

INVESTIGATION EFFORTS: **IS THE OIOS A FIG LEAF?**

As discussed at the end of the preceding subsection, the OIOS, a decade after its establishment, has become well-established and relatively successful. It has perhaps spread itself too thinly among many competing oversight activities, and is quite reliant on the "kindness of strangers" -- half its funding and posts come from temporary and voluntary extra-budgetary sources. This funding situation suggests a UN Secretariat and some (many?) Member States are still rather fearful and cautious about this potentially powerful new actor, as was emphasized at the time of its formal establishment in 1994.

In fact, the major failure of OIOS work seems to be its timid and low-profile commitment (except for a few cops-and-robbers stories) to the only new, and the very important, element of its 1994 mandate -- an investigations unit. Rather than becoming a decisive group to fight corruption, mismanagement, and abuse, IO Watch believes that this unit has become largely a fig leaf, which provides the appearance of UN corruption-fighting, but actually only punishes lower-level staff miscreants while posing no threat to UN managers and barons.

As discussed in the Corruption subsection which introduces the overall section on UN Management Accountability Struggles, corruption is not just a fact of life, but "a worldwide phenomenon [which] in recent years has reached unprecedented levels." Ever since the late 1980s, global and regional conferences, the development of global comparative corruption indexes, and organizations such as Transparency International, the World Bank, and the OECD, have increasingly targeted corruption as a process that poisons governments, economies, and organizations. Such corruption not only undermines democratic governance, but also highlights the importance of establishing and maintaining transparency and trust.

Robert Klitgaard, Controlling corruption, University of California Press, Berkeley, Calif., and London, 1988,

Joseph G. Jabbara and O. P. Dwivedi., Eds., Public service accountability: A comparative perspective, Kumarian Press, West Hartford, Conn., USA, 1989,
Samuel Paul, Strengthening public service accountability: A conceptual

framework, World Bank Discussion Paper 136, Washington, D.C., **1991**, www.transparency.org/ , Transparency International, and, more recently, Fredrick Galtung, "A global network to curb corruption: The experience of Transparency International," in Florini, Ann M., Ed., The third force: The rise of transnational civil society, Carnegie Endowment, Tokyo and Washington DC, **2000**, Kimberly Ann Elliott, Ed., Corruption and the global economy, Institute for International Economics, Washington, DC, June **1997**, Paul Heywood, "Political corruption: Problems and perspectives," Political studies 45 (Special Issue), **1997**, pp. 417-36. "Stop the rot: A new treaty ... is just the beginning of the fight against corruption", and "A global war against bribery", The Economist, January 16, **1999**, pp. 19-23,25, Stuart Gilman, "An idea whose time has come: The international experience of the U.S. Office of Government Ethics in developing anticorruption systems", Public Integrity, Spring **2000**, pp. 135-155, and www.worldbank.org/publicsector/anticorrupt/ , the "Anti-Corruption Resource Center" of the World Bank Group. , The war on corruption," The Journal of Public Inquiry, A Publication of the Inspectors General of the United States, **Fall/Winter 2001**, pp. 1- 63, and Gerald E. Caiden, O. P. Dwivedi, and Joseph Jabbara, eds., Where corruption lives, Kumarian, Bloomfield, Conn., USA, **2001**.

The General Assembly had pressed in the late 1980s and early 1990s for new Secretariat mechanisms to combat waste, fraud and mismanagement. Pressure from others, such as the "Thornburgh report" of 1993, and Childers and Urquhart, Niazi, and the JIU, also helped lead to creation of the OIOS with an investigations section and a "hot-line" mechanism to receive confidential reports from staff whistle-blowers.

The General Assembly also sought repeatedly to enlist (and protect) UN staff in combating waste and corruption. It requested in 1985 that the Secretary-General study the establishment of an "ombudsman." It has repeatedly sought reform to provide a "just, transparent, simple, impartial and efficient system of internal justice". In 1990 it specifically called for consideration of effective ways to facilitate staff reporting of any improper resource use, and in 1991 it sharpened and directed this focus towards actually implementing such measures.

Joint Inspection Unit, "Accountability and oversight in the United Nations Secretariat", UN document A/48/420, **1993**, paras. 74-79.

The Secretariat had argued in 1992 that existing rules and procedures for mismanagement and disciplinary action were adequate, and cautioned that it would be quite difficult to protect UN whistleblowers from retaliation. However, the General Assembly expressly called in 1994 for OIOS to establish procedures to permit staff to report perceived cases of

misconduct, and to protect individual rights, staff anonymity, due process for all parties concerned, fairness during investigations, clearing falsely-accused staff, and prompt disciplinary proceedings where the Secretary-General considers it necessary.

"Measures to facilitate reporting by staff members of inappropriate uses of the resources of the organization: : Report of the Secretary-General", UN document A/47/510 of **October 8, 1992**, paras. 9-14, 5-13, and "Review of the administrative and financial functioning of the United Nations", General Assembly resolution 48/218 B of **29 July 1994**, section (iv) and paras. 6 and 7.

The Secretary-General issued a Bulletin elaborating on these matters. They were further reflected in an OIOS mission pamphlet and a detailed Investigations Section Manual. OIOS also issued, rather tardily in light of the importance and sensitivity of the situation, a circular to all staff in April 1996 on OIOS investigations, either on its own or based on staff reports, of "mismanagement, misconduct, waste of resources, and abuse of authority". The official guidance emphasized (contrary to Mr. Paschke's early dismissive views) that the new OIOS hotline mechanism and staff reporting processes were a very serious matter.

"Establishment of the Office of Internal Oversight Services", Secretary-General's Bulletin, ST/SGB/273 of **7 September 1994**,
"The Office of Internal Oversight Services of the United Nations: Its genesis, its mission, its working methods, its impact", UN Dept. of Public Information, **February 1996**,
"United Nations [OIOS] Investigations Section, Manual",
www.unhq/depts/oios/ismanual and
"Terms of reference for investigations by the [OIOS]: Mismanagement, misconduct, waste of resources and abuse of authority", ST/IC/1996/29 of **25 April 1996**.

The General Assembly's establishment of "hotline" and "whistleblower" mechanisms was part of the growing recognition worldwide that fraud and abuse cost organizations billions of dollars every year. It is very important that all types of organizations, both public and private, have strong programmes to detect, deter, and prevent fraud (particularly asset misappropriation), corruption, and fraudulent statements. According to an extensive survey in the USA in 1996, the average company loses 6 percent of its total annual revenue to fraud and abuse committed by its own employees, but the most serious abuses are those committed by managers, because of their greater organizational power.

Joseph T. Wells, Occupational fraud and abuse, Obsidian, US, **1997**, esp. pp. 33-51.

An employee hotline for anonymous reporting, staffed with

professional investigators and protecting these "whistle-blowers", is very important to help audit and investigation units identify problems and curb waste and losses. An effective hotline can also reduce occupational abuse and harassment, improve employee productivity, enhance employee morale, and demonstrate that an organization is trust-worthy and acts to correct its mistakes and problems.

Association of Certified Fraud Examiners (ACFE), and its EthicsLine at www.FraudInfo.com

The 1993 and 1994 General Assembly initiatives added important new provisions and protections for staff involved in investigations. But underlying principles and staff responsibilities have long been "on the books" in the UN rules and staff guidance, even if they received little recognition:

-- the UN standards of conduct for staff of 1954, 1965 and 1982 gave staff the **duty** to question an apparent irregular situation and the right to record their views in the official files, and called on supervisors to exercise "scrupulous care" in allowing those views to be heard, particularly where those views are opposed to their own. However, the revised UN Staff Rules issued in December 1998 unfortunately omit this clear and forceful language from the new rules, despite much broad general discussion and commentary on the principles of proper staff conduct and integrity;

-- Staff Regulation 1.2(e) states that "By accepting appointment, UN staff members pledge themselves to discharge their functions and regulate their conduct with the interests of the Organization only in view" (once again, this revised staff guidance is less forceful and more vague than the old rule, former staff regulation 1.9 that it replaced); and

-- Article 101, paragraph 3 of the UN Charter, which underlies the Staff rules and regulations, emphasizes that the "paramount consideration in staff matters shall be "the necessity of securing the highest standards of efficiency, competence, and integrity", all core values which are certainly involved in the new procedure allowing staff to report allegations of waste and mismanagement.

"Report on the standards of conduct in the international civil service 1954", International Civil Service Advisory Board, COORD/CIVIL SERVICE/5, **October 1954, reprinted May 1986**, United Nations, [and reprinted as Annex V of the initial, 1998 UN Code of Conduct), and

"Status, basic rights and duties of United Nations staff members", ST/SGB/292002/13 of 1 November 2002, *inter alia* Regulations 1.1 (d), 1.2 (b), 1.2 (e) and their Commentaries. [emphasis added]

[Note: it is interesting that in 2003, 58 years after the UN Charter called for the highest standards of integrity, the Secretariat finally launched a grand three-year "integrity initiative", as discussed in the preceding subsection. Better late than never.]

However, the OIOS -- and not merely the OIOS, but UN managers as well, as discussed further under the archive subsection on Manager/investigators? -- have now been endowed with quite major -- and presently unmonitored and unchecked -- power within the UN, in some respects even broader than that of the long-established US federal government Inspector Generals. As Mr. Paschke explained it to Member State representatives in 1996:

" ...selecting, among the large number of complaints which we receive, those cases which are the most serious ones and are of greatest significance to the Organization ... I consider as one of the elements of my operational independence. ... there has to be some managerial discretion as to where we set our day-to-day priorities ... not only when we react to complaints which we receive, but also if we take the initiative to investigate a certain issue and thus assume the proactive role [assigned to us] ... I can assure you that ... we make these decisions ... in the best interests of the Organization as a whole."

"Statement ... by Mr. Karl Th. Paschke [OIOS]", 2 December 1996, and Sherman M. Funk and Jeffrey Laurenti, "Watch-dog for the U.N.," The Washington Post, **8 August 1994**.

Indeed, the OIOS investigation functions, with their professional, in-depth reviews; the system for staff reporting of wrongdoing; and the dramatic new possibility (and reality) of criminal charges against UN staff before national court systems could thus have a great and hopefully decisive impact on UN operations and staff conduct. Of course, the OIOS power conveys quite heavy responsibilities -- well beyond those of UN staff -- as the UN's professional and full-time "corruption fighter":

-- finding and helping put a stop to waste, fraud, and mismanagement in the multi-billion dollar annual UN programmes conducted worldwide;

-- identifying, analyzing, and addressing issues of misconduct, abuse of authority, and poor management which undermine effective performance and implementation of programmes mandated by the General Assembly; and

-- protecting and enhancing the credibility of the UN as an organization that carefully and professionally monitors, assesses, and ensures the proper handling of public funds made available to it, and is seen to do so. This is particularly important since the UN also serves as a leader and advisor to national governments in the fight against corruption worldwide, and is a self-proclaimed international

"moral authority" on behalf of all mankind (for more on the hypocrisy that this entails, see the concluding Recent Developments section of this archive.)

Despite this clear background and potential, Mr. Paschke quickly and publicly expressed to the General Assembly's Fifth Committee his mistrust and even contempt for staff "whistle-blowers:"

"As part of the investigation function, we now have procedures for receiving confidential information ... I will guarantee complete confidentiality to all those who wish to provide us with information on problems. ... Having said this I must add immediately that I am not comfortable with receiving anonymous messages, and will certainly do nothing to encourage this practice. In any case, this should be seen as a system of last resort. The first, and by far the most important way, for staff to voice complaints and make suggestions must be to and through their immediate supervisors.

When I was told I would have to take anonymous tips into account in my new job I was reminded of ... Hamlet,... who was given a suggestion by a ghost ... [and] then proceeded to procrastinate. He was a rational man and had his doubts about acting on the advice of ghosts. I hope I am not put in a similar situation myself too often."

"Statement by Karl Th. Paschke ... to the Fifth Committee," **5 December 1994**, pp. 11-12.

Mr. Paschke's image of those reporting waste and misconduct as "sneaks" instead of law-abiding, responsible, people who report wrongdoing was highly improper for a senior official tasked with running a confidential "hotline" and reporting system. He later realized his specific responsibilities, and the credibility which auditors anywhere must have. He made various corrective public statements about staff reporting misconduct, assuring that he would "protect them fully", "would not hesitate to intervene personally" with difficult managers, and would not tolerate violation of UN rules.

"Interview with USG/OIOS", What's New, Staff Journal, New York, WN/3 of **21 August 1996**, p. 4,

"Answer of Mr. Karl Th. Paschke", UN Special, **December 1996**, p. 42,

"L'ONU continue de souquer ferme pour tenir la cadence des reformes", Tribune de Genève (Geneva), **April 1997**, p. 14,

"UN investigating more fraud cases", Reuters, International Herald Tribune, **4 September 1997**, and

"L'ONU enquete sur plusieurs cas de fraude", Tribune de Genève (Geneva), **3 October 1997**, p. 14.

Nevertheless, the new Investigations Unit got off to a very slow and low-key start. In a press briefing in February 1996, a full sixteen months after his arrival, Mr. Paschke told reporters that:

"The Investigations Unit of the Office was to some extent still under construction in terms of staffing and establishing appropriate procedures ... The Unit addressed cases

submitted to it mostly through the so-called "hot-line." The Unit's work was mostly involved with staff who had personnel grievances and believed that the Unit was another appeals board. That was not true, but the grievances were analyzed and referred to the appropriate part of the Administration. ...

"Press briefing by [OIOS]," **8 February 1996.** [emphasis added]

The investigations staff grew painfully slowly. In early 1996 the Unit had only four professional staff, with two added later in the year. A recruiting freeze prevented hiring more people, and the section could not clear the backlog of cases that it had from 1994-1995. In addition, the 1996 OIOS annual report stated that "The lack of experienced investigators is a major problem facing the Investigations section." Even in 1999, when Mr. Paschke left the UN, the OIOS investigations section had just 15 staff, twelve in New York and three in Nairobi, but continued to struggle with a very heavy caseload and a sharp increase in reports received.

"Report of the Secretary-General on the activities of the OIOS", UN document A/51/432, 1996, para. 116, and

"Report of the Secretary-General on the activities of the OIOS", UN document A/54/393 of **23 September 1999**, paras. 123-128.]

Another reason for the slow start may come from still other statements by Mr. Paschke. First, from the start he took a very collegial approach to the acknowledged accountability problems of his fellow UN managers, in contrast to his aggressiveness about staff reporting misconduct:

... Many UN managers are not used to and seem to be quite reluctant to accept criticism, particularly when it comes to applying accountability criteria rather than settling for the promise that some specific problems won't recur. This feature of the United Nations culture must be changed if we are ever to develop staff awareness and acceptance of responsibility and accountability. United Nations managers must stop being defensive and enter into a critical dialogue with OIOS. In order to make oversight effective, we offer ourselves as partners, not adversaries."

"Report of the Secretary-General on the activities of the [OIOS]", UN document A/50/459, **2 October 1995**, "Preface." [emphasis added]

And despite his lack of a professional auditing background, Mr. Paschke asserted early on, and often, that the UN had no more corruption problems than other organizations. When a correspondent asked a question about UN corruption problems in a 1996 press briefing, Mr. Paschke responded that:

"He believed that the United Nations was certainly no worse than other comparable institutions. ...

In the first two years of his work he had come to the conclusion that fraud was not the main concern of the OIOS, but rather administrative weakness and a very limited administrative expertise, with many people handling sizeable amounts of money. It was, therefore, also a problem of enhancing management expertise and management savvy ..."

"Press briefing by Under-Secretary-General for Internal Oversight Services,"
UN, New York, **31 October 1996**. [emphasis added]

In those first few critical years of operation, as the February 1996 quote above indicates, the OIOS dismissed many of the large number of initial staff reports made to it as mere "personnel grievances" (a categorization decided on by the Office itself) and turned them over to OHRM, or judged (again, within its powers but with no contact with the person reporting and no objection possible) that many of them provided "insufficient evidence" for action. In still other cases, and much more seriously, OIOS apparently classed such reports as "internal matters" to be turned back to the hapless staff member's bosses for them to handle by "normal procedures."

It must also be recognized that all documentation on UN whistle-blowing activity is locked away in OIOS files to "protect" staff, a legitimate procedure but also one that further and forever removes the cases from any scrutiny of how they were actually handled (or ignored, or disclosed) by OIOS officials, i.e., it "protects" them very nicely too. (In a rare look at OIOS operations half-a-dozen years later the UN Board of Auditors concentrated mostly on improving OIOS information system technology and information systems audit capacity, and the need to better document its work and make its reports more timely. However, the auditors also stated that the Office should "define the criteria when reports should be prepared in respect of closed investigation cases," implying that many are casually handled.)

"Report of the the OIOS", UN document A/57/451 of **4 October 2002**, p. 8.

UN staff are not stupid. OIOS may of course receive "crank" or poorly documented complaints, but it seems to reject a very high number of submissions (although its annual reporting is much too vague to determine this with any precision.) An early insider assessment in 1996 had noted that: "Paschke's finest" had investigative results that were "paltry indeed", because its staff were either experienced UN veterans who would not "make waves", or newcomers woefully innocent about the UN. It observed wryly that:

"Halfway through his term and answerable only to Member States, [Mr. Paschke] can look forward to a comfortable couple of years ... But United Nations observers are beginning to ask what has been achieved in exchange for ... a free hand for Paschke. The answer is not encouraging.

... the original conception of Paschke's post was a combination of Grand Inquisitor and Super Sleuth. The final product, insiders say, falls far short of either. ... "The problem is that half the OIOS staff do not know anything about the UN" we are told, "and the other half know everything there is to know but are part of the establishment and they are not going to make waves." The results of OIOS's travails are paltry indeed

There are whispers that senior staff need not fear their peccadilloes will be

exposed. Paschke's Finest, it is said, will rake no muck above a certain level of political or bureaucratic influence."

"Diplomatic pouch", Diplomatic World Bulletin, **July 29-August 6, 1996**, p. 10,
and

"Wake up, Paschke", Foreign Report (UK), Jane's, London, **Sept. 12th, 1996**,
p.5 [emphasis added.]

Similarly, a 1997 article on the emerging problems and serious levels of UN corruption observed that:

"UN employees -- who request anonymity because they fear they will suffer more professional harm than the corrupt officials they want to expose -- have provided numerous accounts of officials' being transferred rather than dismissed after being caught breaking the rules.

This happens frequently in cases of sexual harassment, nepotism, and occasionally violence, according to these accounts. Whistle-blowers are neither encouraged nor rewarded."

Barbara Crossette, "In war on corruption and waste, UN confronts well-entrenched foe", International Herald Tribune, **3 November 1997**.

Other troubling events suggest that the OIOS was and is dragging its feet on whistleblower investigations, just as the Secretariat did with the overall 1993 management accountability reforms. For instance, Mr. Paschke angrily and flatly refused to respond to serious anonymous charges made about his decisions in staffing his own Office, while threatening whichever OIOS staff had made them. Yet in an appearance before the Fifth Committee just months before, and under some pressure concerning his relationship with staff and commitment to investigations matters, he responded, again testily, to a delegate's questions that:

" ... I categorically reject the suggestion that I would in any way discriminate against a staff member who reports problems or uncovers fraud."

"Statement to the Fifth Committee by Karl Th. Paschke, [USG for OIOS]," **December 2, 1996** , and

"Dear colleagues" letter from Mr. Paschke of **31 March 1997**.

[Note: UN staff members who had been or were being "sold out" by Mr. Paschke even as he made this public statement were not impressed.]

The UN staff grapevine, as already noted, contains many stories of failed reporting to OIOS, or information fed back to bosses on "someone" making allegations about problems in their unit, with quite unpleasant results. And a 1995 book on the "real UN" observed sagely that

"Introduction: A good idea fallen among thieves

The UN has the media relations of a 1950s state bureaucracy. It doesn't like reporters looking into its inner workings, and it threatens dire penalties to staff found leaking information to the media.

Time and time again, when journalists have exposed scandals in the UN, senior officials set up an enquiry -- into who leaked!"

Ian Williams, The UN for beginners, Writers and Readers, New York, 1995, p. 1.

A careful reading of the OIOS annual reports also indicates a persistent bias toward managers, particularly in the steadily-repeated desires to work closely and supportively with them, but also in an eagerness to assuage any managerial fears. In his last annual report, in 1999, Mr. Paschke stated that there had been "misapprehension and fear" about OIOS, and emphasized again his desire to be a partner rather than an adversary of management. He then gave a rather detailed account of a manager whom OIOS cleared of very serious accusations, while punishing the person [an auditor] who had reported the problem. He concluded that staff (read "managers") should realize the "valuable" OIOS investigations function of clearing those individuals who have been wrongly accused.

"Report of the Secretary-General on the activities of the Office of Internal Oversight Services" A/54/393 of **23 September 1999**, paras. 56-57.

[in the context of the second-to-last sentence, please see Mr. Paschke's statement of December 2, 1996 above.]

However, Mr. Paschke in fact went much, much farther, not merely protecting managers from allegations of wrongdoing but working closely with UN managers themselves, despite their total lack of professional skills in this field, to decide who, whether, when, and how to conduct investigations in their own operations. In his 1996 annual report Mr. Paschke stated that:

"It is ... my observation that the [Investigations Section] is increasingly seized with more and more complex investigation matters, many of which are raised with us by programme managers ...

This year ... major commitments to investigate [such cases] were made by the Governments of Kenya and Switzerland. There is also substantive and consistent commitment to [such cases] by the concerned programme managers in ... Geneva and Nairobi. ... These decisions by programme managers to seek criminal prosecutions, in order to send a message that criminal conduct can result in criminal prosecution ... represent hard evidence of the realization of the Secretary-General's determination to increase accountability as part of his reform programme. "

"Report of the Secretary-General on the activities of the OIOS", A/53/428, **23 September 1998**, Preface, para. 8, and para. 121.

In contrast to the noticeably "laid-back" and collegial attitude of Mr. Paschke to UN corruption problems, however, the General Assembly was becoming increasingly concerned at the persistence of corruption problems, especially because OIOS had been in operation for several years (and based on the forceful reporting provided to it by the UN external auditors):

"The General Assembly, ...

Expressing deep concern about the persistence of problems and defects observed by the

Board of Auditors in the financial administration and management of the United Nations;

...

11. Notes with deep concern the incidents of fraud and presumed fraud reported by the Board of Auditors;

12. Requests the Secretary-General and the executive heads ... to take the disciplinary actions necessary in cases of proven fraud and to enhance the individual accountability of United Nations personnel, including through stronger managerial control; ...

15. Emphasizes the need for greater transparency and stricter controls for trust funds ...

17. Notes ... that further work needs to be done in the biennium 1996-1997 to bring the financial statements fully in line with the United Nations common accounting standards, and requests the Secretary-General and the executive heads ... to pursue their efforts to ensure full compliance with those standards."

"Financial reports and audited financial statements, and reports of the Board of Auditors," General Assembly resolution 51/225 of **16 May 1997**.

Yet Mr. Paschke actually managed to complete his five-year term with somewhat of an image as a "crime-buster," based apparently on the few high-profile corruption cases that he reported on (compared to almost none in preceding UN history), and his very polished public relations skills. In a "farewell interview" of November 15, 1999, it was stated that he:

"... leaves office, having uncovered millions of dollars of fraud or abuse.

For the first time, the United Nations began dismissing employees quickly, recovering losses by confiscating their pensions and property, and turning over criminal cases to public trials in national courts rather than allowing malfeasance to disappear quietly. In the international legal limbo of the United Nations system, offenders may still be transferred rather than disciplined, but Mr. Paschke hopes this will be less likely in the future."

Barbara Crossette, "A U.N. watchdog exits to applause," New York Times, **November 15, 1999**.

But a second article sounded much less impressive, recognizing that most of the dollars saved came from catching "waste and mistakes", and reducing the frauds to a dozen schemes, some quite small, over a five-year period. This article, published as Mr. Paschke's successor, Dileep Nair, was chosen, stated that:

"Within the last five years, the inspector-general's office has identified \$120 million in waste and mistakes, and recovered \$70 million through settlements and court-ordered reimbursements.

But its proponents say the real value of OIOS is its role as a deterrent.

The Office has unearthed more than a dozen schemes to defraud the international organization, ranging in size from relatively minor education reimbursements to million-dollar conspiracies to embezzle peacekeeping and travel expenses."

Betsy Pisik, "Annan picks Singaporean for U. N. Inspector-General's job", Washington Times, **February 22, 2000**.

In 2000, after a year of consultations, the General Assembly passed a resolution with its required "evaluation" of

OIOS work after five years of operation [and it is scheduled to make another such "evaluation" in 2004.] In a section dealing with OIOS investigations work, the Assembly expressed its sense that something was wrong. It stressed that the Secretary-General should provide procedures to protect individual rights of staff, including whistle-blowers, in OIOS investigations, and called on him to submit a report to the Assembly on OIOS procedures to ensure fairness and avoid possible abuse in the investigation process.

"Review of the implementation of General Assembly 48/218 B," General Assembly resolution 54/244 of **31 January 2000**.

[The resulting report was

"Rules and procedures to be applied for the investigation functions performed by the Office of Internal Oversight Services," UN document A/55/469 of **11 October 2000**. This report merely reiterated existing OIOS protective procedures, but did help open a whole "can of worms" about bizarre new Secretariat investigations, as discussed in the subsection on Manager/investigators under the archive section on Recent Developments.]

At the same time, the Secretariat was approaching the pivotal event of its corruption-fighting efforts, at the end of Mr. Nair's first year. In September 2000, a news article reported dramatically that:

"The United Nations has been hit by an unprecedented wave of fraud, waste and corruption. Officials at its antifraud investigation unit say they are expecting to have to run more than 350 inquiries by the end of the year -- nearly twice the total for 1998, and a 50 per cent increase on last year. Thousands of staff, contractors, and consultants have been interviewed in scores of countries. ...

The revelations will embarrass Kofi Annan, the UN Secretary-General, who is to welcome national leaders ... to the 'Millenium Summit' in New York next week. ... Annan is hoping to convince skeptical heads of state that the UN has provided value for money and that its role should be expanded. ...

One senior investigator said last week that the UN investigations unit's workload was greater than ever. 'We are seeing more and more frauds and abuses of authority.' ...

The OIOS's annual report, due out next month, will reveal cases of sloppy management, lax enforcement, harassment and outright criminality. ... OIOS is working with dozens of interntional police forces -- including Scotland Yard -- on inquiries into the activities of UN personnel."

Jason Burke, et. al., "UN rocked by flood of fraud cases: Officials were 'addicted to luxury," The Observer International (UK), **September 3, 2000**.

The OIOS annual report for 2000 was issued only a month later. It lacked the fire of the interview, but did indeed state impressively that:

"The Investigations Section investigated 38 cases which were presented for administrative or disciplinary action: 22 of those cases were recommended for criminal prosecution by national law enforcement authorities."

"Report of the OIOS", UN document A/55/436 of **2 October 2000**, para. 156.

The interview may or may not have "embarrassed" the Secretary-General at his grand Millenium Assembly in New York, as the above article suggested. However, since that time, and especially in the OIOS annual reports, the OIOS Investigations Section and its "crime-fighting" work have almost vanished from sight. It seems an interesting possibility that, with Mr. Paschke gone, OIOS staff may have felt that they could finally become much more aggressive in their investigations work.

Subsequent events, however, suggest that because of the "wave of fraud" article, OIOS investigative work now receives greatly reduced priority, commitment, and publicity. It has almost disappeared from OIOS reporting, except for the occasional stories of some major fraud cases which still attract attention to UN crime-fighting prowess. Thus -- and sadly -- it seems that investigations, and the fight against "fraud, waste, and abuse", the only new elements of UN internal oversight that were installed in 1994, have almost vanished as a priority in UN management reform.

The 2001 OIOS annual report, suddenly and conspicuously, had very little to say about investigative actions and results. It showed a big increase in "cases received" and backlog, but made little mention of major fraud cases found or prosecuted, funds saved, whistleblower activity and actions taken thereon, the number of cases sent to national courts in the 2001 reporting year, or the results obtained in those courts.

In 2002 the OIOS annual report did not include a separate commentary on the Investigations Section. Indeed, although some "crowd-pleasing" investigation results [the fig leaf referred to in this subsection's title] were featured prominently in the preface, the word "investigations" was nowhere to be found in the report's table of contents.

The 2003 annual report provided more stories of "hot cases," but only one item on investigation work, "Rationalizing the services of investigations and prioritization of cases." It was not very reassuring, since it stated that the [newly upgraded] Investigations Division had received some 630 "new matters" to be investigated, and had a standing backlog of some 200 items. It stated reassuringly (but not very convincingly) that every one of them was "carefully assessed" with a "thorough review."

"Report of the OIOS", UN document A/56/381 of **19 September 2001**,

"Report of the OIOS", UN document A/57/451 of **4 October 2002**, and .

"Report of the OIOS", UN document A/58/364 of **11 September 2003**, paras. 136-139.

The 2004 OIOS annual report showed little change. It again provided no separate section focusing on overall Investigations Division work. The OIOS self-evaluation gave investigations work three paragraphs, calling the Division "a highly professional entity" which had matured to investigate allegations of all types of fraud, waste and mismanagement, with a rising caseload every year, as more staff and managers "feel encouraged to make reports" (the latter assertion, of course, is belied by the findings of the Integrity Survey of June 2004, see below). The Division was also working "proactively" with other enforcement agencies and authorities, but UN offices away from New York noted the "many demands on a small staff" and the need for investigators at duty stations on a permanent basis, to provide a deterrent effect. Overall,

"feedback indicated that OIOS should provide more information about investigations and OIOS in general."

"Report of the OIOS", UN document A/59/359 of **13 September 2004**, paras. 117-119.

The OIOS biennial programme plan for 2005-2006 does not offer much encouragement about a more dynamic and transparent role. The OIOS overall objective and investigations subprogramme are:

"focused on ensuring that the Organization has an effective and transparent system of accountability in place and on developing the capacity of the Organization to [foresee and handle] ... the risks and threats which might prevent it from achieving its objectives."

"[Investigations] Objective of the Organisation: To mitigate risks caused by violations of the United Nations regulations and rules through professional investigations and increased risk awareness."

"Proposed strategic framework for the period 2006-2007: Part two: Biennial program plan: Programme 25, Internal Oversight", UN document A/59/6/ (Prog. 25), **20 April 2004**, p. 5.

[Note: The 2005-2006 plan then sets out "Expected Accomplishments of "better compliance with regulations and rules", to be evidenced by more recommendations accepted and implemented, and increased understanding of and "mitigation action" on, trends and risks.

In the midst of the multi-billion dollar scandal allegations from the UN-administered oil-for-food programme in Iraq, the Integrity Survey, and the many troubling senior management problems of 2004 as set out in the preceding subsection, the OIOS certainly has much work to do to fulfil this quite upbeat and cheerful assessment of its past work and future intentions.

In fact, IO Watch concludes that the weak investigative work of the OIOS as the leading Secretariat bulwark against serious fraud, waste, and mismanagement problems in the \$6 to \$10 billion of annual UN operations -- and its cosy relationship with UN managers -- represent a very serious failure to properly implement OIOS basic and unique watchdog responsibilities (and to challenge the efforts of the UN leadership and Secretariat overall), and to establish the "effective and transparent system of accountability and responsibility" called for by the General Assembly in its resolution 48/218A of December 1993.

OIOS shortcomings are also the result of its diplomat-led, management-consulting preoccupations, and its reporting timidity and debilities built up over the past decade of work. The OIOS is clearly better than the weak, fragmented, non-reporting internal oversight units that it replaced, but "better than bad" does not mean good.

An excellent 1993 book provided key factors and questions which can be used to determine the oversight effectiveness of inspector generals.

" ... defining effectiveness in purely organizational or dollar terms is far too narrow. Effectiveness also rests in what is best for government. ... Using this broader definition of effectiveness prompts at least five questions of IG operations:

(1) How professional are the offices? (2) How deep is the coverage? (3) How great are the savings? (4) How good are the cases? (5) How visible are the results? The first two questions deal with inputs ... the final three ... with outputs which in turn give at least some sense of the impacts on fraud, waste, and abuse. ...

[Yet] in the final analysis, an IG's effectiveness involves much more than ... [the above ...] an IG also must focus on department or agency performance. It is simply not enough to catch the bad guys. The long-run success of the IG concept can be measured only by the quality of life produced by government. This value can be inferred by four simple, if imperfect, questions regarding interest, trust, vulnerability, and value added.

Is anyone listening?

Is the public more trusting?

Is the government less vulnerable to fraud, waste, and abuse?

Is the government producing outcomes of greater public value?"

Paul C. Light, Monitoring government: Inspectors General and the search for accountability, Brookings, Washington, D.C., 1993, pp. 204, 220-223.

In the context of this guidance, IO Watch finds multiple concerns about OIOS work, especially in fulfilling its unique and critically important investigation responsibilities.

-- Despite a number of queries from the press and delegates over the years, the professional competence of OIOS staff has not been clearly documented or reported upon, or updated -- just asserted.

-- OIOS clearly does not have nearly enough staff to oversee the \$6-10 billion of UN funds spent annually in its worldwide operations, but it has not pressed for a significant increase in its investigative staff.

-- Most of the OIOS cost savings claimed have involved bookkeeping or allowances adjustments due to careless management (the "mistakes" quoted above). A dozen or so small fraud cases (as of 1999, certainly more now but still modest) is not very impressive in a multi-billion dollar organization with widely-recognized management problems and inadequacies in its hectic field programmes worldwide.

-- OIOS reports make no mention of any "abuse" cases in the UN (to complete the "waste, fraud and abuse" litany) and despite staff rules which say that such actions "will not be tolerated." IO Watch speculates that perhaps no abuse is reported because those doing the abusing would very likely be UN managers, since they have the most power to engage in such things.

-- The fraud cases (and some \$130 million of overall cost recovery) found by the OIOS are also a tiny, tiny fraction of the \$60 to \$100 billion (at \$6 to 10 billion per year) that the UN has expended in a decade under Mr. Paschke's and Mr. Nair's supposedly watchful eyes, and any savings may be totally obliterated by the \$5 to \$10 billion that has "gone missing" in the UN-administered oil-for-food programme in Iraq (as discussed in the concluding Recent Developments section under Other Major Problems .)

-- The enthusiastic efforts led by OIOS for an "integrity" initiative may well be useful. But the heavy and seemingly ever-expanding emphasis on OIOS as a management consultant and "change agent" with managers undermine the most important reason for establishing OIOS in the first place -- to systematically combat fraud, waste, and abuse, which OIOS has consistently placed far down the priority list.

-- Given the solicitous approach of the OIOS leadership to its managerial colleagues over the past decade (but not to mere UN staff), one has to wonder if the UN has ever yet sanctioned a misperforming manager (other than the 2003 Baghdad bombing tragedy, which an outside report made unavoidable) as the General Assembly repeatedly called for, and if so, how.

-- In addition, OIOS has failed to go beyond "cops and robbers" work to serious and systematic anti-fraud efforts and analysis, some of which is apparently due to the

resistance and timidity of some Member States in the General Assembly in this area. An obscure Secretary-General's letter to the Fifth Committee in 1997, however, noted that at least one UN programme and its overseers had jointly agreed to act decisively:

"... the Governing Council of UNEP [the United Nations Environmental Programme], in a May 1995 decision, decided] ... to work closely with the Office and ... the Executive Director to formulate and enact ... a specific plan of action to prevent waste, fraud and mismanagement. The Secretary-General welcomes these developments to confirm that [UN] funds and programmes have recognized the necessity to strengthen their internal oversight functions."

"Letter dated 23 October 1997 from the Secretary-General addressed to the Chairman of the Fifth Committee," UN document A/C.5/52/12 of **28 October 1997**, p. 5. [emphasis added]

-- A recent article on combating global corruption notes that anti-corruption coalitions "on paper" will not be effective without enforcement in fact. This requires, first and foremost:

- an independent and competent judiciary;
- adequate prosecutorial capabilities; and
- whistle blower protections.

Richardson, Peter, "The global assault on corruption", The Journal of Public Inquiry, **Fall/Winter 2001**, p. 6.

[Note: in the UN, the second element is apathetic, the first is totally missing, and the third is meaningless, as discussed in the archive subsection on Disappearing whistle-blowers .]

-- Another unfortunate trend of OIOS work is an increasing tendency for OIOS investigations to "whitewash" serious allegations, as reported in the media, that involve senior UN officials. One involved two successive UN top "corruption fighters" in 2001 and 2003, and another cases of refugee sexual abuse in West Africa involving UNHCR. Both are discussed further under Other Major Problems subsection in the concluding section of this archive. IO Watch will in the future also explore a number of past cases in which it appears that major scandals arose in UN programs, or even recurred, shortly after OIOS had made management audit or related reports which found no such problems.

-- Criminal court cases initiated by OIOS would indeed be an important measure of OIOS investigative success. But what happened to the 22 staff cases that the OIOS reported that it had recommended for criminal prosecution in national courts in 2000, now four years later? To earlier cases? How many cases in total have been sent, and with what results? What is the trend? How much money has been recovered, and how much not? Above all, what was the

quality of the UN cases sent to national courts, in terms of convictions, and the cost-benefit of the cases handled?

This leads to the essential issue of proper reporting, and the transparency of OIOS work. Is it so difficult to report systematically on organizational investigation work in the UN Secretariat and its results? It doesn't seem so, as indicated clearly by the following two examples.

In its 1993 report on accountability, the JIU managed to piece together the following chart from Secretariat records, which already goes far beyond what OIOS reports:

"The United Nations is not exempt from [worldwide] ... waste, fraud, abuse and corruption problems ... UN [audit officials] acknowledged that investigations of complaints of violations are neither centralized or organized. ... The only firm data ... come from personal grievances and managerial disciplinary actions appealed to [OHRM] ... [they] show a very disturbing recent increase in ... mismanagement and fraud cases as field operations have rapidly expanded worldwide:

	<u>1990</u>	<u>1991</u>	<u>1992</u>	First half of <u>1993</u>
Total new cases referred	28	30	40	70
subtotal: mismanagement/fraud	15	17	13	45
leading to: dismissal of staff	2	4	4	1
appropriate action	8	10	4	3
lack of evidence	4	2	5	29
other	1	1	1	13

The biennial reports by the Board of Auditors include some information ... [but] cover only the 1986-1991 period, [and thus] ... do not reflect fraud problems [from the vast] ... expansion of [UN] operational activities. Meanwhile, partial [internal audit] statistics on recovery against fraud, which is the responsibility of the managers concerned, show serious problems. Between 1988 and mid-1993, the internal auditors recommended \$3,500,000 for recovery, but only \$85,000, a mere 2 percent of the total, had actually been recovered."

Joint Inspection Unit, "Accountability and oversight in the United Nations Secretariat", UN document A/48/420, **1993**, p. 14. [emphasis added]

Other organizations seem to have no problem in making clear and succinct reports on their overall patterns of waste, fraud and abuse cases. The World Bank, for example, provided an excellent example, as cited in a 1999 article on its staff problems:

"World Bank Complaints

Misconduct cases investigated by the World Bank's Office of Professional ethics in 1997

TYPE OF CASE

NUMBER

Tax related	57
Misuse of facilities or property	54
Harassment - nonsexual	36
Benefits related	30
Abuse or negligence of authority or position	22
Fraud	21
Harassment - sexual	8
Criminal charges	3
Other misconduct *	<u>77</u>
 TOTAL	 308

* Other misconduct includes defaults on loans, favoritism in hiring, conflict of interest, abusive behaviour toward security, plagiarism, bribe solicitation, and overtime discrepancies"

Glenn R. Simpson, "World Bank, under attack, concedes staff problems," Wall Street Journal, March 19, 1999.

WHY CAN THE PURPORTEDLY HIGHLY PROFESSIONAL AND ACCOUNTABLE OIOS NOT PRESENT SUCH A SIMPLE STATISTICAL REPORT, AS A BASIC STARTING POINT, TO THE GENERAL ASSEMBLY EVERY YEAR?

IO Watch concludes that until it does present such reporting and careful analysis, and for every year of its existence going back to 1994, all its reporting and grand statements and conceptual efforts regarding investigation practice and results are just so much show, and its credibility as well.

The UN can certainly not claim that such statistics and analysis are not necessary because it is corruption-free, particularly in light of recent scandals in the Iraq oil-for-food programme. In fact, the Secretariat numbers might prove to be awesome, particularly for the "other" misconduct areas mentioned in the footnote in the World Bank chart above, which in fact describe a whole raft of cases which occur over and over in the UN, untracked and totally "under the radar."

Note: Discussion of this topic continues in the subsection on Investigation efforts: Is the OIOS a fig leaf?, II.