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## Rising to the Surface: The Detection of Public Corruption

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### ABSTRACT AND ARTICLE INFORMATION

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In the last 30 years, prosecutions of public corruption cases have continued to increase in the United States. Some cases are short-term acts, such as a bribe for a contract, but others are long-term and systematic, such as the Pennsylvania judges' kids for cash scandal. This project involved interviews with 73 former investigators, prosecutors, community stakeholders, and individuals with first-hand experience in corrupt activities, together with analysis of court documents, to reveal how such cases came to the attention of law enforcement. Information about corrupt acts comes to law enforcement in a few distinct ways: experienced by a member of the community, discovered during other investigations, tips from anonymous persons or whistleblowers, and through regularly required audits. Empirical examples from interviews and court cases show how law enforcement identified corrupt acts. Unlike business fraud, whistleblowers appear to play a smaller role compared to informants and other criminals in corruption cases.

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Public corruption continues to make news headlines in the United States. For example, a senator found not guilty in federal court after two trials (Corasaniti, 2018), another (Skelos) found guilty after two trials (Wang, 2018), and a House committee investigation into a sitting Governor's wrongdoing (Bosman & Smith, 2018). Public corruption refers to the use of one's public office for personal gain (Rose-Ackerman & Palikfa, 2016; Transparency International 2017; World Bank, 2017). It appears that corruption is pervasive, given the existence of cases at the local, state, national, and international levels. However, the actual extent of corruption remains unknown. In many investigations, the activity becomes classified as "grime, not crime" by prosecutors because the activity is not transparent or desirable (e.g., accepting money for a meeting) but does not constitute a criminal act (Albanese & Artello, 2018). As more and more corruption proceedings become labeled as "witch hunts" by the implicated players and their surrogates, the demonstration that the investigation and subsequent prosecution was independent becomes paramount. However, law enforcement officials usually keep the investigation process shrouded from the public unless there is a prosecution or settlement.

Congress enacted the whistleblower's program in 2010 to encourage disclosure of Foreign Corrupt Practices Act (FCPA) violations (United States Security and Exchange Commission [SEC], 2011). Since its enactment, the tips received by SEC for FCPA were less than 200 for all years except 2018 when it was 202 (SEC, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019). SEC has only had 72 awards to whistleblowers, and in 2019, the number of claims was lower than in 2018 (Brasseur, 2020; SEC, 2018, 2019). Consequently, the impact of such programs on whistleblowers' actions is unknown.

The impetus of investigations has been shrouded in shadows because these types of crimes are hidden from public view. These crimes do not have identified victims (e.g., a dead body), and the damage is usually remote (e.g., misdirection of public funds may not be immediately apparent). It is essential to understand how investigations usually begin to assess their legitimacy and ameliorate any actual or perceived political motivations for action or inaction. If the public begins to perceive such investigations as mere political theater, the legitimacy of the rule of law erodes as the basis for modern democracies. This study addresses the gap in the literature through the interviews with individuals directly involved in the discovery, investigation, and prosecution of public corruption to determine typical mechanisms that bring such corrupt activities to light.

## Literature Review

The misuses of one's public office or authority, either an elected office or appointed position, for personal gain define public corruption (Rose-Ackerman & Palikfa, 2016; Transparency International 2017; World Bank, 2017). Corruption and white-collar crimes are conceptually similar in that elites misuse their position for personal gain. However, white-collar crimes are usually committed for financial gain (e.g., frauds), whereas corruption is committed most often to achieve or extend power illicitly (e.g., bribery, official misconduct). Therefore, both corruption and white-collar crimes involve the behavior of elites (in their more severe forms), although the objectives of the crimes can differ. These similarities and differences have spawned distinct kinds of literature on commercial corruption (white-collar crime/private sector corruption) versus political or public corruption (public sector corruption). These literatures reveal some similarities, such as offenders, but dissimilarities in other respects (Campbell & Lord, 2018; Holtfreter, 2005; Russell, 2019; Teachout, 2014).

The impacts of commercial corruption and public corruption also differ. Corruption and fraud in the commercial sector (e.g., drug counterfeiting, business consumer frauds, embezzlement of corporate funds) affects only those involved in the transaction. In the case of public corruption, however, everyone is impacted due to the misdirection of public funds or an increase in costs for public projects (Albanese & Artello, 2018). However, unlike most other crimes (e.g., robbery, assault, theft), victims of public corruption are unlikely to discover the crime directly unless an insider or an involved party will disclose the corrupt activities. The general public, as the victims, experience the crimes indirectly, such as millions of dollars misdirected from public education into the pockets of school administrators' and principals' pockets in Detroit (Baldas et al., 2016). Consequently, participants usually hide their actions because of concerns about public disclosure that may result in public embarrassment, shaming of the official, and or criminal liability (Agbota et al., 2015).

The prosecution of public corruption in America is carried out primarily by U.S. Attorney's Offices. Cordis and Milyo (2016) found that the vast majority of all public corruption cases are prosecuted at the federal level. From 1986-2014, there were 16,452 convictions for public corruption-related offenses, and only 910 cases were prosecuted at the state and local level (Boylan & Long, 2003; Cordis & Milyo, 2016). In other words, approximately 94% of all public corruption convictions in the U.S. occur in federal court, although a substantial number of those

convicted are state and local officials (Albanese et al., 2019).

Little research has directly examined how investigators decide to start a public corruption investigation and what elements influence investigators' decision-making in the United States. However, one study found that public integrity reports by the U.S. Department of Justice pay "particular attention to the most dramatic cases of corruption (as opposed to the more mundane, typical cases) and emphasizes private businesses and individual malfeasance as exemplars of corruption" (Ceresola, 2019, p. 60). Therefore, a representative compilation of all public corruption cases does not exist, given the need to rely on those cases prosecuted. Most of the analytical work on public corruption prosecution has been done internationally, and it focuses on the lack of capacity and training of investigators, the absence of inside intelligence information, and the inability to develop major cases against high-level violators (Congram et al., 2013; Kirilenko, 2018; Suleiman & Ahmi, 2018; Zhou & Li, 2018).

White-collar crimes bear similarities to corruption, as noted above, because the offenders are often similar (i.e., persons of position, authority, or access), and the methods used are comparable to those used in corruption cases (i.e., deception, misuse of legitimate authority). There have been multiple efforts to explain and assess the extent of severe forms of white-collar crime in the private sector. According to the global reports from the Association of Certified Fraud Examiners (ACFE; 2016, 2018), whistleblowers were the most common way fraud was discovered in private companies across 114 and 125 countries, respectively. The Association conducts an extensive survey of their profession to ascertain the top fraud cases investigated in a designated year. In 2017, they received 7,232 responses to their 76 questions about their investigations. From the responses, 2,690 responses were substantiated for the report. In both reports, whistleblowers accounted for 4 out of 10 disclosures of corrupt behaviors in the commercial sector, and in 2018, the number increased to 4.6 out of 10 (ACFE, 2016, 2018). Public corruption studies match efforts like these through reports of cases, perceptions, and surveys (Andersson, 2017; Lin & Yu, 2014; Navot & Beerli, 2018). Nevertheless, like white-collar crime, there do not yet exist representative measures of the incidence of public corruption.

Explanations of both corruption and white-collar crime are diverse. However, they have focused on rational-choice explanations, given the planned nature of these offenses by persons of middle- and upper-class backgrounds with status or occupational access. These studies have focused on situational

factors, unethical employment environments, poor oversight, and a lack of proactive investigations (Gibbs et al., 2010; Gutmann & Lucas, 2018; Jordanoska, 2018; Simpson, 2013). Prevention implications focus on deterrence and improving the quality of internal and external oversight of low visibility decisions by those in positions of authority, but a great deal more empirical work is needed to test these propositions further (Simpson, 2013, Sohail & Cavill, 2008; Sproat, 2018).

This article fills a gap in the literature regarding investigators' decision-making surrounding the initiation of public corruption investigations. This study explores how public corruption becomes known to law enforcement specifically and the public generally. If such activity becomes known through different mechanisms, it is essential for the public and law enforcement to understand the disclosure and find ways to encourage such transparency to launch cases so that both the known extent and response to public corruption corresponds more closely to its true incidence.

## Method

This research was conducted to specify the precise mechanisms in practice that bring acts of corruption to the attention of investigators and prosecutors. Three questions lie at the heart of this effort:

1. How do corrupt behaviors, usually kept hidden, come to the attention of investigators?
2. What types of mechanisms help or hinder such disclosures?
3. How do law enforcement officials approach the different types of streams of information? (e.g., are some sources more reliable than others?)

Data were collected from three different sources: US Attorney's Offices, case documents, and interviews. These sources were scrutinized to determine how public corruption cases were initiated or came to the attention of investigators.

U.S. Attorney Offices make public announcements of indictments, convictions, or sentences imposed in public corruption cases. Because public corruption cases engender a great deal of public interest, they are invariably announced through press releases, and sometimes the indictments themselves are also released to highlight and disseminate the prosecution effort against public corruption. We gathered press releases from all 94 U.S. Attorneys' offices using keyword searches with

the following words: corruption, public corruption, and public official (e.g., mayor, officer, senator, congress, governor) and corrupt acts (e.g., bribe, kickback, embezzle, abuse of authority) over three years (2013-2015). We chose a span of the three years to ensure we have sufficient data from all U.S. Attorneys' offices and to guard against temporary changes in prosecutions. Press releases were also viewed as more reliable than Public Integrity Unit (PIU) Reports as they are closer to the case in time and location rather than the summary presented in the summative report in Washington DC. Additionally, PIU reports have been questioned regarding their reliability and objectivity in presenting public corruption convictions (Ceresola, 2019). Once the press releases ( $n = 2,419$ ) were collected, they were

investigators, former prosecutors, community stakeholders, and individuals who have firsthand experience (e.g., whistleblowers, city government personnel, victims, convicted officials, and undercover agents) as illustrated in Table 1. We sampled using purposive and snowball methods. Interviewees were discovered through a general recruitment email to former US Attorneys and FBI associations with the study description and the manner to contact us about participation by those with experience in corruption cases. Community stakeholders were discovered through media releases, newspaper accounts, and LinkedIn networks. Individuals were emailed with study information and asked if they wished to participate. Additionally, we posted information on LinkedIn about the study.

**Table 1: Interviewee Backgrounds**

Interviewee Backgrounds	<i>N</i> (#)
Former investigators (I)	18 (25%)
Former prosecutors (A)	22 (30%)
Offenders, victims, insiders, undercover, whistleblowers (E)	15 (20%)
Stakeholders, community activists, researchers (S)	18 (25%)
TOTAL	73 (100%)

reviewed using a pragmatic inductive approach to be grouped by type of discovery, if the release mentioned the source of the investigation (Savin-Baden & Major, 2013).

Second, we collected legal case documents via PACER, the online federal court docketing system. We identified 33 different cases based on information in the press releases (i.e., the press releases named the parties in the case) to discover how cases were brought to the attention of authorities. The cases were representative of the different types of behaviors charged as public corruption, such as bribery, extortion, embezzlement, abuse of authority, obstruction of justice, and regulatory violations (Albanese & Artello, 2019). We examined 46 indictments, informations, and superseding indictments. We coded the indictments to discover how investigations were opened if disclosed. Some cases did not mention the method of discovery because of other on-going investigations.

Additionally, we obtained IRB approval from VCU (IRB HM20006117) on February 1, 2016. We interviewed 73 people with knowledge about public corruption with four different perspectives: former

Some interviewees self-identified from the initial emails to us, and then other interviewees suggested future interviewees. Researchers contacted the referred potential interviewees via email, and if interested, they would respond.

Interviews ( $n = 73$ ) were semi-structured with open-ended questions and lasted from 40 minutes to 2 and a half hours. The former U.S. attorneys ( $n = 22$ ) served in offices across the country and had experience prosecuting public corruption cases. The former FBI agents ( $n = 18$ ) served in different offices across the country and had experience investigating multiple public corruption cases at all levels of government: local, state, and federal. Community stakeholders ( $n = 18$ ) were involved in a variety of organizations, local, state, national, and international. Some were focused on particular areas such as legal protections for vulnerable groups and others on government transparency and campaign financing. The last group ( $n = 15$ ) was individuals experienced firsthand with public corruption. Using inductive coding, we completed descriptive coding to identify types of sources and the manner in which



investigations progressed from their commencement (Savin-Baden & Major, 2013).

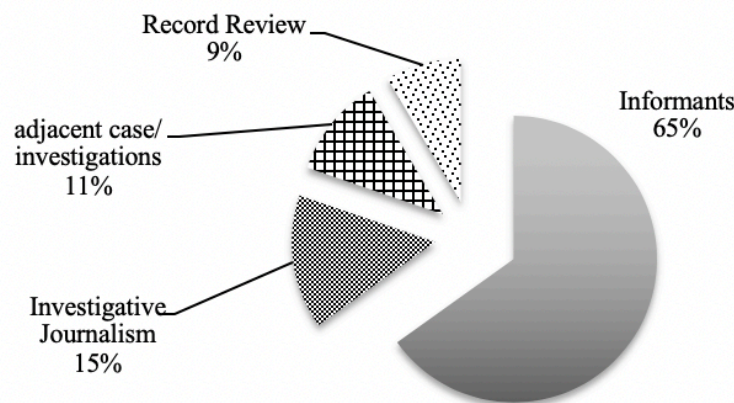
## Results

Combining data from all three sources (U.S. Attorney Offices, case documents, and interviews), public corruption cases were found to be investigated by law enforcement agencies through four clear pathways, as shown in Figure 1. Information comes to the attention of investigators through informants, adjacent cases or investigations (unrelated to public

would disclose other criminal activity to reduce their liability, or businesspeople who would reveal information when they were denied opportunities or viewed the system as unfair.

While there are paths that lead to the discovery of public corruption, many barriers prevent additional individuals from coming forward. Adverse effects on whistleblowers are one of the barriers recognized by law enforcement. These adverse effects range from losing business to death-threatening situations, such as not having police back up when one is on patrol as a police officer (Carter, 2016).

**Figure 1. Pathways to Investigation**



Source: authors' data, based on case documents, US Attorney Office information, and interviews

corruption), record reviews, and media reporting. Informants ( $n = 99$ ) were the most common way public corruption came to light. Investigative journalism ( $n = 23$ ) was the second most common method. Adjacent investigations or cases ( $n = 17$ ) had started as cases that were unrelated to public corruption in any way but had involved a public figure such as a defendant in a civil suit. During the investigation into a different matter, such as business disputes unrelated to their official position, or civil litigation, such as a contentious divorce, the corrupt acts came to light, usually during the discovery process, and resulted in a referral to the FBI. These types of situations accounted for the third method of discovery. The last path was through record reviews ( $n = 13$ ), such as audits under campaign finance laws or financial disclosure documents required by law.

Although informants were the most likely way cases came to light, people came forward for different reasons. Most motivations reflected some form of self-interest, such as criminal defendants who

### Informants

The first and most common method came from informants. As one interview best explained, "with any conspiracy, it is a closed system, and you have to find an informant to get in" (Interview A-01). Informants varied by type from criminal defendants, to confidential informants, to anonymous tipsters, to whistleblowers and witnesses. Table 2 shows the frequency by type of informant.

### Criminal Defendants

Among the different types of informants, criminal defendants (in connected or unrelated cases;  $n = 39$ ) provided the most common way law enforcement discovered public corruption cases. Many former investigators and prosecutors talked about how an arrested individual will say, "if you think what I am doing is bad, you should see what he is doing" (Interview A-04). These individuals usually

want to make a deal to exchange information about other illegal actions to reduce their sentences, which brought them to the attention of law enforcement. For example, the executive chef in the Virginia governor's mansion informed on Governor McDonnell's actions after the chef had been reported on earlier for misuse

public corruption is different. Public corruption many times is based on rumor and innuendo.... The thing about public corruption guys is [that] they are bright and good crooks. They try to bullshit the agents. They are liars who lie a lot.

**Table 2: Types of Informants**

Type of Informant	Frequency	Rate
Criminal Defendants	39	40 %
Anonymous Tips & Confidential Informant	27	27 %
Whistleblower	29	29 %
Witness	4	4 %
Total	99	100 %

and waste of government property (he ordered food for his business on the government's account; Mullins, 2014). Many investigators shared this experience: "Many times they came in proactively through a snitch. The snitch would come in on an unrelated case and say, 'Hey, I can deal on this,' or the snitch would come indirectly related to corruption" (Interview A-05). These types of informants are problematic in some ways because "most confidential informants were jammed up, facing criminal charges themselves. They want to get [a] 'get out of jail free' card" (Interview A-22).

One investigator illustrated the reason why many cases come in through other criminal defendants. If one is seeking information on corrupt police officers, one has to ask those who are arrested: "I would go to the jail and ask the kids, 'Tell me about the cops.' Kids said no one has ever asked them about crooked cops before. They told me about Cop A, who was a corrupt cop" (Interview I-16). Generally, investigations require that law enforcement talk with individuals who are likely to engage in unsavory deals in order to discover any yet unknown covert corrupt activities.

### *Confidential Informants and Anonymous Tipsters*

Law enforcement officials develop confidential informants to learn how things work in a community (Interview I-17) in contrast to anonymous tipsters who provide information spontaneously and without being elicited by law enforcement officials. Many times, corruption is well known in the area as described by I-05: "They didn't even try to hide the corruption in New Orleans." Law enforcement officials discovered illicit activities by listening to people in the community, otherwise known as rumors. As I-02 described it,

Another example was described by E-14: "We started seeing police in cars that they could not afford on a police salary," as an example of an observation that led to an investigation into corrupt police officers. Los Angeles Police Department [LAPD] Rampart police corruption came to light in the same way: "We will get wind of a tip. [For example,] [s]ome of the issues with the rampart guys" (Interview I-12). In the 1990s, LAPD Rampart division had a special unit, Community Resources Against Street Hoodlums (CRASH), to combat gang activity. In this unit, a police corruption scandal overturned more than 100 criminal convictions and implicated over 70 police officers, even though only 4 four police officers were convicted. There were \$125 million in settlements of civil suits against the city involving police misconduct (Bricker, 2016; Broder, 2005). Another investigator reported that "[w]e had had allegations for years against this mayor" (Interview I-04). While rumors in the community may highlight areas to explore, "[y]ou have to correlate the rumor. You have to meet the predication standard, which is higher than reasonable suspicion" (Interview I-02). In other words, investigators then must explore other avenues, such as other sources and documents, in order to support or denounce the rumors before a full investigation can begin.

Anonymous tipsters provide another information avenue to discover covert actions. Sometimes cases start through phone calls from anonymous tipsters. These tips can lead to significant cases, such as ABSCAM. ABSCAM was the first public corruption investigation where video and audio recorded elected representatives accepting bribes from undercover FBI agents posing as foreign persons who wished to influence their votes (McFadden, 1983). "ABSCAM broke [in the news] because they had

taken the guys out on the boat, and someone had said, 'Isn't that the same boat that the FBI had just taken in a drug sting?'" In another case, "[t]he informant told me that you would call this person and for \$50, they would stamp your passport at the end of their driveway" (Interview I-02). Another one described setting up a hotline for graft and fraud related to Federal Emergency Management Agency [FEMA] and other government programs that provided resources to communities decimated from disasters (Interviews I-17, S-15, and S-17).

One tip led to a major investigation when "[w]e got a tip over the hotline that a DOD [Department of Defense] purchase using a supplier had received a Home Depot gift certificate for \$1000 from a contractor" (Interview I-17). The tip leads to a phone call asking Home Depot for all gift certificates for that amount, which led to the DOD buyer and a significant corruption scheme (Interview I-17).

Many times, investigators cultivate tipsters among local businesses. For example,

We started knocking on doors, asking them about any corruption. All of them said no, but some of them got squeamish. We switch the question, "Do you know who it is?" Some of the guys told us, "We do business here because we can't get in at Lockheed." We continued to develop intelligence that everyone was on the take. (Interview I-17)

In some places, it is especially challenging to find sources as described by E-01 "[t]he streets of Detroit still have a negative connotation to cooperate with the police. Individuals on the streets don't want to be known as a snitch. But this attitude has changed, particularly as it relates to business." The cooperation with the business community is key to discovering such illicit activity because of its covert nature and the possibility of corruption to obtain public contracts. For example, "we had a walk-in complaint from a businessperson trying to get a contract with the city for Internet" (Interview E-03). Many times, "businessmen come to the FBI" (Interviews E-03, A-16 and I-04) because the locals [i.e., city and state agencies] do not have the reputation for pursuing such cases (Interviews A-21 and E-05).

### **Whistleblowers**

Whistleblowers and witnesses are crucial to public corruption cases because they have firsthand knowledge of the events. Moreover, whistleblowers serve a significant role in discovering corruption because they have insider knowledge regarding the actual function of the entity (Interview S-11). As one stakeholder shared in the interview, "there are

different types of whistleblowing. There is the 'free to warn,' which is the most common, and the 'free to protect,' which is to protect the company from going the wrong way" (Interview S-11).

Sometimes whistleblowers are the only way for investigations to begin. For example,

I actually had a case where there was an email from a government agent in a foreign country that says, "I can get the contract, but [I] want [my] family to go to Disney, or we can get the contract, but [we] want to go to karaoke." So [it] becomes clear that to get the contract, they have to give these guys something. In this case, the government has a whistleblower, who gives them the email evidence. (Interview I-14)

Soft money, contributions made to SuperPACs (political action committees) instead of individual candidates, avoid campaign finance limits and disclosure requirements and further complicate the situation (Levine, 2017). In situations with soft money, it is much harder to show corruption without information from an insider, as exemplified by one interviewee: "One of the lobbyists paid the money but was bothered by the situation. She blew the whistle on the Senators" (Interview E-10).

Many times, it is easier for corruption to exist, and avoid investigation and prosecution, because of the insular nature of smaller communities and the unchallenged power held by some local officials over long periods. As one former investigator has stated, "when any one [single] political party exercises absolute control over the political infrastructure, corruption is inevitable" (Martens, 2015, pp. 1-2). As one interviewee added,

we have seen bigger issues in small rural departments. Sheriffs, in these areas, can act with no consequences. People don't know how to report them. When people are brave enough to try and report them, then nothing happens. Sometimes, they tried to notify the FBI. But it is clear, it [acts of corruption] can happen to anyone. (Interview E-01)

Another interview reported that they only investigated the small sheriff's office "because the sheriff came to us and asked for help. They had trashed a home of a Baptist minister, and the sheriff was concerned that it was [done by] someone out of his office. So he brought in the feds" (Interview A-01).

A rare case is when a public official will report a bribe. A few interviewees reported that only one elected political official had ever come forward

about a bribe from a developer in their combined 60 years of experience (Interviews A-12 and A-13). As A-13 stated, "Most people in that situation would be singing 'I'm in the money now,' but not [the mayor]. He didn't waste one second to report it to us." The mayor had been offered \$500,000 to approve a waterfront development. The mayor immediately called the U.S. Attorney's office and agreed to wear a wire to record their conversations (Interviews A-12, A-13, and E-05).

### *Witness to Corruption*

Sometimes, law enforcement witnesses the corruption itself or hears about the illicit activities directly from the perpetrators leading to extensive corruption cases. One former FBI agent described the following incident that led to opening a long-term investigation:

I go down and buy a little ranch. I want to build a deck on the back of it. The inspector comes and finds a problem with the post. He ends up coming out three more times, and always finding something wrong. The fourth time he comes out, I asked him what I have to do to get the permit. He tells me \$500, and this would be the last time for an inspection. I tell him, "Do you know that I am FBI, and I'm leading the new office?" The inspector runs back to his truck, jumps in, and comes back a half-hour later with the full permit. That was my introduction to Youngstown. It was ingrained in the psyche that this is how you do business. This was [considered] acceptable behavior [for the area]. That situation started a 3 1/2 year investigation (Interview I-17).

Another situation witnessed by FBI agents occurred in Chicago: "So we started driving around the West Hood. We saw two cops in uniform in a marked car. One cop was sleeping in the car while the other cop was stripping another car on the street" (Interview I-16) and led to the conviction of 10 officers in the same precinct for stolen property-related offenses. Another rumor came to the attention of law enforcement that "[y]oung police officers brag about town about trafficking drugs around town loads of times" (Interview I-03). It led to an investigation into police corruption that ended in the arrests of 44 officers on the force (Belluck, 1998). Another FBI agent walked into a bar and discovered a significant public corruption case:

I was in a bar in Norfolk having a drink. A guy comes in and starts talking about how

stupid the FBI guys are. I start talking with him. "What are you doing?" He says, "I have a gig out at the Navy Yard in the making millions." I end up learning that the scheme works like this: the guy has invoices, he gives the invoices to people, and then the people will give me money for them [Navy would then pay invoices although no work or supplies were provided]. He gave me his card. I went back to the FBI office and gave them his card. (Interview E-04)

### *Investigative Journalism*

Many interviewees reported that case tips were developed from stories in the news:

It is somewhat rare to have someone walk in with the case. Civilians usually come in with an agenda. I usually find cases muckraking through the newspaper. When I was doing securities, I would read the Wall Street Journal. The post had someone look into these situations. The source of many cases comes from newspapers. I read an article and say – "This looks odd." (Interview A-20)

For example, as I-07 described, "we [agents] had read things in newspapers and had reports of information out there about the voter fraud during the elections." Another investigator reported, "we [agents] would look for red flags in the paper. Reporters are critical. Investigative reporting - when it is good, it is necessary" (Interview I-11). Another interviewee participated in an independent counsel investigation that "arose because of the newspaper article in the Los Angeles Times" (Interview S-14). S-14 also reported that

white-collar cases will come in from...a newspaper article. Many cases came through the Wall Street Journal. I read the Wall Street Journal to poke around a bit based on their articles. I [as inspector general] would direct the FBI to investigate things.

Many investigative reporting articles have led to major criminal investigations, and at times, convictions. The Knapp Commission (investigating police corruption in New York City) was formed "because of the New York Times article about Serpico" (Interview S-16). The Kilpatrick investigation (corruption in the mayor's office in Detroit) started

when there was a sex scandal [reported in the paper]. The newspaper had requested the text messages in an FOIA regarding the sex



scandal between Kilpatrick and a senior aide. That is how the text messages first came to our notice. (Interview A-21)

The text messages provided the basis for the prosecution as defendants made statements about bribery and resulted in the conviction of Mayor Kwame Kilpatrick and a 28-year jail sentence (Interview A-21). In the end, many stakeholders, investigators, and attorneys read newspapers to discover stories that “didn’t sound quite kosher” (Investigative A-14). One interviewee added, “Media can be used to present the facts. We’ve used them to get the criminals” (Interview I-12).

### Adjacent (Unrelated) Cases

At times, adjacent litigation may bring corruption to light. For example, in a grand jury indictment of Mark E. Bixby, former Director of Energy for the City of Rockville, Illinois, corruption was discovered during civil litigation in an unrelated business matter. Another case was discovered when “we had a referral from the heir” because inconsistencies were discovered during probate (Interview A-04). Another investigator pointed out that “[m]oney laundering is the best avenue to [discover] public corruption” because most public officials need to hide the illicit gains and using money laundering is the most expedient method (Interview I-05).

Divorce litigation is another avenue that may shed light on illicit acts. In one case, a corrupt judge came to the attention of law enforcement because of her contentious divorce (Interview S-12). In another case, “[judge’s] soon-to-be ex-wife walked to the FBI and told them George had paid the \$25,000 to Freeman to be appointed for federal judgeships,” which was discovered in financial records disclosed in a divorce (Interview E-07).

Another adjacent way cases may bring wrongdoing to light is when litigation is used against whistleblowers. One interviewee pointed out that

What happened was that two cops came to Morton, who was a prosecutor. The two cops up and offered bribes to lie in court by the defendant’s attorney. You should read *In re Morton Friedman*. Morton Friedman tried to do something about the corruption, and they [state bar association] almost took his license. That is what they tried to do to people who try to change the system in Chicago. (Interview E-07)

After this case, these issues in the Cook County justice system raised to a level of priority for the local FBI

office. The office launched a major investigation in the next year that resulted in 103 arrests of judges, attorneys, and court officials for selling verdicts and dismissals (Hake & Klatt, 2015).

### Record Reviews

Institutional records, such as bank and other financial records and public disclosures through FOIA and other local laws, are another way to discover corruption.

### Institutional Records

For example, “these issues [embezzlement of public funds] come to light with an audit, and the agent may try to get the other officers to sign the documents. The second guy refused. It came to light about the corrupt activity” (Interview I-12). Another avenue to discover corruption is through bank records:

We took a look at Riggs Bank to see what they were doing because they had \$4 billion in deposits, and lots of those deposits were by presidents of different countries. They also opened accounts for embassies, families, and close family friends of ambassadors. For example, equatorial New Guinea had \$700 million in accounts. From East Africa, a president’s wife and children had suspected transactions. The banker was eventually charged with money laundering and tax evasion. (Interview S-01)

Sometimes a way to keep an investigation covert is for “an FBI agent or a local cop [to] look at a certain situation and examine the tax records” (Interview A-04). Some agents recognize that “document[s], bank records, and emails are a great source. These record searches reveal so much” (Interview A-03).

### Public Disclosures

Investigative reporters will also use documents through Freedom of Information Act and other disclosure laws, such as Florida’s Sunshine law, to explore curious situations; however,

the government is trying to restrict access and restrict what is available. Government agencies [are trying] to get around or slow [the process] by asking for large amounts of money [in fees]. [The] FOIA system is broken. It takes forever to get information. [The] government tried to overcharge for reports and slows down information coming out. (Interview S-18)

The disclosure and review of these records are

essential to investigative reporting as well as the development of criminal investigations. However, additional inquiry is always needed to determine the context and motives of those involved.

After the initial discovery, investigators seek further information to support or disprove the initial information. This elaboration is called predication a case that usually includes one of the other methods described above to augment initial allegations (Artello & Albanese, 2019). For example, a rumor about the misdirection of evidence from the police department may lead to an examination of the evidence logs. The rumors of judges owning property in another state may lead to an investigator to look into financial and property records to support or disprove the allegations. Public corruption cases are the only cases that require predication (Interviews I-02, I-08, I-17, E-07, A-2, A-20, A-21, & A-22). Without predication, these cases are difficult to move forward because investigators have many hurdles before a full investigation into alleged corrupt situations is authorized. For example, legal hurdles to obtaining electronic surveillance are significant, and it adds to the cost and length of time to conduct an investigation, given the need for monitoring conversations and follow-up physical surveillance (Albanese, 2015).

### **To Disclose or Not to Disclose**

Whistleblowers face many barriers to coming forward, and in public corruption, they face long-term effects, as expressed in interviews and news reports. One individual with experience in public corruption summarized it well: “Whistleblowers get crucified over it. It is all part of the culture of corruption” (Interview E-03). An attorney providing evidence about corruption in Cook County Court system “testified about corruption in the courtroom and was ostracized because of it. A newspaper column had lit into him about his testifying in corruption against a judge” (Interview E-07). Not only will whistleblowers face potential repercussions on a professional level, but also whistleblowers may also face public humiliation and disparagement. In the end, “many individuals would just go along with the system because they cannot jeopardize their careers” (Interview E-07).

Many times, individuals are pressured to participate in the corrupt acts themselves or at least to be complicit. One interviewee expressed it well:

These are the guys you're going to shoot with. Why tell when your partner takes \$100? Everything is free. Why destroy my partner to report for only \$100? How is it any different than store owners giving free stuff

to cops to get the cops to come in and out of their stores for security? (Interview E-08)

Some individuals groom others to become active participants. One person described the grooming process that his patrol partner conducted:

My first partner after the return had gotten a commendation, but then the DA got arrested him for 1<sup>st</sup>-degree assault. He was out of the car and on probation. They started putting [an officer with a history of wrongdoing] in my car. We bonded. We [each] got married at the same time and had children at the same time. We start off with little things. He went for drinks with me, and we had free meals. He'd tell stories about scores with his prior partners. I don't know if I should believe him. Then we get a burglary call. We left the job. He took \$1,000 out of his pocket to give me after the call. From there, it went up and up. [This guy] make[s] connections, and then we got to the dealers. They paid us to avoid them. We don't go out on calls and do things. (Interview E-08)

Business owners may not report any extortion attempts for similar reasons: “Businessmen do not want to associate with corruption, and they want the [government] contract, and other companies are competing” (Interview E-03). While businesses may not wish to engage in corrupt practices such as bribery to obtain a contractor, they want the business. A former assistant US Attorney now works in the industry to advise businesses to stay out of corrupt acts. He explained the business mind this way:

In my current line of work, I deal with executives and CEOs. They fall into these situations and think they can get away with something this one time. They think it's a one-off, but it compounds, and then they can't getaway. They go in every day, and now they commit a crime every day. (Interview A-05)

Business owners are motivated not to disclose to protect their financial well-being in a similar pattern to other people who may be aware of illicit conduct.

The pressure to remain silent is immense and can be overwhelming from the system. For example, on the stand, former assistant state attorney J. Jonathan Regunberg testified in the public corruption trial of Judge Raymond Sodini about seeing an exchange of money. He witnessed but did not report it. When asked why he did not report it, he explained:

I was quite concerned that being in Chicago for a year and a half, and being from out of town and having no clout, it would have been my word against the word of a judge. ... I was putting my career at great risk. Quite frankly, I didn't have the courage. (Possley, 1986, para 8)

The concern over career disruptions or destruction was the central theme repeated by many to explain why people did not disclose about corrupt activities.

### *Finding the Courage to Disclose*

Since the fear of retaliation is a real and present danger to many, the question becomes from where do those individuals who have disclosed find the courage to come forward. Two primary reasons were found. First, some whistleblowers bristled under "feeling bullied" to do something they knew was wrong or felt it was a betrayal of American ethos (Interviews E-05, I-02, I-04, I-13, & I-14). As one whistleblower explained his reasoning,

The question was whether I was reporting it. It was very instinctive. I don't like being bullied. [A] guy comes to my house with a gun. You do not need to be a genius about the mafia. It was straight out of central casting. I wanted to control the situation. I agreed to be wired. (Interview E-05)

Two other cases illustrate this response from immigrant business owners. Both owners reported that they had been requested to pay bribes to receive licenses or city contracts. One investigator described the motivation of the business owner:

He was pissed off that the councilman had asked for these favors. He came from Russia or Slovenia, I think. He had been going for three years and attended over 40 meetings about issues with his businesses. He was pissed about this situation. (Interview I-14)

Across the country, a similar situation developed. One investigator described it as follows:

We had had allegations for years against this mayor. [The plumber] had wanted a bid for the HVAC contract. He had been an immigrant from Brazil. He had tried for years to get the contract at Providence. One day, the bagman came to his business and said if you want to have the contract, you just have to pay us. [He] went to the FBI and reported

this. The FBI got audio and video with the bagman. [He] had the bagman layout the entire scheme to him. (Interview I-04)

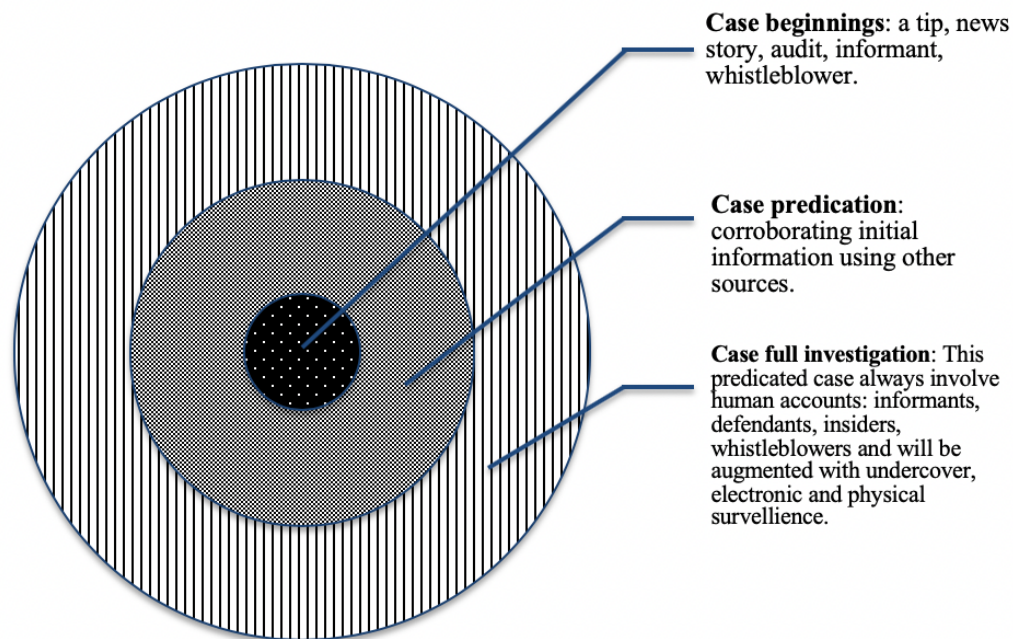
Another investigator thought that the plumber came forward because he came to America to get away from this type of corruption, which permeated in his home country: "He was disgusted to find it here" (Investigator I-05).

The second reason stemmed from familial influences (E-05, E-07, E-11, E-14.): "My parents instilled ethics from the beginning with me" (Interview E-07). Another whistleblower stated, "I drank the parental Kool-Aid. The things they told me at five and six years old, I believed them" (Interview E-14). All of the individuals who went undercover or reported public corruption attributed their decision-making to the influence of parents (E-03, E-04, E-05, E-07, E-13, E-14 & E-15). For these whistleblowers, their families provided the courage to come forward and report illicit activities.

### **Discussion**

Public corruption investigations and prosecutions are difficult and complicated because of their hidden nature, the presumed legitimacy of the alleged perpetrators given their official positions, and the other potential benign explanations of their conduct. Rumors, anonymous tips, confidential informants, whistleblowers, witnesses, other criminal defendants, investigative journalism, and record reviews ignite such investigations. While a spark may start an inquiry, the full investigation requires that collaborating evidence is uncovered regardless of the preliminary source. All investigative sources require the development of other evidence because of the hidden nature of corruption and the high stakes in such investigations, which involve going after a public official.

There appears to be an unwritten policy in the U.S. Department of Justice to keep these investigations covert as long as possible because investigations can have a deleterious effect on public officials' careers (Interviews I-02, I-04, I-08, I-18, A-15, A-20, A-22, E-02, E-04, and E-10). These effects included being passed over later for promotion by former colleagues of the accused or not receiving a subsequent judicial appointment. Therefore, while an investigation may be opened based on an anonymous tip or a rumor, agents proceeded by examining public documents, talking with community people, and looking at adjacent investigations to see how they may intersect, as shown in Figure 2.

**Figure 2. Interaction of Investigation Sources**

Source: authors' data, based on case documents, US Attorney Office information, and interviews

Investigations into public corruption are vital to maintaining the rule of law and ensuring that those who make the laws are not above the law. While agents may believe the rumors, investigations do not continue without the additional evidence of wrongdoing. To understand how cases are discovered and developed is essential to the legitimacy of the system. When cases stem from an investigative journalism piece, it is much harder to keep the investigation covert.

The key to any start of an investigation is human information. As one stakeholder put it, “[w]histleblowers have more success against institution frauds than others combined. Whistleblowers [are the] single most effective method to protect the institution” (Interview S-11). Yet, people are reluctant to come forward because of “4 fears for informers— 1) fear of retaliation, 2) being an outcast, 3) the cover-up, and 4) ‘I’ll look like a liar’” (Interview E-09). To change this situation, not only will whistleblower protections need to become stronger but also, “we let people know – ‘thank you’ for turning people in, reporting the bad apples” (Interview E-09). The cultural taboo against

“tattletales” or being a “rat” needs to change (Interviews E-05 & E-06).

This study’s findings are similar to others on whistleblowers. Smaili and Arroyo (2017) found that some motivations for whistleblowers are in one’s self-interest. Those who disclose public corruption acts to reduce their criminal liability would be acting in self-interest. Another reason some may disclose is to protect the integrity of the institutions, according to the interviews with E-05, E-07, and E-15 particularly. To encourage more whistleblower reporting, an institutional culture will need to shift to prevent retaliation but also to welcome reports to prevent illicit activities from proliferating. Another study found that a robust fourth estate is essential for investigative reporting to lead to accountability regarding corrupt actions and that citizens need the ability to affect change when information becomes available, for example, through free and fair elections (Lindstedt & Naurin, 2010).

Public corruption cases most often begin with a tip, news story, audit, or whistleblower, as illustrated in Figure 2. This incomplete information must then be corroborated to determine whether a corruption case exists (as opposed to an error or mistaken impression),



called predicated a case. Case predication entails the use of other information sources to check on the substance and veracity of the original tip, lead, or allegation. As noted above, these corroborating sources often involve a review of documents, an audit trail, additional insider accounts, and sometimes physical or electronic surveillance.

A corruption case is not investigated unless a link can be established between the first tip and documentation of that allegation, usually entailing some account by individuals that link the two, such as informants, defendants, or insiders with firsthand information. A paper trail is never sufficient to make a corruption case because it does not establish the criminal intent of the suspect; paper trails can contain simple errors or omissions. Officials demonstrate their intent to engage in corrupt acts through their words and actions, which can later be recounted by others, such as co-workers, witnesses, whistleblowers, or electronic surveillance.

### Conclusion

Human information is central to discover corruption, whether it comes from a whistleblower, another criminal defendant, a newspaper story, or a tip. If these pathways are not present, it is unlikely that public corruption will come to light. The erosion of public trust will grow if such actions are known but unprosecuted. One way to encourage such disclosures is to reform the culture to reward the reporting of suspicious activity. The biggest impediment for reporting is the fear of retaliation, as stated by many in the interviews. Protections from retaliation are vital to promote whistleblowing. The second barrier, reported in interviews, appears to be the culture of silence, where authority may be used to suppress disclosure and investigations.

One way to encourage disclosures is to reform the culture to reward the reporting of suspicious activity as well as to protect those who do report this behavior. Whistleblower protection laws in many states and at the federal level do a great deal to protect those who come forward, but there is still considerable risk for the whistleblower. The biggest impediment for reporting is the fear of retaliation, as stated in many in the interviews. Expecting lower-level employees ("bottom-up" reporting) to report on the misconduct on higher-level employees is a lot to ask for, given these risks, so strict enforcement and application of whistleblower protection regulations are needed. Besides, other "top-down" measures are crucial to ensure qualified, unbiased, and ethical leadership in government agencies to set the tone for intolerance of corrupt conduct.

Furthermore, multiple interviewees reinforced the fact that there is no incentive or natural constituency for making corruption cases. Mayors, political leaders, and agency heads do not want corruption existing in their jurisdictions and agencies to become widely known because it reflects poorly on them and could implicate them. Businesses involved in corrupt exchanges fear retaliation, and the public is unsure whether those responsible will be punished, or escape prosecution and seek retribution against them. Even the investigators and prosecutors themselves sometimes are penalized years later in career advancement for making cases against powerful political individuals.

This study delineates an understanding of how public corruption rose to the attention of law enforcement from the late 1960s through 2015. In 2010, Congress enacted the Whistleblower program in hopes of encouraging more reporting about public corruption activities (SEC, 2011). Nevertheless, public corruption convictions have been decreasing significantly since 2004, and federal investigation resources have been shifted to focus on immigration cases (Artello & Albanese, 2019). This study provides an understanding of how law enforcement discovers corrupt acts and starts investigations when public corruption is pursued aggressively by federal law enforcement.

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