Monitoring wildlife crime cases: A possible approach to reduce corruption in the justice system?

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Key takeaways

» Corruption in the criminal justice system undermines the basic principle of equality before the law, denies individuals of their right to a fair trial, and erodes public trust.

» Monitoring of wildlife crime cases by civil society has the potential to highlight systematic failings due to corruption and identify corrupt actors within the justice system.

» Monitoring may involve direct observation, reviewing case documents, or a combination.

» Corruption is difficult to identify due to its often clandestine nature, but the red flags contained in this practice note offer a way to spot possible instances of corruption.

» Good practices regarding the safety of monitors, project design, relationship building, and the characteristics of monitors are recommended in this practice note, but they must be tailored to the local context.

Key terms

» **Case monitoring** refers to civil society organizations, advocates, community members, or the media, observing the progression of a case through the justice system in a systematic way, recording their findings, and (often) making those findings public. Monitoring may focus only on the trial itself or may also encompass pre-trial and post-trial stages such as arrests, case dismissals and hearings, or any subsequent appeals.

» For the purposes of this practice note, the **justice system** includes any official actor within the system, including judges, police, prosecutors, lawyers, and administrative and support staff.

» **Wildlife crime cases**, as used in this note, are court cases that involve wildlife crime such as poaching and smuggling.

» **Corruption**, including bribes, political interference, and other abuses of entrusted power for private gain, can manifest during wildlife crime cases in two main ways. First, it can directly facilitate crimes. Second, it can subvert law enforcement and subsequent judicial proceedings. This practice note focuses on the latter.[1]

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[1] A companion piece (Prinsloo et al. 2022) reviews how corrupt practices can facilitate the wildlife crime itself.

Corruption in the criminal justice system

Corruption in the criminal justice system undermines the basic principle of equality before the law and denies individuals of their right to a fair trial. Money and power can decide which cases are prioritized or dismissed, which criminals remain unpunished, and which victims are deprived of justice (Transparency International 2020a). Corruption can create an atmosphere of legal uncertainty that deters business and investment, undermines the legitimacy of public institutions, and erodes public trust in law and order (UNODC 2020).

Approximately one third of people globally perceive judges, magistrates, and the police to be corrupt (Transparency International 2016). A global survey of legal professionals found that nearly half of all respondents believed corruption was a problem within their jurisdiction's legal profession, with around a third responding that they knew a legal professional involved in international corruption offenses (IBA et al. 2010).

Corruption can include a variety of forms of improper influence impacting the impartiality of justice and can involve any actor within the system, including judges, police, prosecutors, lawyers, and administrative and support staff (Gloppen 2014) (see Box 1).

Box 1. Common Examples of Corruption in the Judicial System

Bribes can be accepted or demanded at every point in the criminal justice system. Bribery can influence a judge's decision making; get police or court staff to tamper with, hide, or "lose" evidence; or induce a lawyer to advise their client in a specific way. Judges, lawyers, or administrative staff may charge additional "fees" to expedite or delay cases.

Political interference such as manipulation of judicial appointments, budget allocations and oversight mechanisms can undermine the overall independence of the criminal justice system. A common reported manifestation of corrupt appointments is a judge systematically giving preferential treatment to specific interests or political groups. Judges, prosecutors, and investigators can be threatened with dismissal or reassignment to an undesirable location if they take action deemed to be incorrect by higher powers.

Other forms of corruption include extortion, misuse of public funds and resources, nepotism and favoritism in appointments, influence peddling, conflicts of interest, money laundering, and collusion between the political branches of government (IBA 2016). Criminals and other powerful actors may use money to corrupt and/or offer non-monetary benefits including access to prostitutes, vacations, or to pay school fees for the children of the person being corrupted.

Corruption in the judicial system undermines the rule of law, which requires that laws are applied evenly to all citizens and that justice is delivered by competent, ethical, and independent representatives (WJP 2021).

The focus of this practice note is on Africa, Asia, and Latin America, where many wildlife crime cases occur and where organizations have monitoring programs in place. However, corruption can be found in justice systems globally – it is not solely an issue in middle- and low-income countries. In the United States, 20 percent of those surveyed believed that most or all police were corrupt, and 16 percent that most or all judges/magistrates were corrupt. This rose to 31 percent and 28 percent, respectively, when the respondents were Black or African Americans (Transparency International 2017). Therefore, the findings of this practice note are likely to be relevant to anyone conducting case monitoring.

Box 2. Sources for this practice note

This practice note is based on interviews with 18 people who worked in or with justice systems in Africa, Asia, and South America, with the goal of understanding their perception of the effect case monitoring can have on corruption in the justice system. Most interviewees conducted monitoring while working for non-governmental organizations (NGOs) with a specific focus on wildlife crime, though some had a broader remit of environmental crime in general. A small number of interviewees focused on corruption and/or human rights cases. In their current positions, interviewees represented twelve NGOs or academic institutions. At least three of the interviewees previously worked in the justice system in an official capacity.

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Monitoring wildlife crime cases

Monitors may observe a trial itself or also pre-trial and post-trial stages such as arrests, case dismissals and hearings, or appeals. They may do so in an *ad hoc* way, focus on categories of cases in certain themes, or pursue systematic monitoring as a broader examination of the justice system as a whole. Monitoring can be passive, whereby monitors simply observe and report on the proceedings with no intervention. Alternatively, some monitors may provide technical and logistical assistance where needed. This might include facilitating pre-trial conferences, transporting interpreters, organizing evidence, and writing submissions. Examples of monitoring by conservation NGOs can be found in Box 3.

Box 3. Examples of NGO Wildlife Crime Case Monitoring Activities and Resources

» Wildlife Direct has monitored wildlife crime cases in **Kenya** since 2013 under its *Eyes in the Courtroom* project (WildlifeDirect 2020a, WildlifeDirect n.d). Their most recent analysis involved a team of seven lawyers collecting data from 117 court registries, with visits typically not announced in advance (Wildlife Direct 2020b).

» Lilongwe Wildlife Trust (LWT) analyzed available cases involving elephants and rhinos that were concluded in **Malawi** between 2010 and 2017 (May et al. 2017). Graduate lawyers, LWT, and Department of National Parks and Wildlife officers collected data from 50 criminal court registries and other sources.

» The Wildlife Conservation Society (WCS) reviewed archived records on wildlife cases processed in the **Republic of the Congo** between 2008 and 2017 (WCS 2018). They conducted field missions to nine courts and interviewed judicial authorities and others to identify weaknesses in the judicial system. Individual cases were obtained from court clerks and NGOs.

» ADM Capital Foundation began systematically monitoring cases in **Hong Kong SAR** in 2018 to understand how wildlife crimes were being treated within the justice system and to raise awareness (ADMCF 2018, ADMCF 2020). For their 2018 report, monitors attended court hearings and trials covering 52 cases.

» TRAFFIC has monitored cases in **Tanzania** since 2015 with the overall aim of strengthening the justice system in the country, including assessing the impact of changes in legislation. Information on the outcomes of individual cases is made available through a free database (TRAFFIC 2020).

» The International Union for the Conservation of Nature (IUCN) created the Wildlex database, an online service with the aim of building capacity worldwide by providing access to wildlife-related legislation and case law (IUCN 2020). It currently holds court decisions from over 550 cases in **18 countries**.

Case monitoring as an anti-corruption tool

While reducing corruption through the act of monitoring is not always one of the aims of examining wildlife crime cases, the "Crime Triangle" theory indicates that monitoring may disincentivize corrupt acts. Monitoring with the specific intention of reducing the likelihood of corruption has been used within the sphere of human rights cases (Box 4) and has proven a useful tool for cases involving organized crime (OSCE 2018).

Monitoring can improve the effectiveness and fair administration of justice, and reduce the likelihood of corruption undermining a case, in two ways:

» **Impact on individual cases**: People involved in a specific case may not take part in corrupt acts if they are aware they are being observed and potentially reported.

» **Impact on systems**: Reviews of a collection of cases can highlight systematic failings due to corruption. The results can then be used to apply pressure to amend systems or practices.

Box 4: Use of Monitoring as an Anti-corruption Tool in Human Trafficking Cases: The *Trafficking in Persons Report*

There is significant overlap between countries with high levels of corruption and high levels of human trafficking. Officials may be involved as recruiters of victims and facilitators of human trafficking (OECD 2016). Officials have been investigated for their involvement in the production of fraudulent documents, and law enforcement personnel have been identified for warning traffickers of impending raids (UNODC 2011, Holmes 2009).

The US Department of State undertakes some of the most consistent and comprehensive monitoring on trafficking, which it compiles annually in a publicly available Trafficking in Persons (TIP) Report. The authors collect data from a variety of sources including embassies, government officials, NGOs, and media and use it to measure the effectiveness of anti-trafficking efforts (US Department of State 2020). Poorly performing countries may be prevented from accessing certain donor funding, and as the TIP Report is made publicly available, it can be used to "name and shame" or celebrate progress.

Wildlife crime monitors may benefit from partnering with organizations that conduct monitoring on human rights, gender, and similar issues. There is a known convergence between human trafficking / exploitation and certain types of wildlife crime (see, for example, Organization for Migration et al. 2016), so breaking down silos is beneficial to all parties. One tactic from human trafficking that may be relevant to wildlife crime is filing lawsuits against companies that benefit financially from the crime. For example, a victim of trafficking successfully sued the motel where she was held in the US (NPR 2020). Such cases may be heard in civil courts rather than criminal courts (Gargule 2022).

Corruption vulnerabilities in the criminal justice system

Monitoring cases helps identify and highlight weaknesses in the justice system. Based on their experience of monitoring cases, interviewees made the following observations regarding corruption vulnerabilities of specific actors and the system in general:

Actors in the justice system

» **First responders** like police or rangers may be more easily bribed before an arrest Is made, when very few people know the crime had occurred. Once an investigation starts and a case arrives in court, there is a larger paper trail and more public awareness of the crime, making it more likely corrupt acts would be noticed.

» **Investigators** may take bribes to corrupt any stage of the investigation, in their role of processing the crime scene, interviewing witnesses, and gathering evidence to guide the investigation (including engaging with forensic technicians). Investigators can also leak information about the case.

» **Prosecutors** hold the power to terminate proceedings by discontinuing or withdrawing a case, offering no evidence, or "losing" files or evidence. This puts prosecutors in a position to demand bribes or to be targeted by other actors seeking to influence a case's progress or outcome.

» **Judges** may corruptly wield their adjudication powers, such as by taking bribes to give favorable rulings including lenient penalties or sentences. In certain courts, judges are elected to their position or are political appointees, and this selection process can be manipulated, including through influence peddling.

» **Defense lawyers** can be directly involved in corrupt actions, such as sharing information with criminals regarding investigations (including giving tip offs), witness or suspect intimidation or bribery, or purposefully mishandling cases. They can also act as an intermediary between their client and others in the justice system when orchestrating corrupt acts (Middleton and Levi 2015, Transparency International 2014). One respondent noted that some defense lawyers may even be specifically hired due to their known proficiency in this behavior.

Box 5: The other side of the coin

Judges, prosecutors, lawyers and others working in the justice system can face serious threats and intimidation. This may take the form of verbal abuse, harassment, threats, and physical violence (OSCE 2010). The murder of individuals working in the justice system, or their family members, is often reported in the media. In 2020 and 2021, for example, such murders took place in the Democratic Republic of Congo, Afghanistan, Mexico, and the USA.

Political interference, as well, can hamper the ability of individuals to investigate and prosecute in a just manner. Improper influence or pressure restricts the ability of the judiciary to decide matters impartially, based on the evidence.

Two of the interviewees with previous experience of working inside the justice system had experienced threats to their safety and attempts from senior figures to interfere with cases. Those monitoring cases must be cognizant of the very real threats judges and others can face. By seeking to understand if the red flags of potential corruption, such as unusually lenient sentences, are in fact being caused by intimidation or other influences, monitors are likely gain a clearer insight into problems in the system. Resulting recommendations to address these issues should then ultimately be more successful.

» **Court registrars and clerks** conduct a range of activities that can influence the flow, timeline, and outcome of court proceedings. Strategies include "losing" or incorrectly filing documents, levying unauthorized court fees, allowing unauthorized access to files, or preventing or delaying legitimate access (Begovic et al. 2004, Transparency International 2014). Several interviewees noted the responsibility that registrars have when selecting which court will hear a case, handing cases over from lower courts to higher courts, and providing dockets to the prison if a defendant is convicted.

» **Notaries** prepare, attest, and authenticate legal documents. Notaries can develop close relationships with organized criminal groups, and abuse their position to shield criminal activities, particularly those related to establishment of legal entities and real estate or tax fraud (Gounev 2012). Notary stamps (real or fake) can be used to give the impression that counterfeit documents are genuine.

» **Prison staff** can allow a prisoner to continue orchestrating crimes even when incarcerated. Corruption does not end at conviction; Prisoners can develop relationships with prison staff who will then allow them to escape, bring in contraband for them, or ensure they are treated better than a normal prisoner in return for money or sexual favors (Center for the Advancement of Public Integrity 2016).

Cross-cutting corruption risks in the justice system

» **Pay**: One interviewee suggested that judges and other members of the judiciary may be less vulnerable to bribery as they were significantly better paid than rangers or police officers. However, this view was not shared by all, and interviews provided numerous examples of relatively well-paid individuals in the justice system who were involved in corrupt acts. There is limited evidence that good pay alone is effective in curbing corruption (Johnsøn et

al. 2012). Rather, corruption can be reduced if increased pay is embedded in a wider package aimed at reforming employees' behavioral norms, incentives, and oversight structures (DfID 2015).
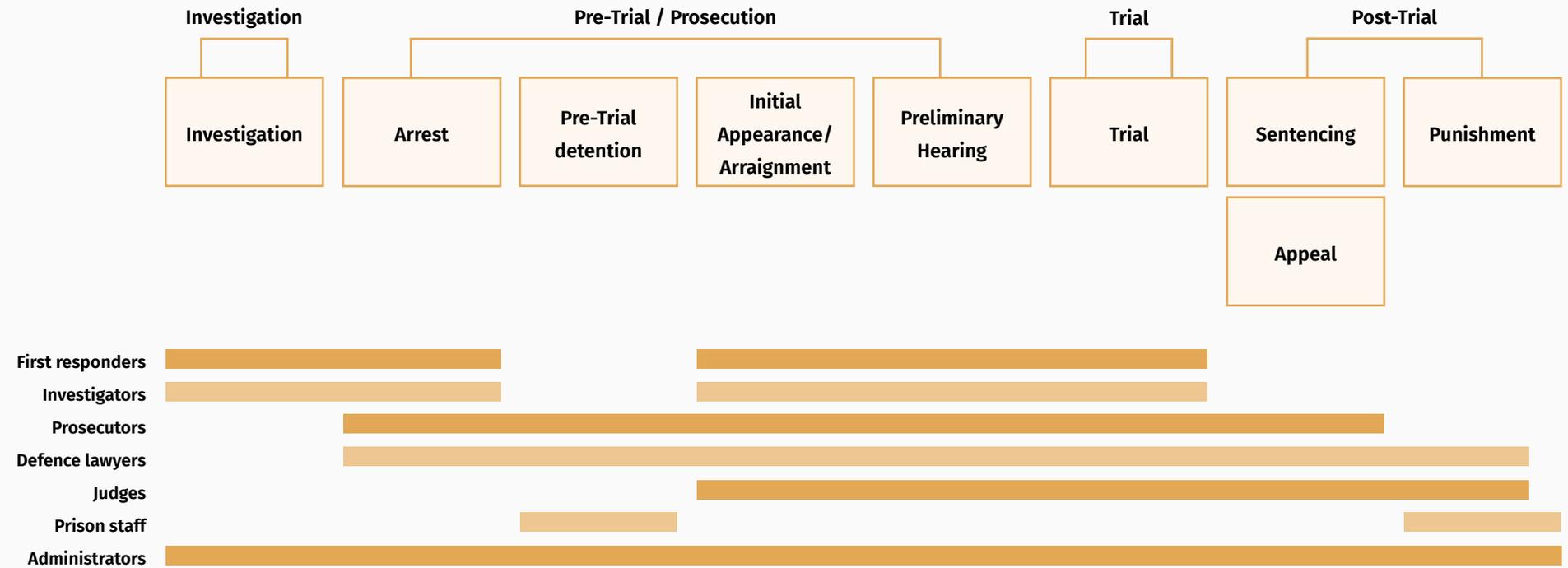
» **Biases in justice**: Corruption can influence who gets arrested in the first place. Socio-cultural factors can lead to police arresting certain groups disproportionately (Transparency International 2012). Several respondents suggested that wealthy and well-connected individuals had far more power and resources to corrupt the system than poor individuals accused of low-level offences like subsistence hunting. They perceived that this imbalance led to individuals involved in high-value illegal trade being able to avoid arrest or sway courts into leniency through corrupt means, while poor individuals were prosecuted with the full weight of the law. This may be caused or exacerbated by investigators, prosecutors, and other actors being under pressure from their managers to achieve "quick wins" and focus on cases that will be easier to conclude (Prinsloo et al. 2022). However, some interviewees felt that police may target those that they believe had the money to pay bribes, including non-nationals.

» **Lack of leadership from the top**: Corruption by high-ranking actors can have the effect of normalizing corruption throughout the system (Jackson and Köbis 2018). The behavior of these individuals, including ensuring they are held accountable for any unacceptable behavior, can be critical in setting the tone for how lower ranking individuals believe they can behave (Sandgren 2005). Various guidance, standards, and measures have been suggested to promote integrity by judges and other senior actors (see Transparency International 2014, UNODC 2018, UNODC 2021).

Figure 2 illustrates the typical progression of a case from the point of arrest and through the court system, with some examples of corrupt acts that can occur at each stage.

Figure 2. Progression of cases through the justice system, including actors typically involved at each stage

N.B.: This diagram captures the major stages, but the system in each country will differ.

Investigation	Pre-Trial / Prosecution				Trial	Post-Trial	
Investigation	Arrest	Pre-Trial detention	Initial Appearance/ Arraignment	Preliminary Hearing	Trial	Sentencing	Punishment
						Appeal	

Actors involved at each stage:

- First responders
- Investigators
- Prosecutors
- Defence lawyers
- Judges
- Prison staff
- Administrators

Examples of corrupt acts

Investigation	Arrest	Pre-Trial detention	Initial Appearance/ Arraignment	Preliminary Hearing	Trial	Sentencing	Punishment
· Police will not investigate powerful/ influential individuals · Police focus investigations on individuals they can solicit a bribe from · Police arrest individuals and only release them in return for sexual services. · Investigators tamper with evidence	· Criminal pays bribe to police to receive notice of actions against them to allow sufficient time to destroy evidence · Arbitrary arrests and unnecessary detention of suspects unless they pay a bribe to be released	· Criminal pays a bribe to escape detention	· Corrupt influence results bargaining process leads to criminal being charged with lesser offenses · Unusually low bail set due to corrupt influences · Criminal pays bribe in return for bail so they can flee the country	· Corrupt influence results in judge dismissing the case · Corrupt influence causes defendant's lawyer or the prosecutor to withhold evidence	· Corrupt influence results in defendant being acquitted · Corrupt influence leads to evidence being withheld or false evidence presented · Intimidation of witnesses · Forensic experts falsify results in return for a bribe	· Corrupt influence results in defendant receiving minimal possible punishment · Defendant unable to pay bribe receives long sentence · Corrupt influence results in conviction being overturned at appeal	· Clerk reduces sentence in court docket passed to prison in return for bribe · Corrupt behaviors allow prisoner to receive preferential treatment · Pardon issued as a political favor means prisoner does not serve full sentence

Identifying corrupt acts through monitoring

Corruption is difficult to identify and measure due to its often-clandestine nature (DfID 2015). Interviewees agreed that a monitor is not going to witness something as blatant as a bribe being paid, although one did note the importance of arriving early to court to watch for unusually frequent meetings between actors, such as court clerks and defense lawyers, which could indicate deals are being struck.

Rather than direct observations, interviewees generally believed the more practical way to detect corruption would be through red flags that indicate corrupt acts may have taken place (Box 6). Looking at one case alone may not yield much, but patterns can be identified by looking at multiple cases.

Several interviewees spoke of instances when situations or outcomes were not logical, and they had a "gut feeling" that corruption had taken place but were unable to prove it. These cases included knowing that a judge or police officer had previously undergone training (e.g., on handling evidence) but then went on to behave as if they had not, making mistakes that weakened the case.

However, interviewees were keen to stress these red flags are also symptoms of low capacity. A justice system may be understaffed, or staffed by individuals who do not have a clear understanding of relevant legislation or who deem wildlife crime to be of low priority. Sympathetic judges may pass light sentences to defendants who admit their wrongdoing or who are living in poverty (Sharma 2018). One interviewee pointed out that some of those working in the justice system may not have been educated further than a high school level. Therefore, errors such as mistakes in paperwork may indicate a need for further training and support rather than corrupt acts taking place.

Box 6. Red flags indicating possible corruption in wildlife crime cases

Monitors should first familiarize themselves with what is "normal" for the system they are monitoring. This will help reduce false alarms and make deviations from the norm more noticeable.

Then, interviewees highlighted the following red flags for which monitors should look. Interviewees did note again, however, that while these are potential flags of corruption they also may be flags of a lack of capacity, incompetency, and/or an over-stretched justice system.

Case process

⚑ **Inconsistency in arrest rate**: Are certain police in the department (or others with the power to arrest) producing an unusually low number of arrest records compared to their colleagues?

⚑ **Unusual case length or number of adjournments**: Is the length of time from arrest to sentencing unusually long or short when compared with similar cases? Have there been multiple adjournments?

⚑ **Inappropriate granting of bail**: Has a defendant been granted bail despite having a history of fleeing the country or failing to attend court hearings, or other factors that make them a flight risk?

⚑ **Missing defendant or witness**: Has the defendant or a witness become unavailable to attend court proceedings due to sudden sickness, death, or disappearance?

⚑ **Change or withdrawal of statements**: Has a defendant or witness withdrawn or changed their statement? Have the police changed their version of events during the trial compared with pre-trial?

⚑ **Moving courts**: Has the case been moved to a different court? Does the defendant have a history with or connection to the new court?

⚑ **Use of same defense lawyer**: Are multiple defendants from different cases all using the same defense lawyer? Does this lawyer have an unusually high success rate for case withdrawal, acquittals, or lenient sentencing for their clients?

Case outcome

🚩 **Unusually lenient sentencing**: Has the defendant received an unusually light sentence in comparison to sentencing guidelines or the evidence against them? Is there a pattern of the same individuals involved in a case (judges, lawyers, prosecutors) being linked to cases that result in lenient sentencing? How do outcomes compare for serious versus less serious cases, or cases involving high-profile versus low-profile individuals?

🚩 **Withdrawal of case or charges**: Has the prosecutor or court withdrawn the case or some of the charges, despite strong evidence against the defendant and public interest to proceed?

Case evidence and files

🚩 **Missing files or evidence**: Have documents or important evidence, like unique hard copies or confiscated products, gone missing or been inexplicably damaged or destroyed?

🚩 **Mistakes causing inadmissibility**: Are there detrimental mistakes like signatures missing from key documents? Was the evidence incorrectly handled or stored meaning it is no longer admissible in court? Had those responsible previously been trained to avoid such a mistake?

🚩 **Falsification of information**: Do documents appear to have been falsified, or has a judge thrown out a case for falsified documentation or evidence? Do notary stamps, police statements, or forensic reports appear dubious or edited?

These red flags could be explained by a number of confounding factors, challenging efforts to measure the impact case monitoring may have. Nevertheless, most respondents did believe monitoring reduced corruption, based on the assumption that people act differently when they are being watched. Anecdotally, one interviewee reported hearing prosecutors that monitors' presence made a difference to the outcome of a case. Another mentioned an ivory case where the judge was aware of monitors and reportedly believed he would be criticized if he did not give a tough sentence.

Advice for monitoring as an anti-corruption tool

Below, this note recommends a number of good practices, based on the interviewees' and authors' experiences. However, these practices must always be tailored to specific contexts. There is significant variation globally in legal systems, including the role and freedoms of civil society, levels of grand corruption, and the involvement of organized criminal groups. Those factors, and others, need to be carefully considered before pursuing case monitoring or specific tactics.

These good practices fall into four categories: safety, project design, relationships, and characteristics of monitors.

Safety

Case monitoring can pose significant risks to the monitors and the organizations they represent. For example, monitors may be tracking cases involving dangerous criminals backed by serious criminal organizations or senior officials. Monitors may be based in the same court for some time and become well known by those involved in cases, which has many benefits for building relationships but can also be a risk. As a result, absolute care must be taken when planning and undertaking monitoring. Measures to maintain physical safety, cyber security, and reputational risk should be put in place.[2]

The security situation will vary geographically, and threats of violence towards judicial staff may be especially frequent in areas where organized criminal networks are active and where wildlife crime converges with other violence-prone criminal activity. Monitoring cases involving individuals without criminal or political connections, and/or involving low values and volumes of wildlife, are less likely to pose a security threat to monitors, but it is not always possible to identify these cases at the start of a monitoring program. Further, while it may be lower risk to focus on small-scale crimes, this may have less overall impact on improving the justice system (and conservation).

Supporting locally based monitors with staff outside of the country can be helpful; outsiders can publicize results of monitoring and push for reform with less risk to their personal safety. However, it is equally important to make sure those external allies have strong "do no harm" principles and understand the risks in the local context.

Risks can be considerably higher if it becomes known that a monitor is specifically looking at corruption in cases. Several respondents were adamant that monitors should not let their corruption focus be known, as it could put them in danger and would also damage relations with people working with the justice system. Interviewees, therefore, emphasized that the possible beneficial impacts of monitoring for reducing corruption need to be carefully weighed against the risks, and that regardless of focus, monitors need to be supported by sufficient resourcing and experienced supervision. In certain places, it may be safer to monitor how "effective" the justice system is as a proxy for the influence of corruption on the system, rather than trying to monitor corruption itself.

All of these risks should be carefully assessed, and any risk assessments should involve people with local expertise.

✅	Conduct risk assessments to identify and mitigate risks to the monitor and the organization they represent
✅	Develop internal organizational operating procedures to give boundaries on what monitors can and cannot do when monitoring, and the support they can expect from the organization
✅	Include appropriate safety measures in project budgets, including cyber safety
✅	Carefully assess the potential costs and benefits of publicly acknowledging corruption as a target of monitoring efforts
✅	Speak to organizations with experience of monitoring in that context to learn how to stay safe

Project design

Several design elements will boost the probable impact of monitoring projects, including basic elements like sufficient project length and funding. For efficiency, project designers could target monitoring at the part of the system where the most impact is likely to be gained. This could be based on the part of the justice system where the most corruption is suspected, or where monitoring is most likely to make a difference. For example, impact may be limited if monitoring takes place only in the court room in a system where corruption largely takes place during investigation. In that scenario, an examination of dockets would be more useful.

An effective, appropriate communication strategy should accompany monitoring. This could mean keeping the public, government, or international bodies continually informed of a case to ensure it progresses. Drawing links among cases can highlight wider problems in the system. The media may form part of such a communication strategy, if appropriate (See Box 7).

Where organizations undertake monitoring as part of a wider suite of capacity building within the justice system, they may come across corrupt individuals when providing training or support. Mitigation measures for such an occurrence need to be built in from the project design phase and include as a last resort the option of discontinuing training if a corrupt individual has been reported but remains in post.

The method used by monitors and the access they are granted will be affected by context. For example, an interviewee shared that in one country in Asia, monitors were not permitted to take notes inside the court room. Another shared that in a Latin American country the fact that civil society can file lawsuits has led to the active involvement of civil society throughout the justice system.

✅	Design projects with an appropriate length and budget to allow for impact to be realized
✅	Develop an effective, appropriate communication strategy
✅	Build in mitigation methods if corruption threatens to undermine capacity building efforts
✅	Tailor activities to take advantage of specific enabling factors and mitigate disabling factors in a given context

Relationships

Monitoring often forms part of a wider package of support offered to the justice system, including attending pre-trial conferences, providing legal resources and technical support, sensitization on the illegal wildlife trade, and even logistical support such as helping witnesses get to the court room. Those efforts can sometimes rely on tenuous or fragile relationships, so monitors and their organizations must tread delicately. For example, some of the organizations interviewed chose not to make the results of their monitoring public, preferring to use the results to work directly with the government to bring about change in the justice system. Calling out corrupt individuals in the justice system publicly, or acting too much like "an activist,"

can close doors and reduce opportunities to bring about change, so the strategy must be carefully weighed against the likelihood that internally driven accountability measures will emerge and succeed. One interviewee believed that publicizing corruption can risk undermining the public's confidence in the justice system and may give the impression that corruption is worse than it is.

Building good relationships is therefore a key component of a successful monitoring program. In particular, a trusting relationship with the prosecutor can give organizations valuable access, letting organizations point out missing dockets, highlight if the accused has been involved in other wildlife crime cases, and obtain information on the case including upcoming dates of hearings. If a monitor suspects corruption is taking place in a case, having a contact within the justice system that they can confidentially make aware can prove invaluable.

Other good relationships with administrative staff, such as court clerks, can be crucial for accessing documents and finding out about upcoming hearings. While hearings should be open to the public (other than in exceptional circumstances), several interviewees noted how difficult it was to get information on dates and locations of upcoming hearings.[3]

Box 7. The role of the media in case monitoring

Monitoring by NGOs can be complemented and strengthened by the work of the media, who can play a crucial role in reporting on cases. Investigative journalists may even be the ones to uncover corruption in the first place (TNRC 2021). Reporting by the media may reduce opportunities or incentives for corruption by shining a light on those involved, and developing public interest in a case may reduce the chance that it would be withdrawn or unnecessarily delayed.

However, inappropriate coverage by the media can sway public opinion and lead to pressure on authorities to punish the accused – even if the evidence does not support this (Transparency International 2009). Three interviewees felt that biased coverage by the media had influenced public opinion and led to unfair outcomes in cases. One noted that media coverage may lead to the public believing corruption is more widespread than it actually is. The practice of so called "brown envelope journalism," whereby journalists are paid to produce a story with a pre-conceived ending or biased angle, can in itself be considered corruption (Skjerdal 2010), and it can ultimately impair the role of the media as a corruption watchdog.

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[3] Although such a lack of transparency might be due to corruption, no interviewee stated when asked that they believed corruption to be the cause in the instances they were referencing.

Similarly, in most cases, court records should be open to the public, and accessing government data is becoming the norm for civil society. But several interviewees shared instances where clerks had been unwilling to grant permission. One clerk had explicitly been told not to allow access to journalists. As courts are increasingly falling behind in their disclosure obligations, they should consider proactively releasing data related to case status and outcomes, as well as operational information related to the workload of judicial officials (OGP 2020).

NGOs can also learn from each other. Many of those interviewed had over five years of experience in working to improve justice systems in their focal countries and have much to share. Local NGOs conducting monitoring can work in partnership with international organizations to help amplify the impact of the research, and to help keep local monitors safe.

Finally, taking the time to publicly acknowledge and celebrate cases where investigators, prosecutors, judges, and other actors behave with professional integrity can be a good way to build relationships, and help remove suspicion that NGOs are only there to criticize. Shining a light on things that are going well in the justice system can also help these actors see the benefit of court monitoring and the benefit of acting with integrity when doing so may not always be easy.

✅	Build relationships with investigators, prosecutors, and administrative staff through face-to-face meetings, phone calls, and emails
✅	Build relationships with organizations with experience in monitoring to gain advice on methods and approaches
✅	Maintain relationships by making contact on a regular basis; share reports unprompted, offer support and training, and acknowledge contributors' names if they are comfortable
✅	Where safe to do so, publicize and celebrate cases that were dealt with correctly and with integrity by investigators, prosecutors, judges and others

Characteristics of monitors

The choice of person to undertake the monitoring will ultimately impact the results of the program. Choosing monitors with experience in a specific justice system and administering justice can increase the chances of identifying unusual occurrences potentially caused by corruption. Monitors with a law degree may be able to better understand the legislation and legal jargon, and ideally, they would also have an understanding of environmental and wildlife crime, either through experience or education. Local monitors are more likely to understand the dynamics and nuances of corruption, and of the system in general, than those from outside.

Monitors also need to be experienced or trained in assessing and mitigating risk. This may include practical personal safety training and cyber security. Publicly reporting on corruption can undermine open cases if done incorrectly (Transparency International 2014), so monitors and their organizations must be sensitive to the risks of reporting. It is essential that monitors understand the risk they are taking, especially if they are seeking to detect possible instances of corruption.

The job title given to the monitor will affect how they are perceived by those working in the justice system, including how much to trust and respect them. A title such as "legal officer" or "legal assistant" can communicate that the monitor is there to provide a range of support, not only to monitor a case.

✅	Select monitors who understand the justice system in the focal country, including the relevant legislation
✅	Ensure monitors understand the risk they are taking and are trained to mitigate risks to the degree possible
✅	Train monitors in data collection to ensure adequate levels of detail are recorded

Final thoughts

Case monitoring can be a useful measure to change incentives or opportunities for corruption related to wildlife crime cases, shining a light and pressuring those involved to behave appropriately. But projects must be designed with appropriate scope and resources, as impact takes time and is difficult to measure. Monitoring is likely most effective when monitors use multiple cases to identify patterns of red flags that indicate systematic failures. However, organizations and monitors need to be aware of the risks and mitigate accordingly.

Where possible and safe to do so, monitors should seek to make data openly available to allow greater visibility on case outcomes. TRAFFIC's Wildlife Trade Portal is one such database that invites NGOs to submit their data so that registered users can explore whether people were charged and convicted and the sentence/penalty they received. Reports and other outputs from case monitoring should be shared, when and as appropriate, with relevant individual actors in the justice system (prosecutors, judges) as well as national, regional (e.g., East African Association of Prosecutors), and international bodies, agencies, and donors (e.g., UNODC, the World Bank).

Contextual variation must be taken into account. The justice system responsible for wildlife crime is (usually) the same one that deals with other types of crime, like drugs, firearms, and human trafficking and exploitation. Any corrupting influences on the system caused by these crimes will ultimately influence how wildlife crime cases are handled, and impact efforts to bring about positive change.

While wildlife crimes have not stopped, the recent COVID-19 pandemic is also making the work of monitors more difficult. They may not be able to attend hearings or trials, or access information in the normal way. A backlog of cases puts further pressure on often-underfunded justice systems, although acceleration of digital working (such as digital transfer of evidence and utilization of video platforms by court users) in some locations may ultimately be beneficial (CJJI 2021).

Perhaps of more concern is the rise of political parties in many parts of the world who wish to reduce access to information and press freedoms. Without access to police and court documents, and the ability to report on findings, the work of a case monitor is severely hampered. In such situations, partnerships between local and international organizations who can speak out may be even more crucial.

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