



## Methodology for Investigating Corruption Crimes: Theoretical and Practical Problems

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### Abstract:

One of the most important current responsibilities is continuing to combat corruption, which erodes public trust in public institutions and the effectiveness of the governmental machinery. The goal of this study is to determine the potential of this institution, its practical importance, and the actual opportunities and practices of law enforcement with regard to investigative preventive standards. Given that the judicial authorities are still aware of this phenomena, the same issue is seen in criminal cases involving the criminal investigation of corruption crimes. There is a significant body of law on this subject in practice. The present study centres on the criminal investigation of corruption within an interdisciplinary framework, encompassing aspects of forensic investigation, obtaining evidence through forensic science, and their management throughout the criminal procedures. Additionally, studying the subject from the standpoint of the judicial authorities' efforts to ensure functions of identifying and deterring corruption crimes as well as penalising defendants during criminal procedures is the goal of this research.

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## **1. Introduction:**

The current state of forensic science and its future evolution in terms of creating techniques for criminal investigation are examined. The focus is on the current trend in method formulation, which consists of broad methodological recommendations meant for the investigation of multiple distinct crime types grouped together based on shared attributes. It appears that the likelihood of developing integrated investigative approaches is determined by the presence of similar aspects in various types of crimes. In order to design them, basic criminal law must first be identified, and offences must then be classified using forensic features. The growth of unity in their name and structural content was not aided by the scientific community's actualisation of interest in the formulation of theoretical knowledge and the construction of integrated investigative procedures [1]. The majority of states, particularly those in developing nations, are concerned about creating and promoting efficient anti-corruption initiatives. The potential for putting such strategies into practice arises from the clear theoretical and empirical relationship that has been established between the outcomes of anti-corruption initiatives and the outcomes of government actions, as manifested in social and economic outcomes, as well as in terms of well-being and living standards.

Within this framework, the development of the corruption issue and its detrimental effects on society are incompatible with democratic values, which are founded on the principles of the rule of law and other constitutional ones, as well as the laws that have been put into effect. The following issues are the focus of the countries' judicial authorities in their efforts to combat corruption: (i) adopting a legal framework that is strong enough to withstand pressures resulting from corruption crimes; (ii) bolstering the ability to combat corruption crimes and those associated with them in a way that will reduce the number of cases of corruption; and (iii) establishing a professional body of specialists in all fields of expertise, particularly in the public domain. (iv) implementing effective judicial processes in criminal matters to achieve criminal procedural functions; (v) attaining efficient justice in accordance with the principles of respecting the law and public dignities [2].

### **Apply the "Case Theory" method when conducting research:**

Every investigator or prosecutor working on complex corruption and fraud cases must create and adhere to a "theory of the case." Many successful investigators find that using the Case Theory method to complex investigations comes naturally to them, but others misunderstand it or ignore it, which can have regrettable results. It follows these steps and is comparable to the scientific method of experimentation:

Develop a hypothesis based on the data at hand; test it against the information at hand; revise and improve it in light of new information until conclusions that are at least somewhat definite can be made.

### **Discover the proof requirements for the alleged offences:**

Based on your theory of the case, commit to memory the elements of proof for each of the alleged offences. Utilise them to set up the inquiry and determine whether the evidence is sufficient. An investigator should be aware of the evidence required to support each element of an offence at every level of the case, including before and during interviews. This basic guideline is often disregarded by investigators, which leads to the collection of excessively irrelevant and insufficiently relevant material.

### **Organise and preserve the evidence with care:**

To organise and analyse complex data, use spreadsheets, summaries, and charts and graphs as needed. Avoid making the charts too complex; their goal is to focus, simplify, and clarify the inquiry, not to document every detail that happened and so confuse the case. Ensure that every piece of evidence, including electronic evidence, is appropriately logged in, secured, and accounted for, and that its provenance is noted. Documentary or electronic evidence must all originate from the most reliable

source that is accessible. The greatest amount of corroboration should be obtained for critical witness testimonies [3].

### **Get the case chronology ready:**

When proving knowledge and intent or observing the progression of a case, a Chronology of Events, which enumerates significant facts in the chronological sequence in which they occurred, is nearly always beneficial. Briefly note the date, the information source, and the event or document in separate columns. Add any significant phone conversations, emails, travel, crucial meetings, important documents, and other possibly significant occurrences. A chronology should be straightforward and concentrated on data that may be significant; if it contains too much unneeded material, it will be less useful. Regularly review and update it. As the investigation continues, add new details and delete anything that turns out to be unnecessary.

## **2. The Fundamental Procedures for a Complex Probe**

The following details the essential procedures in a typical case of complicated procurement fraud. Procurement is the area where most fraud and corruption cases arise.

**FIRST STEP** Start the case by answering the complaint, etc. Get as much information as you can from the complainant during a thorough debriefing if the case began with a report or complaint. If a red flag is found at the beginning of the case, link it to a possible scheme before searching for additional red flags of other suspected schemes. If the required information is provided, an automated, "proactive" search for fraud indications may be successful [4].

**Step Two** Analyse the accusations or signs: Assess if the claims or suspicions—the "red flags"—are particular and severe enough to warrant opening a formal inquiry, which can, of course, be expensive, time-consuming, and disruptive. Try to quickly determine whether a complaint merits additional inquiry by evaluating the report's accuracy in an initial manner. For instance, look through the pertinent project files to try to ascertain the essential details if the complainant claims that they were wrongfully excluded from a bidding. Make use of this information to get ready for a follow-up interview with the complainant in order to get additional details. Naturally, you will review the transactions in much more depth in the future.

**STEP THREE** Investigate the allegations and search for additional evidence of fraud or corruption, such as the presence of shell companies as subcontractors, a contractor's prior debarment, or proof that a project official is living beyond their means, by conducting due diligence background checks on the suspect companies and individuals.

**STEP IV** Complete the internal phase of the investigation by gathering all relevant information from interviews, documents, and data within the investigating organisation. For example, look for evidence of corrupt influence in the bidding documents by manipulating the "SPQQD" factors (Selection, Pricing, Quantity, Quality, and Delivery); Check carefully for any potential false assertions in bids, proposals, resumes, and other documents presented by a dubious firm; Access the pertinent email and computer hard drive data with the appropriate authorisation; Assess whether it is necessary to interview the topic early on.

**Step Five** Verify your forecast and arrange yourself. Examine the investigation's findings thus far to see if there is enough "prediction"—that is, a solid enough factual foundation—to move forward. Make a decision or improve your first "Case Theory" and arrange the evidence in accordance with the components of the possible claims' proof. Take action to make sure there is enough "probable cause" to submit the case to law enforcement and secure such cooperation if aid is required (e.g., to subpoena documents, exercise search warrants, or to request overseas legal assistance).

**Step Six** Start the outside investigation. Interview witnesses that are not affiliated with the investigating agency, working your way "up the ladder" from willing, unbiased witnesses to "facilitators," co-

conspirators, and finally, subjects. Use contractual rights, subpoenas, search warrants, or other available means to request or coerce documents from third parties and the suspected contractors.

**STEP SEVENTEEN Confirm Unlawful Payments** Start the tracing procedure after deciding whether approach will best demonstrate unlawful payments: from the point of receipt (by the suspect employee's records) or from the point of payment (by looking through the contractor's records). Try to prove the corrupt payments circumstantially by demonstrating the subject's sudden, unexplained riches or expenditures, if direct proof of the payments is not attainable.

**STEP EIGHT Acquire the assistance of an inside witness:** This person could be an honest insider observing the crime, or they could be a less involved party, such an intermediary or a cooperative briber. Select the most effective tactic to get their cooperation, as explained in the linked article.

**STEP NINE interrogate the main subject:** In a case involving corruption, interrogate the main subject—typically the person who is accused of receiving bribes—in-depth. Enquire about their involvement in the dubious contract award as well as pertinent financial matters, like revenue and expense sources. Determine whether there is enough evidence to acquire a confession, which is improbable; if not, try to get useful confessions, details about the subject's funding source, and potential defences, as covered in the link. A thorough preparation is essential for success. Interview the most knowledgeable and accountable party regarding the alleged fake document or false statement in a fraud case. Once more, determine whether there is enough evidence to acquire a confession; if not, attempt to get useful confessions and discover potential defences. Usually, these are the claims that any false statement was the result of an honest error or that the fraudulent document was the work of someone else. Once more, careful planning is crucial.

**Step Ten Get the completed report ready.** Determine what course of action, such as an administrative consequence or criminal referral, to propose based on the investigation's findings, and draft a succinct final report that is arranged in accordance with the elements of proof for the pertinent offences [5].

### **3. Methodology**

A collection of general and specialised scientific techniques for understanding social and legal issues provide the methodological foundation of the study. In particular, the systemic-structural method was used to identify the typical flaws of covert investigative actions; the sample survey method was utilised to examine judicial practice in 200 criminal cases of corruption offences; and the comparative method was utilised to compare and analyse domestic and international regulations and court decisions. Conclusions and recommendations on the research issue are developed based on the synthesis. Using the aforementioned techniques, we were able to examine the issue from both a social and legal perspective.

#### **Implementation of Law Enforcement in Corruption Investigations**

As we all know, corruption causes suffering and anguish for the people, the state, and the nation. It is like a virus that poses a serious threat to a nation or state. Up until today, corruption has been pervasive in national and state affairs. Not only does corruption happen in the national government, but it also happens in local governments. Every effort has been taken to stop the spread of corruption, but it appears that none of the previous attempts to do so have been successful in changing anything. In reality, the Kompas survey results provide empirical support for the claim that corrupt behaviour is becoming more widespread and uncontrollable. The Tata Corruption is not totally absent from village money management. Suspects utilise village finances as objects of corruption. Village Law Number 6 of 2014 has granted village governments independent management and development authority since its adoption. With a variety of empowerment programs and resource management, village communities enjoy more prosperity. In addition to regulating the Village Revenue and Expenditure Budgets (APBDes) and implementing various infrastructure upgrades that can support the improvement of the village economy, the village administration can implement a pattern of developing the village economy through Village-Owned Enterprises (BUMDes). From the hamlet to construct the nation in order to be realised [6].

In order to achieve village finance transparency and accountability, it is imperative that village government stakeholders, particularly village officials, have a basic grasp of how the village manages its funds. As per Article 4 of Law Number 2 of 2002, the Republic of Indonesia National Police is one of the agencies that enforce the law. Its objectives are to "realise domestic security which includes maintenance of security and public order and law enforcement, implementation of protection, protection and service to society, as well as fostering public peace by upholding human rights." The police are among the law enforcement agencies. Dealing with other law enforcement agents is a regular procedure for law enforcement personnel investigating corruption-related crimes. As is well known, the Corruption Eradication Commission, the Attorney General's Office, and the Police have the jurisdiction to look into cases of corruption. Nonetheless, there are coordination issues with each of these law enforcement organisations. There is a tug-of-war between law enforcement agencies as a result of poor coordination amongst law enforcement institutions, which eventually causes discord and weakens the law enforcement process as a whole. This is because each law enforcement agency has a sectoral ego, which makes managing corruption cases more difficult in the end. Practical motivations frequently interfere with corruption investigations in addition to sectoral ego. The inability of investigators to work together with corruption judges (Tipikor Judges) is another matter that needs to be taken into consideration while organising investigations into corruption. The Criminal Procedure Code (KUHAP), the Indonesian criminal procedural law, now only governs the investigators' ability to coordinate with one another. Contrarily, when it comes to judges—in this case, Corruption Judges—the law neither governs nor grants law enforcement organisations (investigators) the ability to work together with Tipikor judges in an attempt to expedite the handling of corruption cases [7].

Law enforcement's Application in Corruption Investigations Preventive and repressive methods are the two primary approaches used to implement law enforcement. In accordance with Law Number 20 of 2001's revisions to Law Number 31 of 1999 regarding the abolition of criminal acts of corruption, investigations have been conducted in this instance all the way up to the point of prosecution. Then, in exercising their authority as law enforcement officers, both the Attorney and the Police have not carried out the Village Fund Corruption Crime enforcement program in a way that complies with Law Number 20 of 2001 on amendments to Law Number 31 of 1999 concerning the eradication of criminal acts of corruption.

Although there are many different conditions that lead to the commission of crimes related to corruption, research and practice indicate that the most frequent ones can be categorised by certain shared characteristics: 1) flaws and gaps in criminal, criminal procedural, and administrative laws; 2) inadequate special training for those battling corruption-related crimes; 3) organisational shortcomings in specific departments and agencies; 4) mistakes in customs and tax policy; 5) insufficient control over the operations of specific state bodies and ministries; 6) inadequacies in the registration of information sources on corruption-related crimes and disruption in the financial control system; 7) insufficient interaction between state, law enforcement, and operational search bodies; 8) improper interstate cooperation in the fight against corruption-related crimes; 9) corruption and abuse of office in state, law enforcement, and judicial bodies, etc.

#### **4. Criminal sciences' reflections on the corruption phenomenon**

A new idea in the theory of criminal sciences has emerged to support the fight against corruption-related crimes, emphasising the need of impartial meaning over the antisocial phenomenon in its whole. It is about the way society reacts to the illegal product itself and fights back against criminality. Contrary to democratic societies' demands, the function of such a reaction can also be seen from the perspective of an individual's desire to put an end to antisocial occurrences, which may have the unintended result of lessening the corruption phenomenon. In this instance, the judicial imperatives and the social response were in sync, fulfilling two roles of the legal system in criminal cases. The legal foundation for resolving criminal matters is completed by the functions of deterring crime and punishing those found guilty of committing it. This rule does not apply to corruption crimes because, on the one hand, judicial authorities are tasked with carrying out the two aforementioned functions—prevention and punishment—and, on

the other hand, combating corruption necessitates the participation of civil society and its members in this strategy [9].

In real terms, the forensic feature of corruption crimes is a type of information model, or a collection of data about the particular kind of crime, that, when applied to a given circumstance, will enable the investigator to act swiftly and decisively when it comes to choosing the appropriate tactical options for the investigation's methods, including the use of tactics and technical resources when organising search and investigative activities. investigative procedures.

The primary structural components of the forensic traits associated with corruption offences have been identified. These are: 1) the particular location in which the act of corruption is committed; 2) a particular topic of the corrupt conduct; 3) particular methods of offering services related to corruption; and 4) the particular circumstance surrounding the act of corruption. 5) particular evidence of corrupt crimes; 6) corrupt connections to the underworld and illegal business organisers.

The goal of the shadow and criminal business organisers, it was said, is to have "their own" individuals in positions of administration, state authority, and a cover (or "roof") within law enforcement. For providing corrupt services, corrupt authorities are rewarded with corruption ("kickbacks"). In order to guarantee corruption support, patronage, protectionism, intervention, lobbying, and counteraction, they use their official and power-based authority to take specific actions (or not act at all) in favour of the shadow and criminal industries. In summary, there is some scientific and practical value to the presented theoretical specifications of the key structural aspects of the forensic features of corruption offences [10].

## **5. Purpose and guiding concepts of the investigation**

It is imperative that an exhaustive and impartial inquiry be carried out as soon as accusations of corruption have been brought to the notice of the relevant body. Investigations may be conducted internally by an organisation (disciplinary action) or externally (via criminal or regulatory procedures), depending on the corruption act that is revealed. The investigation's goal is to determine whether response actions are necessary and, if so, what kind of actions to take.

Evidence of corruption needs to be obtained and assessed through an investigation for each of these four replies. Because corruption is distinct, investigations frequently call for a high level of organisational strength, knowledge, experience, and competence. These enquiries may be conducted externally, like a criminal inquiry, or internally, within the company. All investigations, whether they are carried out internally or outside, should take confidentiality, impartiality, and safeguards for the parties concerned into account. When it comes to gathering adequate evidential requirements, investigators themselves should make an effort to take into account all available information and, to the extent that it is feasible, safeguard witnesses (UNODC, 2004, 18-19). The following ten guidelines were identified as essential for any investigative activity during the 2003 Conference of International Investigators [11]:

- The gathering and examination of records and other information; the inspection of the organization's property and assets; witness interviews; investigator observations; and the chance for the subjects to address the complaints should all be part of the investigative process.
- The management of the investigating officer should be regularly consulted with the documentation of investigative work and important judgements.
- All evidence, including that which is exculpatory as well as that which implicates, should be examined as part of the investigative process.
- All evidence should be validated, including forensic and documentary evidence as well as corroborating testimonials. Two investigators should conduct interviews whenever feasible.
- It is necessary to identify and file documentary evidence, noting its place and date of origin as well as the name of the filing investigator.

- Care should be taken to secure and preserve evidence that may be needed in legal or administrative proceedings.
- Interviews should be conducted in the subject's native language, with independent interpreters, unless otherwise agreed. The investigator may use informants and other sources of information, and may be responsible for the reasonable costs incurred by such sources or informants. The investigator may conduct investigative activities in accordance with the organization's rules and regulations as well as the applicable laws of the State in which the activities take place.
- When conducting an inquiry, the investigator may consult legal, cultural, and ethical counsel.

These ten recommendations shed light on the various factors that investigators must take into account and the intricacies of corruption investigations. These guidelines also indicate the potential length and cost of investigations. This is an important factor to take into account in many nations where there may not be enough resources to combat corruption [12].

## **6. Comparing internal and external enquiries**

Internal investigations are frequently the first to reveal cases of wrongdoing in businesses and government agencies. Individuals employed by organisations typically possess the most advantageous access to crucial information and expertise needed to detect instances of corruption. Employees are therefore frequently in the greatest position to see errors or ignored patterns and alert managers to them. Take the instance of how a coworker revealed that City of Dixon Comptroller Rita Crundwell had been stealing from the city. Police departments and other specialised anti-crime organisations are crucial to the investigation and prevention of corruption in many nations. Upon receiving a complaint alleging criminal corruption, these agencies are expected to assess if they are able to assemble a sufficient body of evidence. If they decide to conduct an investigation, they will need to collect proof of the offence from numerous sources, including witnesses and documents. Significant investigative powers are available to the police and anti-corruption bodies, such as the ability to seize items and documents, speak with witnesses, record testimonies, and more. To ensure that the inquiry is not jeopardised, it is crucial that these entities follow all applicable legal requirements and confidentiality regulations throughout the entire process.

Furthermore, in order to support the investigation and assess evidence as it is uncovered, it is imperative that members of the investigation team possess specialised experience in several corruption cases. A few nations have set up units with specialised training whose only goal is to look into cases of corruption. To handle the intricate, drawn-out, and specialised investigation procedure required for corruption cases, several nations have established anti-corruption commissions with specific expertise. Separating investigations into internal and external categories provides a helpful framework for analysis, but it's crucial to understand that when someone is suspected of corruption inside an organisation, both internal and external processes can—and frequently do—be started at the same time [13].

The people who play a significant role in corruption also contribute to the efficacy of law enforcement against it, in addition to government organisations like the police, prosecutors, judges, attorneys, and the Corruption Eradication Commission. The community has a certain level of faith in law enforcement. As a result, increased community support and trust can enhance law enforcement's effectiveness. The community's proactive attitude is also necessary for law enforcement institutions to maintain high standards of quality and honesty. In addition to not looking for short cuts, the community must become accustomed to handling matters through the proper system. It also doesn't need to be reluctant or scared to criticise law enforcement. If the community and law enforcement officers work together, corruption will vanish because they are honest and of high calibre. Conversely, fewer crimes can be committed when law enforcement is successful. It can also indirectly lower other crimes by lessening corruption. The following explains the various methods of destroying corruption that the community can implement by endorsing the efficacy of law enforcement: Learn more about corruption. Understand your legal rights and obligations regarding the eradication of corruption. c. Collaboration and dedication [14].

Preemptive and preventative measures are the two strategies/efforts that the police employ. The police's proactive approach to reducing the number of corruption cases involves educating all societal levels through the distribution of pamphlets, brochures, and banners to all locations. This way, the public is generally informed about the definition of corruption and the consequences it carries. This is consistent with communication theory, as social media is one of the outcomes of using the internet as a communication medium. Social media allows for the delivery of messages, the exchange of information, and interaction through visual, audio, and audiovisual content. Numerous sections of laws and regulations regulate the roles and responsibilities of the Indonesian National Police. The Indonesian National Police's responsibilities and functions have been expanded by Law No. 2 of 2002, which also pertains to law enforcement, protection, community service by preserving human rights, and security and public order maintenance. As a result, in addition to being able to monitor the swift advancement of the rule of law, human rights, globalisation, democratisation, and transparency, the National Police must also possess the capacity to act.<sup>18</sup> In order to ensure that Polri investigators are professionals in upholding the law, the institutional system supporting law enforcement needs to be strengthened. This includes increasing human resources, facilities and infrastructure, skills, and integrity of every Polri investigator going forward.

The corruption phenomenon is a result of the extraordinary growth of major organised crime, especially the black market. Furthermore, the risks of tax evasion and money laundering protect the corrupt administrative and political environments. The state's residents' trust in the capable authorities and the decision-making actors at the local and national levels is negatively impacted by all of these factors. In this sense, investment in the economy as defined by state parameters is discouraged, which will ultimately lead to the inevitable deterioration of the rule of law, the effectiveness of good governance, and the protection of individuals' fundamental rights, which are currently of great interest [15].

As a result, it will be important to create explicit criminal laws in the future that target businesses for committing corrupt crimes. Naturally, it is intended that in the future, the criminalisation (responsibility) of businesses will involve far more nuanced application of the relevant laws. This may be brought on by the way society is evolving, technological advancements, and the constant emergence of new methods of operation. Thus, in order to prevent corrupt acts, it is appropriate to anticipate this and execute the legal product that has been developed at this time right away.

## **7. Conclusion:**

The numerous instruments and procedures for identifying, disclosing, and looking into corruption acts have been thoroughly covered in this module. It specifically underlined how crucial it is to strengthen openness in the fight against corruption by implementing open data portals, e-government, and access to information laws. By actively participating in the various exercises and examples provided in the Module, students will gain knowledge on how to identify and report corruption in their immediate surroundings as well as a sense of duty to actively combat corruption. Employing electronic search systems to investigate corruption crimes is a useful tactic in the criminal justice system. It facilitates a prompt and impartial examination of the case's facts, determines the defendant's location to avoid pre-trial proceedings and trial, locates assets, and guarantees that the punishment is carried out through property confiscation. Furthermore, these actions severely restrict human rights and freedoms and are associated with intrusion into personal affairs. The peculiarity of the circumstance is that the investigative prevention institution is, in reality, exclusive to the post-Soviet region. The approach to this crime prevention strategy that does away with formalism can help make the battle against crime, especially corruption, more effective.

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