Final Summary Overview
for the
National Institute of Justice, Office of Research and Evaluation

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✔ **Grant #**	**2015-IJ-CX-0007**
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✔ **Project Title**	**Developing Empirically-Driven Public Corruption Prevention Strategies**
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Final Summary Overview for Grants Awarded in FY14 and Beyond

https://www.nij.gov/funding/Pages/post-award-reporting.aspx#finalsummary

Starting with grants awarded in 2014, grantees will no longer be required to submit a Final Technical Report. Rather, they are expected to generate scholarly products, such as peer reviewed journal articles, law review articles, patents and prototypes, as appropriate. In addition, grantees are required to submit a Final Summary Overview. The Overview will summarize the research project and include sections that state the purpose, project subjects (if applicable), project design and methods, data analysis, findings, and implications for criminal justice policy and practice in the United States. The Final Summary Overview should not exceed 10 double-spaced pages and should be submitted 90 days before the project's end date.

Final Summary Overview
July, 2018

Purpose
This project was designed to conduct research to answer three fundamental questions about public corruption:

- Why are a significant number of public corruption cases still occurring over many years, despite many significant convictions?
- Are there circumstances common to these cases that can be addressed more effectively? (i.e., motivations, opportunities, sanctions)
- What can be done in the future to reduce and respond to instances of public corruption, especially given their deleterious impact on public trust in government?

Project Design and Methods

1. Preliminary preparation to data collection:

a. Interview forms were developed for each interview constituency.

Interviewees:
I-Investigators (N=18)
A-Attorneys (N=22)
O-Offenders, Victims, Insiders, Undercover and Whistleblowers (N=15)
S-Stakeholders, Community Activists, Researchers (N=18)

b. IRB review and approval at VCU.
c. HSPO review and approval at NIJ.

2. Data
a. Case summaries obtained of all federal convictions 2013-15 (from U.S Attorney's Offices).
b. Court document analysis of a sample of these cases (via PACER - Public Access to Court Electronic Records)
c. Statistical data on all public corruption cases covering 30 years, 1986-2015 (federal statistical data obtained via Transactional Records Access Clearinghouse with analysis using SPSS.)
d. In-person interviews with individual in for groups. Ultimate total interviews (N=73 conducted in 35 cities in 13 states)

Data Analysis
1. Determine statute usage in public corruption cases (statistically over time and using PACER analysis of court documents).
2. Added participants' perspectives with interview data from 4 distinct interview groups. Coded all interviews and analyzed them using MaxQDA qualitative analysis software.
3. Developed a unique typology of public corruption cases (the underlying corrupt behaviors) through the statistical data on prosecutions and convictions, court documents, and interview data.
4. Developed findings and products applying theory and prior research to the current analysis (using statistical data, case narratives, case documents, interviews).

Findings

1. Public and private sector corruption differ conceptually. When a person or business

   is exploited or victimized by a private company or person, the victim can choose to

work with other companies in the future that engage in fair treatment of suppliers, customers, and competitors. On the other hand, when doing business with the state, the government has a monopoly over the goods and services you require (e.g., licenses, business permits, public contracts, the criminal justice system), so there is no place else to go to obtain these services. Similarly, without trust in the police for assistance when needed, there is no other agency to call. Instead, people may take protection into their own hands, leading to further violence.

2. Public corruption is a more serious public threat because it undermines confidence in government, the legitimacy of government institutions, and the ability of citizens to be treated fairly in their interactions with government entities. When operating appropriately, government entities perform an arbitration role to resolve conflicts or decide among bidders (e.g., police arrest decisions, prosecution decisions, judicial rulings, government procurement decisions). Private businesses do not have a similar function in that they entail private transactions. As a result, public corruption has far-reaching societal implications beyond that of corruption in the private sector, because private sector corruption affects *some* people, whereas public corruption affects *all* people.

3. Controlling public sector corruption is a prerequisite for controlling private sector corruption, because without government operations characterized by non-corrupt transactions, it is impossible to regulate the private sector effectively.

4. Although federal corruption cases have been brought using 58 different lead charges over the last 30 years, only 10 of these charges account for nearly 60% of all cases

made. These 10 charges target four types of underlying behavior, which together form the operational meaning of corruption in practice.

5. It was found that two features distinguish corruption cases: the *objective* of the offense and the *method* by which the object was pursued. The objective in all the cases reviewed was either some form of theft, or else a misuse use of official authority. Money or personal enrichment of some kind characterized one large group of cases, and misuse of official authority for some kind of personal or political advantage, or escaping detection, was the object of another large group of cases.

6. At least one of eight different forms of corrupt conduct lay at the foundation of every one of the more than 2,400 corruption prosecutions occurring over three years and analyzed in depth. These eight distinct types of behavior characterized every prosecution, whether the object of the corruption was theft or misuse of official authority (8 types: receipt of bribe, solicitation of bribe, extortion, contract fraud, embezzlement, official misconduct, obstruction of justice, violation of regulatory laws).

7. The review of 2,419 cases, followed by closer scrutiny of 313 cases selected to represent each identified corruption type, resulted in a corruption typology. Each of the eight behaviors were assigned shorter names for coding and summary purposes:

> Receivers – receiving bribes
> Solicitors – solicitation of bribes
> Extorters – demands or threats for official action in exchange for payments
> Schemers – contracting and procurement fraud
> Opportunists – embezzlement
> Abusers – official misconduct
> Liars – obstruction of justice

Insiders – violators of regulatory laws

8. Applying the eight-part typology of corruption behaviors to several hundred corruption cases found that receipt of bribery was the most common behavior, occurring in 23% of the cases as a primary, secondary, or tertiary behavior. Second most common was embezzlement, which occurred in 19% of the cases, followed by official misconduct, procurement fraud, regulatory law violations, bribery solicitation, obstruction of justice, and extortion.

9. A total of 73 individuals with direct experience in corruption cases were interviewed to provide insider detail into the circumstances of these cases. The individuals interviewed were of four general types (former investigators, prosecutors, individual who had experience corruption first hand (offenders, victims, insiders, undercover, and whistleblowers), and public watchdogs (stakeholders, community activists, and researchers). Each interviewee had first-hand exposure to multiple cases over the course of their lives and careers, so the 73 interviews discussed hundreds of documented corruption cases.

10. The interviews were also analyzed to assess causal explanations for the corrupt conduct observed. The qualitative interview analysis used a coding scheme to extract each time an interviewee discussed motivations for the corrupt conduct they witnessed or experienced. The interviewees discussed offender motivation 97 times during the interviews. Results indicated that of the explanations for the first-hand corruption witnessed or experienced by the interviewee, 15% offered positivist

explanation, 19% a classical explanation, 28% a structural explanation, and 38% an ethical explanation.

11. The responses of the interviewees, based on their experience with actual cases, combine to offer empirical insight into the causes of corruption. These insights are valuable because they are based on firsthand exposure to serious corruption cases that were prosecuted in court. Explanations based on ethical failures were the most common, followed by structural, classical, and positivist explanations.

12. Interviewees with exposure to multiple and separate cases identified different causal circumstances in various situations. This finding suggests that different instances of corruption may have quite a few different causes. Rather than a global explanation of corruption, therefore, the findings here suggest that each of these four explanations help to explain the existence of corruption in varying circumstances. Prevention approaches must be responsive to this finding, rather than focusing on limited, specific anti-corruption approaches.

Implications for Policy and Practice

1. A contribution of this work lies in the effort to isolate what constitutes corruption in practice, how statutes are used to address these underlying corrupt behaviors, and what are the underlying behaviors behind corruption that require attention.

2. The main behaviors underlying public corruption prosecutions and convictions over the last 30 years include: fraud or misuse of government funds, bribery, extortion, and conspiracy or racketeering. More attention to the circumstances of these cases

and their underlying behaviors may result in fewer corrupt decisions and opportunities.

3. At the state, and especially the local level, public officials serving on government boards, councils, in elected office, and some law enforcement positions were often part-time, under-trained, and under-supervised. The lack of professionalism in the public official's roles and expectations provided the space to exploit opportunities to enrich themselves. Methods to curb such actions include transparency in contract award processes, actual budgetary spending practices, and dual training of individuals on public capacities to avoid only single individuals authorizing and reviewing payments. Also, mandatory ethics training and policies for federal programs, state, and local entities are necessary to raise awareness and accountability.

4. Bribery cases always involved an enabler—either a public official or a private citizen (or business or corporation) with one making a corrupt overture to the other—with many cases involving private interests corrupting a public official. In these cases, the public official either could not resist the temptation for selfish enrichment, or developed a weak rationalization why serving a private interest, rather than the public interest, was somehow justified.

5. Extortion appears most often at the local level, and it is here where corrupt control of an agency or jurisdiction might occur most easily. These types of cases may be more reflective of the "pay to play" atmosphere seen in some jurisdictions. Better protections for whistleblowers may be an avenue to explore to increase disclosure of

such activities.

6. When the corruption cases involved conspiracy or racketeering, small groups of corrupt individuals organized either to develop or to protect an ongoing scheme of graft. Many of the cases involving local police or corrections officers were of this type. These cases are serious due to the ongoing nature of the criminal activity, and the complete undermining of the function of government.

7. The finding of eight distinct corruption behavior types provides insights for training inasmuch as this offers a clear focus to the precise nature of corrupt conduct found in a large number of cases analyzed, including law enforcement corruption, prison corruption, election corruption, government procurement frauds, thefts and fraud against government agencies, and efforts to cover-up wrongdoing of various kinds. Regardless of the circumstances of the cases, one or more of these eight types of corrupt behavior was always found to occur.

8. Development of an empirical typology of corruption behaviors is important for theory and practice. A clear typology helps to identify the specific behaviors that underlie prosecutions for serious corruption offenses. Identification of specific corrupt behaviors enables investigators to train and focus on particular kinds of conduct as they work to build cases. Focusing first on specific forms of conduct, rather than on statutes, also enhances the development of cases by prosecutors, and will help to support prevention efforts aimed at reducing their incidence over the long term by understanding the types of serious conduct that pose the highest risk of prosecution.

9. There is good reason to believe that many known cases are not prosecuted based on resources and likelihood of prosecution success. In some cases, less serious corrupt conduct is ignored, or handled outside the criminal process through demotions, firings, or civil compensation of illicit gains. Therefore, this study focuses only on the most serious cases, found worthy of criminal prosecution, knowing that many other instances of corruption occur which was not selected for prosecution.

10. When leaning towards prosecution, the first hurdle is fairness, particularly whether the behavior clearly falls outside appropriate ethical bounds or whether it is simply "awful but lawful" (Interview A-21). Since federal law has been broadly defined, fairness is important to show that public officials clearly knew, or should have known, their actions were an abuse of their power. Issues of evidence impact whether the jury is likely to believe the witnesses, most whom have credibility concerns, e.g., have committed crimes as well, and the type of evidence used. Since ABSCAM, most juries want a tape of the action as proof. Additionally, the prosecution needs to provide convincing narrative of what happened, because the elected and appointed defendants have some intrinsic legitimacy that others do not, as some jurors may have elected them to their positions.

11. Another layer to consider is the likelihood of conviction. Some prosecutors focus more on the easy win from low-hanging fruit; such as police stealing from evidence seizures or protecting drug shipments; instead of developing cases against higher level corruption. The other concern is whether the prosecutions are sufficient to deter future corruption. Some prosecutors will focus on top counts and hope those

convictions are sufficient to change the culture (e.g., prosecute the 10 worst police officers in a corrupt district or scheme).

12. The last areas to consider are the cost and interests. Corruption cases come with potential high costs from negative performance evaluations (long and sometimes unsuccessful cases), extensive resources and potential long-term adverse career effects. Since corruption cases often require at least a year or longer to investigate and prosecute, some AUSAs may choose not to pursue them because a loss would adversely affect their annual review. Some consequences may be experienced later in their careers as other public officials may blackball them from future career paths. Regarding interests, some prosecutors may be too close to the local area and should leave the decisions about prosecution to individuals with more distance. Other figures may be too close and in denial about the situation in that they can see themselves making similar poor decisions without the necessary intent. These conflicts of interest may create more barriers to prosecution. Finally, the facts must be sufficient to justify a federal case. Many offices have a dollar minimum, usually at least $10,000 or have significance for the community (e.g., police officers using their positions to coerce individuals for sex). As prosecutors travel this serpentine path, they also consider political implications of a corruption prosecution. Yet, politics does not appear to be a main reason to prosecute or not. It is simply one of many elements considered.

13. Interviews with former federal prosecutors and investigators, experienced with public corruption cases, were used to clarify the reasons for the difficulties in

investigating and successfully prosecuting public corruption. There are multiple factors considered in public corruption cases regarding legitimacy, difficulties in proving corrupt motivations, complex cases, and talented defense representation. Investigation and prosecution of public corruption cases require incentivized and proactive work to insure integrity in public life, despite a larger number of unsuccessful prosecutions than for other crimes.

14. The investigative and prosecutorial effort against public corruption is needed as both a deterrent and prevention method. There must be a prioritization of the effort at the federal level, because very few corruption prosecutions occur at the state level. The vast majority of all public corruption cases are made by federal authorities (with targets at the federal, state, and local levels). So active investigations must be undertaken to insure that public officials are indeed acting in the public interest.

Summary of Presentations, Publications, and Products from this Project (to date)

This project produced a number of presentations, publications, and a webinar to disseminate its findings and implications widely. Below is a listing of these products in the order in which they were produced.

1) **Presentation:** "Making a Bad Problem Worse: Organized Crime's Role in Commercializing Corruption." (J.S. Albanese) *Arts & Humanities Research Council Workshop*: Corruption in the Intersections of Legitimate and Illegitimate Enterprise. Brussels, Belgium. June 2016.
2) **Presentation**: "Distinguishing Corruption in Law and Practice: Empirically Separating Conviction Charges from Underlying Behaviors." (J.S. Albanese, K. Artello, L.T. Nguyen) *Academy of Criminal Justice Sciences*. Kansas City, MO. March 2017.
3) **Presentation:** "An Empirical Typology of Corruption: the Underlying Behaviors Behind Public Corruption Cases." (J.S. Albanese and K. Artello) *American Society of Criminology*. Philadelphia. November, 2017.

4) **Presentation**: "Making Anti-Corruption Efforts More Effective: An Empirical Look at Why Corruption Persists." (J. S. Albanese and K. Artello) Annual Meeting of the *Academy of Criminal Justice Sciences*. New Orleans. February 2018.

5) **Article**: Albanese, J.S., K. Artello and L.T. Nguyen. (2018). "Distinguishing Corruption in Law and Practice: Empirically Separating Conviction Charges from Underlying Behaviors." *Public Integrity* (journal affiliated with American Society for Public Administration's Section on Ethics and Integrity in Governance) published by Routledge. doi.org/10.1080/10999922.2018.1423859

6) **Article**: Albanese, J.S. and K. Artello. (2018). **"**Focusing Anti-Corruption Efforts More Effectively: An Empirical Look at Offender Motivation -- Positive, Classical, Structural and Ethical Approaches" *Advances in Applied Sociology*, vol.8, No.6, June. DOI 10.4236/aasoci.2018.86028

7) **Article**: Artello, K. and J.S. Albanese. (2018). "Trends in US Corruption Prosecutions" in A. Farazmand (ed.), *Global Encyclopedia of Public Administration, Public Policy, and Governance* (Springer). DOI: https://doi.org/10.1007/978-3-319-31816-5_3574-1

8) **Chapter:** Albanese, J. S. (2018). "When Corruption and Organised Crime Overlap: an Empirical Hierarchy of Corrupt Conduct." In L. Campbell and N. Lord, eds. *Corruption in Commercial Enterprise: Law, Theory, Practice.* (Routledge).

9) **Presentation:** "Making Public Corruption Cases: Hidden Decisions in Investigations and Prosecutions." (K. Artello and J.S. Albanese) *Society for the Study of Social Problems*. Philadelphia. August 2018.

10) **Manuscript under publication review:** "The Behavior of Corruption: An Empirical Typology of Public Corruption by Objective and Method." (J.S. Albanese and K. Artello).

11) **Manuscript under publication review**: "The Calculus of Public Corruption Cases: Hidden Decisions in Investigations and Prosecutions." (K. Artello and J.S. Albanese).

12) **Presentation planned:** "Rising to the Surface: The Way in which Corruption Cases Come to Light." (K. Artello and J.S. Albanese) *American Society of Criminology*. Atlanta. November 2018.

13) **Webinar Package: Investigating, Prosecuting, and Preventing Public Corruption.** PowerPoint and script/guide for potential use as training tool for investigators, and also for state and local appointed or elected officials regarding the nature, types, and circumstances of public corruption cases to improve training, awareness, and accountability. *(Currently under review by four external reviewers)*