



Corruption risks in the criminal justice chain and tools for assessment Chapter 2: Investigation

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Corruption risks in the criminal justice chain and tools for assessment

Chapter 2: Investigation

This is part two of a six-part issue paper examining tools for assessment of corruption risks in criminal investigation, prosecution, trials, and detention.

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1. Basic steps in the investigation process

At minimum, police in a democratic society are responsible for three tasks: the prevention and detection of crime, the maintenance of public order, and the provision of assistance to the public (UNODC 2011, 5; Bayley 2006). While oversight of police operations is needed to reduce corruption as well as other abuses of authority, it must be designed so that it is compatible with the objectives of policing.

A typical criminal investigation process is led by the police or another investigative body, such as an anti-corruption commission, and includes the following steps: (1) An initial investigation assesses witnesses, scenes, and all other available evidence, such as forensic samples. (2) This material is evaluated and a decision is made on whether to conduct further investigation, based on the seriousness of the offense, the availability of evidence, and the level of resources required. The investigation is then either (3a) closed or (3b) continued by taking statements from any witnesses, arresting and detaining any identified suspects, and formally interviewing them. (4a) After such interviews, the suspect(s) may be charged with a crime. If charged, they may be released on bail or kept in pretrial detention. (4b) If there is insufficient evidence to charge or caution a suspect, no further action will be taken.

Corruption risks can occur before, during, or after the investigation of a crime. They arise from the actions of individual police officers and their police departments, but the degree of risk is affected by the actions of supervisory government agencies, the media, nongovernmental groups, and civil society. The following sections examine corruption risks in the three stages of a criminal investigation. A final section reviews three types of tools to measure both the risk and the incidence of police corruption.

2. Corruption risks prior to investigation

2.1. Environmental and administrative threats to the police mission

Corruption risks sometimes arise from the external political climate of the jurisdiction, particularly political interference in police department operations (Gardiner 1970; Chambliss and Seidman 1971; Knapp Commission 1972; Kposowa 2006). A study of police corruption in three US cities found that corruption was made possible by informal systems that allowed politicians to influence personnel decisions within the police department. “By determining who will occupy key positions of power within a police department, and by making as many members of the police department as possible obligated to the politicians, political leaders can impose their own goals on the department – including protection of vice for the financial benefit of the political party in power or of the party leaders themselves” (Sherman 1978, 35; see also Eaton 2008).

In Russia, police were found to “direct their main efforts to earning money while they perform their official duties in a slipshod manner, not registering ‘inconvenient’ crimes and devoting special attention to cases that interest the authorities” (Dubova and Kosal 2013, 56). Analyses of police corruption in Kosovo,

Chechnya, and other locations have reported similar conclusions (Zabyelina and Arsovska 2013; Ivković 2003).

The enforcement of laws banning prostitution, gambling, and other vices, often considered “victimless” crimes, creates particularly severe corruption risks (Gardiner 1970; Chambliss and Seidman 1971; Knapp Commission 1972; Kposowa 2006). Those involved with vice have every reason to offer a bribe if police discover them engaged in the prohibited activities. Indeed, the income generated by these services is often so substantial that providers can afford to offer entire police departments significant sums to allow bordellos and gaming establishments to operate unimpeded.

2.2. Recruitment of unsuitable police officer candidates

A second type of corruption risk occurs prior to criminal investigation, when unsuitable candidates become police officers. The recruitment process itself can be corrupted or biased, resulting in the hiring of unqualified candidates. Moreover, even a “clean” recruitment process can lead to unsuitable candidates becoming officers if selection criteria are inadequate. Educational requirements should ensure that officers are prepared to learn and correctly apply the law and departmental policies. Entry-level testing, interviews, and background checks should attempt to weed out candidates of “low moral caliber” who might be willing to engage in unprofessional or corrupt activity. If these individuals become officers, they may misuse authority for selfish ends and justify this based on complaints of low pay or lack of recognition (Goldstein 1977; Peterson 1960; Cohen and Feldberg 1991; Delattre 1994; Herbert 1996).

Such officers are often labeled as “rotten apples,” implying that these are flawed individuals in an otherwise upright department. Although corruption assessments that focus on the individual officer are common, most experts reject this rotten-apple approach to police corruption. A focus on bad individuals does not explain why police corruption is apparently so widespread, nor does it explain differences between departments or within a particular department over time (Walker and Katz 2010, 181). Blaming a few rotten apples can become an excuse for commanding officers to deny that a more systemic problem exists (Knapp Commission 1972, 6; Manning 2009).

3. Corruption risks during investigation

Encounters between a police officer and a citizen typically involve a decision. When a suspected offense is serious enough, the officer usually arrests the suspect. In most cases, however, the officer has discretion in choosing a course of action: take no formal action, issue a warning, or make an arrest. This individual discretion poses an inherent risk of abuse.

A second type of risk reflects group dynamics within the police department. Group corruption suggests the existence of a deviant subculture within the department that condones illegal behavior (Aspinall and van Klinken 2011). This may arise when a group of officers within the department are not committed to the job or feel that they are not supported by their superiors. Sharing of these complaints may lead to a culture

of secrecy and cynicism, in which loyalty to fellow officers is valued above loyalty to the police mission. This in turn opens the door to corruption (Kleinig 1996), increasing officers' propensity to accept bribes, use their influence to prevent or halt investigations, or cover up known instances of wrongdoing.

A questionnaire administered by sociologist William Westley (1970) to police in a Midwestern city in the United States revealed that three-quarters of the officers surveyed said they would not report partners who engaged in a corrupt activity. Moreover, officers would perjure themselves rather than testify against their partners. Westley found that an officer who violated the unwritten code of secrecy within the police organization was regarded as a "stool pigeon," "rat," or "outcast," even if the behavior reported was illegal.

Several studies have investigated departmental risks, showing that certain conditions within a department can be conducive to corruption: these include peer tolerance of corrupt activity and a failure of police leadership to take action (Prenzler, Beckley, and Bronitt 2013; Porter and Warrender 2009; Reiss 1971; Roebuck and Barker 1974; Stoddard 1968). Following an investigation of the Philadelphia Police Department in 1974, the Pennsylvania Crime Commission concluded that "systematic corruption does not occur in a vacuum. Officers succumb to pressures within the department." Such pressures may include illegal conduct by fellow officers and failure by superiors to take action against "open and widespread violations" of the law and of department policy (Pennsylvania Crime Commission 1974; see also Lee et al. 2013).

Corruption risks can be reduced by stressing ethical and legal content in periodic in-service training and by ensuring that promotions are based on qualifications, rather than on personal connections.

4. Corruption risks affecting the legitimacy of investigations

Corruption risks that affect the legitimacy of investigations arise from lack of transparency in reporting on crimes, absence of an explicit process for handling public complaints against police, and lack of transparency in reporting the outcomes of such complaints.

Police have monopoly power over the use of force by government to enforce laws, by stopping, investigating, and arresting citizens. Corruption risk increases when accountability for this use of power is lacking. Therefore, it is imperative that citizens have accessible channels for bringing complaints against police; that clear administrative processes exist for taking action on these complaints, with citizen input into these processes; and that the outcomes of these processes are publicized widely. When citizens are regularly informed through the media about the performance of their police, they can be assured that complaints are handled seriously. This enhances the legitimacy of the police.

The failure of police to handle citizen complaints through an explicit process with publicized outcomes has reduced police legitimacy in many cities and countries, sometimes leading to public unrest (New York

Times 2002, 2011; Kocieniewski 1999; Miller 2008; Prenzler, Beckley, and Bronitt 2013; Rowe 2009; Stolyarova 2008). A review of police oversight models involving civilians illustrates that there are different structural approaches to achieving credible oversight of police conduct and that these can operate effectively to build public confidence and reduce the risk of police misconduct (Ferdik, Rojek, and Alpert 2013).

5. Reducing the risk of police corruption

The four major corruption risks discussed above are summarized in table 1, along with common risk reduction approaches for each.

Table 1. Police corruption risks and approaches to reduction

Major police corruption risks	Risk reduction approaches
Environmental and administrative threats to the police mission	Eliminate political interference in department law enforcement decisions (institutional independence). Reduce police involvement in responding to minor “victimless” crimes, encounters prone to corruption.
Recruitment of unsuitable police officer candidates	Conduct rigorous employment screening of recruits with special attention to character, background, and minimum educational and training requirements.
Deviant police subculture	Provide periodic in-service training throughout a police officer’s career to enhance professionalism. Promotions must be based only on individual qualifications and performance, without political or external bias or interference.
Lack of a clear process for handling complaints against police and publicizing outcomes	Establish an explicit procedure for handling complaints against police, with civilian participation, to ensure accountability. There should be systematic data collection and reporting procedures for crimes and for complaints against police, with results publicized in the media.

Reducing the risks of corruption in criminal investigation requires specific actions that target these risks. An analysis of 32 special commissions on police conduct in 58 English-speaking countries over the last 100 years found common themes. To reduce police corruption, the commissions recommended creating external oversight over the police with a focus on integrity, improving recruitment and training, ensuring that police supervisors provide leadership on integrity, holding all commanders responsible for the misbehavior of subordinates, and changing the organization’s culture to become more intolerant of misbehavior (Bayley and Perito 2011; see also Pyman et al. 2012). These findings overlap with some of the corruption risks listed above, suggesting that the risks for corruption involving police display remarkable similarities across jurisdictions and nations.

6. Assessment tools for police corruption risks

Most assessments of the risks of police corruption have been conducted in countries of the Organisation for Economic Co-operation and Development (OECD), and thus much of the learning on the nature of the risks and how to mitigate them is based on experience in these countries. Only in recent years has work been undertaken on police corruption in less developed countries. These studies tend to target specific aspects of the investigation process, such as individual officer conduct, departmental problems, and influences external to the department such as political pressure (Ivković et al. 2002; Ivković and Shelley 2007; Khruakham and Lee 2013; Pogrebin and Atkins 1976; Punch 2000; Walker and Katz 2010).

The following sections present examples of three types of tools used to measure both the risk and incidence of police corruption.

6.1. Tool to assess citizens' experiences with police corruption: International Crime Victims Survey

One existing measure of police corruption is provided by the International Crime Victims Survey (ICVS), which asks representative samples of citizens about their experiences of victimization by several crimes involving assault and theft. The survey includes a question on corruption: "During the past year, has any government official such as a customs officer, police officer, or inspector asked you or expected you to pay a bribe?" This question provides a direct measure of "street-level" corruption.

The ICVS was developed by a group of European criminologists in order to generate international comparative data on crime and victimization. The survey began in 1989 and has been repeated five times since then. The ICVS has been funded sporadically by individual nations, the European Union, and other groups, and as a result it has not been administered regularly. Country participation varies, although 80 countries and cities in all have participated (van Dijk 2012). Those reported as seekers or receivers of bribes are most often police officers, followed by government officials, customs officers, and inspectors. Very few of these incidents are reported to police or other officials (van Dijk 2008, 183–84). Therefore, the ICVS provides a direct measure of police corruption based on reports by anonymous citizens to interviewers, as well as providing a measure of general crime victimization in the survey locations. Since the survey has been repeated in different countries, it provides data over both time and space. The information it provides is critical because, as a study of police in Mexico found, "direct experience with bribery has the single largest impact on dissatisfaction with the police" (Sabet 2012, 22). If administered more regularly in more cities and countries, the ICVS could become a standard measure of the incidence of street-level corruption.

6.2. Tool to assess police officers' attitudes toward misconduct: Police integrity surveys

A second tool for assessing risks during investigation is to ask police themselves to report their likely responses to various scenarios. Such responses can provide insights into corruption risks within specific police agencies as well as across a sample of agencies. A police integrity survey described by Klockars et al. (2000) used 11 hypothetical scenarios depicting various types of police misconduct, from routinely accepting free meals to stealing from a burglary scene (Box 1). Officers were asked to rank the seriousness of each behavior, say what they believe should be the appropriate penalty for each behavior (ranging from none to dismissal from the police force), and say whether or not they would report a fellow officer who engaged in the behavior.

The survey initially was administered to 3,235 officers from 30 police agencies in the United States. Those results showed general agreement among respondents regarding inappropriate behavior and expected penalties. Scenarios describing behaviors regarded as less serious were much more likely to be tolerated. Most officers said they would not report a fellow officer who engaged in conduct such as accepting free gifts, meals, or discounts, or having a minor accident while driving under the influence of alcohol. On the other hand, most said they would report a colleague who stole from the scene of a burglary, accepted a bribe, or used excessive force. However, the survey also found “substantial differences in the environment of integrity” across the police agencies studied (Klockars et al. 2000, 9).

The same survey has been administered in more than 15 countries across Asia, Europe, and the Middle East (Ivković and Shelley 2007; Ivković et al. 2002; Klockars, Ivković, and Haberfeld 2004). It is a promising finding that while there are wide variations in culture, values, procedures, and government structures, there is a great deal of agreement among police on what constitutes acceptable and unacceptable conduct, and that those acts punished most severely are those regarded as most serious. Therefore, this assessment tool has been found to be useful across police departments of different types and across nations with different legal systems.

When the police integrity survey was administered to 160 officers of the South African Police Service, about 20 percent reported that they did not see theft and bribery as serious violations. By contrast, a sample of students from the same area overwhelmingly saw such acts as serious or very serious violations. On the other hand, the police respondents were much more likely than the students to see accepting gifts and gratuities as serious (Meyer, Steyn, and Gopal 2013). In another administration of the survey, to 379 South African police supervisors, a “strong code of silence” was discovered, as officers were generally unwilling to report known instances of police misconduct (Ivkovich and Sauerman 2013, 191). In Thailand, a survey of police cadets found that almost all cases of misconduct were seen as more tolerable in Thailand than in Finland, Sweden, the Netherlands, and the United States (Khrusakham and Lee 2013).

These cases show that a police integrity survey can be used to assess specific corruption risks arising from police attitudes toward corrupt behavior. Responses can reveal differences in officer attitudes between different police agencies, as well as differences between the attitudes of officers and of citizens in the communities they serve. Survey responses can be used to target corruption prevention strategies to particular areas of misconduct revealed by the survey and can be used as a baseline against which to measure developments over time.

BOX 1. POLICE INTEGRITY SURVEY

- Case 1** A police officer runs his own private business in which he sells and installs security devices, such as alarms, special locks, etc. He does this work during his off-duty hours.
- Case 2** A police officer routinely accepts free meals, cigarettes, and other items of small value from merchants on his beat. He does not solicit these gifts and is careful not to abuse the generosity of those who give gifts to him.
- Case 3** A police officer stops a motorist for speeding. The officer agrees to accept a personal gift of half of the amount of the fine in exchange for not issuing a citation.
- Case 4** A police officer is widely liked in the community, and on holidays local merchants and restaurant and bar owners show their appreciation for his attention by giving him gifts of food and liquor.
- Case 5** A police officer discovers a burglary of a jewelry shop. The display cases are smashed, and it is obvious that many items have been taken. While searching the shop, he takes a watch, worth about two days' pay for that officer. He reports that the watch had been stolen during the burglary.
- Case 6** A police officer has a private arrangement with a local auto body shop to refer the owners of cars damaged in accidents to the shop. In exchange for each referral, he receives payment of 5 percent of the repair bill from the shop owner.
- Case 7** A police officer, who happens to be a very good auto mechanic, is scheduled to work during coming holidays. A supervisor offers to give him these days off, if he agrees to tune up his supervisor's personal car. Evaluate the *supervisor's* behavior.
- Case 8** At 2:00 a.m., a police officer, who is on duty, is driving his patrol car on a deserted road. He sees a vehicle that has been driven off the road and is stuck in a ditch. He approaches the vehicle and observes that the driver is not hurt but is obviously intoxicated. He also finds that the driver is a police officer. Instead of reporting this accident and offense, he transports the driver to his home.
- Case 9** A police officer finds a bar on his beat that is still serving drinks a half-hour past its legal closing time. Instead of reporting this violation, the police officer agrees to accept a couple of free drinks from the owner.
- Case 10** Two police officers on foot patrol surprise a man who is attempting to break into an automobile. The man flees. They chase him for about two blocks before apprehending him by tackling him and wrestling him to the ground. After he is under control, both officers punch him a couple of times in the stomach as punishment for fleeing and resisting.
- Case 11** A police officer finds a wallet in a parking lot. It contains an amount of money equivalent to a full day's pay for that officer. He reports the wallet as lost property but keeps the money for himself.

Source: Klockars et al. 2000, 4.

6.3. Toolboxes to evaluate operation and integrity for jurisdictions seeking to assess their entire police service

A third kind of risk assessment tool is broader in nature, designed to assess the entire structure and operation of a police service to determine its independence from political influence, its transparency in operation, the accountability of its officers and leadership, and its responsiveness to the public it serves. The leading example is the one developed by the South African Centre for the Study of Violence and Reconciliation and the Open Society Foundation. A total of 39 key measures were identified in five areas of police operations and investigations: (1) protection of democratic political life; (2) governance, accountability, and transparency; (3) service delivery for safety, security, and justice; (4) proper police conduct; and (5) police as citizens (Bruce and Neild 2005; Palmer 2012).

Key measures in the area of “proper police conduct” include expectations that police forces will:

- Support principles of integrity, respect for human dignity and rights, nondiscrimination, fairness, and professionalism in their policies and operations; clearly articulate these principles to their members; and actively promote adherence to them.
- Have effective systems for receiving complaints against police officers, internal investigation and discipline.
- Cooperate with oversight bodies responsible for monitoring or investigating alleged police misconduct (Bruce and Neild 2005).

A broader effort sponsored by the United Nations Office on Drugs and Crime (UNODC) seeks to establish a framework for police oversight and accountability in order to strengthen integrity in policing. This framework is based on 17 key elements. The goal is to support both developed and developing countries in implementation of the rule of law and the development of criminal justice reform (UNODC 2011). An example of an emerging effort is in Vietnam, where a police integrity workshop was held recently under UNODC auspices. It included police experts from multiple countries who discussed the benefit of specific standards and measures to enhance police integrity and thereby reduce corruption risks (UNODC 2014).

Like the South African initiative, the UNODC effort provides a toolbox delineating all the considerations to be addressed in reforming police organizations, rather than a specific assessment of particular risks. Nevertheless, a government or police service that implements these standards, and measures compliance with them over time, should be able to identify progress made against corruption risks.

In sum, the risks of police corruption can be most accurately measured through:

- *Citizens’ experiences with police corruption.* The ICVS offers an established measure of this over time in many locations, both cities and countries, that could be expanded.
- *Police officers’ attitudes toward misconduct.* The police integrity survey has been used in various countries and could be applied even more widely.
- *Toolboxes to evaluate operations and integrity* for jurisdictions seeking to assess their entire police service. The South African Police Service and UNODC have published detailed guides to assist in this process.

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