CHAPTER II

ROLE OF THE ENFORCEMENT AGENCIES

The Government departments charged with the responsibility of prevention and suppression of offences relating to drug abuse are mainly the Royal Malaysian Police, especially the Central Narcotic Bureau, the Royal Customs and Excise and the Pharmacy Division of the Ministry of Health. Focus shall mainly be on the Central Narcotic Bureau and the Royal Customs and Excise since they are the main law enforcement agencies concerned with the suppression and investigation of drug offenders.

Pharmacy Division of the Ministry of Health

For enforcement purposes, all government pharmaceutical chemists are gazetted as Inspectors of Dangerous Drugs and Poisons under the Dangerous Drugs Ordinance, 1952. Some of the duties of these Inspectors deals with inspection work in connection with medical narcotics, and they can inspect records kept of those narcotics. They also assist the police and customs authorities in enforcement work throughout the country by identifying and determining the various forms of drugs seized for prosecution purposes.

See: Section 3 Dangerous Drugs Ordinance, 1952.
At the moment these pharmaceutical chemists can only
devote a part of their working time to inspection work as
they have many other duties to perform. There is a need
for a full time Inspector of Dangerous Drugs and Poisons
since they play no less important role in combatting the
drug problem in this country.

Central Narcotic Bureau

The Central Narcotic Bureau was set up as a branch
within the Royal Malaysian Police in 1972 on the recommenda-
tions of a government Inter-Departmental Committee on
Narcotic and Drug Abuse. It is responsible for the inves-
tigation of illicit trafficking, sales and distribution by
peddlers and consumption of dangerous drugs. Apart from
that, it is also responsible for the co-ordination of the
various activities of the law enforcement agencies in the
country. At the same time they are also responsible for
conducting investigations and raids on certain special cases.
The structure of the Central Narcotic Bureau can be seen
from the illustration below.
Royal Malaysian Customs & Excise

The responsibility of the Preventive Division of the Royal Malaysian Customs & Excise in connection with investigation and suppression of cases under the Dangerous Drug Ordinance, 1952 are as under:

(a) detection of importation and exportation of dangerous drugs by land, sea and air;
(b) investigation of drug traffickers in respect of large quantity movement of the drugs;
(c) investigation of cultivation of cannabis sativa.

On general analysis, it has been established that the Royal Malaysian Customs and Excise has scored the biggest seizes of dangerous drugs among all the enforcement agencies in the country. Below are the successes of the Preventive Branch of the Royal Malaysian Customs and Excise in relation to dangerous drugs seized and the number of persons prosecuted:

<table>
<thead>
<tr>
<th></th>
<th>1974</th>
<th>1975</th>
<th>1976 (Jan-March)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raw Opium</td>
<td>17.97 Lb.</td>
<td>15.60 ozs.</td>
<td>16.46 Lb.</td>
</tr>
<tr>
<td>Prepared Opium</td>
<td>12 Lbs.</td>
<td>11.36 ozs.</td>
<td>7 Lbs.</td>
</tr>
<tr>
<td>Ganja</td>
<td>93 Lbs.</td>
<td>5.87 ozs.</td>
<td>119 Lbs.</td>
</tr>
<tr>
<td>(2,232 plants)</td>
<td></td>
<td></td>
<td>(+84,785 plants)</td>
</tr>
<tr>
<td>Morphine</td>
<td>5 Lbs.</td>
<td>0.49 ozs.</td>
<td>44 Lbs.</td>
</tr>
<tr>
<td>Heroin</td>
<td>15 Lbs.</td>
<td>2.15 ozs.</td>
<td>19 Lbs.</td>
</tr>
<tr>
<td>MX Pills</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### CUSTOMS CASES

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of persons prosecuted</th>
<th>No. of persons convicted</th>
<th>Fines imposed</th>
<th>Fines paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974</td>
<td>46</td>
<td>29</td>
<td>$22,000</td>
<td>$19,000</td>
</tr>
<tr>
<td>1975</td>
<td>43</td>
<td>29</td>
<td>$10,400</td>
<td>$5,500</td>
</tr>
<tr>
<td>1976</td>
<td>11</td>
<td>6</td>
<td>$1,150</td>
<td>$1,150</td>
</tr>
<tr>
<td>(up to March)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Data supplied by Royal Malaysian Customs & Enquiry Headquarters)

Until recently, drug cases of the customs department were normally prosecuted by senior officers of the department itself who had been trained in prosecution work. They have done their part very well. However in 1974/75 as a result of specific directions from the Attorney-General's Chambers, all drug cases irrespective of the seizure or quantity are to be prosecuted by D.P.P.'s.

In the vigilence and fight against illicit drugs and drug offenders there has been a close liason, co-operation and rapport on both administrative and enforcement levels amongst the customs department, police, especially the Central Narcotic Bureau and the Pharmacy Division of the Ministry of Health.
Powers of the Law Enforcement Agencies

Under the Dangerous Drugs Ordinance, the police and customs officers are vested with equal powers to search and arrest. Wide powers of arrest are conferred by section 30 of the Ordinance. Section 30, gives them the authority to seize any dangerous drug and implements used for consuming the drugs. By section 27, a magistrate may issue a warrant empowering a police and customs officer with the right to conduct inspection of any premises if there is reasonable cause to believe that there are dangerous drugs and implements used in its consumption concealed in such premises. These articles may be seized.

By section 37B(1) a police officer not below the rank of Inspector may require a person whom he reasonably suspects to be a drug dependent to be medically examined or observed by a government medical officer. By sub-section (2) of that section, if the result of such examination or observation it appears to the government medical officer it is necessary for such person to undergo treatment at an approved institution, the police officer shall require such person to undergo treatment for the necessary period. Any such person who refuses to do so will be committing an offence. Such powers are conferred only to police officers and social welfare officers and not customs officers because the later is not directly dealing with drug dependents.
Problems of Enforcement Agencies

Detection of drug offenders is the main problem of these law enforcement agencies. A great number of seizures and arrests made by these two departments are the result of information and tip-offs by informants and agents who are given monetary rewards. Sometimes information may come from public spirited people. It was found that monetary rewards are the best incentive for obtaining information.

From experience, these agencies have found it difficult to get the top king-pins who are the master minds and financiers of the drug syndicates. It is not at all possible for the enforcement agencies to catch them red handed. They are always behind the scenes and are never in physical possession of the drugs. From the ages and occupations of the pushers, there is a nagging suspicion that these powerful interests are yet to be brought to the book.

There is also the suspicion that secret societies are involved in the drug trafficking and distribution because from experience, these law enforcement agencies found that many potential informers have refrained from divulging information for fear of the safety of themselves and their families.

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26 Provided by section 42A of the Dangerous Drugs Ordinance, 1952.
Recommendations

The difficulties faced by the law enforcement agencies in investigation relating to the king-pins of the drug syndicate are obvious. Thus provisions for the extension of investigation powers should be made immediately. These king-pins are the people most responsible for our drug problem and they are the ones making the most out of it financially.

Provisions for tapping of telephone lines of suspected kidnappers are already provided by the Kidnapping Act, 1961 by section 10(1). By that section, the police are authorized to intercept communications of suspected kidnappers such as postal articles and telecommunications. They can listen and record any conversations made. By section 10(2), such information obtained are admissible in court in the prosecution of the suspected kidnapper. Such a provision should be incorporated into our Dangerous Drugs Ordinance to facilitate investigations of these drug king-pins. However, proper control should be attached to it so that such powers would not be abused or misused.

Another legal measure which may further investigation techniques is the requirement of a suspected drug trafficker to establish the bona fide of his income and assets and the power to freeze the assets. It has been known to the law enforcement agencies that certain suspected individuals appeared
to be affluent practically over night without obvious reasons. However, they are powerless to investigate further than within the normal scope of their authority. This has been a stumbling block to them since dealing in drugs are always made underground.

These powers, if conferred can be made subject to an authorization by a judge and after the necessary investigations carried out subject to a review by him. This will ensure that the powers conferred will not be misused and that all such investigations are bona fide.