

# Preventive Vigilance

## Why Vigilance?

- Vigilance being a mechanism of control  
Kindles the senses and operative skills to ward off mishaps.
- Vigilance protects the honest person to stimulate operational efficiency of the institution as a whole
- Punishes dishonest persons as a deterrent action

## What is Vigilance?

- Cases having following attributes may be considered to be attracting vigilance angle
  - ✓ Improper purpose/motive
  - ✓ Corrupt / malafide manner
  - ✓ Lack of integrity
  - ✓ Lack of devotion on duty
  - ✓ Misuse of official position
  - ✓ Causing wrongful gain to self or others
  - ✓ Commission of criminal offences (e.g. Bribe)
  - ✓ Flagrant violation of systems & procedures

## **Objectives of Vigilance**

- Bringing about fairness and purity in service
- Simplification of systems & procedures – bringing about transparency in systems.
- Periodical review of existing systems to plug the loop holes, if any:
- Protecting honest persons
- Bringing about greater degree of awareness amongst the employees about vigilance so as to create corruption – free ambience.

## **Vigilance Mechanisms**

- Educative
- Preventive
- Detective
- Punitive
- Predictive
- Corrective

## Educative Vigilance

- Spreading awareness through training/seminars
- Bringing out booklets/periodicals on vigilance management

## Preventive Vigilance

- Preventive – Precautionary
- Periodic surprise checks
- Inspections, audit etc.
- Identify lacunae in the system and measure to plug them
- Surveillance
- Transparency
- Simplification of procedures
- Developing checks within the system
- Accountability
- Strengthening of Departmental Action Mechanism

## Santhanam Committee recommended preventive measures

- Those with integrity – high level positions
- Examination of existing procedures in organization
- Regular inspections and surprise visits
- Screen spots regularly where – extensive public dealing
- Selections from NGO to GO – only those with integrity
- Grant of extension – integrity – first and foremost
- Proper agency for grievance redressal
- All visitors to a public office – screen
- Availability of info to public – that is not secret
- Strict observance of conduct rules – assets, gifts, business

## CVO and CBI

- Santhanam Committee emphasized close cooperation between CVO's, CBI and ITax.
- Public knowledge of such cooperation will act as a preventive measure
- CVO's can seek help of CBI to keep a close watch on officers who deal with companies and businessmen – gifts, hospitality...?
- Close liaison - agreed lists, ODI (of doubtful integrity), UCM (undesirable contact men)

## Agreed list – persons

- CBI + department concerned > consultations
- Officers of gazetted status
- Complaints, doubts, suspicion – integrity and honestly
- Free and frank exchange of info
  
- Close and frequent scrutiny of their work and performance
- Secret enquiry by CBI – property returns, IT returns..
- Watch on their contacts and style of living
- If something positive results – open enquiry
- Lists remain in force for a year – review held every year
- In case sufficient evidence is lacking - delete

## Agreed list – places

- Where public dealing is extensive
- Public perception of corruption exists
- Organizational structure – places affected
- highlight modus operandi
- Discreet watch on such places
- Joint surprise checks/raids may follow



# ODI

- Of doubtful integrity
- On enquiry – found to be lacking in integrity
  - ✓ Convicted in court of law – integrity, moral turpitude
  - ✓ Proceedings are on court trial
  - ✓ Prosecuted but acquitted on technical grounds
- Keep Ministries/Deptt/Undertakings informed about such officers
- Not to be posted to sensitive assignments
- Closer supervisory scrutiny
- Name normally kept for three years

# UCM

- Undesirable contact men
- Persons who resort to corrupt practices in their dealings with official agencies
- Names compiled by CBI and sent to concerned Deptt/Ministries
- Should issue directions to officers to be cautious in dealing with these people
- Unobtrusive watch is kept on their activities to collect info about specific acts of corruption
- Identify other contacts, modus operandi, specific acts.

# Surprise Checks

- Possible points and places of corruption
- Selective scrutiny of files
- Checks of discretionary powers of officers
- Inspection at irregular intervals
- Closer check on officers who're on ODI list
- Refer matters to CBI for detailed enquiry
- Joint surprise checks are possible
- Focus in such surprise checks is essential

# Public help and Cooperation

- Educate people about systems
- Bring in transparency in organization
- Right to information will facilitate matters
- Encourage people to give information
- Protect people who give info from harassment and victimization
- Give out info on notice boards, pamphlets, website, press, newsletters....
- Ensure prompt and effective action
- Introduce time limits for disposal of matters

## Detective Vigilance

- Fact Finding
- Investigation
- Ascertains causative factors
- Defines extent of accountability of officials
- Suggests measures to plug loopholes in the system
- Refer cases to CBI

## Punitive Vigilance

- Taking action by issuing show cause notice or charge sheet
- Instituting enquiry and according punishment in consonance with the gravity of lapses with in the ambit of rules & regulations.

## Predictive Vigilance

- Foreseeing activity prejudicial to interest of institution.
- Suggest advance corrective measures to be taken (modification of rules, technology, circumstances etc)

## Corrective Vigilance

- Analysis of results of detective vigilance
- Exploration of the reasons and contributory factors
- Finding solution to stop recurrence and activate alarm signals
- Updating the practices to keep pace with time
- Transparency in procedures & decision making
- Plugging of the loopholes – whistle blowing arrangements
- Prepare case study and educate employees

# Conduct Rules

- Conduct
- Master & servant relationship
- Conduct rules – set of instructions by employer to regulate the actions and conduct of its employees
- CCS Conduct Rules, 1964
  
- Conduct rules 1964 do not specify misconduct
- Rule 3 is the operative rule which provides that every govt. servant shall, at all times:-
  - ✓ Maintain absolute integrity
  - ✓ Devotion to duty and
  - ✓ Do nothing which is unbecoming of a govt. servant
  - ✓ Fundamental requirements are thus integrity, honesty, efficiency and good behavior
  - ✓ Most of disciplinary proceedings arise from breach of this rule.

## Integrity

- Integrity is uprightness, honesty & purity
- It should be “Absolute” – 100%
- Lack of integrity
  - ✓ Corruption, bribery, false declaration, forging official records etc.
  - ✓ Showing undue favor to self or some one in discharge of official duties

## Devotion to duty

- Not “absolute”
- Habitually fails to perform the task assigned to him
- Caution or reprimand – not a punishment
- Cases vary – failure to comply with financial rules resulting in loss to Govt. due to negligence is a serious case of lack of devotion to duty.



## Conduct unbecoming of a Government Servant

- Conduct should conform to the ordinary norms of decency and morality prevailing in society
- Certain standard demanded even in private life
- Govt. servant should not bring discredit to his service
- “Conduct unbecoming of a Govt. servant” is left to the discretion of the Govt.

## Misconduct

What is misconduct?

- Violation of definite laws/rules
- Gross negligence
- Perverse conduct or absence of good conduct.
- Violation of the accepted standards of morality, decency, decorum and propriety
- Contravention of the ideal master-servant relationship

## Misconduct

- The following acts of omission and commission shall be treated as misconduct:-
  1. Theft, fraud or dishonesty in connection with the business or property of the Corporation or of property of another person within the premises of the corporation.
  2. Taking or giving bribes or any illegal gratification, or demanding or offering bribes or any illegal gratification.
  3. Possession of pecuniary resources or property disproportionate to the known sources of income by the employee or on his behalf by another person, which the employee cannot satisfactory account for.
  4. Furnishing false information regarding name, age, father's name, qualification, ability or previous service or any other matter germane to the employment, at the time of employment or during the course of employment.

## Misconduct

5. Acting in a manner prejudicial to the interests of the Corporation
6. Willful insubordination or disobedience (whether or in combination with others) of any lawful and reasonable order of his superior.
7. Absence without leave or over staying the sanctioned leave.
8. Habitual late or irregular attendance
9. Neglect of work or negligence in the performance of duty including malingering or slowing down of work.
10. Causing damage to work in progress or to any property of the Corporation either willfully or through negligence.
11. Non-observance of safety precautions or rules, or interfering or tampering with any safety devices installed in or about the premises of the Corporation.
12. Drunkenness or riotous or disorderly or indecent behavior in the premises of the Corporation or outside such premises where such behavior is related to or connected with the employment.

## **Misconduct**

13. Gambling within the premises of the establishment
14. Smoking within the premises of the establishment, or using naked lights, where it is prohibited.
15. Collection without the permission of the competent authority or any money within the premises of the Corporation except as sanctioned by any law of the land for the time being in force or rules of the Corporation.
16. Sleeping while on duty under any pretext whatsoever.
17. Commission of any act which amounts to a criminal offence involving moral turpitude.
18. Absence from the employee's appointed place of work without permission or sufficient cause.

## **Misconduct**

19. Purchasing properties, machinery, stores etc. from or selling properties, machinery, stores etc. to the Corporation without express permission in writing from the Competent authority.
20. Engaging in any trade or business without taking permission of the Competent Authority.
21. Canvassing in support of the business or insurance agency, commission agency etc. owned or managed by his spouse or any other member of his family.
22. Publication of any article, journal, paper or book on any subject prejudicial to the Corporation or connected with any work of the Corporation without the prior permission of the competent authority.

## **Misconduct**

23. Disclosing to any unauthorized persons any in regard to the working or process of the Corporation which comes into the possession of the employee during the course of his work.
24. Spreading false rumors or giving false information or to bring into disrepute the Corporation or its employees or spreading panic among them.
25. Leveling malicious or false allegations.
26. Occupying or taking possession in an unauthorized manner or refusal to vacate or deliver possession of Corporation's quarters or any of its premises, owned or hired, when required to do so by Corporation.
27. Refusal to accept a charge sheet or order or any other communication from the management.

## **Misconduct**

28. Striking work alone or in combination with other employees, or inciting them to strike work in contravention of the provisions of any law or rules having the force of law.
29. Commission of any act subversive or discipline or of good behavior.
30. Abetment of or attempt at abetment of any act which amounts to misconduct.
31. Adopt dilatory tactics or cause delays in the disposal of the work.
32. Sexual harassment of the working women, at the work places.

### **Note:**

**The above instances of misconduct are only illustrative in nature, and not exhaustive.**

## Prevention of Corruption Act, 1988

Provides for an offence of “Criminal Misconduct” in the case of public servant

- Misconduct + dishonesty or fraudulent act
- Causing wrongful gain/loss
- Knowledge
- Misappropriation
- Abusing official and taking bribe
- Accumulation assets disproportionate to known sources of income



## Section 13, (PC Act, 1988): Criminal misconduct by a public servant:

1. A public servant is said to commit the offence of criminal misconduct:-

- (a) If he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in Section 7; or
- (b) If he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be , or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

## Section 13, (PC Act, 1988): Criminal misconduct by a public servant:

- (c) If he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person to do so; or
- (d) If he-
  - (i) By corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
  - (ii) By abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
  - (iii) While holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;

**Section 13, (PC Act, 1988): Criminal misconduct by a public servant:**

(e) If he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income

Explanation – For the purposes of this section, “known sources of income” means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

2. Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall be liable to fine.

**Section 14 Habitual committing of offence under Sections 8, 9 and 12 : Contd.**

Whoever habitually commits-

an offence punishable under Section 8 or Section 9; or

an offence punishable under Section 12

Shall be punishable with imprisonment for a term which shall be not less than two years but which may extend to seven years and shall also be liable to fine.

- ❑ Proactive
- ❑ Preventive
- ❑ Vigilance

- ❖ Functions are a must
- ❖ Should be followed in letter + spirit

Are you ready...???

Thank You