

# State Crime, Good Governance and Integrity

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## The Concept of White Collar Crime

- **White-Collar Crime:** Crime “committed by a person of respectability and high social status in the course of his occupation” (Sutherland, 1940: 9).
  - Also defined as “an illegal act or series of illegal acts committed by non-physical means and by concealment or guile, to obtain money or property, or to obtain business or personal advantage” (Weisburd, et al., 1991).
- Two Types of White Collar Crime:
  - Occupational Crime
  - Corporate Crime



## Occupational Crime

- **Occupational Crime:** Crimes committed by individuals in the course of their employment.
  - Crimes range from stealing pens and paper clips to the draining of company funds through sophisticated computer techniques.



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## Corporate Crime

- **Corporate Crime:** Criminal activity on *behalf* of a business organization committed during the course of fulfilling the legitimate role of the corporation, and in the name of corporate profit and growth.
- Examples:
  - The savings and loan scandal of the 1980s.
  - The Enron scandal at the beginning of the 21<sup>st</sup> century.



## Organized Crime

- Corporate criminals make a crime out of business; organized criminals make a business out of crime.
- **Organized Crime:** Committed by structured criminal enterprises that maintain their activities over time by fear and corruption.



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## Undermining crime

Undermining crime, points at the consequences of organized crime. The effects that go beyond the specific offense, disrupting and destabilizing the economy, social institutions and structures, and society in general; in the end the Rule of Law. A key characteristic of the organizations perpetrating such crime is that they make use of legal organizations.



## State Crime

- Corporate crime committed by the government or governmental organizations or agencies. (in Dutch: Overtredende overheden)
- state-corporate crime: when the government commits crimes in some form of cooperation with private companies.
- Examples of State crime:
  - Accepting bribes from external parties during duty;
  - Providing or selling confidential information to external parties;
  - Favoritism by managers;
  - Favoring friends or family outside the organization; and
  - Accepting larger gifts (> €25) from external parties.



## Research by Stichting Deugdelijk Bestuur Aruba, and

### De staat van Aruba (WODC, 2011)

Het WODC rapport concludeert dat de problemen van Aruba liggen in de kleinschaligheid van de gemeenschap. Er kan gesproken worden van structurele kwetsbaarheden in het bestuur en de rechtshandhaving in Aruba. Deze zijn gelegen in een combinatie van interventiemacht en oneigenlijk gebruik van beoordelingsruimte van de kant van bestuurders, **terwijl de Staten en andere waarborginstituties onvoldoende tegenkracht hebben geboden.**

Het WODC is tot deze conclusie gekomen door drie categorieën van interventiemacht van het openbaar bestuur van Aruba aan nader onderzoek te onderwerpen: aanbestedingen, vergunningverlening en het personeelsbeleid van de overheid. **Binnen deze drie categorieën stuitte het WODC op schendingen van de wet- en regelgeving, of handelingen die daarmee op gespannen voet stonden.**



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## Research by De Vries in 2013 (n=97 CEO's of private companies)

25% of companies has been confronted with government **corruption** and were not satisfied with the effectiveness of government.

21,9% of the other group (more or less satisfied with government) was confronted with **corruption** during contact with government and 18,8% paid **grease money**.

48,5% of de CEO's observed **nepotism**.

According to 'Amigoe' the initial strategy of De Vries was to observe the meetings between government representatives and company representatives in person. However, he did not get access.



## The problem with criminal law

- criminal law focusses on individual accountability
- Government as an entity until now never convicted
- In corporate sector, corporate liability

So,

- Prosecuting individual politicians and civil servants
- prevention



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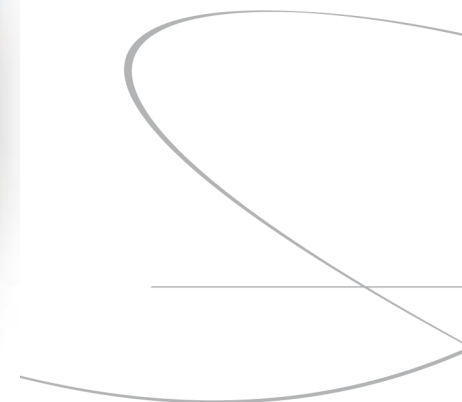
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## Six principles of Good Governance (British and Irish Ombudsman Association)



# NATIONAL INTEGRITY SYSTEM

LEGISLATURE

EXECUTIVE

JUDICIARY

PUBLIC SECTOR

LAW ENFORCEMENT AGENCY

ELECTORAL MANAGEMENT BODY

OMBUDSMAN

SUPREME AUDIT INSTITUTION

ANTI-CORRUPTION AGENCY

POLITICAL PARTIES

MEDIA

CIVIL SOCIETY

BUSINESS

FOUNDATIONS: POLITICS - SOCIETY - ECONOMY - CULTURE

# Integrity Policy

*Building Blocks*

10 AND STRONG INSTITUTIONS



- Integrity Bureau (BIA)
- Integrity Chamber
- Corporate Governance Code



Prime minister of Aruba Evelyn Wever-Croes, 1 April 2019



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## Aruba's paradox

- Everyone recognizes the problem
- A lot of people acknowledges the problem
- Little people are acting to it.
  
- Put into effect the building blocks of integrity
- Give the good example
- Take care of each other
- Follow up on advices of overseers like de Staten, de Raad van Advies, de Rekenkamer en de accountantsdienst.
- Take care of sufficient capacity and independency of Openbaar Ministerie, Landsrecherche, RST, etc.
- Educate the citizens



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*‘Les sociétés ont les criminels qu’elles méritent’ (Lacassagne)*

***"Every society gets the kind of criminal it deserves"***

**Thank you!**

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