

**'VIGILATING' THE VIGILANCE DEPARTMENT
DIRECTORATE OF VIGILANCE, DELHI: A JOURNEY OF
REVELATIONS**

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By

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WHY THE VIGILANCE DEPARTMENT

When I joined CCS as a research intern for the “researching reality”, I had no clue whatsoever that what will I be researching on. I was expecting CCS to give us topics on which we would be working. But instead we were told to come up with a topic on which we would like to research. I was literally blank and looking at my co-interns’ faces in the hope that some one would suggest something to me to work on. But soon I realized that everyone was blank themselves. So I let that be for that while.

Meanwhile we had all these sessions on “sound public policies”, “Budget of India”, etc and a whole array of discussions. I noticed one thing or rather one comment common in every discussion. By the end of every policy or plan that we took up to discuss, someone or the other concluded the show by saying that “it’s not the policy itself which is actually flawed but the problem lies in its implementation, which is due to corruption.” In one of the discussions I said the same thing!

Then on the day before the deadline when we had to submit our research topics, I had an entire list of government departments and policies out of which I could pick one. But while browsing the pages, I realised that I surely didn’t want to work and come up with something which ultimately lands up in a discussion with the next batch of interns where they’re saying, “It was an awesome solution but corruption didn’t allow it to be effective!”

Then I considered the department that must be having the same reasons for its formation- The Directorate of Vigilance, Delhi. And I wondered for a while that if there exists something like the vigilance department present everywhere, why is corruption still such a major problem? I had no answer. And bingo! If there is something for which there is no ready answer; that was the area I was all set to research!

So, that’s how I chose my research topic to be “*Vigilating the Vigilance Commission*”

OBJECTIVE OF THE PAPER

The objective of this research paper is to understand the organisational and functional setup of the Department which is responsible to check corruption and malpractices, i.e. the Vigilance Department. Though our study is specifically focused on the Directorate of Vigilance, Delhi, (*henceforth termed as DOV*) we will also study the Central Vigilance commission (*CVC*) in some detail to the extent of its relation with DOV.

After having an idea of how (efficiently) the DOV and CVC function, we will then find out and analyse that why is corruption still so rampant? Is it because the Vigilance is inefficient, is it corrupt itself or are there some unconventional reasons that are completely neglected?

If Vigilance is corrupt, then why is it so and *"Who Vigilates the vigilance commission?"*

If corruption can be reduced, what are the reasons it still hasn't been tackled. And if it cannot be removed, then why not?

And at the end we will come up with solutions that might improve the current state of affairs in our nation.

To put it very shortly, my aim here is not to add to the array of articles which say "Corruption is bad", "nothing can be done about it", etc. There is a department set up to do *something* about it. What and how (effectively) it operates is what we need to understand, including our contribution in the same. And also, try and look at this problem as something which can be turned into a not-so problematic situation.

ABSTRACT

The following paper address two broad questions-

1. If there is a body like the Vigilance department to check corruption, why does corruption still exist?
2. Who 'vigilates' the Vigilance department?

The way this paper has been written is a very narrative style, telling each reader every important experience that the author went through while researching the department, which throws light on vital characteristics of the department. Each experience has been analysed in the wake of logic and rationality to deduce concrete results, along with the necessary statistics.

Corruption has been a major problem for years now, whether in politics or the bureaucracy or even in the vigilance departments, if I may say so after this research. So it's no point trying to formulate policies for each department unless you ensure a mechanism that will put the policies into practice.

Doing the same is the attempt of this paper.

FORMATION HISTORY

Almost 51 years back, on December 16, 1957, there was a huge debate in the Lok Sabha regarding the “Mundhra scandal¹”. According to the inquiry commission, consisting of then Chief justice of the Bombay high court, M.C.Chagla, Haridas Mundhra adopted dubious methods of business, so to say at the least.

The commission believed that the then finance minister T. Krishnamachari (TTK) knew this and yet a few months earlier allowed LIC to buy shares of Mundhra firms, which were later manipulated. This forced TTK to resign.

This scandal, most popularly known as the “Mundhra scandal’, stretched for over 3 years till 1960. Then with the recommendation of the committee on Prevention of Corruption, headed by Shri K. Santhanam, more popularly known as the *santhanam commission*², the Central Vigilance Commission was formed in February 1964, as a single member commission with the head as Mr. Nittoo Srinavasa Rau as the first Chief Vigilance commissioner.

But Mrs. Indira Gandhi felt that not only were the investigation processes slow because of a single head for CVC, but also that CVC and CBI were not able to act efficiently due to political and bureaucratic interference and pressures. This conclusion was also complemented by the *hawala case*.³

This problem of political and bureaucratic interference was very famously coined as the “***Neta-Babu-Lala Syndrome***” in the 1990.

With the decisions taken in the hawala case, the court found that the decisions taken by the CBI and other investigating agencies were not appropriately fair and unbiased, especially in cases that involved powerful persons. Therefore, on December 18, 1997,

¹ http://en.wikipedia.org/wiki/Haridas_Mundhra

² <http://en.wikipedia.org/wiki/K.Santhanam>

³ http://en.wikipedia.org/wiki/Hawala_scandal

the court gave a *set of instructions*⁴ which were designed to insulate the investigating agencies like the CBI from political interference.

The government discussed this issue on April 8, 1998 and asked the Law commission of India for a report on the same. The Law Commission sent out the report on August 13, 1998. The Union cabinet met to discuss it on August 20, 1998. However, the cabinet was (mis)informed that the Law Commission's report was still awaited. Meanwhile a draft was prepared on the same issue by the secretaries and was placed before the cabinet for approval.

Later it was found, to obvious logic, that the report was deliberately withheld so that the draft made by the secretaries, which suited their interests more, could be approved. On August 25, 1998, the government hurriedly promulgated the *CVC Ordinance 1998*⁴ as per the draft put forth by the secretaries.

A major point of concern is that this ordinance flouted all the recommendation made by the court and the Law commission and the ones that it claimed to include, were so vaguely stated that they held no concrete importance. To say, at the least, this ordinance differed⁴ from what the court directed and what the commission reported, leaving a lot of loopholes in the setup of CVC and defeated the major purpose, that of insulating the investigating agencies like CBI from political interference.

Thereafter, several amendments and bills⁴ were passed in 1998, 1999 and 2003, one of which also got the CVC the status of being a *statutory* body. But, all of these bills, not to our surprise, very successfully were able to maintain the redundancy of CVC and CBI in corruption cases against bureaucrats and politicians.

In 1964, with the formation of CVC, the Directorates of vigilance across states were also formed, including the one in Delhi. The DOV Delhi comes under the Delhi government

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www.humanrightsinitiative.org/programs/aj/police/india/initiatives/story_of_the_central_vigilance_commission_story_2003.pdf

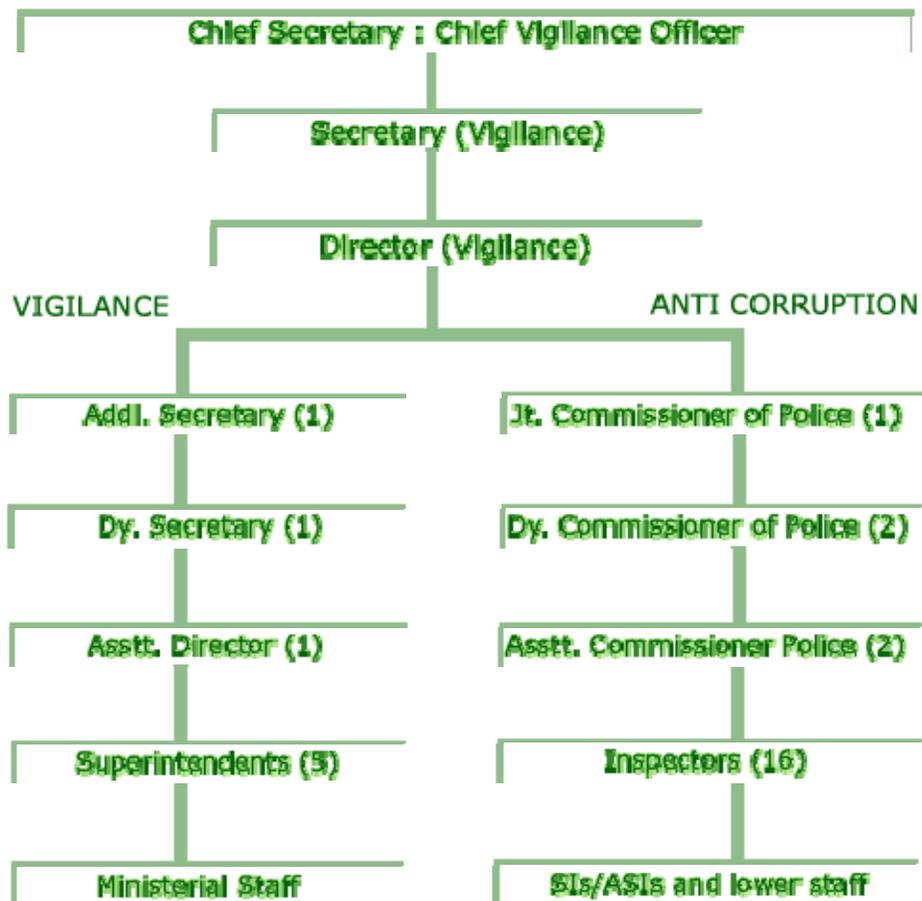
but derives its instruction and judicial supremacy from the CVC. It's directly under the supervision of the Chief Secretary, who is also the CVO of DOV of NCT Delhi.

Despite the loopholes detected in the setup, the CVC can still be considered more or less an efficient body. However, complaints against the state government departments aren't under the purview of CVC and which is where, at least in the case of Delhi, the DOV comes in picture.

Why and how the DOV works and what's appreciable and what's wrong in it, is what is discussed in the paper that follows.

ORGANISATIONAL CHART

DIRECTORATE OF VIGILANCE AND ANTI-CORRUPTION OF NCT OF DELHI



BUDGET

Schemewise Approved Outlay under Annual Plan 2008-09 of Govt. of NCT of Delhi

[Rs. in Lakh]

SN	Name of Sector / Department / Scheme	10th FYP [2002-07] Approved Outlay	10th FYP [2002-07] Exp.	11th FYP [2007-12] Proposed Outlay	Annual Plan 2007-08			Approved Outlay 2008-09			
					Approved Outlay 2007-08	Revised Outlay 2007-08	Exp. [Tentative]	Revenue	Capital	Loan	Total
OTHER ADMINISTRATIVE SERVICES											
I DTE. OF UTCS and Training											
	Direction & Administration	400.00	334.91	600.00	110.00	285.00	121.06	100.00	50.00		150.00
II VIGILANCE DEPARTMENT											
	Stp. of Vigilance Branch	4.00	28.22	60.00	12.00	30.00	20.41	20.00			20.00
III ELECTION DEPTT.											
	Stp. of Election Department and issuing of Photo Identity Cards	800.00	748.23	1500.00	300.00	1985.47	1848.39	300.00	40.00		340.00
IV Revenue Deptt											
i	Direction & Administration	7000.00	5063.41	10550.00	1164.00	1162.00	897.38	1250.00	900.00		2150.00
ii	Distt. Development Committee [Minor Works]					735.00	515.32	750.00			750.00
iii	My Delh I-Care Fund					496.00	626.59	500.00			500.00
iv	Bhagideri - Citizen Govt. Interface					407.00	262.22	300.00			300.00
v	Disaster Management [DC Office]		227.08	1000.00	208.00	250.00	233.00	800.00			800.00
vi	Disaster Management [MCD]					100.00	100.00				
vii	Microzonation of Delhi			2000.00	800.00						
viii	Development of Helipad and Helipad [NEW SCHEME]								100.00		100.00
ix	Aam Admi Bima Yojana							50.00			50.00
	Sub -Total	7000.00	5290.49	13500.00	3218.00	3150.00	2634.51	3650.00	1000.00		4650.00
V DTE. OF PROSECUTION											
	Direction & Administration	50.00	138.89	300.00	50.00	43.71	27.09	20.00			20.00
VI TRADE & TAX DEPARTMENT											

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**Sector / Deptt. / Scheme-wise Approved Outlay of Capital Works to be executed by PWD
and Other than PWD - 2008-09**

[Rs.in Lakh]

SN	Name of the Sector / Scheme	Revised Outlay 2007-08			Exp. 2007-08 [Tentative]			Approved Outlay 2008-09		
		[PWD]	Other than PWD	Total	[PWD]	Other than PWD	Total	[PWD]	Other than PWD	Total
1	Agriculture & Allied Services	1.00	994.00	995.00	0.00	940.60	940.60	30.00	490.00	520.00
2	Cooperation	0.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	100.00
3	Rural Development	0.00	13416.00	13416.00	0.00	13383.67	13383.67	0.00	18000.00	18000.00
4	Minor Irrigation	0.00	90.00	90.00	0.00	27.24	27.24	0.00	5300.00	5300.00
5	Flood Control	0.00	3141.00	3141.00	0.00	2773.46	2773.46	0.00	3300.00	3300.00
6	Energy	0.00	110254.00	110254.00	0.00	110203.00	110203.00	0.00	80950.00	80950.00
7	Industries	100.00	320.00	420.00	0.00	217.12	217.12	60.00	1040.00	1100.00
8	Weight & Measures	50.00	0.00	50.00	31.83	0.00	31.83	50.00	0.00	50.00
9	Transport	62000.00	98578.00	160578.00	62180.45	97280.22	159460.67	91500.00	149809.00	241309.00
10	Science & Technology	0.00	1150.00	1150.00	0.00	1121.67	1121.67	0.00	100.00	100.00
11	Tourism	5.00	0.00	5.00	0.00	0.00	0.00	0.00	0.00	0.00
12	Civil Supplies	0.00	130.00	130.00	0.00	128.27	128.27	0.00	80.00	80.00
13	Survey & Statistics	0.00	400.00	400.00	0.00	400.00	400.00	0.00	500.00	500.00
14	General Education	6232.00	12535.00	18767.00	5744.53	11440.88	17185.41	13500.00	19900.00	33400.00
15	Technical Education	3335.00	85.00	3420.00	2416.40	640.88	3057.28	5970.00	30.00	6000.00
16	Art & Culture	40.00	80.00	120.00	43.00	4.98	47.98	10.00	60.00	70.00
17	Sports & Youth Services	5255.00	200.00	5455.00	5063.20	161.88	5225.08	13720.00	1080.00	14800.00
18	Medical	15650.00	3020.00	18670.00	13049.90	4000.00	17049.90	15940.00	2500.00	18440.00
19	Public Health	275.00	0.00	275.00	29.53	0.00	29.53	200.00	0.00	200.00
20	Housing	3815.00	0.00	3815.00	3734.49	0.00	3734.49	4010.00	0.00	4010.00
21	Urban Development	0.00	13250.00	13250.00	0.00	13234.38	13234.38	0.00	6601.00	6601.00
22	Welfare of SC/ST/OBC	0.00	3081.00	3081.00	0.00	3076.85	3076.85	0.00	2350.00	2350.00
23	Labour & Labour Welfare	337.00	0.00	337.00	320.57	0.00	320.57	595.00	0.00	595.00
24	Social Welfare	592.00	130.00	722.00	591.23	0.00	591.23	1250.00	250.00	1500.00
25	Women & Child Development	115.00	500.00	615.00	0.00	164.00	164.00	300.00	500.00	800.00
26	Jail	2000.00	0.00	2000.00	2109.57	0.00	2109.57	3475.00	0.00	3475.00
27	Public Works	22320.00	0.00	22320.00	21857.43	0.00	21857.43	21000.00	0.00	21000.00
28	Other Administrative Services	4405.00	0.00	4405.00	3873.61	0.00	3873.61	3390.00	0.00	3390.00
	Total	126527.00	261354.00	387881.00	121045.76	259199.10	380244.86	175100.00	292840.00	467940.00

It's interesting to note here that the Delhi government, on one hand has issue Rs 467940 lakhs for development plans in Delhi. However, to ensure that all these plans are implemented and there's proper vigilance to avoid any kind of corruption, there is a sum of Rs 20 lakhs which is issue, a mere 0.00427% of the amount issued for developmental plans.

APPOINTMENT PROCEDURES AND REQUIREMENTS

As per the guidelines⁵ issued by CVC, the Chief Vigilance Officer (*henceforth termed as CVO*) of the directorate is selected by the Chief Vigilance Commissioner. The Directorate is under the supervision of the CVO (as shown in the organizational chart above), who is also the Chief Secretary.

In the long list of procedures defined for the appointment procedure of the CVO, there are two in specific, given the limited access to the information about the procedures and general information about the directorate, which need to be analysed:

1. Though the CVO is appointed by the approval of the CVC (which is also restricted to certain departments, without any specific reason for considering the rest of the departments efficient enough for self-governance⁶), the recommendations are made by the state/concerned department. Along with the list of recommended officers is their past record and ACRs (Annual Confidential Report), which is also *goes through the state/ concerned department*.

There are two problems here:

a) As per the ordinance discussed earlier, which clearly flouts all the directions given in the supreme court ruling, the clause of "impeccable integrity" was very conveniently replaced by "seniority"⁷. So the people who're recommended, are assumed to be the most honest people, as long as they are senior. If the ordinance tries to imply that by the virtue of being senior, a person is deemed honest and fair, then we may have considerations about the people who passed this ordinance.

b) Even if were to assume that the state would recommend the *best* people who can put all the corrupt officials of the state behind bars and cease all the corrupt activities which makes the work easier for the state and gets them additional income, there is still

⁵ ANNEXURE 1- Case Study by Subhash Bhatnagar

⁶ (page 30) CVC manual available on www.cvc.nic.in

⁷ CVC manual available on www.cvc.nic.in

a problem that persists. The CVC, as we have studied in detail in the chapter on “formation history” portion, isn’t completely free from pressures and bias. In that case, giving the responsibility of selecting the heads of each Vigilance Directorate, to a body prone to such huge amount of misuses can be very dangerous for the welfare of any state.

2. Another direction laid down for the appointment of a CVO reads out- “***As far as possible***, the Chief Vigilance Officers should be from outside the Organization in which he is to be appointed. The initial tenure of full-time CVO in PSUs is for three years extendable by two years in the same organisation with the approval of the Commission or upto a further period of three years on transfer to another PSU on completion of initial tenure of three years in the previous PSU.”

In such a statement, where vague and interpretation-susceptible words “as far as possible” are used, we have ourselves allowed loopholes in the Vigilance organization and mechanism. I may ask how far is this “as far”.

These are two minor directions that a student of 1st year could see and point out to be flawed. There might be many more such directions that are *not available to the public*⁸ and which might shake the basis of the Vigilance organization.

Another interesting remark about the CVO from Mr. Sachin Sridhar⁹ throws an important light on their position and role in effective vigilance. “When an officer just wants to continue in Delhi just because his family is settled here with kids in good schools and colleges, he applies for an extension and is given the post of a CVO. In such cases, he is not there to put himself in any kind of *panga* but rather just to spend a good time. Then the vigilance cell/department is bound to become a *toothless* body”, is what Mr. Sridhar had to say with his twelve years of experience in Government of India.

⁸ Chapter 4.7. in the paper on “accessibility to the public”

⁹ Mr. Sachin Sridhar left the government services as the DIG of Delhi police and is currently the owner of Starlite companies

Despite the above two discussed things, even if we still assume that the selected CVO will be the most honest person and will have no reason to indulge in corruption, and hence will ensure a fair mechanism in the entire Directorate and all vigilance cells, there is yet another interesting observation that was made in regard of the appointment of the rest of the staff in the DOV, which all of you must know.

The appointment of all the officers below the rank of the CVO, i.e. from the additional secretary to the ministerial staff, is based on *inter-departmental* postings and transfers¹⁰. For example: Say a person who was working in the Education department may be transferred to the vigilance cell of the transport department or may be posted in the Directorate of Vigilance. And as is known to all, transfers in the government sector is never free from political interference and bias. This also has two further problems:

i). Leakage

The problem of leakage of information and preventive action can be explained with a true example narrated by Mr. Sachin Sridhar in an interview with him.

“Several years back I was posted in Bengal as the SP, outdoing many of my seniors and Bengali batch mates. That was a very reputed posting. After about four and a half years of my service there, there was an anonymous complaint filed against me saying that I illegally owned a hotel in Manali. A team of 5 Vigilance inspectors were sent to Manali, who obviously didn't find anything. On coming back they reported that the property is most likely *benami*, so they need to make another visit, this time with their wives! One of the inspectors worked under me in my previous postings. So he told me their entire so called 'plan of action', trying to caution me if I actually owned something. But I told him that you carry on with your investigation. Meanwhile someone leaked this information in the local daily, which was obviously hyped out of proportions then and people started to look at me with eyes of suspicion. After this happened, I finally put

¹⁰ <http://persmin.nic.in/ersheet/MultipleERS.asp?HiddenStr=01UT014600>

my foot down and said that either you find my hotel and hand me over the possession or settle this issue ASAP. Within a few days my file was closed.

Later that inspector told me that one of my colleagues only filed the application. And when the team of inspectors was called, they were told that you are going to be sent on a *trip* to Manali. The inspectors also, after their first visit itself, realised that there was nothing that they could act on, but still just carried the case because it was like a vacation for them on government expenditure.

This is why they say *Vigilance ke pass jo files jaati hain wo shuru hokar khatam nahi hoti !....."*

This narrated case study helps us draw very important and critical conclusions. Not everyone is like Mr. Sridhar, who would be honest and not fear any investigations against them. Had there actually been a true case and an officer leaks out information to the person who is investigated, there is enough time for that person to destroy papers and evidences against him.

All this happens because there is a possibility that the inspector or any person in the Vigilance cell/department may have worked with the investigated officer and can (actually does) caution him and provides him with enough time to save himself.

Another important point that was highlighted here is about the constraints the officials face in terms of their organisational setup. "The DOV or any vigilance cell isn't allowed to carry out surprise raids or checks against senior officials in the government, without the prior consent of the ministry or state government or the senior most official of the department. In the time-period when these *permissions* are procured, the person is adequately warned by his *sources* and can easily destroy proofs against him", says Mr. Sridhar and was confirmed by a senior official in DOV.

ii). Suo-Moto Action

Another critical problem with inter-departmental postings being valid for the vigilance department in Delhi also is that it acts as a disincentive for suo-moto action by the inspectors/vigilance officers.

Let us understand this with an example. Say Mr. Jagmohan (fictitious name) who is the inspector in the vigilance department is responsible for carrying surveys, random checks and surveillance for suo-moto action. Even if he is fully aware that there is great amount of corruption say in the education department, he will not initiate any action against the department unless he receives a concrete complaint. This is the result of a normal human psychology which plays in his mind and he may be thinking that, "I may be posted under the same person in the Education Department in my next posting. Being in vigilance myself, I know how long and how successfully actions are taken against senior officials like Sharma (fictitious name). In that I will land up in big soup, especially when I have no excuse of a complaint too! *Chodh naa yar. Koi complaint karega toh dekhoonga. Maine theka le rakha hai kya!*"

The above quoted statement was said in these exact terms by a senior official in the Directorate of Vigilance, on the condition of anonymity, when he was asked as to why would he or any of his junior officers not initiate action against an official in some other department.

"At senior levels, we may not have fears like this. But it is the junior inspectors who take suo-moto action and report to the seniors, who just advice and follow on that. In case no action is initiated, we assume that the department is doing fine. Plus *madam aapko to pata hi hai sab ke upar ek big boss bait tha hai. Koi bhi government mein kisi aur officer ke saath relations kharab karna nahi chahega .Kab pata nahi kisne under daal dein humein.*" he added.

The situation is worse in Vigilance cells of the various departments. Where the DOV personnel can still be a little fearless in taking action, the vigilance officers in the vigilance cells of the departments, which is the ground level work and who act as information sources for the DOV, this fear is at a much higher level. In such a scenario, even if the DOV may be in a position to charge sheet a person, they can't do so unless

they receive some kind of information from these vigilance officers, who prefer to stay silent unless they receive a complaint.

After having understood that how the staff of the Vigilance directorate and cells is appointed, we now need to analyse what are their functions, constraints and jurisdiction.

BRANCHES AND SERVICES OFFERED BY EACH BRANCH¹¹

The Directorate of Vigilance & Anti Corruption deals with disciplinary cases against delinquent gazetted officers of all departments under the Govt. of NCT of Delhi. Complaints against gazetted/ non-gazetted employees received through general public, CBI, CVC and other sources are also processed. The department finalises chargesheets after re-drafting/ vetting of draft chargesheets received from various departments of Government of NCT of Delhi. In regard to specific serious irregularities, investigation is got done through Anti Corruption Branch of this Directorate which functions as investigating agency.

The Directorate of Vigilance is categorised mainly into two parts: the Vigilance department and the anti-corruption department. Services of each may be categorised as:

- **Vigilance Wing:** The Branch deals with disciplinary cases against delinquent officials of all departments under the GNCTD. It also deals with the complaints against gazetted/non-gazetted officials. The Wing has a Complaint Handling Policy and a Complaint Handling Mechanism and all complaints received in the Vigilance Wing and also in the Anti Corruption wing are to be subjected to the Complaint Handling Mechanism. It also tenders advice on vigilance matters to CVOs of local bodies and autonomous organizations. The Wing is also the nodal office for coordination with the Central Vigilance Commission and the Central Bureau of Investigation.
- **Anti Corruption Wing:** It conducts surveillance and apprehends corrupt public servants by laying traps and raids. It is also declared as a Police Station having jurisdiction all over the NCT of Delhi and is authorized to investigate all attempts, abetments and conspiracies in relation to or in connection with the offences under the Prevention of Corruption Act.

¹¹ http://www.delhi.gov.in/wps/wcm/connect/lib_vigilance/Vigilance/Home/FAQs/More+Questions
http://www.delhi.gov.in/wps/wcm/connect/lib_vigilance/Vigilance/Home/Citizen+Charter

Services to Government Departments

- Guidance and support to various departments in vigilance matters including departmental proceedings.
- Frame policy guidelines and mechanism for effective vigilance and expeditious disposal of inquiries.
- Organize trainings and workshops on vigilance and anti corruption measures.
- Suggest measures for preventive vigilance and develop a culture of trust and transparency instead of culture of secrecy.
- Coordinate with the Central Vigilance Commission and the Central Bureau of Investigation in cases relating to corruption and disciplinary action.

Commitment to Citizens

- Endeavours for a corruption free governance.
- Fairness, transparency and efficiency in enquiries and investigations.
- Adherence to rules and government policies
- Action on genuine complaints of corruption

ACTS AND LAWS FOLLOWED, AND JURISDICTION

By following the below mentioned rules and act, the DOV has a jurisdiction over:

Under CCS (CCA) Rules, 1965 & CCS(Conduct) Rules,1964¹²

- All Departments/Autonomous Bodies/Undertakings of Govt. of NCT of Delhi.

Under Prevention of Corruption Act, 1988¹²

- All Departments/Autonomous Bodies/Undertakings of Govt. of NCT of Delhi
- Local Bodies like MCD, NDMC, Delhi Cantonment Board.
- All Ministries/Departments/Offices of Central Government/its Undertakings/Autonomous Bodies having their offices at Delhi.
- Public Sector Banks/Companies having their offices at Delhi.

¹² Available on www.cvc.nic.in

ACCESSIBILITY TO THE PUBLIC

(1) E-GOVERNANCE

The directorate has its official website with the address <http://delhigovt.nic.in/dept/vigilance/homep1.asp>. Here anyone from Delhi can file a complaint against corruption and have access to the annual report and the number of cases filed, cleared etc with the directorate. Also general information about DOV (through FAQs and citizen charter), along with the name and phone numbers of the officials in the department is available.

All the above mentioned information and their links are *supposedly* there on the website.

But on visiting the site and clicking on the *useful* links like “vigilance cases” and “events”, the page that turned out was either “under construction” or blank or was outdated with incomplete records of 2006. On seeing such a useful site, when a rational thought struck to click on the contacts link and talk to a person to get the information, a page with some words came out but was as good as a blank page. Along with the addresses of the wings to which we can *travel* to file a complaint, it had a 2-column table with “Name- Phone number”, but the table below that was BLANK.¹³

Also contact details of department vigilance officers and PSU Vigilance Officers showed a similar picture given below:

Department Vigilance Officers ◆

Department	Designation	Address	Phone
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◆ PSU Vigilance Officers ◆

¹³ <http://delhigovt.nic.in/dept/vigilance/contact.asp>

Department	Designation	Address	Phone
------------	-------------	---------	-------

The only implication that could be drawn was that either there is no staff in DOV, or if there is any, they are anonymous people and if they aren't, then the DOV has been quite careless about maintaining one of its major sources of link with the public, apparently for whom they work!

On my next visit to the DOV, when I picked on this issue with the officer, he told me, "We have uploaded the latest information on the link of our department under the Delhi government site. You must check from there." And on being asked why they were so *careful* with their own site, the address which is available when a person googles DOV, his not-so-surprising reply came as, "Our site is redundant. Go and check the way I've told you."

On visiting the link provided, the first thing that I went to check was the "Contacts", (on 13th June; 9:56 PM). Describing it would be an insult. Have a look:-

Directorate of Vigilance - Windows Internet Explorer

http://www.delhi.gov.in/wps/wcm/connect/lib_vigilance/Vigilance/Home/Contact+Information/

delhi.gov.in
Govt. of NCT of Delhi

Directorate of Vigilance

CONRUPTION

Home>Contact Information

Department Vigilance Officers

PSU Vigilance Officers

Department	Designation	Address	Phone
HACKED BY GANDAL	JLC(Admn.)	PALASTINE LOVE ME	33233223

Chief Minister



Sheila Dikshit

Latest News

- Pulse Polio Programme- 2009-10
- Sankalp Diwas 2009
- Swine Flu - Clinical Management Protocol and Infection Control Guidelines

Local Services

- Feedback
- Grievances

Important Links

Done

Internet | Protected Mode: On

100%

9:58 PM

(2) INFORMATION FACILITATION COUNTER

An Information Facilitation Counter has been set up in the Duty Officer's Room of Anti Corruption Branch vide this office order No.895-919/SO/ACB dated 26.03.2007 in compliance of order No. F.4/47/06/AR (Part File)/CS/964 dated 05.03.2007 of Chief Secretary, GNCT of Delhi. The Duty Officer is designated as Information Facilitation Officer. Thus the Information Facilitation Counter will be manned by Duty Officer of Anti Corruption Branch. He will perform this duty in addition to his routine duties of a D.O.

As per the norms, the counter must give all the information sought by anyone, which is supposed to be in public domain. It is also supposed to facilitate the application of RTI in the Directorate or any of its branches, on issues/information which is sought and which isn't clearly defined whether to be made accessible to the public or not.

However, when through the CVC, the DOV could finally be called (as their contact list is blank), the person who picked the phone (name kept anonymous on request), who was apparently a senior officer in the administration, had a very interesting reply to give on being asked the direct phone number of the Information Facilitation Counter. Without knowing that the department was being researched and assuming that it was just another stupid curious student, incapable of any harm, he said, "Madam the counter isn't functional due to technical faults". On being asked about the "technical faults", he said, "Well Madamji, the Counter isn't actually operational only. It's newly built that's why I guess. But I don't know the exact reason though."

(3) DOV MANUAL/PROSPECTUS, ANNUAL REPORTS AND ANNUAL CONSOLIDATED STATEMENT

A few months back, on 1st April, 2009 to be precise, there was huge news about a person being refused the information that he sought from the Vigilance Department¹⁴. Even after he put up an appeal, the information was still denied with no concrete basis.

To check this and to add concrete documents to my paper so as to be able to analyse the department better, I asked them for their Annual report and Annual consolidated statement. The first officer I met told me, "We have it but we *prefer* not to give it because the public won't understand the Vigilance manuals and unnecessarily hype things." To try my luck for one more time, I asked another officer in the department for the same who told me, "I am not very sure if we have these documents for our department. I don't think we have it."

However, when I made things clear to him that they do have these reports(actually they *must* have these reports) and that they are supposed to be in public domain, the answer came back to square one- "File an application for the same and then we'll see. There are some figures on the site I have just told you. You can see from there."

If the *actual and full* report is there on the site, why couldn't it be shown to us was what I still haven't been able to understand.

So... NO ANNUAL REPORTS AND ACS FOR THE PUBLIC.

Another common option that people have, to access any department, is their manual or prospectus. This is universal, whether it is schools, colleges or government departments. However, the Directorate of Vigilance has NO MANUAL OR PROSPECTUS. Reason for the same couldn't be explained by any staff member.

¹⁴ ANNEXURE 2- Mum's the word for Vigilance department

“We don’t have our own prospectus as such. We follow the CVC manual only, which is available on their site. Rest of the information about DOV is as it is available to everyone”, says the Additional Secretary, DOV.

In such a case, the next option to turn to is the RTI manual and RTI Act under the department.

(4) RIGHT TO INFORMATION ACT, 2005

Under the “RTI Act” link on the website of DOV, there are two sub-links. One is the RTI manuals and the other has the RTI Act 2005 for the government departments.

Under the RTI manuals, there is a list of 17 manuals shown below. It seeks to provide the basic information that all citizens must have about a department without the need of having to file an RTI. Though this is a common list made for all departments, and it is understandable that all the headings may not be applicable for all departments. However on visiting the link, it was found that the following heads, which have been marked with asterisks, were filled with “NIL”, even though not all are the heads which aren't applicable to the Directorate of Vigilance, Delhi.

¹⁵LIST OF 17 MANUALS

Vigilance including Anti Corruption.	
1.	Particulars of organization
2.	Power and duties of officers/Employees
3.	Procedure for Decision Making
4.	Norms for discharge of functions
5.	Rules,Regulations for discharge of functions
6.	Statement of categories
7.	Details of consultative committees and other bodies *
8.	List of boards,councils,committees and other bodies *
9.	Directory of officers/employees
10.	Monthly remuneration of officers/employees
11.	Budget allocated to each agency
12.	Execution of subsidy program *
13.	Particulars of recipients of concessions,permits *
14.	Information available in an electronic form *
15.	Facilities available for obtaining information *
16.	Particulars of PIOs *
17.	Other information Prescribed *

Also, whatever little information is available, for example under the head “Particulars of the organization”, provides information which is as good as a blank page.¹⁶

¹⁵ http://www.delhi.gov.in/wps/wcm/connect/lib_vigilance/Vigilance/Home/RTI/

Reasons for the same couldn't be explained by either the department or by any rational mind. (Not to say these are mutually exclusive categories).

"RTI ACT 2005"

Under this link, there were a list of options available, few relating just to the concept of RTI and the rest to the application of RTI in departments. For every department, about which one is seeking information (that has already been placed under the site or has been sought by someone else and answered), it is the concerned department itself which feeds in the information as per their records.

For example: If one clicks on the "RTI Application details" under the department of "Vigilance including anti-corruption", then the information that is obtained is the information that the Vigilance department has fed from its record of RTI applications filed in the department.

After having known that, it was time to get some information about the department from the RTIs filed so far. However, though the questions asked there were pertinent, the answers put up on the site weren't so.

So the next thing to be checked were the figures relating to the applications and appeals, to check for the efficient processing by the department. The figures were startling.

17

¹⁶ ANNEXURE 3- Particulars of the organization(highlighted portions)

¹⁷http://delhigovt.nic.in/rti/spio/dept_wise_stat.asp (13thJune; 1:12 PM)

S.No	Department	PIO	APPLICATIONS							
			Received	Disposed Off					Pending	
				In which info fully supplied	In which info partly supplied	Transferred to other public authority	Rejected	Total	With PIOs	Due to Non-Payment of further fee by Applicants
117	Vigilance including Anti Corruption.	Dy. Secretary (Vig)	421	321	18	51	12	402	19	0

As per the above table, the total number of RTI applications received is **421**. However, the tables shown below don't show very complementary figures.

**¹⁸Type of Information Wise Analysis of Applications received under RTI Act , 2005
as on Saturday, June 13, 2009 at 1:14:40 PM**

Vigilance including Anti Corruption.

Type of Information Asked		Total Applications Received
1	Copies of Documents	89
2	Inspection of Documents	97
3	Life or Liberty	5
4	Reply on other Issues	275
5	Sample of Material	19
6	Third party Information	25
<i>(From here) TOTAL</i>		<i>510</i>

¹⁹Nature of Information Wise Statistics of Applications received under RTI Act , 2005

Vigilance including Anti Corruption.

Nature of Information	Total Applications Received
-----------------------	-----------------------------

¹⁸ http://delhigovt.nic.in/rti/spio/type_stat.asp

¹⁹ http://delhigovt.nic.in/rti/spio/nature_stat.asp

1	General Issues Concerning Public	12*
2	Non Availability of Services	3
3	Policy Matter	4 **
4	Redressal of Personal Grievance	16 ***
5	Retirement Benefits	1
6	Services/Estt Matters	44
7	Tender/Contract Related Issues	1
8	Vigilance Matters	201
9	Others	171
<i>(From here) TOTAL</i>		<i>453</i>

The story doesn't end here. Under "Nature of Information Wise Statistics", when few of the heads (which have been marked with asterisks) were checked under the link "Questions asked so far under RTI", the scene was different. There, the number of questions addressed to the department were as follows:

* 3

** 9

*** 13

The only implication that could be drawn here is that either the department has not put on its site all the questions that were addressed to it under RTI or it has mishandled its database. An officer from the department said, "I agree that inputs are provided by us only, but we are so timed-out that such errors could have crept in."

In either case, or rather all of the above cases that have been illustrated under the RTI section, the point that has been made is simple. Under all the options that we discussed that are available to the public to access information, RTI seemed the most updated and true. However with such mismatches there, the question that has been raised here is that can we rely on the RTI link too for the information or is it wiser to file an RTI ourselves for every little piece of information that we need and wait for a month to get *something* on it, not necessarily a reply.

A very famous sayings goes' "It's the best to learn from other's experiences", but in this case, is it?

MODUS OPERANDI
SUO-MOTO ACTION
CRITERION AND METHODOLOGY

The directorate and the departments' vigilance cells across Delhi maintain regular surveillance and checks over the departments to ensure transparency of the departments. Departments which are involved in public dealings and which are prone to corruption are especially kept under the eye.

On one hand the directorate is directly under the CVC and reports to the CVC on a monthly basis on the cases taken up and proceedings in various cases. On the other hand, the department vigilance cells are accountable to the DOV. However, this difference is what makes a huge difference.

The Vigilance officers in these cells not only are answerable to the DOV but also to the head of the department, who most of the times have been noticed to be not so cooperative in initiating action against corruption in their departments. Nevertheless, these vigilance officers also have to submit regular reports to the DOV, and after seeing the reports the DOV makes suitable recommendations on the case or directs it to the CBI, depending upon the type and seriousness of crime it involves.

Certain departments, for which it is felt that there is no need for an internal vigilance cell as it does not involve high level of public dealings, are directly supervised by the DOV. For example the AR department (Administrative department).

The entire list of procedures mentioned above are supposed to be taken under suo-moto action but often doesn't. Let us look at the reasons that act as constraints and incentives for the officers to initiate action in a department.

But before that it is interesting to note what the DOV has to say about preventive vigilance.

²⁰ *“Instead of making vigilance and anti-corruption a ‘post-mortem action’ or an exercise in ‘witch-hunting’, the importance is now being given to bring in transparency in the functioning of the public dealing departments. Through the instrument of Right to Information Act and the technology of active websites and in keeping ...”*

However, we have seen how active and efficient their website is. So reserving our comments on the same would be the best option at this time.

²⁰ http://www.delhi.gov.in/wps/wcm/connect/lib_vigilance/Vigilance/Home/Initiatives+taken

INCENTIVES AND CONSTRAINTS

The easiest way to analyse the position of an official in the vigilance department is to put yourself in his shoes and understand why would or why won't you take action.

Why would someone take action?

1. Your upbringing and conscience demands you to fulfill your duties and ensure that nothing acts as a hurdle for those
2. One is sick of saying that "Nothing can be done about corruption" and at least wants to try to bring a change.

Why wouldn't someone take suo-moto action?

1. As discussed in detail in the previous section of the paper on "appointment procedures", one of the major deterrents for an official to initiate some action, especially against a senior officer, is lack of security and stability. The fear of the possibility of being posted under the same person in the future, or even distantly related to him as a senior, acts as binding force for officials to take suo-moto action. Once they receive a concrete complain, things are still explainable but taking a risk yourself is something a person would want to do as the last thing. A detailed explanation for the same has been given in chapter 4.3.
2. Pressure groups: Small pressure groups that are present in the department which facilitate the work of the officials, even though it is through corrupt means also act as a negative force for the few honest officials, especially in the vigilance cells, who actually take steps against corruption.

An example would clarify this further.

It is again a self dictated story by a senior most vigilance officer in the vigilance cell of a public dealing department (name kept anonymous on request):

"A few days back I caught a group of touts red handed in the area downstairs. They were a group of people just wandering without reason, and when we investigated from

the various sources we have placed, we got to know that they were indulging in illegal activities. When I caught them, the workers of the department complained against me saying that I had employed them in the area and was earning a part of their revenue. All this just because they facilitated the officer's work, made their life simpler and helped them earn extra revenue. Then from the time when that complaint was made, till today, it is still dragging and the touts are roaming free. *Ab* when such things happen, why will I take action again at my risk. I will also wait for someone to complain and then I will also drag files."

3. Taking such an action requires collecting evidence from the ground, making reports on a regular surveillance basis till the time nothing concrete comes up, filing reports to the seniors, seeking their permission and then proceeding. Especially in cases of senior officials, the permission has to be obtained from the state government, which isn't an easy task to do (even when it is on the basis of a complaint that is made). On the other hand, when a complaint comes, they are bound to take action and don't have to collect the basic evidences (as they can be collected from the complainer). Looking at the salaries of the *ground level employees, who actually have to do all this work*, the latter seems a more viable option.

On being asked about their salaries, the officers had to say, "More than our sufficiency and needs, it's a lot about our self-esteem."

After having looked at this, it becomes clear as to why suo-moto action is minimal in vigilance. Thus, the other route we must look at is the route of "complaints".

COMPLAINT HANDLING MECHANISM
DIFFERENT WAYS OF FILING AN ACCEPTABLE COMPLAINT

There are broadly 3 ways in which you can lodge a complaint against corruption with the directorate, the Anti-corruption branch or the vigilance cell of a particular department:

1. Through the website/ online

A person can lodge a complaint addressed to the CVO on the address:

anti-corruption.delhi@nic.in

2. Fax

A complaint can be lodged against any gazetted/non-gazetted officer in NCT of Delhi through fax on [23890329](tel:23890329).

3. Letter

A written letter may also be posted to the anti-corruption branch or the directorate on the following addresses

Director (Vigilance)

Directorate of Vigilance

Govt. of NCT of Delhi

4th Floor, 'C' Wing,

Delhi Sachivalaya, New Delhi

Joint Commissioner of Police,

Anti-Corruption Branch,

Directorate of Vigilance,

Govt. of NCT of Delhi,,

Room No. 178-184, Old Secretariat, Delhi-54.

4. Helpline number

The anti-corruption branch also has a help-line number as [23890019](tel:23890019) which can be called at any time of the day to register a complaint.

Considering the time constraint that I faced in making this research paper, calling a number was the most accessible option to check. And it yielded astonishing and disappointing results. On calling the number, a person picked (name kept anonymous on request) and when I told him the problem I had; and asked him to file a complaint, he simply told me, "*Madam hume to complaint likhna aata nahi. Aap humare sahib ji se baat kar lijiye*". And when his respected *sahabji* came, Constable Nirman (name changed), he had a similar answer to give. "Call after 10 tomorrow" On being asked that isn't it a 24 hour service, he said "*madam 10 ke baad kal phone karna. Hume nahi pata*"

Such a disappointing scenario, that the people sitting on the helpline don't know what to do and how to do, forced me to call a senior official in the department. He gave a very expected reply, "*Madam I'll see what I can do about it. You see they are new.*"

Nevertheless before we move to the next section, it is essential for us to know that what are the two basic requirements that you need to fulfill before your application becomes an "acceptable" complaint²¹ -

1. It should have your name and contact details. You can request the department for anonymity, but you have to submit your name. Anonymous complaints are dis-regarded under the guidelines of CVC.
2. Your complaints must be brief and contain factual details, verifiable facts and related matters. They should not be vague or contain sweeping general allegations.

²¹ COMPALINT HANDLING MECHANISM on www.cvc.nic.in

GRIEVANCES THAT ARE ADDRESSSED
AND PROCEDURE FOLLOWED FOR THE SAME

22

S.No.	Types of Grievances	Mode for Registering Grievances	Redressal Route	Levels involved	Hierarchy	Optimum Time frame required at each level
1.	Grievance related to "Corruption"	Through written complaints	Dealing Asstt - Supdt.(Vig) ----- Asstt.Director (Vig)----- ,Addl.Secy.(Vig)----- --- Director (Vig)/HOD	Dealing Asstt ----- Supdt.(Vig) ----- Asstt.Director (Vig)----- ,Addl.Secy.(Vig)----- --- Director (Vig)/HOD		No specific time limit at each level
2.	Grievance related to "Harassment / Delay"	Through written complaints	Dealing Asstt ----- Supdt.(Vig) ----- Asstt.Director (Vig)----- ,Addl.Secy.(Vig)----- --- Director (Vig)/HOD	Dealing Asstt ----- Supdt.(Vig) ----- Asstt.Director (Vig)----- ,Addl.Secy.(Vig)----- --- Director (Vig)/HOD		No specific time limit at each level
3.	Grievance related to "Misuse of official power" .	Through written complaints	Dealing Asstt ----- Supdt.(Vig) ----- Asstt.Director (Vig)----- ,Addl.Secy.(Vig)----- --- Director (Vig)/HOD	Dealing Asstt ----- Supdt.(Vig) ----- Asstt.Director (Vig)----- ,Addl.Secy.(Vig)----- --- Director (Vig)/HOD		No specific time limit at each level

²² http://www.delhi.gov.in/wps/wcm/connect/lib_vigilance/Vigilance/Home/FAQs/More+Questions

APPLICATIONS FILED UNDER DIFFERENT ROUTES
AND PROCEDURE FOR THE SAME

23

S.No.	Activity	Process Flow	Decision making level
1.	Dealing of complaints cases	Dealing Asstt---> Supdt.(Vig) ---> Asstt.Director (Vig) ---> Addl.Secy.(Vig) ---> Director (Vig)/HOD	HOD
2.	Dealing with disciplinary proceedings cases	Dealing Asstt ---> Supdt.(Vig) ---> Dy.Secy.(Vig) ---> Addl.Secy.(Vig) ---> Director (Vig) ---> Secretary(Vig.) ----> Chief Secretary, Delhi/Hon'ble Lt. Governor, Delhi	Chief Secretary, Delhi/ Hon'ble Governor, Delhi.
3.	Application under RTI Act,2005 of GOI	Dealing Asstt ---> Supdt.(Vig) ---> Dy.Secy.(Vig)	Dy.Secy.(Vig)
4.	Appeal under RTI Act,2005 of GNCTD	Dealing Asstt,---> Supdt.(Vig) ---> Addl. Secy.(Vig)	Addl.Secy.(Vig)
5.	Application under DRTI Act, 2001	Dealing Asstt,---> Supdt.(Vig) ---> Dy. Secy.(Vig.) ---> Addl. Secy.(Vig)	Addl.Secy.(Vig)

Information dissemination

S.No.	Type Application / information to be processed	Levels / Hierarchy Involved	Optimum Time frame required at each level
1.	Dealing of complaints cases	Dealing Asstt---> Supdt.(Vig) ---> Asstt.Director (Vig) ---> Addl.Secy.(Vig) ---> Director (Vig)/HOD	No specific time limit at each level.
2.	Dealing with disciplinary proceedings cases	Dealing Asstt ---> Supdt.(Vig) ---> Dy.Secy.(Vig) ---> Addl.Secy.(Vig) ---> Director (Vig) ---> Chief Secretary, Delhi/Hon'ble Lt. Governor, Delhi	No specific time limit at each level.
3.	Application under RTI Act,2005 of GOI	Dealing Asstt ---> Supdt.(Vig) ---> Dy.Secy.(Vig)	No specific time limit at each level. Maximum time as given in RTI Act,2005
4.	Application under DRTI Act,2001 of GNCTD	Dealing Asstt,---> Supdt.(Vig) ---> Dy.Secy.(Vig) ---> Addl. Secy.(Vig)	No specific time limit at each level.Maximum time as per DRTI Act,2001.

²³ http://www.delhi.gov.in/wps/wcm/connect/lib_vigilance/Vigilance/Home/FAQs/More+Questions

In all of the above information that is provided, two things that come out starkly:

1. Too many levels that have to be crossed before an application can be processed. A typical case of bureaucracy and red tapism in government departments. So there isn't anything that should surprise us.

2. If you have noticed, for no case or application is there a time limit. Even after sacrificing our assurance that the complaint will reach the concerned authority and action will be taken, there is no mechanism to ensure that the action is taken within a stipulated period of time which imposes accountability on the investigating officers. One of the major problems that these officers also face is that the departments they are enquiring into aren't very cooperative in providing them with the necessary support.²⁴

However, an infinite time period for these enquiring officers gives way to them to use the term "un cooperative" for the departments, as an excuse; though agreed it is valid in some cases. However, when there is a time restriction on them, then will know and make sure that they use the powers given to them in the most efficient and effective way.

²⁴ <http://timesofindia.indiatimes.com/articleshow/25398244.cms>

WAYS TO CHECK THE STATUS OF YOUR COMPLAINTS

Once you have registered a complaint with the vigilance or the anti-corruption department, and you feel they are taking unduly long time for investigation or action, you have the right to check the status of your complaint under the RTI Act, 2005.

Once you make a complaint and it is acknowledged then you get a complaint number which you can feed in on the website of DOV and check the status of your complaint.²⁵

However, this isn't as transparent as it seems. Once you make a complaint, there is no mechanism to check whether or not your complaint has been received. In short, there is no mechanism to ensure that every applicant and application gets an acknowledgement.

There is a high degree of possibility that you don't get an acknowledgement letter, even if the department has received your application, especially in cases involving senior officials or highly controversial and media attracting issues.

After having looked at the complaint mechanism, we can understand the fact better now as to why people are reluctant to complain, besides the fact that they are scared of going against government officials. The mechanism to ensure transparency is itself so opaque and complicated, that people find it more "profitable" to indulge in corruption and make things simpler for both the persons involved.

To say here, that it is just the government or the vigilance department to be blamed entirely, would be wrong. It's high time we, the citizens, inculcate a civic sense in us towards the state. That is of course a behavioural and a long term change we are looking at, but to facilitate that we need to re-structure the mode of governance.

²⁵ http://www.delhi.gov.in/wps/wcm/connect/lib_vigilance/Vigilance/Home/RTI/RTI+Act+2005

WHY IS CORRUPTION STILL PERSISTENT

A BRIEF ANALYSED SUMMARY

S.No	Theoretical provisions	As a reason for corruption
1.	Central Vigilance commission bill 2003 to provide protection to CVC from political interference	The ordinance passed by the secretaries, deviated majorly from the one by Law commission, and provided escape route for external influence.
2.	Appointment of the CVOs by the Chief Vigilance Commissioner to avoid bias and ensure transparency	Prone to influence by senior politicians and bureaucrats
3.	Inter- departmental transfers for ranks below the Chief Vigilance Officer in the DOV and the vigilance cells of the various departments	1. Leakage of information, providing time and opportunity to the accused to clear evidences 2. Acts as a deterrent for suo-moto action, complemented by low salaries
4.	Ensuring transparency by being accessible to the public through internet, reports and manuals, Information cell and through the RTI	1. No manuals and inaccessible annual report 2. Ill-maintained website 3. Non-operational Informational cell 4. Mis-matching figures of RTI, which questions the reliability
5.	Complaint handling mechanism	1. Is very time-consuming and complicated, therefore not an option people seek to. Plus they feel it is something like getting into a trouble themselves, considering the number of levels that have to be crossed.

		<p>2. Departments against which complaints are made aren't very cooperative</p> <p>3. No time limit for yielding results</p> <p>4. No mechanism to check that all complaints get their acknowledgements</p>
--	--	---

OFFICIAL'S WORD

Besides the reasons that have been analysed in the previous section, there are reasons that can be best told by an official of the department. A very senior and honest official from the DOV gave a 3 hour interview, on the request of keeping his name anonymous:

"Bachche dekho. You've seen the reasons yourself why people in the vigilance department don't want to initiate action against corruption themselves. They want someone to complain, and even after that they have a very laid-back attitude. You see it is like saying that you expect them to take initiative to put their job at risk.

Now the problem is that first not too many people complaint. For a variety of reasons. They are scared of the *jhanjhat* they have to get into and of the government official's power. Plus the rules that we have in place are very rigid and haven't really evolved with the times, whereas corruption has! Rules should be made for the society. But in our case it seems it seems as if are for the person against whom they are technically supposed to be. And because of the rigidity of the rules, people hesitate in complaining.

The entire system is so complicated, that no one wants to enter into the procedures. Then even out of the few complaints we get, half are fake. CVC did issue a recommendation that anonymous complains should be discarded. But this has its own flipside.

Few people make genuine complaints but because of the leakages, which are there even in our department, we are not able to protect their names. In such a case some people prefer to make anonymous complaints. But on the other hand even the CVC is right, given our limited resources. You see, at the end, it's something like making provisions for upgrading a system that has already drowned. It just makes things worse.

See *bachche*, I have a very clear *funda*. There is an equation that has been set between the corrupt, corrupter and corruptee. It's something like a *Laxman rekha* for

corrupt activities. The moment anyone crosses that line in the society, is the time when we get complaints. Till that time, all the people seem to be happy.

The problem is that this equation line is getting on a higher level everyday. People in India aren't ignorant. They're smarter than me or you sitting here. A farmer can read a *tehseeldar's* face in seconds and acts accordingly with him. But people are forcing themselves to bear more and more, which is wrong.

Zero tolerance to corruption is our motto. But every person also gets sick of fighting a losing battle after a point of time; so have the people in the fight against corruption.

And yes I agree that the government officials are to be blamed for this, not their greed but what I call consumerism. But also the people are to be blamed. We have lost the civic sense in us. How many of care not to throw garbage on the street or to stand in queue to get our licenses or things like that. But then it's a vicious circle.

I remember Simon had once said-"Indians are not *yet* fit to self- govern." I feel that yet has still not come.

Computerisation can greatly help in bringing transparency, but that will take time. Also, I wonder how cooperative will be the officials with it. The junior officers don't know how to operate things like excel and all, and the seniors don't want to learn. *Aap mano ge nahi*, we are told what to write on the file notings by our boss. *Ab aise mein koi kya kare?*

Let us hope things do improve, even if at a slow pace, they do."

THE MAN SPEAKS HIMSELF

With a very generous and helpful attitude, Mr. Nagarajan Vittal, the revolutionist in the Vigilance department, agreed to give a telephonic interview of over 2 hours. Mr. Vittal was the Chief Vigilance Commissioner from 1998-2003 and was the one who implemented the idea of putting the names of corrupt officials on the CVC website. After explaining the working mechanism of the CVC and the departments in detail, and the history of the CVC, Mr. Vittal had the following statement to give as the conclusion:

“At the end, it is the people, whether in the government or in the corporate or on the streets, who have to take the responsibility of eradicating corruption. Everything can't be Vigilanted. It's impossible. There has to be a sense of self governance in each person.

About the corruption particularly in the government, I have given my 'Vittal's Laws' that you must read to understand why things happen.

With young people like you, and e-governance taking shape in our country, I definitely see a light of hope.

But as I always say- Walk you talk!”

POLICY RECOMMENDATIONS

After having analysed the department in detail, there are two things that come out starkly:

1. The Department Vigilance officers don't want to take action on their initiative unless they receive a complain, also considering that they are prone to external influence
2. People don't complaint because of the complication of the system, their convenience and the lack of assurance that some action will be taken even after they have endangered their name.

For the same, there are a few recommendations I have to offer.

(I) MAKE THE VIGILANCE CIRCLE INDEPENDENT

We need to remove the problem of inter-connectivity between the vigilance officers and other bureaucrats, including the ones against whom there might be a case in progress. For this, there simply needs to be a change in the appointment letter of the vigilance officials. The moment a person is posted in the vigilance field, may it be the DOV, the CVC or the vigilance cell of any department, the person shall not be posted back into any other department of the bureaucracy for the rest of his services. It's something like creating a separate vigilance circle, independent of the rest of bureaucracy, without actually creating a new service or exam for vigilance per say.

For example: If Mr. A has been posted in the minorities commission, then to the education department and then to the vigilance cell of say the transport department; then after his transfer to the transport department, he can't return to any of the departments under the state government as anything other than a vigilance official.

This solves the problem of overlapping of people who are checking and who are being checked, without the need of creating a separate service for vigilance. An additional benefit that accrues because of this would be that the officials in the vigilance will also have adequate experience and exposure to the working of the government departments, as a person who works there and not as someone who keeps a vigil there. Thus, the benefits that will accrue because of this would be:

1. Independence in working, without any direct and indirect interference. No fear of being connected to the person in future, and hence would encourage suo-moto action and take actions on the complaints in a more efficient manner.
2. Adequate experience to observe how the departments function but also specialization in vigilance.

The reporting mechanism would remain the same, except that the difference now would be that the senior authority in the vigilance whom you are reporting to will be accountable to the CVC, and not the state to the extent it is now. The reason is the same because once the person is in vigilance; he is in this virtual separate vigilance service, which itself forms an organization, with well defined authorities and reporting channels.

There might be a question of past relations here, which might be used as an argument for this policy to prove it redundant. However, this has the following explanations:

1. Even if a vigilance official has past relations with a department, it will not hinder his working because his future in the services is independent of his past relations; whereas his progress and promotions in the services will be dependent on how efficiently he works. If he does not, even if for a highly influential person, yet he can't be saved. Therefore, he will take action.

2. There is no other alternative. Even if we think of creating a separate service for the vigilance, yet you can't immune human interaction.

After having dealt with the problem of external interferences, which in kind enforces corruption in the vigilance too, we also need to ensure that there is no corruption within the Vigilance services. How will that be done:

1. The possibility that a vigilance officer may be bribed by a bureaucrat against whom he is carrying out investigations is minimal. At present, the bureaucrats in the vigilance cells can do so because they have the support from an influential highly posted bureaucrat or a politician. However, here even if he has some kind of support, it will be of no use to save him.
2. The reporting mechanism had suffered in status quo because of extremely high number of diverse reporting channels. Multiplicity of reporting may be the best word describing it. However, under the model proposed here, there is a well defined structure, including reporting.
3. A properly laid out hierarchy in the organization will impose authority, accountability and responsibility over everyone. '*Lan Refnic*' system in operation of the vigilance must be used.

- (II) Once we have removed the problem of external interference, we need to tackle the other issue of people's resistance to making complaints. Let us understand that why are people not complaining against the officials in the anti-corruption branch but the same people are filing RTIs to know the status of their applications and similar things.

It is because RTI has a time bound obligation on the officials and the department and an assurance towards the applicant that a reply would be given to them. In case they aren't satisfied, they can go to the appellate authority, and get the information they need.

However, **it is interesting to see that a body like Vigilance, which is set out to ensure transparency, is itself so opaque.**

Therefore, it also must be held accountable to the people and not only to the senior authority. Like the way crimes have been classified under the POC Act, 1988, similarly each crime can be further sub-categorised so that a time period, within which the file needs to be moved to the next stage or closed, can be decided for each category.

For example. In case of bribery, if the amount falls in say Rs 5000- Rs 10,000, then complaint against it must be moved to the next stage of processing within say 2 months. Those involving higher amounts can have a different length of time defined.

Similarly, the crimes can be sub-categorised to impose penalties within a stipulated period of time, crossing which the salary of the officers involved in investigation must be affected.

This ensures efficiency and accountability in operations.

Another argument that may come up is that when a time restriction is imposed on a person which directly affects his salary, he'll clear the case at the earliest but may not necessarily take the right and the most fair decision.

However, as in the current mechanism, there have to be reports submitted about each case that is taken up, to the Vigilance officer of the cell, to the CVO of the state and to CVC. Reports to three of them will be on a continuous basis, and through the "Lan Refnic" system.

However, once a decision has been taken, the report will not only be made available to the three of them but also in public domain.

This brings me to my third recommendation

(III) In recent cases, the DOV has been hesitant about opening up to the media and out of personal experience too, I can say that the annual report and the annual consolidates statement which is supposed to be in public domain, was denied to me.

Hence, their interaction with the media should be regulated but definitely not over-regulated to the extent which makes it non-existent. Once the stipulated time period for an action is over, the media or any external person must have a right to know the status of the case, whether it has been moved to the next stage of investigation or has some decision been taken with the necessary evidences. The CIC and the Administrative Reforms Department must ensure that these reports are in the public domain, including the media.

Thus this will ensure that the vigilance department is transparent itself.

E-governance plays an important role here, but the question here is how well is it implemented. For that, there needs to be steps taken (which will be taken up in detail in the next paper)

Policy recommendations specifically for state governments to improve situation in their respective states

S.No	Current problem	Recommendation	Benefits
1.	Fear of complaining against a senior colleague also due to the problem of leakage, and inability to maintain anonymity	An online mechanism which is accessible only to the department people (with a login ID and password), where they can make anonymous complaints. Simply put: Allowing intra-departmental anonymous complaints, applicable to all the departments. The complaint has to be made online to maintain accountability and records. The same will simultaneously be posted to the site of the vigilance, which is again accessible only by the officials.	The complaints will be limited, so can be efficiently handled. Plus if complaint is against a senior official, who takes action in the department, then those are also being looked by the CVC, and hence minimize possibility of abuse. Action taken on these complaints must also be duly reported. If a complaint is not acted on, it is responsibility of the denying officer to give a reason with proper documents(as per the RTI act)
2.	No way to ensure that appropriate action is being taken on a complaint	Implement the model of LAN REFNIC system used by Himachal Pradesh.	It will ensure transparency and accountability. Will also facilitate the above mentioned step. Will automatically demand each complainant to be acknowledged, and so

			tracing the action taken will be easier.
3.	III maintained websites	Outsourcing to NIC for all the government departments, not only vigilance. However, NIC should be given the required authority so as to be able to 'demand' the required information from the departments, which is legally supposed to be in public. Failing the same, punitive action must be given.	Ensures accountability for the departments. Can specialize in their field since this work has been outsourced to some one specialized in their field. Benefit at both ends

Concern

A major concern that still continues is about the civic sense in the people. We can monitor the departments and tell the people ways to fight corruption²⁶, but there has to be a sense of responsibility in each person that fights against corruption.

What has been recommended above is something that will facilitate people in inculcating this sense of responsibility and courage to fight against the corruption.

²⁶ www.karmayog.org/redirect/stred.asp?docId=9573

ANNEXURE1- CASE STUDY BY SUBHASH BHATNAGAR

Case study author: Subhash Bhatnagar

Information used to develop the case: This case has been developed from a presentation by the Central Vigilance Commissioner in the India States Forum 2000, held in New Delhi, 23-25 November 2000, and from newspaper reports on CVC website.

Date submitted: September 14, 2001

1. Who are the Chief Vigilance Officers?

The Chief Vigilance Officers are extended hands of the CVC. The Chief Vigilance Officers are considerably higher level officers who are appointed in each and every Department/Organisation to assist the Head of the Department/Organisation in all vigilance matters.

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2. What are the selection and appointment procedures for the Chief Vigilance Officers?

Selection and Appointment

The Chief Vigilance Officers constitute an important link between the organizations concerned and the Central Vigilance Commission (as also the CBI). The following procedures have been laid down/evolved in the matter of appointment of CVOs:

- a. Prior approval of the Commission for appointment of an officer as CVO;
- b. As far as possible, the Chief Vigilance Officers should be from outside the Organization in which he is to be appointed. The initial tenure of full-time CVO in PSUs is for three years extendable by two years in the same organisation with the approval of the Commission or upto a further period of three years on transfer to another PSU on completion of initial tenure of three years in the previous PSU.
- c. In cases where the scale of operation of a particular organization does not justify creation of a full-time post, an officer within the organization sufficiently senior in rank

to be able to report directly to the Chief Executive or vigilance matters may be considered for such appointments;

d. The officer to be given additional charge of the post of CVO should not be one whose normal duties involve dealing with matters sensitive from vigilance point of view (like recruitment, purchase, etc.);

e. Once an officer has worked as CVO in an organization, he should not go back as CVO to the same organization again;

f. An officer who is appointed from outside as CVO in Central Public Undertaking shall not be permanently absorbed in the same organization on expiry or in continuation of his tenure as CVO in that organization; and

g. The "Vigilance" and "Security" function in an organization should be separated as both the activities are equally demanding and the discharge of "security" functions by a Chief Vigilance Officer only leads to dilution of supervision on vigilance matters. However, an exception has been made in respect of the hotel industry.

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3. What is the role and functions of Chief Vigilance Officers?

Role and functions of Chief Vigilance Officers

Even though detection and punishment of corruption and other malpractices are certainly important, what is more important is taking preventive measures instead of hunting for the guilty in the post corruption stage. Therefore, the role and functions of CVOs has been broadly divided in to two parts, which are (I) Preventive and (II) Punitive.

On the preventive side

The CVOs undertake various measures, which include:

(a) To examine in detail the existing Rules and procedures of the Organisation with a view to eliminate or minimise the scope for corruption or malpractices;

(b) To identify the sensitive/corruption prone spots in the Organisation and keep an eye on personnel posted in such areas;

- (c) To plan and enforce surprise inspections and regular inspections to detect the system failures and existence of corruption or malpractices;
- (d) To maintain proper surveillance on officers of doubtful integrity; and
- (e) To ensure prompt observance of Conduct Rules relating to integrity of the Officers, like
 - (i) The Annual Property Returns;
 - (ii) Gifts accepted by the officials
 - (iii) Benami transactions
 - (iv) Regarding relatives employed in private firms or doing private business etc.

On the punitive side:

- (i) To ensure speedy processing of vigilance cases at all stages. In regard to cases requiring consultation with the Central Vigilance Commission, a decision as to whether the case had a vigilance angle shall in every case be taken by the CVO who, when in doubt, may refer the matter to his administrative head, i.e. Secretary in the case of Ministries/Departments and Chief Executive in the case of public sector organisations;
- (ii) To ensure that charge-sheet, statement of imputations, lists of witness and documents etc. are carefully prepared and copies of all the documents relied upon and the statements of witnesses cited on behalf of the disciplinary authority are supplied wherever possible to the accused officer alongwith the charge-sheet;
- (iii) To ensure that all documents required to be forwarded to the Inquiring Officer are carefully sorted out and sent promptly;
- (iv) To ensure that there is no delay in the appointment of the Inquiring Officer, and that no dilatory tactics are adopted by the accused officer or the Presenting Officer;
- (v) To ensure that the processing of the Inquiry Officer's Reports for final orders of the Disciplinary Authority is done properly and quickly;
- (vi) To scrutinise final orders passed by the Disciplinary Authorities subordinate to the Ministry/Department, with a view to see whether a case for review is made out or not;
- (vii) To see that proper assistance is given to the C.B.I. in the investigation of cases entrusted to them or started by them on their own source of information;
- (viii) To take proper and adequate action with regard to writ petitions filed by accused officers;

- (ix) To ensure that the Central Vigilance Commission is consulted at all stages where it is to be consulted and that as far as possible, the time limits prescribed in the Vigilance Manual for various stages are adhered to;
- (x) To ensure prompt submission of returns to the Commission;
- (xi) To review from time to time the existing arrangements for vigilance work in the Ministry/Department for vigilance work subordinate officers to see if they are adequate to ensure expeditious and effective disposal of vigilance work;
- (xii) To ensure that the competent disciplinary authorities do not adopt a dilatory or law attitude in processing vigilance cases, thus knowingly otherwise helping the subject public servants, particularly in cases of officers due to retire;
- (xiii) To ensure that cases against the public servants on the verge of retirement do not lapse due to time-limit for reasons such as misplacement of files etc. and that the orders passed in the cases of retiring officers are implemented in time; and
- (xiv) To ensure that the period from the date of serving a charge-sheet in a disciplinary case to the submission of the report of the Inquiry Officer, should, ordinarily, not exceed six months.

ANNEXURE 2- Mum's the word for vigilance

Mum's the word for Vigilance Directorate

A circular instructs ACB to avoid 'interaction' with media

Devesh K. Pandey

NEW DELHI: The Public Information Officer of the Delhi Government's Directorate of Vigilance has refused to part with file noting details pertaining to guidelines issued to the Anti-Corruption Branch on interaction with the media under the Right to Information Act.

The circular, which is available on the Directorate of Information and Publicity website, instructs the ACB not to give publicity to sting operations. It states that as far as possible only the designation and department of the accused public servants should be provided to the media.

"Frequent interaction with the media may be avoided. All instances of interaction with the media shall be conveyed to the Principal Secretary or Director Vigilance in the form of a brief report," it says.

To know what prompted

the Government to issue such a circular, Raj Mangal Prasad of non-government organisation Pratidhi recently moved an application under the RTI Act seeking a copy of the guidelines and file noting details including its approval.

"I received a reply stating that the pages of file noting cannot be provided as the information is exempted under Section 8 (1) (d) and (g) of the RTI Act. Sub-section 'd' of the section that has been quoted pertains to information including commercial confidence, trade secrets or intellectual property," said Mr. Prasad, adding that sub-section 'g' pertains to information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.

"How are these two sub-sections applicable in this

case? I am going to take up this matter under the first appeal and lodge a complaint under Section 18 of the Act with the Central Information Commission," said Mr. Prasad.

Stating that he had seen the circular and found it unreasonable, Magsaysay award winner and RTI activist Arvind Kejriwal said: "It is completely wrong to put such restrictions. Transparency has to be the cornerstone of any anti-corruption machinery. This shows that the administration is not serious about containing corruption."

For her part, first woman IPS officer and Magsaysay award winner Kiran Bedi said: "It is important to find out the compelling reason behind such a circular. In other cases like property crime, the arrests and particulars of offenders are made public. What is the difference here?"

ANNEXURE 3- Particulars of the organization

Manual I

Particulars of organization, functions and duties

[Section 4(1)(b)(i)]

1. Aims and objectives of the organization – The Directorate of Vigilance & Anti-Corruption deals with disciplinary case against delinquent gazetted officers of all departments under the Govt. of NCT of Delhi. Complaints against gazetted/non-gazetted employees received through general public, CBI, CVC and other sources are also processed. The Department finalises chargesheets after re-drafting/vetting of draft chargesheets received from various departments of Govt. of NCT of Delhi. In regard to specific serious irregularities investigation is got done through Anti-Corruption Branch which functions as investigating agency.

The Directorate also functions as nodal agency for advice on vigilance matters to CVOs of local bodies, Vigilance Officers, HODs and other organizations of Govt. of Delhi.

The Anti-Corruption Branch conducts surveillance and apprehends corrupt public servants by laying traps and raids. It also enquires into complaints received from various sources and also from members of the public and investigates cases registered under the Prevention of Corruption Act, 1988. The Anti-Corruption Branch also presents its cases in criminal court and maintains liaison with CBI and Directorate of Prosecution.

2. Mission/Vision – Same as in 1 above-

3. *Brief history and background for its establishment – This Directorate is discharging its duties under the Act and Rules for the last over 25 years.*

4. Organization Charts

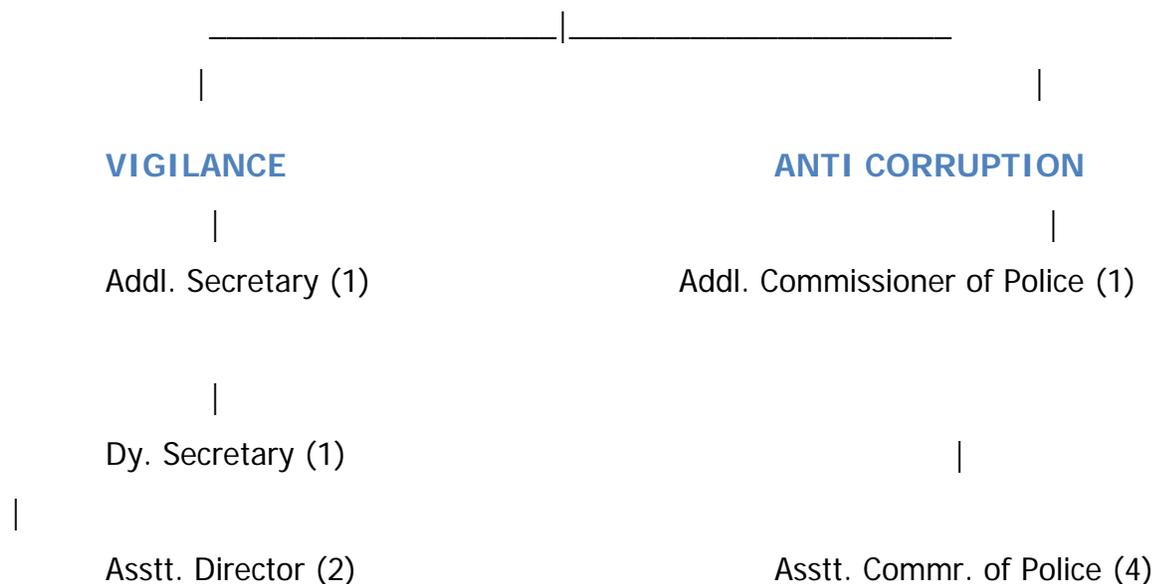
**DIRECTORATE OF VIGILANCE & ANTI CORRUPTION
GOVT. OF NCT OF DELHI**

Chief Secretary: Chief Vigilance Officer

|
Pr. Secretary (Vigilance & Anti Corruption) and Director(Vigilance)

Cum

Joint Commissioner of police (Anti Corruption)



|
Superintendents (7)

|
Ministerial Staff

|
Inspectors (25)

|
SIs/ASIs and lower staff

5. *Allocation of business - Same as in SI No. 1*

6. *Duties to be performed to achieve the mission – Same as in SI. No.1*

7. *Details of services rendered - Nil*

8. Citizens interaction – *Directorate is not a public dealing department.* However “ Vigilance Awareness Week “ is observed every year as per instructions of CVC. This year it will be observed from 07th November to 11th November, 2005.

9. Postal address of the main office, attached/subordinate office/field units etc.

Directorate of Vigilance	Jt. Commissioner of Police
4 th Level 'C' Wing	Anti-Corruption Branch
Delhi Sachivalaya	Old Sectt., Delhi-110054
New Delhi-110002.	(Prominent adjacement location:
(Prominent adjacent location: 1. ITO Bridge	Delhi Vidhan Sabha)
2. IGI Indoor Stadium)	

10. Map of office location - As in SI. No.9

11. Working hours both for office and public – 10.00 AM to 6.00 PM.

12. Public interaction, if any – As in Sl. No.8

13. *Grievance redress mechanism- Not required as interaction with public is almost nil.*