

## Ethics Presentation

### Excerpt from the federal *Criminal Code*:

#### Corruption and Disobedience

##### Bribery of officers

- 120.** Every one who
- (a) being a justice, police commissioner, peace officer, public officer or officer of a juvenile court, or being employed in the administration of criminal law, corruptly
    - (i) accepts or obtains,
    - (ii) agrees to accept, or
    - (iii) attempts to obtain,for himself or any other person any money, valuable consideration, office, place or employment with intent
    - (iv) to interfere with the administration of justice,
    - (v) to procure or facilitate the commission of an offence, or
    - (vi) to protect from detection or punishment a person who has committed or who intends to commit an offence, or
  - (b) gives or offers, corruptly, to a person mentioned in paragraph (a) any money, valuable consideration, office, place or employment with intent that the person should do anything mentioned in subparagraph (a)(iv), (v) or (vi),
- is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

R.S., c. C-34, s. 109.

***Synopsis: This section targets those involved in the administration of criminal law (which may include some provincial offences). It creates offences for both a person offering a bribe and the person who accepts or agrees to accept it.***

##### Frauds on the government

- 121.** (1) Every one commits an offence who
- (a) directly or indirectly
    - (i) gives, offers or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official,

- or
  - (ii) being an official, demands, accepts or offers or agrees to accept from any person for himself or another person, a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
  - (iii) the transaction of business with or any matter of business relating to the government, or
  - (iv) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow, whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;
- (b) having dealings of any kind with the government, pays a commission or reward to or confers an advantage or benefit of any kind on an employee or official of the government with which he deals, or to any member of his family, or to any one for the benefit of the employee or official, with respect to those dealings, unless he has the consent in writing of the head of the branch of government with which he deals, the proof of which lies on him;
- (c) being an official or employee of the government, demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the head of the branch of government that employs him or of which he is an official, the proof of which lies on him;
- (d) having or pretending to have influence with the government or with a minister of the government or an official, demands, accepts or offers or agrees to accept for himself or another person a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
  - (i) anything mentioned in subparagraph (a)(iii) or (iv), or
  - (ii) the appointment of any person, including himself, to an office;
- (e) gives, offers or agrees to give or offer to a minister of the government or an official a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
  - (i) anything mentioned in subparagraph (a)(iii) or (iv), or
  - (ii) the appointment of any person, including himself, to an office; or
- (f) having made a tender to obtain a contract with the government

- (i) gives, offers or agrees to give or offer to another person who has made a tender or to a member of his family, or to another person for the benefit of that person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the tender of that person, or
- (ii) demands, accepts or offers or agrees to accept from another person who has made a tender a reward, advantage or benefit of any kind as consideration for the withdrawal of his tender.

Contractor subscribing to election fund

- (2) Every one commits an offence who, in order to obtain or retain a contract with the government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes or gives, or agrees to subscribe or give, to any person any valuable consideration
  - (a) for the purpose of promoting the election of a candidate or a class or party of candidates to Parliament or the legislature of a province; or
  - (b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in Parliament or the legislature of a province.

Punishment

- (3) Every one who commits an offence under this section is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

R.S., c. C-34, s. 110.

***Synopsis: Section 121 creates a number of offences relating to frauds on government and is aimed, in part, at influence peddling. It creates offences for government employees and “officials” (which has been interpreted to include members of municipal council), or their family members, and the person offering a bribe. The offences extend to offering benefits, even if the benefits cannot be delivered, in return for government business or benefits, or the offer of government business or benefits. It also covers government employees or officials who demand a benefit, and a person pretending to have influence who demands a benefit.. It specifically references tenders (using bribery for someone to withdraw from a tender call) and offering campaign contributions in return for contracts.***

Breach of trust by public officer

- 122.** Every official who, in connection with the duties of his office, commits fraud or a breach of trust is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

R.S., c. C-34, s. 111.

***Synopsis: Breach of trust has been interpreted to mean using one’s public position to obtain, directly or indirectly, some benefit, or to promote one’s own private ends.***

### Municipal corruption

- 123.** (1) Every one who
- (a) gives, offers or agrees to give or offer to a municipal official, or
  - (b) being a municipal official, demands, accepts or offers or agrees to accept from any person, a loan, reward, advantage or benefit of any kind as consideration for the official
  - (c) to abstain from voting at a meeting of the municipal council or a committee thereof,
  - (d) to vote in favour of or against a measure, motion or resolution,
  - (e) to aid in procuring or preventing the adoption of a measure, motion or resolution, or
  - (f) to perform or fail to perform an official act,
- is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

### Influencing municipal official

- (2) Every one who
- (a) by suppression of the truth, in the case of a person who is under a duty to disclose the truth,
  - (b) by threats or deceit, or
  - (c) by any unlawful means,
- influences or attempts to influence a municipal official to do anything mentioned in paragraphs (1)(c) to (f) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

### Definition of "municipal official"

- (3) In this section, "municipal official" means a member of a municipal council or a person who holds an office under a municipal government.

R.S., 1985, c. C-46, s. 123; R.S., 1985, c. 27 (1st Supp.), s. 16.

***Synopsis: This section specifically concerns municipal officials who seek out or accept benefits to be influenced in their municipal responsibilities, and those who offer such benefits or through other means try to influence a municipal official to vote a certain way or try to affect an official act.***

### Selling or purchasing office

- 124.** Every one who
- (a) purports to sell or agrees to sell an appointment to or a resignation from an office, or a consent to any such appointment or resignation, or receives or agrees to

- receive a reward or profit from the purported sale thereof, or
- (b) purports to purchase or gives a reward or profit for the purported purchase of any such appointment, resignation or consent, or agrees or promises to do so, is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

R.S., c. C-34, s. 113.

***Synopsis: The section creates the offence of agreeing to sell or purchase an appointment to, or resignation from, a public office.***

[Influencing or negotiating appointments or dealing in offices](#)

**125.** Every one who

- (a) receives, agrees to receive, gives or procures to be given, directly or indirectly, a reward, advantage or benefit of any kind as consideration for cooperation, assistance or exercise of influence to secure the appointment of any person to an office,
- (b) solicits, recommends or negotiates in any manner with respect to an appointment to or resignation from an office, in expectation of a direct or indirect reward, advantage or benefit, or
- (c) keeps without lawful authority, the proof of which lies on him, a place for transacting or negotiating any business relating to
- (i) the filling of vacancies in offices,
  - (ii) the sale or purchase of offices, or
  - (iii) appointments to or resignations from offices,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

R.S., c. C-34, s. 114.

***Synopsis: Section 125 prohibits attempts to influence or negotiate appointments, or resignations, from office for a benefit.*** \_\_\_\_\_

[source for synopses: Martin's Annual Criminal Code, Canada Law Book Inc.](#)

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