

CORRUPTION AND FRAUD IN CRISES

Strengthening law enforcement responses in Asia and the Pacific

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This policy paper aims to strengthen the capacities of law enforcement authorities in Asia and the Pacific to combat corruption and fraud during emergencies. It builds on lessons learnt from recent emergencies, such as the COVID-19 pandemic, to improve the preparedness of law enforcement authorities for future health, environmental or economic crises. The paper takes stock of the challenges law enforcement practitioners face in detecting, investigating and prosecuting corruption and fraud during emergencies, and highlights good practices and provides practical guidance for law enforcement.

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Acronyms

ACD	Anti-Corruption Directorate (Azerbaijan)
ACI	Anti-Corruption Initiative
ACIC	Australian Criminal Intelligence Commission
ADB	Asian Development Bank
AFP	Australian Federal Police
ATO	Australian Taxation Office
AUD	Australian dollar
AUSTRAC	Australian Transaction Reports and Analysis Centre
AZN	Azerbaijani manat
CDC	Centers for Disease Control (Viet Nam)
CERA	Canterbury Earthquake Recovery Authority
CPI	Corruption Perception Index
CSO	Civil society organisation
FIU	Financial Intelligence Unit
GLEN	Global Law Enforcement Network
ICT	Information and communication technology
IDR	Indonesian rupiah
KPK	Corruption Eradication Commission (Indonesia)
LEN	Law Enforcement Network
MLA	Mutual legal assistance
MoU	Memorandum of understanding
NACC	National Anti-Corruption Commission (Thailand)
NZD	New Zealand dollar
OACC	Organic Act on Anti-Corruption (Thailand)
OECD	Organisation for Economic Co-operation and Development
OSINT	Open-source intelligence
SFO	Serious Fraud Office (New Zealand)
SIT	Special investigative techniques
UNDP	United Nations Development Programme
USD	United States dollar
VND	Vietnamese dong
WHO	World Health Organization

Executive summary

Law enforcement agencies face significant operational challenges during emergencies, which hinder their efforts to detect, investigate and prosecute fraud and corruption. Members of the Anti-Corruption Initiative for Asia and the Pacific (ACI) are particularly vulnerable, given their exposure to natural disasters and other crises. The Asia-Pacific region, home to about 60% of the global population, experienced nearly ten natural disasters per month between 1970 and 2022, making it six times more susceptible than other regions. This underscores the critical need for robust mechanisms to enhance preparedness for future emergencies. As these events become more frequent and complex, it is essential for law enforcement agencies to adopt proactive and flexible strategies to maintain the effectiveness and integrity of their efforts to address fraud and corruption.

The COVID-19 pandemic highlighted the profound impact emergencies can have on law enforcement agencies' operational practices and capacity to ensure business continuity. National lockdowns and social distancing measures impaired the ability of law enforcement officials to carry out investigations, particularly those requiring public interaction, such as interviewing witnesses and suspects or conducting searches. Collecting evidence was particularly challenging when records were maintained in physical form. Court disruptions delayed decisions on procedural motions, hearings and trials, exacerbating existing delays. Detecting and investigating corruption and fraud became even more difficult due to the different offence typologies, including corruption in emergency procurement, misuse of public funds, and bribery for special privileges or circumventing restrictions, further straining law enforcement resources.

To address these challenges, law enforcement agencies in ACI member countries adopted specific operational guidelines, prioritised and reallocated resources and conducted risk assessments to evaluate the corruption risks posed by the emergency and better inform their responses. Additionally, they expedited the deployment of information and communication technology (ICT), incorporating these tools into pre-trial and trial proceedings to facilitate virtual court hearings, transition to digital case management systems and remotely collect evidence.

The pandemic also saw an increase in the use of open-source intelligence (OSINT) and digital registries. Offering immunity, plea deals or non-trial resolutions proved effective in obtaining direct evidence, expediting investigations and conserving resources.

The use of special investigative techniques (SITs) was impeded by pandemic response measures. Mutual legal assistance (MLA) posed a significant challenge as diplomatic channels were shut down, restrictions hindered in-person investigative actions and the lack of informal contact with foreign counterparts slowed the process.

The most valuable sources of detecting corruption and fraud during the pandemic were criminal intelligence, interagency co-operation, whistleblowers, the media and engagement with civil society organisations (CSOs). Several ACI member countries created interagency task forces to co-ordinate their efforts in detecting and investigating corruption and fraud in COVID-19 relief efforts and some introduced dedicated channels for reporting pandemic-related corruption and fraud.

The following guidelines are designed to help governments prepare and respond to the challenges law enforcement face in emergencies, such that law enforcement agencies in ACI member countries may effectively prevent, detect and sanction fraud and corruption in future emergencies. These guidelines draw on lessons learnt from the COVID-19 pandemic, as well as insights and best practices elucidated in this policy paper and information shared by ACI law enforcement officials through workshops and surveys spanning from 2020 to 2024. They serve as a strategic framework for enhancing preparedness and effectiveness in mitigating the impacts of future crises. While these guidelines draw exclusively on data collected in Asia and the Pacific region, they provide practical advice and good practices which are relevant for law enforcement agencies in other regions of the world. These also build on the comprehensive practical guidelines developed by the Organisation for Economic Co-operation and Development (OECD) on law enforcement responses to corruption during emergencies, which were informed by a global study (OECD, 2023^[1]).

Guidelines on changes to operational practices

- Develop and introduce clear operational guidelines for law enforcement authorities' operations during emergencies. These should provide for remote-working arrangements and guidance on carrying out investigative actions during an emergency.
- Adopt case-prioritisation mechanisms for emergency situations and review case prioritisation to ensure it is aligned with the emergency-related risks.
- Conduct a risk assessment specific to corruption and fraud during the emergency to map out risks and identify mitigating measures.

Guidelines for detecting fraud and corruption in emergencies

- Review the detection practices of law enforcement authorities in line with the emergency-related risks and adjust them accordingly.
- Strengthen the capacity of law enforcement authorities to use analytical sources of detection to better detect the commission of corruption and fraud during an emergency.
- Verify whether existing inter-agency platforms may be used or repurposed to deal with the emergency or establish a specific inter-agency platform and strengthen existing frameworks by signing memoranda of understanding (MoUs) with key public institutions, such as tax authorities, procurement authorities, oversight authorities and agencies involved in emergency response and relief initiatives.
- Establish dedicated reporting channels enabling the public to make complaints or report suspected allegations of fraud or corruption related to the emergency.
- Strengthen legislation to ensure adequate protection for public and private sector whistleblowers.
- Monitor the media and reports from CSOs proactively and use these as sources for detecting corruption and fraud. Enhance co-operation with the media and CSOs for the purposes of receiving timely information on alleged corruption and fraud.

Guidelines on investigating and prosecuting fraud and corruption arising from emergencies

- Take steps to enable courts to conduct proceedings virtually during an emergency to ensure business continuity and, where necessary, amend legislation to this effect.
- Consider upgrading court and case management systems to enable electronic court filings and the storage and transfer of information and evidence in digital format. Ensure that these systems are accessible remotely and that an appropriate level of IT infrastructure and training for law enforcement officials accompanies these measures.
- Take steps to use ICT solutions to facilitate the collection of evidence and carry out investigative actions involving persons (witness statements, suspect interrogations) and, where necessary, amend legislation to this effect.
- Increase the level of direct access that law enforcement authorities have to public and private registries, particularly those maintained by public authorities overseeing emergency response and relief initiatives.
- Conduct an assessment of the impact of emergencies on SITs, to ensure their continued availability in relation to high-priority investigations and adjust the SIT practice accordingly.
- Establish a comprehensive legal framework to enable witness co-operation, plea agreements and non-trial resolutions in corruption cases and consider using these mechanisms in corruption and fraud resolutions.
- Strengthen informal co-operation with foreign counterparts by actively participating in international and regional law enforcement co-operation platforms.

1 Introduction

Purpose

The objective of this policy paper is to strengthen the capacities of law enforcement authorities to combat corruption and fraud during emergencies in Asia and the Pacific region by building on lessons learnt during recent emergencies, such as the COVID-19 pandemic, in order to improve the preparedness of law enforcement authorities to respond to future health, environmental or economic crises.

To this end, this paper will take stock of the challenges law enforcement practitioners face in detecting, investigating and prosecuting corruption and fraud during emergencies, highlight good practices and provide practical guidance for law enforcement responses to future crises.

This policy paper focuses on three key topics: (1) changes to operational practices; (2) detecting corruption and fraud in emergencies; and (3) investigating and prosecuting corruption and fraud in emergencies. Each section identifies challenges and law enforcement responses. This paper also highlights best practices from ACI member countries that could be implemented in future emergencies.

Background

In the Asia and Pacific region – home to approximately 60% of the world’s population – law enforcement authorities are particularly susceptible to the impact of emergencies. Over the past 53 years (1970-2022), the region experienced, on average, almost ten weather, climate, water and seismic-related disasters each month, resulting in countries in the Asia and Pacific region being six times more likely to be affected by disaster events than those outside the region (UNESCAP, 2023^[2]). The Asia and Pacific region remains vulnerable to corruption, 71% of the countries across the region have a CPI score below the regional average of 45 and the global average of 43 out of 100, making the need to ensure that law enforcement authorities can effectively combat corruption and fraud in emergencies all the more essential (Transparency International, 2023^[3]).

Emergencies put additional pressure on anti-corruption efforts due to increased opportunities for corruption and decreased or diverted law enforcement resources. On the one hand, they create an environment that is particularly susceptible to corruption and fraud due to a sudden and massive influx of money, goods and services into a country or region by governments, bilateral and multilateral development aid agencies and other stakeholders who are under extreme pressure to take swift action (International Development Law Organization, 2009^[4]). On the other, the ability of law enforcement authorities to respond to increased corruption risks resulting from an emergency are diminished, either due to the need to reallocate resources to address other priorities in the aftermath of an emergency or by the impact of the emergency on the operational practices of law enforcement authorities themselves, as was the case during the recent COVID-19 pandemic (OECD, 2023^[1]).

This paper was developed within the framework of a [knowledge partnership agreement](#) (KPA) between the OECD and the Asian Development Bank (ADB), the co-secretariat of the [ACI](#). The KPA aims to bolster

national and multilateral efforts to address corruption risks in responses to emergency situations in Asia and the Pacific region through a series of workshops and policy papers. The KPA includes a project on strengthening law enforcement capacity to investigate and prosecute corruption and fraud in emergency response activities in Asia and the Pacific region. A paper on promoting accountability, control and oversight in response and recovery funds will also be published.

Methodology

This paper presents the findings of a 2023 survey conducted with ACI member countries on their capacity to detect, investigate and prosecute corruption and fraud during emergencies and lessons learnt from recent crises.¹ The paper also encompasses results of the OECD Asia-Pacific COVID-19 Anti-Corruption Law Enforcement Impact Survey, conducted in 2020, which collected responses from 14 ACI member countries.² Furthermore, it incorporates information shared by ACI member countries during peer learning activities conducted in 2023 during the 5th meeting of the Asia-Pacific Law Enforcement Network (LEN) held at the ADB in Manila, Philippines in May 2023, which was attended by 31 law enforcement officials from 16 ACI member and observer countries. This paper also draws on the feedback from a dedicated workshop for ACI members and observers, organised back-to-back with the 5th meeting of the Global Network of Law Enforcement Practitioners against Transnational Bribery (GLEN) at the OECD's headquarters in Paris, France, in December 2023. The survey responses and empirical data are complemented by desk research.

Defining emergencies

While this paper takes many examples from the COVID-19 pandemic, it presents practical advice and good practices for emergencies in general. For the purpose of this paper, the term **emergencies** is defined as situations when rapid-response policies are adopted by jurisdictions to address significant adverse economic or social impacts, or both, resulting from an actual or imminent natural or man-made crisis or disaster. The definition of *emergencies* excludes armed conflict due to the distinct nature of such conflicts, which requires a separate specific analysis.

The definition of *emergencies* is broader than the term “state of emergency”, which implies giving governments extraordinary powers to address existential threats to public order and allowing them to limit or derogate certain rights.

2 Changes to operational practices

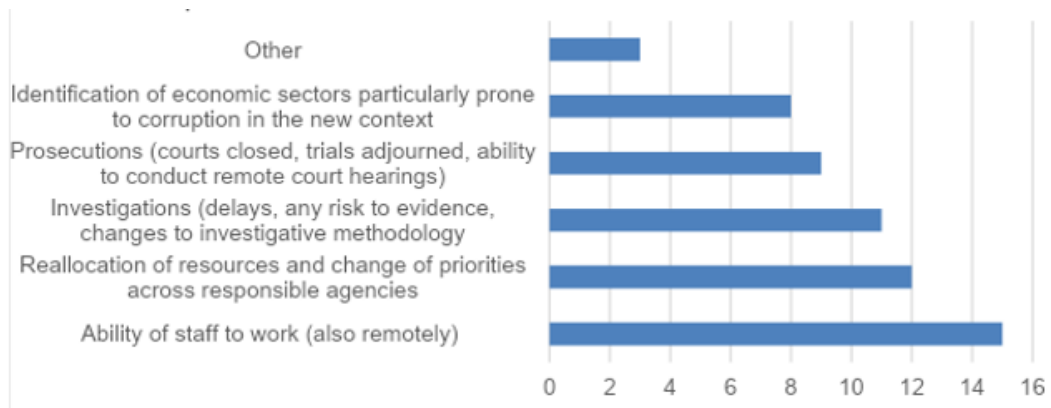
1. Operational challenges

Emergencies, regardless of their nature, add additional pressure on law enforcement authorities by disrupting their normal operational practices. As a result, governments may divert resources away from law enforcement authorities to address more immediate priorities, such as emergency response and relief initiatives (Basel Institute, 2020^[5]).

The COVID-19 pandemic, underlined the significant impact that emergencies can have on the operational practices of law enforcement authorities (OECD, 2023^[11]). Similar to other regions, the wide-ranging government measures and restrictions aimed at combatting the spread of the COVID-19 virus also presented a challenge for law enforcement authorities in the Asia and Pacific region in ensuring business continuity, namely to their work in detecting, investigating and prosecuting corruption.

Responses from the surveys and peer learning activities, gathered from ACI member countries, illustrate that during the pandemic, law enforcement authorities in the region saw their work disrupted by national lockdowns and social distancing measures that were compounded by the impact of the pandemic on their own staff. Law enforcement authorities also experienced challenges in carrying out investigations, particularly those relating to interaction with the public (e.g. interviewing witnesses and suspects or carrying out searches) and in collecting evidence, especially in jurisdictions where records are still kept in physical form. Law enforcement authorities, in many jurisdictions, also had to contend with disruptions to courts, resulting in hearings and trials being adjourned, delaying their work on ongoing cases.

Figure 1. Immediate impact of COVID-19 on the work of law enforcement authorities of ACI member countries



Note: Responses were collected from 14 ACI member countries.

Source: OECD/ACI (2020^[6]), Asia-Pacific COVID-19 Anti-Corruption Law Enforcement Impact Survey.

2. Operational responses

To mitigate these challenges, law enforcement authorities within the region adopted flexible working arrangements (e.g. remote working) or special working regimes. Most law enforcement authorities transitioned to remote-working arrangements, which encouraged law enforcement authorities to definitively incorporate the use of ICT for virtual meetings, both internally and with other public institutions. In addition to remote-working arrangements, some jurisdictions adopted special working regimes to reinforce the safety of their staff. The Australian Federal Police (AFP) divided its investigative teams into sections, with each section required to work in different locations, thereby reducing the risk of the entire team being unfit for work. Law enforcement authorities also redeployed their resources and focused on prioritising certain cases.

Many jurisdictions also adopted changes to their investigative methodology by introducing the use of remote investigative tools to conduct interviews, e.g. videoconferencing or written procedures (see section 4.1). Such measures enabled law enforcement to continue collecting evidence and advancing their investigations. Similarly, to ensure the business continuity of the courts and the admissibility of evidence collected through remote investigative tools, certain jurisdictions amended their legislation to explicitly provide for remote court hearings and the collection of evidence involving persons, such as interviewing witnesses and suspects remotely (see section 4.1).

3. Introducing clear operational guidelines

The COVID-19 pandemic highlighted that during emergencies, law enforcement authorities must quickly adapt to the evolving operational changes in their investigative work, and to any related legislative changes these may involve. Rapid changes may result in a lack of clarity on operational practices. Therefore, ensuring that these changes are understood well and that law enforcement practitioners operate within a clear framework is vital to safeguarding the continuity and ensuring the effectiveness of their investigative work. Accordingly, the development of operational guidelines in relation to emergencies is vital in both reinforcing the capacity of law enforcement practitioners but also strengthening agency preparedness for future emergencies by already having in place a proper foundation, drawing from lessons learnt and best practices implemented in previous emergencies. This holds significant importance to the Asia and Pacific region, which is particularly susceptible to emergencies.

During the COVID-19 pandemic, five law enforcement authorities from ACI member countries developed internal guidelines for their staff, reflecting operational changes.³ These were crucial in clarifying to law enforcement practitioners on how to implement new operational practices, such as conducting virtual meetings. In Thailand, the National Anti-Corruption Commission (NACC) issued guidelines on operational practices during COVID-19 and circulated user manuals on the NACC's internal portal. These were particularly important because investigations were significantly delayed at the onset of the pandemic, due to the lack of virtual meetings being held as a result of the absence of guidelines. The NACC also developed a business continuity plan for online operational practices during COVID-19, which will be used during future emergencies. In New Zealand, in order to adapt to the changing situation brought on by the COVID-19 pandemic, the guidance framework was regularly updated as described in the box below.

Box 1. New Zealand's Serious Fraud Office – COVID-19 internal guidance framework

Faced with an evolving public health situation and rapidly changing rules to respond to the COVID-19 pandemic, New Zealand's Serious Fraud Office (SFO) developed an internal guidance framework, which could be adjusted in response to shifting government settings. The guidance provided clear direction on the processes and procedures relevant to each of its core operational functions, which involve interactions with the public (e.g. interviewing, serving documents, executing search warrants and attending court hearings).

The guidance was accompanied by a collection of related template documents for staff to complete as relevant. The framework and documents ensured that SFO decision making and actions were consistent, efficient and properly documented. Staff members were all able to access the guidance (and templates) through the SFO's internal portal. The guidance was continuously updated every time the government changed its COVID-19 policies.

Using this systemic approach to allocate resources in order to set up the framework and keep it updated, the SFO was able to prioritise the health and wellbeing of its staff and the public and ensured that it remained compliant with the government's requirements.

Source: Survey responses from the New Zealand Serious Fraud Office (2023), Detecting and investigating corruption and fraud during emergency situations in Asia and the Pacific survey.

4. Prioritisation and reallocation of resources

The urgent need for law enforcement authorities to respond to an emergency and its impact on their work requires agencies to reprioritise their investigations and reallocate resources. During the COVID-19 pandemic, the number of preliminary investigations decreased due to other urgent priorities in response to the pandemic taking precedence (OECD, 2023^[11]). Law enforcement agencies should develop strategies for the prioritisation of cases that establish criteria for defining case priority, to ensure that law enforcement authorities are able to rapidly adapt at the outset of an emergency (UNODC, 2020^[7]).

In the Asia and Pacific region, law enforcement authorities in 13 ACI member countries noted that during the COVID-19 pandemic they prioritised certain cases or were affected by budget reallocations.⁴ Law enforcement authorities used varying approaches, with many jurisdictions noting that they had prioritised cases where a suspect was in custody, or where the custody of a suspect had expired, or by the severity of the offence or where the investigative activities were considered urgent.

Some jurisdictions drew from existing prioritisation strategies and policies to reorganise their work quickly at the outset of the COVID-19 pandemic. In Australia, the AFP used the National Response Priority List, which was already in place prior to the outbreak of the pandemic, as a tool to allocate resources based on priority. This included the prioritisation of resources in response to emergencies as well as investigations of offences relating to emergencies. For example, during the COVID-19 pandemic, this translated into prioritising cases involving offences related to financial support measures.

5. Encouraging the development of risk assessments

During emergencies, the public sector may face increased risks of corruption and fraud and should ensure the systematic implementation of risk assessments in the sectors more exposed to corruption and fraud during emergencies (UNODC, 2021^[8]). Accordingly, emergencies present a new and additional risk to law enforcement authorities' ability to effectively detect and investigate corruption and fraud due to operational

effects on their work, changes to typologies of offences, or changes to stakeholders and sectors particularly at risk of corruption. Consequently, law enforcement authorities should be encouraged to allocate resources to conduct risk assessments at the outset of an emergency and use them as a tool to guide their decisions; for example, in prioritising cases, mapping out potential operational challenges and identifying key sources of detection (OECD, 2023^[1]).

Box 2. Typologies of corruption offences during the COVID-19 pandemic

During the COVID-19 pandemic, corruption offences could be classified into the following three kinds of corruption practices:

- Bribery, trading in influence and abuse of public office in emergency-related public procurement, when the vendors were awarded contracts for the purchase of overpriced or substandard medical and protective equipment. The public officials involved in or being able to influence the procurement process were asking for or accepting bribes in exchange for a positive decision. Often the selected suppliers had little or no experience in medical product trade or production.
- Embezzlement of public funds allocated to support business and households or provide necessary public services during the emergency period, abuse of office when making decisions on the allocation of resources or implementation of support measures.
- Bribery or trading in influence for providing or obtaining falsified vaccination certificates or priority treatment in hospitals, as well as for circumventing travel and other restrictions.

Note: These typologies are based on the analysis of information from open sources and information shared by law enforcement practitioners during peer learning activities.

Source: OECD (2023^[1]), Law enforcement responses to corruption in emergency situations: Practical guidelines, <https://doi.org/10.1787/b2e5344f-en>

To streamline the development of risk assessments and enhance agency preparedness, law enforcement authorities should build on their experience from previous emergencies to create a risk assessment template of which the methodology can be applied to future emergencies (OECD, 2023^[1]). In the case of COVID-19, risks arising in investigation and prosecution can be divided into three broad categories:

- Situational: governmental response to the emergency, e.g. emergency procurement procedures, expansion of social security, furlough schemes and reallocation of resources.
- Operational: the ability of law enforcement to conduct their core activities in detecting, investigating and prosecuting criminal offences due to restrictions imposed by the emergency.
- Specific: the ability of national authorities to detect and identify the risks arising from the situational response from the government vis-à-vis the operational limitations imposed by the emergency, e.g. ability of law enforcement to carry out risk assessments and prioritise their work based on these results.

The survey responses of ACI members noted that five law enforcement authorities in the region conducted risk assessments during the COVID-19 pandemic.⁵ While approaches varied between jurisdictions, with some developing risk assessments retrospectively as red flags emerged, others dedicated significant resources at the onset of the pandemic to develop comprehensive risk assessments. Importantly, these law enforcement authorities have integrated the development of risk assessments into their long-term operational practices and developed methodologies for creating risk assessments to be used in future emergencies.

At the outset of the COVID-19 pandemic, Thailand's NACC undertook case research to identify emerging typologies and developed a corruption risk assessment, which mapped risks related to COVID-19. Based on this research, the NACC published guidelines and recommendations to prevent corruption during COVID-19 and future emergencies (see Box 3 below).

The Prosecutor General's Office of Azerbaijan created its first corruption risk assessment mechanism, which was based on the analysis of complaints from their contact centre hotline and of the potential vehicles for committing corruption. This analysis allowed the Prosecutor General's Office to identify the main typologies of offences and sectors particularly susceptible to corruption, which included, for example, social protection, healthcare and local executive authorities. The creation of the methodology and rules for the risk assessment mechanism, developed by the Prosecutor General's Office and the Cabinet of Ministers, was incorporated into the National Action Plan (NAP) 2020-2022 and subsequent NAPs are set to deploy it within all state institutions (Republic of Azerbaijan, 2020^[9]) (Azerbaijan State News Agency, 2022^[10]).

Box 3. Thailand case study – risk assessment at the onset of the COVID-19 pandemic

The National Anti-Corruption Commission of Thailand (NACC) published a report at the onset of the pandemic that analysed the corruption situation and identified corruption risks based on its research on the COVID-19 crisis in Thailand, e.g. the government's response, provincial-based corruption case statistics and interviews of local anti-corruption experts. The report included policy recommendations for the government on regulations and practices in administering recovery funds and encouraging citizen and media reporting via existing reporting mechanisms and prioritising whistleblower protection.

The report produced the following outputs:

- (i) A case study on corruption, analysing the circumstances in which corruption arose and the factors that facilitated it during the COVID-19 pandemic. The study enabled the NACC to establish corruption prevention advice for the pandemic and other emergencies.
- (ii) A corruption risk map, aimed at creating a national database on corruption and identifying risk areas vulnerable to corruption in every province. The risk mapping included the participation of local members of the public throughout Thailand. The preliminary analysis identified corruption risks during the COVID-19 pandemic and allowed the NACC to better control and prevent corruption that might occur in government projects in relation to COVID-19 prevention, emergency response and relief initiatives. It also helped in implementing other programmes not directly related to the pandemic but which took advantage of the situation while public attention was focused on COVID-19-related corruption, e.g. to corruptly expedite execution of non-COVID-19 related projects.
- (iii) Guidelines on effective corruption prevention during the COVID-19 pandemic and in other emergencies that may arise. Analysis enabled the NACC to categorise the patterns of corruption into six main typologies: in budget administration; in the public procurement process; in facilitating benefits for private entities; in stockpiling commodities and trading for excessive profit; risks in providing financial relief initiatives for affected persons; and corruption in relation to donations and donated items for affected persons. The NACC proposed four main lines of action for effective prevention and combatting corruption-related offences, which included legislative amendments, the development of practical guidelines for emergencies, the integration of data, proactive inspection and participation of civil society.

The report sought to prevent and combat corruption in an efficient, holistic and knowledgeable manner, and to be the model for proactive corruption prevention and suppression during emergencies and normal times. The NACC used the pre-COVID-19 communication channel between the Interior Ministry and its 76 provincial offices to publish the report and ensure that government agencies followed the guidelines.

Source: OECD (2023^[11]), Law enforcement responses to corruption in emergency situations: Practical guidelines, <https://doi.org/10.1787/b2e5344f-en>

In New Zealand, the Serious Fraud Office (SFO) received additional government funding to specifically tackle financial crime arising out of the pandemic and to lead public sector fraud prevention relating to COVID-19 relief packages. This funding was used to establish the Counter Fraud Centre within the SFO, which was mandated to build public sector capacity to prevent fraud by providing analytical resources and guidance and to create an effective counter-fraud culture.⁶ The centre developed the COVID-19 Counter Fraud Guidance and risk assessments and created a fraud risk assessment template for public sector institutions.⁷ In 2022, the centre received permanent funding and expanded its activities to other areas beyond COVID-19 relief packages. The Counter Fraud Centre's experience through the pandemic allowed it to provide timely and relevant advice to public sector institutions when parts of New Zealand suffered severe damage in early 2023 following Cyclone Gabrielle and a further emergency response was required.⁸

Box 4. New Zealand SFO Counter Fraud Centre response to Cyclone Gabrielle

In 2023, Cyclone Gabrielle had a devastating impact on many people throughout the North Island of New Zealand. The New Zealand Government introduced a number of funding schemes to help assist people who had been affected. Previous experience showed that in emergency funding situations, the need to deliver funding urgently can mean reliance on high-trust, quick distribution mechanisms, which are more vulnerable to fraud and corruption.

New Zealand's SFOs Counter Fraud Centre promptly engaged with relief organisations, providing guidance, support and disaster management guides. They collaborated with agencies throughout the development and implementation of cyclone relief funding initiatives, addressing fraud and corruption risks. The centre assisted agencies in identifying low-friction countermeasures to help reduce the risk of fraud and corruption, while still prioritising swift funding delivery.

Source: New Zealand SFO Annual Report 2022-2023, <https://sfo.govt.nz/assets/Uploads/SFO-Annual-Report-2022-23-FINAL.pdf>.

3 Detecting fraud and corruption in emergencies

As previously noted, emergencies impact the operation of law enforcement authorities and may also hinder their capacity to continue to detect corruption offences. Certain economic crimes, such as bribery and corruption, are complex and recognised as particularly challenging to detect at any time (OECD, 2017^[11]), but may become even more difficult in emergency situations (UNODC, 2021^[12]). For example, during the COVID-19 pandemic, law enforcement authorities from ACI member countries emphasised that the detection of corruption was challenging due to the increased volume and emerging typologies of offences being committed, which put an additional strain on their resources. Emergency response measures disrupted the traditional methods for gathering intelligence or evidence.

During the pandemic, law enforcement authorities noted that criminal intelligence and information gained through interagency co-operation, whistleblowers, the media and even from their engagement with CSOs were the most valuable sources of detection. Several ACI member countries adjusted their detection practices by creating dedicated channels and online platforms for reporting corruption and fraud related to COVID-19 or used analytical sources of detection (public and private registries, financial intelligence unit (FIU) reports etc.) to mitigate disruptions caused by the pandemic to traditional detection sources, such as intelligence provided by informants.

The experience of ACI members demonstrates that during emergencies, law enforcement authorities may need to adapt their detection practices in alignment with the results of the risk assessments they conduct. They should also aim to modernise or adjust existing detection practices in order to mitigate disruptions to traditional methods for gathering and analysing intelligence.

1. Use of analytical detection sources

As previously noted, corruption crimes are notoriously difficult to detect due to their covert nature; individuals may be reluctant to report or co-operate and perpetrators may be difficult to identify due to the complex nature of the management structure of legal entities (OECD, 2023^[11]). Law enforcement agencies use various sources of information to detect corruption and fraud, such as informants, covert operations, public and private databases, information from other law enforcement agencies or public institutions, whistleblowers or interception and analysis of electronic devices. Depending on the nature of the emergency, certain avenues of gathering criminal intelligence or information from other sources may be compromised.

During the COVID-19 pandemic, ACI member countries noted that collecting intelligence from informants or from covert operations was severely impacted due to COVID-19 restrictions. Similarly, the safety measures taken in response to the pandemic had a significant impact on members of the public's ability to report corruption and fraud through walk-ins. In addition, in many ACI member countries case files and other records were kept in paper form and law enforcement officials were unable to consult them.

Therefore, prioritising the use of analytical sources of detection, such as public or private databases, statistical data, FIU reports, referrals from tax authorities and customs and analysis of OSINT or other data, may help mitigate some of the impact caused by the emergency on law enforcement authorities' detection capabilities. For example, some law enforcement authorities from ACI members, such as Australia's AFP, have integrated intelligence sections within their agency, which are solely responsible for analysing criminal and financial intelligence, to reinforce their detection.

In Kyrgyzstan, the Prosecutor's Office monitored the country's official procurement web portal in order to detect potential corruption and fraud in the allocation of public procurement contracts for the purchase of personal protective equipment and the provision of financial relief to vulnerable segments of the population. Other ACI members also strengthened their relationship with their FIUs in order to facilitate the detection of suspected corruption during the COVID-19 pandemic.

Box 5. Azerbaijan's Anti-Corruption Directorate's use of analytical detection sources during the COVID-19 pandemic

In order to reinforce the detection capacity of the General Prosecutor's Office's Anti-Corruption Directorate (ACD) during the COVID-19 pandemic, it was granted real-time access to diverse databases and registries established by other governmental entities concerning COVID-19.

The ACD's access to the registry of certificates, which allowed individuals to move freely during the COVID-19 pandemic, helped the ACD detect instances when public officials abused their offices by improperly granting these certificates during the COVID-19 lockdown. Access to the registry also assisted the ACD in collecting evidence of the commission of the offence and the criminal cases have been submitted to court.

Over 20 criminal cases have been initiated by the ACD and other prosecutorial bodies in relation to these acts.

Source: Azerbaijan General Prosecutor's Office, ACD.

2. Strengthening interagency co-operation and institutional arrangements for information sharing

Institutional responses in the immediate aftermath of an emergency or during the recovery stage through reconstruction, financial relief or economic stimulus packages usually involve numerous institutional actors. Accordingly, it is crucial that institutions involved in emergency relief efforts actively co-operate and share information with law enforcement agencies to facilitate the detection of potential corruption and fraud (OECD, 2023^[1]). Interagency co-operation can be challenging due to resourcing or privacy concerns regarding the information held by a specific institution, or due to legal limitations for information sharing, which can also be compounded by a lack of trust between institutions. To ensure that interagency co-operation can effectively be used as a source of detection by law enforcement authorities, it is vital that jurisdictions have interagency co-operation mechanisms well established before an emergency occurs or take immediate measures at the outset of an emergency to create them.

During the COVID-19 pandemic, law enforcement authorities from ACI member countries built on existing institutional arrangements or created specific interagency task forces, signed additional MoUs and co-operated with certain public institutions on a case-by-case basis. Given the nature of the COVID-19 emergency, law enforcement authorities needed not only to co-operate with their habitual counterparts, such as intelligence agencies, anti-corruption and integrity authorities, regulators, other law enforcement

agencies and tax authorities, but also with procurement authorities, national audit agencies and national health services (OECD, 2023^[11]).

A number of ACI member countries chose to create interagency task forces to co-ordinate their efforts in detecting and investigating corruption and fraud in COVID-19 relief efforts. In Australia, at the beginning of the COVID-19 pandemic, two existing anti-fraud taskforces, the Attorney-General's Department Commonwealth Fraud Prevention Centre and the AFP's Operation Ashiba,⁹ were combined to create the Commonwealth COVID-19 Counter Fraud Taskforce which, among other things, aimed to create a new Operational Intelligence Group to share information and intelligence on COVID-19-related fraud.¹⁰ In 2020, the AFP also created Taskforce Iris to target individuals and organised criminal entities attempting to defraud the Australian Government's emergency financial support measures, initially those related to COVID-19, but also those introduced in response to the 2019-2020 bushfires (see Box 6 below).

In Kyrgyzstan, following the COVID-19 pandemic, an Interdepartmental Situation Centre was created under the FIU to facilitate inter-agency co-operation on financial crimes between the Prosecutor General's Office, the State Committee for National Security, the Ministry of Internal Affairs, the State Tax Service and the State FIU.

Box 6. Australian Federal Police Taskforce Iris

In April 2020, the AFP established Taskforce Iris to target individuals and organised criminal entities who seek to defraud the Australian Government's COVID-19 financial support measures. Taskforce Iris comprised two dedicated investigation strike teams in Melbourne and Sydney, supported by a range of AFP support capabilities, including intelligence personnel and the AFP's criminal assets confiscation teams. Additional investigation teams provided support across the country as required. Taskforce Iris also worked closely with its key Commonwealth partners, including the ACIC, ATO and AUSTRAC to exchange intelligence and co-ordinate investigation efforts, as well as State and Territory Police Forces where necessary.

The Taskforce undertook a number of investigations into alleged fraudulent activity being committed against the emergency response measures; to date, Taskforce Iris' investigations have resulted in charges against four people. These arrests included a Western Sydney man who allegedly submitted claims for a range of government benefits designed to help members of the community affected by COVID-19 and the 2019-20 bushfires. He allegedly used 11 assumed identities and 53 fictitious identities to submit 68 claims to the value of AUD 70 000 (USD 45 661). He was arrested on 30 April 2020 and charged with a range of Commonwealth offences, including obtaining a financial advantage by deception.

Source: Attorney General's Department, Operation Ashiba and Taskforce Iris – Strengthening Australia's response to serious and organised fraud, <https://www.counterfraud.gov.au/news/general-news/operation-ashiba-and-taskforce-iris-strengthening-australias-response-serious-and-organised-fraud>.

The signing of MoUs with other agencies, in particular tax authorities, was used as an information sharing mechanism by law enforcement authorities from ACI member countries during the pandemic. New Zealand established agreed information sharing arrangements between the country's Inland Revenue Department and certain law enforcement agencies, including the SFO. This newly implemented regime, which is not narrowly restricted to emergency responses, has been used successfully by the SFO to respond to fraud and corruption arising from emergencies.

In addition, direct co-operation with other public institutions on a case-by-case basis was effectively used by law enforcement authorities of ACI member countries when it was not necessary to set up formal

institutional arrangements. In Azerbaijan, the Anti-Corruption Directorate's (ACD) co-operation with the Ministry of Emergency Situations led to the detection of a bribery case involving hospital medical staff members who would request bribes for providing superior treatment or hospital conditions to patients.

3. Encouraging whistleblowing through dedicated reporting channels

By their nature, corruption offences are hidden and therefore difficult to detect, making whistleblower reporting all the more important as a source of detection, given that the insider information that a whistleblower has at their disposal can help law enforcement authorities shine a light on otherwise unknown criminal activity (OECD, 2017^[11]). However, effective whistleblower reporting also requires effective whistleblower protection mechanisms (UNODC, 2021^[8]). For whistleblower mechanisms to be effective sources in detecting corruption and fraud, reporting channels and the scope of protections from which whistleblowers can benefit should be clearly communicated to the public.

As demonstrated during the COVID-19 pandemic, institutional weaknesses or the lack of whistleblower protection legislation can lead to a reluctance for whistleblowers to report for fear of retaliation. In addition, reporting may also be discouraged even when legislative safeguards exist, as law enforcement authorities sometimes lack the necessary resources to provide protection measures to whistleblowers. In addition, restrictions to movement may also make it difficult for law enforcement to receive complaints through walk-ins (OECD, 2023^[11]).

A particularly effective response to these challenges exhibited in some ACI member countries during the COVID-19 crisis was the creation of dedicated reporting channels for reporting corruption and fraud related to the pandemic. While some countries used reporting mechanisms in place prior to the outbreak of the pandemic, others introduced bespoke reporting mechanisms. The challenges posed by the pandemic highlighted the importance of creating a centralised digital reporting channel for law enforcement to receive whistleblower reports.

In Australia and the People's Republic of China, law enforcement authorities created dedicated reporting channels for reporting offences related to government stimulus packages and emergency procurement, respectively (UNODC, 2021^[8]). The AFP noted that these allowed them to react quickly and mitigate financial losses both to private citizens and the government.

Indonesia also implemented a dedicated reporting channel for corruption and fraud related to the pandemic by using the Corruption Eradication Commission's (KPK) Corruption Prevention Network's JAGA COVID-19 application, which included a complaint channel for COVID-19 related violations. These reports were first addressed by the local health office and the Ministry of Health, while the KPK monitored the coordination of complaints that were submitted through JAGA.

In Azerbaijan, while the ACD continued to use its pre-existing hotline for receiving reports from the public, it prioritised reports related to COVID-19 measures and also undertook an awareness-raising campaign on existing digital reporting channels to address the falling number of reports at the outbreak of the pandemic.¹¹ In Bhutan and Thailand, law enforcement authorities incorporated reporting channels on social media platforms into their existing reporting mechanisms. In Bhutan, reporting through such channels was aimed at targeting populations in rural areas who are increasingly using social media.

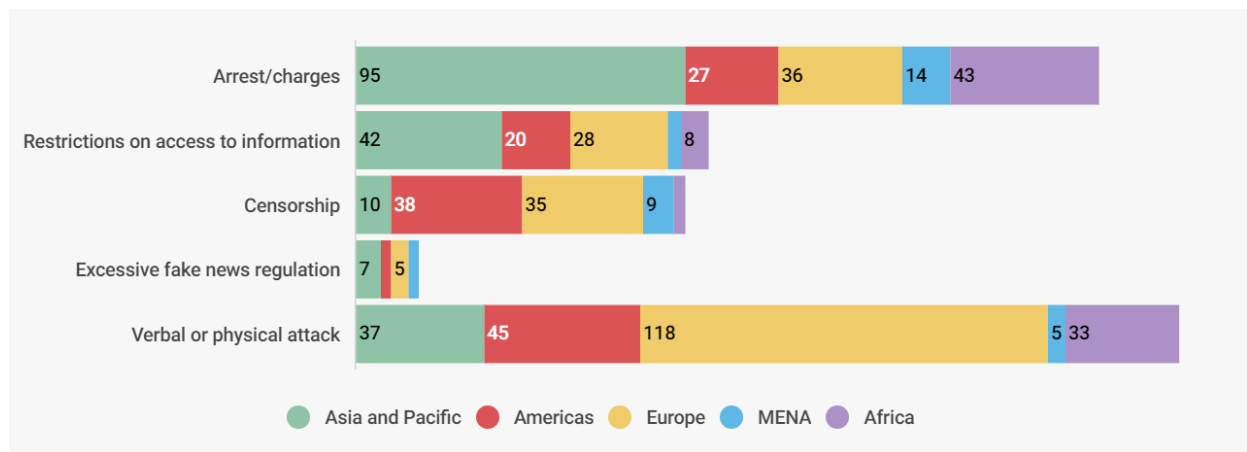
Following the COVID-19 pandemic, other ACI member countries, such as Australia and the Republic of Korea, took measures to enhance their institutional and legal whistleblower protection framework. The Republic of Korea underscored that its anti-corruption reforms should also prioritise the strengthening of whistleblower protection and ensure that reporting channels operate efficiently by providing training to responsible authorities (UNODC, 2020^[13]). In 2023, Australia launched a new initiative, the Whistleblower Project, aimed at improving its whistleblower protection framework. The government-funded Whistleblower Project operated by the Human Rights Centre is Australia's first dedicated legal service to protect and

provide guidance to whistleblowers.¹² This complements reforms to Australia's whistleblower protection legislation adopted in 2020 and led to a dramatic increase in the number of reports being made (OECD, 2023^[11]).

4. Actively monitoring reports in the media

Reporting on corruption by investigative journalists and the media is one of the most important corruption detection sources for law enforcement authorities. Media reports can expose information that can lead to law enforcement authorities initiating an investigation (OECD, 2017^[11]). However, journalists face several challenges during emergencies, including the opportunity to report on corruption when the primary focus of authorities and the public is responding to the emergency. Journalists may also face threats or attempts to silence reports on corruption and fraud related to the emergency. According to the International Press Institute, during the COVID-19 pandemic, almost one-third of monitored press freedom violations involving the arrest, detention or charging of journalists related to reporting on the pandemic (including, but not limited to, reports of alleged fraud and corruption) (International Press Institute^[14]).

Figure 2. COVID-19: Number of media freedom violations by region



Note: These violations relate to members of the media reporting on all aspects of the pandemic, not only on alleged fraud and corruption related to COVID-19.

Source: International Press Institute, COVID-19: Number of media freedom violations by region, <https://ipi.media/covid19-media-freedom-monitoring/>

Law enforcement authorities in ACI member countries should consider investigative journalists as potential partners in detecting corruption and fraud during emergencies. This can be achieved by developing stronger co-operation directly between investigative journalists and law enforcement intelligence sections or analytical departments. In addition, law enforcement bodies should actively monitor media platforms for potential cases relating to corruption and fraud during the emergency, especially when they have limited access to other sources (OECD, 2017^[11]).

In New Zealand, the SFO launched an investigation into a bribery scheme involving public officials overseeing relief efforts in the wake of the Christchurch earthquake based initially on a media report. Similarly, in Viet Nam, media reports led to a criminal investigation into a COVID-19 bribery scheme involving a Vietnamese company and high-ranking government health officials.

Box 7. New Zealand case study – Christchurch earthquake abuse of office scheme

In 2010 and 2011, the Canterbury region suffered New Zealand's worst natural disaster since the Napier earthquake in 1931. The Canterbury earthquakes killed 185 and injured approximately 5 800 people, damaged more than 100 000 homes, destroyed much of Christchurch's central business district and badly damaged infrastructure. Since February 2011, the region has experienced thousands of aftershocks. The Canterbury Earthquake Recovery Authority (CERA) was set up to lead and co-ordinate the recovery from the earthquakes. It was operational from 2011-2016. During its five years in operation, CERA disbursed NZD 4 billion (USD 2.4 billion) on a range of recovery programmes.

In 2017, the media published a report alleging that public officials from CERA had set up their own company through which investors would pay them a fee on private property deals. Based on this report, the SFO launched an investigation. In 2023, the suspects were convicted on three charges of corrupt use of official information and sentenced, respectively, to 12 months of house arrest and 200 hours of community service and to seven months of house arrest.

Source: New Zealand SFO, press release: Former public servants guilty of attempting to profit from Christchurch rebuild, <https://sfo.govt.nz/media-cases/media-releases/former-public-servants-guilty-of-attempting-to-profit-from-christchurch-rebuild/>

Box 8. Viet Nam – Collusion and misappropriation in the sale of COVID-19 tests

The Vietnamese Ministry of Health licensed a company in April 2020 to distribute COVID-19 test kits. The company supplied the test kits to the Centers for Diseases Control (CDC) and other medical facilities in 62 provinces and cities across Viet Nam, earning a revenue of nearly USD 177 million. Reports in the media alleged that these COVID-19 tests had not been approved by the World Health Organization (WHO), resulting in a criminal investigation being opened.

The investigation showed that the company and its management admitted to having taken advantage of the urgent demand for COVID-19 test kits and provided hospitals and the CDC with substandard medical materials. The company and its management colluded with public officials at the CDC to ensure that the company would be the provider of COVID-19 test kits. The company imported COVID-19 test kits, originally costing VND 21 600 (USD 0.88) each, which were then sold at inflated prices. In fact, the company overstated the price of equipment and materials by 45% and set the selling price of the COVID-19 test kits at VND 470 000 (approximately USD 19), 21.7 times higher than the original price.

The investigation further showed that the company allegedly paid USD 35 million in bribes to local officials to secure the purchase of these COVID-19 test kits. In particular, the company allegedly paid VND 30 billion (approximately USD 1.18 million) to a high-level official at CDC to obtain five contracts with a total value of VND 151 billion (approximately USD 6.13 million). The COVID-19 test kits sold by the legal entity did not meet WHO standards.

Viet Nam's Ministry of Public Security announced in December 2021 that it was widening its investigation against the company and government agencies across the country. The company's management and a high-level official at CDC were charged with allegedly giving and taking a bribe valued at VND 27 billion (approximately USD 1.18 million). Twelve government officials have also been arrested, with three now facing charges of abusing their position and rights while performing official duties. Nine others have been charged with violating bidding regulations causing serious consequences.

The Ministry of Public Security investigation agency froze and seized assets in real estate and held in bank accounts worth VND 1.22 trillion (approximately USD 53.86 million) relating to this case.

Source: Survey responses from Viet Nam's Supreme People's Procuracy (2023), Detecting and investigating corruption and fraud during emergency situations in Asia and the Pacific survey.

5. Reports from civil society organisations

Non-governmental stakeholders, such as CSOs, are a key detection source for law enforcement authorities during emergencies if leveraged correctly (UNODC, 2020^[13]). The recent pandemic illustrated how CSOs can usefully complement law enforcement's detection capacity due to their anti-corruption watchdog role, allowing them to monitor, detect and report potential acts of corruption related to the COVID-19 response and relief efforts. During emergencies they can present a welcome detection source for law enforcement authorities operating with already stretched resources.

In ACI member countries, there are examples of emergency-related corruption being detected through CSO reports.¹³ ACI member countries also promote the creation of CSO networks aimed at promoting public participation in combatting corruption. According to some ACI member countries, these networks were a detection source during the pandemic and could be used in future emergencies. For example, in Thailand, community networks helped monitor and report suspected corruption in COVID-19-related public procurement.

Box 9. Thailand case study – STRONG – Sufficient Mind Against Corruption Project

The STRONG (Sufficient Mind Against Corruption) project was launched by the NACC in 2018, aimed at cultivating integrity and preventing corruption in Thailand. It was developed in accordance with Phase 3 of the National Strategy on Anti-Corruption (2017-2021) and, more broadly, to promote public participation in the NACC's anti-corruption efforts as provided by section 33 of the Organic Act on Anti-Corruption (OAAC).

Under this project, STRONG clubs, composed of private citizens, were created nationwide to help raise awareness of corruption and promote integrity and to report corruption through “watch and voice” initiatives. STRONG clubs also work jointly with local civil society organisations.

The NACC, both its central office and regional and provincial offices, have been working closely with the STRONG clubs in many activities such as organising workshops to tailor the workplans for each area, supporting their corruption monitoring activities, and performing field investigation. In addition, STRONG clubs can apply for project funding from the National Anti-Corruption Fund, established under the OAAC.

According to the NACC, many investigations into corruption cases were launched as a result of the work of STRONG clubs. During the COVID-19 pandemic, these community networks helped monitor and report suspected corruption in COVID-19-related public procurement.

In 2023, there are STRONG networks in every province, totalling 77 clubs, along with STRONG clubs at the district level, with the mutual goal of developing communities in line with the “sufficiency economy” concept, promoting transparency and building awareness of corruption.

Source: NACC, press release, <https://www.nacc.go.th/categorydetail/2019122712514151207005112EK12853/20230522114446>.

4 Investigating and prosecuting fraud and corruption arising from emergencies

Corruption offences are challenging for law enforcement authorities to investigate and prosecute, due to inherent attributes, such as the parties involved in clandestine collusion and the absence of direct evidence (OECD, 2023^[1]). Additionally, corruption and fraud are often detected long after commission. During emergencies these challenges may become even more pronounced as additional operational or technical obstacles arise, causing delays in executing procedural tasks, which may result in the loss of evidence, expiration of procedural deadlines or even the statute of limitations.

During the COVID-19 pandemic, the investigative work of law enforcement authorities of ACI member countries was impacted by disruptions to courts, delaying decisions on procedural motions, hearings and trials. The lockdowns and safety restrictions also led to difficulties in collecting evidence and conducting in-person investigative actions, such as interrogating suspects and interviewing witnesses.

To mitigate disruptions in pre-trial and trial proceedings, ACI member countries and their law enforcement authorities used ICT to carry out virtual court hearings, transition to digital case-management systems and to collect evidence such as statements from witnesses and suspects remotely through videoconferencing.

Direct access to digitised public and private registries and the use of OSINT information was a valuable tool for collecting evidence, particularly when traditional requests for information to other public authorities could not be carried out due to disruptions caused by COVID-19 restrictions. ACI member countries also used co-operating witnesses and plea agreements to enhance investigations and negotiate timely outcomes, enabling them to resolve cases quickly and free up already limited resources during the pandemic.

The use of SITs, such as covert operations, was also affected by disruptions caused by the pandemic, prompting some ACI member countries to use SITs only in high-priority cases. The ability of law enforcement authorities to provide and receive prompt and effective MLA remained a challenge throughout COVID-19. Some countries acknowledged that encouraging informal co-operation can be an important step in helping to overcome these challenges and may prove to be particularly useful during an emergency.

1. Increasing the use of ICTs in pre-trial and trial proceedings

The COVID-19 pandemic accelerated digitalisation (International Monetary Fund, 2023^[15]), particularly of government services (OECD, 2021^[16]). This has also been the case for law enforcement authorities in several ACI countries, which incorporated ICT tools for case management and to carry out certain investigative acts, predominately those relating to individuals, such as remote interviewing of witnesses. ICT tools were also deployed within the judiciary to ensure that hearings could continue through videoconferencing platforms. While ICT tools have proven invaluable to law enforcement authorities in

their pre-trial and trial proceedings and in some jurisdictions are long overdue, it should be underlined that the use of ICT tools for these purposes must be accompanied by sufficient infrastructure, security and the capacity of staff to effectively apply these tools (Basel Institute on Governance, 2021^[17]). This is particularly important in low-income countries in the Asia and Pacific region, where some ACI member countries acknowledged challenges in using ICT tools in their investigations and court proceedings due to poor internal IT infrastructure or internet connection in certain regions. In addition, the use of ICT tools in the course of investigations may need to be accompanied by appropriate legislative changes and safeguards. ACI law enforcement authorities acknowledged that, while ICT tools may prove to be valuable during emergencies, they are not a substitute for in-person interactions; for example, in building a rapport with informants, witnesses and effectively interviewing suspects.

Use of virtual court hearings

As in other regions, access to the courts was disrupted during the COVID-19 pandemic in ACI member countries. For law enforcement authorities, this creates the risk of procedural or statutory limitation periods expiring and resulted in significant delays and an increased backlog of cases.

A number of ACI member countries moved to holding trials virtually through videoconferencing, although some noted virtual hearings were challenging due to poor internet quality. In Azerbaijan, the introduction of virtual trials required amendments to the Criminal Procedure Code.¹⁴ For some countries, such as Bhutan, the pandemic necessitated overdue modernisation of court procedures, including electronic registration of cases, electronic filing of documents, electronic payments and remote hearings.

Box 10. Bhutan case study – e-litigation platform

During the COVID-19 pandemic, most of the courts in Bhutan started using ICT tools such as Skype, Zoom and Google Meet to conduct virtual hearings.

The e-litigation platform, a UNDP-partnered project, was launched to develop a uniform and consistent system for virtual hearings. The system aims to not only ensure efficiency in the delivery of services but also save time, resources and such functions as electronic registration of cases, electronic filing of documents, electronic payments and remote hearings.

The platform is being piloted in seven courts in the country, covering 26 benches, including the Supreme Court, High Court and the District Courts of Thimphu, Bumthang, Sakteng Dungkhang, Trashigang and Chukha.

Source: UNDP (2021^[18]), eLitigation: Taking justice to the doorsteps of litigants, <https://www.undp.org/bhutan/stories/elitigation-taking-justice-doorsteps-litigants>.

Transition to digital case management systems

Law enforcement in ACI member countries noted that it was challenging to access case files, evidence and records stored at their offices due to lockdowns, or in some cases given that they were unable to log into their intranet remotely. Accordingly, several law enforcement authorities transitioned to digital case management systems to allow law enforcement officials to continue their work remotely. Digital case management is now a permanent feature within the law enforcement authorities that adopted it.

In Indonesia, the KPK changed its policy and integrated a VPN tool into its database management system to allow its law enforcement officials to access its internal databases and analysis software remotely, which previously was only available on site via the office intranet. This also required the KPK to change its

operational procedures and move from a paper-based to digital process. In addition, the agency implemented a new online approval system to draft and submit requests for certain investigative activities, such as issuing warrants, and SITs, such as wiretapping and phone interception, making preliminary investigations more efficient. Previously, these types of requests were done manually and, given the KPK's collegial policy in decision making, required approval from the supervisory board and all five KPK commissioners, making these requests very time-consuming.

Law enforcement authorities in Azerbaijan, Kyrgyzstan and Thailand also transitioned to digital case management systems in response to the challenges posed by COVID-19. New Zealand's SFO changed its evidence management storage system from on-site evidence to a cloud-based solution, which does not require a physical presence in the office to administer and access.

Box 11. The Prosecutor General's Office of Azerbaijan – Electronic Prosecution Information System

The COVID-19 pandemic served as a catalyst for the creation of the Electronic Prosecution Information System, which is currently operational in Azerbaijan. The system streamlines internal and interagency communications, providing prosecutors with direct access to essential information through access to databases.

Leveraging the operational capabilities of this IT tool, the Prosecutor General's Office aims to significantly reduce the volume of paperwork and time spent on procedural acts. The Prosecutor General's Office intends to digitise all stages of the investigative process, spanning from the initiation of a criminal case to the formulation of the indictment. The system is linked with other government electronic databases and there are imminent plans to integrate it with the e-court system. This integration will facilitate the online submission of criminal cases to the courts in the future.

Source: Prosecutor General's Office of the Republic of Azerbaijan, press release, <https://genprosecutor.gov.az/az/post/4945>.

ICT's role in facilitating the collection of evidence

A key challenge underlined by law enforcement authorities in ACI member countries during the COVID-19 pandemic was the difficulty in collecting evidence due to lockdowns and safety measures. ICTs proved helpful in overcoming these obstacles, but the integration of new technologies needs to be accompanied by appropriate legislative reforms to safeguard their use, ensure that law enforcement can use these tools effectively in their investigations and that information gathered through ICTs can be admitted as evidence.

In Indonesia, the KPK introduced videoconferencing to conduct witness and expert interviews at the initial stages of an investigation to gather information and build cases. However, taking written witness statements and questioning suspects to obtain evidence for use in court could not be done remotely. To be admissible as evidence, these statements must be taken in person, printed and signed. To meet these requirements and comply with health and safety protocols, the KPK was required to renovate interview rooms and purchase and perform PCR tests for all parties involved in questioning witnesses or suspects, which was an additional strain on its budget.

Azerbaijan amended its Criminal Procedure Code to allow investigative actions involving persons (interrogations of suspects, witness statements, etc.) to be carried out virtually through ICTs to ensure that these would be admissible in court.¹⁵ In Bhutan, criminal procedural law is silent on the admissibility of witness testimony taken through virtual platforms. This appears to not have presented a challenge to its law enforcement agencies, which collected witness statements by using virtual platforms during the pandemic. Bhutanese authorities noted that such platforms could not be used when witnesses or suspects

are illiterate or not accustomed to using ICT platforms. In Thailand, the lack of a detailed legislative framework governing virtual investigative acts prevented investigators from using videoconferencing and required the NACC to request that witnesses send their statements in writing when interviews could not be conducted physically.

Box 12. Indonesia case study – Corruption case in the procurement of essential food relief

In 2020, the Minister of Social Affairs and several high-ranking officials at the Ministry were suspected of receiving bribes from private companies that provided essential food relief to the community.

Due to the emergency situation, the preliminary investigation, investigation and prosecution encountered significant challenges, which were primarily overcome through co-operation with the financial and supervisory authorities that monitor the flow of relief funds.

The Minister was convicted of corruption offences, sentenced to 12 years in prison, fined IDR 500 million (USD 31 825) by the court and ordered to pay IDR 14.5 billion (USD 922 911) in compensation. Furthermore, his political rights were also revoked, meaning that he could not be elected to public office for four years after serving the sentence.

Law enforcement officials responsible for this case were under significant pressure both from the suspect, who was able to exert external pressure during the investigation and prosecution because of the significant power he wielded as a high-level public official and from the general public to ensure severe sanctions were handed down. The KPK was able to mitigate this by improving internal co-ordination between investigators and prosecutors and through interagency co-operation to quickly collect evidence of the Minister having accepted the bribes.

Sources: Survey responses (2023), Detecting and investigating corruption and fraud during emergency situations in Asia and the Pacific survey. <https://cons.id/breaking-news-juliari-sentenced-to-12-years-in-prison-in-bansos-corruption-case/>.

2. Use of public or private registries by law enforcement agencies and open-source intelligence

Searches of public or private registries and the use of OSINT information benefit law enforcement authorities in detecting corruption or fraud and throughout the investigation as invaluable evidentiary sources. This is especially true during emergencies, when conducting certain types of investigative acts may otherwise prove challenging (OECD, 2023^[1]).

Law enforcement authorities from ACI member countries indicated that access to public or private registries was a valuable tool in their investigations during the COVID-19 pandemic. This is particularly the case when such registries are digitised and directly accessible remotely, given that many public authorities were shut down, making traditional requests for information by law enforcement authorities impossible. For example, the KPK does not have direct access to databases pertaining to the personal data of citizens, data on beneficial ownership, bank accounts or financial transactions, or tax data. Therefore, the KPK relies on other agencies or institutions to provide that information on request, which significantly impacted investigations during the COVID-19 pandemic.

Thailand's NACC relied on its access to the public procurement database of the Comptroller General's Department and the Department of Business Development to identify persons involved in corruption. In Azerbaijan, the ACD integrated various public and private databases that it was able to access in real time, such as the registry on authorisations of movement, registry on financial relief provided to entrepreneurs,

registry of active COVID-19 cases and the registry of vaccinated individuals. This integration streamlined the acquisition of on-site information and facilitated decision-making processes for its law enforcement officials.

In addition, OSINT information also proved useful to law enforcement authorities in ACI member countries, particularly in the COVID-19 related context where in-person investigative actions were difficult to carry out (searches, seizures, etc.). The NACC, for example, used Google Earth's Street View function to inspect crime scenes, instead of in-person inspections.

Box 13. New Zealand case study – COVID-19 wage subsidy fraud case

The Wage Subsidy Scheme was a high-trust scheme providing rapid payments upfront to businesses affected by COVID-19 restrictions, so that employers could continue to pay their employees. The aim was to help prevent job losses and business closures. Employers undertook to pass payments on to staff in wages. About NZD 18.8 billion (USD 11.5 billion) was delivered in 2020 and 2021 for wages for more than 1.8 million jobs through this arrangement. Overall, 47% of New Zealand jobs, excluding sole traders, were covered by at least one of the 2021 wage subsidies.

The Ministry of Social Development had a substantial continuing work programme aimed at providing assurance that those who received payments were entitled to them. While in most cases employers met eligibility criteria for the wage subsidy or repaid their wage subsidy, in some cases, employers received wage subsidies they were not entitled to.

The SFO charged a suspect for allegedly submitting 43 false COVID-19 wage subsidy applications, 53 allegedly false attempts to fraudulently claim from the Small Business Cashflow Scheme, COVID-19 Support Payments and Resurgence Support Payments and for alleged forgery in relation to documents submitted to the New Zealand Companies Office. The total sum of the claims amounted to NZD 1.88 million (USD 1.1 million), of which NZD 600 000 (USD 365 590) had been paid out to the suspect.

The scheme was detected by the public authorities responsible for disbursing these financial relief programmes using their own data-matching tools and the allegations were then referred to the SFO. In the course of its investigation, the SFO used public and private registries to link the suspect to the submission of the subsidy claims.

The case has been submitted to court and is currently awaiting trial.

Source: Peer-learning activities and New Zealand SFO, press release, <https://sfo.govt.nz/media-cases/media-releases/further-charges-filed-in-COVID-19-wage-subsidy-fraud-case/>.

3. Special investigative techniques

SITs refer to covert techniques applied by law enforcement in criminal investigations to detect and investigate serious crimes. Their application aims at gathering information, intelligence or evidence covertly without alerting the suspect (OECD, 2023^[1]). Emergencies may inhibit law enforcement authorities' ability to get approval for carrying out SITs, which usually require sensitive and confidential applications to judges or senior law enforcement officials. Moreover, the emergency may also make it difficult to carry out SITs in practice; for example, it may be difficult to place listening devices in offices or homes or to covertly survey suspects.

Law enforcement authorities in ACI member countries noted that their capacity to conduct covert operations, such as wiretapping or covert surveillance etc., was affected during COVID-19 by movement restriction and the fact that suspects would remain alert and usually within their homes or meet in remote locations. In addition, the lack of people on the street, due to lockdown measures, made it difficult to monitor suspects covertly without tipping them off.

In Indonesia, the KPK's capacity to carry out covert operations during the COVID-19 pandemic was hindered due to suspects holding their meetings in remote locations. Movement restrictions meant that investigators struggled to conceal themselves from suspects in empty public spaces. Another challenge was the shortage of specialists in telephone interception and requirements that the results of these interceptions could initially only be consulted within the KPK's office, limiting the amount of information that investigators could analyse. This led the KPK to use SITs only in high-priority cases.

Box 14. Azerbaijan case study – Ambulance bribery case

In 2020, the founder of a private medical centre was appointed to the position of head of the state-owned Modular Hospital. In a corruption scheme, this public official received AZN 52 000 (USD 30 551) from 140 patients to transfer them to the hospital by ambulance from his private medical centre. Patients brought by ambulances from other hospitals were refused admittance due to alleged “bed shortages”.

Law enforcement authorities used several investigative techniques to verify their suspicions including giving pre-marked bills to suspects, collecting witness testimonies, analysing telephone intercepts and audio recordings. Besides these investigative techniques, law enforcement authorities also carried out audio forensic analysis, handwriting analysis and other types of forensic examinations. Based on the evidence collected, the public official and his accomplices were charged with several offences including the violation of anti-epidemic, sanitary-hygienic or quarantine regimes with grave consequences, aggravated abuse of power and repeated commission of bribery by a group of persons. The case was submitted to the court for consideration.

The information about this case was also disseminated via mass media and social networks to ensure the thoroughness of the investigation and that all the victims came forward.

Source: Prosecutor General's Office of the Republic of Azerbaijan, press release, <https://genprosecutor.gov.az/az/post/4203>.

4. Co-operating witnesses, plea agreements and non-trial resolutions

An effective way for law enforcement authorities to obtain direct evidence about corruption is breaking the conspiracy and collusion of those involved by offering immunity, plea deals or non-trial resolutions to co-conspirators or other complicit parties. These are powerful legal tools in the hands of law enforcement authorities to negotiate the outcome of an investigation with culpable individuals and obtain compelling evidence from those associated with the crime (OECD, 2019^[19]). Such tools may be particularly useful during emergencies, where law enforcement is under additional pressure to combat corruption and fraud quickly and with stretched resources (OECD, 2023^[11]).

While law enforcement authorities from ACI member countries did not provide a wide range of examples of the use of these legal tools in practice, they underlined their importance in effectively investigating and resolving corruption and fraud case within the context of the COVID-19 emergency. In Azerbaijan, Indonesia and Thailand, co-operating witnesses all played an important role in enhancing investigations, especially when these witnesses were originally suspects involved in the alleged corruption or fraud offences themselves.

In Azerbaijan, a tool was introduced allowing for corruption and fraud cases to be resolved where the offender voluntarily pays back the damages to the state budget and/or victims.¹⁶ Such remediation is considered as an extenuating circumstance, allowing for the exemption of criminal liability. Law enforcement authorities in Kyrgyzstan also noted that during COVID-19 they increasingly used plea agreements to respond to resource shortages and resolve cases quickly.

5. Informal co-operation to overcome challenges to mutual legal assistance

Obtaining prompt and effective MLA is notoriously challenging for law enforcement authorities and can delay corruption and fraud investigations. However, many crisis-related corruption cases and investigations cannot be resolved without international co-operation due to supply chain considerations, involvement of foreign legal entities, money laundering considerations and asset recovery efforts (OECD, 2023^[1]). MLA can be carried out through diplomatic channels, central authorities or through direct transmission to a foreign counterpart.

Law enforcement authorities of ACI member countries consistently stated that MLA was a significant challenge during the COVID-19 pandemic. Foreign and domestic diplomatic channels or central authorities were shut down and COVID-19 restrictions made it difficult to execute MLA requests, especially those requiring in-person investigative actions. The lack of informal contact with foreign counterparts also posed a difficulty because such contacts can help to speed up and ensure that outgoing MLA requests meet the formal requirements (for example, substantive requirements, language etc.) in the destination country.

In Australia, the AFP noted that MLA processes slowed down, given that it was impossible to get specific approvals or signatures to formulate MLA requests. In Indonesia, work is ongoing to digitise MLA procedures, but the IT infrastructure is still being developed. In Azerbaijan, law enforcement authorities noted that MLA procedures, while being extremely time-consuming, were also hindered by the absence of informal channels with their foreign counterparts and the lack of a secured means of directly sending evidence between countries.

In terms of challenges in collecting evidence from persons located abroad (witness testimony, etc.), Kazakhstan would invite witnesses to give their testimony at their local embassy. This allowed for the statements collected during these interviews to be directly inserted into the case file and ensured their admissibility in court, given that embassies are considered as an extension of the country's territory.

5 Conclusion

The challenges presented by emergencies, regardless of their origin or scale, significantly hinder law enforcement agencies' operational continuity, particularly in detecting, investigating and prosecuting instances of fraud and corruption. Law enforcement authorities in ACI member countries are particularly vulnerable to such impacts, underscoring the importance of adopting appropriate and effective responses to future emergency situations. As natural disasters and health and climate emergencies become more frequent and complex, proactive and adaptive responses become increasingly crucial for safeguarding the integrity and effectiveness of law enforcement efforts against fraud and corruption.

Drawing on the lessons learnt during the COVID-19 pandemic, ACI member countries can strive to bolster the preparedness of their law enforcement authorities for future emergencies by implementing the guidelines recommended in this report. These include changes to operational practices such as developing clear operational guidelines for emergencies, adopting case prioritisation mechanisms and allocating resources to conduct risk assessments at the outset of an emergency and using them to guide their decisions in prioritising cases, mapping out probable operational challenges and identifying potential sources of detection.

Law enforcement authorities should also adapt their detection and investigation practices, including through the use of analytical or OSINT sources, interagency co-operation, use of SITs, monitoring reports in the media and from civil society, as well as institutional arrangements for information sharing. They may also consider creating dedicated channels for reporting corruption and fraud related to the emergency. ACI member countries should seek to encourage whistleblower reports by strengthening their whistleblower protection framework and ensuring that protections are effective in practice.

To mitigate disruptions to investigations and prosecutions, ACI member countries should consider implementing ICT solutions, accompanied by appropriate legislative amendments, to enable them to conduct virtual court hearings, transition to digital case management systems, collect evidence and enable direct access by law enforcement to public and private registries, particularly those maintained by public authorities overseeing emergency response and relief initiatives.

To expedite case resolutions and optimise resource allocation, ACI member countries should consider the use of co-operating witnesses, plea agreements and non-trial resolutions. These mechanisms not only facilitate prompt resolutions but also alleviate the strain on limited resources, allowing law enforcement authorities to allocate their efforts more effectively during emergencies. Finally, to facilitate prompt and efficient MLA, ACI member countries should aim to strengthen and encourage informal co-operation with their foreign counterparts by participating in international and regional law enforcement co-operation platforms.

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Notes

¹ Eight ACI member countries responded: Australia, Azerbaijan, Bhutan, Indonesia, Kyrgyzstan, New Zealand, Thailand and Viet Nam.

² Bhutan, Cambodia, the Cook Islands, East Timor, Fiji, Indonesia, Kazakhstan, Kyrgyzstan, Macau, Malaysia, Myanmar, Philippines, Thailand and Viet Nam.

³ Australia, Azerbaijan, New Zealand, Thailand and Viet Nam.

⁴ Australia, Bhutan, Cambodia, the Cook Islands, East Timor, Indonesia, Kazakhstan, Kyrgyzstan, New Zealand, Malaysia, Philippines, Thailand and Viet Nam.

⁵ Australia, Azerbaijan, Indonesia, New Zealand and Thailand.

⁶ New Zealand SFO, Counter Fraud Centre: <https://sfo.govt.nz/counterfraud/cfc/>.

⁷ New Zealand SFO, guides and factsheets: <https://sfo.govt.nz/counterfraud/cfc/resources/guides-and-factsheets/>; New Zealand SFO, fraud prevention in times of crisis: <https://sfo.govt.nz/counterfraud/cfc/resources/guides-and-factsheets/fraud-prevention-in-times-of-crisis/>.

⁸ <https://www.napier.govt.nz/our-council/cyclone-gabrielle/>; <https://www.mpi.govt.nz/funding-rural-support/adverse-events/cyclone-gabrielle-recovery-advice-support-and-funding-available/>.

⁹ Operation Ashiba is an AFP-led multi-agency taskforce comprising AFP members and secondees from 11 Commonwealth partner agencies, including AUSTRAC, ACIC, ACCC, Agriculture, ASIC, Defence, Services Australia, DSS, Education, Health and NDIA. This taskforce model allows them to leverage the individual and collective powers, capabilities, knowledge and experience of partner agencies. This also allows them to adopt a co-ordinated and integrated approach to detecting, disrupting and combatting serious and organised fraud against the Commonwealth.

<https://www.counterfraud.gov.au/news/general-news/operation-ashiba-and-taskforce-iris-strengthening-australias-response-serious-and-organised-fraud>.

¹⁰ Attorney General's Department, the Commonwealth COVID-19 Counter Fraud Taskforce.

<https://www.counterfraud.gov.au/news/centre-updates/working-together-safeguard-australias-COVID-19-response>.

¹¹ Prosecutor General's Office of the Republic of Azerbaijan, press release: <https://genprosecutor.gov.az/az/post/2392>.

¹² Australian Human Rights Law Centre, *The Human Rights Law Centre launches Australia's first dedicated legal service for whistleblowers*: <https://www.hrlc.org.au/news/2023/8/18/whistleblower-project-launch>.

¹³ Deutsche Welle (2024), [Earthquakes in Kazakhstan: Tokayev is dissatisfied with the actions of the Ministry of Emergency Situations](#).

¹⁴ Articles 51-1, 51-2 Criminal Procedure Code of the Republic of Azerbaijan, <https://e-qanun.az/framework/46950>.

¹⁵ Ibid.

¹⁶ Articles 73-1 and 80-1 of Criminal Code, <https://e-qanun.az/framework/46947>.

