

Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity. Inquiry into Law Enforcement Integrity Models

SUBMISSION from Dr Jann Karp PhD regarding, reference point:

(f) The internal anti corruption processes of the state law enforcement bodies and the protocols and processes in place for reporting corruption matters to their respective integrity agency.

Corruption has been endlessly defined and legislated against but my specialist work is primarily concerned with the private, personal, relationships and behaviour of corrupt individuals. My premise is based on 23 years of policing experience and a continued student/academic learning connection with the subject area.

My text argues that corruption, and the subsequent inquiries into this corruption, can be seen to have a cyclic nature and the failure of such inquiries has a long and international history. It contends that the nature of the public inquiry itself can be seen to contribute to the continuation of the cycle of corruption. Clearly, putting an end to corruption requires more than the investigation, public exposure and punishment of a few corrupt police, followed by a generalised tightening of the chain of command. Instead, this thesis demonstrates that the problem is primarily an organisational one and it is important to look at management reforms. This means written authority to investigate, prevention programs, 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.

Professional organisations involved in service that is stressful, urgent and life-saving are observably different from services based on economics. The exclusive nature of operational environments, closed to outside influences, can be observed in occupations such as policing, medical and other emergency services. At the same time professional occupations involved in public services appear to need to protect themselves and their colleagues

while they work under pressure or come under scrutiny from the general community, particularly if the organisation is subjected to an inquiry. It is at this location the formal process needs to be located. Mature leaders who can instil trust and open the issues within the daily work place issues are integral.

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'. Now it is not just an institution it is in there non adherence to proper police practice. The instant that raises the suspicion is often minor, or more obvious but the real issues 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 be a professional spy, or pathologically ill to successfully commit the following offences. And yes those individuals exist but they are in the minority. It is the usual practice where the corruption flourishes; 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 survive.

The Wood Royal Commission Report (Wood 1997a) contained numerous definitions of the term 'corruption'. Under both the law and police practice policy, corruption includes behaviour by an officer who expects or encourages someone to neglect duty, or conduct which results in the officer being improperly influenced in the exercise of functions. Specific acts of corruption can involve major transgressions such as the fabricating or planting evidence; giving false evidence; applying trickery; using excessive force, threats or other improper tactics to procure a confession or conviction; or improperly interfering with or subverting the prosecution process. Corrupt police officers can also conceal forms of misconduct by fellow members of the Service, or assist them to escape internal or criminal investigation. These corrupt activities were described by Justice Wood as the conventional kind — 'process' and 'noble cause' corruption (Wood 2000: 3).

In the aftermath of the Wood Royal Commission there was much discussion about ‘police culture’ being ‘a culture of corruption’. The forgotten casualties of the inquiry have been individual police officers, many of whom see policing as a vocation. This thesis has allowed many voices to be heard and used both qualitative and quantitative methods to analyse a wide range of information and data, which included personal interviews with serving police officers and members of external organisations, as well as printed material from Royal Commission Reports, Hansard and other government documents, internal Police Service documents and media reports.

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. The problem is that often an enforcement culture only perceives that legislation to apply to lower ranked officers. Now this is an issue because this is where the real power diversity leads to serious acts of public deception. Protecting ones mates, at executive level, or having undesirable imbalanced power relationship with politicians serves corrupt practices well.

So internal policy may include, codes of conduct, gifts and benefits acceptance policy guideline, but these are minor issues when compared with protecting ones 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 well it might be? But it has investigated and will prosecute its own and this is a rare event. This is how real corruption prevention is carried out.

Clearly ‘need to know’ here has been given a totally different meaning to the secretive “need not to know” attitude as previously discussed. It assumes that work goes on independently to a certain extent and that clarification is sometimes required. However, this statement also reveals the retention of a closed and lineal structure of management and, through this, the limitations of this reformed police organisation to co-ordinate strategic planning, with

conversations restricted and time constraints preventing creative dialogue that should have involved problem-solving or strategic thinking. Instead the quote, from an officer with a wide span of responsibility, indicates that the basis to their working day is in fact reaction and control rather than the creative development of new ideas and responses within a team.

Management reforms like this can never eliminate corruption in the police organisation. Rather they embody the command control response mechanism that nurtures the whistle-blower, perpetuating the trigger or catalyst that ensures the cycle of corruption inquiries will continue. Reform must treat the police organisation as a holistic organism made up of real people carrying out real work for a real purpose. Management must embody this holism and creatively steer the very necessary and social work of policing into a new era of efficiency and harmony

Reform here is imported, ready-made and the new ‘more effective management structure’ can be ‘slammed down’ once the ‘loads of tiers of management’ has been eliminated. The mechanism to carry out these reforms was to increase the ‘span of control’ by force, unyielding and carefully displayed. Technical equipment was the perceived bridge between the general and the troops — the ‘support’ that was lacking in communication lines was supposed to be compensated by increased technical resources.

The ‘informal’ and sometimes covert practices described above are passed down the hierarchy as the pressure for statistical success increases. This whole process is in fact a distraction from strategic assessment in problem solving initiatives. For instance, there is no measurement for preventing crime. There is no success measurement for great customer/community relations. There are no measurements for the traditional practices, later described as corrupt, of gaining the confidence of informants that may result in major arrests. In fact talking to criminals is fraught with so much internal danger that it is not a practice that can occur without extreme oversight measures resulting. All participants’ at all local area commands were performing under this type of duress.

The Wood Royal Commission made its final report into police corruption in the NSW police service in 1996 and this thesis will specifically analyse the cycle of corruption in relation to this period of inquiry. In terms of preventing corruption, one of the limitations to the effectiveness of inquiries such as the Wood Royal Commission lies in the fact that the executive police response necessarily becomes centred on how to satisfy official censure as well as allay community fears created during the course of the inquiry, concerning themselves with tightening and strengthening chains of control over the organisation itself. This response becomes, first and foremost, a public relations exercise, with senior management strategically addressing the specific recommendations contained in the report rather than creatively considering the implications of the broader picture exposed during the inquiry. In the crisis created by the Wood Royal Commission, it will be argued; the police executive demonstrated a marked lack of interest in the proposition that corruption is a symptom of an ineffective system not simply a slackening of effective control by senior management.

In spite of the obvious specificity of individual circumstances, officers reported that they were still basically advised to be quiet; assured that the matter was already being properly taken care of already; or denounced as trouble-makers. The organisation can be seen to draw in on itself, responding with protestations, denials and convoluted self-justification to counter the outside condemnation and indignation of the community response. Almost invariably, the leadership remains reactively defensive. Nor is this pattern of response limited to the higher-ranking officers and directed entirely at controlling lower ranking officers. In fact, it is just as common between senior executive officers of equal rank and, in such cases, the opinion of the senior officer or the officer with the highest level of individual reputation usually prevails.

Routine police work necessarily occurs in an environment of prescribed rules and regulations but rigidifying these in relation to the work practices of police officers makes effective policing far more difficult. The nature of the game requires a flexible approach to individual situations and the exercise of discretion in instances where efficient community policing warrants this. In the wake of the Wood Royal Commission punitive structural reforms

designed to block possible areas for corrupt activities resulted in widespread alterations to the rules of the game; changes that were not only resented but also proved ineffective and inefficient. For example, after the activities of plainclothes detectives had become the subject of serious allegations, the executive had instantly responded with dismissals and transfers regardless of the impact such actions would have on operational efficiency.

Operational supervisors who have entered the process of harsh and punitive review in response to detected corruption find it not discursive and in the main unhelpful. Piecemeal reform is unbalanced in itself and problems occur most often when a program is used in isolation as a type of 'magic bullet' to spread organisational change rapidly throughout the entire corporation. An example of this is the technique to challenge any failures in reducing statistics concerning crime in particular areas. Specific targets based on complex issues needed problem-solving centres rather than just an oversighting mechanism based on statistical measures. The response instead was command based and highly supervisory in the way it addressed technical police responses.

Breaking up highly integrated trained teams with a good track record for achieving results might serve to reduce the ability of corrupt officers to preserve their secrecy but it was clearly a retrograde step, made worse by the fact that the Qualitative and Strategic Audit of the Reform Process (2001) would later conclude that such '[c]hanges had failed to achieve a desired and sustainable shift in culture and behaviours. To make a 'change' means to make something different, to alter or modify. While the reforms clearly made enormous changes in the day-to-day working lives of the operational police it is doubtful that these same changes were effective in reducing the possibilities open to corrupt police. Radical change is a change that is thoroughgoing or extreme; for an organisation to undergo radical change means that it needs to alter itself to the furthest limit. During the Royal Commission, the community accused the police of corruption so frequently that it seemed to be too frequent, too personal, although mostly at random. Often, when trying to control drunken members of the community, police would be accused of not having any reputable power base.

The cycle of corruption existing within the NSW Police Force is composed of the following parts: first, there is the ongoing nature of police work; second, the crisis or catalyst that triggers the inquiry to be set up; third, the inquiry itself and the issue of the report; four, the police response; and fifth, the community response. Of course, as this model is a cycle that continues inexorably rather than a linear progression from one through to five, the numbering of these parts above is purely a literary convenience in the interests of clarity. These are parts rather than stages and frequently overlap with each other.

The final report of the Wood Royal Commission was in 1996 and my argument specifically analyses the cycle of corruption in relation to the response of the police executive to this inquiry. It shows how the police response focused on the tactical crisis response central to operational policing — in this case appeasing official censure and community fears. As little more than a public relations exercise, senior management strategically addressed the specific recommendations of the report rather than creatively considering the implications exposed during the inquiry. The idea that corruption is a symptom of an ineffective system and not simply a slackening of effective control by senior management was never considered.

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