

65510



Preventing Corruption in Prosecution Offices:

Understanding and Managing for Integrity

Dr. Heike Gramckow



Legal Vice Presidency
The World Bank

About the Justice and Development Working Paper Series

The Justice and Development Working Paper Series serves as a platform for new and innovative thinking on justice and development that features work from World Bank and external authors. It is a product of the World Bank's Justice Reform Practice Group, which generates knowledge and provides advice and assistance to Bank staff and Bank client countries on building improving state and non-state justice system institutions and mechanisms. Justice and Development disseminates the findings of works in progress to facilitate a more rapid exchange of ideas about development issues and justice reform.

Editorial Policy

The Justice and Development Working Paper Series publishes original research papers on law, justice and development. Publication proposals may be made by Bank staff and external contributors. Manuscripts must be in English and no longer than 25-30 pages. They can be submitted at any time. All submitted papers will be acknowledged and carefully reviewed by the editorial committee. Criteria for selection include rigorous scholarship and topics about innovative approaches to law, justice and development generally, particularly topics related to

- institutional reform of justice sector agencies
- justice in development, including community legal empowerment and access to justice programming
- criminal justice reform and administration
- justice systems in conflict-affected and fragile areas
- monitoring and evaluation of justice systems and projects.

Inquiries:

Justice Reform Practice Group
The Legal Vice Presidency
The World Bank
1818 H Street NW
Washington DC 20433, USA

Telephone: +1 202 458 2950

Email: justicedevelopmentworkingpapers@worldbank.org

Website: www.worldbank.org/lij

Disclaimer:

This working paper is published to promote the World Bank's work to the development community with the least possible delay. The manuscript of this paper therefore has not been prepared in accordance with the procedures appropriate to formally edited texts. Some sources cited in this paper may be information documents that are not readily available. The findings, interpretations and conclusions expressed herein are those of the author(s) and do not necessarily reflect the views of the International Bank for Reconstruction and Development, the World Bank and its affiliated organizations, or those of the executive directors of the World Bank or the governments they represent. The World Bank does not guarantee the accuracy of the data included in this work. The boundaries, colors, denominations and other information shown on any map in this work do not imply any judgment on the part of the World Bank of the legal status of any territory or the endorsement or acceptance of such boundaries.

Table of Contents

Foreword	ii
Notes about the Author	ii
Abstract	1
1. Introduction	1
2. Value-Driven Management	2
3. Integrity and Quality Standards and Policies.....	3
4. Human Resources Management	3
5. Supervision Practices	4
6. Complaint Structures for Ethics and Integrity Breaches	5
7. Document Management Policies	6
8. Automation.....	6
9. Risk Assessment	7
10. Internal Audit Units	7
11. Citizen Participation.....	8
12. Internal Information and Communication	8
13. Independent Inspection Units and Agencies	9
14. Taking Care of Your Own: Protecting Prosecutors and their Families against Violence and Other Threats	9
15. Broader Detection Policies and Actions	10
15.1 Registration of Interests and Assets	10
15.2 Conflict of Interest Policies	10
15.3 Freedom of Information Legislation.....	10
15.4 Whistle-Blower Protection.....	11
15.5 Integrity Testing Policy	11
16. Conclusions.....	12

Foreword

An essential component of an effective system of criminal justice is the impartiality of prosecutors in handling breaches of the law, including the pursuit of corruption cases. While prosecutorial agencies may be set up as independent agencies that are considered part of the judicial sector or the executive branch, they need to be designed as independent institutions, so as to insulate prosecutors from undue influence and thereby assure fair and impartial criminal trials.

This paper was initially developed as a presentation at the regional conference of the International Association of Prosecutors, held in Belgrade, Serbia, in November 2010. Written by an expert in justice sector management, who has long experience in assisting prosecutors' offices around the globe and is now on the staff of the World Bank's Justice Reform Group in the Legal Vice Presidency, the paper considers key features of well-managed prosecution agencies and the directions they pursue to improve their institutional integrity. It offers a range of ideas about mechanisms and processes that prosecution agencies might adopt in order to produce and sustain fundamental standards of integrity and professionalism. The views expressed are those of the author and do not necessarily reflect the official views or policies of the World Bank Group.

Notes about the Author

Dr. Heike Gramckow is a Senior Counsel with the Justice Reform Group in the Legal Vice Presidential Unit of The World Bank in Washington, DC, where she is advising on justice reform issues and conducting related research. She has been working with prosecutors in different capacities in the United States and internationally for almost 25 years. Before joining the Bank, she was the Deputy Director of the International Division of the National Center for State Courts and served as the Director for Research and Development for the American Prosecutors Research Institute. She also worked for private consulting companies advising governments, including the White House, on justice sector reform issues.

During her career, Gramckow has worked with courts, prosecutors, and police in the United States and throughout the world, especially on justice system management and reform. She directed several justice reform programs and conducted justice system assessments in numerous countries, including Bosnia, Bulgaria, Egypt, Haiti, Indonesia, Kenya, Mongolia, Morocco, Nigeria, Papua New Guinea, Romania, Serbia, Syria, and the United Arab Emirates. She worked not only with common law and civil law systems but also with Shari'a courts and other traditional justice systems, training judges, prosecutors, and court personnel on management, budget and strategic planning, reengineering, and particular substantive issues, such as victim assistance, drug cases, juvenile offenders, and domestic violence. She also provided advice on establishing sustainable mechanisms for continuing education, introducing effective information technology and communications (ITC) solutions, and designing more participatory governance structures that support judicial independence.

Gramckow holds a law degree and a Doctorate in Law from the University of Hamburg, Germany. She has taught undergraduate and graduate courses on international criminal justice systems and juvenile justice at American University and the George Washington University in Washington, DC, and is widely published in the United States and internationally.

Preventing Corruption in Prosecution Offices: Understanding and Managing for Integrity

By Dr. Heike Gramckow

Abstract

Considering the essential role of prosecutors in upholding the rule of law and pursuing government accountability, the integrity of prosecutorial operations is of special importance. At the same time, this critical role also exposes prosecutors to certain pressures and can make them vulnerable to corruption. This article outlines a range of special responses to detect, remedy, and prevent corruption within prosecution offices. While not entirely specific to prosecution agencies, the approaches outlined highlight the central importance of good management practices and a strong focus on preventing opportunities for corruption through effective policies and procedures, IT solutions, and transparent operations.

1. Introduction

The position of prosecutor is important for any community or government, as prosecutors are essential to keeping communities safe. They are also crucial in keeping companies and government officials accountable. Prosecutorial decisions must therefore be based on the facts of the case and not on the status and/or importance of the individuals involved or the interests of any individuals, companies, or government. Many prosecutors perform their responsibilities with integrity, attention to detail, and quality. A few others, however, take a different path, and this corruption of prosecutors or administrative staff in a public prosecution agency is especially detrimental to public trust in government and the rule of law. If those who are charged with upholding the laws and protecting the weak are compromised, the impact can be damaging on many levels.

Lack of prosecutorial integrity and corruption are still serious problems in many parts of the world. In numerous countries, there are few prosecutorial agencies that can honestly claim that none of their prosecutors and other staff could be tempted to engage in corrupt practices,¹ especially when salaries are low and particularly in societies where personal connections are considered essential to everyday functioning. Even those who normally

¹ A very insightful review of the many pressures that may lead to integrity breaches, if not corruption, even in the more contained environment in which U.S. prosecutors are operating is provided in R. Barkow, "Organizational Guidelines for the Prosecutor's Office," *Cardozo Law Review* 31, no. 6 (2010), http://www.cardozo.yu.edu/uploadedFiles/Cardozo/Profiles/burns_ethics-145/Rachel%20Barkow.pdf.

would not change their professional decisions to, for example, return a favor can be compromised when the pressure is sufficiently strong. This is especially so when a family faces a particular hardship, such as a spouse or child suffering severe medical problems; in these circumstances, it is difficult for even the most honest prosecutor to refuse money offered—even if convinced it would be just one time—when it could pay for treatments that may save a loved one.

Thus, in any country it is important to understand the level of, or potential for, corruption within a particular agency. It is also crucial to recognize where corruption is more likely to occur within an agency and in the course of the prosecutorial process; the potential motivating factors for those within the prosecution service to submit to the lure of corruption; and the cultural and political pressures that are likely to compromise prosecutor and staff decisions. Interestingly, despite the significant international focus on the problem of corruption, there is generally little attention given to one possible means of addressing it: conducting an initial assessment of the general and specific corruption environment as a prelude to designing structures aimed at impeding corruption and enhancing integrity. Furthermore, to date no systematic framework has been developed to assist prosecution agencies in creating the policies, processes, and management structures needed to contain the problem and ensure an independent outcome.

At the same time, there are some beneficial lessons to be learned from different prosecution agencies around the globe. Not surprisingly, ensuring integrity within a prosecution agency is not altogether different from doing so in any other organization. Preventing and controlling corruption generally require that a range of appropriate monitoring and control mechanisms are implemented. In addition to proper human and financial resources and other management structures, these will include specific routines for internal checks, internal and external auditing, and investigation and prosecution regimes. Such procedures should strike a reasonable balance between positive strategies to encourage high levels of integrity and corrective strategies designed to identify incidences of corruption and discipline or prosecute those involved. Agency personnel, those who are dealing with the prosecution service and the general public should be encouraged to report corrupt, unethical, or illegal activity. When such information is provided, it should be investigated in a prompt and thorough manner and sources should be protected.

No organization is better prepared to prevent corruption than one that is well organized, well managed, and focused on creating a professional environment that promotes quality and integrity. The following sections will briefly address some of the key elements that create a less corruption-prone environment.

2. Value-Driven Management

The most effective and ethical prosecutor's office is one where the leader sets a tone of ethical behavior. Thus, the key to preventing corruption is establishing strong integrity standards along with internal processes and management structures that promote effective supervision, reflecting the values of the agency in all its policies, processes, and

operations. The control environment and agency culture established by management must be absolute and clear in conveying the message that integrity and ethical values cannot be compromised and employees must receive and understand this message. Although this starts with hiring lawyers and other staff who possess good character and judgment, it is the agency's management who must continually demonstrate, through words and actions, a commitment to high ethical standards. A culture of integrity is without a doubt the cornerstone of a well-managed and well-controlled agency.

3. Integrity and Quality Standards and Policies

In order for prosecutors, other staff, and those the agency is working with to understand what they can expect from the agency and what is expected of them, agencies need to clearly outline how decisions and services are to be delivered. First and foremost, a code of conduct that is sufficiently specific has to be in place. Other laws, such as civil servant codes and criminal procedures laws, provide the broader parameters for prosecutor operations, but these are usually not detailed enough to ensure a common understanding of the decision-making process and the demarcation of acceptable—and unacceptable—behavior. As an example of a successful model, the Crown Prosecution Service of England and Wales has developed very good quality standards, which, in combination with the code of conduct, clearly spell out what the prosecution service does, how decisions are made, and what services can be expected.²

4. Human Resources Management

Staff members who are well qualified and of high integrity are at the core of an ethical organization. Selecting the right people based on their qualifications and experience—and not on their social or political connections—is the foundation. The next step is to train staff and managers so that they possess the necessary knowledge and skills, and truly understand and support the values of the organization. Promotion schemes based on merit, as well as performance management systems that focus on promoting the agency's values, especially integrity values, are signposts of an agency that manages human resources for quality, good performance, and integrity. This also involves developing a career path that is attractive not only in terms of remuneration but also personal growth, and creating an environment that encourages staff to aspire to be part of a respected organization in the long term. Creating incentives to remain in public service, in the form of job security, good social benefits, and a supportive office environment, are essential for creating job stability, an important element in promoting integrity. A prosecutor who does not fear losing his or her job after making a tough or even politically challenging decision will be more effective and less prone to corruption.

Creating a supportive environment can also mean offering assistance to staff who are in a difficult personal or financial situation. This support can include, for example, providing low interest loans and/or offering counseling and treatment options, practices that not only

² See Crown Prosecution Service, http://www.cps.gov.uk/publications/core_quality_standards/index.html.

improve personnel morale and higher staff retention rates, but are also an important piece of a holistic corruption-prevention scheme. In addition, as outlined in more detail below, it is essential to provide a disciplinary system that quickly addresses corruption in a transparent and fair manner, allowing few exceptions to the overall disciplinary structure.

5. Supervision Practices

Effective managers are on the front line of ensuring not only high-quality prosecutorial operations in general, but also integrity throughout the organization. Since most supervisors and managers in prosecutor agencies have a legal background and little (if any) management training, special attention needs to be paid to developing their managerial capacities. Managing people is not an easy task and requires skills that are not usually taught in law schools. While some may have a natural talent for leading and coaching people, most would benefit significantly from access to good management training and/or the provision of suitable guidelines for supervising people.

Various supervisory approaches can be applied to promote quality decisions and reduce opportunities for corruption. These can include:

- teaming up junior prosecutors with more experienced ones to initially learn and later create prosecution teams for more complex cases, including cases that are more corruption prone;
- introducing one-over-one review processes for complex cases or corruption-prone cases;
- regularly providing and discussing summary case reports; and
- regularly reviewing case statistics and decision patterns.

It is equally important that managers in a prosecutor's office actively supervise those who report to them, instill the agency's values in their staff, and enforce and uphold those values. Managers need to remove not only those without the necessary legal skills, but especially those who fail to abide by the office's values system. A good manager will also have sufficient awareness of those they supervise to know when one of them is facing a difficult situation and/or in need of assistance, as it is precisely when faced with acts of undue influence or a difficult personal situation that a prosecutor may be vulnerable to ethics breaches.

When supervisors recognize that prosecutors or support staff are in a challenging situation that could potentially expose them to integrity lapses, options should be available to deflect such threats early on, such as reassigning a case to another staff member or offering different forms of assistance. This can involve teaming these staff members with others to support effective operations or other options to address issues at home. In the United States, for example, the federal government allows employees to choose to pool a certain amount of their annual leave time and then apply to a committee to draw extra leave time from that pool in the event of a family emergency.

6. Complaint Structures for Ethics and Integrity Breaches

In order for any ethics code and integrity system to function, a mechanism has to be in place to report suspected or known ethics and integrity breaches. Corruption rarely occurs in the open and is therefore difficult to pursue as a criminal offense. Furthermore, corruption grows more comfortably in an environment in which little attention is paid to ethics and integrity breaches in general. Formal structures that allow for the filing of internal and external complaints of a violation of ethics or integrity rules are most often the only way agency heads or investigations units will be notified. While substantiated corruption charges may trigger a criminal investigation in most countries, frequently such cases begin with an accusation that can be less clearly defined as corruption and is often supported by little tangible evidence. For all of these reasons, a good ethics and integrity complaint process needs to be in place, one that all within the agency—as well as those who interact with prosecutors—are aware of and trust.

It is nevertheless not an easy task to create a complaint system that is fair and transparent, operates promptly, and also protects those within the prosecution office from abuse. A good approach has been to establish a special disciplinary council or committee responsible for receiving and reviewing complaints, investigating them if they are only an ethical breach, and referring them to the proper investigative agency if a criminal act is suspected. Such a council is generally comprised of members of the prosecution agency who represent different ranks and regions, but it should also include others, such as judges, representatives of the private bar, law professors, and possibly police investigators and representatives of the general public.³ Reaching the right mix of council members will depend on the country and jurisdiction context. Furthermore, depending on the type of complaint, the council may from time to time involve other experts in assessing a particular complaint and responding to it.

Establishing a clear process for evaluating and responding to a complaint—and within publicized timelines—is essential to ensure transparency. If the assessment indicates that no violation occurred, the case is dismissed and the complainant is informed with a written explanation that is easy to understand. If a violation is found, the prosecutor involved has a fair chance to respond to the complaint. While transparency is key in all of these processes, so too is the need for confidentiality until a violation is proven. This is an essential part of fair proceedings because prosecutors can easily become the targets of disgruntled defense attorneys or defendants.

In responding to a violation, it is important to point out that just as the range of criminal sentences varies by severity of the case and level of guilt, so too should sanctions by

³ Another interesting composition of a disciplinary commission can be found in Austria, where all members are lawyers from relevant agencies, half of whom are appointed by the unions of civil servants, the others by the Minister of Justice. See http://www.amij.org.mx/M_asambleas/4/antecedentes/mesa%20capacitacion%20judicial/CareerOfJudges.pdf.

disciplinary committees. There should thus be a range of response options, from warning, to reprimand, temporary reassignment, leave without pay, fine, and ultimately to dismissal. The decisions of the disciplinary commissions should be appealable and the final outcome communicated to the person who filed the complaint. Such decisions also need to be captured and preserved in a complaints database to ensure that the incidents are reflected in further personnel actions and that both repeat respondents and repeat complainants are identified. Similarly, decisions of a disciplinary commission should be published in a manner that informs the public without compromising the position and reputation of prosecutors who have not been found in violation of the code of conduct to an extent that would require dismissal. All of this requires the development of a comprehensive database to track complaints and review results and responses.⁴

7. Document Management Policies

Clear policies that prescribe how, when, and by whom documents used by prosecutors, including case files, should be produced, stored, forwarded, and accessed are another tool to reduce opportunities for corruption. Identifying precisely who is entitled to have access to information and who is required to sign documents is an essential procedure, not only for good and efficient management in general, but also as a means to control the risks that documents may be stolen, damaged, or improperly altered.

Well-designed electronic document management systems make these processes easier and more tamper proof. If combined with a facility-wide tracking system for case files and evidence via barcodes or chips, a trail of their location is created that not only makes it more difficult to misplace or lose them but also reveals where they have been.

8. Automation

The introduction of office information technology can reduce corruption by improving the integrity of data entry and ensuring compliance with process rules. Such technology would also lessen the discretion of staff, prosecutors, and managers in making assignments, minimize any tampering with documents and evidence, and increase transparency. The introduction of automated case management systems, for example, allows for the automation and tracking of

- the assignment of cases to prosecutors to reduce the potential for either the respondent or complainant to influence the selection of the person who is to investigate or prosecute the complaint;

⁴ Depending on the size of the agency, this can be accomplished by creating a simple access database, especially if it is combined with a website that publishes key disciplinary committee decisions to inform the public that can also serve as precedents for future complaints. A more comprehensive example of such a tracking system can be found in Colombia, where the attorney general is charged with following up on all ethics and corruption charges leveled against all civil servants, including prosecutors, and is required to issue “certificates of integrity” before any civil servant is hired—a systematic background check process. See http://www.oas.org/juridico/spanish/col_res26.doc.

- the scheduling of hearings and other appointments or deadlines that may be procedurally necessary;
- the scheduling of tasks to be performed by staff and prosecutors that have to be completed in addition to procedural requirements;
- the notification of witnesses and other parties, reducing the risk of their failing to attend a hearing;
- the production of documents; and
- cases and associated case documents, and the retrieval of case event information, including changes that may be made to case assignments, forms, and dates.

Such systems can be programmed to track who it is who enters information and whether changes have been made and by whom, creating a trail if unauthorized adjustments are made.

If combined with a document management system, the automation of case record systems can make it very difficult, if not impossible, for case records to be lost or improperly altered. Advanced document management systems allow for combining scanned and other electronic documents with video and voice records, thereby capturing a significant part of the case file and evidence electronically.

9. Risk Assessment

In order to prevent corruption, one has to know where in the process it is likely to occur and the kinds of cases that are most susceptible to it. It is good management practice to regularly examine and assess the agency's corruption risk exposures. Usually this requires that major corruption risks be identified within each functional area, their impact be assessed, and the adequacy of the control environment determined. Such an appraisal should produce recommendations to rectify poor controls and identify areas that are vulnerable to major forms of corruption to ensure that they are given special attention. Recommendations may include additions or modifications to the office's operational practices, procedures, systems, or controls in order that the risk of corruption is reduced to an acceptable level without significantly raising cost or impeding efficiency.

10. Internal Audit Units

Internal audit units generally assess the effectiveness of the prosecution agency's procedures and make recommendations to ensure that the organization achieves its objectives. The internal audit function supports informed and accountable decision making with regard to ethics, compliance, risk, economy, and efficiency. One example can be found in the Public Prosecution Service of Canada (PPSC), which, in 2009–10 established an internal audit function by appointing a Chief Audit Executive and creating a departmental audit committee with three members appointed from outside the federal public service. The audit committee is chaired by the Director of Public Prosecutions (DPP) and provides objective advice and recommendations to the DPP regarding the

sufficiency, quality, and results of the organization's risk management, control, and governance frameworks and procedures (including accountability and auditing systems).⁵

For inspections to be beneficial, it is useful to announce that they will occur at some point during a given year or two-year period, followed up by a three-day notice of the actual inspection. Surprise inspections can also greatly increase effectiveness.

11. Citizen Participation

Citizen involvement in oversight functions remains more widely developed and accepted for police agencies and other executive branch functions that have significant direct citizen contact. Including nongovernmental representatives on disciplinary and other oversight committees can be effective, but there are also other ways to inform and engage the public in an agency's efforts to address and prevent internal corruption. This is an important measure of accountability and transparency in any country, but particularly in societies where nepotism and other forms of favoring family, friends, clan members, and other groups are expected. Incorporating representatives of such groups on a committee to address and limit corruption can be especially powerful if managed well.

Other approaches can include involving citizens' groups in action planning for enhanced operations and anticorruption measures, as well as establishing participatory budget processes that allow citizens to understand where resources are allocated and to participate in office expenditure tracking.⁶

Equally important are efforts to gain ongoing feedback from key community groups (for example, businesses, youth groups, minority groups) and other counterparts, such as other government and justice system agencies, defense attorneys, victim and offender services, and human rights groups. Engaging with these groups on an ongoing, regular basis through scheduled meetings and then gaining feedback via service report cards and other forms of surveying are important practices. The mutual sharing of information creates better understanding and trust and is often key in helping members of the public feel confident that when complaints and accusations are brought to the prosecution service, they will be taken seriously and acted upon.

12. Internal Information and Communication

Agencies should strive for adequate transparency and free and open communication throughout the organization as a means of preventing and reducing corruption and unethical behavior. If decisions and actions are carried out in the open—to the extent possible in a prosecution agency—opportunities to shroud and manipulate decisions

⁵ See Public Prosecution Service of Canada, <http://www.ppsc-sppc.gc.ca/eng/pub/ar10-ra10/04.html>.

⁶ See Nubia Uruena, "Citizen Participation as a Means of Controlling Corruption at the Local Level in Colombia" (master's thesis, Oxford University, 2004), <http://www.kus.uu.se/pdf/publications/NubiaThesis.pdf>.

become more limited. Moreover, staff members are more likely to bring suspected violations and other problems to the attention of managers who are genuinely accessible.

13. Independent Inspection Units and Agencies

Agencies, as well as units within agencies, that are concerned with independent inspection activities predominantly serve to assure the safe and proper delivery of the services examined. They also foster the improvement of those services and the adoption of better practices.

Frequently these are independent agencies responsible for all government bureaus. In some countries, a special unit of this agency, or even a separate agency, is created to focus on the prosecution service alone. One such example is Her Majesty's Crown Prosecution Services Inspectorate in the United Kingdom, which has the stated purpose of promoting continuous improvement in the efficiency, effectiveness, and fairness of the prosecution services within an integrated criminal justice system through the regular inspection, evaluation, and identification of good practices.⁷

14. Taking Care of Your Own: Protecting Prosecutors and their Families against Violence and Other Threats

Threats against prosecutors aimed at influencing their decisions are especially difficult to deal with and are a growing problem in many countries, including the United States. A U.S. report in 2009 indicated that threats against prosecutors had increased sharply, prompting a growing number of federal prosecutors in the United States to receive 24-hour protection by armed U.S. marshals. Many others are altering their commute and travel routes, installing home security systems, shielding their addresses by paying bills at the courthouse, or refraining from registering to vote. Some even carry weapons in the court.⁸ The problem has become so acute that a high-tech "threat management" center was opened, where approximately 25 marshals and analysts staff a 24-hour telephone hotline for reporting threats. The center uses sophisticated mapping software to track those being threatened and uses a classified database linked to the Federal Bureau of Investigations and the Central Intelligence Agency.

Prosecutors working on the state level in some of U.S. regions are exposed to similarly increasing threats at the state level, but the resources available to protect them are as limited or unavailable as in less-developed countries. When the health and life of a prosecutor or family member is at stake, it is the responsibility of the state to ensure that he or she is protected, so the prosecutor is not forced to submit to threats. Providing

⁷ See Crown Prosecution Service, http://www.cps.gov.uk/publications/docs/cjs_inspection_reform.pdf.

⁸ See J. Markon, "Threats Against Judges, Prosecutors Escalate," *Seattle Times*, May 25, 2009, http://seattletimes.nwsourc.com/html/nationworld/2009259159_judges25.html.

adequate support of this kind is not always easy, nor can every country afford it. Nevertheless, every agency needs the capacity to at least assess the threat risks endured by individual prosecutors, other agency staff, and their families and friends. Prosecution agencies also need to assess the options available for providing an adequate standard of protection.

15. Broader Detection Policies and Actions

In addition to what has been outlined above, there are a range of other agency policies and legal frameworks that need to be in place to prevent corruption, develop integrity structures, and enable support for the enforcement of ethics and criminal codes. These include, at the very least, the following:

15.1 Registration of Interests and Assets

Where a prosecutor is allowed to serve on a board of directors, be a member of other organizations, or be a partner in a business, registering those interests assists in avoiding potential conflicts of interest with his or her prosecutorial role. Requirements for the public registration of assets of individual prosecutors may be more controversial and generally require legislation that specifies the precise procedures that may apply.⁹

15.2 Conflict of Interest Policies

A prosecution agency's code of conduct may already outline a policy for defining conflicts of interest. The policy should describe reporting and enforcement processes that are binding on prosecutors as well as other staff and officers of the agency. These might include a requirement that affected employees sign a contract-type agreement acknowledging their understanding of conflict of interest situations and the procedures for dealing with them. Disclosure to an integrity advisor within the office may also include information about the relations or other interests of their family/household members. Some employees may consider this intrusive, but when family members pose a potential conflict of interest or other problem, it is helpful that advice be available in the early stages. For example, if a support staff's family member is linked to a drug gang, assignments can be made to limit the involvement of that staff member in related cases, and thereby reduce potential integrity breaches and also protect the staff member from unwanted pressures.

15.3 Freedom of Information Legislation

Freedom of information acts (FOI), sometimes also referred to as *right to information* laws (RTI), have been passed in many countries as a means of holding accountable those employed by government agencies, including prosecutors' offices. Such laws are also

⁹ For sample registration forms, see H. Whitton and J. Bertók, *Managing Conflict of Interest in the Public Sector: a Toolkit* (Paris: Organisation for Economic Co-operation and Development, 2005).

effective in promoting transparency and integrity and curbing corruption. FOI legislation grants a general right of public access to most types of recorded information held by public authorities, including prosecutors' agencies.

In most countries, the right to public court hearings already provides public access to many key operations and decisions of a prosecution agency. However, information provided at these public hearings is often just the last part, or only a selective segment, of a longer process that happens within the agency. Several of the case-related deliberations may require legal protection of the rights of the offender and victim, and most of the general prosecutorial policies and essential administrative policies and decisions may not be accessible to the public unless an appropriate FOI law is in place. This right is commonly subject to legally prescribed conditions and exemptions to protect victims and offenders, and to ensure effective agency operations. This may include the right to be told whether information exists, as well as the right to receive information. FOI laws tend to give members of the public the ability to make specific requests for nonpersonal information held by public authorities, which in turn requires the agency to have an adequate records management and response system in place.

15.4 Whistle-Blower Protection

It is often only fellow prosecutors and staff members within a prosecutorial agency who have opportunities to observe or otherwise detect corrupt behavior in their colleagues or supervisors. When such "insiders" report corrupt conduct, they often need special legal protection against recriminations or payback by, or on behalf of, those they denounce. These persons are generally called "whistle-blowers" and many countries have passed special legislation or administrative rules aimed at protecting them. Good examples of whistle-blower protection laws can be found in the United States, Australia, South Africa, the United Kingdom, and South Korea. At the same time, these laws need to be translated at the administrative level into more specific policies that correspond to the particular agency environment.

15.5 Integrity Testing Policy

Integrity testing refers to a process whereby staff members suspected of corruption are placed in a compromising situation by an investigation unit in order to assess whether they commit a corrupt act. In some jurisdictions, this process is considered "entrapment" and is not allowed. The person who is subject to integrity testing may, for example, be offered a bribe and asked to carry out an unlawful request. This can be a powerful corruption detection tool, but it frequently requires authorizing legislation and should be used only with great caution and in exceptional cases.¹⁰

¹⁰ Ibid.

16. Conclusions

This article outlines a range of special methods to detect, respond to, and prevent corruption within prosecution offices. However, no special initiative or response will work effectively in a poorly managed and severely under-resourced agency. Experiences across the globe have shown that well-organized and well-managed prosecutor agencies, whose leadership clearly articulates, instills, and enforces the key values of integrity and ethics, are what is needed to prevent and effectively pursue corruption within these organizations. Proper funding and adequate salaries are also important in limiting the incentives among both prosecutors and staff to engage in corruption. Yet, in the final analysis, even the best-resourced agency will not be able to prevent internal corruption unless its leadership is not only expressing a clear determination to uphold the laws with integrity but is also committed to effective and efficient operations and the timely enforcement of integrity breaches.

Papers Published in the Justice and Development Working Papers Series

2009

Issue 1, volume 1: *The Landscape of Local Authority in Sierra Leone: How "Traditional" and "Modern" Justice Systems Interact* by Ryann Elizabeth Manning

Issue 2, volume 1: *Challenging Generations: Youths and Elders in Rural and Peri-Urban Sierra Leone* by Ryann Elizabeth Manning

Issue 3, volume 1: *Exploitation of Poor Communities in Sierra Leone: False Promises in Reconstruction and Development* by Ryann Elizabeth Manning

2009

Issue 1, volume 2: *Justice Versus Peace in Northern Kenya* by Tanja Chopra

Issue 2, volume 2: *Justice Without the Rule of Law? The Challenge of Rights-Based Industrial Relations in Contemporary Cambodia* by Daniel Adler and Michael Woolcock

WPS 6 /2009: *How Do Local-Level Legal Institutions Promote Development? An Exploratory Essay* by Varun Gauri

WPS 7/2009: *Taking the Rules of the Game Seriously: Mainstreaming Justice in Development The World Bank's Justice for the Poor Program* by Caroline Sage, Nicholas Menzies, and Michael Woolcock

WPS 8/2009: *Framing Local Justice in Bangladesh* by Maitreyi Bordia Das and Vivek Maru

WPS 9/2009: *Access to Justice and Legal Empowerment: A Review of World Bank Practice* by Vivek Maru

2010

WPS 10/2010: *Culture-Based Justice Architecture :Building Community Wellbeing Through Deeper Cultural Engagement* by Philip James Kirke

WPS 11/2010: *Surveying Justice: A Practical Guide to Household Surveys* by Kristen Himelein, Nicholas Menzies and Michael Woolcock

2011

WPS 12/2011: *Alternative Dispute Resolution and the Rule of Law in International Development Cooperation* by James Michel

WPS 13/2011: *The Hybrid Courts of Melanesia – A Comparative Analysis of Village Courts of Papua New Guinea, Island Courts of Vanuatu and Local Courts of Solomon Islands* by Daniel Evans, Dr. Michael Goddard with Professor Don Paterson

WPS 14/2011: *Justice Development Programming in Fragile and Conflict-Affected Areas: Perspectives of Two Leaders in Justice Administration* by Abdul Salam Azimi and Christiana Tah

The Legal Vice Presidency
The World Bank
1818 H Street, NW
Washington, DC 20433
USA

Telephone: 202-458-1530

Internet: www.worldbank.org/legal

E-mail: legalhelpdesk@worldbank.org

