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CRIMINOLOGY

TO SERVE AND COLLECT: MEASURING POLICE CORRUPTION

SANJA KUTNJAK IVKOVIĆ*

Stories of police corruption are cover-page news: they draw public attention and sell the newspapers. As the recent examples from Los Angeles¹ to Tokyo² and from New York³ to Rio de Janeiro⁴ demonstrate, no police agency is completely free of corruption and police officers—the “blue knights” entrusted and empowered to enforce the law—can become some of the most aggressive criminals themselves.

Learning how much corruption there is and understanding its characteristics are both basic yet crucial steps toward successful corruption control. Accurate information is necessary to diagnose the extent and nature of the corruption problem, trace the changes in its volume and patterns over time, determine the causes of corrupt behavior, learn about the susceptibility of various types of corrupt

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¹ L.A. POLICE DEP'T, BOARD OF INQUIRY INTO THE RAMPANT AREA CORRUPTION INCIDENT (2000).

² Doug Struck, *Japan's Police Wear Tarnished Badge of Honor*, WASH. POST, Mar. 3, 2000, at A23.

³ MILTON MOLLEN ET AL., COMMISSION REPORT: NEW YORK COMMISSION TO INVESTIGATE ALLEGATIONS OF POLICE CORRUPTION AND THE ANTI-CORRUPTION PROCEDURES OF THE POLICE DEPARTMENT (1994) [hereinafter MOLLEN].

⁴ Stephen Buckley, *Rio Police Officers Fired for Corruption*, WASH. POST, July 5, 2000, at A18.

behavior to successful control, choose the required degree of interference, design adequate control strategies and mechanisms, estimate the resources necessary, determine the success of the techniques used, and monitor agency performance in corruption control over time.

A police administrator determined to engage in an extensive reform and invest resources in corruption control without information about the nature, extent, and organization of corruption in the agency is likely wasting at least part of the resources, lowering the morale, strengthening the code of silence, and raising doubts about his ability to manage the organization. Moreover, without accurate measurement of corruption, the degree of success of a reform is often determined on the basis of its political appeal and the absence of subsequent scandals, rather than on the true impact the reform has had on the actual corruption in the agency.⁵

Despite its apparent significance and the vast resources invested in the police, the measurement of police corruption—or, for that matter, any other type of corruption—is surprisingly underdeveloped, as illustrated by Jacobs:

Unlike for most other crimes, there are no official data on the corruption rate. How much corruption is there? Is the rate rising or falling? Is there more corruption now than in previous decades? Is there more corruption in one city than another, in one government department than another? Has corruption decreased after passage of a law, announcement of an investigation or arrests, or implementation of managerial reforms? Corruption cannot be estimated by examining the *Uniform Crime Reports* or the National Crime Victimization Survey. Thus, it cannot be determined whether any particular anticorruption strategy or spate of strategies is working. We are data deprived.⁶

Although no official nationwide data on police corruption are available, the situation regarding measurement of corruption is somewhat brighter than Jacobs claims it to be. In this paper, I draw upon the available data to examine the extent and nature of police corruption and provide a comprehensive analysis of the existing methods for corruption measurement. Specifically, I discuss the existing assessments of police corruption (conducted for a variety of reasons, from performing cross-national comparisons, estimating the investment risk, to smoothing the effects of a scandal), analyze the

⁵ See, e.g., James B. Jacobs, *Dilemmas of Corruption Control, Presentation Before the Department of Justice National Institute of Justice (May 18, 1999)*, in NATIONAL INSTITUTE OF JUSTICE PERSPECTIVES ON CRIME AND JUSTICE: 1998-1999 LECTURE SERIES 73, 78 (1999).

⁶ *Id.* at 76.

strengths and weaknesses of each methodological approach, and elaborate on the extent to which these efforts show promise in the measurement of key corruption-relevant issues. I argue that, while each individual method (e.g., interviews, surveys, observations) suffers from numerous drawbacks and is therefore highly problematic when used as the sole source of corruption-related information, methodological approaches that relied on *combinations* of various methods have had more success in estimating the actual corruption and should thus be regarded as superior.

I. PROBLEMS AT THE OUTSET

First, in the course of measuring police *corruption* it is crucial to delineate what corruption is. Unfortunately, in most countries legal statutes do not feature a crime specifically titled "corruption." Even if it were not so, the definitions would probably vary at least as much as the definitions of most crimes across the world do.⁷ Behavior typically understood as "corruption" is classified as bribery and extortion, but, depending on the legal system, it may also be classified as theft, fraud, tax evasion, or racketeering.⁸ Some countries "may not even define some of the acts (e.g., bribery) as criminal at all."⁹ Similarly, what corrupt behavior is prohibited by internal agency rules varies from agency to agency¹⁰ and across time within the same agency. Thus, as challenging as measuring corruption in a given agency at a given time undoubtedly is, making any comparisons across space and time is inherently even more difficult and riddled with problems that render any resulting conclusions questionable and tentative at best.

Second, further dissecting the measurement of *police* corruption, it turns out that defining who the police are is by no means less challenging. Indeed, even some of the basic questions, such as who is

⁷ See, e.g., GLOBAL REPORT ON CRIME AND JUSTICE 20, 43 (Graeme Newman ed., 1999).

⁸ See, e.g., PROSECUTION OF PUBLIC CORRUPTION CASES (William F. Weld ed., 1988).

⁹ Newman, *supra* note 7, at 20.

¹⁰ The results of a study conducted by Barker and Wells in 1982 suggested that, among the agencies that had written rules and regulations covering police misconduct, only one-third of the agencies had rules dealing with corruption of authority (e.g., acceptance of a free cup of coffee, free meals from restaurants, Christmas gifts), a sizeable minority of the agencies (ranging from one-quarter to one-half) had no rules prohibiting serious corruption, including kickbacks, opportunistic thefts, shakedowns, protection of illegal activities, traffic, misdemeanor, or felony fix, involvement in direct criminal activities, and internal payoffs. See Tom Barker & Robert O. Wells, *Police Administrators' Attitudes Toward the Definition and Control of Police Deviance*, 51 FBI L. ENFORCEMENT BULL. 8-16 (1982).

included in the definition of the police and how many police agencies and police officers there are, remain controversial. For example, the U.S. police force is highly decentralized, ranging in geographic jurisdiction from federal and state to local (e.g., city, county), and in subject jurisdiction from general-jurisdiction police to park, university, or transit police, all the way to the most recent addition: private police.¹¹ Which of these police agencies should be classified under “police” is a challenging question. For example, while the President’s Commission estimated that there were 40,000 state and local police agencies in the United States in 1965,¹² the Department of Justice reported that there were only 20,000 police agencies in the United States in 1980 (revised to 17,784 full-time state and local law enforcement agencies).¹³ Similarly, which employees—sworn, non-sworn, reserve, recruits, Police Corps, full-time, part-time—are to be counted also needs to be decided upon, although that decision is somewhat less challenging: a typical calculation of the governmental police force (once a decision is made as to which forces are to be counted) includes sworn police officers. The number of sworn personnel in the U.S. in 1965 was reportedly 371,000,¹⁴ and it rose to 663,535 in 1998.¹⁵ Needless to say, the problems related to this aspect of measurement become even more complex in the international, comparative arena.¹⁶

The logical sources of information about corruption, not surprisingly, are the people who know about it: police officers, citizens, police organizations, and investigative agencies. The pivotal question, and the third problem to be considered at the outset, is what *motivation* would someone have to publicly reveal such information, be they a participant in a corrupt transaction or an administrator in an agency?

Obtaining information about corruption or gaining access to study corruption in an agency will likely be burdened with serious

¹¹ SAMUEL WALKER, *THE POLICE IN AMERICA* 39 (1992).

¹² TASK FORCE ON THE POLICE, PRESIDENT’S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, *TASK FORCE REPORT: THE POLICE* 7 (1967) [hereinafter *THE TASK FORCE*].

¹³ BRIAN A. REAVES & MATTHEW J. HICKMAN, *CENSUS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES* 1 (2000).

¹⁴ *THE TASK FORCE*, *supra* note 12, at 7.

¹⁵ REAVES & HICKMAN, *supra* note 13.

¹⁶ For a summary of the related issues see Chris Lewis, *Police Records of Crime*, in *GLOBAL REPORT ON CRIME AND JUSTICE*, *supra* note 7, at 43, 44.

obstacles imposed by a variety of key players—the police officers, union,¹⁷ chief,¹⁸ supervisors—whose agendas, although dissimilar in many aspects and motivated by different incentives, may converge in pursuit of the same specific common goal: disseminating as little information about corruption as possible and, generally, keeping the lid on the existing corrupt activities within the agency.

Generally, reports about corruption, if at all noticed by the public,¹⁹ may lead toward a scandal. When fueled by the “bad apple” approach toward police corruption and zero-tolerance attitudes, public reactions to a scandal often both generate requests for harsher punishments and challenge the leadership’s ability to manage the agency. In such a climate, findings of corruption are perceived almost exclusively as detrimental signs of the agency’s lack of integrity. Thus, police chiefs and police administrators have strong reasons for their reluctance to talk about police corruption: it may be more rational for the chief and the administration to sweep corruption under the rug (rather than confront it publicly), deny its existence for as long as possible, and, once corruption is discovered, downplay its extent and importance as much as possible and swiftly punish a few officers publicly accused of engaging in corrupt acts (“bad apples”).²⁰

¹⁷ The Department of Justice three-state study of police ethics in the early 1990s ultimately did not include Pennsylvania because of the pressures from the Fraternal Order of Police in Pennsylvania. The Union applied strong pressure and encouraged police officers not to participate. Consequently, the study was dropped in Pennsylvania before it even began. Similarly, the Fraternal Order of Police in Chicago decided not to endorse the Illinois project in Chicago. CHRISTINE MARTIN, *ILLINOIS MUNICIPAL OFFICERS’ PERCEPTION OF POLICE ETHICS 1-2* (1994).

¹⁸ The NYPD was included in the original design of Reiss’s LEAA-sponsored study of three agencies. However, Commissioner Howard Leary was reluctant to cooperate and New York was thus replaced with Boston. ANTHONY E. SIMPSON, *THE LITERATURE OF POLICE CORRUPTION* 65 (1977).

¹⁹ Sherman studied corruption scandals and subsequent reforms in four cities. Although the public plays an important role in the development of scandals, the public does not react with outrage in each and every case. Sherman wrote that, in the period preceding the then recent scandals, raising publicly even the more serious offense allegations did not result in successful scandals leading toward a reform. LAWRENCE W. SHERMAN, *SCANDAL AND REFORM* xxiv (1978). Similarly, a quarter of a century later, the recent police corruption scandal brewing in Los Angeles seems to have prompted a perhaps surprisingly mild reaction from the general public. See Matt Lait & Scott Glover, *City Near Critical Choice as City Officers Face Charges*, L.A. TIMES, July 9, 2000, at A1. For a comment about the community tolerance of police misconduct see Ralph C. Carmona, *Commentary: Standing Between Community and Chaos*, L.A. TIMES, June 26, 2000, at B9.

²⁰ See, e.g., Lawrence W. Sherman, *Sociological Theory of Police Corruption*, in *POLICE CORRUPTION* 6-12 (Lawrence W. Sherman ed., 1974); HERMAN GOLDSTEIN, *POLICE CORRUPTION* 6 (1975); KNAPP COMMISSION REPORT ON POLICE CORRUPTION (1972)

Police officers, bound by the nature of their occupation and the paramilitary structure of the police, learn during the socialization process that they need to turn a blind eye on misconduct by fellow police officers, which in turn enables them to rely on their assistance when they need it, and to earn their trust and support.²¹ Regardless of how severe and extensive the actual consequences of the violation of the code of silence are²² and what is actually covered by the code in an agency,²³ the code seems to be shared by police officers²⁴ and its presence has a serious impact on the police officers' willingness to report misconduct by fellow police officers. Such a state of affairs should not be surprising in light of the fact that, as is the case with any other self-report studies,²⁵ questions asked of police officers about their own criminality and criminality of others, if answered truthfully and later revealed, can entail serious ramifications, ranging from internal discipline (including dismissal) to convictions on felony charges.

Consequently, studying police corruption by asking police officers about the extent and nature of corruption in their agencies is more than likely to encounter resistance. A revealing example is the

[hereinafter KNAPP]; PENNSYLVANIA CRIME COMMISSION ON POLICE CORRUPTION AND THE QUALITY OF LAW ENFORCEMENT IN PHILADELPHIA 392-95 (1974) [hereinafter PENNSYLVANIA].

²¹ See, e.g., Ellwyn R. Stoddard, *A Group Approach to Blue-Coat Crime*, in POLICE CORRUPTION, *supra* note 20, at 292.

²² Informal punishments for the violation of the code range from practical jokes to more serious actions, such as burning the violator's locker, slashing their car tires, or threatening them with physical harm. MOLLEN, *supra* note 3, at 54-55. Some of the more serious consequences involve police officers left without help in the case of emergency. Furthermore, they may receive the most dangerous assignments. See PENNSYLVANIA, *supra* note 20. However, according to the experiences reported by Skolnick and Fyfe, the fear that a compromised police officer will be left to himself by his peers in an emergency tends to be exaggerated. See JEROME H. SKOLNICK & JAMES J. FYFE, *ABOVE THE LAW* 110 (1993).

²³ See, e.g., CARL B. KLOCKARS ET AL., *THE MEASUREMENT OF POLICE INTEGRITY* 65-70 (1997).

²⁴ See e.g., Thomas Barker, *Peer Group Support for Police Occupational Deviance*, 15 CRIMINOLOGY 353, 363 (1977); GAIL F. HUON ET AL., *PERCEPTIONS OF ETHICAL DILEMMAS* 19-20 (1995); KLOCKERS ET AL., *supra* note 23; DAVID WEISBURD ET AL., *POLICE ATTITUDES TOWARD ABUSE OF AUTHORITY: FINDINGS FROM A NATIONAL STUDY*, (Nat'l Inst. of Justice Research in Brief, 2000).

²⁵ Self-report studies require the respondents to report their own criminal acts in a confidential interview or in an anonymous questionnaire. Their main problems include selection bias of the respondents, doubts about the truthfulness of the answers, and focus on petty forms of criminality.

survey of attendees at the FBI National Academy, one of the most prestigious police academies in the United States.²⁶ Under a guarantee of confidentiality, a question in the survey asked of the respondents—very experienced police officers, mostly supervisors from a number of agencies across the United States—to provide “specific examples of graft or corruption in [their] department, without revealing names or places, and what [they] think could have been done to prevent it.”²⁷ *None* of the 49 respondents provided an answer.

Similarly to police officers, who do not have any motivation to report their own lucrative and successful corrupt activities, citizens who offered a bribe when caught violating the law are unlikely later to report the incident. If a citizen made a rational decision that it is better—in terms of finances, reputation, and emotional costs—to bribe a police officer than to be officially processed,²⁸ the citizen has no reason to change that decision and to expose their own involvement in not one, but two crimes, corruption probably being the more serious of the two. On the other hand, a citizen who perceived being forced into such an arrangement and being worse off than in the absence of it²⁹ may have a stronger motivation to disclose the transaction. However, the motivation to report in itself is not a sufficient prerequisite for the subsequent behavior; the force or abuse of official position by the police displayed or threatened during the transaction and the possible retribution for reporting may prompt the citizen to be even more reluctant to report.³⁰

²⁶ LEE E. FABRIZIO, *THE FBI NATIONAL ACADEMY: A STUDY OF THE CHANGE IN ATTITUDES OF THOSE WHO ATTEND* (1990).

²⁷ *Id.* at 39, 65.

²⁸ See SUSAN ROSE-ACKERMAN, *CORRUPTION: A STUDY IN POLITICAL ECONOMY* 86 (1978); ROBERT KLITGAARD, *CONTROLLING CORRUPTION* 70 (1988).

²⁹ See ROSE-ACKERMAN, *supra* note 28, at 53. Rose-Ackerman argues that the distinction between bribery and extortion lies in “whether the payer receives ‘better than fair treatment’ or must pay to be treated fairly.” Similarly, Hailman wrote that in extortion the victim fears economic loss, while in bribery the bribe “benefits both the bribe-taker, who likes it because he gets the cash, but also the briber, because he gets the profit of the government business . . .” John R. Hailman, *Corruption in Government Contracts: Bribery, Kickbacks, Bid-Rigging and the Rest*, in *PROSECUTION OF PUBLIC CORRUPTION CASES*, *supra* note 8, at 20.

³⁰ The President’s Commission on Law Enforcement and Administration of Justice reported in 1967 that the police used various methods of discouraging citizens from filing a complaint. One such technique included charging a complainant with filing a false report:

In one large eastern city, for example, the police department used to charge many of those who filed complaints of police misconduct with filing false reports with the police. In 1962, 16 of 41

Thus, those who know about corruption—from police officers and citizens who directly participate in corrupt transactions to police chiefs and administrators who are accountable for the conduct of their subordinates—have very few motives to make public the information about corrupt acts they come across. In fact, they have a diversified palette of motives to conceal any such information as much as possible.

II. THE ACTUAL EXTENT AND NATURE OF CORRUPTION

The secretive nature of corrupt transactions and the lack of incentives to release information about them render obtaining accurate measurements—the actual number of corrupt incidents and offenders, and the actual losses arising from corruption—a very difficult task. The practical impossibility of measuring the true extent and nature of corruption on the one hand and the pressing need to obtain the relevant information on the other hand have prompted social scientists to develop various methods of *estimating* the true extent and nature of corruption: surveys, experiments, case studies, interviews, and observations.

Unfortunately, regardless of its sophistication, when applied to the measurement of the extent of corruption each of these methods in itself is burdened with inherent methodological problems. Thus, the quality of the research design and the limitations of each method have a material impact on the outcome; the higher the internal and external validity of the method, the greater the probability that the resulting estimates are closer to the true extent and nature of corruption. One approach toward enhancing the likelihood that the

persons (almost 40%) who filed complaints were arrested for filing false charges, in comparison with the arrest of only 104 of 33,593 persons (0.3%) who filed similar charges against private citizens.

THE TASK FORCE, *supra* note 12, at 195.

A decade later, the Knapp Commission also provided examples of retaliation for submitting a complaint of police corruption. KNAPP, *supra* note 20. Furthermore, police agencies typically sustain a very small percentage of the complaints (0 to 25%). See e.g., THE TASK FORCE, *supra* note 12, at 196; ANTHONY M. PATE ET AL., POLICE USE OF FORCE: OFFICIAL REPORTS, CITIZEN COMPLAINTS, AND LEGAL CONSEQUENCES 117-118 (1993). Although the situation appears to be gradually improving, the potential complainants still face a number of obstacles, some of which are imposed by the police departments with the purpose of discouraging false reporting (e.g., signed written statement, notarized statement, warning about the false reporting). For an analysis of current policies in the Charleston Police Department, Charlotte-Mecklenburg Police Department, and St. Petersburg Police Department, see CARL B. KLOCKARS ET AL., ENHANCING POLICE INTEGRITY (2001).

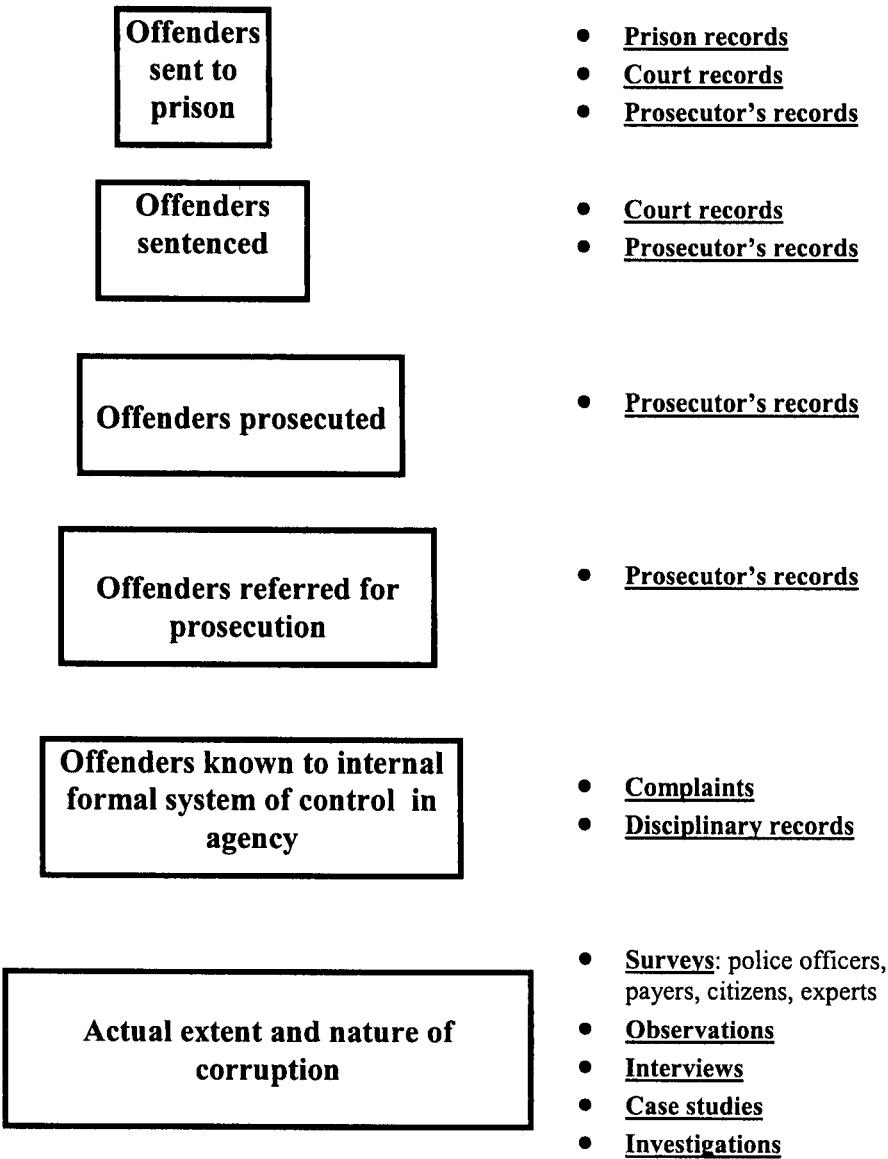
obtained estimates are a close approximation of the actual corruption is triangulation:³¹ the use of several different methods. Indeed, while much of the existing research relied on one method, independent commissions and a few large research projects tended to use a combination of methods.

Another approach toward enhancing the accuracy of the findings, applied in survey methodology and qualitative studies, is to use more than one category of respondents (e.g., surveying not only police officers, but citizens as well). For expository convenience, I organize the discussion around the methods and the studies that employed them.

Figure 1 illustrates the levels at which corruption could be measured, starting with the actual extent and nature of corruption (bottom of Figure 1) and ending with the offenders sent to prison (top of Figure 1). Although the true level of corruption should be measured at the lowest level—all possible corrupt activities and offenders—potentially useful information can also be obtained by estimating corruption at various stages of the internal disciplinary system and the criminal justice system. As suggested by Figure 1, in the real world the number of cases and offenders decreases as they move through the formal justice systems—both the internal formal system of control in the agency and the larger criminal justice system.

³¹ Marshall and Rossman define triangulation as “the act of bringing more than one source of data to bear on a single point.” CATHERINE MARSHALL & GRETCHEN B. ROSSMAN, *DESIGNING QUALITATIVE RESEARCH* 146 (1989).

Figure 1
The Funnel of Police Corruption and the Data Collection Methods



A. SURVEYS

1. Surveys of Police Officers

Surveys that ask police officers to report their own involvement in corruption or that of their fellow officers are rare because it is not only very difficult to gain access to police agencies, secure their participation, and earn the trust of the police officers, but it is also evident that the validity of the data obtained in such a way is doubtful at best. Police officers have no incentives to report their own corrupt activities and thus risk losing their job and/or facing prosecution in criminal courts. Moreover, since they are accepted members of the police subculture and are likely to share and support the code of silence, they have no motive to report misconduct by their fellow officers either, even if guaranteed confidentiality or anonymity by the researchers.

Not surprisingly, because of the potential problems related to validity and the challenges related to defining corruption and the police, there is no survey, national or international,³² that could ascertain, for example, whether “fewer police officers have reported this year that they have engaged in corruption than they did last year” or whether “the percentage of police officers in the Northeast who reported that they engaged in corruption is smaller than in the South.” A recently released summary of the Police Foundation survey, described by its authors as providing “the *first* national portrait of police attitudes toward the abuse of authority,”³³ contains no questions about the frequency of corruption.

A few surveys of police officers inquired about the frequency of corruption in their agencies. The challenges of asking police officers to violate the code of silence are illustrated by a Department of Justice study of police behavior.³⁴ The original grant to the Ohio Governor’s Office of Criminal Justice Services was expanded to include the Illinois Criminal Justice Information Authority and the Pennsylvania Commission on Crime and Delinquency, but the Fraternal Order of Police in Pennsylvania strongly pressured police

³² The first exploratory international self-report study has been conducted recently, but it did not include police officers as respondents. See Graeme Newman & Gregory J. Howard, *Introduction: Data Sources and Their Use*, in GLOBAL REPORT ON CRIME AND JUSTICE, *supra* note 7, at 16.

³³ WEISBURD ET AL., *supra* note 24, at 3.

³⁴ See MARTIN, *supra* note 17.

officers not to participate. Consequently, the study was aborted in Pennsylvania before it even began.³⁵ Similarly, the Fraternal Order of Police in Chicago decided not to endorse the Illinois project in Chicago, forcing the researchers in Illinois to exclude the Chicago Police Department—representing approximately one-half of the full-time municipal police force in Illinois—from the project.³⁶

The Illinois study was based on a stratified random sample of municipal police officers (N=861). The respondents were asked to report what types of misconduct they most commonly observed during the past year and during their whole career.³⁷ The frequency of perceived forms of corruption seemed to be related to their seriousness: fewer than 0.4% of the respondents said that they saw a police officer accepting a bribe, stealing property, or purchasing stolen merchandise in the past year, while 81% of the police officers said that they saw a police officer accepting free coffee or food from a restaurant.³⁸ The socialization process and the participation in the code of silence had a strong impact on the frequency with which the respondents reported observing corruption: police officers with less than one year of experience (i.e., those who had only limited exposure to police work) were more likely to say that they had witnessed a police officer accepting free coffee or food in the past year than the more experienced police officers (especially those with more than sixteen years of service).³⁹

The corruption-related results of the Ohio study were quite similar to the findings of the Illinois study: a representative sample of Ohio police officers reported observing serious types of police corruption (acceptance of a payment to overlook illegal activity, purchase of stolen merchandise for personal use or gain) rather infrequently (less than 0.6% observed it in the previous year; less than 4.7% observed it during their careers), while they reported observing police officers accepting free coffee or food from

³⁵ *Id.* at 1-2.

³⁶ *Id.* at 4.

³⁷ *Id.* at 32.

³⁸ *Id.* at 33.

³⁹ *Id.* at 42. To a certain extent, the differences could probably be explained by the officers' ranks. The percentage of police officers and first-line supervisors who said that they had observed an acceptance of free coffee or food in the previous year was higher than that of detectives/investigators, mid-level supervisors, or administrators. *Id.* at 46. Police officers and first-line supervisors, by the very nature of their assignments, probably have more opportunities to observe such behavior than mid-level supervisors or administrators do.

restaurants quite frequently (71% observed it over the course of the previous twelve months; 87.3% observed it during their careers).⁴⁰

A survey of six police agencies, conducted by McCormack and Fishman in 1978, used a different approach. The authors wanted to test the degree of "police improbity" (behavior that can be considered unethical, dishonest, or corrupt).⁴¹ At the outset, the six police agencies were classified according to their reputation for integrity into predominantly clean agencies, predominantly corrupt agencies, and agencies that have undergone a recent reform. McCormack and Fishman provided their respondents with five hypothetical scenarios (ranging from the acceptance of free meals and discounts to kickbacks and thefts from the crime scene) and asked them to estimate the proportion of their police force engaging in such behavior. Based on a sample of 755 police officers, the authors found that even in the cleanest of the six departments a certain percentage of police officers, though smaller than in the departments perceived as corrupt, engaged in such behavior.⁴² At the same time, even in the departments the research team and their Advisory Board Members classified as having serious corruption problems, police officers reported that, with the exception of the acceptance of free meals and discounts, "very few" of their fellow officers engaged in such misconduct. The authors concluded that, "in most departments a very low level of corruption superficially appears to exist."⁴³

Given the sampling techniques and the methodology, the results of the studies that (at least on the surface) managed to convince police officers to describe the extent of police corruption in their police agencies are thus at best limited to the populations from these agencies. Consequently, in the absence of a representative sample, the results cannot be extended to other agencies or generalized to apply to the whole police force in a particular region or nation. Furthermore, the police officers' answers, potentially impacted by the self-serving bias⁴⁴ and the fear of drastic consequences for the

⁴⁰ JEFFREY J. KNOWLES, *THE OHIO POLICE BEHAVIOR STUDY* (1996).

⁴¹ JANET E. FISHMAN, *MEASURING POLICE CORRUPTION* 9 (1978).

⁴² *Id.* at 28-33.

⁴³ *Id.* at 26.

⁴⁴ See, e.g., L. Larwood & W. Whittaker, *Managerial Myopia: Self-Serving Bias in Organizational Planning*, 62 J. APPLIED PSYCHOL. 194 (1977); N. D. Weinstein, *Unrealistic Optimism about Future Life Events*, 39 J. PERSONALITY & SOC. PSYCHOL. 806 (1980); Ola Svenson, *Are We Less Risky and More Skillful Than Our Fellow Drivers?*, 47 ACTA PSYCHOLOGICA 143 (1981).

violations of the code of silence, tend to point further away from the true rate of involvement in corruption.

In an attempt to lessen the impact of the code of silence, Barker asked only police rookies (i.e., inexperienced police officers) to report on the frequency of corruption in their agencies.⁴⁵ This approach is not without drawbacks either: a certain period of time necessarily has to pass before rookies will have had sufficient opportunities to observe misconduct and, during that period, rookies are not immune from socialization into the police subculture, which in turn makes them more susceptible toward accepting the code of silence. The rookies in Barker's sample had an average of ten months of experience.⁴⁶ At least two-thirds of the surveyed rookies responded that *none* of the police officers in their agencies had engaged in corruption (e.g., a case fix, opportunistic thefts, shakedowns, direct criminal activities, or internal corruption), with the notable exceptions of corruption of authority and kickbacks.⁴⁷ Put differently, the results indicate that between 9% and 31% of the novice police officers said that at least *some* of their fellow officers engaged in serious corruption.⁴⁸

2. Surveys of Citizens

Citizens, including the general public as well as specific segments of the public (such as restaurant owners), are another source of data about corruption. Some of them have experienced corruption as participants, while others might have observed corrupt transactions by others. Analyzing aggregate answers about the citizens' own involvement in corruption (as bribe-givers) and especially, if possible, by comparing them with the police officers' answers, can yield a better estimate of the actual corruption.

⁴⁵ Tom Barker, *Rookie Police Officers' Perceptions of Police Occupational Deviance*, 6 POLICE STUD. 6 (1983).

⁴⁶ The range of experience for the surveyed 271 rookie police officers from 71 police agencies and 21 sheriff's departments (who attended a police academy in one southern state) was from 1 month to 72 months, with a mean of 10 months. *Id.* at 32-33. The term "rookie" may be misleading in this case; one would assume rookies to be inexperienced police officers who are just starting their careers in law enforcement (or in that agency). Interestingly, in Barker's sample of "rookies" there were 2 corporals, 12 sergeants, 3 lieutenants, and 5 assistant chiefs. Barker explained that, "in the region served by this particular academy it is quite common to find individuals employed at the rank of what one would consider a superior officer in a larger department." *Id.*

⁴⁷ *Id.* at 34.

⁴⁸ *Id.*

Citizens were typically included as respondents in two types of surveys: those asking about the *honesty* of the police and those asking about the *extent of corruption* among the police. A problem with the first type of citizen surveys is that public attitudes can be based on an unobservable mix of their actual experiences and their general opinions about the police (which can be shaped in significant part by the media or by a few highly publicized cases).⁴⁹ Furthermore, to protect their own behavior which constitutes a violation of legal rules, both citizens and police officers can try to project the "socially acceptable" image instead of revealing their actual opinion, especially if doing so would yield a picture contrary to the expected.

Surveys have indicated that the public both has positive impressions of police officers' ethical standards⁵⁰ and estimates the police to be among the occupations with the highest ethical standards.⁵¹ For example, Gallup Polls have consistently reported over the last two decades that between 40% and 50% of the surveyed citizens evaluate the honesty and ethical standards of the police to be either "very high" or "high."⁵²

However, estimates of police honesty appeared to be related to the respondent's race; starting from the National Opinion Research Center survey and the Louis Harris poll conducted for the President's Commission in the 1960s,⁵³ African-American respondents generally evaluated police performance and integrity in more negative terms than Caucasian respondents did:

The NORC survey disclosed that sharp differences exist as to how citizens view police honesty. About two-thirds of whites, but only one-third of [blacks] thought the police to be 'almost all honest;' less than 2 percent of whites thought that they were 'almost all corrupt' in comparison to 10 percent of nonwhites. A Louis Harris poll in

⁴⁹ See J. R. Lasley, *The Impact of the Rodney King Incident on Citizen Attitudes Toward Police*, 3 POLICING & SOC'Y 245 (1994) for a description of the impact of one highly-publicized case (the Rodney King case) on the attitudes of the public in South Central Los Angeles.

⁵⁰ See, e.g., Scott H. Decker, *Citizen Attitudes Toward the Police: A Review of Past Findings and Suggestions for Future Policy*, 9 J. POLICE SCI. & ADMIN. 80 (1981); BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SOURCEBOOK ON CRIMINAL JUSTICE STATISTICS 1997, at 115 (1998) [hereinafter SOURCEBOOK 1997].

⁵¹ SOURCEBOOK 1997, *supra* note 50, at 113.

⁵² *Id.* at 115.

⁵³ THE TASK FORCE, *supra* note 12, at 146-48.

1966 found that approximately 15 percent of [blacks] (almost four times as many as whites) believed that many police officers in their communities took bribes.⁵⁴

The more recent surveys suggest that the public still tends to have a relatively positive opinion about police *honesty*, while, at the same time, it perceives that police officers *frequently engage in corruption*. For example, a survey of citizens in Philadelphia in 1987 revealed that the public provided very positive ratings of the police service despite the fact that one-third of the respondents thought that police officers *often* took bribes.⁵⁵ On the eve of one of the most recent corruption scandals in New York, a *New York Times* poll in 1994 showed that, while 93% of the surveyed citizens perceived that corruption is either “widespread” or at best “limited,” approximately one-half of the surveyed citizens estimated that the police are doing a “good” or an “excellent” job.⁵⁶ Another poll conducted in June of 1994 indicated that citizens had a more positive opinion about the average police officer in New York than about the New York Police Department as a whole: while 73% of the citizens stated that the average police officer was “very” or “somewhat honest,” 43% of the citizens perceived that there was widespread corruption in the Department.⁵⁷ Once again, African-American and Hispanic citizens were more likely to say that corruption was widespread than Caucasian citizens were.⁵⁸

Overall, then, the results of citizen surveys provide quite a divergent picture about police corruption, from fewer than 2% of Caucasian respondents nationwide who perceived in the 1960s that most of the police were corrupt,⁵⁹ to 22% of respondents in the “Bay City” area in California in the 1970s who thought that there was at least some bribery of the police,⁶⁰ to 93% of New Yorkers in the 1990s who perceived corruption to be widespread.⁶¹

⁵⁴ *Id.* at 148.

⁵⁵ MARK MOORE, *Epilogue to POLICE INTEGRITY: PUBLIC SERVICE WITH HONOR* 62 (1997).

⁵⁶ C. Krauss, *Poll Finds a Lack of Faith in the Police*, N.Y. TIMES, June 19, 1994, at A1.

⁵⁷ WCBSTV/New York Times poll in June 1994, cited in RUDOLF W. GIULIANI & WILLIAM J. BRATTON, *POLICE STRATEGY NO. 7: ROOTING OUT CORRUPTION; BUILDING ORGANIZATIONAL INTEGRITY IN THE NEW YORK POLICE DEPARTMENT* 22 (1995).

⁵⁸ *Id.* at 23.

⁵⁹ THE TASK FORCE, *supra* note 12, at 148.

⁶⁰ Thomas J. Crawford, *Police Perceptions of Ghetto Hostility*, 1 J. POLICE SCI. & ADMIN. 168, 170 (1973).

⁶¹ Krauss, *supra* note 56.

Similarly, surveys of citizens across the world suggest that perceptions about the extent and nature of corruption differ widely. For example, Bayley reported in 1974 about public perceptions of corruption in India: between one-quarter and one-half of the respondents, depending on the part of the country and the type of population (urban/rural), said that there is a "great deal" of corruption among the police.⁶² At the same time, Judge reported that the public relations surveys conducted in the United Kingdom indicated that the majority of the respondents, although they evaluated the police in positive terms, thought that the police officers occasionally accepted bribes.⁶³

Several studies of public opinion were conducted recently, in the 1990s. A community survey of New South Wales in Australia revealed that, while three-quarters of the respondents believed that there was corruption in the NSW Police Service, the majority (79%) felt that the number of corrupt police officers was "low" or "very low."⁶⁴ When Australian respondents in a different study were asked about the frequency with which police officers accept gratuities, 14% reported that, "they had observed a police officer being offered a gratuity and 12% said they had observed an officer accepting a gratuity."⁶⁵

One of the public opinion surveys with the widest coverage is the Gallup International 50th Anniversary Survey.⁶⁶ Citizens in 37 countries were asked to estimate the extent of corruption by various public officials, including the police.⁶⁷ Although only approximately one-third of the respondents in the West European countries and Israel reported that police corruption was widespread, that

⁶² David Bayley, *Police Corruption in India*, in *POLICE CORRUPTION*, *supra* note 20, at 74, 76.

⁶³ Anthony Judge, *Police Corruption in England*, in *POLICE CORRUPTION*, *supra* note 20, at 94, 95.

⁶⁴ Cited in NADIA BONI, *PERCEPTIONS OF POLICE AND POLICING: A REVIEW OF PUBLIC AND POLICE SURVEYS* 31 (1995).

⁶⁵ Tim Prenzler & Peta MacKay, *Police Gratuities: What the Public Think*, 14 *CRIM. JUST. ETHICS* 15, 23 (1995).

⁶⁶ Gallup International, *Gallup International 50th Anniversary Survey* (1996) (unpublished manuscript, on file with author).

⁶⁷ The question in the Gallup International Survey asked the respondents: "From the following groups of people, can you tell me for each one of them, if there are a lot of cases of corruption given, many cases of corruption, few cases or no cases of corruption at all." Police officers were included among the nine categories listed (politicians, trade unionists, public officials, policemen, businessmen, judges, ordinary citizens, clergy/priests, and journalists). *Id.*

assessment was shared by over two-thirds of the respondents in the East European countries, the Far Eastern countries, and the Central and South American countries. However, while these regional averages illustrate the extent of the differences across the globe, they also conceal substantial differences within each region. For example, while on average one-third of the respondents in the fourteen West European countries characterized police corruption as widespread, the percentage of respondents differed from as low as 9% in Finland and 11% in Denmark to as high as 61% in Turkey and 73% in Belgium.⁶⁸

Another approach in the survey methodology is to ask citizens to report incidents in which they had offered a bribe to police officers or were victims of corruption. Interestingly, although the Department of Justice, Bureau of Justice Statistics⁶⁹ has been conducting the National Crime Victimization Survey on representative samples of U.S. households for over a quarter of a century, *none* of the questions asks about victimization by the police or participation in corruption.

The first international self-report study was conducted recently, but the respondents, members of the general public from twelve countries aged fourteen to twenty-one, were not asked about their own corrupt behavior.⁷⁰ However, despite its origin and primary orientation toward the questions related to the respondents' victimization, another survey—the International Crime Victim Survey⁷¹ (ICVS)—contains a few self-report questions related to corruption.⁷² Specifically, in addition to asking the respondents whether they had been asked for a bribe in the previous year, the questionnaire also inquires about the governmental agency to which

⁶⁸ *Id.*

⁶⁹ See e.g., BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, CRIMINAL VICTIMIZATION IN THE UNITED STATES, 1992 (1994).

⁷⁰ Newman & Howard, *supra* note 32, at 16.

⁷¹ JAN J. VAN DIJK, THE INTERNATIONAL CRIME VICTIM SURVEYS 1989-1997 (1997).

⁷² Corrupt behavior may include participants not equally willing to engage in corruption. Although some participants can initiate corrupt transactions themselves, most of the participants share one common feature: the police officers who caught them violating the law (the original crime), to whom they may have offered or are considering offering a bribe (the new crime), have at their disposal the implicit threat of enforcing the law or even abusing the law in order to obtain compliance. Related legal decisions in federal courtrooms rest on that principle: the prosecutor need not prove force or a threat of using force in order to have a defendant convicted of extortion; rather, proving that a police officer received money *because* of his office will suffice. H. Marshall Jarrett, *Charging Decisions*, in PROSECUTION OF PUBLIC CORRUPTION CASES, *supra* note 8, at 213.

the bribe seeker belonged to.⁷³ Combining the answers to these two questions offers a crude estimate of the percentage of the respondents who said that they had paid a bribe to a police officer last year in a particular country.

Three sweeps of the survey have been conducted over the course of eight years; they include 93 surveys in 56 countries with a total of 136,464 interviews.⁷⁴ As an integral part of a large study on police attitudes,⁷⁵ I use a data set drawn from the most recent survey sweep available (1996/1997) to conduct the analyses reported below. The data set contains city samples drawn in forty-one countries from six continents.⁷⁶

It is apparent that the estimated extent and nature of corruption display formidable variation throughout the world.⁷⁷ Of the respondents who said that they had been asked to pay a bribe last year, the percentage of those who said that they had paid a bribe to a police officer varies from almost 0% in the Netherlands, Switzerland, France, or Sweden, to 71% in Argentina.⁷⁸ The fact that 100% of the respondents from the United States who said that they had paid a bribe had paid it to a police officer⁷⁹ is an excellent example of the problems with the validity of survey methodology. Since the behavior studied appears to be quite rare in the United States (1.5% of the respondents said that they had paid a bribe), further breakdown of bribe payers (by the type of officials to whom the bribe was paid) relies upon a very small number of respondents. Therefore, assuming that the sampling procedures produced representative samples, countries in which a higher percentage of the respondents said that they had bribed a police officer exhibit a smaller margin of error and thus probably have a higher degree of internal validity. In the instances in which percentages are very small, the question to what degree these percentages generalize to the entire population remains unanswered.

⁷³ ICVS WORKING GROUP, INTERNATIONAL CRIME VICTIM SURVEYS C14A100, C14A300 (1997).

⁷⁴ Jan J. van Dijk, *The Experience of Crime and Justice*, in GLOBAL REPORT ON CRIME AND JUSTICE, *supra* note 7, at 25.

⁷⁵ Sanja Kutnjak Ivković, *Opinions About the Police in Democratic Countries and Countries in Transition: An Analysis of the International Crime Victim Survey Data* (2000) (unpublished manuscript, on file with author).

⁷⁶ See *infra* tbl. 1.

⁷⁷ See *id.*

⁷⁸ See *id.*

⁷⁹ See *id.*

A cross-country comparison of the percentage of respondents who said that they had been asked to pay a bribe to a police officer (out of all the respondents) also yields interesting implications about the perceived extent of police corruption across the world. A very small percentage of the respondents from Western democracies (1% or less), reported paying a bribe to the police, while the percentages are dramatically higher (between 10% and 20%) in some East European, Asian, and Latin American countries. Broadly speaking, the countries with the reputation in the international business community of being more corrupt,⁸⁰ as indicated by a low score on the 1999 Corruption Perception Index (CPI)⁸¹ (reported in Table 1), appear also to have a higher percentage of the respondents who said that they had been asked to pay a bribe to a police officer last year.⁸²

⁸⁰ The Göttingen University and Transparency International jointly developed the Corruption Perception Index that provides a composite score for each country. The score suggests the corruption-related reputation of each country in the international business community. A high score (close to ten) indicates that the country is perceived as relatively clean of corruption, while a low score (close to one) indicates that the country is perceived as having serious corruption problems. See <http://www.gwdg.de/~uwwv/icr.htm>.

⁸¹ The Corruption Perception Index (CPI), developed by the Transparency International, is a combination of data from seventeen sources compiled by ten institutions. Johann Graf Lambsdorff, *The Transparency International Corruption Perceptions Index 1999: Framework Document* (1999), available at http://www.transparency.org/cpi/1999/cpi_framework or in PDF format at http://www.gwdg.de/~uwwv/1999_CPI_FD.pdf. Most of the sources (ranging from the Political & Economic Risk Consultancy to "International Working Group") utilize instruments that target the frequency of corruption in general. For example, the World Competitiveness Yearbook by the Institute for Management Development features the item "Improper practices (such as bribing or corruption) prevail or do not prevail in the public sphere." The Asian Intelligence Issue by the Political & Economic Risk Consultancy asks "To what extent does corruption exist in the country in which you are posted in a way that detracts from the business environment for foreign companies." The Private Sector Survey by the World Bank/Basel University asks two corruption-related questions: "Please judge on a six point scale how problematic [corruption is] for doing business," and "It is common for firms in my line of business to have to pay some irregular 'additional payments' to get things done. This is true always, mostly, frequently, sometimes, seldom or never." *Id.* Only two sources—the ICVS and the Gallup International—ask specifically about the frequency of *police* corruption.

⁸² The CPI is a composite score of over a dozen surveys, only one of which is the ICVS (a country is assigned a CPI score if it had participated in at least five different surveys). Therefore, the non-linear negative relationship between the percentages reported in the third and fourth columns of Table 1 (Pearson's correlation coefficient, $r = -0.58$, ordinarily intended to measure the strength of linear relationships, provides a useful but conservative estimate of the strength of this relationship) is not trivially induced by the construction of the CPI, since the bulk of the weight entered into the CPI comes from other surveys. Moreover, the impact of the part of CPI that comes from the ICVS (the first column of Table 1) on the

In addition to the International Crime Victim Surveys—a major endeavor supported by researchers from over fifty countries around the globe—several research teams conducted self-report studies of the general public in a limited number of countries. For example, Miller, Grodeland, and Koshechkina recently studied the use of presents and bribes in Eastern Europe⁸³ (the Czech Republic, Slovakia, Bulgaria, and Ukraine). Instead of asking about their own corrupt activities, the respondents were asked about corrupt behavior in hypothetical terms. The majority of the respondents in Slovakia, Bulgaria, and Ukraine (64%, 72%, and 89%, respectively) and close to one-half in the Czech Republic (42%) said that a person seeking something to which he or she is entitled by law would have to offer money, a present, or a favor to the police.⁸⁴

Most of the existing surveys focus on one country and are conducted locally, usually with the purpose of surveying the population of a particular city. For example, based on a sample of 116 citizens surveyed in Reno, Nevada, Sigler and Dees found that approximately one-half of the respondents said that, “if [they] run a small business, such as a coffee shop or a movie theater, [they would] offer police officers free gifts such as coffee, meals, or free movie tickets.”⁸⁵ Interestingly, one-third of those who said that they would offer gratuities to the police also said (explicitly) that they would expect special favors in return.⁸⁶

described relationship is further attenuated by the construction of the percentage of the respondents who paid a bribe to a *police officer* last year (the third column of Table 1).

⁸³ William L. Miller et al., *Are the People Victims or Accomplices? The Use of Presents and Bribes to Influence Officials in Eastern Europe*, 29 CRIME L. & SOC. CHANGE 273 (1998).

⁸⁴ *Id.* at 278.

⁸⁵ Robert T. Sigler & Timothy M. Dees, *Public Perception of Petty Corruption in Law Enforcement*, 16 J. POLICE SCI. & ADMIN. 14, 18 (1988).

⁸⁶ *Id.* at 18.

Table 1
ICVS Survey Results on Bribe Payment

	Respondents asked to pay last year	Percentage paying to a police officer	Respondents asked to pay a police officer last year	CPI 1999 score
Canada	0.8%	20.0%	0.16%	9.2
USA	1.5%	100.0%	1.50%	7.5
Austria	1.5%	50.0%	0.75%	7.6
England & Wales	0.2%	0.0%	0.00%	8.6
France	2.9%	0.0%	0.00%	6.6
Malta	4.3%	21.7%	0.93%	-
Netherlands	0.7%	0.0%	0.00%	9.0
Scotland	0.6%	0.0%	0.00%	8.6
Sweden	0.4%	0.0%	0.00%	9.4
Switzerland	0.0%	0.0%	0.00%	8.9
Albania	14.0%	8.1%	1.13%	2.3
Belarus	12.5%	20.9%	2.61%	3.4
Bulgaria	19.3%	54.6%	10.54%	3.3
Chechnia	9.1%	26.2%	2.38%	-
Croatia	15.4%	44.4%	6.84%	2.7
Estonia	4.0%	36.4%	1.46%	5.7
Georgia	30.6%	30.0%	9.18%	2.3
Hungary	3.9%	34.5%	1.35%	5.2
Latvia	14.3%	12.1%	1.73%	3.4
Lithuania	13.4%	32.6%	4.37%	3.8
Macedonia	7.7%	9.3%	0.72%	3.3
Poland	7.7%	30.7%	2.36%	4.2
Romania	12.0%	13.6%	1.63%	3.3
Russia	19.0%	52.1%	9.90%	2.4
Slovak Rep.	14.1%	32.7%	4.61%	3.7
Slovenia	1.5%	18.8%	0.28%	6.0
Ukraine	12.9%	25.6%	3.30%	2.6
Yugoslavia	17.5%	40.5%	7.09%	2.0
India	23.3%	18.3%	4.26%	2.9
Indonesia	33.8%	52.2%	17.64%	1.7
Kyrgyz Rep.	21.8%	24.0%	5.23%	2.2
Mongolia	5.2%	14.8%	0.77%	4.3
Philippines	4.6%	34.0%	1.56%	3.6
Botswana	3.0%	21.1%	0.63%	6.1
South Africa	7.6%	46.1%	3.50%	5.0
Zimbabwe	7.2%	30.6%	2.20%	4.1
Argentina	29.3%	71.4%	20.92%	3.0
Bolivia	26.0%	43.6%	11.34%	2.5
Brazil	17.9%	49.7%	8.90%	4.1
Costa Rica	11.1%	23.7%	2.63%	5.1
Paraguay	13.8%	28.4%	3.92%	2.0
Average	12.6%	36.4%	4.59%	-

3. Surveys of Various Types of Respondents

Surveying a variety of respondents—police officers, members of the public, and citizens who participate in corrupt activities—can

help increase the validity of the results.⁸⁷ The most elaborate surveys of this kind, designed by the World Bank Institute, have the purpose of identifying the prevalence of corruption (including police corruption) and its causes, as well as its social and economic costs. Surveys of households, businesses, and public officials within the same country serve as diagnostic tools to provide guidance on the extent, nature, causes, and costs of corruption in a particular country and can be used to measure the effects of subsequent anti-corruption reforms. According to the World Bank, to date these surveys “are being or have been implemented with assistance from the World Bank in numerous countries including Albania, Georgia, Latvia, Russia, Slovakia, Ecuador, Bolivia, Paraguay, Thailand, Benin, Ghana, [Cambodia,] and Nigeria.”⁸⁸

Although designed (1) to decrease the likelihood of non-replies by attributing the guilt to the other party in the transaction (e.g., citizens were asked about the instances in which they were *requested* to pay; public officials were asked about the situations in which the enterprises *offered* bribes)⁸⁹ or by avoiding asking the respondents about their own corrupt behavior and instead asking about their knowledge regarding corruption (e.g., public officials were not asked about their own corrupt activities) and (2) to increase the likelihood that the results are an accurate measurement by including three groups of respondents (citizens, enterprises, and public officials), the questionnaires are not free from methodological problems. Some of the problems are: (1) the accuracy of citizens’ perceptions may depend to a large degree upon their actual experience with a

⁸⁷ For example, if one were to reach conclusions based only on the answers provided by the officials in the Cambodian public officials survey, one would conclude that corruption is not widespread (unofficial payments received in 10% or less of their contacts). However, when the results from the Cambodian household survey and enterprise survey are considered as well, it becomes clear that public officials probably underestimated the extent of corruption. In particular, citizens and enterprises estimated the frequency of bribes to occur in at least 40% of the contacts (53% for urban households, 43% for rural households, 44% for domestic enterprises, and 68% for foreign enterprises). WORLD BANK, CAMBODIA: GOVERNANCE AND CORRUPTION DIAGNOSTIC: EVIDENCE FROM CITIZEN, ENTERPRISE AND PUBLIC OFFICIAL SURVEYS 14 (2000), available at http://www.worldbank.org/wbi/governance/diag_surveys.htm.

⁸⁸ *Id.* at iii. Reports available at the World Bank web-site presently include Albania, Cambodia, and Latvia.

⁸⁹ JAMES ANDERSON, REPORT: CORRUPTION IN LATVIA: SURVEY EVIDENCE 9 (1998), available at http://www.worldbank.org/wbi/governance/diag_surveys.htm.

particular form of corruption;⁹⁰ (2) the respondents can have a tendency to underestimate their own corrupt activities or those by their colleagues;⁹¹ (3) the overall percentage of public officials selected from each agency can be small;⁹² and (4) the percentage of public officials who provided an answer to a question probing into the nature of corruption in their agencies can be small.⁹³

While a substantial portion of the questionnaires focuses on corruption in general, each questionnaire also features a section examining the prevalence and typical forms of police corruption. Respondents in the household survey and the enterprise survey are asked about the overall honesty of the police and the quality of their services, the frequency of contacts with the police, and the size and frequency of unofficial payments requested by the police. In addition to providing estimates related to police corruption itself, these questions enable comparisons between the police and other governmental offices in terms of perceptions of their overall honesty, extent and nature of corruption, and reporting practices.

⁹⁰ The results from the household sample in Latvia clearly indicate that the perceptions about the extent of judicial corruption varied with the respondents' experience:

Although corruption seems to be accepted as "normal" by much of the population, the surveys suggest that the public perception may be worse than the reality. In the case of the judiciary, for example, households perceived that bribes were required 30 to 40 percent of the time . . . yet only 14 percent of the households that were involved in court cases actually received some indication that a bribe was desired.

ANDERSON, *supra* note 89, at 49.

⁹¹ Perhaps not surprisingly, public officials in the Latvian sample reported that the frequency of various types of corruption was quite different in their own agency than in other agencies:

Estimates of the percentage of officials who pay to acquire their positions range from 15 percent for investigators and prosecutors to 43 percent for customs officials. The estimates of the percentage of officials who take jobs because they expect unofficial benefits are even higher, 31 percent for investigators and prosecutors, and 64 percent for customs officials.

Id. at 43-46. Anderson attached the following footnote to the text above:

Surveyed public officials gave lower estimates for officials in their own positions, saying that only 8 percent pay to acquire their jobs, and only 16 percent take the jobs because they expect unofficial benefits. This could imply that their perceptions of corruption within other organizations is exaggerated or it could reflect their own fear of revealing the level of corruption within their own organization.

Id. at 46 n.28.

⁹² In the Latvian sample of public officials there were only 218 respondents from various state institutions. *Id.* at 9.

⁹³ Although the Cambodian sample of public officials consisted of 671 public officials, less than one-third of all the respondents answered questions describing how the unofficial payments are shared within the agency. WORLD BANK, CAMBODIA, *supra* note 87, at 17.

The reports currently available reveal some interesting patterns. Specifically, the results from the Latvian study indicate that the traffic police, which citizens, businesses, and public officials alike⁹⁴ evaluated as one of the most corrupt agencies in the country, extracted bribes when given the opportunity more frequently than other governmental agencies in Latvia (33% of the time according to the enterprises and 39% of the time according to the households).⁹⁵ Regular police were perceived as somewhat more honest⁹⁶ and did not top the list of Latvian agencies most likely to extract bribes.

According to the samples of households, enterprises, and public officials, the Cambodian police (“law enforcement and securities”) were also evaluated as being among the more corrupt governmental agencies.⁹⁷ Although the frequency of contact with the police was not high (11-15% of the households and 16-31% of the enterprises had a contact last year), the frequency of bribes given the opportunity (i.e., contact), was reportedly extremely high (80% or more).⁹⁸ Thus, the frequencies of informal payments to the traffic police and to the regular police were among the highest of all Cambodian governmental institutions.⁹⁹ Similarly, the Albanian enterprises estimated that the traffic police were among the most corrupt governmental agencies.¹⁰⁰ In particular, “more than 50% of the firms that use the following governmental services [one of which is the traffic police] admit that bribes are a part of the delivery of the service.”¹⁰¹

B. EXPERIMENTS

Scientific experiments—techniques in which “an investigator introduces a change into a process and makes measurements or observations in order to evaluate the effects of the change”¹⁰²—are rather rare in the study of police corruption. Random integrity tests conducted by a formal internal system of control tend to resemble

⁹⁴ ANDERSON, *supra* note 89, at 16.

⁹⁵ *Id.* at 13.

⁹⁶ *Id.* at 16.

⁹⁷ WORLD BANK, CAMBODIA, *supra* note 87, at 13.

⁹⁸ *Id.* at 15.

⁹⁹ *Id.* at 15.

¹⁰⁰ World Bank, Evidence of Corruption: Main Lessons, *available at* http://www.worldbank.org/wbi/governance/pdf/guide_pdfs/albania.pdf.

¹⁰¹ *Id.*

¹⁰² FREDA ADLER ET AL., CRIMINOLOGY 23 (1995).

experiments; they are conducted with the intent to induce the same change for each “participant” in the “experiment” and to allow the “researchers” to observe the subject’s reaction. However, unlike questionnaires, which utilize hypothetical cases, random integrity tests are conducted in real-life conditions. In fact, they are usually modeled to resemble previous realistic cases as closely as possible.

Moreover, proactive investigations are *not* scientific experiments; while experiments are controlled scientific explorations of human behavior, proactive investigations are fact-finding missions that have serious real-world consequences: a police officer may be fired if he took the money from the wallet planted on the back seat of his cruiser.

In the aftermath of the Mollen Commission, part of the effort made by the New York Police Department to deal with corruption included random integrity tests.¹⁰³ Instead of targeting specific officers under suspicion, these tests were “targeted on the basis of statistical information, indicating precincts and tours of duty that might be prone to corruption.”¹⁰⁴ The results of random integrity tests can serve as another measure of corruption, as noted by the former New York City Mayor Giuliani and the former NYPD Commissioner Bratton:

IAB will significantly expand its random and targeted integrity testing programs over the next year. The goal is to conduct sufficient integrity tests to establish a statistically valid sample of police corruption in the NYPD. There will be tests conducted on all tours and in all precincts. The base line established by integrity testing will be compared with integrity testing results in future years as one means to gauge the rise or decline of corrupt activity among police officers.¹⁰⁵

Since most formal internal systems of control typically perform reactive functions¹⁰⁶ and, moreover, publicizing information

¹⁰³ See GIULIANI & BRATTON, *supra* note 57, at 41.

¹⁰⁴ *Id.* at 42.

¹⁰⁵ *Id.* at 42.

¹⁰⁶ For example, the Knapp Commission and the Pennsylvania Crime Commission investigated police agencies characterized by *widespread corruption*. Both commissions reported that the departments they investigated—the NYPD and the Philadelphia Police Department, respectively—did not utilize proactive techniques to control corruption. KNAPP, *supra* note 20, at 208, 217-18; PENNSYLVANIA, *supra* note 20, at 483. The Mollen Commission, which investigated the NYPD two decades after the Knapp Commission, pointed out that the NYPD pursued a decidedly proactive approach for every investigation of organized and continuing criminal activity (e.g., drug dealing or prostitution) *except* for police corruption. MOLLEN, *supra* note 3, at 13. On the other hand, Deputy Police Commissioner John J. Norris, head of the Internal Affairs Unit within the Philadelphia

regarding corruption is often not aligned with the incentives provided to various members of the agency, the data describing the use of proactive investigations are generally unavailable.

Nevertheless, I provide two examples from the NYPD. Both integrity checks were conducted shortly after the respective scandals and investigations by independent commissions (the Knapp Commission in the 1970s and the Mollen Commission in the 1990s). Bahn reported the results of an internal study conducted by the NYPD in the 1970s, in which the Department found that, "illicit police activity is a minor occurrence, but that its frequency is high enough (12% to 34% in one series of *experiments*) to warrant attention."¹⁰⁷ The integrity tests in the NYPD in the 1990s did not uncover many instances of the forms of police corruption the Department tested for; out of 1,222 police officers tested in 1995, 11 (0.9%) failed the test and were dismissed. A similar percentage failed the test in 1996 (24 out of 1,320).¹⁰⁸ The degree to which these rates represent actual rates of corruption depends largely on the quality of the design of integrity tests, the way they were performed, and the systems used in the process of target selection.

C. SOCIOLOGICAL FIELD STUDIES

Typical sociological studies of the police are case studies. They focus on one, or, at best, a few police agencies, and involve a combination of methods: observation, interviews, analyses of documents, etc. The potential strength of such studies lies in the fact that checking and re-checking the information obtained through the application of various methods increases the internal validity of the data collected, whereas their inherent limitation is that the depth of the information required tends to limit the number of agencies covered by each study and thus puts severe restrictions on the extent to which the results could be generalized.

Although very few of the existing studies focused primarily on police corruption, a substantial number of *police studies* or *studies of*

Police Department, pointed out that the Philadelphia Police Department performs proactive investigations of police misconduct. Interview with John J. Norris, Deputy Police Commissioner, Philadelphia Police Department, in Philadelphia, Pa. (Feb. 24, 2000).

¹⁰⁷ Charles Bahn, *The Psychology of Police Corruption: Socialization of the Corrupt*, 48 POLICE J. 30, 30-31 (1975) (emphasis added).

¹⁰⁸ VIC BAUERIS, NEW YORK POLICE DEPARTMENT: PREVENTING CRIME AND CORRUPTION 18 (1997), available at http://www.icac.nsw.gov.au/pub/public/pub2_30cp.pdf.

*communities in general*¹⁰⁹ contain community descriptions and depict the relationship between the police and the community members. Consequently, they often report about the extent of police corruption (e.g., routine corruption) and its probable nature (e.g., protection of illegal activities, including those by racketeers). Typical such studies include Whyte's study of "Cornerville,"¹¹⁰ Gardiner's study of "Wincanton,"¹¹¹ or Chambliss's study of "Rainfall West."¹¹²

The latter is characteristic of community studies; the study examined the operations of a cabal composed of politicians, law enforcers, and citizens.¹¹³ After a period of seven years of interviewing and non-participant observation, Chambliss described "Rainfall West" as a corrupt city dominated by a complex web of relationships among legitimate businesses, illegitimate organizations, local journalists, politicians, and criminal justice personnel. Similar to the nature and extent of corruption described by the Knapp Commission¹¹⁴ and the Pennsylvania Crime Commission¹¹⁵ in the 1970s, the corruption among police officers in "Rainfall West" was widespread, highly organized, and had extended to the supervisors:

[I]n this city you must "pay to stay." Mr. Davis said, "You pay for the beat-man [from the police department] \$250.00 per month. That takes care of the various shifts, and you must pay the upper brass, also \$200.00 each month. A beat-man collects around the first of each month, and another man collects for the upper brass. You get the privilege to stay in business. That is true; however, you must remember that it is not what they will do for you, but what they will do *to* you, if you don't make these payoffs as are ordered."¹¹⁶

The nature of corruption described by Chambliss included typical "pads"—protection of illegal activities (e.g., gambling, prostitution) for a fee and protection of legitimate businesses violating the law (e.g., restaurants, cabarets, tow-truck operators). Chambliss wrote:

¹⁰⁹ See, e.g., WILLIAM F. WHYTE, *STREET CORNER SOCIETY: THE SOCIAL STRUCTURE OF AN ITALIAN SLUM* (2d ed., 1955); JEROME H. SKOLNICK, *JUSTICE WITHOUT TRIAL: LAW ENFORCEMENT IN DEMOCRATIC SOCIETY* (1966); JOHN A. GARDINER, *THE POLITICS OF CORRUPTION: ORGANIZED CRIME IN AN AMERICAN CITY* (1970).

¹¹⁰ WHYTE, *supra* note 109.

¹¹¹ GARDINER, *supra* note 109, at 6-16.

¹¹² William J. Chambliss, *Vice, Corruption, Bureaucracy, and Power*, 4 Wis. L. Rev. 1150 (1971).

¹¹³ *Id.* at 1155.

¹¹⁴ See KNAPP, *supra* note 20, at 61-192. For a quick summary see *id.* at 1.

¹¹⁵ See PENNSYLVANIA, *supra* note 20, at 69-448. For a quick summary see *id.* at 5.

¹¹⁶ Chambliss, *supra* note 112, at 1162.

The gambling, prostitution, drug distribution, pornography, and usury which flourish in the lower class center of the city do so with the compliance, encouragement, and cooperation of the major political and law enforcement officials in the city. There is in fact a symbiotic relationship between the law enforcement-political organizations of the city and a group of *local*, as distinct from national, men who control the distribution of vices.¹¹⁷

Similarly, the interviews with business owners conducted as a part of Whyte's study yielded a clear impression about the extent and nature of police corruption in "Cornerville":

There's only one honest cop down here, one man they can't pay off. That's Sergeant Clancy. I know. They've offered him hundreds, even thousands, and he won't take the money. It's a funny thing about that man, they tell me he'll take a bunch of bananas, groceries, things like that, but he won't take money.¹¹⁸

A second group of studies involved *studies of individual police agencies*.¹¹⁹ A study involving non-participant observation and interviews usually provides a very detailed picture of a particular agency, but it also tends to be a snapshot, taken at one time and thus unable to follow dynamic changes in the agency over an extended period of time. For example, from the time the proposal for a study on police integrity in Charleston, SC, St. Petersburg, FL, and Charlotte, NC was submitted to the National Institute of Justice in the summer of 1995 until the time when the final report was completed in the fall of 2000, police chiefs in two out of the three agencies had left.¹²⁰ Since the police chief, the head administrator in an agency, has a substantial impact on all aspects of the agency, the two police agencies in the National Institute of Justice study will probably look and operate at least somewhat differently under new head administrators.

The President's Commission on Law Enforcement and the Administration of Justice made a push for field studies of the police in the 1960s and several studies were conducted in conjunction with the President's Commission. The results of these studies, however,

¹¹⁷ *Id.* at 1159.

¹¹⁸ William F. Whyte, *Gambling and the Police in Boston*, in POLICE CORRUPTION, *supra* note 20, at 108, 120.

¹¹⁹ See, e.g., SKOLNICK, *supra* note 109; JAMES Q. WILSON, VARIETIES OF POLICE BEHAVIOR: THE MANAGEMENT OF LAW AND ORDER IN EIGHT COMMUNITIES (1968); ALBERT J. REISS, JR., THE POLICE AND THE PUBLIC (1971); SHERMAN, *supra* note 19.

¹²⁰ KLOCKARS ET AL., *supra* note 30, at 8; Peter E. Howard, *Davis, Stephens Assume New Posts*, TAMPA TRIB., June 13, 1997, at 1. For the change in the Charlotte-Mecklenburg PD, see Stephen Thomson, *St. Pete Administrator Wins N.C. Police Job*, TAMPA TRIB., Aug. 26, 1999, at 1.

did not enable the Commission to detect the extent of police corruption. The Commission wrote:

The Commission's limited studies afford no basis for general conclusions as to the exact extent of police dishonesty or the degree to which political corruption affects police service today. But these studies have shown that even in some of the departments where the integrity of top administrators is unquestioned, instances of illegal and unethical conduct are a continuing problem—particularly in slum areas [t]he most common [violations] are improper political influence; acceptance of gratuities or bribes in exchange for nonenforcement of laws . . . the "fixing" of traffic tickets; minor thefts; and occasional burglaries.¹²¹

Originating as one of the studies submitted to the President's Commission on Law Enforcement and the Administration of Justice, Reiss's study of the police role continued beyond the report submitted to the President's Commission and eventually became one of the major studies of the police. It gained valuable insight into the police role through observations of situational transactions and distributions of surveys to citizens and police officers.¹²² Although some variation was reported across the three selected research sites (Boston, Chicago, and Washington, D.C.), Reiss indicated that the rate of crimes by the police officers across the three cities tended to be of the same magnitude:

Counting all felonies and misdemeanors, except assaults on citizens, the rate of criminal violation for officers observed committing one or more violations was 23.7 in City X, 21.9 in City Y, and 16.5 in City Z per 100 officers Excluding any participation in syndicated crime, roughly 1 in 5 officers was observed in criminal violation of the law. There was some variation among the three cities in the crime patterns of police officers and the rate of violation.¹²³

The crime rate per 100 police officers, collected from observations, self-reports, and allegations of misconduct by other police officers, is a composite score of various types of crimes. Reiss provides a list of rates by type of crime/dishonest practice, which makes it possible to estimate the rate of corrupt criminal violations¹²⁴ from the overall rate.¹²⁵ The rates of corrupt behavior per 100 police

¹²¹ THE TASK FORCE, *supra* note 12, at 208.

¹²² REISS, *supra* note 119.

¹²³ *Id.* at 156.

¹²⁴ Types of violations from the list that can be classified as corruption include: "officer accepts money to alter testimony report," "officer receives money/merchandise on return of stolen property," "officer takes money/property from deviants," "traffic violation: officer gives no citation and gets money," "officer takes merchandise from burglarized establishment," and "officer receives money or merchandise from a business." *Id.* at 157-59.

¹²⁵ *Id.*

officers (calculated from the data provided in Reiss's book)¹²⁶ were 22.8 in City X, 20.5 in City Y, and 15.6 in City Z. Therefore, these results of observations by the researchers, self-reports by police officers, and allegations of misconduct by others suggest that one out of five police officers engaged in serious, criminal forms of corruption.

Among the less serious forms of corruption, observations of police conduct clearly indicate that the acceptance of gratuities and free meals was common; even while the observers were present,¹²⁷ 31% of the observed police officers did not pay for their meals.¹²⁸ Self-reported surveys of citizens led toward a similar conclusion:

Within each of the cities, one-third (31 percent) of all businessmen in wholesale or retail trade or business and repair services in the high-crime areas openly acknowledged favors to policemen. Of those giving favors, 43 percent said they gave free merchandise, food or services to all policemen; the reminder did so at a discount.¹²⁹

The only *study of police corruption* was conducted by Sherman in the 1970s.¹³⁰ The study focused not on police corruption *per se*, but on the role a scandal plays in the control of police corruption and the reform of a police agency. Instead of measuring the extent and nature of police corruption, Sherman tried to "measure changes over time in the quantity of *organization* generally present in corruption activities"¹³¹ (i.e., organization of corruption) in four cities: New York, NY, Oakland, CA, Newburgh, NY, and "Central City." Successful reform, according to Sherman, results in a change from the organizational deviance *by* the agency ("collective rule-breaking action that helps achieve organizational goals") into the deviance *in* the agency ("individual or collective rule-breaking action that does not help achieve organizational goals, or that is harmful to those goals").¹³²

¹²⁶ *Id.*

¹²⁷ As is common with ethnographic studies, the presence of the observers might have had an impact on the police officers' behavior. In particular, police officers might have been more reluctant to engage in corrupt activities or any other form of misconduct punishable by the agency while their behavior was observed by a researcher.

¹²⁸ REISS, *supra* note 119, at 161-162.

¹²⁹ *Id.* at 161.

¹³⁰ SHERMAN, *supra* note 19.

¹³¹ *Id.* at 188.

¹³² *Id.* at 4.

The collection of the data sources used in Sherman's study is substantial; in addition to interviewing members of the agencies, Sherman used "newspapers accounts, criminal trials, complaints sent to the police executive, corruption investigation files, interviews with outside observers close to police affairs during the entire period of the study, and some other sources."¹³³ The reliability of the study was further enhanced by the fact that the target of the study was the *direction* of the change, rather than the actual *magnitude* of the change.

The index of positive change in the level of corrupt cooperation was constructed using four indicators: active cooperation (size of the corruption groups),¹³⁴ passive cooperation (diversity of corruption arrangements, the total number of arrangements and events, and the highest rank of the corrupt officers), cooperation between citizens and the police (ratio of the number of types of vice protection to the number of types of police-initiated crimes, ratio of the types of consenting corruption to the types of victimizing corruption), and the duration of cooperation (ratio of arrangements to events and ratio of arrangement types to event types).¹³⁵ Focusing on the direction of change in these indicators, Sherman reported that a successful reform changes the nature of corruption from the corruption *endorsed* by the agency to the corruption *condoned* by the agency.

D. BLUE-RIBBON COMMISSIONS

A typical blue-ribbon commission is formed as a reaction to a scandal that developed in the aftermath of public revelations of corruption allegations.¹³⁶ Its general purpose is to determine the actual corruption, find factors contributing toward corruption in an agency, and propose solutions for reform. These tasks rest on corruption investigation, "one of the most difficult investigative tasks which any law enforcement agency can undertake."¹³⁷

¹³³ *Id.* at 190.

¹³⁴ The size of the groups with two or more members decreased in the post-scandal periods. *Id.* at 228.

¹³⁵ *Id.* at 195-202.

¹³⁶ See, e.g., KNAPP, *supra* note 20, at 35-6; PENNSYLVANIA, *supra* note 20, at 41; MOLLEN, *supra* note 3, at 1; G.E. FITZGERALD, QUEENSLAND COMM'N OF INQUIRY INTO POSSIBLE ILLEGAL ACTIVITIES AND ASSOCIATIONS OF POLICE MISCONDUCT, REPORT OF A COMMISSION OF INQUIRY PURSUANT TO ORDERS IN COUNCIL (1989) [hereinafter FITZGERALD].

¹³⁷ PENNSYLVANIA, *supra* note 20, at 31.

The work of blue-ribbon commissions can be challenging in light of their lack of political independence; for example, the Pennsylvania Crime Commission suffered because it was “never able to remove completely the taint of conducting a politically inspired investigation.”¹³⁸ Depending on the level of political independence,¹³⁹ support from the city and the police administrator, and the actual tasks assigned, commissions can vary greatly in their view about police corruption, available resources,¹⁴⁰ and the energy devoted to the search for patterns of corruption (instead of individual cases),¹⁴¹ all of which can affect their ability to measure corruption.

The level of legal authority given to the commission is one of the instrumental tools for overcoming the power of the code of silence and the reluctance of police officers to provide information. Indeed, when a commission has the power to grant immunity and issue subpoenas, chances increase that it will get a more accurate estimate of the extent and nature of the corruption problem.¹⁴² However, as the Pennsylvania Crime Commission had discovered, having the power to subpoena witnesses and grant immunity is not in itself a guarantee of actually obtaining truthful testimony.¹⁴³

The ability to enlist experienced police investigators contributes toward the accuracy of corruption estimates. However, while a decision to use former police officers from the agency under investigation is beneficial because it provides internal information about corruption in the agency,¹⁴⁴ it is at the same time risky because

¹³⁸ *Id.* at 754.

¹³⁹ For example, Chin argued that the investigation of the Lexow Committee in 1895 might have been politically motivated. Gabriel J. Chin, *Series Introduction to NEW YORK CITY POLICE CORRUPTION INVESTIGATION COMMISSIONS 1894-1994*, xliv (1997).

¹⁴⁰ Unlike the Knapp Commission, which had support from the city, the Pennsylvania Crime Commission experienced serious problems. In fact, even the constitutionality of its formation was challenged. Difficulties later presented themselves in the course of finding investigators, administrative support, and equipment. See PENNSYLVANIA, *supra* note 20, at 762.

¹⁴¹ For example, the Mollen Commission reported that their focus was on patterns, rather than on individual cases, MOLLEN, *supra* note 3, at 13.

¹⁴² For a long time, the Knapp Commission did not have the power to compel testimony by granting immunity to police officers KNAPP, *supra* note 20, at 44.

¹⁴³ PENNSYLVANIA, *supra* note 20, at 741.

¹⁴⁴ For example, the Mollen Commission wrote that they relied on the information provided by their senior investigators who were former members of the NYPD. MOLLEN, *supra* note 3, at 11. Similarly, the Pennsylvania Crime Commission reported that the Commission “was fortunate in obtaining the services of some above average investigators, who, by the end of the investigation, had provided valuable background knowledge of the

the investigators' relationships with the current members of the agency may still exist.¹⁴⁵

I focus on the three most influential commissions that investigated allegations of corruption in the United States over the last three decades: the Knapp Commission,¹⁴⁶ the Pennsylvania Crime Commission,¹⁴⁷ and the Mollen Commission,¹⁴⁸ and the two most recent Australian commissions: the Fitzgerald Commission¹⁴⁹ and the Royal Commission.¹⁵⁰ A common feature of each of the independent commissions¹⁵¹ is that, just like sociological field studies, they relied on a combination of data collection techniques and multiple sources. Unlike sociologists, who focus on a particular subject matter and do not persist if they are denied access to a particular location,¹⁵² independent commissions, formed with the purpose of investigating a particular agency, have the advantage of the legal authority necessary to gain access to at least some data sources.¹⁵³

The extent and nature of corruption reported by various commissions varied from widespread corruption of the "grass-eating" variety (which included supervisors as well) in the 1970s (Knapp Commission,¹⁵⁴ Pennsylvania Crime Commission¹⁵⁵), to the less

Department and were instrumental in developing the Commission's two best police witnesses." PENNSYLVANIA, *supra* note 20, at 763.

¹⁴⁵ The Pennsylvania Crime Commission elaborated on this problem:

[A]ny agency choosing to hire former officers of the Department under investigation should be aware of the potential hazards. A corruption probe assignment given to an investigator with former ties with the Department under scrutiny places the investigator in a potentially difficult and vulnerable conflict position. Unfair pressures can be brought to bear, because many of the investigator's friends and family may have ongoing relationships with the unit under investigation.

PENNSYLVANIA, *supra* note 20, at 763.

¹⁴⁶ KNAPP, *supra* note 20.

¹⁴⁷ PENNSYLVANIA, *supra* note 20.

¹⁴⁸ MOLLEN, *supra* note 3.

¹⁴⁹ FITZGERALD, *supra* note 136.

¹⁵⁰ ROYAL COMMISSION INTO THE NEW SOUTH WALES POLICE SERVICE (1997) (J.R.T. Wood, Chair) [hereinafter ROYAL].

¹⁵¹ See *infra* tbl.2.

¹⁵² For example, although the NYPD was included in the original design of Reiss's LEAA-sponsored study of three agencies, the reluctance by Commissioner Howard Leary to cooperate prompted the researchers to substitute Boston for New York. SIMPSON, *supra* note 18, at 65.

¹⁵³ On the other hand, the Knapp Commission did not have the necessary legal authority for a long time. KNAPP, *supra* note 20, at 44.

¹⁵⁴ KNAPP, *supra* note 20

frequent but more aggressive forms of corruption discovered by the Mollen Commission¹⁵⁶ in the 1990s. Of course, being formed as an outcome of a scandal that resulted from public allegations of corruption, independent commissions are bound to find corruption ranging somewhere from the isolated or widespread-less-serious to the more-concentrated-more-serious forms of corruption.

How accurately do these findings, limited to a particular police agency and a time period, match the actual nature and extent of corruption? The use of extensive resources and the reliance on multiple data sources (e.g., police officers, citizens, and informers) increase the probability that the commission's findings may serve to form reasonably close estimates. However, the corruption picture painted by an independent commission does not necessarily mean that the commission "got it right"; political pressures, limited resources and authority, ability and skill to "turn" police officers, selection of a particular definition of corruption, and the search for behavior of a pre-determined nature, can each cause the findings to differ from reality by a substantial margin.

For example, the Knapp Commission reported finding predominantly widespread corruption of the "grass-eater" variety. David Burnham, a well-known Pulitzer-prize winning journalist whose article in the New York Times triggered the establishment of the Knapp Commission, noted that the Knapp Commission was just beginning to discover more serious and violent forms of corruption when the necessary funds were depleted and the Commission suspended its activities.¹⁵⁷

E. INTERNAL AGENCY RECORDS

The next level of corruption measurement is tied to the internal formal system of control.¹⁵⁸ For example, there were approximately 2,700 allegations of police corruption recorded annually by the New York Police Department (a department of 35,000 police officers) in the early 1990s,¹⁵⁹ decreasing gradually to 1,922 in 1995 and 1,726 in 1996.¹⁶⁰ Are these numbers—amounting to the annual rate of 5 to 8

¹⁵⁵ PENNSYLVANIA, *supra* note 20.

¹⁵⁶ MOLLEN, *supra* note 3.

¹⁵⁷ Interview with David Burnham, in Washington, D.C. (May 22, 2000).

¹⁵⁸ *See supra* fig. 1.

¹⁵⁹ MOLLEN, *supra* note 3, at 87.

¹⁶⁰ BAUERIS, *supra* note 108, at 18.

allegations per 100 police officers—an accurate estimate of the actual level of corruption in the NYPD?

Although potentially useful in estimating the actual extent and nature of police corruption, the numbers recorded in the internal formal system are far better representations of the agency's overall efforts to control corruption and the public sentiment toward the police than of the actual level of corruption.¹⁶¹ For the reasons described below, even in the best agencies the number and nature of actual cases of corruption and those recorded by the agency's internal system will differ extensively.

Corruption cases begin through either internally or externally generated complaints. Complaints of corruption typically constitute a small part of the overall complaints filed.¹⁶² As argued earlier, citizens who willingly engaged in corruption have no motive to report their own involvement nor to report the involvement of their partners in crime—police officers. Citizens who were less willing participants in the transaction or who just observed a corrupt transaction performed by somebody else may decide not to report because they can be either fearful of retribution¹⁶³ or have no

¹⁶¹ Perez wrote about the factors that influence complaint rates:

Comparing numbers across jurisdiction is extremely problematic, however. This may be because of differences in citizen perceptions of police officer conduct, variations in media coverage (or lack of coverage), malpractice, extreme diversity in the socioeconomic makeup of the local population, and so forth. People who are more educated, more economically secure, more socially elevated in station, and more adept at dealing with powerful governmental actors tend to complain less.

Other factors influence complaint statistics. Differences in complaint input structures can affect complaint numbers greatly.

DOUGLAS W. PEREZ, COMMON SENSE ABOUT POLICE REVIEW 28-29 (1994).

¹⁶² For example, according to the NYPD cohort data collected by Cohen, allegations of corruption constituted 7.4% of all allegations—144 allegations of corruption out of 1938 allegations. Bernard Cohen, *The Police Internal System of Justice in New York City*, 63 J. CRIM. L. CRIMINOLOGY & POL. SCI. 54, 66 (1972). The percentage appears to have been similar three decades later; the Internal Affairs Bureau received approximately 17,000 calls (complaints) in 1996 and had 1,726 corruption cases recorded. BAUERIS, *supra* note 108, at 18. The Royal Commission in Australia provided the complaint data according to which the corruption allegations constituted between 2.6-3.7% of the complaints, depending on the period. ROYAL, *supra* note 150, at 161.

¹⁶³ This fear can be far from exaggeration as the reaction by the police can be very retaliatory. The President's Commission reported in 1967 that approximately 40% of persons who filed complaints were *arrested* for filing false charges in one large eastern city. THE TASK FORCE, *supra* note 12, at 195. The Knapp Commission reported the case of a restaurant owner who was victimized by the police in retaliation for discontinuing completely free

confidence in the police in general. Similarly, police officers have no reason to report their own misconduct and get disciplined or even dismissed. Moreover, their own involvement in misconduct, the code of silence, and the lack of incentives for reporting provide motives for police officers not to report corrupt behavior by their fellow officers. Furthermore, for as long as the public views corruption through the “rotten-apple” lens, unless especially interested in learning about the patterns of corruption in order to control it, a typical agency has incentives neither to encourage citizens to file complaints nor to investigate complaints diligently.¹⁶⁴

The results of several quantitative studies and investigations clearly support these arguments. Of all the respondents to the International Crime Victim Survey in 1996/1997 who said that they had been asked to pay a bribe to a police officer last year¹⁶⁵ (Table 1), less than 5% in each country¹⁶⁶ said that they reported the act to the police. In other words, *over 95%* of the people who reported being asked to pay a bribe did *not* report the activity to the police. A survey of police officers—the other side in the corrupt transaction—suggested a similar conclusion about the likelihood of reporting a corrupt transaction. Indeed, the Royal Commission wrote: “many of the same officers acknowledged that . . . they had been involved in cases of assault or larceny when no complaint had been made; and . . . in the case of the larceny of drugs or money taken from those suspected of criminal activity, they did not expect any complaint.”¹⁶⁷

Another approach is to compare the rates of complaints and their nature with the expected rates and nature of complaints based on the findings of a reliable source. For example, based on the findings of the Knapp Commission that suggested unequal distribution of corrupt activities across precincts, Meyer examined the relation between reported corruption and the areas producing it,¹⁶⁸ and concluded that

meals for them when he introduced a modest delivery charge for these free meals. KNAPP, *supra* note 20, at 173.

¹⁶⁴ The accusations of the lack of eagerness and diligence with which police agencies investigated citizens’ complaints presented a strong voice for the establishment of citizen review boards. See SAMUEL WALKER, CITIZEN REVIEW RESOURCE MANUAL 3 (1995).

¹⁶⁵ See *supra* tbl.1.

¹⁶⁶ The only exception is Bolivia, where 7% of the respondents who reported paying a bribe to a police officers said that they reported it to the police. See *infra* Part II.A.3.

¹⁶⁷ ROYAL, *supra* note 150, at 160.

¹⁶⁸ JOHN C. MEYER, JR., COMPLAINTS OF POLICE CORRUPTION 21-22 (1977).

examining only the complaint rates leads toward a distorted picture of the extent of corruption.¹⁶⁹

A comparison between the Knapp Commission's findings of widespread corruption and the results of Cohen's study,¹⁷⁰ which suggested that approximately at the same time there were low rates of corruption complaints against a cohort of police officers (nine per 100 police officers over a eleven-year period or less than one per 100 police officers annually), clearly illustrates the perils of relying on complaints to measure the extent of corruption. Indeed, while even the Knapp Commission's rates can easily be *underestimates* of the true extent and nature of corruption, the results of Cohen's analysis (based on the agency's disciplinary records) appear to be even further removed from reality. While discussing the possibility of measuring the extent of corruption through official disciplinary records, Simpson concluded:

However, the major limitation of Cohen's study is that no way exists of knowing just how accurately the number of officers accused or convicted of corruption reflects the number actually engaged in such practices. From the allegations made against the New York City Police Department at the time Cohen's study was published, his figures apparently bear little relationship to reality as indicators of the true level of corrupt activity.¹⁷¹

¹⁶⁹ Meyer concluded:

Complaints may be deficient when used as *the* source of information on where corruption occurs, because it appears that areas are underreporting certain types of corruption. However, when used as a measure of the reporting *process* itself, complaints may have value far beyond merely mapping the distribution of alleged corruption.

Id. at 21-22.

¹⁷⁰ Cohen reported that there were 144 allegations of corruption recorded in eleven years against the examined cohort of 1,915 police officers (1,608 in an active cohort) in the NYPD. Cohen, *supra* note 162, at 66. This yields a rate of seven allegations per 100 police officers over a period of eleven years.

¹⁷¹ SIMPSON, *supra* note 18, at 57.

Table 2
Data Sources and Methods of Investigation by the Independent Commissions

Data Sources	Methods of Investigation	Findings	Comments
KNAPP COMMISSION (1972); NEW YORK, USA			
<ul style="list-style-type: none"> • police officers • turned police officers • businesses • citizens • informants • underworld figures • PD's documents • case files • complaints • POs' financial disclosures • field investigations • investigations by others 	<ul style="list-style-type: none"> • <u>examination of documents:</u> <ol style="list-style-type: none"> 1) financial disclosures 2) documents from businesses 3) complaints to Knapp 4) corruption cases 5) records of known criminals 6) PD's documents • <u>surveys:</u> <ol style="list-style-type: none"> 1) construction industry 2) store owners • <u>interviews:</u> <ol style="list-style-type: none"> 1) police officers 2) business community 3) people in illegal activities 4) citizens in high-crime areas 5) others • <u>field investigation:</u> <ol style="list-style-type: none"> 1) surveillance 2) informants 3) undercover agents 4) turned police officers (5) • <u>private hearings:</u> 183 witnesses • <u>public hearings:</u> 9 + 5 days and 15 witnesses • <u>Investigation by others:</u> 	<ul style="list-style-type: none"> • organized & systematic corruption; PD-wide, p. 64 • money from: <ul style="list-style-type: none"> a) gamblers b) narcotics violators c) legitimate businesses d) low-truck companies e) grocery-store owners f) prostitutes • information from many sources → enough repetitive similarity to indicate such patterns existed, p. 43 • "grass-eaters" dominant; "meat-eaters" small % • "pads" v. "scores" • supervisors involved (own pads) 	<ul style="list-style-type: none"> • for a long time, no power to compel testimony by granting immunity • no power to subpoena witnesses • lawsuits
PENNSYLVANIA CRIME COMMISSION (1974); PHILADELPHIA, USA			
<ul style="list-style-type: none"> • police officers • turned police officers • businesses • citizens • informants • underworld • PD's documents • field investigations 	<ul style="list-style-type: none"> • <u>examination of documents:</u> difficulty with access • <u>interviews:</u> <ol style="list-style-type: none"> 1) police officers 2) business community 3) people in illegal activities 4) citizens in high-crime areas • <u>direct observation:</u> <ol style="list-style-type: none"> 2) informants • <u>field investigation:</u> <ol style="list-style-type: none"> 1) surveillance 4) turned police officers (2) 3) undercover agents • <u>public hearings:</u> 5 weeks scheduled, but cancelled 	<ul style="list-style-type: none"> • corruption on-going, systematic, & occurring at all levels of the PD • more than 400 POs involved • receiving money from: <ul style="list-style-type: none"> a) liquor violators b) gambling c) prostitution d) narcotics e) car stops • "clean" v. "dirty" graft, p. 13 • extortion, planting of evidence, perjury • supervisors involved 	<ul style="list-style-type: none"> • POs and citizens did not cooperate; willing to take chances "downtown" • problems with access, equipment, manpower • 8 separate lawsuits against the PD • constitutionality challenged • no cooperation from Mayor and Commissioner

Table 2
(Continued)

Data Sources	Methods of Investigation	Findings	Comments
MOLLEN COMMISSION (1994); NEW YORK, USA			
<ul style="list-style-type: none"> • Mollen staff • PD's documents • corruption case files • corruption • complaints • police officers • turned police officers • DA's Office • US Att.'s Office • FBI, DEA, IRS • defense attorneys • citizens • criminals • field investigations 	<ul style="list-style-type: none"> • examination of documents: <ul style="list-style-type: none"> 1) PD's documents 2) corruption cases 3) corruption complaints • observation: <ul style="list-style-type: none"> 1) own knowledge 2) own investigations • interviews: <ul style="list-style-type: none"> 1) police officers 2) FBI, DEA, IRS 3) people in illegal activities 4) citizens in high-crime areas 5) defense attorneys 6) DA's & US Att.'s Offices • field investigation: <ul style="list-style-type: none"> 1) surveillance 2) informants 3) undercover agents 4) turned police officers (6) • private hearings: over 100 witnesses • public hearings: a few weeks 	<ul style="list-style-type: none"> • minor corruption ("grass-eaters") no longer systematic • "meat-eaters" – serious corruption – rule rather than exception among corrupt POs • "crew corruption" – groups of POs that protect and assist each other in criminal activities, p. 17; more akin to street gangs: small, flexible, fast-moving • patterns of corruption: theft, robbery, drug dealing, extortion, shakedowns, perjury, falsifications • police violence and brutality • supervisors: willful blindness 	<ul style="list-style-type: none"> • support from the Mayor and Commissioner
ROYAL COMMISSION INTO THE NEW-SOUTH WALES POLICE SERVICE (1997); NEW SOUTH WALES, AUSTRALIA			
<ul style="list-style-type: none"> • police officers • turned police officers • citizens • criminals • complaints • corruption cases • field investigations 	<ul style="list-style-type: none"> • examination of documents: <ul style="list-style-type: none"> 1) corruption complaints 2) corruption cases • observation: <ul style="list-style-type: none"> 1) own knowledge 2) own investigations • interviews: <ul style="list-style-type: none"> 1) police officers 2) citizens 3) people in illegal activities • surveys: <ul style="list-style-type: none"> 1) police officers • field investigation: <ul style="list-style-type: none"> 1) surveillance 2) informants 3) undercover agents 4) turned police officers 5) citizens • public hearings: 327 days and over 800 witnesses 	<ul style="list-style-type: none"> • a state of <i>systemic</i> and <i>entrenched</i> corruption, p. 33; well-organized which is widespread and of long-standing origin, p. 101 • types: thefts of drugs and money; shakedowns of drug dealers; regular payments from drug dealers, gambling operations, clubs, and brothels; assaults • "process corruption" (noble-cause corruption) • supervisors: unaware/unwilling to respond 	<ul style="list-style-type: none"> • focus not exclusively on corruption noble-cause • corruption included the role of the public exposure, humiliation by the surveillance evidence, and possible prison sentences helped obtain cooperation, p. 40

Table 2
(Continued)

Data Sources	Methods of Investigation	Findings	Comments
<ul style="list-style-type: none"> journalists police officers turned police officers citizens criminals field investigations 	<p>FITZGERALD COMMISSION (1989); QUEENSLAND AUSTRALIA</p> <ul style="list-style-type: none"> <u>interviews:</u> <ul style="list-style-type: none"> 1) police officers 3) people in illegal activities <u>field investigation:</u> <ul style="list-style-type: none"> 1) surveillance 3) undercover agents <u>public hearings:</u> 238 days and 300 witnesses 2) citizens 2) informants 4) turned police officers 	<ul style="list-style-type: none"> corruption by prostitutes, gambling, drug dealers thefts focus on identifying the organizational and policing structures and work practices which make corruption possible than on mapping corruption in a particular area (Finnane, 1990, p. 167) 	<ul style="list-style-type: none"> openness: apart for one brief setting, all the evidence heard in public: <ol style="list-style-type: none"> 1) public confidence restored 2) Commission's confidence increased 3) encourages public cooperation 4) asserts that nobody is beyond scrutiny 5) controls rumors perceived as one of the most successful commissions (Finnane, 1990, p.159)

A more current comparison of the findings of the Mollen Commission and the NYPD's allegations of corruption further supports this statement. The findings of the Mollen Commission indicated the presence of small groups of police officers engaging in aggressive forms of corruption and crime in general. The rate of eight corruption complaints per 100 officers per year¹⁷² may not be perceived as particularly low for a department in which the majority of police officers are not corrupt, but, because of the nature of their crimes, the corrupt officers probably generated a large number of complaints and the resulting rates should have been considerably higher. The cover-up activities by the Department discovered by the Mollen Commission¹⁷³ lend support to this hypothesis.

Another set of very strong reasons why the official internal rates are at best problematic estimates of the actual corruption is related to the agency's procedures and practices of handling complaints. Police agencies are not always eager to actively pursue corruption complaints, and the reasons underlying such decisions and the techniques used to sweep complaints under the rug vary greatly. Therefore, when citizens decide to file a complaint, even several complaints against the same police officer (sometimes as many as seventeen, as was the case for one corrupt police officer in New York),¹⁷⁴ the agency can ignore the problem completely and consequently discourage the less persistent complainants.

Procedures vary extensively;¹⁷⁵ the overall trend for police agencies is to substantiate a small percentage of all complaints¹⁷⁶ and

¹⁷² The Mollen Commission reported that there were approximately 2,700 corruption allegations filed with the NYPD each year. MOLLEN, *supra* note 3, at 87. Since the Department had approximately 35,000 officers, that yields the rate of eight complaints per 100 officers.

¹⁷³ *Id.*

¹⁷⁴ *Id.* at 14.

¹⁷⁵ Pate and Hamilton concluded in their seminal research on six large police agencies in the United States—known as the “Big Six”—that “methods of filing and investigating complaints vary notably across departments. As a result, data concerning the disposition of complaints are not comparable . . .” ANTONY M. PATE & EDWIN E. HAMILTON, *THE BIG SIX: POLICING AMERICA'S LARGEST CITIES* 142 (1991). Perez also emphasized problems of the cross-jurisdictional comparisons:

Differences in complaint input structures can affect complaint numbers greatly. Some review systems allow a great deal of latitude within which to deal with complaints informally. In such locations, such as in Los Angeles during the 1980s, complaint numbers appear inordinately low, because only those complaints that cannot be dealt with informally turn into statistics for review.

PEREZ, *supra* note 161, at 28-29.

thus to (un)intentionally discourage further complaints. For example, while the Mollen Commission found small groups of NYPD police officers engaging in aggressive and serious corrupt activities, at the same time, out of the 5% of the most serious corruption allegations retained for investigation by the Internal Affairs Division, over 60% were closed as unsubstantiated.¹⁷⁷ Therefore, relying on the data about internal discipline for corrupt behavior in the process of estimating the extent and nature of corruption is also highly problematic.¹⁷⁸

F. CRIMINAL JUSTICE SYSTEM

The next level at which estimates about the actual corruption seemingly can be made is the formal criminal justice system: cases referred for prosecution, cases prosecuted, cases with convictions, and cases with imprisonment.¹⁷⁹ Cases are referred for prosecution from various sources: individual citizens, federal investigative agencies (e.g., FBI, IRS),¹⁸⁰ local investigators (e.g., local police), and other governmental institutions (e.g., INS), as well as independent commissions.¹⁸¹

One of the most prolific sources of referrals for the police corruption cases should be the police agency itself. Yet, in addition to

¹⁷⁶ Starting from the President's Commission in 1967, which reported that 50% of the departments sustained 10% of complaints or less, THE TASK FORCE, *supra* note 12, at 196, a common finding across the studies is that the rate of sustained complaints is generally between 0% and 25%. PATE & HAMILTON, *supra* note 179, at 42. The national average of sustained cases across municipal law enforcement agencies is only 10.1%. PATE, ET. AL., *supra* note 30, at 113-20.

¹⁷⁷ MOLLEN, *supra* note 3, at 88.

¹⁷⁸ For example, Cohen reported that there were 144 corruption complaints against 1,608 NYPD police officers from the same cohort. Cohen, *supra* note 162, at 62. Out of these, only 16% were brought to the departmental trial, resulting in mostly minor discipline or no discipline at all: "dispositions of complaints dismissed, reprimand, probation, filed and minor fine." *Id.* at 64.

¹⁷⁹ See *supra* fig. 1.

¹⁸⁰ For example, Donald Hersing, an owner of a house of prostitution, filed a complaint with the FBI, which resulted in the thorough investigation of the Philadelphia Police Department. John Dombrink, *The Touchables: Vice and Police Corruption in the 1980s*, 51 LAW & CONTEMP. PROBS. 201, 212 (1988).

¹⁸¹ For example, the Knapp Commission referred a certain number of cases for prosecution. KNAPP, *supra* note 20, at 250.

the possibly heavy workload of the internal affairs investigators,¹⁸² a typical police agency not only lacks motives to investigate complaints diligently and refer cases of police officers who violated penal statutes to the prosecutors, but actually has incentives to conceal cases.¹⁸³ Although not all corruption cases are of such seriousness that they need to be referred for prosecution, it is still not realistic to expect that the number of serious corruption cases and the number of referrals would be the same. The question thus is not whether they differ, but what the magnitude of that difference is.

On the other end, the recipients of information concerning corruption are prosecutors, who, just like police departments, can also be less than eager to prosecute cases of police corruption. State and local prosecutors develop a long-term relationship with the police officers because they need to rely on their help in the investigation of *all* criminal cases. Although wrong from the integrity standpoint, and possibly leading toward both problems with the police officer's credibility in subsequent court cases and future problems with the prosecutor's own career, a prosecutor can perceive overlooking a bribery case by a known police officer as beneficial to maintaining a good working relationship with the police agency (unless, of course, the agency's administration and police officers condemn the corrupt act by the police officer, in which case such considerations are less pressing for the prosecutor). Furthermore, local prosecutors cannot count on federal investigative agencies to step into every corruption case. Instead, they may have to rely on the local police to investigate their fellow officers.

While there are no nationwide data available for *state* prosecutions of police corruption cases, comparing the available data on state prosecutions with the findings of independent commissions about the nature and extent of corruption (under the assumption that the findings of independent commissions were in the worst case only underestimates of the actual corruption) helps in assessing the degree to which the pictures of corruption in the agency painted by these two sources overlap and thus inferring the precision with which statistics

¹⁸² The Mollen Commission reported a considerable discrepancy in the workloads between the central internal affairs unit (IAD) and the decentralized units (FIAUs); while the IAD investigators had a workload of two cases per year, while the FIAU investigators had an average of eighteen cases per investigator. MOLLEN, *supra* note 3, at 85-86.

¹⁸³ For example, the Mollen Commission reported finding 230 cases of serious corruption concealed by the NYPD. MOLLEN, *supra* note 3, at 96-98.

on state prosecutions of corruption cases could serve as a tool for the measurement of corruption.

Both the Knapp Commission¹⁸⁴ and the Pennsylvania Crime Commission¹⁸⁵ in the 1970s found corruption of a “grass-eating” variety to be widespread and to involve supervisors. Compared to their findings, the numbers of prosecutions and convictions tended to be quite low, thus showing, as the Knapp Commission wrote, “that the risks of severe punishment for corrupt behavior are slight.”¹⁸⁶ In particular, the Knapp Commission reported that in the four and one half year period the Commission focused on prosecutors initiated only 136 cases involving 218 defendants (approximately thirty cases per year) from the NYPD, the largest police department in the country.¹⁸⁷ Among the 137 completed cases, one-third were dismissed or acquitted, while two-thirds (ninety-one) either pleaded guilty or were convicted. Among those sentenced, the majority (61%) were either set free or given suspended sentences. In the end, only one out of five police officers sentenced for corruption received a prison sentence in excess of one year of imprisonment.¹⁸⁸

Similarly, the Pennsylvania Crime Commission reported that in the department of 8,303 sworn police officers¹⁸⁹ in 1974 there were only forty-three arrests for police corruption over a six-year period (1968-1973), an average of seven per year.¹⁹⁰ Moreover, almost one-half of the arrests were made in one year, as a consequence of a statement by one police officer. Of the sentenced police officers, two out of five were sentenced to prison.¹⁹¹

These numbers clearly indicate that relying on prosecution and conviction rates as estimates of the extent of corruption at best uncovers the tip of the iceberg. Although, as the Mollen Commission indicated for New York,¹⁹² both federal and local prosecutors may have become less reluctant to prosecute corrupt police officers in the 1990s, a few studies indicate that state and federal prosecutors can actually have different levels of activity. Upon engaging in a case

¹⁸⁴ KNAPP, *supra* note 20, at 4.

¹⁸⁵ PENNSYLVANIA, *supra* note 20.

¹⁸⁶ KNAPP, *supra* note 20, at 252.

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ PENNSYLVANIA, *supra* note 20, at 52.

¹⁹⁰ *Id.* at 446.

¹⁹¹ *Id.*

¹⁹² MOLLEN, *supra* note 3, at 150.

study of the Philadelphia Police Department, Dombrink concluded: “[C]ompared with federal prosecutors, whose record of thirty-one convictions in thirty-six federal district court cases between 1983 and 1986 was formidable, local prosecutors had fared less well historically with police corruption cases in the Pennsylvania courts.”¹⁹³

Malec and Gardiner tried to compile all corruption cases prosecuted in Chicago and Cook County from 1970 to April 1987.¹⁹⁴ Their study suggests two important conclusions. First, unlike the Mollen Commission’s conclusions about the prosecutors’ eagerness in New York, the findings obtained by Malec and Gardiner indicate that prosecutions for police corruption in Chicago were quite rare; in a police department with over 10,000 sworn police officers,¹⁹⁵ there were 114 police corruption cases¹⁹⁶ over a period of sixteen years. Second, the number of all corruption cases (not just police corruption cases) prosecuted by federal prosecutors exceeded the number of corruption cases prosecuted by local prosecutors by a factor of ten (412 and 40, respectively).¹⁹⁷

One could imagine that obtaining data about police corruption at the *federal level* would be possible because of the central role the Department of Justice plays. Unfortunately, although questionnaires are sent each year to the U.S. Attorneys’ Offices inquiring about the data on indictments, convictions, and prosecutions awaiting trial, the available data refer to the federal cases involving abuse of public office for *all* governmental employees.¹⁹⁸ While the classification “abuse of public office” includes crimes such as bribery, extortion, and conflict of interest¹⁹⁹ and, therefore, broadly fits the definition of corruption, it is not possible to identify only the cases involving police officers. Although indictments and convictions increased

¹⁹³ Dombrink, *supra* note 180, at 211.

¹⁹⁴ Kathryn L. Malec & John A. Gardiner, *Measurement Issues in the Study of Official Corruption: A Chicago Example*, 2 CORRUPTION & REFORM 267 (1987).

¹⁹⁵ The Chicago Police Department had 12,368 sworn police officers in the early 1990s. U.S. DEP’T. OF JUSTICE, LAW ENFORCEMENT MANAGEMENT AND ADMINISTRATIVE STATISTICS, 1993: DATA FOR INDIVIDUAL STATE AND LOCAL AGENCIES WITH 100 OR MORE OFFICERS 16 (1995).

¹⁹⁶ Malec & Gardiner, *supra* note 194, at 270.

¹⁹⁷ *Id.* at 270.

¹⁹⁸ U.S. DEP’T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 2001, at 473, available at <http://www.albany.edu/sourcebook/1995/pdf/t578.pdf>.

¹⁹⁹ *Id.*

gradually until 1983²⁰⁰ and have oscillated since,²⁰¹ the overall numbers of between 1,000 and 1,500 indictments and around 1,000 convictions in the last years tend to be rather small in comparison with the millions of government employees.²⁰²

Whereas the Department of Justice does not separate cases in the database based on the occupation of the defendant (thus precluding the analysis of *police* corruption cases), it divides all corruption cases into seven program categories, only one of which potentially refers to police corruption: federal law enforcement corruption.²⁰³ According to the data obtained from the Transactional Records Access Clearinghouse, referrals for prosecution were most frequently made by the FBI, the Customs Service, and the IRS. Most referrals were eventually declined²⁰⁴ because of "weak or insufficient evidence," "lack of evidence of criminal intent," or because "no federal offense was evident." The charge in at least one-half of the cases was violation of Title 18 Section 201 (bribery). Most defendants pleaded guilty (89.8%), the overall conviction rate for the cases prosecuted was above 66%,²⁰⁵ and approximately one-half of the persons sentenced were sentenced to a prison term.²⁰⁶ The key lesson about prosecutions of federal law-enforcement-corruption cases is that there were so few prosecutions each year (thirty-five to seventy, depending on the year) that one should not give serious consideration to taking these prosecutions or convictions as estimates of the actual extent of corruption. Rather, one of the primary functions of these data could be to gauge the degree of interest the Department of Justice has in corruption issues.

²⁰⁰ Burnham argued that the increase in the number of cases was due to several factors: "But with the aggressive legal expansionism of Lacey and Thompson, the public dismay over the Watergate scandals, the formal establishment of the Public Integrity Section in 1975 and other factors such as the growing national concern about organized crime, federal prosecutors developed a kind of anticorruption fever." DAVID BURNHAM, *ABOVE THE LAW: SECRET DEALS, POLITICAL FIXES AND OTHER MISADVENTURES OF THE U.S. DEPARTMENT OF JUSTICE* 327 (1996).

²⁰¹ See *infra* fig.2.

²⁰² See BURNHAM, *supra* note 200, at 327.

²⁰³ Although two additional program categories, state and local, may be of interest, I excluded them from the analysis because the data available at both the state and local level pertain to all public corruption and it is not possible to isolate only the cases of police corruption.

²⁰⁴ See *infra* tbl.3.

²⁰⁵ See *infra* tbl.3; fig.3.

²⁰⁶ See *infra* tbl.3.

The disadvantages of using the official data as an estimate of the actual corruption are even more explicit when a comparison of official corruption data is made across countries.²⁰⁷ The United Nations World Surveys of Crime Trends and Criminal Justice Systems²⁰⁸ provide official data (crimes known to the police, prosecutions, convictions, sentences) for various types of crimes, one of which is classified as “bribery/corruption.” As discussed earlier, one of the serious challenges of cross-cultural research is that the definitions of corrupt behavior differ across legal systems. Furthermore, the term “bribery/corruption” includes corrupt behavior by all public officials, not just police officers, as well as corrupt behavior by the public.

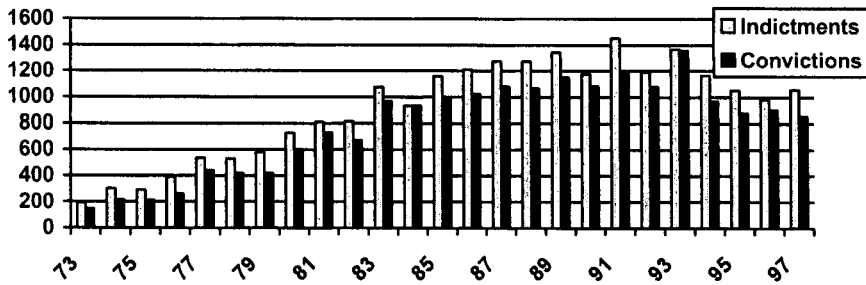
The analysis of the fifth World Survey data²⁰⁹ provides several conclusions. First, the rates of official records of bribery and corruption over a period of five years oscillate within a country, leading toward tenfold increases or decreases in several countries (e.g., Ecuador, Republic of Korea, Romania). These abrupt increases in such a short period of time could not be a result of solely the changes in the extent of corruption; rather, they are mostly attributable to other factors, such as changes in the law enforcement priorities, budget priorities, or political climate. In other words, it is clear that the noise overpowers the signal.

²⁰⁷ See *infra* tbl.4.

²⁰⁸ U.N. CRIME & JUSTICE INFO. NETWORK, U.N. SURVEYS ON CRIME TRENDS AND THE OPERATIONS OF CRIMINAL JUSTICE SYSTEMS (2000), at <http://www.uncjin.org/Statistics/WCTS/wcts.html>.

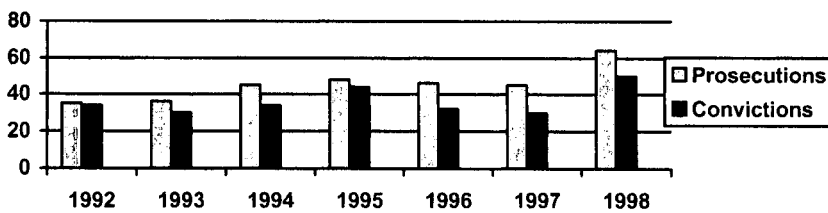
²⁰⁹ See *infra* tbl.4.

Figure 2
Persons Indicted for Offenses Involving Abuse of Public Office



Data Source: Sourcebook of Criminal Justice Statistics Online

Figure 3
Persons Indicted and Convicted for Federal Law Enforcement Corruption



Data Source: Transactional Records Access Clearinghouse

Table 3
*Prosecutions and Convictions for Federal Law Enforcement
 Corruption*

	1992	1993	1994	1995	1996	1997	1998
Referrals for prosecution	86	156	148	131	137	400	186
Referrals disposed of	110	116	162	134	114	346	131
Referrals declined	75	80	117	86	68	301	67
% of disposed referrals	68.2%	69.0%	72.2%	64.2%	59.6%	87.0%	51.1%
Referrals into prosecution	35	36	45	48	46	45	64
% of disposed referrals	31.8%	31.0%	27.8%	35.8%	40.4%	13.0%	48.9%
Convicted after prosecution	34	30	34	44	32	30	50
% of prosecutions	97.1%	83.3%	75.6%	91.7%	69.6%	66.7%	78.1%
% of disposed referrals	30.9%	25.9%	21.0%	32.8%	28.1%	8.7%	38.2%
Sentenced to prison	16	20	19	19	19	17	28
% of convictions	47.1%	66.7%	55.9%	43.2%	59.4%	56.7%	56.0%

Data Source: The Transactional Records Access Clearinghouse

Second, when official records are standardized across countries (as rates per 100,000 inhabitants), the rates of recorded crimes vary from close to zero to as many as twenty-four cases per 100,000 inhabitants. Does a higher rate indicate that the corruption is more widespread, that the law enforcement authorities are dealing with corruption more diligently, both, or something else? For example, among the countries with a rate higher than one per 100,000 inhabitants there are countries with a reputation of being relatively clean of corruption (e.g., Austria, which has a high Corruption Perceptions Index score of 7.6); in such cases it appears more likely that the higher rate is a result of the more extensive law enforcement activity. On the other hand, in some countries with a rate higher than one per 100,000 inhabitants (e.g., Bulgaria, Romania, both of which had a low Corruption Perceptions Index score of 3.3), the higher rate of officially recorded corruption probably indicates that the extent of corruption is wider. Unfortunately, we do not know to what extent this is true, and, moreover, have no direct way of checking.

Table 4
Official Data on Corruption from the Fifth UN World Survey

Country	Recorded 1990	Recorded 1991	Recorded 1992	Recorded 1993	Recorded 1994	Suspects 1990	Prosecuted 1990	Convicted 1990	Recorded /100k	Prosecuted /Prosecutors	Convicted /Judges
AUSTRIA	252	310	346	286	445	-	-	117	3.27	-	- 0.08
AZERBAIJAN	32	34	39	44	43	17	16	19	0.45	0.02	-
BERMUDA	0	0	0	0	0	0	0	0	0	0	-
BELARUS	199	208	265	507	553	119	67	44	1.94	0.06	0.09
BELGIUM	-	-	-	-	66	-	-	22	-	-	0.02
BULGARIA	224	84	61	81	69	600	118	110	2.49	0.21	0.16
CHILE	30	64	51	71	52	27	290	35	0.23	-	0.08
COLUMBIA	17	9	27	9	15	30	6	6	0.05	-	0
COSTA RICA	30	38	24	32	37	-	-	13	1.07	-	0.04
CROATIA	56	9	45	88	107	33	91	55	1.17	-	-
CZECH REP	-	-	-	-	-	-	242	50	-	0.24	0.03
DENMARK	11	6	17	10	9	-	-	-	0.21	-	-
ECUADOR	4	17	25	13	234	2	-	-	0.04	-	-
EGYPT	55	49	40	39	60	74	263	260	0.1	0.51	-
ESTONIA	3	8	25	45	42	2	2	3	0.19	0.01	0.03
FINLAND	-	-	-	-	-	-	7	6	-	0.02	0.01
GEORGIA	80	37	5	15	5	34	26	22	1.47	0.07	0.1
GERMANY	-	-	-	-	-	-	237	193	-	0.06	0.01
GREECE	59	71	85	113	71	68	-	71	0.58	-	0.05
HUNGARY	385	432	899	582	983	239	143	156	3.71	0.13	0.09
INDIA	1831	1708	1772	1895	2104	1318	1187	174	0.22	-	-
INDONESIA	221	934	28	209	1	-	-	348	0.12	-	0.11
ISRAEL	183	161	215	162	116	-	55	41	3.93	-	0.14
ITALY	-	-	-	-	-	-	177	84	-	-	-
JAMAICA	15	21	18	23	26	15	-	1	0.62	-	0.04
JAPAN	190	160	167	200	170	241	311	115	0.15	0.15	0.04
JORDAN	29	23	65	64	97	-	-	-	0.68	-	-
KAZAKSTAN	202	219	243	361	510	128	108	208	1.21	0.04	-
KUWAIT	-	-	0	19	11	-	-0	-	-	-	-
KYRGYZSTAN	12	29	60	79	84	6	6	-	0.27	0.01	-
LATVIA	35	44	30	42	29	28	15	16	1.31	0.05	0.1

Table 4
(Continued)

Country	Recorded 1990	Recorded 1991	Recorded 1992	Recorded 1993	Recorded 1994	Suspects 1990	Prosecuted 1990	Convicted 1990	Recorded /100k	Prosecuted /Prosecutors	Convicted /Judges
LITHUANIA	23	29	57	64	104	9	-	-	0.62	-	0.03
MADAGASCAR	10	3	3	1	1	8	-	-	0.09	-	-
MALTA	1	4	4	12	6	0	-	-	0.28	-	-
MAURITIUS	10	21	28	31	13	14	15	25	0.98	-	-
MEXICO	-	-	-	-	-	-	-	80	-	-	-
MOROCCO	62	40	37	42	65	-	-	-	0.25	-	-
NETHERLANDS	-	-	-	-	-	-	8	2	-	-	-
PORTUGAL	-	-	-	-	-	-	21	16	-	0.03	0.01
QATAR	1	0	3	7	2	1	-	-	0.21	-	-
REP OF KOREA	204	1172	2977	3082	273	276	692	275	0.48	0.92	0.26
REP OF MOLDOVA	19	31	35	81	63	18	24	10	0.44	0.06	0.04
ROMANIA	1364	4937	6043	10631	12464	594	-	-	5.88	-	-
RUSSIAN FED.	2691	2534	3331	4497	4921	1510	649	649	1.81	0.03	0.07
SINGAPORE	343	368	447	384	270	5530	70	81	12.68	2.92	1.23
SLOVAKIA	176	113	89	53	72	155	70	27	3.32	0.12	0.03
SLOVENIA	52	72	50	67	58	55	6	21	2.6	0.04	0.04
SOUTH AFRICA	-	-	-	-	-	-	657	498	-	-	-
SUDAN	782	907	434	316	280	-	1202	-	3.04	46.23	-
SWITZERLAND	-	-	-	-	-	-	-	7	-	-	0
SYRIAN ARAB REP	28	28	21	19	9	47	-	-	0.23	-	-
REP OF MACEDONIA	21	18	29	50	91	36	38	15	1.04	0.29	0.04
TURKEY	94	77	76	90	88	134	687	-	0.17	0.34	-
UKRAINE	999	1008	988	1336	1591	568	-	-	1.93	-	-
USA	-	-	-	-	-	-	290	220	-	0.01	0.02
YUGOSLAVIA	-	-	-	-	-	-	122	39	-	-	-
ZAMBIA	894	629	528	656	702	-	-	-	11.07	-	-
ZIMBABWE	371	488	473	437	468	-	-	-	3.96	-	-
HONG KONG	1365	1737	1637	2213	2528	284	80	47	23.93	-	0.33
SCOTLAND	7	5	5	4	6	-	16	10	0.14	0.07	-
MACAU	-	-	6	16	12	-	-	-	-	-	-
BAHAMAS	-	20	27	12	12	-	-	-	-	-	-

Third, the comparison of the rates spanning from the crimes known to the police to convictions is equally confusing.²¹⁰ Although in several countries numbers of cases decrease through the corruption funnel (Figure 1), the outliers—countries in which the prosecution numbers far exceed the numbers of the crimes known to the police—clearly show that factors other than changes in the extent of actual corruption have a significant impact. What these other factors are and how strong their impact is remain open questions, but the implication is that these numbers are not particularly useful in obtaining close estimates of the actual extent of corruption.

III. CONCLUSION

The first two steps in addressing the problem of police corruption are defining what constitutes corrupt behavior and seeking to determine its extent and characteristics. Once a subset of behaviors is defined as corruption, the next step should be a thorough effort to measure it (and to continue measuring it). Obtaining accurate information about the extent and nature of corruption provides direction for the selection and utilization of appropriate control mechanisms and identifies problem areas that the control mechanisms should target. Subsequently, it also facilitates informed judgment about the effectiveness of the implemented control mechanisms. In the absence of reasonably accurate estimates of police corruption, control efforts are selected on the bases of their general attractiveness and political appeal, and their impact is evaluated almost solely on the basis of successful avoidance of future scandals and other political factors.

The pivotal question examined in this paper is how to measure corruption. Obvious sources of information about police corruption are those who know about it—police officers, police agencies, citizens, prosecutors—all of whom (for a variety of reasons) can be predisposed not only to avoid reporting corruption, but also to conceal it. Acquiring information from participants in a corrupt transaction leaves the participants vulnerable to the application of both informal and formal internal discipline (including dismissal) and criminal punishment, as well as public disgrace. Obtaining

²¹⁰ The numbers reported in Table 4 for cases known to the police, suspects, prosecutions, and convictions in a given year need not necessarily correspond to the same perpetrators/defendants.

information from the observers of corrupt activities exposes them to some risk as well: informal sanctioning for the violation of the code of silence if they are police officers and fear of reprisal if they are citizens. Thus, while the participants are the most valuable potential sources of information because of their closeness to the activity, at the same time, they usually are the most reluctant ones to discuss the topic. This simple paradox drives much of the reality of estimating the extent and nature of police corruption. It is an obvious and severe limitation. It is also a challenge, as the resulting inability to secure the flow of information from the participants themselves creates the need for alternative (though considerably less precise) and often multiple data sources.

Despite its importance, measurement of the actual level of corruption is largely impossible and the only pragmatic solution is to rely on its estimates. The multitude of estimation methods includes surveys, interviews, observations, experiments, and case studies. Each of them, regardless of its sophistication, is riddled with inherent problems and limitations. Indeed, relying on any single methodology of data collection exposes the resulting estimates to the possibility of severe errors, which in turn renders the resulting estimates questionable at best. Setting aside the practical consideration of necessary resources for a moment, increasing the validity of the findings (that is, reducing the likely extent of estimation error) necessitates triangulation—combination of several methods—and checking whether the findings they produced are similar or at least consistent. Thus far, with the exception of a few sources, such as independent commissions and large-scale studies (e.g., the World Bank Institute project²¹¹ or the Reiss study),²¹² triangulation has been applied infrequently.

An equally important way of enhancing the validity of the estimates is to increase the subjects' willingness—be they police officers, citizens, supervisors, or police administrators—to actually participate in studies that seek to measure the extent of police corruption. Indeed, when the response rate (i.e., the ratio of the number of participants in the study and the number of all subjects who were invited to participate in the study) increases, the reliability of the findings likely increases as well. The manner in which questions are asked could have a substantial impact on the

²¹¹ WORLD BANK, CAMBODIA, *supra* note 87.

²¹² REISS, *supra* note 119.

respondents' willingness to participate and provide answers to specific queries. Questions asking the respondents to report their own corrupt behavior or corrupt behavior of their colleagues will be met with greater resistance than the questions that do not "put them on the spot." For instance, government officials in the World Bank Institute survey were asked about the situations in which they were *offered* bribes, while the citizens were asked about the instances in which they were *requested* to pay bribes to the governmental officials.²¹³

Enhancing the willingness to participate in the study needs to go beyond simple methodological steps of repeated mailings and design of appealing questionnaire booklets; it should consist of a series of activities oriented toward building a positive environment for such a project, including raising public awareness about the benefits and public acceptance of such endeavors, protecting and rewarding project participants willing to share information, as well as stimulating and rewarding supervisors and administrators willing to conduct the study themselves, to open their doors to someone else managing the project, and to publicly share the findings.

Reliance on official records, be they internal agency records or the official criminal justice records, is quite appropriate for the analysis of changes in the law-enforcement policy on corruption, budget allocation, or interest in corruption, but, as the analyses of the official records suggest, largely inappropriate as the bases for the estimates of police corruption. Indeed, whether a particular corrupt act will become a part of the official statistics is affected by a series of factors, such as suitability of the legal definition of corruption, reluctance of police officers to give eyewitness testimony in the case, change in the unofficial stance on corruption tolerance, eagerness of police administrators to enter the case into the official statistics, or increased public pressure to address the mounting corruption problem. These factors could have a stronger impact on the official corruption statistics than on the changes in the actual levels of corruption.

Technical and substantive issues regarding measurement of police corruption aside, two common themes emerge from the discussion in this paper. First, results of various studies seeking to estimate corruption suggest that the extent of corruption seems to diverge substantially across time and place. For example, while the Knapp Commission in the 1970s reported that police corruption was

²¹³ WORLD BANK, CAMBODIA, *supra* note 87.

widespread in the NYPD,²¹⁴ the Mollen Commission, investigating the same police agency two decades later, reported that corruption was rather limited to several groups of police officers.²¹⁵ Furthermore, as the ICVS data indicate,²¹⁶ police corruption seems to be substantially more prevalent in East European, Asian, and Latin American countries than in Western democracies.

Second, although the variance with which certain types of police corruption²¹⁷ are represented across police agencies might be quite extensive, estimates from a divergent set of sources tend to suggest a common thread: the less serious forms of corruption seem to be more widespread than the more severe forms. For example, police officers in both the Illinois and the Ohio studies²¹⁸ reported observing the more serious forms of corruption, such as opportunistic thefts and direct criminal activities, much less frequently than observing the less serious forms, such as corruption of authority. However, this comforting notion has been challenged by some recent accounts of police corruption, such as the Mollen Commission Report²¹⁹ (investigating corruption in the NYPD) and the Los Angeles Police Department Board of Inquiry Report²²⁰ (investigating corruption in the Rampart Division within the LAPD), which suggest that the less serious “grass-eating” variety of corruption, widespread in Philadelphia²²¹ and New York in the 1970s, seems to be replaced by the more serious and aggressive “meat-eating” variety of corruption in the 1990s.

In sum, although not without drawbacks, the best approach to the measurement of the extent and nature of police corruption at this point is triangulation—the application of a combination of various methods. Of course, learning about the extent and nature of the

²¹⁴ See KNAPP, *supra* note 20, at 1.

²¹⁵ See MOLLEN, *supra* note 3, at 1.

²¹⁶ See Kutnjak Ivković, *supra* note 75.

²¹⁷ Roebuck and Barker developed a typology of police corruption based on the five dimensions: “(1) acts and actors; (2) norm violations; (3) support from peer group; (4) organizational degree of deviant practices; and (5) police department’s reactions.” Julian B. Roebuck & Thomas Barker, *A Typology of Police Corruption*, 21 SOCIAL PROBLEMS 423 (1974). They included eight types of police corruption in their typology: corruption of authority, kickbacks, opportunistic theft, shakedowns, protection of illegal activities, the fix, direct criminal activities, and internal payoffs.

²¹⁸ See MARTIN, *supra* note 17, at 33; KNOWLES, *supra* note 40.

²¹⁹ MOLLEN, *supra* note 3.

²²⁰ BOARD OF INQUIRY, *supra* note 1.

²²¹ PENNSYLVANIA, *supra* note 20; KNAPP, *supra* note 20.

problem is merely the first, yet crucial step toward successful corruption control. Reliable estimates are a helpful tool in determining whether the level and nature of corruption is within the acceptable boundaries and in selecting the applicable control methods, as well as in providing a more precise measure of their success than the simple absence of a subsequent scandal. Whether this information will be collected at all and how it will be used depends upon the citizens, city officials, and police administrators. If the citizens perceive police officers to be corrupt and continue to give them a positive "report card," the public implicitly chooses to maintain an environment tolerant of corruption. Ultimately, it is up to the citizens, city officials, and police administrators to determine what the acceptable level of corruption is in an agency and to seek to control police corruption effectively.

