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Inquiry into Whistle blowing protections within the Australian government public sector.

Submission by Dr Jann Karp, specialist in police corruption and crisis control, curriculum vitae submitted.

Term of reference.

No 5. Procedures in relation to protected disclosures, which could include:

a. how information should be disclosed for disclosure to be protected: options would include disclosure through avenues within whistleblower's agency, discloser to existing or new integrity agencies or a mix of the two.

I have been in the policy and operational setting of the NSW Police for 23 years and concluded my PhD work on site over an extended period of time. Whistle blowing, within this organization is covered under the Protective Disclosures Act and the Police Service Act. However, whistle blowing will only occur in safety if the person has a sense of confidence in the person or organization that they are disclosing too. Police when faced with knowledge of a corrupt act are required under the law to report that act to a senior officer. This is not a discretionary requirement but a legislated requirement. Therefore the legislation would need to be amended to include a different protocol in reporting procedure. The problem is that often an enforcement culture only perceives that legislation to apply to lower ranked officers. On rare occasions you will see senior officer report other senior ranks but this very uncommon. For this practice to be encouraged as culturally appropriate the introduction of third parties or 'outsiders' may make that practice harder rather than easier. Officers may feel more inclined to report to outside parties but they then need to believe that there will be a positive outcome. Often this is not the case. Police are often disgruntled when they perceive an organisation as a 'saviour' or 'fix it' and then feel let down when there is not clear transparency in the follow up by these third parties.

Now this is an issue because this is where the perception of 'real power' in legislation and diversity in reporting leads to perceived serious acts of public deception by the very groups set up to support whistle blowing activity. Whistle blowers commonly perceive rightly and wrongly that protecting ones mates, at executive level, or having undesirable imbalanced power relationship with politicians serves corrupt practices well and that they have still not been heard.

b. the obligations of public sector agencies in handling disclosures

Unless you have leaders who instill confidence, they walk the talk, and the leaders integrity is believed to be beyond approach people will not comply with compulsory reporting regulations. Corruption prevention programs begin with definitions of corruption such as "Corruption commonly involves the dishonest or partial use of power or position, resulting in one person being advantaged over another" (introducing the ICAC- A guide for NSW Public Officials). Employees read the definition but police officers certainly in a rank structure know that the practice of corruption is located covertly within the unequal distribution of power within the working environment. So we can legislate but it is the practice that needs to be discussed openly with organizations. Briefly, police offences of corrupt, criminal and unprofessional behaviour are numerous and diverse in their variety of representation. Also there is a tendency for discussions to restrict themselves to what occurs at lower ranks rather than executive relationships.

c. the responsibilities of integrity agencies and the system and providing training and education

This means written authority to investigate, prevention programs, and formal protocols only work in organizations where informal, covert and common personal conflicts around corruption are located safely in an organizations internal dialogue. Outside media and political pressure at its height and

momentary focus, exacerbates the issue of open discussion within the organization. So internal policy may include, codes of conduct, gifts and benefits acceptance policy guideline, but these are minor issues when compared with protecting one's job security at a senior police level. One clear example of non secretive action was the recent arrest of a senior officer in the NSW Crimes Commission. Ongoing covert police operations lead to a very important investigation that has gained, not only serious criminal behaviour but has been an example of an organisation prepared to investigate itself. The media quickly denounced the organization as too powerful and covert. But it has investigated and will prosecute its own and this is a rare event. This is how real corruption prevention is carried out.

d. whether disclosure to a third party could be appropriate in circumstances where all available mechanisms for raising a matter within Government have been exhausted.

In my publication I argue that the historical place of whistleblowers as a trigger to official inquiries is not leading to corruption prevention or change in organizations. The NSW Police are currently reviewing their whistle blowing, and internal witness policy and procedures. It is the reliance on inquiries brought about by sheer frustration of whistleblowers that begins a formal process that historically repeats itself changing little. Mature leaders who can instil trust and open the issues within the daily work place issues are integral to preventing this type of circular social occurrence. Leaders' attitudes of self interest, self protection and no disclosure is what leads to recommendations of third, or fourth parties that my help protect staff or community members who essentially need protection.

Police officers work closely with each other and there are formal checks in place to watch over police activities. Rarely is an officer who is working with another corrupt officer not in doubt about those officers' activities. It is not that

the officer necessarily 'knows' that there is a problem but they do know 'something is not right'. For example, unexplained instances of absence from the police work site during a shift. Now it is not only just in a police institution where there's non adherence to proper practice. The incident or multiple incident that raises the suspicion is often minor, or more obvious but the real issue is where does the observing officer go with that information, that doubt.

The activities listed below are not carried out, or executed in isolation. One would have to a professional spy, or pathologically ill to successfully commit the following offences in secret. And yes those individuals exist, have been arrested or resigned but they are in the minority. It is the usual practice where the corruption flourishes that the usual practice is not occurring but is accepted as that person's norm or that investigating group's norm; it understands processes and how to bend them slightly with your colleague not raising the flag that allows the behaviour to continue. The not 'dob' on your mate syndrome survives. Often these continuing acts are in fact leading to serious corrupt acts at the upper level of the organisation. We are not talking about free lunches at MacDonalds.

SUMMARY

Police regulations so do include penalties for management and integrity issues. Misbehaviors, (being rude to the public) inappropriate conduct (harassing civilians of a particular culture) we have an obligation, if you are aware or see an event to bring about a sanction. Does the legislation work, well, gay police officers for example, in local area commands are still subjected to heterosexual male's offer of sex in exchange for promotion (2008) do they report the matter, no. Why? Because the culture of the Local Area Command supports that activity or there is a culture of acceptance of retrograde heterosexual male

behavior, so we have the legal obligation, but we do not have the leadership skills at local, or executive level to support any of the formal process instituted.

For not reporting serious (indictable) offences, (Section 314, 316 Crimes Act) you can go to prison for 2 years, member of the public and or police, for not reporting crimes such as assault occasion, or stealing and you know who, witnesses the person who has committed the crime. Citizens commit a crime when they witness serious crimes and fail to report it to the police.

Police commit a serious offence when they interfere in a police organization investigation, breach by exposing to a person named in a warrant, or telling in some other way that they are being investigated. You may pervert the course of justice, under the Crimes Act, if you do certain things, tell people to cover up evidence or provide legal defenses, or intimidation of witnesses. For all these activities police can and do go to jail but not as often as these activities take place.

Dr Jann Karp PhD.

20th August, 2008.