

INVESTIGATION AND PROSECUTION OF CORRUPTION OFFENCES

Koh Teck Hin *



I. INTRODUCTION

My first paper, (*Corruption Control in Singapore*) outlines the corruption control framework that has been put in place in Singapore. The Corrupt Practices Investigation Bureau (CPIB)'s mandate is to enforce and investigate all corruption offences. Through persistent enforcement efforts, we are able to keep corruption levels low. We must ensure that the corrupt offender feels that corruption is a high risk business and that they will be caught and dealt with for their crimes. The law and the enforcement agency must combine to give bite to anti-corruption efforts.

II. PURPOSE

We know that different anti-corruption agencies around the world adopt different approaches and strategies in their enforcement and investigation into corruption offences. This paper has two purposes:

- (i) Firstly, to share our experiences; and
- (ii) Secondly, an understanding of the investigation approaches and strategies of other countries 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 & INVESTIGATION

A. Approaches & Strategies to 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. This simply means:

- a) 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 get off the hook. 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, corruption is not tolerated and all cases will be investigated and dealt with seriously.
- b) Secondly, we deal with cases regardless of rank and status. Even serving ministers have 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. We have in the past investigated and prosecuted ministers for indulging in corruption-related activities. In a case involving Wee Toon Boon, then Minister of State for Environment, he was charged with corruption involving a sum of about \$840,000/-. He had used his ministerial status to make representation on behalf of a property developer in return for gratifications, which included a bungalow and free air travel tickets for his family. He was subsequently convicted and sentenced to imprisonment and also ordered to pay a penalty. And Teh Cheang Wan, another Minister for National Development, was investigated for accepting two bribes totalling \$1 million in return for helping two property developers to retain and acquire pieces of land for development. However, Teh

* Deputy Director (Operations), Corrupt Practices Investigations Bureau, Singapore.

committed suicide before he could be formally charged in Court.

- c) We are prepared to deal with both givers and receivers of bribes. Under our law, they are equally culpable. However, sometimes we may not charge the giver if he or she was under duress when he or she gave the bribe or there were some other compelling reasons which led to the offence.
- d) We can deal with corruption in all areas, in any industry or business sector, in all branches of government, the judiciary, Parliament, political parties, non government organizations. There is no area where the law does not permit the CPIB to investigate. The powers given to CPIB to investigate also apply equally to all sectors. In this way, CPIB helps to keep government clean and ensures healthy economic activities in the private sector.
- e) 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 some 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.
- f) We are prepared to investigate based on anonymous complaints. However, 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 of Director and Heads of Operation Units) will meet to decide if investigation should be conducted on the complaints received.

CPIB is also empowered to investigate other offences, besides corruption. This is extremely important because corruption crime may not exist in isolation. It may occur and be mixed with other crimes such as cheating, commercial crimes, etc. Therefore any anti corruption agency must have the power to question suspects on the full range of offences, otherwise there will be severe limits placed on investigations and the accused person will probably be able to get away from the punishment that he or she deserves.

CPIB can also refer non-corruption offences to other specialized enforcement agencies like the Singapore Police Force, Immigration Department etc. when these were detected during the course of our investigation.

We make it easy for anyone to report corruption offences. The CPIB is very accessible. The public can make reports by calling our 24-hour hotline, 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 send 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.

B. Corruption in the Private Sector

As mentioned, CPIB is empowered to investigate corruption in both the public and private sectors. Our corruption control efforts in the private sector are not only confined to businesses. It also includes non-profit organizations and charity organizations. In recent times in Singapore, charity organizations have come under investigations by the authorities. CPIB has also stepped in when there is corruption committed by personnel of charity organizations. This strict stance on corruption in charity organizations is necessary so as to deter offenders from taking advantage of kindhearted people to enrich themselves.

Some may ask why there is a need to deal with private sector corruption cases. There are good reasons why CPIB has to deal with the private sector, namely:

- a) 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.
- b) 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 costs.

- c) 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.
- d) 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 the private sector which affects strategic functions can also impact the key areas of government and society at large.
- e) 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.

C. Types of Private Sector Cases

Private Sector corruption cases can come in various forms – some of the cases we have seen in the private sector are:

- a) 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 management of a car company receiving expensive gifts in return for awarding agency contracts.
- b) 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 clerks of work 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.
- c) 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.
- d) 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.
- e) In some cases, corruption is mixed with other offences. For example, the corrupted 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.

IV. INVESTIGATION STRATEGIES

So, what is the magical formula for the CPIB to sustain the good efforts of our government and to effectively fight corruption? In order to achieve this mission, we approach it through a framework of action which involves four linked competencies, that is Intelligence, Interview, Forensics and Field Operations. Success in solving corruption cases hinges on the interplay of these core competencies.

A. Intelligence

The first competency – 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 investigation in the covert sense. Intelligence work often provides the basis for successful investigation. CPIB's many successes in cracking major corruption cases were largely attributed to the proactive approach and the efficiency of our exceptional intelligence

capability. Our Intelligence Division adopts both a pro-active and re-active stance - we have projects which are intelligence-led operations, which involve 'live' cases where our Intelligence Division centralizes its efforts in collation, analysis and 'live' monitoring. We also have cases which are sent for intelligence enrichment. For such cases, the Intelligence Division plays a supportive role to our Operations Units in their investigations, providing critical information such as establishing identities, relationships, housing targets, etc. during the pre-operation and operation phases.

To stay on top of the situation, we need to continue to build on its capabilities and strong expertise, and expand on its current resources and established networks and relationships. Our Intelligence Division is in close liaison with our overseas counterparts such as Hong Kong's ICAC (Independent Commission Against Corruption), and Malaysia ACC (Anti-Corruption Commission), as well as our local intelligence agencies from the Singapore Police Force, Immigration & Checkpoints Authority and Central Narcotics Bureau, etc. Information and expertise are shared robustly amongst these agencies, resulting in mounting of joint operations or co-ordinated operations on some cases. Some examples include the investigations into Citiraya, a public listed company, when CPIB and the Commercial Affairs Dept (CAD) of the Police Force, moved in to uncover corruption and commercial offences. Another example is the co-ordinated operation in the National Kidney Foundation (NKF) saga, which involved CPIB and CAD looking into various aspects of the excesses by the former CEO of NKF and others. We know full well that law enforcement is effective only when we can deal with the problem in its totality and the need for collaboration is there.

B. Interview

It is often challenging to deal with 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 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 or her involvement or suspected involvement in a criminal offence. There are many reasons why people choose not to give the necessary information, or choose to mislead by giving false information. Hence, it is important for our officers to be flexible enough to switch modes to tailor to the different situations or types of persons being interviewed.

Our judicial courts are quite stringent these days, increasing the weightage given to other admissible evidence, as opposed to merely just accepting positive statements given by accused persons. As a result, we have to emphasize greatly developing the interview skills of our officers, which can be the determining element in reducing the time and resources devoted to highly complex investigations.

With regard to interview, we make use of polygraph machines and we find it very useful. However, we do not use the test result as evidence in Court but only as an aid to investigation.

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 phones, and personal desktops; the amount of records detailing corrupt transactions electronically is overwhelming.

To overcome this challenge, CPIB set up a Computer Forensics Unit, with officers coming from the Operations Division performing on a part-time basis, trained to handle the collection, preservation, analysis and court presentation of computer-related evidence. Our officers are in regular contact with our counterpart from the Criminal Investigation Department's Technology Crime Forensic Branch to share experiences and pointers in this area.

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

The last competency is Field Operations. By field operations, I refer to the range of investigative activities carried out in the field, such as search and seizure, field enquiries, raids and arrests. How the operations are being carried out and how much information security is exercised over it will determine the success of any operation. This cannot be overlooked and the capability needs to be developed and worked on continuously.

E. Interplay of the Four Competencies

The synergy from the interplay of these four competencies – Intelligence, Interview, Forensics and Operations - is critical to the success of cracking some of our major cases. Operation Crossover is one such case, 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 in Citiraya involved in the diversion of the computer chips; who were the staff from client companies that were bribed; and their modus operandi. Our Intel asset also told us the exact container, kept in the free trade zone, containing a shipment of computer chips to be enroured 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 admitted to the corrupt activities. Forensic searches and analysis carried out on (a computer notebook of) Ng Teck Boon, one of the main players, also contributed 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, led to his confession and admissions of other parties involved in the scam.

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

V. EVIDENCE GATHERING & PROSECUTION

What we are mindful of is that for us to be successful in investigation, we need to emphasize evidence gathering. This is always a challenge due to the following reasons:

- a) Corruption offenders will hide and not tell the truth; and
- b) There are increasingly sophisticated modus operandi 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 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 reflected in the table, where officers document *actus reus*, inputting details of the corrupt transactions which the subject has admitted to in his or her statements, e.g. when did the transaction occur; who did he or she hand the gratification over to, what is the documentary evidence, etc. Next to 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 exact paragraph of the subject’s statements from

which the information was extracted. 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.

We are also mindful that 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 has its own in-house 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 or her 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. But we need the legal experts from AGC. 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 the givers and receivers of bribes, we have to stage our prosecution of the accused persons in sequential order. 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 challenges, 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 CPIB to ensure that it gathers strong evidence on the case so as to be able to prosecute all parties involved. So far, our conviction rate is of above 95% each year and this bears testimony to the strength of cases brought to the Court.

There are instances where the only evidence we have is from the giver and the giver is not willing to testify unless 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.

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, CPIB will provide the information to the Public Service Commission or to the officer's Department or Ministry for them to take departmental disciplinary proceedings against the said officer.

In some cases, apart from dealing with the culprits, after the case is over, CPIB may identify flaws or loopholes in the system, work process or procedures of the affected government department and offer some recommendations or suggestions for them to consider as they work towards plugging the loopholes.

VI. STRATEGIC THRUSTS

To discharge its role effectively, CPIB must stay on top of the situation at all times and its capability must be kept up to the mark. To ensure this, CPIB embarks on three strategic thrusts, namely Strengthening Operational Capabilities, Forging Networks & Partnerships and Investing in Organisational Excellence.

In "Strengthening Operational Capabilities," CPIB seeks to improve on investigation capabilities such as document examination, computer forensic, financial investigation. 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 co-operation and liaison. As such, CPIB actively participated in various anti-corruption initiatives and international fora, such as the United Nations Convention against Corruption (UNCAC) – Conference of State Parties, ADB/OECD Anti-Corruption Initiative, ACT Task Force (APEC Anti-Corruption and Transparency Task Force), MOUs amongst anti corruption agencies of the ASEAN region and the International Association of Anti Corruption Authorities (IAACA).

In "Investing in Organisational Excellence," CPIB invests heavily in training her people and encourages staff to do knowledge sharing and innovation. We regularly do in-house 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, with the opening of the two Integrated Resorts with casinos operations in Singapore, CPIB may have to tackle casino-related corruption cases. Therefore, CPIB has built up its capability to deal with this challenge. CPIB is also active in outreach programmes to raise public awareness through regular talks, especially for public officers in the enforcement agencies, on the pitfalls of corruption. Selective outreach is done with specific industry sectors.

VII. CONCLUSION

While Singapore has successfully controlled corruption, this is no guarantee that it is always easy to suppress corruption. There are various challenges we face in investigating corruption offences.

- a) 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.
- b) 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 continues 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 synergy with 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 to make the world a better place to live in.