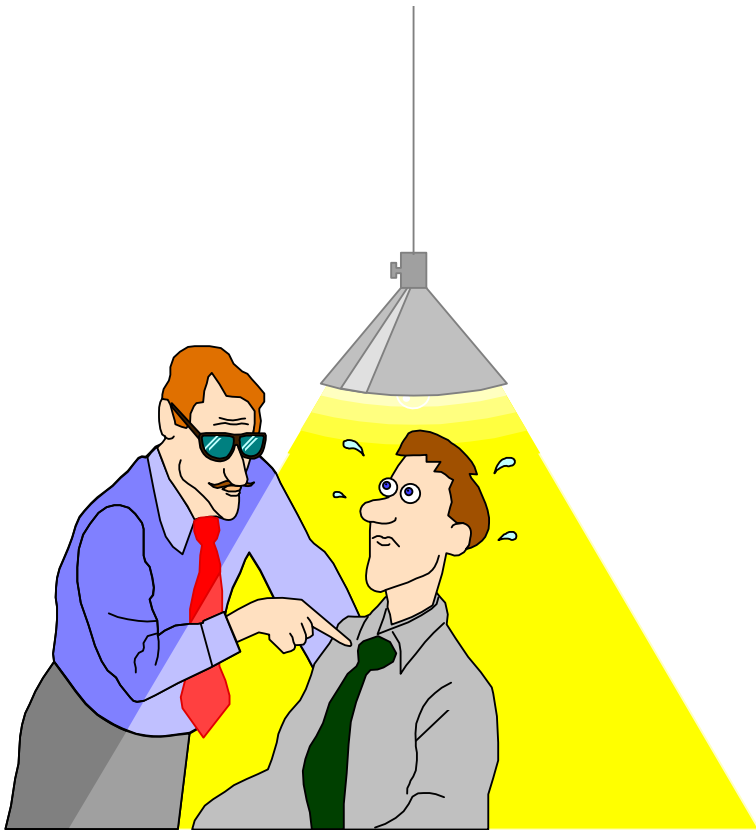


# Comparative Criminal Law – civil/common law and corruption

# Some stereotypes

**Civil Law/Inquisitorial**



**Common Law/ Accusatorial**



## Inquisitorial

Contemporaneous  
judicial control of  
investigation in  
accordance with  
code of criminal  
procedure

## Accusatorial

Such control as is  
exercised by  
courts over  
investigations is  
retrospective *via*  
rules of evidence

## Inquisitorial

Judicial activity: all decisions follow from the commitment of the judge

## Accusatorial

Judicial passivity: all decisions follow from motions of the parties

# Inquisitorial

court has  
power/duty to  
obtain evidence

# Accusatorial

parties bear  
responsibility for  
obtaining and  
introducing  
evidence

## Inquisitorial

decision can be  
based upon any  
material lawfully  
available to the  
court

## Accusatorial

decision to be based  
entirely upon  
material  
introduced by  
parties

## Inquisitorial

inference of guilt  
from accused's  
silence may  
legitimately be  
made

## Accusatorial

no inference of guilt  
from accused's  
silence

## Inquisitorial

full disclosure of  
prosecution and  
defence cases  
prior to trial

## Accusatorial

little disclosure of  
defence case  
before trial



# Inquisitorial

trust reposed in  
officials acting for  
state

# Accusatorial

trust reposed in  
dialectic and fact-  
finders (jury)

# Investigation/Accusation/Prosecution

Change in personnel + commensurate  
increases in protections for defendant.

# Convergence?

(and financial crime as a locus of convergence),  
because investigators need:

- (i) better legal during the investigation  
information than in most areas of crime;
- (ii) investigative powers that require more from  
defendant than in most other areas of crime;

# Consequence?

Fraud enquiries will look closer than other areas of criminal law the world over.