

Confronting Police Corruption: Protecting Individuals from Malicious Allegations

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Mr. Chairman, your Excellencies, colleagues and friends,

I am honoured to have been asked to address this plenary session of the 9th Annual International Anti-Corruption Conference. Moreover, I am genuinely humbled to follow as speaker Peter Eigen who has through his vision, energy and the power of his will helped put the issue of corruption on the world's agenda.

I also know about the many others connected with Transparency International and organisations like Transparency International who have risked your lives, personal freedom and careers to expose corruption. The world's fight against corruption would be not be where it is today without your sacrifice and we are deeply thankful to you all.

Finally, I recognise the South African Government, Kevin Ford, TI's various boards and chapters and the extraordinarily well qualified people behind the scenes at TI's General Secretariat such as Gillian Dell, for making this conference an outstanding success.

This is the fourth consecutive and intense day that we will have discussed the complexities of fighting corruption on a world-wide basis. The quality of the speakers who have gone before make the task of adding anything new very difficult indeed. However, I wish to introduce a perspective that addresses two subjects, which although separate, are closely interrelated.

The first are my thoughts on the challenge confronting the police on the issue of corruption. While it is a year away before Interpol's General Assembly of 177 nations will consider my nomination to replace Ray Kendall as Secretary General, the important role of police in our society deserves our attention in this plenary meeting.

My second point centres on the difficult challenge of balancing our efforts to battle corruption while avoiding making public, false, anonymous allegations of corruption or wrongdoing against individuals and societies.

Corruption and the Police

Let me begin with the policing aspect. The police must play a critically important role in our efforts to address corruption and they must be part of the solution and not just part of

the problem. Scholars and police officials have designed a number of models to determine what elements of police institutions pose the greatest risk to corruption. While these models differ in some aspects, they all recognise that the nature of policing and the culture of police present a great risk for corruption — *unless proper preventive and remedial measures are taken.*

In my view, three major elements must exist for an institution to be vulnerable to corruption. I refer to this as the Triangle of Vulnerability, a different triangle from the one on the logo behind me, which focuses on the Triangle for success against corruption!

A public agency that will be the primary breeding ground for corruption must have **Power**, it must have **Discretion** and it must have **Secrecy**. Police agencies possess all three of these elements. Indeed, given the nature of their duties they **MUST** have all three to do their job while protecting the privacy rights of citizens. With limited resources available in many of the countries gathered here, where should our focus be? It is unlikely that power and discretion can be meaningfully reduced given the nature and importance of the police function in all societies. Instead, it seems to me that the preventive and remedial measures need to bring more transparency and less secrecy into the equation of what police do and how they do it -- if Police are to achieve public trust and avoid systemic corruption.

Let me stop for a moment and ask whether there are any heads of police agencies or customs services in the audience?

Would the Head of Zimbabwe's National Police Force, Commissioner Augustin Chihuri please stand and be recognised?

Commissioner Chihuri is a member of Interpol's Executive Committee, and a person who has committed himself to fighting corruption. By his presence at this conference, he is taking an important step to holding himself, his agency and his officers accountable. If you have a problem with corruption in Zimbabwe or with the Zimbabwean National Police Force, there's the person to see.

Are there any other heads of police agencies in attendance? In my humble opinion, this must change.

Transparency International and those committed to fighting corruption have a strong interest in having the heads of police services at these conferences. Police agencies cannot be kept outside the tent in which these important issues are being discussed. Similarly, police agencies have a strong interest in meeting face-to-face with the private sector, civil society and other public officials discussing the importance of and ways to tackle corruption. They should not fear coming inside the tent.

As Chief Justice Kamal from Bangladesh so eloquently stated yesterday, participation in this conference helps to sensitise those in critical positions to the benefits of attacking corruption and the dangers of letting it go unchecked. In the future perhaps the heads of governments or relevant ministries could come to these conferences with their police commissioners like Zimbabwe's Minister of Home Affairs, the Honourable D. Dabengwa, has done. And, perhaps we can have a plenary session where Heads of Police Agencies

hear from you directly, and you directly from them.

As I said earlier, police officers operate in an environment that if left unattended can become a breeding ground for corruption. I believe that most police officers choose policing as a commitment to service, not because of the potential for personal wealth, although of course some do.

Why do I feel this way? Because when I was at the US Department of Treasury, I knew that all of the federal agents under me risked their lives to serve the public. During my tenure, 17 of my agents were killed in the line of duty. One of my agents, who was the subject of an investigation for having exercised poor judgement in the performance of his duty, committed suicide. He listed his having been criticised in that investigation as one of the reasons for his suicide.

You can see why I have great respect for the policing profession.

Not all people have had the same experience or have the same opinion of police officers that I do. After this week I understand even better why. Police officials must bear part of the responsibility for this lack of trust. The public believes that police officers will go to almost any lengths to protect their own — even corrupt officers.

In addition, Police Leaders who are afraid of being called disloyal or criticised by their superiors often look the other way and thus feed the negative impression some have.

This is wrong!

Police Leaders can and must take important steps to reduce the risk of and fight corruption in their ranks. The Police can learn from the private sector and Transparency International in this regard. They can articulate anti-corruption principles like Robert Wilson of Rio Tinto; they can communicate those principles to all police officers, employees and the public like FBI Director Louis Freeh and the Head of New Scotland Yard, Sir Paul Condon, have done. They can stand behind those principles by following the rules themselves and by enforcing them... but sensibly!

Anti-corruption principles do not have to be complicated and taken to absurd limits. My colleague at the New York University School of Law, Jim Jacobs, has written about the dangers of extreme integrity rules in a book entitled, The Absolute Pursuit of Integrity.

Let me give you a personal example: We had a rule at the U.S. Treasury Department that did not permit us accepting speaking engagements where meals exceeded U.S. \$25. In theory the rule made sense. We don't want regulated businesses wining and dining the regulators. We want to avoid even the slightest appearance of impropriety. As my good friend and colleague Stan Morris can attest, I rarely eat a meal that costs in excess of \$25. In fact, I love sharing secret tips on inexpensive places to eat. So, I had absolutely no problem with Treasury's rule..., until one day.

I was invited to give a luncheon address to a regulated industry, but failed to get prior clearance from Treasury. When I realised that I had failed to get clearance, I called one of

Treasury's ethics officers from the luncheon. His question: What are they serving? My answer: a Steak and Lobster combination plate.

Put yourself in the place of the ethic's officer, what would your advice to me have been about the propriety of eating the offered meal?

His advice to keep me from being brought up on corruption charges for violating ethical rules WAS: (PAUSE)

"Ron," he said, "choose either the steak or lobster, but by all means do not eat both."

Clearly our anti-corruption policies cannot descend to being the subject of jokes. Therefore police agencies have to adopt policies that make sense and work in practice.

One way to make them work is that Police Leaders should include civil society in their fight against corruption. But, police officers are used to conducting investigations in secrecy. Police officers have to worry about not undermining either the sensitive criminal investigations or the privacy interests of the subjects of their investigations. Moreover, the Police often do not trust the public or the public's motivation for investigating them. Therefore, to them, my suggestion might sound like heresy..., in the short run.

In the long run, the Police and the Public will greatly benefit if Police Leaders actively include non-police in overseeing their activities. The quality of our police forces will improve and the public's confidence in its police and the rule of law will grow. More importantly, through constant interaction with people outside their forces, the culture of us against them can be changed.

One final step could be considered. An International data base accessible on the internet could be established, perhaps by TI in co-operation with Interpol or the U.N. Such a data base could permit any citizen of any country to review any particular police forces articulated anti-corruption principles; statistics on enforcement of these principles and ways that allegations of corruption could be brought to the attention of the appropriate authorities in each country. The Internet permits a transparency unimaginable but a few years ago, and we should make sure we make every effort to use it.

Care in naming names in the anti-corruption campaign

Before I close, let me leave you with one admonition. Despite my background as a prosecutor of public corruption cases and as a Law Enforcement Official who disciplined corrupt officers, I say go slow before you call someone corrupt or a criminal.

My concern that allegations of wrongdoing not be casually or lightly levelled stems from my experience as a young child, witnessing my father, who worked as a janitor, be wrongly accused of stealing money from the stores we cleaned, wrongly accused of stealing liquor from the bars we cleaned and wrongly accused of stealing office supplies from the law offices that we cleaned. Until my father cleaned an office for years and established himself as being honest, he was the first accused of wrongdoing. The pre-existing bias against him made it easy for people to falsely accuse him and those of us who

worked with him.

Certain categories of people are often the first suspected of wrongdoing. In murder mysteries, it's usually the butler who is accused of having committed the murder. In thefts, it's usually the lowest ranking and lowest paid employees who are the first accused. I remember and will never forget that behind allegations of wrongdoing, there is a person with a reputation, family and feelings to be considered.

For all of us in attendance, the lesson about being careful before making allegations of wrongdoing was reinforced during the first day of this conference. U.N. Under Secretary Arlacchi candidly stated that he does not give much credence to anonymous allegations of wrongdoing because of the unfair damage unsupported and reckless allegations of wrongdoing cause innocent people.

If we had any doubt about how sensitive we should be about publicising anonymous allegations of corruption in a public forum, we need go no further in our memories than to that same first plenary session. Fortunately for us, a minister from Malawi was in attendance when World Bank President Jim Wolfenson quoted an anonymous citizen from Malawi who said something to the effect that "all ministers in Malawi have boats."

The tension between these two competing goals could not have been made clearer.

On the one hand, there is great value in knowing the public's opinion about the honesty of their elected officials, ministers, public servants, police and customs officials. Transparency International's reason for existence is based on this principle.

On the other hand, let me join the voices of those who wish to emphasise equally the importance of remembering that the closer the anonymous allegations of corruption move to identifying a specific person, the more carefully we must debate the question of whether we publicise the allegation; how we publicise it; and what opportunity will we present the accused to respond.

Name-calling has become an all too familiar component of the political process. Every incumbent party is attacked as corrupt by every party seeking to oust it. And, the cycle never seems to end.

At the conclusion of this conference, let us adopt as one of our principles the example set by the World Bank President and the Minister from Malawi. Where possible, let us not publicly accuse a person of being corrupt in a forum in which they are not represented. And, if one hears a false or reckless allegation of corruption, challenge the speaker and give him or her the opportunity to amend or clarify the offending remarks in the same forum.

Together, in attacking corruption, we have set ourselves on a course that is essential for achieving human rights, democracy and economic freedom. It is a very difficult course indeed. For my small part, I pledge my best efforts and those of my police colleagues in joining you to meet this challenge.