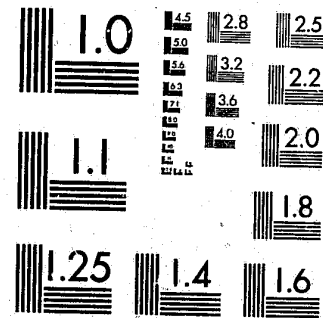


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**Corruption in Land Use and
Building Regulation**

**Volume I:
An Integrated Report of Conclusions**

Program for the Study of Corruption in Local Government
Theodore R. Lyman, *Program Director*

September 1979

U. S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement and Criminal Justice



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EXECUTIVE SUMMARY

SRI International has been studying the cause and control of local government corruption under a 2-year grant from the Law Enforcement Assistance Administration. The study had several aspects. Lacking data from other sources, some 250 newspapers were combed for reports of local government corruption between 1970 and 1976; 372 incidents were found in 103 cities, in all states but the Dakotas and Hawaii. Of the total, 112 concerned government contracting, 83 dealt with land-use and building regulation, and 45 with personnel matters; the remaining 132 covered a variety of other issues.

In a study of the literature on corruption, it was found that although there were many reports of corruption, there were few attempts to assess what factors encouraged and what discouraged it, from a systems point of view. Further, the literature showed a significant difference in the amount of corruption perceived in different cities, as shown by Table S-1, but it did not indicate that any particular form of local government protected residents from corruption, or that any particular city size made it inevitable.

In another effort, the field of land-use and building regulation was selected for in-depth study because it is free from daily association with professional criminals (unlike the police narcotics squad, for example). Thus, one cannot argue that corruption resulted because a professional criminal extended his expected pattern into a business activity; instead, a professional businessman or public servant extended his expected pattern into a criminal activity.

For the in-depth study, SRI selected nine locations in which there had been documented corruption in land-use or building regulation and in which local governments had responded by moving against one or more of the conditions that contributed to the corruption. SRI also studied one town in which the local government had avoided even the imputation of

Table S-1

HOW CITIZENS SEE THEIR CITY GOVERNMENTS

Question: "In some cities, officials are said to take bribes and make money in other ways that are illegal. In other cities, such things almost never happen. How much of that sort of thing do you think goes on in (this city)?"

| City | Number of Persons | Percent Responding | | |
|-------------------------|-------------------|------------------------|-----------------------------|----------------|
| | | "Great Deal" or "Some" | "A Little" or "Almost None" | Other Response |
| Albuquerque, New Mexico | 471 | 48% | 34% | 18% |
| Atlanta, Georgia | 469 | 68 | 20 | 12 |
| Baltimore, Maryland | 500 | 65 | 25 | 10 |
| Boston, Massachusetts | 507 | 70 | 16 | 14 |
| Denver, Colorado | 357 | 48 | 31 | 21 |
| Kansas City, Kansas | 193 | 40 | 28 | 32 |
| Kansas City, Missouri | 383 | 57 | 23 | 20 |
| Milwaukee, Wisconsin | 443 | 42 | 41 | 17 |
| Nashville, Tennessee | 426 | 59 | 27 | 14 |
| San Diego, California | 517 | 47 | 36 | 17 |

Source: The data were collected as part of the HUD-funded Urban Observatory Program and reported by Caputo (1976), p. 65

corruption. In all of the nine locations where corruption was studied in depth, crime was involved; these were not cases in which officials made judgment calls in favor of their friends, but cases in which decisions or services were bought and paid for, in contravention of the law.

Our findings suggest that land-use and building regulation are clearly vulnerable to corruption--the stakes are high; every day a developer has to wait for an inspection or permit he has to pay interest on his construction loan, and if a land option is due to lapse he may lose everything. Some authorities say that as much as 20% of the price of a

- The incentive of an applicant to participate in an act of corruption will be minimized if he not only believes that this participation would be wrong but that his refusal to participate would be supported by his company and community.
- Applicants will have an incentive to participate in a corrupt act when the perceived gains from corruption, less its risks, exceed the perceived benefits of legitimate (noncorrupt) activities, less their risks.

Incentives for officials to engage in corruption were also hypothesized:

- Officials will have an incentive to engage in corruption when the anticipated gains from corruption, less its costs, exceed the gains to be expected from legitimate activities, less their costs.
- Officials' incentives to participate in corrupt acts will be increased by experiences in which corruption was condoned.
- The incentive for an official to participate in a corrupt act will be increased by community or organizational norms that conflict with official policies.
- The opportunity for an official to engage in a corrupt act will be increased by structures that increase autonomy, provide vague decision rules, or pose minimal risks (limited detection capabilities or light sanction policies).

Finally, possible remedies for corruption were explored. The first step is to detect corruption, and a checklist (adapted from NACCJSG) is presented for use in identifying areas of potential corruptions risk. Once corruption has been identified, control strategies are needed. These include reducing opportunities for corruption, changing incentive systems (including sanction policies), and reinforcing expectations of integrity. The use of integrity policies, including Sunshine laws and conflict of interest laws is discussed, and reform of regulatory policies as a method of reducing the incentives to corruption is urged. Procedural reforms are suggested, including the use of hearing examiners.

Improving management systems to prevent or to control corruption requires personnel policies that do not discourage honesty (i.e., protect neither the incompetent nor the dishonest), that do not punish for "whistle-blowing," and that do not ensure (as low salaries tend to) that only the incompetent will apply. Reasonable compensation policies are important to maintaining honest, industrious, and competent public

new house represents the cost of land-use regulation, building permits, inspections, and the like. Vulnerability to corruption also arises because land-use and building regulations in a particular location tend to grow by accretion rather than logic, and the resulting tangle of city, county, and state requirements may have no logical, reasonable path. The New York City code, for example, is almost 900 pages long. Finally, vulnerability to corruption increases when the regulations to be enforced lag far behind the state of the art--when, for example, the building code specifies that all interior walls must be lath and plaster while the industry uses mesh and plaster or gypsum wallboard.

A number of hypotheses were derived concerning opportunities for corruption:

- The attractiveness of an opportunity for corruption is inversely proportional to its visibility.
- The attractiveness of an opportunity for corruption rises when the action sought is congruent with city policies and drops when it conflicts.
- The attractiveness of an opportunity for corruption is likely to drop as more officials become actually or potentially involved.
- Opportunities for corruption are more attractive when the other party initiates negotiations.
- Opportunities for corruption will be increased by any legal or administrative requirement that is a precondition for private sector activity.
- Opportunities for corruption may be increased where applicants and regulators maintain an on-going relationship.

A number of hypotheses were derived concerning incentives for corruption from the point of view of the applicant:

- Applicants' incentives to comply with demands made by officials will increase with the importance of regulatory decisions to their activities.
- Applicants' incentives to comply with demands of officials, either honest or corrupt, will increase with the level of competition in their industry.
- Applicants' incentives to comply with demands of officials will increase with the level of personal contacts with regulators.
- Applicants' incentives to comply with demands of officials will increase as those demands reflect community and industry norms.

employees. It is not that high pay guarantees honesty, but that very low pay not only means that competent employees can make more in private industry--and hence will tend to avoid public service--but that the government does not think much of its employees, nor the citizens much of their public servants. Thus, low pay adds insult to injury, and weakens the incentive to serve the public well.

Management controls should include organizational structures aimed at ensuring accountability, at putting responsibility and accountability at the level where the decision must be made, and at ensuring that activities and decisions are monitored and that they are open to public scrutiny (with the single exception of personnel matters).

Finally, remedies for corruption that are outside of the local government are explored for those situations where official apathy blocks any attempt at reform. A combination of legislation (to open local governments to public scrutiny) and citizen action is suggested. The point is made that leaving the job of controlling corruption to government, like leaving the job of quality control and monitoring to any group of production employees, is asking for trouble. Citizens stand as the employers of local governments, and have an obligation to oversee the work of their employees.

Although this work rests heavily on secondary data sources that have known limitations (Appendix A), so that no firm conclusions can be drawn, the study did surface a number of tentative conclusions (presented as hypotheses, or propositions) that merit rigorous testing.

PREFACE

Under a grant from the National Institute of Law Enforcement and Criminal Justice, SRI International (formerly Stanford Research Institute) has conducted a 2-year study of problems of local-government corruption in land-use and building regulation. We have found such corruption to be a significant problem in many areas in the United States and it is not likely to be insignificant in the areas we could not study. To provide a detailed understanding of how corruption occurs and how it can be prevented, SRI researched the environment in cities that had faced corruption problems in recent years, undertook an extensive literature search, analyzed the causes of corruption, identified numerous corruption prescriptions, and commissioned specialized studies from recognized experts in the field. The methods available for carrying out this study had severe limitations. As a result, the study produced not firm conclusions, but hypotheses to be tested by other researchers in other, more rigorous situations. The methodology and its limitations are discussed in detail in Appendix A to this volume.

The results of this 2-year study program are contained in six reports, as follows:

- Volume I: Corruption in Land Use and Building Regulation: An Integrated Report of Conclusions--A summary of the environment in which corruption can occur in land use and building regulation, and possible corrective and preventive measures. Illustrations are drawn from the case studies (Volume II).
- Volume II: Appendix--Case Studies of Corruption and Reform--Documented incidents of corruption in nine cities and one documented absence-of-corruption case. In each case study, the factors that acted to allow the corruption are pointed out.

- An Anticorruption Strategy for Local Governments--This report describes a countercorruption strategy that can be implemented by city administrators to monitor the performance of employees and to increase their understanding of what constitutes corruption and how to avoid it.
- An Analysis of Zoning Reforms: Minimizing the Incentive for Corruption--This report, prepared by staff of the American Society of Planning Officials, discusses zoning reforms that can be considered by planners, zoning commissioners, and others involved in land-use regulation.
- Establishing a Citizens' Watchdog Group--This manual, prepared by the Better Government Association of Chicago, shows how to establish a citizens' group to expose corruption and bring pressure for reform.
- Analysis and Bibliography of Literature on Corruption--The results of a detailed search of books, journals, and newspapers made to identify descriptive accounts of corruption, theoretical analyses of the causes of corruption, and strategies proposed or implemented to control it.

This report integrates the findings and conclusions of two years of study. Within this document the reader will find corruption descriptions, explanations, and prescriptions. During the integration, the authors drew upon the analyses and writings of many involved throughout the study. Predominant among these are Peter Manikas and David Protesse of the Better Government Association; Judith Getzels and Charles Thurow of the American Society of Planning Officials; and Thomas Fletcher, Paula Gordon, and Shirley Hentzell who are associated with SRI International.

ACKNOWLEDGMENTS

Projects that require years to complete and that require data to be collected from all over the country inevitably depend heavily on the contributions of many persons outside the project team. The project director and the authors of the various reports in this series take this opportunity to thank all of those who have talked, debated, and argued with us for the past two years. The project has benefited greatly from your involvement.

In addition to the grant from the National Institute of Law Enforcement and Criminal Justice, support has been provided by the University of Illinois (sabbatical support for John Gardiner), by the American Society of Planning Officials, by the Better Government Association of Chicago, and the executives and management of SRI International.

The six volumes of this series have benefited from, among others, the substantive contribution of the following SRI International staff: Thomas Fletcher and Iram Weinstein who have played major roles in defining and setting the initial direction for the project; James Gollub, Shirley Hentzell, Lois Kraft, Cecilia Molesworth, and Stephen Oura who have all helped shape various aspects of our work. George I. Balch from the University of Illinois and Joseph McGough and Thomas Roche from New York City's Department of Investigations have served as outside consultants providing valuable assistance.

The project has also been guided by an Advisory Committee, members of which have been drawn from the ranks of public interest groups, academia, and research. Representatives at the three Washington, D.C. meetings included Joseph Alviani, United States Conference of Mayors; William Drake, National League of Cities; Donald Murray and Nancy Levinson, National Association of Counties; Claire Rubin and Philip Singer, International City Management Association; Richard Sanderson, Building Officials and Code

Administrators International; Richard Sullivan, American Public Works Association; Nicholas Scopetta, New York Department of Investigation; Jonathan Rubenstein, the Policy Sciences Center; Geoffry Hazzard, Yale Law School; and Victor Rosenblum, Northwestern Law School. To these individuals we extend our appreciation; any frustrations their difficult role may have created were always masked by their evident enthusiasm.

Others have graciously taken valuable time to review one or more of the many working papers that underpin our final products. Elinor Bowen, Gerald Caiden, Michael Maltz, Daniel Mandelker, David Olson, and Larry Sherman have been prominent among these reviewers.

In each city studied for this project we talked with officials from throughout government service, journalists, clergymen, and citizens. While we will always honor our agreements as to confidentiality, we wish to express our gratitude to them for their comments and reactions.

Our project monitors, David Farmer and Philip Travers, justly deserve acknowledgment. They have been helpful not only in ensuring our compliance with the National Institute's rules and regulations but in helping us adhere to our research design even when we were in danger of being buried by the petty details of project work.

Finally, we could never overlook the people who put our often incomprehensible work into readable form. Edith Duncan, Sandra Lawall, and Josie Sedillo of SRI and Anita Worthington of the University of Illinois have earned more than simple acknowledgment, so let mention of their names serve as only a small token of our appreciation.

CONTENTS

| | |
|---------------------------------|-----|
| EXECUTIVE SUMMARY | iii |
| PREFACE | ix |
| ACKNOWLEDGMENTS | xi |
| LIST OF ILLUSTRATIONS | xv |
| LIST OF TABLES | xv |
| LIST OF EXHIBITS | xv |

Part One

Corruption in Land Use and Building Regulation--An Overview

| | |
|---|----|
| I CORRUPTION IN LAND USE AND BUILDING REGULATION | 1 |
| Definitions | 1 |
| Extent of Corruption | 4 |
| Government Functions Affected | 6 |
| The Report | 9 |
| References for Section I | 10 |
| II LAND USE AND BUILDING REGULATION SYSTEMS | 13 |
| Regulation of Land Use: Planning and Zoning | 15 |
| Construction of New Buildings: Building Code Administration | 21 |
| Regulation of Existing Structures | 26 |
| The Impact of Building and Land-Use Regulation Systems | 31 |
| References for Section II | 33 |

Part Two

Opportunities and Incentives for Corruption

| | |
|---|----|
| III PATTERNS OF CORRUPTION AND REFORM IN LOCAL LAND USE AND BUILDING REGULATION | 37 |
| What Corruption Reveals About Government | 37 |
| The "Developing Suburb" Pattern of Land-Use Corruption | 39 |
| Regulatory Corruption in Core Cities | 48 |
| The Corrupt Politician Pattern | 54 |
| Settings Without Systemic Weakness | 58 |
| Summary and Conclusions | 62 |
| IV OPPORTUNITIES FOR CORRUPTION | 65 |
| Definition and Conditions | 65 |
| Decisions as Opportunities for Corruption | 67 |
| Conclusion | 78 |
| References for Section IV | 79 |

| | | |
|------|--|-----|
| V | INCENTIVES FOR CORRUPTION FROM THE PERSPECTIVE OF THE APPLICANT | 81 |
| | Incentives to Participate in Corruption | 81 |
| | The Costs and Gains of Corruption | 90 |
| | Conclusion | 100 |
| | Reference for Section V | 101 |
| VI | INCENTIVES FOR CORRUPTION: FROM THE PERSPECTIVE OF OFFICIALS | 103 |
| | Personal Norms and Experiences | 104 |
| | Organizational and Community Norms | 110 |
| | Regulatory Structures and Decision-Making Processes | 113 |
| | Conclusion | 115 |
| | References for Section VI | 116 |
| | Part Three | |
| | Remedies for Corruption | |
| VII | SELECTING STRATEGIES TO CONTROL CORRUPTION | 119 |
| | Identifying Potential Problems | 119 |
| | Developing Corruption Control Strategies | 120 |
| | References for Section VII | 133 |
| VIII | REDUCING INCENTIVES AND OPPORTUNITIES: THE ROLE OF REGULATORY POLICYMAKERS | 137 |
| | Policies and Their Overall Effects | 137 |
| | Regulatory Reform: The Case of Zoning | 139 |
| | Radical Alternatives to Zoning | 140 |
| | Technological Solutions to Zoning Problems | 144 |
| | Procedural Reforms: Some Partial Approaches | 148 |
| | Conclusion | 155 |
| | References for Section VIII | 158 |
| IX | REDUCING OPPORTUNITIES AND INCENTIVES: IMPROVING MANAGEMENT SYSTEMS | 161 |
| | Improving Management Systems | 163 |
| | Reducing Opportunities and Incentives for Corruption | 170 |
| | References for Section IX | 178 |
| X | EXTERNAL REMEDIES FOR OFFICIAL APATHY: LEGISLATION AND CITIZEN ACTION | 181 |
| | Organizing for Citizen Monitoring and Investigation | 182 |
| | Investigative Journalism | 186 |
| | Bringing Decision-Making Procedures into the Light | 187 |
| | Codes of Ethics | 192 |
| | References for Section X | 193 |
| | APPENDICES | |
| A | Research Methodology in the Study of Official Corruption | 195 |
| B | Process Models | 201 |

ILLUSTRATIONS

| | | |
|---|--|----|
| 1 | Major Participants and Influences in the Housing Process | 14 |
|---|--|----|

TABLES

| | | |
|-----|--|----|
| S-1 | How Citizens See Their City Governments | iv |
| 1 | Citizens' Estimates of the Extent of Bribery and Other Illegal Activities in City Government | 5 |
| 2 | Geographical Distribution of Corruption Cases | 7 |
| 3 | Distribution of Corruption Cases Among Types of Government | 8 |
| 4 | Land Use and Building Regulation--Decisions and Participants | 68 |

EXHIBITS

| | | |
|---|---|-----|
| 1 | Deterrence of Corruption | 95 |
| 2 | Socialization and Corruption Among the Police | 105 |
| 3 | Social Science Concepts in Understanding Corruption | 109 |
| 4 | Checklist for Identifying Areas of Potential Corruption Risk | 121 |
| 5 | Questions Asked by the IRS in Detecting Illegal Bribes or Kickbacks by Corporations | 132 |
| 6 | Strategies to Control Corruption and Implementing Agencies | 133 |
| 7 | Deciding to Reduce Corruption | 162 |

Part One

CORRUPTION IN LAND USE AND BUILDING REGULATION--AN OVERVIEW

I CORRUPTION IN LAND USE AND BUILDING REGULATION

Corruption has many faces at many levels: a Vice-President receiving kickbacks from engineering firms awarded state contracts, Congressmen receiving money from foreign governments that want higher foreign aid payments, state and local officials receiving campaign contributions from corporations seeking government business, police chiefs on the payroll of crime syndicates, and patrolmen taking \$20 to forget a speeding violation. For at least 100 years, corruption in government has been a recurring theme in American politics at all levels. In some cities and states, corruption has become a permanent part of "the way things get done," while in other areas corruption is rare.

Despite the persistence and frequency of charges, and despite the number of exposés and sociological studies, corruption has rarely been studied from a systems point of view (Douglas and Johnson, 1977; Gardiner and Olson, 1974; Heidenheimer, 1970; Sherman, 1974; Berg et al., 1976; Rose-Ackerman, 1978). Usually, investigative journalists and official commissions document individual cases, a few officials are prosecuted or thrown out of office, and public interest subsides because "the problem has been taken care of." When a scandal appears, all attention is directed to "Who is involved?" "How much did they get?" and "How can we get rid of them?" Few look at "Why?" and "What can be done to see that it doesn't happen again?" The purpose of this study is to ask how patterns of corruption develop, why corruption appears more frequently in some areas or government programs than in others, and what steps can be taken to reduce the frequency or impact of corruption in the future.

Definitions

Since corruption is a term that is used frequently and loosely in popular discourse, it is important to identify at the outset which phenomena are to be discussed.

Students of official corruption have used a variety of definitions. Some authors focus on specifically illegal behavior, such as the common law categories of official malfeasance (doing something you are prohibited from doing), nonfeasance (failing to do something you are required to do), or misfeasance (performing a permissible act in an improper fashion). Others have used the term more broadly to encompass official deviations from community social or cultural values, from the "public interest," or from commonly held notions of propriety. The range of these definitions is illustrated by the following:

Broad, nonlegalistic definitions

- The exercise of governmental power to achieve nongovernmental objectives (Scott, 1972).
- Violation of the common interest for special advantages (Rogow and Lasswell, 1963).
- Behavior of public officials that deviates from accepted norms in order to serve private ends (Huntington, 1968).
- Improper or selfish exercise of power and influence attached to a public office due to the special position one occupies in public life (Monteiro, 1966).

Narrow, legalistic definitions

- Behavior that deviates from the formal duties of a public officer for private wealth (Nye, 1967).
- The acceptance of money for doing something a public official is under duty to do (McMullan, 1961).
- Behavior where a powerholder is--by monetary rewards, not legally provided for--induced to take an action that favors whoever provides the rewards, and thereby does damage to the public and its interests (Friedrich, 1966).

Some would call officials "corrupt" when they decide to fund parks in a wealthy district rather than a poor one, when they appoint persons to official positions because they are friends or campaign contributors, or when their actions assist "special interests" rather than "the public interest." Many of these deviations from an abstract, idealized definition of official duties may be regrettable and unnecessary; many may lead

to public policies that are wasteful or contrary to official goals. However, the primary focus in this volume is on a narrower type of abuse: the exchange of money or other material goods for preferential treatment by public officials. In some cases, the corruption will be unambiguous, a cash-on-the-barrelhead exchange of money for an official action. In other cases, the agreement will be disguised as legal retainer fees, consulting fees, or campaign contributions (Alexander, 1976; Amick, 1976). In all of the cases considered in this study (see Volume II, "Case Studies of Corruption and Reform"), there is a clear understanding that payments are offered in return for specific actions that have been or will be taken by public officials.

Selecting a definition appropriate to a study of corruption in land-use regulation involves a difficult set of choices. There are gray areas where "public" duties shade into "private" interests, such as awarding jobs to friends or "honest graft" derived from inside knowledge of future public investments. When research spans a number of jurisdictions, legal definitions may vary so that an official's action may be legal in one state and illegal in another; similarly, the public in one area may accept behavior that would produce tar and feathers elsewhere. Finally, any definition focusing on deviations from "the public interest" would be particularly troublesome in the area of land-use regulation, where there is little agreement as to where "the public interest" lies in light of the continuing virulent debates over rapid growth vs. environmental conservation, local priorities vs. the duty to accept low-income housing or reject "dirty" industry, and building codes vs. building costs.

Two major forms of corruption have been omitted from this study for the sake of simplicity: gratuities offered by individuals who in fact receive ordinary, nonpreferential treatment, and preferential treatment given in response to nonmonetary incentives. Some officials may abuse their positions to gain the favor or esteem of the regulated persons or industries, or simply to gain power to be used for other (nonmonetary) purposes. Both forms of behavior would, presumably, involve issues similar to those presented by the narrower definition selected here.

Extent of Corruption

How serious a problem is corruption in local government? In 1973, the National Advisory Commission on Criminal Justice Standards and Goals concluded, "The direct costs of corruption are incalculable, but they are believed to be astronomical enough to support the wry observation of one high U.S. Department of Justice official, who stated that 'when we finally stop payoffs to public officials at all levels in this country, we will have found the cure to inflation'" (NACCJSG, 1973, p. 206). A U.S. Chamber of Commerce report estimated annual payoff costs at \$3 billion (U.S. Chamber, 1974, p. 6) while U.S. News and World Report provided an estimate of \$5 billion per year (USNWR, 1973). The New York Times estimated that corruption in the New York City building industry alone amounted to \$25 million annually (Darnton, 1975).

A number of opinion surveys have indicated substantial popular concern; 60% of the respondents in a 1973 Harris poll felt that local corruption was a "very serious" or "somewhat serious" problem.* Surveys in ten cities in 1970 showed a great deal of variation in respondents' estimates of the extent of bribery and other illegal activities, as shown in Table 1; in six of the ten cities, more than one-half of the respondents perceived "a great deal" or "some" corruption.

Unfortunately, little hard evidence exists to test these assertions about the frequency of corruption. Unlike major crimes such as robbery or burglary, few of the participants in official corruption are likely to report the occurrence to the police, and neither reports to the police nor cases in court are centrally collected and recorded (such corruption cases as are included in the FBI's Uniform Crime Reports disappear into the "Miscellaneous" category). In 1976, the Criminal Division of the U.S. Department of Justice attempted to identify corruption cases

* Lou Harris Poll, April 1973: the question asked was "How serious a problem do you think corruption is on the local level--very serious, somewhat serious, or not really serious?"

Table 1

CITIZENS' ESTIMATES OF THE EXTENT OF BRIBERY
AND OTHER ILLEGAL ACTIVITIES IN CITY GOVERNMENT

| City | Number of Respondents | Percentages of Responses* | | | | |
|-----------------|--------------------------|---------------------------|--------|------------|---------------|---------|
| | | "Great Deal" | "Some" | "A Little" | "Almost None" | "Other" |
| Albuquerque, NM | 471 | 11 | 37 | 20 | 14 | 18 |
| Atlanta, GA | 469 | 25 | 43 | 16 | 4 | 12 |
| Baltimore, MD | 500 | 35 | 30 | 22 | 3 | 10 |
| Boston, MA | 507 | 34 | 36 | 12 | 4 | 14 |
| Denver, CO | 357 | 8 | 40 | 20 | 11 | 21 |
| Kansas City, KA | 193 | 16 | 24 | 18 | 10 | 32 |
| Kansas City, MO | 383 | 17 | 40 | 14 | 9 | 20 |
| Milwaukee, WI | 443 | 7 | 35 | 22 | 19 | 17 |
| Nashville, TN | 426 | 22 | 37 | 21 | 6 | 14 |
| San Diego, CA | 517 | 9 | 38 | 21 | 15 | 17 |
| Average | | 19 | 37 | 18 | 9 | 17 |
| Total | 4,266 | | | | | |

* Data were collected as part of the Urban Observatory Program funded by the Department of Housing and Urban Development. The question asked was "In some cities, officials are said to take bribes and make money in other ways that are illegal. In other cities, such things almost never happen. How much of that sort of thing do you think goes on in (this city)?"

Source: Caputo, 1976, p. 65

prosecuted by U.S. Attorneys; an incomplete survey located 255 cases in 1975 and 295 cases in 1976 (Rawls, 1977). Comparable data on state and local prosecutions do not exist.

Alternative sources for estimating the frequency of corruption are newspaper reports of corruption cases. While this source may overrepresent larger scandals or the misdeeds of high level officials, and underrepresent nickel-and-dime payoffs to lesser bureaucrats, the results of a survey (by the project team) of newspapers over the period 1970-1976 may be informative.* Corruption incidents were reported in 47 states (all except Hawaii, North Dakota, and South Dakota), in the District of Columbia, and in 103 separate cities. Table 2 shows the geographical distribution of the 372 cases and of 83 cases dealing with corruption in zoning and building regulation. It will be seen that the East North Central Region had a higher proportion of the cases than of the total population, and that Southern and Western regions had lower proportions. (The high incidence of cases in the East North Central region reflects the high interest in corruption during this period on the part of the U.S. Attorney for the Northern District of Illinois; 30% of the total sample and 34% of the land-use cases came from Illinois.) The distribution of these cases among central cities, suburban or independent cities, and counties is indicated in Table 3.

Government Functions Affected

What was the corruption about? Of the 372 cases identified in the newspaper search, 112 concerned government contracting: the purchasing of supplies or professional services, or the construction of highways and public buildings. Some 83 cases dealt with land use: the approval of subdivision plans, zoning variances, building permits, and so forth. Just 45 concerned personnel matters, including the sale of public jobs

*Likely sources of distortion in newspaper-based data collection are discussed, along with the newspaper search process, in the Appendix.

Table 2
GEOGRAPHICAL DISTRIBUTION OF CORRUPTION CASES

| Census Regions and Divisions | Percent of 1970 U.S. Population | All Cases of Corruption | | Corruption in Land Use and Building Regulation | |
|------------------------------------|---------------------------------------|----------------------------|---------|--|---------|
| | | Number | Percent | Number | Percent |
| New England | 5.7 | 16 | 4.3 | 3 | 3.6 |
| Middle Atlantic | 17.5 | 81 | 21.8 | 14 | 16.9 |
| Northeast | 23.2 | 97 | 26.1 | 17 | 20.5 |
| East North Central | 19.2 | 120 | 32.3 | 32 | 38.6 |
| West North Central | 7.8 | 10 | 2.7 | 1 | 1.2 |
| North Central | 27.0 | 130 | 34.9 | 33 | 39.8 |
| South Atlantic | 15.8 | 58 | 15.6 | 17 | 20.5 |
| East South Central | 6.4 | 12 | 3.2 | 2 | 2.4 |
| West South Central | 9.8 | 30 | 8.1 | 3 | 3.6 |
| South | 32.0 | 100 | 25.9 | 22 | 26.6 |
| Mountain | 4.5 | 8 | 2.2 | 2 | 2.4 |
| Pacific | 13.3 | 37 | 9.9 | 9 | 10.8 |
| West | 17.8 | 45 | 12.1 | 11 | 13.3 |
| Total | 100.0 | 372 | 100.0 | 83 | 100.0 |

or promotions. The other 132 cases involved other issues, including law enforcement and abuse of government benefit programs.

Why would corruption occur in these areas? Corruption in law enforcement and criminal justice has been frequently explained by the vast economic stakes involved in such illegal activities as gambling, drugs, pornography, illegal liquor, and so forth. Corruption in government contracting and purchasing can also be understood when one thinks of the billions of dollars (including federal and state programs administered locally) that flow through local governments to private firms. Why should land use and buildings be the center of such a high proportion of the

Table 3
DISTRIBUTION OF CORRUPTION CASES AMONG TYPES OF GOVERNMENT

| Type of Government | All Corruption Cases | | Land Use Cases | |
|----------------------------|----------------------|---------|----------------|---------|
| | Number | Percent | Number | Percent |
| Central city | 196 | 52.7 | 39 | 47.0 |
| Suburb or independent city | 49 | 13.2 | 21 | 25.3 |
| County | 108 | 29.0 | 23 | 27.7 |
| Unknown | 19 | 5.1 | -- | -- |
| Total | 372 | 100.0 | 83 | 100.0 |

cases? The first possible explanation involves the scale of private sector activity in this area: in 1976, for example, 1.5 million housing units were started in the United States, and approximately \$7 billion was spent on housing maintenance and repair (President of the United States, 1977). The second concerns the regulatory functions of local government; since the beginning of the Twentieth Century, municipalities* have evolved a complex set of planning, zoning, and building and housing code mechanisms to influence both the shape of the urban environment (the mix of industrial, commercial, apartment, and single-family buildings) and the structural characteristics of new and existing buildings. The policies expressed through these regulatory mechanisms play a major role in determining the economic value of land or buildings. For example, vacant land at a major intersection may be worth much more if developers can construct shopping centers or high-rise apartments rather than single-family homes; landlords can make more profits if they need not maintain their buildings; contractors may wish to evade various requirements of the building codes. All of these actors may thus have incentive to corrupt local regulatory officials.

* Land-use regulatory powers are variously assigned to states, counties, and special districts; in this volume, we will use the term municipality to designate the governing body authorized to exercise regulatory powers.

Corruption in land-use and building regulation can involve a wide variety of activities. The most frequent form of corruption usually involves the smallest dollar amounts--giving a clerk \$10 or \$20 to expedite the processing of an application, giving building inspectors \$50 to overlook a minor violation of the building code, giving policemen payoffs to ignore double-parked concrete trucks or uncovered truckloads of debris. Less frequent, but involving much larger sums, are the payments to secure approval of zoning changes or subdivision plans; payoffs totalling \$50,000 to \$100,000 are not uncommon on major developments. Some corruption involves single payments; other forms involve long-term arrangements between developers and officials. Some corruption centers around clearly illegal activities, such as using materials that do not meet code specifications; some involves decisions where officials are authorized to make discretionary judgments, such as how many homes are to be built per acre under flexible zoning systems; some involves legal outcomes where the applicant seeks either speedy processing of required papers or simply the certainty that a "judgment call" will be decided in his favor. Finally, some corruption will be directed at legislative rather than implementation decisions, such as seeking general policies favoring growth, simplifying construction codes, reducing inspection procedures, and the like.

The Report

These are the assumptions that underlie this presentation:

- Land-use and building regulation programs and corruption relating to them are intimately tied to local governmental, administrative, and political systems. Each community evolves such regulatory policies and practices in response to local economic, social, and political pressures, and implements them as part of city policy-making and implementation. To understand corruption in a city, it is necessary to understand its regulatory systems; to understand the systems, it is first necessary to understand the city's economic, social, political, and administrative characteristics. Before presenting general observations about the nature of corruption and mechanisms that can be employed to reduce it, therefore, we will offer a series of case studies, each presenting one community's experience with corruption, set against a background of recent political and governmental history.

- The presence or absence of corruption in a community is in part a reflection of the ways in which the community responds to incidents of corruption. Some communities actively seek to prevent corruption, some communities react strongly when corruption is exposed, and some communities seem unconcerned about the potential for or reality of corruption. The case studies and subsequent analyses, therefore, will include the events that occur (or fail to occur) after corruption is discovered.
- Several themes will emerge in the case studies and later will be explored in depth. The first is that corruption can only occur where there are opportunities for it: unless an official is in a position to make a decision that might be rewarded by a payoff, it will not happen. (Land-use and building regulation systems abound with such opportunities, although they vary in frequency, visibility, and ease of commission.) Second, the participants in corruption are basically rational, thus, both officials and outsiders will be likely to engage in corruption only when incentives exceed costs. Corruption can be reduced by reducing both opportunities and incentives for it.
- Finally, corruption is not inevitable. Preventing corruption costs time and money, as is shown in a number of case studies; however, a number of communities have addressed their corruption problems successfully. This volume provides the theoretical and practical base for reform efforts.

Section II presents a basic introduction to land-use and building regulation systems, describing the mechanisms of planning, zoning, and enforcement of building and housing codes. Part Two (Sections III-VI) provides an analysis of how and why corruption occurs, highlighting the opportunities and incentives for corruption. Finally, Part Three (Sections VII-X) provides theoretical and practical prescriptions for reducing the frequency and impact of corruption.

REFERENCES FOR SECTION I

- Alexander, H. E., Ed., Campaign Money: Reform and Reality in the States (New York: Free Press, 1976).
- Amick, George, The American Way of Graft (Princeton: Center for Analysis of Public Issues, 1976).
- Berg, L. L., H. Hahn, and J. R. Schmidhauser, Corruption in the American Political System (Morristown, N.J.: General Learning Press, 1976).
(An analysis of corruption in American politics, primarily at the national level).

- Caputo, D. A., Urban America: The Policy Alternatives (San Francisco: W. H. Freeman, 1976).
- Darnton, John, "Construction Industry: The Graft Is Built In," New York Times (July 13, 1975).
- Douglas, J. D. and J. M. Johnson, Eds., Official Deviance: Readings in Malfeasance, Misfeasance, and Other Forms of Corruption (Philadelphia: Lippincott, 1977).
- Friedrich, C. J., "Political Pathology," Political Quarterly 37, 70-85 (January 1966).
- Gardiner, J. A. and D. J. Olson, Eds., Theft of the City: Readings on Corruption in Urban America (Bloomington: Indiana University Press, 1974).
- Heidenheimer, A. J., Ed., Political Corruption: Readings in Comparative Analysis (New York: Holt, Rinehart, and Winston, 1970).
- Huntington, Samuel, Political Order in Changing Societies (New Haven: Yale University Press, 1968).
- McMullan, M., "A Theory of Corruption," Sociological Review 9, 182-201 (July 1961).
- Monteiro, J. B., Corruption: Control of Maladministration (Bombay: P. C. Manaktala & Sons, Ltd., 1966).
- NACCJSG, Community Crime Prevention, National Advisory Commission on Criminal Justice Standards and Goals (Washington, D.C.: U.S. Government Printing Office, 1973).
- Nye, J. S., "Corruption and Political Development: A Cost-Benefit Analysis," American Political Science Review 61, 417-427 (June 1967).
- President of the United States, Ninth Annual Report on the National Housing Goal, Office of the President of the United States (Washington D.C.: U.S. Government Printing Office, 1977).
- Rawls, Wendell, Jr., "Indictments on Rise for Public Officials," New York Times (February 11, 1977).
- Rogow, Arnold and H. D. Lasswell, Power Corruption and Rectitude (Englewood Cliffs: Prentice-Hall, 1963).
- Rose-Ackerman, Susan, Corruption: A Study in Political Economy (New York: Academic Press, 1978).
- Scott, J. C., Comparative Political Corruption (Englewood Cliffs: Prentice-Hall, 1972).

Sherman, L. W., Ed., Police Corruption: A Sociological Perspective
(Garden City: Anchor Books, 1974).

U.S. Chamber of Commerce, A Handbook on White Collar Crime (Washington,
D.C.: U.S. Chamber of Commerce, 1974).

USNWR, "Kickbacks as a Way of Life," U.S. News and World Report, 38-40
(October 29, 1973).

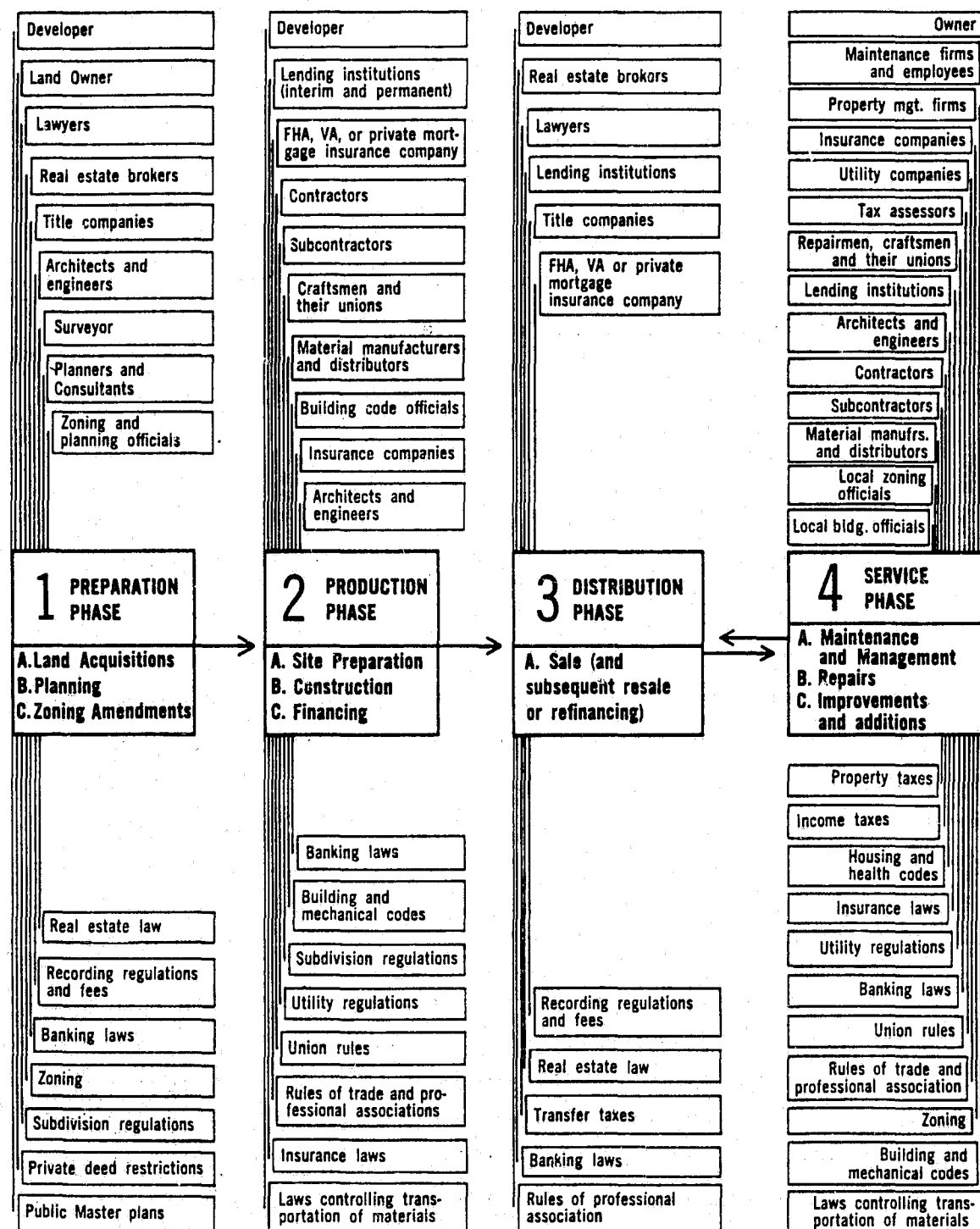
II LAND USE AND BUILDING REGULATION SYSTEMS

Before the Twentieth Century, government attempts to control land use or the structure of buildings were limited mainly to defense against fire. Beyond that, market pressures and individual preferences were limited only by the common law doctrine of "public nuisance," under which landowners and governments could sue for damages or seek injunctions against activities that unreasonably interfered in the enjoyment by others of their property rights (Prosser, 1955). Over the past hundred years, however, complex sets of laws and regulations have evolved that govern the uses for parcels of land, the construction of new buildings, and the maintenance and alteration of existing buildings.

Figure 1 illustrates phases of the housing process and the participants, regulatory systems, and other factors relevant to each phase. Conceptually, if not always chronologically, the regulatory process begins with planning and zoning decisions that determine which activities will be permitted in various parts of the community. While buildings are being constructed, building and other codes determine which construction techniques and materials are acceptable. Finally, housing and health codes govern all occupied structures.

A variety of individuals and organizations are involved in each phase of the housing process. Landowners and developers are joined by a variety of private participants (architects, engineers, contractors, craftsmen, lawyers, etc.), public officials, and legal systems. Most of the participants and officials have ties with the area in which the buildings will be constructed; while funding and materials may be imported, most other aspects of the process originate locally.

Construction is predominantly carried out by small-scale contractors; the President's Committee on Urban Housing estimated that 50% of site-assembled housing (as opposed to factory-manufactured housing or mobile homes) comes from firms producing fewer than 100 units per



SOURCE: President's Committee on Urban Housing, *A Decent Home* (Washington: Government Printing Office, 1968), p. 115.

FIGURE 1 MAJOR PARTICIPANTS AND INFLUENCES IN THE HOUSING PROCESS

year (President's Committee, 1968, p. 151). There are no dominant firms in the housing industry; even Levitt and Sons, one of the largest home-builders, produced only 5,100 units in its greatest year, 1967 (p. 150), and a 1964 survey by the National Association of Homebuilders found that 60% of its members had fewer than four permanent full-time employees (p. 151).

Fractionalization of the industry is increased by widespread use of subcontractors; the 1964 NAHB survey showed that two-thirds of their members subcontracted over 50% of their work (p. 151). While small, predominantly local firms account for much of the production of housing constructed on site, we should also note the rapid rise of two other forms of housing production, factory production of housing components (ranging from preassembled roof trusses to wall panels and complete room modules) and mobile homes. During the period 1969-1977, 17% of the new housing units produced in the United States were mobile homes (President of the United States, 1977, p. 11); manufactured housing is estimated to provide about 10% of the housing units, although even this estimate is regarded as unreliable due to varying definitions of the terms (President's Committee, 1968, p. 155).*

The land-use and building regulatory system used as a model in this report is shown in Appendix B.

Regulation of Land Use: Planning and Zoning

Context

Los Angeles adopted the first municipal zoning ordinance in 1909. Regulation of land use was originally limited to preventing "inconsistent" uses in adjoining areas. Typical situations to be prevented were factories in residential areas or slaughterhouses next to schools. As the concept of urban planning evolved, regulatory tools became devices to

*The National Commission on Urban Problems (1968, pp. 433, 438) estimated that 18.5% of the nonfarm single-family homes started in 1967 were manufactured homes of one type or another, and that 23% were mobile homes.

shape community development. Going beyond the exclusion of specific unpopular land uses, zoning as well as planning and other devices began to be used to allocate land for future development and use. Basic information on the development of zoning and the issues involved is provided by Richard F. Babcock (1966), Daniel R. Mandelker (1971), "Zoning--a Comprehensive Study ..." (1968), and "Administrative Discretion in Zoning" (1969). Now,

The principal aspects of land use regulated by zoning ordinances are: how land is to be used (for example, residence, commerce, industry, open space); population density (by stipulating ... lot sizes for residential development); and structural bulk (by stipulating minimum side yards, setback from the street, building height, and the proportion of a lot that can be covered by the building.

(Hartman, 1975, p. 43)

While each community's regulatory system reflects its own history, needs, and politics, the following steps are involved in a typical system. In the planning process, the planning commission estimates city growth patterns, needs for various types of uses, and public facilities (schools, streets, sewers, parks, etc.) requirements. These estimates and community goals are then incorporated into a comprehensive or master plan for the city. In some communities, plans may place high priority on industrial and commercial development to provide jobs and a stronger tax base; other communities emphasize residential development. [Zoning attorney Richard F. Babcock (1966, p. 3) observed, "The insulation of the single-family detached dwelling was the primary objective of the early zoning ordinances, and this objective is predominant today."] The master plan is then approved by the city council or county board of supervisors. The second stage of regulation involves the development of a zoning map, with accompanying text, assigning parcels of land to different zoning classifications (Mandelker, 1971, p. 60). The center of the city may be classified for commercial development, the west side for residential use, the east side for industry, and so on. Classifications may be further subdivided--into light and heavy industry, or apartments and single-family homes, for example. The map and text developed by the planning or zoning commission are also adopted, as a zoning ordinance, by the city council or county

board. Developers* are thereupon free to build, subject only to normal code requirements.

Since World War II, a number of communities have experimented with regulatory systems more flexible than zoning. Instead of applying specific designations to each parcel of land, plans will indicate general categories (such as "residential" or "commercial") for areas of the city, working out details through negotiation with potential developers. A subdivision ordinance, for example, may indicate that housing will be developed when the land is subdivided, but densities, street layouts, and other issues are settled in conferences among the developers, planners, and the city council. A newer device is the "planned unit development," for which

the municipality inserts a section in the text of its zoning ordinance authorizing the development of land without regard to the customary lot size requirements, or the segregation of housing types, or, indeed, or uses, provided the specific plan of development meets with the approval of local authorities. Customarily the ordinance requires the assembly of substantial acreage and the submission for approval of a plan showing densities, types of dwellings, [the] use, location, and management of common open space, and the location and nature of nonresidential facilities.

(Babcock, 1966, p. 11)

Where a developer proposes a use that differs from the use provided for by local regulations, separate decision mechanisms are involved. The planning board can recommend an amendment to the zoning ordinance (rezoning) to change the classification of an area. Alternatively, the zoning board of appeals can recommend a variance, "an administrative remedy intended to alleviate situations where hardship on a particular landowner outweighs the value that would be derived by the community if strict adherence to the ordinance were maintained" (Shapiro, 1969). A typical

*The generic term developer is used in this and the following sections to describe any individual or corporation regulated by building codes and zoning systems. The regulatee could be a national home-building corporation, a local plumbing firm laying sewers in a new subdivision under a subcontract, a bricklayer serving as a general contractor on a three-house "development," or a resident homeowner adding a new garage or rewiring his home.

variance might allow slightly less setback on an odd-shaped lot in a residential area, or a use variance might allow the owner of an apartment building to operate a convenience store on the first floor. Finally, the board might award a special permit or exception, a device for discretionary handling of uses (such as hospitals or motels) covered under the basic zoning classifications (Babcock, 1966, pp. 7-8).

Administration of Planning and Zoning Systems

Planning and zoning programs spread widely in the 1950s and 1960s; a 1968 survey for the National Commission on Urban Problems found that 90% of the communities had planning boards, zoning ordinances, and appeals boards to handle disputes. Of the communities with zoning ordinances, 54% had enacted or revised them during the 5 years prior to the survey, and 4,700 professional and technical employees were involved in administering planning, zoning, and subdivision regulations (Manvel, 1968, pp. 30-31). Planning and zoning systems are more likely than building and housing code administration to use staffs with technical expertise in architecture, engineering, and city planning. The role of experts varies widely; some communities encourage their planners to make recommendations on applications, while others seek only technical guidance on the environmental, traffic, school enrollment, and other impact of new developments. Within the planning profession, there is sharp conflict as to the proper role of planners: some view themselves as technocrats, offering specialized expertise to political decision-makers; others see themselves as community-oriented planners, and emphasize public involvement in development decisions; planners who see themselves as activists may also see themselves as political aides to elected officials (Catanese, 1947; Rabinowitz, 1967; Babcock, 1966, Chap. 4).

In many ways, land-use decisions involve political controversy. At the highest level, they involve conflicts over community goals and priorities--should regulations dominate the development process or simply set outer limits on private-sector activities? Should the community encourage growth or seek to remain small? At any population size selected, should the composition of the community be homogeneous or heterogeneous? What

class/race/ethnic groups should be encouraged? Should provisions be made to discourage urban sprawl or to protect the environment? At lower levels, land-use regulation boils down to who or what will be your neighbors and at what price: Will high-rise or low-rise apartments be permitted adjacent to single-family houses on half-acre lots? Can Mr. and Mrs. Smith open a convenience store on the corner? Will a proposed development require more tax-supported public services than it adds to the tax base? Finally, many land-use decisions appear to be based upon traditional political considerations--the influence wielded by developers and their attorneys and brokers, neighborhood opposition to a car wash or gas station, party affiliations of applicants and officials, and so forth. The political conflicts involved in planning and zoning are illustrated by A. A. Altshuler (1965), S. J. Makielski, Jr. (1966), Grade Dawson (1977), Meyerson and Banfield (1955), Catanese (1974, pp. 101-105), Nelson Rosenbaum (1976), Raymond and May (1968), the Tolchins (1971), Wolfinger (1974), and a New York Times article ("Boulder, Colo., Moves ...," 1977).

As might be expected, given the range of issues affected by land-use decisions, evaluations of the regulatory process vary widely. The late Dennis O'Harrow, former executive director of the American Society of Planning Officials, noted, "Persons who have had experience with zoning are rarely neutral about it. Ordinary citizens become rabid partisans, either pro or con" (Babcock, 1966, p. vii). Those whose interests are protected by regulations are, of course, strong supporters. Opponents range from those who find the system hard to work with to those who disagree with the impact of regulatory policies. On the one hand, it is charged that planning and zoning are vague and unpredictable systems often involving secret meetings and decision-makers who have hidden conflicts of interest. Rather than evolving orderly bodies of legal principles or effective instruments of community engineering, they degenerate into "games" with uncertain outcomes (Babcock, 1966; Mandelker, 1971). Proposals to bring apartments or low-income housing to the suburbs can be blocked, regardless of merit, by hostile groups of single-family homeowners. Applications for zoning variances or exceptions, unless neighborhood opposition arises, can be approved regardless of their

impact on adjoining areas.* Unpredictability and ineffectiveness are fostered, it is charged, by the absence of technical expertise among the laymen who sit on planning commissions and zoning boards of appeals. One survey of fourteen major cities found that only two required board members had any training in city planning or architecture. [Administrative Discretion in Zoning" (1969), p. 675 and "Variance Administration ..." (1973), p. 245.]

On the other hand, land-use regulations are also being criticized for their economically and socially disfunctional effects. Economists charge that government regulations distort the land allocations that would flow from normal market mechanisms;† observers of Houston, the largest city in the United States that does not use zoning regulations, claim that equivalent results have been obtained through private means, including deed covenants to restrict land uses (Madden, 1973). More broadly, however, a series of analyses have concluded that planning and zoning have become tools used by suburban middle-class whites to prevent low-income and minority groups from escaping decaying central cities; by limiting new developments to single-family housing on large lots, the suburbs have effectively priced would-be refugees from the central cities out of the housing market. As one student of suburban zoning put it, the politics of planning and zoning have become "the politics of exclusion" (Danielson, 1976).

Ultimately, assessments of land-use regulation systems become assessments of the goals they are designed to serve; these in turn depend on assessments of the needs of metropolitan areas and the obligations of

* The National Commission on Urban Problems survey reported that 73% of the applications for rezoning (amendments to the zoning ordinance) and 78% of the requests for variances in the cities surveyed had been approved during the past year (Manvel, 1968, pp. 32-33). Similarly high proportions of approval were found in studies of individual cities: 1,493 of 1,940 in Cincinnati; 4,000 of 4,800 in Philadelphia; 952 of 1,134 in Los Angeles; 99 of 116 in Cambridge, and so on (Shapiro, 1969, p. 11).

† An attempt to estimate the economic distortions caused by land-use regulation has been made by Burns and Mittelbach (1968).

member municipalities to respond to those needs. Should individual communities be free to select those of the metropolitan population whom they wish to house (if any), or should area-wide problems be shared by the entire area? Obviously, answers to this question vary. As zoning law expert Daniel R. Mandelker concludes, "We simply are not sure of the values we wish to implement in our urban policies. Until we are, we can continue to expect the planning and zoning process to be deeply troubled by ambiguity and ambivalence" (Mandelker, 1971, p. 138).

Construction of New Buildings: Building Code Administration

Building codes arose out of desires both to protect building occupants against shoddy or unsafe construction and to protect others against the social costs of living near inferior buildings. As the Advisory Commission on Intergovernmental Relations concluded,

The object of building codes is to protect the public against faulty design and construction of buildings. The building code must insure that occupants, adjoining properties and neighbors, and passers-by are protected from the erection of structures that are likely to collapse or lead to unhealthy or unsanitary conditions. Building codes must also prohibit conditions conducive to both individual and collective fire hazards.

(ACIR, 1966)

In some communities, these original goals have been supplemented or even displaced by efforts to restrict new construction to quality levels comparable to existing buildings (i.e., to prevent the construction of low-cost housing in high-income areas), to protect the local construction industry against mass-production housing manufacturers, and to prevent the utilization of new products and techniques. On the surface, building codes are straightforward measures to ensure the safety and durability of new construction; as enforced, they have other wide-ranging social and economic implications.

The mechanisms established to control construction center around a series of locally based building codes, building permit application reviews, and inspections. The regulatory process involves the following

basic steps: assuming that a proposed building is consistent with current plans and zoning maps, the developer files an application for a building permit, providing blueprints, specifications of the materials and techniques to be used; and the like. This application is reviewed by the city or county building department (with assistance, as needed, from city planners, engineers, transportation, fire, and public works departments); deviations from applicable codes are noted; revisions are made, and the permit is issued. During construction, progress is monitored through site inspections after framing, plumbing, and wiring have been installed ("rough inspection") and when construction is complete ("final inspection"); when all code requirements have been satisfied, the building department issues a certificate of occupancy, permitting the new owner to move in. Throughout this process, the building department retains power over the developer through its ability to withhold issuance of the building permit (authorizing construction) or certificate of occupancy (authorizing occupancy), or to issue stop-work orders during construction, shutting down activity until code violations are corrected.

The building codes at the legal heart of the regulatory process vary in several ways (ACIR, 1966, Chap. 4; Field and Rivkin, 1975). They may emphasize performance characteristics (a roof must be able to support so many pounds of load) and thus be "performance" codes, or they may specify the materials and techniques to be used (a roof must be constructed of 2x8-inch wooden trusses erected on 16-inch centers), called "specification" codes. They also vary in subject matter; the basic structure of a building is governed by a building code or construction code (as well as by relevant housing, fire, and health code provisions); specialty codes cover the plumbing, electrical wiring, elevators, and boilers in the buildings. Finally, a locality may write its own codes or adopt, in whole or in part, one of four codes: the Uniform Building Code issued by the International Conference of Building Officials, the Basic Building Code issued by Building Officials and Code Administrators, International, the Southern Standard Building Code of the Southern Building Codes Conference, and the National Building Code of the American Insurance Association. In some states, the state may write its own code or adopt a national code,

allowing or requiring cities and counties to use the state code within designated ranges for local modification (Cooke et al., 1974; Field and Rivkin, 1975, pp. 165-179). In Virginia, for example, the state has adopted BOCA's Basic Building Code as a ceiling for local codes; cities and counties can waive any of its provisions but cannot add other requirements. By 1974, about one-third of the states had statewide building codes.

While there appears to be substantial agreement that most building construction in the United States today is of acceptable quality, the role of building codes and code enforcement in construction has been subjected to a variety of attacks. A 1968 survey for the National Commission on Urban Problems reported that 80% of all municipalities (and 99% of the cities with populations greater than 50,000) used building codes (Manvel, 1968, p. 33).^{*} A 1970 survey for the International City Management Association found that 73% of the cities employed one of the national codes (with or without local modifications), 13.5% used state-based codes, and 11% used locally drafted codes (Field and Ventre, 1971, p. 143).[†] While most cities had adopted codes, they had not necessarily kept them up to date; the National Commission on Urban Problems survey found that 38% of the codes had not been comprehensively revised over the past 8 years; the ICMA survey found that 18% of the cities had not revised their codes over the past 5 years (Manvel, 1968, p. 33; Field and Rivkin, 1975, p. 45).

An even greater problem is diversity and fragmentation among the codes. A 1966 ACIR survey estimated that a builder working in the Cleveland metropolitan area would have to contend with 50 different building codes in as many suburbs; 30 different codes were in use in the Minneapolis metropolitan area, and 50 in the Chicago metropolitan area (ACIR,

^{*} Of cities over 10,000 people, 98% had some code, as did all cities over 50,000 (Field and Rivkin, 1975, p. 43). Further data from the study are given by Field and Ventre (1971), pp. 139-165.

[†] Manvel (1968, p. 33) found that 52.5% of the codes surveyed "substantially incorporated" a national code, 15% were based on a national code with modifications, and 18% were based on a state code.

1966, p. 14). Finally, these surveys showed that while the national codes kept up with technological advances in housing construction, the codes actually used in the cities were less progressive; looking at fourteen cost-saving building practices accepted under the national codes, the National Commission on Urban Problems determined that five were prohibited by more than one-third of the municipalities surveyed, and four more were prohibited by at least one-fifth of the cities (Manvel, 1966, p. 34).*

Additional problems are posed by the limited resources and capabilities of the building departments which administer the codes. In some cities, building, housing, fire, and health codes are administered by a single agency; other cities divide responsibilities among several agencies. While more than 3 million persons are employed in various phases of the construction industry, the National Commission on Urban Problems survey indicated that only 14,527 professional and technical employees, including inspectors, were engaged in code administration; over one-fourth of these worked on a part-time basis (Manvel, 1968, pp. 2, 30). A 1963 survey for ICMA concluded that the median number of inspectors in cities over 100,000 was 29; in cities between 50,000 and 100,000, the median was 8 (ACIR, 1966, p. 14). Given the variety and complexity of responsibilities imposed by the various codes, it is safe to say that inspectors are overworked, particularly in rapidly growing areas.

If inspectors are overworked, they are also poorly paid, particularly in comparison with the construction workers they supervise. The 1970 ICMA survey found a median starting salary for inspectors of \$7,490; the median for chief building officials was \$10,586. (The picture was somewhat brighter in larger cities; the median maximum salary for inspectors in cities over 500,000 was \$15,833.) In general, positions in building departments attract older men with backgrounds in construction: one-seventh of the chief building officials were over 60, and one-half were

*The ICMA survey, looking at the same construction practices, found four prohibited by more than one-third of the jurisdictions, and an additional six by more than one-fifth (Field and Rivkin, 1975, pp. 58-59).

over 50. Also, 50% of chief building officials and 68% of the most senior inspectors in the departments surveyed had previously worked in the building trades; 42% of the chief building officials had previously served as general contractors (Field and Rivkin, 1975, pp. 47-51).

Building codes arose to protect consumers by forcing builders to provide quality construction and to protect others against the social costs of inferior construction. The national surveys cited endorse these goals, but conclude that the implementation of building code systems has unnecessarily escalated construction costs and reduced housing construction accessible to low- and moderate-income populations. In part, the problem stems from the diversity of codes; while the small-scale builder working in a single city can design his product to satisfy one local code, the large-scale manufacturer seeking to market in broader areas must either bypass techniques forbidden in any one jurisdiction, or "overdesign," providing for techniques and materials which will satisfy the most restrictive jurisdiction.

The costs of code diversity have been estimated by ACIR (1966, Chap. 5), by Field and Rivkin (1975, Chap. 4), and by Burns and Mittelbach (1968, pp. 100-103). Broader criticisms concern the standards which have been set by the codes: by refusing to accept products and techniques with lower costs and equivalent performance characteristics, the codes retard innovation in the industry and the utilization of off-site manufacturing of housing and housing components. Estimates of the costs of code diversity and exclusion of new technologies range from 3% to 15% of building costs ("Round table . . .," 1958; McCarron, 1977); while this cost-inflation may be tolerable to and even desired by middle and upper income consumers (to the extent that they lead to a "higher quality" product), it may contribute to raising housing costs beyond the means of lower income markets. In short, a regulatory system initially designed only to prevent bad construction has evolved in ways that affect all types of construction. As Edward C. Banfield and Morton Grodzins summarize the issue,

No objection can properly be made to minimum standards designed to protect the health or safety of the community or to safeguard

it against unreasonable social costs. However, the history of such regulation shows that so-called 'minimum' standards frequently have little ascertainable relationship either to health or to social costs. Generally such standards are far more demanding than the world 'minimum' would suggest.

(Banfield and Grodzins, 1958, p. 78; Downs, 1970)

Regulation of Existing Structures

Housing Code Enforcement

From Colonial days, fire codes have sought to prevent the outbreak or spread of fires through regulation of chimneys, roofing materials, and the storage of flammable or explosive materials (McGoldrick et al., 1944); under pressure from the insurance industry, fire codes are virtually universal today. Similarly, health codes arose out of a desire to limit the spread of contagious diseases by controlling sanitation in residential, commercial, and food-handling establishments.

With the expansion of urbanization and the growth of sizable slums in the Nineteenth Century, housing codes emerged emphasizing improvements in the living conditions of the urban poor. [The evolution of tenement house legislation and housing codes is traced in McGoldrick et al. (1974), Lubove (1963), and Friedman (1968).] The Preamble to the 1937 Housing Authorities Act of Pennsylvania illustrates the multiple goals of housing legislation; the Pennsylvania legislature declared

the existence of unsafe, unsanitary, inadequate or overcrowded dwellings, of overcrowding, dilapidation, faulty construction, obsolete buildings, lack of proper light, air, and sanitary facilities to be prejudicial to the welfare of the people because such conditions subject the moral standards of the people to bad influences which have permanent deleterious social effects, increase the violation of the criminal laws of the commonwealth, and jeopardize the safety and well-being of the inhabitants, necessitate the expenditure of vast sums of public money, both by the commonwealth and local governmental bodies, for the purpose of crime prevention, punishment and correction, fire and accident prevention, public health service, and relief.

(Gilhool, 1971)

Responding to these problems, municipalities set standards for "minimum facilities and equipment which are required for each dwelling unit," for "maintenance of the dwelling unit and of facilities and equipment," and for "conditions of occupancy of the dwelling unit (Barnhart, 1953; Friedman, 1968, Chap. 2). First enacted in the larger cities with older slums, housing codes remained of limited interest until the Federal Government provided major funding for housing, urban renewal, and redevelopment in the 1950s and 1960s (Curry, 1971; Greenstein, 1971). The Housing Act of 1954 required communities to develop "workable programs" in order to become eligible for funding, listing housing codes as possible components of programs. In 1964, codes were made prerequisites for Federal funding:

Noworkable program shall be certified ... unless (a) the locality has had in effect ... a minimum standards housing code, related but not limited to health, sanitation, and occupancy requirements, which is deemed adequate by the Secretary of the Department of Housing and Urban Development, and (b) the Secretary is satisfied that the locality is carrying out an effective program of enforcement to achieve compliance with such housing code.

[78 Stat. 785 (1964); 42 U.S.C.A. § 1451(c)]

As part of coordinated urban renewal and rehabilitation efforts, housing codes were viewed as having, in addition to their historic role in protecting the welfare of slum residents, a proactive role in fighting blight and conserving neighborhoods against the effects of deterioration (Friedman, 1968, p. 51). Funds for local code enforcement were provided under the FACE (Federally Assisted Code Enforcement) program. Under the Nixon administration, the FACE program was abandoned. The Housing and Community Development Act of 1974 dropped specific requirements for housing codes and code enforcement, but Federally funded "community development programs" could include "code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area. [P.L. 93-383; 88 Stat. 633 (1974.)]

Housing Code Administration

Housing codes are primarily a local responsibility, although some counties and states have also enacted codes. A 1968 survey for the National Commission on Urban Problems found that 85% of the cities over 50,000 had housing codes, but that codes were less frequent in smaller jurisdictions: 53% of the cities between 5,000 and 50,000 in metropolitan areas, and 35% of all cities outside metropolitan areas, reported having codes (Manvel, 1968, p. 24). Responsibilities for enforcing the codes are assigned to one or more local agencies; funding, staffing, and staff training for enforcement programs are widely regarded as major problems (Manvel, 1968, pp. 6-7; Slavet and Levin, 1969; Carlton et al., 1965).

Enforcement of city housing codes begins with one of two activities, complaint inspections or area inspections. Complaint inspections are usually initiated by a telephone call from a tenant or neighbor charging violations by the landlord;* area inspections are initiated by the housing agency and involve inspections of all dwellings in an area (Carlton et al., 1965, pp. 806-807; Slavet and Levin, 1969, pp. 43-47; Friedman, 1968, p. 57). Where violations are detected, inspectors' responses depend on the seriousness of the offense; violations posing serious health or safety hazards usually lead to immediate action, while less serious problems lead to efforts to persuade the landlord to comply voluntarily. Several studies of code enforcement agencies have concluded that the dominant goals of the inspectors are to improve living conditions rather than to punish violators,[†] leading them to take formal action only when informal attempts to induce compliance fail (Mileski, 1971; Ermer, 1972; Wagar, 1968). In conversations with inspectors during

* Code enforcement can also be used by landlords to police negligent tenants.

[†] An analysis of housing code enforcement in New York City in 1968 found that of 123,000 inspections made in response to complaints, only 22% resulted in the issue of violation notices (Teitz and Rosenthal, 1971; Lieberman, 1971).

a study of the Boston Housing Inspection Department (HID), Pietro Nivola recalled, "there would be frequent mention of a need to be 'careful' or 'fair,' or to 'have a heart' for the owners, or to view matters with 'good old common sense psychology' and 'just make sure the work gets done.' ... To hold the property owners answerable for all types of substandard conditions, including those maliciously or carelessly created by renters, was intuitively unjust. Indeed, a widely shared (and not always unjustified) opinion in HID was that the inhabitants, not the owners, of buildings should really be blamed for many ... transgressions of the code 11 (Nivola, 1976).

When housing inspectors choose to initiate formal action against building owners, a wide variety of sanctions are available. The simplest is the "repair order," giving the landlord so many days to remedy specified defects. If improvements are not made, the inspectors can ask city attorneys to seek civil or criminal penalties in court, or order the premises vacated or demolished. In some cities, substandard buildings can be placed in receivership or tenants can be instructed to pay rent into escrow accounts, using rents to fund needed repairs (Carlton et al., 1965, pp. 813-837; Gribetz and Grad, 1968; Lieberman, 1971). While, as indicated, formal sanctions are infrequently invoked by inspectors, municipal attorneys and judges are even less enthusiastic about imposing penalties. The attorneys are reluctant to file cases, judges grant repeated delays to landlord-defendants, and fines imposed on convicted landlords are trivial (Lieberman, 1969; Metzger, 1974). A study of housing cases in New Orleans courts found a total of four fines, totaling \$125, over a 9-year period (Wagar, 1968, p. 613). Housing inspectors in New York City prosecute over 20,000 cases per year, but the average fine per case in 1964 was only \$16.86; the average fine per violation was estimated to be only \$.50 (Gribetz and Grad, 1966, p. 1276; Castartaro, 1968, pp. 60-75). "A study of major violators in Chicago (persons who had been prosecuted in court at least fifty times) from 1950 to 1962 revealed an average fine per suit of only \$32. A Boston study showed that of 4420 housing code violations, 400 went to court; of these, fines were levied in only twelve cases; of these, none was paid (Hartman, 1975, p. 66; Fried, 1977).

While housing codes have become a widespread regulatory mechanism in urban areas, with a variety of sanctioning tools, the codes have not eliminated substandard housing. The 1970 Census of Housing indicated that there were 3.1 million dilapidated housing units in the United States, with 8% of the population living in overcrowded conditions; 9% of the housing units were classified as dilapidated or lacking plumbing, down from 49% in 1940, and 18% in 1960 (President of the United States, 1977, p. 13). Evaluations of this persistent problem of substandard housing and of the utility of code enforcement vary widely. Housing officials cite their limited resources and lack of support from city officials and judges as justifications for their ineffectiveness, although they recognize the need to place greater emphasis on concentrated prevention programs in deteriorating areas rather than simply responding to complaints or the problems of hopelessly deteriorated areas (Gribetz, 1971; Slavet and Levin, 1969). In 1968, the National Commission on Urban Problems called for an emergency program to bring "all occupied dwelling units up to minimum code standard, while simultaneously pursuing the separate and higher goal of raising code standard homes to the level of 'decent homes in a suitable living environment'" (National Commission, 1968, p. 291).

On the other hand, it is being increasingly argued that housing code enforcement programs can at best handle isolated deficiencies in otherwise sound areas; a frequent result of code enforcement, it is argued, is to lead landlords to abandon buildings where repair costs would exceed anticipated profits. As Chester Hartman states the issue,

The futility of most local housing code enforcement programs stems from failure to recognize the realities of the housing market, particularly for low-income families. Where there is a shortage of decent, low-rent housing, where tenants' rent-paying capacities are limited, and where landlords have little cash equity in their buildings, code enforcement is a two-edged sword, difficult to wield and capable of inflicting injury on those it is designed to aid. Since virtually all residential properties are privately owned, the aim of an enforcement program is to cajole or coerce the private owner into bringing his property into compliance. To do this his motivations and economic capabilities must be taken into account. To proceed oblivious of these factors is to risk forcing the owner to abandon the building, a phenomenon that is already occurring

on a large scale in many cities without the inducement of code enforcement.

(Hartman, 1975, p. 67)

The interrelationship between housing markets, code enforcement, and the problem of abandonment is elaborated by Ackerman (1971), Sternlieb (1966), Downs (1970, pp. 161-164, and 1973, pp. 6-8), and Lehman (1963).

In many ways, therefore, housing code administrators face a dilemma comparable to that of urban policemen. They have been charged with the responsibility of ameliorating pressing problems of tenants yet lack either adequate resources to do their job thoroughly or even the certainty that their efforts help more tenants (through upgrading) than they hurt (through abandonment by landlords). In such circumstances, it is perhaps not surprising that inspectors minimize hard-line confrontations with landlords and stress compromise and negotiation, seeking improvement in living conditions by any means available.

The Impact of Building and Land-Use Regulation Systems

Since the purpose of this study is to address the problem of corruption rather than to assess national policies toward housing and the problems of our cities, we cannot judge the validity of the claims that have been made for and against housing and building codes, planning and zoning. We can, however, note several characteristics of these programs that bear on the problem of corruption.

First, like many government activities, building and land-use policies are enunciated in idealistic terms, setting standards for housing conditions, construction practices and materials, and for urban development, which may be economically and socially unrealistic. While high aspirations are not uncommon and may be valuable, they may obscure serious discussion about what is possible or (perhaps deliberately) create opportunities to ignore major problems such as where the poor should live or where job-providing industries should be located. When code and zoning decisions in fact boil down to pragmatic estimates of what is possible, idealized intentions provide little guidance to implementing agencies.

Second, regulatory systems have become highly complex programs with voluminous codes, ordinances, and other policy statements; detailed application and review procedures; and implementing bureaucracies and citizen boards. Complexity may serve to provide clarity, full consideration of policy issues, and the like, but it may also encourage applicants to cut the red tape by paying off decision-makers. As pointed out in Volume III of this series, where delay in a process or in a decision cost money--as when a developer has an option on the land to be used--the lapsed time may determine whether the applicant can proceed with his planned venture or must give it up. Furthermore, complex systems tend to require large staffs with extensive training; as we have seen, many regulatory agencies have small staffs with little expertise. Lacking the numerical or technical capacity to accomplish their official missions, regulatory systems may evolve unofficial goals that are substantially different.

Third, despite, or perhaps because of, this complexity, regulatory decisions involve a high incidence of official discretion at a variety of points in the regulatory process. Housing code officials must decide when conditions are so bad that tenants must be relocated; building inspectors must decide when code violations require rebuilding; planning commissioners must decide which land uses are in the best interests of the community. In some situations, discretion may be required because legislators can articulate only general principles; in other cases, discretion is necessitated by overly complex and detailed regulations. In any event, the ensuing regulatory processes leave many opportunities for policy-makers, planners, and inspectors to influence the development of programs. In some cases, the results may be reasonable and flexible programs to accomplish regulatory goals; in other cases, the programs may be clumsy and antiquated operations, which not only fail to accomplish their substantive goals but also invite attempts to bypass the system through corruption.

REFERENCES FOR SECTION II

- ACIR, Building Codes: A Program for Intergovernmental Reform, Advisory Commission on Intergovernmental Relations (Washington, D.C., ACIR, 1966).
- Ackerman, Bruce, "Regulating Slum Housing Markets on Behalf of the Poor: Of Housing Codes, Housing Subsidies, and Income Redistribution Policy," Yale Law Journal 80, 1093-1197 (May 1971).
- "Administrative Discretion in Zoning," Note, Harvard Law Review 82, 668-685 (1969).
- Altshuler, A. A., The City Planning Process: A Political Analysis (Ithaca: Cornell University Press, 1965).
- Babcock, R. F., The Zoning Game: Municipal Practices and Policies (Madison: University of Wisconsin Press, 1966).
- Banfield, E. C., and Morton Grodzins, Government and Housing in Metropolitan Areas (New York: McGraw-Hill, 1958).
- Barnhart, Gilbert, Local Development and Enforcement of Housing (Washington, D.C.: Housing and Home Finance Agency, 1953).
- "Boulder, Colo., Moves to Curb its Growth," New York Times (September 11, 1977).
- Burns, L. S., and F. G. Mittelbach, "Efficiency in the Housing Industry," in President's Committee on Urban Housing, Technical Studies, Volume II, 93-97 (Washington, D.C.: U.S. Government Printing Office, 1968).
- Carlton, R. E., Richard Landfield, and J. B. Loken, "Enforcement of Municipal Housing Codes," Harvard Law Review 78, 804-805 (February 1965).
- Castrataro, G. J., "Housing Code Enforcement: A Century of Failure in New York City," New York Law Forum 14, 60-75 (Spring 1968).
- Catanese, A. J., Planners and Local Politics: Impossible Dreams, p. 18, (Beverly Hills: Sage Publications, 1974).
- Curry, S. L., Jr., "The Federal Role in Housing Code Enforcement," The Urban Lawyer 3, 567-573 (Fall 1971).
- Cooke, P. W., H. K. Tejuja, R. D. Dikkers, and L. P. Zelenka, State Building Regulatory Programs for Mobile Homes and Manufactured Buildings--A Summary (Washington, D.C.: National Bureau of Standards, 1974).

- Danielson, M. N., The Politics of Exclusion (New York: Columbia University Press, 1976).
- Dawson, Grace, No Little Plans: Fairfax County's PLUS Program for Managing Growth (Washington, D.C.: Urban Institute, 1977).
- Downs, Anthony, Urban Problems and Prospects, pp. 161-164 (Chicago: Rand McNally, 1970).
- _____, Opening Up the Suburbs: An Urban Strategy for America, pp. 6-8 (New Haven: Yale University Press, 1973).
- Ermer, V. B., "Housing Inspection in Baltimore: Vermin, Mannequins, and Beer Bottles," in V. B. Ermer and J. H. Strange, Eds., Blacks and Bureaucracy: Readings in the Problems and Politics of Change (New York: Crowell, 1972).
- Field, C. G., and S. R. Rivkin, The Building Code Burden (Lexington: Lexington Books, 1975).
- Field, C. G., and F. T. Ventre, "Local Regulation of Building: Agencies, Codes, and Politics," in International City Management Association, The Municipal Yearbook: 1971, pp. 139-165 (Washington, D.C.: ICMA, 1971).
- Fried, J. P., "Golden Asks Reform of Housing Tribunal," New York Times (January 23, 1977).
- Friedman, L. M., Government and Slum Housing: A Century of Frustration, Chapter 2 (Chicago: Rand McNally, 1968).
- Gilhool, T. K., "Social Aspects of Housing Code Enforcement," The Urban Lawyer 3, 546 (Fall 1971).
- Grad, F. P., "Legal Remedies for Housing Code Violations," Research Report 14 to the National Commission on Urban Problems, Washington, D.C. (1968).
- Greenstein, A. J., "Federally Assisted Code Enforcement: Problems and Approaches," The Urban Lawyer 3, 629-642 (Fall 1971).
- Gribetz, Judah, "Housing Code Enforcement in 1970--An Overview," The Urban Lawyer 3, 526-527 (Fall 1971).
- Gribetz, Judah, and F. P. Grad, "Housing Code Enforcement: Sanctions and Remedies," Columbia Law Review 66, 1254-1290 (November 1966).
- Hartman, C. W., Housing and Social Policy, p. 43 (Englewood Cliffs: Prentice-Hall, 1975).
- Lehman, W. W., "Building Codes, Housing Codes, and the Conservation of Chicago's Housing Supply," University of Chicago Law Review 31, 180-203 (1963).

- Lieberman, Barnet, "The Administrative Process--Housing Code Enforcement," The Urban Lawyer 3, 551-558 (Fall 1971).
- _____, Local Administration and Enforcement of Housing Codes: A Survey of 39 Cities (Washington, D.C.: National Association of Housing and Redevelopment Officials, 1969).
- Lubove, Roy, The Progressives and the Slums: Tenement House Reform in New York City 1890-1917 (Pittsburgh: University of Pittsburgh Press, 1963).
- Madden, D. M., "Houston Finds Security in a Policy of No Zoning: Planners Love it That Way," Planning 39, 22-25 (January 1973).
- Makielski, S. J., Jr., The Politics of Zoning: The New York Experience (New York: Columbia University Press, 1966).
- Mandelker, D. R., The Zoning Dilemma: A Legal Strategy for Urban Change (Indianapolis: Bobbs-Merrill, 1971).
- Manvel, A. D., "Local Land and Building Regulations," Research Report 6 to the National Commission on Urban Problems, Washington, D.C. (1968).
- McCarron, John, "Building Code Change Called Vital to Renovating Slums," Chicago Tribune (March 24, 1977).
- McGoldrick, J. D., Seymour Graubard, and R. J. Horowitz, Building Regulation in New York City, pp. 34-35 (New York: Commonwealth Fund, 1944).
- Meyerson, Martin, and E. C. Banfield, Politics, Planning, and the Public Interest: The Case of Public Housing in Chicago (Glencoe: Free Press, 1955).
- Metzger, S. A., "Statewide Code Enforcement--New Jersey, The Test Case," Rutgers Law Review 27, 671 (Spring 1974).
- Mileski, Maureen, Policing Slum Landlords: An Observation Study of Administrative Control (unpublished Ph.D. dissertation, Yale University, 1971).
- National Commission on Urban Problems, Building the American City, pp. 433, 448 (Washington, D.C.: U.S. Government Printing Office, 1968).
- Nivola, Pietro, "Municipal Agency: A Study of the Housing Inspection Service in Boston," pp. 118-119, 122, (unpublished Ph.D. dissertation, Harvard University 1976).
- President of the United States, Ninth Annual Report on the National Housing Goal (Washington, D.C.: U.S. Government Printing Office, 1977).

- President's Committee, A Decent Home, President's Committee on Urban Housing (Washington, D.C.: U.S. Government Printing Office, 1968).
- Prosser, W. L., Handbook of the Law of Torts, Chap. 14, 2d ed. (St. Paul: West Publishing, 1955).
- Rabinowitz, F. F., "Politics, Personality, and Planning," Public Administration Review 27, 18-24 (March 1967).
- Raymond and May Associates, "Zoning Controversies in the Suburbs: Three Case Studies," Research Report 11 to the National Commission on Urban Problems (Washington, D.C.: U.S. Government Printing Office, 1968).
- Rosenbaum, Nelson, Land Use and the Legislature: The Politics of State Innovation (Washington, D.C.: Urban Institute, 1976).
- "Round table ponders \$1 billion-a-year cost of too many codes, proposes a simple 6-point program to speed reform," House and Home 14, 112-119 (July 1958).
- Shapiro, R. M., "The Zoning Variance Power--Constructive in Theory, Destructive in Practice," Maryland Law Review 29, 4 (Winter 1969).
- Slavet, J. S., and M. R. Levin, "New Approaches to Housing Code Administration," Research Report 17 to the National Commission on Urban Problems (Washington, D.C.: Government Printing Office, 1969).
- Sternlieb, George, The Tenement Landlord (New Brunswick: Rutgers University Urban Studies Center, 1966).
- Tietz, M. B., and S. R. Rosenthal, Housing Code Enforcement in New York City, vii-xii (New York: RAND Institute, 1971).
- Tolchin, Martin, and Susan Tolchin, To the Victor ... Political Patronage from the Clubhouse to the White House, pp. 52-60 (New York: Random House, 1971).
- "Variance Administration in Indiana--Problems and Remedies," Note, Indiana Law Journal 48, 245 (Winter 1973).
- Wagar, Frank, "The Enforcement of the New Orleans Housing Code--An Analysis of Present Problems and Suggestions for Improvement," Tulane Law Review 42, 611 (1968).
- Wolfinger, R. E., The Politics of Progress, pp. 211-218 (Englewood Cliffs: Prentice-Hall, 1974).
- "Zoning--A Comprehensive Study of Problems and Solutions," Note, New York Law Forum 14, 79-170 (Spring 1968).

Part Two

OPPORTUNITIES AND INCENTIVES FOR CORRUPTION

III PATTERNS OF CORRUPTION AND REFORM IN LOCAL LAND USE AND BUILDING REGULATION

What Corruption Reveals About Government

This section summarizes ten cases of past corruption in local land-use and building regulation studied in depth by the project team.* The first eight cases illustrate three separate, but sometimes overlapping "patterns of corruption" that appear to occur often in this country. The ninth case illustrates how one well-placed corrupt individual can corrupt a local land-use system in an otherwise honest and efficient environment. All of the nine corruption cases resulted in some corrective action. The tenth case illustrates a setting in which corruption has been avoided over a 20-year period even though many of the same pressures resulted in scandal in nearby communities.

Our analysis of the first eight cases, especially when considered together with other data collected, suggests that systematic weaknesses in local land-use or building regulation processes significantly contribute to corruption. These include:

- Institutional inadequacies (e.g., no staff to review development plans prior to the planning commission meeting).
- Administrative inadequacies (e.g., obsolete building codes, complete autonomy of building inspectors).
- Political process inadequacies (e.g., the political process is not protected against the purchase of favors by special interests giving large campaign contributions).
- Attitudinal inadequacies (e.g., in a particular jurisdiction, graft has come to be seen as inevitable, or a particular person does not see cheating an institution or a government as wrong).

* Ten cases were studied in all. These cases are discussed in detail in Volume II of this series, "Case Studies in Corruption and Reform," SRI International, Menlo Park, California (1978).

Inadequacies in the institutional processes established in many suburban jurisdictions to regulate land-use have, it can be argued, led to what can be termed the "developing suburb" pattern of land-use corruption. The years 1950-1973 saw the growth of a suburban America with tremendous amounts of new construction. The demand for housing that caused this suburban expansion often placed inordinate pressure on the relatively unsophisticated land-use regulatory systems in many developing suburbs. Not surprisingly, such pressure has pushed builder-developers and local officials into illegal activities of one kind or another.

Administrative inadequacies in organizations that carry out regulatory functions in larger cities contribute to the second pattern of corruption, "the inner city regulatory pattern." In recent years, a decline in inner city housing stock coupled with increased code enforcement and rehabilitation programs has placed a variety of increasing demands on the (often inflexible and/or out-of-date) building codes used by many large jurisdictions. Overly rigid code specifications, for example, invite evasions by contractors, who make payoffs to avoid, or sometimes simply expedite, inspections. In cities where administrative procedures in building inspection departments are virtually unworkable, or where centralized management procedures have never been established, the pressure for dishonest behavior can be overwhelming.

Inadequacies in political processes can also lead to corruption in land-use and building inspection. Because of the potential for profit connected with land-use and building regulation, both traditional political machines and political campaign organizations may tend to look toward private-sector actors in the land use system as sources of political contributions. Sometimes this can take the overt form of bribes being demanded for "services" such as allowing a variance; at other times, more subtle activities involve the exchange of campaign contributions for special favors. What can be termed the "corrupt politician pattern of corruption" can occur in any type of local government.

The individual case studies of land-use corruption carried out by the project also illustrate other causal factors relating to corruption besides the systemic factors which lead to each pattern. Corruption can occur, the studies illustrate, wherever there are opportunities for corruption and incentives to make use of these opportunities. The last two case studies discussed are especially interesting in this regard; the ninth illustrates how personal incentives can lead to corruption even in a sound system; the tenth case illustrates a setting in which opportunities and incentives have both been reduced to the point where no corruption is even suspected in the jurisdiction.

The "Developing Suburb" Pattern of Land-Use Corruption

Suburban land-use corruption was especially likely in the United States during the period of great suburban expansion which began in 1948 and began to slow only in 1970. The major actors in such corruption were likely to be land developers (with their associated lawyers, bankers, and others) and officials associated with subdivisions (zoning commissioners, boards of supervisors, officials approving development plans) in suburban areas.

During these years, many land developers found that they could make tremendous profits by developing vacant suburban land. In some jurisdictions, builders could make substantial presale profits by obtaining 130% construction loans (see Broward County case study in Volume II of this series). At the same time, many jurisdictions had established few standards that local politicians could use in deciding which developments to allow.

Many suburban jurisdictions had no land-use plans and many others had inconsistent zoning ordinances. Especially in earlier years, many expanding cities and counties lacked either a coherent master plan to guide development or an underlying "growth" philosophy. Policy tools, such as developer exactions, orderly subdivision development linked to capital improvement investment, or integrated land-use/transportation planning were still innovations. Similarly, inadequate land-use

administrative organizations existed in many places. Many developing jurisdictions had understaffed zoning and building inspection departments until their development phases were almost complete.

The interplay between growth opportunities and inadequate regulatory institutions designed to control new construction was the driving force behind this pattern of corruption. Three case studies carried out during our research provide good examples of typical patterns of corruption in expanding suburbs.

Fairfax County, Virginia

Fairfax County, Virginia, provides an almost classic example of suburban land-use abuse. The county lies across the Potomac River from Washington, D.C. Expansion of the Federal bureaucracy caused massive growth in Washington's Maryland and Virginia suburbs since the end of World War II. Fairfax County's population grew from 40,000 in 1940 to 537,000 in 1975. Of the county's housing, 86% has been built since 1950.

Before the heavy influx of Washington commuters, politics in Fairfax County was dominated by a group, sometimes called the "squirearchy." These were the dairy farmers and owners of large estates who were prominent in social and political circles and active in the state political machine. The county's politics was dominated by influential locals who made up an "old boy network" in which camaraderie and personal friendship outweighed professionalism and textbook municipal administration.

As the county began to expand, some members of the squirearchy and their political allies began to see opportunities for profit. The transition from a rural agriculture and estates to dense development turned construction into the major industry in the county. Despite the pressure this created, the county's land-use regulatory system remained undeveloped. A review of planning practices in the county in the 1960s concluded that the housing industry provided the pressure that forced elaboration of planning and rezoning criteria; only then did county staff respond to industry initiatives and modify the master plans and zoning ordinances. The review also pointed out that the boards never paid full attention to criteria developed by staff.

A review of the county's building inspection programs by Building Officials and Code Administrators International (BOCA), the professional association of building inspectors, found a similar need to reorganize the offices handling inspections, to recruit additional inspectors, and to update the county's building codes to BOCA standards.

Under the county's pre-1966 land-use regulation system, the county's Board of Supervisors made all decisions on zoning appeals, rezoning applications, and new public facilities, but no provision was made either for staff assistance to the Board or for orderly public scrutiny of Board decisions. The market value of Fairfax farmland, like underdeveloped land in other expanding suburbs, was strongly tied to its zoning classification. Land that could be zoned or rezoned commercial or high density was worth many times the value of land zoned one or two family residential. Builders and developers who needed land rezoned for new subdivisions, multiple dwellings, or shopping center sites had to present their cases to the Board.

In the 1960s, some developers and their lawyers apparently began to work together with several of the members of the Board of Supervisors in order to ensure that rezonings needed for high-profit development were approved by the Board of Supervisors. Subsequent investigations during this period indicated that lawyers representing some developers provided money to supervisors to rezone a factory site, approve sites for apartment complexes, and approve a shopping center complex. Money was paid to supervisors involved in land-use decisions in the form of "campaign contributions" or "no-interest loans." Some members of the county planning staff were also involved in some deals. In short, the squirearchy that controlled county politics used its position to enrich both the county political machine, through campaign contributions, and individual Board members through direct payments. It appears that the loosely run land-use regulatory system existing in the county during this time encouraged these abuses; the practices continued until the land-use system was overhauled after scandals surfaced.

Hoffman Estates, Illinois

A similar type of corruption is illustrated by the Hoffman Estates, Illinois case. Developers started building the 600-acre subdivision west of Chicago's O'Hare Airport in 1954. By 1976, the Village of Hoffman Estates had expanded to cover 25 square miles and its population was approximately 33,500. Most of the township is now made up of single- and multiple-family housing, with only a few medium-sized commercial areas and virtually no industry.

During most of its 20-year history, Hoffman Estates elections were characterized by personality politics. With no local history and few institutions to build on, candidates for local office tended to come from the homeowners' associations in the various subdivisions or from the PTAs. Until 1969, candidates tended to group together on "slates" with little to differentiate their platforms; voter apathy was common in local elections. The Village had no full-time manager, had few established administrative procedures to govern official behavior, and tended to be run by private cliques.

During the 1960s, the Village attempted to regulate land-use development in two ways. First, the density of units per acre allowed was regulated by the Village both to reduce the burden on public facilities and to protect the environment. Second, the Village required that certain capital improvements be provided by developers. Decisions in both these areas were made first by the Planning and Zoning Commission and then confirmed by the Village Board. Because the Village had a very general zoning ordinance--certain areas were simply designated as "residential"--and virtually no professional staff, both the Zoning Commission and the Village Board had a high degree of discretion regarding which projects to approve and what level of developer exactions to require.

Throughout the 1960s, the Planning and Zoning Commission had been a rather passive group, simply hearing presentations by the developers and deferring to the Village Board's wishes on both the feasibility of proposed plans and the extent of capital improvements which should be provided by the developers. During the period between 1965 and 1969, the

Commission was chaired and dominated by a former mayor who was closely tied to the Village Board. The seven-member Village Board, in turn, was composed predominantly of men who had lived in the Village since the first homes went up in the 1950s.

Between the years of 1967 and 1969 the members of the Commission and Board began to take advantage of their broad discretion and the lack of public scrutiny. The increasing strength of a "no-growth" faction in local politics at this time made public approval of projects harder to get, raising the incentive to get such approval by corrupt means. In one case, cash payments were made by developers to Board members in return for approval of a controversial multi-unit development (Barrington Square). Opportunities for housing profits created such strong incentives for dishonesty, however, that more complicated payoff schemes were developed. At one point, five of the conspirators organized an investment company and funneled payments from developers through it. One developer provided a low-cost "sweetheart" lease for a restaurant built by the Village politicians, while another developer helped to set up an insurance company for a Village trustee. In a third case, the conspirators arranged to split fees earned by an outside assessor hired to classify new properties.

The Village's land-use regulation system was so amenable to corruption that the conspiracy was not identified until 1972 when Federal agents investigating government mortgage insurance programs interrogated developers about practices in the Village. In the meantime, however, no-growth forces had ousted the corrupt Board members who were by then viewed as obviously pro-growth. Their electoral defeat effectively ended the reign of corruption in the Village. Thus, even though the dishonesty was not detected by the residents of Hoffman Estates, they responded strongly to what was seen as an undesirable environment that was the fault of the politicians in power.

Broward County, Florida

The final example of the suburban land-use pattern of corruption, Broward County, Florida provides insights into a more systemic, but less personalized genre of corruption in a suburb. Located in a heart of

southeast Florida's "Gold Coast," Broward County was established in 1915, when its boundaries were carved out of Dade and Palm Beach Counties. At that time, the county, made up of 1,200 square miles, boasted of 800 people and 8 small communities.

The end of World War II signaled the start of sustained growth in the county that would continue until the recession of 1973-74. During this period, 29 new cities were incorporated. The population grew from 334,000 in 1960 to 924,000 by early 1976; between 1960 and 1970 the number of housing units in the county nearly doubled. Developers, many with little experience, generally prospered throughout this period. Speculative financing was easily available well into the 1970s and real estate investment trusts (REITS) often guaranteed developers "pre-profits" by lending amounts far beyond construction costs. In the early 1970s, the county's growth rate still exceeded 8% annually, and people were moving into the county at a rate of nearly 1,000 per week. In 1973 alone, more than 63,000 new residential units were built, most of them condominiums.

Largely on account of its growth pattern, Broward County has had a unique politics. Much of the population is represented in civic and political matters by associations of home and condominium owners. These associations, usually formed at the urging of developers, have become the focal point for organized politics. An Executive Council made up of the presidents of all owners' associations has been perhaps the county's strongest political force.

Administratively, most of the 29 local governments in Broward County are weak. Given low tax rates and little industrial tax base, most governments in the county do not have the resources to hire top-flight, progressive administrators. In fact, only half the municipalities employ any professional administrator or city manager.

Consistent with this pattern, Broward County's land-use regulatory systems were underdeveloped through the 1960s and early 1970s when growth pressures were the heaviest. Land-use regulation in the county was the responsibility of thirty separate departments operating under thirty

separate zoning ordinances, one for each incorporated municipality and the county's own ordinance which applies in unincorporated areas.

Construction in the county, on the other hand, has always been regulated by a single code--the South Florida Building Code--which is enforced by the building officials of each jurisdiction. A complex and bulky document, the code covers everything from construction standards (e.g., mechanical, structural, electrical, plumbing) to the roles and responsibilities of building officials. While the code reasonably sets forth the goals, purposes and philosophy of construction regulation, interpretation of code requirements by inspectors in different jurisdictions was sometimes lax. One reason for this is that inspection staffs in most jurisdictions in the county were small. Until the building boom collapsed, the three- to four-person inspection staffs found in most communities were seriously overworked. Inspectors were unable to provide more than a limited amount of attention to required work assignments; inspections, when performed, were often cursory; and in many communities shoddy workmanship was often overlooked.

The composition of many of the Zoning Boards in the county was also inadequate during the height of the boom. Seldom did the backgrounds of zoning members match the requirements for the job (most jurisdictions throughout the county do not require members of such a board to have experience in areas reflecting a knowledge of land-use regulation). Professional staffing to serve board members was also often inadequate.

One of the most serious deficiencies relating to land-use regulation was the practice of many of the cities in the county of financing their land-use regulatory functions, or in some cases, their entire cost of government through building permit fees. This over-reliance on one source of revenue placed cities in a subordinate role to developers and apparently allowed at least some builders to "negotiate" favorable construction standards with city councils in return for the permit fees they paid.

In 1973 and 1974, two Grand Jury investigations of zoning and building inspection processes in the county were carried out because of mounting public dissatisfaction with local building practices. These inquiries identified the following questionable practices in many municipalities:

- Rezoning by both the county and a number of the municipalities often appeared to be based on friendship and power of the developers and not factual studies, although the county plan appeared to offer a remedy when enforced.
- Many employees in the building departments appeared deficient in experience, background, and qualifications and unable to effectively monitor development in the county.
- Some chief building officials and many plumbing and electrical inspectors did not meet the certification and/or experience requirements set forth in the South Florida Building Code.
- Some contractors and subcontractors were using materials not authorized by the code but were not being "red tagged" by inspectors.

Generally, the Grand Jury found that reasons for intentional and/or unintentional lack of enforcement of the Code were apathy and indifference of many employees regarding their jobs; inadequate staff salaries (at least 20% under what contractors were paying for journeyman-level craftsmen), pressures by developers and contractors to "pass" particular jobs, and most serious, political interference by local elected officials interested in maintaining the boom. In at least some cases, such interference involved higher level personnel telling inspectors "not to make waves" or to lay off a particular development. The offering of some bribes to inspectors by developers and contractors was also reported to the Grand Jury. Criminal violations ranged from improper intervention by a county commissioner into a personnel matter to developers giving minor gratuities, such as bottles of liquor and \$25.00 gift certificates, to employees of building departments.

Allegations of financial conflicts of interest were also made. Zoning commissioners, city attorneys, councilmen, and mayors in some of the 29 cities in the county were accused of using their official positions to advance their own financial interests. However, the Grand Jury had insufficient evidence to indict these officials for violating the state's criminal statutes.

In the end, specific individuals were not necessarily found to be "criminal" in Broward County. Instead the Grand Jury focused on the shocking state in which they found conditions concerning the state of building and zoning departments in various governments in the county. Specifically, their report recommended that the confederacy existing between various appointed and elected municipal and county officials and large developers come immediately to an end.

Land-use corruption in Broward County, in the end, seemed to involve a "conspiracy" between local officials and builders, both of whom had an interest in the county's continuing growth. Local politicians apparently gained little monetarily from the abuses they permitted, although continued development apparently fit their political agenda. The confederacy between builders and public officials ended only when a combination of the end of the building boom and mounting public complaints about building violations led to a series of reforms (still being implemented today).

These three case studies illustrate the types of suburban land-use corruption that occurred in this country during the 1950s and 1960s. In Fairfax County, a rural "courthouse gang" used deficiencies in the land-use system to enrich themselves and their political machine. In Hoffman Estates, a small clique of local politicians took advantage of the absence of an effective land-use system to conspire for their own benefit; in Broward County, public officials allowed illegal practices to continue, not so much for individual gain, as to accommodate unrestricted growth. Payments in the three cities ranged as high as \$100,000 and involved both local politicians and staff. In all three suburban settings regulatory, administrative, and local political inadequacies contributed to systemic conditions that invited the land-use corruption in each jurisdiction.

In none of the three jurisdictions was the dishonesty or corruption stopped by action of the citizens. In Hoffman Estates and Broward County, it was not even made public knowledge until long afterward. In all three cases, it was the end of the building boom that removed much of the incentive for corrupt activity. However, in all three cases citizens objected strongly

to the effects of the corruption, which still cause problems: In Hoffman Estates, the objection was that too-rapid development had swamped city facilities and created a heavy burden of capital improvements needed all at once. In Fairfax County, the objection was that uncontrolled development had left the countryside a jumble of residential and commercial units with a traffic tangle it has taken years to straighten out, and a school attendance-area problem that is still a source of citizen indignation. In Broward County, the objection was that shoddy construction was accepted (one unit was said to have been passed for final occupancy with its roof on backward) for which the buyer had no recourse. It may be that the only way to prevent such corruption is to guess where building booms are likely to occur and plan to accommodate them beforehand by strengthening the regulatory, institutional, and administrative functions, and imposing controls on political process.

Regulatory Corruption in Core Cities

Large cities in America's metropolitan areas, such as Chicago, Boston, and New York, often stopped growing 20 or 30 years ago, and have been subject to a pattern of land-use related corruption significantly different from that in the expanding suburb. In such cities, a "building inspection" pattern of corruption can arise from the interaction between the array of rules and regulations builders or contractors must follow and the economic incentives to evade such rules.

The three studies in this section illustrate that in both older and newer core cities local building regulation processes are sometimes so inadequate as to virtually invite corruption. Sometimes contractors have an incentive to increase their profits by avoiding costs they would have to bear if they followed local building codes requiring higher than usual standards; other times they see the possibility of lowering permit fees by paying off local officials. Finally, in still other cases, local builder-entrepreneurs may have little alternative but to resort to corruption because of the administrative delays and blockages built into local building regulation systems. The payments involved in building

inspection corruption are usually small and typically are made to lower-level public officials such as building inspectors or supervisors.

A variety of administrative deficiencies may be found in bureaucracies where corruption is found in the inspection function. These may include too-rigid civil service systems, the absence of internal audit systems, and inadequate (or no) conflict-of-interest legislation. Building inspection processes where this form of corruption is found are also often characterized by poor scheduling of inspections, long processing times for violations, and overly complex or vague codes.

The driving force behind this type of corruption appears to be the interplay between, on the one hand, regulatory and administrative inadequacies and, on the other, the desire of contractors and builders to get their work done as quickly and as economically as possible. Three case studies carried out during the project provide examples of this type of corruption.

Cincinnati, Ohio

In 1958, Cincinnati was nominated "the best governed city in the United States" by the editors of Fortune magazine. Only eight city managers have served the city in the 53 years since the manager plan was adopted. Citizens organizations are very active in Cincinnati, rather than the "city hall gangs" or political machines found in other cities.

However, while the city's government is in many ways advanced, it still has had problems within its departments. Events in two departments illustrate the types of corruption that can arise in such situations. In 1973, Cincinnati's Building Division was severely criticized by both the Ohio Board of Building Standards (OBBS) and a consultant team from the Building Officials and Code Administrators International (BOCA). The OBBS criticism stemmed from an investigation into the adequacy of building inspections performed by the division. After finding a number of recently inspected buildings that still had potentially serious code violations, the state board placed the Building Division on what amounted

to a 120-day probation period and threatened to decertify the division and conduct inspections itself. The board instructed the city to improve enforcement of codes and to eliminate favoritism and incompetence in the division. BOCA found the division's operation to be a "patchwork of activity lacking the coordination and control necessary to accomplish the job."

Three years later, more serious problems surfaced in the city's Department of Urban Development's Housing Rehabilitation section. City employees were receiving cash payments, gifts, and services from contractors in return for favors of one type or another. Examples of "favors" provided by some employees to local contractors included:

- Providing information to contractors as to how much to bid on contracts to win awards.
- Coercing homeowners to select contractors preferred by city employees.
- Allowing contractors to use poor quality materials and workmanship via lenient job inspections.
- Coercing homeowners to sign work completion forms by falsely promising that contractors would, in fact, complete the work.

The basic explanation of the corrupt practices uncovered in the city's rehabilitation office, according to a city investigation, was poor supervision and a lack of accountability, as a result of which the Rehabilitation Section had few controls in place. According to a City Manager-initiated investigation, the erosion and gradual elimination of a system of checks on city employees made the office susceptible to acts of bribery, solicitation, and improper compensation.

The investigation pointed out how personnel control systems, once adequate, were slowly allowed to become ineffective. The pressures of Federal funding, especially the pressure to spend all available grant money or risk having to turn the money back, apparently eroded a managerial environment that once had been adequate to control abuses. Office supervisors anxious to spend Federal funds were not concerned with either efficiency or effectiveness. The loss of control had accelerated to the point that few controls of any type were in place at the time of

the investigation. A complete overhaul of local administrative processes was required to deal with these problems.

New York City

The City of New York provides an even more graphic example of how administrative inadequacies can lead to building inspection corruption.

The government of the City of New York is the largest in the United States. In 1972, when this case surfaced, the city's budget was over \$9 billion a year and its staff numbered more than 230,000 persons. The city's civil service system was and remains encrusted with technical rules and regulations, and is weighted heavily in favor of employees (over management). Even with this particular problem, the city uses a variety of modern management techniques in other areas and has commonly involved citizens in decision-making through a variety of mechanisms including neighborhood planning boards.

Responsibility for building inspections in existing buildings in the city rests with the Department of Buildings where wages are fairly high in comparison with other city employees having similar duties. However, inspectors' salaries are still somewhat below journeyman scales in the trades whose work they inspect.

The regulatory structure of building inspection in New York City is complex and crosses through all areas of land use. Among other items, it includes construction of buildings, demolition of buildings, safety within buildings, maintenance of buildings, regulations pertaining to heat, sewage, and other health areas, and rent guidelines. Most of these regulations are contained in the Building Code, a section of the New York City Administrative Code.

One of the most serious problems that contributed to corruption in the Department of Building inspections resulted from ambiguities in the city's codes. For example, the Building Code requires the installation of "Z bars" in a common wall between adjoining buildings. However, the code does not define a "Z bar," leaving it to city building inspectors and builders to reach agreement in each specific case. In this milieu,

contractors have major incentives to find ways to reach tolerable accommodations with building inspectors over what constitutes code compliance.

A 1974 investigation, initiated by the Mayor's Department of Investigations, found that payoffs to inspectors were common. For instance, one undercover investigator posing as a building inspector and operating under specific instructions that he do nothing to solicit bribes or gratuities, was offered payoffs in 44 out of 66 instances. Bribes paid to him totaled more than \$2,500. The Department of Investigation's summary report of the investigation stated: "We found that corruption and its cover-up are endemic to the working day of many building inspectors. Throughout their day, they contrive schemes through which they can be bribed and methods for covering up the bribes and gratuities they receive."

Another serious problem that contributes to corruption in building inspection in New York is administrative delay in the examination of building plans. The examination of building plans in the Department of Buildings is handled by the staffs of the Chief Engineers of the respective Borough Offices. An architect or professional engineer files an application for a building permit at the Plan Records Section on a regular departmental form, together with copies of the plans for the proposed structure. The application is then given a number and is routed to the Engineering Section. There, the Chief Plan Examiner assigns the application to a Plan Examiner, who then is required to examine the plan and recommend the approval or disapproval of the application.

If the application is initially disapproved, the Plan Examiner prepares a written set of objections which describes the reasons for rejection of the plans. The applicant is then notified of the rejection and why the plan has been rejected. The applicant may then file an amended set of plans answering the objections or he may appeal. In most cases, however, no appeal is made. Instead, a process of conference and adjustment ensues, at the end of which a plan that satisfies the plan examiner is prepared, submitted, and recommended for approval.

After obtaining all the requisite recommendations for approval, the plan is sent to the Plan Clerk who determines that all of the requisite signatures appear on the application and the supporting papers, and then stamps the Borough Superintendent's signature as the final indication of approval or disapproval of the plan.

Criticizing the complexity of this process, a 1966 Grand Jury report following an earlier investigation commented:

The basic facts of the current pattern of corruption in the plan section of the Department of Buildings are engagingly simple: if you want prompt service and fair treatment you have to pay for it. If you do not pay you may be subjected to interminable delays, "lost" files, highly technical objections, or other harassment. It is as simple as that: pay or else.

Who gets paid? Almost everyone: Clerks, Plan Examiners, Multiple Dwelling Examiners and Plumbing Inspectors.

Corruption in the area of building plan approval is so common in New York that architects and contractors in the city have increasingly turned to a shadowy group of entrepreneurs, who call themselves "expeditors." For a fee, expeditors file applications for building permits, oversee the application's progress through the Department of Buildings, and guarantee their final approval. Expeditors serve two major purposes. First, they know how, where, and to whom to make the payoffs that are necessary to obtain rapid approval of plans. Second, they successfully insulate practicing architects from the tawdry details. The Department of Investigations found that responsible architects who attempted to handle the processing of plans on their own without paying off department personnel were repeatedly harassed at every stage of proceedings until they finally gave in.

Oklahoma City

Oklahoma City also provides an example of how administrative inadequacies can lead to corruption in a newer, but still large urban city.

Until overtaken by Jacksonville, Florida, Oklahoma City had the largest land area of any city in the United States. Its population climbed from 244,000 in 1950 to 390,000 in 1976. Oklahoma City's land

use and building regulation processes have historically been weak. However, the corruption charges which surfaced in 1973 were a surprise to the city which had seen few scandals before.

Two types of systemic problems were uncovered:

- The selling of licenses--actually, in this case, the selling of answers to tests for electrical contractor and electrician licenses. Typically, a payment of \$1,000 or more was required to obtain test answers. The questions on the examinations were so ambiguous that the answer key was usually necessary to pass.
- "Short counting" in electrical inspections. Oklahoma City's occupancy permit fees are in part determined by the number of electrical outlets in the structure. In a short count, the inspector would note on the inspection form fewer outlets than the actual count. Then the contractor would either pay the entire difference directly to the inspector or they would split the difference. For example, a \$1,000 license might be written up as a \$600 license with the electrical inspector receiving \$400 or the inspector might demand only \$200 from the contractor.

Four city electrical inspectors and five outside contractors pleaded guilty to bribery; nine contractors had to surrender licenses. Efforts to implicate higher-ups were unsuccessful.

The city's lax audit system and poor record keeping in its licensing department were felt by city officials to have significantly contributed to the corruption discovered. Widespread organizational and management changes were initiated after abuses were discovered.

The New York, Cincinnati, and Oklahoma City case studies illustrate how deficiencies in management practices and building code regulations result in corruption of employees and those seeking prompt and efficient service. Only relatively small payoffs were involved in these cities. Politicians played no major role in any of these instances. The problems in all three cases related to systemic deficiencies in the cities' building inspection system. Remedies to these particular problems are discussed in the final chapters of this volume.

The Corrupt Politician Pattern

Municipalities of all sizes offer opportunities for corruption by politicians willing to milk builders or landowners who wish to build,

rehabilitate, or carry out special-use activities. Such corruption can involve outright bribes for special favors provided by politicians responsible for adjudicating land-use issues or barely disguised campaign contributions supplied in return for favors. While deficiencies in land-use regulatory systems may be involved in these cases, the basic problem lies with the integrity of local political machinery, as the following two cases illustrate. The driving force behind this pattern of corruption appears to be the interplay between a desire for gain by local politicians and the need or desire of builders or contractors to get approvals required to do business.

East Providence, Rhode Island

East Providence, a middle-class community of slightly more than 50,000 people, lies just across the river from the state capitol. The city has had a history of reform. In 1948 the League of Women Voters initiated a study of East Providence's government and issued a scathing report on widespread inefficiency, waste, and political patronage in the operation of the town. Shortly thereafter, alternative means of streamlining the city's government were being investigated. The reform movement eventually turned toward the manager form of government. A bitter battle ensued, ending with the 1957 adoption of a charter calling for a city manager form of government.

Under this plan a five-member council would develop policy, and leave policy implementation to the city manager. It was decided that the exceptions to this professionally run organization would be the politically appointed commissions. Illustrative of the city's status during this period, East Providence was honored in 1961 by the National Municipal League as one of a select number of "All American Cities," recognizing the "vigorous citizen action in bringing about major civic improvements." Twelve years later, the same title probably would not have been bestowed.

Administratively, the city is exemplary; the civil service system salaries are higher than average for most job levels and the many applicants drawn by high salaries are carefully screened before employment

is offered. The Personnel Department sponsors a training program for all new employees; there are two formal grievance systems, and well-established internal audit procedures. The problems of East Providence, in the early 1970s, were with the Zoning Board of Appeals.

Zoning in the city generally comes under the purview of the five-member city council. However, applications for zoning variances go before the zoning board. Acting as staff to council and the zoning board, the Planning Department reviews all land-use matters and makes recommendations; these are eventually made part of the permanent record and are supplied to the city council and zoning board before they act. In many cases, however, members of the zoning board have ignored the planning staff's recommendations. It has been commented that this has occurred because zoning ordinances in East Providence have been administered by the zoning board in a superheated political environment.

Appointments to the zoning board are typically highly political. Board favors for political friends are reputed to be the norm and a general "ward heeler" atmosphere has been reported in the political arena. After an extensive investigation in 1973 and 1974 into allegations that zoning board members were "selling their decisions," a number of perjury and bribery convictions, guilty pleas, and nolo contendere pleas were obtained. In addition to one board member, these included a councilman and builder who allegedly acted as intermediaries between board members and homeowners or contractors desiring variances.

Generally, although East Providence has a more than adequate civil service system, matters such as zoning and planning are run by politically appointed commissions. These commissions may very well provide an outlet for old-style machine corruption in the land-use area.

San Diego County, California

The County of San Diego provides an example of another type of political corruption. During the 1960s, San Diego County had the fastest growing population of California counties. Until the early 1970s, the county was known for its political and administrative

stability; incumbent supervisors were rarely defeated for reelection. However, since 1974 there has been a complete turnover on the Board. This instability has also reached into the administrative arena. While there were only two Chief Administrative Officers for the 25-year period prior to 1973, the CAO appointed in 1973 was uncharacteristically fired by the Board of Supervisors only 2 years later.

The administration of San Diego County's government, on the other hand, has been exemplary and has been noted for its use of modern techniques, its efficiency, and its effectiveness. The county has modern personnel, budgeting, and financial control systems and, further illustrating its progressiveness, has gone to the "super-agency" concept by grouping similar functions under a single agency head to maximize accountability.

The Department of Land Use and Environmental Regulation is responsible for land-use planning, construction inspection, and processing land-use permits. A Board of Planning and Zoning Appeals adjudicates disputes arising in the permit approval process. Appeal from a decision by this body can be taken to the Board of Supervisors, which has the final decision-making authority for approvals. A Zoning Administrator, appointed by the CAO, hears and approves all zoning matters. His decision may also be appealed to the Board of Planning and Zoning Appeals.

In 1974, charges began to circulate through the San Diego area that there were conflicts of interest on the part of certain Board of Supervisors members. Later that same year, a planning commissioner and a lawyer were formally charged with criminal wrongdoing having to do with campaign contributions in return for land-use decisions. The lawyer implicated in the scandals testified to the effect that the planning commissioner "controlled" four out of five votes on the Planning Commission, and that he also "controlled" three out of five on the Board of Supervisors. In an eventual trial, the picture that emerged showed the planning commissioner offering to assure a firm a use permit that was (predictably) held up in the land-use bureaucracy, and then offering to speed up the process as well as guarantee approval if money was contributed to the campaign funds of two supervisors and a gubernatorial

primary candidate. The \$7,000 bribes in the one case that surfaced were never paid because the company reported the offer to the County District Attorney who initiated an investigation.

Partly as a result of these developments, officials in the county have tightened up the system significantly since 1974 and blatant political campaign payoffs seem to have ended in the face of new state campaign financing legislation.

To some extent San Diego County and East Providence represent opposite ends of the political corruption spectrum. Both, however, illustrate the ease with which corrupt politicians can corrupt even a first-rate land-use system by selling their stewardship powers to the highest bidder. In neither situation was there a public expectation that decisions would follow the recommendations of staff, and in neither situation was the decision process fully open to public view.

Settings Without Systemic Weakness

An interesting and revealing contrast to the three patterns of corruption discussed in the preceding is provided by the Santa Clara, California and Arlington Heights, Illinois cases. Both settings are expanding suburbs. In the first, however, the corruption which occurred was, apparently, mostly a result of personal malfeasance. In the second both opportunities and incentives for corruption in the land-use system have been reduced by sound public administration resulting in no corruption ever having been reported there.

Santa Clara, California

Santa Clara, California, is one of the many bedroom communities that have replaced truck farms and orchards in the Santa Clara Valley, approximately 50 miles south of San Francisco.

Like other communities in the Santa Clara Valley, the City of Santa Clara has experienced rapid growth--its 1950 population was only 11,700. With current population of nearly 88,000, the city has seen and weathered, seemingly without serious problems, the substantial pressures of real

estate development. While thousands of single-family homes and apartment units were built in the 1950s and 1960s, the boom in this kind of development essentially came to an end in the early 1970s, when the prime residential land had been covered except for one small section north of town, zoned for light industrial use. (Even this land has now been developed nearly to capacity.)

Politics in Santa Clara has changed little over the past 20 years. A basic pattern of personality politics has been modified only a few times when local political slates were organized to bring some focus to the city's policies. The city has been untouched by political scandal. Its personnel system is generally well administered. There is a published code of ethics (although no formal disciplinary system to enforce it) and both elected and appointed public officials also come under the state's conflict of interest statute.

Citizens are rather actively involved in the affairs of the city. The typical 30% turnout of registered voters going to the polls is considered a large turnout for this region. Council meetings routinely attract 100 or so interested citizens and from time to time the audience overflows council chambers designed to seat 350. Numerous commissions and special-purpose advisory committees are active and one civic organization, the Citizens Advisory Committee, has functioned to a limited extent as a watchdog group.

The process of land-use regulation in Santa Clara, as in other California cities, is based almost entirely on a zoning ordinance and building code. The Planning Division handles technical matters and the Architectural Review Board and the Planning Commission consider policy issues. To some extent, lay members of the Boards are more political than in other jurisdictions. Planning commissioners and other citizens on committees or commissions have long been appointed primarily on the basis of a friendship with the mayor or city council. In the past, campaign managers, campaign finance chairmen, and others involved in political activities have routinely been appointed to these commissions and citizens committees. In addition, some local elected officials have

apparently been active in local land development. Until the case reported here, however, few allegations in this area have ever been heard.

On February 12, 1974, a report appeared in the local paper alleging that a Santa Clara Planning Commissioner who was also the president of the city's Chamber of Commerce had extorted approximately \$1,000 from a local carpet merchant on the promise that he could "deliver" city council votes to approve the merchant's application for a sign variance and use permit. Evidence supporting the allegation was presented to the county Grand Jury in May 1974. Two weeks later, the District Attorney charged the Commissioner with four felony counts and one misdemeanor. The Commissioner pleaded innocent to all charges. On August 12, 1975, the Commissioner changed his plea to guilty and was sentenced to prison terms totaling one to fourteen years.

Later investigation showed that the Commissioner, who had moved to the county a number of years previously, had an extensive background of dishonesty, none of which had ever been investigated before his appointment to the Commission.

Upon initial inspection, this case appears to be a prototypical "rotten apple" case. It turned out that the Commissioner involved had been involved in other questionable dealings. At the same time, no one claimed that the money paid the Commissioner to deliver votes on the city council was ever passed on to any council member. The response of city officials to the case was to vigorously investigate what was viewed as an isolated incident.

Arlington Heights, Illinois

Like Fairfax County, Broward County and Hoffman Estates, Arlington Heights was developed after World War II as tract after tract of cornfields was bought up by developers. The town's population soared from 8,768 in 1950 to 64,884 in 1970; during the 1960s, it had the highest growth rate in Illinois. Unlike many other suburbs, however, the Village of Arlington Heights has made this transition from farm town to upper-middle-class suburb with a total absence of corruption. Despite the

presence of widespread corruption in many neighboring towns, Arlington Heights has never had even charges of corruption alleged against it. Consequently, it provides a vivid contrast to both its neighboring municipalities and similar suburban localities elsewhere.

Corruption appears to have been avoided in the suburb for a variety of reasons. First, the community wanted clean government. Arlington Heights is largely an upper-class, conservative enclave where residents are interested in maintaining its character as a prestigious residential community.

Second, the Village is administered by a professional manager who is served by a talented and well-paid staff.

Third, the Village has instituted a series of policies developed specifically to prevent corruption and/or conflicts of interest, and these have probably been instrumental in keeping this community free of scandal:

- Applicants for police, fire, and department head positions are required to undergo psychological testing and to detail their financial status.
- The Village strictly regulates the outside employment of all employees; such employment must not be likely to create a conflict between the private interests of the employee and the employee's official responsibility.
- All employees must identify all outside positions held or business in which they possess a financial interest.
- A Municipal Code of Ethics provision (covering all elected and appointed officials and city employees earning more than \$20,000 per year) requires the disclosure of all real estate owned within the Village, all gifts or fees received from persons doing business with the Village, ownership interests in firms doing business with the Village, and all outside employment.
- Gifts to any Village employees from contractors or suppliers are strictly forbidden.

Because the Village has made plans for its development through realistic planning and zoning procedures, and because its building codes have kept pace with technological developments in the housing industry, developers have not been forced to bribe their way into the community.

Builders who were willing to build in accordance with the code were not manipulated into payoff situations by unrealistic requirements. Revisions to the plan and the zoning ordinance are regularly considered by the Village Plan Commission and the Village Board of Trustees.

Finally, land-use and building regulation processes in the Village are highly visible and decision-making is split so that power is never vested solely in one body:

- All proposals to modify, or grant exemptions from, code and zoning requirements are considered by at least two bodies. Changes in the comprehensive plan are considered in public meetings by the Planning Commission and then by the Board of Trustees. Requests for zoning changes or variances are initially decided by the Director of Building and Zoning; appeals are acted upon by the Board of Trustees sitting, in open session, as a Board of Zoning Appeals.
- Every request for a building permit undergoes multiple reviews. Upon receipt in the Department of Building and Zoning, each application is reviewed by an Architectural Committee, chaired by a local architect, which checks a number of design issues; by the Engineering Department, which is concerned with grades and drainage; and by each of four inspectors--electrical, structural, plumbing, and zoning--before the department director approves the permit.
- During the construction process, each site is visited at least twice by each of the four inspectors. Each inspection is marked with a sticker left at the site and is recorded in a project file in the Village Hall.

In sum, Arlington Heights has developed an array of procedures and practices that appear to have kept the norm of official integrity from ever being violated in the Village.

Summary and Conclusions

In the pattern of land-use corruption in developing suburbs, there were common factors: inadequacies in the land-use decision-making system made the system vulnerable to corruption; incentives resulting from the high economic cost attached to decision-making delay or uncertainty made attempts at corruption likely; and an absence of public awareness of or attention on the possibility of land-use corruption allowed corruption to proceed almost unnoticed. In regulatory agencies--in core cities--

deficiencies in building code regulations and in management practices made the building code regulation system vulnerable to corruption; the high economic costs of conforming to complex and overly detailed building regulations (in New York City), and the complexity and ambiguity of certification tests (in Oklahoma City), and Federal money (in Cincinnati) provided strong incentives for corruption; and the fact that corruption could take place in small individual transactions without the knowledge of supervisors (or even with their connivance) and was thus hidden from public view allowed it to continue until one of the participants complained.

Although efficiency is no guarantee of honesty or even good government, it did appear that inefficiency in decision-making and in processing permits magnified the incentive for businessmen to give bribes for "special service" as it did the incentive for public employees to accept or exact them. Holding public hearings may appear to cut down efficiency even further, but the public visibility resulting from the hearings should cut down the likelihood that corruption will result.

In the pattern that was without serious systemic weaknesses, there were also some common factors. Among these was that accountability and integrity were taken seriously by leaders, that an absence of corruption was expected by the community, and that a corrupt incident was of importance to the media and to the police and prosecutors.

Institutional inadequacies can be dealt with, using the remedies suggested in the ensuing sections. If there is not enough impetus within the government or government agency to push forward with effective remedies, then outside forces can be brought to bear--legislation, and public pressure.

IV OPPORTUNITIES FOR CORRUPTION

Definition and Conditions

Corruption can occur only when officials have opportunities to exercise their authority in ways that would lead others to want to pay for favorable treatment. To understand the nature of these opportunities in the area of land-use and building regulation, we must address three questions. First, who participates in regulatory decisionmaking? Second, what decisions might serve as focal points for corruption? Finally, what factors make these regulatory decisions attractive as opportunities for corruption?

Each of these questions involves issues for which a precise definition or measurement is difficult: in some cities, individuals with no official role in the regulatory process may in fact affect the outcome of decisions; in addition to land use and building actions, policies relating to taxation, the civil service system, or schools may indirectly affect land use, buildings, and regulatory systems. Opportunities may have subjective as well as objective dimensions. Webster's Third New International Dictionary defines an opportunity as "A combination of circumstances, time, and place suitable or favorable for a particular activity or action." With regard to opportunities for corruption, we must add a component of perception, as when Tammany Hall politician George Washington Plunkitt proudly proclaimed, "I seen my opportunities and I took 'em" (Riordan, 1963). Some officials may "see" opportunities which others never thought existed, just as P. T. Barnum was reputed to have seen the chance to induce patrons to pay \$.25 to go through a door labeled "This way to the egress." Imaginative clerks may conclude that if they delay an application long enough, someone may volunteer to pay off even though the clerk is legally required to process the papers; building inspectors may recall regulations that no one had previously applied to this type of structure. Thus, in addition to the obvious

decision points in the regulatory process, opportunities for corruption may be limited only by the ingenuity of the regulators. As a result, the following analysis can only suggest the major types of participants, decisions, and opportunity-inducing factors we have encountered; their total number and variety is enormous.

As indicated in Section II, the officials, applicants (a generic term for persons or businesses subject to regulation), and middlemen who participate in regulation vary depending on the type of regulation involved, whether land use, construction, or housing code enforcement. Official decisions establishing or implementing land-use regulations (master plans, zoning ordinances, subdivision regulations, variances, use permits) are made by city councils and county boards, based upon the advisory recommendations of planning or zoning commissions; these commissions may in turn have received information or advice from their planning staffs. A variety of individuals and businesses are likely to seek approval for land-use proposals. The owner of an existing building or home might seek approval for a structural modification (e.g., adding a family room close to the lot line) or change in usage (dividing a single-family home into apartments, or opening a beauty shop in the front parlor). A proposal to develop farmland into quarter-acre lots might be presented by the current owner or by a development corporation. Lawyers, planning consultants, and real estate brokers most frequently serve as middlemen between applicants and the city.

In the area of building regulation (permit applications, building, electrical, plumbing, and mechanical code inspections, and issuance of certificates of occupancy), a different set of participants is involved. Applications for building permits are reviewed by plan examiners in the buildings department, with specialized reviews by the city engineer, the planning department, the fire marshall, and so on. During construction, compliance with building codes and other city regulations (parking of trucks near the site, covering loads of debris, hours when work is not permitted, etc.) is monitored by different types of inspectors and by the police. Seeking approval for plans and for completed phases of

construction will be the landowner or developer, prime contractors (who may also be the developers), subcontractors (carpenters, plumbers, bricklayers), and individual workers (truck drivers, lift operators). Architects, engineers, union stewards, or the "expeditors" seen in New York City may act as middlemen in securing these approvals.

Codes governing existing buildings are enforced by housing inspectors, sanitarians from the health department, fire inspectors, and inspectors dealing with such specialized matters as elevators, furnaces, boilers, and so forth. Code enforcement activities can arise from complaints by neighbors, tenants (against landlords), and landlords (against tenants), or as a result of systematic inspections of all buildings in an area. Unlike land use and construction regulation, housing code enforcement appears to use few middlemen; enforcement usually involves direct negotiations between the inspector and the landlord or tenant. Table 4 summarizes the various combinations of regulatory decisions and participants that may become involved in corruption.

Decisions as Opportunities for Corruption

Any regulatory decision could serve as an opportunity for the exchange of cash for favorable action.* However, not all do. Regulatory decisions have a number of characteristics that raise or lower their attractiveness as opportunities for corruption (Rose-Ackerman, 1978): the visibility of the decision; how far a corrupt decision would deviate from community policies; how many other officials are involved in the decision; who takes the initiative in corruption negotiations; the impact of the decision

*The term corruption covers both bribery (initiated by the applicant) and extortion (initiated by the official). In addition to straight cash-on-the-barrelhead transactions, corruption may also be effected through campaign contributions, fees to third parties, and gratuities. In some communities, statutes, official policies, or informal practices may legitimate some of these transactions to the point where participants would not feel that anything improper had occurred.

Table 4

LAND USE AND BUILDING REGULATION--DECISIONS AND PARTICIPANTS

| Decisions | Participants | | |
|---------------------------|---------------------|-------------------|----------------------|
| | Officials | Applicants | Middlemen |
| Land use | | | |
| Master plans | City council | Landowners | Lawyers |
| Zoning ordinances | County board | Developers | Planning consultants |
| Subdivision regulations | Planning commission | | Real estate brokers |
| Variances | Zoning commission | | |
| Use permits | Planning staff | | |
| Building regulation | | | |
| Permit applications | Plan examiners | Prime contractors | Architects |
| Inspections | City engineers | Subcontractors | Engineers |
| Certificates of Occupancy | Fire marshalls | Workers | Union stewards |
| | Police | Landowners | Expeditors |
| | | Developers | |
| Housing regulation | | | |
| Sanitation codes | Housing inspectors | Landlords | |
| Safety rules | Sanitarians | Tenants | |
| Fire safety regulations | Fire marshalls | Homeowners | |
| Overcrowding regulations | | Neighbors | |

on the applicant's activities; and relationships between the applicant's past and future activities. Illustrations from the case studies and other known instances of corruption will suggest the nature and significance of these factors.

Visibility of the Decision

Regulatory decisions are made in different settings, are accompanied by varying levels of documentation, and may or may not be preceded or followed by reviews from other officials. In the simplest case, an inspector visits a construction site or apartment building. In the presence of the contractor or landlord, the inspector decides whether or not to cite code violations. Like the policeman who decides not to ticket the speeding motorist or arrest the streetcorner numbers runner (La Fave, 1965; J. Goldstein, 1960; H. Goldstein, 1977), the inspector who takes no action has left no trace of his inaction. Some agencies may not even keep records of which inspectors were instructed to visit a site. In some situations, however, evidence of a citable violation remains; while no one except an eyewitness could prove that the inspector observed a traffic or occupational safety violation (e.g., double-parked trucks or partial catch platforms in New York City), the use of substandard materials or deviations from approved blueprints could be checked for years afterward. Code violations in Cincinnati or Broward County, or the shortcounting of electrical outlets in Oklahoma City, for example, were recognizable months or years later.

In contrast with the on-site, low-visibility decision-making of the inspectors, land-use regulation decisions (such as master plans, subdivision proposals, or applications for variances) usually involve group decisions in public settings on the basis of written applications. The applicant's plans will be reviewed by city employees, discussed by the zoning commission, and then voted upon by the city council. While this procedure usually makes it possible to determine who has decided what, visibility may still be limited. Applications may be sketchy as to the materials and procedures to be used in construction. Commission and council proceedings may not be transcribed, and individual votes

may not be recorded. Even where public hearings are advertised, they may be poorly attended. Standard operating procedures may not require written evaluations of an application by the planning staff or the zoning commission. Finally, even where proceedings are open and records are kept, there may be no official standards against which an inquisitive public might evaluate decisions made; if a zoning ordinance simply states that a parcel of land should be developed for "residential" purposes, a decision by the city council that advantages the developer will be less obvious than it will where ordinances spell out limits on housing densities, acceptable levels of impact on surrounding areas or public facilities, and the contributions that developers must make.

While not a part of the regulatory decision itself, the form of the payoff affects its after-the-fact visibility. Corruption is easier to prove when payments are made by check than when they are in cash; direct payments to the officials on the day the decision is made are more easily linked to the decision than campaign contributions, legal retainers, or commissions to real-estate brokers months later (campaign contributions were the quid pro quo in San Diego and Fairfax County, while payoffs were disguised as legal fees in Hoffman Estates and Fairfax County). Even less attributable to specific decisions are Christmas presents and gratuities.

The visibility of a regulatory decision and the subsequent possibility that corruption can be proven will vary according to the setting in which the decision is made (e.g., on-site vs. formal meetings), the "paper trail" which is left concerning both the proposed activity and its assessment by the regulator(s), and the likelihood that others will review the decision. Presumably, an opportunity for corruption which has maximum visibility would be less attractive than one where no one can (or is likely to) detect misfeasance. This proposition can be summarized as follows:

The attractiveness of an opportunity for corruption is inversely proportional to its visibility.

Degree of Accord with Community Policies

The transactions involving corruption in the case studies ranged from violations of clear legal requirements, to "judgment calls" (where officials are authorized to exercise their discretion), to legally made decisions where applicants were simply seeking to guarantee speed or a minimum of nitpicking. Among the officials who condoned illegal activities were the inspectors who overlooked code violations in New York, Cincinnati, and Broward County, and undercounted the electrical outlets that determined permit fees in Oklahoma City. Police officers ignored construction regulations in New York City. Licenses were awarded to unqualified contractors and inspectors in Broward County and Oklahoma City. Active or potential citizen opposition to discretionary decisions provided the background for corruption in Hoffman Estates (a high density subdivision in a community whose public facilities were already overtaxed) and Santa Clara (a garish sign for a carpet store which would generate substantial traffic). In East Providence, San Diego, and Fairfax County, payoffs were exacted for legitimate land-use requests--variances, use permits, and subdivision plans. While developing "goodwill" was probably an underlying purpose in many of the transactions we have studied, it was particularly evident in Cincinnati (where the rehabilitation specialists encouraged homeowners to deal with favored contractors) and Fairfax County. Finally, although moving the process along was probably a factor in many cases, New York City provided particularly blatant examples of payoffs to expedite ordinary regulatory actions by plan examiners and inspectors.

Deviations from clear policies are more likely to raise questions than judgment calls or expedited decisions on legitimate applications. Also, officials may feel less compunction about taking money for approval of a legitimate or discretionary decision than about participating in an activity clearly disapproved by the community. Finally, Susan Rose-Ackerman notes that where community goals are vague, mutually inconsistent, or nonexistent, a bribe offer may constitute the only basis which a regulator can find for deciding between alternatives (Rose-Ackerman, 1978). In any event, this proposition can be summarized as follows:

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1 OF 3

The attractiveness of an opportunity for corruption rises when the action sought is congruent with city policies, and drops when it conflicts.

Other Officials Involved

Land-use and building regulation decisions involve varying numbers of officials. In the simplest case, a single investigator visits a construction site or home and cites or does not cite a code violation. In a second set of cases, the decision involves a sequence of reviews; a subdivision proposal, for example, will be reviewed by the planning staff, then the zoning commission, then the city council. In a third set of cases, several officials or agencies share jurisdiction; construction might be stopped by building or electrical or plumbing or fire inspectors, or by the police; a home or apartment might be declared uninhabitable by the housing or fire or health inspectors.* These three basic situations can be further subdivided in several ways: is there a single official who must concur in an action, or can the applicant "shop around" among a group of officials (such as inspectors or plans examiners), any of whom could provide the necessary approval? Is an appeal mechanism available to challenge the first decision (can the applicant go to the head of the buildings department, to the courts, to the prosecutor or other city officials)? Where an appeal mechanism exists, are its policies and procedures so hostile or costly as to be prohibitive?

This classification scheme has thus far been confined to official organization charts and allocations of authority. In some cities, however, control over decisions may be informally dispersed even further (Smith won't act until Jones and Brown agree) or centralized. In Chicago, for example, it is frequently alleged that all city bureaucracies will defer to an alderman's decision on a project affecting his ward. In

* A tavern owner in Chicago identified nineteen officials who were in a position to fine or put him out of business--building, planning, health, electrical, labor, fire, liquor (city, state, and Federal), cigarette stamp, boiler, refrigeration/air conditioning, license (city and state), bar, ventilation, air pollution, and neon sign inspectors and city policemen all visited the establishment at least once a year (Atsaves, 1976).

Long Beach, California, architects came to the conclusion that no project would gain the approval of the Planning Commission without the approval of its Director. "If you wished to have a project developed in Long Beach, you had to have his approval or you got no further The planning director had assumed over the years a posture where his recommendations were couched virtually as a fiat to the commission," one architect told a grand jury (Morris, 1976).

Our case studies cannot be precisely assigned to these categories since our information is limited to materials in indictments, trial testimony, and official investigations. In the cases involving land use, both members of the city council and the planning or zoning commission usually shared in payoffs, although it did not appear that all members of either body were involved in any city. In the cases involving permit applications and inspections, both low-level regulators and their supervisors tended to share in payoff agreements; as the undercover investigator in New York City discovered, contractors assumed that any representative of the Buildings Department was looking for a standard payment, and supervisors expected that they would get a share of the take. In the smaller or newer communities, payoff practices tended to be less uniform and pervasive, with a few officials making arrangements with people they knew.

Relatively little information is available about "appeal" possibilities; where the applicant succeeded in making contact with a middleman or insider who knew how to arrange things, and with whom, appeals were unnecessary. Where initial discussions about corruption took place with higher-level officials (planning commissioners, council members), they were able to overrule their subordinates or persuade them to resolve discretionary decisions in favor of the applicants. Where the applicants were seeking legitimate ends, the case studies showed three tactics for challenging officials who attempted to extort money: architects in New York City sought to outwait the plan examiners, coming back again and again until they secured building permits; in Fairfax County, lawyers for developers turned to the courts to force the county board to act on their proposals; finally, some applicants challenged attempted extortion

by going to the newspapers (New York City), prosecutors (San Diego), or local officials (East Providence and Santa Clara).

How do these variations in the number of officials involved in regulatory decision-making affect opportunities for corruption? At a minimum, they determine which officials are important enough to be worth corrupting: if the city council regularly ignores zoning recommendations of the planning staff, there would be no reason to deal with the subordinates. If the building official cannot (or will not) overrule the inspectors in his department, however, then the lowest-level official is the one with whom the applicant must come to terms. Where authority is shared (either sequentially or among agencies with overlapping jurisdictions), applicants must satisfy all of them or run the risk that one will jeopardize an accommodation reached with another agency or official. The developer in Hoffman Estates, for example, clearly anticipated this problem, informing the corrupted village trustees that one-half of the payoff would be "placed in escrow," not to be delivered until final certificates of occupancy had been awarded. From the point of view of an official, the fact that other officials can or will become involved in a decision will raise the possibility that an honest official will question his decision or that a corrupt official will insist on a share of the bribe. As a result, it can be concluded that:

The attractiveness of an opportunity for corruption is likely to drop as more officials become actually or potentially involved.

Who Initiates Negotiations?

The case studies provided a variety of corruption scenarios. In some cities, applicants initiated the discussion of payoffs; for example, in Hoffman Estates, the developer's lawyer went to the mayor's hardware store and made clear that money was available to secure approval for the Barrington Square project. In Fairfax County, corruption began with a few developers sharing their good fortune with old friends on the county board; only later did a few supervisors look for payments from other

developers. In other cities, however, officials were spelling out the rules of the game: "You know how the Buildings Department works, don't you?" the New York clerk asked the architect who sought to bypass the expeditors. In San Diego and Santa Clara, officials came to the applicants, indicating what it would take to avoid problems. In a third set of cities, the process had become so routinized that--if you can believe those who were willing to talk--neither party even mentioned the \$20 included with the application or the case of scotch that "appeared" in the inspector's car.

There is no way of determining which participants were telling the truth about the initiation of corruption negotiations. However, it is not difficult to see that the locus of initiation might affect the attractiveness of a corruption opportunity: assuming that a participant has an incentive to engage in corruption, the opportunity will be more attractive if the other party suggests it. This seems paradoxical: why would anyone want someone else to get him/her involved in criminal activity? First, he/she would then be able to claim, if an investigation ensued that he/she had been the victim of official extortion or, if he/she were the official, that the applicant forced the bribe on him/her. Second, because the other party took the lead, he/she will be precluded from backing out, blowing the whistle, or otherwise endangering the transaction; a willing collaborator is a less dangerous partner than someone coerced (Ross, 1976). Third, particularly if the other party is experienced in consummating corrupt transactions, much of the labor and risk involved in covering tracks can be transferred. Finally, that the other party suggested the deal may be psychologically reassuring, since it permits one the illusion of being a "good guy" who is only momentarily doing business with a "bad guy."

A tentative hypothesis might be:

Opportunities for corruption are more attractive when the other party initiates negotiations.

Impact on Applicants' Activities

Regulatory decisions affect development and property management in different ways. Some decisions are essential preconditions to private sector activity while others pose only a threat of interruption of on-going activities. Construction requires the approval of plans and building permits;* building utilization requires a certificate of occupancy. While construction or building occupancy is under way, by comparison, regulatory decisions are reactive; unless regulators learn of a problem and choose to take action, the applicants may go about their business. (If an inspector orders construction or occupancy to cease, however, activity will once again require an affirmative regulatory decision.)

As examples of this principle, the case studies showed that developers could not begin work in Fairfax County or Hoffman Estates until their subdivision plans were approved, builders needed variances in East Providence and Santa Clara or building permits in New York City, the mining company needed a use permit in San Diego County, and the homeowners in Cincinnati could not get rehabilitation loans until city officials approved their applications. The contractors working in New York City, Broward County, and Oklahoma City, by contrast, could proceed until inspectors came along and pointed out real or imaginary violations.

Why would this factor of proactive vs. reactive regulation affect opportunities for corruption? Section V discusses the obvious point that applicants will have a strong incentive to bribe where official endorsement is a precondition to their activities; at this point, it

* Anticipated changes in the rules of the game can also generate opportunities. Ed McCahill, the former editor of Planning magazine, offered the following example. "The zoning board members of a newly created village usually serve for a small fee. When a builder wants to get his permit shoved ahead, he has to bribe somebody. A few years ago in an eastern state, the lame-duck board of zoning appeals went into overnight sessions to try to hear all of the 500 cases still on the docket in the last days of its term. Builders had to pay \$5,000 just to get into the hearing room" ("Stealing: A Primer . . .," 1973).

is enough to note that every administrative requirement with this effect will create an opportunity for corruption to occur. Thus,

Opportunities for corruption will be increased by any legal or administrative requirement that is a precondition for private sector activity.

Impact on Past and Future Activities

Some encounters between applicants and regulators can be treated as single events: once a decision has been made, either honestly or corruptly, the parties will never see each other again. Other encounters, however, are only part of a chain of events that began in the past or will continue in the future. The applicant for rezoning must return for building permits and certificates of occupancy; the contractor or landlord has seen the inspector before or will see him at a later date or on other sites. In continuing situations, participants may have to consider the impact of behavior in this transaction on other transactions. If a developer offers a bribe today, will he be guaranteed smooth sailing throughout the development process, have to pay off every regulator encountered during development, or be forever barred from working in the city because his lack of integrity was taken seriously? If he refuses to pay off, will he be closely scrutinized and stalled by other officials? Conversely, if he had paid off in the past, will he be bound to pay every time he returns, precluded by his past actions from "blowing the whistle" when the price gets too high?

The case studies illustrated these variations. In three cities, the applicants had not dealt with officials in the past and were unlikely to do so again (the homeowners seeking rehabilitation funding in Cincinnati, the store owner in Santa Clara, and the developer in Hoffman

* In Detroit, where it was alleged that plumbing inspectors had been demanding payoffs from contractors for more than 25 years, a contractor who stopped paying reported that "he had received many violation [notices] since [he stopped paying] and has been told that his firm would receive fewer violations if 'we weren't so cheap'" (Benjaminson, 1975).

Estates who worked throughout the United States). While the developer anticipated only one project in Hoffman Estates, he knew that he would have to deal with the building inspectors after the council approved the plan, and insisted on splitting the payoffs, withholding the final installment until units had been approved for occupancy. In the other cities, applicants and their representatives dealt with the officials almost daily (the builders who saw inspectors on each project they undertook, the architects and expeditors in New York City who would need permit approval on each project) or expected to return in later years (the zoning lawyer in Hoffman Estates, the developers in Fairfax County, and the sandpit operator in San Diego who needed annual renewal of his use permit).

While the case studies showed examples of corruption in one-shot encounters, anticipated continuing relationships might be expected to generate more frequent opportunities for corruption. Beyond the simple numerical increase in transactions, ongoing relationships may involve increased perceptions of mutual dependence ("we're in this together") and increased understanding of the other's dependability ("I know that I can count on Smith, but I've never met Jones before"). In any event,

Opportunities for corruption may be increased where applicants and regulators maintain an ongoing relationship.

Conclusion

The local systems that have been established to regulate land use, construction, and building quality involve thousands of applicants and officials, and hundreds of thousands of regulatory decisions each year. While each of these decisions could serve as an opportunity for corruption, they vary in ways that affect their attractiveness to participants. Opportunities for corruption should be more attractive when they are less visible to outsiders, when they involve actions congruent with community policies, when few officials are involved, when the other participant initiates discussion of payoffs, when the decision is essential to the applicant's activities, and when past or future activities are related to the present opportunity.

REFERENCES FOR SECTION IV

- Atsaves, L. G., "Street Level Corruption in the Restaurant and Tavern Industries," unpublished paper provided as private communication to the author (1976).
- Benjaminson, Peter, "Plumbers Report Payoff Demands," Detroit Free Press (June 15, 1975).
- Goldstein, Herman, Policing a Free Society (Cambridge: Ballinger, 1977).
- Goldstein, Joseph, "Police Discretion Not To Invoke the Criminal Process: Low-Visibility Decisions in the Administration of Justice," Yale Law Journal 69, 543-594 (March 1960).
- LaFave, W. R., Arrest: The Decision To Take a Suspect into Custody (Boston: Little Brown, 1965).
- McCahill, Ed., "Stealing: A Primer on Zoning Corruption," Planning 30, 7 (December 1973).
- Morris, Joanne, "Transcript Reveals Mayer Fear," Long Beach Independent Press-Telegram (July 3, 1976).
- Riordan, W. L., Plunkitt of Tammany Hall (New York: E. P. Dutton, 1963).
- Rose-Ackerman, Susan, Corruption: A Study in Political Economy (New York: Academic Press, 1978).
- Ross, Nicholas, The Policeman's Bible, or the Art of Taking a Bribe (Chicago: Regnery, 1976).

V INCENTIVES FOR CORRUPTION FROM THE PERSPECTIVE OF THE APPLICANT

When an opportunity for corruption arises in the course of land-use or building regulation, how will it be perceived by the persons or businesses subject to regulation? When would they decide to participate in a corrupt decision rather than follow the official rules and procedures of the regulatory process? First, there is no reason to assume that applicants are more likely than officials to resort to corruption; the case studies offer examples of both official-initiated and applicant-initiated corruption. Second, there is no reason to assume that every opportunity is evaluated and acted upon at a conscious level; past experiences may have led applicants to develop rough guidelines as to when to offer or not offer bribes in common situations. However, the issues to be discussed here underlie both conscious evaluation of opportunities and habitual patterns of activity.

Incentives to Participate in Corruption

Assuming that an attractive opportunity for corruption has appeared, the incentive for an applicant to engage in corruption will be affected by the importance of the decision to his activities, the structure of the market, personal relationships with regulators, norms of the industry and the community, and personal or organizational norms of the applicant.

The Impact of Regulatory Decisions

Regulatory decisions vary in their impact on applicants. Some decisions can put an applicant out of business or prevent him from ever starting up; other decisions merely affect profit margin. Where regulatory approval is essential to engaging in his business, the applicant will have to meet regulators' demands (either to abide by official rules or to pay off) unless he is prepared to move operations to another jurisdiction or to turn to another type of business.

In some cases, the applicant is not forced to abide by the ruling of the first regulator encountered; it may be possible to appeal.

A real estate lawyer offered this example:

We represented a developer seeking a variance which was consistent with the community's land use policies. When our client was told that a bribe would be necessary, we went to court to force the city to issue the variance. The judge sensed the extortion issue and quietly told the city to quit fooling around. In my opinion, no one ever has to pay.

(Anonymous interviewee)

This caveat is legitimate in those cases where an alternative forum is available (that is, where a supervisor or a court has the authority to issue the ruling sought by the applicant), and where the costs of appeal or delay remain bearable.

If the applicant has already made nontransferable investments (e.g., in land) or must pay for loans, personnel, or equipment whether or not they are being used, he will have a strong incentive to meet demands for payoffs. The carpet salesman in Santa Clara, for example, felt under the gun to secure approval for his new retail outlet since he had already ordered his inventory; the developer in Hoffman Estates bought an option on land for the Barrington Square development which would be forfeited if rezoning was not quickly obtained. Finally, for the craftsman whose time and skills are his only marketable assets, being denied opportunity to work can be catastrophic. An interviewee, speaking of his father, a painting contractor on the East Coast, said: "He often spoke of payoffs in the business--to purchasing agents to get contracts, to the company's inspectors, to the city inspectors, and so forth. Since I knew my father was a very scrupulous man, I asked him 'How could you do it?' He said, 'you have two choices. Pay off or go out of business.'"

In an intriguing analysis of the Tweed Ring in New York City in the late 1800s, Martin Shefter notes great variations in the stakes businessmen have in coming to terms with local officials. Those who needed official favor to obtain contracts or franchises strongly favored the existing political system, even though it was corrupt. Those whose business success lay elsewhere did not need official cooperation but suffered from higher taxes produced by government inefficiency, inflated city contracts, official

theft, and other problems. The second group of businessmen might be free to move out of the city if costs became excessive; the first group would have to stay and continually accede to official demands (Shefter, 1976).

When approval is not essential to doing business, the issue of corruption becomes one of many factors affecting profitability. It must be recognized that the profitability of a new development* or an existing building is affected by a number of factors including tax laws,[†] interest rates, market conditions (demand for new housing or commercial space, vacancy rates in existing structures), alternative uses available for capital or other resources, land prices, and construction (and/or maintenance) costs. Depending on time and place, some of these profit factors are stable while others are fluctuating, some are predictable while others can only be guessed. Finally, some decisions regarding development can be made at leisure while others must be made rapidly (as when a desirable site comes on the market, or costly capital or other resources must be financed whether utilized or not).

Regulatory decisions and the possibility of having to participate in dishonest acts to secure them thus vary in their significance to applicants. Some decisions will determine whether an applicant can engage in his business; some will make a great difference in the profitability of a transaction; some will mean only a minor increase or decrease in profits. The first prediction about incentives to corruption, therefore, is that:

Applicants' incentives to comply with demands made by officials will increase with the importance of regulatory decisions to their activities.

* One project may involve many firms, each facing different corruption opportunities or incentives. For a 120-home subdivision, for example, the Acme Development Corp. might set up a wholly owned subsidiary, Woodlawn Acres, Inc., to buy the land and sell the completed homes; Woodlawn could issue a building contract to the Peerless Construction Company, which might subcontract to Smith Brothers Carpentry and Jones Plumbing.

[†] In Chicago, a Federal grand jury found that homeowners and contractors were not applying for building permits for new garages, to avoid higher tax assessments. Prosecutors estimated that up to 1,400 garages might have been built without permits (Bliss, 1970).

Effect of Housing Demand and Competition

Applicants' assessment of opportunities for corruption will be influenced by characteristics of the local development or housing market (Rose-Ackerman, 1978, Chaps. 5 and 6). How many developers are building in the area? How many consumers are competing for new or existing housing in various price ranges? Does supply exceed demand, or vice-versa? Let us consider several examples. Broward County in the early 1970s had an apparently insatiable demand for new housing, and contractors could sell everything they threw together. As the Grand Jury discovered, some contractors had no trouble unloading patently substandard products. In Arlington Heights, by contrast, officials and developers shared a belief that higher quality (and higher price) housing was quite marketable. In both settings, developers felt certain that the costs of meeting official requirements (for either payoffs or code compliance) could be passed on to available consumers.

Other cities provide illustrations of more constrained market conditions. Landlords in cities with high vacancy rates face problems meeting current operating costs, let alone increasing profits. Architects and demolition contractors in New York City, and builders in Cincinnati and East Providence were scrambling for limited business opportunities, and profit margins were much narrower. Finally, the homeowners seeking rehabilitation loans in Cincinnati were themselves in the smallest of markets. In these situations, applicants may have felt that they had to comply with official requirements, but they would be less able to invest heavily in meeting those requirements or to pass the costs of compliance on to others.

The extent of an applicant's potential market will depend partly upon such factors as the availability and costs of transportation, specialization of the product (does the applicant appeal to a specific market, such as luxury home buyers, or to a more diversified clientele such as middle-income consumers?). In some cases, the applicant's market may span several

communities in a metropolitan area and the applicant might be able to attract consumers to an enterprise offered in any one of them, thereby increasing his ability to bargain with regulators.

Market structures in local industries affect applicants' incentives to corruption in several ways. First, they will affect the profits to be anticipated from a business venture, whether it be a shopping center, new subdivision, or fifteen-apartment tenement. Second, they will affect the applicants' ability to pass compliance costs on to buyers or tenants. Third, they will affect an applicant's ability to bargain with officials; applicants who provide highly prized goods (jobs, housing, new taxable assets) will be in a better position to negotiate with officials than applicants competing in a glutted market. Under some circumstances, anticipated profits may be high in monopoly markets and low in competitive markets. While we have separated the two factors for analytical purposes, applicants are likely to consider the two in combination. In general, however,

Applicants' incentives to comply with demands of officials either honest or corrupt, will increase with the level of competition in their industry.

Personal Relationships with Regulators

It has been assumed thus far that applicants are dealing with regulators on purely business terms--that the applicant seeks to maximize business profits while the officials seeks to maximize community goals. The case studies, however, made it apparent that applicant-regulator relationships often extended beyond the specific regulatory decision being considered. Applicants who were local residents may have grown in the same neighborhoods, attended the same schools, or joined the same social organizations as the regulators. Building officials and inspectors may have worked in the construction trades with the builders whom they now regulate. City councilmen and zoning commissioners may have interests in the banks or real estate firms that sponsor developments; applicants may donate time or funds to the campaigns of elected officials.

Even setting aside those blatant conflict-of-interest situations where regulators have a financial stake in the enterprises they regulate, these examples suggest that the regulatory process may involve historic and personal factors as well as current profit and loss. Applicants for variances in East Providence were neighbors of the zoning commissioners; inspectors in Broward County and New York City were drawn from the local construction trades; developers in Fairfax County were sharing their wealth with long-time friends on the county board. These influences need not work in a single direction--officials are not more likely to sway applicants than vice-versa--nor need they lead to corruption more than to honesty (honest officials may use their friendship to lead applicants to follow the rules, while honest applicants may persuade officials to waive corrupt demands).^{*} However, it seems reasonable to conclude that:

Applicants' incentives to comply with demands of officials will increase with the level of personal contacts with regulators.

Community and Industry Norms

Just as some applicants may have personal relationships with regulators, so they may also be, to some extent, members of an industry or a community. Developers may belong to real estate development associations, builders may belong to builders' associations, carpenters to the carpenters' union, and so forth. Similarly, developers, contractors, and landlords may be active members of the community in which they work. Such relationships could affect applicants' incentives to corruption, but only if certain conditions are met:

- First, applicants would have to perceive themselves as a member of the industry or community. A carpenter might feel that he had little in common with his union brothers, while the project supervisor of a development might feel that he would move on from the city as soon as construction ended.
- Second, if the applicant does identify with his industry or community, then it becomes necessary to find out whether that industry or community has developed norms regarding integrity or corruption.

^{*}See, for example, p. 13 of TVA and the Grass Roots (Selznick, 1949).

- Third, unless there are within the industry or community individuals or institutionalized mechanisms that are likely to learn of or act against corruption, they are unlikely to be active forces in an applicant's deliberations.
- Finally, if all of the above exist, it is necessary to ask whether industry or community forces can affect the well-being of an applicant. If their goodwill or displeasure leads to no benefits or costs to the applicant, the effect is likely to be negligible.

While lawyers and doctors have professional associations with formal codes of ethics and an enforcement mechanism, even if it is rarely used, groups of local builders or building trades are less likely to have any code of ethics respecting corruption. Similarly, communities differ widely in sensitivity to corruption: East Providence appeared to be far more tolerant than Arlington Heights.

The case studies suggest that all of the above conditions are satisfied in some cities for some types of applicants, but that they do not always work in the direction of encouraging integrity. In large or rapidly growing communities, social contacts may not have developed to the point where residents know each other's habits and values. Discussing pervasive corruption in Wheeling, Illinois, a rapidly growing community similar to Hoffman Estates, a businessman offered the following comment:

In my hometown of Winnetka [an older, upper-middle income suburb], we know everybody and we know whether we can trust them. In Wheeling, however, almost everybody moved in within the last few years. Except for your next-door neighbors or people you work with, you wouldn't know whether someone was honest or crooked. Even if you knew he was a crook, there's no social system you could use to ostracize him--everyone is changing friends all the time.

In Arlington Heights, Cincinnati, and Fairfax County, by contrast, the old guard (often supported by newcomers with professional backgrounds) dominated the political process and were ready to blow the whistle on chicanery. Investigations into Fairfax County corruption, for example, began when an elite group (including members of the Kennedy cabinet) was outraged by county approval of a high-rise project along the Potomac River.

Can "the industry" make life pleasant or miserable for you? Many business decisions do not involve competitive bidding, so contracts could be awarded to firms that agree with your position on corruption or integrity. In Arlington Heights, for example, a building inspector told a contractor to get rid of a plumbing subcontractor who made the mistake of offering a bribe in the wrong city. However, business can also be withheld from whistle-blowers; the applicant in San Diego, for example, found that his firm received fewer contracts from local builders after his cooperation with the county prosecutor became known.

While the case studies give too little information about individual applicants to measure these factors, it might be assumed that some applicants would identify with their communities and industries, and conclude that community or industry reactions to their conduct would affect their future well-being. Such influences can induce either playing by the rules or participating in corruption, depending on accepted norms. As a result, the only prediction that can be made is:

Applicants' incentives to comply with demands of officials will increase as those demands reflect community and industry norms.

Personal and Organizational Norms

A final factor in an applicant's assessment of an opportunity for corruption is personal and organizational norms regarding the issue of integrity or corruption. While it would be convenient to label applicants as being "honest" or "corrupt," the issue is more complicated than that. While some individuals may have worked out in their own minds clear positions, such as "I will not do anything improper," or "I will do anything to make a buck," others may never have thought about the issues. Furthermore, some may not perceive corruption in their relationships with regulators. Contributing to an official's election campaign, sending a bottle of liquor at Christmas, "tipping" the inspector who gives prompt service may not be perceived as attempts to sway decisions but rather as normal social courtesies or as being comparable to tipping a waitress or parking lot attendant.

In any case, normative orientations will rarely constitute the only personal or organizational norm deemed relevant to a specific decision; such factors as anticipated profits and personal relationships become values that compete with integrity/corruption; large profits might outweigh moderate preferences for honest behavior (like the East Coast painting contractor who had to pay off to stay in business) while small profits could be outweighed by intense preferences.

However, individuals acting on their own behalf are not the same as individuals representing larger organizations. While the lone decision-participant can resolve tensions between integrity and profit norms for himself, the representative of a corporation faces additional problems. First, while the front-line agent of a corporation (e.g., the building superintendent who sees the inspectors, or the attorney who meets with the planning commission) will know that a bribe has been paid, top-level management may not know or want to know how the job got done.* Second, an employee's corruption may be irrelevant to his status with the corporation (unless it is discovered, in which case the company will have to fire him to protect its image); salaries and promotions are likely to depend on "results," not on methods (Stone, 1975, p. 67). Unless the corporate leadership is projecting to their employees a positive message stressing integrity ("we don't fool around no matter what"), the employee will be left to make the choice by himself or to assume that results are the only measure of his status with the company (Stone, 1975, Chap. 20).

The case studies provide several examples of this normative factor. In at least three cases (the contractor in East Providence, the electrician in Oklahoma City, and the applicant/manager in San Diego), applicants promptly informed prosecutors or city officials of requests for payoffs; in New York City, at least one firm of architects sought to bypass the

*Christopher Stone (1975) points out that top management is frequently insulated from knowledge about the operations of low-level employees. Subordinates transmit only information about their successes; superiors avoid questions whose answers might constitute "guilty knowledge."

"expediters" by trying to deal directly with the plan examiners. San Diego provided a good example of corporate management encouraging its subordinates to resist extortion; when the sand pit manager called his home office to report the demand for campaign contributions, "The attitude in Minneapolis was, 'We ought to turn the bastards in.' They were having as much trouble believing this as I. They told me that they would indemnify my house and have the family moved anywhere in one week if I wanted" (Keen, 1976).

Unfortunately, the case studies provide equal evidence of the costs of whistle-blowing. The New York architects were stalled interminably, costing their clients money. The Oklahoma City electrician who reported the demand that he pay \$3,000 to get a license still did not have it a year later. The San Diego plant manager estimated that his year of serving as an undercover investigator cost his company \$100,000 for legal fees (for advice to the manager) and time away from work. At the end of the investigation he reported sadly, "I'm sorry I ever got involved. If someone ever solicited me again, I'd hit him over the head and move out of the area" (Zacchino, 1976).

The issue of personal or organizational norms about corruption is, therefore, an involved matter in which preservation of integrity competes with other desiderata. Without knowing how individual applicants define corruption or how they would weigh units of integrity against units of profit, it is possible to state only the general proposition that

The incentive of an applicant to participate in a corrupt act will be minimized if he not only believes that his participation would be wrong but that his refusal to participate would be supported by his company and community.

The Costs and Gains of Corruption

To consider the general question of when an applicant will be likely to engage in corruption rather than following the rules, this proposition will be used as a framework for analysis:

Applicants will have an incentive to participate in a corrupt act when the perceived gains from corruption, less its risks, exceed the perceived benefits of legitimate (noncorrupt) activities, less their risks.

For the sake of this analysis, it will be assumed that the applicant recognizes corruption when it appears, that "costs" and "gains" or "benefits" have both economic and noneconomic dimensions, and that decision-making is a rational process. (There may be situations where a bribe is offered--or accepted--for the fun of it, to "get" the system, or to spite a corporate superior.)*

To understand whether a specific opportunity will lead an applicant toward corruption or integrity, it is necessary to isolate the four components of the basic equation: gains to be derived from corruption, benefits to be derived from alternative legitimate activities, costs of corruption, and the costs of legitimate activities. This is done using four common situations involving land use, construction, existing buildings, and in a generic problem affecting the entire system of regulation, expediting the decision process.

Land Use Regulation

Assume that Developer Smith has located a 100-acre farm for sale at the intersection of two major highways. The area is currently zoned for single-family homes on one-acre lots, and a prior request for a change in zoning was rejected. His market analysts come up with the following projections for two uses of the land:

* Some participants will enjoy the cloak and dagger aspects of midnight meetings in remote locations, whispered conversations, passing the bribe in a handshake. Employees at Equity Funding Life Insurance Corporation, who had to invent dummy accounts to deceive auditors, gathered each night at a "forgery party" to make up the files the auditors would see in the morning. "It even became a joke, a game; people laughed and laughed about it. 'It takes a long time, and you have to be careful about date stamps and other details,' says one participant ..., 'but I had fun being the doctor, giving the guy's blood pressure and all that'" (WSJ, April 2, 1973, quoted in Stone, 1975, pp. 68-69).

| | 100 Single-Family Homes | 500 Townhouses and Shopping Center |
|-------------------|-------------------------------|--|
| Land costs | \$ 200,000 | \$ 200,000 |
| Construction | <u>3,000,000</u> | <u>4,500,000</u> |
| Total costs | \$3,200,000 | \$4,700,000 |
| Income from sales | <u>4,500,000</u> | <u>7,000,000</u> |
| Net profit | \$1,300,000 | \$2,300,000 |

The \$1 million difference in net profits thus represents the value to the developer of securing approval from the city council to change the zoning classification from single-family to multi-family and commercial usage. (This area is not affected by the problem that arose in Fairfax County; a proposal to build single-family homes would be approved without difficulty.)

Armed with preliminary designs for the townhouse-shopping center development, Smith now visits Mayor Jones to try to work something out. After a long speech about rising community hostility to multifamily housing and current strains on the city's schools, Jones states that rezoning will require Smith to provide a \$100,000 park for the city, and \$100,000 in secret payoffs to be distributed among members of the city council and zoning commission. (Assume that Mayor Jones correctly estimates the bribe-price of the relevant officials, and that he will in fact deliver the rezoning if paid off.)

With the net value of the regulatory decision (the difference in profits between the legitimate single-family development and the corruption-procured townhouse/shopping center development) now reduced to \$800,000, how will Developer Smith assess the situation?

If he agrees to the deal, the gains of corruption will be \$2.1 million in net profits* and the certainty that incipient citizen opposition

*For the sake of the analysis, it is assumed that Smith's market analysts correctly estimated local demand for the two types of products. If, of course, there proved to be a strong market for single-family homes and a weak market for townhouses at the time construction was completed, diminished profits would be an unanticipated consequence of the decision to go after the townhouse market.

will be ignored by the regulators (possibly using the contribution of parklands as an excuse for the policy change). Properly paid off, the city officials will not cause trouble during construction.*

The benefits of alternative legitimate activities in this case would be the \$1.3 million in profits to be derived from the single-family development permitted under current zoning. (He would in fact be allowed to proceed with the single-family project, so that he would not be in a position of being precluded from doing anything. If all development within the city required bribes, it would then be necessary to ask whether Smith could work or was willing to work elsewhere.)

The possible costs of corruption fall under three headings. First, we would need to know if Smith sees moral costs to paying the bribe; does he find it offensive or simply "a cost of doing business?" Second, can the additional \$200,000 in costs be passed on to others, e.g., those who purchase the townhouses or stores? Here, it is necessary to know the elasticity of consumer demand; if the originally anticipated sale price of each townhouse was increased from \$10,000 to \$10,400, would some potential buyers be priced out of the market or turn to housing offered by other firms? If demand were inelastic, Smith would have to be prepared to accept a \$200,000 reduction in net profits, keeping his original sales price.

The third cost of corruption is the possibility that the payoffs will be discovered and that Smith will be prosecuted for his participation. Three questions arise here: what is the probability that the corruption will be discovered? What penalty would be imposed if prosecution and conviction ensued? Who would pay the penalty? (See Rose-Ackerman, 1978, Chap. 6.) The probability of detection would depend on such factors as the method of payoff (can funds be transferred through a device, such as legal fees, that would look "right" on the company

*One real estate lawyer emphasized the importance of predictability to developers: in volatile situations where citizen groups might arise to protest further growth (as in Fairfax County and Hoffman Estates), certainty that officials would not back out during development can prevent wasted investments.

books?), the presence of journalists or prosecutors likely to become inquisitive when the high-density development is approved, etc. The sanction to be imposed would depend on the policies of local prosecutors and judges: would they accept a claim that extortion had occurred rather than bribery? Would they offer immunity or a nominal penalty if Smith testified against the officials? Would they call for fines or jail sentences? Would fines increase with the scale of the profits to be realized, i.e., would they be greater than the \$800,000 or \$1,000,000 by which profits from the corrupt development exceeded the legitimate alternative? If detected, would the corporation or its officers be barred from future work in the community? Finally, if the corruption were detected and a sanction imposed, on what or whom would the burden fall? Could Smith argue that Agent Andrews had arranged the payoffs without Smith's knowledge? Would a fine be paid by the Smith Development Corporation or by Smith personally? (If the corporation is wholly owned by Smith, the impact would be identical unless the fine were allowed as a tax deduction.)

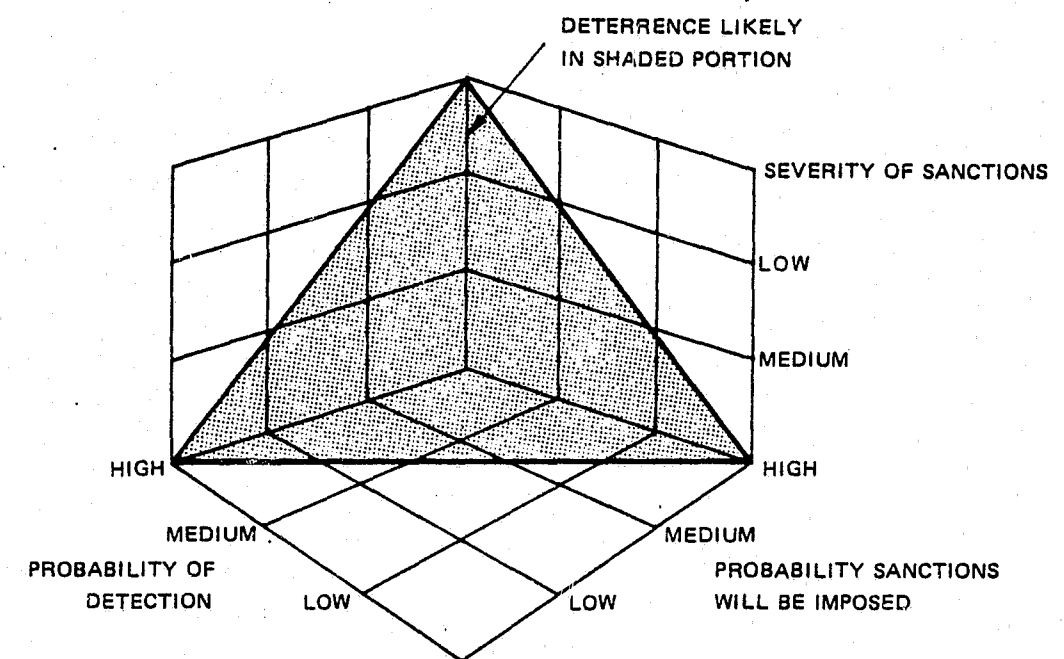
Exhibit 1 discusses deterrence as a function of probability of detection, severity of sanction, and probability that the sanction will be imposed.

What would be the costs of choosing the legitimate alternative? This example assumes that an alternative was available that would promise a respectable profit. However, by refusing to accede to extortion, Smith might run the risk of incurring official enmity, so that future regulatory decisions might become more hostile or might simply be dragged out forever. Possible costs, therefore, would include both the reduction in profits and the creation of ill-will.

*In a Chicago bribery trial, Humble Oil Company tactics to avoid involvement in payoffs (to secure rezoning for gas station sites) were explained: "It was quite normal for us at Humble Oil not to get directly involved in zoning ... the company would buy an option, then sell it to a real estate firm, which would arrange the rezoning and sell the option back to Humble, including any bribes in the resale price. That way, city records would show that only the real estate man was involved in the rezoning, and company records would show the new price, including any bribes, as the cost of the property" (Adelman, 1973).

Exhibit 1 DETERRENCE OF CORRUPTION

Research on deterrence in other forms of criminality suggests that a high probability of detection and apprehension will be more likely to deter corruption than a severe sanction. It is also likely, however, that individuals will differ in what values they assign to an estimated probability/severity score. Some will tend to avoid even the slightest risk that their careers could be ruined; others will consider the risk acceptable.



For further reading on this point, see:

Gordon Tullock, "Does Punishment Deter Crime?" Public Interest 36, 103-111 (Summer 1974).

Gary S. Becker, "Crime and Punishment: an Economic Approach," Journal of Political Economy 76, 167-217 (March/April 1968).

Jack P. Gibbs, Crime, Punishment, and Deterrence (New York: Elsevier, 1975).

Simon Rottenberg, Ed., The Economics of Crime and Punishment (Washington: American Enterprise Institute for Public Policy Research, 1973).

The Regulation of Construction

Assume that Smith has received approval to proceed with the construction of Smithfield Acres. His architects report that the unit cost of \$6,000 for each townhouse can be reduced by \$400 if certain building code requirements are evaded: if joists are placed on 24-inch centers, if plastic pipe is used to connect each house with sewer mains, and if factory-assembled plumbing modules can be used in the bathrooms. Smith's construction supervisor adds that an additional \$100 per house can be saved if inspectors appear promptly (or are willing to give retroactive approvals), if supply trucks can move freely, and if certain safety requirements are waived. Together, the two sets of cost-shaving procedures would cut \$500 from the cost of each house, or \$250,000 from the entire development. The construction supervisor estimates that the director of the Buildings Department will "take care of" his inspectors for \$25,000.

Building upon the analysis of land-use decisions, Developer Smith could be expected to make the following calculations:*

- The gains from corruption would be a net increase in profits of \$225,000 (construction costs would decline by \$250,000, partially offset by the \$25,000 in payoffs) and the certainty that plans examiners, building inspectors, etc., would not cause trouble during construction.†
- The benefit of legitimate activities (i.e., complying with all code requirements) would be the saving of the \$25,000 in bribes and the production of a higher quality home; if consumers perceive the difference in construction materials and procedures, the marketability of the product might increase.

*This example assumes that the developer is also the building contractor, but that need not be so. A variety of contractors and subcontractors are likely to handle actual construction, and each would go through such calculations. The form of contract would also make a difference: firms working on a fixed-fee contract would suffer more from unanticipated corruption demands than those working on a cost-plus contract (assuming the bribes passed audit by the developer).

†If the developer does not sell the houses as soon as they are built but rents them, then he would also have an incentive to minimize the valuation placed on the house for tax purposes.

- The costs of corruption would be the \$25,000 in bribes, which might be passed on to home-buyers, the risk that purchasers would detect the code violations and obtain a court order requiring repairs (at costs far higher than would have obtained during construction), and the risk of detection and punishment. The probability of detection, likely sanctions, and on whom they were imposed would again be important. Here, even more than in the land-use situation, corporate executives would be likely to be unaware of the details of corruption, leaving the responsibility (and blame) to the construction supervisor or his foremen.
- The costs of legitimate activities would, once again, center around the possibility of harassment and delay by officials who did not receive expected bribes.

Housing Code Enforcement

The case studies did not include examples of corruption involving landlords or homeowners and code inspectors, but a Chicago study by Flora Johnson illustrates the economics of building management. Basing her calculations on a 60-year-old, 15-unit apartment building, Johnson arrived at the following balance sheets for a "good landlord" and a "bad landlord" (Johnson, 1976):

| | Good Landlord | Bad Landlord |
|--|------------------|-----------------|
| Expenses | | |
| Insurance and mortgage | \$12,927 | \$12,927 |
| Water, electricity, trash, fuel, inspections | 6,450 | 6,450 |
| Janitorial services | 3,475 | 3,475 |
| Real estate taxes | 6,000 | -- |
| Inspections and miscellaneous expenses | 200 | -- |
| Maintenance and repair | 3,375 | -- |
| Miscellaneous supplies | 425 | -- |
| Management fee | 1,402 | -- |
| Total expenses | \$34,254 | \$22,852 |
| Rental income | 35,040 | 35,040 |
| Net profit | \$ 786 | \$12,188 |

If he/she can evade the tax collectors, and if housing inspectors overlook deteriorating conditions (although many of Johnson's maintenance and repair calculations presumably do not involve code violations), the bad landlord will realize \$11,400 more per year on his/her investment than will the good landlord.

The good landlord will have greater tenant satisfaction and may (depending on the local apartment market) be in a better position to attract tenants; if there are few vacant apartments in this price range, the landlord will have less incentive to offer repairs and services to attract and keep tenants. While his/her net profits are low, there is no risk of losing the investment through either tax foreclosure or condemnation for code violations.

The costs of selecting the bad landlord approach (whether through corruption or simple evasion) depend on both market conditions and code enforcement policies. Will prospective or current tenants find better-maintained apartments at competitive rents? How quickly will inspectors learn of code violations? (Are tenants likely to complain? Do inspectors systematically visit every building in the city?) When they learn of violations, how much time will they give the landlord to make repairs? If the landlords receive citations, will court penalties exceed repair costs? Will occupancy permits be revoked? If tax collectors or code inspectors are pounding at the door, can the landlord sell the building and escape liability?

The costs of selecting the good landlord role depend on practices of the local inspectors. Will inspectors who are not paid off find imaginary violations (in older buildings, it probably would not be difficult to find something in the building that did not meet current standards) or harass tenants? One Chicago auto mechanic who grew tired of providing free repairs for inspectors arranged to have a shakedown filmed by prosecutors and a local television station; he was so harassed by inspectors thereafter that he had to sell his shop and move (Lyon, 1976).

* Enforcement policies of inspectors and local courts handling code violations are generally lenient, as noted in Section II.

Expediting Regulatory Decisions

A final incentive for applicants to engage in corruption concerns the speed with which regulatory decisions are made. Where decisions can work only to the detriment of the applicant (e.g., a housing inspector checking for code violations), delay will work to his advantage; where delay is costing the applicant money, he will want prompt action. Must the applicant buy land and pay taxes and interest charges while he waits for rezoning,* or can he purchase an option to buy contingent on rezoning? When will the option expire?† Will he have to pay construction workers and delivery men to wait until an inspector approves work done thus far? Will interest rates or the cost of materials rise during the delay? In the case of construction, we should remember that the burden of delay will affect parties differently; the developer will have to bear the costs related to financing, while contractors working on a fixed fee basis would not be able to pass delay costs on to the developer.

These analyses have suggested the gains and costs that applicants would anticipate from an opportunity to buy an expedited decision. To the extent that the applicant can measure his finance carrying charges and the costs of workers who are kept standing by, he will have a measure of the gains to be derived from corruption. Unless he has a reason to seek delay (personnel or funds will not be available until later, interest rates will decline next year, etc.), few benefits would be derived from waiting for normal processes to yield a decision. The costs of corruption would again include probable risks of detection and punishment, although the courts might levy lower penalties for "expediting" bribes than for bribes to achieve a result in violation of local laws; the costs of not offering bribes would be the threat of even greater delays.

* A Miami developer claimed that Dade County's moratorium on new construction was costing him \$35,000 per month in interest and other expenditures for a \$7 million apartment complex he had planned (Miami Herald, December 5, 1972).

† A Chicago realtor requested from the buildings department a certificate that a building was free of code violations; he needed the certificate to obtain FHA financing. Inspectors delayed issuing the certificate for 3 months; 3 days before the FHA commitment to fund the sale was to run out, the realtor bought the certificate with a \$50 bribe (Wattley, 1972).

Conclusion

Without detailed information on the economic and personal characteristics of the applicants, these propositions cannot be tested against real-world data. Some case study applicants found corruption attractive while others chose to outwait officials or counterattacked by going to the prosecutors. Some decisions may have been highly time-dependent: if the purchase option had not been about to expire, or if the concrete trucks had not been waiting in the streets, the applicants would not have paid off. Other decisions may have been based on principle--either to resist every approach or to go along as long as the price is not too high. Also, it is not possible to estimate the accuracy of applicants' calculations--some will be able to predict accurately what they can get without paying, how long the decision will be delayed, what penalties will be imposed by the courts, etc., while others will make wild guesses--but decisions to participate in corruption or to play by the rules are likely to accord with their perceptions of costs and gains/benefits. Also, the ratio of corruption gains to corruption costs is meaningful only when compared with the benefit/cost ratio for legitimate alternatives; the applicant with few alternatives will accept a modest gain through corruption, while the applicant who can do as well elsewhere will find even minor costs of corruption prohibitive. Where corruption offers large benefits and few costs and legitimate alternatives are poor, much corruption can be expected; where legitimate activities are rewarding and corruption is hazardous, corruption can be expected to be minimal.

REFERENCES FOR SECTION V

- Adelman, Sy, "Tells How Firms Handled Bribes," Chicago Today (April 11, 1973).
- Becker, G. S., "Crime and Punishment: An Economic Approach," Journal of Political Economy 76, 167-217 (March/April 1968).
- Bliss, George, "Shakedowns by Building Inspectors Probed," Chicago Tribune (September 10, 1977).
- Gibbs, J. P., Crime, Punishment, and Deterrence (New York: Elsevier, 1975).
- Johnson, Flora, "In Order To Save It," Chicago Magazine 25, 173 (December 1976).
- Keen, Harold, "An Old-Fashioned Hero Blows the Whistle on Corruption in the County," San Diego Magazine, p. 47 (July 1976).
- Lyon, Jeff, "'Shakedown' on TV--In Court, Picture Fades," Chicago Tribune (August 1, 1976).
- Miami Herald, "Gerstein Probes Report of Metro 'Payoff'," Miami Herald (December 5, 1972).
- Rose-Ackerman, Susan, Corruption: A Study in Political Economy, Chaps. 5 and 6 (New York: Academic Press, 1978).
- Rottenberg, Simon, Ed., The Economics of Crime and Punishment (Washington: American Enterprise Institute for Public Policy Research, 1973).
- Selznick, Phillip, TVA and the Grass Roots, p. 13 (Berkeley: University of California Press, 1949).
- Shefter, Martin, "The Emergence of the Political Machine: An Alternative View," pp. 28-30 in Willis Hawley et al., Theoretical Perspectives on Urban Politics (Englewood Cliffs: Prentice Hall, 1976).
- Stone, C. D., Where the Law Ends: Social Control of Corporate Behavior (New York: Harper and Row, 1975).
- Tullock, Gordon, "Does Punishment Deter Crime?" Public Interest 36, 103-111 (Summer 1974).
- Wattley, Philip, "Seize City Inspector in Shakedown," Chicago Tribune (December 21, 1972).
- WSJ, "Some Assets Missing, Insurance Called Bogus at Equity Funding Life," Wall Street Journal (April 2, 1973), quoted in Stone (1975).
- Zacchino, Narda, "Bribe Case Informant Has Regrets," Los Angeles Times (August 6, 1976).

VI INCENTIVES FOR CORRUPTION FROM THE PERSPECTIVE OF OFFICIALS

As has been apparent throughout this analysis, corrupt acts cannot occur without participation by both officials and the individuals or businesses they regulate. The case studies show corruption initiated by officials and by applicants, and initiatives rebuffed by both parties. The factors that lead applicants to participate in or avoid corruption are not necessarily the same as those that influence officials who encounter opportunities for corruption. Officials are not assumed to be more likely than applicants to engage in corruption, nor is it assumed that every opportunity will lead to a conscious assessment of costs vs. gains.

Officials who make land-use and building inspection decisions are not all alike. First, some officials serve on a part-time basis as elected or appointed members of planning and zoning commissions or city councils, while others are full-time city or county employees, working as plan examiners, inspectors, or building officials. As a result, some receive their total income from those regulatory positions while others work for free or for small honoraria. Second, officials vary in their backgrounds and technical expertise: some will be familiar with planning and construction problems while others will be complete amateurs. Finally, they vary in the importance of regulatory activities to their present or future lives--some will anticipate remaining in regulatory roles for the foreseeable future, while others will expect to move on to other roles in the near future.

Given these variations among the officials who participate in regulatory activities, when would they be likely to find opportunities for corruption attractive? As a general rule (Gardiner, Balch, and Lyman, 1977),

Officials will have an incentive to engage in corruption when the anticipated gains from corruption, less its costs, exceed the gains to be expected from legitimate activities, less their costs. *

How individual officials assess this equation will be affected by their personal norms and experiences, by the norms of the organizations and communities within which they work, and by the structure and processes of regulatory decision-making.

Personal Norms and Experiences

Long before the point at which an official encounters an attractive opportunity for corruption, he has been socialized by a series of learning experiences from childhood through adolescence, early employment, and current work and social associations.[†] During the course of this socialization process, individuals evolve both definitions of corruption (learning what activities are labeled "corrupt") and expectations as to the rewards and penalties that follow corrupt and noncorrupt behavior. (Exhibit 2 discusses socialization among the police, where it has been studied in some detail.) Illustrative learning experiences might include the following:

- (1) As a child, an individual sees the family car pulled over for a speeding violation. One father pleads guilty and pays the fine; another slips the policeman \$10 and drives away.
- (2) Applying for different jobs, two individuals rank in the top ten on the civil service list; one is given the job; the other sees the job awarded to a political or social friend of the employer.

*A cost, here, may be either a dollar cost or a penalty or hardship; a gain may be a dollar gain or the ability to meet a deadline or avoid a hardship.

[†]For information on socialization in childhood (and beyond), see Clausen (1968) or Goslin (1969). For information on the general relationship between direct and vicarious or observational learning experiences and reinforcement of "pro-social behavior," see Albert Bandura (1971).

Exhibit 2

SOCIALIZATION AND CORRUPTION AMONG THE POLICE

Socialization and social norms as they relate to corruption have been documented more extensively among the police than any other group because the problems faced by police departments come up in almost every municipality throughout the country.

On the socialization of police recruits, Jonathan Rubenstein observes that:

There is no way to prepare a policeman for the situation he discovers on the street. There are some open discussions at the police academy about the possibilities for graft, but most instructors restrict themselves to repeating the traditional homilies about 'not selling your soul for a bowl of porridge.' The men are told by some that they will be offered free food, which is the beginning of their slide to corruption. 'They'll try to buy you with a ham sandwich; don't take it. Put your money on the counter, and if the guy won't take it, leave it for the waitress. You'll see when you go out on the beat. Maybe you don't have much money in your pocket, and when you finish your hamburger, the guy says to forget it. So you do it once, and then you go down the street and the next guy wants to put a little cheese on the burger for you. Now you're getting to like the job. Don't do it.' From the back of the room another instructor called out, 'Say, John, where is this beat you're talking about?' and the earnest moment dissolved into mirth.

(Rubenstein, 1973, p. 401)

New York policeman Frank Serpico experienced a complex exposure to the corruption norms of his peers. After he was assigned to plainclothes vice work, he was repeatedly tested by his colleagues with offers to share in the payoffs; when he refused, he was isolated from their operations. When he reported the corruption to superiors in the department, and later to the New York Times, he was totally ostracized by both straight and corrupt policemen, as Peter Maas has described in Serpico (Maas, 1973).

For further information, see, particularly,

Niederhoffer, Arthur, Behind the Shield: The Police in Urban Society (Garden City: Doubleday, 1965).

Bordau, D. J., Ed., The Police: Six Sociological Essays (New York: John Wiley, 1967) and particularly John MacNamara's piece "Uncertainties in Police Work: The Relevance of Police Recruits' Backgrounds and Training," on pp. 163-252.

- (3) Following a formal training process, two employees start work. One supervisor says, "forget everything the training officer told you; he hasn't done any real work in years." The other says, "We do everything by the book."
- (4) Two building inspectors write up a violation notice when the carpenter puts joists on 24-inch centers rather than the 16-inch centers required by the building code. One inspector sees the carpenter tear down the wall and build it correctly; the other is told by his supervisor, "Don't worry about that; the code is too strict anyway."
- (5) At Christmastime, two inspectors are invited to parties given by a local contractor. One is told by a fellow inspector, "That's a great party; don't forget to pick up the free liquor they give away." The other is told, "If the boss hears you went to that party, you'd better start looking for another job."
- (6) Visiting a building site, two inspectors in different towns observe a series of code violations not cited by the other inspectors who had been assigned to the site. One sees the other inspectors getting good assignments or promotions; the other sees the other inspectors being chewed out by the department head.
- (7) Land owned by a city councilman is being considered for development. In one city, the councilman votes on the zoning application; in another city, the councilman is excluded from decision-making.

This continuous learning process has a number of effects: from the behavior of others, the official sees "corrupt" (bad) or "acceptable" (good) labels being placed on behavior--paying or fixing a traffic ticket, filling jobs by "merit" or "influence," being "one of the boys" or staying at arms' length from contractors, "going by the book" or "using discretion," etc.* In the process, regulators in some cities will see peers labeling

* John G. Peters and Susan Welch surveyed 441 state legislators, asking them which of a series of hypothetical actions they would regard as "corrupt." Of the total, 95% labeled as corrupt "the driveway of the mayor's home being paved by the city crew," "a public official using public funds for personal travel," and "a state assemblyman while chairman of the public roads committee authorizing the purchase of land he had recently acquired." Some 32% saw corruption in "a congressman using seniority to obtain a weapons contract for a firm in his district," while 24% thought it would be corrupt if a public official used "his influence to get a friend or relative admitted to law school." "Political Corruption in America: A Search for Definitions and a Theory" (Peters and Welch, n.d.).

as acceptable activities which seem to be legally prohibited: "that isn't a crime--it's just what (businessmen/city councilmen/my father, etc.) do all the time."

The official also sees various forms of behavior being rewarded, punished, or ignored. Some settings may actively reward, through pay, assignments, or simply peer esteem, those who participate in or at least tolerate patterns of corruption; others may swiftly censure even marginal deviations from official policies and procedures; in a third group, nothing may be commented upon so long as the forms are correctly filled out, and no one complains.*

While all individuals are exposed to experiences offering definitions of corruption, expectations of rewards and punishments for different forms of behavior, and the probability and severity of sanctions, the impact of these experiences on individuals will vary. The degree of impact should be affected by both the content and the source of the message. Some learning experiences are clear, specific, and salient to the individual--"you should do [or not do] this"--while the import of others is vague.[†] A regulator may receive a clear message that he should not take a cash bribe but be left to form his own decision as to whether to attend the contractor's Christmas party, report his colleagues' indiscretions, participate in a decision affecting his own property, and so on. Furthermore, some messages will come from remote sources (an article in the newspaper, a speaker in the training program, a chance acquaintance at a party) while others come from immediate and significant associates. Messages from persons one thinks of as models or whom one respects ("reference group") will be likely to influence the individual's value system.

* While the focus of our analysis has been on the officials who participate in corruption, a crucial role may be played by peers who are aware of corruption but do nothing about it, neither informally chastising their colleagues nor reporting it to superiors or outsiders. The impact of their silence may be neutral (neither encouraging nor discouraging corruption) or tacit encouragement for those who have decided to participate.

[†] A classic example is President Truman's face-to-face confrontation with General Douglas MacArthur, which followed a lengthy process of escalation in clarity, specificity, and salience (Neustadt, 1960).

Finally, we should note that the learning experiences that precede a specific corruption opportunity can generate consistent or inconsistent messages. An individual may have received "pro-integrity" messages as a child yet come to work with peers or supervisors who encourage or tolerate corruption, or the converse; professional associations or city governments may have clear codes of ethics, but the codes are ridiculed or ignored by the individual builders or regulators with whom the official is in daily contact. Furthermore, in a mobile society we should also note that individuals new to a city may find rules of the game contrary to past experiences; we might recall the Arlington Heights building inspector's story of a new contractor running up to him with \$50; "That may be how you do business in Chicago," he responded, "but you're not going to do it here!"

As a consequence of this learning or socialization process, some regulators will be predisposed toward corrupt behavior, having learned limited definitions of the term or having come to expect few penalties for deviance, while others have acquired broad definitions and high expectations of penalties. Individuals whose learning experiences have uniformly condemned corruption, from youth through current associations, would be expected to be least involved in corruption, while those who have had uniform corruption-condoning influences would be most involved. Where past and current experiences are inconsistent, intensive and unambiguous current influences should be most influential in determining behavior.* If the environment in which regulators currently work consistently rewards integrity and punishes corruption, lower levels of corruption would be expected even if the past experiences of regulators have encouraged corruption. (Exhibit 3 discusses some general points made by social science.)

Effects of experiences may fade with time, or change with time. It is thus important to distinguish between short-run and long-run effects. It is also important to remember that careful recruitment and selection

* See Newcomb (1943), Newcomb et al. (1967), Adamek and Dagar (1968), and Niederhoffer (1965).

Exhibit 3

SOCIAL SCIENCE CONCEPTS IN UNDERSTANDING CORRUPTION

- Reference groups are those to whom we refer for information on how to behave. For information on reference groups, and on an influential early study (The Bennington Study), see Proshansky and Seidenberg (1966), a collection of pieces among which those by Harold Kelley, Theodore Newcomb, and Alberta Engvall Siegel and Sidney Siegel. A follow-up of the Bennington Study was done by Newcomb in the Journal of Social Sciences (Newcomb, 1963). More technical studies have been done by Tamotsu Shibutani, Manfred Kuhn, and Richard Brooks, and can be found in Mainis and Meltzer (1967).
- The psychological effects of punishment have been studied particularly by B. F. Skinner (Science and Human Behavior, 1953; Beyond Freedom and Dignity, 1971). According to Skinner, while punishment may produce an immediate reduction in the level of undesired behavior (e.g., corruption), it may also encourage escape (e.g., taking another job) or concealment. Higher long-term compliance can be expected from rewarding desired behavior than from punishing behavior that is not acceptable.
- Group decision-making processes and consensus have also been studied. Some classic works on this include pieces by Kurt Lewin, Edith Bennett Pelz, Lester Coch, and John R. P. French, Jr., all in the anthology edited by Proshansky and Seidenberg (1966).

of regulatory personnel will make intervention less necessary. It is usually more satisfactory to start with good people and keep them honest than to start with those whose worth is not investigated and have to keep firing the ones who turn out to be corrupt and will not change.

However, in any organization,

Officials' incentives to participate in corrupt acts will be increased by experiences in which corruption was condoned.

Organizational and Community Norms

Just as applicants may perceive themselves to be part of an industry or community that might affect their assessment of opportunities to take part in corrupt acts, so may officials. However, the influence of professional or community norms depends on their existence and on the mechanisms that exist to reward or punish deviation from the norm. Are there clear statements of what officials should and should not do? Are those norms reinforced in ways that would lead officials to believe that their actions are visible and that something unpleasant will happen if norms are violated?

The case studies certainly illustrate variations in organizational and community norms regarding corruption. The New York inspectors writing rhymes about bribery contrast sharply with the Arlington Heights officials who promptly fired employees caught in the smallest impropriety; in some cities, voters ousted officials suspected of corruption while in other cities nothing short of conviction and imprisonment interfered with the career of a corrupt official. However, organizations and communities have other values in addition to those relating to corruption. In Broward County, for example, there was strong pressure to maintain rapid growth rates in order to keep taxes low.*

*Pressures on planners to avoid criticism of developers are discussed in "Stealing: A Primer on Zoning Corruption" (McCahill, 1973).

Instead of a simple model, which assumes that officials' behavior will be influenced only by organizational and community norms concerning corruption and integrity, therefore, we must envision multiple norm systems that may generate consistent or inconsistent pressures upon officials. The cross-pressures that might be felt by regulatory officials can be illustrated by examining relationships with the development and housing industry, with the political process, and with other members of the regulatory system. The profitability of land development and building management, which are multi-billion dollar industries, can be affected by the standards imposed by the regulatory system. While the case studies have shown numerous instances of conflict between officials and applicants, both groups are partners in the industry. Officials become familiar with the economics and technological capabilities of the industry and know how regulations affect developers and landlords. Officials are also sensitive to community land-use goals, such as building as rapidly as possible or accepting only one type of growth, closing substandard housing or keeping housing open to low-income residents. While officials know that they can enforce the rules, they also know that some enforcement decisions will have the effect of putting applicants out of business or of leaving the intended beneficiaries of the system, e.g., homebuyers and tenants, in worse shape than they were before.* If "bending the rules" is necessary to "get the job done," many will feel that it is a worthwhile trade-off.†

There is also a substantial overlap between the interests of regulators and the interests of local political officials. In some of the cities we have studied, the content of regulatory policies is a matter

*The empathy of housing inspectors with the problems of both landlords and tenants is emphasized by Maureen Mileski (1971), by Virginia Ermer (1976), and by two articles in Midwest Review of Public Administration (MRPA: 1975, 1976).

†The willingness of voters to trade off a certain amount of corruption against a popular stand on a substantive policy issue in assessing a candidate is suggested in an experiment reported by Rundquist, Strom, and Peters (1977).

of open community conflict; the battles between "no-growth" and "slow-growth" advocates in Fairfax County and Hoffman Estates illustrate the intensity with which this issue is sometimes debated. The overlap also carries over into staffing and decision-making; positions on planing and zoning commissions frequently are given to campaign backers of mayors and councilmen. Campaign contributors expect a favorable hearing when they seek approval for variances or new developments. For officials, then, the regulatory system may provide opportunities for patronage, in the form of either jobs or decisions, that will help to keep contributions of both labor and funds flowing into their organizations.*

The mores and customs of an agency regarding regulatory policy and ethical standards are likely to have more influence on what happens than the regulations that are on the books. Mores and customs may reflect the fact that officials have been neighbors or friends or political allies for years before they became regulatory officials, or they may reflect friendships developed through close collaboration as officials. In any case, "this is the way we do things here" and "you help me and I'll help you--we're in this together" are likely to be very strong influences on the behavior of officials. Mores and customs can reflect either a strong sense of honesty and responsibility ("The community is depending on us") or a strong self-serving and anticomunity bias ("The Lord helps those who help themselves" and "There's one born every minute"). The incipient rotten apple will be less likely to participate in a corrupt act if he senses that his colleagues will condemn him while the honest official may hesitate to blow the whistle on widespread corruption in his organization if he senses that his colleagues will not support him.† Where corruption is condoned, individuals may even find it difficult to avoid becoming involved, as refusal becomes ridiculed or punished by peers (Maas, 1973; Rubenstein, 1973).

Without attitudinal data on members of the communities, industries, and organizations studied, it is impossible to determine whether

* The importance of patronage opportunities in maintaining political organizations has been analyzed by James Q. Wilson (1961).

† The dangers of whistle-blowing have been documented by Ralph Nader (Nader et al., 1972), by Peters and Branch (1972), and by Weisband and Frank (1975).

individual officials who take part in corrupt acts are conforming to prevailing norms or not. Intense support for honest behavior and integrity might be expected to predominate over moderate emphasis on alternative, conflicting goals ("keep development moving," "don't put poor tenants out on the streets," "don't rat on another inspector"), but intense support for the other goals could well outweigh official policies. Therefore,

The incentive for an official to participate in a corrupt act will be increased by community or organizational norms that conflict with official policies.

Regulatory Structures and Decision-Making Processes

Land-use and building regulation systems are more vulnerable to corruption where regulations are ambiguous or provide for wide discretion and at the points where the agency structures or decision-making processes allow the official to act autonomously. (The point is not that either discretion or autonomy should be avoided, but rather that the increased vulnerability will lead to increased risk of corruption if not recognized and corrected for.)

As indicated in Section II, some regulations are explicit (this land will be used for single-family homes; all foundations must have 6 inches of concrete over 8 inches of gravel) while others give officials a great deal of discretion (land should be developed in ways that serve the public interest, apartments must be safe and clean). Where the regulations to be implemented are unambiguous, deviations will be more visible and the opportunity to participate in a corrupt regulatory decision will be less attractive.

As indicated in Section V, an official who can act on his own will have more opportunities to engage in corrupt acts than one who works as part of a team or whose work must be ratified by a superior. The building inspector who was on the site is the only one who knows whether or not he saw a particular violation, just as the lone motorcycle cop is the only one who knows whether or not he saw a particular speeder. The chance that others will notice or take action when an official participates

in a corrupt act is greater when officials work in teams or groups or when applications must be reviewed (other factors, such as mores and customs, will determine whether the group approves or disapproves). If the applicant is seeking a perfectly legal action, rather than an illegal one, the chance for corruption is less if the applicant can appeal an adverse decision or if he can seek that approval from any of several officials. (This assumes that corruption is not universal; if it is, the presence of other officials or of review mechanisms serves only to increase the extent and costs of the bribes.)

This analysis assumes that officials are likely to weigh a corrupt act by comparing the gains (less the costs), with the benefits to be gained from noncorrupt performance of official duties, less those costs. The case studies showed variations in the job security and pay scales of regulatory officials in different cities. There are also variations among officials: while city councilmen and zoning commissioners act in more visible settings, they do not have supervisors reviewing their decisions and can be removed only by local voters; inspectors and plan examiners, on the other hand, frequently have civil service job security but are more routinely supervised. Finally, the two types of officials vary in their exposure to the threat of prosecution: laws tend to be more explicit about bribery in regulatory agencies than about corruption in the legislative process. (However, our case studies showed the prosecutors may be more interested in catching a "big fish" city officials than "small fry" bureaucrats.)

The analysis of incentives to applicants to participate in corrupt acts noted the combined importance of probabilities of detection and the scale of likely punishment in determining the risks or costs of those acts. Officials would similarly need to assess local detection mechanisms (are supervisors, prosecutors, or watchdog groups regularly reviewing official decisions to identify questionable acts?) and the sanctions imposed upon exposed officials (will they lose their jobs? will they be barred from future professional activities? will fines or jail sentences exceed expected bribes?) Summarizing these factors suggests that:

The opportunity for an official to engage in a corrupt act will be increased by structures that increase autonomy, provide vague decision rules, or pose minimal risks (limited detection capabilities or light sanction policies).

Conclusion

The case studies provided examples of a variety of officials who participated in corrupt acts. While the studies provided little information about their personal value systems (other than the fact that they did participate in one or more corrupt acts), there was information on organizational attitudes and bureaucratic practices that appeared to make corruption more likely. Substandard pay, lack of supervision, lack of accountability, and consensus that the policies being enforced were themselves undesirable are obvious examples.

REFERENCES FOR SECTION VI

- Adamek, R. J., and E. Z. Dager, "Social Structure, Identification and Change in a Treatment-Oriented Institution," American Sociological Review 33, 931-944 (December 1968).
- Bandura, Albert, Social Learning Theory (Morristown, New Jersey: General Learning Press, 1971).
- Bordua, D. J., Ed., The Police: Six Sociological Essays (New York: John Wiley, 1967).
- Clausen, J. A., Ed., Socialization and Society (Boston: Little, Brown, 1968).
- Ermer, V. B., "Morale Boosting at the Street Level: Housing Inspection in Baltimore," State and Local Government Review 8, 32-35 (May 1976).
- Gardiner, J. A., G. I. Balch, and T. R. Lyman, "Corruption in Local Land-Use Regulation," a paper presented at the 1977 Annual Meeting of the American Political Science Association (SRI International, 1977).
- Goslin, D. A., Handbook of Socialization Theory and Research (Chicago: Rand McNalley, 1969).
- Maas, Peter, Serpico (New York: Viking Press, 1973).
- MacNamara, J. H., "Uncertainties in Police Work: The Relevance of Police Recruits' Backgrounds and Training," in D. J. Bordua, Ed., The Police: Six Sociological Essays (New York: John Wiley, 1967).
- Mainis, J. G., and B. N. Meltzer, Eds., Symbolic Interaction (Boston: Allyn and Bacon, 1967).
- McCahill, Ed, "Stealing: A Primer on Zoning Corruption," Planning 39, 6-8 (December 1973).
- Mileski, Maureen, Policing Slum Landlords: An Observation Study of Administrative Control, unpublished Ph.D. dissertation, Yale University (1971).
- MRPA, "Strategies for Increasing Bureaucratic Responsiveness: Internal Monitoring of an Executive-Client Alliance," Midwest Review of Public Administration 9, 121-132 (April 1975).

- MRPA, "Street Level Reaction to Reform," Midwest Review of Public Administration 10, 31-41 (March 1976).
- Nader, Ralph, et al., Whistle-Blowing: The Report of the Conference on Professional Responsibility (New York: Grossman, 1972).
- Neustedt, Richard, Presidential Power (New York: Wiley, 1960).
- Newcomb, Theodore, "The Persistence and Regression of Changed Attitudes," Journal of Social Issues 19, 3-14 (1963).
- Newcomb, T. M., Personality and Social Change (New York: Holt, Rinehart, and Winston, 1943).
- Newcomb, T. M., et al., Persistence and Change (New York: Wiley, 1967).
- Niederhoffer, Arthur, Behind the Shield: The Police in Urban Society (Garden City: Doubleday, 1965).
- Peters, Charles, and Taylor Branch, Blowing the Whistle: Dissent in the Public Interest (New York: Praeger, 1972).
- Proshansky, Harold, and Bernard Seidenberg, Eds., Basic Studies in Social Psychology (New York: Holt, Rinehart, and Winston, 1966).
- Rose-Ackerman, Susan, Corruption: A Study in Political Economy, Chap. 9 (New York: Academic Press, 1978).
- Rubenstein, Jonathan, City Police (New York: Farrar, Straus, and Giroux, 1973).
- Rundquist, B. S., G. S. Strom, and J. G. Peters, "Corrupt Politicians and Their Electoral Support: Some Experimental Observations," American Political Science Review 71, 954-963 (September 1977).
- Skinner, B. F., Science and Human Behavior, pp. 182-193 and 446-449 (New York: MacMillan, 1953).
- _____, Beyond Freedom and Dignity, pp. 56-77 (New York: Bantam Books, 1971).
- Weisband, Edward, and T. M. Franck, Resignation in Protest (New York: Grossman, 1975).
- Wilson, J. Q., "The Economy of Patronage," Journal of Political Economy 69, 369-380 (August 1961).

Part Three
REMEDIES FOR CORRUPTION

VII SELECTING STRATEGIES TO CONTROL CORRUPTION

Our analysis of patterns of corruption in land-use regulation indicates that while individual wrongdoers can be found in many settings, the probability of corruption will be increased where there are incentives for developers to evade regulations, where regulators have incentives and opportunities to make decisions favoring developers' interests over those of the community, and where, for both developers and regulators, the rewards of corruption less its costs exceed the rewards of noncorrupt behavior less its costs. Accordingly, strategies to prevent or reduce corruption must reduce incentives and opportunities for corrupt behavior and increase incentives and opportunities for noncorrupt behavior. Because the complexity of the corruption problem defies simple causal explanations, a variety of control mechanisms must be considered, each of which addresses opportunities and incentives in different ways.

The strategies suggested in this section to detect, prevent, or correct corruption in land-use and building regulation are directed at different sets of actors. Detection strategies can be used by local government officials, by citizen action groups seeking good government, by investigative reporters, or by law enforcement officials and grand juries. The strategies suggested to prevent or control corruption in land-use and building regulation are available only to those with legislative or administrative power over the system.

Identifying Potential Problems

In order to plan control strategies responsive to local problems, it is necessary first to identify the current policies and procedures of local regulatory agencies. Frequently, this information can be obtained from the policy statements and records of planning and zoning commissions and building departments, but it should be supplemented by observing commission meetings, by reviewing application forms or records of complaints

and disciplinary actions, or simply by talking with applicants and officials. Although some information is accessible only to persons who work with the regulatory system on a regular basis, the absence of written records or information indicates an area of potential problems that should be explored further. In most cases, only investigators and prosecutors will be able to prove that corruption has taken place, but answers to the questions in the checklist (Exhibit 4) should indicate situations that could produce opportunities and incentives for corruption. (A "no" answer to any question will indicate situations where officials, developers, architects, engineers, landlords, etc., may encounter opportunities and/or incentives.)

Developing Corruption Control Strategies

In any given city, answers to the questions will identify specific problems that may conceal current corruption by officials or may provide opportunities or incentives for future applicants and officials. In some cities, these deficiencies may represent isolated problems whose impact is minimized by other safeguards; in other cities, widespread deficiencies may indicate the need for comprehensive reforms. Different cities are likely to be vulnerable in different parts of their regulatory systems; in cities undergoing rapid outward growth (Arlington Heights, Hoffman Estates, and Broward or Fairfax Counties, for example) land-development decisions are most frequent, while in older cities (such as Cincinnati, East Providence, and New York City) variances, housing codes, rehabilitation, or demolition provide the most frequent opportunities.

The control strategies outlined below and in the following sections vary in several ways. First, they are directed at different types of participants in corrupt acts. Some change the opportunities or incentives of the individuals or businesses controlled by the regulatory system;*

*Problems in the use of criminal statutes to control corporate behavior are discussed by Sanford H. Kadish (1963), by Robert E. Lane (1954), by Harry V. Ball and Lawrence M. Friedman (1965, 1961), and by Christopher D. Stone (1975).

Exhibit 4

CHECKLIST FOR IDENTIFYING AREAS OF POTENTIAL CORRUPTION RISK*

| | Yes | No |
|--|-----|----|
| Regulatory Policies | | |
| Do master plans and zoning ordinances match reasonable estimates of the types of housing and commercial development likely to occur in the near future? | | |
| Do construction, plumbing, and electrical codes match current technology in the building industry? | | |
| Do housing codes strike a reasonable balance between health and safety goals, the economic status of tenants, and the profit goals of building managers? | | |
| Are regulatory policies articulated with sufficient clarity that developers, architects, engineers, and landlords can determine what is expected of them? | | |
| Regulatory Procedures | | |
| Are major policy and implementation decisions made in public settings where issues and their effect on the community can be discussed, and where official actions can be challenged? | | |
| Are written records kept of what actions are being taken, who requests them, and who approves them? | | |
| If approvals are requested by corporations or trusts, must owners be identified by name? | | |
| Do decisions appear to follow official policies, or are rules often waived "in the public interest"? | | |
| Are staff and commission recommendations adopted by higher officials, or do officials tend to suggest which applicants should be favored or expedited? | | |
| If decisions differ from official policies (variances or exceptions to zoning ordinances, waivers of code requirements) are reasons for the differences given in writing? | | |
| Are regulatory positions given to persons with appropriate training, experience, and motivation? | | |
| Are full-time employees selected through competitive examination and protected by civil service rules? | | |
| Are compensation levels high enough to attract qualified applicants? | | |
| Do employees remain in their positions, or is the turnover high? | | |
| Are regulatory decisions made efficiently and promptly? | | |
| Are inspections made efficiently and promptly? | | |
| Are sufficient numbers of officials available to handle the expected work load and provide the necessary technical expertise? | | |
| Are all applications processed similarly, or do some applicants seem to receive faster or more lenient treatment? | | |
| Are all contractors required to observe building code, industrial safety, and traffic regulations equally? | | |
| Are regulators' decisions routinely reviewed, or do some agencies and officials have complete autonomy? | | |

*Adapted from NACCSJSG (1973).

Exhibit 4
CHECKLIST (continued)

| | Yes | No |
|---|-------|-------|
| <u>Policies and Procedures for Ensuring Integrity</u> | | |
| Does the city (or department) have a code of ethics that specified the behavior expected of officials? | _____ | _____ |
| Are elected officials, appointed commission members, and city employees all covered? | _____ | _____ |
| Does the code prohibit acceptance of meals, gratuities, discounts, and other favors from all individuals and firms doing business with the city or otherwise subject to regulation? | _____ | _____ |
| Are the policies stated in the code enforced? | _____ | _____ |
| Are elected officials, commissioners, and department heads required to disclose their assets, debts, and outside employment? | _____ | _____ |
| Are disclosure forms made available for public scrutiny? | _____ | _____ |
| Are officials required to disclose any potential conflict of interest and withdrawn from decision-making in any situation that might constitute a conflict of interest? | _____ | _____ |
| Is moonlighting either prohibited or at least regulated? | _____ | _____ |
| Are employees or officials forbidden to represent private interests in dealing with city agencies, or to take positions with firms they had previously regulated? | _____ | _____ |
| Do campaign finance laws set limits on contributions by individuals or firms doing business with the city? | _____ | _____ |
| Are contributions disclosed in sufficient detail to identify major contributors and in time to allow voters to use the information? | _____ | _____ |
| Are contributions made only during election campaigns, or do some turn up suspiciously close to the announcement of major decisions? | _____ | _____ |
| Does the city have "sunshine" and "freedom of information" laws that open meetings and records to public participation and review? | _____ | _____ |
| Do officials encourage public participation in or inquiry about decisions? | _____ | _____ |
| Are officials and employees obligated to respond to questions about their conduct? | _____ | _____ |
| Are public officials or employees forbidden to engage in private business on city time or using city materials or equipment? | _____ | _____ |
| Are bribery, extortion, and official misconduct clearly defined and forbidden by statute or ordinance for all officials involved in regulatory decisions? | _____ | _____ |
| Are official activities regularly monitored by press and TV and by citizens' organizations and questionable actions reported to the public? | _____ | _____ |
| Do city officials conduct regular audits and investigations of all city activities and make the results of these studies public? | _____ | _____ |
| Do local prosecutors investigate allegations of official misconduct and are both officials and applicants prosecuted when improprieties are found? | _____ | _____ |
| When corruption is discovered, are penalties imposed to discourage others? | _____ | _____ |
| Are indicted officials immediately suspended or can they transfer or retire and keep their pension rights? | _____ | _____ |

others affect elected officials, the mayors, city councilmen, and county supervisors who set land-use and building policies. A third group is directed at city employees such as the building officials, plan examiners, or inspectors who enforce city regulations. A second variation among the strategies concerns the groups needed to implement them: some policies can be established and implemented by elected officials, some by city departments, and others by prosecutors or citizens' groups.

Factors Limiting the Effectiveness of Control Strategies

The analyses presented in previous sections and the control strategies which we will propose focus on the opportunities and incentives presented to applicants and officials by corrupt and legitimate alternatives.* The design of a program to alter these opportunities and incentives must take account of several issues:

- For both regulators and regulated industries, "corruption" and "integrity" rarely surface as discrete choices; they are instead likely to be parts of more complex decisions. For developers, the rates of tax and interest, investment alternatives, and financial soundness create an economic framework within which payoffs may be only minor offsets to large profits. Similarly, within regulatory agencies peer pressures generate social relationships and work patterns within which payoffs may be encouraged or condoned. Under these conditions, even strong principles or high costs of corruption may not dominate in the total decision-making framework.
- In many communities and organizations, corruption and integrity are not issues of high visibility and concern. Except where

*The goal of this analysis is to indicate types of policy changes likely to control or reduce corruption. The feasibility of implementing reforms and their effectiveness in specific settings are highly dependent upon local legal, political, personnel, and environmental factors. Furthermore, genuine experimentation with the proposed policy changes would be necessary to validate the causal inference of this analysis. As a result, these observations should be treated as general and tentative, rather than specific and conclusive.

revelations have produced "scandals,"* the attention of citizens and officials is usually directed elsewhere. In the absence of scandal, proposals to prevent corruption will tend to be viewed in terms of their impact on other policy goals and priorities: that is, strict enforcement of existing regulations and ordinances will have unacceptable effects if those items to be enforced no longer fit the real world situation. If strict enforcement will lead to the deterioration of existing properties, or simply put slum-dwellers out on the street, it is likely to be rejected. If the time and material required to monitor activities for honesty jeopardizes "getting the job done," monitoring is likely to be rejected. To the extent that those officials in a position to implement anticorruption programs must also consider these other issues, they will be less free to expend resources on ensuring that all acts and decisions are honest.

- Many of the factors which generate opportunities or incentives for corruption are beyond the control of individuals or groups seeking to control corruption. Changes in local or national economies will affect building markets, tax and interest rates, and the structure of competition in the development, construction, and building management industries. The local tax base and tax rates will affect both city land-use policies and the pay scales that might attract city employees.†

Personnel practices, whether stressing patronage appointment of political supporters or "merit" appointment through civil service examinations, determine the types of individuals assigned to regulatory positions and the degree to which they can be controlled by supervisors. (The case studies have shown corruption among both political and civil service regulators, so we cannot assume that one system is necessarily

* Where scandals have surfaced, however, public officials usually find that high investments in fighting corruption (or at least in appearing to do so) are essential for political survival. See John A. Gardiner (1970), James Q. Wilson (1968), and Lawrence W. Sherman (1977). On the conditions which lead to scandals, see Murray Edelman (1964), and Arnold A. Rogow and Harold D. Lasswell (1963).

† While economic conditions may generate incentives for corruption, the case studies also contained illustrations of municipal reforms which arose in response to economic changes. The fiscal problems of New York City led to budget cuts and changes in personnel and accountability systems, while the recession in Broward County led to increases in property taxes to compensate for a sharp decline in building permit fees. While neither change arose out of concerns for corruption problems, both may lead to changes in the conditions which produced them.

preferable to another; our point is only that recruitment and job security policies will affect employees' reactions to control strategies.)

A reform-minded head of the building department may be forced to work within policies set by the personnel and finance departments. Zoning decisions may be made by officials answerable only to the electorate. Civil service laws and the statutes governing both corruption and land-use regulation are often established at the state level, and prosecutors and judges are rarely under the control of local officials. Perhaps most immune to control programs are the past experiences and perceptions of officials and developers, the personal values which they bring with them as they enter into regulatory activities. Each of these factors will affect the nature and frequency of opportunities and incentives for corruption, yet are unlikely to respond to the types of programs which can be implemented at the local level. Finally,

- Corruption involves many different types of acts and actors, including \$10 payoffs to building inspectors on code violations, and \$10,000 payoffs to city councilmen on zoning changes. Some of the participants (both regulators and regulatees) may participate in only one transaction while others may engage in corruption routinely over a period of years.* It is necessary, therefore, to recognize that there are at least four types of corruption:

- Single incidents, small scale
- Single incidents, large scale
- Repeated pattern, small scale
- Repeated pattern, large scale.

It is likely that the policies intended to prevent a single large payoff, such as \$20,000 on a rezoning case, would differ from the policies aimed at preventing recurring small payoffs, such as \$20 to the clerk in the building department office or to the building inspector, and that perhaps nothing can be done to ensure preventing the single small transaction.

* Police corruption in New York City, as described by the Knapp Commission (1972), distinguished between "meat-eaters" and "grass-eaters"; and Lawrence W. Sherman (1974) described the distinctions among "rotten apples and rotten pockets," "pervasive unorganized corruption," and "pervasive organized corruption."

The Logic of Control Strategies

Even accepting these limitations, significant changes can be made in the factors that stimulate corruption. The specific strategies proposed here concentrate on three issues: the reduction of opportunities for corruption, changes in the costs and gains/benefits of corrupt and non-corrupt behavior, and reinforcement of expectations of integrity.

Reducing Opportunities

In most forms of criminality, it is easier to take small amounts of money than large ones; possessors of large sums of money usually have the foresight and the resources to guard their assets closely. In land-use and building regulation, the situation is reversed: the regulatory decisions that generate small-scale payoffs are rather tightly organized while planning and zoning decisions worth thousands or millions of dollars boil down to discretionary judgments about the public interest. Building inspectors and office clerks are likely to be recruited and supervised through civil service systems, but planning and zoning commissioners are usually appointed on a part-time basis by the city council, and the councillors who react to their recommendations are directly chosen by the electorate.

For existing regulatory systems, opportunities for corruption can be reduced by making corruption more difficult to conceal. To the extent that applications for rezoning, for example, must provide data concerning specified decision criteria (housing density, access to transportation, and provision of public facilities) a decision inconsistent with those criteria, such as allowing high-rise apartments in a single-family neighborhood, would raise a suspicion or impropriety. Where decision procedures require the regulator to record his decision (formal votes on rezoning or written statements by an inspector that a structure meets the code or that some requirements have been waived and why) deviations will be both more identifiable and more attributable to specific individuals. Requiring financial disclosure statements from regulators can identify unexplained sources of wealth or conflicts of interest. If time periods are set up so that a building permit must be approved or denied

within X days, or a rezoning application within Y months, opportunities for corruption will be reduced. Finally, to the extent that the goals of the regulatory system can be accomplished with fewer decisions, the raw number of corruption opportunities will be reduced, at the possible cost of reducing cross-checking by different regulators. Such changes will, in the course of reducing perceived opportunities, also increase the costs of corruption (by increasing the probability of detection) and the benefits of noncorrupt behavior (by indicating that the organization condemns corruption).

Changing Incentive Systems

Many of the positive incentives to corruption and the profits to be derived from evading regulatory requirements stem from factors beyond the control of local governments. Yet the costs imposed by regulatory procedures (forms, supporting data, time delays) and the standards set by regulations (permitted land uses, construction quality), which inevitably influence the profitability of development and building ownership, are the products of local decisions. Consciously or unconsciously, the local government has thus established trade-offs between regulatory goals and inducements to corruption. Incentives can be reduced by setting lower construction standards and permitting the most profitable land uses, or increased by raising standards and limiting uses. To the extent that communities can accomplish their land-use goals with realistic regulatory systems, including planning and zoning consonant with probable growth patterns, up-to-date construction codes, competent management, and efficient paper-processing arrangements, incentives for corruption will be reduced. When communities do choose to establish land-use policies that create incentives to corruption, net incentives can be reduced by increasing the costs of corruption. This can be done by raising the probability of detection (requiring public hearings and recorded votes on zoning applications) and by establishing offices and procedures specifically aimed at monitoring for honesty (auditors, inspectors-general, special prosecutors, citizens' watchdog groups). Sanctions imposed on those detected in corruption can also be increased, by barring corrupt developers from future work in the city.

Reinforcing Expectations of Integrity

The prior experiences of applicants and individuals in regulatory positions influence what they recognize to be corruption and what they expect to follow from corrupt and noncorrupt behavior. The influence of prior experiences can be modified or countered by current experiences. Supervisors* seeking to reduce corruption are rarely able to ascertain the past experiences of candidates for regulatory positions, but they can construct "on the job" experiences that will reinforce desired definitions and expectations of the risks of deviance, and provide opportunities, incentives, and expectations for conforming behavior.

The development of an environment that will support and reinforce integrity requires supervision of the behavior of individuals in sensitive positions and intimate knowledge of their character, the temptations they will encounter on the job, the cross-pressures they will face, and idiosyncratic matters such as history of heavy debts, gambling, and so forth. Forearmed with this knowledge of the people and situations involved, officials can anticipate both definitional and reinforcement needs. One of the simplest steps an official can take is to spell out for all developers and regulators which activities will be regarded as corruption. In all organizations, the acceptance of cash in return for favors is likely to be recognized as "corrupt," but the status of other transactions may be unclear. In Arlington Heights, for example, the city manager anticipated the Christmas present problem by sending to all businesses dealing with the city a letter stating, "we would be embarrassed if you thought of us with more than a card." Gifts sent by businessmen who didn't get the message were returned by city policemen who demanded a receipt as proof of return. In Fairfax County, a manager who learned that his inspectors were attending parties thrown by developers sent to each of them a copy of the official

*The generic term "supervisor" is used to denote the official capable of monitoring regulators' activities. Examples would include the city manager or head of a building or planning department. While the principles would remain the same, mayors and chairmen of zoning commissions have less control over the part-timers who serve on city councils or commissions.

personnel rules, with the message "This means, in simple terms, that no employee may accept any gift from any person or firm that he is involved with in the line of duty. Any violation of these rules is considered unacceptable conduct and requires that they be dealt with severely." To the extent that officials can specify where they draw the line on corruption,* they can at least counter employees' claims of ignorance.

While establishing definitions is an important first step, subsequent enforcement is even more important in changing regulators' behavior. If official policies are not enforced by supervisors, a clear message is sent to subordinates not to take the matter seriously. Reinforcement systems encompass both positive and negative sanctions, and can be used to influence both corruption/integrity and the duties regulators are to perform. Obvious positive sanctions include pay raises, bonuses, promotions, and valued work assignments; negative sanctions can range from a private "chewing out" to written reprimands, suspension without pay, dismissal, and prosecution. The availability of these sanctions may vary with budgets, local civil service laws, and administrative requirements for promotion and demotion. Sanctions vary tremendously in their effectiveness; if the supply of positive sanctions is limited, employees may learn that no further rewards are available, and those who are targets of negative sanctions may learn to evade detection or to "wear the boss down." Depending upon the ingenuity of regulators and the requirements of courts or civil service hearing examiners, dependence on a strategy of punishment only may cost too much and do little for deterrence.† Finally,

*On the problems involved in setting official definitions of corruption, see Herman Goldstein's Police Corruption: A Perspective on its Nature and Control (Goldstein, 1975).

†The economic relationships between the benefits of corruption to participants, its costs to society, penalties imposed on convicted participants, and the costs of prevention or enforcement programs are estimated by Gary S. Becker and George J. Stigler (1974) and by Susan Rose-Ackerman (1978). A sanction strategy in which the punishment far outweighs the crime may discourage the imposition of available penalties. Donald T. Campbell and H. Lawrence Ross, for example, found that Connecticut policemen refused to cite many traffic offenders when penalties were increased to the point where speeders were likely to lose their licenses (Campbell and Ross, 1968).

supervisors should be conscious of the virtues (and lower costs) of informal and routine positive reinforcement--praise to those who get the message--and firm and consistent negative reinforcement ("don't do that"). Sanctioning strategies can be as complex or simple as the behaviors they attempt to modify.

A supervisor setting up a new department can recruit subordinates who value honesty, or at least are willing to follow the rules. A supervisor who takes over a group most of whom act honestly and all of whom agree that honesty and integrity are desirable can reinforce the idea that honesty is important and corruption will not be tolerated. A supervisor taking over a group that is used to dishonesty, and that has long experience of corruption has a much more difficult problem if the goal is reform. A necessary first step may be to dismiss the very worst offenders (if it can be done), to make compliance possible by protecting those who wish to comply from retribution, and then to reward compliance both formally (by promotion and merit increases) to the extent that is possible and informally (by letters of commendation). Where a scandal has erupted, the supervisor may have difficulty getting any merit increases for the department affected by the scandal, and may have to find other ways to encourage honest behavior. Similarly, even in a situation where a scandal has occurred, civil service regulations may require levels of proof for a dismissal that are difficult to obtain; the supervisor may have to find ways of penalizing the dishonest in order to discourage corrupt behavior without being able to use either dismissal or demotion.

Implementing Control Strategies

Because so many factors can stimulate corruption, there are many officials, agencies, and private organizations that are in a position to develop and implement corruption control programs. The risks of detection and punishment, for example, could be increased by actions on the part of state and local prosecutors (Ogren, 1973), the Internal Revenue Service (seeking out officials' unreported bribe income or developers' bribe

expenses"),* the Securities and Exchange Commission (by requiring registered corporations to disclose bribes paid to officials),† or the state and federal agencies which subsidize or insure developers, contractors, and landlords (e.g., by declaring ineligible for agency benefits any corporation or individual found guilty of bribing officials).‡ Exhibit 5 shows questions asked by IRS to detect bribes or kickbacks.

Exhibit 6 summarizes ten specific strategies, and the agencies that can work to implement them.

*Section 162(c) of the U.S. Internal Revenue Code disallows deductions for illegal bribes or kickbacks to public officials. On issues and problems involved in Sec. 162(c) investigations, see Mary S. Lycan (1974), Frederic W. Hickman (1976), and Timothy D. Schellhardt (1976). In 1976, IRS auditors began asking eleven questions of corporations when investigating tax evasion involving bribes, kickbacks, and other illegal payments (see Exhibit 5).

†Historically, the Securities and Exchange Commission has resisted using its power over registered corporations to obtain information unrelated to its basic stock market regulation functions. Disclosure of widespread illegal corporate contributions to election campaign finance committees, as the Watergate investigations spread, has generated somewhat greater SEC willingness to require corporations to provide information (Lowenfels, 1976; Stevenson, 1976).

‡The State of Illinois, for example, announced that a series of contractors convicted of bid-rigging would be unable to bid on state road construction contracts for a six-month period (Strobel and Elmer, 1977).

Exhibit 5

QUESTIONS ASKED BY THE IRS IN DETECTING ILLEGAL
BRIBES OR KICKBACKS BY CORPORATIONS*

1. Did the corporation, any corporate officer or employee or any third party acting on behalf of the corporation, make, directly or indirectly, any bribes, kickbacks or other payments regardless of form, whether in money, property or services to any employee, person, company or organization, or any representative of any person, company or organization to obtain favorable treatment in securing business or to otherwise obtain special concessions, or to pay for favorable treatment for business secured or for special concessions already obtained?
2. Did the corporation, any corporate officer or employee or any third party acting on behalf of the corporation, make any bribes, kickbacks or other payments regardless of form whether in money, property or services, directly or indirectly, to or for the benefit of any government official or employee, domestic or foreign, whether on the national level or a lower level such as state, county or local (in the case of a foreign government also including any level inferior to the national level) and including regulatory agencies or governmentally-controlled businesses, corporations, companies or societies, for the purpose of affecting his/her action or the action of the government he/she represents to obtain favorable treatment in securing business or to obtain special concessions, or to pay for business secured or special concessions obtained in the past?
3. Were corporate funds donated, loaned or made available, directly or indirectly, to or for the use or benefit of, or for the purpose of opposing, any government or subdivision thereof, political party, candidate or committee either domestic or foreign?
4. Was corporate property of any kind donated, loaned, or made available, directly or indirectly, to or for the use or benefit of, or for the purpose of opposing, any government or subdivision thereof, political party, candidate or committee either domestic or foreign?
5. Was any corporate officer or employee compensated, directly or indirectly, by the corporation, for time spent or expenses incurred in performing services for the benefit of or for the purpose of opposing, any government or subdivision thereof, political party, candidate or committee, either domestic or foreign?
6. Did the corporation make any loans, donations or other disbursements, directly or indirectly, to corporate officers or employees or others for the purpose of making contributions, directly or indirectly, for the use or benefit of, or for the purpose of opposing, any government or subdivision thereof, political party, candidate or committee, either domestic or foreign?
7. Did the corporation make any loans, donations or other disbursements, directly or indirectly, to corporate officers or employees or others for the purpose of reimbursing such corporate officers, employees or others for contributions made, directly or indirectly, for the use or benefit of, or for the purpose of opposing, any government or subdivision thereof, political party, candidate or committee, either domestic or foreign?
8. Does now or did any corporate officer or employee or any third party acting on behalf of the domestic corporation have signatory or other authority or control over disbursements from foreign bank accounts?
9. Does now or did the corporation maintain a bank account or any other account of any kind, either domestic or foreign, which account was not reflected on the corporate books, records, balance sheets, or financial statements?
10. Does now or did the corporation or any other person or entity acting on behalf of the corporation maintain a domestic or foreign numbered account or an account in a name other than the name of the corporation?
11. Which other present or former corporate officers, directors, employees, or other persons acting on behalf of the corporation may have knowledge concerning any of the above areas?

*Commerce Clearinghouse, Standard Federal Tax Reporter--1977, pp. 16, 072-17, 075 (Chicago: Commerce Clearinghouse, 1976).

Exhibit 6

STRATEGIES TO CONTROL CORRUPTION AND IMPLEMENTING AGENCIES

| Control Strategies | Implementing Agencies | | |
|---|-----------------------|----------------|------------------|
| | Policy-Making Bodies | Bureau-cracies | Citizens' Groups |
| A. Changing Regulatory Policies | | | |
| 1. Increase clarity of regulatory goals and rules | X | X | X |
| 2. Increase consistency between regulatory and other goals | X | -- | X |
| 3. Increase congruence between regulatory policies, market conditions, and industry standards | X | -- | X |
| B. Changing Regulatory Procedures | | | |
| 1. Increase visibility of decision-making | X | X | -- |
| 2. Increase visibility of conflicts of interest | X | X | -- |
| 3. Increase review procedures | X | X | -- |
| C. Policies and Procedures | | | |
| 1. Clarify policies | X | X | X |
| 2. Increase risk of detection | X | X | X |
| 3. Increase penalties | X | X | X |
| 4. Increase benefits of integrity | X | X | -- |

REFERENCES FOR SECTION VII

Bell, H. V., and L. M. Friedman, "The Use of Criminal Sanctions in the Enforcement of Economic Legislation: A Sociological View," Stanford Law Review 17, 193-223 (January 1965).

_____, "Increasing Community Control over Corporate Crime--A Problem in the Law of Sanctions," comment, Yale Law Journal 71, 280-306 (December 1961).

- Becker, G. S., and G. J. Stigler, "Law Enforcement, Malfeasance, and Compensation of Enforcers," Journal of Legal Studies 3, 1-18 (January 1974).
- Campbell, D. T., and H. L. Ross, "The Connecticut Crackdown on Speeding: Time Series Data in Quasi-Experimental Analysis," Law and Society Review 3, 33-53 (August 1968).
- Edelman, Murray, The Symbolic Uses of Politics, Chap. 2 (Urbana: University of Illinois Press, 1964).
- Gardiner, J. A., The Politics of Corruption, Chap. 5 (New York: Russel Sage Foundation, 1970).
- Goldstein, Herman, Police Corruption: A Perspective on its Nature and Control, pp. 28-30 (Washington: Police Foundation, 1975).
- Hickman, F. W., "Tax Aspects of 'Sensitive Payments,'" Taxes 54, 865-875 (December 1976).
- Kadish, S. H., "Some Observations on the Use of Criminal Sanctions in Enforcing Economic Regulations," University of Chicago Law Review 30, 423-449 (Spring 1963).
- Knapp Commission, Commission Report, Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures (New York: 1972).
- Lane, R. E., The Regulation of Businessmen: Social Conditions of Government Economic Control (New Haven: Yale University, 1954).
- Lowenfels, L. D., "Questionable Corporate Payments and the Federal Securities Laws," New York University Law Review 51, 1-33 (April 1976).
- Lycan, M. S., "Federal Income Taxation--Public Policy and the Deductibility of Kickbacks under Sec. 162(c)(2)," Ohio State Law Journal 35, 686-714 (1974).
- NACCSG, Community Crime Prevention, pp. 18-19 (Washington, D.C.: U.S. Government Printing Office, 1973).
- Ogren, R. W., "The Ineffectiveness of the Criminal Sanction in Fraud and Corruption Cases: Losing the Battle Against White-Collar Crime," American Criminal Law Review 11, 959-988 (Summer 1973).
- Rogow, A. A., and H. D. Lasswell, Politics, Corruption, and Rectitude, pp. 72-75 (Englewood Cliffs: Prentice-Hall, 1963).
- Rose-Ackerman, Susan, Corruption: A Study in Political Economy (New York: Academic Press, 1978).

- Schellhardt, T. D., "IRS Account: Many Big Corporations Face Tax-Fraud Cases in Slush-Fund Audits," Wall Street Journal (December 10, 1976).
- Sherman, L. W., "Corruption, Scandals, and Political Change: Police and Civic Culture," paper presented at the 1977 Annual Meeting of the American Political Science Association (September 1977).
- _____, Police Corruption: A Sociological Perspective, pp. 6-12 (Garden City: Anchor Books, 1974).
- Stevenson, R. B., Jr., "The SEC and the New Disclosure," Cornell Law Review 62, 50-91 (November 1976).
- Stone, C. D., Where the Law Ends: Social Control of Corporate Behavior (New York: Harper and Row, 1975).
- Strobel, Lee, and John Elmer, "State Bans Bidding by Road Firms," Chicago Tribune (July 27, 1977).
- Wilson, J. Q., "Corruption Is Not Always Scandalous," New York Times Magazine (April 28, 1968).

VIII REDUCING INCENTIVES AND OPPORTUNITIES:
THE ROLE OF REGULATORY POLICYMAKERS*

Policies and Their Overall Effects

Communities have evolved land-use and building regulatory systems to influence the spatial distribution and composition of development, the availability of housing for various segments of the population, and the structural quality of new and existing buildings; the equity, efficiency, and effectiveness of these mechanisms have been subjected to extensive criticism in recent years (see Section II). While our research has not attempted to evaluate these regulatory systems in terms of their substantive successes and failures, it has identified policies and procedures which can produce opportunities and incentives for corruption:

- To the extent that regulatory policies are either vague or complex, individual decisions become matters of negotiation between applicants and officials, rather than routine applications of clear and feasible policies.
- To the extent that regulatory policies operate at cross-purposes with other policies of the community, regulators are encouraged to select which policies are to be implemented.
- To the extent that community policies diverge from the standard practices of regulated industries or from the normal operation of market forces, incentives to violate those policies will be strong.
- To the extent that processes can be made more open, policies articulated more clearly, and procedures carried out promptly and competently, both opportunities and incentives for corruption will be reduced.

Vague or complex policies force individual decisions to become matters of negotiation between applicants and officials rather than routine applications of clear and feasible policies. The Hoffman Estates zoning ordinances, which stated only that certain lands were classified for

* Some of the discussion in this section is drawn from a separate report on this project by Judith Getzels and Charles Thurow, An Analysis of Zoning Reforms: Minimizing the Incentive for Corruption, SRI International, Menlo Park, CA (1978).

"residential" development, and the 876-page building code in New York City are extreme examples of this. While policymakers are rarely able to articulate all of the factors that should be considered in development, construction, and housing decisions, clear policy goals will both indicate to implementing officials what they should be doing and identify deviant actions (which may involve corruption). On the other hand, policies that are unnecessarily complex (or even self-contradictory)* will force officials to negotiate compromises, again providing opportunities for corruption. Official discretion is a two-edged sword, providing working space for officials to adapt policy goals to specific situations, yet also providing room for officials and applicants to negotiate corrupt compromises. The optimum arrangement, of course, would strike a balance between clarity of policies and freedom to develop consistent applications of those policies in specific cases.*

Regulatory policies at cross-purposes with other community policies encourage regulators to pick and choose among the policies to be implemented. The desire in Broward County to maximize growth rates or in Cincinnati to use up rather than lose Federal funds conflicted with the quality-control provisions of local codes, while the desire in Hoffman Estates to emphasize single-family housing conflicted with the land-use policies that permitted different types of housing. The case studies document the obvious point that in any community, more than one set of values will be affected by regulatory decisions. While it would be foolish to expect

*The temptations to corruption generated by inconsistent obligations are discussed by Jonathan Rubenstein (in connection with those imposed upon police officers, Rubenstein, 1973), and by Edward C. Banfield (1975).

+The general problem of official discretion in legal systems is analyzed in depth by Kenneth Culp Davis (Davis, 1969). The National Advisory Commission on Criminal Justice Standards and Goals has said: "The greatest single cause of corruption in government operations is the availability of excessive discretion in decisions involving significant sums of money. Vague and improperly stated decision guidelines invite attempts at manipulation and fraud, and are certainly indicative of sloppy management. Questions of honesty aside, it simply is not in the public interest to have important community decisions made on an ad hoc basis by inadequately briefed or insufficiently trained public officials" (NACCJSG, 1973, p. 259).

that these conflicts can be eliminated, open consideration of the trade-offs between different policy goals and the importance of each goal might make the policy-making process more visible and at the same time give regulators a basis for handling individual cases.

Where regulatory policies diverge from standard practices of the regulated industries, or from the decisions that the operation of unregulated market forces might produce, incentives for corruption exist. It is precisely to change undesired but common activities (such as watering the milk) that regulatory systems are established. The prevention of "inconsistent" land uses, shoddy construction, or undesirable housing conditions are the publicly stated goals of regulation. However, the gap between regulatory policies and market and industry practices is a measure of the degree to which applicants would have incentives to buy immunity from control. Communities may choose to set policies that diverge markedly from the expected results of free-market forces--to insist upon labor-intensive construction methods, to exclude high-density housing, to demolish poorly maintained tenements, and so forth--but they do so at the cost of creating greater incentives for corruption. As communities are willing to reduce this gap, incentives to engage in corruption will diminish.

The processes by which regulatory policies are established and implemented affect both the opportunities for corruption and applicants' and officials' incentives to take advantage of them. Contacts between officials and applicants can be open or hidden, decisions and their justifications can be articulate or vague, swift or slow, technically competent or inept. If policy-making processes can be made more open, policies more clearly articulated, and implementation improved, fewer opportunities and incentives for corruption will arise.

Regulatory Reform: The Case of Zoning

To illustrate strategies that can be used by regulatory policy-makers to reduce opportunities and incentives for corruption, the process of zoning provides a useful focus. Of particular interest is ambiguity or

vagueness in the goals of zoning, and the failure of those who set up zoning systems to recognize the impact upon land values.

Radical Alternatives to Zoning

A number of reforms have been proposed to address the central problems of "public interest" and land speculation. They generally can be categorized as either laissez-faire approaches, which rely on individual action and market mechanisms, or as economic recovery systems, which attempt to encourage social recapture of the unearned increment that forms the basis of speculation.

Laissez-Faire Approaches

The laissez-faire approaches to reforming land-use regulation include the total reliance on private covenants and easements in place of zoning and the reliance on nuisance law instead of formal regulatory mechanisms. The use of covenants assumes that the individual must buy compatible development rights from his/her neighbors. Where landowners have common interests, they can exchange covenants easily, but this is not always the case. When a person finds that a neighbor has begun some land use that is offensive, the only recourse is to get the court to abate the nuisance.* Such a system presumes that all affected parties will have adequate income, availability of legal assistance, and access to the courts. Most communities in America have decided that these decisions can be made more equitably through the collective action of government.

However, private covenants do have a place; they are in common use throughout the country when landowners want to guarantee development conditions that go beyond the basic guarantees of the zoning ordinance--such as view protections, architectural controls, and other development considerations that have limited social value to the general community. Many local governments attempt to regulate such things through their zoning

* Greater reliance on nuisance laws for the control of offensive land uses is advocated by Robert C. Ellickson (Ellickson, 1973).

codes, and it may be possible to remove government controls and use private market procedures in these cases.

No discussion of alternatives as radical as the removal of governmental controls would be complete without an examination of how Houston, Texas, "regulates" land use. Houston, a rapidly growing community, does not control land use through zoning but through relatively short-term deed restrictions. While it has no zoning ordinance, Houston does have a building code, subdivision controls, a minimum housing ordinance, and traffic ordinances. These controls presumably work in concert with the deed restrictions to control the use of land. The subdivision controls, especially, act to control new single-unit housing much as zoning ordinances do in other jurisdictions.

Officials in Houston estimate that there are as many as 10,000 individual subdivisions or sections of subdivisions that are subject to restrictive covenants of one kind or another. These deed restrictions vary in size, form, and severity from development to development. At the turn of the century they were short, often one-page documents; early covenants were also poorly drafted and often not enforceable. Deed restrictions today tend to be long and complex, so that violations or breaches of deed restrictions must be handled by the courts. Even though the expensive process of litigation is required, the city has the right to sue violators who do not show an intent to comply with covenants.

In appearance, Houston probably differs little from conventionally zoned cities, although such comparisons are difficult. Unsightly mixed uses of land occur in Houston (gas stations in otherwise residential areas, high-rise apartments next to single-family homes) but such mixtures exist in all cities where provisions in conventional zoning ordinances are waived through variances, exceptions, and special-use permits. Houston has not abandoned regulation, but has selected a basic approach to land-use regulation that is very different from zoning. The overall effect is a higher court work load but a lower administrative work load, so that costs of regulation are shifted from the community to the court system, where strong traditional controls operate and opportunities for municipal corruption are fewer.

How feasible is deregulation? Can zoning be eliminated without undesirable consequences? Bernard Siegan, who has extensively studied the many problems of conventional zoning, argues that zoning can be eliminated. He points out three ways this can occur: "First, the state legislature could repeal enabling legislation that authorizes the local government to adopt zoning ordinances. Second, the local legislature could repeal its zoning ordinances. Third, the U.S. Supreme Court interpreting the U.S. Constitution, could declare zoning unconstitutional for the entire country and a state supreme court could hold zoning unconstitutional under its state constitution" (Siegan, 1972, p. 231). Siegan is quick to point out that there may be significant problems in eliminating zoning but suggests that such an approach to deregulation may not be as drastic as it might seem: "no more chaos should be expected on the elimination of zoning than when zoning ordinances are first adopted or when they are later comprehensively amended" (Siegan, 1972, p. 231).

In Houston, the considerable activity toward creating complex new covenants where old restrictions have expired or are soon to expire is recognized to be a controlled "rezoning" process. Siegan suggests that comparable changes would likely occur in any community that eliminated zoning. It would be "zoning without zoning" and the costs would be minimal in the face of the many benefits--including the elimination of much of the incentive for corruption (Section II).

While the argument for deregulation through the elimination of zoning seems plausible, there may be significant risks of unknown magnitude. What about property values after deregulation? Would individual property owners simply have to wait for market forces to eventually establish property values? Probably so, and the costs and transition time to other forms of regulation cannot be estimated.

Economic Recovery Approaches

Another group of zoning reforms deal directly with the implicit economic impact of zoning. The financial losses and gains that result from zoning may be at the heart of the matter as far as corruption is concerned, but the history of legal and philosophical resistance to facing economic

issues makes it extremely unlikely that any explicitly economic solutions will meet with ready acceptance. The issue of whether value gained by a developer through a municipal zoning decision should be taxed for the benefit of the community or value lost by a landowner should be compensated involves the same variety of viewpoints that prevent a clear definition of the public welfare. The English system does permit some compensation of landowners restricted by regulation and some repayment of gains to the community by landowners who benefit from favorable treatment. Although public resistance to any explicit system of taxes or compensation becomes obvious in actual practice, the opposition to regulation of profits and losses is not as clear as it might immediately appear. Zoning as an exercise of the police power has not been generally accompanied by compensation, but there have been isolated cases where such payment has been made to landowners (American Law Institute, 1975, p. 184). Donald Hagman, in his discussion of the subject in Planning (Hagman, 1974) interprets the imposition of impact or development taxes by a community as a form of windfall payment on the part of the developer through which the community attempts to recapture a portion of the value which their regulations grant to him. It is evident that those most likely to favor "wipeout" compensation will most vigorously oppose "windfall" taxation and vice versa. (Hagman's forthcoming book, Windfalls for Wipeouts, summarizes international practices restricting financial profits and losses in land-use regulation and indicates intriguingly how far the United States has already come in such practices.) The intellectual connection between corruption and profits and losses is apparent.

The most direct proposal for alleviating speculation in land uses would require government agencies themselves to buy land and hold it for future use--"reserving to the public gains in land values resulting from the action of government in promoting and servicing development" (ALI, 1975, p. 226). Experience with land banking in this country is extremely limited. Like other forms of regulation, it may have possibilities of abuse that remain unrecognized. The new ALI Code raises arguments on both sides of the question, and suggests that only actual practice with land banking programs can provide the evidence on which to base a judgment.

Because they are radical alternatives to conventional approaches, deregulation and land banking, although perhaps theoretically attractive, appear to be far from likely to play a major regulatory role in U.S. systems in the near future. Until more is known about the direct and indirect impacts of such radical alternatives on a community, it can be argued that less severe reform measures should be attempted before turning to radical alternatives.

Technological Solutions to Zoning Problems

The attempts to specify desirable characteristics of development (the size of the lawn or the height of the building) under conventional Euclidean zoning have proved to be undesirably rigid and consequently have led to the use of discretion. However, another school of thought says that the difficulty lies not in being too specific, but in the fact that traditional controls are aimed at the wrong element of development: the characteristics of a particular structure. Regulations should be aimed at how the development performs, and how it affects surrounding development.

Performance Zoning

In the 1950s, the American Society of Planning Officials promulgated a concept of industrial performance standards for zoning ordinances. The performance criteria were in terms of such measurable outputs as air pollution, noise, vibration, glare, and traffic generation. In its most radical form, performance zoning would replace the typical segregation of uses of Euclidean zoning. The districts would be designed in terms of measurable environmental qualities instead of being defined by use. Consequently, an industrial plant would be able to locate with residential uses if it met the standards of that district. Under this system, zoning administration would be as automatic as that originally conceived for Euclidean zoning. The developer would simply have a licensed engineer or other appropriate professional certify that his development met the standards set in the ordinance.

Industrial performance standards themselves were initially used to replace the typical use list in segregating industries among various industrial zones; however, in the past 5 years the concept has been broadened and is now being used for more general development. The expansion of the concept has come about because of the increased sophistication of various forms of modeling. Carrying-capacity models (for environmental systems), runoff and erosion prediction models, air pollution dispersion models, and traffic generation models all have the potential of providing much more sophisticated technical backup to zoning. With the addition of the work being done on fiscal impact analysis and cost/benefit analysis, the result is much more information about how development affects a community, so that zoning decisions can be made from a much more accurate data base. A number of these modeling procedures are being combined, through the use of computers, and sold to communities as part of the regulatory system called "impact zoning."

However, many kinks still have to be worked out of the systems. Many of these models were originally designed for purposes other than land regulation, and it is difficult to adapt them to the refined scale necessary to get accurate information on individual lots or parcels. The predictions are only gross, overall figures. Furthermore, the local data base that these models need is rarely, if ever, available and must be generated before the system can be used. The collection and necessary updating of information is expensive, and for many of the functions that zoning regulates, no predictive models are available. (For example, there is no model of esthetic performance that would predict whether a sign would be offensively garish or esthetically pleasing.)

Because of these problems, the performance standards coming from this approach have been primarily used as part of the special-use permit process, with basic Euclidean zoning being maintained as the primary regulatory system. And since the numbers are gross, most of the systems rely on generalized performance criteria without stipulating specific numerical measurements.

Increased technological sophistication has enabled governments to define more precisely what they are attempting to accomplish through regulation of certain types of development. However, predictive modeling cannot replace the process of defining the public goals or the "public interest" in regulation, and modeling (especially when combined with computerization) can obfuscate the zoning process and mystify the citizen. A good expression of how these technological and analytic processes can operate was made by Peter Steiner in his article "The Public Sector and the Public Interest":

Clearly all sorts of decisions do get made and not all of them are sensible. My conception of the analyst's role is to force an articulation of the proximate objectives served and of the conflicts between such objectives. I should be willing to regard open decisions so arrived at by elected (or otherwise responsible) public officials as a reasonable approximation of the collective values that we call the public interest. I think at present that we conceal so many issues and conflicts, both among objectives and among alternative means, that we increase the discretion of the policy-maker beyond that necessary or desirable. (Steiner, 1970, p. 54)

As the need to justify any deviation from the normal course of action--whether to peers or to citizen groups--can help keep officials honest, so the need to justify deviation from the evidence presented by these modeling procedures can also provide a way to verify (or a reason to question) the honesty of the decision.

Flexible Zoning Techniques

In recent years, the familiar "as-of" right or self-executing nature of the original Euclidian zoning system has been substantially replaced. Rather than resolving most land-use issues when the zoning ordinance is adopted, more and more development issues are being decided at the time development is proposed. And because many of the tools are more flexible, the decisions are more discretionary. Flexible zoning techniques require adequate safeguards to ensure that discretion is not abused, but proponents say that these techniques permit the land-use regulation process to be more responsive to complex social, economic, and environmental problems. The safeguards include opening up the administrative processes to public

scrutiny which, in the end, may be the most appropriate means of policing corruption in public agencies.

Michael J. Meshenberg of the American Society of Planning Officials (ASPO) has described nine contemporary techniques that could replace or augment conventional zoning ordinances: planned unit developments (PUD), special permits, overlay zoning, floating zoning, conditional rezoning, contract zoning, incentive zoning, subdivision exactions, and transfer of development rights (Meshenberg, 1976, p. 1). He points out that this list is not exhaustive but argues that these techniques offer the developer and community more options than conventional zoning ordinances. Besides the obvious advantages of flexibility, there are other arguments in favor of discretionary zoning. The most relevant to corruption control remedies and prevention prescriptions are that flexible zoning techniques:

- Permit wider utilization of the most appropriate planning and development methods in a given situation.
- Open up opportunities to use cost-saving development methods.
- More readily permit the implementation of special community objectives such as increased housing opportunity or protection of environmentally sensitive areas.

Despite all of these advantages, an important question remains unanswered: do local governments have the ability to administer discretionary controls wisely? Meshenberg has two concerns regarding increased discretion:

- A degree of secrecy permeates many local government negotiation forums and this opens up the possibility of bribery, extortion or other forms of inappropriate deal-making.
- A widely held belief that communities commonly make arbitrary and excessive demands of developers and, conversely, that developers often hoodwink unsuspecting communities, whose citizens must then bear the resulting costs.

(Meshenberg, 1976, p. 1)

These concerns are not insignificant. While discretion is a principal source of creativeness in government, it is inherently open to abuse. The problem is to eliminate unnecessary latitude and to place unobtrusive safeguards on the discretion that is necessary for realistic approaches to regulation.

In place of conventional techniques that may not fit the community, Meshenberg sees a need to construct a sound land-use regulatory foundation prior to implementing flexible zoning techniques. He suggests six criteria that should be addressed prior to deciding on the use of flexible zoning controls:

- (1) There must be a sound policy base for the regulations, especially plans and studies appropriate to the particular controls, preferably adopted by the governing body. The policy base usually will be found in the community's plan if it has been prepared following prescribed procedures and contains specified elements.
- (2) The standards that define the range of allowable discretion must be made clear in the ordinances so that landowners have a reasonably clear idea of what they can and cannot do with their land and so that communities have adequate guidance in making decisions.
- (3) Communities adopting such techniques must have professional assistance in their design and administration.
- (4) While recognizing that some negotiations may need to be conducted in private, excessive secrecy should be avoided, as well as all appearance of conflict of interest by local officials.
- (5) The selection of particular controls should respond to local needs and desires, as well as the likelihood of surviving legal challenge; often more defensible devices can be used to achieve the same objectives as legally tenuous ones.
- (6) Some form of state review or certification of local zoning should be instituted to assure soundness in designing regulations, fairness in their administration, and the implementation of broader state or regional objectives; this should be accompanied by a program of technical assistance in planning and design of regulations, including training of both professional administrators and lay officials.

(Meshenberg, 1976, p. 2)

A land-use regulation system constructed along these lines would begin to ameliorate abuses that have occurred, especially where regulatory systems have been inadequate in the face of growth pressures.

Procedural Reforms: Some Partial Approaches

Even a piecemeal approach to the problems of zoning corruption should not be overlooked. Since changes in the U.S. land regulatory system are

likely to be slow and evolutionary, partial remedies for the current system are important. Individually or together, they may alleviate the administrative problems that have been identified.

Administrative problems contribute to corruption and make it difficult to monitor the system; the amount of time involved can provide leverage for extorting money from the developer. A corrupt official can use the threat of delay or the demand for more information to encourage payoffs even when he will ultimately approve a project.

In addition, many of the new flexible zoning ordinances, such as those covering floating and overlay zones, planned unit developments, and various forms of incentives require special permits or rezonings. These are variously granted by lay boards of appeal, special planning or zoning committees, or city councils--often with the advice of the planning department, the planning commission and agencies such as the building department, public works department, and fire department. The growing number of requests for such open-ended decisions has placed a tremendous burden on both the time and knowledge of the granting bodies.

The Hearing Examiner

A few communities in the 1960s established professional zoning administrators to decide variances, certain special uses, and (in one jurisdiction) certain property reclassifications. Most of these administrators were charged with enforcement of the ordinances as well.

In a further development of this concept, communities have established the office of zoning hearing examiner, in some cases with the power to decide minor appeals. By 1975, eleven communities had delegated some of the responsibilities of the zoning boards, planning commissions, and councils to zoning administrators and zoning hearing examiners. The duties and powers of the hearing examiners vary. While all zoning hearing examiners conduct public hearings in a quasi-judicial manner (and enter written findings based on the record established at the hearings), some issue variances and special uses, or decide parcel rezonings, while others only make a recommendation to the local legislative body. Most zoning

administrators are assigned enforcement responsibilities, but no hearing examiner has such duties.

Daniel Lauber has written extensively on the advantages of a good hearing examiner system:

- Due-process standards are more easily achieved in hearings conducted by a single, professional official than in hearings conducted by a lay board or political council. They [these standards] include the right of all interested parties to be heard, to present and rebut evidence and to cross-examine witnesses. In addition, the decision maker must be impartial and free from any ex parte contact with any party to the proceedings. A complete record of the hearing must be kept. (All zoning hearing examiners tape record the proceedings.)
- The applicant is entitled to a decision based solely on the findings that appear in the record of the hearings. These requirements result in a proceeding that is very similar to a trial; consequently this sort of hearing is called quasi-judicial.
- Requirements governing the examiner's decision make it nearly impossible to issue an arbitrary and capricious decision. The zoning hearing examiner must prepare a written report that explicitly explains his decision. The report must include findings of fact, conclusions of law and the reasoning upon which his decision is based. His reasoning may be based only on the evidence and testimony presented at the public hearing, and it must be guided by standards contained in the zoning ordinance and judicial rulings. Any party to the hearing may request written reconsideration of the examiner's decision if he feels it is based on errors of procedure or fact. Further appeal may be made to the local legislative body and then to the courts.

(Lauber, 1975)

Establishment of the office of hearing examiner is a response not only to the increasing number and complexity of requests for zoning changes, but also to court decisions which require professional treatment of applications for rezonings, variances and special use permits according to strict rules. The zoning hearing examiner provides a way of meeting procedural guidelines suggested by court rulings. It is no coincidence that nine of the eleven zoning hearing examiners systems in 1975 were in Maryland, Washington, and Oregon, where the court has demanded high procedural standards.

Given the increasing complexity of regulations, professionalizing the hearing process appears to be inevitable. If it indeed cuts down the time developers must wait for their applications to be processed, and cuts through the confusion and inaccuracy attending the deliberations of a number of ill-informed citizens, then it can reasonably be said to be a step toward curbing corruption. Professionalism, however, is no guarantee of honesty. While having too many cooks may make pressure tactics hard to spot, the vulnerability of a single cook, working alone, is high. Even those hearing examiners whose responsibility is solely to recommend a decision to a legislative body have tremendous potential power to influence the direction of a decision. Some communities have rejected the use of a zoning administrator or the zoning hearing examiner precisely because they were having problems with zoning corruption. In one community, the public officials concerned about the corruption problem concluded that a zoning administrator who had delegated power to hear and decide zoning cases would be likely to be corrupted. Those officials felt that they were better off strategically with a system that involved as many people as possible; if the dishonest were mixed in with the honest, the honest could still call a foul if any occurred.

As these systems have developed in practice, both the claims that they are an answer to corruption problems and the fears of excessive autonomy have proven to be overstatements. The primary effect of these systems has been to free the planning commission and the city council from the time-consuming process of holding public hearings; the elected and the appointed bodies have kept the decision-making power in their own hands. A zoning administrator or a zoning hearing examiner does help, and safeguards against corruption can be provided. The work of the hearing examiner can be monitored, and subjected to periodic close review by the planning commission or others. Likewise, establishing a fixed term of office for the examiners, such as four years, and allowing removal only for "just cause" can reduce opportunities for elected officials to exert pressure on them.

The Land Development Task Force

In response to the criticism that the review procedure for land-use decisions is inordinately long and tangled, some communities have established land development task forces composed of the planning director and the heads of the other line agencies that must review development proposals. Once a proposal has been submitted, it goes directly to all relevant offices, and then the task force meets and makes one joint recommendation on the proposal. This structure makes one agency, generally the planning department, responsible for collecting the necessary data and forms from the developer, for making sure that all the affected agencies have reviewed the proposal, and for returning the final decision or suggestions for modification to the developer. As the hearing examiner streamlines the public hearing aspect of zoning administration, this procedure streamlines the internal review by government agencies. The task force approach relieves the developer of the job of approaching each department individually and thus reduces the chance that one person can extort money by holding up the proposal. Also, if all departments present their arguments in a joint meeting, the operations of one department are exposed to the scrutiny of others.

The land development task force represents the most practical of the suggestions for streamlining the permit granting process--"one stop permit shopping." The new ALI Code also proposes a State Land Planning Agency to disseminate information from local governments and state agencies concerning local permit requirements, to set up a joint hearing process, and even to set time limits within which decisions must be made (ALI, 1966, pp. 100-108).

Another suggestion has been to consolidate all review functions into a separate land development agency. Zoning administration would be taken out of the planning department and review procedures out of the public works, fire, and health departments; all would be centralized in one agency, which might include representatives from other bodies such as boards of education and building departments. This suggestion may be impractical for all except the largest cities; in addition it splits the land-use

review function from the other functions of the line agencies, and thus undermines part of the reason for their original participation in the review process.

Clarifying Administrative Procedures and Schedules Through Legislation

Another reform that has helped to alleviate some of the administrative difficulties that provoke bribery involves clarification of the procedures in the zoning ordinance itself. A well-written zoning ordinance will specify which information the developer must provide and which is the responsibility of the government. It will also specify the maximum time for each step of the process. This lets applicants know how long the application could take, so that they can plan, and gives them a legal basis for complaint if the process is delayed.

Similar reforms have also been handled by administrative action. Some communities have developed guidebooks for developers that tell them how to apply for zoning changes, variances, or special use permits. The guidebooks specify the forms and data that must be submitted at each step in order for the application to be processed. A good zoning administrator will set up his/her own schedule for processing, with a system that shows where the application is at any moment and who is responsible if the application is held up.

Whether legislatively or administratively imposed, the clarification of administrative procedures and schedules helps to normalize the process so that deviation from good practice can be detected and investigated for possible corruption.

"Cleaning Up" the Zoning Ordinance

Many zoning ordinances lack standards and criteria where standards and criteria are possible; omit important definitions; are unnecessarily complex and inaccessible. Some have been amended, added to, and changed over the years so that what was once comprehensible and clear has become impenetrable. A community may significantly reduce corruption simply by going to the expense of having its zoning ordinance redrafted by a good

consulting firm. Not only can redrafting clarify the ordinance, for those subject to it as well as those administering it, but the ordinance can be rewritten so that it is understandable to the interested citizen--certainly one aid in encouraging public scrutiny of governmental action.

Although it is difficult to establish good criteria for development, the people who draft ordinances can do a better job than they do. Classic examples of inadequacy are often provided by planned unit development ordinances, or PUDs. ASPO's first published guidebook to PUDs stated: "It is not possible or even desirable to have particularly detailed development standards for PUDs. It is not possible to define 'good' development through regulation" (So, Mosena and Bangs, Jr. 1973, p. 57). This statement may be true, but many communities have left their PUD ordinances so open-ended that Norman Williams has some justification when he says: "Along with the obvious possibilities for favoritism and/or corruption, the establishment of such a [PUD] system is a step away from government by rule of law, and back to the system of government by deal" (Williams, 1975, Vol. II, p. 231). Governments certainly can do a better job of defining what is negotiable and what is not in their PUD ordinances, and they can also put better bounds on those items that are negotiable. Bounds are particularly needed for the density bonuses and other incentives to developers, which are the items subjected to greatest abuse.

Improvements in the drafting of zoning ordinances can also reduce the longstanding problems posed by variances and special exceptions. (One simple reform proposed for the variance procedure is to redesign application forms to focus attention on the requirements. Such forms would provide space for the applicant to enter: the nature of the hardship he believes he is suffering; the basis for the applicant's belief that his is a unique hardship; and the basis for the applicant's belief that the variance granted to him will not alter the character of the neighborhood. All consideration other than these three would be irrelevant. The form on which the Board records its decisions should require a statement of the findings under the same three headings. Thus, use variances would be prohibited and legislative variances eliminated.

Again, in granting special exceptions, if abuse of the powers of the citizen board is to be avoided, the special uses permitted must be clearly spelled out in the ordinance. If such uses cannot be precisely stated and the community wishes them to be granted on such bases as "general welfare," the planning board should be the group to decide. Discretionary authority for this type of exception ought not to be given to a lay appeals board if it lacks sufficient staff.

Another simple proposed reform is the use by the board of appeals of a wall map showing the location of variances and exceptions granted over the last decade. This serves not only as a reminder of their actions, but as a warning system. A heavy concentration of symbols in one area indicates the possibility of conditions of general hardship that merit the consideration of the planning commission.

Conclusion

Every proposed reform seems to generate a new problem. Regularizing procedures for hearings makes the process more legalistic and takes it out of the hands of the laymen; establishing technical performance standards puts the engineers in charge instead of the neighbors. What appears to be desired is a combination of technical expertise and political responsibility. Various proposed zoning reforms try to achieve this combination. One such plan would entrust the initial decisions to an expert followed by review by an appointed or elected lay board; another arrangement would take the opposite tack and provide ultimate review of the decisions of a lay board by a state board of experts. It is clear that neither the technical nor the political dimension can be safely ignored (Harvard Law Review, 1969).

The Advisory Commission on Intergovernmental Relations feels that the burden and responsibility of land use decisions should always be with elected and publicly accountable officials (p. 258). This has always been one argument for going to an elected executive style of local government and doing away with the commission and boards. If the chief executive were responsible for zoning administration, he or she could be held accountable at election time for any corruption in his regime. However,

the current appointment systems have checks and balances in them, and there is no reason that the elected officials cannot be held accountable. It is much more a function of whether candidates or citizenry make zoning corruption a part of the electoral process than which style of government is chosen.

A few cities have experimented with decentralizing the zoning function as a way of ensuring sensitivity to political concerns, permitting cases involving purely local issues to be decided by an elected board representing a ward, or a neighborhood, for example, rather than an entire city. The responsibility for honest administration of land use controls is kept close to the public.

While some shift of functions down to the neighborhood has taken place, it is clear that decisions involving technical considerations have not followed this course and have increasingly been shifted in the opposite direction. In some states, metropolitan county and regional agencies have been granted power to overrule, or regulate land-use development decisions of municipal governments. States have reserved for themselves new land use control powers, of shorelines, for example, or industrial development. Thus while providing more direct contribution from citizens for some kinds of zoning decisions at the neighborhood level, regional authorities with power to review appeals have been found to be necessary, primarily to protect systems of a technical nature at other levels.

It is likely that delineation between those cases which are essentially local and responsive to political solutions, and those which are of regional and state impact and responsive to technical solutions, will continue to be made particularly because of pressure from the Federal government. Federal programs covering hospitals, airports, sewage disposal, air, and water pollution, for example, cannot be expected to rest on purely local considerations; some coordination of programs will be required.

Modern zoning has passed the point where sophisticated practitioners believe that all zoning contingencies can be laid out in advance, and every possibility planned for. Flexibility and discretion appear to be here to stay.

The problems of zoning corruption appear to arise not so much from discretion as from decision-making which is practiced behind closed doors. Discretionary judgments, arrived at openly and with technical advice on hand for the public to help its elected officials make up their minds, may involve cumbersome procedures. But though efficiency may suffer, public accessibility appears to be the best hope in guarding against corruption.

Every proposed reform must be examined with this mind; land use administration must be open to the public. The public must be able to see and hear what is occurring; negotiation must take place in a fish bowl. The public sector must design procedures so that there will be no surprises in zoning. Efforts must be made to translate technical decisions into lay language. Finally the public must be able to do something about procedures it does not like through the political process. In short, there are no quick and easy solutions.

An examination of the various reforms proposed suggest directions which a local government can take if a reasonably honest land use control system is to be instituted. The administrative reforms required by the Fasano decision and the proposed ALI code point the way. These reforms are directly related to the land use control system. They reach to underlying problems in the system and are reforms that will be acceptable to the public in general.

Therefore, public hearings must be open, out-of-court- contact must be avoided, due process must be protected. Furthermore the value of the public forum is protected by being firmly tied to the public record. Administrative hearings must keep detailed records and justify their decisions on the basis of explicit criteria. Such criteria, it is hoped, will be provided in a plan or at least explicitly within a zoning ordinance. Under the new procedures, criteria cannot remain undefined and pressure will be put upon local legislatures to define their policies.

The danger of legalisms in cooling public participation in the new procedures must be recognized, and attempts must be made to overcome this shortcoming. Experienced lawyers suggest that legal assistance may

be necessary for the initial administrative meetings but more experience should remove that need. Institutionalizing public oversight is the goal.

No land use system will work for all time. Changes in technological competence and in community values are inevitable. What cannot change in any attempt to control corruption is the need for open procedures. It is not discretionary judgments that lead to corruption, it is secrecy. These should not be confused.

REFERENCES FOR SECTION VIII

- Babcock, R. F., The Zoning Game: Municipal Practices and Policies (Madison: University of Wisconsin Press, 1966).
- Banfield, E. C., "Corruption as a Feature of Governmental Organization," Journal of Law and Economics 18, 599 (December 1975).
- Davis, K. C., Discretionary Justice: A Preliminary Inquiry (Baton Rouge: Louisiana State University Press, 1969).
- Ellickson, R. C., "Alternatives to Zoning: Covenants, Nuisance Rules, and Fines and Land Controls," University of Chicago Law Review 40, 719ff, 762-779 (Summer 1973).
- Getzels, Judith, and Charles Thurow, "Corruption in Land Use and Building Regulation: Volume IV, An Analysis of Zoning Reforms," SRI International, Menlo Park, California (1978).
- Hagman, Donald, "A New Deal: Trading Windfalls for Wipeouts," Planning 40, 8 9-13 (1974).
- Harvard Law Review, "Administrative Discretion in Zoning," Note, Harvard Law Review 82, 3, 668-685 (1969).
- Lauber, Daniel, "The Hearing Examiner in Zoning Administration," PAS Report 312, American Society of Planning Officials, Chicago, Illinois (1975).
- Meshenberg, M. J., "The Administration of Flexible Zoning Techniques," American Society of Planning Officials, Report 318, Chicago Illinois (1976).
- NACCJSG, "Community Crime Prevention," National Advisory Commission on Criminal Justice Standards and Goals, Washington, D.C. (1973).
- Rubinstein, Jonathan, City Police (New York: Farrar, Straus, and Giroux, 1973).

Siegan, B. H., Land Use Without Zoning (Lexington, Mass.: Lexington Books, 1972).

ALI, "A Model Land Development Code: Complete Text and Commentary," American Law Institute, Washington, D.C. (1975).

So, F., D. Mosena, and F. Bangs, Jr., "Planned Unit Development Ordinance," PAS Report 291, American Society of Planning Officials, Chicago, Illinois (1973).

Steiner, Peter, "The Public Sector and the Public Interest," in Public Expenditures and Policy Analysis, Haveman and Margolis, Eds., pp. 21-58 (Chicago: Markham, 1970).

Williams, N., Jr., American Planning Law: Land Use and the Police Power, Vol. 1 (Chicago: Callaghan & Co., 1974).

_____, American Planning Law: Land Use and the Police Power, Vol. 2 (Chicago: Callaghan & Co., 1974).

_____, American Planning Law: Land Use and the Police Power, Vol. 5 (Chicago: Callaghan & Co., 1975).

IX REDUCING OPPORTUNITIES AND INCENTIVES: IMPROVING MANAGEMENT SYSTEMS

The corruption control strategies which were outlined in Section VIII focused on those opportunities and incentives for corruption that arise from regulatory deficiencies: vague, conflicting, or unrealistic policies, and delayed or technically incompetent procedures. The strategies discussed here relate to the corruption cost/gain calculations of individual officials. Officials will find opportunities for corruption attractive when the gains of corruption, less its costs, exceed the benefits of legitimate alternatives, less their costs. For those who manage regulatory systems--the mayors and city managers who direct local governments, and the supervisors who direct buildings departments or planning staffs--this analysis implies four points at which the equation can be altered:

- The gains of corruption--the monetary and other rewards to be anticipated from participating in corruption--can be reduced.
- The costs of corruption--the probability of detection and the imposition of sanctions on those who are caught--can be increased.
- The benefits of legitimate activities--including performance of official duties according to the rules--can be increased.
- The costs of legitimate activities--such as harassment of honest employees by those who participate in or condone corruption--can be reduced.

In many ways, these goals can be accomplished through simple good management--recruiting competent employees, training them for their duties, supervising performance, and providing consistent feedback.* The general effects of these practices can be supplemented with specific strategies aimed at preventing corruption or apprehending and punishing those who have become involved. General administrative approaches can be used along with specific corruption-prevention strategies to solve local problems. (See Exhibit 7.)

* Much of the material in this section is drawn and summarized from another report on this project, see T. Fletcher, P. Gordon, and S. Hentzell, An Anticorruption Strategy for Local Governments (SRI International, 1978).

Exhibit 7

DECIDING TO REDUCE CORRUPTION

- Throughout this analysis, it has been assumed that reduction of corruption is a goal managers will choose to pursue. Where the managers are themselves corrupt, this will not be true and external strategies must be used (see Section X).
- However, even where managers are wholly honest and want strongly to reduce corruption in their departments, there are limits on the resources they can devote to ensuring integrity. Some of these recommendations require investments of time and money that managers may find excessive, given local budgets.
- As a rule of thumb, a manager should be willing to invest in the control of corruption up to as much as the cost of the damage corruption can do to the organization (recognizing that it is difficult to estimate either the costs of control strategies or the organizational costs of corruption) (see Becker and Stigler, 1974, pp. 1-18; Banfield, 1975, pp. 587-605).
- If the costs of preventing corruption seem excessive, then managers should evaluate the costs of corruption to the community. Some argue that where the costs of prevention and administration exceed the costs of the nuisance that results from allowing an improper land use, regulatory systems become socially inefficient (see Ellickson, 1973, pp. 681-781).
- This exercise leaves the manager who finds the costs of preventing official corruption excessive in the interesting position of having to request the community to do away with the regulatory system or having to ask them for enough extra funds to clean it up and keep it clean.

Improving Management Systems

Improper behavior cannot be detected in situations where proper behavior has not been specified. A fundamental task of agency leaders, therefore, must be to articulate goals of the organization, the role of individual employees in fulfilling those goals, and the procedures to be followed in doing so. A variety of techniques have been proposed to explicate and refine agency goals and to translate them into annual and long-range plans (see ICMA Green Book series). Regardless of the techniques used, the essential result is a clear* statement of the division of labor among regulatory agencies and their officials and employees.† In Cincinnati, for example, the city manager has initiated studies leading to "performance measures" for city agencies, which in turn develop new organization charts, job descriptions, and the like. Functions of Cincinnati's Department of Urban Development were shifted to departments with similar functions but more effective leadership. An urban design team was consolidated with engineering functions in another department and housing relocation was consolidated with other real estate activities. All other housing activities including rehabilitation were then reorganized under the Buildings and Inspections Department where solid management and supervision had clearly been demonstrated.

As a result of concentrated efforts to specify organizational and individual responsibilities, it becomes possible both to increase accountability ("this is what you are supposed to be doing; how well have you performed?") and to make visible any deviations from expected behavior. In addition, these measures can serve to reduce and guide the discretionary powers that regulatory officials need. Discretion may be essential in

* As indicated in Section IX, land use regulation systems inherently involve multiple and often vague goals. While conflicts or ambiguities cannot be wholly eliminated, the range of goals to be pursued by officials can usually be reduced or at least clarified.

† Anthony Downs points out three classes of situations are differentially suitable to the development of rules: some are too trivial to justify the formation of rules; some involve repetitive or routine situations which can be covered under rules; and some are so important or complex that review by high authorities is essential before decisions are made (Downs, 1967, p. 61).

government decisionmaking, but it should be recognized that discretion is accompanied by vulnerability to corruption, whether the public official is an appointed zoning commissioner or a civil service building inspector. Kenneth Culp Davis has put the problem well: "discretion is our principal source of creativeness in government and law...discretion is our principal source of creativeness in government and law...discretion is a tool only when properly used; like an axe it can be a weapon for mayhem and murder.... In today's legal system, the special need is to eliminate unnecessary discretionary power, and to discover more successful ways to confine, to structure, and to check (this) power" (quoted in Amick, 1976, p. 77).

Most of the case studies show discretion exercised without control or monitoring. Overworked building inspectors in Broward County lacked systematic supervision, as did inspectors in Oklahoma City. Decisions of the rehabilitation supervisors in Cincinnati were not adequately reviewed or monitored. Zoning decisions in Hoffman Estates and East Providence were made outside of the public view, and thus were inadequately monitored.

It should not be assumed from the foregoing that the setting of goals and responsibilities is a unilateral function of agency leaders. Effective organizational development requires the building of consensus about goals and procedures among employees and, if possible, among regulated individuals and organizations.* In Cincinnati, for example, the City Manager asked his Middle Management Board to develop a new code of ethics, concluding that a staff-generated code would be more readily accepted by city employees than a code issued from his office. In Arlington Heights, officials established committees representing both regulatory agencies and the construction industry to develop regulatory policies.

Recognizing a need to generally improve the degree of professionalism existing among inspectors, the Broward County Board of Rules and Appeals organized committees of electrical, plumbing, mechanical, and building

* Downs argues that goal consensus within organizations can be maximized through selective recruitment (choosing new employees who share the leader's policies), indoctrination (persuading employees to accept agency goals), and ideologies (official statements of agency goals used to communicate with both insiders and outsiders) (Downs, 1967, Chaps. 18 and 19).

inspectors from throughout the County to provide forums for exchanging common views, problems, and the like. All jurisdictions are required by state law to follow the South Florida Building code, but interpretation of the code sometimes varied among inspectors, depending on the philosophy of each building department. The committee forum has proved useful as a place where uniform interpretations can be worked out. The opportunity for corruption provided by numerous code interpretations has been blocked. Contractors can no longer as easily confront a hard-to-persuade inspector with the claim that "Smith over in Groveland has authorized this method of grounding for years; let me off this time and I'll remember you at Christmas." Again, observers in this jurisdiction have viewed the elimination of inconsistent interpretations as an important element of the seemingly successful battle against corruption.

Personnel Policies

Any program for selecting, training, and rewarding personnel must focus on competence for the duties to be performed. When, for purposes of controlling corruption, managers also seek to identify and block potential corruption problems, they must recognize several problems. First, those potential officials (in either policy-making or implementation roles) who have the greatest familiarity with land use and building issues are likely to come from the occupations to be regulated: applicants for plan review or inspections positions are likely to be engineers or construction workers, while likely candidates for appointment to planning and zoning commissions may be involved in real estate, banking, engineering, architecture, or land development. While it may be possible to avoid direct conflicts of interest (e.g., by barring employees of major firms subject to regulation, or at least requiring them to abstain from decisions affecting their interests), it will be difficult to avoid indirect conflicts or latent predispositions to favor former colleagues and associates. As a minimum, background checks (such as those instituted in Hoffman Estates) to determine the employment and investment interests of candidates for commission appointments should be instituted for all sensitive positions.

A second personnel problem concerns compensation levels. Service on city councils or planning commissions is often rewarded at the rate of only \$100 or \$200 per month; full-time plan examiners or building inspectors are usually paid at rates below those prevailing in the construction industry. As a result, officials may be unable to find the most competent applicants for positions, and the possibility of losing a city position may not be seen as a threat of loss to employees. Even so, every attempt should be made to maintain attractive pay levels for officials in the regulatory system.*

Even accepting these problems, the proper use of personnel policies and practices can have a strong controlling effect on corruption. The applicable principles in personnel administration are: maintain staff levels commensurate with efficiency and effectiveness; pay employees at rates commensurate with their duties, and responsibilities, and comparable to pay rates for comparable jobs elsewhere; and limit the span of control to that required for effective supervision. These and other principles of personnel administration are intended, in part, to enable supervisors and employees to work in the best interests of the organization (Stahl, 1962).

In controlling and preventing corruption, the use of training to make public servants more aware of the expectations of their superiors and their community is an important aspect of personnel administration that should not be overlooked. An ongoing program of training should be implemented with the goal of institutionalizing the concepts of accountability and integrity, using training not only to indoctrinate new employees but also to systematically reinforce policies among tenured employees.

Two of our case studies, Broward County and Cincinnati, provide examples of how training can be used to prevent or control corruption.

*Edward C. Banfield argues that the significance of higher pay scales lies not in their ability to attract more competent personnel but rather in the greater loss which would be caused by dismissal: the more an employee is paid, the more he will stand to lose (Banfield, 1975, p. 600; see also Becker and Stigler, 1974).

Broward County's Board of Rules and Appeals (BRA) has initiated a program of classes and seminars for inspectors throughout the county. Focusing on provisions of the building code, construction methods and procedures, certification requirements, and other matters of interest to inspectors, the BRA program's first objective is to increase the professionalism of all government employees involved in code compliance and enforcement. As Broward County's corruption problems were ascribed largely to the incompetence and ignorance of some building officials and inspectors, the training program attacks corruption by attacking what appeared to be the main cause in that setting.

In Cincinnati, the internal investigation team has been given the additional assignment of training department heads to recognize invitations to corruption and indicators of employee abuse. Cincinnati officials have also sponsored a seminar presented by two respected consultants, one who comes from academia and another from a police organization with a long history of attacking corruption. Cincinnati is now considering not only extending such training but making it a permanent part of personnel administration. The city's training officer is developing a comprehensive training program to indoctrinate new employees with respect to ethical expectations and to familiarize tenured employees with the code of ethics (see Section XI) and other guidelines for employee behavior.

Restructuring Organizational Relationships

Opportunities for corruption can be reduced to the extent that officials can reduce the number of persons in positions to make sensitive decisions, and can subject more low-level decisions to review. In devising corruption control strategies for individual regulatory systems, it is important to determine who actually makes which decisions, and how frequently those decisions are reviewed. Organizational relationships can be structured to maximize visibility and review, so that individual officials will encounter fewer "safe" opportunities to be corrupt and there will be a higher probability that corruption will be detected (Rose-Ackerman, 1978, Chap. 9).

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Several examples from the case studies illustrate this strategy. In Hoffman Estates, the reform village board separated the functions of planning and zoning, and insisted on reviews of development proposals by affected school, park and sewer districts to prevent any recurrence of the Barrington Square type of problem. In Fairfax County, a team approach has been adopted to provide reviews of development proposals by planners and representatives of environmental, engineering, transportation, and legal offices within the county government. The process of gathering facts about the impact of a new development is thus separated from the process of deciding whether to approve the project. At later stages in a project, responsibility for reviewing plans is organizationally separated from the responsibility to inspect construction in progress. Finally, Broward County set up a program of "super-inspectors."

Craftsmen organized into teams of four to randomly reinspect job sites already inspected once by an inspector from one of the 30 municipal building departments. Looking for oversights and errors of municipal inspectors and for significant patterns of code violation that might indicate payoffs, Broward County's "super-inspectors" have been successful in reducing the number of violations not caught in initial inspections. County observers believe that the "super-inspectors" have been an important ingredient in Broward County's long-term attempt to eliminate corruption and increase the competence of building inspectors.

Two other forms of organizational realignment might be mentioned briefly. First, agency reviews can be organized in parallel rather than in sequence: if an applicant can turn to more than one permit clerk or plan examiner, the chance that bribes will be extorted for approval of a legitimate proposal will be reduced. Second, managers must consider opportunities to rotate assignments among officials: if plan examiners and building inspectors are periodically reassigned to different geographic areas, or at least to different projects, the chance that a single official will form close contacts with an individual developer, contractor, or landlord will be reduced.

Supervision: The Maintenance of Accountability

The strategies outlined above stress clarification of responsibilities, the recruitment and retention of qualified personnel, and the structuring of assignments to minimize autonomy. These strategies will not reduce corruption unless they are accompanied by regular supervision. Emphasis should be placed on supervising those decisions that involve the greatest incentives to engage in corruption, and checking up on those decisions that appear to deviate from official policy. Following an investigation of corruption uncovered in its rehabilitation program, Cincinnati officials took the view "that government is afflicted more by a lack of accountability than by an inherent desire to commit crime. The 'crimes' being committed by city employees are crimes of opportunity rather than hard-core white collar corruption. The key (in Cincinnati) was to take away the opportunity (Chapin and Seftan, 1977, p. 7).

Sylvester Murray focuses on specific controls available to managers. "Review and supervision still constitute the best environmental controls. An employee who is a free agent making decisions and taking action independently without the assistance of a team of peers or the regular review and supervision by a superior, is especially susceptible to bribery and theft corruption" (Murray, 1977, pp. 11-12). While Murray goes on to suggest one very simple approach--rotating employees who are free agents (building inspectors are a good example) in their assignments, Cincinnati officials argue that "making accountability work in city management cannot be accomplished by any single plan or by the application of a single management technique. It is tempting to look for a miracle solution but such a 'one track' approach is doomed to failure. A number of issues must be addressed, ranging from a need to establish professionally and objectively the integrity of a unit of administration to the need for new methods of productivity improvements" (Chapin and Sefton, 1977, p. 7).

There are a variety of public administration devices that enable a manager to supervise subordinates effectively. Ensuring accountability for decisions and assigning the authority to make them at the lowest level consistent with needed competence and skill may require changes in policies, but they entail the expenditure of very little money. Separating functions,

requiring reports, records, and counter signatures are other management principles that can assure organizational integrity. The public administration literature is full of such devices.*

Management controls (and controls over management) are necessary for a variety of reasons:

- To assure that the functions and purposes of an organization are being carried out in an efficient, effective, and ethical manner.
- To provide assurance that errors and irregularities will be discovered and stopped with reasonable promptness.
- To permit an effective decision-making process.

Management control systems are thus necessary ingredients in comprehensive corruption control strategies. However, it is important to understand that management control should not bear the full burden of preventing or controlling corruption. For one thing, too much management control can consume too much time or resources, can alienate employees, and can take away needed flexibility. Even worse, a management control system that advertises itself as "corruption proof" can present as irresistible a challenge to some as an "escape proof" jail or an "unbreakable" secret code would to others. Management controls should thus be only one ingredient of the corruption control strategy.

Reducing Opportunities and Incentives for Corruption

Although corruption will be minimized in well-managed organizations, other strategies are also useful. Those discussed now specifically concern ways of attacking corruption opportunities and incentives: spelling out policies on integrity, increasing the risks of detection and the costs of corruption, and increasing the benefits to be expected from legitimate activities.

* See the "Green Book" series published by the International City Management Association, Washington, D.C.

Setting Explicit Policies Concerning Integrity

Just as it is difficult or unfair to rebuke an employee for failing to perform a task that was never explicitly assigned to him, so it is foolish to condemn him for behavior that has never been labeled corrupt. Unless an agency articulates the kinds of things that employees should and should not do, it cannot assume that they will know that a specific activity falls within the category of improper behavior, or that it will lead to the imposition of sanctions. Three steps are involved: the organization must issue clear statements of permissible and impermissible behavior, the consequences of violations must be specified, and these policies should be consistently reinforced through subsequent actions.

The case studies have indicated a series of "gray areas" in defining corruption. All would agree that an office should not accept a payment of cash from someone he regulates, but what about a free meal? (This could involve a contractor taking the inspector to a cafeteria, or a developer taking the city council to a supper club "so we can get to know each other.")* What about a low-interest loan from the developer's bank? Tickets to the Super Bowl? A bottle of liquor at Christmas? A contribution to the mayor's reelection campaign?

It is not easy to draw the line that will distinguish between expressions of friendship and compromising obligations. Officials and applicants alike will always say "[the gift, the bank loan, the campaign contribution] never entered our minds--of course we were dealing with each other at arm's length when [the subdivision application, building permit, fire inspection] came around." It may well be that no single point divides the harmless from the harmful; some official may do a favor for the person who gives him a bottle of Scotch at Christmas while another will go by the book even with the banker/developer who holds his mortgage. The relevant guideline may not be defined by objective factors (at what point will a public official become so biased that he will no longer

* Entertainment practices by American defense contractors have been surveyed in the U.S. Congress by the Joint Committee on Defense Production, (JCDP, 1977).

represent the community effectively) but rather by community perceptions--if local residents feel that the inspector who has a hamburger with the builder has "sold out," the damage may effectively have been done. As a result, many city officials take the safe way out--they forbid anything that either is improper or gives the appearance of impropriety.

Having decided where to draw the line, the next task is to disseminate information on these policies to both officials and the applicants they deal with. Many communities approach the problem as part of official personnel manuals, or by including a unit on official ethics in training sessions. Both strategies are likely to be viewed as either irrelevant or hypocritical unless indications are frequently and clearly given that "official" policies will be "real" policies. In Arlington Heights, the fact that the village prohibited accepting gratuities from firms doing business with the city was probably less significant than the fact that the village manager enforced the policy, regularly reminding outsiders that the policy existed, returning Christmas presents sent to village hall, terminating employees' outside jobs when they conflicted with city duties, and so forth. Fairfax County had officially discouraged fraternization between inspectors and contractors for years; the policy was routinely ignored until an assistant county executive threatened to fire anyone caught attending the contractors' Christmas parties.

The first strategy directly aimed at corruption control, therefore, is to specify the types of behavior that will not be permitted, to make clear and repeated dissemination of those policies to all who are expected to observe them, and to translate the policies into action, providing reinforcements to employees who do observe them and punishing those who do not. These three steps must be taken together. Policies that are not clearly and repeatedly announced to all, or that are not firmly and consistently enforced will be taken as proof that "they don't mean what they say about integrity" and possibly that they mean "take what you can get, because nobody really cares."

Increasing the Risk of Detection

Detecting corruption requires that a decision be visible, that it be attributable to specific officials, and that someone be looking for actual or potential problems. As has been apparent throughout this volume, most land-use and building regulation decisions are made under conditions of low visibility--closed meetings between developers and city officials, poorly attended "public hearings" on development proposals, encounters between contractors and inspectors on building sites, and so on. While it is probably impossible to prevent unobserved contacts (inspections must take place on site and developers must meet with plan examiners to go over blueprints), it certainly is feasible to require that major decisions be made in well-advertised open meetings, where proceedings and officials' votes are recorded, and any variations from standard policies are explained in writing. In addition, possible conflicts of interest should be made visible through identification of the individual owners of affected properties, and through disclosure of employment and investment interests of officials. Mechanisms for opening up government processes and decisions are described in greater detail in Section X.

As we indicated, detecting corruption requires that someone be looking for it, since the participants will be doing their best to conceal it. Two strategies can assist managers in identifying corruption problems, audit systems and investigations units.

Audits

The regulation of land use and particularly the performance of code compliance duties--fees, permits, field inspections--require significant amounts of paperwork. This paperwork records events and where bureaucrats have signed their names, establishes accountability. These records and the process they document lend themselves to systematic review. The National Advisory Commission on Criminal Justice, in their discussion of official corruption stated "regular audits by external agencies would go a long way toward protecting the public from venal public officials and their private corruptors" (NACCJSG, p. 258). Numerous local government jurisdictions are required by statute to periodically audit their books. However, conventional audits may not be a panacea.

George Amick, in his book The American Way of Graft, has pointed out what conventional auditing can and can't do. While audits "can detect the kind of looseness in government procedures that give the grafters and conspirators elbow room" (Amick, 1976, p. 166), there are other things that audits cannot check. For example, after a concrete slab has been poured and has set up, a conventional audit of the records is not likely to turn up what is underneath the concrete. Nonetheless, the importance of auditing of all types, especially the more comprehensive approaches to auditing--audits of systems and procedures and performance audits--cannot be overlooked. Findings in Cincinnati, Broward County and, to some extent, New York City suggest that these jurisdictions did not have the audit approaches necessary for identifying either actual incidences of corruption or opportunities for corruption. Analysis of corruption in these and other communities suggests that while local governments often employ independent auditors to conventionally "balance the books," few jurisdictions perform comprehensive audits for assuring fiduciary management, and administrative integrity. The absence of comprehensive checking provides opportunities for corruption to occur unnoticed.

Conventional auditing is basically a process of examining financial accounts, records, and procedures to determine their accuracy, their adequacy, and their conformance with legal requirements. The primary purpose of such audits is to ensure that the financial transactions of an organization have been completed in accordance with applicable laws and policies. Most communities employ an independent auditor to balance the books. However, in addition to conventional auditing, local governments should establish audits encompassing systems and procedures, to determine how well they comply with statutes or regulations, as well as how the organization is performing with respect to predetermined goals, objectives, and (in some cases) engineered work standards. Such a comprehensive approach--called "performance auditing"--is increasingly being used in local government.

Performance auditing, whether undertaken by an internal audit staff or by outside consultants, can increase the efficiency and effectiveness of an organization as well as make corruption more difficult. The

performance audit increases the risk of detection (employee performance can be judged with respect to objective and subjective standards) thus deterring employees. The performance audit also reduces corruption opportunities because performance measures, such as engineered work standards especially, provide supervisors with management tools to use in evaluating employees and their work.

Internal Investigation

When an organization is large and complex, audit and management control systems may have to be augmented by an internal investigatory capability to monitor integrity. The case studies provide two models of investigation units that serve to deter and to increase the risks of corrupt employees. Cincinnati's internal investigations unit, located in the City Manager's office, is now permanently staffed by a police detective and a management analyst. Formed after a disturbing number of allegations emerged regarding wrongdoings by city employees, the unit has successfully investigated numerous cases in its brief history.

Acting on complaints from a variety of sources, the unit screens all allegations, selects those to be investigated, and then develops an overall strategy for the investigation. If additional investigators are required they are temporarily reassigned from the City Solicitor's office or from the department whose skills are needed. Relevant information (e.g., statutes, records) from all available sources is reviewed prior to interviewing staff members in the department under review.

Once the team feels that the investigation has reached its logical conclusion, relevant information is presented to the City Manager or his deputy for decisions regarding subsequent action. If the investigation has identified potential criminal activities, the District Attorney is called into the case. If the investigation finds any occurrence of poor supervision or breach of administrative rules (rather than criminal statutes), action is taken internally. Administrative discipline is handled by the City Manager and can range from days off without pay to dismissal. In many cases the investigation team turns its findings over to departmental personnel and to administrative analysts from the

Department of Research, Evaluation and Budget. Their task is to review and tighten up procedures, thereby preventing the problem from recurring.

New York City's size has dictated a similar, but vastly larger investigation unit. Under the control of the Mayor, the Department of Investigations has been this city's internal watchdog since 1873. The New York unit is made up of a detective squad drawn from the police department and numerous attorneys who spearhead investigations. Other than size, the primary difference between Cincinnati's and New York's internal investigators is perhaps the level of sophistication reached in investigations. For example, New York uses extensive undercover work. The building inspector case in New York was broken when an inspector (who knew he was open to criminal charges even before the investigation) agreed to work for the investigators in return for immunity. The inspector was asked to return to his daily routine, but was given a concealed recorder to wear. Investigators soon had solid evidence against contractors who had offered the inspector bribes and against other inspectors who candidly admitted their systematic corruption during office conversations. The evidence was subsequently turned over to the District Attorney. Over a hundred inspectors and contractors were eventually indicted (Darnton, 1975).

In a second case involving city inspectors (this time demolition inspectors), city investigators actually opened up a small demolition contracting firm and went into business tearing down city-owned structures. Concealed recording devices and informants were again used to spotlight systematic payoffs. As in Cincinnati, investigative findings are turned over to administrative and management analysts who in turn review departmental procedures and recommend reforms.

A third investigation model is that of the department-wide (rather than city-wide) inspector general. This is the general approach that the Los Angeles Department of Building and Safety uses, and it is rather common in large organizations. In the Los Angeles department, undercover men are available to keep a close watch on building inspectors suspected of being corrupt.

Increasing the Costs of Corruption

Integrity and honesty can neither be mandated nor tested for. Only the dead are certain never to commit a dishonest act, and there is no way to tell whether a living person who always demonstrated integrity and strong character will continue so. However, integrity is manifested in outward acts, and it is possible to set up conditions that surround particular acts in order to either promote or discourage integrity.

For integrity to be a rational choice, the cost of corruption must exceed the gains it promises, and the corrupt act must be less attractive than the legitimate alternative. The first factor implies that higher penalties must be imposed where corruption promises high payoffs, if deterrence is to occur; even a small penalty (a fine, reprimand, or brief suspension) would outweigh the gains of the small bribes paid to inspectors, but more serious sanctions would be needed against the zoning commissioners and city officials involved in land-use decisions where payoffs can exceed several years' salary. Designing sanction systems involves a delicate balance; sanctions must be significant enough to deter corruption but not so harsh that enforcers will regard them as "unreasonable," and overlook the offense rather than subject violators to "excessive" punishment (Campbell and Ross, p. 52). To provide a range of sanctions to fit individual offenses, managers can consider administrative remedies (reprimands, suspensions, or barring promotions for a year) for those violations of rules that are not per se illegal but indicate the possibility of illegalities (e.g., accepting an invitation to a party given by a developer or contractor) or for those activities that indicate either illegality or incompetence but where proof of illegality does not exist (e.g., not citing an obvious violation). Prosecution through the criminal justice system is essential where there is proof of illegal acts.

A more complex problem involves the relationship between corrupt and legitimate alternatives. If an official has no particular stake in remaining in government, the threat of dismissal will be irrelevant (unless a criminal record would bar him from private sector as well as public sector practice of his profession). More important, the attitudes

prevailing among the peer group (members of the commission or fellow inspectors) may encourage corruption, or at least may not condemn it (Siegel and Ross, 1970). Where this occurs, it may be necessary for managers to make noncorrupt behavior possible--to prevent harassment of those employees who are willing to abide by the rules. Reform-minded managers must recognize the informal structures and policies of their organizations in order to identify those who wish to support reform, to isolate (and penalize) those who refuse to conform, and to persuade the rest that conformity will be less unpleasant than continued corruption.

In sum, a wide variety of strategies are available to the manager to increase the risks and decrease the opportunities for corruption. Choosing among the approaches available is a matter of systematic study of incentives, opportunities and the effectiveness of existing control measures. After such a diagnosis, the range of appropriate remedies should be narrowed. Common sense will then likely dictate the exact reforms to implement.

REFERENCES FOR SECTION IX

- Amick, George, The American Way of Graft, (Princeton, N.J.: The Center for the Analysis of Public Issues, 1976).
- Banfield, E. C., "Corruption as a Feature of Governmental Organization," Journal of Law and Economics 18, 587-605 (December 1975).
- Becker, G. S., and G. J. Stigler, "Law Enforcement, Malfeasance, and Compensation of Enforcers," Journal of Legal Studies 3, 1-18 (January 1974).
- Campbell, D. T., and H. L. Ross, "The Connecticut Crackdown on Speeding: Time Series Data in Quasi-Experimental Analysis," Law and Society Review 3, 33-53 (August 1968).
- Chapin, D., and F. Sefton, "Corruption and Accountability," Public Management 59, 7 (1977).
- Darnton, J., "Construction Industry: The Graft Is Built In," New York Times (July 13, 1975).
- Davis, K. C., Discretionary Justice (Baton Rouge: Louisiana University Press, 1969).

Downs, Anthony, Inside Bureaucracy (Boston: Little, Brown, 1967).

Ellickson, R. C., "Alternatives to Zoning: Covenants, Nuisance Rules, and Fines as Land Use Controls," University of Chicago Law Review 40, 681-781 (Summer 1973).

"Extortion 'Under Color of Official Right' Federal Prosecution of Official Corruption under the Hobbs Act," Loyola University of Chicago Law Journal 5, 513-536 (Summer 1974).

Hyland, W. F., "Combatting Official Corruption in New Jersey: Deterrence and Detection," Criminal Justice Quarterly 3, 164-169 (Fall 1975).

JCDP, "Defense Contractor Entertainment Practices," Joint Committee on Defense Production of the U.S. Congress (Washington, D.C., U.S. Government Printing Office, 1977).

Murray, S., "Corruption--Indicators and Prevention," Public Management 59, 2, 11-12 (1977).

NACCJSG, Community Crime Prevention, National Advisory Commission on Criminal Justice Standards and Goals (Washington, D.C.; U.S. Government Printing Office, 1973).

Rose-Ackerman, Susan, Corruption: A Study in Political Economy (New York: Academic Press, 1978).

Smigel, E. O., and H. L. Ross, Eds., Crimes Against Bureaucracy (New York: Van Nostrand, 1970).

Stahl, O. G., Public Personnel Administration (New York: Harper and Row, 1962).

Steiger, P. E., "New York, Los Angeles Strive to Halt Payoffs to Building Inspectors," Wall Street Journal (December 7, 1966).

Stern, H. J., "Prosecutions of Local Political Corruption under the Hobbs Act: The Unnecessary Distinction Between Bribery and Extortion," Seton Hall Law Review 3, 1-17 (Fall 1971).

Suskin, H. M., "Federal Prosecution of Local Political Corruption: A New Approach," University of Miami Law Review 29, 390-395 (Winter 1975).

X EXTERNAL REMEDIES FOR OFFICIAL APATHY:
LEGISLATION AND CITIZEN ACTION

If we leave the entire job of preventing corruption to the local officials we pay to run our government, then we are in the position of the supervisor who ignores what his employees are doing until a scandal breaks. For one thing, we are not telling them what we expect of them, and we are not enforcing our expectations clearly and consistently. For another thing, what our apathy tells them--particularly when combined with obsolete salary structures--is that we don't really care about integrity or preventing corruption, all we want is not to be bothered.

At best, public officials are a first line of defense against corruption. Without the resources needed or the motivation from outside that would lead them to police themselves, their peers, or their subordinates, they are a weak defense. An interested and watchful public may well be the most vital ingredient of a successful anticorruption strategy. Even governments and government agencies that employ the most advanced control systems and claim the most corruption-free administration are unlikely to sustain their efforts for more than a year or two (if that long) without citizen vigilance to back up their efforts.

Many of the instances of corruption used to illustrate this volume occurred in situations where citizens paid little attention to the activities of government officials or historically tolerated petty graft and favoritism. The control strategies discussed have presumed an interest on the part of local officials and managers to reduce corruption; where that interest does not exist, external forces must come into play. In these cases citizens themselves must mount the pressure necessary to force local officials to bring the government in conformance with community expectations. The problem, then, is to arouse citizens' interest in the affairs of their government and consequently arouse their interest in controlling corruption.

There are a variety of ways of energizing and organizing citizens and a variety of reforms citizens can encourage or force officials to implement. To the extent that most citizens do not actively follow the affairs of government, citizen interest in preventing official misbehavior can best be enhanced through citizen watchdog groups and investigative journalism. The role of extragovernment actors can be to articulate for the average citizen the costs of corruption, to raise expectation levels, and to serve as persistent observers of government operations. Where the major problem is not so much an uninterested public as low visibility of official practices, citizens can call on their elected representatives to enact "sunlight" or open meeting legislation. Where the problem is with the nature of relationships between public officials and officials of regulated enterprises, citizens can press for one or more of a variety of conflict-of-interest and campaign finance reforms. Codes of ethics are an approach that force citizen expectations on the consciousness of officials and urges them toward self-inspection.

Organizing for Citizen Monitoring and Investigation

After one of New York's scandal and reform cycles, a New York Times editorial said (NYT, 1971) that "success at this point is far from certain. It will take more than (the initiated reforms) to change the climate that has permitted corruption to flourish. It will take a deep and sustained sense of public concern (emphasis added)." John W. Gardner, founder of Common Cause (a successful citizen watchdog group at the national level) has also called for sustained public concern--for highly organized, tough-minded citizen action to hold government continuously accountable as "a means of voting between elections." Sustained public concern requires a citizen-sponsored watchdog capability including investigation, analysis, and communication resources. The New York Times editorial and John Gardner are echoed by many, but there seems to be no consensus on how to achieve sustained citizen action. Many organizations have formed only to wither and die.

There is no certain formula for constructing the kind of organization necessary to bring lasting citizen pressure to bear on official corruption.

Common Cause has done an admirable job of shedding light on the operations of Federal and state governments but is only now developing local affiliates concerned with local government. However, a citizens' organization located in Chicago, Illinois, has achieved notable success as a local citizens' group and can usefully serve as a model.* George Amick has praised the Better Government Association (BGA), arguing that the BGA is the kind of independent group that is needed in every state and metropolitan area (Amick, 1976, pp. 218-219).

The BGA was originally founded over 50 years ago as an anti-saloon league. Since Prohibition, the BGA's focus has shifted from unhealthy relationships between public officials and speakeasy owners to monitoring government spending and, since 1961, any and all kinds of official wrongdoing. The BGA now broadly defines its concerns as "waste, inefficiency and corruption in government," and BGA investigations are as likely to focus upon errant public officials or the complex administration of a multimillion-dollar government program as upon efforts to falsify election returns.

To protect its independence, the BGA receives no government money and relies on private contributions from over 3,000 individuals and corporations. The BGA also receives limited foundation support. These sources provide the organization with an income of approximately \$275,000 per year.

The BGA has a staff of about fifteen, including an executive director, membership coordinator, six professional investigators, and a legal staff of four attorneys. The attorneys advise the investigators regarding legal questions that arise during the course of an investigation, and pursue litigation related to the organization's goals.

The BGA's aggressive investigative program began in 1961 when a citizens' committee established to review the BGA's operations recommended that the organization launch "Operation Watchdog," a task force designed to evaluate the performance of public officials in Cook County.

*Much of the discussion in this section is drawn and summarized from another report on this project: P. Manikas and D. Protess, Establishing a Citizens' Watchdog Group (SRI International, 1978).

BGA investigations are generally conducted on a cooperative basis with the local news media (newspapers, radio, or television). This relationship with the news media assures the BGA that its findings will be widely disseminated and will have substantial public impact. The BGA also profits from the expertise and access to sources that journalists bring to the investigation, supplementing the resources of the BGA staff. The participating newspaper or TV news team benefits by obtaining an exclusive story and the assistance of the BGA's investigative and legal talent. Many investigations that require the scrutiny of hundreds of complex public documents would probably not be feasible without the additional manpower that the BGA provides.

BGA investigations have focused on corruption on the part of high-ranking officials and elected officeholders, fraud and mismanagement in the delivery of social services, and abuses by government regulatory agencies. Many of the investigations have had an important impact, both by educating citizens regarding the inner workings of government and by producing tangible results in the form of new legislation, administrative reforms, and judicial action.

The efforts of any watchdog organization need not end with the disclosure of corruption or governmental waste. If investigations reveal serious problems in the governmental process, the BGA makes public both its findings and recommendations to deal with problems identified. Recommendations might range from public demands that a corrupt official be removed from office to more far-reaching suggestions for structural changes in the management of certain governmental agencies. Recommendations are first justified by the watchdog organization's research; major reform proposals are then subjected to a cost-benefit analysis. The result of such public disclosures is that a broader base of citizen support for reform is developed. Furthermore, joining proposals for reform with investigative findings documenting abuses in the exercise of government power puts more pressure on public officials to respond to the call for reform.

The BGA's executive director, investigators, and staff lawyers often speak before community groups and to college audiences, participate in workshops, and appear on local television and radio programs. These appearances provide the watchdog group with indispensable opportunities to increase public awareness of the government institutions that shape our lives. The BGA has also experimented with several methods of increasing public awareness of government problems. The staff has frequently been asked to testify at public hearings to explain the findings of an investigation to a group of state legislators or other officials. Additionally, in conjunction with Loyola University, the BGA has sponsored a series of symposia focusing broadly on "Ethics in Government." These discussions have brought together journalists, academics, and public officials from across the nation to share their views on various aspects of official corruption and attempts to combat it.

Objective measures for organizations like the BGA are elusive, but using almost any reasonable criteria the BGA must be considered a success. For over 50 years the organization has survived in a hostile environment. Antagonized politicians have challenged the BGA's tax-exempt status in the state capitol and a former governor while still in office unleashed an elaborate campaign to destroy the organization's credibility. The BGA has not only endured, but prospered in the face of adversity.

Still, this estimate of BGA's success may be regarded as preliminary. Chicago is not free from corruption. Serious questions remain unanswered and unanswerable. What becomes of the BGA and other such organizations if the public's commitment to rooting out political corruption wanes? The BGA's reputation for effectiveness has been enhanced by state and Federal prosecutions based on facts developed by BGA investigations. But Federal law enforcement policies change over time, and there is no assurance that the prosecutors across the nation will maintain their interest in corruption cases.

There is another danger with an organization like BGA, and that is that if the BGA takes on the task of policing the government, there is a tendency for citizens to let them do it, and abdicate any further personal responsibility. If corruption is BGA's business, and not the people's

business, then specific offenses and scandals may be stopped, but the public as a whole remains separated from the process.

Investigative Journalism

Investigative journalism can be an even more powerful tool for educating citizens and pushing them toward action than is the watchdog group. What journalism lacks in depth, it makes up in breadth. Jack Anderson has effectively used his talents to focus on the misdeeds of high-ranking public officials around the world. Other journalists and broadcast reporters are increasingly delving into the public and sometimes private affairs of local officials throughout the country. One such reporter is San Francisco's Marilyn Baker, a TV reporter who takes aim on the questionable practices of Bay Area officials. A team approach to investigations is taken often; the Boston Globe is noteworthy for its "spotlight team." Last year the group IRE (Investigative Reporters and Editors), in a show of force, followed up the official racketeers in Arizona suspected of being involved in the murder of John Bolles of the Arizona Republic. In addition to associations of investigative reporters, there are now quasi-academic programs funded especially for the advancement of the investigative journalism profession.

A special relationship can develop between the citizens' watchdog group and the news media. BGA officials ascribe much of their effectiveness as a watchdog group to the unique relationship BGA has with the local news media. One journalist recently described the relationship as "the marriage of manpower and talent. In most instances, it doubles the firepower news organizations can concentrate on any investigation."

In the experience of BGA staffers, it cannot be assumed that officials will enact long-lasting reform measures in the absence of widespread public pressure to do so. If civic leaders and officials sit down quietly together to "work things out," changes tend to be minor and the old patterns of abuse can return at any time, largely because there has been no public acknowledgment that a problem exists. Public exposure and labeling of wrongdoing is essential.

How an investigative story will be handled by a news organization is contingent on many factors. It ultimately depends on how "newsworthy" newspaper editors or managers of local television stations think the investigative findings are. Also, the day's other news can always push even a strong investigative story off the front page. Thus, the presence of strong investigative journalism in a city does not guarantee public exposure of wrongdoing.

A more serious problem is that a newspaper or television station can be seen as being political--particularly if it takes a strong partisan stand--which makes readers tend to discount revelations of corruption as being political attacks by those who want the power for themselves. Similarly, newspaper accounts and TV broadcasts that provide sensational exposés of corruption tend to be discounted as "yellow journalism." Historically, American sympathies tend to be given to the underdog, so that a long-continued campaign of revelations can be seen as having some elements of unfair attack.

Thus, a citizens' watchdog group and "the power of the press" need to be seen not as alternative choices to bring information about corruption to the public, but as two halves of a single, powerful approach from the outside to control corruption in government.

Investigative journalism can put public officials into the spotlight and when irregularities are found can alert citizens to official misconduct. When this type of journalism is coupled with the capabilities of a citizens' watchdog group, the investigative reporter becomes an even stronger force for reform.

Bringing Decision-Making Procedures into the Light

When decision-making processes are hidden from public scrutiny, even smoothly and effectively run organizations present opportunities for corruption. This volume is based on the premise that decision processes, and the systems and procedures that support them, must be open to public view, and on the premise that citizens must provide their officials with guidelines for ethical behavior.

There has been a movement during the past few years to open government processes to the interested public. Statutes requiring open meeting and open records (often generally referred to as "sunshine" laws), financial disclosure laws, and campaign finance legislation, are all intended to shed light on the important workings of government. Each type of legislation has its unique aspects.

Open Meeting and Records Laws

In too many communities, meetings of councils, boards, and commissions are held before only a handful of citizens. While officials of many communities go out of their way to encourage citizen involvement, other officials prefer little citizen input because of the difficulties they experience when interested and vocal citizens attend meetings. The bureaucratic maze that citizens confront when they enter city hall and the barriers, real or imagined, that are placed in front of citizens desiring access to public records also increase the distance between officials and the public.

These problems are worst when a "secrecy mentality" permeates the government, but they can be overcome. Public meetings often benefit from increased public participation, and officials can learn that. Increased involvement can result from an honest attempt to alert citizens to the time, place, and topic of hearings. City halls can be fitted with inexpensive signs and notice boards; information and referral desks, staffed by volunteers, can be set up to guide citizens through the maze of city hall.

Common Cause has developed a model statute addressing the problem of secrecy in government. It guides communities toward opening all meetings to the public, except those for such matters as collective bargaining, litigation, or special investigations. The model suggests that meetings should be held in convenient locations, that they should be advertised well in advance, and that minutes should be recorded and posted, along with agendas for subsequent meetings. (Minutes and agendas might also be routinely mailed to any watchdog groups active in the community.)

The model statute has teeth; it provides citizens with the right to sue for compliance and suggests that the courts should, at a minimum, have the power to void any official action that results from unlawful meetings (Amick, 1976, p. 216).

Broward County observers say that Florida's "sunshine laws," enacted in 1967 but strengthened in 1975, have been important in the fight to improve the level of integrity of officials throughout the state but especially in their county. The laws are strict; Florida's open records statute now says that all public records must be open for public inspection.

Financial Disclosure Laws

Another element in a movement toward openness in government is the increasing number of laws requiring that public officials make open disclosure of their personal finances. On the premise that public officials will maintain their personal lives in ways more consistent with their public duties if their financial interests are open to public scrutiny, many states and cities are passing such legislation. While long-time politicians tend to view financial disclosure as an imposition--and even an invasion of privacy--the public is increasingly taking the view that any person seeking public office should be willing to give up much of his/her private life. Given the relatively low level of respect currently granted public officials, mandated financial disclosure may be essential.

The financial disclosure statute enacted in Florida after the wave of indictments that swept through communities in Broward and Dade Counties especially, is probably one of the country's most rigorous. This statute requires all state officers and local officials, including all elected and most appointed officials (and even specified employees down to the level of the municipal department head and purchasing agent), to make full and public disclosure of their finances. Again, many observers in Broward County felt that if such disclosure had been required of municipal officials during the construction boom, many developers would never have been allowed to get as close to elected officials as they did.

The coziness that existed between elected officials and developers would have been spotlighted by the press, the interested citizen, or political aspirants. Given the interest of the state in preventing such relationships, it probably would not take long for the State Attorney to initiate an investigation into any situation that implied an illegal relationship.

Campaign Funding Legislation

A third element in the movement toward shedding more light on government is the requirement that candidates for public office, party organizations, and special-interest pressure groups file statements indicating the source of their campaign funds. The Federal Election Campaign Act requires individuals and organizations vying for national offices and positions to record, report, and disclose financial matters, and there are similar state statutes. California's "Proposition Nine," passed by referendum in 1974, limited the contributions of individuals and organizations and required rigorous reporting and disclosure of sources and amounts of campaign gifts. In California, the reformers (particularly Common Cause) have been accused of going too far in opening the system to public view. The Los Angeles Superior Court has recently ruled parts of the act unconstitutional, but the state's Fair Political Practices Commission is appealing the ruling to the California Supreme Court.

The issue of constitutionality hangs over all such legislation and clouds the future of sweeping disclosure requirements. It seems safe to assume, however, that some form of disclosure will eventually be judged to be in the public's interest. Citizens will then have one more way of checking on the kind of relationships maintained by their elected and appointed representatives.

Conflict-of-Interest Legislation

Conflict-of-interest legislation, in one form or another, has become nearly universal in this country. Such legislation can limit the kinds of outside employment or investments officials can accept, the way their decisions are made, the procedures for their meetings, and even the kinds of conversations they can hold regarding their public duties.

The case studies offer some examples of the kinds of conflict-of-interest controls that reformers have implemented in the face of actual incidents of corruption--San Diego County has perhaps the most rigorous as well as the most innovative. Two policies illustrate this county's approach to the conflict-of-interest issue as it relates to land-use regulation. The first deals with rules of conduct for planning and zoning board members concerning receipt of evidence. Members are now prohibited from soliciting or receiving information on a zoning matter outside of official public meetings; meetings must now be held over if one or more members desire to view the property or if the planning department wants to modify its plan; and, officials receiving evidence outside of a public meeting are now required to declare either their information to the full board or to abstain from voting. The second relevant policy focuses on the nature of contacts between decision-making officials and their county staff. Board members are now generally prohibited from soliciting or receiving substantive information involving most matters relating to land-use regulation outside of the public hearing process, even from staff members.*

Training is also used in San Diego County. The County Counsel's office now routinely conducts a training course on all applicable state and local laws for each new member of a board or commission and annually for all members. Satisfactory completion of these training courses is also required of the County's Zoning Administrator.

San Diego County observers expect these policies to prevent the kinds of situations alleged to have occurred in years past, where board members were thought to either have a personal economic interest in land under their regulatory review or where members were said to have close financial interest with other individuals who actually owned the land under review. No allegations of misbehavior are known to have surfaced since these policies were adopted.

* San Diego County, Board of Supervisors Policy Number I-57.

Codes of Ethics

The preparation of guidelines for ethical behavior is one of the most common responses when corruption surfaces in a community. In some cases, ethics codes are prepared and adopted at the direction of local officials without substantial outside pressure. In many other cases, however, codes are enacted after a blitz of newspaper editorials and demands for reform by the community.

Codes of ethics attempt to link formal laws, rules, and procedures more closely with types of official behavior. But the question of whether or not ethics can ever be legislated remains unanswered. Ethical behavior reflects personal ethical values and beliefs, and codes of ethics cannot be expected to affect such deep-rooted values. However, codes can articulate ethical expectations of a community and, depending on how they are written, provide clear examples of the kind of behavior the community will and will not accept.

Just as with open-government legislation, codes of ethics take many forms. Most codes seem to be of two types in their content and detail, and in the way in which they are enforced. Cincinnati offers an example of a city trying to live with a detailed code later replaced by a simpler one. Officials in Cincinnati reacted to the corruption scandal by first drafting a comprehensive and detailed code of ethics. After a long review period, officials realized that it was basically unworkable--it did not leave enough room for interpretation based on circumstances. The exact definitions of ethical conduct and narrow examples of prohibited behavior were subsequently judged to be too impractical as guidelines for officials and employees constantly finding themselves in different situations. The City Manager eventually directed his staff to draft something more flexible. The result is a simple, 10-page code of ethics that should be viewed an excellent example of a municipal code in a field crowded with good examples.

Cincinnati's code combines twelve principles of public service in the public interest with definitions and statements of prohibitions. This approach effectively merges positive values (the good things to do) with prohibitions (the things public officials should not do). The

language is simple and the statements are clear and concise. Where there is a need to expand on a prohibition, reference is made to the appropriate state statute or local ordinance rather than clouding the simple statement with excessive language. The most significant weakness is that applicable disciplinary measures from the administrative code are not referenced; their inclusion would more clearly show that the code has teeth.

The second significant difference in local codes of ethics is in the way they are used. In too many communities, the code of ethics is drafted, adopted, and never seen again. In Santa Clara, for example, a code of ethics was in place ten years prior to the conviction of a planning commissioner on corruption-related charges. The code explicitly prohibited a number of actions that local observers saw as commonplace in the community. No visible attention was given to the code.

Examples of enforced codes are found in New York City and Cincinnati. There, the code of ethics is always visible because a Board of Ethics systematically reviews both requests for code interpretation and possible violations of the code provisions. In Cincinnati, a five-member Code of Ethics Advisory Board is appointed by the City Manager; it includes two permanent members (the Deputy City Manager and Personnel Director) and three members chosen by the two permanent members (one department director, the president of the Middle Management Board, and a president of one of the three municipal unions). In addition to their advisory, monitoring, and interpretation responsibilities, the Cincinnati Board also publishes all judgments and positions that set precedents.

Codes of ethics appropriately drafted and placed into an operational context probably can serve to control behavior in a limited way. They can be tremendously helpful by stating community expectations clearly, and can guide behavior, especially when an ethical question falls in that gray area where personal judgment is required. On the other hand, codes have only a limited ability to modify personal values that have been developed over long periods of time through complex socialization processes. Such values may be too ingrained to be subject to easy change through administrative processes.

REFERENCES FOR SECTION X

Amick, G., The American Way of Graft (The Center for Analysis of Public Issues, Princeton, New Jersey, 1976), New York Times, October 20, 1971.

Appendix A
RESEARCH METHODOLOGY IN THE STUDY
OF OFFICIAL CORRUPTION

APPENDIX A

RESEARCH METHODOLOGY IN THE STUDY OF OFFICIAL CORRUPTION

Various research styles have been used to analyze illegal behavior. Official investigations with subpoena powers can compel the production of documents or testimony from witnesses to or participants in illegal acts. Undercover agents or participant-observers can observe crimes in their natural settings,* and some scholars have been successful in interviewing convicted or self-confessed criminals.† When these approaches are not available, it is necessary to rely upon secondary analysis of data collected by others; in the case of official corruption, such data usually comes from prosecutors, investigating commissions, and newspaper accounts. It is from these sources that this volume has been developed.

Newspaper Search Procedures

Recognizing that, for these reasons, we would not be able to compile statistically valid samples of the universe of official corruption, we nonetheless sought to identify as many cases as possible so that our descriptive and analytical efforts could at least illustrate the nature of the problem. While we (correctly) expected that we would uncover additional cases in the course of field work in the cities used as case studies, we began our search with newspaper indices. Unlike indices for journals, books and dissertations, indices for newspapers are in their infancy. The oldest of the indices has only been in operation since

*For examples of participant-observation research, see George J. McCall, Observing the Law: Applications of Field Methods to the Study of the Criminal Justice System (Rockville: National Institute of Mental Health, 1975); and Jonathan Rubinstein, City Police (New York: Farrar, Straus, and Giroux, 1973).

†An intriguing survey of self-reported legal and illegal gambling behavior can be found in Maureen Kallick, Daniel Suits, Theodore Dielman, and Judith Hybels, Gambling in the United States (Ann Arbor: Inter-University Consortium for Political Research Report #7495, 1976).

1969, and they are still in the development stage. Therefore we cannot speak with as great a level of confidence regarding the comprehensiveness of the newspaper search as with the search of the other literature. However, given the state of the art, the information available was exploited to the greatest extent possible.

Three sources were used for the newspaper search: Bell and Howell Newspaper Index (covering four papers--the Chicago Tribune, the New Orleans Times-Picayune, the Washington Post, and the Los Angeles Times); the New York Times Data Bank (67 publications including newspapers and journals), and NewsBank (181 newspapers in 48 states including approximately 30 papers from the underground or alternative press). We retrieved articles pertaining to state and local government corruption from 140 newspapers representing 47 states, the District of Columbia, and 103 cities (no articles were retrieved from newspapers in South Dakota, North Dakota, or Hawaii).

The quality of the indices used varied widely. The Bell and Howell Newspaper Index, established in 1972, is an extensive, well constructed manual index. The New York Times Data Bank, established in 1969, is an on-line, computerized system that is well constructed but has limited indexing terms. NewsBank, established in 1970, is a manual system. Its indexing was rather poor in 1970 and 1971 but improved in later years.

We suspect that these indices contained the same types of biases which are involved in any data source depending upon prosecution or newspaper reporting, i.e., overrepresentation of large cities and of major cases. We also found that the articles indexed varied greatly in specificity, ranging from detailed reporting of an indictment and trial to general assertions that "Councilman Smith is on the take." We only included items in our analyses which provided a specific charge of corruption, but included investigations by journalists as well as formal indictments. A more difficult problem concerned setting the boundary of "case": where two councilmen were accused of taking bribes on three zoning decisions, should it be treated as one, two, three, or six events? As a rough rule

of thumb, we labeled as one case either a specific transaction (rezoning the Old Farm subdivision) or a repetitive set of events (building inspectors taking \$20 from a series of landlords). In many cases, reporting was so vague or fragmentary (suspects added to or dropped from indictments, related but unreported charges, varying legal terminology, etc.) that no definition of "cases" could have been applied rigorously.

Limitations of the Method Used

While we have attempted to be cautious in using this data, we should specify several ways in which known corruption is likely to be unrepresentative of the totality of official corruption:

First, to the extent that big payoffs, court data and published accounts are likely to overrepresent corruption involving high-level officials or large amounts of money and to underrepresent nickel-and-dime payoffs to lesser figures.

Are big grafters different from small grafters, other than in scale? The Knapp Commission found a difference between the "meateater" policemen who systematically went after payoff opportunities and the "grasseaters" who simply accepted the opportunities that came their way. Unfortunately, the Commission did not have the data which would have permitted inferences to be drawn as to whether meateaters and grasseaters differed in intelligence, background, training, etc. The Commission, however, did conclude that the two types of policemen would be differently responsive to control measures. We might also predict that they would have different types of victims; the inner-city black shaken down for \$10 by a building inspector is less likely to complain or to be "newsworthy" than the developer or corporate executive who must pay \$10,000 for a zoning variance. What we know less about is the relationship between larger incidents that make news--and enter into our data base--and smaller incidents. For every \$10,000 bribe to the zoning commissioner, there may be a thousand \$10 payoffs to the inspectors or the commissioner may be the sole rotten apple in an otherwise healthy barrel.

Second, known corruption tends to overrepresent transactions where something goes wrong--where a participant is dissatisfied and complains, where a third party cut off from a government contract blows the whistle, where the uninspected building collapses or burns down; less is known about corruption where all participants are satisfied.

Communities vary in their expectations regarding official integrity. In some areas, bribery and extortion may be accepted as inevitable components of official life, while other communities may condemn the first man to put his nephew on the public payroll. Bostonians reelected Mayor Curley while he was serving a prison sentence; the Madison, Wisconsin, City Council held three public hearings to "clear its name" when one of its members was accused of accepting a \$50 campaign contribution from someone seeking a tavern license. Furthermore, different industries in the private sector have varying tolerances for dividing their profits with officials; the engineering scandals in Maryland under Spiro Agnew showed a system in which competing firms unflinchingly kicked back a percentage of their contracts in return for steady access to the public trough. When an official is indicted in Community A, but no one is indicted in B, it may indicate the absence of corruption in B, community acceptance of behavior in B which would produce outrage in A, or a "share the wealth" pattern in B which has produced no dissatisfied customers.

Third, communities vary in the presence or absence of mechanisms which systematically seek out corruption. In every community, we might expect that the media and prosecutors will respond when major figures "make a stink," or when an overlooked fire hazard leads to a fatal tenement fire, or other external factors force the story upon them. In addition to these fairly reliable generators of corruption data, however, there are also, in some communities, persons or institutions which work to bring corruption out into the open. Whether it is the investigative journalists of All the President's Men, the citizens' crime commission, candidates for public office attacking incumbents, or the lone missionary/vigilante, we must recognize the distortions in the data which are produced by the presence or absence of groups which are regularly reviewing government decisions and asking embarrassing questions about things they

don't like. Compounding the problem, we should expect that these proactive institutions have a snowball effect, that is, each success in uncovering or punishing one miscreant will lead another victimized citizen to come forward with his or her own complaint. Conversely, the failure of a well-publicized expose or prosecution to lead to the punishment of the official may have a negative snowball effect, leading citizens to conclude that complaints are useless or even dangerous. In some cities, such as New Orleans, with the presence of the Crime Commission, and in Chicago, with the Better Government Association, and the United States Attorney, we may be able to recognize this effect; in other cases, we may be unaware of it. To the extent that crusading prosecutors, newspapers with active staffs of investigative journalists, citizens' groups, and interested academics are unevenly distributed around the nation, we tend to learn a lot about some areas and virtually nothing about others.

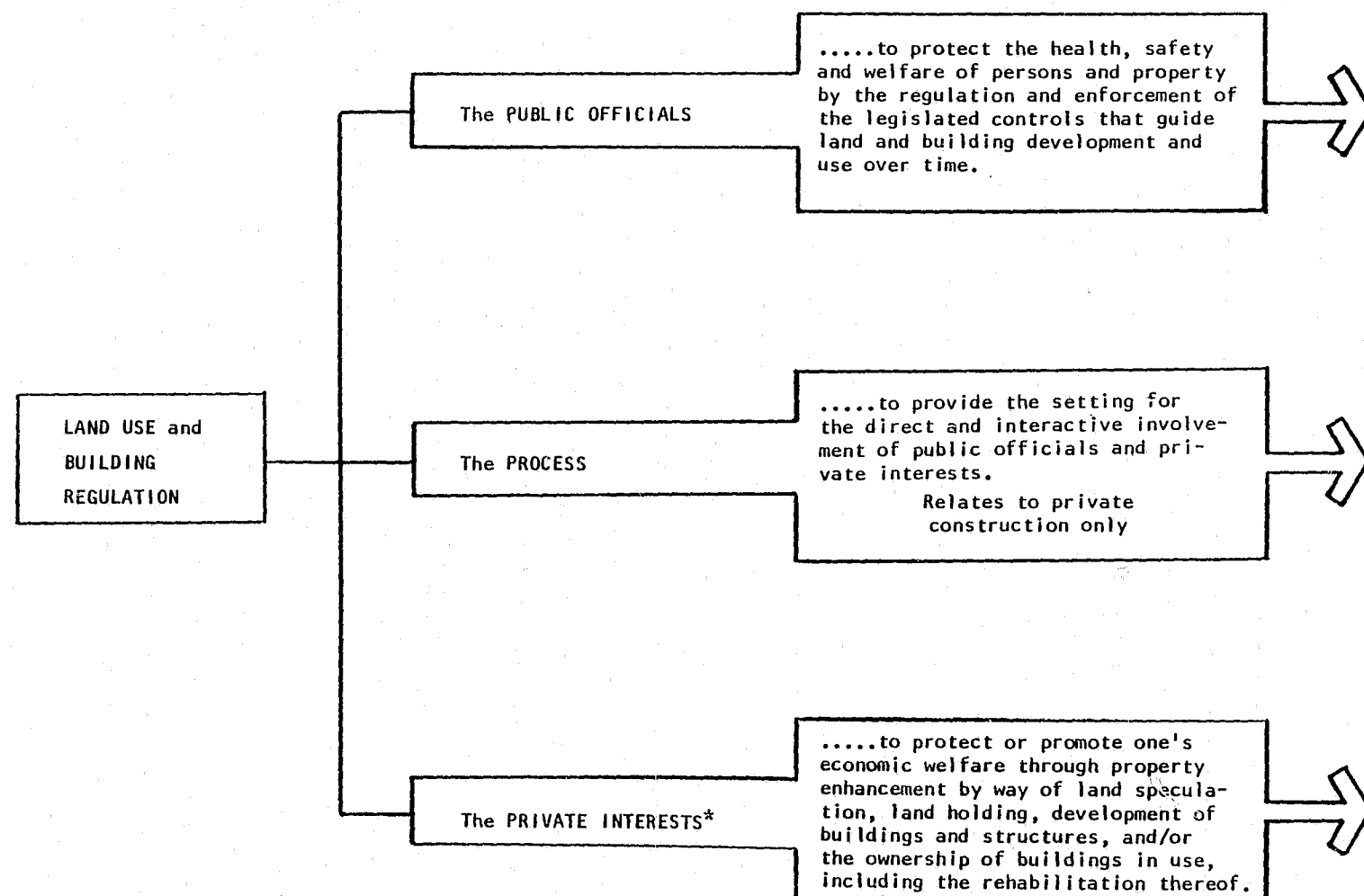
Fourth, there is reason to believe that interest in corruption is both episodic and contagious. That it may be episodic is suggested by the fact that there are some periods in American history which display vast outpourings of both court cases and journalistic and scholarly literature,* and other periods when little or nothing appears. It may

* Because of libel laws and the power of public officials, newspaper editors and lower-echelon government insiders are reluctant to initiate scrutiny of officials commonly regarded as above suspicion; once questions have been publicly raised, however, sources of information, anonymous or otherwise, are more readily forthcoming. Carl Bernstein and Bob Woodward, for example, discovered that their first stories on the Committee to Re-Elect the President generated tips from other CREEP insiders about campaign chicanery. See All the President's Men (New York: Simon and Schuster, 1974). In New York, Robert Moses had held a sacrosanct status with most local newspapers for thirty years, being hailed as "incorruptible" and "above politics." Inquisitive young reporters found themselves unable to persuade their editors that scandals lay behind Moses' administration of Federal housing programs; to get authorization to proceed with their investigations, reporters from several papers pooled their leads. When one was able to get his paper to print even a small item, the others would go to their editors and say, "The other papers are going after this; now we've got to keep up with them." The reporters were able to whipsaw their editors until enough had appeared in print to legitimize the issue, and housing corruption became a front page story for months. See Robert A. Caro, The Power Broker: Robert Moses and the Fall of New York (New York: Random House, 1974), pp. 1007-1009.

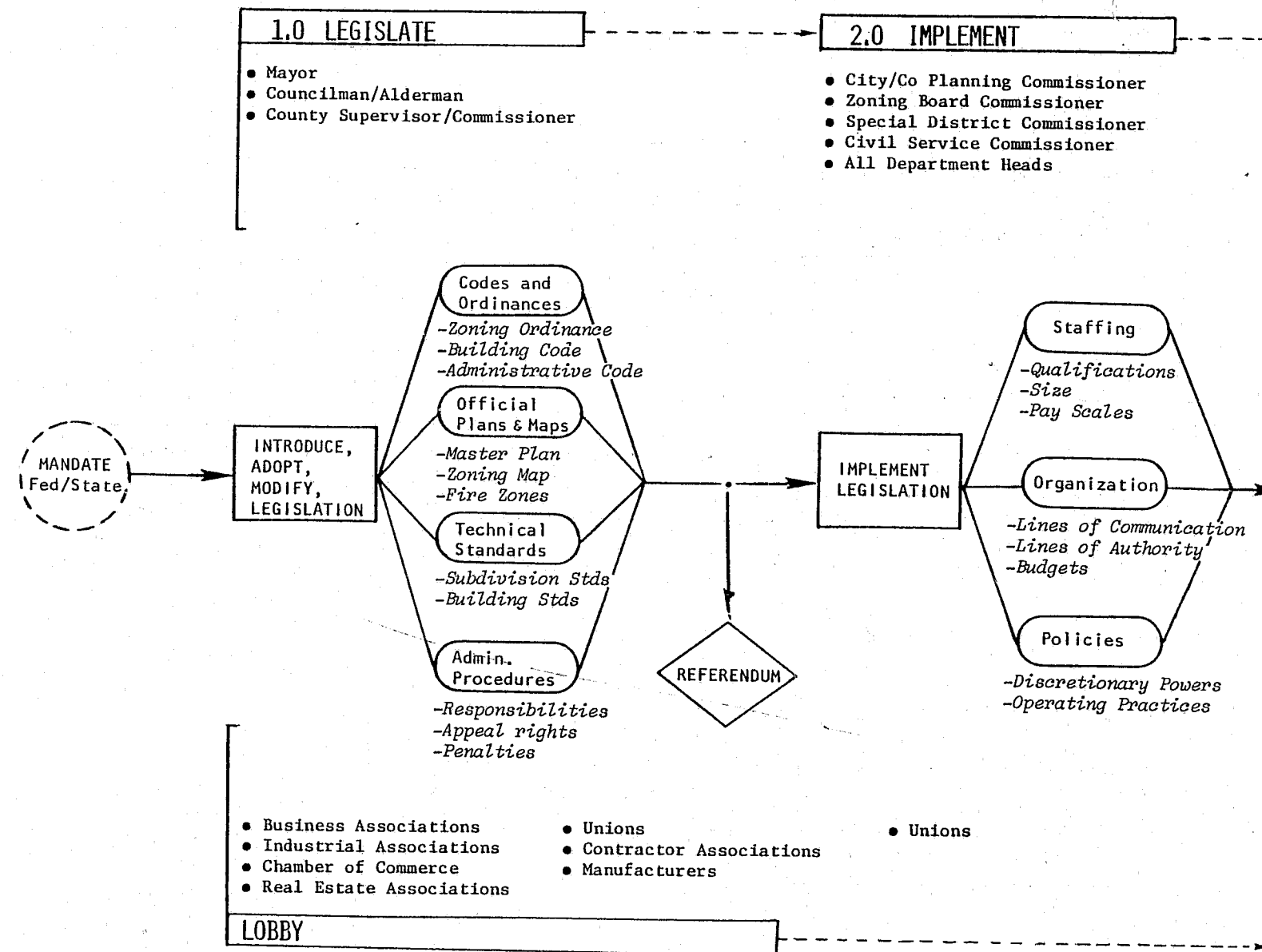
be contagious in that revelations of corruption in one area seem to lead to interest elsewhere; national-level scandals such as Teapot Dome or Watergate may be particularly likely to generate interest at state and local levels. Unfortunately, we know virtually nothing about the dynamics of contagion or the relationship between true levels of corruption and the events which surface in court cases or the literature.

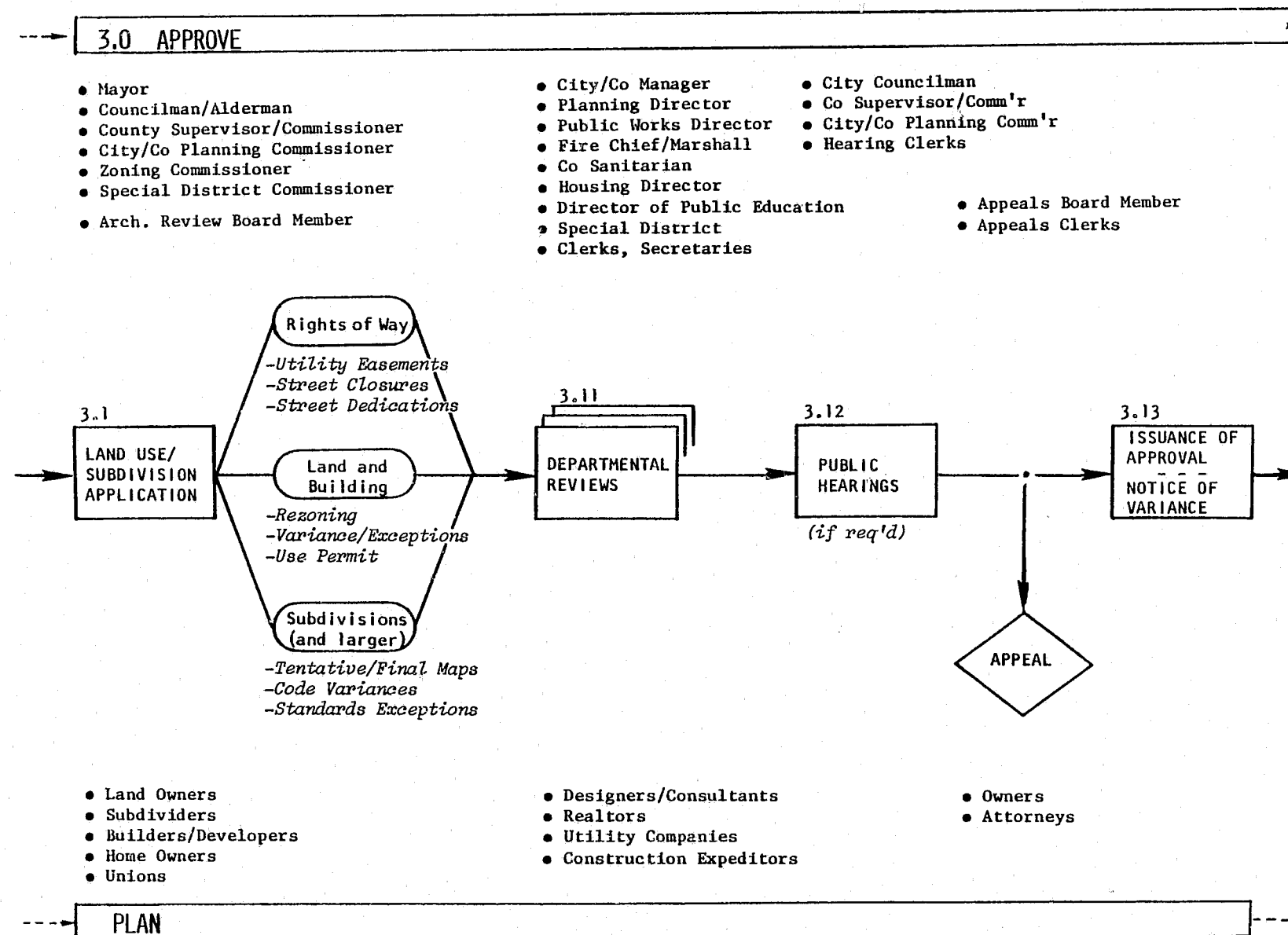
Fifth (and last), there are intercommunity variations in the population at risk. Just as we would not expect speeding tickets written for snowmobiles in Florida, we should not expect payoffs for planning and zoning commissioners in stagnant communities with little construction, or for fire and health inspectors in communities where most dwelling units have been constructed within the past ten years. Quite simply, the absence of corruption in some communities may say more about the absence of opportunities than about community virtue or successful prevention and control strategies.

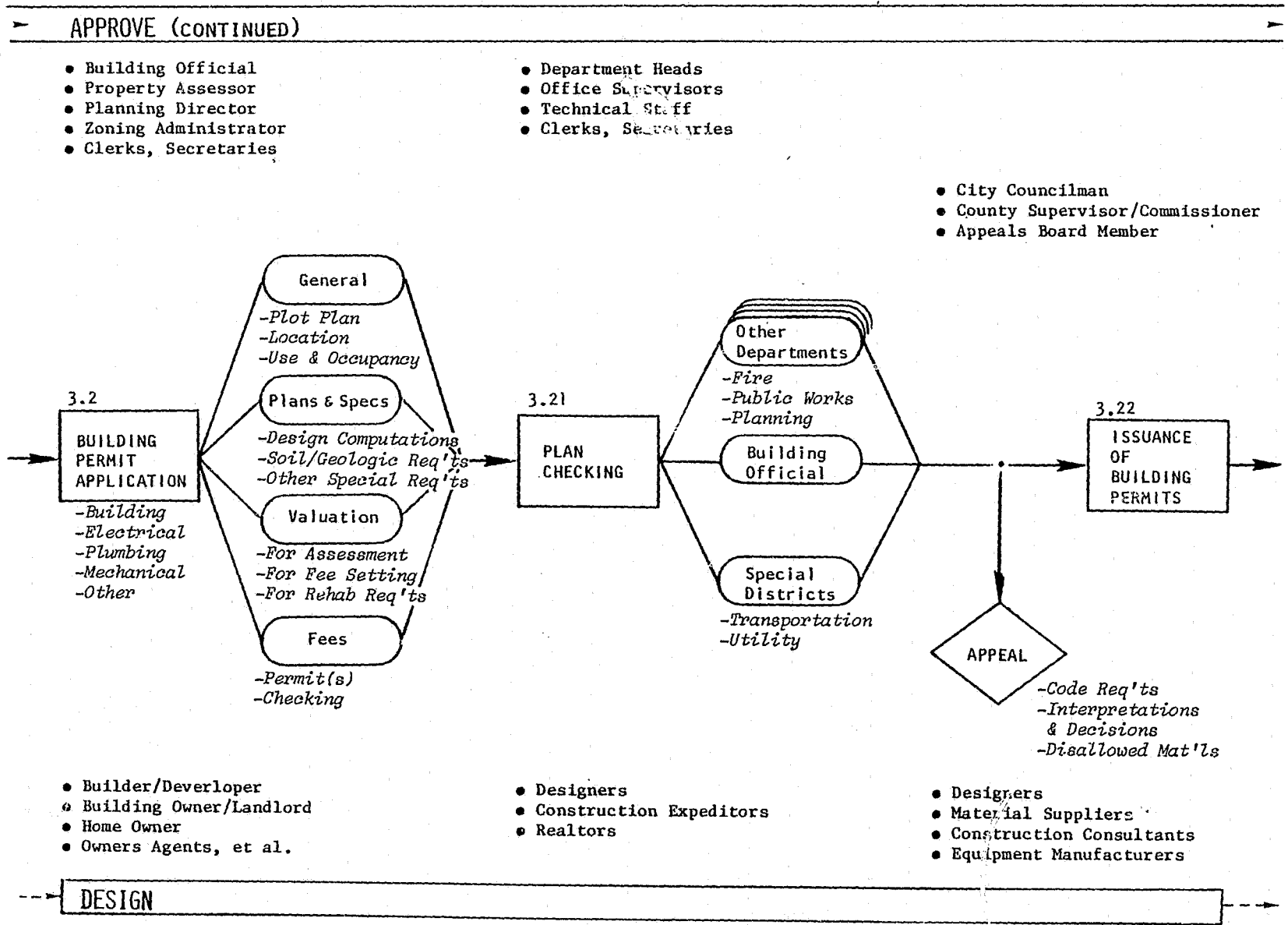
Appendix B PROCESS MODELS

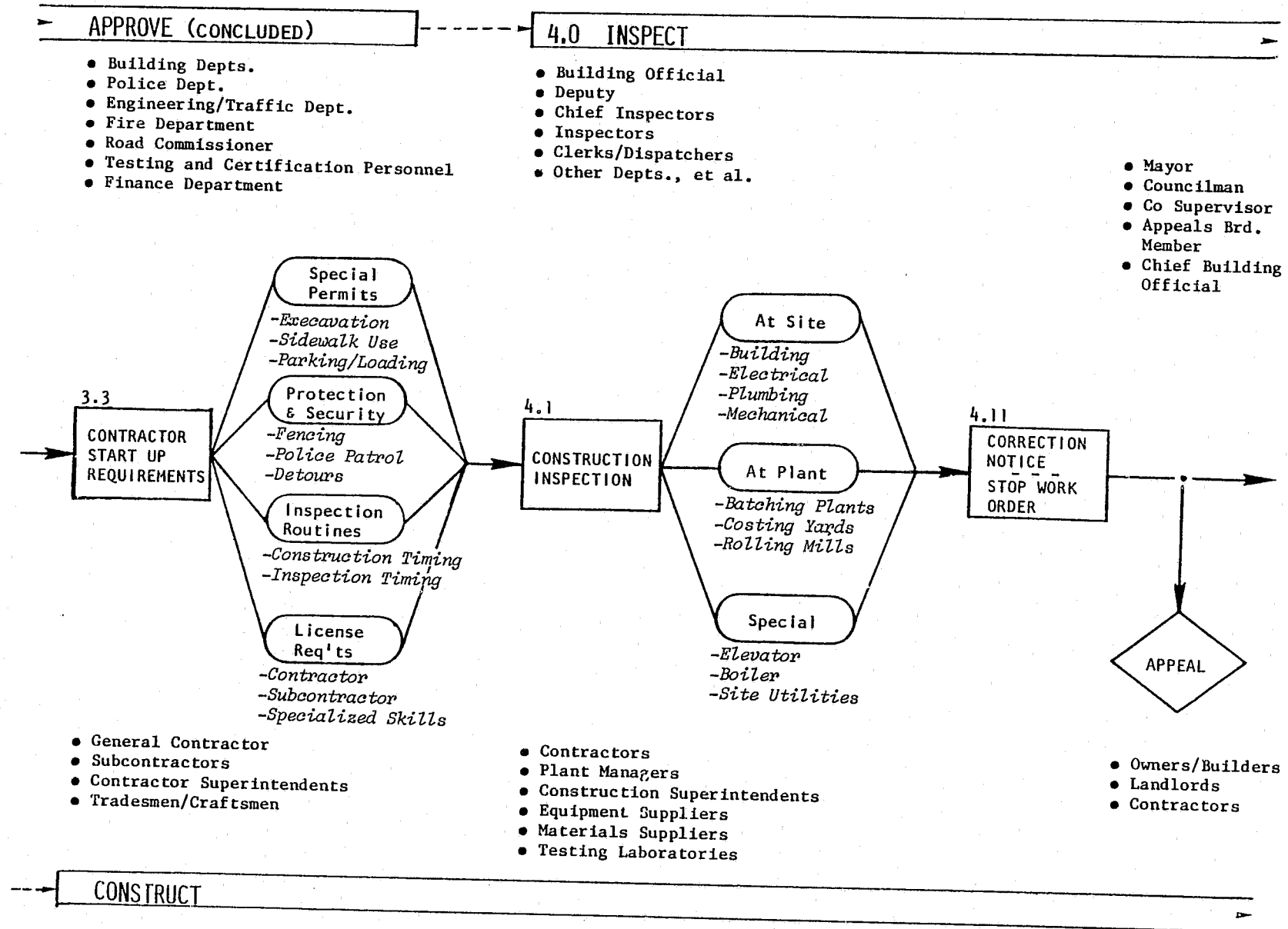


* Although constituting a form of "private interest," quasi public organizations, citizens committees, and other special interest groups are not considered here as direct participants in the process, but rather as external pressure points only indirectly associated within the corruption in local government context.



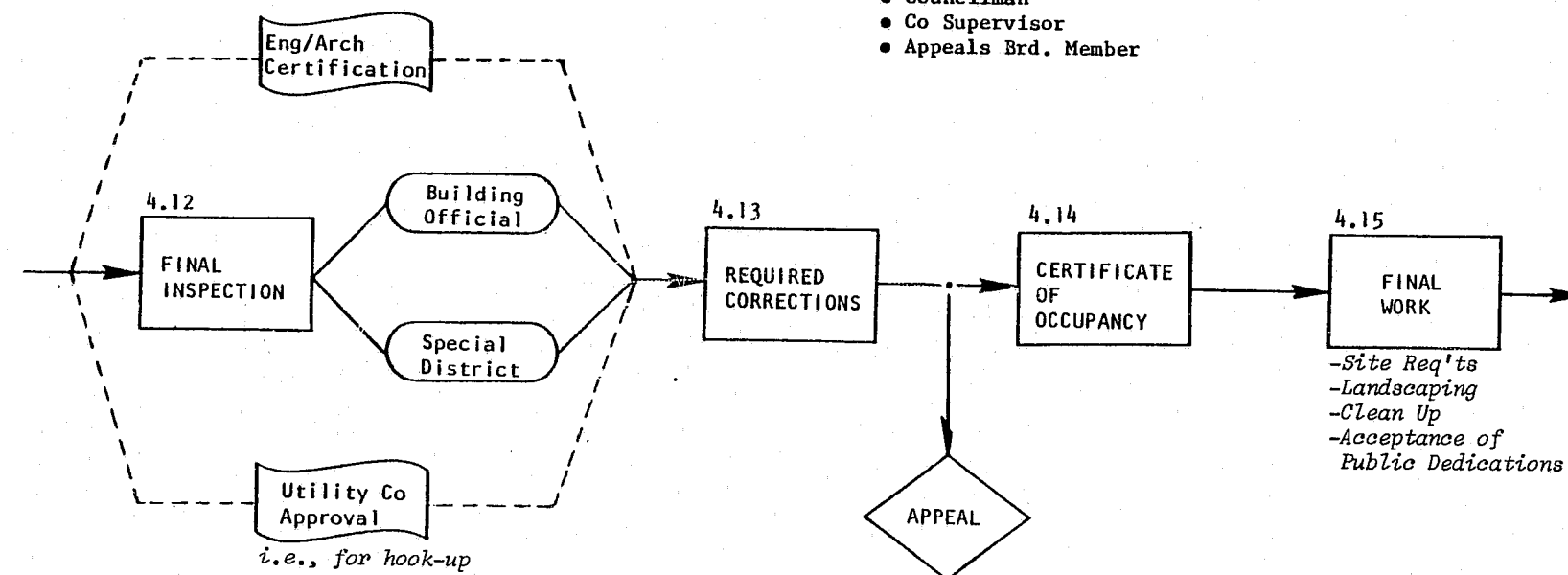






INSPECT (CONTINUED)

- Building Official



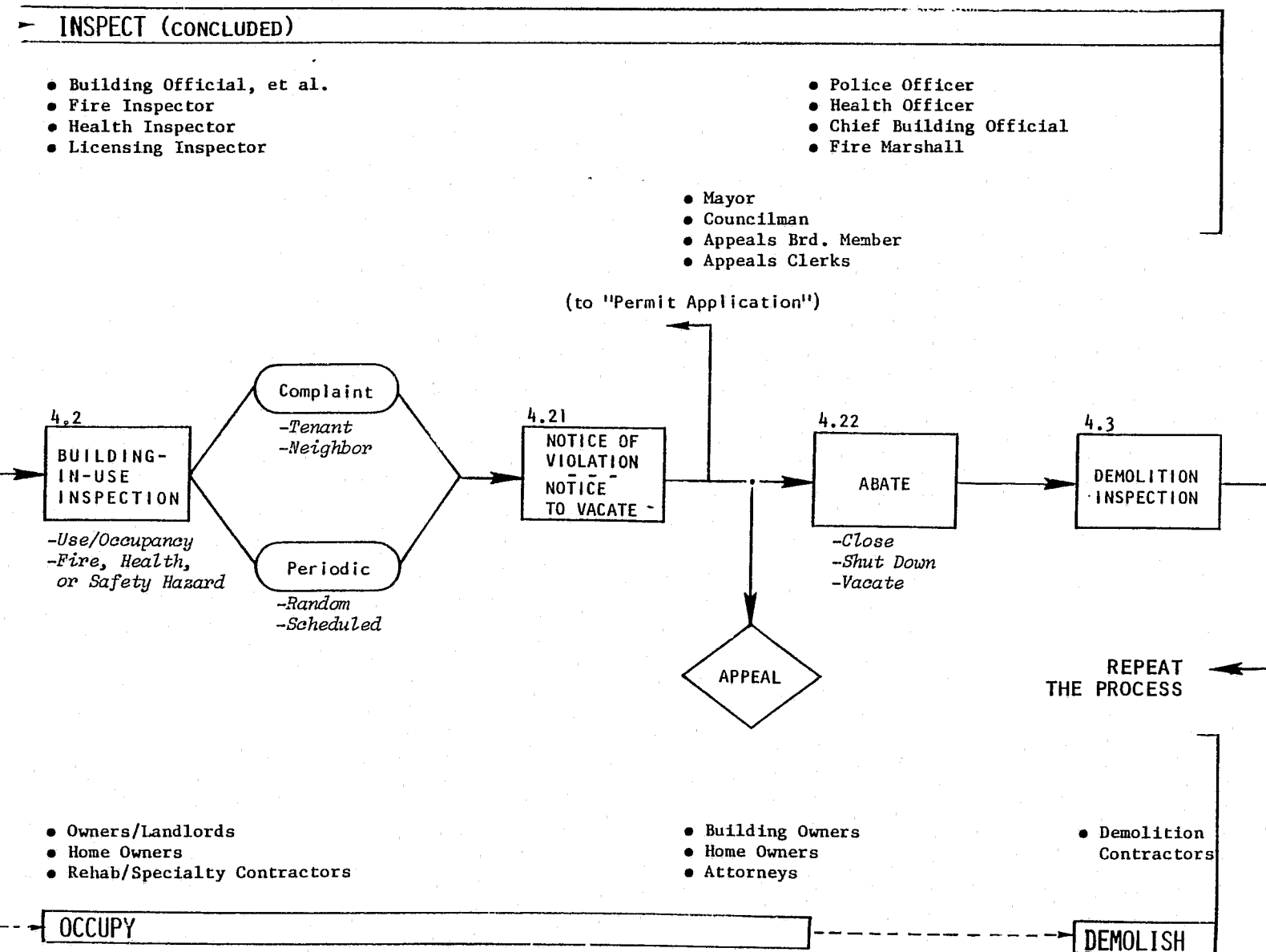
- Mayor
- Councilman
- Co Supervisor
- Appeals Brd. Member

- Contractors
- Designers
- Construction Expeditors

- Contractors
- Owners
- Financiers

CONSTRUCT (CONCLUDED)

- - - = Private vs. Private involvement



END