Distinguishing Corruption in Law and Practice: Empirically Separating Conviction Charges from Underlying Behaviors

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This analysis examines the precise laws under which corruption cases are brought and trends over time in order to assess how the underlying corruption behaviors can be grouped into types. Corruption is operationalized into several distinct types of misconduct under law for purposes of prosecution. Federal defendants were most often charged with offenses charging bribery, fraudulent statements/entries, theft of public funds, conspiracy, and fraudulent claims (in that order). Whereas state and local defendants were more likely to be charged with a different ordering of offenses (extortion, theft from government programs, mail fraud, and conspiracy for state defendants, and theft from government programs, extortion, mail fraud, and bribery for local defendants). These differences in the corruption choices by public officials at different levels of government have rarely been considered. Preliminary explanations are offered for these differences, which provide insights into the way in which corruption occurs in different jurisdictions.

Keywords: behavior, conviction, corruption, law, prosecution

Corruption and obscenity pose similar problems: you know them when you see them, but defining them with clarity is not easy. Justice Potter Stewart once said he did not know precisely what obscenity is, but "I know it when I see it" [*Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964)]. Similarly, corruption has been broadly defined as "the use of public office for private gain" or "the abuse of entrusted power for private gain" (Rose-Ackerman & Palifka, 2016; Transparency International, 2017; White, 2013). A broad definition is useful for conceptual purposes, but it lacks the specificity required to make distinctions in determining whether or not specific behaviors constitute corruption. This specificity is needed both to guide the conduct of those involved in making decisions, and to guide investigative and prosecution decisions. Often defined in general terms, corruption prosecutors only pursue specific kinds of behaviors. The question then becomes which behaviors lead to prosecution while others are simply viewed as in the grey area [*McDonnell v. U.S.* (2016)].

This study examines the meaning of corruption in practice through an analysis of U.S. cases involving public corruption, which is defined as corruption involving a public official. This study seeks to answer what types of behaviors have been prosecuted as public corruption over

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the last 30 years, and in what ways does public corruption differ in behavior depending on the level of government and whether common factual patterns underlie successful public corruption convictions. This study analyzes a large sample of federal corruption prosecutions over 30 years to determine which specific behaviors are used to represent corruption under law, and to offer reasons for observed differences.

RESEARCH ON PUBLIC CORRUPTION PROSECUTION

Corruption cases at the state or local level are not tracked in any way, but research by Cordis and Milyo (2016) examined all newspaper and newswire coverage from 1986 to 2014, using terms related to political corruption, scandal, bribery, conspiracy, embezzlement, fraud, kickbacks, and misappropriation. These news reports were screened to include cases involving any public employees, uncovering 910 convictions involving public corruption (that occurred outside federal courts). Three-quarters of these cases involved local government employees, most frequently including thefts by public school teachers and administrators, local police, and firefighters. The remaining 25% involved state employees, most frequently motor vehicle licensing bureau clerks selling licenses, or thefts by university employees, state police, and prison guards (Cordis & Milyo, 2016). Of course, using news reports to count state and local corruption cases has its limitations in that only the most sensational prosecutions are likely to be reported. On the other hand, public corruption as a crime primarily engages the public interest, so underreporting by the media on this subject is less likely than for other crimes.

Over the same period (1986–2014), there were 16,452 convictions in federal court for public corruption-related offenses (Cordis & Milyo, 2016). Therefore, according to these available data, approximately 94% of all public corruption convictions in the United States (910 state and local cases/16,452 federal cases) occur at the federal level in federal court (but a substantial number of those convicted are state and local officials) (Cordis & Milyo, 2016).

Some research has examined specific types of offenses. Bribery, typically recognized as quid pro quo, is a common corruption offense, because it involves a voluntary exchange of a benefit to influence an official act. Both the bribe giver and receiver are liable under law. Acts of fraud occur usually when either a private citizen or public official obtain government money or property using false representations. Extortion presents a more serious crime in that a threat is involved to obtain the property (usually money). Bribery is distinguished from extortion in that bribery occurs when the payer received "better than fair treatment," while extortion occurs when the payer must pay "just to be treated fairly." In both cases there is a corrupt exchange (Arrieta, 2016; Dexter, 1993; Lindgren, 1988; Lindgren, 1993; Rose-Ackerman, 2010).

Conspiracy punishes the planning to commit a crime. It occurs when two or more persons agree to commit a crime (Albanese, 2015; Curtin, English, & Moshell, 2016). Racketeer Influenced and Corrupt Organizations (herein, RICO), enacted in 1970 as part of the Organized Crime Control Act, makes it unlawful to acquire, operate, or receive income from an enterprise through a pattern of racketeering activity. An individual or group (an "enterprise") who commits two or more indictable offenses ("racketeering activity") within a 10-year period (a "pattern") is subject to 20 years imprisonment, fines up to $25,000, and forfeiture of any interest in the enterprise, as well as civil damages and dissolution of the enterprise itself (Atkinson, 1978; Blakey & Blakey, 1997; Urbina & Kreitzer, 2004). The RICO law targets

the enterprise behind the illicit behavior, and was designed to combat organized crime infiltration of legitimate businesses, although it has since been employed to prosecute criminal activities by government agencies and corporations (Blakey, 2006; Jones, Satory, & Mace, 2002; Poklemba & Crusco, 1982; Sawkar, 1999).

Attention to the proposition that types of corrupt behavior may differ at various levels of government has not received significant empirical attention. Distinguishing patterns in corruption cases over a long period is also rare. Cordis and Milyo (2016) found thefts and embezzlement by government employees to dominate state and local corruption cases. Less than 10% of all corruption convictions are state officials or employees, but local public corruption cases account for about 30% of all corruption convictions. Corrupt conduct also does not appear to represent a graduated behavior. An experimental study tested whether severely corrupt acts happen gradually (beginning with minor acts) or abruptly. The researchers found that contrary to common belief, abrupt acts of corruption were characteristic (Köbis, van Prooijen, Righetti, & Van Lange, 2017).

Research addressing the context of corrupt conduct suggests that an emphasis on improving institutions over enhancing citizen participation can undermine citizen support for democratic reform (Emerson, 2006). In addition, the trend toward greater specification of ethical conduct and leadership expectations might suffice in supporting the ideals of public service in some jurisdictions (and countries), but achieving a consistently high ethical standard may require increased public morality be instilled among all citizens. (Balogun, 2003; Clausen, Kraay, & Nyiri, 2011; Emerson, 2006). An analysis in Australia found that local corruption is rarely reported to authorities at any level, and when it is reported, it often does not end with a finding of corruption, but a less serious administrative action (Masters & Graycar, 2016). It was found corruption reports sift through a series of diminishment processes—from perception to observation, from observation to reporting, from agency to agency, and finally, from the hard language of allegation to a softer approach to administrative action—which taken together, for both the researcher and the public at large, make many acts of corruption apparently disappear. (Masters & Graycar, 2016, p. 54).

This process might keep known rates of corruption artificially low (Masters & Graycar, 2016). Therefore, a number of push and pull factors are at work in creating corrupt environments.

Research on specific types of public corruption has found different reasons for its persistence (Hale, 2015; Stapenhurst, Jacobs, & Pelizzo, 2014). A study of 10 states found that career path plays an important role: state government insiders who later become governors were more likely than were outsiders to engage in corruption as governor—a factor likely connected to prior service in the state legislature by insiders. In other words, governors who proceed through state legislatures are more acculturated into corrupt practices than those governors who rise to the office from outside state legislatures (Hale, 2015). Also, variations in the extent of known corruption among legislatures have been found in different countries (De Figueiredo, 2013; Stapenhurst, et al. 2014).

Significant work has been done in examining changes in the law that make it more (or less) difficult to investigate and prosecute corruption. Court decisions have curtailed use of the honest service doctrine in the federal mail fraud statute to prosecute state and local officials on public corruption charges (Eliason, 2009; Heilman, 2017). In addition, Congress has been reluctant to enact statutes that provide clear authority to investigate state and local officials

for offenses that do not involve a direct quid pro quo (Eliason, 2009; Gaughan, 2012; Heilman, 2017; Roberts, 2012).

This research seeks to quantify the corruption prosecutions over the last 30 years, to delineate the legal statutes used successfully to convict public officials, and the types of behaviors that underlie these convictions based on statutes and governmental level of defendant. The current study fills the gap in the literature on public corruption by developing an empirically based effort to explore the prosecution practice, statutes used in public corruption prosecutions, and types of corrupt behaviors that underlie the prosecutions. By examining a large number of cases over the last 30 years, this study will examine the separating differences in corrupt acts occurring at the federal, state, and local levels. From greater clarity in defining corrupt behaviors, policies may be developed to prevent some acts and to discover some acts earlier rather than later.

METHOD

Using triangulation of methods, this study uses information about federal prosecutions. For this analysis information was derived from three sources: Transactional Records Access Clearinghouse (herein, TRAC), U.S. Attorney's Offices, and Public Access to Court Electronic Records (herein, PACER). Statistical data was obtained via the Transactional Records Access Clearinghouse (TRAC), a data gathering, data research, and data distribution organization at Syracuse University. TRAC systematically collects government agency data using the Freedom of Information Act (FOIA). A recent analysis found that the federal data organized by TRAC was more valid and reliable than the government agency reports themselves (Cordis & Milyo, 2016). Once TRAC obtains data through FOIA, a variety of statistical techniques is used to check and verify the data. The TRAC data are stripped of all identifiers, so they cannot be linked to specific cases or individuals.

TRAC had data on federal public corruption cases from 1986–2015 ($n = 56,910$) over the last 30 years (identified as cases prosecuted as part of the federal public corruption program). Using SPSS, data were analyzed using cross tabulations and frequencies to ascertain the patterns of prosecution over the last 30 years. Lead charges in these cases were examined to determine the usage and trends of specific statutes over the same time period.

Pragmatism allows for eclectic approaches to data collection and analysis to reconcile abstract concepts into the practical application (e.g., moving from a general definition of corruption as using public benefits for personal gain into clear behavioral acts that may have policies to prevent them) (Savin-Baden & Major, 2013). The definition of public corruption has not been clearly articulated, yet successful legal prosecutions have occurred and continue to increase. Using this pragmatic approach, the behaviors, which underlie public corruption, can be extracted and used to create policy (Savin-Baden & Major, 2013). Each of the 94 U.S. Attorney offices maintains press releases on publicly available websites. Press releases announcing indictments and convictions in the federal government's public corruption prosecution program ($n = 2,419$) were collected from 2013–2015. A sample of case summaries ($n = 313$) was created by type of case, using fact patterns among the multiple criminal charges in these indictments and convictions. Additionally, the public information from these cases also enabled identification of specific individuals, charges, and jurisdictions. PACER search of court

records (indictments, plea agreements, sentencing memoranda, and judgments) was conducted on a sample of these cases. This review permitted a detailed look at the facts of cases beyond the statistical trends in public corruption cases.

Using a pragmatic inductive approach, cases were included when it involved public officials using their positions to obtain a private gain (e.g., money, property, abuse of power). Once cases were identified, fact patterns, statutes, investigative process, and defendants were recorded and coded. Using inductive coding, an initial descriptive coding was completed and then a second analytical coding where factual patterns were compared and contrasted to develop a typology on underlying behaviors and governmental level (Savin-Baden & Major, 2013). An initial descriptive coding was completed and a second analytical coding created 28 factual patterns. Saturation occurred after reviewing over 36 cases with 110 defendants.

RESULTS

Data results reported includes corruption convictions over 30 years, federal criminal statutes used to charge and convict defendants of public corruption crimes, and corrupt behaviors that underlie convictions and the examination by behavior and level of government.

Changes Over Time

Based on TRAC data, the last 30 years have seen a steady climb in public corruption convictions from under 290 in 1986 to over 410 in 2001. Figure 1 illustrates trends in the
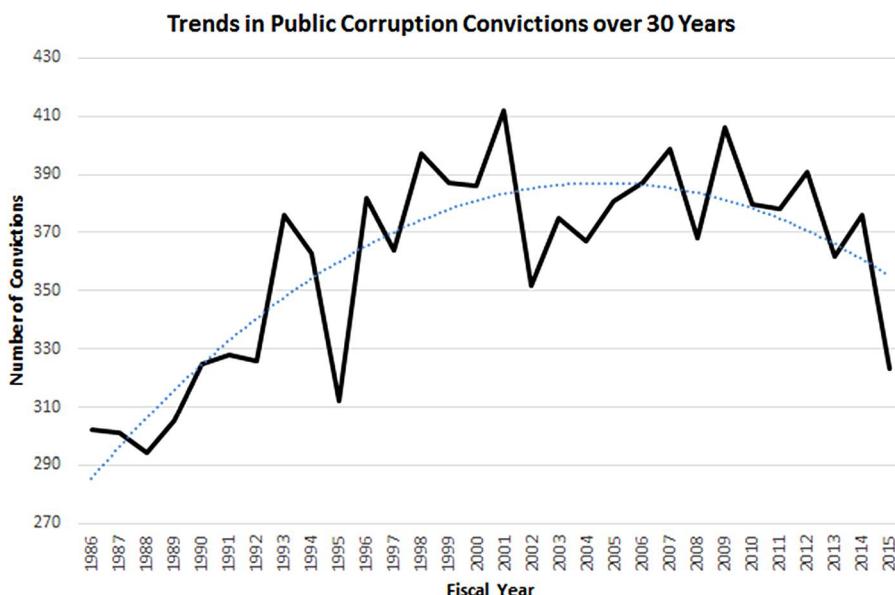

FIGURE 1 Public corruption convictions 1986–2015.

number of cases in which at least one defendant was charged and found guilty of corruption. An upward trend in the number of cases resulting in convictions for federal corruption cases occurred from 1986 thru 2001. While a reduction is reported in 2002, the trend generally continues upward.

Prosecution Charges, Convictions, and Underlying Behaviors

All federal prosecutions ($n = 56,910$) that resulted in convictions from 1986–2015 were analyzed to examine how public corruption was prosecuted in practice. A total of 58 statutory charges were brought in these cases, but only 10 statutes comprised 59.23% percent of all the public corruption cases brought from 1986–2015. The list below summarizes the top 10 federal statutes used to prosecute corruption cases.

18 USC 201 - Bribery of public officials and witnesses
18 USC 666 - Theft or bribery in programs receiving Fed funds
18 USC 1951 - Hobbs Act (extortion)
18 USC 1001 - Fraud/false statements or entries generally
18 USC 641 - Public money, property or records
18 USC 1341 - Mail Fraud - Frauds and swindles
18 USC 371 - Conspiracy to commit offense or to defraud United States
18 USC 287 - False, fictitious, or fraudulent claims
18 USC 1343 - Fraud by wire, radio, or television
18 USC 1962 - RICO - prohibited activities

Once the top statutes were identified from TRAC data, press releases from US Attorney offices were analyzed to determine a typical fact pattern for these 10 statutes. From the cases ($n = 313$), four main behaviors were found to underlie the convictions. To create greater clarity about the types of behaviors covered by legal statutes, an analysis of the corrupt behaviors, which underlie these 10 statutes, are summarized in Table 1.

These 10 statutes address three major types of underlying behavior: bribery, fraud, and extortion (see Burke, Libson, & Trout, 2013; Dwyer, Golden, & Lehman, 2014; Harrison, Choi, Ganjei, & Schumann, 2015). A fourth behavior was identified as conspiracy and racketeering that addressed more systematic corruption schemes in a larger organized or ongoing effort to violate the law. Therefore, federal court prosecution data over 30 years indicate that these cases rely primarily on three underlying forms of misconduct: bribery, fraud, and extortion. More organized and systematic efforts to engage in corrupt activity are pursued with conspiracy and racketeering charges, which entail extended penalties and additional charges to the underlying illegal conduct.

In Table 2, the prosecutions were apportioned to the 10 most common statutes to enable a review of the data from Figure 1 from 1986–2015. The table presents a summary of the 10 most common statutes used in corruption cases over the last 30 years. It is shown in Table 2 (last column) that over the 30-year period 1986–2015, 33,708 convictions were based on these 10 charges in public corruption cases. The bottom row indicates there are more than 1,000 convictions each year (on average) for these 10 charges in federal public corruption cases.

TABLE 1
Behaviors Underlying Federal Prosecutions

Offense description	Connection to corruption
Bribery is a voluntarily exchange (solicitation or acceptance) of any benefit to influence an official act (18 USC 201, 666)	A corrupt exchange between a public official and a private business or citizens that benefits both parties. It subverts a lawful process (e.g., pay to avoid a ticket, pay to get a permit, pay a kickback to obtain a government contract).
Fraud is theft by deception, often funds obtained or misused without authorization for their personal enrichment or benefit (18 USC 1001, 641, 1341, 287, 1343)	The government is deceived in obtaining public funds through false documentation, false statements, or purposeful avoidance of procedures that are required by law.
Extortion involves obtaining property using threats of future harm. (18 USC 1951)	The person soliciting the property is liable due to the threats made to extract payment from the victim who has been placed under duress.
Conspiracy and racketeering are organized or ongoing efforts to violate the law in systematic fashion (USC 371 and 1962)	Conspiracy punishes the planning to commit a crime by two or more persons. Racketeering targets the enterprise behind ongoing or systematic criminal behavior.

Source: Developed by authors from analysis of legal statutes.

Subtracting those cases where the government did not report the charges, and those where the charges were withheld by the government, a total of 56,910 were identifiable federal public corruption cases over the last 30 years, and the top 10 charges constituted nearly 60% of all those cases (33,708/56,910). The trend in these prosecutions is illustrated in Figure 1, which shows the level and fluctuations in federal public corruption cases over the 30-year period.

A closer look at the underlying conduct (bribery, fraud, extortion, and conspiracy/racketeering) sheds light on the nature of the corrupt conduct prosecuted. Table 3 groups the four types of behavior underlying the most common public corruption charges by charge (listed in Table 2). Fraud is the most common (40.5% of cases), followed by bribery

TABLE 2
Most Common Lead Charges in Public Corruption Cases

Rank	Lead charge	Total 1986–2015
1	18 USC 201 - Bribery of public officials and witnesses	7,398
2	18 USC 666 - Theft or bribery in programs receiving Fed funds	4,606
3	18 USC 1951 - Hobbs Act	4,255
4	18 USC 1001 - Fraud/false statements or entries generally	4,158
5	18 USC 641 - Public money, property or records	3,848
6	18 USC 1341 - Mail Fraud - Frauds and swindles	3,289
7	18 USC 371 - Conspiracy to commit offense or to defraud US	3,045
8	18 USC 287 - False, fictitious or fraudulent claims	1,547
9	18 USC 1343 - Fraud by wire, radio, or television	843
10	18 USC 1962 - RICO - prohibited activities	719
	Total	33,708

Source: Developed by authors from TRAC public corruption cases data set from 1986–2015.

TABLE 3
Behaviors Underlying Corruption Cases

Underlying conduct	1986–2015 cases	Percent of cases
Fraud (charges 4,5,6,8,9)	13685	40.6%
Bribery (charges 1, 2)	12004	35.6%
Extortion (charge 3)	4255	12.6%
Conspiracy/RICO (charges 7, 10)	3764	11.2%
Total	33708	100%

Source: Developed by authors from TRAC public corruption cases data set from 1986–2015.

(35.6%), extortion (12.6%), and conspiracy/RICO (11.2%). Representing 30 years of federal corruption cases, this illustrates how a small number of behaviors underlie corrupt conduct in practice.

Charges and Defendants

It is noted that the distribution of charges varies by type of defendant. For example, in cases involving federal defendants, the mix of charges brought is somewhat different than it is for cases involving state and local public corruption defendants. Table 4 illustrates these differences.

It is shown in Table 4 that when looking at the top 10 most common charges in corruption cases, fraud underlies most cases overall, as well as in the cases involving federal defendants.

TABLE 4
Behaviors Underlying Corruption Case by Level of Government

Underlying behaviors	Total (rank)	Federal (rank)	Local (rank)	State (rank)
Fraud	8,742 (1)	5,579 (1)	2,051 (2)	1,112 (2)
Bribery	8,620 (2)	5,129 (2)	2,421 (1)	1,070 (3)
Extortion	3,413 (3)	535 (4)	1,722 (3)	1,156 (1)
Conspiracy/RICO	2,770 (4)	1420 (3)	896 (4)	454 (4)
Total	23,545 (100%)	12,663 (54%)	7,090 (30%)	3,792 (16%)

Source: Developed by authors from TRAC public corruption cases data set from 1986–2015.

TABLE 5
Successful Prosecution Defendants and Actions

Defendant actions	Individual misconduct	Misuse of government programs/procedures
Types of defendants:	Federal law enforcement or corrections official	Federal procurement fraud
	Other federal official	Federal program fraud
	Local government official	
	State government official	
	Other non-federal official	

At the state and local level, fraud behaviors were second most common following bribery (in local cases) and extortion (in state cases). Bribery was the second most common underlying behavior overall, but was the most common charge in local corruption cases. At the state

TABLE 6
Common Fact Patterns in Public Corruption Cases

Case target	Nature of the schemes (common fact patterns)	Underlying behaviors
Federal law enforcement	– Corrections officers smuggle contraband into prison for bribes (drugs, tobacco, cell phones). – Bribery of federal agents to drop investigations, smuggling across border, or to target others.	– Bribery – Conspiracy
Other federal official	– Theft from gov't agency using false reports. – False invoices in selling gov't property for personal gain. – Payment for providing gov't–held personal information to enable false claims or false ID documents. – Local law enforcement (police, sheriff's deputies) soliciting or accepting bribes for official action or inaction.	– Theft by fraud – Bribery – Extortion
Local government	– Use gov't credit card for personal use. – Payment for providing inside gov't information to contractors for bidding purposes. – Embezzling gov't funds for personal use. – Solicit or receive bribes for gov't contracts (e.g., schools, equipment, service contracts). – Renovations of personal home using government funds. – Government contract approval in exchange for bribes. – Bribery of judge, prosecutor, or private attorney to influence outcome of pending case. – Illegal campaign contributions (solicited and accepted). – Law enforcement officer accepts or solicits money for official action or inaction.	– Theft by fraud – Bribery – Extortion – Conspiracy
State government	– Bribes and kickbacks from gov't contractors for favorable consideration. – Solicit and accept illegal payments for DMV licenses or documents. – Use gov't department as a criminal enterprise to protect illicit activity (drugs, trafficking, extortion). – Accept bribes to allow parolees to travel illegally.	– Bribery – Theft by fraud – Extortion – Conspiracy – Racketeering
Federal procurement Fraud	– Receive or solicit bribes from gov't supply contracts. – Gov't official assistance in filing false or forged documents. – Gov't official provides insider information to assist contractors in bidding process.	– Theft by fraud – Bribery – Conspiracy
Federal program corruption	– Hiding troubled business assets from regulators. – Fraud to cover illicit fees in approved transaction. – Illegal campaign contributions (solicited and accepted). – False information to obstruct an investigation. – Theft from a program receiving federal funds. – False claim for gov't funds.	– Theft by fraud – Bribery – Extortion – Conspiracy

Source: Developed by authors from fact pattern descriptions drawn from analysis of court records in a sample of cases from each category.

level, corruption charges involving extortionate behavior were the most common. Table 3 also indicates that 54% of cases involved federal defendants, 30% involved local defendants, and 16% involved state-level defendants.

To summarize, federal defendants were most often charged with following offenses (in order of most to least): bribery, fraudulent statements/entries, theft of public funds, conspiracy, and fraudulent claims. However, state and local defendants were more likely to be charged with a different ordering of offenses: extortion, theft from government programs, mail fraud, and conspiracy for state defendants, and theft from government programs, extortion, mail fraud, and bribery for local defendants.

Closer Look at Individual Cases

In order to obtain a closer look at individual cases, an analysis was conducted of the facts in a sample of individual cases covering a three-year period (2013–2015). These cases were drawn from a content analysis of case summaries from 94 U.S. Attorney Offices and a PACER search of court documents for specific cases. A careful review of all these cases reveals that successful prosecutions were targeted in two directions: individual misconduct by a government official and abuse of a government program or procedure. These are summarized in Table 5.

Every prosecution fell into one of these two general categories, each of which had several subtypes. In one large group of cases elected or appointed government officials from police officers to mayors, city council members, sheriffs, governors, military, and government workers in various government agencies were found to engage in corruption involving frauds, bribery, or extortion. In the case documents reviewed, a variety of targeted corrupt schemes was found. Examples are provided in Table 6.

Table 6 indicates that the corrupt schemes were of multiple types but always involved some form of fraud, bribery, or extortion. In cases where an illicit scheme occurred, involving systematic corruption, conspiracy, or racketeering charges were sometimes brought. In most cases, the corruption involved accepting bribes or exploiting or creating opportunities for theft by means of fraud, but in some cases, there was active creation of criminal opportunities by means of extortion.

DISCUSSION

Given the statistical, case documents, and interview data, a small number of underlying behaviors comprise the vast majority of corruption cases. Although depending on one's level in government, certain behaviors are more likely to occur at federal, state, and local levels rather corruption being ubiquitous across levels. The main behaviors underlying the 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 may result in fewer corrupt decisions and opportunities.

In cases involving fraud or misuse of government funds, many cases involved defendants prioritizing their private interest (for money or influence) over the public interest in how taxpayers' funds should be spent. At the state and federal levels, where fraud is the most

common type of corrupt conduct, exploitation of government procedures or misuse of authority can occur in the large procurement, contracting, and regulatory processes (see Roebuck, 2016; U.S. Department of Justice, 2017b). Some individuals appeared to be motivated by self-interested actions for illicit gain, while others simply exploited an opportunity that became available. At the state, and especially the local level, public officials serving on government boards, councils, elected office, and law enforcement positions were often part-time, under-trained, and undersupervised. The lack of professionalism in the public official's roles and expectations provided the space to exploit opportunities to enrich themselves (Albanese, 2016). Ways to curb such actions include transparency in contract award processes and actual budgetary spending practices, dual training individuals on public duties to avoid only a single person authorizing and reviewing payments, and building mandatory ethics training and policies for federal programs, state, and local entities.

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—in 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 (Nixon, 2016; Sallah &Weaver, 2016; U.S. Department of Justice, 2016a, 2017a). Bribery cases were most common at the state level, which may be indicative of individuals seeking favor with a state official or of part-time state legislatures in which the elected officials are open for such offers. One way to combat such offenses is to make serving in state legislatures full-time positions and require financial disclosures by all elected officials to be made publicly each year.

In contrast, extortion can be seen as the inverse of bribery in that a public official solicits or demands a kickback or a payment in return for a government contract or service. The coercive nature of extortion occurs when public officials believe they have a degree of immunity or protection, due to their control of an office, bureau, agency, or their longstanding political control of a local jurisdiction. As a result, the officials do not fear consequences. Extortion appears most often at the local level, and it is here where corrupt control of an agency or jurisdiction might occur most easily (see U.S. Department of Justice, 2015, 2016b, 2016c). These types of cases may be more reflective of the "pay to play" atmosphere in some cities. Protections for whistleblowers may be avenues to explore to increase disclosure of such activities.

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 (see Rubin, 2016; U.S. Department of Justice, 2016d).

Larger social and political factors at work may influence the prosecution of corruption cases. For example, Figure 2 shows the rate of convictions of at least one defendant in the public corruption case is depicted per presidential term since 1986. The increase during the Clinton years may have been the result of the Whitewater scandal related to the Clintons. To show the public that corruption is being taken seriously, the Department of Justice and the Federal Bureau of Investigation makes public corruption a priority. Additionally, the shift in priorities as a result of 9/11 has a lagging impact on prosecutions. Generally, the general increase in prosecutions may indicate that corruption is detected more often, convictions for corruption
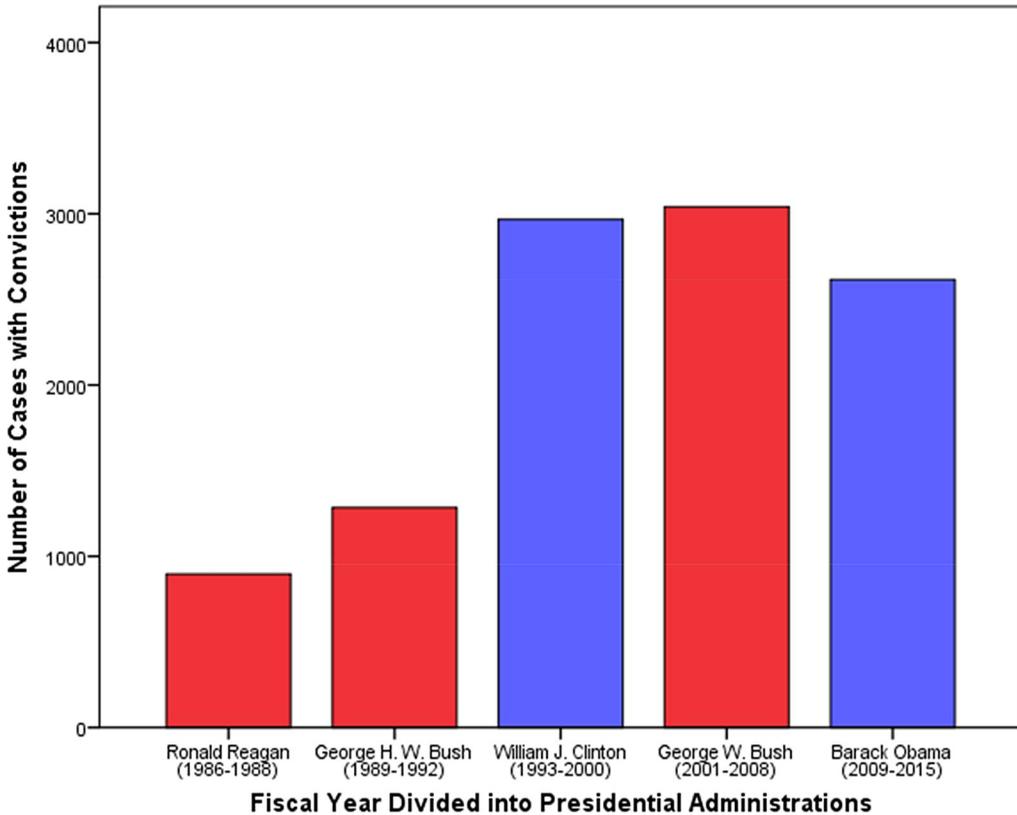
FIGURE 2 Corruption convictions 1986–2015 by presidential administration.

charges have become easier, or more corruption is occurring. Using panel data on federal prosecution, Alt and Lassen (2010) found that greater prosecution resources resulted in more convictions for corruption, although only a limited deterrent effect was found for these increased prosecutions. A decrease in federal corruption convictions under the Obama admin-istration may be due to an actual decrease in corruption, increased difficulty in detecting corruption/convicting people on corruption charges, the impact in the shift in domestic investigative resources from public corruption to terrorism, or a lag in release of court documents from the federal government.

Presidents have different priorities, and limited resources, so a new anti-drug initiative, for example, is likely to impact resources available for public corruption investigations. A change in the priority given public corruption investigations by different Presidents is likely to have an effect (Presidents appoint senior U.S. Justice Department officials, including the Attorney General). There has also been some evidence generated regarding potential partisan bias in forging corruption prosecutions (Gordon, 2009). Consequently, understanding the behaviors underlying the corruption prosecutions by type of public official is required to begin the development of prevention policies.

These differences in the corruption choices by public officials at different levels of government have rarely been considered. However, the divergence is likely due to differences in both opportunity and supervision of official conduct at the federal versus state and local levels, but these differences are worthy of further analysis. They are referred to in our other data involving case documents and interviews with participants from all sides. Therefore, the reasons for the differences among most types of corruption offenses in federal, state, and local cases are multiple. These data suggest that the visibility of decisions, level of supervision that exists, and the difference in the level of training of local government officials might be important factors in the differences in the types of corrupt conduct that occurs. Additional data will be needed that examines a sample of corruption cases with more context provided at the federal, state, and local levels in order to develop a more complete understanding of the reasons of the observed differences.

There are limitations to this research, and, like most research, the limitations involve the data. TRAC codes cases as public corruption as the Department of Justice (DOJ) identifies it. In DOJ's definition, public corruption includes frauds committed against the government even when the acts do not include a public official. Therefore, fraud may be overrepresented in this analysis due to individuals running a scheme against the federal government, rather than public officials using their positions for personal gain. A related limitation is that corruption convictions do not measure the extent of corruption. Prosecution and conviction requires a level of law enforcement and prosecutorial effort to develop these cases, which take much longer than other kinds of cases because they must be developed proactively, usually involving surveillance, insiders, and/or informants, which involve significant investments of time and resources. There is also an underlying political influence involved in public corruption cases in that public officials also control the investigative and prosecution process. Therefore, the priority given to investigating and prosecution cases is likely to shift with changes in leadership.

CONCLUSION

This analysis has used several kinds of data to present statistical trends in public corruption cases over 30 years, analysis of the underlying corrupt behaviors in these cases, and a review of the nature of conduct in a sample of these cases. Despite a large number of different laws and charges employed in these cases, the majority of corruption cases in the United States are made using 10 statutes. These cases and statutes were empirically examined to depict the role of the law in prosecuting corruption.

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, importantly, what are the underlying behaviors behind corruption that require attention. It is shown that four specific (but different) types of behaviors underlie these cases. Although federal corruption cases have been brought under 58 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. Some explanations and policy recommendations are offered for the difference in prevalence of different types of corrupt behaviors at different levels of government.

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