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EMPIRICAL KNOWLEDGE
ON
STRATEGIES FOR CORRUPTION CONTROL

A REFLECTION ON THE HONG KONG EXPERIENCE

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The Independent Commission Against Corruption of Hong Kong started its life based largely on theory, but quickly gained by experience, the ability to tackle corruption and to educate the public to the belief that neither Government officials nor private businessmen have a right to offer or receive a bribe, or kick back and that if it had been the "custom", then the "custom" had to change.

Preview

My speech today will cover a wide range. I will start with the history of corruption investigation in Hong Kong dealt with initially by police, then by a special police unit and leading finally to the formation of the ICAC. I wish also to deal with some of the growing pains of the Commission.

Next I will define corruption and analyse why it is one of the most difficult crimes to solve. In Hong Kong we have strong anti-corruption legislation. These laws are the tools we have to do the job and provide the punishment for offenders.

Safeguards that ensure no abuse of our powers are important and they are built into our system.

Detection is of course not the only answer; education and prevention are the two other prongs of our attack and I will describe how we integrate these three approaches.

Where did we acquire the expertise, starting from scratch, to deal with this specialised type of work? I shall come back to that question.

I propose also to cover the trends in corruption since 1974 and what the indications are for the future. One such trend is white collar private sector corruption and I will give you some examples.

As the world gets smaller the mobility of the criminal increases. The need for cooperation between law enforcement agencies also increases. That is what this conference is about. I would like to talk on liaison and our relationship with our giant neighbour which will in 1997 be the sovereign power in Hong Kong. Hong Kong will become a Special Administrative Region of China.

Another of the ICAC's functions, which is not commonly recognised, is to deal with all allegations of electoral irregularity. I will mention the laws we have to deal with these infringements and give you some statistics.

Human rights legislation has recently been enacted in Hong Kong and I would like to outline briefly the changes proposed to our legislation in order to ensure compatibility with our Bill of Rights.

At the end of my address there will be an opportunity for questions and I look forward to an exchange of ideas on the matters I will cover.

History

It was generally believed by the majority of the Chinese population and a high percentage of the expatriate population of Hong Kong until the 1960's, that there was nothing wrong in paying bribes. It was the "Custom". In fact ICAC has been said to stand for "Interference with Chinese Ancient Customs".

It was as a result of increasing public pressure concerning widespread police corruption, that a Commission of Inquiry by High Court judge, Sir Alastair Blair-Kerr was set up in 1973 to examine and report on the effectiveness of the then Prevention of Bribery Ordinance, and to suggest amendments.

A principal recommendation of the Report was that there was a pressing social demand for a competent, independent and powerful agency to deal with what was recognised as entrenched and widespread corruption within the public and private sectors.

It was to deal with this corruption that the Commission was formed and was given those powers of investigation, restraint and arrest that have often subsequently been described as "draconian".

The ICAC, which was set up in February 1974, is independent of the Police and the rest of the Civil Service. It is directly responsible to the Governor of Hong Kong.

There are 3 functional departments each responsible for an important facet of anti-corruption work. The largest, the Operations Department, is reactive and handles investigations and arrests. The Corruption Prevention Department examine's and advises other Government departments and the private sector, on request, on corruption opportunities within their systems and recommends improvements. The third department, the Community Relations Department, educates the public at large about the evils of corruption.

I, as Commissioner, have statutory duties which make clear the three-pronged nature of our approach.

S.12 of the ICAC Ordinance provides

"It shall be the duty of the Commissioner, on behalf of the Governor, to

(a) receive and consider complaints alleging corruption practices and investigate such of those complaints as he considers practicable;

(b) investigate any alleged or suspected offences under this Ordinance, the prevention of Bribery Ordinance or the Corrupt and Illegal Practices Ordinance and any alleged or suspected conspiracy to commit an offence under the Prevention of Bribery Ordinance and any alleged or suspected offence of blackmail committed by a Crown servant by or through the misuse

of office; (Amended, 14 of 1976, S. 3 and 27 of 1980, S. 5)

(c) investigate any conduct of a Crown servant which, in the opinion of the Commissioner, is connected with or conducive to corrupt practices and to report thereon to the Governor;

These three clauses cover the Operations Department of the Commission.

The Corruption Prevention Department was set up to enable me to carry out the following statutory duties

- (d) examine the practices and procedures of Government departments and public bodies, in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures which, in the opinion of the Commissioner, may be conducive to corrupt practices;
- (e) instruct, advise and assist any person, on the latter's request, on ways in which corrupt practices may be eliminated by such person;
- (f) advise heads of Government departments or of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such departments or public bodies which the Commissioner thinks necessary to reduce the likelihood of the occurrence of corrupt practices;

Finally, the Community Relations Department activities came from the remaining statutory duties which are to:

- (g) educate the public against the evils of corruption; and
- (h) enlist and foster public support in combating corruption.

Early Strategy and the Partial Amnesty

In the early years of the ICAC the police was the principal Government department under investigation; 269 officers had been arrested and charged by 1977. As a result of these arrests, rank and file officers, in particular, became vocal in their opposition to the ICAC and its methods. They complained that we used tainted witnesses, that we arrested them too readily and too early in the morning, that only junior officers were being detained and that we abused our rights to grant bail.

A number of meetings were held and after a public demonstration on 28 October 1977 over 100 police officers forced their way into our headquarters and attacked Commission officers. Five of our officers received superficial injuries.

As a result of this and other factors, legislation was passed which generally prevented the ICAC from investigating corruption that occurred before 5 November 1977, other than in very exceptional circumstances and then only with the

Governor's permission.

This became known as the "partial Amnesty". 83 outstanding investigations were terminated. One of the immediate consequences of this decision was a fall off in public confidence and this was reflected in the number of complaints. They dropped by 60%.

But that state of affairs did not last for long. There were soon signs of an improving attitude by the public and there was a new willingness to support the ICAC. Staff morale, which understandably had fallen when the amnesty was announced, quickly picked up. So too did the number of complaints received.

I shall turn for a moment or two to early strategy.

In its first two years of operation, the Commission made a substantial impact. In 1975, operational targets were set on major corrupt personalities, arrests were made and convictions obtained. These early successful trials were of considerable importance in establishing the Commission's standing and in gaining public confidence. At this time, the Operations Department was heavily involved in the investigation of Government servants, whose assets or standard of living were reportedly disproportionately high.

From 1975 to 1978 the Commission put most of its investigative resources into targeting organised and syndicated corruption in the public service. It did not go smoothly. Convictions and sentences were limited by the need to use tainted witnesses many of whom turned hostile in the witness box. On the other side of the coin successes were given widespread publicity by the media.

However, progress had been such that in July 1977, the then Commissioner was able to report to the Governor that no major corruption syndicates were known to exist at that time.

Over the years the powers of the Commission to fight corruption have been questioned on many occasions and changes have occurred. As I shall discuss later, the recent Bill of Rights will affect our future powers.

That then is a brief history of the ICAC in its early years. From then we have grown in expertise and experience into the outstanding force against corruption that I believe we are today.

What is Corruption and How Do We Fight It

"Corrupt" is defined as morally depraved, wicked; influenced by or using bribery. It is insidious in that both parties to the crime are normally satisfied with the result. In most crimes, there is a complainant; in corruption the loser is often the person whose right to something has been denied and he may not even know that he has been so deprived.

The gambling den or drugs syndicate that is protected by corrupt officials and therefore never prosecuted is often more obvious than the corrupt builder who reduces the cement in the concrete, the bank official who authorises illegal loans, or the Government official who allows the payer to jump the queue for a licence.

The nature of the offence means that special legislation is required to combat it. I will outline the principal offences under our legislation as follows:

Prevention of Bribery Ordinance

This differentiates between Crown servants - that is basically a Civil servant - public servants, who are normally those employed by public bodies (which includes all governing elected bodies), and any person who acts in the capacity of an agent.

Under the ordinance the difference is important as the restrictions on Crown servants are more severe in that they cannot accept certain advantages without the Governor's permission. What the Governor does permit is set out in a published list.

It is a serious offence for a public servant to solicit or accept an advantage in connection with his official duties. The offence carries a penalty of 7 years imprisonment.

There is also a section which deals with corrupt transactions by agents and this is directed to the private sector. Three other sections aim at bribery regarding tenders, auctions relating to public bodies and other dealings with the Government.

One, always described as "controversial", Section 10, deals with Crown servants who live beyond their means or who possess assets that they cannot explain. There are special powers to enable me to apply for restraining orders to freeze the assets of suspected Crown servants so that their ill-gotten gains can be forfeited after conviction. In one recent notable case a senior legal officer was ordered to pay HK\$12 million restitution.

The ICAC Ordinance

Section 13B of this Ordinance makes it an offence for an individual knowingly to make a false report to the ICAC or to mislead an ICAC officer by giving false information.

The Corrupt and Illegal Practices Ordinance

The purpose of this Ordinance is to protect the integrity of elections. I will deal with it in more detail later.

As I said earlier we also investigate other offences if they arise out of corruption. Our investigators constantly deal with deception, fraud, various conspiracies and dangerous drugs cases in particular. Some crimes which are revealed during

inquiries, if they are not based on corruption, are passed to the police for their investigation in the normal manner.

These are the special laws that allow the ICAC to identify corruption and to arrest and prosecute offenders.

The Three pronged Attack

I spoke earlier of the three pronged attack on corruption by the Commission. I would now like to examine this in more detail.

Operations Department

The Operations Department is by far the largest with an investigative staff of 640 backed up by 154 supporting staff. 66 investigators are expatriates, the majority of whom are seconded or retired UK police officers.

The Commission is authorised to restrict the disposal of a suspect's property, to apply for a Court order to restrict the movements of a suspect, to examine a suspect's bank accounts and safe deposit boxes, to require him to provide details of his financial situation and to search premises. Application can also be made to a court for a search warrant to be issued to investigators to search premises for evidence of offences other than corruption, for example, dangerous drugs or illegal gambling. If other offences connected with corruption are revealed during an investigation then the ICAC will, where it is considered necessary, continue with the investigation of those additional matters.

Once arrested, suspects must be released on bail or taken before a magistrate as soon as possible. No suspect can be detained for more than 48 hours.

These powers of arrest and detention are of course subject to judicial review by the courts of Hong Kong.

Whilst we have the power of arrest, the decision to prosecute corruption can only be made by the Attorney General who is the prosecuting authority.

Staffing and Localisation

When the Commission was first formed, the majority of our investigatory staff was recruited from the private sector, and they were trained at what was then a small training school. These people were supported by experienced police officers from the police service in the United Kingdom.

In the Operations Department there has always been a core of experienced officers from British Police forces.

In the early days the great advantage of these recruits from overseas was they were totally independent, they had no ties or associations in Hong Kong and they were able to pass on their experience and expertise to our locally recruited officers.

Over the years, as the expertise of local officers has increased the need for overseas recruitment has decreased. Now only approximately 10% of our investigators are expatriate.

Chinese officers have now risen through the ranks, only two of the four Assistant Directors are expatriate, only 6 out of 17 principal Investigators are expatriate and 21 out of 59 Chief Investigators. The Director and Deputy Director are at present former UK police officers but that will shortly change.

The localisation policy in the last few years has sought to identify local officers with potential for high rank and widen their experience in all types of corruption investigation. Many have received training in the United Kingdom and other countries and have proved themselves excellent students.

The recruitment of seconded officers has now virtually ceased. Increased localisation will mean that only a small number of expatriates will be left in the Commission after 1997.

Training

The Operations Department training School produced a constant flow of competent investigators, not only for its own Department, but also Law Enforcement Agencies in Hong Kong and overseas who turn to us frequently for assistance in this area.

The training of our officers is a high priority within the organisation's field of operations and new ideas are constantly being sought and tested in an effort to maintain and improve the efficiency of the men and women whose sole task is the investigation and prosecution of corrupt individuals in a world of growing financial opportunities.

I shall follow-up on the operational theme in a few minutes to give you an analysis of how we see the trends in corruption in Hong Kong, some examples of the scale and complexity of cases we have dealt with, the Importance of international liaison and a glimpse of how we see the future. But, before that, I would like to return to the theme of the three pronged attack on corruption and review the importance of our corruption prevention and community relations arms.

We in the ICAC today continue to recognise the value of a comprehensive approach to the problems of combating corruption. The value arising from corruption prevention - that is the removal, so far as possible, of corruption opportunity - is self-evident. The need for community relations, for public education, was based on the suppositions that only with community support could the ICAC succeed in the investigational field, that only with long-term patient education of a new generation

could deeply instilled attitudes be transformed to new and different standards of integrity, honesty and civic consciousness.

I must say, at the outset, that this comprehensive approach has been expensive and that the degree of success of prevention and public education can never accurately be gauged. However, we began with three prongs to our attack and we have retained that approach. We believe that the three departments complement each other. It goes without saying that a high degree of departmental integration and co-operation is essential.

Corruption Prevention Department (CPD)

The Corruption Prevention Department is small in relation to the whole Commission. It employs about 40 officers with about 20 support staff.

The ICAC legislation clearly envisages three classes of clients for corruption prevention work: Government departments, "public bodies" and the private sector. It is also clear that, whereas the ICAC can secure the revision of procedures conducive to corrupt practices in Government departments and public bodies, in the private sector it is only possible to "instruct, advise and assist" any person who resists such help. In other words, there is no power to intrude into the business sector uninvited for prevention purposes.

One other point arising from the legislation is that the advice given must be "compatible with the effective discharge of the duties" of Government departments and public bodies. This phrase shapes the way in which the CPD works, in particular the style of liaison with clients.

Identifying Work

There are several means by which potential areas for study come to the attention of the CPD. Many follow from Operations Department cases, some are extensions of previous assignments but, increasingly, clients themselves identify them; currently about 40% of all our studies. This has some risks since clients may try to involve the CPD in a battle for more staff or money, thinking that an anti-corruption argument will help their case. CPD tries to avoid these situations, not always successfully. A system of identifying expected change is operated. For example, the Legislative Drafting Program identifies legislation the enforcement of which may have corruption potential; various Government rules require the authors of new legislation or policies to consult the ICAC as appropriate. Usually, work identified in this way results in the CPD becoming involved in the process of change rather than formally studying a set of existing procedures.

Client Co-operation

The CPD's studies of Government departments, public bodies and private organisations are, in their methodology, very similar to studies which would be made

prior to computerisation or any other reform of an organisation's procedures. It is only the end product which differs.

When a written report, with analysis and recommendations, has been completed, the findings are discussed with the client. As noted earlier, for Government departments and public bodies the recommendations must be compatible with the effective discharge of their duties. And while CPD staff are experienced and resourceful, they cannot hope to emulate the depth of working knowledge possessed by the people who actually operate the system under study.

In order to achieve the necessary good relationships at all levels in a client's organisation, which will enable the proposed changes to be accepted and implemented expeditiously and smoothly, it is necessary to be diplomatic and pragmatic. Primarily, it is necessary for any proposals made to clients to be viable and economical. Recommendations should take account of the difficulties which the client may experience; for instance, limitations on the number of staff, on training facilities and on resources of equipment and money. There is no point in proposing to a client a system which, although perfect in every way (including being perfectly free of corruption), cannot be afforded or achieved.

The CPD must also be aware of any political problem. A Government department which has just been embroiled in a political row arising from its inability or unwillingness to meet the demands of a particular pressure group or due to the unpopular consequences of a necessary policy is less likely to be responsive to proposals which it thinks might demoralise or disrupt its staff, even if those proposals make good sense from the corruption prevention and indeed management viewpoints.

Also, pressure of work may make a client less able to participate in or respond to a review of its procedures.

It is important that governmental organisations evolve their systems in response to the demands made upon them by the law, by the needs of the population and by the limitations of communications, geography and resources. A sense of proportion must be maintained; corruption prevention clearly is important but it must not be achieved at the expense of the client department failing to discharge its duties effectively.

Similarly, in the private sector, where the CPD operates almost wholly in an advisory capacity with no legal "clout", the relationship between the systems analyst and the client becomes of paramount importance. Most particularly, the private sector client must be able to perceive a dollar value in implementing preventive measures for, without this, it is very difficult to get support for recommendations at the managerial or directorate levels.

The CPD observes a very high degree of confidentiality about clients and their affairs. Reports of studies are not distributed to other readers except with the

clients' permission. This applies even within Government; when a request comes, for example, from a policy branch of the Government Secretariat for sight of a report dealing with one of the areas for which it has fiscal or policy responsibility. For the private sector, even the identities of the clients are treated as confidential.

It is important too to maintain good liaison at all levels in the organisation being studied. The implementation of recommendations is monitored, often informally, by telephone conversations or correspondence with officers at the operational level as well as by personal visits. In the longer term, more formal exercises are undertaken once the new procedures have settled down. At more senior levels, the directorate of the CPD meets regularly with the directorate of Government departments, public bodies and even private sector organisations to discuss past and on-going work and future areas for study.

Symptoms or Opportunities for Corruption

It has been the experience of the CPD that opportunities for corruption in any system generally fall within certain basic types, which can be considered in three main groups - How work should be done (formal procedures); how it is actually done (informal practices); and how it is tasked and controlled (management). I do not have the time within this talk to take you through the details of these types of corruption opportunity. However, they are a distillation of our 18 years of experience in this work and may well be of interest to many of you as a set of guiding principles in this area. We will be happy to provide more detailed analyses to those who wish to see them.

Post Assignment Support

The final part of the corruption prevention process occurs after the written report is sent to the client. However committed the client may be to the recommendations, change takes time. The CPD therefore stays in touch with the client's progress in implementing recommendations, and provides support where necessary - for example in the design of forms and by attending implementation meetings. After the changes have been effected, they are observed to see if they work as intended or whether they themselves have given rise to new opportunities for corruption. Finally, a monitoring study of the situation is done after two or three years in appropriate cases. In practice, because of the pace of change in Hong Kong, monitoring of previous studies is comparatively infrequent since the legislation, staffing and policies have often changed to the extent that a fresh study is usually required.

Benefits of Corruption Prevention

Justifying spending public money on preventative work is difficult because, by its very nature, the effect of preventive work is hard to quantify. One method would be to assess to total costs of investigation, judicial costs and the cost of correctional services arising from corruption-related prosecutions. Assuming that prevention of a proportion of these cases is possible, a notional budget can then be arrived at. If

cases of fraud and conspiracy to defraud are added - and these types of offences often involve corruption according to experience in Hong Kong and overseas - a very substantial and justifiable budget can be calculated. The point is not, however, that prevention should replace prosecution, but that, since prosecution and punishment are expensive options, consideration should be given to redirecting some of the money spent on them since the payback will be worthwhile.

Perhaps the greatest benefit of all for a territory like Hong Kong is the enhancement of Government and business practices as seen from outside the territory.

In the run-up to 1997, every opportunity must be taken to reassure our trading partners and overseas investors that the Hong Kong business and financial environment is viable and fair. The ICAC's Corruption Prevention Department is a tangible symbol that Hong Kong is committed to providing efficiency and honesty in its public and private dealings.

Community Relations Department (CRD)

Now I will move on to the Community Relations Department. This Department both complements and supplements the work of the Operations and Corruption Prevention Departments. The Department has a strength of about 220 staff and operates from Commission headquarters and 8 Regional Offices which are geographically spread amongst densely populated areas.

Preventive Education

As the third prong to the Commission's approach to combating corruption, the CRD's overall objective is to use education as a means to prevent corruption. The department aims at enlisting the active support of the Hong Kong public in the fight against corruption and to foster their positive attitude towards the ICAC and anti-corruption work. Through an intensive community education program, the Department keeps the public informed of the problems of present-day corruption, of the anti-bribery legislation and of the services offered by the ICAC. To enhance the impact and effectiveness of direct face-to-face contact, the Department adopts a strategy which focuses on the particular needs and interests of priority target groups.

Business Sector

The business sector is now a major area of work. The upward trend over the past few years of corruption allegations and prosecutions in this sector has made this essential.

The Department actively markets anti-corruption messages and ICAC services to both employers and employees of various trades and industries through visits, meetings, management workshops, seminars and other forms of activities. These provide excellent opportunities for participants to be briefed on the law, become

more aware of their role in preventing corruption, and to be encouraged to be forthcoming in taking preventive measures. Apart from creating a supportive and receptive atmosphere for anti-corruption work, these activities often result in positive action being taken against corruption.

Professional bodies and trade associations are also involved in co-organising such anti-corruption activities. Their support not only enhances the impact of a particular event; it also generates a positive influence in promoting ethical business practices amongst their members.

Young People

The Department also makes every attempt to ensure that young people will develop firm attitudes against corruption and will not tolerate, in future, a return to the corrupt practices of the past.

The Department maintains an active school education program whereby messages related to anti-corruption education are conveyed through the design and production of teaching materials and packages.

Staff of the Department also meet with secondary school-leavers and tertiary students and, through classroom talks, convey to them basic but practical knowledge of the anti-corruption laws. These talks aim to prepare the students for the moral dilemmas they might face as they take up jobs.

Government Departments and Public Bodies

In keeping with the objective of promoting a clean public service through education, the Department maintains regular contacts with Government offices and public organisations at both headquarters and district levels and meets regularly with public servants to explain the anti-bribery laws and related issues and their role in corruption prevention.

Enlisting Public Support

Objective

Other than providing preventive education, it is also important to enhance the image of the ICAC as an organisation which upholds justice and fairplay and to inspire confidence in the ICAC.

To achieve this goal, it is necessary to keep the community well-informed of the state of the problem and its costs. It is also important to inform the public of the vigorous action undertaken by the ICAC to combat corruption so as to reinforce public faith and conviction in taking a stand against it.

The Department mainly works through advertising and promotional activities on

television and radio, as well as in the print media, to keep the issue of corruption constantly in the public eye. For Instance radio and television APIs (Announcements of Public Interest) are regularly produced to emphasise the efforts of the ICAC in maintaining fairness and integrity which are essential to a stable and efficient society.

The Department also produces a drama series based on cast ICAC investigations which is broadcast on local television stations.

The Department is also fully aware of the need to maintain the support among the "grassroots" i.e. public at large. At present there are 8 Regional Offices in densely populated areas to serve as focal points for carrying out the Department's educational activities as well as to foster a close relationship with individuals and groups of the local community.

Evaluation of Work

The Commission's community relations work essentially concerns preventive education which aims at changing public perceptions, attitudes and behaviour towards corruption. The task is necessarily a long-term one but there are real indications that the Department has achieved considerable success. As regards public awareness of the evils of corruption and the work of the ICAC, a biennial population-wide ICAC Mass Survey completed in 1990 showed that 70% of respondents agreed that the ICAC had successfully educated the public against the evils of corruption and that 85% of respondents showed that they had knowledge of the work of the ICAC.

Another measure of the Department's work is the willingness of the public to report corruption. In this respect, in 67% of all corruption reports received in 1991, the complainants were prepared to come forward and identify themselves. The 1990 ICAC Mass Survey also showed that 83% of respondents would report corruption if they were victimised. This is an indication of the public's confidence in the ICAC. Pursuable reports, that is those containing sufficient information to start an investigation, represented 73% of all corruption reports for 1991, reflecting the Department's successful efforts in explaining the anti-corruption legislation to the public.

Future Direction

The long term goals of the Department remain to prevent corruption through education and to foster public support for the Commission's anti-corruption work. The aim is not only to bring about a better understanding of the anti-bribery laws but also to encourage the adoption of preventive measures against corruption.

In addition, the Department will continue its endeavours to produce a deterrent effect on the corruption-prone and to encourage the reporting of corruption offences amongst the public.

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Advisory Committees

At this point it would be helpful for me to describe the methods which have developed for exercising checks and balances on the work of the whole Commission.

The setting up of the ICAC in 1974 was a bold step and one that many believed was wrong. A vociferous minority expressed the view and in fact were hopeful, that the newly formed Commission would soon collapse into the same pitfalls of corruption down which the police force had fallen before it. These widely publicised fears caused those charged with forming the new Commission to protect it as far as possible by building in as many safeguards as possible.

These safeguards primarily take the form of a series of advisory committees covering all aspects of the Commission's work. The various committees are not statutory bodies but the members are appointed by the Governor and are carefully selected to provide a comprehensive range of relevant experience from both the public and private sectors.

The Advisory Committee on Corruption (ACOC) is the body from which I can seek advice on the overall policy direction of the Commission including matters such as staffing, funding and legislation. Another committee reviews in detail the investigative work of the Commission. This is known as the Operations Review Committee (ORC) whose wide terms of reference provide access to every area of the ICAC's investigative work.

The Committee is chaired by me and comprises the Commissioner of police, the Attorney General, the Director of Operations and six unofficial members from the private sector. Frequently unofficial members are also Legislative Council members.

Similarly the work of the Corruption prevention Department and Community Relations Department of the Commission are covered, respectively, by the Corruption Prevention Advisory Committee (CPAC) and the Citizens Advisory Committee on Community Relations (CACCR). These committees meet regularly to discuss the latest corruption prevention assignment reports and the latest developments in public education, special programs and other community relations activities.

ICAC Complaints Committee

In addition to the four advisory committees there is also an ICAC Complaints

Committee. This comprises nine prominent people including legislative councillors, the Attorney General and the Commissioner for Administrative Complaints (our title for the Ombudsman) who are appointed by the Governor to monitor and review the handling by the ICAC of complaints by anyone against us as a body or our officers. It can look at procedures that may cause complaints and make recommendations to the Governor.

Internal Investigation and Monitoring Unit

Finally, there is an internal investigation and monitoring unit in the Operations Department. This small group reports directly to the Deputy Director of Operations. It is responsible for selective monitoring of the work of the Commission with particular emphasis on the Operations Department. It seeks to prevent and detect efforts to penetrate the ICAC by hostile factions or agents and possible lapses of integrity by officers within the Commission.

It investigates allegations of corruption or other malpractice by officers and complaints from members of the public against our officers or our procedures.

It is also responsible for vetting all personnel within the Commission.

All allegations of criminal activity by an ICAC officer which do not involve an element of corruption are referred to the police.

Does such an organisation as ours need these advisory committees, the complaints committee and the internal monitoring unit? I have no doubt that it does. Not only do we need the invaluable advice of many eminent people. We also need to protect our reputation for integrity. There is no doubt that should an independent body such as ours ever become corrupt within itself it would be almost impossible to combat. We are able to demonstrate to the Hong Kong public that we are subject to a system of checks and balances and that we do not abuse our powers.

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Up to this point I have described to you the history of the ICAC, our early strategy, how we define corruption and the laws we have to deal with it, and how we formed, trained and developed the Operations Department. I have also explained the nature and work of the Corruption prevention Department and Community Relations Department in the three pronged approach we employ and described the measures which have been taken externally and internally to monitor the work and powers of the Commission.

Trends in Corruption and the Future

I would now like to move on to describe the trends in corruption we have experienced in Hong Kong, to give you some examples of cases we have investigated in recent years and to explain how we are coping with developments in Hong Kong

which are all part and parcel of the territory's transition towards the change in status in 1997.

In the early years police corruption was the principal target of our investigations. This was closely followed by other Government departments. This situation has gradually changed and 56% of our investigations are now concentrated on the private sector.

Investigations into private sector complaints have often revealed large scale frauds. Many of these cases involve quite extraordinarily large sums of money. In one case investigated by the Commission, charges laid related to sums totalling HK\$6 billion. Such cases are usually lengthy, complicated and labour intensive.

The ICAC plays an important role in the fight against white-collar crimes in Hong Kong. White-collar crimes refer to illegal acts characterised by guile, deceit, and concealment and they may be committed by individuals acting independently or by those who are part of a well-planned conspiracy.

These crimes can be associated with a wide range of company operations: purchasing, sales, advertising, capital expenditure, contract services, engineering, employment, insurance, banking etc.

It is quite common that in the course of an investigation into an allegation of corruption, fraud and deception offences are unveiled. Over the years we have successfully investigated numerous complex corruption related fraud cases. A number, not surprisingly given the amounts involved, were connected with banking.

One of our landmark bank fraud inquiries was the investigation into a bank which collapsed in June 1985 and was taken over by the Government with a cash injection of HK\$2 billion. There were suggestions that the collapse of the bank was due to collusion between the bank's top management and a prominent businessman. A joint task force, led by one of my Assistant Directors, consisting of officers from the ICAC and the Commercial Crime Bureau (CCB) of the police was formed in March 1986 to probe the corruption and fraud.

In this case, the investigators examined 22,000 items of documentary evidence piece by piece. Microcomputers were used to store the information. By way of example, in order to prove a single cheque transaction, 45 documents or account entries had to be exhibited, identified, produced and explained by over 20 witnesses. Time became an important factor when one of the defendants, who had been arrested in Los Angeles, refused to return voluntarily to Hong Kong to face trial. It meant the task force had only 45 days to present the court in Los Angeles with evidence to show that the defendant should be extradited. As there were formalities before the documents reached the Los Angeles court which would decide the case, the task force only had 20 days to complete the paperwork. To meet the deadline, officers of the task force had to work long hours to put some 250,000 pages of evidence into 23 bound volumes. Each volume had eight copies. Eventually the defendant was

extradited.

After 16 months of effort by the joint task force, the main part of the inquiry was concluded. The former chairman, the managing director of the bank, the ex-chairman of a finance Company and a merchant were prosecuted. They were charged with conspiracy to defraud the bank of a total sum of US\$89.5 million and received sentences ranging from 2 years to 8 years. All the defendants pleaded guilty. The Governor presented his personal Commendation to two of our officers.

Another investigation worthy of mention began in September 1986 when the former executives of another bank were alleged to have made substantial loans to various personalities and companies in circumstances that amounted to corruption and fraud on a massive scale.

Searches of the bank's files showed that as at 23 June 1986, out of a total loan balance of HK\$4,930 million, some HK\$4,543 million was non-performing. Of this amount HK\$3,703 million was owed by Malaysian or Singaporean nationals or companies registered in those countries. The loans had been made with little or no security.

Investigations revealed ample evidence to prove that three former executive directors of the bank were responsible for authorising the majority of the unsecured loans. In October 1986, the Company Secretary of the Bank was arrested by ICAC. He together with two former directors of the bank were charged with a total of 81 offences involving approximately HK\$770 million. The Company Secretary pleaded guilty to an offence of conspiracy to defraud the bank of HK\$20 million and was sent to prison. The two former directors of the bank jumped their court bail totalling HK\$21 million in cash and absconded overseas.

In January 1989 one was deported from Taiwan to Singapore where he was charged by the Singaporean authority with 5 offences of Criminal Breach of Trust. Twenty-one months later he voluntarily returned to Hong Kong having completed his terms of imprisonment in Singapore. He was charged with conspiracy to defraud the bank and theft from the bank and was sentenced to a total of 5- years imprisonment. Arrest warrants are still outstanding for four other targets who are sought for similar offences involving sums of money totalling HK\$790 million.

White-collar crimes in the private sector have become more and more significant to the ICAC. Corrupt and fraudulent practices by bank staff and businessmen can cause serious disruption to normal banking and to the reputation of Hong Kong.

Liaison

We have, over the years, established excellent liaison with overseas law enforcement agencies which has led to a number of successful prosecutions.

In particular, I would like to mention an investigation known as operation "Bamboo Dragon" which was begun as a result of an exchange of intelligence between the FBI and the ICAC.

In October 1987, a request was received from the FBI for ICAC assistance in an undercover narcotics operation in Hong Kong. Our assistance was requested because of the alleged corrupt involvement of a Hong Kong police officer.

An FBI agent had, in America, gained the confidence of 2 Chinese drug dealers who agreed to escort him to Hong Kong and introduce him to their source of supply. When the agent arrived he was joined by our officers. He negotiated with the drugs supplier for the purchase of heroin. After several closely monitored meetings (all transactions were taped or video recorded), the traffickers agreed to supply a large quantity of No. 4 heroin to the undercover agent.

Operations were carried out in Hong Kong and simultaneously in New York and Washington and 28 kilograms of No. 4 heroin with a US retail value of some HK\$350 million were seized in Hong Kong and 9 kilograms in the USA. Several prominent criminals were arrested, 2 of whom were subsequently convicted in Hong Kong and sentenced to 25 years' imprisonment. Three others were extradited and tried with their accomplices in the USA.

The Commission continues to attract interest as an anti-corruption agency from similar agencies around the world. Visitors from such countries as Australia, Japan, the Philippines, Portugal, the United Kingdom and the People's Republic of China were briefed during the year and our working liaisons were strengthened.

In Hong Kong, the Narcotics Bureau and the Criminal Intelligence Bureau of the Royal Hong Kong police increasingly assist ICAC investigations particularly where there are drugs/corruption problems. We also enjoy excellent working relations with the Immigration, Customs & Excise and Correctional Services Departments.

Our liaison with the peoples procuratorate in China continues to grow. Our officers regularly visit China in the course of their inquiries and a number of Chinese investigators have visited Hong Kong to conduct inquiries. I am sure these trends will continue.

Elections

Another role we undertake is to ensure that the electoral system is free from corrupt practice. In our early years political activity in Hong Kong was fairly limited but now with increasing democratisation, this is changing.

Direct elections to the Legislative Council and elections at District and Regional level are policed by us. The number of pursuable complaints received during the 1991 series of elections was 214. However, with one notable exception, the complaints have been essentially of a minor or technical nature.

Bill of Rights

The United Kingdom ratified the International Covenant on Civil and political Rights (ICCPR) in 1976 and at the same time extended its application to Hong Kong. As a result the U.K. Government is internationally responsible until 1997 for the observance of

the covenant's guarantees in Hong Kong, although as a practical matter this responsibility is discharged by the Hong Kong Government, Legislature and Courts.

On 8 June 1991 the Hong Kong Bill of Rights was enacted. It guarantees the enjoyment of a number of civil and political rights such as freedom of speech; freedom from discrimination and a right to privacy. The Ordinance enacts as part of Hong Kong domestic law the provisions of the ICCPR.

The Ordinance overrides all other legislation and if existing laws are inconsistent then they must be repealed to the extent of the inconsistency.

Legislation enacted after the commencement of the Bill of Rights Ordinance, is to be construed consistently with the ICCPR as applied to Hong Kong.

The practical effect of the implementation of the Ordinance means that a person who alleged that his rights had been denied could bring an action before the Courts of Hong Kong seeking redress. In so far as the ICAC is concerned we closely monitor the development of human rights legislation and we have set up a departmental committee on the Bill of Rights to review those procedures and practices which might be in conflict with the provisions. Training programs for our investigators have been introduced to educate them in the provisions of the Ordinance.

A package of legislative amendments to repeal or amend six provisions in the prevention of Bribery Ordinance and ICAC Ordinance is presently being considered by the Legislative Council.

It has always been our intention to strike the right balance between the need to carry out our statutory duty to combat corruption and the desire to ensure that individuals are able to enjoy the rights and freedom guaranteed by the law.

The Approach to 1997

Fears are expressed that some elements of the Hong Kong population may lack confidence in the future and that this may exacerbate the continuing upward trend in major corruption and fraud incidents and lead to a general resurgence of corruption in all sectors including the Civil Service. Such fears are based on the rationale that the desire to emigrate or to prepare financially for an uncertain future makes people more vulnerable to corruption. At the moment none of this is supported by our statistics or intelligence sources but clearly we must remain vigilant.

It is also anticipated that as the democratisation process advances, more election-related complaints will be received by the ICAC, thereby stretching our resources. It is further predicted by some that the introduction of human rights legislation will affect, to some extent, the effectiveness of the ICAC. Here we shall just have to wait and see but I am confident we shall weather the storm of chance and emerge the better for it. The public expect us to be more open and there is no doubt that we have to be responsive, accountable, prepared to answer questions and to accept criticism.

Conclusion

I hope I have highlighted in this paper our achievements as well as the difficulties which we have encountered and will face in the future. I can assure you that the Commission will, as always, accept the new challenges. I am confident we will overcome difficulties which emerge.

Finally I would like to emphasise again the importance of maintaining good working relations with local and overseas law enforcement agencies. This Conference will go a long way to achieving that objective.