

**Violence, Threats, and Anti-Corruption Compliance:
Thoughts on Brazil's latest killings**

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In the last week, two Brazilian journalists, Paulo Rodrigues of Jornal da Praça and Mario Lopes of Vassouras na Net, [have been murdered](#). Both were vocal critics of corruption there. One was killed by men on motorcycles. The other was abducted from his home with his girlfriend and later shot dead.

These developments are tragedies for the journalists and their families. They also serve as reminders of three important aspects of corruption: First, corruption is a crime, committed by criminals. Second, anti-corruption work can be dangerous. Third, anti-corruption compliance practitioners should seek to manage these issues.

Corruption is Criminal. Every time I hear someone say, “but corruption is just the way business is done in some countries” – as if this were an excuse – I cannot help but think about the real risks at play. Corruption is a crime. It is conducted by people who operate outside of the law. Once you are operating outside of the law by stealing from the public, (*i.e.*, once you are a criminal), the leap is not far to hiring gunmen on motorbikes to kill people.

Some might excuse corruption as cultural. That is wrong. By tolerating this activity, not only is the general public deprived of fair public management of its common resources. Tolerating this activity permits criminality to prosper. Just because corruption might be familiar in a certain country does not mean that it is acceptable, or without danger.

The Realities of Anti-Corruption Compliance Work in the Field. Those of us who have been doing FCPA compliance work for years usually have our own stories of situations that made us worry. Often this comes in the form of veiled threats from subjects or witnesses. After an interview got heated in Caracas, Venezuela, an interviewee told a colleague about all of the foreigners that had disappeared on the road to the airport. A nervous subject in a town in Bosnia told another colleague in detail about the way that killings occur there.

I have conducted internal investigations in Africa with armed guards. Recently, a third party I was vetting in a high risk country threatened to use its contacts to have my team detained at the airport before leaving the country. We got the U.S. Embassy involved.

Managing Risks of Violence in your FCPA Compliance Program. It is now common for a company's anti-corruption compliance program to have a “personal safety” exception for

payments made when someone's life, health, or physical safety is in danger. Though this is not written into the FCPA, it is understood. There should be no question that if people are physically threatened, they should prioritize their safety above the rules prohibiting, for example, petty payments to low-level officials. Compliance personnel should stress this in their trainings and other communications.

But beware of creating an exception that eats the rule. The credibility of this rationale diminishes every time it is used. In 2007, Chiquita Brands International [pled guilty](#) to making payments over the span of six years to a Designated Terrorist Organization in Colombia, the Autodefensas Unidas de Colombia (AUC), and paid a \$25 million fine. The company started making the payments after the AUC suggested that failure to do so could result in physical harm to the company's personnel and property. Though this was not an FCPA violation, the settlement required the company to implement and maintain an effective compliance and ethics program.

When an employee makes a payment to protect him or herself, the company should be informed immediately, and it needs to react. If the work environment is that dangerous, you should find enhanced security arrangements that do not require bribe payments. Or you should stop your work there.

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