CHAPTER 1
INTRODUCTION

All along the various phases of human civilization, maintenance of social order and security has remained a difficult task. The enormous strides made by human beings in all their endeavors only made the problem more complex and bewildering. Isolated groupings of human beings that flourished and evolved in various parts of the globe without any mutual contact developed their own peculiar criminal justice administration systems which would cater to the felt necessities of their times. A comparative analysis of these systems would reveal that the means employed to achieve the common goal of a peaceful and orderly society, by these peoples had striking similarities. A specialized agency for effectuating the norms evolved towards maintaining social order as well as for investigating into the aberrations to the same is a common factor in all these systems. But regarding the powers to be exercised by the said body and the value of evidence gathered by them during the process of investigating into crimes, stark contradictions become apparent.

Socio-political scenario of the globe has never been more chaotic. Unlike any earlier times, in the present day world, disturbances in one part whether it is in the social political or cultural sphere, sends ripples right down to touch the lives of the humblest of the human beings and no one in any part of the world however hard he may try can remain unscathed of the same. Thus the changed world order demands commensurate change in the way each human group runs its criminal administration system. No system can afford to remain exclusive and will have to indulge in fervent
borrowings and takings from each other. Together they may also have to evolve new means to meet the new challenges.

The study in hands attempts a close scrutiny of the process of investigation of offences in India along with an analysis of the powers and functions of the investigating agency. A comparative analysis of systems prevalent in the various countries has been attempted.

Offences against national security being prejudicial to the very existence of the nation and its legal system, is a heinous and terrible one. Hence the different governments that came to power cutting across political lines have dealt the same with an iron hand. But a panacea is yet to be discovered. As early as 1971 the Law Commission of India had pointed out the need for treating the offences relating to national security and their perpetrators on a totally different procedural footing. The recommendation that the all the offences coming under the said category ought to be brought under the purview of a single enactment so as to confront such offences effectively, fell only on the deaf ears. It is interesting to note that vociferous criticisms against the same, the legislations intended and aiming at the preservation of national security has generously adopted many of the techniques and methods prevalent in other systems and had sought to weave them into the Indian criminal administration system to its advantage. An attempt has been made in this study to scrutinize the provisions of the said enactments and sift those norms and concepts that have been borrowed from other systems and also to probe the prospects for further assimilation and absorption.

The two major criminal procedure systems prevalent in various countries viz., inquisitorial and accusatorial are closely scrutinized. For identifying the underlying
philosophy and values of these criminal procedures two models of value systems developed by the Herber L. Packer are seriously studied. The legal actors in the administration of criminal justice namely, the court, the prosecutor, the police and the defence counsel and their functions and powers are also dealt with.

The discrepancies in and inadequacies of the criminal justice system in India as much as they are related to the investigations of the offences against national security are examined and the reforms needed are also suggested

It is sincerely hoped that this study would show a ray of light into the future course which the criminal administration system in this land should partake in the future.