

# Corruption Control Measures in the Philippines: 1979-1982

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*The government's anti-corruption strategy has been essentially punitive rather than preventive in approach, as shown by an examination of the operations of the Sandiganbayan and the Tanodbayan. The experience of the Philippine Overseas Employment Administration validates previous findings that leadership, a professionalized staff, systematized rules and procedures, and continuous dialogues with clients are more potent factors in preventing corruption. It is proposed that the government adopt a strategy which, while including a system for punishing the corrupt, should also elicit the active participation of the public and the support of the government officials in preventing corruption.*

## Introduction

Because of its magnitude, complexity and elusive character, corruption requires a systematic, scientific and multi-pronged description and analysis of the causes and factors that enhance or deter its occurrence. This demanding task can only be undertaken if conscious effort is directed at continuously building up on our existing body of knowledge on the subject. This should be complemented by simultaneous monitoring of the outcomes of current societal strategies aimed at reducing this problem to more manageable and less damaging proportions.

This paper attempts to apply this approach in an effort to arrive at anti-corruption strategies that could effectively minimize, if not eliminate, corruption in Philippine government. Specifically, this paper:

- (1) summarizes the findings of an earlier study on the factors which facilitate or inhibit the commission of corruption at the agency level, as well as the various means of dealing with the problem;
- (2) describes and analyzes the nature and main elements of the government's anti-corruption control measures adopted after the earlier study was conducted; and,

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(3) proposes a framework for a government-wide anti-corruption program which features the involvement and participation not only of government institutions but, more importantly, that of the general public.

### Methodology

Data for this study were collected mainly through the use of secondary materials. These included annual reports and statistics from the Tanodbayan, the Sandiganbayan, and the Philippine Overseas Employment Administration (POEA). Newspaper accounts on these abovementioned agencies were examined. Interviews were conducted with officials of these agencies and with representatives of the clients of the POEA. The experiences of other countries in the Asian region were also examined to determine the more relevant approach for dealing with corruption in our culture.

The data gathering phase started in the last quarter of 1982 and extended up to the first two months of 1983.

### Previous Research

From 1974 to 1978, a UP College of Public Administration (UP-CPA) research team conducted an extensive study on the definition, causes, processes, consequences and control measures adopted to minimize corruption. Of relevance to this paper are its findings on organization factors that promote or deter corruption at the agency level, and strengths and weaknesses of previous anti-corruption strategies.

On the first finding, leadership, internal systems and procedures, and appropriate mechanisms for monitoring employes' conduct and performance were identified as critical factors in increasing or minimizing opportunities for corruption. Incidence of corruption in an agency could be minimized considerably if there is a determined leader who will not hesitate to use this office and its authority to fight what is an otherwise extensive network of corruption. This determination must be backed up by complementary measures such as a system of rules and procedures which will limit employe discretion and a mechanism for monitoring employe behavior and performance. Table 1 summarizes how these factors facilitated or inhibited corruption in three offices.

On the second finding, the study showed that the government's anti-corruption strategies have been carried out mainly through (1) presidential anti-corruption/investigating offices or committees, (2) citizen or church-sponsored anti-corruption campaigns, (3) purges of government officials across different agencies, and (4) occasional agency-wide clean-up drives. These strategies are essentially heterogeneous and variable in terms of their

Table 1. Factors Facilitating/Inhibiting Corruption  
in Three Selected Agencies, 1978

<i>Factors</i>	<i>Inhibiting</i>	<i>Facilitating</i>
Leadership	Scrupulously honest, dedicated and hard-working Commissioner bent on weeding out corrupt personnel*	Non-ranking employees complain of involvement of ranking employees in corrupt acts**  Head of agency was heavily involved in corrupt activities; Director was reported to have biggest share in dividing proceeds from illegal transactions.
Mechanism for Monitoring Employee Conduct and Performance	An organizational unit monitored the activities of employees; criteria were set to determine who among them will be audited*	Culture of corruption in the agency and the absence of a monitoring system resulted in the acceptance of bribe as a norm while sanctions are instituted to ostracize or punish those not belonging to the "ingroup"***
Internal Systems and Procedures	Tax structures and existing system streamlined to limit discretion of examiners and agents; additional measures instituted were (1) expanded payment system through banks, (2) confirmation letters to taxpayers, (3) spot checks or audit*	Absence of rational and objective procedures in assessing application, equipment, clients who leave a lot of judgment to bureaucrats, which in turn becomes an opportunity for corruption; and lack of adequate information on procedures for clients**  Weaknesses in the system of control relative to purchasing, especially in canvassing and inspection of technical supplies have led to collusion between officials and suppliers+

Source: This table was based on data gathered from the Graft and Corruption study conducted in 1978 by the College of Public Administration, University of the Philippines.

Legend: \* Bureau of Internal Revenue (revenue raising)  
\*\* Board of Transportation (regulatory)  
+ Agency X (revenue spending)

rationale, scope, authority, perspective and political context. Nevertheless, certain patterns emerge in the adoption of these strategies especially those undertaken by government.

First, over time these efforts appear sporadic and segmented, and do not relate together as elements of a coordinated program. While the presidential investigating bodies persisted, instability and lack of sustained and continuing anti-corruption program beyond a president's term was more of a weakness than a strength. The same can be said of the relatively short-lived participation of the private sector organizations whose activities were severely curtailed with the declaration of martial law in 1972. Purges appear as spurts of action undertaken at one point in time as a reaction to the lingering inability of government offices to weed out corrupt employees and to control corrupt practices. As to agency clean-up drives, they were limited in scope and confined to only one or two related bureaus or offices whose reputation has been tarnished by the corrupt behavior of its employees. Of all these strategies, agency revamps come closest to being a part of a thorough anti-corruption action. The paradox, however, is that of these four strategies, reorganization cannot be resorted to so often, as too frequent recourse to it is not only disruptive but can also considerably diminish its effectiveness.

Second, the Philippine experience suggests that the adoption of an anti-corruption strategy tends to rely heavily on the chief executive's decision. The creation and abolition of the purge list and the decision to reorganize or change the leader of an agency have all been decisions of the President. In the past, the Philippine Congress had its own investigating bodies but none of these was sustained after their immediate objective of conducting hearings for legislation had been met.

Third, the anti-corruption efforts were focused on only one of the two parties involved: the bureaucrat. No attention has been given on how to deal with other equally guilty parties, the general public and the members of the private sector.

Fourth, government action tends to be more in the direction of penalizing the apprehended guilty party rather than in preventing the commission of the corrupt acts. Investing valuable time and effort in preventing the commission of a corrupt act has not yet been a component of these strategies.

#### Current Anti-Corruption Measures: 1979-1982

Having described and assessed the nature and characteristics of previous anti-corruption strategies undertaken before 1979, we shall now turn to

anti-corruption measures undertaken from 1979 to 1982. The form, nature and operation of the current anti-corruption program shall be examined through a description and analysis of (1) the functions and performance of two constitutionally-mandated bodies, the Sandiganbayan and the Tanodbayan, and (2) the transformation experienced by an agency of the Ministry of Labor and Employment, the Philippine Overseas Employment Administration (POEA).

The government's anti-corruption effort will be viewed from two perspectives: (a) from the point of view of the organizations which prosecute and pass judgment on public officials accused of violating the anti-graft and related laws, and (b) from the view of an operating agency which is the arena or locus of action where the unlawful act may be committed, abetted or prevented. The latter perspective allows us to examine the participation of clients of government in committing, abetting or preventing these unlawful acts.

The Philippine Overseas Employment Administration (POEA) was chosen for four reasons. First, the reorganization integrated the functions of the Overseas Employment Development Board (OEDB), the National Seamen Board (NSB) and the overseas employment function of the Bureau of Employment Services (BES) into a single body, the POEA. While this was justified as an effort to streamline the functions of these three agencies and thus promote efficiency, it was also viewed by some sectors as an opportunity to introduce changes in government offices whose public image was tarnished by their inability to stop the growing problem of illegal recruitment. Moreover, the officials of one of these three agencies featured prominently in anti-graft charges.<sup>11</sup>

Second, with the reorganization, the new agency acquired a new set of leaders who were expected to give new directions to the integrated services which are now supposed to be better coordinated and synchronized under one agency.

Third, the presence of an organized clientele was another consideration in the selection of the POEA. In regulating a thriving market, this agency had to deal with a number of recruitment, contractors and construction agencies, among others. Some of these agencies have organized themselves to enable them to present a unified stand in dealing with government.

Finally, the POEA performs both regulatory and service functions. These functions are critical not only in mapping out programs for the productive employment of skilled Filipino workers abroad but also in generating foreign reserves which are valuable to the Philippine economy.

*Accountability of Public Officers*

The marked inefficacy of presidential investigating bodies and other government strategies to arrest the increasing magnitude of corruption, incompetence and irresponsible behavior in the government service has necessitated the inclusion of a new article on the accountability of public officers in the 1973 Constitution. Article XIII of this Constitution elaborates on the nature of public office and sets the standard through which elective and appointive officials are held accountable to the people for their conduct in office.

Section One of this article is an explicit statement of the principle that a public office is public trust and that public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain accountable to the people. This new article is important because of the

. . . need to impress on public officials and employees that they occupy office to render service to the people. Public office should not be used as a means of aggrandizement or for personal enrichment. The image of the public functionaries should remain untarnished; hence, the counsel that they serve with the highest degree of responsibility. Integrity is a must, for lack of it, even in a person possessing talent and ability, is a glaring flaw. Efficiency is an imperative requirement to . . . adhere to the laudable motto that 'only the best shall serve the State!'

It dispels the notion that . . . even those with a modicum of ability can fulfill the functions attendant to public office. It enjoins the possession of sterling qualities by one occupying public office. It connotes the upgrading of the public service, the ruling out of the inept and the unscrupulous, the mediocre and corrupt, and the elevation of the service to lofty levels. Those who would view government as a passport to ill-gotten wealth have no place in the government service.<sup>12</sup>

Strongly recommending the incorporation of section one of this article, the Constitutional Committee on Duties and Obligations of Citizens and Ethics of Public Officials contended that

[t]he trust character of offices must be impressed positively and categorically upon public offices. . . A declaration of that principle in the Constitution would therefore emphasize and strengthen the concept and would give it vigor and vitality.

Furthermore, such a written principle would serve as a basis or justification for specific constitutional provisions or legislative mandates intended to reinforce the concept by either requiring public officers to perform or comply with certain acts or imposing upon them certain prohibitions, restrictions and limitations to canalize their actions within the narrow banks of virtue or prescribing upon them certain ethical or moral standards which would enhance the faith of the citizens in the office and inspire respect for officials.<sup>13</sup>

This article has six sections. Aside from the first section which states the underlying principle for accountability, sections 2, 3 and 4 define the basis and manner for impeaching the President, members of the Supreme Court and the members of the Constitutional Convention, Section 2 adds graft and corruption to the existing list of offenses punishable by impeachment. Sections 5 and 6 provide for the creation of the Sandiganbayan and the Tanodbayan, respectively.

The Constitution mandated the creation and purposes of these two institutions, thus:

Sec. 5. The National Assembly shall create a special court to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.

Sec. 6. The National Assembly shall create an office of the Ombudsman, to be known as Tanodbayan, which shall receive and investigate complaints relative to public office, including those in government-owned or controlled corporations, make appropriate recommendations, and in case of failure of justice as defined by law, file and prosecute the corresponding criminal, civil or administrative case before the proper court or body.

On June 11, 1978, five years after the ratification of the 1973 Constitution, President Marcos issued Presidential Decree Nos. 1486 and 1487 creating the Sandiganbayan and the Tanodbayan. These decrees were subsequently revised with the issuance of P.D. Nos. 1606 and 1607 on December 10, 1978 and P.D. Nos. 1629 and 1630 on July 18, 1979.

On December 20, 1978, President Marcos administered the oath of office to retired Supreme Court Justice Salvador Esguerra as Tanodbayan, Judge Manuel Pamaran as Presiding Justice and Judge Bernardo Fernandez and Romeo Escareal as Associate Justices of the Sandiganbayan. On February 12, 1979, the Sandiganbayan started operations with its first division.

### *The Sandiganbayan*

The Sandiganbayan, a specialized court having jurisdiction over public officers and employees, tries and decides cases involving:

- (1) Violation of Republic Act No. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act, and Republic Act No. 1379;
- (2) Crimes committed by public officers and employees, including those employed in government-owned or controlled corporations, embraced in Table VII of the Revised Penal Code, whether simple or complexed with other crimes, and

(3) Other crimes or offenses committed by public officers or employees including those in government-owned or controlled corporations in relation to their office.<sup>14</sup>

Two current developments have implications on the coverage and functions of the Sandiganbayan. P. D. No. 1850 dated October 4, 1982, transferred jurisdiction over criminal cases involving police officers from the Sandiganbayan to military courts. While this decree diminished the expected number of cases for Sandiganbayan, the enactment of Batas Pambansa Bldg. 129, the Judiciary Reorganization Act, on the other hand, eliminated the concurrent jurisdiction of the regular courts and the Sandiganbayan over public officials. The Sandiganbayan has been given exclusive jurisdiction over all offenses committed by public officers in relation to the performance of their duties. This new policy may result in considerable increase of cases to be filed with the Sandiganbayan.

*Structure.* Nine justices man the three divisions of the Sandiganbayan. These divisions were not immediately functional upon the creation of this court. It started operations in February 1979 with only one division. Its second division was organized in January 1981, with the third division starting operations only in August 1982. Administrative support for the three divisions are provided by a legal research and technical staff serving the justices directly and a clerk of court assisted by one deputy clerk of court for each division. The clerk of court also directly supervises the judicial records division, the administrative division and the finance and budget division.

*Performance Indicators.* How has the Sandiganbayan fared in its efforts to give life and meaning to the constitutional mandate that "a public office is a public trust and that public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain at all times accountable to the people?" What has been its major accomplishments within the last four years of its operations?

Table 2 presents the number of cases filed, pending, disposed and the court's workload during the last four years. In reading this table, it must be borne in mind that the court's second division was not in operation until January 1981 and its third division was organized only in mid-1982. Except for minor differences due to revival of some cases, the workload column for each year represents the sum of what is pending for the previous year and the cases filed for the year.

The table shows that there has been a steady increase in the number of cases filed from 1979 to 1981. In 1982, there were less cases filed compared to the previous year's total. On the other hand, the number of pending cases have remained almost constant in 1981 and 1982, despite the fact that



the highest number of cases disposed was registered for 1982. The disposal rate for 1982 may be an outcome of the full operations of the court's three divisions then.

Table 2. Number of Cases Filed, Pending, Disposed, and Total Workload Sandiganbayan, 1979-1982

	<i>Filed</i>		<i>Pending</i>		<i>Disposed</i>		<i>Workload</i>	
	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>
1979	760	10.56	543	6.80	217	5.08	760	6.19
1980	1557	21.62	1523	19.04	579	13.55	2102	17.13
1981	2661	36.95	2970	37.13	1246	29.16	4216	34.36
1982	2223	30.87	2962	37.03	2231	52.21	5193	42.32
TOTAL	7201	100.00	7998	100.00	4273	100.00	12271	100.00

Source: Reporters and Statistics Section, Sandiganbayan.

Looking at the ratios, it can be observed that while only 28 percent of cases filed were disposed of in 1979, this number has consistently improved over the years in such a manner that by 1982, the total number of cases disposed was much higher than the number of cases filed. These data suggest that the backlog produced by the delayed organization of the Court's two other divisions have not yet been fully taken care of at the time of the study.

The number of cases filed in the Sandiganbayan is not directly indicative of the number of accused charged in the court as multiple cases may be filed against one person. Table 3 gives a picture of the number of persons accused before the Sandiganbayan, segregated by sex.

A 90 percent increase in the number of accused was registered for the four-year period 1979-1982. Since then the number of accused persons has gone down progressively with the 1982 figures representing a ten percent decrease from that of 1981. Over the same period, some 89 percent of those charged before the court were males.

Table 3. Number of Persons Accused Before the Sandiganbayan, 1979-1982

	1979		1980		1981		1982	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
Male	356	93.20	643	88.57	927	88.37	839	88.97
Female	26	6.80	83	11.43	122	11.63	104	11.03
Total	382	100.00	726	100.00	1,049	100.00	943	100.00

Source: Reporters and Statistics Section, Sandiganbayan.

Relating the number of cases filed each year to the number of accused, it can be seen that roughly, each individual may have about two to three cases filed against him.

The Tanodbayan Annual Report for 1980 gives special mention to the fact that they have formally charged before the Sandiganbayan some 19 mayors and ex-mayors and two governors.<sup>15</sup> In an interview with Justice Manuel Pamaran, he also pointed out that among those convicted by the courts are regional directors, judges of the Courts of First Instance and Agrarian Reform, and schoolheads and superintendents. Otherwise, there is thus far, no way of determining positions of all the 3,100 accused before this court.

There is quite a variety of cases filed according to the nature of the offense charged. Table 4 gives the frequency of the cases classified by the offense charged over the last four years. From this source, the cases most often filed in terms of frequency of charges are malversation, estafa, and violation of R.A. 3019. On the whole, both malversation and estafa cases ranked first for all the years covered by this study. Violation of R.A. No. 3019 came in as third and falsification a poor fourth.

Table 5 sums up the total number of cases filed by region for the past four years. The most number of cases filed was in Region VII. The National

Table 4. Number of Cases Filed According to Offense Charged, Sandiganbayan, 1979-1982

Code*	1979		1980		1981		1982	
	N	%	N	%	N	%	N	%
CRW							1	0.04
ADE			1	0.06	7	0.26	8	0.36
VOD			1	0.06	4	0.15	7	0.32
ARD					2	0.08	4	0.18
PJY					2	0.08	6	0.27
FAL	74	9.74	184	11.82	421	15.82	560	25.19
MFS					1	0.04	1	0.04
BBY	2	0.26	14	0.90	12	0.45	14	0.63
MLV	147	19.34	483	31.02	616	23.14	696	31.31
INF	8	1.05	8	0.51	45	1.70	103	4.63
COF			3	0.19	5	0.19	2	0.09
MUR	1	0.13	5	0.32	23	0.86	22	0.99
HOM	2	0.26	15	0.96	33	1.24	46	2.07
PHY	1	0.13	1	0.06	23	0.86	106	4.77
TAC			2	0.13	13	0.49	27	1.22
STF	364	47.90	269	17.30	1027	38.59	209	9.40
RBV	7	0.92	4	0.25	19	0.71	18	0.81
TFT	82	10.80	24	1.54	39	1.46	38	1.71
MLM					2	0.08	2	0.09
RAL					2	0.08		
SLD					1	0.04	5	0.23
ILM							1	0.04
VRA	64	8.42	536	34.43	350	13.15	323	14.53
VPD	7	0.92	5	0.32	5	0.19	11	0.50
SCM					4	0.15		
CAL							1	0.04
AAC							1	0.04
OTHS	1	0.13	2	0.13	5	0.19	9	0.41
SCA							2	0.09
TOTAL	760	100.00	1557	100.00	2661	100.00	2223	100.00

Source: Reporters and Statistics Division, Sandiganbayan.

## \*Legend Of Cases Filed

CRW — Crimes Against Religious Worship	OOF — Other Offense Committed by Public Officer	RAL — Rape and Acts of Lasciviousness
ADE — Arbitrary Detention	MUR — Murder	SLD — Slander
VOD — Violation of Domicile	HOM — Homicide	ILM — Illegal Marriage
ARD — Assault Resistance and Disobedience	PHY — Physical Injuries	VRA — Violations of R.A. 3019
PJY — Perjury	TAC — Threats and Coercions	VPD — Violations of P.D.
FAL — Falsification	STF — Estafa Cases	SCM — Qualified Seduction
MFS — Mal/Misteachance	RBV — Robbery	CAL — Unlawful Arrest
BBY — Bribery	TFT — Theft	AAC — Adultery and Concubinage
MLV — Malversation Cases	MLM — Malicious Mischief	OTHS — Others
INF — Infidelity in the Custody of Prisoners or Documents		SCA — Special Civil Action

Table 5. Number of Cases Filed, by Region  
Sandiganbayan, February 1979 to 1982

Region	Year								Total
	1979		1980		1981		1982		
	N	%	N	%	N	%	N	%	
I	87	11.44	78	5.00	289	10.86	115	5.17	569
II	28	3.68	42	2.7	78	2.93	76	3.42	224
III	37	4.86	44	2.83	126	4.74	482	21.67	689
IV	151	19.86	252	16.18	163	6.13	116	5.22	682
V	66	8.68	151	9.70	118	4.44	49	2.20	384
VI	5	.66	13	.83	136	5.11	51	2.29	205
VII	179	23.55	495	31.79	646	24.29	345	15.51	1,665
VIII	8	1.10	25	1.61	135	5.08	54	2.42	222
IX	20	2.63	26	1.67	19	.71	79	3.55	144
X	28	3.68	123	7.9	258	9.70	89	4.00	498
XI	9	1.18	153	9.83	37	1.39	52	2.34	251
XII	112	14.74	99	6.36	69	2.59	72	3.24	352
NCR	30	3.94	56	3.60	586	22.03	644	28.97	1,316
TOTAL	760	100.00	1,557	100.00	2,660	100.00	2,224	100.00	7,201

Source: Reporters and Statistics Section, Sandiganbayan.

Capital Region came in as the region with second highest number of cases, while Regions III and IV ranked third and fourth, respectively. A yearly analysis of their ranking reveals that Region VII had ranked first for the past three years and was dislodged from the position only by the National Capital Region in 1982. Region VI was second in the number of cases filed for the years 1979 and 1980. The cases coming from the National Capital Region increased markedly in 1981 and 1982 during which the region ranked second and first, respectively, among the thirteen regions of the country.

Table 6 puts together three variables: nature of offense, year and source of cases. Looking at the top five offenses, it will be noted that the number of malversation and falsification cases have continued to increase over the last four years, while estafa cases had an erratic pattern of decrease in 1980 and a sudden increase in 1981. The significant increase in cases for violation of R.A. No. 3019 is due principally to the Ministry of Public Highways' anomalies which were uncovered in 1980. Thus, for violation of R.A. No. 3019, Region VII continues to top all regions even as the frequency of cases have gone down progressively in 1981 and 1982. Falsification cases also have increased progressively from 1980 and 1982 with the NCR cases increasing prominently in 1980, 1981 and 1982.

Table 7 presents the comparative data on the amount of money involved in cases filed, classified by nature of offense charged for the last two years. For 1979 and 1980, only data on aggregate amounts for estafa cases and violations of R.A. No. 3019 were available. In 1979, some ₱8.6 million was lost in cases involving both estafa and violation of R.A. No. 3019. For these two cases alone, the amount involved practically tripled in 1980, up to ₱25 million. Since only amounts involved for two offenses were available for 1979 and 1981, these data were excluded from Table 7.

Table 7 discloses that in 1981, bigger amounts of money involved were in malversation and estafa cases, and violations of R.A. No. 3019, in that order. Compared to the previous year, the total amount involved, ₱86 million, was more than thrice as much as the total for 1980. The amount involved in cases filed in 1982 was ₱16 million less than that of 1981. Estafa cases accounted for 38 percent of this amount, followed by robbery cases with 28.74 percent and malversation with 20.08 percent.

How much of the amount involved has been recovered by the court? For 1979 and 1980, Table 8 reveals that only ₱2.9 million or eleven percent of the total amount involved in the estafa and violation of R.A. No. 3019 cases were recovered by the court. The percentage of recovery is even lower for 1981 since only ₱1.3 million of the ₱86 million was retrieved. In 1980, the amount recovered dropped further to ₱542,555.37, signalling a continuously declining rate of retrieval.

Table 6. Top-Five Ranking Offenses in Cases Filed, By Region, By Year  
Sandiganbayan, 1979-1982

Nature of Offense	1979					1980					1981					1982								
	REGIONS																							
	I	II	III	IV	V	Total*	I	V	X	XII	NCR	Total*	I	IV	VII	X	NCR	Total*	I	III	VII	X	NCR	Total*
Falsification	5	10	10	30	15	74	14	47	53	28	23	184	59	60	60	115	49	422	20	204	45	30	203	562
	I,V,X	III	IV	VII	NCR	Total*	IV	V	X	XII	NCR	Total*	I	IV	VII	X	NCR	Total*	II	III	VII	X	NCR	Total*
Malversation	11	18	25	14	28	147	96	68	56	60	108	484	108	61	99	119	57	618	27	230	52	38	192	694
	I	IV	V	VII	XII	Total*	II	IV	V	VII	NCR	Total*	I	VI	VII	VIII	NCR	Total*	IV	V	IX	XII	NCR	Total*
Estafa	55	82	27	160	33	364	19	17	19	153	21	268	105	94	194	97	380	1029	21	15	31	27	73	208
	III	V	IX	XII	Total*	II	III	IV	V	XII	Total*													
Theft	1	1	1	79	82	5	4	9	5	1	24													
Infidelity of Public Officers in the custody of documents/prisoners												I	III	V	XI	NCR	Total*							
												4	11	8	4	8	45							
Violation of RA 3019	I	II	IV	V	X	Total*	I	III	IV	VII	XI	Total*	IV	VI	VII	VII,XI	NCR	Total*	VI	VII	XI	I	NCR	Total*
	8	7	12	11	13	64	17	11	9	323	145	536	9	7	272	6	28	351	13	226	18	12	17	324
Physical Injuries																			I	III	IV	VII	NCR	Total
																			12	12	10	7	42	107

\*This total includes the number of cases filed in all regions for the year.

Source: Reporters and Statistics Section, Sandiganbayan.

Table 7. Distribution of Amount in Cases Filed, By Nature of Offense  
Sandiganbayan, 1981 – 1982

<i>Nature of Offense</i>	1981		1982	
	<i>Amount</i>	<i>% Distribution</i>	<i>Amount</i>	<i>% Distribution</i>
Malversation Cases	P31,377,213.70	36.42	P13,804,035.48	20.08
Estafa Cases	27,585,812.40	32.00	26,535,852.73	38.60
Violation of RA 3019	19,153,646.86	22.22	4,342,019.65	6.32
Robbery	7,846,876.46	9.10	19,760,459.00	28.74
Theft	165,607.84	.19	4,239,037.15	6.17
Bribery	10,230.00	.01	12,061.00	.02
Malicious Mischiefs	26,165.00	.03	245.00	.00
Violations of P.D.	1,500.00	.00	20,592.00	.03
Infidelity in the Custody or Prisoners of documents	23,787.00	.03	29,516.92	.04
<b>TOTAL</b>	<b>P86,190,839.26</b>	<b>100.00</b>	<b>P68,743,818.93</b>	<b>100.00</b>

Source: Reporters and Statistics Section, Sandiganbayan.

Table 8. Amount Retrieved, By Order of Attachment and Order of Execution, Sandiganbayan, 1979-1982

Nature of the Order	P E R I O D		
	Jan. 1979-Dec. 1980	Jan.-Dec. 1981	Jan.-Dec. 1982
A. Order of Attachment			
Real Properties	P1,919,979.11	P650,500.00	P403,600.00
Personal Properties	887,524.29	11,000.00	12,120.00
Garnished money deposited with the PNB under the name of Sandiganbayan	39,600.00	52,000.00	39,000.00
Amount deposited with the PNB under the name of PNB pursuant to the Resolution dated Sept. 8, 1981 given by the First Division, in Criminal Cases Nos. 023-032, etc.		527,920.00	
<b>T O T A L</b>	<b>P2,847,103.40</b>	<b>P1,241,420.00</b>	<b>P454,720.00</b>
B. Order of Execution	P30,101.00	P108,242.00	P87,835.37

Source: Chief Security and Sheriff Services, Sandiganbayan.



Table 9 shows that the number of cases disposed continuously increased from 1979 to 1982. In 1979, 72.34 percent of the cases disposed were terminated after trial. In 1980, this figure dropped considerably to 19 percent but went up again to 24 percent in 1981 and dropped again in 1982. A significant number of cases have been "archived without prejudice" over the last three years. In 1980, this group formed 40.76 percent of the cases disposed. The proportion went up to 35.50 percent in 1981. By 1982, more than half, or 53.54 percent, were archived. Cases are archived without prejudice to a trial when the accused is still at large. This figure is indicative of the ineffectiveness of the police and other investigating agencies supporting the court.

What patterns do we see in all these statistics? The following can be inferred from the data:

(1) The backlog which has accumulated as a consequence of the gradual phasing in of the court's three divisions has yet to be minimized now that all the three divisions of the court are in operation. Further analysis of statistics for the succeeding years should provide a sound basis for a decision as to whether a fourth division is in order;

(2) The number of cases filed and the number of the accused, however, do not seem to increase significantly after 1981. In fact, there is a decrease over the last two years;

(3) Offenses involving financial transactions, i.e., estafa and malversation, seem to be the more common cases filed with the Sandiganbayan. This may be indicative of the greater ease of presenting proof in financial transactions which are put down in black and white;

(4) Majority of the accused in the Sandiganbayan are males;

(5) Most of the cases filed in court originate from Region VII and the National Capital Region, with the cases from the former decreasing and those from the latter increasing;

(6) While the amount involved in offenses brought before the court increased from 1979 to 1980, the amount recovered from 1979 to the end of 1982 decreased; and,

(7) The number of cases disposed have increased over the years. However, a substantial proportion of these are disposed as "archived without prejudice," which means that the accused has not been apprehended six months after the case has been filed before the Sandiganbayan.

#### *Tanodbayan*

As mandated in the Constitution, the creation of the Tanodbayan is a

Table 9. Comparative Distribution of Cases Disposed by the Sandiganbayan,  
By Manner of Disposal, 1979–1982

Code	Manner of Disposal	1979		1980		1981		1982	
		No.	Percent	No.	Percent	No.	Percent	No.	Percent
DO1	Dismissed Without Trial								
	a. Without Prejudice	29	13.36	87	15.03	64	5.14	159	7.13
	b. With Prejudice	1	0.46	—	—	—	—	—	—
DO2	Pleaded Guilty	22	10.14	121	20.90	326	26.16	522	23.41
DO3	Terminated After Trial	157	72.35	111	19.17	299	24.00	173	7.76
DO3a	a. All Convicted	11	5.07	46	7.94	82	6.58	60	2.69
DO3b	b. All Acquitted	5	2.30	13	2.25	48	3.85	79	3.54
DO3a, b	c. Convicted/Acquitted	8	3.69	15	2.59	33	2.65	32	1.44
D030THS	d. Convicted/Acquitted/Others	133	61.29	37	6.39	136	10.92	2	.09
DO4	Transferred to Other Courts	1	0.46	12	2.17	8	0.64	80	3.59
DO5	Returned to Court of Origin	1	0.46	4	0.69	63	5.06	93	4.17
DO6	Withdrawn by Tanodbayan	6	2.76	8	1.38	43	3.45	9	.40
DO7	Archived Without Prejudice	—	—	236	40.76	443	35.55	1194	53.54
	<b>T O T A L</b>	<b>217</b>	<b>100.00</b>	<b>579</b>	<b>100.00</b>	<b>1246</b>	<b>100.00</b>	<b>2230</b>	<b>100.00</b>

Source: Reporters and Statistics Section, Sandiganbayan.

### function of the government's intention

to give effect to the constitutional right of the people to petition the government for redress of and to promote higher standards of integrity and efficiency in the government.<sup>16</sup>

To enable the Tanodbayan to fulfill these goals, the office is vested with the power to criticize, advise and prosecute. Through criticism, the Tanodbayan may direct the attention of government agencies to administrative action which may cause failure of justice when it is (1) contrary to law or regulation; (2) unreasonable, unfair, oppressive or inconsistent with the general course of an administrative agency's functions; (3) mistaken in law or arbitrary in ascertainment of facts; (4) improper in motivation; (5) unclear or inadequately explained when reasons should have been revealed; (6) inefficiently performed; or (7) otherwise objectionable.<sup>17</sup> If the Tanodbayan views an administrative function as having been evaluated by laws whose results are unfair or objectionable, it may make appropriate recommendations to the President and the Batasang Pambansa.<sup>18</sup>

The most visible of its functions, prosecution, stems from its power to conduct preliminary investigations, to file information and to direct and control the prosecution of all cases cognizable by the Sandiganbayan.<sup>19</sup>

The Tanodbayan's prosecution function is unique in that most of the Ombudsman of other countries are not vested with this task. In the Philippine case, however, the performance of the prosecution function has led to the consequent neglect of the critical and advisory function of the organization.

Although the Tanodbayan, through its Deputy Tanodbayans, is envisioned to hold office in Manila for Northern Luzon, Southern Luzon, the Visayas Region, Western and Central Mindanao,<sup>20</sup> as of 1983, except for a Deputy Tanodbayan based in Manila, no other regional Deputy Tanodbayan has been appointed yet.

In the meanwhile, the Tanodbayan performs its functions through its four offices. The first office, the Investigation and Prosecution Office, is concerned primarily with the preliminary investigation of all cases cognizable by the Sandiganbayan. It is also tasked to determine whether a *prima facie* case exists against a public official. It is responsible in providing direction and control of the prosecution of criminal and administrative cases before the Sandiganbayan or other appropriate courts. The second, the Legal Office, conducts researches on and gives legal advice and assistance on question of law on matters brought before the Tanodbayan. The third, the Finance, Management and Planning Office, provides assistance and advice on financial matters, systems and procedures and operations planning for effec-

tive management. The last, the Administrative Office, extends administrative support particularly on records, personnel, supply and property management.<sup>21</sup>

The Tanodbayan is authorized to call on the National Bureau of Investigation (NBI) and the Criminal Investigation Service (CIS) for its investigation functions and to consider the National Intelligence and Security Authority (NISA) as its intelligence arm.

Preliminary investigation of the Tanodbayan cases is directed, managed and controlled by some 441 deputized prosecutors designated in the twelve regions.<sup>22</sup>

An innovation introduced under the current Tanodbayan is the constitution of an Immediate Public Assistance Coordinating Team (IMPACT). Operating directly under the personal supervision of the Tanodbayan, IMPACT attends to complaints and other requests for assistance coming from individuals who have to transact business with other government agencies. Working closely with the Bureau of Directors Association (BUDIRAS), this team is supported by the Special Prosecutors of the Tanodbayan.<sup>23</sup>

In the span of four years, three Tanodbayans have been appointed. The first Tanodbayan, Justice Salvador V. Esguerra, was appointed on December 20, 1978. He died two months after his appointment. On Feb. 20, 1979, Justice Vicente G. Ericta was designated the Tanodbayan. He was, however, subsequently designated as Supreme Court Justice. Former Sandiganbayan Justice Bernardo P. Fernandez was then appointed as Tanodbayan last November 17, 1981.

The Tanodbayan is physically proximate to the Office of the President, the former being partly based in the building of the Complaints and Investigation Office (CIO), a presidential investigating body situated near Malacañang. In its early stages, the CIO served as the administrative arm of the Tanodbayan. When it was able to set up its organization support systems however, the Tanodbayan operated independently of the CIO.

Nevertheless, although the Tanodbayan is established as an independent Office, Irene Cortes, in her paper on the Philippine Ombudsman, claims that the president actually wields considerable influence on its operations in that the latter

- (1) May sooner remove the Tanodbayan for cause despite his fixed term of office;
- (2) May cause the Tanodbayan to desist from examining records, documents and inspecting premises within the administrative agency's control, if this might prejudice the national interest;

- (3) May decide that in the interest of public service, information obtained by the Tanodbayan need not be treated as confidential;
- (4) Must approve the Tanodbayan's deputizing or calling any government official to help him; and,
- (5) Must be furnished the Tanodbayan's findings and recommendations where a *prima facie* case is found.<sup>24</sup>

On July 27, 1981, the President issued Executive Order No. 708 reorganizing the Office of the President. By virtue of this directive, the Malacañang Public Assistance Center is supposed to be formed with the merger of the Complaints and Investigation Office (CIO) and the Malacañang Assistance Center (MAC).<sup>25</sup>

An interview with Mr. Miguel Sison, who serves as concurrent head of both the Malacañang Action Center and the Complaints and Investigation Office, revealed that the merger has not yet been implemented and will be contingent on the release of the Letter of Implementation authorizing such an action.

At the moment, we have a curious situation where the Tanodbayan, an independent grievance handling agency, is housed in the same building where the presidential assistance center is also located. While the existence of the CIO/MAC is justified in terms of the need for the president to have his own complaints receiving machinery, the lack of a clear delineation as to how these two agencies performing similar functions differ from each other can cause confusion among the public.

*Performance Indicators.* At this point, an attempt shall be made to assess the outputs of the Tanodbayan. This will be done through an examination of organizational statistics which are indicative of its accomplishments.

Figures from the Tanodbayan's annual report as summarized in Table 10 show that total complaints filed with the Ombudsman for 1979-1981 did not indicate a clear upward or downward trend. Rather, the 1980 figures reflected a decrease relative to 1979 while total complaints received for 1981 is much bigger than that of 1980. Of the complaints, more than half, or 58.27 percent in 1979, 88.33 percent in 1980 and 85.85 percent in 1982 resulted in criminal cases. Of the criminal cases filed, violations of the anti-graft law comprised more than half of the cases filed in 1979. After this period, however, criminal offenses covered by the Revised Penal Code went up to 39 percent of the total cases for the year. Violation of the anti-graft law increased from 15.16 percent of total cases in 1980 to 27.74 percent in 1981.

Table 10. Number of Complaints Filed According to Nature of Offense Charged, Tanodbayan, 1979-1981

	1979		1980		1981	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
Criminal	2951	58.27	3134	88.33	3711	85.85
Violation of RA 3019	1303	25.73	538	15.16	1199	27.74
Violation of Title VII (RPC)	753	14.87	1410	39.74	1372	31.74
Other Crimes in relation to Office	895	17.67	1186	33.43	1140	26.37
Administrative	1146	22.63	354	9.98	256	5.92
Violation of RA 1379 (Civil)	130	2.57	7	0.20	32	0.74
Requests for Assistance	387	7.64	39	1.10	250	5.78
Out of Tanodbayan Jurisdiction	450	8.89	14	0.39	14	0.32
Others	—	—	—	—	60	1.39
<b>TOTAL</b>	<b>5064</b>	<b>100.00</b>	<b>3548</b>	<b>100.00</b>	<b>4323</b>	<b>100.00</b>

Source: Tanodbayan Annual Reports, 1979-1981.

From which region do most of the complaints reaching the Tanodbayan come? The figures in Table 11 indicate that, as expected, the National Capital Region topped all regions as a source of complaints presented to the Tanodbayan. In fact, it accounted for slightly over a fourth of all complaints coming from different parts of the country. Coming as a poor second to the NCR is Region IV (Southern Tagalog) total complaints of which are about half of complaints coming from the NCR in 1979-1981. Region III comes as a close third to Region IV. These data suggest that physical proximity, convenience, or access definitely influence the citizen's decision to lodge complaints with the Tanodbayan.

It is noteworthy that the areas in the top four sources of complaints, i.e., NCR, Regions IV, III and I are all in Luzon. Outside Luzon, Region V and VII reported the highest total number of cases for all the three year combined while Region XII reported the lowest number of complaints for the same period.

What actions may be taken on the complaints received by the Tanodbayan? Complaints or requests for assistance may either be (1) dismissed/closed/terminated, (2) filed with the Sandiganbayan or the regular courts, or (3) referred to investigating agencies or to respondents/complainants for more information or to other offices of the Tanodbayan.

In 1979, 35 percent of the cases were dismissed/closed/terminated, while 31 percent were referred to the NBI. For 1981, the same pattern could be observed, with about 50 percent of the cases either dismissed or under investigation. (See Table 12.)

Complaints against other ministries or requests for assistance are usually referred to other agencies for action. How the different ministries fared in 1980 or 1981 in terms of the referrals directed to them may be gleaned from Table 13. The National Bureau of Investigation, which serves as one of the Tanodbayan's investigating arms received the highest number of referrals (70 percent in 1980 and 60 percent in 1981) from the Tanodbayan. Aside from the investigation agencies, the operating agencies appear to receive relatively insignificant number of complaints or referrals from the Tanodbayan. Of all the ministries, the Ministry of Justice obtained five percent of the total complaints referred for 1980, a relatively high figure considering that except for the investigating agencies, all others received barely one to two percent of the total complaints/requests for action.

These statistics suggest that the grievance-handling functions of the Tanodbayan is not as well appreciated by the public as its prosecution function. Another consideration is the fact that, in most referred cases, the Tanodbayan simply transmits the complaint to the agency concerned and is

Table 11. Number of Complaints Filed According to Source,  
By Region, Tanodbayan, 1979-1981

	1979		1980		1981	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
Region I	283	7.42	281	7.74	312	7.22
Region II	168	4.40	169	4.65	194	4.49
Region III	358	9.38	332	9.14	412	9.53
Region IV	456	11.95	359	9.88	520	12.03
NCR	922	24.16	958	26.38	1186	27.43
Region V	253	6.63	258	7.10	229	5.30
Region VI	234	6.13	185	5.09	198	4.58
Region VII	218	5.71	232	6.39	285	6.59
Region IX	205	5.37	167	4.60	238	5.51
Region X	240	6.29	236	6.50	215	4.97
Region XI	186	4.87	159	4.38	190	4.40
Region XII	131	3.43	158	4.35	169	3.91
No Source					6	.14
Foreign based						
Officials/Employees					2	.05
<b>TOTAL</b>	<b>3816</b>	<b>100.00</b>	<b>3632</b>	<b>100.00</b>	<b>4323</b>	<b>100.00</b>

Source: Tanodbayan Annual Reports, 1979-1981.



Table 12. Status of Complaints/Requests for Assistance, Tanodbayan, 1979-1981

YEAR Status	1979		1980*		1981	
	N	%	N	%	N	%
Dismissed/Closed/Terminated	1361	35.79	1108		1324	30.63
Filed with the:						
Sandiganbayan	131	3.44	140		238	5.51
Regular Courts	19	0.50	28		59	1.36
Under Study/Evaluation	176	4.63	158		317	7.33
Referrals:						
Respondents for comment	76	2.00	55		146	3.38
Complainants for more information	66	1.74	49		33	0.76
Investigating agencies						
NBI	1179	31.00	1186		939	21.72
CIS	220	5.78	76		106	2.45
NISA	56	1.47	7		8	0.19
Investigation and Prosecution Office	495	13.02	816		416	9.62
Deputized Prosecutors	—	—	—		737	17.05
CIO	24	0.63	1		—	—
<b>TOTAL</b>	<b>3803</b>	<b>100.00</b>	<b>3624</b>		<b>4323</b>	<b>100.00</b>

Source: Tanodbayan Annual Reports, 1979-1981.

\*Percentages were not computed due to our uncertainty over the accuracy of 1980 data as compared with the 1979-1981 figures.

Table 13. Number of Complaints Referred to Other Agencies, Tanobayan, 1980-1981

Agency	1980		1981	
	N	%	N	%
Criminal Investigation Service	76	4.60	119	7.18
National Bureau of Investigation	1186	71.70	994	59.99
National Intelligence and Security Authority	7	0.42	9	0.54
Appropriate Fiscal's Office	17	1.03	94	5.67
Office of the President	7	0.42	8	0.48
Ministry of Agrarian Reform	9	0.54	5	0.30
Ministry of Education and Culture	27	1.63	21	1.27
Ministry of the Budget	1	0.06	—	—
Ministry of Energy	1	0.06	2	0.12
Ministry of Finance	13	0.79	8	0.48
Ministry of Foreign Affairs	3	0.18	2	0.12
Ministry of Health	13	0.79	1	0.06
Ministry of Human Settlements	5	0.30	2	0.12
Ministry of Industry and Trade	2	0.12	3	0.18
Ministry of Justice	88	5.32	36	2.17
Ministry of Labor and Employment	14	0.85	12	0.72
Ministry of Local Government	22	1.33	24	1.45
Ministry of National Defense	55	3.33	228	13.76
Ministry of Natural Resources	10	0.60	11	0.66
Ministry of Public Works and Highways	14	0.85	2	0.12
Ministry of Public Information	1	0.06	1	0.06
Ministry of Transportation & Communications	11	0.67	20	1.21
Ministry of Agriculture	2	0.12	—	—
Batasang Pambansa	—	—	1	0.06
The Judiciary	25	1.51	14	0.85
Constitutional Offices	18	1.09	12	0.72
Complaints and Investigation Office	1	0.06	—	—
National Economic and Development Authority	1	0.06	—	—
Government Financial Institutions	8	0.48	7	0.43
Others	17	1.03	21	1.27
<b>TOTAL</b>	<b>1654</b>	<b>100.00</b>	<b>1657</b>	<b>100.00</b>

Source: Tanodbayan Annual Reports, 1980-1981.

unable to monitor or follow up on all these referrals. This situation may deter the public from filing more complaints or requests for assistance for action with the Tanodbayan.

What general observations can we make out of the performance of the Tanodbayan from these data?

The figures we have gathered do not seem to meaningfully capture the quantity and quality of the tasks performed by the Tanodbayan. While the statistics dwell largely on the prosecution functions, they do not clearly depict the amount of work done by the Tanodbayan as they suggest that filing cases with Sandiganbayan completes the Tanodbayan's tasks. However, the Tanodbayan must prosecute cases filed in the Sandiganbayan until a verdict is given.

Although IMPACT has been introduced to highlight the grievance-handling functions of the Tanodbayan, the main thrust of the Tanodbayan is still its prosecution functions in relation to the Sandiganbayan. The Tanodbayan himself noted that in the IMPACT project, things move fast only when he himself deals with heads of the agency concerned. Otherwise, facilitation work done by their staff also tends to take time.

The wider latitude given to the Tanodbayan in terms of its three functions seemingly allows it more alternatives to choose from in determining the approach it should take in its effort to raise the integrity of the public service. In reality its limited resources and the pressure of its prosecution function, which it has fully assumed, put very real constraints on its choices. Its spreading out into a fuller IMPACT program will definitely affect the effectiveness of the performance of its prosecution function. The question is, can it assume more roles than what it has at the present given its resources? Is the prosecution function the more critical one vis-a-vis the other two, in that its performance is inextricably intertwined with the operations of the Sandiganbayan?

The frequent changes in the Tanodbayan over the last four years have not allowed the Tanodbayans to have their leadership and management style sufficiently felt in the institution. The changes in leadership have been disruptive and have not afforded enough stability for impact.

Being twin organizations, the Sandiganbayan/Tanodbayan working relationship has put indirect pressure on the Tanodbayan. As special prosecutor of public officials, he finds himself "hitchhiking" on fiscals and investigating agencies, who have their own regular tasks and are made to absorb additional concerns because of the function of the Tanodbayan. In this regard, the increase in the expected number of cases in the Sandiganbayan as a result of the Judiciary Reorganization Act should be anticipated by the

Tanodbayan and its repercussions on its operations and resources studied.

*The Philippine Overseas Employment Administration (POEA)*

Ministry Order No. 1 series of 1982 issued in June 1982 envisions the POEA as the

“... lead government agency responsible for the formulation and implementation of policies and programs for the overseas employment of Filipino workers. In coordination with appropriate entities, it shall formulate and undertake a systematic program for promoting and monitoring the overseas employment of Filipino workers including taking into consideration domestic manpower requirements and the need to protect their rights to fair and equitable employment practices. It shall have original and exclusive jurisdiction over all cases involving employer-employee relations, including money arising out of or by virtue of any law or contract involving Filipino workers for overseas employment.”

The POEA's more specific objectives are to:

- (1) Establish and maintain a registration and/or licensing system to regulate private sector participation in the recruiting and overseas placement of workers.
- (2) Maintain a registry of skills for overseas placements.
- (3) Recruit and place workers to service the requirement of overseas employees for trained and competent Filipino workers.
- (4) Promote the development of skills and careful selection of Filipino workers for overseas employment.
- (5) Undertake overseas market development activities for placement of Filipino workers.
- (6) Secure the best possible terms and conditions of employment of Filipino contract workers and ensure compliance herewith.
- (7) Generate foreign exchange from the earnings of Filipino employed under its programs.
- (8) Promote and protect the well-being of Filipino workers overseas.<sup>26</sup>

All hiring of Filipinos for overseas employment as well as the employment of Filipinos by foreign governments, international and multi-national organizations, firms and entities, whether operating in the Philippines or not and whether doing business for profit or not, fall within the functional jurisdiction of the POEA.<sup>27</sup>

The POEA has a Governing Board which acts as its policy-making body. It is composed of the Ministry of Labor and Employment as the Chairman, an administrator and a presidential appointee. The Board is responsible for promulgating and adopting policies, rules and regulations that would implement and attain the purposes and objectives of the POEA. The Board is assisted by consultative councils such as the Advisory Board for land-based

workers and the Advisory Board for seamen. Thus far, the third member of the Governing Board has not been appointed nor have the consultative councils been organized.

Chart 1 portrays the functional relationship among the component units of the POEA. Its three major subdivisions are: (1) Market Development and Placement Office, (2) Licensing and Regulation Office and (3) Workers Assistance and Adjudication Office. Equivalent to bureaus, these offices are headed by directors appointed by the President.

The Market Development and Placement Office implements standards and wages for Filipino workers, processes travel documents, accredits foreign principals and is generally responsible for employment agreements with foreign governments and their instrumentalities.

The Workers' Assistance and Adjudication Office conducts pre-departure orientation briefing for overseas workers. It has exclusive jurisdiction over all cases involving employer-employee relations including money claims of Filipino workers.

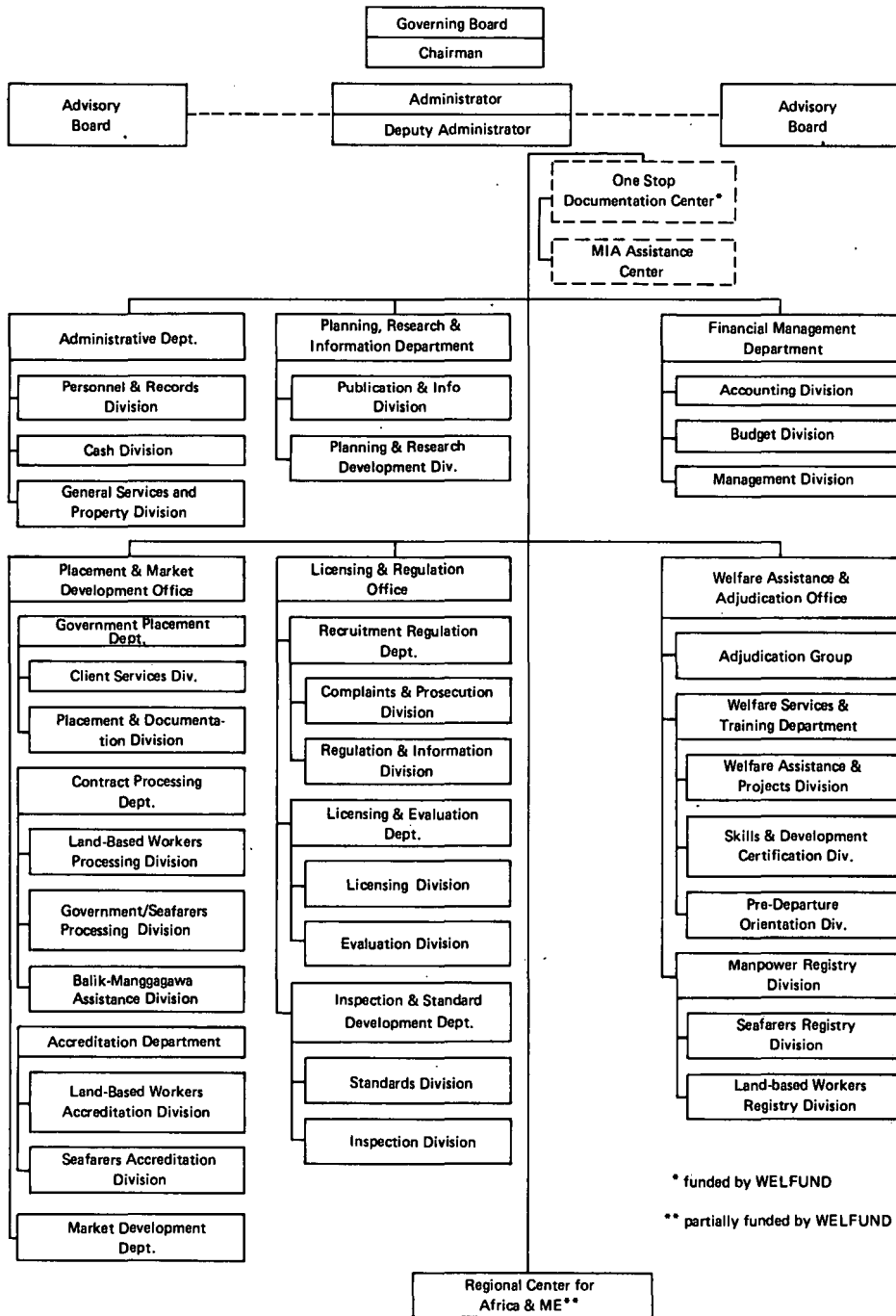
The Licensing and Regulation Office attends to the processing of the applications for license or authority to operate private recruitment entities, construction companies and shipping agencies.<sup>28</sup>

The integration under POEA of the functions of the OEDB, the NSB and the overseas employment functions of the BES also ushered in a new set of leaders for the POEA. While some of the officers of the then OEDB and the NSB were retained or transferred to other equivalent positions, an administrator was appointed for POEA and its directors were drawn either from other offices within the same Ministry or from other government institutions.

The new mix of leaders combined the experience of those knowledgeable in the field and the innovativeness of those newly appointed. The synergy of the new leaders was felt in their dealings with the POEA employees and with agency clients.

Officers at the helm of some substantive areas saw the reorganization as a shift in structure from its previous client-based orientation (land-based vs. sea-based) to functional lines cutting across various client groups. It brought on closer coordination of POEA's three functions, thus facilitating policy implementation. Tasked with the responsibility of improving the tarnished image of some of the previous organizations (due mainly to the proliferation of illegal recruiters and the unfortunate experience of Filipino workers who are easy and willing prey to these recruiters), the leaders of the new agency

Chart 1. Philippine Overseas Employment Administration



\* funded by WELFUND

\*\* partially funded by WELFUND

proceeded to confront the new challenges. Some new staff members were brought into the organization. Existing procedures which may not have been carefully implemented before were now utilized to institutionalize systems which can be used to deal with the recurring problems of POEA.

In so far as the officers and some employers of the organization are concerned, there were no major changes in the structure, people or procedure beyond the removal and transfer of some heads and employees.

A critical factor that has facilitated the introduction of a new norm of action among the POEA's staff is the tone set by the new leaders and the accompanying determination and will to support changes that complement the new orientation, while strongly discouraging behavior that are not congruent with the desired changes.

### *Problems of Corruption*

What were the forms of corruption that occur or can occur in the performance of the POEA's service and regulatory functions? Based on our interviews with clients and officials of the POEA, corruptive behaviors do and may occur in the following forms which must be monitored:

(1) Accreditation papers are issued to individuals, firms or corporations who have not met the requirements for official accreditation.

(2) Job orders of licensed recruiters filed at the POEA are tampered with. Tampering may take the form of padding job orders to enable some recruiters to get more contract workers beyond what they are legally entitled to. Some recruiters may, on the other hand, "lose" job orders through POEA's manipulation.

(3) Recruitment agencies can have their license or permit renewed even if they do not pay their annual fees (P6,000). In some cases, recruiters issue IOU slips to the agency with the promise that they will pay their fees later.

(4) Clients pay "overtime" fees to staff of the agency to expedite processing of papers and facilitate release. For a fee ranging from P5 - P25 per contract worker, some staff workers even bring home the papers to finish them on time.

(5) Recruitment firms' liaison officers give some employees of the agency money to expedite release of their papers.

(6) Clients pressure agency staff to exempt them from submitting certain documents such as their letters of accreditation, clearances from the

Welfare Fund and from the Adjudication Office.

(7) Lawyers in the Adjudication Office receive "retainers" from clients to ensure that cases against the latter are considered favorably. Some lawyers may be propositioned about the cases they handle in the office. Illegal recruitment is not considered a form of corruptive behavior as it refers to acts of private unlicensed agencies which operate outside the regulations set by the agency.

### *Anti-Corruption Measures within the Agency*

The basic source of corruption in any regulatory or service agency is the the perception of the regulated clients that for a fee, they need not comply with the regulations, or that they can find "effective" short cuts of what they see as unnecessarily long and tedious control processes. This perception is validated when the clients are actually able to do exactly what they want or come to know how others get around these regulations.

Every control point is a prospective corruption source. The longer the delay caused by each control point, the greater the likelihood that the client will think of legal or illegal means to shorten the process. Other control points which involve not only time but resources such as payment of bonds, or presentation of proof of merit, may be circumvented through different forms. The manner by which these rules are circumvented are again possible forms of corruption.

The POEA is regulating members of the business sector which is composed of a heterogeneous group. The heterogeneity of the clients regulated is a possible source of problem which the POEA has to deal with as the agencies have their peculiar needs arising from the nature of the industry to which they belong.

Measures undertaken by the new agency came in the form of:

(1) *Change in management style and leadership.* Since a recurring concern which stood out in the previous experience was the pressure from the clients, the new leaders firmly dealt with clients, observing prescribed rules consistently and more importantly, holding dialogues with clients on problems met in the regulation process. Regulations which were unreasonable and other problems related to the conduct of the regulation function were discussed in these dialogues.

The agency leaders' will and determination to carry out the task with utmost integrity, plus their concern that they project a positive image through individual actions and dealings with clients, had repercussions on the behavior of the agency staff and on the reputation of the agency itself.



(2) *Professionalization of the Staff.* While most of the employees of the three reorganized agencies were retained in the new agency, those who opted to leave were replaced with professionals who were selected carefully.

Moreover, the change of leadership style and the relative uncertainty of the security of tenure of most employees of the agency (due to the delay in the approval of the new agency's plantilla) put rank and file employees on their toes. This had varying effects on the staff. Most tried to work harder to increase their chances of staying on their jobs.

Personnel reshuffling had to be done to staff new units which were created. As much as possible, those appointed to head the new units were individuals who had rapport with the new administrator and who appreciated the necessity for and the stress given on honesty and integrity among agency staff.

(3) *Systematization of rules and procedures with the intention of minimizing delays.* The regulation function of the agency required it to control the activities of clients. Rules and procedures which were found adequate were systematically implemented after careful examination of the necessity for some of the requirements imposed on each step of the procedure. Where no systems and procedures were found, the immediate job was to come up with a set of procedures.

Interviews conducted with the officials of the agency revealed that basically, most of the procedures were still those done under the previous setup. What was important was that the previous employees' experience complemented the innovations of the new ones to promote a team which could evolve control procedures which are not deterrents to the efficient conduct of their clients' business.

(4) *Continuous dialogue with clients.* Together with the systematization of procedures, the POEA involved the clients in a monthly dialogue where the administrator and all the key officials of the agency meet the clients to elicit feedback and reactions. These dialogues which provided direct access of clients to agency officials served as a mechanism for threshing out common problems. This mechanism likewise provided continuous interaction which allowed the agency to be conversant with the changing conditions under which their clients operated. On the other hand, clients are able to realize the rationale for the regulations developed by the agency. They may even be able to police their own ranks so that staff regulations resulting from the corrupt or abusive practices of a few will not end in restrictive regulations affecting all of them.

#### *The Clients' Views*

Clients are impressed with the changes in the behavior of the leaders of

the agency. They are ambivalent, however, over whether this is a function of the recency of the reorganization. One said that perhaps the clients in the POEA are still at the "honeymoon" stage. Others feel, however, that the commitment and professionalization of the POEA leaders are bound to be sustained and continued. They appreciate the regular dialogues conducted by the POEA and the fact that the agency listens and receives suggestions from the clients. However, there are still others who are adopting a wait-and-see attitude before they decide whether time will provide the real test on the integrity and efficiency of the leaders.

The clients acknowledge the fact that there are more professionals in the staff now and that they seem to be more knowledgeable with their jobs. Some units are still unable to cope with their new jobs with the same level of competence and innovativeness as those in other units. The clients feel that in instances where they are not able to get action, they can proceed to the immediate head and get faster service if no complicated problems have to be resolved.

The clients' common complaint is that government regulation is a deterrent to their being able to take advantage of the market situation. Thus, they decry the amount of red tape involved in getting their licenses and papers processed from the previous agencies. They have noted a marked improvement in the current setup and these are manifested in the following improvements: (1) accreditation, which used to take two to three weeks to process, can now be done in three days; and (2) processing of other papers which used to take more than a week is now reduced to a shorter period. Clients admit that, to some extent, the previous agencies like the BES were faster but there were also less controls.

Some clients articulated the view that petty corruption occurs when their liaison officers deal with POEA staff. Clients noted that there are instances when red tape is used as a reason by the liaison officers to take advantage of some of them.

Even with marked improvement in the time required to process the papers, the clients feel that the POEA is still too slow for their purposes and needs. For instance, it was cited that, as part of their licensing requirements, POEA still has to ask for a whole set of the documents requested earlier because of the poor state of record-keeping in the previous agencies.

Some clients observed that because of POEA's intention of minimizing corruption through controls, it has unwittingly increased red tape. They attribute the efficient and faster service time to the fact that there is currently less demand for the agency's service due to the ban on the issuance of new licenses for recruitment and placement activities, and the relative slump in the market in 1982 as compared to its peak in 1981.

Clients claimed that they have lost contracts to other countries because of the delay in the action being taken on their papers. They see the physical dispersal of the office of the POEA through different buildings located in different areas of Manila as another reason for the delay in processing papers. Clients contend that even with the improved situation, they may have to resort to "short cuts" or being "resourceful." Circumventing red tape enables them to make the most of profitable situations which may not occur too often because of the market slump and the negative publicity on the behavior of some of the Filipino contract workers in certain Middle East countries.

The clients interviewed have no doubts as to the integrity and honesty of the leaders and employees of the POEA. They see the current staff as professionals with the appropriate management skills. Some of them believe that the atmosphere of integrity and efficiency should continue to prevail if the current situation is to be sustained, as virtually all the steps in the POEA procedures are possible "profit centers" for agency employees. A lot depends on the integrity and incorruptibility of people implementing these procedures.

Some of the clients see that the petty corruption that occurs at the boundary level may be brought about by the workings, at times, of their liaison officers who may also profit from the transaction. Clients are almost unanimous in their view that red tape is the main cause of corruption in the agency. They claim that in actual processing time, they can save up to one week if they resort to corruption. In terms of money cost, the whole range of procedures required preparatory to the deployment of workers can cost them up to ₱500 per person. The pressures imposed on them by their foreign clients compel them to resort to these methods despite added costs.

To minimize difficulties in the POEA/client interface and lessen the opportunities for corruption, the following proposals were offered by the clients:

- (1) The POEA should be housed in one building for greater control and coordination;
- (2) Routine processes should be computerized in order to lessen human discretion;
- (3) The POEA should issue a manual for accreditation and other procedures governing their relationship with clients; and,
- (4) The agency should monitor officials or employees who are not able to act fast enough on matters because (a) they are unwilling to make

decisions which are risky, (b) they are not too familiar with their jobs and/or (c) they have intentions of taking undue advantage of their positions at the expense of clients.

### **Towards a Framework for an Anti-Corruption Strategy**

On the whole, the government's anti-corruption strategy essentially stresses punishing the guilty. Judiciously based on the concept of due process, the present approach, which provides a special court and a prosecuting agency for the investigation, prosecution and punishment of the corrupt, is most fair to all concerned. Yet, while an effective system for imposing judgment and penalizing corrupt officials is in itself a form of prevention, the present system is not able to utilize other roles and functions of the Tanodbayan as a means of preventing corruption. Although some government officials are penalized, private citizens who are party to this crime but are left unapprehended, will continue to abet the commission of this crime against the people.

The experience of the POEA reiterates the findings of the earlier study. Leadership, a professionalized staff, systematized rules and procedures, and continuous dialogue with clients, are still the more potent factors in preventing corruption at the agency level.

Given our discussion of previous research, our findings on the current operations of the Tanodbayan and the Sandiganbayan and the experience of the Philippine Overseas Employment Administration, we propose a framework for a government anti-corruption strategy which has two major elements: (1) a system for punishing the corrupt and (2) a means for preventing corruption at the agency level with the help of the public and the specialized clients of the various government agencies.

To be effective, this strategy requires the anti-corruption strategy which must have the support of the public and the highest officials of the land. Without this critical support, all efforts in this direction will be doomed to failure.

The proposed strategy likewise sees the corruption prevention function as one which entails a sustained and continuous interplay between the top officials of the land and the whole range of government agencies with possibly the Tanodbayan performing a lead role. The public is seen as actively involved in this effort through organized clientele and other associations. Since prevention can be too time consuming, government operations should be prioritized according to those which require more immediate attention. The mechanics for such an effort is described below.

There is now a strong mechanism for punishment but there still has to be a conscious effort towards the prevention of corruption.

Perhaps, as in the case of most crimes, prevention is more challenging than the already difficult task of penalizing the guilty, but prevention will definitely lessen the task if the public itself is already involved in the effort.

Maybe the strategy adopted by Hongkong's noted Independent Commission Against Corruption (ICAC) should be looked at, especially its corruption prevention department.<sup>29</sup> The operation of this department can be most instructive in setting up the mechanism for this strategy. Aside from its publicity and educational campaign, the department identifies selected areas of corruption with the help of the Corruption Prevention Advisory Committee. (Please see chart 2.) This body determines the priorities for the anti-corruption team which undertakes "assignment studies," a long process of analyzing and studying the nature, processes and causes of corruption in one government office. The set of criteria which is adopted in deciding which corruption problem is to be given immediate attention includes such questions as:

(1) Do the corrupt opportunities affect a large number of people? How many complaints have been received on this particular matter?

(2) How severe is the problem in terms of its impact on the victims? Does it pose danger to life and property? Are the victims in a helpless position and under continued pressure or is it a once and for all payment? How much money changes hand and does it represent a loss of revenue to the government?

(3) Do the corruption opportunities affect a new system or procedure thus requiring examination before its introduction to forestall the opportunity for corruption, or is it of particular public interest at that time because of a recent court case or other form of substantial publicity?

(4) Is the corruption opportunity of previously unknown form and does it relate to an activity of particular social or economic importance at that time?

(5) Did the allegations or complaints come from a particular person or body which might justify its being given special attention?<sup>30</sup>

The ICAC considers the adequacy of department personnel to handle a particularly large or different assignment which may be spread in the type of work to enlarge the staff's experiences. This is done to avoid any impression that the department is concentrating its attention on a few organizations only.

Chart 2. Work Process of Corruption Prevention Department

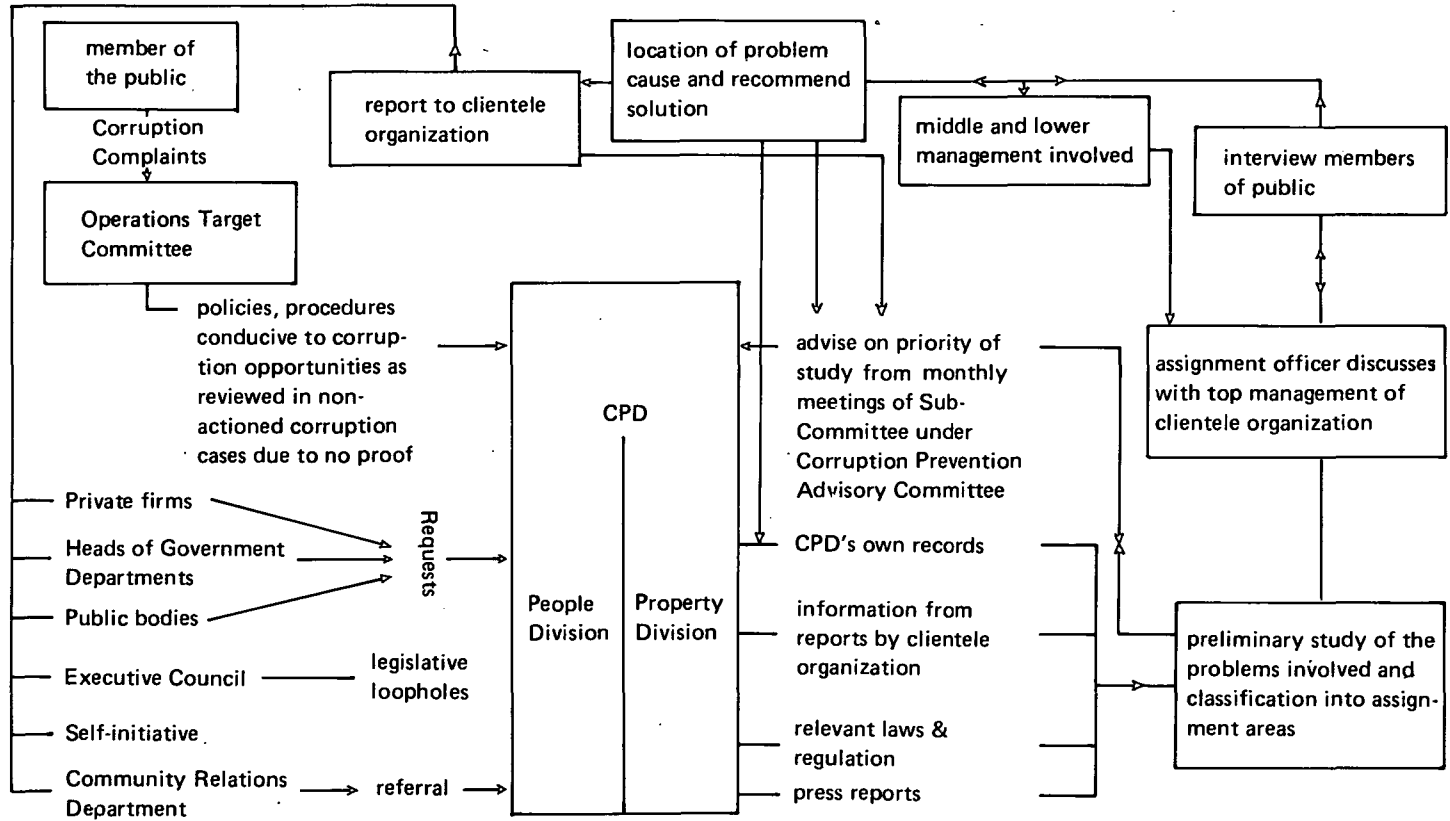
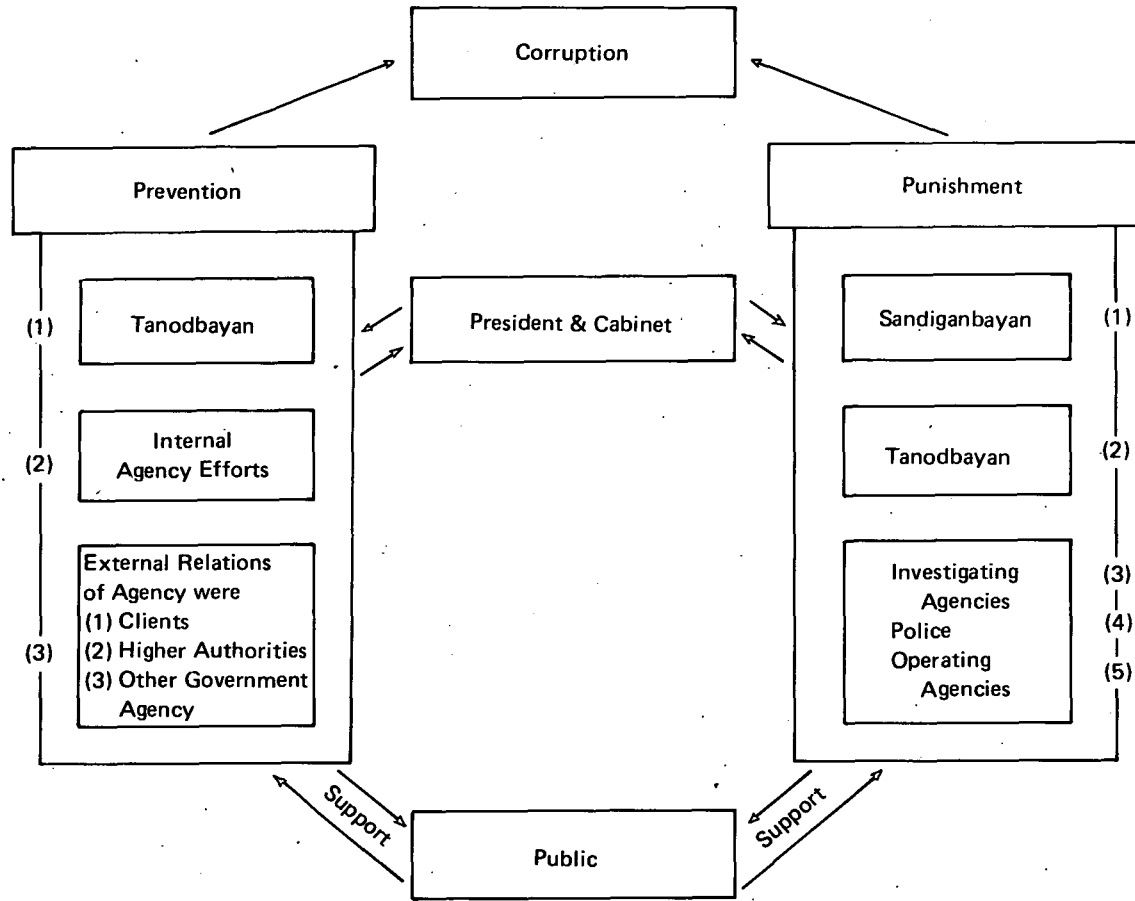


Chart 3. Framework for Anti-Corruption Strategy



The detailed process of how the department works is presented in Chart 3.<sup>31</sup> The process need not be adopted as such in the Philippines, yet, it offers us a rich source of ideas in the adoption of a corruption prevention program.

With the support of top officials and the people, corruption prevention program which the Tanodbayan and other government agencies can undertake will go a long way in the government's anti-corruption program.

### Endnotes

<sup>1</sup>Ledivina V. Cariño and Raul P. de Guzman, "Negative Bureaucratic Behavior in the Philippines: The Final Report of the IDRC Philippine Team," *Philippine Journal of Public Administration*, Vol. XXIII, Nos. 3-4 (July-October 1979), p. 381.

<sup>2</sup>*Philippine Journal of Public Administration*, Vol. XXIII. Nos. 3-4 (July-October 1979).

<sup>3</sup>Leonor Magtolis-Briones, "Negative Bureaucratic Behavior and Development: the Case of the Bureau of Internal Revenue," Victoria A. Bautista, "Negative Bureaucratic Behavior in the Regulation of Taxicab Businesses: The Case of the Board of Transportation," Raul P. de Guzman, *et al.*, "Bureaucratic Behavior and Development: A Case Study of Supply Management in a Philippine Government Agency," *Philippine Journal of Public Administration*, *ibid.*, pp. 255, 296 and 279, respectively.

<sup>4</sup>Sandiganbayan Brochure, p. 5.

<sup>5</sup>Ma. Concepcion P. Alfiler, "Administrative Measures Against Bureaucratic Corruption: The Philippine Experience," *Philippine Journal of Public Administration*, *op. cit.*, pp. 321-349.

<sup>6</sup>See Letter of Instructions Nos. 11-12, 20-24, Series of 1972.

<sup>7</sup>Ledivina V. Cariño, "Personnel Policies and Bureaucratic Behavior Under Martial Law," *Philippine Journal of Public Administration*, Vol. XXI, Nos. 3-4 (July-October 1977), p. 313.

<sup>8</sup>"The Revamp: Why It Had To Be Done," *The Republic* (October 16-31, 1975), p. 16.

<sup>9</sup>Cariño, *op. cit.*, pp. 313-314.

<sup>10</sup>"Government Drive for Reforms Continues," *Times Journal* (February 20, 1983), p. 1.

<sup>11</sup>"Fiscal Clears 2 Labor Execs of Graft Raps," *Bulletin Today* (October 4, 1978), p. 1 and 9.

<sup>12</sup>Honesto Mendoza and Avelino Lim, *The New Constitution* (Araneta: ZIC Enterprises and Co., Inc., 1974), pp. 282-283.

<sup>13</sup>Committee Report No. 1, Committee on Duties and Obligations of Citizens and Ethics of Public Officials, as quoted in Mendoza and Lim, p. 283.

<sup>14</sup>Sandiganbayan Brochure, p. 3.



- <sup>15</sup>Tanodbayan 1980 Annual Report, p. 26.
- <sup>16</sup>Presidential Decree No. 1630 (Preamble).
- <sup>17</sup>Irene Cortes, "Redress of Grievance and the Philippine Ombudsman (Tanodbayan)," 12th Albino Z. Sycip Professorial Chair Lecture, pp. 31-32.
- <sup>18</sup>*Ibid.*, p. 34.
- <sup>19</sup>Primer on the Tanodbayan, p. 11.
- <sup>20</sup>Tanodbayan 1981 Annual Report, p. 45.
- <sup>31</sup>*Ibid.*
- <sup>22</sup>*Ibid.*, p. 13.
- <sup>23</sup>Interview with Justice Bernardo Fernandez, February 9, 1983.
- <sup>24</sup>Irene Cortes, "Tanodbayan: The Court of First Advice," *UP Newsletter* (November 30, 1981), p. 4.
- <sup>25</sup>Section 3, Executive Order No. 708, p. 2.
- <sup>26</sup>POEA Annual Report, 1982.
- <sup>27</sup>*Ibid.*
- <sup>28</sup>POEA Handout No. 1, pp. 2-4.
- <sup>29</sup>Jeremiah K. H. Wong, "The ICAC and Its Anti-Corruption Measures," in Rance P.L. Lee (ed.), *Corruption and its Control in Hongkong* (Hongkong: The Chinese University Press, 1981), pp. 65-70.
- <sup>30</sup>*Ibid.*, p. 68.
- <sup>31</sup>*Ibid.*, p. 69.