

INVESTIGATION AND PROSECUTION OF CORRUPTION OFFENCES

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I. INTRODUCTION

In the first paper, I explained the system of corruption control that has been put in place in Singapore. Within this scheme, right from the beginning, enforcement and investigation of corruption offences is a function which had been accorded great emphasis. Through persistent enforcement efforts against corruption, we are able to keep corruption levels low. The corrupt offender must feel that this is a high risk business and must feel that they will be caught and dealt with for their crimes. The law and the enforcement agency must combine to give bite to the anti-corruption efforts.

II. PURPOSE

We know that different anti-corruption agencies around the world adopt different approaches and strategies in the way they manage enforcement and investigation work. My presentation will touch on how we do it in CPIB. The purpose of my paper is two-fold:

1. To share our experiences so that we can have a means for mutual learning. We can also learn from others and refine our system and likewise, what we have experienced may provide pointers for others to reflect upon; and
2. Secondly, an understanding of the investigation approaches and strategies can further enhance the basis for mutual co-operation and assistance. By understanding one another in investigation matters, we can facilitate support for one another.

III. A TOTAL APPROACH TO ENFORCEMENT AND INVESTIGATION

CPIB is under the Prime Minister's Office. We report to the Prime Minister and not to any other Minister or government authority. This gives us functional independence so that no government body can question us or influence us in our enforcement and investigation efforts.

Our approach in investigation is a total approach. This ensures we have a good control over the situation and we can contain corruption cases as far as possible. What do we mean by total approach, some of you may be wondering? It simply means:

Firstly, no case is too small to investigate. For example, a motorist is stopped for drunk driving and he tries to bribe the traffic police officer to let him off. He will be charged in court. If a foreign visitor is at our immigration control point at our border and he did not meet the entry requirements but tries to bribe the immigration officer, he will be charged in court. In short, we don't tolerate corruption and the message is clear to all that any case will be investigated and dealt with seriously.

Secondly, we deal with cases regardless of rank and status. Even serving Ministers had been charged and Chief Executive Officers of major companies have been dealt with too. There is no exemption for the 'big fish' or for anyone in high places. The same processes and procedures apply to all.

We are prepared to deal with both givers and receivers of bribes. Under our law, they are equally culpable. Of course, sometimes we may not charge the giver if he was under duress when he gave the bribe or there were some other reasons which led to the offence.

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We fight corruption in all sectors. CPIB's mandate is to investigate corruption in both the public and private sectors. This will include the civil service, the military, the Courts, Parliament etc, as well as all the industries and businesses. The same law applies to all sectors. This may be different from some countries, where the anti-corruption agency may focus only on public sector. In the public sector, CPIB helps ensure there is good governance and delivery of government services. In other words, CPIB helps to keep government clean. For the private sector, it ensures healthy economic activities

We don't leave it to various government authorities to deal with the problem. For example, if there is an issue involving Immigration Department, we don't just leave it to them. We will take over corruption investigation and if necessary, the immigration investigation as well. In other cases, we may jointly investigate with them so that a complete resolution of the corruption and immigration offences can be achieved. We may also help government departments review their systems to remove or change those procedures which may be vulnerable to corruption.

We are prepared to investigate based on anonymous complaints. Of course, we need to be very careful so that we are not "used" by someone who is malicious and wants to cause harm to others. We will process the information and there is a weekly session where the Directorate members (comprising Director and Heads of Operation Units) will meet to decide if investigation should be conducted on any complaint received. We will consider factors such as:

- details of information provided, for example specific persons, organizations, transactions etc;
- whether there is any public interest dimension, for example security and safety concerns; and
- any lead which we can work on or use to verify the information provided.

The CPIB is also empowered to investigate other offences apart from corruption. This is crucial as corruption offences may not exist in isolation and may be mixed with other offences such as cheating, commercial crimes, property crimes and so on. It will be a serious impediment if CPIB officers have to stop short when interviewing suspects who are not obliged to respond to questions touching on other areas. Therefore the powers to investigate other crimes uncovered during corruption investigations are provided for in the Prevention of Corruption Act.

We make it easy for anyone to report corruption offences. The CPIB is very accessible. The public can report by making phone calls to our hotline which is operated round the clock, or they can visit our office at any time. They can also send us letters by post or fax. They can also report from their homes via the CPIB internet website (www.cpiib.gov.sg) or sending us an email. By opening up all possible venues for reporting, we hope that those who have come across or are aware of corruption cases will have less difficulty and unwillingness to report.

IV. WHY DEAL WITH PRIVATE SECTOR CORRUPTION?

As mentioned, CPIB can investigate cases in the private sector. Let me explain the reasons why CPIB has to deal with corruption in the private sector as follows, namely:

1. Corruption in the private sector affects public interest. Some used to erroneously think that private sector corruption is a private affair between the giver and the taker. But consider the following. When a supermarket purchaser take bribes from a supplier, the supplier will inevitably mark up its cost to cover the bribes. In so doing, the supermarket which purchased the goods at a higher price will sell it an even higher price. It is the public that suffers in the end.
2. Singapore is a small nation without natural resources. It has to depend on trade and foreign investment. To attract investment, we have to ensure that business cost is low and corruption whether, in the private or public sector, increases business cost.
3. The private sector is a key pillar of the Singapore's economy. It drives national economic growth. We need to have a level playing field for all and the private sector must be clean in order for foreign businesses to want to work with us and to invest in Singapore.

4. The private and public sectors are also intertwined, which is another reason why it matters that CPIB watches over the private sector as well. As more and more government functions become outsourced to the private sector, many private companies are now performing functions once used to be performed by the government. Corruption in private sectors which are involved in strategic functions can also impact the key areas of government and the society at large.

5. A lot of the private sector enterprises have huge public shareholdings as well. If the enterprise is not well run and commits crimes, then its share price may be affected and this in turn affects the interests of the public.

V. TYPES OF CASES

Corruption cases can come in various forms – some of the cases we have seen in the public and private sector are:

Cases involving contracts or procurement of services or supplies. The corrupt offender receives kickbacks in return for awarding contracts. An example of a recent case involves senior staff management of a car company for receiving expensive gifts in return for awarding agency contracts.

Cases involving corrupt offenders who supervise contractors or suppliers, for example, not checking on the quality of work or product delivered and overlooking deficiencies. This can result in serious repercussions. An example, in building works, we have dealt with clerk of works who took bribes to overlook certain deficiencies. We have also dealt with inventory or warehouse staff, who were corrupted and accepted imitation or substandard goods delivered by suppliers in return for bribes.

There are those who are corrupt, and have access to sensitive data and divulge to unauthorized persons in return for some rewards. These cases involve people working in areas where there are storehouses of data about customers and they abuse it by passing on to persons such as illegal moneylenders who were looking for their debtors and private investigators tracing whereabouts of persons of interest.

There are those who are in positions of authority such as the CEO or General Manager, who took bribes and granted approval for various matters in favour of the bribe givers.

In some cases, corruption is mixed with other offences. For example, the corrupt may also cook the company's books when they try to hide the corrupt transactions. They may manufacture false invoices to reflect fictitious transactions. Once uncovered, they will be dealt with by CPIB. Our officers are also empowered to investigate other crimes uncovered in the course of corruption investigations.

VI. INVESTIGATION STRATEGIES

So, what is the magical formula to effectively investigate corruption offences? In order to achieve this mission, we approach it through a framework of action which involves four inextricably linked competencies, that is Intelligence, Interview, Forensics and Field Operations. The success of solving corruption cases hinges on the interplay of these competencies.

A. Intelligence

Intelligence work is critical in the current landscape of constant threats and vulnerabilities. It involves the collation and processing of information for specific objectives, so you can say that intelligence work is really a discreet form of investigation. Intelligence work often provides the basis for successful investigation. A proactive approach can enhance the success of major operations and effectiveness of investigations. Our Intelligence Division adopts both a strategic and tactical stance – we have projects which are intelligence-led operations where our Intelligence Division leads efforts in collation, analysis and pointing out the direction and leads for investigation to follow. We also have cases where Intelligence Division plays a supporting role to our Operations Units in their investigations by providing critical information such as establishing identities, relationships and locations etc during the pre-operation and operations phase.

To stay on top of the situation, we need to continue its successful efforts by building on its capabilities and strong expertise; expand on its current resources and established networks and relationships. Outward and internal approaches are both adopted, as it is vital for intelligence to stay relevant and effective. It is also imperative for us to continue its close liaison with our overseas counterparts such as Hong Kong ICAC (Independent Commission Against Corruption), Malaysia ACA (Anti-Corruption Agency), and our local agencies from the Singapore Police Force, Immigration & Checkpoints Authority and Central Narcotics Bureau.

B. Interview

It is often challenging to handle corruption cases where more often than not, the complainant is as likely to be culpable of the corrupt act as the accused person. Lines are blurred, and our officers are hard pressed to find a clear-cut situation, where there is a distinct perpetrator and victim. In corruption cases, our officers are frequently confronted by complainants or witnesses who are not forthcoming, for fear that what they say may implicate them. Hence, it is imperative that our officers are equipped with all aspects of investigative work, particularly their ability to sieve out the truth from the witnesses, as well as to discern the innocent from the guilty. This brings us to the second competency – Interview.

An interview, simply put, involves the questioning of a person regarding his involvement or suspected involvement in a criminal offence. There are scores of reasons why people choose not to give the necessary information, or choose to mislead by giving false information. Hence, it is important for officers to be flexible enough to switch modes to tailor to the varying situations or types of persons being interviewed.

Our Courts are quite stringent these days, increasing the weightage given to other admissible evidence, as opposed to merely just accepting positive statements or confessions given by accused persons. In consequence, we have to emphasize greatly on developing the interview skills of our officers, which can be the determining factor in cracking a highly complex investigations.

In regard to interview, we do utilize the polygraph machine and we find it very useful. However, we do not use the polygraph test result as evidence in court but only as an aid to investigations.

C. Forensics

Another area which we pay much attention to these days is Forensics or, specifically, Computer Forensics, which is becoming indispensable in our investigations.

The sheer complexity of illicit transactions, whether it is at the individual, syndicate or corporate levels, requires an incredible level of expertise and capability from our officers. Criminals' little black books have undergone a major facelift and have progressed to PDAs, smart mobile phones, personal desktops, and the amount of records detailing corrupt transactions electronically is overwhelming.

To overcome this challenge, CPIB has set up a Computer Forensic Unit, field by officers on a part-time basis, trained to handle the collection, preservation, analysis and court presentation of computer-related evidence. As we are new in this area, our officers are in contact with our counterpart from the Criminal Investigation Department's Technology Crime Forensic Branch to share experience and pointers in this area. As some high end capability may be required which the Bureau does not have, we will depend on our partners when necessary.

There are various cases where forensic evidence played a big part in solving cases. I foresee in the near future, with great advances in technological tools, software, and elaborate IT infrastructures, computer forensics will play an even more proactive role, in tandem with intelligence, as opposed to being a mere investigative support and response mechanism.

D. Field Operations

By field operations, I refer to the range of investigative activities carried out in the field, for example search and seizure, field enquiries, raids and arrests. How its done and how much information security is exercised over it will determine the success of any operation. This cannot be overlooked and the capability need to be developed and worked on continuously.

E. Interplay of Four Competencies

The synergy from the interplay of these four competencies – Intelligence, Interview, Forensics and Field Operations is critical to the success of cracking of our major cases. Operation Crossover is one of such cases, showcasing the interplay of these elements. In this case, our Intel asset had given us sufficient details on who were the main players of the syndicate from the company styled Citiraya involved in the diversion of the computer chips, who were the staffs from client companies that were bribed and their modus operandi. Our Intel asset also told us the exact container, which was kept in the free trade zone, containing a shipment of computer chips to be enrouted to Hong Kong. With this information, an operation was mounted, resulting in the seizure of that container. Subsequently, through intensive interrogations and interviews, the parties involved had admitted to the corrupt activities. Forensic searches and analysis carried out on Ng Teck Boon, one of the main player's computer notebook had also attributed to the cracking of this case – it revealed records of shipments of computer chips fraudulently obtained through corrupt means and inflation of the company's accounts. This piece of evidence, together with other physical evidence such as uncrushed computer chips seized from Teck Boon's company and warehouse had led to his confession and admissions of other parties involved in the scam.

The 4 competencies interact and by extracting the appropriate value from each one and allow each to leverage off the other for maximum results. At various junctures, any one of these competencies will play a more significant role to provide the breaking point for successful solution of cases. For instances, if crucial evidence was hidden in computers and through computer forensics, investigators are able to unlock the evidence, then this may prove to be the key to solving the case in hand. Similarly, the interview pillar may play the bigger role when skillful interrogation of suspects led to confessions or the gathering of critical evidence which are instrumental in solving the case.

VII. EVIDENCE GATHERING AND PROSECUTION

What we are mindful of is that for us to be successful in getting positive investigation results, we need to emphasize on evidence gathering. This is always a challenge as:

- a) corruption offenders will hide and not tell the truth; and
- b) there are increasingly sophisticated modus operandi used and methods to transact and hide bribe monies.

When we apply our minds in using the four competencies of intelligence, interview, forensics and field operations, we also focus on collecting and consolidating the evidence. From the evidence, we review the case. Sometimes, we sit together and discuss in case conferences to go through these issues – Do we have the evidence to charge anyone? What evidence is there when we proceed to charge? We make use of an evidence matrix. This matrix has facilitated our case review and decision making process. Evidence of accepting/receiving/obtaining gratifications is inside, where officers document actus reas, inputting details of the corrupt transactions which the subject has admitted to in his statements, e.g. when did the transaction occur, who did he hand the gratification over to, what are the documentary evidence, etc. Juxtaposed on the information, is the detailing of documentary or other evidence of giving/offering/promising of the corrupt transactions. Usually for easier reference, the evidence for giver and receiver involved in the same transaction are placed next to each other, quoting the paragraph of the subject's statements where the information was extracted from. As for the evidence on corrupt intent, it is also recorded in the table, and it includes details such as what are the gratifications meant for.

At the end of the day, we need to address the legal aspects. In the Singapore system, CPIB does not have in-house legal experts. We understand that in some countries, the anti corruption agency have their inhouse legal experts and some agencies also conduct prosecution themselves. CPIB depends on the Attorney-General's Chambers (AGC) for legal advice. Under our law, we cannot charge a person in court for corruption unless the Attorney-General gives his express consent. So there is a division of responsibilities and a check and balance. We in CPIB are the operational experts in investigating corruption offences. We put together the case file and document all the evidence gathered. But we need the legal experts from AGC, so the case file is sent to them. Together, when both operational experts and legal experts agree that there is a case, we can then proceed to charge offender in court. Once prosecution is mounted, CPIB officers will work together with prosecutors to present the evidence in court.

In terms of prosecution, as we are prepared to prosecute both givers and receivers of bribes, we have to stage our prosecution of the accused persons in sequential order. But then if we prosecute all parties, who is going to give evidence for the prosecution. Sometimes the receiver is prosecuted first and the giver is the prosecution witness. After the case is over, the giver is prosecuted and the receiver in turn becomes the witness. This can present some challenge especially when there is not much independent evidence apart from what the giver and receiver say about the crime. Therefore as we adopt this tough stance against both sides of the corruption crime, it is the responsibility of the CPIB as the law enforcement lead to ensure that it gathers strong evidence on the case so as to be able to prosecute all parties involved.

There are instances where the only evidence we have is from the giver and the giver is not willing to testify unless he is given immunity from prosecution. As a rule, the Attorney General's Chambers does not grant immunity easily. It will be under exceptional grounds if immunity is granted.

The conviction rates of above 95% each year bears testimony to the strength of cases brought to court.

There may be cases in the public sector, where after investigation, there is no evidence of corruption but there is evidence that the public official had infringed some government rule or regulation. In such situations, the Bureau will provide the information to the Public Service Commission or to the person's parent Ministry for them to take departmental disciplinary proceedings against the said officer. The information and evidence collected through investigation can then be put to good use.

In some cases, apart from dealing with the culprits, after the case is over, the Bureau may note down vulnerabilities or loopholes in the system of work, work process or procedures of the affected government department and offer some recommendations for them to consider as they work towards plugging any loophole or vulnerability.

VIII. THREE STRATEGIC THRUSTS

To discharge its role as a lead investigation agency, CPIB must be on top of the situation and its capability must be up to mark. To ensure this, CPIB embarks on 3 strategic thrusts, namely Strengthening Operational Capabilities, Forging Networks & Partnerships and Investing in Organizational Excellence.

In "Strengthening Operational Capabilities", CPIB seeks to improve on investigation capabilities such as document examination, computer forensic, financial investigations. We need to hone our skills in the areas required.

In "Forging Networks & Partnerships", CPIB forges partnerships with local and international entities. To ensure good governance and to combat corruption effectively, CPIB recognizes the need to strengthen international and regional cooperation and liaison. As a result, CPIB has actively participated in various anti-corruption initiatives and international fora, such as UNCAC (United Nations Convention Against Corruption) – Conference of State Parties, ADB/OECD Anti-Corruption Initiative, ACT Task Force (APEC Anti-Corruption and Transparency Task Force), MOU (Multilateral Memorandum of Understanding on Cooperation for Preventing and Combating Corruption amongst anti corruption agencies of the ASEAN region), and the IAACA (International Association of Anti Corruption Authorities).

In "Investing in Organizational Excellence", CPIB invests heavily in training her people and encourages staff to share knowledge and innovate. We regularly do inhouse learning where we bring all operational staff together for training. We may invite experts from various government Ministries and from private industry to address the officers on issues of topical interest. When there are new areas of work, we will build new capabilities. For instance, next year, Singapore will have Casinos and Casino related corruption cases may occur. Therefore the Bureau is building its capability to tackle such situations. CPIB is also active in outreach programmes to raise public awareness through regular talks, especially for public officers such as enforcement agencies, on the pitfalls of corruption. Selective outreach is done with specific industry sectors.

IX. CONCLUSION

There are various challenges we face in investigating corruption offences. Firstly, the changing nature of corruption. While behaviour and motivation of the corrupted may be similar, the methods used have transformed greatly. There is more sophistication seen in corruption today. More complex methods are used. The corrupt transactions are more complicated, going through various loops and intermediaries. There are more methods used to hide the money trail such as bank transfers, false accounting, phantom workers, camouflage payments of various types. Computers are often used in the commission of the offence such that where we used to seize paper records in the past, today, we seize a lot of computers and electronic media. It is thus important for the enforcement agency to continually upgrade its capability and ensure its personnel are well trained and well skilled.

Secondly, there is internationalization of the issue of corruption. Corruption offences can cross international borders. This brings with it challenges for law enforcement and where necessary, we need to work with foreign counterparts in investigating corruption cases. At the international level, there is also greater interest by governments around the world in dealing with corruption.

Corruption is a dynamic phenomenon and CPIB continue to have an important role to play in keeping Singapore clean, and our efforts to combat corruption and uphold a high standard of transparency would not have been possible without galvanizing the synergy from the roles played by the whole of government. In addition, we also require our fellow law enforcement members, like all of you, to join in and help in the fight against corruption.