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The Effects of Political Control and Institutional Structure on State Ethics Commissions

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The Effects of Political Control and Institutional Structure on State
Ethics Commissions

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Dedication

This dissertation is dedicated to my brothers Josh and Adam Rauh. Growing up arguing with you two was good preparation for this.

Acknowledgments

I would like to thank the committee for giving of their time in guiding me through the dissertation process. I would especially like to thank Mark Tompkins for his guidance and encouragement. I would like to thank Neal Woods for his patience as I worked through the theoretical foundations of my work, and Tima Moldogaziev for his continuing encouragement and assistance in statistical modelling. I would also like to thank Xuhong Su for her encouragement and positive support throughout this process. Finally I would like to thank Phil Jos for helping place work more broadly in the relevant literature. You have each assisted me in multiple ways and I am grateful for all you have done. Finally, I would like to thank my parents who taught me the value of education, but also served as great models for the kind of person I want to be.

Abstract

State ethics commissions serve as both oversight and enforcement bodies. However they are also quasi-judicial institutions whose members are appointed by elected officials. At best this presents problems of oversight, and at worst it implies that commissions can be actively influenced by the very individuals they are tasked with overseeing. Previous studies of ethics commissions have examined the covariates of creating ethics commissions, or have examined the internal functioning of these commissions in the pursuit of their envisioned goals. A largely ignored area of study with regard to these commissions is the degree to which elected officials can exercise influence over members they appoint and what this says for the effectiveness of these commissions. In this dissertation I examine how elected officials use their appointment authority over commissions as a means of political influence. In turn I examine how this influence manifests itself in terms of a commission's effectiveness. My findings indicate that elected officials do in deed use appointment authority as a means of influence, but this influence manifests itself in very different ways.

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Chapter One: Ethics Commissions: Background and Issues

The Purpose of Ethics Commissions

Over the past 50 years, 41 states have created state ethics commissions to oversee activities ranging from ensuring that candidates file financial disclosures and lobbyists register with the state, to providing ethics training to agency heads and investigating ethics complaints. The popular belief about ethics commissions is that they provide oversight of public and elected officials. Indeed a whitepaper from the National Council of State Legislatures (Comlossy 2011) states, "They [ethics commissions] work to ensure voters' trust in policymakers and political institutions by monitoring compliance with ethics laws and ensuring ethical conduct by those under their jurisdiction." This implies that commissions serve as the watch dogs for the public - ensuring that conflicts of interest are exposed, financial dealings are done "in the daylight," that the decision-making process is transparent and so on. In practice though, ethics commissions are primarily compliance organizations that adjudicate previously set standards for what is acceptable, i.e. compliance organizations (Smith 2003a).

Despite the fact that ethics commissions are mainly compliance organizations, getting on the bad side of the ethics commission can still cost

public officials, both politically and economically. Recently Arkansas Lieutenant Governor Mark Darr was fined \$11, 000 by the Arkansas ethics commission for misuse of campaign finances in his 2012 election and the Arkansas Governor Mike Beebe has called on Darr to step down.

Prior to the creation of commissions, states were largely reactive to ethical lapses, with state attorney general conducting investigations into ethical failings. With the creation of these commissions the stated intent was to have an organization that could reinforce public confidence by setting fire alarms for ethical failings rather than waiting until they became full-blown scandals. Predictably though there is a short life cycle for this sort of attention. After all, commissions are empowered both by well-meaning but imperfect individuals, but also by those will likely be overseen by the commission itself (Lewis and Gilman 2012; Rosenson 2003). Additionally, the types of ethics regulations that develop out of these events tend to be untargeted, general, and do not necessarily address the issue that created the scandal in the first place (see Anechiarico and Jacobs 1996; Rosenson 2006).

A stated end for these commissions resolving issues of ethics and accountability was addressing what Lipset and Schneider (1987) refer to as the confidence gapⁱ – the erosion of public trust in public institutions (see Bowman 1990). According to Lewis and Gilman (2012) the confidence gap began to

emerge in the mid-1960s with public disillusion over Vietnam and a generation that largely felt overlooked by its political leaders. The event that broke open the flood gates of public distrust though was the Watergate scandal – August 1974. As a result of this decline in trust in public institutions states took up the mantle of protectors of democracy and began to empower state ethics commissions.

Although there have been successes, Ethics Commissions have also been used as a tool of political attack with policies that have resulted in administrative gridlock (see Rosenson 2006; Tolchin and Tolchin 2001). As noted by Gilman and Denhardt (2002), often well-meaning individuals attempt to write empowering regulations that “out-ethics” everyone else, thus leading to either administrative gridlock, or regulations that address potential charges of quid-pro-quo, but do not address more nuanced possibilities for corruption such as lax financial disclosure requirements. These are the sorts of codes that can be Kantian in nature and treat taking a pen from the agency stockroom as equivalent to embezzlement (Tolchin and Tolchin 2001), but which do not address things as simple as requiring elected officials to reveal all of their investments (see Rosenson 2003; 2006). This creates a situation where elected officials create ethics commissions that are primarily symbolic in nature. They serve as a symbol of integrity for public distrust but do not really do much in the way of oversight.

A good example of ethics policies and ethics commissions being used as tools of political attack is South Carolina – a state in which the governor appoints all members of the ethics commission. In 2012 and 2013, South Carolina politicians engaged in a political fight using the ethics commission as their weapon of choice. South Carolina Governor Nikki Haley was the target of an ethics investigation with charges stemming from the state’s General Assembly. The charges came from allegations made by political foes that she lobbied for Lexington Hospital (SC) while she was a member of the SC General Assembly, and that she did not recuse herself from votes that would have benefitted Lexington Hospital. The commission came to the conclusion that there was enough evidence to go forward with a prosecution and then summarily dismissed the case without comment. Following a very public backlash from a former political supporter turned foe, the case was reopened and went before the commission where Governor Haley was tried and cleared of all charges. Shortly after she was cleared, the ethics commission began investigating potential unethical activities of several of her accusers, including the Speaker of the SC House of Representatives, Bobby Harrell (Shain 2014). These political “gotcha” games are fairly common and it is not uncommon to use ethics commissions as political tools. As an anonymous state legislator put it, ‘if they can’t get you on policy grounds, they will try to get you on ethics’ (Lewis and Gilman 2912: 253).

The public administration literature is replete with discussions and analysis of the importance of ethics in the public sector. Some of these discussions are area specific such as finance, personnel, police work, education, etc. Others are more general, i.e. theoretical discussions around the importance of ethics and what that means for decision making by public officials (Vigoda-Gadot 2008; Gueras and Garofalo 2002; Denhardt 1988). Most of these studies emphasize the normative value of ethics such as building ethical capacity in agencies and how this leads to more favorable outcomes – what Rohr (1989) terms high road ethics. On the other side of this discussion are the ethics commissions which can take on high road or low road (compliance) functions. Scholars such as Lewis and Gilman (2012) argue that any discussion of building ethical capacity is not useful without first establishing compliance with ethics regulations in a meaningful and enforceable manner. In this manuscript I discuss the characteristics of state ethics commissions and the effect politics has on the ability of ethics commissions to enforce ethics policies.

Despite the stated importance of transparency to the American public (Bowman 1991; McDougale 2006) the public knows surprisingly little about the actual goings on of state ethics commissions (Smith 2003a). Both the growing influence of special interests at the state level as well as the increase in both corruption and the appearance of corruption have prompted calls for greater

ethical oversight. This was noted most recently by the State Integrity Investigation (2011) which found that all states fell far short of achieving their stated goals with regard to oversight and curbing corruption. Despite the existence of commissions and despite the fact that they tend to have similar stated goals, how they go about their achieving their goals and the regulations which empower them vary significantly from state to state – see table 1.1.

Structure and Powers of Commissions

Note in table 1.1 that some commissions are labeled as commissions proper and others are labeled as boards. The distinctions are important for reasons of enforcement authority and the strength of their decisions. Boards tend to have appointed heads with fixed terms, fulltime staff to oversee their activities, and exist as their own budget center. Many of these have legal backing from the judiciary as well meaning that their decisions are binding in court and they also possess subpoena powers. Commissions on the other hand tend to exist as line items in the executive or legislative budgets, have terms that set renewable, commissioners are not necessarily fulltime, and often require approval from a committee of elected officials to pursue charges or investigations (Rosenson 2006).

Table 1.1. Responsibilities of ethics commissions by state.

State Commission/Stature	Develop Forms	Develop Manuals	Compliance/Reporting	Subpoena Powers	Issue Advisory Opinions	Orders Enforceable in Court	Conduct Ethics Training	Issue Annual Report
Alabama Ethics Commission	X	X	X	X	X		X	X
Alaska Legislative Ethics Committee	X	X	X	X	X	X	X	X
Alaska Public Offices Commission	X	X	X	X	X	X	X	X
Arizona	No ethics commission							
Arkansas Ethics Commission	X	X	X	X	X		X	
California Fair Political Practices Commission	X	X	X	X	X	X	X	X
Colorado Independent Ethics Commission	X	X	X	X	X		X	X
Connecticut Ethics Commission	X	X		X			X	
Delaware State Public Integrity Commission	X	X	X	X	X	X	X	X
Florida Commission on Ethics	X	X		X	X		X	X

Georgia Government Transparency and Campaign Finance Commission	X	X	X	X	X	X	X	X	X
Hawaii State Ethics Commission	X		X		X	X		X	
Idaho				No ethics commission					
Illinois Legislative Ethics Commission	X		X		X			X	
Illinois Office of the Legislative Inspector General	X	X	X		X	X		X	
Illinois Executive Ethics Commission		X			X	X		X	
Illinois Office of the Executive Inspector General			X		X			X	
Office of the Indiana Inspector General and Indiana State Ethics Commission					X	X	X	X	
Indiana Lobby Registration Commission	X	X	X		X	X	X	X	X

Mississippi Ethics Commission	X	X			X	X	X		
Missouri Ethics Commission				X	X	X	X		
Montana Commissioner of Political Practices	X	X	X		X	X	X	X	
Nebraska Accountability and Disclosure Commission	X	X	X		X	X	X	X	X
Nevada Commission on Ethics	X	X	X		X	X	X	X	X
New Hampshire					No ethics commission				
New Jersey State Ethics Commission	X	X	X		X	X	X	X	
New Mexico					No ethics commission				
New York State Joint Commission on Public Ethics	X		X		X	X		X	X
New York State Legislative Ethics Commission	X	X	X		X	X		X	X
North Carolina State Ethics Commission	X	X	X		X	X		X	X

North Dakota				No ethics commission					
Ohio Ethics Commission	X	X	X	X	X	X	X	X	X
Oklahoma Ethics Commission	X	X	X	X	X			X	X
Oregon Government Ethics Commission	X	X		X	X			X	
Pennsylvania State Ethics Commission	X	X	X	X	X	X	X	X	X
Rhode Island Ethics Commission	X	X	X	X	X	X	X	X	X
South Carolina Ethics Commission	X	X	X	X	X	X	X	X	X
South Dakota				No ethics commission					
Tennessee Bureau of Ethics and Campaign Finance	X	X	X	X	X	X	X	X	X
Texas Ethics Commission	X	X	X	X	X	X	X	X	X
Utah Independent Legislative Ethics Commission				X					X
Vermont				No ethics commission					
Virginia				No ethics commission					

Washington State Legislative Ethics Board	X	X			X	X		X	X
Washington Executive Ethics Board	X				X	X	X	X	X
Washington Public Disclosure Commission	X	X	X		X	X			X
West Virginia Ethics Commission	X	X	X		X	X	X	X	
Wisconsin Government Accountability Board	X				X	X		X	X
Wyoming	No ethics commission								

Source: National Council of State Legislatures: <http://www.ncsl.org/research/ethics/50-state-chart-state-ethics-commissions-powers-a.aspx>

Note that New Hampshire has an ethics committee made up of elected officials, as do the majority of states; but the focus of committees tends to be internal.

Note that some states have no commissions. In these states ethical issues are still addressed by the state's attorney general, or by a standing ethics committee that is made up of state legislators. Western states tend not to have ethics commissions, but also tend to have more rural populations. The lack of commissions in these states can largely be explained by history and geography so there is likely not anything about being Western (geographically) that makes them more prone to not having ethics commissions. These are states that have historically voted Republican and tend to have low populations relative to the rest of the country. However cultural and historical features may play a role. This is likely a niche phenomenon since other western states with the same traditions do have ethics commissions, e.g. Utah, Montana, Nevada, etc. The point is this geographic phenomenon, while interesting in its own right, likely does not provide much in way of generalization about ethics commissions.

Commission Empowerment and Expectations

An important point in the discussion of ethics commissions is their empowering regulations. First, as Mackenzie (2002) and Rosenson (2006) note, ethics policies are distinct from other public policies since ethics policies do not reflect the true preference of policymakers. This is because unlike other policies such as education policy which target some outside group, ethics policies target policymakers and require them to submit to external regulations. Second,

commissioners, like all bureaucrats, act on the basis of statutory authority (Smith 2003a). This includes procedural guidelines such as establishing the bases for investigations, subpoena powers, and whether the commission's findings are legally binding. However, what commissions do may be less important than how they do it. This is a point made by Smith (2003a) in his examination of the roles and responsibilities of ethics commissions.

Ethics commissions like other organizations tend to model themselves after other organizations in their field. However the expectations of these commissions are reflections of social and cultural expectations of the states in which they are located (Anechiarico and Jacobs 1994; Anechiarico 2010). While what is considered a corrupt political practice in South Carolina may be seen as politics as usual in Massachusetts, the commissions determining what is corrupt and what is not tend to have similar underlying organizational structures. Commissions all start with the same general structural framework and then innovate from there based upon the unique cultural or social expectations of their states.

Having similar organizational structures but culturally based expectations creates cross pressures for defining any measurable standard of integrity to point to as successful ethics enforcement. Having measurable standards of ethicality or integrity was never the intent of commissions though, so much as reinforcing

their legitimacy as organizations. This goes back to the point about overly general regulations that have no teeth. Often a commission's empowering regulations have less to do with whether or not they are proven to reduce corruption or increase confidence, and more to do with adding legitimacy to the commission. As DiMaggio and Powell (1983) and Selznick (1996) note, once structural innovation in an organization reaches beyond a certain threshold, the organization gains legitimacy by innovating and specializing their structures to meet expectations even if such spread does nothing to improve performance. Commissions tend not to be empowered to change ethics policies though, and ethics policies are debated (by elected officials) less than say education policy or insurance policy (Mackenzie 2002). As Rosenson (2006) claims that the reason for this is that unlike other policy types, unlike other policy types ethics policy tends to focus on elected officials. I should note that this structural norm is not only an American phenomenon. Since the 1970s nearly every political jurisdiction in OECD countries has created similar public structures to oversee public integrity (Anechiarico 2010).

Ethics Commissions Are Not Desirable To Elected Officials

In the United States commissions are empowered as political subdivisions of state governments. However they do not all take on similar structures – some are subdivisions of an elected branch with budgets that are a flow-through from

the branch's budget while others are stand-alone agencies with budgets that are line items in their state's budget. Given the role of commissions though one is inclined to ask why political officials would want to empower commissions. As stated above, the creation of commissions is largely responsive and ethics policies tend to focus on elected officials. Political officials do not want to give up authority to unelected officials. As noted by Rosenson (2003) though, they are more willing to do so under two conditions: (1) when the creation of a commission does not present an economic or political threat; and (2) when the cost of doing nothing (and being seen as complacent on corruption) is more costly than giving up some authority to a commission.

For example, Rosenson (2003; 2005; 2009) demonstrated that legislators are more likely to empower commissions when they do not perceive them as a threat to their economic and political interests. Of course her measure is a bit awkward since she looks at the salaries of legislators as opposed to their net worth. Still this is an understandable though since access to information on net worth would presume strong regulations over things like financial disclosures. Even under her model though, legislators were more likely to pass regulations checking the governor than checking themselves. This raises a variety of questions as to what role political power plays in the decisions of these ethics commissions. While some of these questions involve a variety of normative assumptions about what

role commissions should play, I take the position of Lewis and Gillman (2012) that what Rohr (1989) calls low road ethics (compliance with ethical regulations) is a necessary antecedent for building ethical capacity. Therefore any discussion of what commissions normatively should do is premised on their achievement of low road ethics.

Reducing the Threat from Commissions: Symbolic Institutions?

The implication from all of this, beyond the argument that elected officials seek to control ethics commission, is that commissions may be more symbolic than practical. After all this is ultimately a discussion about accountability – the means by which public and elected officials answer citizens for their use of power and authority (Lerner and Tetlock 1999). The idea of public organizations as more symbolic than functional is not a new concept. Edelman (1985: 56) argues that administrative agencies serve an “expressive function” and provide a sense of legitimacy to the issues they were designed to address. In the case of ethics commissions they express the concept of accountability even though it may not readily be provided, i.e. they are symbols. Smith (2003ab) argues that while commissions may be symbolic, they also serve multiple roles including policeman and educator.

In an analysis of ethics complaints filed with the state of Florida, Menzel (1991) found that the target of an ethics complaint tended to view the decision

more negatively when found at fault than a filer of a complaint did when the target of the complaint was cleared. This was particularly true for elected officials, and a basic understanding campaign politics would dictate why – even though one may be cleared of an ethics charge, it still provides ammunition that can be used against an elected official in future elections. After all, the scandal may die down but can always be brought back to life once it is on the record.

Elected officials face the problem of appointed commissioners with the ability to censure or otherwise threaten them face an uncertain set of choices (McCubbins 1989; White 1985). One set of choices involves outcomes that can be harmful to the elected official (Mitnick 1992). If this is the case then if one assumes that elected officials are rational, or even politically sophisticated, then they should seek to mitigate potential threats through their choice of whom they appoint and therefore through the amount of influence they have at their disposal. This is essentially a problem of selection. Elected officials cannot perfectly observe the actions of the commissioners, who are primarily political appointees. As such, elected officials seek to mitigate the potential risk posed by commissioners by appointing individuals who are friendly to their positions or party, are easily influenced, etc.

The idea of elected officials as having a stake in an ethics commission assumes that there is some level of control over the commissions' activities.

However it also assumes that there is some benefit to be gained from the commission's activities (Stout 2007; Stout and Blair 2001). One obvious benefit to elected officials is avoiding strict oversight. Another benefit is provided when someone is cleared by an ethics commission – e.g. Nikki Haley, or the even more preferred option – when the commission fails to take action. Still other benefits can be provided enforcing obvious and blatant ethics violations, such as quid-pro-quo relationships, but not requiring elected officials to do a full disclosure of their finances. Likewise, an individual may ask the ethics commission to review a desired course of action. If this action is cleared then it can provide cover against future charges of unethical behavior and in some states can even provide legal cover (Rosenson 2006; Anechiarico 2010). If one assumes that elected officials use their appointment or removal power to influence commissions, it is easy to think ethics commissions' failings as the result of political influence rather than of culture or internal organizational pressures.

Appointment powers give those elected officials with appointment powers a great deal of power over the commission; but so does the threat of removal. They may utilize their appointment power, or removal power to make life difficult for commissioners who do not side with them. A good example of this is the case of Teddy Lee. Teddy Lee was appointed by to a five year term by Democratic Governor Zell Miller in 1991. He was reappointed by Miller again in

1996 and again by Democratic Governor Roy Barnes in 2001 – this time as Commissioner. In 2002 Sonny Perdue (R) won election to the Governor’s office and the Republicans took control of the General Assembly. With staggered terms, by 2006 Teddy Lee was the last Democratic appointee left on the Commission. By all accounts, Teddy Lee was not liked by the Georgia political establishment. He went after Democrats and Republicans alike. He fined both Vernon Jones (CEO of DeKalb County and Democratic financier) and Republican Governor Sonny Perdue for campaign finance violations. In 2006 a new lobbyist oversight law banned campaign fundraising while the General Assembly was in session. To help with enforcement the General Assembly gave the commission’s budget an additional 68% (\$608,000 in 2011 dollars). Commissioner Lee used that additional funding to make financial disclosures available on the General Assembly’s website. Both the GOP led General Assembly and the Republican Governor urged him to remove it. When he refused the commission voted 4-1 to remove Lee, prior to the end of his five year term. They also removed the web access to financial disclosures from the General Assembly’s website. Although neither Sonny Perdue nor the GA state legislature directly fired Teddy Lee, his firing served their interests.

A key point about appointment power in this regard is that when this power is concentrated in the hands of fewer individuals, those individuals likely

have more power over appointees. This follows Moe and Bendor's (1985) conception of committee and appointment power as a means of bureaucratic control. When we consider this in terms of commissions though, we must ask if the ability to exercise this sort of control is a normatively good thing, especially considering the stated purpose of commissions.

This is a sticky question given the stated mission of commissions because it envisions a fine line between control of the bureaucracy and potential corruption. Consider this in the abovementioned case of Nikki Haley. She exercised her legitimate authority as the sole appointer and remover for the ethics commission; in doing so though she obviously provided a benefit to herself. Moreover she, anecdotally at least, appears to have used that authority against political rivals. In an effort to have the commission find in her favor, the Governor publicly announced that she would implicate members of the commission in similar dealings if she was found guilty (Smith 2012). There are two points to consider here: first is that the nature of commission activities makes them distinct from other bureaucratic organizations; second is that because of this political control over these organizations must be thought of differently than political control over other organizations.

Empowerment is one thing, but no one wants to be the target of an ethics commissions; even if one is not found at fault their reputation can still be

damaged. As a result empowering a commission with oversight authority is often just lip service and the commission does not have real authority to target those who empowered it. In many cases legislatures will empower commissions with oversight authority, but direct all of that oversight towards the governor. The public tends to be ill informed about politics in general so they may never know that the legislature created an ethics commission but only empowered it to investigate the governor. As a result they may take the creation of a commission as equivalent to oversight. In the scenario the creation of a commission really amounts to nothing more than a symbol of integrity. As Niemi, Stanley and Vogel (1995) note, the governor is already the most visible member of state government. More commissions have oversight of the governor than over the legislature (39 for the Governor versus 32 for the legislature). Of these, only 23 have oversight over both the governor and the legislature. Then there are five states with separate commissions for the governor and legislature. However from the distribution of oversight authority one can see there tends to be more emphasis on the governor than the legislature. This does not mean that governors are simply punching bags for the legislature when it comes to ethics. Governors also enjoy appointment authority over the ethics commission and in many cases the budget of the ethics commission is simply a line item in the executive office's budget.

The scenarios above paint a picture where commissions are either a tool for elected officials to offer a symbol of integrity to the masses. They are used by legislatures to check the governor, and in turn, given appointment powers, or are intentionally weakened by the governor. Of course it is incorrect to assume that all commissions are ineffectual or just engage in check box compliance. The power to appoint commissioners differs from state to state as does the control of a commission's budget. In Connecticut the governor appoints three of nine members with the other six appointed by the speaker, president pro tempore, and the minority and majority leaders in both houses. By contrast in South Carolina the governor appoints all commissioners and there is no requirement for senate confirmation.

In all states commissioners generally appointed by political actors with varying degrees of checks on who sits on the commission, e.g. some commissions are appointed entirely by the governor (South Carolina) whereas others have more diffuse appointments involving multiple members of the legislature and the executive branch (Washington). Along with variations in appointment authority to ethics commissions, as political entities the make-up of ethics commissions varies as do the targets of their regulations.

From the outset I claimed, as have others, that commissions may simply be a symbol of integrity for social and cultural expectations. Edelman (1985) calls

this political symbolism. This language has also been used by Smith (2003) in describing the roles of commissions. Symbolism as used by Edelman can mean positive or negative. Positive symbolism would imply that a commission exists as an aspirational entity – something which others should strive towards.

Negative symbolism implies that a commission exists primarily for appearance, or as I claim, as a symbol of integrity. Smith (2003a) as well as his interview subjects rejected the negative view of symbolism outright. Their reason for doing this was that the fines and ability of commissions to harm elected officials electorally is very real, therefore commissions must necessarily be for more than just show. It is true that commissions can harm elected officials but to claim that the ability to harm is the one thing that means commissions are not negative symbols ignores the political and institutional realities of commissions.

Commissions can harm political officials. However commissions are empowered by elected officials, and typically when it is not painful to do so (Rosenson 2003; 2005; 2009). Additionally, commissioners are appointed by elected officials and therefore the appointing officials are likely to maintain some form of influence over their appointees. It is possible then that elected officials use this influence to avoid the harm that may be levied by commissions, or to direct the harm towards political rivals. Therefore it does not make a lot of sense to claim the ability to harm the thing that makes commissions positive symbols.

This is because the ability of commissions to harm elected officials is the very reason that elected officials seek to influence commissions. And, in seeking to influence commissions the ability of commissions to carry out their objectives – and by doing so to harm elected officials – is dampened. Therefore a necessary condition for claiming that a commission is not-negatively-symbolic is the exercise of the ability to harm is exercised despite political influence.

My Contribution

As Lewis and Gilman (2012: 195) note, “even the best of codes is not substitute for good people.” The reasons for this seem pretty straightforward when we recognize the ability of these commissions to exercise administrative discretion. But this also creates a dilemma that has been hinted at by others but never fully explored. If commissions and agencies are in place to ensure the public trust by overseeing elected officials, then how well can they actually achieve this when those appointed for this task are appointed by the very people they are tasked with overseeing?

This is the topic that I wish to address in this dissertation. I explore how, and to what degree elected officials wield political influence over ethics commissions. In turn I examine how that influence manifests itself in terms of the effectiveness of ethics commissions. My argument goes that elected officials control the institutional make-up of the commission via their ability to appoint

commissioners. In doing this they can exert political influence over commissions to either evade scrutiny of their own activities, or to direct greater attention at their rivals.

I examine the question of if and how political actors influence ethics commissions. Using data from the 2011 State Integrity Investigation I examine: (1) if and how elected officials exercise their influence over commissions? And (2) whether this influence translates into meaningful differences in the enforcement of ethics policies? I examine these questions through the lens of bureaucratic autonomy, i.e. does the ability of elected officials to control the capacity of a commission to act, and the structural independence of a commission affect perceived political influence over ethics commission. This perspective suggests that because ethics commissions can be harmful to elected officials, they use their appointment authority as a means of influencing commissions. In my work I find mixed support for this perspective with the legislature demonstrating fewer attempts at political influence than the governor.

In making my argument I examine political influence as a means of controlling commissions via resources and structure. In my arguments I show that while traditional notions of controlling the bureaucracy apply to ethics commissions, given the capacity of commissions to embarrass or otherwise harm elected officials, arguments for how autonomy manifests itself on a commission,

and how elected officials seek to limit that autonomy, must be expanded from traditional notions. To do this I argue that the ability of ethics commissions to occupy either the role of high road arbiter of ethical capacity, or low road regulator of ethical compliance is determined by the political realities used to empower ethics commissions. As Lewis and Gilman (2012) claim though, high road ethics are not possible without first addressing low road compliance. I examine the capacity of commissions to achieve this low road standard by looking at how appointment power over ethics commissions affects political influence on commissions. It is my perspective that elected officials recognize that commissions can threaten them both politically and economically, and therefore they are not willing to cede too much power to these unelected commissions to raise red flags about the behavior of elected officials. In turn though this is a limiting factor for the traditional autonomy literature which considers fire alarms as the means by which elected officials monitor the bureaucracy. After all an elected official is not likely to consider an alarm about an ethics commission not sounding an alarm on their behavior as a desirable means of limiting the commission's autonomy. Instead they are likely to rely on their ability to control the commission's capacity and independence as a means of controlling the commission's autonomy. Thereby they avoid the risk of public outcry against weak ethics policies which would likely result in more regulation.

Chapter Two: The State Integrity Investigation About the Investigation

In polls of likely voters respondents tell pollsters that integrity is the primary quality they look for in public officials (Fourier and Tompson 2007). However many public officials fall short of this ideal and moreover much of the public has no clue. For example in New York Governor Andrew Cuomo established the Moreland Commission to investigate corruption in the state legislature, however when the investigation began to dig up skeletons in his own closet he sought to deter the investigation (Craig, Rashbaum and Kaplan 2014).

The stated purpose of the State Integrity Investigation (SII) was to identify practices in states that reinforce as well as undermine public trust and to then rank states on their risks of corruption. The survey was unprecedented in its scope – covering all 50 states with a 330 question survey of experienced political reporters. Seasoned journalists graded each state government on its corruption risk using 330 specific questions across 14 categories, including legislative and executive accountability, ethics laws, lobbying regulations, and management of state insurance departments.

The Goals of the State Integrity Investigation

The State Integrity Investigation has three stated goals:

- *To examine states' commitment to government integrity and shine light on what's working and what's not.*
- *To convince state officials to improve their laws and practices. The State Integrity Index highlights "best practices" in state government and can serve as a basis for policy reforms that address the unique challenges facing each state.*
- *To inspire the public to become interested and invested in ensuring honest, effective state government. The Investigation offers many ways for people to become involved – following news about state integrity, emailing report cards to officials, sharing experiences with state government, proposing solutions, and connecting with local "good government" groups. (State Integrity Investigation 2012).*

Survey Methodology

The Investigation researched a list of 330 statements about the laws and practices that promote open, accountable state government and deter corruption. We call these statements Corruption Risk Indicators, and they are organized into 14 areas of state government oversight. Reporters scored each response on ordinal or binomial scales. Ordinal scales were used for questions of "practice" and binomial scales were used for questions of "in law." For example:

- In law, lobbyists are required to file a registration form. (0=No; 1=Yes)
- In practice, citizens can access lobbying disclosure documents at a reasonable cost. (0,25,50,75,100; Strongly Disagree – Strongly Agree).

"In law" indicators provide an objective assessment of whether certain legal codes, fundamental rights, government institutions, and regulations exist. For each of the "in law" responses a reporter had to provide the statute(s) which backed up their claim.

"In practice" indicators address issues such as implementation, enforcement and citizen access (State Integrity Investigation 2012). The scoring methodology using 100, 50, and 0 scores with 25 and 75 deliberately left undefined to serve as in-between scoring options. In only a few cases, the "in practice" indicators are scored with "yes" or "no." For a response to be accepted, a reporter had to provide at least two published examples to serve as exemplars of the practice being effective, implemented, etc. These included a website link to a relevant report, a specific piece of a statute that was not being enforced (or was enforced) and examples thereof, or specific state and federal reports addressing the questions at hand. Additionally, the reporters were able to include supplemental information to support their score. This helped in vetting responses since the "yes, but..." response arose for many of these questions.

These questions were broken out into 61 subcategories and 14 categories. The ordinal and binomial responses were averaged to create the subcategory scores, and the subcategory scores were averaged to create category scores. In turn these category scores were averaged to create the final scores for each state.

While this ranking methodology is flawed beyond the subcategory level because error variance increases with each incremental averaging, the only variables I use as dependent variables in my subsequent models are individual questions and subcategory scores. As demonstrated in later chapters, these measures and the models used to estimate them are reliable and robust.

Vetting Responses

The SII researchers worked with the reporters to ensure the validity of responses. All initial responses were blindly reviewed by a second reporter from each state. These reporters were tasked with identifying the responses as inaccurate, inconsistent, or biased. When discrepancies were identified the researchers at Global Integrity and the Center for Public Integrity served as intermediaries between the reporters and peer reviewers to resolve questions and come to a final agreed upon score.

Reporters were required to provide multiple references to substantiate each of their scores. This could be an interview conducted with a knowledgeable individual, a website link to a relevant report, or the name of a specific law or institution, depending on the particular indicator. Reporters had the opportunity to include additional comments to support their score. Their comments help capture the nuances of a particular situation, namely the "Yes, but..." phenomenon which is often the reality in undertaking this type of research.

Specific Questions from the State Integrity Investigation

The questions used in this dissertation as dependent variables come directly from the SII. These questions are:

Table 2.1. Dependent Variable for Chapter Three

	In practice, members of the agency or set of agencies tasked with enforcing state ethics rules are protected from political interference.
Strongly Agree	8 (19.5%)
Agree	16 (39.0%)
Neither Agree nor Disagree	10 (24.4%)
Disagree	4 (9.6%)
Strongly Disagree	3 (7.3%)

Table 2.2. Dependent Variables for Chapter Four

Question	m(sd)
Are the regulations governing conflicts of interest by the executive branch (defined here as governors and/or cabinet-level officials) effective?	48.900 (17.851)
Are regulations governing conflicts of interest by members of the state legislature effective?	31.751 (14.843)

Each of these questions is used to capture a specific concept that I seek to model in my subsequent chapters. For example, the question in table 2.1 is used as a proxy for how much autonomy a commission enjoys; and the questions in table 2.2 are used as estimates of the effectiveness of specific ethics regulations. The use of these measures and the explanatory variables used to model them are explained in greater detail in the subsequent chapters.

Access to State Integrity Investigation data is available at http://www.stateintegrity.org/corruption_risk_index_raw_data and questions about the survey may be directed to nkusnetz@publicintegrity.org.

Chapter Three: Ethics Commissions and Autonomy: How Independent are They?

Introduction

Political influence over ethics commissions is an important topic in thinking about the legitimacy of these commissions. However political influence over ethics commissions presents some sticky problems for the current literature on bureaucratic autonomy. No bureaucracy has the authority to make its own mandate, but it is important that some have greater autonomy than others. Ethics commissions do not usually regulate the providers of public goods or other private entities; instead, they target elected and public officials, i.e., those who make public policy. Therefore it is desirable that ethics commissions have broad mandates; have the authority, funding, and capacity to accomplish those mandates; and be able to do so without *ex ante* or *ex post* pressure from elected officials.

Commissions are politically empowered institutions that have a responsibility to monitor those who empower them. This power and the ability

of commissions to harm elected officials both economically and politically may give elected officials an incentive to exert control over ethics commissions.

Constituencies expect ethics commissions to provide oversight of their public and elected officials. A whitepaper of the National Council of State Legislatures (Comlossy 2011) states that ethics commissions "...work to ensure voters' trust in policymakers and political institutions by monitoring compliance with ethics laws and ensuring ethical conduct by those under their jurisdiction." Commissions serve as watch dogs for the public; they ensure that conflicts of interest are exposed, financial dealings are done "in the daylight," and the decision-making process is transparent. In practice, however, ethics commissions are primarily compliance organizations that set minimum standards for what is acceptable (Smith 2003a).

Most commissions lack strong mandates, but also can only interpret what is ethical according to set rules and guidelines. Ethics commissions and most ethics policies have been born of scandals (Rosenson 2003)—the trend of creating state ethics commissions can be traced to Watergate. Ethics policies therefore tend to be responsive and not reflect the true preferences of elected officials (see Mackenzie 2002; Rosenson 2006; Anechiarico 2008). Because of these factors, ethics commission mandates generally are not well defined and usually target

popular notions of corruption, such as *quid-pro-quo*, while failing to address more nuanced indicators of corruption, such as strong financial disclosure requirements for elected officials (Rosenson 2006; Tolchin and Tolchin 2001). This failure is antithetical to the strong legal mandate that others claim is so important for autonomy (Carpenter 2001; Fukuyama 2009).

Below I address the question of how elected officials seek to influence commissions. I draw primarily on two theories of how bureaucratic autonomy is manifested – principal-agent theory and issues of organizational capacity. This manuscript proceeds by addressing the purpose and creation of ethics commissions, a discussion of why and how elected officials would seek to influence commissions, followed by my hypotheses, model, and findings.

The Purpose and Creation of Ethics Commissions

The majority of ethics commissions have their start with the Watergate scandal (Rosenson 2003). Even today, in states with ethics commissions new ethics regulations tend to follow visible and public scandals (Stapenhurst, 2004; Rosenson, 2003; and Goodman, Holp and Ludwig, 1996). After Speaker of the House Jim Black was convicted of federal corruption charges in 2007, for example, North Carolina passed some of the most restrictive lobbying laws in the country (Kies 2012).

Although there have been successes in combatting corruption, ethics commissions have also been used as a tool of political attack and have often resulted in administrative gridlock. Gilman and Denhardt (2002) note that often well-meaning individuals will attempt to write empowering regulations that “out-ethics” everyone else, thus leading to either administrative gridlock, or regulations that address potential charges of quid-pro-quo, but do not address more nuanced possibilities for corruption such as lax financial disclosure requirements. These are the sorts of codes that can be Draconian in nature and treat taking a pen from the agency stockroom as equivalent to embezzlement (Tolchin and Tolchin 2001), but which do not address things as simple as requiring elected officials to reveal all of their investments (see Rosenson 2003; 2006). This creates a situation where elected officials create ethics commissions that are primarily symbolic in nature. They serve as a palliative for public distrust, but do not really do much in the way of oversight.

Limiting a Commission’s Autonomy

Elected officials face the problem of an appointed ethics commission with the ability to censure or otherwise harm them. Therefore, barring some form of control over the commission, elected officials would face an uncertain set of outcomes regarding the commission’s ability to harm them politically or economically. If one assumes that elected officials are rational, or even politically

sophisticated, then they should seek to mitigate potential threats by exerting some form of control over the types of actions a commission can take and how it can go about enforcing ethics policies.

The above is a discussion of why elected officials would seek to influence commissions, but it does not provide a logic of how. In considering how elected officials influence commissions I attempt to link the literature on ethics commissions with the literature on bureaucratic autonomy to develop a theory about how and when we would expect commissions to have greater autonomy. I claim that elected officials seek to control the capacity of commissions to act and also seek to control the structural independence of commissions.

Bureaucratic Autonomy and Ethics Commissions

Autonomy of Ethics Commissions

A variety of theoretical perspectives have been used to explain bureaucratic autonomy. Fukuyama (2013: 10) conceptualizes bureaucratic autonomy as, “the notion that bureaucrats themselves can shape goals and define tasks independently of the wishes of the principals.” Others, including Rotberg (2014) consider bureaucratic autonomy as the development and use internal capacity and resources without mediation from political institutions. Even scholars who consider autonomy from the principal-agent perspective note

the need to examine an agency's capacity (Hammond and Knott 1996; Whitford 2005).

The principal-agent approach tends to focus on the relationships between politicians as elected officials and bureaucrats as the implementers of their policies. Within this relationship the principal directs the agent by mandating a goal, but at times also mandating how to achieve that goal; for example, increasing confidence in political institutions by requiring disclosure of all financial interests. Autonomy from this perspective is then understood as the degree to which the agent can direct its own goals or decide on its own methods for achieving goals absent direction from the principal. A completely autonomous bureaucracy, under this construct, receives no mandates whatsoever while a fully non-autonomous bureaucracy is micromanaged by the political principal (Fukuyama 2013).

The capacity approach addresses how bureaucrats use the variety of resources and tools at their disposal to achieve their mandates or implement policies. Capacity is an important prerequisite for autonomy. As Krause (2009:18) notes, "even well-intentioned institutions lacking sufficient capacity are incapable of making credible policy commitments." Additionally, Huber and

McCarty (2004) find that even when agencies are equally competent, those with less capacity are less autonomous.

From the previous literature it is easy to claim that ethics commissions are often not autonomous (Smith 2003ab; Rosenson 2003; 2006). In her 2003 work Rosenson showed that elected officials are more likely to empower ethics commissions when they do not perceive them as a threat to their economic wellbeing. Further, Smith (2003 ab) showed that although ethics commission staffs would like to engage in more training, investigation and enforcement activities, they are often hamstrung by a lack of financial and staffing resources. Rosenson's (2003; 2006) arguments are based in the belief that elected officials have little incentive to provide commissions with a high level of autonomy. Smith's (2003a; 2003b) arguments rest in the belief that for as much as the public states they want ethical elected officials (see Bowman 1991), actually enforcing ethics or building ethical capacity tend to be primarily symbolic exercises (see also Morgan and Reynolds 1997; Tolchin and Tolchin 2001).

In examining a commission's autonomy I test several expectations from both the principal-agent and capacity approaches. To test these expectations I conceptualize autonomy on an ethics commission as (1) having freedom from political interference and (2) having the resources necessary achieve its goals.

These are standard conceptualizations of autonomy in much of the literature – see Moe (1993), Christensen (2001), Rotberg (2014) and Araral (2009). Given that ethics investigations can be politically damaging to elected officials, and ethics convictions even more damaging, elected officials have an incentive to keep a commission’s level of autonomy in check¹. Although there is little incentive to provide autonomy, some autonomy must be present otherwise the commissions would be commissions in name only meaning that the threat from the commission would not really exist².

To explain how autonomy is manifested I draw on the principal-agent and capacity approaches. From the principal agent approach I examine the ability of elected officials to control appointments to a commission and the commission’s budget as explanations for a lack of freedom from political interference. From the literature on organizational capacity I consider a commission’s financial resources and its staffing resources as explanatory factors for a lack of freedom from political interference.

¹ On a side note, new ethics standards tend to follow scandal, but these standards tend to be reactive, overly general, and poorly written, i.e. they address obvious issues of corruption such as quid-pro-quo but tend not to be policies designed to prevent corruption such as strong financial disclosure provisions – see Mackenzie (2002) and Tolchin and Tolchin (2001).

² There is a body of literature from Mackenzie (2002); Rosenson (2006); Bradbury (2007); and Tolchin and Tolchin (2001; 2010) which addresses the specifics of how and to what ends commissions are empowered, but I do not address these specifics here since my focus is on the commission’s autonomy

Appointment and Budget Independence under Principal-Agent Theory

A key assumption under principal-agent theory is that one actor (the principal) issues directives which are then executed by another set of actors (the agent(s)) (Waterman and Meier 1998; Moran and Weingast 1984; Baumgartner 2010). Some including Wood and Waterman (1991)³ have argued that a primary mechanism for control is appointing administrators who are sympathetic to the positions of the elected branch. It is within these frameworks that I approach autonomy within principal-agent theory, i.e. that elected official's ability to appoint the member of the ethics commission affects their ability to wield political influence over the commission; and further that a principal's ability to control the agent's finances also serves as a means of control.

Appointment Power

It is hard to imagine that a politician would willingly appoint an individual who is antagonistic towards them. After all, if the ethics commission focus is on policymakers, why would the policymakers appoint someone they knew would seek to harm them? Instead it is more logical to assume that the more control an elected official has over who sits on the ethics commission, the

³ Wood and Waterman made several arguments about means through which elected officials can control the bureaucracy including changing budgets, legislative signaling, and administrative reorganization, but that appointment was the most important means of control.

more they will be able to influence that individual. The literature on the role of appointment power and bureaucratic autonomy speaks to this. For example Moe (1985) argues that elected officials seek to make the bureaucracy more responsive by increasing the number of administrative positions occupied by appointees. Wilson (1989) also claims that as appointees bureaucratic agents face greater pressure to respond favorably to political principals. Further, Hammond and Knott (1996), Snyder and Weingast (2000) and Epstein and O'Halloran⁴ (1999) explored political principals' use of appointments to achieve their desired ends and found that the ability to appoint was critical to achieving desired policy outcomes under a variety of conditions, including carrying out the policy beyond the political life of the appointing authority. This makes sense when it comes to ethics commissions then if one thinks about Rosenson's (2003) arguments. Elected officials may empower commissions when they do not perceive that the commission will be a threat. However institutions change, so rather than a one-off concern about the threat posed by commissions to immediate wellbeing, appointment authority may be seen as a way of ensuring that commissions do not become a threat later on.

⁴ Appointment power was considered important for the bureaucracy although the full study was dedicated to the question of "who" gets authority delegated to them (courts, state actors, local actors, independent commissions, regulatory agencies) and what level of authority does the principal retain over these actors.

Of course states vary based on how much appointment authority any individual, or set of individuals, has over appointing commissioners. Therefore the ability of elected officials to influence a commissioner, or appoint individuals friendly to their position, is likely conditioned on how much authority that individual had over the appointment. Appointment authority can vary based upon how many commissioners a single individual can appoint. For example if the governor can appoint three people to a five person commission and the President Pro Tempore and Speaker of the House can each appoint one then this likely means the governor has more influence over the commission than the Speaker or President Pro Tempore. However appointment authority can also be checked procedurally through things like confirmation requirements. In a case where there are no confirmation requirements the appointing individual is likely more able to appoint their most preferred person to a commissioner's post. When there are confirmation requirements they may have to temper their position.

Removal Power

While appointment of commissioners may *ex ante* influence, removal power represents hard *ex post* influence. While it may be difficult to conceive of an elected official appointing individuals they knew would harm them, it is important for them to have the threat of removal to ensure that their influence

over the individual can be maintained (Epstein and O'Halloran 1999).

Appointment authority allows an elected official to decrease the odds of the commission implementing ethics policies that are harmful to them. If the commissioner were to *go native* though (Kingdon 1995) then removal power can be a hedge to ensure that members of the commission remain friendly or otherwise easily influenced. Canes-Wrone, Howell and Lewis (2008) and Epstein and O'Halloran (1999) claim that appointment power is essentially useless without the power to remove.

Like appointment authority the power to remove commissioners varies from state-to-state. Some states allow removal of a commissioner without cause; some require that cause be shown but do not define what constitutes cause; still others allow removal only for specific violations such as the commission of a felony. Given what is known about removal power and autonomy in the traditional bureaus removal power is also likely an important factor in the autonomy of ethics commission, again because ethics policies constitute a set of policies that elected officials would not subject themselves to if they had their most preferred position.

Budget Independence

Even though ethics commissions collect fines, they tend to not be self-funding organizations. Additionally, effective enforcement/collection of fines presumes that ethics commissions are effective which would in turn presume that elected officials are not influencing them. Rather, ethics commissions are funded in one of two ways, either as a flow through of the budget of one of the elected branches, or as line items in the state budget. Given that elected officials have no incentive to ensure an autonomous commission (Mackenzie 2002), it seems that if they desired to influence the commissions that they could do so more easily the more control they have over the commission's budget.

According to Behn (2003) elected officials may seek to control budgets because budgets reflect an organization's priorities. If budgets reflect priorities and also affect the ability of a commission to behave autonomously (Carpenter 2001; Bendor and Moe 1985; Wood 1988) then the ability of a commission to request and control its own budget should be an important determinant of that autonomy. The ability to control one's own budget is important because controlling one's budget allows one to control priorities. It is likely that this ability is of great importance on ethics commissions, if one remembers that elected officials do not have an incentive to provide a commission with a high degree of

autonomy. Bendor and Moe (1985: 772) have an excellent quote which reflects why this is case, “Although bureaus can sometimes move to a paradise of exploding budgets and slack, they cannot do so when checked by even a primitive form of legislative oversight...” It seems then that if elected officials have desire to influence their ethics commission, then a good way to do it is by ensuring that the commissions do not have control over their own budget.

As an example, in states such as Maryland and Michigan the budget of the ethics commission is simply a flow-through from the budget allocated to office of the executive. On Alaska’s Legislative Ethics Commission, the budget is a flow-through of the budget allocated to paying for legislative staff, expenses, etc. Likewise Alaska’s more general Public Offices Commission which covers the executive and executive agencies, is a flow-through of the budget allocated to the executive. Having the monitored branch responsible for controlling the funds of the body doing the monitored seems substantively different than situations where the budget of the commission is a line item. Take for example states like Connecticut or Maine where the commission’s budget is a line item for an independent agency.

Organizational Capacity and Ethics Commissions

Organizational capacity is critical for an organization's autonomy (Yesilkagit 2004; Rotberg 2014; Carpenter 2001). No doubt organizations with more resources are able to exercise more autonomy (e.g. Huber and McCarty 2004). Smith (2003a) and Morgan and Reynolds (1997) argue that the effectiveness of ethics commissions is at least partly dependent upon the capacity of staff to carry out mandates including education, filing reports, and developing manuals but enforcement and investigation actions may be secondary to these activities. Additionally Smith (2003a) and Herman (1997) both note that more effective ethics commissions tend to have greater financial capacity. Given these findings I examine capacity in terms of financial capacity and staffing capacity, two areas that are often noted in the literature on organizational capacity, but also areas closely related to organizational capacity such as resource dependence.

Financial Capacity

It is generally accepted that when agencies have more financial resources with which to accomplish their goals then they have greater autonomy (e.g. Pfeffer and Salancik 2003; Sharfman et al, 1988; Malatesta and Smith 2011). As it pertains to ethics commissions specifically, Herman (1997) and Smith (2003a) both note that commissions are under great stress to meet their administrative

requirements with limited resources; this in turn may limit their abilities to carry out investigations and enforcement actions. For example, commissions are required to create and file documents, create annual reports, engage in educational activities, and so on, but also engage in investigations and enforcement actions.

Smith (2003a) examined three state ethics commissions (CT, NY and FL) and noted that although the commissions satisfied their mandates for filing and accepting forms from elected and public officials, they only had the financial resources to conduct serious reviews of 5 – 10% of these forms. He also found that the ethics commissions that were viewed as the most effective were those with the most capacity to engage in activities such as investigations or substantive review of disclosure forms. As noted above though, most commissions lacked the resources to engage in meaningful reviews or to conduct serious investigations. Both Smith (2003a) and Herman (1997) note that an increase in financial capacity would be necessary for the commissions to overcome these stresses.

In examining financial capacity it is necessary to take two things into account: first is what the commissions must accomplish, i.e. what is the commission tasked with doing; second is how much budget the commissions

have to accomplish these tasks. A commission's tasks include things such as developing forms and manuals, compiling annual reports, and of course ethics investigations (refer back to table 1.1).

In a previous review of ethics commission activities Morgan and Reynolds (1997) concluded that ethics commissions dedicated much of their financial resources to what were ostensibly paper pushing exercises, i.e. creating new forms and emphasizing superficial norms of propriety. A unifying thread running through the literature cited above is, given their levels of financing, many ethics commissions are forced to trade-off investigations and enforcement actions for administrative goals. Morgan and Reynolds (1997) went further than Smith (2003a) in claiming that even meeting those administrative goals was only possible a superficial level – certainly not at a level that would imply the commissions were acting autonomously. Additionally, findings from the 2012 State Integrity Investigation suggest that when it comes to meeting their administrative requirements, Morgan and Reynolds' (1997) harsher interpretation was likely correct. In many states forms were left unfiled, reviews of statements of financial interest were years behind and received only cursory reviews – hardly a picture of a commission with the capacity to act autonomously.

Personnel Capacity

My concern with staffing capacity is the ability of the day-to-day staff to address the commission's goals. Specifically I measure the number of staff the commission has available relative to the duties that staff must accomplish. It is known that commissions differ widely in how much staff they dedicate to achieving their goals. For example, ethics staff in Connecticut lamented that they did not have enough staff to do meaningful ethics trainings, but instead were forced to rely on large conferences. The Florida commission was forced to contract out its ethics training because they simply did not have the staff to sufficiently meet its mandate (see Smith 2003a). This is no small matter since previous studies have shown that as staffing resources dedicated to combatting ethics violations increase so too do corruption convictions (see Mackenzie 2002). The stated reason for this is that the staff had more time to dedicate to pursuing leads and investigating suspicious or incomplete disclosures.

In an analysis of different cross-state surveys (Smith 2003a) and a review of five years of literature Menzel (2007), results indicate that employees of ethics commissions have a desire to pursue the commission's goals to greater levels than the current staffing capacity allows. Employees noted that they were hamstrung by the need to satisfy multiple requirements such as annual reporting

or forms filings while lacking sufficient staff to engage in other activities such as training or enforcement. This was true both for administrative activities as well as investigations (see Smith 2003a).

Some have considered the professionalization of a staff as a way of explaining autonomy. Staff size is typically used as one factor in professionalization along with other factors such as salary or length of term. However previous studies at the state level have shown that with the exception of staff size these other factors are not strong explanatory factors for variation of ethics enforcement between states (see Goodman, Holp and Ludwig 1997; Menzel 2005; Smith 2003a).

Different bureaucracies have differing degrees of control over the size of their staff (see Boyne, Jenkins and Poole 1999). Ethics commissions do not have a great deal of sway over how much staff they have⁵. Staffing capacity as a function of staff size has generally not been considered when examining autonomy with the exception of some of the European literature on the topic. For example, Ellinas and Suleiman (2012) found that cabinets with smaller staff

⁵ If one reads a state's codes of law dealing control of staff within the branches, they will see that control of the staff within the political branches is a power given to the branch itself as opposed to an external body. A Statenet.com (LexisNexis) search of state codes dealing with control of legislative and executive staffs, aside from agency staff, reveals that the branches (often delegated to the committee or commission level) have authority in determining staffing and qualifications for personnel employed within the branch.

sizes were less autonomous than cabinets with larger staffs – which is similar to what I expect here. Given the literature cited above on how stretched commission staffs are it makes sense to examine staffing capacity as a function of staff size.

There is additional empirical justification for this is one considers the limits on staffing capacity noted in the failings of many ethics commissions. For example, Delaware’s ethics commission consists of two staff members who are responsible for ethics trainings, producing and reviewing forms for all elected officials, compiling and annual report and addressing ethics issues for the state’s nearly 48,000 public employees (www.stateintegrity.org 2012). Of course not all states are as stressed as Delaware. Wisconsin has a staff of 34, Massachusetts has a staff of 24 and Pennsylvania has a staff of 18. Given the noted stresses that many ethics commission staffs are under though, it is more likely that a larger staff relative to the commission’s duties will be able to act in a more autonomous manner thus leading in a more autonomous commission.

Data and Analysis

The theory developed here was tested using data from the State Integrity Investigation. In 2011 the State Integrity Investigation, conducted by the Center for Public Integrity, surveyed state political reporters across 50 states in the

United States. Blinded responses were reviewed by a second political reporter in each state, who either affirmed or questioned the initial response. If a response was questioned, then both respondents had to provide justification for their opinion. All final responses required at least two independent sources of verification, such as statutes, journal articles, or other corroboration. While the survey's goal was to rank the states based on their risk of corruption, 26 of the survey's 330 questions asked about the existence and independence of state ethics commissions. Additionally, because it was a survey of political reporters, the survey population could be expected to closely observe the political activities in their states and, as such, findings should be more accurate than surveys of average citizens.

The survey addressed 14 categories, including one that specifically addressed ethics enforcement agencies in the state. The questions in this category focused on the existence of merit appointments on commissions, auditing of commissioner financial disclosures, and such. Respondents were asked if they agreed with a statement (Table 3.1) addressing commissions' freedom from political influence:

In practice, members of the agency or set of agencies tasked with enforcing state ethics rules are protected from political interference.

Table 3.1 Dependent Variable – Commissions are free from political interference.

	In practice, members of the agency or set of agencies tasked with enforcing state ethics rules are protected from political interference.
Strongly Agree	8
Agree	16
Neither Agree nor Disagree	10
Disagree	4
Strongly Disagree	3

Note: Sum is 41 because 9 states do not have ethics commissions.

Hypotheses

To examine the statement above, five hypotheses were tested.

Financial Capacity: As a commission's financial capacity increases the commission's perceived freedom from political interference will also increase.

A commission's budget is related to the number of activities with which it is tasked. Commissions with higher task-to-budget ratios should show lower levels of effectiveness. Simply measuring the number of activities with which a commission is tasked is not sufficient, however, because in addition to specific activities, commissions are empowered differently. Some have jurisdiction over the legislature and its staff, some over the executive and its staff, some over both, and some over all aspects of state government. The National Conference of State Legislature (2014) collects data on ethics commission activities, including the number of activities in each state. In their datasets, ethics commissions can engage in up to seven activities: developing forms, developing manuals,

reporting, subpoenaing witnesses, issuing advisory opinions, conducting ethics training and developing annual reports (Table 3.2).

Table 3.2 Responsibilities of ethics commissions

Activity	Develop Forms	Develop Manuals	Reporting	Subpoena Powers	Advisory Opinions	Conduct Training	Yearly Report
n	44	40	39	49	45	42	32

Source: National Council of State Legislatures: <http://www.ncsl.org/research/ethics/50-state-chart-state-ethics-commissions-powers-a.asp1>

Capacity of Commission Staff: Commissions with larger staff relative to the number of issues addressed will be perceived as subject to less political interference.

There are not reliable data on the types of individuals who serve on commissions (e.g., lawyers versus educators, etc.), but there is reliable information on the number of staff members and the number of activities for which a commission staff is responsible (Table 2), providing a measure of staffing capacity, i.e., the number of staff per issue handled by the commission. As discussed above, if elected officials increase the workload of a commission without providing increased budget for staffing, the capacity of a commission to accomplish each task is diminished. Therefore, a reduced staff-to-activity ratio should be associated with decreases in perceived effectiveness. In addition, as stated above, differences in staffing levels relative to budget likely also reflect different priorities. However, merely having a large staff does not guarantee the effectiveness of a commission. For example, though lawyers' salaries are larger

than those of educators, they may be more qualified to conduct investigations with legal ramifications.

Structural Independence: As elected officials' power to appoint commissioners becomes more dispersed, the perception of freedom from political interference will increase.

Independence of personnel

As mentioned above, there can be multiple individuals involved in appointing commissioners and multiple layers of confirmation required. Additionally, the legislature will naturally have less centralized authority than the governor because making appointments from the legislature necessarily involves more individuals with appointment authority. For example, in South Carolina the governor appoints all commissioners without any checks. In Colorado, however, there are five members: one each appointed by the governor, the president pro tempore of the senate, the speaker of the house, and the chief justice of the state supreme court; those four members select the fifth.

For this study, a variable was created to measure political control: the percentage appointed by a given political body divided by the number of checks on an appointment.

$$\frac{n \text{ appointed}_{branch} / N \text{ appointees}}{\text{checks per appointment}} = \text{Authority Score}$$

In the case of Colorado, the calculation for the legislature (senate and house) would be:

$$\frac{2/5}{1} = \frac{0.4}{1} = 0.4$$

In Colorado, there are no external checks on an appointee, such as senate confirmation or requirements of prior experience. In Wisconsin, however, there are six ethics commissioners. All must be former judges (check 1), must be nominated by the governor (check 2), and must be approved by both the assembly (check 3) and the senate (check 4). The measure for the governor's authority would be:

$$\frac{6/6}{4} = \frac{1}{4} = 0.25$$

Thus, the lower the score the less influence any single individual has over the appointment of a commissioner. This calculation method is preferable to simply using the percentage appointed by, "the legislature" or "the governor," because it captures the degree to which those appointments are the result of greater power in the hands of a single individual.

Finally, recall that not all commissions have oversight over all elected branches. Some have oversight over the legislature, some over the governor, and some over both. Rosenson (2003); Mackenzie (2002), Smith (2003) and others

have shown that the legislature is more willing to use their appointment authority to impose checks on the potential ethical abuses of the governor than their own. Similarly, it is unlikely that a governor who is overseen by the commission but has high appointment authority would appoint adversarial individuals.

However, the same may be true of the legislature. In fact, some have made the case that commissions may be largely symbolic (Smith 2003), partly because legislators are able to empower ethics commissions that only oversee the governor and not the legislature, and the public is none the wiser. All the public is likely to see is that there is an ethics commission, and they assume that the commission *must* be making sure that politicians are acting with integrity.

Removal Authority: Unilateral removal authority will be associated with a decrease in the perception of freedom from political interference.

There are other means of political influence that may be exerted directly on commissioners; chief amongst these is removal authority. Appointment power is one tool, but the power to remove is also a potent weapon (see Kingdon 1995; Lewis 2008). To capture this, the model ranked states based on how much control over the removal process was held by a single person, ranking from most restrictive to least restrictive: 0 = a commissioner could not be removed; 1 = he or she could be removed only through a formal procedure; 2 = he or she could

be removed for cause, but cause was not defined; and 3 = he or she could be removed without cause. If an appointee could be removed, but only with concurrence of another body, the action was coded as a 2, because removal required a formal procedure. For example, in Colorado, where an appointee can be removed but only with the concurrence of the senate, the value would be 2. In South Carolina, however, where the governor has unilateral control over appointment and removal, the action would be coded as a 3.

Independence of Budget: Commissions that control their own budgets will be subject to less political interference than commissions whose budgets flow through those of elected branches.

To capture the independence of a commission's budget, the survey asked whether the commission controlled its own budget (1 = yes; 0 = no). Responses were coded based on each state's 2011 budget (the year of the survey), and a text search was done for both the ethics commission and the empowering statute of the ethics commission.ⁱⁱ If there was no mention of the commission in the state budget, budget independence was coded as 0.

Economic Interests

When Rosenson (2003) looked at how ethics commissions were created, her main hypothesis was that legislators with higher salaries would be less likely to vote for the creation of commissions, since commissions could threaten their

economic self-interest. However, there are economic interests that are not accounted for simply by measuring official salaries of elected officials. They may have assets in regulated industries, own large areas of land around areas that a state may wish to buy, or be independently wealthy. Of course, access to true economic interests presumes strong asset disclosure regulations—something that many legislatures have been loath to provide, preferring to regulate *quid-pro-quo* relationships (Tolchin and Tolchin 2001; Rosenson 2006).

Rather than examining only the compensation from salaries (Rosenson 2003; 2006; 2009), for the current study, the ratio of legislative salaries to the average salary in each state was calculated. From these averages, it could be determined whether an individual legislator was incurring a cost by serving in the state legislature. A similar measure was used to examine corruption risks in national legislatures (Casselli and Morelli 2004). That study showed that poorer citizens who ran for office had more incentive to behave honestly in office because they could reap more rewards from staying in office. According to Casselli and Morelli (2004) this was because their salaries in office were higher than their alternatives in the private sector.

In states with low legislative salaries relative to the average salary in the state, it is likely that the people in office would have incomes that were

significantly higher than the average salary in their state and would have greater financial resources. Therefore the economic consequences of bad behavior are not as great as for individuals in states with higher legislative salaries since they could more easily absorb the costs of any fines than could the average citizen, though there might be political costs. Nevertheless, given Rosenson's (2003) findings about economic incentives it is necessary to control for financial stakes on a commission.

Socio-Economic Variables

Socio-economic variables have been shown to affect both the creation and use of ethics commissions. The current study examined existing ethics commissions and measured average taxable income per citizen in each state. Rosenson (2003) found that wealthier states were more likely to establish ethics commissions because ethics commissions cost tax dollars, and additional tax revenues allow wealthier states to create commissions. Other studies (Menzel 1996; Menzel 2005; Meier and Holbrooke 1992) found that wealthier individuals tend to file more ethics complaints. Additionally, income and educational attainment are highly correlated (Glaeser and Saks 2006). Therefore, by controlling for income, the model also controlled for other socio-economic conditions that are associated with being better educated. For example, better

educated people tend to be more politically active. Given findings about income and ethics commissions (Rosenson 2003; Menzel 1996; Menzel 2005; Meier and Holbrooke 1992), higher levels of income may be associated with higher perceived effectiveness of ethics commissions.

Finally, to account for political differences between states, the study measured the percentage of each state's population that self-identified as Democrat or Strong Democrat. Though reporters' opinions are likely more informed than the average citizen's, theirs are still opinions that rely on selling newspapers to readers with political beliefs that are common within each state, and their responses may have been colored somewhat by those political attitudes. We know that partisanship influences thinking about ethics, given findings that Republicans and Democrats have different ideas about what constitutes corruption (Redlawsk and McCann 2005). Though both parties agreed that corruption constituted criminal behavior, they were diametrically opposed over whether favoritism constituted corruption.

Model Specification

A partial proportional odds model (see Appendix A for a discussion of this type of model) was used to test these hypotheses because of the use of categorical dependent variables. Table 1 shows clustering of the responses

around Agree, and Neither Agree nor Disagree, implying that the parallel slopes assumption needed for an ordered logit or ordered probit has been violated. An ordered probit was run to test this, and the Brant test for proportional odds was significant (chi-square = 231.99), indicating that the parallel slopes assumption was violated and any coefficients would be biased. Using a partial proportional odds model loosens the assumption of parallel slopes and therefore seems to make more sense than using an ordered probit or ordered logit. Additionally, given the small number of observations, 1,000 bootstrapped resamples were used to estimate the model.

The model specification was tested using a likelihood ratio test between the model and a null model, as well as between the model and a larger model, using variables that have been previously shown as predictors of corruption convictions: educational attainment and religiosity (Glaeser and Saks 2006), proximity of population centers to state capitals (Campante and Do 2013), and percentage of the state employed in the public sector (Meier and Holbrooke 1992). The current model performed better than either the null or the more saturated model.

Also note that the partial proportional odds model has certain characteristics that make it preferable to the multinomial logit model— which

also loosens the proportional odds assumption. Chief among these is that the partial proportional odds model allows for the coefficients to be the same or different for each category, something that cannot be done in other models such as a multinomial logit. This is because the multinomial logit frees all variables, when in fact the parallel lines assumption may only be violated by a few of the variables (see Appendix A for a description).

Robustness Checks

As a check of robustness, I analyzed my data using three separate models that included variables that are traditionally considered effective predictors of corruption: percentage of population with a college degree or higher (Meier and Holbrooke 1992); proximity of state capitals to population centers (Camapante and Do 2013); and share of population that attends church regularly (Uslaner 2004). A full table of these robustness checks is available in Appendix C.

Additionally, all models included variables to capture competition between the branches; for example, if a governor was monitored by the commission and the majority share of appointment authority was in the legislature. As indicated by the Likelihood Ratio test, the saturated model did not provide a better explanation than the more parsimonious model. However, the interactions for political competition did present some interesting findings (see Table 3.6),

namely that when a governmental branch has control over appointments and is also monitored by a commission, the perception that the commission is free from political interference declines. Note that table 3.3 shows model coefficients while table 3.4 show predicted probabilities and table 3.5 shows a correlation matrix of the variables used as a check for autocorrelation.

Findings and Results

Table 3.3. Commissions are free from political interference

	MODEL 1				MODEL 2				MODEL 3			
	β	boot σ	z	sig	β	boot σ	z	sig	β	boot σ	z	sig
(Intercept):1	0.830	0.563	1.475		4.391	0.681	6.444	***	2.585	0.786	3.287	**
(Intercept):2	-0.119	0.559	-0.213		3.418	0.674	5.068	***	1.598	0.781	2.046	*
(Intercept):3	-1.289	0.559	-2.304	*	2.172	0.668	3.252	**	0.372	0.776	0.479	
(Intercept):4	-2.982	0.565	-5.279	***	0.326	0.664	0.491		-	0.774	-1.949	
Budget per Issue Handles									1.379	0.280	4.931	***
Budget per n Monitored					0.000	0.000	0.736					
Staff per Issue Handled Legislature's					0.000	0.051	-	0.009	0.108	0.053	2.031	*
Appointment Authority Governor's					-3.733	0.409	-	***	-	0.411	-	***
Appointment Authority					-1.631	0.297	-	***	-	0.302	-6.480	***
Removal Power					-0.289	0.053	-	***	-	0.051	-5.015	***
Independence of Budget					0.086	0.183	0.469		0.191	0.182	1.047	
Economic Interests	0.273	0.123	2.222	*	0.298	0.145	2.049	*	0.400	0.132	3.030	**
Average State Income	0.000	0.000	-1.126		0.000	0.000	-	**	0.000	0.000	-3.250	**

% Dem or Strong Dem	3.243	0.846	3.833	**	3.456	1.015	4.071	**	3.062	0.940	3.257	**
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Z Levels: *1.960 (0.05); **2.576 (0.01); ***3.291(0.001)

Residual deviance	135.547	129.769	128.712
AIC	149.547	155.769	154.712
BIC	162.348	179.541	178.484
Log-likelihood	-67.774	-64.885	-64.356
LR test versus Saturated Model			3.382
DF	177	171	171

Model 1: Controls Only; Model 2: Independence of Budget as Budget per # Monitored; Model 3: Independence of Budget as Budget per Issue. Note that Model 3 using Budget per Monitored is the preferred model given the lower AIC and BIC. Note that AIC for Model 1 is smallest, but AIC includes a penalty for additional parameters hence the distinction to be made is between Model 2 and Model 3. Note also that the better fit statistics for Model 1 are the result of the small sample size – see Hurvich (1989) and Hu (2007). Model 3 indicates that Budget per Issue is significant and in the expected direction H1; Staffing capacity is significant and in the expected direction of H2; Independence of Appointees is significant, and in the expected direction of H3; Removal power is significant and in the expected direction of H4; and Independence of Budget (H5) is rejected. Standard errors are based on an N=1000 resampling. The Cook-Weisberg test for heteroskedasticity was not significant at p<0.05. See table 3.5 for check of autocorrelation.

Table 3.4. Predicted Probabilities | a 1 standard deviation change in x_i

	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Budget per Issue	0.058	0.084	0.219	0.426	0.213
Staff per Issue Handled	0.095	0.114	0.234	0.374	0.183
Legislature's Appointment Authority	0.366	0.242	0.247	0.132	0.013
Governor's Appointment Authority	0.216	0.208	0.305	0.231	0.04
Removal Power	0.082	0.108	0.261	0.402	0.147
Legislature's Economic Interests	0.056	0.077	0.213	0.436	0.218
Average Taxable Income	0.039	0.056	0.169	0.437	0.299
% Dem or Strong Dem	0.142	0.164	0.306	0.313	0.075
Predicted Probabilities	0.091	0.107	0.225	0.376	0.201
Actual Distribution of Data	0.087	0.109	0.239	0.369	0.196

I use the predicted probabilities given a one standard deviation change in x_i to interpret the results of my model. Given that I am using ordinal responses this seems more appropriate than marginal effects. Additionally other approaches such as odds ratios can be difficult to interpret and are often misleading (see Davies 1998). I use a one SD change instead of min and max because the max and min of the variables for appointment authority range from 0 to 1 for the Governor and 0 to 0.6 for the Legislature. These can be interpreted relative to the normal predicted probabilities for the model at the bottom of the table. Note that the model closely predicts the actual distribution of responses.

Table 3.5. Correlation of Independent and Control Variables

	x	1	2	3	4	5	6	7	8	9
1	Legislature's Appointment Authority	1								
2	Governor's Appointment Authority	-0.259	1							
3	Budget per Issue	0.151	0.164	1						
4	Removal Power	-0.055	-0.213	-0.075	1					
5	Independence of Budget	-0.142	0.229	-0.229	-0.181	1				
6	Staff per Issue Handled	0.010	0.136	-0.078	0.091	0.308	1			
7	Average Taxable Income	-0.102	-0.065	-0.144	-0.348	-0.150	-0.127	1		
8	% Dem or Strong Dem	-0.094	0.077	0.166	-0.030	-0.012	-0.262	0.260	1	
9	Legislature's Economic Interests	-0.029	0.056	-0.192	0.043	0.062	0.246	-0.053	-0.078	1

Note that no item shows a strong correlation with any other item thus indicating that autocorrelation should not be an issue with these variables

Robustness Checks

Table 3.6. Interactions between Oversight and Appointment Authority

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
Legislature is overseen as Legislative Authority Increases	0.065	0.162	0.324	0.364	0.084
Legislature is overseen as Gubernatorial Authority Increases	0.028	0.081	0.223	0.479	0.182
Differences between oversight of Legislature	0.037	0.081	0.101	-0.115	-0.098
Governor is overseen as Gubernatorial Authority Increases	0.227	0.326	0.285	0.141	0.021
Governor is overseen as Legislative Authority Increases	0.108	0.231	0.343	0.267	0.049
Differences between oversight of Governor	0.119	0.095	-0.058	-0.126	-0.028

Note. Differences are the difference between the perceived freedom from political interference under different conditions for who has the most centralized appointment authority. For coefficients from this model see Appendix C.

See Appendix C for a full check of robustness of my model. As a check of robustness I also ran models which included variables that are traditionally considered effective predictors of corruption: % of population with a college degree of higher (Meier and Holbrooke 1992); proximity of state capitals to population centers (Camapante and Do 2013); and share of population that attends church regularly (Uslaner 2004). Additionally I included variables to capture competition between the branches, for example if the Governor is monitored by the commission and the majority share of appointment authority is

in the Legislature. As indicated by the Likelihood Ratio test for this saturated model, it does not provide a better explanation than the more parsimonious model. However the interactions for political competition do present some interesting findings as seen in table 6, namely that when a branch has more control over appointments and is also monitored by the commission, the perception that the commission is free from political interferences declines.

General Findings

The results of my model reflect the fact that current conceptualizations of autonomy are not sufficient for explaining autonomy on ethics commissions. More broadly this may point to a need to provide additional nuance to discussions of autonomy based upon an agency's proximity to political actors. Specifically the ability of elected officials to control the financial and personnel capacity of commissions is determinant of a commission's autonomy, although the ability to control the structural independence of the commission appears to be the strongest determinant – see table 3.3.

Given that those making ethics policy are also subject to ethics policy, the ability to control the capacity of ethics commissions to act and the independence of the commission would seem to be a means elected officials would employ to control the ability and/or desire of a commission to take action. My findings support this notion. In this way, my findings indicate the primacy of politics in a

specific relationship between elected officials and the bureaucracy. Although this study is confined to ethics commissions, I believe similar findings would hold for other agencies with the capacity to directly affect elected officials.

Findings for Financial Capacity

Increases in financial capacity and increases in staffing capacity are both associated with increases in the probability of respondents agreeing that ethics commissions are free from political interference. Financial capacity shows a stronger effect though. Increases in a commission's financial capacity are associated with increases in perceived freedom from political interference. This is important for two reasons. First, it is in keeping with Smith's (2003ab) claims that commissions may be forced to engage in educational and training activities at the expense of other, more exploratory, activities. My model provides empirical evidence that this is indeed the case. Additionally, since the budgets for commissions are approved by the legislature, this may be a way the legislature keeps the commission "under thumb" so to speak. The legislature can task a commission with a large number of items but not provide a budget sufficient to accomplish all of the administrative and high road responsibilities and still have a sufficient amount left over for investigations.

If the above is the case then it may call into question the legitimacy of a commission's findings. It may be the case that more unethical activity is going

on that the public is aware of and it only comes to light when the commission has resources to investigate. Given these limited resources, and in light recent evidence from New York and California, serious (criminal) unethical behavior is more likely to be discovered in federal investigations. If the legislature can ostensibly influence commissions through the budget then the kinds of investigations that a commission chooses to conduct will be either glaringly obvious violations where a conviction is almost a certainty, or it will be targeted against those least able to fight back. This may explain Smith's (2003a) observation that most ethics investigations target low-level functionaries instead of senior executive staff – they are easier targets and lack the resources to mount a vigorous defense.

Findings for Staffing Capacity

My model also shows that as amount of staff per issue increases, the commission's perceived freedom from political interference increases as well. This is expected given the previous literature on bureaucratic autonomy, i.e. the ability of bureaucrats to act autonomously increases as they have more capacity to address issues. Additionally, Fukuyama (2009) has shown that elected officials often pass multiple, and often confounding, mandates in an effort to steer the bureaucracy. The fact that this variable is significant as an indicator for freedom from political interference is interesting though. This is because it

indicates that these respondents view workload as a means of exerting political influence.

This view is bulwarked by the fact that staff per issue was not significant in MODEL 2 which used budget per member as the functional form for measuring financial capacity; however it was significant in MODEL 3 which used budget per issue as the measure of financial capacity. One may be quick to assume that because both the measure for staffing capacity and financial capacity use the number of issues as the denominator then they must be correlated –a robustness check using only workload as a variable without budget or staffing did not perform any better or change the model’s coefficients. I would argue then that because these are both measures weighted by the number of issues that they serve as a strong indication that elected officials use workload as a means of affecting budgets and controlling financial capacity. Staffing decisions are obviously related to budget, though not directly so, but they are also a function of the goals of an organization’s leaders. Knowing this, staffing per issue likely becomes significant in the presence of budget per issue because they are both related to elected official’s ability to control commissions. Financial capacity as measured by budget per issue is directly related to the decisions of elected officials. Staffing capacity on the other hand is indirectly related to the decisions

of elected officials by way of the goals espoused by those who they appoint to a commission's leadership.

Increasing workloads serves as an *ex ante* means of political influence similar to other procedures detailed by others such as Cox and McCubbins (1987). Although this variable was significant, the changes as staff per issue increase closely tracks to the predicted probabilities of the model generally, i.e. there is not a large change in predictions when allowing staff per issue a one standard deviation increase with all else constant. A likely reason for this is that staffing decisions are decisions by the commission and may reflect attitudes of those who are appointed by elected officials. Therefore one could consider workload to be an attitudinal trait of the commission's leadership.

Findings on Structural Independence

Weaker removal authority and increased independence of personnel both increase the probability of respondents agreeing that commissions are free from political interference. The strongest effect of any variable comes from the measure for independence of personnel, particularly Increases in legislative control over appointments. As the appointment authority of elected officials increases the model closely predicts the distributions that are seen in the data. Once interaction effects, i.e. competition between the branches is accounted for,

then the results show that political influence is dependent upon which branch is monitored and which branch has appointment authority. When the commission has oversight over the legislature but the legislature has a high degree of appointment authority, the likelihood of a respondent agreeing or strongly agreeing that the commission is free from political interference is lower than when the governor has more appointment authority – see table 3.6. Just as important, it is more likely that respondents will strongly disagree or disagree that the commission is free from political influence when the monitored branch also has more centralized appointment authority. Note though that the effect is stronger for the governor than the legislature.

From the above, several findings are available. First the respondents recognize the conflict of interest when the branch that is overseen by the commission also has the bulk of appointment authority over the commission. This seems like an obvious point, but it is one that is not readily considered by the public. Additionally, given that the design of commissions is a conscious process; this supports a claim that when commissions were created elected officials understood that they could become a threat and so sought means of maintaining control over them. This goes beyond Rosenson's (2003) findings that when elected official's economic influence is not threatened they are more likely to empower ethics commissions. It shows that it is not just that

commissions are formed when they are not threatening, but that elected officials actively sought to keep them from becoming a threat.

Next, in looking at the gubernatorial oversight, it is quite clear that the governor's unitary influence has more impact than the legislature's more diffuse influence. Additionally, the perceived freedom from political influence is lower in general when the governor is overseen versus when the legislature is overseen. It may very well be the case that the governor as a unitary figure can exert more influence over the commission than the legislature as a whole.

However, another potential explanation for this comes from theories from Niemi, Stanley and Vogel (1995) and Hale (2013). The governor tends to be seen as the locus of control in state politics and in general tends to receive more credit and more blame than he/she is really entitled. In other words, the governor's position as the figure head and most visible individual in state politics means that respondents may believe that he/she has more influence over the commission than he/she really does.

Finally, as it becomes more difficult to remove a commissioner, perceived freedom from political interference increases. This indicates that elected officials use removal, or the threat of removal, as a means of influencing commissioners. This is in keeping with previous findings for political control over the bureaucracy, i.e. the ability to appoint is important for getting likeminded people

in place, but the threat of removal is necessary to keep them in line with one's way of thinking (see Kingdon 1995; Lewis 2008).

Discussion

Practical Takeaways

From the study findings, it is possible to compare a commission that is free from political influence to one that is not free. This comparison should provide a structural example to those who seek to reform or establish such institutions. The ethics commission in Wisconsin was perceived by both the respondent and reviewer from that state to be largely free from political influence. In Wisconsin, the governor has only weak appointment authority, and the legislature has none. There are merit requirements for those who can serve as commissioner, since they all must be former elected judges (National Conference of State Legislatures 2014). Additionally, no commissioner may have partisan affiliations or be an officer or employee of any state or local organizations associated with political activity. Though all six commissioners are selected by the governor, they must be approved by the house and senate (National Conference of State Legislatures 2014).

These requirements indicate the high value placed on the independence of Wisconsin's ethics commission. Additionally, the fact that commissioners must

be former elected judges shows concern for the quality and experience of the individuals serving as commissioners. Because of strong merit requirements and the fact that no single individual can be appointed because of a political favor, the perception of freedom from partisan interference is very high (Table 4).

If we compare Wisconsin's commission to one perceived as not free from political interference, such as Delaware's, the differences in institutional design are stark. Delaware has loose restrictions concerning who may serve on the commission, more a nod to independence than anything more robust. In Delaware, the only political restrictions are that an appointee not be an elected official or a candidate for public office. However, there are no restrictions against having previously been an elected official (29 Del. Laws ch. 58.1 § 5808, available at <http://delcode.delaware.gov/title29/c058/sc01/index.shtml>). All seven members are appointed by the governor and require senate confirmation.

In Delaware, unlike in Wisconsin, there are no set standards of competence, only standards describing who may not serve, and loose ones at that. Both the Delaware respondent and reviewer disagreed that appointments to the Delaware commission were made on the basis of merit. Additionally, they both disagreed that the commission was free from political influence.

A key external factor in designing or reforming ethics commissions is ensuring that there are standards of competence that would be difficult for an elected official to manipulate. For example, states could require that credentials be validated from an external source, such as the state bar association or state supreme court, for judges serving as commissioners. Negative standards, such as requiring that a commissioner not be an elected official, may provide a guise of independence but do not appear to be very effective in preventing political interference. Spreading the responsibility for appointment among different branches of state government and prohibiting confirmation without external validation of merit may decrease the ability of elected officials to influence the commission.

Future Research

Ethics commissions should be assessed from a functional perspective rather than a symbolic perspective. For example, the fines that ethics commissions are able to levy are relatively weak compared to the consequences of a criminal prosecution. However, it should be acknowledged that commissions also do serve a symbolic function, in that they point to an ideal of accountability and a standard of what communities will and will not tolerate. Both the functional and the symbolic aspects of commissions are important, and

they are not mutually exclusive. However, meeting the functional requirements of an ethics commission must go beyond minimal standards, or it will not necessarily satisfy symbolic requirements, for reasons related to the findings of this study.

Chapter Four: The Impacts of Political Control on the Effectiveness of State Ethics Commissions

Introduction

In this manuscript I explore the effects of political influence on the effectiveness of ethics commission monitoring activities. Ethics commissions are in place to ensure that the public's business is done "in daylight" and to ensure that public officials avoid corruption or even the appearance of corruption. For this reason I examine the effectiveness of ethics commissions in terms of how well commissions prevent conflicts of interest amongst elected officials. Prior studies have examined ethics commissions in context of their creation (Rosenson 2003; 2005; 2009) or in terms of their internal functions, e.g. how they go about achieving their missions (see Smith 2003 ab; Lewis and Gilman 2012). Few if any of the existing studies of which I am aware look at the influence of political forces on ethics commission activities. Rather they focus on economic outcomes of corruption, on why/how ethics commissions come to be, or on the day-to-day functioning of commissions from a public management perspective. I consider that a commission's performance is influenced by both internal and external

factors. My findings indicate that although Governors and state legislatures seek to influence ethics commissions through political means, the goals of their influence are very different.

The key external control with which I am concerned is formal political influence, i.e. how influence over a commission manifests itself through the capacity of elected officials to appoint members of a commission. As such I confine my measures to the effectiveness of monitoring of the legislative and executive branches since they have the great authority over appointing commissioners. Specifically I examine the executive's and legislature's ability to appoint commissioners and the ease with which they may remove commissioners.

The ability to appoint or remove is not the only thing that influences commissions though. Among the other factors that influence commissions is institutional capacity – confined here to the capacity of commissions to utilize financial resources and the capacity of staffs to achieve goals. Krause and Woods (2012) argue that we should take institutional capacity seriously, but they also claim that one must be specific as to the type of relationships we are talking about. For example, theories about Congress and the federal bureaucracy do not necessarily translate to useful theories about state legislatures and state bureaucracies and so my result should be taken to apply specifically to state

governments. Given the dearth of empirical studies of legislative-executive relations at the state level in recent years, my study contributes both to the study of ethics commissions, and to a smaller degree, to the study of legislative-executive relationships at the state level.

This manuscript proceeds with a discussion of ethics commissions and their activities, and is followed by a more in depth description of my theory. I then describe the variables used in this manuscript and specify a model for testing the alternative theories. This is followed by findings, conclusions and discussion.

Performance in Context

Influence and Performance

Page (2006) presents a model that envisions organizational performance as a web in which political and bureaucratic actors utilize different tools to affect the performance of an organization. In his model, legislators influence performance through supervision, oversight, and voice. Influence via supervision and oversight is persistent in the organizational performance literature dating back to at least Gilbert (1954) and up through Michener (2014). Page's model does not directly consider executive influence, primarily because his concerns are agency relationships with congress and with other agencies. While commissions are public organizations and are subject to many of the same

internal constraints as other organizations, e.g. staff size, budget constraints, etc. because of their unique mission they are also distinct from other traditional public organizations.

Commissions are unique since many believe they are independent because our notion of what they are – symbols of integrity – suggests that they should be so. Commissioners are appointed by political actors though, and also have the responsibility of monitoring political actors. While commissions may be independent in name, the fact that commissioners are appointed by elected officials and have budgets controlled by elected officials (the legislature) seems to bely the notion that they can be truly independent.

Legislative and Executive Political Influence

Political Competition

External political influence can manifest itself in a variety of ways not all of which are mutually exclusive. It is possible that legislatures use their political influence over commissions in an adversarial relationship with the executive branch – and vice versa. It is therefore possible to think of the legislature and executive in competition with each other using the ethics commission as a weapon in this fight. If this is the case then commission activities with regard to the governor should be more effective when the legislature has more control over the commission. One prediction would then be a adversarial relationship with

higher legislative (executive) influence associated with more effective monitoring of the executive (legislature)

Avoidance of Oversight

A second alternative is that elected officials are not necessarily in competition with one another, but utilize their political influence as a way to draw attention away from themselves. This would mean that when there is greater political influence from the legislature then there would less perceived effectiveness of monitoring over the legislature. However this by itself would say nothing about the perceived influence of the governor – and vice versa.

Singular Control

A third alternative is that both of the above scenarios are correct. This process would involve the legislature (executive) drawing attention away from itself but focusing attention on the executive (legislature). This means that elected officials use their influence to avoid scrutiny of their own branch while at the same time directing scrutiny towards the other branch. If this is the case then the level of perceived political influence from a given branch (legislature or executive) should be largely proportional to the perceived effectiveness of monitoring of that branch.

Ethics Commissions

Ethics commissions in the US largely have their origin in the years just following the Watergate scandal (Rosenson 2003). The popular view of ethics commissions is that they reinforce public confidence in both public and political institutions. Specifically, commissions keep political and elected officials honest by shining a bright light on their activities. The argument is that these commissions highlight potential violations of ethics laws; shine a bright light on conflicts of interest, and allow citizens to verify the integrity of officials and their actions. This logic works if the risk of exposure is greater than the reward of the corrupt activity. Of course this ideal is seldom met. In reality ethics commissions tend to follow a compliance checklist of requirements and prohibited behaviors. Even then, disclosures are left unexamined, conflicts of interest are not resolved (or disclosed) and public information may not be available (Lewis & Gilman, 2012).

As examples of the above, the Center for Public Integrity (2012) found that since Tennessee established an ethics commission in 2006 it has yet to investigate a single claim. Also, in 2011 North Carolina State Representative Stephen LaRoque pushed for loosening of billboard regulations despite the fact that the company he owned, LaRoque Management Group, had connections to the

billboard industry⁶. There are structural and budgetary arguments for these failings. While structure shapes the formal powers of elected officials over ethics commissions, this formal power in turn shapes the effectiveness of the commissions and their exercising of oversight power.

Ethics commissions and their powers are path dependent. Subsequently these commissions tend to take on similar institutional structures and rules. They have similar powers because the public has similar expectations about what constitutes ethical behavior but not well formed expectations – they are mostly symbolic relating to quid-pro-quo and the like. Given this, arguments about public expectation only go so far in explaining why commissions take the actions they do, or why some are perceived as more(less) effective than others. The public does not appoint commissioners on an ethics commission; nor do they have any role in determining an ethics commission’s oversight powers. These activities are typically the purview of elected officials who empower ethics commissions through laws, appoint the commissioners, can remove commissioners, and control the commissions’ budgets. This relationship makes elected officials more akin to stakeholders, while the public is typically inattentive, absent some focusing event such as a scandal (Rosenson 2003).

⁶ <http://www.scribd.com/doc/79607815/LMG-Balance-Sheet>

Political Control on Commissions

Ethics commissioners are primarily appointed positions. Even in the cases when a commissioner is not appointed by an elected official they are still selected by people who are appointed by elected officials. For example in Colorado the commission has five members, four of whom are appointed and the fifth that is selected by those four. This is as opposed to South Carolina where the governor appoints nine commissioners, all without a confirmation process.

States display variations in how much appointment authority any branch, or any single actor has in appointing commissioners. This appointment authority is in turn correlated with variation in an ethics commission's autonomy (see chapter3). When the legislature has more control over who sits on the commission there is a stronger perception of political influence over appointments. This is less true when there is greater influence in the executive over who sits on a commission. Relating this to the literature, this is arguably because the executive is seen as the "locus of control" in state government (Niemi, Stanley and Vogel 1995; Hale 2013). As such, the attempts by a single unitary individual, i.e. the governor, to attempt to overtly control who sits on the ethics commission is more easily traced. Since governors do not want to be seen as corrupt they likely do not appoint overtly biased individuals to sit on commissions.

Using data from the 2011 State Integrity Investigation, I previously demonstrated that the greater the level of unitary appointment authority for the legislature, the lower the perception that the commission could act autonomously. Using this same data I extend this work by providing evidence that the level of political control over a commission affects the effectiveness of a commission. Meier and Holbrooke (1992) and Maxwell and Winters (2005) have suggested that the existence of regulations such as campaign finance laws have no effect on levels of corruption. Regulations are not always effective or even meaningful though, however the independence of the body tasked with enforcement may do a great deal to enhance the effectiveness of a regulation.

Ethics commissions are generally tasked with addressing and investigating conflicts of interest and indicators of corruption – failure to register as a lobbyist, failure to file financial disclosures, and so on; but this does not mean that all commissions do this equally well given that they are not equally independent. For example the events leading New York Senate GOP Majority leader Joe Bruno’s indictment were initially uncovered during the federal investigation despite the fact that the state’s legislative ethics commission had requirements that individuals file campaign finance disclosures, and income statements, etc.

Commissions in a Management Context

In this manuscript I claim that commissions as organizations are affected by both internal and external influences. Previous studies in organizational performance have shown that managers in organizations have ample capacity to influence performance (Meier and O'Toole 2001; 2002). Commissioners act in a managerial role on ethics commissions by shaping the patterns of activity on a commission and determining how ethics regulations should be implemented. However commissions are also beholden to political officials; this in turn limits their level of autonomy (see chapter 3). As an aside this likely truer for ethics commissions than other organizations, since a commission has the capacity to harm elected officials through fines, exposure, or just being labelled as corrupt.

In the previous chapter I demonstrated that when it comes to predicting a commission's level of autonomy, appointment authority appears to have a strong effect on political influence over ethics commissions. The findings suggested that there is more perceived political interference and thus less discretion over how to influence ethics policy, when the branch that is being overseen also has more appointment authority over the commission. Here I extend this assertion and test the effects of political influence over effectiveness.

In considering the effects of political influence there are several possible paths for how political influence affects a commission's performance. These paths depend on the motivations of those seeking influence.

Evading Scrutiny

First it is possible that elected officials use their appointment authority to the commission to gain favors or direct attention away from their own activities. Appointees may be friendly to, or easily influenced by, the appointer and will use exercise little oversight over the appointer. This may include pre-clearance of specific activities, a lack of investigations, etc. In any case it should be clear that the effectiveness of a commission's efforts to regulate the executive or the legislature should be related to the political influence that body holds over the commission. This is not a new proposition by itself, but an extension of more general work on the use of appointment authority to control the bureaucracy, e.g. Abney and Lauth (1983), Bowling and Wright (1998), and McCarty (2004).

If this sort of relationship exists then it should manifest itself in how effectively a commission checks a particular branch. That is if the governor has more control over who sits on the commission then the governor has the most appointment authority over the commission and there should be less perceived effectiveness of oversight over the governor's office. The same would be true for

the legislature should the legislature have more appointment authority, and thereby more influence.

Political Competition

We know from Rosenson's (2003; 2005; 2009) works that the legislature is more willing to check the governor than themselves. Additionally, the different branches may see value in going after one another, or may be more prevalent in divided government, i.e. the party in the branch with the most appointment authority may be unified against another branch. For example if the legislature has more influence over a commission then it may see value both in drawing attention away from itself and in directing attention towards the governor. Such relationships have been described as the legislature seeking to use the governor as a symbol and the checking of the governor as a signal that they are serious about combatting corruption (Smith 2011; Rosenson 2009). Furthermore such a relationship is in keeping with the idea of the governor as the "locus of control" in state politics (Niemi, Stanley and Vogel 1995). The actual power of the governor is unimportant in this since governor, as a unitary authority figure, is perceived as having more formal authority than is actually the case.

This type of relationship is about more than using the commission to avoid scrutiny. In this case the commission is used as a tool to go after the other branch. Of course evading scrutiny is not incompatible with an adversarial

relationship. There is nothing about using the commission to go after the other branch that precludes one from directing its attention away from one's own branch – in fact it would seem to be an easier scenario given that commissions have limited resources. From Rosenson's aforementioned work it seems that this is a possibility especially with the legislature. However it is unclear how well the legislature's activities translate into the effectiveness of a commission, or lack thereof, in overseeing a governor. Furthermore it is unclear how, or even if, governors influence commissions as a check on the legislature. On the one hand it is possible that governors would be loath to use their appointment authority to influence the commission towards the legislature. The legislature has more checks over the governor than the governor over the legislature so it may not be worth the risk. Knowing the public's perception of gubernatorial authority though, there may be an incentive for the governor to appear tough on curbing corruption, and so he/she may empower the commission with more means to go after the legislature. Doing this though would likely also provide a means of increasing oversight of his/her own office and so the governor may not wish to take this risk.

Given that commissions have the potential to do harm to elected officials both financially and economically (Rosenson 2003), there is a definite incentive for elected officials to maintain control over commissions. As Rosenson (2003;

2005; 2009) demonstrated, elected officials empower commissions when they perceive that they will not be a threat. It makes sense that these same elected officials would want to ensure that the commissions do not become a threat in the future. In the previous chapter I demonstrated that elected officials will use their appointment authority as a means of political influence over a commission; left unanswered is whether this influence matters with regards to a commission's effectiveness.

Witch Hunts

There is one final possibility that is most likely the case in the legislature. It is possible that, in the legislature specifically, legislators are self-interested and use the commission as a tool against political rivals. Under this relationship members of the legislature go after other members of the legislature. This creates a collective action problem where individual legislators are acting based on their own interests. In this case the commission goes after other legislators; this in turn prevents the legislature from using its influence to direct attention away from itself. Therefore one would not expect the legislature to act as a unitary branch, but rather to act as individuals within a branch.

Support for this position comes from the literature on legislative delegation at the state level, e.g. McGrath (2012); Krause and Woods (2012); Arai (2012); and Krause (2013). Arguments within this literature require that the

bureaucracy be able to perceive the preferences of the legislature in order to be responsive to legislative influence. Because there is not normally a single appointment from “the legislature” considering legislative influence as a single unitary form of influence does not really make sense. Arguing such would assume there is a single voice within the legislature to appoint commissioners, speak for the legislature as a whole, and so on. The reason for this is that while “the legislature” as a body may desire to avoid oversight, individual legislators may seek to expose rivals – e.g. it reveals the ambiguity of legislative control since there are different motivations within the legislature.

Hypotheses

From the above I propose four separate hypotheses to test the theories of a scrutiny evasion relationship, an inter-branch adversarial relationship (while noting that the two are theoretically not mutually exclusive), a relationship categorized by using the commission as tools against political rivals:

Evading Scrutiny: As a branch’s appointment authority over the ethics commission increases, the perceived effectiveness of regulations overseeing that branch decreases.

Under this hypothesis, elected officials seek to influence the commission to benefit themselves but do not use the commission as a tool against another branch. Appointment authority serves primarily as a gatekeeping function to the commission. As a gatekeeping function though it allows elected officials to

screen out individuals who would be outright hostile to them and in turn appoint friendly or easily influenced individuals. Given the above, I expect that as a branch's appointment authority increases the perceived effectiveness of a commission monitoring that branch will decrease.

Inter-branch Adversarial: As a branch's appointment authority as a means increases, the perceived effectiveness of oversight over another branch also increases.

Under this hypothesis elected officials do not seek direct benefits for themselves. Rather the branch with more appointment power over the commission uses the commission as a tool against the other branch. Again the assumed mechanism at work is the gatekeeper function – elected officials appoint commissioners who are friendly and/or easily influenced. However, under this hypothesis the goal of appointing these types of individuals is not to shield one's-self but to deflect attention and redirect it at the "other" branch.

Witch Hunts: As political influence from the legislature increases the perceived effectiveness of regulations overseeing the executive also increases.

Under this hypothesis members of the legislature specifically seek to use the commission as tool against other members of the legislature. Therefore one would expect to see appointment authority positively associated with perceived effectiveness because more activity would be getting exposed. Bear in mind this is premised on the notion that effectiveness is equated with exposure rather than on preventing ethical lapses.

Resource Dependence: As the capacity of a commission increases, the perceived effectiveness of the commission will increase as well.

Given that appointment authority serves primarily a gatekeeping function, it is possible for commissioners to be appointed and then “go native.” Their ability to do this though is dependent upon the resources available to them. Therefore, a commission’s capacity (both financial and staffing) will likely be a determinant of the commission’s effectiveness.

Research Design

Data & Methods

In this section I describe the data used in my models. I begin with the dependent variables. These were already described to a degree in the introduction but I provide a review here – see table 4.1 for the values of the dependent variables. The data come from the 2011 State Integrity Investigation. This survey used 330 questions compiled into 14 categories and 60 subcategories. Of the 14 categories, one dealt specifically with the legislature and one dealt specifically with the executive. A subcategory within both the Legislative and Executive category addressed the effectiveness of regulations over conflicts of interest in each branch – which are a key function of ethics commissions. One subcategory addressed the existence of these regulations, e.g. “Are there regulations governing conflicts of interest by the executive branch (defined here

as governors and/or cabinet-level officials)? While another addressed the effectiveness of these regulations, e.g. "Are regulations governing conflicts of interest by members of the state legislature effective?" For a list of the questions comprised in each response see Appendix B.

Both of these categories were created by averaging the ordinal responses of 6 individual questions. To address the issue of averaging up ordinal responses, my initial approach was to conduct a polychoric factor analysis on each category. However the Very Simple Structures criterion indicated severe overfactoring, i.e. 7 factors from 12 questions. Because of this I resort to using an aggregate index which is simply the average of the responses from each question. In practice this is just the subcategory score from the surveyⁱⁱⁱ. Grice (2001) and DiSteffano, Zhu and Mindrilla (2009) both suggest this approach when overfactoring is present. Also, both note that while this approach is not ideal, it is fairly standard practice for studies involving factor analysis. For list of the aggregate index scores for each state see table 4.1. One immediately notices that the scores for the executive are on average higher. This is consistent with Rosenson's (2003) previous findings that elected officials are more likely to empower commissions when they perceive that they will not be a threat to them. What is at issue is whether there is a systematic difference between the two branches based upon political influence over the commission. Specifically, do

the executive and legislative branches use the same method of influence over an ethics commission but for different ends? The prior constraint implied here is that ethics commissions have many masters with diffuse influence from the legislature, but a unitary master in the governor. Both sets of masters seek to influence the commission, but to what end? Are the ends different for the legislature than the executive?

Table 4.1. Dependent Variables for Models

State	Variables	
	Executive oversight is effective.	Legislative oversight is effective
Alabama	65.000	41.667
Alaska Gov	50.000	
Alaska Leg		16.667
Arkansas	55.000	33.333
California	60.000	33.333
Colorado	70.000	33.333
Connecticut	75.000	41.667
Delaware	75.000	8.333
Florida	55.000	29.167
Georgia	25.000	8.333
Hawaii	65.000	33.333
Illinois Gov	55.000	
Illinois Leg		25.000
Indiana	45.000	25.000
Iowa	65.000	41.667
Kansas	45.000	37.500
Kentucky Gov	60.000	
Kentucky Leg		29.167
Louisiana	60.000	41.667
Maine	35.000	20.833
Maryland	30.000	33.333
Massachusetts	50.000	62.500
Michigan	55.000	45.833
Minnesota	35.000	33.333
Mississippi	25.000	33.333
Missouri	65.000	45.833

State	Variables	
	Executive oversight is effective.	Legislative oversight is effective
Montana	60.000	41.667
Nebraska	45.000	25.000
Nevada	40.000	25.000
New Jersey	90.000	45.833
New York Gov	35.000	
New York Leg		41.667
North Carolina	55.000	16.667
Ohio	40.000	16.667
Oklahoma	40.000	33.333
Oregon	35.000	0.000
Pennsylvania	40.000	16.667
Rhode Island	60.000	25.000
South Carolina	25.000	50.000
Tennessee	60.000	45.833
Texas	10.000	12.500
Utah	70.000	20.833
Washington Gov	60.000	
Washington Leg		62.500
West Virginia	50.000	37.500
Wisconsin	65.000	50.000

Explanatory and Control Variables

Political Influence

My key explanatory variable is a commission's freedom from political interference. To measure this I use a question from the SII, "In practice, members of the agency or set of agencies tasked with enforcing state ethics rules are protected from political interference." This response was rated on a five point ordinal scale from Strongly Disagree (1) to Strongly Agree (5). Recall that this was the dependent variable in the previous chapter and increases in an elected

officials' appointment power was significantly associated with decreases in perceived freedom from political interference.

Using the direct measure will not provide any indication of how appointment authority affects political interference which in turn affects the effectiveness of the commission. This is because the question was general to the commission, not specific to any single branch. To get at branch-specific measures I use the estimated effect of appointment authority on freedom from political interference as my explanatory variable to measure how appointment authority as a means of political influence affects the effectiveness of a commission, i.e.

$P(Y_{1-5})|Appointment\ Authority_{L,E}$. This is the predicted probability of a respondent giving the response that they actually gave given the effect of the variable for appointment authority (all other variables are held at their mean).

There are two reasons for using this approach: (1) I reduce the risk of autocorrelation while preserving the intent of the ordering; and (2) I capture the effects of appointment authority on perceived freedom from political interference. This is ostensibly a two-stage estimation, however a two-stage least squares model cannot be estimated here since the first variable is ordinal and there is not agreement on how to treat the error term produced from a first-stage ordinal model and the second-stage model is not (Borjas and Sueyoshi 1993). In my model I use the first-stage predicted probability for freedom from political

interference given a branch's appointment authority. In the second stage model, the linear regression, I incorporate these predicted individual probabilities as an additional explanatory variable. Langbein (2012) demonstrates this approach as a remedy to problems of selection bias. I term this variable "Political Influence" since it is capturing the effects of Legislature's and Executive's chief means of wielding power over the commissions.

In my model I use a variety of controls. These controls are designed to account for both organizational capacity including staffing capacity and financial capacity. I also control for spatial factors that predict state-level corruption and the interest in politics from state to state.

Internal Constraints

Budgets

Budgets tend to be blunt instruments in trying to elicit policy change (Behn 2003) but a lack of resources may also shape what a commission is capable of doing. Smith (2003a) argues that legislatures use their ability to assign tasks (administrative strategy) and control the budget commissions have to accomplish those tasks, as a means of weakening commission oversight. In the previous chapter I showed that budget and staffing were significant predictors of political influence over a commission. The functional form of those measures was different than what I use here though. To explain political influence I used

measures of financial capacity and staffing capacity that included the proportion of the logged budget going towards a given number of activities, and the proportion of staff per a given number of activities. Because my concern here is not autonomy but the effectiveness of monitoring specific branches I use different functional forms to model this relationship. For budget, I use $\frac{\log \text{Budget}}{n \text{ Monitored}}$ in order to capture the budget per monitored individual – note that this functional form was not shown to be significant in predicting my measure for autonomy^{iv}.

The size of a state is not reflected in the size of its legislature. For example, Georgia has 236 legislators, whereas Minnesota has 201, South Carolina has 170 and New York only has 213. However the size of the commission's budget is tied to the size of the state, hence the log transformation. Without this transformation the data skew more towards more populous states and the mean does not provide good representation of all states.

Staff

Monetary resources are one constraint on a commission's effectiveness, but another is staffing. Although budget and staffing are obviously linked they are not perfect predictors of one another. For example a smaller staff with more lawyers may cost about as much as a larger staff with more educators.

Additionally staff size, like budgets, can be an indicator of how seriously certain

activities are taken (Rhodes 1994). Therefore staff size should be considered as another marker of resources available to commissions. An improved measure would be to count the number of lawyers or regulators versus the number of educators or administrative staff in a commission. However reliable staffing counts were unavailable.

In the previous chapter I treated staff size as a function of the budget as a predictor of autonomy, i.e. the capacity of staff as a function of the budget explained autonomy. Because I use the predicted probability from the first model as an explanatory variable in this model, I use a different functional form of staffing for two reasons. First, to avoid autocorrelation and second, because my dependent variable is about avoiding conflicts of interest, as the ratio of staff to number monitored increases there are likely more chances for conflicts of interest to occur. My measure is, $\frac{Staff\ Size}{n\ Monitored}$.

Commission structure may have an impact on how much an elected official can exert political influence. For example, agencies that are established in statute and have appointed agency heads may have more cover from political influence than commissions that exist as a subsidiary of an elected branch. Commissions are “independent” bodies established under an elected branch – so a commission may have the legal distinction of being a part of the executive or legislative branch. Agencies are established as separate legal entities that can

exercise more independence from legislative or executive control. As such these distinctions may be important in how much influence can manifest itself. To capture these distinctions I use a dichotomous measure based upon whether the body in question is an agency established in statute with a line-item in the state budget, or if it is a commission with a budget that is a flow-through from a political branch (1 if an agency, 0 if a commission).

Regulations Exist

Because I am using a dependent variable which asks about the effectiveness of regulations, I include a control for whether or not regulations exist. Obviously if the regulations do not exist then counting them as being ineffective would bias the results. Because my dependent variable is an aggregate of questions about the effectiveness of regulations, this variable is an aggregate of the questions for the existence of those regulations. It could be the case that a particularly strong commission exposes misdeeds as a matter of practice rather than being empowered by regulations. That is, one commission may only investigate when some compliance or filing standard has not been met; while others may be more proactive in their investigations. In addition to these concerns, Rosenson (2003) showed that the legislature is more likely to pass regulations overseeing the executive than the legislature. After all some commissions are established by the legislature but only have the authority to

regulate the executive while other commissions have the authority to regulate both the executive and the legislature. As such, the measure controlling for the existence of regulations is necessary for comparing the results between the legislature and executive.

State Level Controls

One obvious issue when using surveys that ask about things like conflicts of interest is that the definition of what constitutes a conflict of interest may differ from state-to-state. What is considered a conflict of interest in South Carolina may be considered standard procedure in New Jersey. To account for this difference in views I use state level variables designed to capture some (obviously not all) political and value differences between states.

Controls are drawn from the 2011 update to the 2010 census. I use the 2011 update because the SII was conducted in 2011. These include the percentage identifying as Democrats or Strong Democrats as a control for partisan make-up and a spatial measure for the distance of the state capitol to major population centers.

Partisanship

To measure partisanship I use the percentage identifying as democrats or strong democrats. Redlawsk and McCann (2005) found that Republicans and Democrats have different ideas about what constitutes corruption. Neither party

was significantly different from one another on whether or not corruption constituted criminal behavior. However the parties were diametrically opposed (reversed signs) when it came to whether or not favoritism constituted corruption. Therefore partisan differences may shape what is viewed as a conflict of interest.

Spatial Controls

Finally spatial factors may be associated with different responses, especially since the respondents are reporters. Having more population in closer proximity to centers of government means that there is a larger media market for stories concerning the government (Campante and Do 2013). Therefore respondents in states with more population in greater proximity to state capitals are likely to be more sensitive to conflicts of interest since their share of the market for government stories is larger. Standard spatial indices such as the Herfindhal index only capture concentration over a uniform space as opposed to around multiple points, such as state capitals. To account for this I use a gravity centered spatial index to measure the proximity of state populations to state capitals – see Campante and Do (2013). This variable is a measure of the spatial concentration of populations around state capitols.

Modelling

I model the relationship described above using an OLS regression. The Bruesch-Pagan test showed that multicollinearity was not a problem and the RESET tests indicate that the models are specified. Obviously with 50 states, even with dual verification requirements and two responses per state, a small N is an issue for modeling considerations. To address the small N I rely on a standard 1,000 bootstrapped samples to estimate the standard errors – see Buchinsky (1995) and Manly (2006) for a full description of this approach.

Findings and Discussion

Table 4.2. Predicting the Effectiveness of Regulations Overseeing the Governor

	Model 1: Influence from Governor					Model 2: Influence from Legislature				
	β	σ	boot σ	t	sig	β	σ	boot σ	t	sig
(Intercept)	51.214	19.860	22.635	2.263	**	53.448	19.860	25.081	2.131	*
Governor's Influence	-7.756	10.801	3.86	-1.963	*					
Legislature's Influence						6.506	12.360	4.169	1.561	
Budget per Member	0.000	0.000	0.000	0.100		0.000	0.000	0.000	0.099	
Staff per Member	-3.906	2.534	2.434	-1.605		-4.089	2.534	2.456	-1.665	
Regulations Exist for Governor	0.273	0.133	0.127	2.156	*	0.274	0.133	0.126	2.182	*
Fulltime Commission	11.001	5.123	4.461	2.466	*	10.956	5.123	4.504	2.432	*
% Dem or Strong Dem	-44.492	29.870	36.389	-1.223		-47.700	29.870	40.271	-1.184	
Spatial Factor	-5.552	23.100	27.618	-0.201		-7.029	23.100	28.870	-0.243	

t-levels: *1.960 (0.05); **2.576 (0.01); ***3.291(0.001)

R Sq	0.387	0.373
Adj R Sq	0.274	0.269
F	3.422 on 7 and 38 degrees of freedom, p=.006	3.157 on 7 and 38 degrees of freedom
RESET	0.773, p=0.469	0.444, p=0.645
Breusch-Pagan	4.309, p=0.744	3.443, p=0.841

In both models the effectiveness of monitoring the governor increases with appointment authority. This likely indicates that the governor as a unitary actor cannot exercise his appointment powers to his own ends, but the legislature uses their power to affect the oversight of the governor. Note that t-values are based on bootstrapped standard errors. – see Appendix D for

alternative models and robustness checks.

Table 4.3. Predicting the Effectiveness of Regulations Overseeing the Legislature

	Model 3: Influence from Governor					Model 4: Influence from Legislature				
	β	σ	boot σ	t	sig	β	σ	boot σ	t	sig
(Intercept)	-15.496	17.720	22.187	-0.698		-0.330	17.720	-0.680	0.486	
Governor's Influence	-6.213	5.630	5.724	-1.085						
Legislature's Influence						0.680	3.169	0.089	7.635	***
Budget per Member	0.000	0.000	0.000	-0.790		0.000	0.000	2.735	0.000	
Staff per Member	-1.513	2.426	3.800	-0.398		2.735	2.426	0.701	3.902	***
Regulations Exist for Legislature	-0.054	0.097	0.115	-0.468		0.067	0.097	17.254	0.004	
Fulltime Commission	11.971	4.920	5.001	2.394	*	17.254	4.920	32.289	0.534	
% Dem or Strong Dem	-15.975	28.630	35.980	-0.444		32.289	28.630	16.776	1.925	.
Spatial Factor	-5.022	21.930	24.763	-0.203		16.776	21.930	24.481	0.685	

t-levels: *1.960 (0.05); **2.576 (0.01); ***3.291(0.001)

R Sq	0.319	0.364
Adj R Sq	0.194	0.273
F	2.007 on 7 and 38 degrees of freedom	2.453 on 7 and 38 degrees of freedom
RESET	0.033, p=0.967	0.146, p=0.864
Breusch-Pagan	8.163, p=0.318	10.339, p=0.170

While the governor does not use his/her influence to affect oversight of the legislature, it appears that the legislature uses their authority to their own ends, decreasing the effectiveness of monitoring via their appointment authority. Note that t-values are based on bootstrapped standard errors. See Appendix D for alternative models and robustness checks.

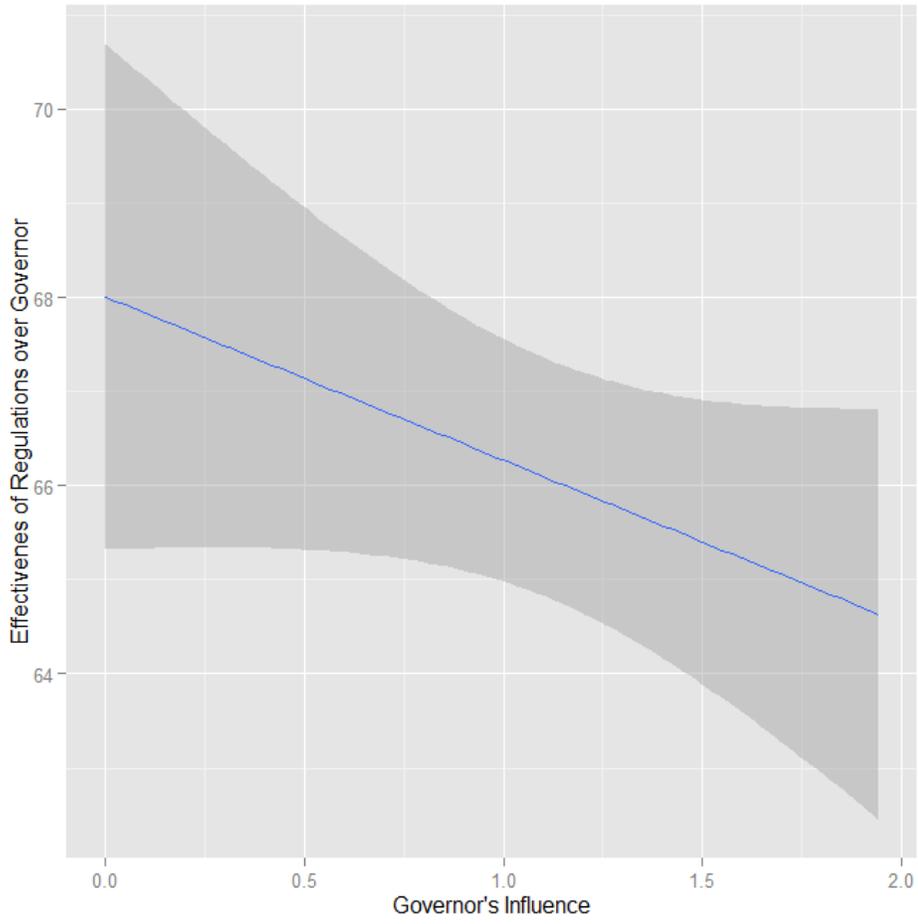


Figure 4.1. Effectiveness of Regulations over Governor | Governor's Influence

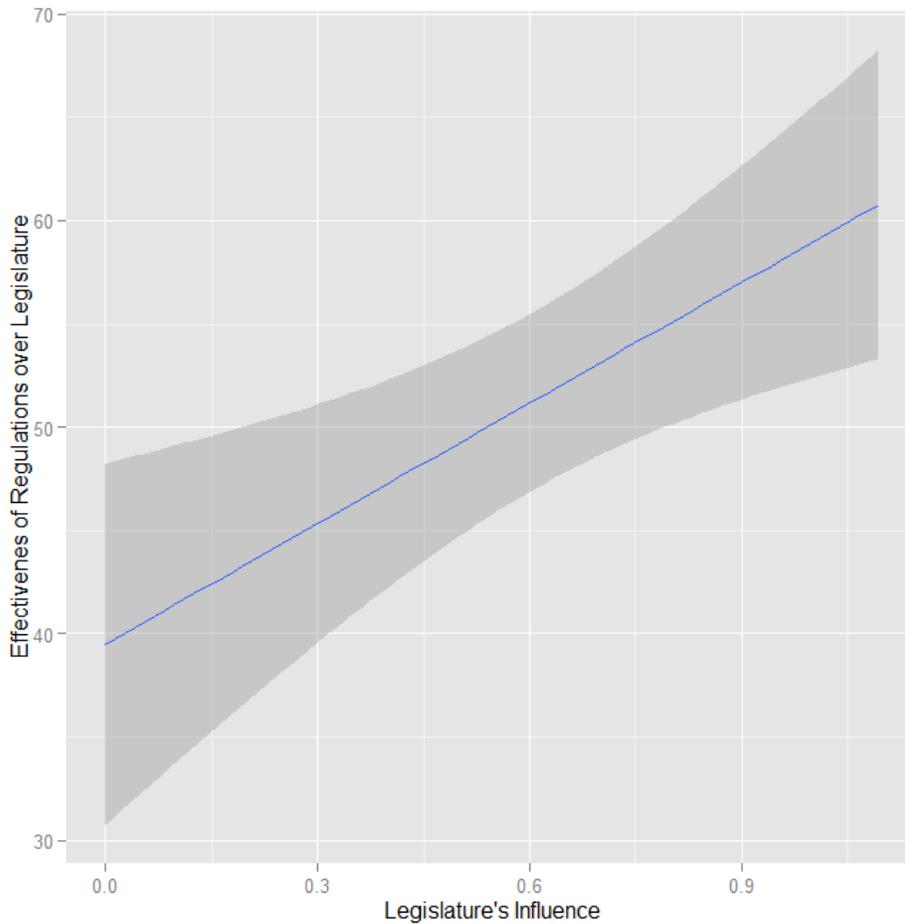


Figure 4.2. Effectiveness of Regulations over Legislature | Legislature’s Influence

Findings for Oversight of the Governor

Table 4.2 shows the results from models testing the effects of political influence on the effectiveness of regulations overseeing the governor. For every one unit increase in the governor’s perceived political influence over the commission, there was 7.576 unit increase in the respondent’s agreement that oversight of executive branch conflicts of interest are effective. Note however that there is no significant effect for the influence of the legislature. This

supports the scrutiny evasion hypothesis; this is partly to be expected though. As Krause and Woods (2012) note the relationship between the legislature and executive, while potentially adversarial, is one where the legislature uses its capacity to affect its preferred position. Of course they also note, when the legislature has other means of achieving their preferred position, they tend to use that method rather than overtly exerting their influence. The legislature may not use their political influence to increase the effectiveness of commission oversight of the executive simply because they do not need to do so. Legislatures have more means of ensuring oversight of the executive than just influencing decisions over the ethics commission. In any case, an overt attempt by a legislator to use their influence over the commission to go after a governor may backfire and be seen as overtly playing politics with a symbol of integrity (Smith 2011).

These findings provide some additional nuance to findings from Rosenson (2003 and 2009). She found that legislators were more likely to pass laws checking the executive than checking themselves. On average respondents perceived the regulations overseeing the executive as more effective than those regulating the legislature. Rosenson's (2003) question was one of the practices of the legislature regarding the types of laws they pass. In contrast, my findings demonstrate that as a governor's influence over the commission increases he/she

will use that influence to weaken the regulations put on him/her by the legislature.

An interesting finding is that having a fulltime commission contributes significantly to the effectiveness of oversight regardless of whether the commission oversees the legislature or executive. This supports the notion that more professional commissions tend to be more insulated than commissions that simply exist as sub-legislative or sub-executive entities. While there is a broad body of literature on the ability of the political branches to influence the bureaucracy, it appears that this influence is likely more prevalent in commissions that exist as subsidiaries of the executive or legislative branch as opposed to those that exist as separate agencies. One potential reason was noted by both Rosenson (2006) and Mackenzie (2002). Ethics policies tend not to reflect the true priorities of policymakers. This is because ethics policy targets the policymakers as opposed to other policies such education policy or insurance policy which target outside entities. Although not tested here, it would make sense that fulltime, professional commissions would be more insulated from ex ante or ex post retaliation than members of commissions that are simply a flow through from political branches.

Findings for Oversight of the Legislature

Looking at table 4.3 one can see that the influence of the legislature is positively associated with the perceived effectiveness of monitoring the legislature. This is consistent with the idea that legislators use the commission not to check the executive but as a tool against political rivals. Although individual legislators as targets were not examined here, the target of monitoring was the legislature. Additionally there is no effect from the governor's influence. This implies that when it comes to the legislature, there is neither an inter-branch adversarial relationship, nor an institutional desire to evade scrutiny – rather it proposes that the desire is to harm opponents as opposed to protecting the institution. The evidence then supports the idea that legislators do not utilize institutional capacity as *the legislature* but act as individual legislators. I should note that the total change in the perceived effectiveness of regulations for the legislature is lower than the total change in the regulations overseeing the executive. This is simply because regulations overseeing the legislature are seen as being less effective in general. It is not the case though that the regulations overseeing the legislature are seen as more effective than those overseeing the executive. As such my findings do not imply that legislative controls engenders more perceived effectiveness, merely that the corresponding change from increases in legislative control is positive.

Evidence supporting the Witch Hunt hypothesis within the legislature is supported by another finding in Model 4. When it comes to the effectiveness of regulations over the legislature, staff size matters. This makes sense though if the legislature is using the commission as a means of going after rivals, e.g. as the proportion of staffing to monitoring increases, then effectiveness should also increase.

Findings for Controls

Lastly, this point about evading scrutiny coupled with discussions of the governor as a figurehead gets back to well-worn arguments about the role of information and citizen's knowledge of politics. Obviously the average citizen is not checking the ethics commission website on a daily basis to see who got fined, where ethics trainings are taking place, or who is under investigation. They rely on the media to break stories of political corruption for them. But that understanding then questions the role and even the value of ethics commissions in all of this. Does this mean then that ethics commissions are only minor actors in exposing political scandals and the real exposure comes from robust media coverage? Given the evidence here I would think the answer is, "No."

My reason for this is that the spatial component was not significant. Campante and Do (2013) previously demonstrated that proximity of population centers to state capitals was positively associated with corruption convictions

because of the increased market for stories on politics. This does not mean though that more media coverage is inherent in more effective commissions. Now it may be that commissions do not need to do as thorough an investigation in a robust media market as they would in a weak media market – they may simply plant the seed with an initial inquiry and let the journalists do the rest. But this would mean that the commission’s effectiveness would be confounded by media coverage which is partly what is seen here. The absence of an effect is obviously difficult to interpret with any significant meaning, but given previous findings around population centers and journalists, I think the connection between media and societal trust in institutions is still an idea that merits further exploration.

Potential Criticisms and Improvements

One point to note, and a potential criticism, is that from the above one could ask whether exposing scandals is akin to effectiveness as opposed to the idea that an effective ethics commission promotes ethical behavior (see e.g. Garafolo and Guerass 2002 and Denhardt 1988). This is a potential criticism of my analysis given that the respondents were journalists who may see more value in exposing misdeeds rather than in ensuring that they do not occur. While reporters as respondents are more informed than the general public, one cannot deny that they may have a perception of effectiveness that is more geared

towards exposure than education. I would note though that if this were strictly the case then variable for the spatial distribution of populations around state capitals should have been significant and positive. As noted in Campante and Do (2013) larger population centers closer to government centers means that the market for news is more geared to stories about politics (Campante and Do 2013; Kenski, Hardy and Jamieson 2010). Although one may think that this makes the reporting of scandals more likely as the population around state capitals increases, Campante and Do (2013) found the opposite to be true. More secluded state capitals tend to be more associated with corruption because, according to Campante and Do, elected officials have less concern that they will be exposed given that the media market is less geared towards politics. Given the lack of effect in my model then, one cannot conclude that reporters' responses are rooted in a desire to sell more stories.

Discussion

What does all of this say about the effects of political influence over ethics commissions and in turn the effectiveness of ethics commissions? First, it appears that governors use their influence over ethics commissions as a means of evading scrutiny. This is supported by the negative relationship between perceived effectiveness overseeing the executive and political influence from the governor's office. I take this to mean that the respondents perceive the governor

to be using his/her influence over the commission. I can make this claim because influence was measured as a function of appointment authority. Additionally, the fact that increases in the governor's removal power are also associated with decreases in perceived effectiveness means that the respondents perceive the governor's ability to remove, or threat to remove as a means through which the governor can control the commission's oversight of his office.

In this manuscript I have examined the correlates of perceived effectiveness of regulations over the governor and over the legislature. My analysis also supplements portions of the state politics literature which examining legislative-executive relations. I find relatively strong evidence that the governor seeks to behave as a principal and treat the commissioners as agents. My findings for the legislature reinforce the idea that legislators delegate authority based upon their own political desires as opposed to the institution's capacity.

The cross-state variation that I use in this manuscript provides good complement to previous works addressing both ethics enforcement (Rosenson 2003; 2005; 2009; Smith 2003 ab; 2011; Lewis and Gilman 2012) as well as to works on legislative-executive interaction (Krause and Woods 2012; McGrath 2012). The small sample size makes identifying the determinants of perceived effectiveness more difficult, nevertheless I do find evidence of political influence

over ethics commission activities. The fact that my findings diverge from expectations about legislative-executive interactions in the bureaucracy supports my initial proposition that ethics commissions are unique as bureaucratic institutions.

My results are largely consistent with the ideas put forth by Rosenson (2003), but extend her ideas into the functioning of commissions rather than just their formation. Low perceptions of effectiveness in the presence of increased political control are a sign of a weak institution. Although perceptions of reporters per se do not provide a direct measure of commission activity, these results do indicate that increased political influence located in a single individual decreases the capacity of the commission to engage the governor as a neutral actor.

These findings also lend credence to the idea that because influence is diffuse in the legislature a principal-agent model is not sufficient. Moreover a rational organizational model does not work either. Even though institutional rationality would dictate that elected officials limit commissions through oversight powers, individual political desires may influence individual legislatures to use the commission against their rivals. Note that this is not tested directly here but is implied by my findings.

Finally, my analysis adds useful insights into how ethics commissions as institutions may be designed to more effectively oversee elected officials. My results reinforce the idea that concentrated political influence is detrimental for effective monitoring. As such one suggestion would be to increase the number of individuals with appointment authority to a commission. Glaeser and Saks (2002) show that politicians should be concerned about corruption because it is detrimental to investment in their states. As such the fact that legislators appear to be behaving in a manner that is not institutionally rational may be a good thing because it appears that corruption gets exposed to a greater degree. However given that perceived effectiveness was generally lower in the legislature it also appears that the respondents realize that legislators are acting as self-interested individuals and not actually seeking out corruption for the sake of ethicality.

Chapter Five: Closing and Next Questions

My goal in this dissertation was to examine if and how political officials influence ethics commissions as institutions. My study has revealed some interesting findings. A key finding suggested by my research is that although the legislative and executive branches both seek to influence ethics commissions by controlling who sits on the commission, they do so with different goals in mind. In addition, my results suggest that questions of staffing capacity and budget capacity are only weakly associated with the perceived effectiveness of commissions at monitoring elected officials' conflicts of interest.

However this study has also raised some additional questions. For example, what are the prospects for reforming commissions to achieve their stated ideals: can structural changes to the institutions have any real impact on the commissions, or are the interests of elected officials so entrenched that substantive reforms are impossible? Finally, what does this say about the value of ethics commissions? Can their decisions be considered legitimate given the impacts of political influence on their perceived effectiveness; or are merely symbolic organizations? In this final chapter I close with a consideration of the

politics of ethics commissions, which includes a discussion of how a public desire for signals of integrity (Smith 2011) has promoted commissions as symbolic institutions.

Utilizing Commissions

A natural question in the discussion of political influence over ethics commissions is whether commissioners have enough discretion to act on the presumed goals of elected officials, i.e. to articulate ethics regulations? The average citizen may take for granted that commissioners have discretion over who/what to investigate. This is not to say that they have no discretion, rather that they have less than the public believes and they may be loath to use what little discretion they have given the recourse available to elected officials. In the traditional administrative discretion literature there are concerns about whether discretion is fully utilized by administrators, e.g. Peters (1996), Peters and Pierre (1998), and Sowa and Selden (2003) argue that administrators may in fact have limited discretion given the number of actors they must satisfy. However as Peters (1996) and Cogburn et al (2010) note the rules of an institution offer a sense of security and in turn they offer a veil behind which members of that institution may hide in justifying their decisions. This is important in the discussion of my findings since the rules of commissions as political institutions grant significant recourse to elected officials over the institution that is meant to

regulate them. This turns the old saying *qui custodiet ipsos custodes* (who watches the watchmen) on its head.

Rosenson (2003) demonstrated that commissions are established when the new institution is not seen as a threat. I have demonstrated that elected officials use their influence over commissions to different self-serving ends. Yet to be discussed are the regulations empowering commissions. It makes sense though that – given Rosenson’s findings and my own – the rules governing a commission would also be designed to facilitate the types of decisions that allow commissioners some cover for their decisions to investigate or not investigate particular individuals. However one could also make the case that it really may not matter what types of rules are in place if political influence is the determining factor.

One can gain insight into this by examining the existence of rules regarding the independence of commissions and comparing them to the perceived independence of commissions. Several of the questions on the 2011 State Integrity Investigation (SII) address whether or not in law, commissions are empowered with the authority to (1) independently investigate alleged violations of state ethics; and (2) independently impose penalties on individuals found guilty of state ethics rules. Every state that has an ethics commission, with the exception of Michigan^v, answered both questions affirmatively. Just

knowing that respondents answered affirmatively to both questions in all but one case but also knowing that there is wide variation in the perceived independence of the commission we can say that simply having rules empowering the commission to take action does not mean that the commission will take action.

Such insights mean that any concerns over commissions not being empowered to take action are likely overstated. However it still leaves open at least two questions around determining compliance with ethics regulations. First, empowering regulations determine the processes a commission must follow in adjudicating questions of compliance. Second, empowering regulations also set boundaries for an institution and so this raises the question of what a commission requires of the subjects of ethics regulations, e.g. the stringency with which regulations are enforced. Compliant processes while likely different from state-to-state may not matter if the effectiveness of commissions is a function of how elected officials can shape commissions to maintain influence over them. This is because political influence can be a factor in either increasing regulations around the commission, or deregulating the commission; in either case political influence is being manifested over a body designed to regulate political action.

Even though commissions have the legal capacity to act independently they are still not free from political influence. Therefore if one changes the number of rules that empower a commission, this will not change the fact that they are still first subject to political influence. In fact decreasing the rules to which commissioners are subject could exacerbate the problem. The reason for this is that as noted by Peters (1996) and Cogburn et al (2010) rules can provide potential cover. Elected officials will not likely ask a commissioner to allow them to violate a regulation, the risk is simply too great for such overt action – a similar argument to Laffont and Tirole (1991) as to why firms do not simply bribe regulators. However if a commissioner assumes *ex post* consequences, or *ex ante*, feels that they owe an elected official, they may more inclined look the other way.

Commissions and the Importance of Symbols

Americans have a strong sense of distrust and cynicism towards government (Dubnick 1994; Kellough 1998). Such observations are important in discussing ethics commissions because one of the goals of commissions is to provide a signal of accountability (Smith 2003ab; 2011). Commissions were born of scandal and are direct effort to address the trust deficit between the public and elected officials. Given my findings though, it appears that commissions are deficient in providing meaningful accountability and serve primarily a

symbolic purpose, i.e. they serve as a signal of integrity (Smith 2003). If commission activities are directed towards one's political rivals, or simply away from oneself based on political influence then the accountability provided is not meaningful in the sense of real oversight. Rather it is simply a recognition that exposure by the commission is bad electorally and therefore it can be useful to expose one's rivals and harmful to have one's self exposed.

The public may be none the wiser as to how influence is being wielded over a commission and moreover they simply may not care. It is well known that the public's knowledge of politics is severely lacking (Carpini, Jacobs and Cook 2009; Franklin 2002; Campbell 1960). The average citizen cannot identify their own congressional representative (Popkin and Dimock 2009) let alone recognize how political influence is wielded over the state ethics commission. Even when the political maneuverings over the ethics commission are made public, there may be no long term effects. For example after revelations of SC Governor Nikki Haley's influencing the SC Ethics Commission her approval among the general public dropped below 50% to 41% (Cohen, 2013). However among likely Republican voters her approval ratings remained high at 78% (Huffmon 2014).

Notwithstanding a few instances of strong ethical oversight, e.g. Connecticut fining unethical campaign bundlers \$1.9 Million and Gov. Rick

Perry (R-TX) being indicted for attempting to defund the Texas commission in response to an investigation, the overall picture for commissions is not a pretty one. Although states have taken steps to increase the strength of their regulations around ethics and accountability in light of the embarrassing findings of the State Integrity Investigation, many of these proposals have been feckless or have died in committee. As discussed above though, even if regulations had been passed it is not clear that much would really change given the power of political influence over a commission. In short, given the political influence to which commissions are subject, and the fact that the public seeks assurances of integrity via the commission but does not recognize the political influence to which the commissions are subject, commissions may be nothing more than symbolic institutions.

Symbols have value to the degree that they are not explained (Campbell 1993). Indeed Edelman (1985: 56) argues that administrative agencies serve an “expressive function” and provide a sense of legitimacy to the issues they were designed to address. Ethics commissions are designed to address issues of ethical oversight. The point is that ethics commissions could provide symbolic “accountability” if the legitimacy of the commission as an institution were questioned.

Future Research

It is often said that good investigations raise as many questions as they answer (Light and Pillemer 2009). Hopefully my analysis here has done just that. I have provided the first analysis of political influence over the functions of ethics commissions. This addresses a gap in the literature since most studies to date have addressed the correlates for the creation of commissions, or the internal workings of commissions (Rosenson 2003; 2005; 2009; Lewis and Gilman 2012; Smith 2003 ab).

While my research has addressed some significant unanswered questions in the study of ethics commissions, significant questions remain. For example, to those who claim that legislators do not act against their own self-interest in empowering commissions (Rosenson 2003), my results imply that such calculations may be true for their creation but generalizing this to active commission ignores the issue that legislators appear to use commissions to expose political rivals. Others may be curious about how to design more effective commissions and avoid the problems of political influence. There do not appear to be inter-branch adversarial arrangements, but they were not tested in isolation specifically because such exclusive arrangements do not exist. My model points to a solution of commissions with quasi-judicial authority (neutral arbiters) buffered by diffuse appointment powers and relatively secure

tenure. Finally, additional research is needed to determine if socio-cultural factors and what causal mechanisms (scandals and the like) are associated with different types of commission designs.

These are just a few possibilities of future research. Readers will of course have their own ideas and their own criticisms for what questions warrant future investigation. Additionally no piece of research is perfect. One admitted weakness of this dissertation is in the availability of data. Relying on the State Integrity Investigation is nice because the methodology for recording and measuring responses was thorough. In the end though the survey only records single observations for each state. The bootstrapping required in my models accounted for some of this but no statistical technique should be preferred to additional data. Whatever the agenda topic though, there is a healthy research agenda for the determinants of ethics commission activity as well as what is perceived as ethical political behavior across the states. With an ever increasing skepticism as to the motivation of politicians, a recognition by elected officials that commissions can affect their political fortunes, and what their actions in this regard say about the legitimacy of oversight; it is imperative to continue to search for how commissions are affected and how politicians may be made more accountable.

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Appendix A: Partial Proportional Odds Model

The ordered logistic regression assumes proportional odds, i.e. that the slopes, while nonlinear, are at least parallel. Often this assumption is violated, but the ordered logistic regression is used nonetheless. To test the parallel lines assumption one can rely on the Brant test, which is a likelihood ratio test between a standard ordered logit and the ordered logit with the dependent variables allowed to vary across categories (in seeming violation of the assumption of parallel lines) – see also Peterson and Harrell (1980). If the second model has a significant chi-square value as compared to the original model then the parallel lines assumption is violated and an ordered logit is not to be preferred. For technical specification see the demonstration below:

The partial proportional odds model can be written as

$$P(Y_i > j) = g(X\beta_j) = \frac{\exp(\alpha_j + X\beta_j)}{1 + \{\exp(\alpha_j + X_i\beta_j)\}}, j = 1, 2, \dots, M - 1$$

Where M –s the number of categories of an ordinal dependent variable. So the probability of Y will take on each of the values $1, \dots, M$ equals

$$P(Y_i = 1) = 1 - g(X_i\beta_1)$$
$$P(Y_i = 1) = 1 - g(X_i\beta_1) - g(X_i\beta_j), j = 2, \dots, M - 1$$

$$P(Y_i = M) = 1 - g(X_i\beta_{M-1})$$

Wolfe and Gould (1998) show that the ordered logit is actually a special case of the partial proportional odds model. The formulas are the same, save the fact that the ordered logit all of the β 's are the same for each value of j but not the α 's (Williams 2006), e.g.

$$P(Y_i > j) = g(X\beta) = \frac{\exp(\alpha_j + X\beta)}{1 + \{\exp(\alpha_j + X_i\beta)\}}, j = 1, 2, \dots, M - 1$$

The partial proportional odds model allows for the β 's to be the same or different for each category. Note that this could not be accomplished by other models such as a multinomial logit. This is because the multinomial logit will generate many more parameters because the multinomial logit frees all variables, when in fact the parallel lines assumption may only be violated by a few of the variables. The partial proportional odds model cleans this up by relaxing the assumption of proportional odds only for those variables where the assumption is violated.

Appendix B: Robustness Checks for Models in Chapter Three

Table B.1. Robustness checks using models with only Budget per Issue and only Staff per Issue

	MODEL 3				MODEL 4				MODEL 5			
	β	boot σ	z	sig	β	boot σ	z	sig	β	boot σ	z	sig
(Intercept):1	2.585	0.786	3.287	**	2.955	0.764	3.870	***	4.420	0.681	6.488	***
(Intercept):2	1.598	0.781	2.046	*	1.973	0.759	2.598	**	3.445	0.674	5.109	***
(Intercept):3	0.372	0.776	0.479		0.746	0.756	0.987		2.197	0.668	3.289	**
(Intercept):4	-1.509	0.774	-1.949		-1.136	0.753	-1.508		0.354	0.664	0.533	
Budget per Issue	1.379	0.280	4.931	***	1.167	0.265	4.396	***				
Staff per Issue Handled	0.108	0.053	2.031	**					0.205	0.051	4.048	***
Legislature's Appointment Authority	-4.209	0.411	-10.238	***	-4.199	0.408	-10.292	***	-3.764	0.406	-9.260	***
Governor's Appointment Authority	-1.955	0.302	-6.480	***	-1.900	0.301	-6.313	***	-1.631	0.297	-5.487	***
Removal Power	-0.257	0.051	-5.015	***	-0.249	0.050	-4.929	***	-0.284	0.051	-5.566	***
Independence of Budget	0.191	0.182	1.047		0.340	0.156	2.181	**	0.091	0.182	0.499	
Economic Interests	0.400	0.132	3.030	**	0.492	0.128	3.834	***	0.331	0.131	2.519	**
Average State Income	0.000	0.000	-3.250	**	0.000	0.000	-2.886	**	0.000	0.000	-4.168	***
% Dem or Strong Dem	3.062	0.940	3.257	**	2.461	0.877	2.805	**	3.240	0.939	3.449	**
Legislature is Monitored x Leg Appointment												
Legislature is Monitored x Gov Appointment												
Legislature is Monitored Issues Alone												
Z Levels: *1.960 (0.05); **2.576 (0.01); ***3.291(0.001)												
Residual deviance	128.712				128.871				129.784			

AIC	154.712	152.876	153.784
BIC	178.484	174.819	175.728
Log-likelihood	-64.356	-64.438	-64.892
LR test versus Saturated Model	3.382	7.541	6.632
DF	171	172	172

Model 3 is the full model from the text. Model 4 shows that the coefficients do not change significantly when Staff per Issue is removed, likewise Model 5 shows that the coefficient do not change significantly when Budget per Issue is removed. This indicates that Model 3 is robust to these changes and the fact that Staff per Issue is significant in Model 3 but not Model 2 is a function of the functional form of Financial Capacity and that this form is preferred.

Table B.2. Robustness Checks using full model with interaction terms and model w/o Budget or Staff variables

	MODEL 6				MODEL 7			
	β	boot σ	z	sig	β	boot σ	z	sig
(Intercept):1	0.223	0.823	0.271		3.523	0.775	4.548	***
(Intercept):2	-0.925	0.820	-1.127		2.549	0.769	3.314	***
(Intercept):3	-2.318	0.820	-2.828	**	1.316	0.764	1.723	
(Intercept):4	-4.327	0.823	-5.259	***	-0.543	0.759	-0.715	
Budget per Issue	1.224	0.284	4.316	***				
Staff per Issue Handled	-0.126	0.065	-1.949					
Legislature's Appointment Authority	-1.974	0.637	-3.101	**	-3.948	0.405	-9.743	***
Governor's Appointment Authority	1.470	0.514	2.856	**	-1.762	0.301	-5.850	***
Removal Power	-0.074	0.056	-1.324		-0.266	0.050	-5.294	***
Independence of Budget	0.751	0.203	3.699	***	0.221	0.155	1.426	
Economic Interests	0.664	0.139	4.789	***	0.388	0.126	3.076	**
Average State Income	0.000	0.000	-2.750	**	0.000	0.000	-3.533	***
% Dem or Strong Dem	1.729	1.033	1.674		3.013	0.872	3.456	***
Legislature is Monitored x Leg Appointment	-2.384	0.929	-2.565	**				
Legislature is Monitored x Gov Appointment	-3.991	0.668	-5.975	***				
Legislature is Monitored Issues Alone	3.653	0.309	11.821	***	0.107	0.045	2.391	*
Z Levels: *1.960 (0.05); **2.576 (0.01); ***3.291(0.001)								
Residual deviance		122.798				129.526		
AIC		154.798				153.526		
BIC		184.056				175.471		
Log-likelihood		-61.399				-64.673		
LR test versus Saturated Model		13.618				6.891		
DF		168				172		

Model 6 shows the coefficients when adding the interaction terms for monitoring the legislature and Model 7 shows the coefficients when only accounting for the Issues per Commission without regard for Staffing of Budget.

APPENDIX C: Robustness Checks for Models in Chapter Four

Table C.1. Robustness Checks for Legislative Effectiveness Model

	MODEL 1	MODEL 2	MODEL 3	MODEL 4
	β (σ)			
(Intercept)	4.522 (18.190)	9.220 (32.290)	9.765 (17.605)	11.186 (19.629)
Legislature's Influence	6.995 (13.100)	6.126 (13.530)	8.037 (12.738)	9.299 (12.743)
Governor's Influence	3.253 (9.178)	2.341 (9.637)	5.640 (9.391)	7.251 (9.232)
Budget per Member	0.000 (0.000)	0.000 (0.000)		
Budget per Issue			-8.707 (8.278)	-7.711 (9.288)
Staff per Member	1.905 (2.541)	2.090 (2.617)	2.040 (2.442)	
Staff per Issue				0.517 (0.749)
Regs Exist	0.056 (0.100)	0.054 (0.104)	0.090 (0.102)	0.108 (0.100)
Fulltime Commission	17.140 (5.142)	16.520 (5.373)	15.233 (5.303)	15.064 (5.720)
% Dem of Strong Dem	20.080 (29.000)	24.520 (36.970)	21.473 (28.281)	16.322 (28.014)
Spatial Factor	20.500 (22.390)	25.760 (26.570)	21.583 (22.027)	21.966 (22.207)
% >25 w/College +		-30.050 (50.210)		
Religiosity		0.015 (31.370)		
R Squared	0.326	0.333	0.335	0.329
Adjusted R Squared	0.179	0.142	0.201	0.177
AIC	374.933	379.567	376.267	375.617

Note the model in the text includes bootstrapped standard errors. Because my concern here is with the coefficients I did not bootstrap the standard errors. The results show that my model is robust to the addition of other variables and that the functional form of my budget and staffing measures provide slightly

better leverage than alternatives.

Table C.2. Robustness Checks for Gubernatorial Effectiveness Model

	MODEL 5	MODEL 6	MODEL 7	MODEL 8
	β (σ)			
(Intercept)	60.520 (21.190)	59.241 (20.822)	6.130 (33.990)	63.742 (22.974)
Legislature's Influence	-28.030 (14.390)	-24.558 (14.198)	-31.590 (13.880)	-26.189 (14.143)
Governor's Influence	-14.890 (10.040)	-12.804 (10.353)	-11.590 (9.924)	-14.312 (10.160)
Budget per Member	0.000 (0.000)		0.000 (0.000)	
Budget per Issue		-5.047 (6.404)		-8.999 (7.874)
Staff per Member	-2.398 (2.780)	-2.822 (2.700)	-2.520 (2.701)	
Staff per Issue				-1.671 (1.829)
Regs Exist	0.402 (0.140)	0.408 (0.142)	0.350 (0.143)	0.383 (0.140)
Fulltime Commission	10.870 (5.560)	10.280 (5.756)	9.089 (5.461)	11.533 (6.177)
% Dem of Strong Dem	-44.900 (31.520)	-38.680 (31.380)	-19.720 (27.860)	-36.377 (31.149)
Spatial Factor	5.756 (24.780)	3.964 (24.656)	5.444 (37.470)	3.474 (24.746)
% >25 w/College +			13.200 (53.590)	
Religiosity			73.440 (32.020)	
R Squared	0.336	0.335	0.424	0.331
Adjusted R Squared	0.192	0.194	0.259	0.186
AIC	384.587	384.628	384.032	384.938

Note the model in the text includes bootstrapped standard errors. Because my concern here is with the coefficients I did not bootstrap the standard errors. The results show that my model is robust to the addition of other variables and that the functional form of my budget and staffing measures provide slightly better leverage than alternatives.

Appendix D: State Integrity Investigation Questionnaire

Public Access to Information

Do citizens have a legal right of access to information?

In law, citizens have a right of access to government information and basic government records.

In law, citizens have a right of appeal if access to a basic government record is denied.

In law, there is an established institutional mechanism through which citizens can request government records.

In law, there is an agency or entity that monitors the application of access to information laws and regulations.

Is the right of access to information effective?

In practice, state agencies and government officials are not exempt from access to information laws.

In practice, citizens receive responses to access to information requests within a reasonable time period.

In practice, citizens can use the access to information mechanism at a reasonable cost.

In practice, responses to information requests are of high quality.

In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

In practice, citizens can resolve appeals to information requests at a reasonable cost.

In practice, the government gives reasons for denying an information request.

In practice, when necessary, the agency that monitors the application of access to information laws and regulations independently initiates investigations.

In practice, when necessary, the agency that monitors the application of access to information laws and regulations imposes penalties on offenders.

Political Financing

Are there regulations governing the financing of political parties?

In law, there are limits on individual donations to political parties.

In law, there are limits on corporate donations to political parties.

In law, there are limits on donations from political action committees to political parties.

In law, there are limits on lobbyists' donations to political parties.

In law, there are requirements for the disclosure of individual donations to political parties.

In law, there are requirements for the disclosure of donations to political parties by corporations.

In law, there are requirements for the disclosure of donations to political parties by political action committees.

In law, there are requirements for the independent auditing of the finances of political parties when financial irregularities are uncovered.

In law, there is an agency or entity that monitors the financing of political parties.

Are there regulations governing the financing of individual political candidates?

In law, there are limits on individual donations to political candidates.

In law, there are limits on corporate donations to individual political candidates.

In law, there are limits on donations from political action committees to individual political candidates.

In law, legislators are prohibited from the personal use of campaign contributions.

In law, there are requirements for the disclosure of donations to individual political candidates.

In law, there are requirements for the disclosure of donations to individual political candidates from corporations.

In law, there are requirements for the disclosure of donations to individual political candidates from political action committees.

In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

In law, there are limits on lobbyists' donations to individual candidates.

Are the regulations governing the political financing of parties effective?

In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

In practice, the limits on donations to political parties by political action committees are effective in regulating the organization's ability to financially support a political party.

In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

In practice, contributions to political parties are audited.

In practice, individuals, corporations, or political action committees do not resort to "astroturfing" -- defined here as the financial support of a political party or individual using mechanisms designed to give the appearance of a grassroots movement -- to bypass limits on political financing.

In practice, the limits on lobbyist donations to political parties are effective in regulating a lobbyist's ability to financially support a political party.

Are the regulations governing the political financing of individual candidates effective?

In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

In practice, the limits on political action committee donations to individual candidates are effective in regulating the political action committee's ability to financially support a candidate.

In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

In practice, the finances of individual candidates' campaigns are audited.

In practice, the limits on lobbyists' donations to individual candidates are effective in regulating lobbyists' ability to financially support an individual candidate.

Can citizens access records related to the financing of political parties?

In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

In practice, citizens can access the financial records of political parties within a reasonable time period.

In practice, citizens can access the financial records of political parties at a reasonable cost.

In practice, the publicly available records of political parties' finances are of high quality.

In practice, the publicly available records of political parties' finances are accessible to the public online in a meaningful and accessible manner.

Can citizens access records related to the financing of individual candidates' campaigns?

In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

In practice, citizens can access the financial records of individual candidates at a reasonable cost.

In practice, the publicly available records of political candidates' campaign finances are of high quality.

In practice, the publicly available records of political candidates' finances are accessible to the public online in a meaningful and accessible manner.

Executive Accountability

Can the chief executive be held accountable for his/her actions?

In practice, the governor gives reasons for his/her policy decisions.

In law, the governor and/or state cabinet-level officials are prohibited from using state funds for personal purposes.

In practice, the regulations preventing the governor and/or state cabinet-level officials from using state funds for personal purposes are effective.

In law, the judiciary can review the actions of the executive.

In practice, when necessary, the judiciary reviews the actions of the executive.

In practice, the governor limits the use of executive orders to establishing new regulations, policies, or government practices.

Is the executive leadership subject to criminal proceedings?

In law, the governor can be prosecuted for crimes he/she commits.

In law, state cabinet-level officials can be prosecuted for crimes they commit.

In practice, the governor is prosecuted for crimes she/he commits.

In practice, state cabinet-level officials are prosecuted for crimes they commit.

Are there regulations governing conflicts of interest by the executive branch (defined here as governors and/or cabinet-level officials)?

In law, the governor is required to file a regular asset disclosure form.

In law, state cabinet-level officials are required to file a regular asset disclosure form.

In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

In law, there are requirements for the independent auditing of executive branch asset disclosure forms (defined here as governors and/or cabinet-level officials).

In law, the governor and/or state cabinet-level officials are prohibited from the personal use of campaign contributions.

In law, there are restrictions on the governor and/or state cabinet-level officials setting up non-profit organizations (e.g. community groups, think tanks) that can be used to reward political supporters and/or evade campaign finance rules.

In law, there are regulations for the disclosure of non-profit organizations (CSOs, think tanks, etc.) set up by the governor and/or state cabinet-level officials.

In law, there are regulations to prevent nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) amongst members of the executive branch.

In law, there are restrictions on governors and/or state cabinet-level officials entering the private sector after leaving the government.

Are the regulations governing conflicts of interest by the executive branch (defined here as governors and/or cabinet-level officials) effective?

In practice, the regulations restricting post-government private sector employment for governors and/or state cabinet-level officials are effective.

In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

In practice, executive branch asset disclosures (defined here as governors and/or cabinet-level officials) are audited.

In practice, the regulations preventing the governor and/or state cabinet-level

officials from using campaign contributions for personal purposes are effective.
In practice, executive branch actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

Can citizens access the asset disclosure records of the governor and the state cabinet?

In law, citizens can access the asset disclosure records of the governor and/or state cabinet-level officials.

In practice, citizens can access the asset disclosure records of the governor and/or state cabinet-level officials within a reasonable time period.

In practice, citizens can access the asset disclosure records of the governor and/or state cabinet-level officials at a reasonable cost.

In practice, the asset disclosure records of the governor and/or state cabinet-level officials are of high quality.

In practice, the asset disclosure records of members of the governor and/or state cabinet-level officials are accessible to the public online in a meaningful and accessible manner.

In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

Legislative Accountability

Can members of the legislature be held accountable for their actions?

In law, legislators are prohibited from the personal use of public funds.

In practice, the regulations preventing legislators from using public funds for personal purposes are effective.

In law, the judiciary can review laws passed by the legislature.

In practice, when necessary, the judiciary reviews laws passed by the legislature.

In law, are members of the state legislature subject to criminal proceedings?

Are there regulations governing conflicts of interest by members of the state legislature?

In law, members of the state legislature are required to file an asset disclosure form.

In law, there are restrictions for state legislators entering the private sector after leaving the government.

In law, there are regulations governing gifts and hospitality offered to members of the state legislature.

In law, there are requirements for the independent auditing of the asset disclosure forms of members of the state legislature.

Are regulations governing conflicts of interest by members of the state legislature effective?

In practice, the regulations restricting post-government private sector employment for state legislators are effective.

In practice, the regulations governing gifts and hospitality offered to state legislators are effective.

In practice, state legislative branch asset disclosures are audited.

In law, there are restrictions on legislators setting up non-profit organizations (e.g. community groups, think tanks) that can be used to reward political supporters and/or evade campaign finance rules.

In law, there are regulations to prevent nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) in the hiring of legislative staff.

In practice, legislative branch actions related to the hiring, firing, and promotion of legislative staff are not based on nepotism, cronyism, or patronage.

Can citizens access the asset disclosure records of members of the state legislature?

In law, citizens can access the asset disclosure records of members of the state legislature.

In practice, citizens can access legislative asset disclosure records within a reasonable time period.

In practice, citizens can access legislative asset disclosure records at a reasonable cost.

In practice, the asset disclosure records of members of the state legislature are of high quality.

In practice, the asset disclosure records of members of the state legislature are accessible to the public online in a meaningful and accessible manner.

Can citizens access legislative processes and documents?

In law, citizens can access records of legislative processes and documents.

In practice, citizens can access records of legislative processes and documents -- defined as summaries of legislative proposals, debates, votes, and official actions -- within a reasonable time period.

In practice, citizens can access records of legislative processes and documents -- defined as summaries of legislative proposals, debates, votes, and official actions -- at a reasonable cost.

In practice, the records of legislative processes and documents are accessible to the public online in a meaningful and accessible manner.

In practice, the legislative process is sufficiently transparent to allow citizens/ CSOs to monitor the legislative process and provide input or changes to bills.

Judicial Accountability

Is the process for selecting state-level judges transparent and accountable?

In law, there is a transparent procedure for selecting state-level judges. State-level judges are defined as judges who have powers that derive from a state law or constitution; are nominated/appointed by a state governmental body (state legislature or executive); and/or are elected state-wide.

In practice, professional criteria are followed in selecting state-level judges.

In law, there is a confirmation process for state-level judges (i.e. conducted by the legislature or an independent body).

Can members of the judiciary be held accountable for their actions?

In law, judges are prohibited from the personal use of campaign contributions.
In practice, the regulations preventing judges from using campaign contributions for personal purposes are effective.

In law, judges are prohibited from the personal use of state funds.

In practice, the regulations preventing judges from using state funds for personal purposes are effective.

In law, members of the state-level judiciary are required to give reasons for their decisions.

In practice, members of the state-level judiciary give reasons for their decisions.

In law, there is a disciplinary agency (or equivalent mechanism) for the state-level judicial system.

In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

In law, there is a process in place to evaluate the performance of judges who are up for retention or reelection.

In law, citizens can access the performance evaluations of judges who are up for retention or reelection.

In practice, judges' performance evaluations are made available for the public to review.

In law, citizens can access court administrative records.

In practice, court decisions and opinions are made readily available to the public.

In practice, court decisions and opinions are accessible to the public online in a meaningful and accessible manner.

Are there regulations governing conflicts of interest for the state-level judiciary?

In law, members of the state-level judiciary are required to file an asset disclosure form.

In law, there are regulations governing gifts and hospitality offered to members of the state-level judiciary.

In law, there are requirements for the independent auditing of the asset disclosure forms of members of the state-level judiciary.

In law, there are restrictions for state-level judges entering the private sector after leaving the government.

In law, there are requirements for state-level judges to recuse themselves from cases in which they may have a conflict of interest.

Are the regulations governing conflicts of interest for the state-level judiciary effective?

In practice, the regulations restricting post-government private sector employment for state-level judges are effective.

In practice, the regulations governing gifts and hospitality offered to members of the

state-level judiciary are effective.

In practice, state-level judiciary asset disclosures are audited.

In practice, the requirements for state-level judges to recuse themselves from cases in which they may have a conflict of interest are effective.

In law, there are restrictions on state judges setting up non-profit organizations (e.g. community groups and think tanks) that can be used to reward political supporters and/or evade campaign finance rules.

In law, there are regulations to prevent nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), or patronage (favorable treatment of those who reward their superiors) amongst members of the judicial branch.

In practice, judicial branch actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

Can citizens access the asset disclosure records of members of the state-level judiciary?

In law, citizens can access the asset disclosure records of members of the state-level judiciary.

In practice, citizens can access state-level judiciary members' asset disclosure records within a reasonable time period.

In practice, citizens can access state-level judiciary members' asset disclosure records at a reasonable cost.

In practice, the asset disclosure records of the state-level judiciary are of high quality.

In practice, the asset disclosure records of the state-level judiciary are accessible to the public online in a meaningful and accessible manner.

State Budget Processes

Can the legislature provide input to the state budget?

In law, the legislature can amend the budget.

In practice, significant public expenditures (defined as any project costing more than 1% of the total state budget) require legislative approval.

In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

Can citizens access the state budgetary process?

In practice, the state budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

In practice, citizens provide input at budget hearings.

In practice, citizens can access itemized budget allocations.

In law, is there a separate legislative committee which provides oversight of public funds.

Is the legislative committee overseeing the expenditure of public funds effective?

In practice, department heads regularly submit reports to this committee.

In practice, the committee acts in a non-partisan manner with members of

opposition parties serving on the committee in an equitable fashion.

In practice, when necessary, this committee initiates independent investigations into financial irregularities.

Are budget information and related records made available to citizens?

Does the state executive publish a pre-budget statement, which presents the assumptions used in developing the budget such as the expected revenue, expenditure, debt-levels, and broad allocations among sectors?

Does the state executive publish its budget proposal, which presents the state government's detailed declaration of policies and priorities for the upcoming budget year?

Does the state legislature publish an enacted budget document that authorizes the executive to implement the policy measures outlined in the budget?

Does the state executive publish monthly or quarterly in-year reports on revenues collected, expenditures made, and debt incurred?

Does the state executive publish a mid-year review for the first six months of the budget year to discuss any changes in economic assumptions that would affect approved budget policies?

Does the state executive issue a year-end report summarizing the financial situation at the end of the fiscal year?

Does the state publish an annual audit report, produced by an entity independent from the executive, which covers the activities undertaken by the executive during the fiscal year?

Does the state publish a citizens budget containing non-technical budget information that is accessible to a broader audience?

Do reports issued by the state contain information on tax expenditures (information on on tax credits, deductions, and exemptions that reduce state revenue)?

Does the state have a well-resourced fiscal budget office for the non-partisan analysis of budget proposals?

In law, there is a state fiscal budget office to provide fiscal notes and nonpartisan analysis on the costs and benefits of every bill and budget proposal.

In practice, the state fiscal budget office has sufficient capacity to provide quality analysis in line with its mandate.

State Civil Service Management

Are there regulations for the state civil service encompassing, at least, the managerial and professional staff?

In law, there are regulations requiring an impartial, independent, and fairly managed state civil service.

In law, there are regulations to prevent nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), or patronage (favorable treatment of those who reward their superiors) within the civil service.

In law, there is an independent redress mechanism for the civil service.

In law, civil servants convicted of corruption are prohibited from future state

government employment.

Is the law governing the administration and civil service effective?

In practice, state civil servants are protected from political interference.

In practice, civil servants are appointed and evaluated according to professional criteria.

In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

In practice, civil servants have clear job descriptions.

In practice, civil servant bonuses constitute only a small fraction of total pay.

In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

In practice, the independent redress mechanism for the civil service is effective.

In practice, civil servants convicted of corruption are prohibited from future government employment.

Are there regulations addressing conflicts of interest for civil servants?

In law, senior members of the state civil service are required to file an asset disclosure form.

In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

In law, there are restrictions for civil servants entering the private sector after leaving the government.

In law, there are regulations governing gifts and hospitality offered to civil servants.

In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the state civil service.

Are the regulations addressing conflicts of interest for civil servants effective?

In practice, the regulations restricting post-government private sector employment for civil servants are effective.

In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

In practice, civil service asset disclosures are audited.

Can citizens access the asset disclosure records of senior state civil servants?

In law, citizens can access the asset disclosure records of senior state civil servants.

In practice, citizens can access the asset disclosure records of senior state civil servants within a reasonable time period.

In practice, citizens can access the asset disclosure records of senior state civil servants at a reasonable cost.

In practice, the asset disclosure records of senior state civil servants are of high quality.

In practice, the asset disclosure records of senior state civil servants are accessible to the public online in a meaningful and accessible manner.

Are state employees protected from recrimination or other negative consequences

when reporting corruption (i.e. whistle-blowing)?

In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption.

In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

In practice, the internal reporting mechanism for public sector corruption receives regular funding.

In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

Procurement

Is the public procurement process effective?

In law, there are regulations addressing conflicts of interest for public procurement officials.

In law, there is mandatory professional training for public procurement officials.

In practice, the conflicts of interest regulations for public procurement officials are enforced.

In law, there is a mechanism that monitors the assets, incomes, and spending habits of public procurement officials.

In law, major procurements require competitive bidding.

In law, strict formal requirements limit the extent of "sole sourcing."

In law, rules exist to avoid "pay to play" conflicts in public procurement.

In practice, "pay to play" rules are effectively enforced.

In law, unsuccessful bidders can initiate an official review of procurement decisions.

In law, unsuccessful bidders can challenge procurement decisions in a court of law.

In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

In law, there are regulations governing the the conduct of state service contractors.

In practice, the regulations governing the conduct of state service contractors are effective.

Can citizens access the public procurement process?

In law, citizens can access public procurement regulations.

In law, the state government is required to publicly announce the results of

procurement decisions.

In practice, citizens can access public procurement regulations (the rules governing the competitive procurement process) within a reasonable time period.

In practice, citizens can access public procurement regulations (the rules governing the competitive procurement process) at a reasonable cost.

In practice, major public procurements are effectively advertised.

In practice, citizens can access the results of major public procurement bids.

In practice, the results of major procurement bids are accessible to the public online in a meaningful and accessible manner.

Internal Auditing

Is there an audit institution or equivalent agency covering the entire state's public sector?

In law, is there an audit institution, auditor general, or equivalent agency covering the entire state's public sector.

Is the supreme audit institution effective?

In law, the audit institution is protected from political interference.

In practice, the head of the audit agency is protected from removal without relevant justification.

In practice, the audit agency has a professional, full-time staff.

In practice, audit agency appointments support the independence of the agency.

In practice, the audit agency receives regular funding.

In practice, the audit agency makes regular public reports.

In practice, the government acts on the findings of the audit agency.

In practice, the audit agency is able to initiate its own investigations.

Can citizens access reports of the supreme audit institution?

In law, citizens can access reports of the audit agency.

In practice, citizens can access audit reports within a reasonable time period.

In practice, citizens can access the audit reports at a reasonable cost.

In practice, audit reports are accessible to the public online in a meaningful and accessible manner.

Lobbying Disclosure

Is there a clear definition of a lobbyist in the state?

In law, the definition of lobbyist recognizes executive branch lobbyists as well as legislative lobbyists.

In law, lobbyists are defined on the basis of monetary thresholds specifying spending and/or compensation levels.

In practice, the definition of a lobbyist tied to spending and/or compensation levels from lobbying activities effectively captures lobbyists' activity in the state.

Are lobbyists required to register with the state?

In law, lobbyists are required to file a registration form.

In practice, registrations are filed within a reasonable time period of initial lobbying

activity.

In practice, lobbyists' registration information is comprehensive and of high quality.

In law, lobbyists are required to file registrations annually.

Are lobbyists required to disclose spending?

In law, lobbyists are required to file a spending report.

In practice, lobbyists' spending reports are filed with reasonable frequency.

In law, lobbyists report compensation/salary on spending reports.

In practice, the spending reports are comprehensive and of high quality.

Are lobbyists' employers or principals required to disclose spending?

In law, employers or principals of lobbyists are required to fill out spending reports.

In practice, employers/principals list the compensation/salary of any lobbyists they hire on spending reports.

Can citizens access the information reported from lobbyists to the state government?

In practice, citizens can access lobbying disclosure documents (including registration, expenses, and compensation reports) within a reasonable time period.

In practice, citizens can access lobbying disclosure documents at a reasonable cost.

In practice, lobbying disclosure documents are accessible to the public online in a meaningful and accessible manner.

Is there effective monitoring of lobbying disclosure requirements?

In law, there are requirements for the independent auditing of lobbying disclosure records when irregularities are uncovered.

In practice, the independent auditing of lobbying disclosure records is effective.

In practice, when necessary, the state imposes penalties on offenders who violate lobbying disclosure and reporting requirements.

State Pension Fund Management

Are there laws and regulations requiring that state-run pension funds be managed transparently?

In law, there is an independent public redress mechanism for members of boards and management of the state-run pension funds.

In law, state-run pension funds are required to publicly disclose information about their investment activities.

In law, there are regulations governing the activity of placement agents, or hired third parties used by investment firms to secure business with state-run pension funds.

In law, placement agents, or hired third parties used by investment firms to secure business with state-run pension funds, are required to disclose all fees and terms retained for providing "finder" or introduction services.

In law, placement agents, or hired third parties used by investment firms to secure business with state-run pension funds, are required to register with the state.

Are the laws and regulations requiring that state-run pension funds be managed

transparently effective?

In practice, the state-run pension funds have sufficient staff and resources with which to fulfill their mandate.

In practice, members of boards and management of the state-run pension funds are appointed and evaluated according to professional criteria.

In practice, members of boards and management of the state-run pension funds are protected from political interference.

In practice, the state-run pension funds disclose information about their investment and financial activity in a transparent manner.

In practice, the investment decisions governing the portfolio of state-run pension funds are not concentrated in a single individual's hands.

In practice, regulations governing the activity of placement agents, or hired third parties used by investment firms to secure business with state-run pension funds, are effective.

In practice, private entities manage portions of state-run pension funds in a transparent manner.

Are there regulations governing conflicts of interest of members of the board or the management of the state run pension funds?

In law, members of boards and management of the state run pension funds are required to file regular asset disclosure forms.

In law, there are regulations governing gifts and hospitality offered to members of boards and management of the state-run pension funds.

In law, the public can access the asset disclosure records of members of boards and management of the state-run pension funds.

In law, there are requirements for the independent auditing of the asset disclosure forms of members of boards and management of the state-run pension funds.

In law, there are restrictions on members of boards and management of the state-run pension funds entering the private sector after leaving the office.

In practice, regulations governing conflicts of interest of members of the board or the management of the state-run pension funds are effective?

In practice, the regulations governing gifts and hospitality offered to members of boards and management of the state-run pension funds are effective.

In practice, asset disclosures of members of boards and management of the state-run pension funds are audited.

In practice, the public can access the asset disclosure records of members of boards and management of the state-run pension funds within a reasonable time period.

In practice, the public can access the asset disclosure records of members of boards and management of the state-run pension funds at a reasonable cost.

In practice, the asset disclosure records of members of boards and management of the state-run pension funds are accessible to the public online in a meaningful and accessible manner.

In practice, the regulations restricting post-government private sector employment for members of boards and management of the state-run pension funds are effective.

Ethics Enforcement Agencies

Are there laws and regulations to promote and protect a professional ethics enforcement agency (or set of agencies)?

In law, there is an agency or set of agencies tasked with enforcing state ethics rules.

In law, the agency or set of agencies tasked with enforcing state ethics rules has an independently allocated budget for its activities.

In law, the agency or set of agencies tasked with enforcing state ethics rules can independently initiate investigations into alleged violations of state ethics rules/regulations.

In law, the agency or set of agencies tasked with enforcing state ethics rules can impose penalties on individuals found in violation of state ethics rules/regulations.

In law, the agency or set of agencies tasked with enforcing state ethics rules can propose the creation of relevant laws or regulations to bolster its mission.

In law, the agency or set of agencies tasked with enforcing state ethics rules has jurisdiction across all branches of the state government.

Are the laws and regulations to promote and protect a professional ethics enforcement agency (or set of agencies) effective?

In practice, the agency or set of agencies tasked with enforcing state ethics rules has sufficient staff and resources.

In practice, members of the agency or set of agencies tasked with enforcing state ethics rules are appointed and evaluated according to professional criteria.

In practice, members of the agency or set of agencies tasked with enforcing state ethics rules are protected from political interference.

In practice, the agency or set of agencies tasked with enforcing state ethics rules independently initiates investigations into alleged violations of state ethics rules/regulations.

In practice, the agency or set of agencies tasked with enforcing state ethics rules imposes penalties on offenders.

In practice, the agency or set of agencies tasked with enforcing state ethics rules proposes the creation of relevant laws or regulations to bolster its mission.

In practice, the agency or set of agencies tasked with enforcing state ethics rules monitors all branches of the state government in an effective manner.

In practice, the agency or set of agencies tasked with enforcing state ethics rules accepts all complaints brought before it.

In practice, the agency or set of agencies tasked with enforcing state ethics rules accepts complaints from anonymous complainants.

Are there regulations governing conflicts of interest by the ethics enforcement agencies?

In law, members of the agency or set of agencies tasked with enforcing state ethics rules are required to file regular asset disclosure forms.

In law, there are regulations governing gifts and hospitality offered to the members of the agency or set of agencies tasked with enforcing state ethics rules.

In law, there are requirements for the independent auditing of the asset disclosure forms of members of the agency or set of agencies tasked with enforcing state ethics rules.

Are the regulations governing conflicts of interest by the ethics enforcement agencies effective?

In practice, the regulations governing gifts and hospitality offered to members of the agency or set of agencies tasked with enforcing state ethics rules are effective.

In practice, asset disclosures of members of the agency or set of agencies tasked with enforcing state ethics rules are audited.

In law, the public can access the asset disclosure records of members of the agency or set of agencies tasked with enforcing state ethics rules.

In practice, the public can access the asset disclosure records of members of the agency or set of agencies tasked with enforcing state ethics rules within a reasonable time period.

In practice, the public can access the asset disclosure records of members of the agency or set of agencies tasked with enforcing state ethics rules at a reasonable cost.

In practice, the asset disclosure records of members of the agency or set of agencies tasked with enforcing state ethics rules are accessible to the public online in a meaningful and accessible manner.

In law, there are restrictions on members of the agency or set of agencies tasked with enforcing state ethics rules entering the private sector after leaving the office.

In practice, the regulations restricting post-government private sector employment for members of the agency or set of agencies tasked with enforcing state ethics rules are effective.

State Insurance Commissions

Is the state insurance commission protected from political and special interest influence?

In law, there are requirements for members of the board and senior staff of the state insurance commission to recuse themselves from policy decisions where their personal interests may be affected.

In law, the members of the board and senior staff of the state insurance commission are protected from political interference.

In practice, the the members of the board and senior staff of the state insurance commission are protected from political interference.

In practice, the head of the members of the board and senior staff of the state insurance commission are protected from removal without relevant justification.

Does the state insurance commission have sufficient capacity to carry out its mandate?

In practice, the state insurance commission has a professional, full-time staff.

In practice, the state insurance commission receives regular funding.

Are there conflicts of interest regulations covering members of the board and senior staff of the state insurance commission?

In law, there are restrictions on the members of the board and senior staff of the state insurance commission entering the private sector after leaving the government.

In law, members of the board and senior staff of the state insurance commission are required to file regular asset disclosure forms.

In law, there are regulations governing gifts and hospitality offered to the members of the board and senior staff of the state insurance commission.

Are the conflicts of interest regulations covering members of the board and senior staff of the state insurance commission effective?

In practice, the regulations governing gifts and hospitality offered to the members of the board and senior staff of the state insurance commission are effective.

In practice, the regulations restricting post-government private sector employment for the members of the board and senior staff of the state insurance commission are effective.

Can citizens access the asset disclosure records of the state insurance commission?

In law, citizens can access the asset disclosure records of the the members of the board and senior staff of the state insurance commission

In practice, citizens can access the asset disclosure records of the the members of the board and senior staff of the state insurance commission within a reasonable time period.

In practice, citizens can access the asset disclosure records of the members of the board and senior staff of the state insurance commission at a reasonable cost.

In practice, the asset disclosure records of the members of the board and senior staff of the state insurance commission are of high quality.

In practice, the asset disclosure records of members of the board and senior staff of the state insurance commission are accessible to the public online in a meaningful and accessible manner.

In practice, asset disclosures for members of the state insurance commission are audited.

Does the state insurance commission publicly disclose documents filed by insurance companies?

In law, the state insurance commission is required to publicly disclose all documents filed by insurance companies with the agency.

In practice, the state insurance commission publicly discloses all documents filed by insurance companies with the agency.

In practice, the publicly available documents filed by insurance companies with the state insurance commission are accessible to the public online in a meaningful and accessible manner.

In practice, meeting minutes and/or summaries of decisions made by the state insurance commission are publicly available.

Redistricting

Is the state redistricting process open and transparent?

In practice, for the latest redistricting round, public meetings were or are being held

on the redistricting process.

In practice, for the latest redistricting round, public hearings were or are being held to solicit input on new district maps.

In practice, for the latest redistricting round, schedules of these meeting and/or hearings were or are available to the public.

In practice, for the latest redistricting round, the state government accepted or is accepting redistricting plans submitted by the public.

In practice, for the latest redistricting round, the government made or is making a redistricting website or online source of redistricting information available to the public.

ⁱ The confidence gap represents a scenario where the public cannot distinguish between whether any public institutions are better, worse, or simply different than others.

ⁱⁱ Proper names of commissions and empowering statutes are available at:
<http://www.ncsl.org/research/ethics/state-ethics-commissions.aspx>

ⁱⁱⁱ Factor analysis using ordinal responses is fairly common practice, even though one of the assumptions of factor analysis is linearity in the parameters. This was my reason for using the polychoric factor analysis as my means of testing for dimension reduction – an approach typically not used in the public administration literature.

^{iv} Note that the model using Budget per Monitored and Staff per Monitored provided lower AICs than the alternative models: 376.802 was the lowest AIC for the Governor's model and 372.527 was the lowest AIC for the Legislature's model.

^v The Michigan respondent answered affirmatively to question 1 but not question 2. Per the National Council of State Legislatures (2014), Michigan's commission does not have the authority to levy sanctions.