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India

India's CBI is FBI's Counterpart

By Dipak Parmar

The Central Bureau of Investigation (CBI) is the premier law enforcement agency of the government of India for the investigation of corruption cases, economic and special crimes, and also for coordinating investigations on behalf of Interpol member-state police.

The CBI is the counterpart in India to the United States' Federal Bureau of Investigation (FBI).

Robert S. Mueller, III, director of the FBI, in a letter dated September 3, 2002, addressed to P. C. Sharma, the director of the Central Bureau of Investigation, expressed "my sincere appreciation for the outstanding cooperation and assistance we have received from the Central Bureau of Investigation (CBI) since January 2002." Mueller's letters cited two examples of the accomplishments that can be realized when two agencies work as partners: the "Narendra Rastogi" major bank fraud investigation, and the joint CBI-FBI covert operation that resulted in the successful recovery of the "SolidWorks" source code. He remarked that CBI carried out both investigations in a very prompt and professional manner.

A brief history of CBI

The CBI traces its origin to the Special Police Establishment (SPE) set up in 1941 by the government of India. The functions of the SPE then were to investigate cases of bribery and corruption in transactions with the War and Supply Department of India during World War II. Superintendence of the SPE was vested with the War Department.

Even after the end of the war, there was a need for a central government agency to investigate cases of bribery and corruption by central government employees. The Delhi Special Police Establishment Act was therefore brought

into force in 1946. This act transferred the superintendence of the SPE to the Home Department. Its functions then were enlarged to cover all departments of the government of India. The jurisdiction of the DSPE extended to all the union

"...(CBI) is an elite force playing a major role in preservation of values in public life and in ensuring the health of the national economy."

territories and could be extended to the states, with the consent of the appropriate state government.

The DSPE acquired its popular current name, Central Bureau of Investigation (CBI), through a Home Ministry resolution dated January 4, 1963. Initially, the offenses of which it was notified by the central government related only to corruption by central government servants. In due course, with the setting up of a large number of public sector undertakings, the employees of these undertakings were also brought under CBI purview. Similarly, with the nationalization of the banks in 1969, the public sector banks and their employees also came within the ambit of the CBI.

Emergence as a national investigative agency

From 1965 onward, the CBI has also been entrusted with the investigation of economic offenses, as well as important conventional crimes such as murders, kidnapping, and terrorist crimes, on a selective basis.

The SPE initially had two wings,

the General Offenses Wing (GOW) and Economic Offenses Wing (EOW). The GOW dealt with cases of bribery and corruption involving the employees of central government and public sector undertakings. The EOW dealt with cases of violation of various economic and fiscal laws. Under this set-up, the GOW had at least one branch in each state, and the EOW in the four metropolitan cities: Delhi, Madras, Bombay and Calcutta. These EOW branches dealt with offenses reported from the regions. Each branch had jurisdiction over several states.

Widening role

As the CBI, over the years, established a reputation for impartiality and competence, demands were made for it to take up investigation of more cases of conventional crime such as murder, kidnapping, and terrorist crime. Apart from this, even the supreme court, and the various high courts of the country, also started entrusting such cases for investigation to the CBI on petitions filed by aggrieved parties. Taking into account the fact that several cases falling under this category were being taken up for investigation by the CBI, it was found expedient to entrust such cases to the branches having local jurisdiction.

Shri Soli J. Sorabjee, attorney general of India, made the following comments during a recent lecture on the function, role and responsibilities of CBI:

- A proper and complete investigation into crimes requires adoption of proper investigative methods by investigative agencies.
- Many cases have floundered in court because of shoddy investigation.
- Adoption of fair and scientific methods during investigation would prevent a good case falling to the ground.
- The criminal investigation system needs higher standards of professionalized action.
- It should be provided adequate logistic

and technological support.

- Serious offenses should be classified for purpose of specialized investigation by specially selected, trained and experienced investigators. They should not be burdened with other duties like security, maintenance of law and order, and should be entrusted exclusively with investigation of serious offenses.
- The *CBI Manual*, based on statutory provisions of the Criminal Procedure Code, 1973, provides essential guidelines for the CBI's functioning. It is imperative that the CBI adheres scrupulously to the provisions in the manual in relation to its investigative functions, like raids, seizure and arrests. Any deviation from the established procedure should be viewed seriously, and severe disciplinary action taken against the officials concerned.
- Tremendous harm can be done to a person by reason of indiscriminate and unjustified raids and arrests. There should be sound basis for such actions, which must be grounded in law and the available material, and must not be undertaken at the behest of political masters, or other interested vested interests.
- In order that citizen's confidence in the CBI is enhanced, CBI should periodically review the statistics of all the arrests made and ascertain how many of the cases in which arrests were made culminated in the filing of charge sheets in the court and how many of the arrests ultimately turned out to be unnecessary. This review will check the tendency of unnecessary arrests.
- An evaluation should be made of the reasons for unjustified arrests. If it is found that the arrests were *malafide*, or politically motivated, the delinquent officers should be severely punished.
- Premature media publicity must be scrupulously avoided. That can adversely affect a person's business and also cause incalculable and irreparable harm to reputation, which, according to our (India's) Supreme Court, is a component of the fundamental right of personal liberty guaranteed by our constitution. Media persons will badger you for information. Please resist the temptation of the mike in front of you and the invitation to babble on television channels.

Utmost importance must be given to the virus of premature and selective media publicity. The director must personally ensure that it does not happen, and stiff penalties must be imposed in such cases.

- Apart from the proper investigation, there should be competent prosecution. Unless a competent prosecution follows a fair and competent investigation, the exercise in the ultimate analysis would be futile. Investigation and prosecution are interrelated, and improvement of investigation without improving the prosecution machinery is of no practical significance. To achieve this end, the supreme court of India has directed that a panel of lawyers may be appointed with the approval of the attorney general. Special counsel shall be appointed to conduct important trials on the recommendation of the attorney general, or

“Over the years, CBI has built an image for professionalism and integrity. The services of its investigating officers are sought for all major investigations in the country.”

any other law officer designated by him.

Role and functions

The Central Bureau of Investigation (CBI) is the premier investigating police agency in India. It is an elite force playing a major role in preservation of values in public life and in ensuring the health of the national economy. It is also the nodal police agency in India that coordinates investigation on behalf of Interpol member countries. Over the years, CBI has built an image for professionalism and integrity. The services of its investigating officers are sought for all major investigations in the country.

The supreme court, the high courts, the parliament, and the public hold CBI in high esteem as an organization. The CBI has to investigate major crimes having interstate and international ramifications in the country. It is also involved in the collection of criminal intelligence pertaining to three of its main areas of operation: anti-corruption, economic crimes and special crimes.

The Anti-Corruption Division of the CBI has handled cases against chief Ministers, ministers, secretaries to government, officers of the All India Services, CMDs of banks, financial institutions, and public sector undertakings.

CBI investigations have a major impact on the political and economic life of the nation. The CBI handles the following broad categories of criminal cases:

1. Cases of corruption and fraud committed by public servants of all central government departments, central public sector undertakings and central financial institutions.
2. Economic crimes, including bank frauds, financial frauds, import, export and foreign exchange violations, large-scale smuggling of narcotics, antiques, cultural property and smuggling of other contraband items.
3. Special crimes, such as cases of terrorism, bomb blasts, sensational homicides, kidnapping for ransom and crimes committed by the Mafia and the underworld.

Recent statistics

Out of sixty-four cases disposed of from trial during the month, forty-nine resulted in convictions, eleven were acquitted/discharged and four was disposed of in other manners. The comparative figures for various periods are shown in the table below:

RECENT CBI CASE STATISTICS			
	Aug '01	July '02	Aug '02
Otherwise disposed	4	7	4
Acquittal	10	10	11
Conviction	28	36	49
Total # of cases	42	53	64

The conviction percentage up to August 2002 has been 67.6%.

Staff

The CBI is headed by a director. The other police ranks in CBI are special director/addl. director, joint director, deputy inspector, general of police, superintendent of police, deputy superintendent of police, inspector, sub-inspector, assistant sub-inspector, head constable and constable. The total sanctioned police strength, including all ranks, is 3856. The sanctioned strength of administrative staff is 1231. CBI also has a sanctioned strength of 230 law officers, 154 technical posts, 117 forensic scientists and 199 Group D and canteen staff.

Superintendence over CBI

As per an amendment brought about in the Delhi Special Police Establishment Act, 1946 by a presidential ordinance issued on August 8, 1998, the superintendence of CBI, insofar as it relates to investigation of offenses under the Prevention of Corruption Act, 1988, shall vest in the Central Vigilance Commission. The superintendence of CBI in all other matters shall vest with the Central Government.

Powers, privileges and liabilities

The legal powers of investigation of CBI are derived from the DSPE Act 1946. This act confers concurrent and coextensive powers, duties, privileges and liabilities on the members of Delhi Special Police Establishment (CBI) with police officers of the union territories. The central government may extend to any area, besides union territories, the powers and jurisdiction of members of the CBI for investigation subject to the consent of the government of the concerned state. While exercising such powers, members of the CBI at or above the rank of subinspector shall be deemed to be officers in charge of police stations of respective jurisdictions. The CBI can investigate only such of the offenses as are notified by the central government under the DSPE Act.

Jurisdiction of CBI vis-a-vis state police

Law and order is a state subject, and the basic jurisdiction to investigate crime lies with the state police. Due to limited resources, CBI would not be able to investigate crimes of all kind. CBI may investigate:


- cases which are essentially against central government employees or concerning affairs of the central government.
- cases in which the financial interests of the central government are involved.
- cases relating to breaches of central laws, the enforcement of which is mainly the concern of the government of India.
- big cases of fraud, cheating, embezzlement and the like, relating to companies in which large funds are involved and similar other cases when committed by organized gangs or professional criminals having ramifications in several states.
- cases having interstate and international ramifications and involving several official agencies where, from all angles, it is considered necessary that a single investigating agency should be in charge of the investigation.

Anti-Corruption Division

The Anti-Corruption Division is responsible for collection of intelligence with regard to corruption, maintaining liaison with various departments through their Vigilance Officers, inquiries into complaints about bribery and corruption, investigation and prosecution of offenses pertaining to bribery and corruption, and tasks relating to preventive aspects of corruption. The Anti-Corruption Division investigates cases against public servants under the control of the central government, public servants in public sector undertakings under the control of central government, cases against the public servants working under state government entrusted to the CBI by the state governments, and serious departmental irregularities committed by the above-mentioned public servants.

Special Crimes Division

The Special Crimes Division handles all cases of economic offenses and all cases relating to internal security, espionage, sabotage, narcotics and psychotropic substances, antiquities, murders, dacoities/robberies, cheating, criminal breach of trust, forgeries, dowry deaths, suspicious deaths, and other IPC offenses, as well as offenses under other laws notified under the DSPE Act. It is also responsible for investigation of interstate and international rackets, large-scale frauds affecting the property



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or revenue of the government and crimes of national importance.

Economic Offenses Division

The Economic Offenses Division investigates financial crimes, bank frauds, money laundering, illegal money market operations, and graft in public sector undertakings and banks.

Central Forensic Science Laboratory

The Central Forensic Science Laboratory (CFSL) provides expert opinion on various aspects of forensic science concerning crime investigation. Apart from Delhi police and the CBI, it assists central government departments, states, state forensic science laboratories, defense forces, government undertakings, universities, and banks in criminal cases. The laboratory has a research and development set-up to tackle special problems. The expertise available at the CFSL is also utilized in teaching and training activities conducted by the CBI, ICFS, police training institutions, universities and government departments conducting law enforcement courses.

CFSL experts are summoned for appearing before courts. Their services are also utilized by investigating agencies for the inspection of scenes of crime.

Technical Advisory Units

The Technical Advisory Units provide expert guidance and assistance in banking, taxation, engineering and foreign trading/foreign exchange matters during inquiries and investigations taken

up by the CBI. The technical advisory units are:

- Banking Company Law/Insurance Advisory Unit.
- Engineering Advisory Unit (Civil/Electrical matters)
- Taxation Advisory Unit (Direct/Indirect Tax matters)
- Foreign Trading/Foreign Exchange Advisory Unit.

Cyber Crime Research and Development Unit

In August 2000, the CBI set up a "Cyber Crime Research and Development Unit" (CCRDU) to collect and collate information on cybercrimes reported from different parts of the country. The function of this newly created unit is to work with state police and other enforcement agencies, to collect information on cases of cybercrime reported to them for investigation, and to follow-up on the action taken in each case. The unit will also work with software experts to identify areas that require state police attention for prevention and detection of such crimes, with a view to train them for the task. It will collect information on the latest cases reported in other countries and the innovations employed by police forces in those countries to handle such cases. The unit will maintain close rapport with the Union Ministry of Information Technology (GOI) and the Interpol HQ, Lyons for achieving its objective of giving the needed thrust for collection and dissemination of information on cybercrime. This unit will also introduce

a *Monthly Cyber Crime Digest* for the benefit of state police. To begin with, it will have one unit at CBI Headquarters and another at Chennai. The unit at Chennai will liaison with the southern states.

Cyber Crime Investigation Cell

The CCIC functions under the overall guidance of the special director (E), joint director, Economic Offenses Wing II and the immediate supervision of DIG, Special Investigation Cell-III. The cell is headed by a superintendent of police and has one deputy superintendent of police, three inspectors and one subinspector at present, besides other supporting staff. The jurisdiction of this cell is all India, and, besides the offenses punishable under Chapter XI of the Information Technology Act, 2000, it also has power to look into other high-tech crimes. The CBI does not entertain anonymous/pseudonymous complaints.

Legal Division

The Legal Division tenders legal advice in CBI cases, besides conducting prosecution in CBI cases. The Division also attends to matters relating to amendments of laws or promulgation of new laws, legal matters raised in the IGPs/DGPs conference, matters relating to interpretation of laws, statutory rules and regulations and amendments thereof, preparation of notes on legal matters for publication in *CBI Gazette*, matters relating to the appointment of special judges, magistrates and other connected matters.

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Policy Division

The Policy Division deals with all matters relating to policy, procedure, organization, vigilance and security in the CBI; correspondence and liaison with ministries and implementation of special programs for vigilance and anti-corruption.

Administration Division

The Administration Division of the CBI looks after all matters relating to personnel, establishment and accounts of all the divisions of the CBI. It is headed by an officer of the rank of joint director/IG.

Systems Division

The Systems Division looks after the information technology needs of the CBI. It generates data required for answering parliament questions, CBI clearances for appointments/awards of medals etc. This division also monitors the current, ongoing comprehensive computerization plan of the CBI.

Coordination Division

The Coordination Division is comprised of the Coordination Unit that takes part in the organization of directors general of police, CID and other conferences and is also in charge of the publication of the *CBI Bulletin*; and also the INTERPOL Unit which is the secretariat of the National Central Bureau and assists the CBI director in his capacity as the head of the National Central Bureau. The INTERPOL Unit works with the International Criminal Police Organization (INTERPOL) and is required to maintain liaison with the member countries of the INTERPOL. It handles and follows up the correspondence relating to requests for investigation to be carried out abroad in cases under investigation with the CBI or the state police. Similarly, requests received from foreign countries for investigation in India are forwarded by the

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INTERPOL Unit to the state police.

Training Division

The CBI academy at Ghaziabad is a modern police-training center and imparts the specialized knowledge and skills that make a modern crime investigator. Residential foundation courses are conducted for freshly selected deputy superintendents, sub-inspectors and con-

Fire and Arson Investigation

(continued from page 40)

store it in a way that prevents contamination from other sources. Keeping it in the trunk of a car near tools and other equipment can lead to a defense accusation of spoliation of evidence.

- Use a method of storage and transportation that keeps the unused cans or jars clean, and separated from any other contamination.
- Don't contaminate one sample with another.
- Use different plastic gloves when handling each sample, or use clean tongs to place evidence in containers.

The size of the sample need not be huge—a half a can or jar per area or less. With a liquid, two or three ounces should be preserved; however, if you don't have it, two or three drops may be all that is needed for the test. After placing the sample in the can, turn the can upside down, and step on it to ensure that it is sealed and the vapors will not escape. Don't put water in the container; it may evaporate. Jars and cans should be sealed with evidence tape to guarantee that there has been no tampering.

When taking a sample of flooring or material from a suspected origination point, take the sample most likely to produce results, even if it has been cut

out with an ax. Obtain one sample from one area at a time. You may need samples from several areas if there are suspected multiple starting points. Keep these in separate, individually marked cans.

Marking the sample

This is an *overview* of the process, so be careful to note that the *NFPA 921* methods and procedures are the ones that should take precedence.⁷



After sealing, write a description of the sample and the number on both the lid and the side of the can. Initial and date each can and seal with evidence tape to ensure chain of custody. On this you should include:

1. An itemized list of the evidence being submitted with information concerning the means by which it is being forwarded.
2. The date and time of burning.
3. A brief description of the type and construction of the burned building or object and the extent of damage or destruction caused by the fire.
4. List aromas that were present at the fire scene. This may save the lab some time.⁸
5. A list of the chemical agents used in extinguishing the fire. (Water, carbon

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