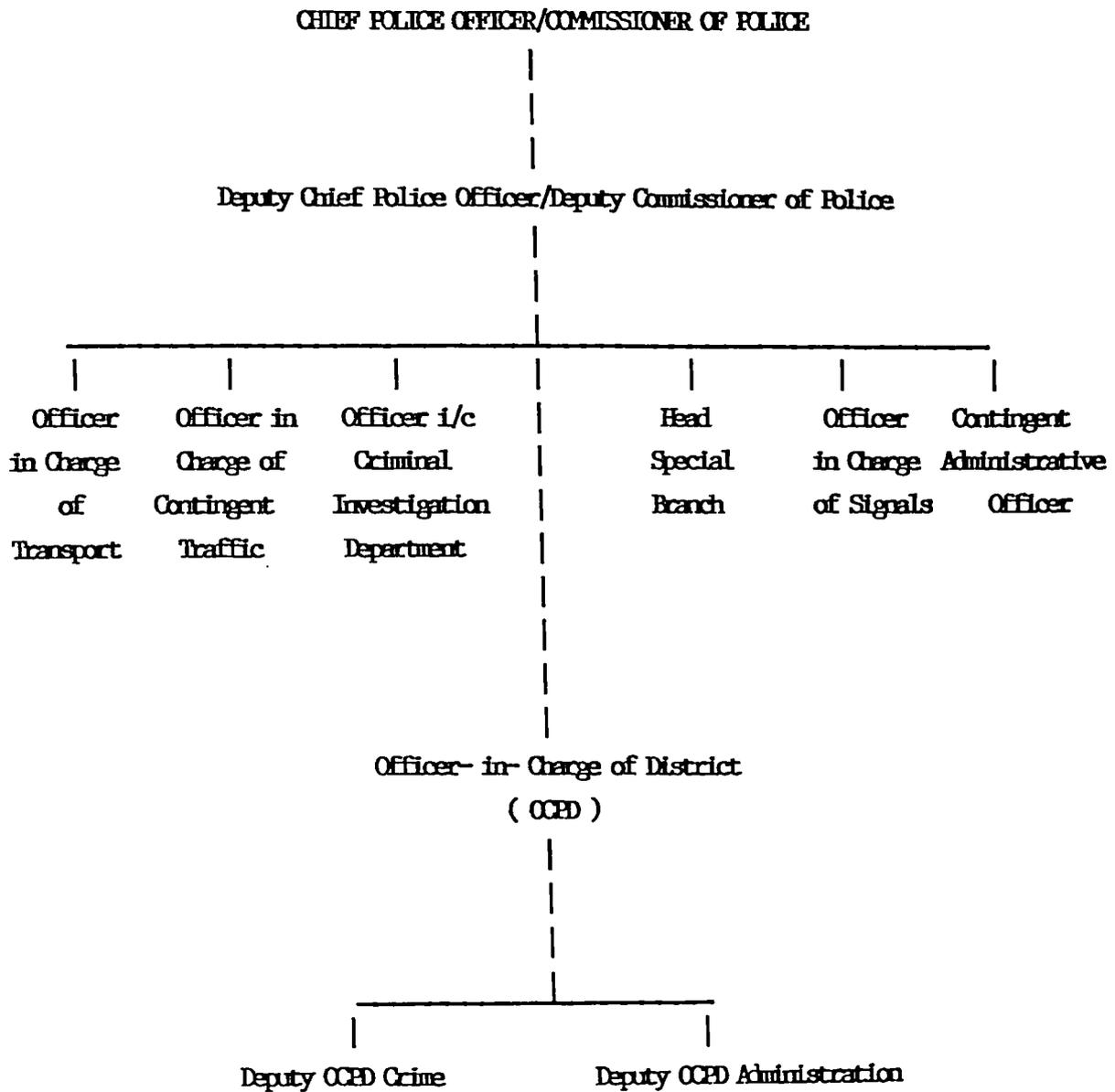
APPENDIX IXb

ORGANISATION OF THE CRIMINAL INVESTIGATION DEPARTMENT
AT THE FEDERAL POLICE HEADQUARTERS,
ROYAL MALAYSIA POLICE IN 1990



APPENDIX IXc

ORGANISATION OF THE ROYAL MALAYSIA POLICE
AT THE STATE & DISTRICT LEVELS IN 1990



APPENDIX Xa

4th April 1990

Dear Respondent,

RE: RESEARCH SURVEY

I am a PhD student at the University of Stirling, in Scotland. I am doing research on 'Economic Crime in Malaysia: an analysis into the causations and remedial functions of the Police'.

I need your whole-hearted support in this research survey by providing appropriate answers to all questions in the questionnaire enclosed.

After you have completed answering the questionnaire, please return it to me care of any of the following addresses:

- a. 34, SS 21/44,
Damansara Utama,
47400, Petaling Jaya,
Selangor, Malaysia.
Tel: 03-7171210
- b. School of Accountancy, Business,
Computing and Economics,
University of Stirling,
Stirling, FK9 4LA,
Scotland.

If you have any query concerning the research, please feel free to contact my supervisor Professor J. Beaumont of the University of Stirling.

Please be rest assured that your identity as well as your opinions and views recorded in the questionnaire will be accorded the highest confidentiality.

Thank you very much for your cooperation.

Yours Sincerely,

YUSOFF NOOK

APPENDIX Xb

" ECONOMIC CRIME IN MALAYSIA: AN ANALYSIS INTO THE CAUSATIONS
AND REMEDIAL FUNCTIONS OF THE POLICE "

SCHOOL OF ACCOUNTANCY, BUSINESS, COMPUTING AND ECONOMICS,
UNIVERSITY OF STIRLING

YOUR INFORMATION WILL BE KEPT STRICTLY CONFIDENTIAL

ATTENTION:

1. Please choose the most appropriate answer to each question.
2. Please put a cross 'X' in [], or circle a number in the grades, or write in the space provided.

BACKGROUND

Q1 Sex

Male Female

Q2 Age at last birthday

| | |
|--|--|
| <input type="checkbox"/> Under 20 years | <input type="checkbox"/> 40-44 years old |
| <input type="checkbox"/> 20-24 years old | <input type="checkbox"/> 45-49 years old |
| <input type="checkbox"/> 25-29 years old | <input type="checkbox"/> 50-54 years old |
| <input type="checkbox"/> 30-34 years old | <input type="checkbox"/> 55-59 years old |
| <input type="checkbox"/> 35-39 years old | <input type="checkbox"/> 60 years old or above |

Q3 Religion

| | |
|---------------------------------------|-----------------------------------|
| <input type="checkbox"/> None | <input type="checkbox"/> Sikh |
| <input type="checkbox"/> Islam | <input type="checkbox"/> Buddhism |
| <input type="checkbox"/> Christianity | <input type="checkbox"/> Other |
| <input type="checkbox"/> Hinduism | |

(Please specify)

Q4 Which country is your place of birth ?

Q5 What is your legal nationality ?

Q6 Current marital status

| | |
|-------------------------------------|------------------------------------|
| <input type="checkbox"/> Single | <input type="checkbox"/> Separated |
| <input type="checkbox"/> Cohabiting | <input type="checkbox"/> Divorced |
| <input type="checkbox"/> Married | <input type="checkbox"/> Other |
| <input type="checkbox"/> Widowed | |

(Please specify)

Q7 How many brother(s) and sister(s) were you brought up with ?

_____ (Including yourself)

Q8 What is your ordinal position among sibling(s)
(e.g. 1st,2nd,3rd and 4th) ?

Q9 Do you have any child / children ?

Yes No =SKIP TO Q10

Q9a If Yes,

i. how many child/children do you have ?

ii. how old are they ?

1st born child _____ years old
2nd born child _____ years old
3rd born child _____ years old
4th born child _____ years old
5th born child _____ years old
6th born child _____ years old
7th born child _____ years old
8th born child _____ years old
9th born child _____ years old
10th born child _____ years old

For other(s) , please write the detail(s) in the
space provided.

iii. do most of them stay with you ?

Yes =SKIP TO Q10 No

iiia If No,

who take(s) care of them now ?

Grandparent(s) Friends
 Parent(s) Hired Employee
 Spouse Other
 Other relative(s)

(Please specify)

INCOME AND EDUCATION

Q10 In which country did you receive the majority of your education ?

- a. Primary _____
- b. Secondary _____
- c. Post-Secondary _____
- d. Under-Graduate _____
- e. Post-Graduate _____
- f. Other (Please specify) _____

Q11 How many years have you been studying (including your time at Primary School)

- 6 years 9 years 12 years
- 7 years 10 years 13 years
- 8 years 11 years 14 years
- 15 years and above

Q12 What type of institute did you last attend ?

- School University
- Polytechnic Other
- College

(Please specify)

Q13 In which year did you gain your highest qualification?

Q14 What is/was your major stream of your study ?

- Arts Science
- Education Law
- Management Social Science
- Commerce Other

(Please specify)

Q15 What are the highest educational levels of your parents?

| | Father | Mother |
|--|--------|--------|
| None | [] | [] |
| Primary | [] | [] |
| Secondary | [] | [] |
| Post-Secondary/Technical Institute | [] | [] |
| None-degree level (e.g. College/Polytechnic) | [] | [] |
| Bachelor | [] | [] |
| Master | [] | [] |
| PhD | [] | [] |
| Don't know | [] | [] |

Q16 What did you do before holding this present position ?

- | | |
|--|--|
| <input type="checkbox"/> Full-time job | <input type="checkbox"/> Full-time education |
| <input type="checkbox"/> Part-time job | <input type="checkbox"/> Part-time education |
| <input type="checkbox"/> Unemployed | <input type="checkbox"/> Other |

(Please specify)

Q17 What is your present occupation ?

Q18 What is your job title ?

Q19 What is your annual income (in Malaysian dollars)?

- | | |
|---|---|
| <input type="checkbox"/> Below \$5000.00 | <input type="checkbox"/> \$25,001-\$30,000.00 |
| <input type="checkbox"/> \$5,001-\$10,000.00 | <input type="checkbox"/> \$30,001-\$35,000.00 |
| <input type="checkbox"/> \$10,001-\$15,000.00 | <input type="checkbox"/> \$35,001-\$40,000.00 |
| <input type="checkbox"/> \$15,001-\$20,000.00 | <input type="checkbox"/> \$40,001-\$45,000.00 |
| <input type="checkbox"/> \$20,001-\$25,000.00 | <input type="checkbox"/> \$45,001-\$50,000.00 |
| | <input type="checkbox"/> \$50,001 and above |

(Please specify)

Q20 How many year(s) have you been working ?

- less than 1 year
- 1 to 5 years
- 5 to 10 years
- More than 10 years

Q21 How would you rate your job in terms of:

- | | Highest | Very High | High | Middle | Low | Very Low | Lowest |
|---------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Economic power | <input type="checkbox"/> |
| b. Social prestige | <input type="checkbox"/> |
| c. Social & political influence | <input type="checkbox"/> |

Q22 How many wage-earner(s) are living with you (including yourself)?

Q23 What is the annual total income earned by all the wage-earner(s) in Q22 (in Malaysian dollars) ?

- | | |
|---|---|
| <input type="checkbox"/> Below \$5,000.00 | <input type="checkbox"/> \$50,001-\$55,000.00 |
| <input type="checkbox"/> \$5,001-\$10,000.00 | <input type="checkbox"/> \$55,001-\$60,000.00 |
| <input type="checkbox"/> \$10,001-\$15,000.00 | <input type="checkbox"/> \$60,001-\$65,000.00 |
| <input type="checkbox"/> \$15,001-\$20,000.00 | <input type="checkbox"/> \$65,001-\$70,000.00 |
| <input type="checkbox"/> \$25,001-\$30,000.00 | <input type="checkbox"/> \$70,001-\$75,000.00 |
| <input type="checkbox"/> \$30,001-\$35,000.00 | <input type="checkbox"/> \$75,001-\$80,000.00 |
| <input type="checkbox"/> \$35,001-\$40,000.00 | <input type="checkbox"/> \$80,001-\$85,000.00 |
| <input type="checkbox"/> \$40,001-\$45,000.00 | <input type="checkbox"/> \$85,001-\$90,000.00 |
| <input type="checkbox"/> \$45,001-\$50,000.00 | <input type="checkbox"/> \$90,001-\$95,000.00 |
| | <input type="checkbox"/> \$95,001 and above |

(Please specify)

Q24 Are your parents still alive ?

Q24a Father [] Yes [] No-SKIP TO 25

Q24b Mother [] Yes [] No-SKIP TO 25

Q25 What job did/does your father do ?

Q26 How would you rate his job in terms of :

| | Highest | Very High | High | Middle | Low | Very Low | Lowest |
|--------------------------------|---------|-----------|------|--------|-----|----------|--------|
| a.Economic power | [] | [] | [] | [] | [] | [] | [] |
| b.Social prestige | [] | [] | [] | [] | [] | [] | [] |
| c.Social & political influence | [] | [] | [] | [] | [] | [] | [] |

Q27 What job did/does your mother do ?

Q28 How would you rate her job in terms of :

| | Highest | Very High | High | Middle | Low | Very Low | Lowest |
|--------------------------------|---------|-----------|------|--------|-----|----------|--------|
| a.Economic power | [] | [] | [] | [] | [] | [] | [] |
| b.Social prestige | [] | [] | [] | [] | [] | [] | [] |
| c.Social & political influence | [] | [] | [] | [] | [] | [] | [] |

B. Opportunity Variables

Personal

- * In position of trust 0 1 2 3 4 5
- * Very familiar with operations (including cover-up capabilities) 0 1 2 3 4 5
- * Close association with cohorts and other key people 0 1 2 3 4 5
- * Other 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5

Business Circumstances

- * Does not use adequate personal screening policies when hiring new employees to fill the position of trust. 0 1 2 3 4 5
- * Has a very complex business structure 0 1 2 3 4 5
- * Does not require executive disclosure and examinations 0 1 2 3 4 5
- * An absence of explicit and uniform personnel policies 0 1 2 3 4 5
- * Does not have an effective internal auditing staff 0 1 2 3 4 5
- * Has a poor accounting records and unduly liberal accounting practices 0 1 2 3 4 5
- * Other 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5

C. Personality variables

- * Someone lacking in the development of personal morals 0 1 2 3 4 5
- * A person who enjoys feeling of power influence, social status, an excitement associated with rapid financial transactions involving large sum of money 0 1 2 3 4 5
- * A person without a well-defined code of personal ethics 0 1 2 3 4 5
- * A person who is neurotic, manic-depression or emotionally unstable 0 1 2 3 4 5

- * A person who is arrogant or egocentric 0 1 2 3 4 5
- * A person with psychopathic personality 0 1 2 3 4 5
- * A person with the threatened self-esteem 0 1 2 3 4 5
- * A person who is intrigued by the personal challenge of subverting a system of controls 0 1 2 3 4 5
- * A person who is too greedy 0 1 2 3 4 5
- * A person with a criminal history 0 1 2 3 4 5
- * A person who has questionable associate(s)
- * A person with poor referees 0 1 2 3 4 5
- * Other
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5

Q35 Please grade the possible steps that can be taken to curb economic crime cases.

Possibilities

Grading
(0-No importance
5-Extremely important)

- * Improve on security system 0 1 2 3 4 5
- * Improve on system of auditing 0 1 2 3 4 5
- * Personnel screening 0 1 3 3 4 5
- * Improve on the planning skills 0 1 2 3 4 5
- * Improve on the organising skills 0 1 2 3 4 5
- * Improve on the coordinating skills 0 1 2 3 4 5
- * Improve on the motivational climate 0 1 2 3 4 5
- * Improve on management information system 0 1 2 3 4 5
- * Improve on the management environment 0 1 2 3 4 5
- * Other
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5
- _____ 0 1 2 3 4 5

END

THANK YOU VERY MUCH FOR YOUR HELP

| | | |
|----|-----|---------------------------------------|
| 14 | V38 | Excessive gambling |
| 16 | V39 | High debt |
| 18 | V40 | Living beyond means |
| 20 | V41 | Extensive stock speculation |
| 22 | V42 | Loan shark involvement |
| 24 | V43 | Bad Company expenses |
| 26 | V44 | Undue family commitment |
| 28 | V45 | Drugs and alcohol |
| 30 | V46 | Underpaid |
| 32 | V47 | Other |
| 34 | V48 | Mismanagement by staffs |
| 36 | V49 | Mismanagement by directors |
| 38 | V50 | Heavily influenced by politicians |
| 40 | V51 | Recession |
| 42 | V52 | Other |
| 44 | V53 | Position of trust |
| 46 | V54 | Cover-up operations |
| 48 | V55 | Close associate with cohorts |
| 50 | V56 | Other |
| 52 | V57 | No adequate screening |
| 54 | V58 | Complex business structure |
| 56 | V59 | No executive disclosure & examination |
| 58 | V60 | No uniform policies |
| 60 | V61 | No effective auditing staff |
| 62 | V62 | Poor accounting practices |
| 64 | V63 | Other |
| 3 | V64 | Lack personal moral |
| 5 | V65 | Power enjoyment |
| 7 | V66 | No personal ethic code |
| 9 | V67 | Emotional unstable |
| 11 | V68 | Arrogant |
| 13 | V69 | Psycho personality |
| 15 | V70 | Threatened self-esteem |
| 17 | V71 | Intrigued by personal challenge |
| 19 | V72 | Too greedy |
| 21 | V73 | Criminal history |
| 23 | V74 | Questionable associate |
| 25 | V75 | Poor referee(s) |
| 27 | V76 | Other |
| 29 | V77 | Improve security system |
| 31 | V78 | Improve auditing system |
| 33 | V79 | Personnel screening |
| 35 | V80 | Improve planning skills |
| 37 | V81 | Improve organising skills |
| 39 | V82 | Improve coordinating skills |
| 41 | V83 | Improve motivational skills |
| 43 | V84 | Improve Management Information system |
| 45 | V85 | Improve Management environment |
| 47 | V86 | Other |

APPENDIX XI

FACT FINDER CHECKLIST

1. REPORTING LINES

| | | POINTS | REMARKS |
|--|-------------------|--------|---------|
| A. Position reports to | Board level | 5 | |
| | Board level-1 | 4 | |
| | Board level-2 | 3 | |
| | Other | 1 | |
| <hr/> | | | |
| B. Immediate manager has the following number of people reporting to him | 1 to 5 employees | 2 | |
| | 6 to 12 employees | 4 | |
| | more than 12 | 5 | |
| <hr/> | | | |
| C. The position has the following number of people reporting to it | 1 to 5 employees | 2 | |
| | 6 or more | 4 | |
| | Contractors | 5 | |
| | none | 2 | |
| <hr/> | | | |
| TOTAL OF THIS SECTION | | . | . |

2. PROFESSIONAL OR OCCUPATION

| | POINTS | REMARKS |
|---------------------------|--------|---------|
| <u>FINANCIAL</u> | | |
| Financial control:general | 5 | |
| Financial record keeping | 4 | |
| Cashier | 5 | |
| Contracts Management | 9 | |
| Sales Accounting | 6 | |
| Bought Ledger accounting | 7 | |
| Other | 4 | |
| <hr/> | | |
| <u>COMPUTING</u> | | |
| System Analyst | 7 | |
| Programmer | 7 | |
| Operator | 5 | |
| Other | 5 | |

APPENDIX Xc

COMPUTER CODE FILE

| <u>CODE NUMBER</u> | <u>VARIABLE NUMBER</u> | <u>VARIABLES</u> |
|------------------------|----------------------------|--|
| 1 | V1 | Respondents |
| 3-5 | V2 | Sample Number |
| 7-8 | V3 | Age |
| 10-11 | V4 | Sex |
| 13 | V5 | Religion |
| 15 | V6 | Nationality |
| 17 | V7 | Race |
| 19 | V8 | Marital Status |
| 21-22 | V9 | Number of Brothers |
| 24-25 | V10 | Position of Sibling |
| 27-28 | V11 | Number of Children |
| 30-31 | V12 | Number of Children stay together |
| 33-34 | V13 | Country high education |
| 36-37 | V14 | Years of education |
| 39 | V15 | Type of education institution |
| 41 | V16 | Stream of studies |
| 43 | V17 | Father's education |
| 45 | V18 | Mother's education |
| 47 | V19 | Previous job |
| 49-50 | V20 | Annual income |
| 52 | V21 | Number of years working |
| 54 | V22 | Perceived economic power |
| 56 | V23 | Perceived social status |
| 58 | V24 | Perceived social political influence |
| 60 | V25 | Number of wage earner |
| 62-63 | V26 | Total annual income |
| 65 | V27 | Father's economic power |
| 67 | V28 | Father's social prestige |
| 69 | V29 | Father's social political influence |
| 71 | V30 | Mother's economic power |
| 73 | V31 | Mother's social prestige |
| 75 | V32 | Mother's social political influence |
| 3 | V33 | Number of years as investigators |
| | * V33 | Organisation of victim |
| | * V33 | Type of offences committed by perpetrators |
| | * V33 | Profession of professional |
| 5-6 | V34 | Numbers of investigating papers |
| | * V34 | Amount of losses suffered by victim |
| | * V34 | Amount of losses involved by perpetrators |
| | * V34 | Organisation of professional |
| 8 | V35 | Power abuse |
| 10 | V36 | Incompetence |
| 12 | V37 | Beating the system |

STAFF

| | |
|------------------|---|
| Auditor | 8 |
| Security Manager | 8 |
| Legal Advisor | 5 |
| Personnel | 7 |

SECRETARIAL

| | |
|------------------------------|---|
| Board level secretary | 8 |
| Board level 1 or 2 secretary | 7 |
| Other personal secretary | 5 |
| Typing pool | 3 |
| Filing | 3 |

GENERAL MANAGER

| | |
|---------------------------------|---|
| Sales Manager | 8 |
| Sales Representative | 5 |
| Support services | 7 |
| Purchasing or Contracts Manager | 9 |
| Buyer | 7 |
| Purchasing support | 6 |
| Manufacturing Manager | 3 |
| Warehouse Manager | 5 |
| Transport Manager | 6 |
| Advertising, Sales & Promotions | 6 |

COMMUNICATIONS

| | |
|---------------------------------|---|
| Computer Terminal Operator | 5 |
| Telex Operator | 6 |
| Communications Engineer/Manager | 7 |

LABOUR AND WORKERS

| | |
|--------------------------|---|
| Transport Drivers | 6 |
| Warehouse Operator | 5 |
| Receiving-Goods In-staff | 6 |
| Manufacturing | 1 |
| Other | 1 |

TOTAL OF THIS SECTION

3 NATURE OF SUPERVISION & CONTROL

POINTS . REMARKS

ROUTINE WORK

| | |
|----------------------------------|---|
| policy setting and innovation | 7 |
| innovation within general policy | 5 |
| follows written policy | 3 |

LOCATION OF JOB

| | |
|---|---|
| in single occupancy office or from home | 4 |
| office shared with one other person | 2 |
| 'open' office or work area | 0 |
| remote from company head office | 1 |
| travelling(mainly) | 3 |
| overseas or remote base | 5 |

TOTAL OF THIS SECTION . .

4 SKILL AND QUALIFICATION LEVEL

| | |
|--|---|
| Degree or equivalent as a background qualification (entry level) | 5 |
|--|---|

| | |
|--|---|
| Degree or equivalent for specific daily duties | 8 |
|--|---|

| | |
|-------|---|
| Other | 2 |
|-------|---|

TOTAL OF THIS SECTION . .

5 AUTHORITY LEVELS

| | | |
|---|--|---|
| Has authority to sign for a single transaction on his own of: | | . Enter reduced points for shared authority |
|---|--|---|

| | |
|---------------|---|
| up to £1,000 | 5 |
| up to £10,000 | 7 |
| over £10,000 | 9 |

TOTAL OF THIS SECTION . .

6 DISCRETION (EITHER FORMAL OR CONTRIVED)

| | POINTS | REMARKS |
|--|--------|---|
| A. Is able to exercise discretion in favour of third parties with significance to them of: | | . Enter reduced points for shared authority |
| up to £10,000 p.a. | 5 | |
| up to £100,000 p.a. | 7 | |
| over £100,000 p.a. | 10 | |
| <hr/> | | |
| B. Is able to exercise discretion in favour of employees: | | |
| to recruit | 4 | |
| promote | 6 | |
| dismiss | 3 | |
| <hr/> | | |
| C. Is able to quote for sales contracts and select vendors | | |
| under a formal bidding system | 5 | |
| on own authority | 10 | |
| <hr/> | | |
| D. Is able to quote sales prices | | |
| under a formal and written system | 3 | |
| on own authority | 8 | |
| <hr/> | | |
| TOTAL FOR THIS SECTION | . | . |

7 CONTROL RESPONSIBILITY

| | | |
|--|---|---|
| A. Approves expenditure | | . Enter reduced points for shared authority |
| up to £500 per instance | 3 | |
| up to £10,000 per instance | 5 | |
| more than £10,000 per instance | 9 | |
| <hr/> | | |
| B. Directly controls annual cost budget of | | |
| up to £10,000 | 5 | |
| up to £100,000 | 7 | |

more than £100,000 9

C. Establishes Sales Prices to customers

on formal price list 3
to individual customers 5
allocates scarce products 7

D. Controls special allowances/rebates etc 7

E. Controls income or revenue directly of

up to £100,000 4
up to £1,000,000 5
more than £1,000,000 8

F. Control bank records

. Enter reduced points for shared authority

daily reconciliations 5
supervises accounts generally 4
money or funds managements
foreign exchange 9
issue of disbursement cheques 8
daily banking(cash or cheques) 9
manages EFIS operation 10

G. Controls Customer or Supplier Accounts

liaises and visits premises 7
responsible for statements 5
responsible for approving invoices 8
responsible for credit notes 5

H. Controls Trading and Investment of Funds

Pension funds 8
Investments 7
Commodity and General Tradings 8
Commodity or Financial Futures 9

I. Controls Contractor or third party work records and invoices

approves invoices 8
allocates emergency contracts 9
allocates 'local' contracts 9

J. Controls or handles physical movement
of goods/inventories

| | |
|--------------------------|---|
| goods inwards or returns | 7 |
| despatch and replacement | 8 |
| warehouse inventories | 6 |

TOTAL OF THIS SECTION . .

8 CUSTODY AND CONTROL OF RECORDS
AND COMPUTER RESOURCES

A. Has access to:

. Enter reduced points for
shared authority

| | |
|---|---|
| blank cheques or equivalent | 5 |
| returned cheques | 3 |
| unopened incoming mail | 3 |
| sealed outgoing mail(after approval) | 5 |
| outgoing cheques/approved payment forms | 7 |
| despatch notes | 4 |
| purchase orders | 3 |
| suspense account journal vouchers | 7 |

B. Has access to:

| | |
|-----------------------------------|---|
| computer terminal | 3 |
| systems console | 7 |
| major computer hardware | 5 |
| data files (prime or backup) | 4 |
| programs and documentation | 5 |
| communication or 'test key' codes | 9 |

TOTAL OF THIS SECTION . .

9 ACCESS TO PREMISES AND
PHYSICAL ASSETS

A. Key holding

. Enter reduced points
for shared authority

| | |
|---|---|
| is a key holder to a main building | 3 |
| holds keys to general office areas | 2 |
| holds keys to major computer facilities | 8 |
| holds keys to money safe | 6 |

B. Goods

has unrestricted access to inventories 6

C. Equipment

has access to critical or sensitive equipment whose compromise or damage could:

- *seriously disrupt company operations 8
 - *cause serious inconvenience to third parties 5
-

D. Classified Information

has direct access to information concerning

- *investment plans 8
 - *trade secrets or patents 8
 - *research and development 8
 - *personnel records 5
 - *bidding and tendering plans 5
 - *market strategies, pricing policies 5
-

TOTAL OF THIS SECTION . . .

WEIGHTING FACTORS

| BLOCK | HEADING | S SCORE | W WEIGHT | S times W FACTOR |
|-------|----------------------------|---------|----------|------------------|
| 1 | REPORTING LINES | | 10 | |
| 2 | PROFESSIONAL OR OCCUPATION | | 8 | |
| 3 | SUPERVISION | | 8 | |
| 4 | QUALIFICATION | | 5 | |
| 5 | AUTHORITY | | 20 | |
| 6 | DISCRETION | | 20 | |

| | | |
|----|------------------------|----|
| 7 | CONTROL RESPONSIBILITY | 15 |
| 8 | CUSTODY RECORDS ETC | 12 |
| 9 | PHYSICAL ACCESS | 7 |
| 10 | LEGAL AGREEMENTS | 2 |

TOTAL APPRAISAL POINTS

APPRAISAL

| POINTS TOTAL | RISK LEVEL | LEVEL OF CLEARANCE RECOMMENDED |
|--------------|-------------|---|
| up to 200 | Low | Standard Reference checks/interview |
| 201 - 400 | Medium | Negative Vetting |
| 401 - 600 | Medium/High | Basic Positive Vetting |
| 600+ | HIGH | FULL POSITIVE VETTING FIDELITY INSURANCE RECOMMENDED |

APPENDIX XII

BASELINE CONTROL AREAS

| | BASELINE CONTROLS | |
|---|-----------------------|-------------------|
| | Generally implemented | Could be Extended |
| Physical and Environment Controls | | |
| - physical access control for critical areas; | * | |
| - logging of physical access to critical areas; | | * |
| - smoke and fire detection system; | * | |
| - automatic fire suppression system; | * | |
| - hand-held manual fire extinguishers; | * | |
| - documented fire emergency procedures; | | * |
| - no smoking regulations in machine rooms; | * | |
| - insurance and safety arrangements | * | |
| Computer Operations | | |
| - documented operational procedures; | * | |
| - logging of operator activity; | * | |
| - maintenance of operational trouble log; | | * |
| - completion of regular back-ups; | * | |
| - operator isolation from production libraries | | * |
| - separation of operations from programming responsibilities; | * | |
| - restricted access to privileged operator functions | | * |
| Configuration Security | | |
| - formal development methodology for application software; | * | |
| - independent quality assurance function; | | * |
| - documented testing procedures; | * | |
| - application system change control procedures; | * | |
| - isolation of production and development environments; | * | |
| - maintenance of hardware and software inventories; | | * |
| - hardware and system software change control procedures; | | * |
| - documentation of system security requirements. | | * |
| Network Operations Security | | |
| - standards for network design; | | * |
| - redundancy in critical communication links; | * | |
| - documented network facilities; | * | |
| - documented network procedures; | | * |
| - restricted access to privileged network functions. | * | |
| Documentation Security | | |
| - written documentation standards; | * | |
| - procedures for maintenance of documentation; | * | |
| - automated documentation back-ups; | | * |

- off-site storage of documentation; *
- defined sensitive document disposal procedures *

Support Services

- inclusion of security provisions in service contracts; *
- supervision of support service staff. *

Data Security

- appointment of data protection co-ordinator; *
- controls over data input procedures; *
- secure distribution of reports and output; *
- access authorisation requirements for programs and data *
- off-site data backup. *

Administration of Security

- Security manager or co-ordinator position; *
- development of strategic security plan; *
- security standards; *
- engagement and termination procedures; *
- practice of formal security reviews; *
- security steering committee; *
- computer audit skills *

Telecommunication Security

- requirement to sign-on to all systems; *
- existence of unique individual user identification codes; *
- password authentication procedures; *
- enforced password change frequency and structure; *
- user control of passwords; *
- access logging *

Contingency Planning

- creation of formal documented contingency plans; *
- procedures for regular testing of plans; *
- procedures for regular maintenance of plans.

APPENDIX XIII

COMPUTER FRAUD TECHNIQUES AND COUNTERMEASURES

A. COMPUTER FRAUD TECHNIQUES

1. Input Scams

- a) Data Diddling. Changing data before or during their input to the computer, i.e., counterfeiting, forging, altering, or fabricating input documents. (This is the most common computer scam.)
- b) Piggybacking. A form of impersonation in which a nonauthorised person gains access to a terminal which has not been deactivated (signed off) and uses it for his own purposes; or the nonauthorised person knows the authorised person's password code and signs on with that password.
- c) Imposter terminal. Using a home computer or an offsite terminal with a telephone modern to gain access to a main computer by fabricating authorisation (cracking the password code) and then either intercepting data or using time on the computer free of charge.
- d) Multiple data based manipulation. Gaining access to one computer in the network and using that access privilege to break into other computers in the network by use of a common access code; or cracking an access protocol by successive attempts to decipher the access code then stealing time on the computer, converting software, or manipulating data files.

2. Throughput Scams

- a) Trojan Horse. Covert placement of instructions in a computer program so that the computer will perform unauthorised functions.
- b) Salami Slicing. Thefts of small amounts of money from a large number of sources, i.e. shaving a penny from each savings account during an interest calculation run or rounding off the mills (one-tenth of a cent) and accumulating them for transfer to your own account.
- c) Trap Doors. A systems programming design flaw intended to facilitate subsequent modifications or debugging. If not edited out after the program is debugged, an unscrupulous programmer may be able to access the computer (steal time on the computer) or obtain data or programs which he has no authority to have.
- d) Logic Bombs. Instructions inserted in a computer operating system or program facilitating the perpetration of an unauthorised or malicious act.

3. Output Scams

- a) Pizza Boy Ploy. Gaining access to the computer room (normally at night or weekend when security is relaxed) by posing as a pizza deliveryman or serviceman and then stealing output reports or console logs, or sabotaging the computer mainframe.
- b) Software Piracy. Stealing or copying output reports, computer files, or programs and then using them for your own purposes, selling them to others (competitor firms), or offering to return them to the company for ransom.
- c) Scavenging. Searching through the computer room's trash (old reports, operating logs, used punch cards and paper tapes, etc.) to learn enough about the system to compromise it.

B. COMPUTER FRAUD COUNTER MEASURES

1. Programming Controls

- a) One way to detect thruput scams is periodically to run the current version of a program against the original or backup copy to determine whether any modifications or changes have been made. But if the computer abuser has also modified the backup copy, it is very difficult to determine if a program has been altered.
- b) Input and output scams are easiest to detect. Thruput scams, since they take place inside the "blackbox," are more difficult to detect. They are less visible.
- c) Good security controls are transparent- the abuser does not know he is being monitored or observed.

2. Data Transmission Security Controls

- a) Cryptographic Transmission and data storage. To avoid interception and casual perusal of sensitive information.
- b) Scramblers. To garble the computer message being transmitted.

3. Computer and Terminal Access Controls

- a) Passwords. Alpha or numerical.
- b) Compartmentalisation. Restricting users to only those files and programs which they are authorised to use.
- c) Error lockout. Shutting down the terminals' power after successive incorrect attempts to log on.
- d) Voice print recognition.
- e) Finger print recognition.
- f) Palm geometry.
- g) Magnetic card access.
- h) Automatic shutoff. Occurs after transmission is completed if operator fails to sign off.
- i) Time lock. No messages can be received or transmitted at the terminal- after normal working hours.

- j) Call back. Before user gains complete access, a phone call is made to the terminal site to verify the user's identity.
- k) Random personal information. Before the computer allows access, it will pose random personal questions that are stored in its memory, i.e., "What is your mother-in-law's maiden name or date of birth?" " In what hospital was your oldest child born?" "When will you celebrate your twenty-fifth wedding anniversary?" (This is personal information you would not usually carry in your wallet. If your wallet were stolen, the thief could not use the information therein to impersonate you to gain access to a computer).
- l) Personal identification number (PIN). Used in conjunction with a magnetic card which has a coded authorisation. You must present or insert both the card and your PIN (a 4-or 5-digit number you commit to memory) as proof of identity.
- m) Personal signature recognition. After logging on, the terminal operator writes his name with a light pen and the computer matches that signature with an authentic sample in its memory.

APPENDIX XIVa

LINK DIAGRAM DEPICTING FRAUD IN PROPERTY BASED COMPANY

EMP PLC incorporated on 20 September.1980

Applied for a term loan of \$6 million for PH Bank. Loan applied by director of EMP YYS on 12 May 1981 on behalf of EMP PLC.

Applied for a mortgage loan of \$20 million from CCM. Loan applied by accountant WSN on behalf of EMP on 1st November 1983. However the loan was arranged by YYS.

Loan application was processed and approved by EXCO of PH Bank on 30-5-81.

Loan application was processed and approved by Chairman of CCM (FC) on recommendation of Regional Operation Manager (H) and Regional Manager (WUK).

Letter of offer to EMP for \$6 million term loan was given to EMP and letter of acceptance of the offer was signed by YYS on 13-6-1981.

Letter of offer to EMP was sent on 28-11-83 and accepted by EMP on 29-11-83.

Documentation for \$6 million term loan was signed on 2 Sept 1981.

Documentation for \$20 million Mortgage loan was signed on 16-12-83 between CCM staff and EMP directors identified as WKT and YK. One of the four guarantors was YYS.

Collateral for the \$6 million term loan is 10 acres of reclaimed land (without Q.T.) at Melaka Jaya as per layout plan in the loan agreement dated 2-9-81. Deed of Assignment and charge-in escrow was executed for 10 acres of reclaimed land pending issuance of the title.

Collateral for the \$20 million mortgage loan is 1st legal charge of P11 to 6 (HS (D) No. - - (43.6 acre) at Melaka Jaya. These include the 10 acres which was the subject of charge-in escrow and deed of assignment. This 10 acres of reclaimed land to PH Bank was also charged to CCM without the knowledge and consent of PH Bank. Neither was CCM told by EMP about this transaction. Operational Manager of CCM (H) stated that the mortgage loan of \$20 million would not have been approved, had CCM knew that that the 10 acres was previously "charged" PH Bank.

APPENDIX XIVb

DIAGRAM DEPICTING TIME FLOW EVENT IN 22.2 MILLION FRAUD OF BANK NEGARA

| | | | | |
|---|--|---|---|---|
| Preparation to fraud by H a clerk with Bank Negara. | Execution of Fraud by fraudulently transmitting 22.2 to Bank Bumiputra in account of a lawyer. | Withdrawal of fraud money amounting to 22.2 million by accomplices. Withdrawal was assisted by bank manager of BEMB. | Distribution and laundering of 22.2 million by H and accomplices through out the world. Some of the money recovered in Singapore and Indonesia. | Bank Negara lodged police report and investigation started by the Police. |
| May-July 1988 | 1st July 1988 | 2nd to 14th July 1988 | 2nd July to November, 1988 | 23-11-88 |

Note: It is too long for the competent body such as the Central Bank (Bank Negara) of Malaysia to detect the fraud and lodged an official police report. Thus this enable the perpetrators to cover their tracks very well before police started its investigation.

APPENDIX XV

CRIMINAL BREACH OF TRUST (CBT)

Definition of CBT

CBT is defined in Section 405 of the Penal Code as:-

" Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or has any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "CBT"."

Section 409 of the Penal Code reads:

" Whoever being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine."

Section 409 is merely the Section for which an offence under Section 405 has been committed if the offender holds a certain position. For an example a Director of the company or as an agent.

Necessary ingredients for CBT

The ingredients required to prove CBT against an accused person are:

- * entrustment/dominion over property;
- * dishonestly using or disposing of that property; or wilfully suffering any other person to do, in violation;
- * of any direction of law prescribing the mode in which such trust is to be discharged; or on any legal contract, express or implied; which he has made touching the discharge of such trust;
- * entrustment/dominion over property in a capacity of an agent.

Dominion is defined as having control or possession over property.

Entrustment/Dominion over property

A necessary element of the offence of CBT is that there should be entrustment/dominion over property to the Accused. The entrustment may be in any manner. Another alternative is that the accused should hold the property on behalf of another. The term "entrusted" under section 405 of the Penal Code is not a term of law. It has different implications in different contexts. The terms of this section are wide enough to include trustee of every kind; that is, those who are such, not only by reason of some employment for which they receive remuneration, but by reason of some trust constituted by express deed, or even by mere implication of law, though the office may be gratuitous. They also include the case of a person who commits this offence by misappropriation of property to the advantage of a third person. [Ratanlal & Dhirrajlal, 1982 pp.1051-1954]

In a case quoted by Ratanlal & Dhirrajlal i.e. case of R.K.Dalmia v. Delhi Administration, AIR 1962, Supreme Court, 1821, it was contended for the accused that he had not been entrusted with dominion over the funds in the Banks at Bombay and had no control over them as the Banks had not been informed that the accused was empowered to operate on the company's account in the Banks and no specimen signatures of his had been supplied to the Bank. The Supreme Court held that the omission to inform the Banks that the Accused was entitled to operate on the account may disable the accused to actually issue the cheques on the company's accounts, but that position does not mean that he did not have dominion over the accounts. As Chairman and Principal Officer of the Bharat Insurance Company, he had the power, on behalf of the company, to operate on those accounts. If no further steps were taken on the execution of plan, that did not mean that the power which the company had entrusted to him was nullified. One may have dominion over property but may not exercise any power which he could exercise with respect to it.

Non-exercise of the power will not make the dominion entrusted to him nugatory.

The Supreme Court further held that the accused got control and dominion over funds under the powers conferred on him by the Board of Directors, by its Resolution authorising him and another partner to operate on the accounts of the Insurance Company with the Bank.

Dishonestly using or disposing

The expression "dishonestly" used in the Penal Code has a different meaning to the commonly used word

"dishonestly". It is important to notice that fraud or deceit is not an ingredient in the definition. A thing is said to be done dishonestly according to the definition in section 24 of the Penal Code when it is done with intention of causing wrongful gain to one person or wrongful loss to another person.

Wrongful gain includes wrongful retention and wrongful loss includes being wrongfully deprived of property. Dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Wrongful gain is defined in section 23 of the Penal Code as gain by unlawful means of property to which the person gaining is not legally entitled. Similarly, wrongful loss is defined as the loss by unlawful means of property to which the person losing it is legally entitled. [Yeoh Teck Chye v. P.P (1981) 2 MLJ 176 p.180 and P.P. v Datuk Hj. Harun (1977) 1 MLJ 180 p.196]

CONVICTION OF A LAWYER IN ECONOMIC CRIME
(STAR REPORT ON 19th May, 1991)

Che Man 'visited several countries'

KUALA LUMPUR, Tues. — There was no indication that disbarred lawyer Che Man Che Mud returned to Malaysia after he left the country on Aug 8 last year, an immigration officer told the Sessions Court today.

Encik Ariffin Muhammad Ramli, a deputy assistant director with the Immigration Department, said Che Man's international passport did not show he left Thailand after entering the country on Oct 27 last year.

Questioned by DPP Josephine Sivaretnam, he said the passport showed that Che Man went to several places in South-East Asia and Europe between Aug 8 last year and March 25 this year, the date his passport expired.

Che Man, 35, is charged with abetting former Bank Negara clerk Harun Othman in misappropriating \$22.2 million belonging to Bank Negara at the bank's premises between July 1 and 14, last year.

He is charged under Section 409 of the Penal Code, which carries a maximum sentence of 20 years' jail and a fine.

Alternatively, Che Man is charged with abetting Harun in cheating the bank of the money at the same time and place.

This charge, under Section 420 of the Penal Code, carries a maximum sentence of seven years' jail and a fine.

The other alternative charge against Che Man is that he abetted Harun in stealing the money at the same time and place.

The charge, under Section 381 of the Penal Code,



CHE MAN
...overseas trips

also carries a maximum sentence of seven years' jail and a fine.

Che Man, who practised law in Kelantan prior to being disbarred on Jan 16 following the Bar Council's application, claimed trial to all the charges.

Harun was jailed five years and fined \$50,000 after he pleaded guilty to stealing \$22.2 million from Bank Negara at the same time and place.

Earlier, Sessions Court judge Siti Saleha Abu Bakar allowed Miss Sivaretnam's application to tender the records of proceedings of Harun's case.

Puan Siti Saleha allowed the application after hearing submissions by the DPP and defence counsel M.S. Nayagam.

Mr Nayagam, in objecting to the tendering of the records, said the documents were irrelevant to the present case.

He contended that the records to be tendered by the prosecution were secondary evidence "which may well be hearsay".

"(Only) primary evidence should be adduced," counsel said, adding that it was the first time he came across such evidence being adduced in a criminal trial.

Mr Nayagam asked Miss Sivaretnam under what law was she adducing the evidence.

(Sessions Court registrar K.P. Ramachandran, through whom Miss Sivaretnam tendered a certified copy of the records, told the court that the original notes were required for an appeal.)

In reply, Miss Sivaretnam said Che Man was charged with abetting Harun, the principal offender, whose name was mentioned in the charge.

She said based on Section 35 of the Evidence Act 1950 alone the records could be admitted.

(Section 35 says an entry in any public or other official book, register or record, stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty or by any other person in performance of a duty specially enjoined by the law of the country in which the book, register or record is kept, is itself a relevant fact.)

On Mr Nayagam's contention that the documents were secondary evidence, Miss Sivaretnam said: "We are producing the records of proceedings itself; hence it is primary evidence."

Miss Sivaretnam said the notes were not hearsay. They were official records kept by the court in pursuance of its official functions.

Hearing continues.