

Report on the Session Digital Records Management: Good Practices for Anti-Corruption Authorities

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Speakers:

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Victoria Lemieux, Senior Public Sector Specialist, The World Bank

Moderator:

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Session champions:

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Records are the clearest and most durable evidence of any government's policies, operations, decisions, and activities. They should provide the fundamental basis for corruption prevention and for building integrity in public spending and the delivery of government services. The problems encountered in managing records in a paper environment continue in many countries. As digital information systems replace paper-based systems, digital records must supply the evidence needed for anti-corruption investigations to hold governments and public officials accountable. The aim of this session was to identify good digital records management practices for anti-corruption authorities as well as to identify strategies for strengthening countries' records systems to better support the availability and integrity of the evidence needed for the investigative work of anti-corruption agencies.

Anne Thurston spoke about managing digital records as essential documentary evidence for anti-corruption. Protecting access and integrity in the digital environment is difficult but increasingly important. Digital media deteriorate, software changes, and hardware becomes obsolete. The risk is that if digital records are not managed professionally, their integrity and value as legal evidence can be compromised. She also noted that records professionals across the world have collaborated to define a coherent set of international standards that establish the control framework of laws, policies, and procedures needed to support the capture, management, and security of digital records as evidence of policies, actions, and transactions. The standards, including *ISO 15489: International Standard on Records Management*, provide a missing piece in the anti-corruption agenda and are increasingly important in a rapidly changing digital environment.

Anders Hjorth Agerskov discussed records management challenges in corruption investigations. Chain of custody practices can be compromised by loss of evidence and the physical deterioration of records.

Digital records are spread across various media, making them difficult to locate, analyze, and control in the absence of a properly established evidence management system. Investigations are severely undermined by missing information and assets, the improper destruction of records, and lack of sanctions and oversight over records management in the public and private sectors.

Box 1: Supervisor

The Supervisor software allows users to view information on budgets and budget users, management and ownership structure of firms, and publicly-owned companies. It also discloses transactions over 2.000 EUR, including transfers to/from selected budget users, accounting entries of payments, and transfers to tax havens. The types of information and analysis possible include:

- Financial flow analysis
- Structure of spending (based on accounting entries)
- Data from annual reports combined with data from database of public sector payments
- Visualisation of ownership and founder relationships
- Tax debtors receiving funds from public sector
- Public procurement analysis
- Links between the database of conflict of interest restrictions for public officials with a database of payments from public bodies (in order to detect prohibited business) and Business Registry (to detect which officials should report business restrictions but failed to do so).

Peter Premrl presented *Supervisor*, an online application for monitoring expenses of public bodies used by the Commission for the Prevention of Corruption in Slovenia to demonstrate what can be done when good records are available. Data from records is pulled from various public agencies. Findings from a *Supervisor* analysis conducted by the Commission revealed a strong correlation between change in government and money disbursements from state budget users to a limited number of companies. It also showed extreme inflexibility of the market for certain services (namely IT services, pharmaceutical products, construction works, etc.), as well as the existence of a group of companies that are highly dependent on financial

transfers from state budget users (i.e., they receive a great amount of their income from state budget), constituting a noticeable risk of corruption.

Silviu Popa addressed the internet technology (IT) solutions adopted by the National Integrity Agency of Romania to aid their income and asset disclosure activities. The agency adopted a strategic approach to IT integration that consisted of two goals: enhancing agency capacity and promoting transparency. Internet technology solutions for capacity building included an information management system designed specifically for income and asset disclosure, and a document management system that functions as an archive. In terms of transparency, electronic submission was instituted for income and asset disclosures, and a public portal was implemented for the release of information from the disclosure forms. As a result of these digital records systems, all investigations can be carried out electronically. However, constraints for the implementation of comprehensive digital solutions include costs, security and sustainability of records, and intra-agency collaboration across different technological platforms.

Box 2: Guidelines for Managing Records Created in the Investigative and Litigation Process

1. Financial and securities regulators must ensure that (a) recordkeeping policies and procedures are regularly updated to address organizational changes and meet the emergent requirements of the organization, and that (b) staff properly use and rely on the organization's document management system for the creation, storage, or tracking (e.g., of physical evidence such as a hard drive) of investigative records.
2. Each financial and securities regulator should have a Case Management Unit to log incoming evidence, account for evidence created, monitor storage, and conduct audits of case files.
3. Organizations need to consider using technology (e.g., barcode or RFID) to track evidence.
4. For electronically-stored information (ESI) that is at high-risk of degradation, financial and securities regulators need to create a preservation policy/plan.
5. Organizations must have a clear understanding of the purposes of each electronic recordkeeping system employed, as well as the authorities of its records and evidence management systems.
6. Each financial and securities regulator must clearly define what it means by "evidence" in its retention and disposition schedules. Evidence should be defined as all records, documents, or materials (regardless of form or format) collected or created during the investigation and litigation processes.
7. When tracking evidence, organizations should consider using at least three different documents: evidence receipt log, evidence room tracking log, and an exhibit log.
8. Each financial and securities organization should periodically review its position on outsourcing the scanning of evidentiary documents in light of a risk-based assessment framework.

Victoria Lemieux presented research on guidelines for managing records created in the investigative and litigation processes. The research was conducted in 2011 in the United States, United Kingdom, and Canada, with the goal of establishing good practices for the management of investigative records. Eight major guidelines emerged from the research, which encapsulate the good practices emerging from a survey of financial regulators with investigative powers, covering issues such as the designation of responsible authorities, preservation plans for digital degradation, methods for tracking evidence, and clear definitions of relevant terminology (see Box 2)

Prominent themes that emerged from discussion centered on the agreement that records are fundamental to evidence. Furthermore, it was agreed that existing international records standards can serve as an important implementing guide, and that record keeping should be regularly

monitored to ensure availability and integrity. Another prominent theme entailed the challenges of using digital records as evidence in cases of fraud and corruption. Participants noted that the courts were reluctant to accept digital evidence even when the laws of evidence allowed for it. In some other cases, it was noted that the law needed to be updated to permit the introduction of such evidence. Participants were concerned that the inability to adduce digital evidence could present a barrier to prosecuting cases of corruption and fraud, as criminals seldom left a clear paper trail and tend now to use digital forms of communication (e.g, mobile phones). In order to identify good digital records management practices for anti-corruption authorities as well as to identify strategies for strengthening countries' records and legal systems to better support the availability, integrity and use of the evidence needed for the investigative work of anti-corruption agencies , there was the suggestion that a community of practice be established to share standards, examples of legal frameworks and provisions, experiences of countries with strong records laws, as well as exemplary methodologies and techniques for record-keeping in investigations.