AN ASESSMENT OF THE INVESTIGATION OF CORRUPTION CASES IN THE EASTERN CAPE BUFFALO CITY MUNICIPALITY

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SUMMARY

Corruption has become endemic in South Africa. The purpose of this study was to assess the investigation of corruption cases in the Eastern Cape Province. The province is considered as the poorest and most disadvantaged of the provinces of South Africa. As the country is faced with economic decay, corruption is becoming rife and undermining the efforts to improve service delivery. Eastern Cape community is losing hope for better future as services are not rendered to the society due to corrupt activities.

This study was conducted to explore whether the investigative methods used in corruption are effective. The researcher intended to determine if there are any challenges in investigating corruption cases and to ascertain the impact of investigation in the fight against corruption. Data was collected by semi-structured interviews with the members of South African Police Service and Special investigation Unit tasked with investigation of corruption cases. Data was also collaborated with evidence from literature studies in relation to corruption and its investigation. The findings indicated that the process is effective but some gaps and challenges were identified. The researcher concluded that the process of investigating corruption cases needs to be regularly evaluated and changes implemented as circumstances require.

KEY TERMS

Corruption, investigation, forensic investigation, criminal investigation, investigator, bribery, procurement, maladministration, abuse of power, manifestations of corruption

ABBREVIATIONS

AG	Auditor General
BCCM	Buffalo City Metro Municipality
BRICS	Brasil, Russia, India, China and South Africa
CFO	Chief Financial Officer
CFL	Cyber Forensic Laboratory
DFL	Digital Forensic Laboratory
DPCI	Directorate for Priority Crime Investigations
FICA	Financial Intelligence Centre Act
GDP	Gross Domestic Product
ICAC	Independent Commission Against Corruption
MFMA	Municipal Finance Management Act
MM	Municipal Manager
NPA	National Prosecuting Authority
OUTA	Organisation Undoing Tax Abuse
PCCA	Prevention and combatting of Corrupt Activities Act
PC	Provincial Commissioner
PPE	Personal Protective Equipment
PP	Public Protector
PFMA	Public Finance Management Act
PIG	Prosecutor Investigation Guide
PMU	Project Management Unit

SADC   South African Developing Countries

SAPS   South African Police Service

SIU   Special Investigative Unit

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CHAPTER 1: GENERAL ORIENTATION

1.1 INTRODUCTION

Is enough done to combat and investigate corruption in South Africa? Despite the establishment of the anti-corruption controls, there has been continuous reports of corruption and fraudulent activities in South Africa. These activities manifest equally in both the public and private sectors. In spite of this, the annual report of the National Prosecuting Authority, hereby referred to as NPA, for 2019/2020 (25) revealed that the fight against corruption has been intensified in that reporting year, with a 17,8% increase in the number of convicted persons from either the public or private sectors. This, according to the report, brought the conviction rate to 94% in that specific year.

On the contrary, there are still evidence from the media and the Zondo Commission of Inquiry that the Criminal Justice agencies – National Prosecuting Authority, South African Police Service, Directorate for Priority Crime Investigations and Correctional Services – were and are manipulated and influenced to entrench corrupt activities by their Executives, with several high-ranking officials in the South African Police Service implicated in corrupt activities. The President recently acknowledged that fraud and corruption remains pervasive and is deeply entrenched in both public and private sectors (Kwinika, 2021: n.p.).

Another report by Accram (2020: n.p.) indicated an increase in corruption cases reported to civil society organisation, Corruption Watch, from 1 591 in 2019 to 1 995 in 2020. These cases were reported from sectors such as the South African Police Service, traffic and licensing centres, municipal offices, schools and health facilities. The annual report (2018:106) of the South African Police Service (SAPS) indicated that commercial crime (which covers a vast number of crimes ranging from fraud, bank robbery, tax evasion to corruption amongst others) is a highly complicated crime category. The report further revealed that this category of crime is difficult to investigate and that has a negative impact on the economy of the country.

According to the SAPS annual report (2018:107), the investigation of this category of crime varies as it is impacted on by the availability of new or improved technology. These crimes are opportunistic crimes and are committed by sophisticated individuals. These crimes impact heavily on the economy of the country and causes the development of the country to be stagnant. This justifies ongoing research into the investigation of these crimes. This research will, therefore, assess and review the investigation of corruption cases during the past five years in the Eastern Cape province of South Africa, Buffalo City Municipality.

1.2 BACKGROUND INFORMATION

Joyner, Rouse and Glatthorn (2013:205), asserts that background is intended on providing a context of the study. Background is where the researcher deals with aspects such as developments and changes in society, developments in the researcher's field of study, new methods, and gaps in existing theory (Joyner et al, 2013:206). Kornuta and Germaine (2019:21) also assert that background provides a bigger picture and the context of the problem being investigated. It outlines the historical development of the problem over time, identify trends and resolve social concerns. Therefore, the background will provide a picture on the development of corruptin in the Buffalo City Metropolitan Municipality.

"White Europeans, starting with Portuguese in the 15th century, formally introduced the psychology of corruption into Africa" (Oshodi, 2012:256). Economic mind-set was introduced to Africans through the barter system. This barter system which entailed the exchange of commodities induced material pressure and enticement to Africans with the use of gifts and credit and became commonly known as bribery. Since the 15th century, corruption in Africa became addictive, with disastrous effects on Africans as compared to anywhere else in the world (Oshodi, 2012:256). The result was Africa being reclassified from the status of First World to the status of Third World

perpetuated by the loss of human and ecological resources due to corruption. For this reason, it has become important to fully support anti-corruption agencies to avoid economic decay (Oshodi, 2012:256).

From then, moving forward corruption became dominant all over the universe. As indicated by Henry (2013:2), the United States narrowly escaped economic collapse in the late 2000s. More public officials and agencies were captured by corrupt organisations with the purpose of intimidating larger organisations and government officials. Other contributing factors such as poverty and centralised governments ensured that corruption continued worldwide over time (Henry, 2013:146-147). In order to develop democracy and harmony in society, there is a need to curb and eradicate corruption and corrupt activities globally.

According to Friedman (2020: n.p.), corruption in South Africa existed back during colonisation in 1652. Jan van Riebeeck arrived in the Cape in South Africa after he was reinstated by the Dutch East India Company after being fired for using his office for personal financial interests. Prior to his arrival in South Africa, he also started Dutch rule which was marked by the corruption of public officials. The Dutch rule was later replaced with British rule in which public spending was intended to serve private interests. The use of the state to serve private interests which is now commonly known as state capture, started way back during the British and Afrikaner rule (Friedman, 2020: n.p.).

Corruption in South Africa became predominant during the last few days of Apartheid. The obvious victims of corruption then were the Black people who were unable to protect themselves as they had no rights. Politicians and government officials used state power for their own private benefit (Friedman, 2020: n.p.). By the time South Africa adopted majority rule in 1994, corruption was already deeply engrained in government operations and in government business relations. It is submitted that corruption in South Africa is therefore deeply rooted in so much that it is almost impossible to reduce. Problems created over centuries demand thorough ongoing solutions which will take time to achieve. Corruption is understood to be the country's oldest tradition. It

is far more deeply rooted way back in history.

Erasmus (2021: n.p.) also acknowledged that many people today wrongly associate certain corrupt activities such as nepotism, patronage and irregular contracts with the current government, whereas corruption in South Africa existed long before 1994. Though there has been a recent surge in incidents of corruption when public servants, together with private companies, seized opportunities and used it to serve their personal interests during the Covid-19 outbreak, none of it was new and neither is there a quick-fix solution for it. Erasmus (2021: n.p.) attest that corruption was firmly established in the Apartheid years and was practiced long before the arrival of Apartheid in 1948. It is submitted that corruption is deeply rooted in South Africa, and it will take much effort, over many years, to reduce or destroy it.

In modern day South Africa, new sources which stimulate corruption emerged replacing those that perished with Apartheid. These new sources include inter alia recruitment that is not based on merit, shortage of skills, tendering principles, BEE principles, poor management skills to name but a few (Erasmus, 2021: n.p.).

As asserted by Wielder (2013:1-3) corruption has been a growing concern in South Africa. As per a 2013 survey, 25% of respondents identified corruption as a priority issue for government. A further survey that was conducted revealed that police officials are the most corrupt public officials with 52% of the respondents saying that most or all of the police officials are corrupt. If public officials, and especially the ones responsible for upholding the law, are perceived as the most corrupt officials, how will the fight against corruption be won? Krsteski (2017:49) noted some incidents of fraud and corruption that were headlined, namely the South African arms deal which was mostly known for bribery, The Travelgate scandal where about 40 Members of Parliament illegally used parliamentary vouchers and former National Police Commissioner, Jackie Selebi, who was convicted on corruption charges. These are an indication of the severity of corruption incidents in South Africa.

According to Krsteski (2017:51), the battle that South Africa is fighting against corruption is a losing battle with few corrupt individuals, convicted of corruption, being dismissed and most getting away with written warnings and remaining in government. It is inferred that corruption is out of control in South Africa and the units responsible to fight it, are literally fighting a losing battle.

It is also inferred that corruption has been a historical problem and is tormenting the world more than it has before. This problem is becoming more complicated and expansive over time and the methods used to tackle it seem to be less effective. The following figure indicates the recent index of corrupt activities in South Africa as reported by Staff Writer (2022: n.p.).

Corruption Index in South Africa (SA) as per the Corruption Perception Index (CPI) 2021:

Type of corruption	Percentage
Maladministration	18%
Procurement corruption	16%
Abuse of power	16%
Fraud	14%
Bribery and extortion	8%

Figure 1.1 Corruption Perception Index (CPI) 2021 (Staff writer, 2022)

It is deduced that even the legislation governing corruption has been changed and amended over time. In R v AIL and others [2017] 1 All ER 268, Sir Brian Leveson P pointed out the following aspects pertaining to the regulation of corruption.

He started with the 1889 Act which was solely concerned with bribery and corruption in public bodies. Section 1 of this 1889 Act created a new statutory offence of corruption as:

    (1)   Every person who shall himself or by in conjunction with any other person, corruptly solicit or receive, or agree to receive, for

himself or for any other person, any gift, loan fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of misdemeanour.

(2)   Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body as aforesaid is concerned, shall be guilty of a misdemeanour.

In 1899, a new Act promoted by Lord Russell and Sir Edward Fry, was introduced into a bill, but was never entered into law [19]. In 1901, Lord Halsbury introduced a government bill which was passed into law and came into force on 1 January 1907 and was known as the 1906 Act aimed at the better prevention of corruption [20]. Furthermore, in 1916, War Office scandals came to light resulting in the enactment of the 1916 Act which amended the 1906 Act, also increasing the maximum penalty on convictions under the 1906 Act [24]. It is submitted that South Africa based its 2004 Act on the 1889 Act of England and Buffalo City Municipality is bound by the national legislation when investigating crime.

1.3 PROBLEM STATEMENT

Bloomberg and Volpe (2012:61) asserts that a research problem focuses on clarifying specific aspects of the general topic. The authors further state that the problem in a qualitative study should be exploratory and open-ended. A qualitative research problem is not just based on interest, but rather on real-life problems or practical experiences.

The research problem is the centre of every research project, and the success of the research efforts is directed by the research problem, and this is an

indication of the importance of the research problem (Leedy & Ormrod, 2012: 44). Corruption, nowadays, has become the subject of political and economic importance. Corruption and fraudulent activities are widely spread, even amongst the law enforcement agencies and the criminal justice system itself where high ranking officials are deeply implicated in these activities (Gottschalk, 2010:23).

Osterburg and Ward (2014:602), also argue that the investigators mostly find themselves in a situation where they are being pressured one way or another, by external or internal sources, resulting in a complex investigation process. In a report by Njilo (2021: n.p.), the Special Investigating Unit (SIU) head Adv Andy Mothibi revealed that the Unit is faced with 1 832 cases of alleged corruption and currently investigating 2 695 cases.

The report further stated that the investigations are costing taxpayers about R341 million. Challenges such as members who had to quarantine were also mentioned in this report. Another report by Marais, Singh and Wildschut (2021: n.p.) indicated that South Africa is battling a crisis of fraud and corruption. The report further articulated that there is an expectation that corruption will continue to become more intense in both private and public spheres. This expected increase in fraud and corruption matters creates doubt as to whether the investigative and prosecution authorities will cope.

In the Eastern Cape, there has been reports of a collapsed healthcare system impacted on by Covid-19 infections. A report by Ntlemeza (2020: n.p.) identified corruption and mismanagement as contributors to the province's lead in the Covid-19 infection rate. Harper (2021: n.p.) reported that the Special Investigating Unit (SIU) had referred corruption cases to the Directorate for Priority Crimes Investigation (DPCI) for investigation, with the majority of referrals coming from the Eastern Cape, according to the Hawks' head general, Godfrey Lebeya. In 2020, the Hawks' Serious Corruption Investigation Unit raided the Buffalo City Municipality offices in East London, seizing documents and equipment relating to the investigation of alleged corruption worth R30 million linked to Covid-19 food vouchers. (Dayimani,

2020: n.p.). These food vouchers were meant to relieve hunger of those affected by Covid-19. Corruption meant that many people suffered and struggled to provide food and that, in turn, would have resulted in more criminal activities and possible unrest which would result in serious state destruction and economic decay. Another report by Mutema (2020: n.p.) classified the Eastern Cape as being poor and underdeveloped and rated it has having the fourth highest crime rate out of the nine provinces. The report further stated that the province has earned a reputation of not only criminal corruption, but disgustingly immoral corruption. According to the report, there has been a decline in industry activities in the province because of corruption and weak governance. Another report by Dayimani (2020: n.p.) indicated that the Democratic Alliance (DA) has called for 374 cops to be fired by the South African Police Service for being convicted of serious crimes, including corruption.

This is evidence that corruption is a problem that needs very serious attention as it not only impacts the economy of the country, but its investigation costs the taxpayers heavily. Corruption also affects the community negatively as the rate of unemployment soars and the community suffers poor service delivery. Because of corruption, more and more other violent crimes are committed as people strive to survive by any means possible.

1.4 AIMS OF THE RESEARCH

According to Gray (2014:53), aims are statements that indicate what one intends or plans to achieve, and provide a direction for the study. Aims guide the research as they are an indication of what the researcher intends to obtain. Mligo (2016:66) is of the view that a research aim is an indication of the goal that the researcher wants to achieve with the research process. The author asserts that the main aim should relate clearly to the problem and the research question. Research aim is the anticipation of establishing new knowledge and theories. The researcher intends to establish new knowledge that might hinder or assist the successful investigation of corruption in South

Africa.

The aim of this research is, therefore, an academic aim which is to assess the investigation of corruption in the Eastern Cape Buffalo City Municipality.

1.5 **PURPOSE OF THE RESEARCH**

Social research can be conducted for many purposes such as exploration, description, and explanation (Babbie, 2010:90). According to the author, most social research is conducted to explore a phenomenon; this is attained by the researcher examining a new interest or studying a new topic.

According to (Babbie (2021:90), social research can serve many purposes and the most common and useful purposes are exploration, explanation, and description. As the author asserts, most studies have more than one purpose. So, too, does this study. This study intends to serve the following purposes:

Exploration: this study is conducted to explore the process of investigation of corruption cases in the Buffalo City Municipality. Babbie (2021:91) attests that explorative studies are appropriate for phenomena that is more persistent. Given the global persistence of corruption activities, the researcher deemed it appropriate to explore the process of investigating this conduct to ascertain its efficacy in curbing this problem. The researcher also intended to satisfy a desire to better understand corruption.

Description: the researcher also intends to describe corruption. By so doing, the researcher will be able to examine why corruption continues to be persistent (Babbie, 2021:91-92). The researcher intends to answer questions, i.e. what is corruption, how does it manifest, and how is it investigated?

Explanatory: the researcher also intends to explain why corruption and corruption related activities are so persistent around the world, why the investigation of crime seems to be less effective in addressing corruption and

why there is little to no deterrence in the commission of corruption (Babbie, 2021:92). Flick (2018:x) asserts that qualitative research is intended to approach the world and to understand, describe, explain, and explore a social phenomenon in a different number of ways. The researcher seeks to unpack how people understand corruption and what are investigators of corruption doing to combat this phenomenon.

Therefore, this research is conducted for the purpose of ascertaining the understanding of corruption and exploring the investigation of corruption cases in the Eastern Cape Buffalo City Municipality. The researcher intends to examine the understanding, perceptions, and feelings of investigators of corruption regarding the capacity of investigating this phenomenon, given the current widespread reports of these conducts when the country is struggling economically while expected to deal with the Covid-19 pandemic. By exploring the investigation process of corrupt activities, the researcher intends to generate new knowledge that will assist in developing new guidelines and policies to improve corruption related investigations.

1.6 THE RESEARCH QUESTION

Bloomberg and Volpe (2012:63) states that research questions are the general questions that guide the researcher into understanding the phenomenon being studied. These questions should be clear, specific, and relevant. According to the authors, the qualitative questions may be descriptive, interpretive, and theoretical. They usually start with what or how and are usually open-ended.

Flick (2015:52) categorises research questions into three classifications, namely: exploratory questions which focus on a given situation, descriptive questions which aim at describing a certain process and explanatory questions which focus on relation. In this study, the researcher intends to focus on the investigation of corruption cases, describe corruption and focus on the relation between the understanding of corruption and the investigation

of corrupt activities.

Thus, the research questions for this research are:
- What is the general understanding of corruption?
- How effective, efficient, applicable, cost effective, expeditious, impartial is the investigation of corruption in South Africa?
- What are the challenges of investigating corruption in South Africa?

1.7 RESEARCH OBJECTIVES

Kumar (2014:69) defines objectives as the goals set to be attained in the study. They give direction as to what the researcher intends to achieve. They should be clear and specific. Hennink, Hutter and Bailey (2020:32) agree that objectives of a study are the ways of determining what the researcher wants to achieve. In conducting a study on the investigation of corruption cases in the Buffalo City Municipality, the researcher wanted to achieve the following:

1.7.1   Determine the understanding of corruption

1.7.2   Ascertain the nature and extent of corruption

1.7.3   Explore the effectiveness of the investigation of corruption cases

1.7.4   Ascertain the impact of corruption

1.7.5   Devise strategies to intensify the fight against corruption

1.8 DELINEATIONS OF THE STUDY

The purpose of this study is to explore, describe and explain corruption and the investigation of corruption related cases. Therefore, the researcher is not going to study the prosecution of these crimes and the relevant legislation which regulates corrupt activities. The researcher will also not study the investigation techniques by other units such as the Public Protector and private investigators.

1.9 OVERVIEW OF THE METHODOLOGY

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In conducting a study on the assessment of the investigation of corruption cases in the Buffalo City Municipality, the researcher conducted the research with qualitative research methodology. This methodology has been used due to the fact that it is suitable for the study as it provides for the researcher to ask general questions about the investigation of corruption cases. Corruption has been identified as the universal problem that affects everybody around the world, so general views about the problem would be effective in addressing the problem. This method is also open in letting the researcher switch to specific questions as the researcher gains more understanding of the problem and the study progresses. The researcher can also formulate a working hypothesis and can also use general approach to investigate the problem (Leedy & Ormrod, 2019:229).

Qualitative research was chosen because it is suitable for promoting a deeper understanding of corruption (as it seems more complex to understand) and the investigation of corruption and corruption related activities from the perspective of the participants. In qualitative research, an emphasis is put on exploration, discovery and description and it is directly tied to the research problem and the purpose of the research (Bloomberg & Volpe, 2012:27).

1.10 ROLE OF THE RESERCHER

According to Bloomberg and Volpe (2012:37), the role of the researcher in a qualitative study is to describe the problem from the perspective of the participants. The role of the researcher in this study is to ascertain the understanding of corruption and explore the investigation of corruption cases in the Eastern Cape Buffalo City Municipality. The researcher had to understand the meaning of the experiences of the corruption investigators in the Buffalo City Municipality. The researcher is open to change and is actively involved in the study by communicating with and personally gathering data from the participants, reflect on participants' experiences, identify themes and patterns and ascertain the effectiveness of the investigation processes in the

Buffalo City Municipality.

1.11 KEY THEORETICAL CONCEPTS

Key theoretical concepts should be identified and utilised in assisting and guiding the researcher throughout the study and should be defined in a way that interprets them as applied in the research project (Leedy & Ormrod, 2012:44-15). The researcher identified the following concepts as utilised in the study.

1.11.1 Investigation

Zinn and Dintwe (2015:19) define investigation as the systematic search for the truth which includes organised reasoning, thinking, examination and gathering of information and evidence in terms of the law. Dutelle (2019:3) in agreement describes an investigation as a systematic examination of an incident or carrying out of an inquiry.

1.11.2 Forensic Investigation

Forensic investigation can be defined as an in-depth search for the truth by applying scientific methods and techniques, specialised skills and expert knowledge with the intent to find a possible solution to a crime or transgression (Zinn & Dintwe, 2015:19). It means applying forensic science in the process of investigating a criminal activity (Dutelle & Becker, 2019:7). The authors agree that it is applied in the process of investigation.

1.11.3 Corruption

Corruption refers to an act of accepting any gratification from another or giving any gratification to another with the intent of influencing the receiver to behave in a manner that amounts to the unlawful performance of any duties (Joubert, 2013:194). It is understood to be a negative social situation that causes the moral destruction of society and financial losses caused by corrupt activities (Ochrana, Pucek & Placek, 2018:12).

1.11.4 Whistle-blower

Whistle-blowers are those individuals within the community who assume the responsibility of protecting the community's interests by risking their careers in order to expose any notable allegations of financial fraud or any other wrongdoing by either public or private organisations (Biegelman & Bartow, 2012:256). As asserted by Devine and Maassarani (2011:12), whistle-blowers are individuals who use their right to free speech in challenging the abuse of power and betrayal of public trust by disclosing information.

1.11.5 Investigator

An investigator is responsible to carry out a formal inquiry in relation to a criminal or unlawful incident on behalf of a law enforcement agency or private institute (Turvey & Crowder, 2017:9). Dutelle (2017:5) asserts that an investigator is a specialised police officer who has sufficiently great experience in investigations and who is involved in the whole criminal investigative process.

1.11.6 Scene of incident

The scene of incident is any place where an illegal activity took place, but in crimes such as fraud, forgery and corruption there is no fixed scene of incident (Lochner & Zinn, 2015: 32-33). Dutelle (2017:12) describes a scene of incident as a location where the crime was committed and that every scene is unique and changing.

1.12 SIGNIFICANCE OF THE RESEARCH

This research is important as it will assist in identifying gaps in the investigation of corruption, applicable legislation, and policies. It will assist in guiding the policy implementers to review relevant policies and capacitate aspiring investigators. In doing so, there will be an improvement in the investigation and eradication of these crimes and that will play an important role in boosting the economy of the country.

The study is expected to contribute to the following sectors:

- **The Eastern Cape community**: The findings could be used to intensify the fight against corruption, ensuring those that are involved in corrupt activities are convicted and potential corrupt activities are deterred. Thereby improving social standards and service delivery.
- **Scholars**: The results can be used for future reference and further research by other scholars to further improve corruption investigations.
- **Investigative department**: The findings and recommendations can be used in the development of new strategies and tactics to investigate corruption.

1.13 PRELIMINARY LITERATURE REVIEW

Felix & Smith (2019:75) are of the opinion that literature review is an effective piece of writing that assists the research with evidence and justifies the significance of the research. For the proposal, the engagement is with a limited number of key sources. Bloomberg & Volpe (2012:44) agree and state that the review of literature informs the study and creates an argument for the study and that serves as a guide of the study. Similarly, Creswell (2014: 28) asserts that literature review provides a framework for determining the importance of the study and the tool to use in comparing with other findings. The previous studies indicate a lack of clarity concerning the classification and investigation of corruption. On the contrary, corruption is a complex crime which is not easy to investigate. Media reports on corruption and fraudulent activities are escalating.

1.13.1 Classification and understanding of corruption

The first step in the successful investigation of any crime would be to understand and know what it is, how it manifests and how it is classified. Similarly, when one embarks on a journey, one first has to ascertain where one is going in order to be able to identify the best possible route to take to one's destination timeously and cost effectively.

With corruption, it seems to be a complex process to understand as it is very broad, and other scholars use it interchangeable with other crimes such as fraud. This might be one of the problems contributing to the complexity in the investigation of corruption cases. Let us look at some of the categories in which these crimes are found. As complex as corruption is, studies indicate that there is a lack of consensus as to how it should be classified, and this might add to the complexity in terms of the investigation guidelines.

Britz (2013:174) proposed that organised crime should be defined as recognised, ranked organisations willing to use force and the corruption of public officials. This proposal emanated from a vast definition of organised crime. The author has identified corruption as a form of organised crime.

On the other hand, Osterburg and Ward (2014:593) contends that some criminologists were prompted to bring a broad range of crimes, including organised crime, white-collar crime, and corruption amongst others, under one umbrella known as "enterprise crime". This lack of consensus amongst scholars is creating a gap in literature and might affect policy implementation.

Commercial crime is considered to be closely related to white-collar crime, economic crime and financial crime. Commercial crime is committed for financial gain, and it includes amongst others, corruption and fraud and it results in government suffering the consequences (Budhram & Geldenhuys, 2017:7).

In the South African Police Service annual report (2018:106), it is stated that commercial crime covers a vast range of offences ranging from fraud to theft and, at times, it is extremely difficult to investigate as it comprises a variety of dynamics in relation to other crimes. On the other hand, corruption and fraud are classified as financial crimes (Gottschalk, 2010:5).

From the above discussion it can be adduced that there is no one way of classifying corruption. This lack of consensus in terms of categorising corruption may also have an impact on the investigation thereof as the policy

implementers and investigators do not have a clear understanding of the seriousness of these crimes. An example is that the exact statistics of corruption offences is not clearly defined as it is included in commercial crime.

To be able to understand the dynamics in the investigation of corruption and to be able to identify gaps and challenges, one must know and understand the definitions of these crimes. The definition of crime identifies the characteristics of that crime which must be proven to be present during the investigation of that crime.

Joubert (2013:190) categorises corruption under crimes against the community. This can be interpreted that corruption affects the community as a whole, not just the individual. Corruption, therefore, is meant to protect public welfare. The proper and thorough investigation and eradication of corruption would be beneficial to the community at large.

Section 3 of the Prevention and Combatting of Corrupt Activities (hereby referred to as PCCA) Act 12 of 2004 provides that both the person who gives and the one who receives any gratification is guilty of corruption. The Act provides for several offences under the umbrella of corruption. Firstly, the researcher, therefore, intends to explore whether those authorised to investigate corruption are well conversant of the legal aspects of the PCCA Act and can apply the Act unequivocally in practical situations for successful investigations. Secondly, as the Act provides for a wide range of offences within corruption, is it justifiable and unambiguous to classify corruption under be it organised crime, white-collar crime or commercial crime or should it be a standalone crime.

Brooks (2016:19) argues that corruption is commonly referred to as the abuse of power for private gain. The author further argues that the definition of corruption has different meanings and, therefore, literature has concluded that there is no conclusive definition of corruption. It should, therefore, be viewed as compound and having many sides with quantities of causes and effects for it manifests in different forms, functions, and contexts.

Hence, the researcher intends to explore if categorising these broad crimes under commercial crime is justifiable for a proper and clear investigation process.

1.13.2 Investigation of corruption

It can never be denied that corruption is one of the most complex crimes that is not easily identified and is not easy to investigate. Constant review of the investigation of this crime is needed as it is also an opportunistic crime and is committed by sophisticated individuals within the community.

We have recently seen an outbreak of corruption in South Africa, especially when the country is faced with a pandemic, and this means that stringent and effective measures are needed to ensure that the economy of the country is not threatened more than it already is. A healthy economy needs honesty and integrity in order to survive. Corruption is characterised by dishonesty and lack of integrity and are threatening the economy of the country (SAPS, 2010:1).

Criminal activities, especial fraudulent and corrupt activities, are usually identified and reported by whistle-blowers and informants. These are people who have inside information and ranges from employees to customers/clients and others. These individuals play a huge role in the investigation of commercial crimes, and no matter how advanced the technology is, they will always be vital (Biegelman & Bartow, 2012:256).

The question that the researcher intends to answer is whether the whistle-blowers are optimally and effectively utilised and how safe and protected are they in order for free and voluntary co-operation. Kranacher and Riley (2020:269) supports the view that whistle-blowers need to feel safe, secure and protected while providing information in respect of alleged fraud and corruption and the authors suggested a fraud hotline which needs to be regularly reviewed. The gap identified is the lack of security.

The studies indicate that information pertaining to crime is obtained by interviewing and interrogating people involved one way or another in the commission of crime. It is vital that these concepts are clearly understood and properly applied in the investigation of corruption. Improper use and application may lead to the evidence obtained being inadmissible in court as stipulated in Section 35 (5) of the Constitution that evidence obtained in a manner that violates any human rights, may be inadmissible.

Kranacher and Riley (2020:324) contend that the ability to conduct thorough interviewing of witnesses and proper interrogation of subjects is crucial in commercial crime investigations. The investigators should be mindful of the fact that these concepts differ in many ways. The authors further state that the main difference is that interviewing is used to question people who might have or have knowledge about alleged corruption, whereas interrogation generally involves the questioning of subjects to obtain information linking them to corruption or to clear them from investigation. Interrogation can be a vital tool when properly utilised. Yet many investigators believe that the main or only purpose of interrogation is to obtain a confession, and this usually leads to the wrongful application of this technique (Osterburg & Ward, 2014:237). Some investigators do not understand the value of these techniques and tend to misuse them.

Britz (2013:6) points out that individuals partaking in criminal activities, especially corrupt and fraudulent activities, display the ability to adapt to changing technologies and lifestyles easily. This has caused law enforcement to struggle to keep up with criminal innovations. The author further argues that the law enforcement community failed to recognise the emerging technologies until it was almost too late. The author identified several problems traditionally associated with computer crime such as incompetent investigators, lack of knowledge and experience to prosecute these crimes, lack of reporting and lack of resources. These problems are not yet clearly addressed.

Osterburg and Ward (2014:264) acknowledged that changing technology had an impact on almost all aspects of life. The authors argued that technology

has impacted criminal investigations in a more advanced way and suggested that the use of new technology should be part of investigator's training, just as criminal law and procedure is. Incorporating technology in investigator's training still seems to be a problem, because it means that there should be recruitment of proper instructors with expertise in that field.

Kranacher and Riley (2020:354) supports the view that technology is a specialised area and often manipulated by criminals. The investigator usually requires the assistance of a professional with such expertise in the digital world during the investigation of commercial crimes. This indicates a gap in terms of the lack of expertise within skills set of the investigators of corrupt activities.

One of the reasons of conducting a search at a scene of an incident is to link a suspect to the crime by means of evidence found at the scene. In commercial crime scenes, the investigator might look for evidence such as digital evidence, documentary evidence and other related evidence (Osterburg & Ward, 2014:90). The authors further state that it is imperative that nothing at the scene is altered or removed before the scene is properly photographed and examined. The problem is that sometimes the experts will take their time to arrive at the scene of the incident, so that means that every law enforcement officer should be able to properly handle the scene.

Britz (2013:304) alerts us to the fact that digital evidence is unique, because it can easily camouflaged and this makes it easy to be hidden in plain sight by offenders. The author also contends that technology is moving faster than law enforcement training. This is the gap that needs to be addressed in terms of investigator's training. Furthermore, Kranacher and Riley (2020:288) assert that a fraud and corruption investigator needs to answer who, what, where, when, how and why questions with evidence. This usually becomes a problem, because sometimes evidence is incomplete and that is an on-going challenge for fraud and corruption investigators.

Embarking on an investigation of corruption is perceived as one of the most difficult assignments of an investigator. It is not an easy task. The investigator

has to, amongst other things, conduct a background check of the subject, assess financial status, record assets and also conduct a thorough analysis of the characteristics of the subject, friends, contacts and family of those involved in corrupt activities (Osterburg & Ward, 2014:602). This is supported by Adler, Mueller and Laufer (2013:12) contending that the extensive political power of corporations makes it difficult to restrain and investigate corporate crimes, especially in developing countries. This indicates a gap between criminology and policy implementers who are politically bound.

1.14 RESEARCH STRUCTURE

The research report will consist of the following chapters in relation to the research problem that is to be addressed, as well as the research approach that will be followed in addressing the identified problem.

Chapter 1: General orientation

This chapter details the introduction and the basis for conducting the research including aspects such as background, research problem, aims and purpose of the study, research questions, research objectives, delineations, key concepts, significance of the study, overview of methodology, role of the researcher and preliminary literature review.

Chapter 2: Literature review

This chapter will provide an overview of current and relevant information, theories and gaps in the available research related to the understanding, manifestation, and investigation of corruption.

Chapter 3: Research methodology

In this chapter, the researcher will describe and outline the methodology, research design and approach to conduct the study, sampling, data collection methods, data analysis, ethical considerations, limitations, and the ethical considerations.

Chapter 4: The understanding of corruption and investigation of

corruption cases

This chapter will discuss the understating, manifestation and classification of corruption, the investigation process of these crimes, criminal and forensic investigation, challenges in gathering evidence and securing convictions, political influence in the investigation of these crimes and the corrupt activities based on collected data.

Chapter 5: Findings, Recommendations and conclusion

In this chapter the researcher will conclude the study, detail findings and make recommendations for improved future investigations based on evidence collected.

1.15 SUMMARY

Corruption is a universal problem, and it has been tormenting the world for a very long time. It manifests in different forms and there seems not to be a consensus on deciding which conduct constitutes corruption. It can manifest in other prohibited conducts or in conducts that are not prohibited but manipulated to serve individual interests.

It is not a new concept as it has developed a long time ago. The whole world has and is struggling to deal with corruption. It has a negative impact on the economies of the world and has resulted in some nearly collapsing.

It has been identified as a very complex form of misconduct perpetrated by sophisticated individuals who are high profile individuals. Most perpetrators of corruption are individuals with authority which they use as a tool to commit corruption. Some are politicians and high-level public and private officials. Scholars are struggling to agree as to what corruption is and this is impacting on the specific methods of combatting it.

CHAPTER 2: LITERATURE REVIEW

2.1 INTRODUCTION

The purpose of this study is to explore the understanding, manifestation and assess the effectiveness of the investigation of corruption cases. A large set of previous literature on corruption provides ground for this study. Literature provides a diverse understanding of the term, corruption, and a wide range of conduct that are associated with corrupt behaviour.

'Our efforts to address corruption face at least two fundamental constraints. Both of these are historically rooted and impact on our ability to make policy decisions and decisive interventions needed' (Plaatjies, 2013:126).

These corruption manifestations range from gifts, abuse of power, kickbacks, maladministration to serious conducts such as bribery, cronyism, and even fraud, and is many times associated with corrupt behaviour (Lekubu, 2019:44). Previous studies have identified different perpetrators of corruption and established that corrupt behaviour has been a historical problem, and given the current rate, it has but developed with time and is gradually progressing.

Felix and Smith (2019:75) are of the view that literature review is an effective piece of writing that assists the research with evidence and justifies the significance of the research. Bloomberg and Volpe (2012:44), in agreement, state that the review of literature informs the study and creates an argument for the study, and that serves as a guide of the study. Similarly, Creswell (2014:28) emphasises that literature review provides a framework for determining the importance of the study and the tool to use in comparing with other findings.

It is submitted that the examination of scholarly literature related to the topic studied should be done systematically. This is, according to Efron and Ravid

(2019:2), when the researcher critically analyses, evaluates, and synthesises the findings and theories of other researchers in relation to the current topic being studied.

In conducting a study on the investigation of corruption cases in the Eastern Cape Buffalo City Municipality, the researcher had to conduct a systematic review of literature to gain insight into the findings and views on corruption of other scholars. This systematic review was done in a form of traditional-narrative review. Traditional-narrative review was used because the researcher intended to survey the state of knowledge of corruption and how it is being tackled and investigated (Efron & Ravid, 2019:2).

Traditional-narrative research was also used in this study for the purpose of providing a comprehensive background on the understanding of practices, processes and techniques applicable in the investigation of corruption cases. This review also enabled the researcher to critically summarise theories and examine previous studies in relation to corruption investigations. The researcher did not locate all relevant literature and the criteria for research methods is not offered. This research review is applicable to qualitative research that was used by the researcher and is most commonly used (Efron & Ravid, 2019:2).

It is suggested that the review of previous studies was necessary as there is an indication of a lack of consensus and common understandings of corruption. This clearly indicates that corruption is a complex crime which is not easy to investigate and should constantly be reviewed. Media reports on corrupt and fraudulent activities are escalating.

2.2 UNDERSTANDING CORRUPTION

It is the researcher's understanding that the first step in the successful investigation of any crime would be to understand and know what it is, how it manifests and how it is classified. Similarly, when one embarks on a journey, one first has to ascertain where one is going in order to be able to identify the

best possible route to take to one's destination timeously and cost effectively. This is supported by Joubert (2018:401) stating that every element of a crime needs to be proven beyond reasonable doubt before one can be convicted of committing such crime. It creates a gap when the scholars and public in general understand and interpret such conduct in different ways.

There seems to be different perceptions and views in relation to corruption. Alfred Sambaza, director of forensic services at Sizwe Ntsaluba Gobodo, stated that corruption is often perceived as a victimless crime, whereas there are victims of corruption. He also noted the perception that corruption only occurs in the public sector, whereas officials within the public sector are often bribed by individuals from the private sector. He also indicated that there is a belief that corruption is committed by middle to lower management officials, whereas the universal report by the Association for Certified Forensic Examiners indicated that company owners or executives are responsible for corruption and fraud (Ramotsho, 2018:2).

2.2.1 Complexity of corruption

Corruption seems to be a complex process to understand as it is very broad and other scholars use it interchangeable with other crimes such as fraud. This might be one of the problems contributing to the complexity of the investigation of corruption cases. As complex as corruption is, literature indicates that there is a lack of consensus as to how it should be classified, and this might add to the complexity in terms of investigation guidelines. It is submitted that this creates a gap for policy developers to set clear boundaries as to what is accepted and prohibited as corrupt conduct.

Britz (2013:174) proposed that organised crime should be defined as recognised, ranked organisation willing to use force and the corruption of public officials. This proposal emanated from a vast definition of organised crime. The author has identified corruption as a form of organised crime. This is an indication that corruption can be committed by a group of individuals and be planned beforehand.

On the other hand, Osterburg and Ward (2014:593) contend that some criminologists were prompted to bring a broad range of crimes, including organised crime, white-collar crime, and corruption amongst others under one umbrella, namely 'enterprise crime'. This lack of consensus amongst scholars is creating a gap in literature and might affect policy implementers. Commercial crime is considered to be closely related to white-collar crime, economic crime and financial crime. Commercial crime is committed for financial gain, and it includes, amongst others, corruption and fraud and it results in government suffering the consequences (Budhram & Geldenhuys, 2017:7).

According to the South African Police Service annual report (2018:106), it is stated that commercial crime covers a vast range of offences ranging from fraud to theft and, at times, it is extremely difficult to investigate as it comprises a variety of dynamics in relation to other crimes. On the other hand, corruption and fraud are classified as financial crimes (Gottschalk, 2010:5).

Joubert (2018:108) categorises corruption under crimes endangering the constitutional structures or the economy and that these crimes pose a serious threat to the South African constitutional dispensation and the strength of its economy. These crimes are prevalent and putting the future of South Africa at risk. This can be interpreted as that corruption affects the economy of the country drastically. The proper and thorough investigation and eradication of corruption would be beneficial to the community at large.

Deloitte and Ottawa (2014:1) identified different categories of corruption as supply versus demand corruption, grand versus petty corruption, conventional versus unconventional corruption and public versus private corruption as the most common types, with other categories such as systematic versus individual, corruption by commission versus corruption by omission, corruption by the degree of coercion used and the type of benefit provided.

Graycar (2015:88), in his publication, noted that corruption is classified under different categories in different settings. It has been traditionally classified as petty corruption, grand and state capture:

> Petty corruption applicable to lower-level officials having opportunity to do wrong things or do something permissible in an improper manner for example a male traffic official failing to issue a ticket to speeding attractive female motorist in exchange for cell phone numbers (Graycar, 2015:88-89).

> Grand corruption referring to politicians manipulating state resources for their own benefit to an extent that they distort policies to the point of owning state resources that are meant for the public (Graycar, 2015:88-89).

> State capture is associated with some outside interests bending state laws by using their corrupt influence to change laws of the state to fit their own benefit (Graycar, 2015:88-89).

It is submitted that corruption manifests itself in different forms, types and in different settings. It is dynamic and can take any form and it includes in it different types of conduct which are prohibited on its own. It is not the type of criminal conduct that is committed by the poor, hungry and uneducated individuals. The complexity of this conduct makes it difficult for scholars to reach a consensus on the effective way of combatting it.

The following pyramid chat indicates the categories of corruption as identified by Graycar (2015:88-89):
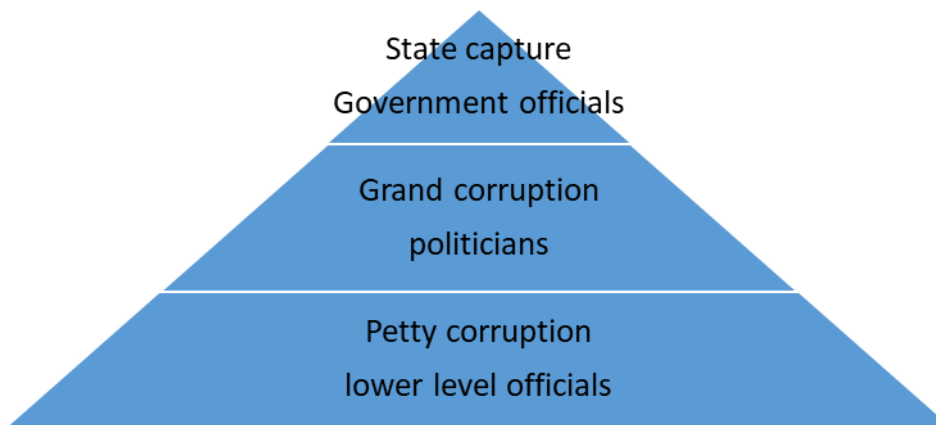
Figure 2.1 Schematic representation of corruption categories (Graycar, 2015:88-89)

2.2.2 Different explications of corruption

To be able to understand the dynamics in the investigation of corruption and to be able to identify gaps and challenges, one must know and understand the definitions of these crimes. The definition of crime identifies the characteristics of that crime which must be proven to be present during the investigation of that crime.

Section 3 of the Prevention and Combatting of Corrupt Activities (hereby referred to as PCCA) Act 12 of 2004 provides that when a person gives or offers to give and accepts or offers to accept any gratification during the performance of duties for the purpose of acting or influencing another to act dishonestly or otherwise by abusing a position of authority or violating legal rule, that person is guilty of corruption. The Act provides for several offences under the umbrella of corruption.

Brooks (2016:19) argues that corruption is commonly referred to as the abuse of power for private gain. The author further argues that the definition of corruption has different meanings and, therefore, literature has concluded that there is no conclusive definition of corruption. It should, therefore, be viewed as compound and having many sides with quantities of cause and effect for it manifests in different forms, functions, and contexts.

KPMG (2016: n.p.) also support the notion that corruption is simply the abuse of power for private benefit and that there is no universally accepted definition of corruption. Corruption Watch (2022: n.p.) refers to corruption as the abuse of entrusted resources such as money, vehicles and private business resources or power for personal gain. It is submitted that abuse of power for private gain is the most common and understood form of corruption although it does not top the list.

Williams (2021:2) noted and identified different ways the term corruption is used. These referring to some institutions not defining corruption, but rather listing and defining a series of offences that should be covered in relation to corrupt activities, including bribery and money laundering amongst others. Williams (2019:2) also pointed out definitions of corruptions as including non-monetary forms such as nepotism, the ones strongly fixed in individual actions and those that refer corruption as a broader phenomenon.

Lekubu (2019:44) in his study, 'A critique of South African Anti-corruption strategies and structures: A comparative analyses' noted that there is no universally accepted definition of corruption, and that it is so complex to the extent that laypersons use corruption interchangeably with transgressions such as bribery, fraud and lobbying. It submitted that the complexity of corruption is so extreme that even media can report an incident as corruption and fraud. Graycar (2015:89) acknowledged that legislative attempts in defining the term, corruption, have failed and it is submitted that this might cause a gap in successfully dealing with this descriptive conduct.

2.2.3 Human behaviour and corruption offences

The researcher is of the opinion that any incident that warrants investigation is committed by a human being behaving in a manner that is not acceptable in society and is punishable by law. It is, therefore, crucial to understand how humans behave in order to successfully investigate criminal behaviour.

Dion, Weisstub and Richet (2016:110) point out that academics have

identified traditional rational choice theory of financial crime. This theory implies that homo economics choose to act illegally when benefits are deemed to outweigh the probability of being caught and punished. This implies that people choose to commit crime, have a free will of weighing the benefits versus the possibility of being identified, caught, and punished. It is submitted that financial crime offenders are opportunistic offenders and the lessor chances of being investigated and punished, the more they commit crime.

It is submitted that ethics and morals can be associated with behaviour traits. Behavioural characteristics can be determined by one's ethical considerations. Rathbone (2020:145) identified a behavioural trait, moral egoism, as ethical theory in relation to psychological egoism that leads to ethical decision making. This is referred to as behaviour where the individual's choices are inherently directed towards his/her own self-interested desires. Lekubu and Sibanda (2021: n.p.) in their article, 'Moral values and ethics as antidotes for corruption in the South African public service and administration' expressed the importance of morality in public administration and ethical leadership. Furthermore, the authors asserted that there is a possibility of low levels of ethics and morality in the South African public service and administration. They pointed out a lack of transparency and accountability in public service and administration as demonstrated by the Zondo Commission of Inquiry and the VBS scandal. The researcher is of the opinion that individuals falling in this category choose to act based on their interests and benefits.

All human behaviour is learned within intimate personal groups. The environment to learn sophisticated techniques of criminality should be proper and suitable for such learning. Within the society, there are also specialised commercial enterprises and institutions that support an individual's ways of life (Abadinsky, 2013:82). This is an indication that criminal behaviour can be influenced by the environment and opportunity presented to that individual. Crime is said to be equal to opportunity plus ability.

It is submitted that inhabitants learn ways of life within the groups they

socialise. They, therefore, choose which behaviour is best suitable for them. This is in line with the classical school of criminology which assumed that individuals have a free will. According to this school, people weigh the consequences of their actions and choose to commit crime if the benefits are predicted to outweigh the consequences (Adler, Mueller & Laufer, 2013:58). This school of criminology was later challenged by the positivist school which propounded that human behaviour is determined by forces beyond one's control (Adler et al, 2013:58). This can also be applicable to corruption offender profiling as it can be argued that their behaviour is directed by forces such as poverty, unemployment, and hunger. The above contraction indicates that it is difficult to ascertain how corruption is perpetuated and that might complicate the process of investigating corrupt activities. Adler et al (2013:166) also identified macro sociological theories of control in which legal system, laws, powerful groups, economic and social directives of governmental or private groups have control or power which promotes rule breaking behaviour and corrupt practices. This is an indication of political influence on human behaviour.

Burnell, Rakner and Randall (2017:4) assert that politics are often referred to as being able to have independent and significant effect. The researcher is, therefore, of the opinion that political power influences an individual's behaviour. Power inequalities also provide an opportunity for others to exploit and deprive others of a full life (Burnell et al, 2017:100). It is submitted that this exploitation is the result of an increase in corrupt behaviour amongst those that have power.

2.3 SPECIFIC CONDUCT IN RELATION TO CORRUPTION

The fact that corruption manifests in many ways can never be over emphasised. Graycar and Prenzler (2013:3) postulate behaviours that are deemed to corrupt, as many and occurring in different settings with various consequences.
The following conducts, inter alia, have been identified by the researcher as

the most common and applicable for the purpose of this:

2.3.1 **Abuse of power**

Graycar and Prenzler (2013:3) noted that people have always sought means of making more money, getting better deals, advancing their positions, and improving their lives by misusing positions of power and commonly used resources. To attain all this, corruption comes into play and power is misused.

Funderburk (2012:1) associates corruption not with anybody, but with public officials' actions which might be illegal or even legal, but questionable according to the rule of law and government's legal systems. These officials abuse their authority in a corrupt manner.

The researcher is of the opinion that corruption is not always unlawful conduct; it might be lawful conduct which is done where it was not supposed to be done. This can manifest when the conduct of an official is lawfully authorised, but the procedures and processes are not followed based on merit. An example is when a public official is authorised to award a project to a certain individual who qualifies for that project, but gives that project to someone who is not qualified and deserving, because of private interests like friendship, personal attraction or likeness, and, therefore, unjustifiably discrediting the one that qualifies. Another example can be that of political officials offering services, but prioritising individuals that are party affiliates or promoters, even if they have to skip other criteria requirements, and by so doing disadvantaging other innocent individuals. The researcher's opinion is also based on the general public view that the giving of gifts in appreciation of a job well-done or as a token of gratitude for excellence, is not against human values only, but that it is being manipulated by individuals with their own hidden agendas. This is the gap that the law seems to be lacking in closing.

2.3.2 **Maladministration**

The South African government raised concerns about cases of corruption, fraud, and maladministration amongst public servants whereby they collude

with private sector companies and individuals in defrauding the state (Plaatjies, 2013:87). The Cambridge Dictionary (2022: n.p.) defines maladministration as lack of care, judgement, or honesty in managing something or a situation in which people who manage a company or organisation behave careless or dishonest causing serious problems.

The Independent Commission Against Corruption (2016: n.p.) identified maladministration as the conduct of public officers, practices, policies and procedures which are applied in a manner that results in irregular and authorised use of public funds and public resources. It is submitted that maladministration is more prevalent than corruption, causes more damage and is the breeding ground for corruption. Maladministration enables corruption and makes it possible. Organisation Undoing Tax Abuse (2020:8) outlined that South Africa is overwhelmed with public officials lacking competency in carrying out their responsibilities, as well as with failure in implementing serious consequences for non-compliance.

In South African Association of Personal Injury Lawyers v Heath and Others (2000:2) it was stated that corruption and maladministration are inconsistent with the rule of law and the fundamental values of our Constitution. These conducts are said to undermine constitutional commitment to human dignity, achievement of equality and human rights advancement. These conducts can pose a serious threat to a democratic state if not dealt with properly and unpunished. It is submitted that there is so much carelessness, dishonesty, and negligence in the management of entities with intent to precipitate and conceal corrupt activities.

2.3.3 **Procurement corruption**

Corruption is often more common in government activities such as purchasing of goods and services. These procurement services create greater temptations for corruption (Graycar & Prenzler, 2013:101). Plaatjies (2013:71) refers to public procurement as a key economic activity of government which represents a large number of the Gross Domestic Product (GDP); it generates

huge financial flows. An effective procurement system will result in the waste of public funds and mismanagement. Plaatjies (2013:71) suggested that public procurement should be considered as a legitimate and necessary political and economic policy tool for government. As large sums of money are involved in public procurement, corrupt official often find ways to influence public officials into transforming laws for their own private advantages through bribes, state capture practices and administrative corruption.

Public procurement has been identified as the greatest government activity exposed to waste, fraud and corruption as there are high volumes of financial flows and close transactional relations between public and private sectors and government institutions. Factors such as lack of adequate needs assessment, poor planning and budgeting, political interference have been identified as risks to public procurement (Plaatjies, 2013:80-86).

Graycar and Prenzler (2013:102) identified a number of government spending practices that are prone to corruption in which rules ensuring integrity are always under-developed. Payments in areas such as grants, and awards are often vulnerable to undue influence, favouritism and expenditures aimed at attracting votes instead of fulfilling genuine community needs. These areas are often not following strict procurement protocols as they are not commercial transactions. It is submitted that there are little or fewer legal obligations in terms of procurement practices and even those that are in place, are often manipulated by corrupt officials to suit their own individual needs.

Political influence also plays a huge role in procurement corruption as politicians and public officials are often approached by lobbyists intending to promote the interests of clients. Also, the provision of gifts and benefits to managers and procurement officials by tender companies is questionable. Though gifts and benefits are regarded as forms of customary hospitality and ways of promoting business transactions which should provide harmless, insignificant benefits; they usually create internal conflict of interest and an obligation on the recipient thereof (Graycar & Prenzler, 2013:103).

In Minister of Finance v Afribusiness N.P.C and Others (2022:12) it was stated that procurement process is a critical part of a functional government service delivery mechanism aiming at achieving societal transformation. It is also submitted that even if there is no bribery involved, excessive waste involving misuse of taxpayer's funds, specifically benefiting certain individuals amongst suppliers and public servants, is a form of corrupt conduct (Graycar & Prenzler, 2013:103). The researcher is of the opinion that procurement process is prone to being manipulated by the unethical conduct of public and private officials for their own private benefit and can hinder the delivery of services to innocent members of society.

2.3.4 Bribery

Bribery has been identified as the most commonly perceived aspect of corrupt behaviour. It is said to occur when one offers money to another in order to persuade the other to do something illegal or inappropriate or not to do something in order to enable an outcome that would not have been possible without the money (Graycar & Prenzler, 2013:3). This is viewed as the act inducing illegal or unauthorised acts by offering something that was not due to the receiver.

Funderburk (2012:2) labelled bribery as the most common of political corruption worldwide in which money or gifts are offered to government officials to induce them to act in a certain desired manner. In his study 'Manifestations of corruption in the city of Tshwane Metropolitan Municipality', Lekubu (2015:65) found that some public officials in other countries often accept tips in exchange for their services and South African government officials are obliged to declare any gifts that are valued at more than R350. This is linked to state capture as indicated by Lekubu (2015:50) in that cabinet ministers and other persons testified about bribes that were offered by the Gupta family in exchange for certain benefits, thus interfering with the smooth running of the country and altering the deployment of ministers to their benefit.

Dion, Weisstub and Richet (2016: xv) refer to bribery as the most well-known

financial crime in which power is abused by offering or soliciting bribes in an unfair practice. It is viewed as universally prohibited although some countries in Asia confuse bribery with gift-giving practices. It is submitted that this confusion creates grey areas of morality concerning bribery issues. The researcher is of the opinion that the lack of clear distinction between acceptable gifts and bribery creates an opportunity for corrupt activities. It is also submitted that policy makers do not have a clear distinction as to what is acceptable as a gift or whether gifts should be strictly prohibited in a professional relationship.

Bribery has historically been viewed with great disgust and hatred by criminal courts. In S v Narker and Another (1975:2), bribery has been defined as a corrupt and ugly offence striking cancerously at the bottom of justice and integrity as well as preventing fair administration to society. This view has been recently echoed in S v Dawjee and Others (2018:18) where corruption was regarded as offending the rule of law and principles of good governance. It is, therefore, submitted that corruption has been a long-recognised problem and continues to harrow the principles of good governance. This indicates an inability and lack of commitment to tackling this phenomenon.

2.3.5 **Extortion**

Joubert (2018: 169) defines extortion as the unlawful and intentional exertion of pressure on another intending to induce that person to give up an advantage. This pressure can be in any form including threats. This explanation is referring to extortion independently from corruption in contrary to other scholars who relate extortion to corruption.

Funderburk (2012:3) refers to extortion as a demand for money or gifts by a public official. It is submitted that extortion and bribery are the most common forms of corruption. This view is supported by Graycar (2015:5) when referring to extortion as involving the use of force or threats or intimidation to extract payment. It is stated that the key in this extraction is coercion which might not be physical. Given the above explanation, an example would be a police official threatening to lock up a person unless a payment is made. It is

submitted that this conduct amounts to corrupt behaviour. The researcher's view, based on the discussion of extortion, is that corruption can include other prohibited forms of conduct which, on their own, are prohibited by law, because extortion and bribery are prohibited and identified as crimes independently from corruption. This may be one of the reasons that makes corruption very complex and difficult to dissect.

2.3.6 **Fraudulent conduct**

It is submitted that corruption can also manifest in fraudulent conduct. Although these two activities are identified and classified separately as fraud and corruption, they are so closely related that most scholars, media and researchers often use them interchangeably.

This submission is based on the definitions provided by Kemp, Walker, Palmer, Baqwa, Gevers, Leslie and Steynberg (2012:404-417) which define fraud as consisting of the making of misrepresentation with intent to defraud another, and corruption as including, amongst others, dishonesty and influencing of another into illegal activity in order to receive gratification. This gratification can and is usually obtained or given by making representations causing prejudice to others. An example is when an official misrepresents the suitability of beneficiaries on receipt of grants so that they would receive a gratification for themselves.

Graycar and Prenzler (2015:5-6) assert that fraud and other conducts can be corrupt. It is submitted that one can utilise one's office or position to steal funds or other resources and this can be political leaders stashing some of the community's money in personal bank accounts or even a misrepresentation in the form of sourcing medical supplies implying that they are meant for public health programmes, while it is intended for private practices. The researcher is of the opinion that both fraud and corruption entail dishonest activities causing financial loss to any person or entity or in which authority is abused to achieve some personal benefit. The benefit can and is usually obtained by acting dishonestly at the expense of others.

2.3.7 **Nepotism and cronyism**

Nwankwo (2017:21), while conducting a case study in ILembe District Municipality on 'perceptions of nepotism and cronyism on employee's job satisfaction in the public sector', concluded that nepotism is the act of preferring family relatives to positions of employment, without considering the suitability and qualifications of that person, but based solely on family relations. Cronyism is defined as an act of preferring friends and associates to positions of employment for the purpose of promoting one's interests while disregarding those that are better qualified and suitable for the position (Nwankwo, 2017:22).

This is also supported by Emmamally (2021: n.p.) asserting that nepotism is the favouritism of family members to job positions while cronyism entails the provision of jobs, contracts or any other benefits to friends, associates or acquaintances by an official based on their relationship rather than suitability or merit. It is submitted that nepotism and cronyism are both forms of corruption, are closely related and there is little regulation in place to prevent and regulate such conducts.

Delissen Van Tongerlo (2019:10), in his report, 'Fighting nepotism within local and regional authorities', asserted that nepotism and favouritism are forms of corrupt behaviour which can undermine the proper functioning of the state and compromise service delivery. It is submitted that these corruption-related activities, where positions are sold and bought, undeserving friends, relatives and party associates are promoted to lucrative positions, can affect all human resources. It is submitted that both nepotism and cronyism are specific forms of favouritism in which family members, friends and acquaintances respectively are preferred for job opportunities for one's own benefit. The researcher is of the opinion that nepotism and cronyism are corrupt activities that are not easy to prevent and regulate and are universally existing with extensive effect on service delivery. Allegations of nepotism have been reported against the former President of South Africa, Jacob Zuma, alleging

that he appointed his 25-year-old daughter to a senior position in the government ministry (Smith, 2014: n.p.). In AMCU abo Mabale v CCMA and Others (2021:21) the labour court reviewed and set aside an award that dismissed Mabale for forwarding his wife's CV to a fellow employee who forwarded it to the human resources department for consideration. This is an indication that nepotism is not easy to identify and tackle as the court overruled the decision of the arbitration in the above case.

2.4 DANGERS OF CORRUPTION

Corruption has a negative effect on domestic and international investments, and it hampers economic growth and can lead to violent civil conflict (Perry & Christensen, 2015:101). Corruption Watch (2022: n.p.) posit that international perceptions of corruption in South Africa are damaging the country's reputation, created barriers to local and international investments, affected economic growth and distorted the development of South Africans. The researcher is of the opinion that corruption is seriously damaging to the disadvantaged individuals of the country.

Pillay (2022: n.p.) pointed out that corruption has eroded South African citizens' confidence in public institutions, destroyed social trust and impacted heavily on the rule of law and democracy. Corruption has created huge financial loss, affected service delivery, resulted in human rights violations as well as protests and unrests.

2.5 THE PROCESS OF INVESTIGATION

It can never be denied that corruption is a most complex crime that is not easily identified and is not easy to investigate. Constant review of the investigation of this crime is needed as it is also an opportunistic crime and is committed by sophisticated individuals of the community. We have recently seen an outbreak of corruption in South Africa, especially when the country is faced with the Covid-19 pandemic, and this means that stringent and effective

measures are needed to ensure that the economy of the country is not more threatened than it already is. A healthy economy needs honesty and integrity in order to survive. Corruption is characterised by dishonesty and lack of integrity and are threatening the economy of the country (SAPS, 2010:1).

In the South African Developing Countries (SADC) region, corruption was described as a chronic disease that negatively affects all countries. Though there are numerous initiatives to combat corruption, it persists. SADC countries have multiple bodies tasked to fight corruption but the lack of communicathion between them and lack of independency makes them less effective. These bodies also also have issues such as lack of capacity to carry out the necessary investigation and most states have poorly trained staff and are understaffed (De Sousa, 2015: n.p.).

In modern day South Africa, law enforcement, especially the investigation of crime, has become an enormously complicated matter (Zinn & Dintwe, 2015:10). As complicated as it has been identified by Newburn, Williamson and Wright (2011:1) who pointed out that the investigation of crime has not been academically scrutinised. The complexity of the investigation of crime has also been acknowledged by Roelofse and Gumbi (2018:322) implying that investigations are much harder work and are less instantly revealing and that crimes cannot be easily solved. According to Zinn and Dintwe (2015:445), investigation is a process of examining a crime, incident, or transgression with the purpose of identifying the cause, motive or perpetrator of that crime. This is in concord with the definition of investigation in the Oxford Advanced Learner's Dictionary (2015:805) as the official examination of a situation or a crime. Osterburg and Ward (2010:1) refer to criminal investigation as the collection of information and evidence for identifying, apprehending, and convicting suspected offenders or reconstruction of the past events.

The impact of changing society in areas of living is viewed by Osterburg and Ward (2010:3) as contributing to the complexity of criminal investigation, as well as greater focus on corporate crime and technological crime. Birzer and Roberson (2012:4) point out that crime is referred to as a cultural universal

problem that must be investigated by law enforcement authorities and that investigations depend on the type of legal system in place and the personality of those in power. It is submitted that the investigation of crime, incidents or transgressions is not an easy task and should be viewed seriously.

2.5.1 Criminal versus forensic investigation

Some scholars distinguish between criminal and forensic investigation, though there are no clear features distinguishing the two concepts from each other. Zinn and Dintwe (2015:18) posit that there is confusion and debate in relation to the proper and true meaning of forensic investigation. Criminal and forensic investigation share common features such as:

- They both start after the crime is committed or incident is reported.
- They search for truth through systematic process.
- They identify, collect, discover, prepare and present   evidence.
- They make use of different methods and techniques.
- They present results in a tribunal (Zinn & Dintwe, 2015:19).

Houck and Siegel (2011:4), on the other hand, refer to the science of associating people, places and things that are involved in criminal activities as forensic science. Osterburg and Ward (2010:21) also refer to forensics as characterised by the scientific examination of evidence. Fish, Miller and Braswell (2011:2) point out that forensic science starts with the identification, collection and documentation of physical evidence at the crime scene, to scientific analysis and presentation in order to prove the occurrence of a past event and identification of the perpetrator. The researcher's view is that forensic investigation is a process that requires skill and knowledge to be mastered successfully. Newburn et al (2011:92) point out that criminal investigations have something to do with the law. They are intended to crack unsolved crime, identify perpetrators, prosecute perpetrators, prove guilt, and ensure that justice is served. This is done by recovering, procuring, evaluating, and arranging evidence as proof of the guilt of the perpetrator. It will be achieved through some form of science, arts, and craft (Newburn et al,

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2011:95-96).

Zinn and Dintwe (2015:19) define criminal investigation as a systematic, organised, thinking, reasoning, examination and analysis process in search for truth by gathering evidence and information in relation to all crimes or unlawful acts. Both authors agree that criminal investigation is the process that followed after a crime has been committed and has to be solved. It is submitted that the process of investigation is a critical process that needs sound thinking, reasoning and judgement.

2.5.2 Principles and sources of investigation

According to Zinn and Dintwe (2015:445) investigation is a process of investigating a crime or incident by searching out or examining that incident. It, therefore, requires particular guiding principles. To ensure effective investigation, certainty of the law should be matched with the messy unpredictable, complex reality of human behaviour. This can be achieved by understanding the law, human behaviour, techniques and strategies needed to match the law with human conduct (Stelfox, 2013:6-7). It is submitted that investigation is not a random approach, and it needs proper, thorough planning, preparation and engagement.

The graph representation of the process of investigation can be illustrated as shown in Figure 2.2:
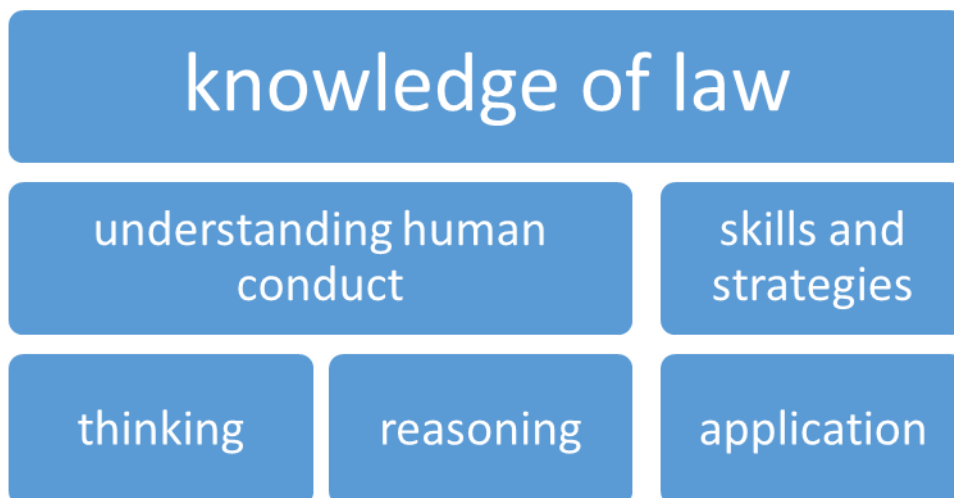
Figure 2.2: Principles of investigation (Stelfox, 2013:6-7)

2.5.3 Law and investigation

Law is devised by society to control social behaviour and in some areas, it has far-reaching influence on criminal investigations (Osterburg & Ward, 2010:315). Nemeth (2012:1) points out that the justice system depends firstly on criminal law which identify and determine conducts as prohibited and that any success in the justice system is impossible without the understanding of what it means to violate the contents of criminal law. Osterburg and Ward (2010:315) referred to law as a means of controlling human behaviour.

Burchell (2013:779) associates public welfare with honest dealing in business and commercial life. Abuse of official or corporate office for dishonest exploitation of opportunities for profit in business, commercial and industrial practices is part of white-collar crime which is detrimental to the state. These conducts are recognised by law as unacceptable and prohibited. Bribery is also relevant to white-collar crime and is a form of corruption in both public and private commercial sectors. Bribery has been long identified as a common law crime which is prohibited by law.

Initially, common law did not recognise giving of gifts for consideration or assistance as illegal. It was accepted as standard practice. However, in the nineteenth century, the bribing of voters was so clear to the extent that it had to be legally prohibited (Burchell, 2013:781). The Plakaat of 1651 regulated and prohibited South African electoral and commercial bribery and corruption which was later repealed by the Corruption Act of 1992 and later in 2004, Prevention and Combatting of Corrupt Activities Act came into force.

2.5.4 Techniques of investigation

It is submitted that when conducting criminal investigations, investigators apply different techniques, methods, and strategies to enable themselves to gather relevant and reliable information to determine the truth about the alleged events. Several techniques are identified in literature and are utilised during the process of investigating a crime or incident.According to Dingake (2020: n.p.), the worsening corruption in the South African Developing

Countries (SADC) region can be solved by politicians who are willing to adopt zero tolerance for corruption as well as civil society players willing to make them accountable. The Judiciary should be impartial and independent to successfully win the fight against corruption.The following are some of the techniques commonly used and mostly applicable to most crimes and incidents being investigated:

2.5.4.1 *The reporting phase*

Criminal activities, especially fraudulent and corrupt activities, are usually identified and reported by whistle-blowers and informants. These are people who have inside information ranging from employees, customers/clients to others. These individuals play a huge role in the investigation of commercial crimes, and no matter how advanced the technology is, they will always be vital (Biegelman & Bartow, 2012:256). In some BRICS (Brazil, Russia, India, China and South Africa) countries, whstleblowers are at personal risk. It is submitted that it is crucial for people to be aware of local laws relating to whistleblowers (Glover, 2015:n.p.)

Kranacher and Riley (2020:269) support the view that whistle-blowers need to feel safe, secure and protected while providing information in respect of alleged fraud and corruption, and the authors suggested a fraud hotline which needs to be regularly reviewed.

Section 34 of the Prevention and Combatting of Corrupt Activities Act No. 12 of 2004 constitutes it a crime if a person in a position of authority, who is aware of any corrupt behaviour specified in the Act, fails to report such conduct to a police official (Kemp et al, 2012:419). Osterburg and Ward (2010:578) assert that in modern society, illegal activities such as the abuse of authority, graft and bribery are often published in media, the internet and electronic communication. The public also have a moral obligation to report corrupt activities.

Failure to report corrupt conducts is an offence with its own characteristics, namely:

- **Omission:** persons in authority have a legal duty to report any corrupt activities they become aware of. Failing to report this is an omission.
- **Specific conduct:** the conduct specifically refers to persons in position of authority.
- **Unlawfulness:** necessity can be used as a ground of justification which would exclude unlawfulness in case of failing to report such conduct.
- **Culpability:** failing to report can also be committed negligently (Swanepoel, Lotter & Karels, 2014: 86).

2.5.4.2 *Interviewing and interrogation*

Studies indicate that information pertaining to crime is obtained by interviewing and interrogating people involved one way or another in the commission of a crime. It is vital that these concepts are clearly understood and properly applied in the investigation of corruption. Improper use and application may lead to the evidence obtained being inadmissible in court as stipulated in Section 35 (5) of the Constitution of the Republic of South Africa, 1996, that evidence obtained in a manner that violates any human rights may be inadmissible.

Gordon and Fleisher (2011:27-28) asserts that interview and interrogation are related, but fundamentally different processes. It is submitted that an interview entails a conversation between two or more people intending to gather available relevant information about an issue, whereas interrogation is intended to encourage people responsible for an incident being probed to admit their involvement in that incident. Both processes need special skills and attitude, for an interviewer must display a professional attitude and ensure that the information obtained is not contaminated. The interrogator, on the other hand, must also display an attitude of confidence which is crucial in overcoming resistance of deceptive suspects.

Birzer and Roberson (2012:67-68) are of the opinion that though interviewing persons and interrogating suspects has been explored by

many scholars and practitioners, there is still incapability in terms of soliciting a confession from a suspect through interview and interrogation techniques.

According to Zinn and Dintwe (2015:221-222) evidence obtained verbally through interviewing and interrogation plays an important role in gathering information relevant to the crime or incident being investigated. The authors do acknowledge some challenges such as hostile and uncooperative witnesses, false confessions and false alibis. It is, therefore, submitted that investigators should be aware of the legal aspects guiding these processes. The researcher is of the opinion that the incorrect use of these processes hinders the success of the investigation process. Another problem that has been identified by Osterburg and Ward (2010:164-165) is the use of precoded standardised forms in fact gathering which may be counterproductive. The authors also identified a failure in recording details during interviews as a major mistake which needs to be addressed. It is submitted that there is a need for specialised forms.

Kranacher and Riley (2020:324) contends that the ability to conduct a thorough interview of witnesses and proper interrogation of subjects is crucial in commercial crimes investigation. The investigators should be mindful of the fact that these concepts differ in many ways. The authors further state that the main difference is that interviewing is used to question people who might have or have knowledge about alleged corruption, whereas interrogation generally involves the questioning of subjects to obtain information linking them to corruption or to clear them from investigation. Interrogation can be a vital tool when properly utilised. Yet many investigators believe that the main or only purpose of interrogation is to obtain a confession, and this usually leads to the wrongful application of this technique (Osterburg & Ward, 2014:237). Some investigators do not understand the value of these techniques and tend to misuse them.

2.5.4.3 *Use of technology in criminal activities*

Britz (2013:6) points out that individuals partaking in criminal activities, especially corrupt and fraudulent activities, display the ability to adapt to changing technologies and lifestyles easily. This has caused law enforcement to struggle to keep up with criminal innovations. The author further argues that the law enforcement community failed to recognise the emerging technologies until it was almost too late. The author identified a number of problems traditionally associated with computer crime such as incompetent investigators, lack of knowledge and experience to prosecute these crimes, lack of reporting and lack of resources. These problems are not yet clearly addressed.

Osterburg and Ward (2014:264) acknowledged that changing technology had an impact on almost all aspects of life. The authors argued that technology has impacted criminal investigations in a more advanced way and suggested that the use of new technology should be part of investigator's training, just as criminal law and procedure is. Incorporating technology in investigator's training still seems to be a problem, because it means that there should be recruitment of proper instructors with expertise in that field. Information technology such as computers, smart phones, software and data storage could be valuable for investigations of commercial crimes (Osterburg & Ward, 2014:266).

Kranacher and Riley (2020:354) supports the view that technology is a specialised area and often manipulated by criminals. The investigator usually requires the assistance of a professional with such expertise in the digital world during the investigation of commercial crimes. This indicates a gap in terms of the lack of expertise within the investigators of corrupt activities.

2.5.4.4 *Searching a scene of incident*

The reason for conducting a search at a scene of incident is to link a suspect to the crime by means of evidence found at the scene. In commercial crime scenes, the investigator might look for evidence such as digital evidence, documentary evidence and other related evidence

(Osterburg & Ward, 2014:90). The authors further state that it is imperative that nothing at the scene is altered or removed before the scene is properly photographed and examined. The problem is that sometimes the experts will take their time to arrive at the scene of incident. That means that every law enforcement officer should be able to properly handle the scene.

Houck and Siegel (2011:38) posit that the scene of incident should be searched methodologically following a specific pattern, utilising personal protective equipment to ensure that evidence is not contaminated. Methodological searching of the scene of incident will ensure that the overlooking of evidence is avoided. It is submitted that paperwork, packaging and any other documentation should be carefully monitored.

Birzer and Roberson (2012:35) assert that the crime scene should not be handled haphazardly as that can ruin the reputation of the investigator and affect the successful resolution of the case.

Investigators searching the scene of incident should avoid pre-empting ideas about what they might find. The searchers should remain focused and stick to the search pattern that they have planned (Zinn & Dintwe, 2015:189). It is submitted that the scene of incident search is the most crucial part of any investigation and every investigator, especially corruption investigators, should master this because evidence in these conducts is not always visible, it is usually hidden and sometimes it is committed electronically.

Britz (2013:304) alerts us to the fact that digital evidence is unique because it can easily be camouflage which makes it easy to be hidden by offenders who wishes to hide it, in plain sight. The author also contends that technology is moving faster than law enforcement training. This is the gap that needs to be addressed in terms of investigator's training. Furthermore, Kranacher and Riley (2020:288), assert that a fraud and corruption investigator needs to answer who, what, where, when, how and why questions with evidence. This usually becomes a problem because

sometimes evidence is incomplete and that is an on-going challenge for fraud and corruption investigators.

Houck and Siegel (2011:583) also noted legal limitations on the collection process of evidence that could render important evidence inadmissible if not complied with. It is also submitted that in numerous cases, evidence was struck off due to unreasonable searches.

2.5.4.5 *Tracing the suspect*
Embarking on an investigation of corruption is perceived as one of the most difficult assignments of an investigator. It is not an easy task. The investigator has to, amongst other things, conduct a background check of the subject, assess financial status, record assets and also conduct a thorough analysis of the characteristics of the subject, friends, contacts and family of those involved in corrupt activities (Osterburg & Ward, 2014:602).

This is supported by Adler, Mueller and Laufer (2013:12) contending that extensive political power makes it difficult to restrain and investigate corporate crimes, especially in developing countries. This indicates a gap between criminology and policy implementers who are politically bound.

Osterburg and Ward (2010:8) assert that the primary goal of criminal investigation is to identify, locate and trace the perpetrator. It is submitted that this may take many forms such as physical evidence analysis, description from the eyewitnesses and method of operations.

Zinn and Dintwe (2015:2013) identified a number of techniques that are applicable to the tracing of suspects, namely:
- Following any possible leads
- Using informers
- Circulating suspects on media
- Offering rewards
- Known addresses

- Comparing samples found on the scene to suspected individuals

2.6 SUMMARY

Corruption is understandably a complex criminal conduct. It is definitely a universal problem that continues to torment the world. It is so complex that none or few of the scholars seem to agree on how to define it.

It surely can manifest in different ways in different places. There is no particular offender, anyone and everyone can commit corruption when the opportunity presents itself. It is complex and not easy to identify and investigate. It also impacts negatively on the economy of the communities around the world.

Corruption can also manifest in different forms. Some of the conducts that constitute corruption seem to be less regulated as some cultures accept certain conducts like the giving of gifts to show gratitude for a job well done. Investigating these conducts is not an easy task and it requires special skills, dedication, and continuous training to adapt to changing ways. Many scholars have explored corruption, and, to date, it is still a persistent problem that is difficult to tackle. Constant review and analysis of this phenomenon is required.

CHAPTER 3: RESEARCH METHODOLOGY

3.1 INTRODUCTION

The purpose of this study is to ascertain the understanding of corruption and to assess the effectiveness of the investigation of corruption cases in the Buffalo City Municipality. This chapter introduces the method that was used in conducting the study.

Research is a process of collecting, analysing and interpreting information with the purpose of achieving the aims and objectives of conducting the research. The information is collected by applying techniques, procedures and methods in a systematic manner in relation to the identified problem. A research study can be conducted with the purpose of achieving many objectives. In order to achieve these objectives, social research can be done using any of the various approaches such as qualitative, quantitative and mixed methods. The researcher has to choose the approach, which will best address the research question (Kumar, 2014:11-14).

The chapter outlines the methods used in completing the study giving special emphasis to research design and approach, data collection methods used in collecting data, how the sampling was done, data analysis methods and the ethical considerations in conducting the study.

3.1.1 Research context

This study was conducted in the serious corruption investigation unit of the South African Police Service, responsible for investigating corruption cases. The unit is part of the elite investigators responsible for investigating serious offences in South Africa. They are mandated by Section 17B and 17D of the South African Police Act, 1995 to prevent, combat and investigate national priority offences, in particular serious organised crime, serious commercial crime and serious corruption. In terms of the South African Police Amendment Act, 2012 (Act 10 of 2012) the reporting of any conduct related to the PCCA should be made to a police officer who is a member of the Directorate for

Priority Crime Investigations (DPCI). In conducting a study on the assessment of the investigation of corruption cases in Buffalo City Metropolitan Municipality (BCMM), the researcher had to determine the experiences of this unit in investigating corruption cases. For the purpose of this research, the researcher also collected data in relation to the investigation of corruption cases from the Special Investigating Unit (SIU). The SIU derives its mandate from the Constitution of the Republic of South Africa, the Criminal Procedure Act, 1995 (Act 56 of 1995) hereby referred to as CPA, Prevention and Combatting of Corrupt Activities Act 12 of 2004 (PCCA), as well as the Special Investigating Units and Special Tribunals Act, 1996 (SIUSTA) (Act 74 of 1996). They are mandated by legislative framework as it allows for the provision of the special investigating units for investigating serious malpractices or maladministration in connection with state institutions, state assets and public money and any conduct that may seriously harm the interests of the public.

3.1.2 Research participants

The researcher's primary concern was the views of the investigators tasked with investigating serious corruption. The researcher intended to assess the understanding of corruption by the investigators and the processes applicable to investigating it. There are many institutions involved in the investigation of corruption cases as it seriously damages the economy of the country. This study was only confined to the DPCI investigators and SIU impact in the investigation of corruption cases.

The participants are adults who are tasked with the responsibility of investigating serious corruption in South Africa. They have undergone training in terms of the South African Police Service (SAPS) recruitment processes and have been trained in the Resolving of Crime (ROC) Training Programme. Most of the participants also have post matric qualifications, including Bachelor of Laws and some are currently studying Forensic Investigation. Their experiences in investigating serious corruption vary from a few months to years. Participants from SIU also have post-matric qualifications and a lot of

training in the investigation of commercial crimes. Most participants have investigated high profile cases.

3.2 RESEARCH DESIGN AND APPROACH

The research approach is directly linked to the research problem and purpose; it follows a research problem. A qualitative research approach intends to ensure a deep understanding of a social activity as viewed by the participants. It emphasises exploration, discovery and description (Bloomberg & Volpe, 2012:27). In a qualitative research approach, the focus is on the meanings of individuals pertaining to their life experiences of a particular aspect (Wagner, Kawulich & Garner, 2012:132). As the researcher intended to explore the investigation of corruption, the research approach that was used is a qualitative research approach with an empirical research design. This was used in order to generate knowledge and data from the experiences and ideas of the participants. The researcher conducted interviews with individuals who have practical experience in investigating corruption. The researcher also took cognisance of the Covid-19 health protocols when conducting interviews and complied with hygiene measures recommended by the Department of Health and the World Health Organisation (WHO) (Merriam & Tisdell, 2015:115). Most Covid-19 health protocols have been relaxed at the time of conducting research, but the researcher was always cautious and ensure the sanitising and washing of hands.

Qualitative studies are less focused on research designs. Qualitative research intends to create a setting where the views of participants are analysed and understood. Qualitative researchers have attached little attention to research designs, though there are some designs identified by qualitative researchers (Flick, 2015:97; Flick, 2018:30).

A qualitative research design is the strategy used in providing an answer to the research question and includes the use of narratives, experiences and content analysis (Wang & Park, 2016: 94). Mligo (2016:49) asserts that it is

the how part of the research. It entails the approach to be used in tackling the problem. The researcher used basic qualitative research design. This, according to Merriam and Tisdell (2015:24), is based on the feeling that people create knowledge in an ongoing process by making meaning of activities, experiences or phenomenon. It implies that individuals who interact with their social worlds create reality. The researcher, as the author asserts, was interested in:

a) How people interpret their experiences: the researcher reviewd and evaluated literature for any further research concerning the investigation of corruption.

b) How people create their worlds and how they attch meaning to their experiences: the researcher interviewed investigators who have experience in investigating corruption cases and identified their perception of the process.

c) Analysis of insight-stimulating examples: the researcher examined and analysed documents such as newspaper articles, completed thesises and dissertations, books, journals and decided cases related to the investigation of corruption cases.

As the purpose of this study is to assess the understanding of corruption and to explore the investigation of corruption related cases, the following designs were the basis of conducting this study:

3.2.1 Phenomenological study

As asserted by Bloomberg and Volpe (2012:233) and Leedy and Ormrod (2019:233), the purpose of this design is to investigate the meaning of the lived experiences of people in order to identify the core essence of the phenomena. Therefore, in this study the design is suitable for understanding perceptions of corruption investigators in relation to the process of investigating these conducts. This design entails studying a small number of participants by means of interviewing and the sample can range from five to 25 participants that have had direct experience with the phenomenon under investigation (Leedy & Ormrod, 2019:233).

In this study, the researcher conducted interviews with seven investigators of serious corruption from the DPCI and one head of investigations for corruption from the SIU who have experience in investigating corruption cases in the BCMM. As the researcher intended to understand the experiences of the investigators of corruption cases, the focus on this study was on describing what the investigators' common understanding of corruption was and their experiences of the investigation process of corruption cases (Bloomberg & Volpe, 2012:32). Saturation was reached with this sample, as the process is the same for every participant.

Leedy and Ormrod (2019:233) identified and explained three interviews involved in the phenomenological study as follows:

First interview: is enquiring about participants' life histories. Questions in this interview can help participants to reconstruct relevant experiences in different settings such as school, family, community and work.

Second interview: entails assisting in attaching the real details of particular experiences to the topic of the study. The first and second interviews lay a foundation for the final interview.

Final interview: encourages participants to reflect on their experiences. Questions in this interview assist the participants and the researcher to connect participants' personal and professional experiences to the research topic. The researcher listens attentively to the participants' descriptions of their everyday experiences in relation to the topic (Leedy & Ormrod, 2019:233).

In this study, the researcher collaborated the phenomenological design with content analysis. Content analysis is the systematic examination of literature related to the topic. The researcher, therefore, had to examine the literature related to corruption and the investigation of corruption related conducts. The literature examined included books, newspapers, decided cases, annual reports, previous studies, statutes and acts related to corruption. The

examination of literature was done in order to identify patterns and themes in relation to corruption and the process of investigating corruption. It is submitted that content analysis is not usually a standalone design as it usually is an integral part of phenomenological study (Leedy & Ormrod, 2019:235-236).

3.3 METHODOLOGY

This research primarily used a qualitative perspective, attempting to find out the experiences, views and perceptions of the participants in relation to the investigation of corruption cases. The study relied mostly on document analysis and interviews. The researcher analysed previous studies, research and literature in relation to the investigation of corruption. The researcher also conducted interviews with the participants who are tasked with the investigation of serious corruption. Several documents have been analysed and eight participants have been interviewed. Data was collected using semi-structured interviews allowing the researcher to explore.

3.3.1 Data collection methods

Data collection, as referred to by Ragin and Amoroso (2011:131), is a technique that is utilised systematically in collecting information. The technique vary from studying existing literature, participating observations and conducting interviews. Kumar (2014:40) distinguishes primary data as data collected by the researcher specifically for the study by direct involvement with relevant participants, and secondary data as data that is already available to the researcher. For this research, the researcher collected data by studying literature and conducting interviews.

De Vos, Strydom, Fouché and Delport, (2011:325) refers to literature as the information related to the subject under investigation that is readily available. This can be in the form of books, journals, newspaper articles, internet, diaries and official documents. In addition, the researcher studied and reviewed documents in the form of newspapers, completed research, books, annual

reports, statutes, decided cases in relation to corruption and corrupt-related activities.

Researchers wishing to obtain information through direct interaction with the individual or group that is expected to have such information (De Vos et al, 2011:342), use an interview. In-depth interviewing provides a deep understanding of what people are doing and why (Roller & Lavrakas, 2015: 50). The interviewer can use semi-structured interviews consisting of a set of questions in an interview schedule (Bryman, Bell, Hirschsohn, Santos, Du Toit, Masenge, Van Aardt & Wagner, 2014:216). The researcher will, therefore, conduct semi-structured interviews with the participants allowing for flexibility to expand on the answers provided. This type of interview, as stated by Cassell (2015:12), contains a list of questions guiding the interviewer and provide for deviation from the schedule depending on the responses.

As the researcher intended to understand what the investigators of corruption are doing, interviews were conducted as a method of collecting data from the Directorate for Priority Crimes Investigations, Special Investigative Unit and Commercial Crimes Unit investigators in relation to the investigation of corruption.

3.3.1.1 *Instruments used in collecting data*

An interview guide was used in collecting data. The guide was semi-structured allowing the interviewer to divert from the set questions as per responses received. The researcher, guided by the research questions and the research objectives, developed the research guide.

3.3.1.2 *Conducting interviews*

As asserted by Bloomberg and Volpe (2012:108), the researcher can use several methods to collect data in qualitative study, including document reviews, focus groups, observations, and interviews. It is submitted that a variety of methods can be used in conducting one study. Thus, in this study the researcher used both document study and interviews to collect data.

The researcher employed semi-structured interviews in which a number of

questions were prepared and documented in an interview guide. This type of interview allowed the researcher to deviate from the sequence and did not stick to the exact formulation of questions. The researcher aimed to obtain individual participants' views on corruption and the corruption investigation process and techniques. The researcher used a variety of questions in the form of open-ended and semi-structured questions. In conjunction with the semi-structured questions, the researcher used focused questions to determine the expertise of participants in the investigation of corruption (Flick, 2015:140-141).

The researcher applied for permission to conduct research, and this was approved. After approval, the researcher started conducting interviews with the participants. An interview guide was used to assist the researcher in conducting interviews. One-on-one, face-to-face interviews were conducted with the participants. The guide allowed the researcher to expand based on the responses provided by the participants. The researcher annotated the responses from the participants' transcribed responses. The researcher also used Otter app to assist in the recording of the responses by the participants. No external transcriber was used in transcribing the interviews.

3.3.1.3 *Secondary sources of data*
The researcher made use of secondary data to collaborate primary data and assess whether primary data supplements what has already been collected in relation to corruption and the investigation of corrupt activities. It is imperative that the researcher compared the actions, experiences and perceptions of investigators of corruption with the legal requirements, decided cases and the views of perceptions of other researchers, as well media perceptions in relation to the research problem. Information was extracted from government publications, acts, reports, earlier research and mass media (Kumar, 2014:196-197).

3.3.2 **Target population and sampling**

As stated by Van Zly (2014:95), population refers to a group of participants from whom the results of the study are generalised. Target population is described as the population that is being targeted by the researcher in conducting the study that represents a larger population (Majid, 2018:3). The target population for this study was the investigators from the Directorate for Priority Crime Investigators, Special Investigating Unit.

The researcher used purposive sampling in selecting a sample from which the data was collected. This sampling was used because the researcher wanted to study a small group of investigators from the Directorate for Priority Crime Investigations (DPCI) and Special Investigating Unit (SIU) because it was impossible to study every detective investigating corruption cases in South Africa (Babbie, 2013:128-129).

3.3.3 Sample size

Hennink, Hutter and Bailey (2020:108) assert that several methodological experiments using in-depth interviews have shown saturation was reached at nine interviews, as well as between seven and 12 interviews. This is an indication that saturation in qualitative data collection (in-depth interviews) can be attained using a small sample size. This view is also supported by Kumar (2014:246) asserting that in qualitative research, the question of sample size is less important than the main focus which is to explore the situation.

The researcher intended to interview 10 to 15 investigators from DPCI and five from SIU. In conducting the study, saturation was almost reached as early as in participant two, as the process followed by the investigators is the same. The researcher, therefore, only conducted interviews with seven participants of the DPCI and only one from the SIU. Saturation in this study was reached with a small sample size of eight participants and there was no need for continuation as the process is the same, all participants follow the same process.

3.3.4 Data analysis

Data analysis is the process of classifying and interpreting data collected in order to create statements that will make meaning to the data in relation to the phenomenon being studied. This refers to discovering and describing matters in the field (Flick, 2015:5).

Bhattacherjee (2012:113) opines that qualitative data analysis depends on the ability of the researcher to analyse and integrate data collected, as well as the personal knowledge of the context from where the information is gathered.

Creswell (2013:182) identified the steps of analysing as follows:
- **Organizing data**: data collected was categorized and organized into headings as per research questions.
- **Perusing data**: data collected from literature and from the interviews was read and re-read as to comprehend and attach meaning to it.
- **Identifying general categories**: data was classified according to categories and subcategories, compared, differences and similarities identified and explained.
- **Integrating and summarising data**: analysed data was integrated with the research question in order to make findings and recommendations for better and improved investigations of corruption.

The researcher also identified and considered variables such as experience, training (in-service), formal education, availability of resources, demography and skills when analysing data. The researcher analysed data by discovering patterns such as challenges and processes (Babbie, 2013: 391-392).

The researcher embarked in the examination and interpretation of observations with the aim of discovering underlying patterns and meanings (Babbie, 2021:385). The following were identified as questions to be asked by the researcher when discovering patterns:
- **Frequences**: how often do incidents of corruption occur in BCMM?
- **Magnitudes**: what are the levels of incidents that are reported?
- **Structures**: what are the different forms of corruption, types of offenders commiting corruption-related offences?

- **Processes**: is there any order among structures?
- **Causes**: what are the causes of corruption?
- **Consequences**: how does corruption affect the community?
  (Babbie, 2021: 386).

Leedy and Ormrod (2019:345-350) identified general strategies that might apply to any qualitative study organisation and analysis as follows:

1. Convert the data into forms that will be easy to analyse. The researcher should transcribe audio interviews and put handwritten notes into word processing documents for processing.

2. Organise the data in a preliminary way for easy location. The researcher had to separate the data according to research questions. Data under corruption manifestations, investigation process and the impact of corruption.

3. Identify preliminary categories and sub-categories that are likely to be helpful when coding. The researcher identified a list of themes, namely types of corruption, manifestations of corruption, investigation techniques of corruption, applicable legislation, qualities of investigators of corruption, challenges in the investigation of corruption and the impact of corruption.

4. Divide the data into meaningful units for easy coding. The researcher had to breakdown data systematically into paragraphs that were coded separately.

5. Apply the initial coding scheme to a subset of the data. The researcher identified irrelevant data to the research problem and renamed other codes in order to organise them in relation to research questions.

6. Construct a final list of codes and sub codes. The researcher enhanced coding consistency by identifying and attaching examples and quotes from the interviews with the participants.

7. Consider using two or more raters to code the data independently. No other rater was used; this has been a limitation of the study.

8. Identify patterns that are worth noting amongst the codes. Common themes that most participants revealed were recognised.

9. Be alert to contradictions within data. The researcher avoided quick,

unwanted conclusions.

10. Interpret the data, keeping in mind the research problem and research questions. Collected data were interpreted according to research problem and questions.

The researcher processed and analysed data by developing a narrative to describe corruption, its complexity and the process of investigating corrupt activities. The researcher then identified main themes and sub-themes, quoting verbatim from the interviews and secondary sources and identified prevalence of themes. Thus, the researcher wrote narratively (Kumar, 2014:317-318).

3.4 DATA VALIDITY AND RELIABILITY

Validity

This implies the extent to which an instrument measures what it is supposed to measure. The researcher will determine validity in terms of criterion-related validity by ensuring that data is relevant, unbiased, reliable and available in relation to the investigation of corruption (Kothari, 2014:73-74).

Reliability

According to Kothari (2014:74), a measuring instrument is reliable when it produces consistent end-product. The author identified two aspects of reliability as stability and equivalence. The researcher determined stability by comparing the results of repeated measurements and equivalence was judged in terms of possible error that might be introduced by different investigators.

Determining the credibility and reliability of qualitative research is done based on how much trust can be given to the research process and the findings. According to Bless, Higson- Smith and Sithole, (2013:236) trustworthiness is determined based on the following:

Credibility

Credibility is when there is an indication that the perceptions of participants match up to how they are portrayed by the researcher. This means that the researcher is accurate in representing the beliefs, feelings, and actions of the participants. In ensuring credibility, the researcher should also clarify any biases they brought to the study. In ensuring credibility in this study, the researcher was involved in the field conducting face-to-face in-depth interviews and personally annotating the responses. The researcher had to check whether his interpretation of the processes is valid by comparing information from different sources of data to corroborate his conclusion. Interviews and document study were used to corroborate the evidence that was obtained. Transcripts of interviews were reread and reanalysed for further review (Bloomberg & Volpe, 2012:112-113).

Credibility corresponds to internal validity as it seeks to convince that the findings reflect the truth about the study. It means that the findings make sense. High credibility is when the researcher has demonstrated the appropriateness and logic of the research process from research questions to data analysis (Bless et al., 2013:236). Therefore, the researcher made time and effort to ensure that a detailed account of credible procedures was included in the report (De Vos et al., 2011:428). Therefore, the researcher ensured credibility by ensuring that the data obtained is interpreted the same way without being altered and that the findings are truthful and accurate.

Dependability

Dependability means that the researcher has followed a clear and thoughtful strategy. There must be an indication that each step has been completed thoroughly and carefully. This means that a report where there is no clear indication in the description of the sampling method cannot be fully trusted, whilst research with clear details of how data was collected, recorded, and analysed will be easily trusted (Bless et al., 2013:237). In this research, the researcher gave a detailed description of how interviews were conducted, which questions were asked and what answers were obtained from the interviews. The researcher provided a clear indication of documents that were

studied and also provided examples of how data was collected and recorded to ensure dependability.

Dependability means that the researcher is able to track the processes and procedures used in collecting data. A clear, detailed and thorough explanation of data were collected and analysed. Data were collected through in-depth interviews and document study. The research was conducted in the form of semi-structured interviews using an interview guide. The researcher asked open-ended questions in relation to corruption (Bloomberg & Volpe, 2012:113).

Transferability

Qualitative researchers usually do not expect their findings to be globalised in other settings, but it is expected that all lessons learned might be useful in another setting. Transferability is about how possible it is for other readers to decide and implement similar processes in their own settings. In ensuring transferability, the researcher provided a detailed discussion of the experiences of the study (Bloomberg & Volpe, 2012:113).

Transferability refers to the extent in which results apply to other similar situations. This means that the results must be applicable to other similar problems. In assisting other researchers to be able to compare similarities between studies of related nature, the researcher provided a detailed description of interviews and literature study. A clear description of the methods used to collect data and the understanding of the relationship between the researcher and the participants will assist others to imagine that the findings will be meaningful in other contexts (Bless et al., 2013:237).

Confirmability

This means that other researchers will be able to obtain similar findings by following a similar research process in a similar context. The researcher must also present a critical evaluation of the methodology used (Bless et al., 2013:237). The researcher will ensure that research findings are not bias and that the findings are a true reflection of practical scenarios in relation to the

investigation of corruption.

3.5 ETHICAL CONSIDERATION

Researchers are morally bound to conduct research that complies with ethical standards to ensure that there is no harm to those that participate in the study (Bloomberg & Volpe, 2012:111). Lune and Berg (2017:25) opined that social scientists might be more ethically obliged to their colleagues and study population, more so than normal citizens, as they reach deep into the lives of others. Israel (2015:9) asserts that ethics are concerned with the viewpoint of right and acceptable conduct. Bryman et al. (2014:121) stress the importance of researchers being aware of ethical principles related to the research. According to Leavy (2017:24), ethics involves truth, integrity, morals and fairness.

In this study, the researcher ensured compliance with ethical standards by:

- **Securing consent**: The researcher ensured that the participants in the study gave informed consent, free and voluntary ongoing consent by informing the participants about the purpose and significance of the research and how it will contribute to the community. The researcher also requested permission to conduct the interviews as per the requirements of the South African Police Service (Wincup, 2017:48).

    Participants were informed about the nature of the study conducted and were given a choice to participate. They were informed that they could withdraw at any time. This information was supplemented by an informed consent form, which was made available to the participants; they read the form and expressed their consent to participate (Leedy & Ormrod, 2019:112).

- **Anonymity**: Rees (2016:6) refers to anonymity as the protection of identities of participants by not revealing aspects such as names, locations, and characteristics, thus ensuring secrecy. The researcher

ensured that the participants' identities would not be disclosed by using aliases (Wincup, 2017:55).

According to Babbie, (2021:67) anonymity is guaranteed in research when the researcher and anyone else who read the research is unable to link a given response to a participant. Therefore, anonymity cannot be guaranteed in qualitative interview as the participant is identified and known by the researcher. It is thus submitted that it is still the responsibility of the researcher to protect the participants from being exposed. This was done by ensuring that the interview responses do not divulge any identities of the participants. The participants were labelled using numbers.

- **Confidentiality**: Confidentiality is about withholding delicate and private information and ensuring that it is not publicly available (Rees, 2016:25). The researcher ensured that data collected is not unnecessary widely shared and promised not to divulge a participant's response publicly (Babbie, 2013:36).

  This, as opposed to anonymity, is when the researcher can identify a participant's responses, but promises not to divulge them publicly. In interviewing, confidentiality is guaranteed by removing all identifying information such as names and addresses and replace them with identification numbers. The researcher ensured confidentiality in this study by excluding names and addresses in interview transcripts and only to use identification numbers. This is the surety that the participants' identities are kept unknown to the public (Babbie, 2021:68).

- **Protection from harm**: The researcher ensured that participants are protected from any form of harm, be it physically, emotionally, or psychologically. Leedy and Ormrod (2019:111) assert that participants should not be exposed to any unnecessary harm whether physical or

psychological. If there are any risks, they should not be greater than the normal risks of day-to-day living. In this study, the researcher ensured that participants are not subjected to any kind of stress, embarrassment, loss of life or limb and no loss of self-esteem was detected. Participants were always treated courteously and respectfully.

- **Honesty and professionalism**: The researcher always maintained honesty throughout the study. The findings of the report are complete and honest and any misrepresentation and misleading of others is always avoided. There was no fabrication whatsoever of data in support of the researcher's conclusion (Leedy & Ormrod, 2019:115).

The researcher, furthermore, adhered to the UNISA policy on research ethics 2016 while conducting the study and ensured transparency and honesty when compiling the report and findings. In compliance with the UNISA ethics policy (2016), the researcher applied for an ethical clearance certificate before conducting the study. The researcher acted in a responsible and accountable manner and always strived to achieve the highest level of integrity and excellence. The researcher is prepared to be accountable for all aspects of the research study. The researcher guarded against undesirable consequences caused by the study. Findings were not being altered and all sources of data have been acknowledged, thus complying with the code of ethics.

3.6 **LIMITATIONS**

The participants in the study revealed that the prosecutors guide the investigation process. After an allegation has been received, an inquiry is opened, and the preliminary investigation is done. If there are valid grounds for further investigation, a case docket is opened and referred to the prosecutor within the National Prosecuting Authority (NPA) responsible for the prosecution of commercial crimes for guidance. The investigator from DPCI

will work under the guidance of the prosecutor. For the purpose of this research, interviewing representatives of the prosecuting authority would have been valuable. The researcher could not get hold of the prosecutors for their inputs in this regard.

SIU investigators also work in close association with lawyers. When a case has been assessed and there is prima facie evidence for investigation, lawyers are working together with investigators in conducting investigations. The researcher fell short in interviewing lawyers who are part of the investigation process. The participants are busy and had many distractions that could not be avoided. Some participants had to stop the interview to go meet with the prosecutor and continued approximately an hour later with the interview. There are various institutions involved in the investigation of corruption. These are, amongst others, the Public Protector, Asset Forfeiture Unit, Auditor General, Anti-Corruption Task Team, Commercial Crimes Unit of the South African Police Service, Corruption Watch and many more that were not part of the study.

3.7 SUMMARY

This chapter outlined the method used in conducting research. Research is a process that follows a certain pattern depending on what one intends to achieve. There are different approaches to conduct research such as qualitative, quantitative and mixed methods. After deciding which method will be used, the research design must follow a plan.

The plan involves sampling, how data will be collected and which data will be suitable to address the research questions, how data will be analysed and the ethical considerations in ensuring that data is reliable and valid and the participants are protected from any form of harm. There are also some limitations that are encountered during the research process. These were identified and mentioned in this chapter.

CHAPTER 4: UNDERSTANDING AND INVESTIGATING CORRUPTION

4.1 **INTRODUCTION**

The purpose of this study is to ascertain the understanding of corruption and to assess the effectiveness of the investigation of corruption cases in the BCMM. This chapter discusses the findings in relation to the understanding and investigation of corruption cases in BCMM. The universal prevalence of corruption and corruption related activities is negatively affecting the economy of societies. South Africa is by no means immune to the ill effects of corruption. Developing countries, including South Africa, are struggling to survive and feel the brunt of corruption. In acknowledging the problem and its impact on the country, the ruling party has developed a step-aside-rule, which states that those implicated in criminal activities should excuse themselves from the party and government positions. This is an indication that corruption is serious and is deeply rooted in public officials. Thus, it can be submitted that, as much as research has been conducted in relation to the measures of curbing this phenomenon, a solution to stub out this behaviour is still far off, as much stills needs to be done.

This study is intended to assess the investigation of corruption cases in the Buffalo City Metropolitan Municipality, Eastern Cape. South Africa has nine provinces, and the Eastern Cape is one of the previously disadvantaged regions in which Africans dominate. Those, currently in governance seize the opportunity to serve their own interests instead of those that they represent. There is little to no improvement in service delivery due to corruption related activities. This chapter will discuss the research findings. The chapter progresses from the research problem in Chapter 1 where the problem of corruption was outlined, to the identification of relevant previous literature in Chapter 2, to outlining the methods and approaches used in conducting the study in Chapter 3, and then to the research findings as presented in this chapter.

The findings transpired from the analysis of literature in relation to corruption

and experiences and perceptions of those tasked with the investigations of corruption related activities in the form of interviews. There were eight participants interviewed in this study which is enough as mentioned by Leedy and Ormrod (2019:233) that participants can range from five and 25. The participants included seven adults, which are police investigators designated to the DPCI unit (also known as the Hawks) responsible for the investigation of serious corruption in the Buffalo City Metropolitan Municipality, and one adult, a Head of Investigations in the SIU, Eastern Cape. The participants from the Hawks' serious corruption unit are marked as P1 to P7 and the participant from SIU is marked as P8.

The findings are inclusive of interviews and document study in the form of previous research related to the topic, annual reports, books and case law. Case dockets and case files could not be analysed, as that action is prohibited because of sensitive information contained in those documents.

The researcher identified some themes in data that was collected and analysed as per the following table:

Table 4.1: Themes and sub-themes - table designed by researcher from collected data

INCONSISTENT UNDERSTANDING OF CORRUPTION
Definition of corruption
MANIFESTATION OF CORRUPTION
Different forms of corruption
INVESTIGATION OF CORRUPTION
Processes, procedures, and techniques of investigating corruption

The researcher first sought to ascertain whether those that are tasked with the investigation of corruption understand and are able to identify corrupt conduct. Secondly, whether the capacity of investigating corrupt activities is effective to ensure deterrence and eradication of this conduct within the BCMM. The researcher is of the opinion that understanding corruption, its manifestation

and its investigation are inseparable activities.

4.2 INCONSISTENT UNDERSTANDING OF CORRUPTION

Corruption has become so complex and intense to the extent of how it is understood, interpreted, and perceived. An analysis of a study by Lekubu (2019:44) reveals an indication of the non-existence of a universally agreed upon definition of corruption in such that it is often used interchangeably with transgressions such as fraud, bribery and even theft. Some scholars refer to corruption as a disease that destroys the hopes and aspirations of poor members of society for a better future. Others refer to corruption as involving the offering or acceptance of a reward to promote the acting or not acting by the receiver, which includes the awarding of contracts in a corrupt manner. It is also referred to as the root cause of poverty.

4.2.1 Definition of corruption

In South Africa, corruption is outlined in the Prevention and Combatting of Corrupt Activities Act (Act 12 of 2004). The Act outlines corruption in section 3 as:

> Any person who, directly or indirectly-
> (a) Accept or agrees or offers to accept any gratification from any other person, whether for the benefit of his/herself or for the benefit of another person, or
> (b) Gives or agrees or offers to give to any other person any gratification, whether for the benefit of him/herself or for the benefit of any other person,
> In order to act, personally or by influencing another person to act, in a manner-
> (i) That amounts to the-
>   (aa) illegal, dishonest, unauthorised, incomplete, or biased, or
>   (bb) misuse or selling of information or material acquired in the course of the existence, carrying out of a constitutional, statutory, contractual or any other legal obligation,
> (ii) That amounts to-
>   (aa) the abuse of a position or authority,
>   (bb) a breach of trust, or
>   (cc) the violation of a legal duty or a set of rules,
> (iii) Designed to achieve an unjustified result, or

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(iv) That amounts to any unauthorised or improper inducement to do or not do anything, is guilty of the offence of corruption.

The researcher sought to ascertain the views and perceptions in terms of defining corruption in the South African context in line with the general definition as stipulated above. Participants have displayed different views as to the definition of corruption. The following table displays the codes identified in the responses of participants as to the definition of corruption. The participants opted to define corruption as the way of manifestation.

Table 4.2: Definition of corruption by researcher from data collected

MAIN THEME	SUB-THEMES	PREVALENCE
Corruption	Abuse of authority	2
	Omission	1
	Giving and receiving of gratification to do something you would not normally do	1
	Two or more people colluding for personal gain	2

Corruption has been defined differently around the world as it has been revealed in chapter 2 of this study. It has been submitted that corruption is so complex that many laypersons define and use it interchangeable with other transgressions. It cannot be denied that it is sometimes hard to differentiate corruption from other transgressions. The researcher sought to find out whether the participants comprehend the meaning of corruption as they are tasked to investigate it.

Participant 1 is of the view that corruption is the misuse of authority for personal gain. The participant elaborated his definition with an example stating, 'A police official misuse his/her authority of arresting suspects for his/her own benefit.'

In support of the above view, participant 6 stated that, 'Corruption is when a person in position of authority misuses it for personal gain, it is committed by two people, and the one entices the other for the benefit. An example is that of a supply chain officer having an upper hand in appointing service providers and approach that service provider and inform him/her that his/her form is here and in order for me to allocate it you, you have to give me something and sometimes it will be the other way round when the supply chain officer is approached by the service provider, it is rare where you find one person doing corruption alone. There must be a second person for corruption to occur.'

In addition to the above perceptions, participant 7 stated that, 'Corruption occurs when two or more people are colluding with a common purpose of obtaining undue gain and that the victim of that conduct is the state.'

Participant 8 also agreed that corruption is when a person in a position of authority abuses his/her authority for personal benefit.

4.2.2 **Manifestation of corruption**

The complexity of corruption, and different perceptions and understandings of corruption are often perpetuated by the diverse manner in which corruption manifests itself. As indicated in chapter 2, corruption does not have a single way of manifesting, but can manifest itself in different ways. The following table tabulates different forms of corruption as cited from the report by Corruption Watch (2021). Corruption Watch received 32 998 whistle-blower reports of corruption between 2012 and 2020, and in BCMM, the following forms of corruption were reported:

Table 4.3: Forms of corruption in the BCMM as reported to Corruption Watch (2021) Publication R8 by whistle-blowers.

TYPE OF CORRUPTION	PERCENTAGE OF REPORTS
Irregularities in procurement process	30%
Bribes	13%
Abuse of government resources	9%
Mismanagement of funds	7%
Maladministration	7%

Thus, the researcher sought to ascertain the experiences of the participants in relation to the manifestation of corruption in the BCMM. Participants have mentioned the following forms of corruption experienced in the BCMM: Procurement corruption, fraudulent conduct, abuse of power, bribery and extortion. The following table outlines the manifestation of corruption in the BCMM as perceived by the participants:

Table 4.4: Manifestation of corruption in BCMM compiled by researcher as per collected data

	CODE	PREVALENCE
	Fraud	4
	Procurement	4
Manifestation of corruption	Abuse of power	2
	Maladministration	1
	Kickback/extortion	1

4.2.2.1 *Fraudulent corrupt conduct*

Snyman (2018:201) defined fraud as unlawful and intentional making of a representation with fraudulent intent resulting in actual potential prejudice to another. Kemp et al (2012:460) also define fraud as the unlawful and intentional making of misrepresentation with intent to cause prejudice to another, whether potential or otherwise. It is submitted that this misrepresentation involves distortion of the truth, can take various forms and can be expressed or implied. Lekubu (2019:45) also defined fraud as an

economic crime that involves deceit or trickery and where public officials seeking to make private gain, distort facts.

Hon. Bozalek J in Hartley v S (A 180/2020) [2020] ZAWCHC 153 (10 November 2020) listed the elements of fraud as misrepresentation/s, prejudice or potential prejudice, unlawfulness and intention.

The researcher, therefore, intended to ascertain if corruption does indeed manifest itself in the form of misrepresentation being made by the perpetrator for their own benefit in relation to the above definitions of fraud.

Participant 2 experienced corruption manifestation in a fraudulent manner stating, 'Misrepresentation is done by corruptors, who are employees claiming to have completed the work and the money paid, whereas the work is not done.' The participant asserted that employees distort the truth for their own benefit, prejudicing the company.

Participant 3 also had the same experience of individuals claiming money for work that was supposed to be done but was never done.

Participant 6 also supported the notion that corruption manifests in the form of misrepresentation, 'One case that I am investigating now. What happened is that the former director of the department made representation to her superiors that (1) the company was one of the publishers and (2) that the purchase orders were already out to the service providers, whereas they were not out, and her superiors signed off based on the misrepresentations that she did, which later transpired that she benefitted.

Participant 7 stressed that fraud is always part of corruption by stating, 'All corrupt conduct is committed by means of misrepresentation that cause prejudice to another.'

4.2.2.2 *Procurement corruption*

As revealed in the literature in chapter 2 of this study, procurement services

create greater temptation for corruption. It has been identified as the one government activity where there is a high chance of waste, fraud and corruption. Chelin, R (2021: n.p.) alluded that South Africa desperately needs laws to stop procurement corruption. The reporter pointed out to the recent incident involving the scandal of millions of rands in the Digital Vibes contracts in relation to the fight against Covid-19 and also referred to information relayed by the SIU to parliament in which billions in Covid-19 related transactions were investigated in 2020. This is submitted as the tip of South Africa's procurement iceberg. Thus, the researcher had to found out if the participants have experienced any procurement corruption.

Participants perceived the procurement of services and resources by the supply chain of public departments as the source of corrupt conduct.

Participant 1 experienced procurement irregularities in the tender system of the municipality. Participant 1 stated, 'Service providers provide gratification to supply chain officials for enticing the officials to source their services over other providers.'

Participant 4, in support of the view that corruption manifests itself in procurement, also stated that he has experienced irregularities within the supply chain of municipalities during the procurement process.

Participant 6 also experienced procurement corruption as she stated, 'In municipality you will find out that even though the Accounting Officer did not benefit per se, but in terms of Municipal Finance Management Act (MFMA), he/she let things happen on his/her watch. You will find that the person will be charged on the MFMA and Public Finance Management Act (PFMA) even though he/she did not benefit.'

Participant 7 also viewed procurement as the breeding ground of corruption. He stated, 'Supply chain section in public sector promotes corruption.'

Participant 8 stated, 'Most of cases have to do with procurement of goods and

services, majority are more on procurement corruption.'

4.2.2.3 *Maladministration*

Literature in chapter 2 indicates that maladministration is a conduct of public officials and practices that are irregular as well as unauthorised use of public money and resources. It can cause more damage than corruption and is the breeding ground for corrupt conducts. It undermines the constitutional values of South Africa and its commitment to promote fundamental rights. Improper administration occurs when officials negligently and carelessly fail to comply with regulations and do not adhere to the required standards that promotes the opportunity for corrupt activities. Inefficient or dishonest administration make corruption possible. Lekubu (2019:13) defined maladministration as an activity in which regulations are not complied with due to mistakes or negligence. The researcher, therefore, sought to ascertain the experiences of participants in relation to corrupt activities resulting from maladministration.

Though, only participant 6 directly mentioned maladministration as a manifestation of corruption, other participants, indirectly, indicated an experience of corruption resulting from maladministration. Participant 3, when defining corruption, gave an example of negligence, stating that, 'Project Manager sign certificate that work has been rendered, whereas it is not done.'

Participant 5 also, when defining corruption, stated, 'Complainant can also be charged'. The charging of the complainant could be an indication of maladministration on the side of the complainant, though they were not directly involved in any corrupt activity.

4.2.3 **Classification of corruption**

Joubert (2018:108) identified some crimes as crimes endangering the constitutional structures or the economy for they pose a serious threat to the South African constitutional dispensation, as well as the strength of its economy. It is submitted that some of these crimes are prevalent putting South Africa's prosperity and future at risk. Corruption has been identified as

one of those crimes.

The researcher, therefore, sought to ascertain the views of the participants in relation to the classification of corruption and its impact on the investigation process. Most participants were of the view that corruption is classified under economic crimes with participants 4 and 6 labelling corruption as a serious economic crime, stating that it seriously affects the economy of the country.

4.3 INVESTIGATION OF CORRUPTION

Corruption Watch (2021:16) received about 32 998 reports of corruption from whistle-blowers between 2012 and 2020 and in that report the following findings were published as it affected the local government departments of the BCMM:

Table 4.5: Reports of corruption per government departments in the BCMM as reported to Corruption Watch (2021) Publication R8 by whistle-blowers (Corruption Watch, 2021).

LOCAL GOVERNMENT DEPARTMENT	PERCENTAGE OF REPORTS
Municipal Manager	52 %
Metro/local police	15%
Public works and infrastructure development	7%
Housing and human settlements	4%

Zinn and Dintwe (2015:5) stress that the investigation of a crime is not a game or shoe as displayed in television movie. The authors further assert that investigators cannot just rely on accidental success when conducting investigation. Those tasked with investigating crime or incidents should conduct a systematic search for the truth in terms of scientific principles such as the 'Locard principle'. This principle implies that 'there is a reciprocal transfer of traces whenever two objects or people come into contact with one another.' It is submitted that criminal investigation requires a positive attitude,

especially during crime scene searches.

Literature, as narrated in chapter 2, revealed that the investigation of crime has become more complicated, harder and do not usually reveal or solve crimes. Investigation has been defined as the process of examining crime, incidents or transgressions with the purpose of identifying the cause of that crime or incident. It has been submitted that a changing society has an impact on the complexity of criminal investigations.

Zinn and Dintwe (2015:21-22) identified the process of investigation crime as follows:

Table 4.6: The process of an investigation (Zinn & Dintwe, 2015:21-22)

Reporting of the incident
• information received should be thoroughly assessed
Preliminary investigation phase
• information is properly coordinated, and possible links determined for effective and efficient investigation
• processing
• opening a case file
Further investigation phase
• interviewing persons
• interrogating and arresting suspects
• gathering evidence and information
• evidence is gathered in an orderly and methodological manner
Judicial phase
• suspect is charged according to the law
• bail
• trial
Rounding off phase
• submission of official and forms
• closure of file or case

Similarly, Lekubu (2015:25) identified methods and techniques of investigating corruption as identification of crime, collection of evidence, identification of suspects, securing the attendance of accused in court, disciplinary hearing, prosecution and recovery of stolen property.

Dlwati (2022: n.p.) lists steps in which SIU conducts its work as:

1. Allegations brought by whistle-blowers, government departments or any other entity.
2. SIU registers the allegation.
3. SIU establishes scope of investigation.
4. SIU writes and prepares proclamation which is then motivated by the Minister of Justice and Correctional Services and passed to the President for the signing off to hold the SIU accountable.
5. SIU starts the investigation planning.
6. On completion of the investigation, the SIU follows with remedial action which might include instituting civil litigation in a Special Tribunal or High Court for prevention or recovery of financial losses suffered by the State.
7. SIU refers evidence of criminal conduct uncovered during investigation to the National Prosecuting Authority (NPA) for prosecution. SIU does not have a mandate to arrest and prosecute offenders.
8. SIU compiles a final report with findings, recommendations and outcomes and submit to the President.
9. SIU evaluates the investigation and come up with strategies of preventing corruption recurring in the investigated department or institution.
10. SIU monitors remedial action such as arrests, court cases and consequence management.

While conducting a study in the investigation of corruption cases in the BCMM, the researcher identified the following themes and sub-themes in relation to the investigation of corruption cases:

Table 4.7: Themes and sub-themes by researcher

INVESTIGATION OF CORRUPTION
Criminal versus forensic investigation
Characteristics of corruption
Reporting of corruption
Investigator responsibilities when receiving a complaint of corruption
Capacitating investigators
Procedure for investigating corruption
The role of whistle-blowers and or informers in the investigation of corruption
Challenges of investigating corruption cases
Impact of corruption

Lekubu (2015:14) identified the existence of a confusion within the investigation industry concerning the true meaning of forensic investigation, concluding that it is a specialised field involving the use of specialised investigative skills in carrying out investigations, and must be done within the ambits of the law. It is further submitted that the purpose of forensic investigation is to identify if a crime has been committed, obtain information and evidence, identify responsible person, arrest the suspect, recover stolen property and present the case to the prosecutor.

4.3.1 Criminal versus forensic investigation

The researcher sought to find out what the participants' understanding of the criminal and forensic investigations is, and whether there is any significance in classifying investigations as criminal or forensic, in relation to the investigation of corruption cases.

Participant 1 stated, 'Criminal investigation is the science of finding truth and forensic investigation includes all types of investigations.'

Participants 2, 3 and 6 supported the notion that criminal investigation is the searching for truth, with participant 2 not differentiating between criminal and forensic investigation by saying, 'They are the same thing, they go together.' Participant 3 stated that criminal investigation and forensic investigations differ

but have the same purpose.

Participant 4 stated, 'Criminal investigation is when you have the mandate to investigate, which is to find out the elements of crime.'

Participant 7 stated, 'Criminal investigation is the actual dealing of the investigation of crime.'

When referring to forensic investigation, participant 6 said, 'It is when external companies such as KPMG, PWC and others investigate and submit report to us. These investigations involve the flow of monies, are fact finding and have recommendations.'

Participant 7 defined forensic investigation as, 'Sophisticated ways of investigating crime, working together with criminal investigators. It specialises in retrieving documents and emails and is conducted by private companies.'

Participant 8 stated, 'Forensic comes from a French professor when he identified that when two people meet, there will be transfer of traces, example is when a white car bumps into a black car, the paint from one car will transfer to another car and it is when you use scientific methods to retrieve those traces. Forensic investigations are used in criminal investigations.'

4.3.2 Characteristics of corruption

There is an indication in literature that the successful investigation of crime depends on thorough proving of all the specific elements in relation to that particular crime. South African law of evidence sets out a standard in which all elements must be proven which is 'beyond reasonable doubt' for criminal offences and 'balance of probabilities' for other transgressions (Joubert, 2018:401). Thus, the researcher sought to ascertain the participants' views in relation to elements of corruption, as it is broad and complex.

The law prescribes certain elements in relation to corruption as outlined by Joubert (2018:117) as:

a) Acceptance

b) Of a gratification

c) In order to act in a certain way

d) Unlawfulness

e) Intention

Participant 1, when referring to characteristics of corruption, stated that, 'Intention must be proven and misuse of authority.'

Participant 3 identified elements of corruption as, 'To act to get money, unlawfully and intentionally for example when one submits an invoice for work not done.'

Participant 4, in relation to elements of corruption stated, 'Conduct is receiving and giving of gratification which can be a loan or cash.'

Participant 7 said, 'Conduct in corruption is two people colluding with another in order to commit or omit something to gain ransom in public or private sector which result in someone being prejudiced.'

4.3.3 Receiving complaints of corruption

Zinn and Dintwe (2015:23) unequivocally assert that the starting point of investigation will be the reporting of the crime or incident, irrespective of what the nature of that crime is. In relation to corruption, section 34 of the PCCA Act places an obligation on certain individuals in position of authority, to report any corruption and corruption related conduct.

- In reporting corruption, some whistle-blowers who chose to come forward are putting their lives at risk. As stated by Dlwati (2022: n.p.), it has been a year since the Gauteng Department of Health whistle-blower died. She came forward with claims of corruption by the department relating to a R300 million Covid-19 personal protective equipment (PPE) tender and blew the whistle on questionable

payments to different contractors from Tembisa Hospital of up to R850 million. After her death, the President of the Republic of South Africa vowed to ensure the protection of whistle-blowers who publicly come forward with the information.

The former National Head of DPCI, General Anwa Dramat, approved general guidelines for reporting corruption in relation to section 34 of the PCCA Act in which the following persons were identified as responsible to report corruption (HAKS, DPCI-sec 34 Reporting guide (2014):

- Director-general or head of a national or provincial department
- The Municipal Manager
- Any public officer in the senior management of a public body
- Any head, rector or principal of a tertiary institution
- The manager, secretary or director of a company
- The executive manager of any bank or other financial institution
- Any partner in a partnership
- Any person appointed as chief executive officer of any agency, board, commission, committee, corporation, council, department, service or any other, institution or organisation, whether established by legislation, contract or any other legal means
- Any other person who is responsible for the overall management and control of a business of an employer
- Any person in acting capacity in relation to any of the above

They are required to report knowledge of corruption and alleged corrupt conduct, fraud, theft, extortion to any police official. Section 34(2) further stipulates that a failure to report such offences is an offence. In terms of section 34 (1) such report should be made to the police in the DPCI.

In assessing the investigation of corruption cases in the BCMM, the researcher sought to determine the experiences of the participants in receiving complaints of corruption incidents in relation to the above-approved guidelines.

Participant 1 stated the following in relation to the receiving of complaints of corruption, 'It is reported by whistle-blower or head of organisations.'

All the other participants concurred with participant 1 that whistle-blowers and heads of departments such as the municipal manager (MM), mayor, auditor general (AG) and Corruption Watch mostly report corruption, while some incidents of corruption are referred to the DPCI by the SIU.

Participant 8 also stated that most corruption is reported by whistle-blowers, either telephonically or in person.

4.3.4 Responsibilities of investigators when receiving a complaint of corruption

Zinn and Dintwe (2015:46-47) assert that the positive identification of a person's committed crimes, transgressors of company policies and procedures or those that have been involved in an incident or irregularity, ensures successful investigation of that crime or incident. It is submitted that identification forms part of all forensic science investigation as it is considered as the point of departure in the investigation process. Identification is, therefore, the basis of any investigation.

Identification is the classification of objects with similar characteristics into one category. It is a process of identifying, collecting and classifying evidentiary material into a certain class that will ensure proving or disproving of a fact in issue (Zinn & Dintwe, 2015:47). Section 34 of DPCI reporting guide also stipulates that the Central Reporting Office within the DPCI has to 'assess the report' before it is taken down and registered.

Zinn and Dintwe (2015:48-49) further stresses that the initial task of an investigator should be to determine if an incident, a crime or a transgression has indeed occurred, ascertain the type of incident and formulate investigative hypothesis.

The researcher thus sought to ascertain the views of the participants and their experiences when receiving complaints of corruption in relation to the above theory.

Participant 1 stated the following in relation to the responsibilities of corruption investigators, 'You open an inquiry, conduct investigation to check if there is a crime or not. If there is a crime, you open a case docket at the police station in the jurisdiction of the incident and do a background check.'

Participant 2 said, 'You check the company's policies in relation to the alleged conduct, for example, follow the policies and procedures to determine if crime was committed.'

Participant 3 stated, 'Obtain statement to do preliminary report from the whistle-blower and write your own statement. Obtain forensic affidavit if forensic firm is involved. Open inquiry.'

Participant 4 also agreed with participant 3, 'Interview the reporter and determine whether indeed crime was committed. Open inquiry.'

Participant 6 stated the following, 'In procurement investigations, you establish what actually happened and open an inquiry.'

Participant 7 supported the statement that you obtain a report from the reporter, open an inquiry, and stated that the basis for starting an investigation is profiling the company.

4.3.5 **Procedure for investigating corruption**

The South African Police Service Act (Act 68 of 1995) and section 205 of the Constitution of the Republic of South Africa (South Africa, 1996) hereby referred to as 'the constitution' mandates the South African Police Service to investigate crime.

Lekubu (2015:18-19) acknowledged the lack of the SAPS to investigate all crimes due to constraints such as human resources who lack skills and special knowledge. Thus, other corporate bodies, government departments and the private investigation industry created their own investigative structures. On the other side, the SIU Annual Performance Plan (2021/2022:16-17) provides that the SIU draws its mandate from the constitution, specifically sections 32, 33 and 34 as well as section 4 of the Special Investigating Units and Special Tribunals Act, the Criminal Procedure Act, 1995 (Act 56 of 1995) and the PCCA Act. For the purpose of this study, the researcher sought to assess the investigation of corruption cases focusing only on the SAPS and SIU.

The researcher sought to understand the experiences of the participants in relation to the investigation of corruption cases in the BCMM.

Participant 1 outlined the process as follows:

As we have obtained the inquiry and conducted preliminary investigation, after ascertaining that crime was committed, a case docket is opened and we transfer it to National Prosecuting Authority (NPA), where the prosecutor is assigned to the case. The prosecutor will then draft a Prosecutor Investigation Guide (PIG). The prosecutor, based on the information contained in the docket, drafts this guide. It is used to guide the investigator throughout the investigation process. The guide varies from case to case, but may include the following:
- Safeguarding evidence (first step).
- Conducting interviews.
- Application of a search warrant from a magistrate.
- Searching of a scene and seizing of evidence (there is no specific crime scene in relation to corruption cases, it can be the whole institution, or it can be an office).
- Issuing of subpoena 205 for cell phone and bank records.
- Tracing of perpetrators (in municipality, these include municipal managers, project management unit (PMU), chief financial officers (CFO).
- Seizing of computer evidence (seizing of computer-related evidence is done by the Digital Forensic Laboratory, DFL).

The case can be undetected if the gratification is handed over by hand.

We make use of technology mostly in computer crimes.

We utilise the Financial Intelligence Unit Centre Act (FICA) to get access to all the affected accounts.

Resources are enough to conduct investigation, I can give an eight out of 10 rating if I were to rate, that is 80%.

In some cases, I can say we are lacking in terms of the standard compared to criminals, there are cases where criminals are five steps ahead of us.

The duration of investigations varies from one to five to 10 years.

I have not experienced any political influence during the investigation of corruption cases.

All the other participants seemed to follow the same procedure as participant 5, adding that after the docket is submitted to the prosecutor and they decide to prosecute, they will draft a charge sheet and issue a warrant of arrest (J 50). Participant 2 also added that the suspect is then arrested and charged.

Participant 8 stated the following in relation to the investigation of corruption by SIU:

"You receive a complaint, mostly from the whistle-blowers, we do assessment. We assess the allegation to determine if there is a prima facie case. We do assessment by checking bank accounts of the suspected persons, follow the trace using cell phone data, we also do lifestyle audits which will assist in linking the perpetrator to the crime. In procurement, the main issue is to understand the policies. We investigate the processes, not people, but in the processes, there are role players. When conducting assessment, we compare processes against the policies, Public Finance Management Act (PFMA) and the constitution. We then interview role-players according to the five questions, which are who, why, what, where and when."

"In terms of section 4 of the SIU, we refer the matter to the NPA, and we copy the Provincial Commissioner of the SAPS (PC).

A lawyer leads every investigation; we have internal lawyers who lead the investigation.

After ascertaining that there is a case, you motivate to the President to issue a proclamation. After a proclamation has been issued, you do a planning.

We gather evidence using powers to subpoena in terms of 5 (2) (a) of the SIU Act.

We also apply for a search warrant in order to search and seize evidence. Investigators are trained to seize electrical evidence.

We can extract information from the computer using our Cyber Forensic Lab.

The procedure we are using is efficient, the reason that it seems as if the corruption is rising is not that we are failing, but because of more people being exposed.

We are the victims of our own successes.

The skills development department is responsible for the training of our investigators.

The procedure we are utilising is efficient and effective.

People are being exposed, though some have perceptions that, because they are closer to the President, they will not be exposed.

Our role is to recover the assets and we always succeed."

4.4. USE OF WHISTLE-BLOWERS

According to Wright (2022: n.p.), South Africa's whistle-blower protection protects certain disclosures, leaving many whistle-blowers unprotected. South African law and policy show off a great deal of protection of witnesses in relation to corruption offences. Witnesses to corruption are protected under the Witness Protection Act of 1998 which includes the relocation and changing of the identity of witnesses but is limited to those people who will give evidence in court. Their families are not protected and no protection for people reporting corruption that does not fall under statutory corruption or those that report corruption but will not be witnesses in criminal proceedings. Whistle-blowers are also protected under the Protected Disclosures Act of 2000 which protects certain disclosures by employees against employers. It only offers protection to disclosures relating to statutory corruption. Its application is limited to occupational detriment and employment relationships such as parties to a procurement agreement. Furthermore, the Act protects disclosures made to the Public Protector (PP) or Auditor General AG), excluding disclosures made to investigative and prosecuting bodies which are the police and the NPA. Furthermore, both Acts offer protection against

physical safety of whistle-blowers and current employment conditions, disregarding future job security, financial, emotional and legal support for whistle-blowers and their families (Wright, 2022: n.p.). Thus, the researcher sought to determine the experiences of participants in relation to the use of whistle-blowers and their protection during the investigation of corruption.

Most participants agreed that whistle-blowers are optimally and effectively used in the investigation of corruption. Participant 2 was of the view that using informers is not easy as offenders mostly use technology as a method of committing corruption. Participants are of the view that whistle-blowers are protected, as their identities are not disclosed.

4.5. CHALLENGES OF INVESTIGATING CORRUPTION

Martini (2015:5-6) identified international challenges in fighting grand corruption as that specialised investigative units and law enforcement bodies are lacking in terms of having a clear investigative mandate, autonomy to conduct investigations, lack of access to investigative techniques, resources and enough capacity. Therefore, the researcher sought to identify the experiences of the participants in relation to the challenges encountered during the investigation of corruption cases in the BCMM.

Participant 1 identified challenges as, 'Delay by banks to give out information,' and 'Shortage of resources compared to other units.'

Participant 2 said, "Some witnesses are uncooperative because they are frightened,' and 'Other witnesses are afraid to testify against their management fearing of losing their jobs.'

Participant 3 identified challenges as, 'Uncooperative witnesses, important documents not available,' and 'documents destroyed.'

4.6. SUMMARY

Corruption has become a universal concern nowadays. It has long been a problem that impacts negatively on the development of society at large. The whole world has embarked on a journey towards the eradication or prevention of this pandemic. Anti-corruption strategies have been implemented worldwide. Laws and regulations have been amended to fit the changing environment. Though every effort is made to fight corruption, it seems as if there is little to no success as the perpetrators are determined to outsmart the prevention strategies. The main problem with corruption is that no one is immune to being bribed. Everyone dreams of success, and most are determined to succeed, even if they have to bend the rules. Poverty, greed and changes in technology, as well as developments in assets are contributing to corrupt conducts.

It cannot be denied that even those that are tasked to destroy this problem are also vulnerable and are tempted to turn a blind eye in return for their own benefit. It is clear that corruption is a very broad conduct and is so complex that there can never be saturation in attempting to find better ways of preventing, combatting and investigating it. The investigation of corruption is not an easy task, and a lot of effort should be made to ensure success in this regard. Constant assessment and reviewing of the methods used in investigating this problem are always necessary.

CHAPTER 5: CONCLUSION, FINDINGS AND RECOMMENDATIONS

5.1 INTRODUCTION

The purpose of this study was to ascertain the understanding of corruption and to assess the effectiveness of the investigation of corruption cases in the BCMM. This chapter completes what has been done from the start of the study, the findings, and the summary of contributions, recommendations, and suggestions for further research. The chapter concludes the study and outlines general findings derived from data obtained from various secondary sources and primary data obtained from the participants. The data was obtained through a qualitative approach and data was collected through literature reviews and semi-structured interviews. Interviews were conducted with the purpose of obtaining first-hand experiences and opinions from the participants. Participants in the study are from the elite investigative units of South Africa, responsible for investigating serious corruption, maladministration, and malpractices. Based on the findings, the recommendations are submitted for consideration by the relevant authorities. Recommendations are submitted with the intent of assisting in addressing the gaps and challenges identified. The chapter also covers limitations encountered in conducting the study, as well as proposals for future research and what contributions the study provided.

5.2 RECAPPING OF RESEARCH PURPOSE AND OBJECTIVES

The research was conducted with the aim of assessing the investigation of corruption cases. The purpose was three-fold, to explore the process of investigating corruption in order to ascertain its effectiveness in curbing corruption, describing corruption in the way it is viewed and understood by those that are tasked with preventing and investigating it, and explaining why corruption is becoming persistent and predominant, why it has become a universal problem and why it is difficult to win the battle against this conduct. The above was to be achieved through determining the general understanding

of corruption and exploring the process of investigation, determining the impact of corruption and identifying challenges and gaps in the process of investigating corruption.

5.3 FINDINGS AND ARGUMENTS

The researcher found the following in relation to assessing the investigation of corruption cases in BCMM.

5.3.1 Understanding of corruption

In order to be able to explore the investigation of corruption, the researcher had to first ascertain how scholars and investigators understand corruption. It has been articulated in literature that for one to be able to successfully investigate any crime, one must first know what is regarded as crime. Joubert (2018: 0) stipulates that the prerequisite for the conviction of an accused person in criminal cases, is proving all elements of that crime beyond reasonable doubt. It was found in chapter 2 of this study that corruption is very broad and complex, to the extent that some scholars and laypersons use it interchangeable with other transgressions such as fraud, bribery and theft. Literature review in chapter 2 revealed that there is no universally agreed upon definition of corruption. It was found that corruption is understood, perceived and interpreted differently.

Some scholars associate corruption with a disease that destroys the hopes and aspirations of the poor members of society to better their lives. Others perceive corruption as a conduct that involves the offering and acceptance of a reward in order to entice the acting or not acting by the giver or receiver and this includes, inter alia, awarding of contracts in a corrupt manner. It is also referred to as the root cause of poverty.

5.3.2 Defining corruption

Chapter 2 and chapter 4 of the study explored the definition of corruption in order to address research question 1. The first research question intended to

establish the general understanding of corruption. In chapter 4, it was found that corruption in South Africa is defined under the Prevention and Combatting of Corrupt Activities Act (Act 12 of 2004). It was determined that, according to the PCCA, corruption is indeed very broad as the Act covers no single conduct but many, including accepting, agreeing or offering to accept, giving, agreeing or offering to give gratification, which also covers a lot of things such as money (cash or otherwise), donations, status, right, consent and many more to be influenced to act illegally, dishonestly by abusing position of authority, and violating legal rule leading to achievement of unjustified result. The Act further lists a set of offences in respect of corrupt activities relating to specific persons, offences in respect of corrupt activities relating to receiving or offering of unauthorised gratification, offences in respect of corrupt activities relating to specific matters, offences relating to possible conflict of interest and other unacceptable conduct and other offences relating to corrupt activities. It was, therefore, found that corruption covers many conducts and the act itself is very broad. It was found that corruption is broad and covers vast numbers of other conducts in relation to corrupt activities, as well as specific situations and persons referred to in the Act. Most scholars and researchers simply decided to simplify corruption as abuse of power for personal gain.

Chapter 4 also revealed that the participants in this study also adopted the simplified definition of corruption as 'abuse of authority/power for private gain/benefit.' This has become the universally accepted definition of corruption as it is easily understood and interpreted by everybody. The dangers of this simplified definition might create a perception that only those that are in power or have authority can act in a corrupt manner, thus deviating from the definition of corruption as specified in the act as 'any person'. Most people already have the perception that only those that have power commit corruption.

5.3.3 Manifestations of corruption

As revealed in the definition of corruption and as outlined in the PCCA, corruption is complex and very broad. The Act covers vast numbers of conducts classified under corrupt activities. The researcher found that

corruption manifests in many ways. Power or authority can be abused in various ways.

5.3.3.1 *Abuse of power*

Literature in chapter 2 revealed that historically, people have always sought means of making more money, getting better deals, advancing their positions, and improving their lives by misusing positions of power. This is an indication that people abuse their power in order to better their lives and to serve their interests. This abuse of power is mostly associated with public officials' actions which might be illegal or even legal, but questionable according to the rule of law and government's legal systems. These officials abuse their authority in a corrupt manner.

The researcher concluded that corruption is not always unlawful conduct; it might be lawful conduct that is done where it was not supposed to be done. This can manifest when the conduct of an official is lawfully authorised, but the procedures and processes are not followed based on merit. The conclusion is based on literature review, participants' responses and media reports. Officials who are in positions of power or authority often use that to prioritise or bend the processes to suit their needs or their interests. Another example can be that of a human resource manager using their authority to appoint their favourites, even if they had to jump the queue, or a politician delivering a service to members of the party, even if they have to bypass the queue. Power is also corruptly abused when those in power offer golden handshakes to some preferred individuals, thus, disadvantaging other innocent individuals. Most participants perceived abuse of power as the conduct mostly related to corrupt activities. Almost all participants referred to corruption as abuse of power.

5.3.3.2 *Fraudulent corrupt conduct*

Chapter 2 and 4 also revealed that corruption is committed by means of misrepresentations. Officials make representations in order to receive gratification. This form of corruption is referred to as fraudulent conduct. Fraud is defined as the making of misrepresentation with intent to cause prejudice to

another, whether potential or otherwise. It is submitted that this misrepresentation involves distortion of the truth, can take various forms and can be expressed or implied. Lekubu (2019:45) also, in his study 'A critique of South African anti-corruption strategies and structures: A comparative analysis', found that fraud and corruption has been closely associated by most scholars, and defined fraud as an economic crime that involves trickery by public officials who distort facts in seeking to make private benefit. Fraud has been found as a crime on its own and is a priority when it comes to preserving the economy of the country. Fraud is also prevalent, complex, and distinct on its own.

Most participants have experienced incidents of corruption manifesting itself in the form of misrepresentation made by offenders for their own private gain. Some of the cases that the participants are investigating are committed by means of misrepresentations and one participant is of the opinion that all corruption cases are committed by misrepresentation.

5.3.3.3 *Procurement corruption*

Chapter 4 revealed that irregularities in procurement processes are the most reported incidents in the BCMM. It has been found that procurement services create greater temptation for corruption. Most participants have dealt with complaints of corruption in procurement services by supply chain officials. The researcher found that the supply chain section of departments and institutions are the most vulnerable to corruption as this is where most of the procurement is done. Most cases reported have something to do with the procurement of goods and services. In chapter 2, several government spending practices have identified that there is less development concerning rules governing these practices. There are no strict rules regulating procurement transactions and corrupt officials, aiming to satisfying their individual needs, easily manipulate most of these transactions. This has been pointed out by Chelin (2021: n.p.) citing recent scandals involving the Digital Vibes contract and other Covid-19 scandals. Officials used the opportunity to procure Covid-19 personal protective equipment (PPE) to serve their own interests.

5.3.3.4 *Bribery and extortion*

In chapter 2, literature review revealed that bribery is the most commonly perceived way in which corruption manifests itself. It is said to occur when one offers money to another in order to entice the other to do something illegal or inappropriate or not to something in order to enable an outcome that would not have been possible without the money (Graycar & Prenzler, 2013:3). Other scholars labelled bribery as the most common form of political corruption worldwide, in which money and gifts are offered to government officials to induce them to act in a certain desired manner. In his study 'Manifestations of corruption in the city of Tshwane Metropolitan Municipality', Lekubu (2015:65) found that some public officials in other countries often accept tips in exchange for their services and South African government officials are obliged to declare any gifts that are valued at R350 or more. The Gupta family captured the state and there were testimonies of bribes offered in exchange for certain benefits and interference with deployment of ministers.

It was also found that bribery has been referred to as the most well-known financial crime in which power is abused by officials offering or soliciting bribes in an unfair practice. It is viewed as universally prohibited, although some countries in Asia confuse bribery with gift-giving practices. It is submitted that this confusion creates grey areas of morality concerning bribery issues. The researcher concluded that there is a lack of clear distinction between acceptable gifts and bribery and that creates an opportunity for corrupt activities. Bribery has, historically, been viewed with great disgust and hatred by criminal courts. Even South African courts have defined bribery as a corrupt and ugly offence striking cancerously at the bottom of justice and integrity, as well as preventing fair administration to society and offending the rule of law and principles of good governance. These findings are correlating with the definition of corruption as giving or receiving of gratification.

There is also indication in literature that this gratification or benefit is sometimes solicited by way of exerting pressure on another, intending to induce that person to give up an advantage. The pressure can be in any form, including threats. This method of soliciting advantage has been found to be

linked to extortion. Extortion has been found to be known as a demand for money or gifts by a public official by coercion and it has been revealed that extortion and bribery are the most common forms of corruption. Most participants also indicated that corruption is committed by soliciting or offering of money by the corrupter or by receiving of money by the corruptee.

5.3.3.5 *Maladministration*

In chapter 2, it is indicated that maladministration refers to the conduct of public officials and practices that are irregular and unauthorised. This relates specifically to the unauthorised use of public money and resources. It was found that though maladministration does not always result in corruption, it could cause more harm than corruption. Maladministration promotes and creates opportunities for corrupt activities. Maladministration is inconsistent with constitutional values, which requires that public officials must promote, protect and respect the fundamental rights of every citizen. Inefficient or dishonest administration make corruption possible. Lekubu (2019:13) defined maladministration as an activity in which regulations are not complied with due to mistakes or negligence.

Most participants have experienced maladministration in the course of their investigations, though they did not directly identify it as maladministration. Some indicated in their definition of corruption by making examples of managers who negligently sign certificates that work has been done whereas it has not been done. Participants could not directly associate maladministration as a form of corruption but acknowledged that maladministration causes corruption.

5.4 **CLASSIFICATION OF CORRUPTION**

Joubert (2018:108) identified some crimes as crimes endangering the constitutional structures or the economy for they pose a serious threat to the South African constitutional dispensation, as well as the strength of its economy. It is submitted that some of these crimes are prevalent putting

South Africa's prosperity and future at risk. Corruption has been identified as one of those crimes.

The researcher, therefore, sought to ascertain the views of the participants in relation to the classification of corruption and its impact on the investigation process. Most participants are of the view that corruption is classified under economic crimes with participant 4 and 6 labelling corruption as serious economic crime, stating that it seriously affects the economy of the country.

5.5 CHARACTERISTICS OF CORRUPTION

There is an indication in literature that the successful investigation of crime depends on thorough proving of all elements in relation to that particular crime. South African law of evidence sets out a standard in which all elements must be proven which is 'beyond reasonable doubt' for criminal offences and 'balance of probabilities' for other transgressions (Joubert, 2018:401). This means that it is imperative for the investigators of crime or incidents to know these elements and to be able identify whether South African law prohibits the conduct or incident. In relation to corruption, Joubert (2018:117) identified certain elements, which are found to be in consistence with the PCCA. The researcher also intended to find the views of the participants as to how they identify corrupt conduct. Most participants stated that in corruption there is gratification involved, which can take any form such as money or loans, misuse of authority, and that two or more people within either the public or private sectors are involved. It was, therefore, concluded that the following are the elements of corruption in relation to the PCCA, scholars and the participants' perceptions:
  (a) Acceptance or giving
  (b) Of a gratification
  (c) In order to act in a certain way or not to act
  (d) By abusing a position of authority or power or any dishonest conduct
  (e) Unlawfulness
  (f) Intention

5.6 INVESTIGATION OF CORRUPTION

Previous research indicated that there is an existence of confusion within the investigation industry concerning the true meaning of forensic investigation. It has concluded that it is a specialised field involving the use of specialised investigative skills in carrying out investigations and must be done within the ambits of the law. It is further indicated that the purpose of forensic investigation is to identify if a crime has been committed by obtaining information and evidence, identifying the responsible person, arresting the suspect, recovering stolen property and presenting the case to the prosecutor. The investigation process has been classified into criminal and forensic investigations.

5.6.1 Criminal versus forensic investigation

Some scholars distinguish between criminal and forensic investigation even though some distinguishing features are not clear. It has been found that there is confusion and debate in relation to the proper and true meaning of forensic investigation. Though labelled as criminal and forensic, both were found to share common features. They both start after the crime or incident is committed, they are mandated to investigate the crime or incident, they are intended to find out the truth by identifying, collecting and presenting evidence through different methods and techniques. Some participants do not distinguish between criminal and forensic investigations. They perceive criminal and forensic investigation as the same, as they both have the same purpose, which is to search for the truth in relation to the alleged crime or incident. One participant understands forensic investigation as the reinforcement of criminal investigation. It is concluded that criminal and forensic investigation are all processes of searching for the truth in relation to the alleged conduct with the intent to prove or disprove the fact in dispute. These processes might be termed differently but are like identical twins that are inseparable and have the same features but are termed differently by different role-players and in different settings. Hence, our South African law

authorises only the South African Police Service to investigate crime; other institutions started their investigations in order to close the gap and to lessen the burden on the SAPS, as there are many unlawful or unwanted conducts that need to be investigated. These institutions recognised themselves as forensic investigators as they do not have some of the powers provided to the SAPS investigators, such as the power to arrest.

5.6.2 Receiving complaints of corruption

Literature indicates that the starting point of investigation is the reporting of the crime or incident, irrespective of what the nature of that crime is. Section 34 of the PCCA Act places an obligation on certain individuals in positions of authority to report any corruption and corruption related conduct. The DPCI head, in relation to the section 34 stipulation of who is expected to report corruption and how the report should be received and handled, issued a reporting guide. It was found that those that report corruption are commonly referred to as whistle-blowers. They can report corruption anonymously and they their identity should be protected.

It was found that some of these whistle-blowers choose to come forward and by doing so, are putting their lives at risk. There are some incidents reported in media of whistle-blowers who have been fatally wounded after reporting corruption. In ensuring that most people come forward and report corruption, the President of the Republic of South Africa vowed to ensure the protection of whistle-blowers who publicly come forward with information. Most participants also stated that they receive complaints of corruption mostly from whistle-blowers. They also receive complaints from other institutions who investigate corruption but with limited powers.

5.6.3 Responsibilities of investigators when receiving a complaint of corruption

Scholars have found that the successful investigation of crime or incidents depends on the positive identification of persons who committed such crimes, transgressors of company policies and procedures or those that have been

involved in an incident or irregularity. There is an indication in literature that identification is the point of departure for the investigation process. Identification is, therefore, the basis of any investigation. Identification has been found to be a process of classifying objects with similar characteristics into one category, identifying, collecting and classifying evidentiary material into a specific class. According to the reporting guide issued by the DPCI, the receiver of the report of corruption has to assess the report before taking it down. Literature indicates that the investigator should determine whether an incident indeed took place and, if so, what type of incident has taken place before conducting the investigation.

Most participants indicated that when they receive a complaint of corruption, they open an inquiry before opening a case docket. The purpose of the inquiry is to assess the incident and determine if indeed a crime was committed. This is done by interviewing the reporter further, doing a background check and profiling any company involved in the alleged incident. When a company or institution is involved, policies of that company are thoroughly checked to ascertain if there is any conduct that is contrary with what is stipulated in the policies. One participant stated that an assessment is done to determine if there is a prima facie case.

5.6.4 Procedure of investigating corruption

The South African Police Service Act (Act 68 of 1995) and section 205 of the Constitution of the Republic of South Africa (South Africa, 1996) mandates the South African Police Service to investigate crime. Challenges that include lack of skills and knowledge have been identified as preventing the SAPS from successfully pursuing its mandate. Therefore, other bodies and private industry created structures to assist in the investigation of crime or incidents, especially in relation to economic incidents. The Special Investigating Unit has been recognised and approved as an investigating body that assists in investigating serious offences in South Africa. Many other bodies investigate crimes and incidents in South Africa to assist in closing the gap, as there is a high volume of incidents that requires special skills and knowledge to

investigate.

Literature stipulates that the investigation of crime is a process and there are steps that are followed in this process. These steps may vary as crime and incidents are not the same and are not committed in the same manner. In investigating corruption, the researcher found that the process is still followed, but slightly differs from the normal process. All participants are conducting investigations under the guidance of the National Prosecuting Authority (NPA). After a case docket is opened, the investigator is assigned to the prosecutor who guides them throughout the investigation. The prosecutor will then draft a Prosecutor Investigation Guide (PIG). The prosecutor, based on the information contained in the docket, drafts this guide. The investigator uses the guide throughout the investigation process. The guide varies from case to case. It was found that the prosecutor studies the docket and drafts the PIG to guide the investigator. The PIG might contain, but is not limited to safeguarding evidence, conducting interviews, applying for search warrants, applying for warrants of arrests, searching of crime scenes, seizing of evidence, issuing of subpoena 205 for cell phones, bank records and other computer records or information in which there is resistance in obtaining, tracing of offenders, arresting or issuing summons to identified offenders and charging offenders. This process is conducted with the assistance of other role-players such as the Digital Forensic Laboratory and Cyber Forensic Laboratory. One participant stated that the process is guided by the lawyers working with investigators and includes tracing cell phone data, conducting lifestyle audits, as well as assessing the policies, especially in procurement corruption. It also involves the thorough interview of all persons involved and the gathering of evidence. The process is conducted under the Financial Intelligence Unit Centre Act (FICA) and Public Finance Management Act (PFMA).

It was found that the duration of investigating corruption cases varies from case to case; it can be one to five to ten years. Some of the cases can be undetected, especially if the perpetrator handed the gratification without using electronic equipment. Most participants are of the view that the procedure is

effective and efficient. Resources are sufficient to conduct the process, even though resources can never be enough. Political officials have not influenced most participants.

5.7 USE OF WHISTLE-BLOWERS

There is an indication in media reports that South Africa's whistle-blower protection protects certain disclosures, and many whistle-blowers are unprotected. South African law and policy show off a great deal of protection of witnesses in relation to corruption offences. Witnesses to corruption are protected under the Witness Protection Act of 1998 which includes the relocation and changing of the identity of witnesses but is limited to those people who will give evidence in court. Their families are not protected and no protection to people reporting corruption that does not fall under statutory corruption or those that report corruption but will not be witnesses in criminal proceedings. Whistle-blowers are also protected under the Protected Disclosures Act of 2000 which protects certain disclosures by employees against employers. It only offers protection to disclosures related to statutory corruption. Its application is limited to occupational detriment and employment relationships such as parties to a procurement agreement. Furthermore, the Act protects disclosures made to the Public Protector (PP) or Auditor General (AG), excluding disclosures made to investigative and prosecuting bodies which are the police and the NPA. Furthermore, both Acts offer protection against physical safety of whistle-blowers and current employment conditions, disregarding future job security, financial, emotional and legal support for whistle-blowers and their families (Wright, 2022: n.p.). Thus, the researcher sought to find out the experiences of participants in relation to the use of whistle-blowers and their protection during the investigation of corruption.

Most participants agree that whistle-blowers are optimally and effectively used in the investigation of corruption. Another participant is of the view that informers are not utilised in corruption as offenders mostly use technology as a method of committing corruption. Participants are of the view that whistle-

blowers are protected, as their identities are not disclosed.

5.8 CHALLENGES OF INVESTIGATING CORRUPTION

Martini (2015:5-6) identified international challenges in fighting grand corruption as that specialised investigative units and law enforcement bodies are lacking in terms of having a clear investigative mandate, autonomy to conduct investigations, lack of access to investigative techniques, resources and enough capacity. Most of the participants identified the biggest challenge as uncooperative witnesses, because of being threatened by officials who are involved in corruption and who have authority or power over witnesses. Another challenge identified by participants is the delay to submit information and records by banks. Important documents are destroyed, and some are not available for processing. Other witnesses are afraid to testify against their management for the fear of losing their jobs.

5.9 INVESTIGATOR'S SKILLS

It was found that some of the investigators of serious corruption in the DPCI are not trained, specifically in the investigation of corruption cases. Some are only trained for general investigations, as any other investigator. There is no special training for them as they are part of the elite group responsible for investigating serious offences in the country.

5.10 IMPACT OF CORRUPTION

Corruption has been associated with a disease that destroys the hopes and aspirations of the poor members of society to better their lives. Hopes for better lives are shattered because of corruption. Service delivery is heavily impacted by corrupt activities. The high rate of unemployment in South Africa, which leads to poverty, is a result of, amongst other things, corruption. It is also referred to as the root cause of poverty. The South African economy is in tatters and one of the contributing factors is corruption.

5.11 RECOMMENDATIONS

In accordance with the findings from this research, the following recommendations are made:

5.11.1 Understanding corruption

As it has been, identified corruption is understood and perceived differently. It is, therefore, recommended that researchers in the field of forensic investigation should come together and conduct a joint study on ways to simplify the conduct and develop a programme that will be used to train aspiring corruption investigators. The Department of Justice should enhance the cooperation of researchers in designing and developing the programme. The programme should be approved by the Department of Justice and Constitutional Development in accordance with international standards and be implemented by the South African Police Service, forensic investigative structures, and private institutions.

5.11.2 Classification of corruption

The South African Police Service, empowered to prevent, combat and investigate crime in terms of the highest law, the Constitution of the Republic of South Africa, 1996, categorises all crimes related to the economy under other serious crimes, sub-category: 'commercial crime' (Crime statistics SAPS, 2018-19:3). Crime statistics are released per categories. Corruption is a very broad conduct and the PCCA prohibits many conducts and refer to different, specific individuals involved. There is a submission in literature that corruption includes other crimes such as bribery, extortion and fraud and it has become endemic with cancerous effect. Some participants indicated that corruption is not more prevalent than other crimes, but rather that more corrupt conducts are exposed than was before. In order to get a true reflection of the extent of corruption and corrupt activities, it is recommended that another sub-category: 'Corruption related crimes' be considered. This would make it easier to get exact statistics of corruption in South Africa and ascertain the extent of

corruption.

5.11.3 **Manifestations of corruption**

It is submitted that corruption manifests itself in many ways. The PCCA provides a list of offences in relation to corrupt activities. It has been indicated that the broad conduct in relation to corruption makes it complex and difficult to prevent and investigate. Most people narrowly refer to corruption as abuse of power for private benefit, thus, ignoring other conducts in relation to corruption. In order to inform more people about corruption and in accommodating laypersons who might be whistle-blowers, it is recommended that the PCCA be amended to include a section that simplify general offences of corruption without disregarding the original section. This section might, as indicated by the Global Infrastructure Anti-Corruption Centre (GIACC, 2020), further clarify corruption as involving bribery, extortion, fraud, abuse of power, embezzlement, and money laundering.

5.11.4 **Investigating corruption**

It has been submitted that investigation is not just a process, but also a systematic, methodological process. Furthermore, it is indicated that corruption is complex and difficult to investigate. This means that the proper planning of the investigation of corruption is a prerequisite for further investigation processes. In order to properly plan for investigations, investigators should be well informed about the rules, procedures and standard operating procedures that govern the investigation process. It is recommended that the investigative team should be formed. The team should meet almost every month to discuss and share experiences encountered throughout the month. Monthly feedbacks should be shared amongst team members. This will assist team leaders with the submissions of facts on improving existing guidelines and policies to meet the current standard. The team could comprise of prosecutors, magistrates, judges, heads of investigations and investigators and at least one member of the supporting investigating units. This would also assist in addressing shortcomings and gaps identified in the process.

It is further recommended that resources required for investigations should be identified beforehand. A list of all resources that includes human, financial or physical should be drafted and endorsed by management for approval. Where the capacity of investigators through training and education is slow, specialised experts should be utilised to enhance the expertise of investigators. These experts are valuable aids in the investigation of economic crimes as they are knowledgeable on all the aspects in relation to information technology. Most perpetrators of corruption are highly sophisticated and make use of technology to promote their criminal conducts. It is submitted that they can easily hide and destroy evidence using technological equipment. It is recommended that investigators of corruption should be developed to at least be able to conduct basic technological investigations. It is also recommended that forensic accountants are assigned for each investigator, or at least one for the branch, and must be readily available to assist when needed. The programme should be reviewed frequently and modified as required.

It is further recommended that policy developers review and amend the current legislation to accommodate the protection of whistle-blowers. Legislation should be amended to cover employees who voluntarily blow the whistle on irregular conduct by managers or any other person. Legislation should cover job security, financial security, emotional security and families of the whistle-blowers. The cry for the amendment of the Act in relation to whistle-blower protection was also echoed by the whistle-blowers who appeared in the Zondo Commission of Inquiry. According to Phillips (2022: n.p.), whistle-blowers had a media briefing indicating a list of recommendations to review the current status of whistle-blower protection. Amongst other things, they requested the induction of compensation for loss of livelihood and reputation, extension of the list of people to whom to report corruption and establishing procedures for physical protection of people. Zondo also recommended that a certain percentage of the recovered money should be awarded to the whistle-blower (Phillips, 2022: n.p.). This would ensure that witnesses are encouraged to come forward without fear or favour. This would maintain an effective and efficient investigation process.

5.11.5 **Corruption investigators**

The training of investigators should be made a priority. This training should be aligned with prosecutor training and other specialised authorities. Trainers from private institutions should be insourced for assistance with training. Forensic experts from other institutions and universities can be approached to design training material for use by the SAPS investigators.

To ensure the effectiveness and efficiency of investigating corruption, it is recommended that all investigators of corruption cases be adequately trained. This might assist in closing the gap identified when it comes to the lack of skills and knowledge. This was stated by the President of the Republic of South Africa in his State of the Nation Address (SONA) in 2020. The president indicated that the SAPS Academy Hammanskraal would be a crime detection university. In ensuring that individuals tasked with crime detection are highly skilled to fit in this fourth industrial revolution, this should be expedited, and specialised experts should be insourced for assisting in imparting their skills to the SAPS investigators. Investigators should be vetted and should be individuals with high levels of integrity, strictly adhering to ethical standards.

5.12   **FUTURE RESEARCH**

Based on the findings in this research, the following issues have been identified for further review and research:

(a) Assess the impact of the relationship between the prosecutors and the investigators of corruption cases in the BCMM. Since it has been identified that prosecutors are part of the investigation process in corruption cases, it should be determined how the relationship between prosecutors and investigators is maintained and what the challenges affecting the relationship are. Furthermore, it should be ascertained how the relationship can be maintained to remain on a professional level and how challenges are addressed.

(b) Examine the capacity of corruption investigators. It has been found that

some corruption investigators, though tasked with investigating serious corruption and other economic-related offences, are not enabled prior to being appointed to the post. There is no special training for corruption investigators, they only are appointed and gain experience in the field.

(c) Explore the interpretation and application of legislative principles in the investigation of corruption case. Corruption has been found to be complex, broad and not easy to investigate. The PCCA is very broad, prohibits many conducts, and refers to many people who can be guilty under the act. It is imperative that research is conducted to determine the ability of investigators to interpret and apply the Act with ease to ensure effective, thorough investigations. The study would also assist in determining if there can be any measures to simplify the legislation for easy interpretation and application.

(d) Conduct studies on the working relationship between different institutions responsible for investigating corruption. It was found that there are many other bodies responsible for the investigation of corruption cases in South Africa. In order to improve teamwork and cooperation, further studies should be conducted to determine whether these different bodies work together to achieve the purpose.

(e) Explore the measures to address the challenges in the investigation of corruption cases. Some challenges have been identified in this study and impact negatively on the investigation of corruption cases. It would be beneficial to determine what measures could be implemented to counter these challenges.

5.13 CONCLUSION

Corruption has recently been endemic to South Africa. It has been a priority of government to destroy corruption in order to improve service delivery and

ensure better lives for all. South Africa is seemingly lacking in terms of skills and knowledge to face challenges brought on by the changing society. This lack of ability to adapt to changing circumstances heavily impacts on the country's development. Corruption is contributing to the sinking economy of the country. In partaking in this study, the researcher hoped to reveal the shortcomings in the processes and uplift the spirit of corruption investigators.

Eradicating or reducing corruption would mean that the country is taking a step closer to a better future and securing the stability of the community. The researcher believes that this study will revoke the incapacity of corruption investigation. It is expected that the study will help the investigators identify areas where they need to improve and uphold the high bar when it comes to tackling corruption. The researcher is hoping that the South African community, especially in the Eastern Cape, will be encouraged to come forward and report any corrupt activities that they are aware of and join hands with law enforcement and government officials to ensure better opportunities for all.

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APPENDIX A: UNISA ETICS CERTIFICATE

UNISA

UNISA 2022 ETHICS REVIEW COMMITTEE

Date: 07 June 2022

ERC Reference No.: ST21-2022
Name: M Patso

Decision: Ethics Approval from 2022:06:07 to 2025:06:07

Researcher: Mr Mvuzo Patso

Supervisor: Dr Bernard Khotso Lekubu

AN ASSESSMENT OF THE INVESTIGATION OF CORRUPTION CASES IN THE EASTERN CAPE, BUFFALO CITY MUNICIPALITY

Qualification: Master of Arts (Forensic Science and Technology)

Thank you for the application for research ethics clearance by the Unisa 2022 Ethics Review Committee for the above-mentioned research. Ethics approval is granted for 3 years.

The **low-risk application** was **reviewed** by the CLAW Ethics Review Committee on in compliance with the Unisa Policy on Research Ethics and the Standard Operating Procedure on Research Ethics Risk Assessment.

The proposed research may now commence with the provisions that:

1. The researcher will ensure that the research project adheres to the relevant guidelines set out in the Unisa Covid-19 position statement on research ethics attached.
2. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy on Research Ethics.
3. Any adverse circumstance arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the CLAW Committee.

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4. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.
5. Any changes that can affect the study-related risks for the research participants, particularly in terms of assurances made with regards to the protection of participants' privacy and the confidentiality of the data, should be reported to the Committee in writing, accompanied by a progress report.
6. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the specific field of study. Adherence to the following South African legislation is important, if applicable: Protection of Personal Information Act, no 4 of 2013; Children's act no 38 of 2005 and the National Health Act, no 61 of 2003.
7. Only de-identified research data may be used for secondary research purposes in future on condition that the research objectives are similar to those of the original research. Secondary use of identifiable human research data requires additional ethics clearance.
8. No field work activities may continue after the expiry date **2025:06:07**. Submission of a completed research ethics progress report will constitute an application for renewal of Ethics Research Committee approval.

Note:

The reference number TS21-2022 should be clearly indicated on all forms of communication with the intended research participants, as well as with the Committee.

Yours sincerely,

Prof L Fitz
Chair of CLAW ERC
E-mail: fitzlg@unisa.ac.za
Tel: (012) 433-9504

Prof OJ Kole
Acting Executive Dean: CLAW
E-mail: koleoj@unisa.ac.za
Tel: (012) 429-8305

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APPENDIX B: PERMISSION TO CONDUCT RESEARCH IN SAPS

South African Police Service   *Suid-Afrikaanse Polisiediens*

Privaatsak Private Bag X94	Pretoria 0001	Faks No. Fax No.	(012) 393 4333

Your reference/U verwysing:

My reference/My verwysing: **3/34/2**

THE HEAD: RESEARCH
SOUTH AFRICAN POLICE SERVICE
PRETORIA
0501

Enquiries/Navrae:	Lt Col (Dr) Smit AC Thenga	
Tel:	(012) 393 4333	
Email:	ThengaS@saps.gov.za	

APPROVED

M Patso
UNIVERSITY OF SOUTH AFRICA

RE: PERMISSION TO CONDUCT RESEARCH IN THE SOUTH AFRICAN POLICE SERVICE: UNIVERSITY OF SOUTH AFRICA: MASTERS DEGREE: AN ASSESSMENT OF THE INVESTIGATION OF CORRUPTION CASES IN THE EASTERN CAPE BUFFALO CITY MUNICIPALITY: EASTERN CAPE PROVINCE: RESEARCHER: M PATSO

1. The above subject matter refers.

2. You are hereby granted approval for your research study on the above mentioned topic in terms of National Instruction 4 of 2022.

3. Further arrangements regarding the research study may be made with the following office:

4. The National Head: Directorate for Priority Crime Investigation

   - **Contact Person:** Brigadier Matthews
   - **Contact Details:** (012) 846 4315
   - **Email address:** MatthewsR@saps.gov.za

5. Kindly adhere to paragraph 6 of our attached letter signed on the **2022-07-05** with the same above reference number.

MAJOR GENERAL
THE HEAD: RESEARCH
DR PR VUMA

Date: 2022 -07- 1 5

I

APPENDIX C: CERTIFICATE OF EDITING

16 October 2022

Certificate of Proofreading

This document certifies that the manuscript listed below has been proofread for appropriate English language usage, grammar, punctuation, and spelling by a professional native English–speaking editor.

Author : Mvuzo Patso

Manuscript title : AN ASESSMENT OF THE INVESTIGATION OF CORRUPTION CASES IN THE EASTERN CAPE BUFFALO CITY METROPOLITAN MUNICIPALITY

E MATTHYS

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# APPENDIX D: TURN-IT-IN DIGITAL CERTIFICATE

turnitin

Digital Receipt

This receipt acknowledges that Turnitin received your paper. Below you will find the receipt information regarding your submission.

The first page of your submissions is displayed below.

Submission author:	Mvuzo Patso
Assignment title:	Complete dissertation/thesis for examination
Submission title:	Dissertation
File name:	Dissertation_FINALISED.doc
File size:	10.97M
Page count:	148
Word count:	38,184
Character count:	219,327
Submission date:	13-Oct-2022 05:38PM (UTC+0200)
Submission ID:	1924386306
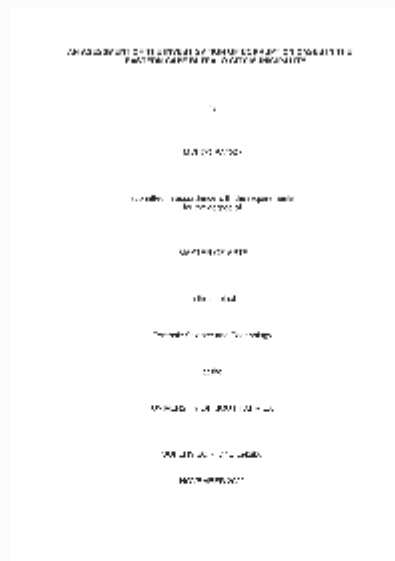
APPENDIX E: INTERVIEW SCHEDULE

TOPIC: AN ASSESSMENT OF THE INVESTIGATION OF CORRUPTION CASES IN THE EASTERN CAPE BUFFALO CITY MUNICIPALITY

My name is Mvuzo Patso employed by the South African Police Service as a facilitator currently placed at SAPS Academy All Saints. I am conducting a research as a student at UNISA towards a dissertation in Master of Arts in Forensic Science and Technology.

I humbly request your participation in an interview for this study. The reason for the interview is to gather information in relation to your experience of conducting investigations of corruption related cases. The aim of the study is to assess and explore the investigation process of corrupt activities and that will assist the investigators of corrupt activities in identifying gaps and improving their investigative skills and techniques.

Participation in this study is voluntary and all data will be treated with confidentiality. You are kindly requested to provide your honest and comprehensive response when answering these questions.

SECTION 1: DEMOGRAPHIC INFORMATION

1. What is your job title?
2. How long have you been an investigator?
3. Do you have any qualifications?
4. What is the level of training you have in relation to investigation?
5. Do corruption investigators receive special training?
6. Have you ever investigated high profile corruption cases?

SECTION 2: MANIFESTATION AND CLASSIFICATION OF CORRUPTION

7. How would you describe corruption?
8. What constitutes corruption? Explain by referring to its characteristics
9. What is your understanding of the manifestation of corruption?
10. How is corruption classified?
11. Does the classification of corruption have an impact in the investigation of corruption cases?
12. Is the classification of corruption clearly defined and appropriate?

SECTION 3: INVESTIGATION OF CORRUPTION CASES

13. How would you define criminal investigation?
14. How would you define forensic investigation?

15. According to your understanding is there any difference between criminal and forensic investigation? Explain
16. How would you define an investigator?
17. As an investigator of corruption, how do you become aware of a corruption activity? How is corruption reported?
18. What are your responsibilities as an investigator in the investigation of corruption?
19. Do corruption investigators receive special training?
20. If yes, is the training enough to capacitate the investigators of corruption cases?
21. What is the procedure that must be followed by an investigator after receiving a report of corruption incident?
22. Is this procedure applicable and effective in the investigation of all corrupt activities?
23. Is the procedure followed during the investigation of corruption cases efficient and cost effective?
24. Do you think that the procedure meets the required standard to reveal all the tactics used by corrupt offenders or should the procedure be constantly reviewed?
25. How long does it take to successfully investigate a corruption case?
26. Do you make use of technology during the investigation of corruption? If so, is technology of great assistance and how?
27. Is there any political influence in the investigation of corruption cases?
28. In your opinion, do corruption investigators have enough resources to investigate corruption cases?
29. Do you think that investigators of corruption are well advanced to keep up with criminal innovations especially the use of technology by corrupt offenders?
30. Would you say that whistle blowers/ informers are optimally and effectively utilised in the investigation of corruption?
31. Are the whistle blowers/ informers sufficiently protected to ensure free and voluntary participation in the investigation of corruption?
32. What can you say are the challenges of investigating corruption cases?
33. What do you think can be done to address these challenges?