A criminal law geared to fight corruption is essential to any battle against graft, whether in the public or private sector. In this chapter, the evolution of a criminal law is traced from its genesis to its final impact on police and prosecutors. *(The role of the judiciary is discussed in Chapter 16.)*

ANTI-CORRUPTION LAWS

The most carefully planned laws cannot by themselves control corruption.[1] To a large extent, the present crisis in many countries stems from the fact that their laws are not enforced. Legal institutions are failing owing to the weaknesses in national judicial systems, and in part from the lack of will to strengthen the institutions themselves.

Nonetheless, a sound legal framework is a necessary starting point. When laws are drafted, they should be simple both to understand and to enforce.

Corruption activists see a range of laws as relevant. Among them are laws providing for:

- *Access to information (including official secrets legislation)*
- *Resolution of conflicts of interest*
- *Public procurement processes*
- *Freedom of expression*
- *Freedom of the press*
- *Protection of whistleblowers and those who file complaints about government abuses*
- *Mobilization of civil society*
- *Democratic elections*
- *Ban on those convicted of offenses of serious moral significance such as rape or theft from holding or running for election to public office or from running companies*
- *Rules regulating gifts and hospitality to public officials*
- *Creation of an ombudsman*
- *Judicial review of the legality of administrative actions*

For criminal law, there are eight general principles which should be observed:

- *Compliance with international human rights standards*
- *Avoidance of unduly repressive provisions*
- *Clear guidelines on sentencing so that sentences are consistent*
- *Consolidation of various criminal laws dealing with corruption*
- *Regular review of the criminal law framework*
- *Special provisions for corruption cases which require individuals to establish the origins of unexplained wealth to the satisfaction of the court*
- *Forfeiture of the proceeds of corruption to the state*
- *Definition of corruption as including both the payment and receipt of bribes*

DRAFTING LAWS

Criminal law can act as a deterrent to corruption, but only up to a point. If the laws are not enforced or enforceable, then those who breach them have little to fear and the laws themselves can become meaningless.

Some see the passing of new anti-corruption laws as a first step towards countering corruption (even though many countries already have a range of laws that could fight corruption if they were enforced). As a result, laws to punish bribery and other forms of corruption have proliferated around the world, but frequently at the expense of doing anything to ensure their enforcement or to make sure that preventive measures are also taken. Passing a new law can appear to be a cost-free way of taking action, but, in reality, alone it can change little.

Anti-corruption legislation generally targets bribery, nepotism, conflicts of interest, and favoritism in the award of contracts or of government benefits. In doing so, some drafters try to list every imaginable activity and make each of them illegal. However, the corrupt are nothing if not imaginative, and can quickly find ways around such prohibitions. It is, therefore, generally more effective to draft more general prohibitions – such as the "abuse of public office for private gain."

General language such as this captures everything, but its disadvantage is that it can also be used by rivals within the system to challenge actions that are, in fact, completely innocent. This is particularly the case if investigators and judges are subject to political or other pressures. In these ways, an anti-corruption law can, itself, become a source of corruption.

To avoid such scenarios, those drafting laws should first ask themselves a series of questions:

- *Will institutions charged with enforcing the law have the capabilities to do so?*
- *Are the police, prosecutors, courts, and other enforcement agencies staffed by honest, technically competent professionals? (Surveys in many parts of the world show citizens as believing that the police and the judicial system are among the most corrupt of their countries' institutions.)*
- *Are these officials independent of the executive in theory? In practice?*
- *To whom, and in what ways, are these officials accountable?*

It may take time to build the essential capacity and structures for the fair and professional administration and enforcement of the law. Therefore, the law's drafters must take into account any weaknesses of agencies charged with enforcing the legislation.

"BRIGHT-LINE" RULES

In countries with such institutional weaknesses, the World Bank has suggested that draft legislation include so-called **"bright-line"** rules. These are rules that are easily understood, simple to apply and demand little or no judgment to determine their applicability. Such laws contrast with those containing standards that are open to interpretation by enforcement agencies.

"Bright-line" rules eliminate enforcers' discretion, but do so at some cost. For instance, if nepotism and favoritism in government recruitment are serious problems, legislation could prohibit government employees from hiring a friend or relative unless he or she was qualified for the position. But then the prosecutors and courts would be left to determine whether or not a particular relative was qualified, and so have considerable discretion in enforcing the law.

Alternatively, legislation which incorporates a "bright-line" rule could simply prohibit the appointment of any friend or relative, with no exceptions or qualifications. In this case, the enforcers would have no discretion. If an official's relative appeared on the payroll, the breach would be obvious. But if the law contained an exception for qualified individuals, arguments about the candidate's qualifications would be used to justify – and obscure – the appointment. Without the exception, the breach is clear for all to see, and citizens, the media, and watchdog groups can readily determine whether the government is serious about enforcing anti-corruption laws.

However, such laws are inflexible and allow no exceptions. They are simplified (perhaps over-simplified) to the point of being arbitrary. In the case of an anti-nepotism law, a government may well lose the person best qualified for the job.

Yet the fact is that weak courts are generally ill-equipped to develop and impose standards when they are working from more general principles.

The World Bank has recommended that countries with weak enforcement institutions consider including the following "bright-line" rules in their anti-corruption laws:

- *No government employee may receive any gift, payment, or anything of value in excess of a small sum from anyone who is not a member of that person's immediate family.*

- *No employee may hold, directly or indirectly (that is, through family or other agents), an interest in a corporation or other entity affected by that employee's decisions.*

- *Every year, all employees above a certain pay level must publicly disclose all assets they hold directly or indirectly.*

- *No employee may hire a relative (with a precise specification on how distant a relation must be before he or she is not a "relative").*

- *All employees must disclose any relationship with people hired and with firms or entities to which they award a contact or concession. (Since in many countries the pool of talented workers and qualified firms is small, this rule leaves decisions about corruption to public opinion.)*

ADVANCE RULINGS CAN AVOID PROBLEMS

When there are general provisions in an anti-corruption law that create broad discretionary powers, those in doubt about how to exercise their judgement on any case should be able to obtain advice and guidance from the relevant enforcement agency. If, based on the facts disclosed, the enforcement authority concludes that the action proposed would not constitute a violation, the employee would be free from any later prosecution. To prevent the process from unduly delaying government action, agency representatives can be required to rule on the request within a set period. If they do not, the law can provide that the action in question is legal.

An advance ruling procedure can also turn what could be an adversarial relationship into a cooperative one as civil servants work with ethics officers to structure transactions in ways consistent with the law. In addition, if a questionable action is later discovered that was not blessed with an advance ruling, it is one sign that an intent to evade the law existed.

Statutes outlawing bribery, nepotism, and other corrupt acts should always be complemented by laws that help bring corruption to light.

POSSESSION OF UNEXPLAINED WEALTH

Frequently, it is very obvious that public officials are enriching themselves. Sometimes one need go no further than a customs office's parking lot to see the evidence. But how can an enforcement agency get the proof necessary to gain a criminal conviction without evidence of bribes being demanded and received?

The Law Commission for England and Wales has stated that getting a conviction in a corruption case is "no more difficult" than for any other case of serious economic crime. But this begs the point. When resources are scarce, enforcement agencies do not have the capacity to take on many cases, and this means that most – or perhaps all – administrative corruption can go virtually unpunished.

In Hong Kong (where anti-corruption legislation has attracted considerable interest and emulation around the world), a way forward was found.[2] It was made a criminal offense for a public servant to possess wealth in excess of his official salary unless he can give a satisfactory explanation for his possession of such wealth. This approach not only means that it is relatively simple to prosecute cases of repeated administrative corruption, but also serves as a strong disincentive for corruption.

The value of such an offense to serve as an example for the conduct of public servants, especially senior public servants, is being increasingly recognized. The question is whether the human rights and fundamental freedoms of a public servant charged with such an offense are infringed. There are two aspects to be considered: first, whether an offense of merely possessing wealth in excess of an official salary infringes upon the right to a fair trial; second, whether placing the onus for having to establish the defense of "satisfactory explanation" on the accused infringes the right to be presumed innocent until proven guilty under the law.

The illicit enrichment concept has been adopted and incorporated into the Inter-American Convention Against Corruption, which terms the accumulation of a "significant increase" in assets by any government official an offense if that official cannot reasonably explain the increase in relation to his lawful functions and earnings.[3]

The Hong Kong Bill of Rights Ordinance, in article 11(1), provides, in exactly the words of the International Covenant, that "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law."[4] Not long after the Bill of Rights came into force in Hong Kong in 1991, senior public servants, charged with possessing excessive wealth, challenged the validity of the offense with the argument that it infringed upon their right to be presumed innocent.

The highest appeal courts in both Hong Kong and the United Kingdom have rejected this assertion. They acknowledged that, for this type of offense, the primary responsibility for proving matters of substance against the accused, beyond a reasonable doubt, rests with the prosecution. Only when it has been established by the prosecution that the accused's wealth could not reasonably have come from his or her official salary does the accused have to provide a satisfactory explanation. A satisfactory explanation would be one which might reasonably account for the wealth in excess of the salary. It is a matter peculiarly within the knowledge of the accused.

But requiring the accused to provide a satisfactory explanation needs strong justification if this departure from the fundamental principle of the rule of law (that the prosecution has the onus of proving every element of the case against the accused) is to be compatible with the protection of human rights.

What is that strong justification? As the UK Privy Council (on an appeal from Hong Kong) has said, "Bribery is an evil practice which threatens the foundations of any civilised society." It has also said there is "notorious evidential difficulty" in proving that a public servant has solicited or accepted a bribe. But there is, the Privy Council said, "a pressing social need to stamp out the evil of corruption in Hong Kong." The Court of Appeal of Hong Kong has echoed that view: "Nobody.... should be in any doubt as to the deadly and insidious nature of corruption." In another case, the Privy Council said the offense of possessing excessive unexplained wealth was "manifestly designed to meet cases where, while it might be difficult or even impossible for the prosecution to establish that a particular public servant had received any bribe or bribes, nevertheless his material possessions were of an amount or value so disproportionate to his official salary as to create a *prima facie* case that he had been corrupted."[5]

In summary, the right to a fair trial and the right to be presumed innocent until proven guilty require that the onus of proof must fall upon the prosecution, but may be transferred to the accused when he or she is seeking to establish a defense of insanity or diminished responsibility. Provisions that enshrine the right to be presumed innocent do not prohibit presumptions of fact or law against the accused, although such presumptions must be confined within reasonable limits, which take into account the importance of what is at stake and maintain the rights of the defendant. Nor do they prohibit offenses of strict liability; namely, offenses which do not require a criminal intent on the part of the accused. They do, however, impose certain evidential and procedural requirements that bear on the pursuit of the corrupt.[6]

USING THIRD PARTIES TO CONCEAL CORRUPTION

Corrupt officials can also conceal the proceeds of corruption by transferring them to friends or relatives, but still retaining control over the funds. In response to such scenarios, national laws sometimes provide that assets believed to be held by a third party on behalf of the accused or acquired as a gift from the accused will be presumed to have remained in the control of the accused. This presumption is most commonly applied to cases of bribery or unexplained excessive wealth and applies when there is no evidence to the contrary. The onus of providing that evidence rests on the accused.

Does such a so-called "reverse onus" infringe upon the assumption of innocence? Again, the Hong Kong Court of Appeal showed a sensible approach to this question, and one that balances all interests involved:

Before the prosecution can rely on the presumption that pecuniary resources or property were in the accused's control, it has, of course, to prove beyond reasonable doubt the facts which give rise to it. The presumption must receive a restric-

tive construction, so that those facts must make it more likely than not that the pecuniary resources or property were held ... on behalf of the accused or were acquired as a gift from him. And construed restrictively in that way, the presumption is consistent with the accused's fundamental right, being a measured response to devices by which the unscrupulous could all too easily make a mockery of the offences.[7]

TERMING "ADVANTAGES" AS BRIBES

There is a presumption often found in anti-corruption legislation that argues that if it is found that the accused in a bribery case gave or accepted an item that could be termed an "advantage," a benefit that need not be in money or have a financial denomination, that advantage will be deemed an inducement or reward, unless proven otherwise. However, this principle is rarely used.

Anti-corruption specialist Bertrand de Speville is among the lawyers who believe that a challenge to such a provision would succeed on human rights grounds. First of all, this presumption assumes corruption, an offense which the prosecution is obliged to prove. Also, just because a gift was made by a person charged with corruption does not mean that that gift can be automatically associated with corruption.

USING CIVIL LAW TO RECLAIM ASSETS

One way of recovering the assets of illicit activity without recourse to the criminal courts is by using civil law since civil proceedings do not require proof beyond reasonable doubt, but only on the balance of probabilities, This makes the cases easier to prove. *(This option is described in Chapter 14.)*

CONTAINING CORRUPTION IN THE PRIVATE SECTOR

Increasingly, governments are concerned with encouraging a corruption-free private sector. Their goal is to help businesses build a commercial environment characterized by efficiency and fair competition. Sound anti-corruption laws applicable to the private sector also protect employers from unscrupulous employees who abuse their powers for personal gain. A good law applying to the private sector would provide that:

- *an agent (normally an employee) cannot solicit or accept an advantage without the permission of his principal (normally the employer) when conducting his principal's affairs or business.*

- *the person who offers the advantage also commits an offense.*[8]

ENFORCEMENT

Once a legal framework has been enacted, the challenge is to actually make it work. However, even here, corruption can play a role. The work of investigators, prosecutors, judges and court staff alike remains at risk.

POLICE AND INVESTIGATIVE TECHNIQUES

CORRUPTION IN THE POLICE

As this chapter is being written, Moscow police are investigating allegations that a gang of corrupt police have been providing what is commonly referred to as a "roof" or "cover" – protection of businesses in exchange for payment of money. Store managers had been blackmailed over a long period of time and the gang had threatened that store directors and their families would be beaten if the money was not paid. At the same time, allegations were being investigated in Poland that the police chief, since resigned, had tipped off a junior government minister about an impending police raid. The minister had then passed the information on to the suspects, who were members of his political party.

At a recent INTERPOL conference, Commissioner Giuliano Zaccardelli, head of the Royal Canadian Mounted Police (RCMP), recounted a similarly disturbing discovery. An inspector in charge of a drug unit had accepted tickets to a hockey game from a lawyer, a professional acquaintance who, it proved,

represented a member of an organized crime group. In return for additional tickets and, eventually, money, the lawyer requested certain favors, including tip-offs to local drug lords about pending drug busts. In the end, as his involvement intensified, the inspector committed suicide in his office at RCMP headquarters in Ottawa. This tragedy was the impetus for a major examination of corruption in Canadian law enforcement.[9]

Commissioner Zaccardelli suggested that four elements should be in place for a police force to function with integrity and efficiency:

- ***Recruitment:*** *There is a need not only to recruit the right people but more importantly, to screen out the wrong people. Candidates' values should reflect those of the organization. They must be absolutely committed to serving the public, above themselves or their personal interest.*

- ***Training:*** *A rigorous training program can instill in recruits a good foundation for police work – one based on ethical behavior and integrity in decision-making. This is more difficult than it may seem. Police training has traditionally been paramilitary in nature. Cadets are told what they will do, when they will do it, and how they will do it. The trick is to balance traditional paramilitary training, which emphasizes command and control, with the need to empower recruits to be responsible and accountable for their actions. The training period is an optimal time to instill these values in each and every employee. If these values do not take root here, then employees may be vulnerable to corruption. In addition to training for recruits, veteran police officers, who have been on the job for 20 years, should be challenged to consider their own commitment to public service, examining their ethical foundation, vulnerabilities, integrity and courage of conviction.*

- ***Supervision:*** *An upstanding young citizen can be recruited to the ranks. He or she can be trained to be the best officer possible. But if there is inadequate supervision on the front line, where life and death decisions are made, all outstanding efforts can fail. It is hard for a supervisor to know enough about one of his or her employees to detect subtle changes in their personality that may signal that the officer is vulnerable to corruption or is taking part in it. Several questions are in order for police departments to consider. Is there a need to take a hard look at the value placed on managers' time? Are supervisors pushing paper or really mentoring and looking out for their staff? Do supervisors know the warning signs that one of their own might be vulnerable to, or engaging in, corrupt behavior? Perhaps most importantly, is each and every supervisor leading by example? Or is corruption in the office and on the front line merely a reflection of practices higher up the organization?*

- ***Detection:*** *The final area is detection and disclosure. This means, putting in place measures in your organization that can identify potential corruption and deal with it appropriately. For example, at the RCMP, officers are required to report a change in marital status to the human resources department. This is done so that personnel can know if an officer is going through a separation or divorce and experiencing marital difficulties that can make officers vulnerable to corruption. The challenge is to use this knowledge in ways that support the officer, and yet make him or her aware of their vulnerabilities and give them tools to manage the risk. Policies and procedures are needed that will identify inappropriate behavior early on, and consistently. Managers need to assess if their organization has effective methods for the disclosure of wrongdoing as well as for the management of the disclosure of any such behavior. Police culture enshrines confidentiality, the management of information, even secrecy. And yet these often positive qualities can lead to a breakdown in accountability and be abused for the purpose of hiding problems.*

As a necessary barrier to corruption, there should be a number of prerequisites for transparency in the activities of the police. Such prerequisites should include:

- *Legislative oversight including detailed budget spending within the Ministry of Interior*

- *Extra-institutional inspections and anti-corruption control by a government agency*

- *A specialized inspectorate within the ministry or department responsible for a country's police force*
- *A public-private sector partnership in monitoring and assessing police anti-corruption measures*
- *Widening the scope of public information about police activities, with an emphasis on the anti-corruption program and its results*
- *Sharing all information about corrupt policemen and networks of corruption within the security forces with the general prosecutor's office*
- *Full information about police officers' income and assets; especially those of more senior officers, and those of their closest relatives*

THE INTERPOL INITIATIVE

INTERPOL (International Criminal Police Organization-Interpol officially abbreviated to ICPO-Interpol) actively promotes integrity in policing around the world. Not only does it make use of a panel of anti-corruption experts, but it also has developed a set of standards for fighting corruption in police forces worldwide.[10]

INTERPOL's Global Standards to Combat Corruption in Police Forces/Services seek to ensure that police forces of member states have high levels of probity. Each member state commits to making corruption by a police officer a serious criminal offense. Other standards include establishing and maintaining high standards of conduct for the honest, ethical and effective performance of policing functions; and setting up and maintaining effective mechanisms to oversee and enforce high levels of conduct in the performance of policing functions.

INTERPOL is now developing ways in which to provide practical assistance and training to member states' forces that require it.

INVESTIGATIVE TECHNIQUES: INTEGRITY TESTING

Unless a corrupt act is exposed, how do we know that an officer is corrupt? And more importantly, how can we ensure that these officers are not promoted to positions where they can wreak even more damage? And, in handling allegations of corruption made against officers, how do we ensure that morale is not adversely affected? And that complainants – and innocent parties – are protected? Such allegations are easily made. If they are not based on fact, they can be damaging.

A further complication can occur when those making allegations have a history of criminal involvement, especially when their complaints are made against the police. This puts the complainant's credibility under question. So how can reliable evidence (either of integrity or of corrupt tendencies on the part of police officers) be produced? Can this be done in ways consistent with the constitutional rights of officers as citizens, and in ways in which neither the complainant nor the person implicated in the complaint is exposed to outside pressures?

In various parts of the developed world, police corruption scandals have come in cycles. Rampant corruption has been exposed, clean-up measures have been implemented, corrupt police have been prosecuted or dismissed. But within a few years, a bout of fresh scandals has emerged.

This, it is now realized, is because whole reform strategies have been misconceived. They have been founded on a belief that getting rid of "rotten apples" in the form of corrupt officers would be sufficient to contain the problem. It is now clear that it is not enough to clean up an area of corruption when problems show. Rather, systems must be developed which ensure that incidences of corruption will not be repeated. It is in the essential field of follow-up and monitoring that integrity testing comes into its own.

Integrity testing has now emerged as a particularly useful tool for cleaning up corrupt police forces – and for keeping them clean. The object is to test the integrity of an official, and not to render an honest one corrupt through a process of entrapment.

Most countries have agent provocateur rules in their criminal codes, which act as a judicial check on what is permissible. These rules vary from jurisdiction to jurisdiction, but they obviously have to be borne in mind.

It is, of course, important to ensure that the degree of temptation is not extreme.

Integrity testing has to be developed and conducted very carefully. It is essential, for instance, that the temptation placed in the way of an official is not so great as to tempt even an honest person to succumb.

INTEGRITY TESTING IN NEW YORK CITY

Since 1994, the New York City Police Department (NYPD) has conducted a very intensive program of integrity testing.

The department's Internal Affairs Bureau creates fictitious scenarios based upon known acts of police corruption, such as the theft of drugs and/or cash from a street level drug dealer, to test the integrity of NYPD officers. The tests are carefully monitored and recorded using audio and video electronic surveillance as well as the placement of numerous "witnesses" at or near the scene.

The NYPD strives to make the scenarios as realistic as possible and they are developed based upon extensive intelligence collection and analysis. All officers are aware that such a program exists and that their own conduct may be subjected, from time to time, to such tests. They are not, however, told about the frequency of such tests. (This has produced a sense that they are far more frequent than actually occurs.)

Integrity tests are administered on both a targeted and a random basis. That is, certain tests are directed at specific officers who are suspected of corruption, usually based upon one or more allegations from members of the public, criminals or even other officers.

In addition, certain tests are directed against officers selected at random, based upon the knowledge that they are engaged in work that is susceptible to certain acts of theft or corruption. All of the tests are carefully planned to avoid entrapment, and no officer is enticed into committing an act of corruption. The scenario merely creates realistic circumstances in which an officer might choose to engage in a corrupt act.

More than 1,500 integrity tests are administered each year among a force of 40,000 officers. The data produced by these tests provides reliable, empirical evidence of the rate of corruption among NYPD officers. The results have been both useful and instructive.

The rate of failure (i.e., when the subject engages in a corrupt act) in the targeted tests is significant. About 20 percent of the officers tested on this basis fail the test, are prosecuted and removed from the force. This would seem to validate both the reliability of carefully analyzed public complaints and allegations of police corruption and the efficacy of the specific integrity tests employed.

The introduction of the system has also seen the number of reported attempts to bribe police officers soar.

No police officer can now know whether or not the offer made to him or her is an integrity test. Officers believe that it is better to be safe and to report the incident than risk treating it as irrelevant, let alone accepting it.

By contrast with the comparatively high number who fail the targeted test, only about 1 percent of the officers who are subjected to random tests fail. This would seem to support the long-held view of senior NYPD officials that the vast majority of its officers are not corrupt.

In addition to providing valuable empirical evidence about the rate of corruption among police officers, integrity testing has produced very useful lessons about the strengths and weaknesses of the supervision and control of police officers in the field. Such lessons are used to develop better training and more effective policies to ensure that police services are provided effectively and honestly.

There can also be no question that integrity testing is a tremendous deterrent to corruption.

The NYPD has seen a dramatic rise in the number of reports by police officers of bribery attempts and other corrupt conduct by members of the public and/or other officers since the integrity-testing program was initiated. Some of this increase is undoubtedly attributable to the fact that NYPD police officers are concerned that their actions may be subject to monitoring and that even the failure to report a corrupt incident could subject them to disciplinary action.

The London Metropolitan Police has initiated a similar program of integrity testing, administered by specialist internal anti-corruption units. Early reports indicate that the London police are obtaining some of the same benefits as the NYPD.

In tandem, there should be independent police complaint boards. The police should not be left in the position of investigating complaints against themselves. Boards should have civil society representation to assure the public that the procedures adopted are thorough and appropriate.

INVESTIGATIVE TECHNIQUES: WIDER USES OF INTEGRITY TESTING

The concept need not be confined to police activities. In some countries, hidden television cameras have been used in the ordinary process of criminal investigations to monitor illicit activities conducted in the private offices of judges. These cameras have captured corrupt transactions between judges and members of the legal profession. It would also seem to have potential use in other areas where the public sector is engaged in direct transactions with members of the public, particularly in customs.

It would be interesting, too, to see the effect of this same approach in the area of international government procurement contracts. Under such a scenario, major international corporations bidding on government contracts in a developing country would know that they would have to contend with an integrity testing program. They would know the payment of any bribe (or even the failure to report the solicitation of a bribe) would subject them to instant exposure as a corrupt company, and to public blacklisting. It would be a simple matter to use integrity testing to identify and remove junior staff who are taking a large number of small bribes. Yet junior officials do not lie at the heart of the corruption problem. It will be more difficult to adapt the methodology to counter those senior officials who are involved in a small number of highly lucrative transactions.

The possibilities the technique presents for much of the world have yet to be thoroughly explored. However, on face value there would seem to be considerable merit in establishing a system by which all officials (be they police, customs or elsewhere in the system) know, at the very least, that random integrity testing take place as a means for tackling and reducing levels of petty corruption.

Integrity testing has to be developed and conducted very carefully. It is essential, for instance, that the temptation placed in the way of an official is not so great as to tempt even an honest person to succumb. The object is to test the integrity of the official, not to render an honest official corrupt through a process of entrapment. More than this, most countries have agent provocateur rules in their criminal codes, which act as a judicial check on what is permissible. These rules vary from jurisdiction to jurisdiction, but they obviously have to be borne in mind. It is important to ensure that the degree of temptation is not extreme.

That said, there is no doubt that the New York experience has shown that integrity testing, properly and fairly conducted, is potentially a highly effective weapon for the launching of a campaign to confront systemic corruption in many public agencies.

INVESTIGATIVE TECHNIQUES: UNDERCOVER INVESTIGATIONS

Undercover investigations are closely related to integrity testing, but lack the random element. These investigations are only looking for what is wrong, and not to establish what is going well, and who is honest.

There are a number of risks that must be minimized, countries should have clear guidelines for this type of investigation. The risks can include:

- *harm to undercover employees*
- *harm to private individuals and businesses, and the risk of liability for other losses being incurred by the government*
- *invasion of privacy*
- *entrapment (i.e. creating an offense where one would otherwise have been unlikely to occur, such as offering a very large bribe)*
- *undercover employees or cooperating individuals actively participating in the activity being targeted by the operation*

It is usually thought advisable for the person likely to be the prosecutor – if there is one – to be involved in the oversight of the investigation. This can ensure that the evidence obtained is both relevant and admissible in court proceedings and of a quality which is likely to bring a conviction.

CIVIL SOCIETY CAN HELP

Civil society groups can be of assistance to police forces and help to bridge the gap that exists in many countries between the people and those responsible for their protection. One such group, Transparency International Czech Republic (TIC), has conducted a survey of anti-corruption strategies in the police in 25 countries. The findings are contained in a TIC publication entitled "Crossing the Thin Blue Line."

TIC is now working on creating a anti-corruption strategy for the Czech police in cooperation with representatives from all sectors of public life: the Ministry of the Interior, Ministry of Justice, Police Presidium, Czech Police, Bureau of the Attorney General, judges, Office of the President, Ombudsman, Government Commissioner for Human Rights, and non-profit organizations such as the Czech Helsinki Committee, People in Need, and Civil Legal Observers.

One measure regarded as very effective is the introduction of regular integrity and ethics training for police and students at police schools. TIC has initiated steps towards introducing these into the Czech police, through a pilot course for police school teachers.[11]

PROSECUTORS

Rule of law requires that state prosecutions be conducted fairly and reasonably.

Beginning prosecution proceedings – or refusing to open a prosecution – ought not to be motivated by improper, and, in particular, political, considerations, but by the public interest and the need for justice. Unquestionably, one of the most difficult areas of the law is the discretion to prosecute. This issue lies at the very root of the rule of law.

Clearly, considerations such as possible political advantage or disadvantage, or the race, origin or religion of the suspected person are wholly irrelevant. However, other significant areas which may affect the decision-making process can only be resolved through the exercise of independent judgement.

To exercise decision-making fairly and transparently, a public prosecutor should not be subject to direction from any political party or interest group. For example, the Serbian Law on the Public Prosecutor's Office provides that the office is a autonomous agency and that the use of any public office, the media, or any public statement that may influence the Office is prohibited, as is any other form of influence.

The office of the public prosecutor can be equated with that of a high judicial office; as such, accountability can be brought to bear through provisions that require removal for cause.

Clear guidelines, available to both the legal profession and the wider public, should govern what infringements of the law ought to be taken into account in deciding to prosecute and what should be excluded.

The document International Guidelines on the Role of Prosecutors, was developed by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba in 1990.[12]

The Seventh UN Congress had called for guidelines relating to the selection, professional training and status of prosecutors, their expected tasks and conduct, means to enhance their contribution to the smooth functioning of the criminal justice system and their cooperation with the police, the scope of their discretionary powers, and their role in criminal proceedings, and to report to future United Nations congresses.

The UN Guidelines adopted in Havana include the following:

10. *The office of prosecutors shall be strictly separated from judicial functions.*

11. *Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest.*

12. *Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.*

13. *In the performance of their duties, prosecutors shall:*

(a) *Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination.*

(b) *Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect.*

(c) *Keep matters in their possession confidential, unless the performance of duty or the needs of justice require otherwise.*

(d) *Consider the views and concerns of victims when their personal interests are affected and ensure that victims are informed of their rights in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.*

14. *Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.*

15. *Prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences.*

16. *When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.*

17. *In countries where prosecutors are vested with discretionary functions, the law or published rules or regulations shall provide guidelines to enhance fairness and consistency of approach in taking decisions in the prosecution process, including institution or waiver of prosecution.*[13]

Unfortunately, prosecutors can also be a weak link in the chain towards enforcing anti-corruption laws. There are instances of prosecutors being bribed, put under political pressure, threats, and of being

removed from office in the event of effective prosecutions.

Maintaining the discretion to prosecute is essential. The prosecutor must, after a careful review of the evidence, decide whether there is sufficient evidence to warrant a prosecution and, even if there is, whether the public interest dictates that charges ought not to be brought. As examples of the last, it might be thought that highly expensive court proceedings are not warranted where the offense in fact is trivial; alternatively, an accused person might be in such poor health that having him or her standing trial would be oppressive and offend society's values.

In a determined effort to raise standards worldwide, the International Association of Prosecutors was established in June 1995 and was formally inaugurated in September 1996 at its first general meeting in Budapest.

One of its most important goals is to "... promote and enhance those standards and principles which are generally recognized internationally as necessary for the proper and independent prosecution of offences." In 1999 it adopted The International Association of Prosecutors' Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors. This is a statement meant to serve as an international benchmark for the conduct of individual prosecutors and of prosecution services. It is a working document used by prosecution services in developing their own standards.

An edited version follows:[14]

1. Professional Conduct

Prosecutors shall at all times maintain the honor and dignity of their profession and always conduct themselves professionally, in accordance with the law and the rules and ethics of their profession. At all times, they should exercise the highest standards of integrity and care, and strive to be, and to be seen to be, consistent, independent and impartial. They should always protect an accused person's right to a fair trial, and, in particular, ensure that evidence favorable to the accused is disclosed in accordance with the law or the requirements of a fair trial. Prosecutors should always serve and protect the public interest, and respect, protect and uphold the universal concept of human dignity and human rights.

2. Independence

The use of prosecutorial discretion, when permitted in a particular jurisdiction, should be exercised independently and be free from political interference. If non-prosecutorial authorities have the right to give general or specific instructions to prosecutors, such instructions should be:

- *transparent*
- *consistent with lawful authority*
- *subject to established guidelines to safeguard the actuality and the perception of prosecutorial independence*

Any right of non-prosecutorial authorities to direct the institution of proceedings or to stop legally instituted proceedings should be exercised in a similar fashion.

3. Impartiality

Prosecutors should perform their duties without fear, favor or prejudice and in particular carry out their functions impartially. They should remain unaffected by individual or sectional interests and public or media pressures and shall have regard only to the public interest. They should act with objectivity, and seek to ensure that all necessary and reasonable enquiries are made and the result disclosed, whether that points towards the guilt or the innocence of the suspect. They should always search for the truth and assist the court to arrive at the truth and to do justice between the community, the victim and the accused according to law and the dictates of fairness.

4. Role in criminal proceedings

Prosecutors should:

- *perform their duties fairly, consistently and expeditiously – objectively, impartially and professionally*

- *proceed only when a case is well-founded upon evidence reasonably believed to be reliable and admissible, and not continue with a prosecution in the absence of such evidence*

- *ensure that throughout the course of the proceedings, the case will be firmly but fairly prosecuted, and not beyond what is indicated by the evidence*

- *safeguard the rights of the accused in co-operation with the court and other relevant agencies*

- *disclose to the accused relevant prejudicial and beneficial information as soon as reasonably possible, in accordance with the law or the requirements of a fair trial*

- *refuse to use evidence reasonably believed to have been obtained through recourse to unlawful methods which constitute a grave violation of the suspect's human rights and particularly methods which constitute torture or cruel treatment*

5. Co-operation

In order to ensure the fairness and effectiveness of prosecutions, prosecutors should co-operate with the police, the courts, the legal profession, defense counsel, public defenders and other government agencies, whether nationally or internationally, and render assistance to the prosecution services and colleagues of other jurisdictions, in accordance with the law and in a spirit of mutual co-operation.

6. Empowerment

In order to ensure that prosecutors are able to carry out their professional responsibilities independently and in accordance with these standards, prosecutors should be protected against arbitrary action by governments. In general they should be entitled to:

- *perform their professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability*

- *be physically protected by the authorities when their personal safety or their families' safety is threatened as a result of the proper discharge of their prosecutorial functions*

- *reasonable conditions of service and adequate remuneration, commensurate with the crucial role performed by them and not to have their salaries or other benefits arbitrarily diminished*

- *reasonable and regulated tenure, pension and age of retirement subject to conditions of employment or election in particular cases*

- *recruitment and promotion based on objective factors, and in particular professional qualifications, ability, integrity, performance and experience, and in accordance with fair and impartial procedures*

- *expeditious and fair hearings, based on law or legal regulations, where disciplinary steps are necessitated by complaints alleging action outside the range of proper professional standards*

- *objective evaluation and decisions in disciplinary hearings*

- *form and join professional associations or other organizations to represent their interests, to promote their professional training and to protect their status*

- *relief from compliance with an unlawful order or an order which is contrary to professional standards or ethics*

In Slovenia, an effort has been made to eliminate political influence on the appointment and promotion of prosecutors. A Law on Changes and Amendments of the State Prosecutor's Act (OG No. 110/02) has been enacted under which prosecutors will be appointed and promoted following proposals from the State Prosecutor's Council. The Council has seven members, all state prosecutors. The Prosecutor General and his/her deputy are always members. One member is nominated by the minister of justice from among the heads of prosecution districts. Four members are elected by state prosecutors who are not in senior positions.

A Council proposal for an appointment or promotion of a prosecutor is submitted to the minister of justice, who has to approve the proposal in cases of promotion. In cases of appointment of a new prosecutor, the minister has the power to reject the proposal, but is obliged to approve it if the Council brings the same decision again, supported by a two-thirds majority of its members. The minister then has to submit the proposal to the government for a final

decision. The new system, to a large extent, has reduced possible political influence over recruitment and promotion.[15]

INDEPENDENT PROSECUTORS

On some occasions, public confidence in the fairness and openness of systems of accountability will depend solely on the trust they have in the individuals charged with investigating particularly controversial issues. Moreover, if these issues actually touch on the inner workings of government, or even on the judicial or investigative process itself, those ordinarily charged with the duty of investigation may find themselves in a situation in which they cannot perform their tasks with the trust and support of the public. Such situations can be dealt with by establishing commissions of inquiry.

However, when criminal conduct is suspected, a commission of inquiry can be hamstrung if it tries to perform its tasks while protecting the basic constitutional right of the suspect to a fair trial. The "special prosecutor" – a public office which has been used in the United States with some success (e.g., in exposing the Watergate scandal) is a possible alternative to a commission of inquiry.

Some legal systems make provision for an independent prosecutor in addition to the public prosecutor. This approach has been found to have merit when allegations and investigations of corruption are made which touch upon the higher echelons of government. In such circumstances, the public may distrust the ability of the administrative machinery of government to investigate itself.

The existence of legislation empowering the appointments of independent prosecutors can be a useful addition to a country's armory of investigative and prosecutorial weapons. As such, a growing number of countries are showing interest in this model. However, it must be noted that when an event arises that would justify the appointment of an independent prosecutor, it is usually too late to create such a post if it does not already exist. A hurried appointment may result in less than adequate legislation governing the powers of the independent prosecutor. This, in turn, can increase political suspicion that the office's constitution may be less than what is really needed for a professional and independent discharge of duties. If such an office is necessary, it should be established in an atmosphere not charged with scandal. The lessons learned from the actions and cost to taxpayers of the public prosecutors appointed during the administration of U.S. President Bill Clinton also should be considered.

INTERNATIONAL JUDICIAL ASSISTANCE

A country's laws generally cease to have effect at the country's borders. This creates a range of opportunities for corrupt officials and criminals to exploit deficiencies in the effectiveness of a national legal system when events take place beyond its borders, or – even more usually – when the proceeds of corruption have been removed from the country.

JUDICIAL ASSISTANCE FROM ABROAD

The reformer will need to audit the arrangements his country has for receiving (and providing) legal assistance with other countries, and covering such matters as extradition of wanted criminals, the search for evidence abroad, the acquisition of evidence abroad, and the seizure and eventual forfeiture of illicit property kept abroad.

Today, it is widely accepted that the internationalization of crime (including drug trafficking, financial fraud and terrorism) dictates that countries modify their traditional reluctance to enforce the criminal laws of other countries, and extend mutual legal assistance to each other in appropriate cases. Such co-operation should be provided for either by treaty or by parallel legislation which reflects best international practice (including compliance with international human rights norms).

However, it is not normally possible for a state to provide assistance to another state which would not otherwise be available to its own investigation and prosecution authorities. Thus, special procedures or rights of investigation (such a compulsory interrogation) may not be available in a foreign country, even if they are in the prosecutor's own country.

Before most states can offer cooperation in an investigation, the government or court in the relevant country needs to be satisfied that the standards of justice and penal administration in the requesting state are such that it would be in the interests of justice to surrender a fugitive.

Certain matters of process must also be addressed, including whether:

- *the courts of the country in question have a legitimate claim to jurisdiction over the events which have taken place*
- *the investigation or prosecution of the crime is politically motivated*
- *the ordinary court process is being used (i.e., not ad hoc military or other special tribunals)*
- *the offense being prosecuted was actually an offense at the time*
- *the rule of law is being observed. (A number of countries also require assurances that the death penalty will not be imposed, or that corporal punishment will not be inflicted.)*

In addition, if a particular case is to warrant the provision of mutual legal assistance, the alleged misconduct must usually be recognized as constituting an offense in both of the countries concerned (known as the **"dual criminality"** test. It must also be liable to attract punishment of a certain level, usually at least one or two years' imprisonment.

The technical nature of the work means that expertise must be developed within the field of international mutual legal assistance. Clearly, there may be a role for a country's diplomatic service in the making and processing of such requests.

Usually, police budgets and the institutional arrangements governing the conduct of foreign relations will not permit investigators to make requests for assistance from a foreign country without any form of verification. Generally, some form of central authority is needed in each country to handle all requests for investigation assistance in order to ensure that the details provided in support of these requests meet all legal requirements, both local and foreign. Although such an authority may already exist to service requests made under other treaties, its staff will, in most cases, require a significant level of training if the mutual legal assistance arrangements are to work as quickly and as effectively as they should.

INTERNATIONAL CONVENTIONS FOR PROVIDING ASSISTANCE

Many countries are moving towards the development of formalized international assistance agreements which can further tighten the noose on international corruption. The Council of Europe introduced a framework for mutual legal assistance which was recast into a global setting by the Commonwealth countries in 1986. In turn, this work was adapted by the United Nations to provide assistance provisions for the 1988 United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances.[16]

Since then, under the auspices of the Organization of American States, the Inter-American Convention Against Corruption was adopted in 1996 to battle domestic and transnational acts of corruption.[17] This treaty not only facilitates the return of stolen moneys, but also declares that corruption offenses cannot be regarded as being "political" in character. Therefore, those charged with them are subject to extradition to their home countries, without being able to shelter behind the familiar shield of "political persecution." The new United Nations Convention Against Corruption aims to take levels of mutual assistance (and, in particular, the recovery of looted wealth from abroad) to greater heights.

Corruption has also been identified as an impediment to the enlargement of the European Union, and so has been an added factor in pan-European efforts to tackle corruption. These have resulted in a series of conventions within the Council of Europe, namely the:

- *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, 1990*[18]
- *Criminal Law Convention on Corruption 1999*[19]

- *Civil Law Convention on Corruption 1999*[20]

- *Agreement establishing the "Group of States Against Corruption – GRECO"*[21]

Under the Criminal Law Convention on Corruption, each party agrees to enact a range of measures at the national level to counter corruption in public life, in public administration and in the private sector. Corporations are to be rendered subject to the criminal law and measures introduced to facilitate the gathering of evidence and the confiscation of proceeds. Although these are essentially matters of national law, they will greatly facilitate the enforcement of criminal law internationally. The Criminal Law Convention's implementation is monitored by members of the Group of States Against Corruption (GRECO), who monitor not only this Convention, but also other measures developed by the Council of Europe as part of its action plan against corruption.

The Civil Law Convention on Corruption is a unique attempt to deal with questions relating to the civil law, providing remedies for victims through the civil process. It deals with such questions as compensation for damage and loss sustained by victims; liability (including state liability) for acts of corruption committed by public officials; validity of contracts; protection of employees who report corruption; and the clarity and accuracy of accounts and audits.

RECOVERING ILLICIT ASSETS FROM ABROAD

The proceeds of large-scale corruption are frequently stashed in bank accounts in industrialized countries, and techniques of money-laundering are brought into play (perfected mainly by corrupt accountants, lawyers and bankers who are all too often happy to service drug traffickers and to ask no questions). Therefore, deterrence, no less than justice, dictates that a country should try to put itself in a position where it can successfully bring criminal or other proceedings against such persons and recover the looted assets through international assistance arrangements.

In the arena of international legal assistance, it is also important for law enforcement officials to stay abreast of recent international developments, and abandon the age-old belief that once moneys have fled the country, there is no one outside the country who can or will help recover them. Increasingly, countries with substantial financial sectors now offer some forms of assistance. For example, the Swiss government will now provide assistance when there is a court finding that moneys have been stolen.

SECRET BANK ACCOUNTS AND OFF-SHORE "FINANCIAL CENTERS"

A particular problem here is that a foreign country can, by establishing itself as a financial center, position itself to facilitate the laundering of moneys stolen by public officials in other countries. Such centers have secrecy laws which make it difficult, if not impossible, to trace the funds, and thereby create a safe haven for corrupt individuals in other countries.

All countries have bank secrecy laws, so that the legitimate privacy interests of individuals are protected. In many societies, people like to keep the amount of their savings and their financial positions confidential. These banking laws are not designed to enable a bank's customers to avoid, let alone evade, tax collectors, and the accounts are generally subject to inspection by local revenue authorities.

However, some countries extend far greater protection than is reasonably justified, and their laws can be ruthlessly exploited by professional advisers to drug traffickers and corrupt high-ranking officials. They capitalize on a long-standing international consensus that it is not for one country to help another to collect its taxation revenue. Tax-haven regimes have exploited this weakness, and even try to block knowledge of the beneficial ownership of accounts. For example, the claim could be made that a share register is considered secret in a given tax haven and, so, its contents cannot be made public without incurring criminal sanctions. If an individual responded to a summons from a second country to disclose information about the account, so this argument goes, he or she would incriminate himself or herself.

Money laundering methods are not only being used after a crime, but also during, and even before a bribe transaction. In order to camouflage the origin and destination of bribe money, the financial flows

are directed through countries that do not possess a comprehensive and effective system to detect money laundering and similar illegal transactions.

Financial sectors in these countries are generally inadequately regulated and supervised, their legislation does not guarantee access by judicial authorities to information, and their company law allows the founding of shell companies and trusts, to conceal the true identity of the beneficiaries of transactions and the actual owners of funds. Bearer shares (whereby ownership of company shares passes by delivery of a share script, like money) and bearer savings books (whereby possession of the account passbook and a numbered access code carry with them ownership of the account), are frequently used.

Since the establishment of the Financial Action Task Force Initiative of the G7 in 1989, a series of international measures have been undertaken to make the laundering of funds which have their origins in drug trafficking "or other criminal activities" a criminal offense.[22] As a result, at least 40 countries, including nearly all members of the OECD, have implemented legislation and other administrative arrangements so as to be able to trace the flow of funds through their banking systems.

These arrangements require commercial banks to report the receipt of deposits, which may have criminal origins, to a central bank or national criminal intelligence office. In the case of the EU, these arrangements have been embodied in a directive that is binding on all member states. However, there remain countries which have not yet made money laundering a predicate offense, and so are unable (or unwilling) to provide mutual legal assistance when money-laundering charges are brought by another country.

MONEY LAUNDERING

Principles have been developed to counter these activities in the context of preventing money laundering. These principles, however, pursue the much broader agenda of establishing a paper trail for all (including all legitimate) business, and creating "structures of global control" in the financial sector. The principles include:

- *"Know Your Customer:" Financial institutions should not do business with unknown customers*
- *An obligation to apply increased diligence in unusual circumstances*
- *An obligation to keep identification files, and records on the economic background of transactions*
- *An obligation to notify competent authorities about suspicious transactions*

However, money laundering continues, apparently unabated, not least because there is competition among private banks to attract business, although there is increasing uneasiness in the banking community about handling accounts for senior public officials and members of their families. Additional measures to address these concerns include:

- *The revision of "red flag catalogues" to include transactions emanating from regions where corruption is endemic, where involved personalities include clients or beneficiaries holding high public office, and where clients are involved in high-corruption areas of business, such as the arms trade.*
- *Encouraging financial institutions to apply due diligence. Integrity tests can be run to test financial institutions and to identify training needs.*
- *Identifying non-compliant financial institutions and operators. Such an approach could identify institutions which – be it for reasons of lack of will or for lack of capacity – are failing to comply with international rules, and allow for administrative sanctions to be applied.*

It is not clear whether these legislative and administrative measures to combat money laundering will actually sweep up the proceeds of bribery. Countries which are not party to the present arrangements, and which may be a link (perhaps unknowingly) in the money-laundering chain, must introduce comparable legislation and couch it in such a way that it specifically encompasses the proceeds of bribery.

ENDNOTES

1 Writing an Effective Anticorruption Law: Prem Notes No. 58, October 2001. http://www.worldbank.org/afr/findings/english/find203.pdf. -

2 The full legislation is at: http://www.justice.gov.hk/blis.nsf/CurEngOrd?OpenView&Start=201&Count=59&Expand=201.1

3 OAS General Assembly resolution AG/res.1398 (XXVI-0/96) of 29 March 1996, annex.

4 Office of the High Commissioner for Human Rights: International Covenant on Civil and Human Rights: http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

5 Quoted in Bertrand de Speville, "Reversing the Onus of Proof: Is It Compatible with Respect for Human Rights": http://www.transparency.org/iacc/8th_iacc/papers/despeville.html

6 For details of the cases and a more technical description of the issues, see Speville, Bertrand de. 1997. Reversing the Onus of Proof: Is It Compatible with Respect for Human Rights Norms (above) on which this section and the following section are based.

7 Attorney-General V. Hui Kin Hong, Court of Appeal of Hong Kong, Appeal No. 52 of 1995, p.16.

8 Section 9 of the Prevention of Bribery Ordinance (Hong Kong). Similar provisions are in the Secret Commissions Act 1905 (Australia) and 1910 {New Zealand}.

9 The Commissioner's full address and other related papers may be seen at http://www.icac.org.hk/conference/AboutCF/Progframe.html.

10 INTERPOL: Global standards to combat corruption in police forces/services: http://www.interpol.int/Public/Corruption/Standard/Default.asp

11 Transparency International: Transparency in the Police: http://www.transparency.cz/index_uk.php?id=48

12 Guidelines on the Role of Prosecutors, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 189 (1990): http://www1.umn.edu/humanrts/instree/i4grp.htm

13 Adopted by the International Association of Prosecutors in Havana, Cuba, September 1990: http://www.iap.nl.com/icc_guidelines.html.

14 The full text is contained in International Prosecution Standards by Nicholas Cowdery QC http://www.odpp.nsw.gov.au/speeches/HOPAC%202001-%20International%20Prosecution%20Standards.htm . The IAP's website is at http://www.iap.nl.com/

15 GRECO 2003 Evaluation Report – Slovenia: http://www.greco.coe.int/evaluations/cycle2/GrecoEval2Rep(2003)1E-Slovenia.pdf

16 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988: http://www.unodc.org/adhoc/decade/conv.htm

17 Inter-American Convention Against Corruption: http://www.oas.org/juridico/english/Treaties/b-58.html

18 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime: http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=141&CL=ENG

19 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime: http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=141&CL=ENG

20 Council of Europe Civil Law Convention on Corruption: http://conventions.coe.int/Treaty/EN/Treaties/Html/174.htm

21 Group of States against Corruption: http://www.greco.coe.int/

22 Financial Action Task Force on Money Laundering: http://www1.oecd.org/fatf/