

RESEARCH PROJECT

ANTI-CORRUPTION AGENCIES, STRATEGIES FOR ENHANCING PUBLIC SECTOR INTEGRITY

SUMMARY OF INTERVIEWS AND RELATED RESEARCH

1 INTRODUCTION

In this research project I have canvassed responses to the following general question:

How can an anti-corruption agency, with the powers of the NSW Independent Commission Against Corruption, influence public sector agencies to introduce and maintain desirable management practices that promote integrity and maximise the organisations' capacity to resist corruption?

I have interviewed 24 people with expertise or experience in the areas of regulation, organisational integrity, or the operation of anti-corruption agencies. These include:

- Four persons who have served as commissioners to anti-corruption agencies or a similar agency, Commissioner 1, Commissioner 2, Commissioner 3, and Commissioner 4.
- Three politicians, Politician 1, Politician 2 and Politician 3.
- Three academics, Academic 1, Academic 2 and Academic 3.
- Two senior corruption prevention officials, CP 1 and CP2.
- Two senior anti-corruption investigators, Investigator 1 and Investigator 2.
- Two senior public sector auditors, Auditor 1 and Auditor 2.
- Six senior public sector officials who have had responsibility for promoting integrity within their agencies and who have experience of anti-corruption agency impact on organisations PS 1, PS 2, PS 3, PS 4, PS 5, and PS 6.
- Two senior executives from prominent non-government organisations that are involved in the promotion of organisational integrity NGO 1 and NGO 2.
- Two business consultants, BC 1 and BC 2.

I also conducted an open discussion session with members of the Corruption Prevention Network in NSW (any contributing person is referred to in this document as “CPN member”).

In addition to these interviews, I researched relevant literature. Much of this was referred to me by interviewees. I also attended relevant sessions of the Australian Public Sector Anti-Corruption Conference (APSACC) held in Sydney in November 2007.

In this document I summarise the responses given by interviewees in relation to this broad question, and related issues. This summary will be circulated to the interviewees, and other select persons, for their consideration and comment. Consistent with a Delphi research approach, I am seeking the views of interviewees to the ideas expressed by others, and re-consideration of their own views in the light of other views.

2 INTEGRITY AND CORRUPTION

One issue that did not give rise to much discussion was the meaning of the core terms, integrity and corruption. All persons spoken to were comfortable with these terms. Although there may be some difficulty in settling technical definitions for these terms¹, their practical meaning is relatively clear; as United States Supreme Court Judge Potter Stewart said when he was grappling with the term “*obscenity*,”

“I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description; and perhaps I could never succeed in intelligibly doing so. But I know it when I see it.”

The National Integrity Systems Assessment (NISA), in its final report *Chaos or Coherence*, noted that “integrity” derived from the Latin word “*integras*” meaning “unaffected, intact, upright, reliable”. It also noted that “integrity” operates as a conceptual opposite to “corruption” which means “decay, deterioration or perversion from the original”(NISA 2005, p 9).

Anechiarico and Smith pick up a similar theme as they use an engineering metaphor:

“A tunnel, bridge or edifice has “integrity” if in a measurable way it can be shown that the design materials and building techniques have produced a structure that will perform its functions safely, efficiently and over the desired period of time... Corruption in the same metaphor is disintegration of critical elements. If unchecked, disintegration results in the failure of the structure (Anechiarico 2007, p 13).”

¹ During negotiations for the United Nations Convention Against Corruption, delegates were unable to agree on a definition of “*corruption*”. They opted to leave the concept undefined and make reference to specific types of conduct that the delegates agreed amounted to corrupt conduct. The ICAC Act does define “*corrupt conduct*” at s.8 and s.9 of that Act. This definition is arguably broader than common conceptions of “*corrupt conduct*” as it incorporates conduct that affects an unwitting public official in the event that this conduct involves any of a list of criminal conduct types (eg fraud).

The focus of this study is organisational integrity. However, through my various interviews there was a great deal of discussion about ethical conduct; conduct that is rooted in values and virtues, principles and duties, judgement and responsibility (Lewis 2005, p 38); what NGO2 refers to as “thinking” conduct. Ethical conduct sustains organizational integrity. Extending the Anechiarico/Smith metaphor, ethical conduct makes up strength of the bricks and the quality of the mortar that underwrite the integrity of organizational structures.

3 WHY IS INTEGRITY IMPORTANT?

On the last day of the APSACC Conference in November 2007, there was a forum where the Commissioner’s of all Australian anti-corruption agencies answered questions from the floor. One question related the significance of public sector integrity. The Hon Len Roberts-Smith RFC, QC,² responded on behalf of the panel. He argued that public sector integrity is central to the confidence the community is able to have in its public sector institutions, “*this confidence is critical for good government.*”

This “community confidence” argument for integrity goes to the heart of public service. Authority and resources are placed in the hands of its public servants, by the community, on a trust basis. According to the Organisation for Economic Cooperation and Development:

Public service is public trust. Citizens expect public servants to serve the public interest with fairness and to manage public resources properly on a daily basis. Fair and reliable public servants inspire public trust. Public service ethics are a prerequisite to, and underpin, public trust, and are a keystone to good governance (OECD 2000).

Other people have looked at the significance of integrity more broadly, going beyond responsibility to the community, to canvass the significance of integrity to organisational viability and effectiveness. According to Bartos:

“The reason organisational ethics are critical elements of governance is simple – ethical behaviour from an organisation correlates closely with its sustainability over the long term. Thus, ethics and probity are critical elements of governance (Bartos 2004, p 15,101).”

Anechiarico and Smith argue that integrity is intrinsically linked to performance:

² Commissioner to the Corruption and Crime Commission, Western Australia

“The separation (intellectual and organisational) of concern for government performance, including the definition of outcomes and designation of effectiveness measures, from the concern for honest government has made it impossible to attain either (Anechiarico 2007, p 6).”

They argue that both concepts must be considered, promoted and measured together before any public sector organisation can be designated as truly successful.

When I spoke with PS 3 and PS 4, who were collectively responsible for promoting integrity within a major public sector agency, I canvassed whether organisational benefits were part of their message to their organisation. They both strongly expressed the view that such an argument unnecessarily complicated the message. Indeed they were sceptical about whether such a link did exist between integrity and sustainability or productivity *“people have been able to compromise on integrity and succeed”*. In their view ethical conduct was important, and was promoted by them *“because it represents the right thing to do”*.

It may be that all these different arguments as to the significance of integrity are correct in some way. Ethical conduct is intrinsically *“right”* and as such, it should guide the actions of individuals and organisational collectives. Public service is inherently about trust and public servants have an inherent ethical responsibility to honour that trust. Organisations that lack integrity are unlikely to be sustainable in the long term. Even in the short term, it is likely that there is an intrinsic link between integrity and performance that should be apparent if measures are sufficiently comprehensive. All these arguments are likely to operate as motives for individual and collective integrity, with different features being prominent at different times and for different organisations.

What did emerge from my interviews, however, is that there is currently a drive within some sections of the private sector towards greater organisational integrity, driven by the perceived organisational benefits of this approach, which is not being replicated in the public sector. NGO 1 and NGO 2 both alluded to this.

NGO 1 spoke about how organisations such as Westpac have focused on building organisational integrity and have secured significant benefits in terms of staff moral and an enhanced reputation within the business community and its customer base. *“Others are playing catch-up”*. NGO2 spoke about how capital investment agencies are steering towards organisations with a reputation for high ethical standards, *“these organisations ‘think’ more and are out-performing their competitors”*. At NGO 2’s suggestion I spoke to business consultants BC 1 and BC 2.

BC 2 described how there are a number of drivers operating within the private sector to promote a greater focus on organisational integrity:

- A realisation of the importance of intangible assets (brand, relationships, etc), and a recognition of the importance of integrity to generating the trust that will sustain these assets.
- A business environment where workers are in demand, and a recognition that these are demanding more than just a wage from their employment.

BC 2 described how this is impacting on the capital investment markets. Organisations that are achieving greater standards of organisational integrity, transparency in their operations, and staff engagement are outperforming their competition.

Both BC 1 and BC 2 emphasised a realisation within sections of the business community that, if presenting as a high integrity organisation is important for brand, relationships, employee satisfaction and other benefits, the organisation must BE what it presents. A façade of integrity? BC 2's response, "*You can get away with it for a while, but insincerity catches up...the first ones to twig to the inconsistency are the employees*".

Having identified that some private sector agencies are pursuing and gaining organisational benefits through placing greater focus on organisational integrity, I queried some witnesses on why the public sector has been slow to follow this trend.

NGO 2 said that there is an assumption of inherent virtue within the public sector, a kind of complacency. In a similar vein, Academic 3 spoke of the public sector's casual and ill-founded assumption of higher moral ground on the issue of organisational integrity. While the public sector is wallowing in its complacency, the private sector is "*grooming an ethical workforce*³" to achieve new, higher standards of organisational integrity.

What are the implications of all this?

Although public sector agencies are promulgating integrity on the basis of its inherent logic and the responsibility they bear through their position of trust, perhaps they are failing to recognise and respond to the organisational threats and opportunities that are driving developments in the private sector.

³ BC 1

In their publication *Responsive Regulation*, Ayres and Braithwaite, canvass how public sector agencies can address regulatory considerations in a lexical order, “A lexical order is one which requires us to satisfy the first principle in ordering before we can move onto the second” (Ayres 1992, p27). This is similar to the babushka doll principle described to the journalist Peter Hartcher by a Labor party foreign affairs spokesman⁴. The modern public sector is under pressure to achieve more outcomes with fewer resources. Could it be that integrity is a management and policy area that is being pushed back by other priorities in lexical order that sees it essentially being overlooked?

Politician 2 pointed to the State Plan and highlighted how this will dominate the government’s agenda over the coming years. “Where is integrity on that plan?” he asked rhetorically. He spoke of the need to drive integrity as an issue so that it ingrains itself within the essence of public sector operations.

The State Plan does not make a reference to the role of integrity within the development of the State’s public sector. This is not political policy. The plan reflects current attitudes in the community, including people in the public sector. The challenge for anti-corruption agencies, and others promoting the cause of public sector integrity, is to highlight the importance of integrity and its benefits, and argue for it to be given greater prominence.

4 PUBLIC AGENCY INTEGRITY: WHAT IS CURRENTLY WORKING?

4.1 THE IMPORTANCE OF LEADERSHIP

Some time ago there must have been a campaign, or an influential paper, that raised the concept of “*TONE AT THE TOP*” in the context of promoting organisational integrity. Whatever the initiative was, it has been very successful. Everywhere I went in the course of my research “*TONE AT THE TOP*” was repeated and re-emphasised. This success, in all likelihood, arose not from any sophisticated marketing campaign, but from its inherent correctness. Almost all the persons I interviewed highlighted the primary role that the leadership of an organisation has in promoting integrity and the powerful impact that person can have if they do. When Academic 3 began to wax lyrical about the significance of leadership support to any integrity initiative I stopped him, and told him that this same thing was being repeated by everyone I spoke to. He replied

⁴ The spokesman described how Labor’s electoral presentation was like a set of Russian babushka dolls. “The outer shell of the babushka doll is national security. The public has to be able to look you in the eye and have confidence that you will maintain security. Peel that layer off. Next people want confidence that the economy will be well managed”. The argument is that the voting public will only canvass Labor’s approach in a policy area once it is satisfied of the sufficiency of its position in prior, more prominent policy areas (Sydney Morning Herald, 30 November 2007).

“Watch how a group of chimpanzees respond to a dominant chimp. Its in our DNA. We are hard-wired to follow our leaders.”

All public sector officials who were able to describe success in promoting integrity within their organisations spoke of the critical support role that had been played by the organisation’s leadership. Academics spoke of the need to assess the leaders’ commitment and capacity to promote integrity during selection processes, and the need to incorporate organisational integrity into any performance contract arrangements. Commissioner 1, while canvassing the positive influence effective leadership can have on integrity, also spoke about the damage that can be caused by antagonistic leadership. He described a number of occasions when opportunities to drive ethical standards within organisations had been undermined by recalcitrant leaders.

4.2 THE “HIGH” ROAD AND THE “LOW” ROAD

In the discussion paper that I circulated prior to the interviews, I canvassed the dichotomy proposed by Rohr of the “*High Road*” of values based integrity and the “*Low Road*” of integrity driven by a compliance approach (Lewis 2005, p 14). This concept was picked up repeatedly in various interviews. Commissioner 1 spoke about the two drivers for achieving integrity within organisations as being:

1. *feeling good about it* (working in a high integrity environment), and
2. *fearing the consequences of straying from an ethical approach.*

The agencies that appeared to be making headway were doing so by driving a values based approach. PS 3, PS 4 and PS 5 all came from large public sector organisations which had grappled with corruption risks and scrutiny by anti-corruption agencies. All spoke about the success they had experienced promoting a principle-based approach to integrity within their organisation. PS 4 described how he had commenced his initiatives focusing on managerial staff and they responded extremely well “*They seemed to respond to the intellectual challenge.*” He had a similar experience with professional staff. However, he had difficulties when he dealt with some operational staff, “*They would get frustrated by it. ‘Just tell us what to do,’ they would say.*” This caused him to move to a more holistic approach with a values focus being underscored by a directive, compliance base.

Academic 3 described a similar development in the Australian defence forces. Here, there has been a “*massive investment in training in values.*” While this has been successful within the senior sections of defence, they tend to come to a level where values promotion is no longer as effective or viable. We had a discussion about this. I pointed out how I knew of another organisation that had a similar experience. I naively and inappropriately suggested that this might be a “*Myers-Briggs type thing*”. Academic

3, after a polite pause, suggested that maybe these people had not had sufficient exposure to the intellectual challenges of exercising discretion in the workplace. *“Perhaps more effort needs to be put into making values based training more accessible for these people”*.

NGO 2 came in strongly behind this. He emphasised that the aim, in terms of establishing an ethical environment, was to have individuals making decisions that were good and right according to accepted values and principles, rather than merely complying with directions.

“The challenge for the management of government agencies is to design management systems so that it is part of an employee’s job to think issues through for themselves.”

4.3 RISK MANAGEMENT

Although there was strong aspirational support for promoting integrity through a values based, “thinking” approach, and evidence of success with this approach, there was also recognition that more is inevitably needed. A compliance approach will be needed in certain circumstances. A strong disciplinary approach will be needed to root out toxic staff, rehabilitate others and define behaviour boundaries. The precise strategies needed will depend on the nature of the organisation and the incident circumstances. Accordingly, there was recognition that, although capacity building can strengthen an organisation’s overall ethical standards, risk management is needed to manage the organisation’s moment to moment reality. Risk management allows an organisation to respond to its changing environment in an organised way; a structured way of being flexible (Sparrow 2000, p 215). Its core principles are easy to understand, however its pervasive implementation can be fraught. PS 5 was a person who had grappled with this.

PS 5 was given responsibility for promoting integrity in a major NSW public sector agency. At the time of his commencement, this had endured substantial ICAC scrutiny, and retained a culture that was highly resistant to the idea of personal responsibility for ethical conduct. Although he sought to build the ethical capability of the organisation, from the beginning, his own efforts were guided by a risk management approach, and he sought to engrain this approach into the organisation’s broader operation.

He made it clear to managers that they would be accountable for the sufficiency of their own risk management structures. He recognised that not all managers had the skills to meet this requirement, so he hired a risk management expert to work with managers, to enhance their capacity and to quality assure the risk management structures they were developing. His own section, Internal Audit, reviewed and assessed the plans that were being developed. He told me that this separation of functions, with the risk management

consultant supporting managers and his section holding them to account, was critical to the success of the initiative.

At the same time, he was working to address key corporate risks using a problem solving approach. Processes were re-engineered to remove opportunities for corruption. Decisive action was taken in relation to prominent misconduct areas to send out core messages (he had a major crackdown on flex-time cheating).

He said that he was aided in this process by core materials such as the AS:8001 standard⁵, the Crime and Misconduct Commission's *Fraud and Corruption Control Model*, and the Audit Office's fraud control guidelines and tool-kit. Importantly, his chief executive officer was highly supportive and centrally involved in the whole process.⁶

5 HOW CAN ANTI-CORRUPTION AGENCIES HAVE IMPACT?

The NSW Premier, Morris Iemma, addressed the APSACC conference, and with respect to anti-corruption agencies, he said *"You're mad if you don't have one."* These comments were reflected in the comments of almost all persons interviewed, even those who were critical at the operations of existing anti-corruption agencies.

"You shouldn't under-estimate the value of having a body in place that can expose corrupt conduct. In the absence of a serious potential sanction, it is more likely that there will be corrupt behaviour. Even if you had no corruption in the public sector, there would still be value in there being an anti-corruption agency (Academic 3)."

"The mere existence of the ICAC is very important in terms of the standards of integrity within public sector agencies. It puts the onus on an organisation to get its act together (PS 3)."

5.1 CORRUPTION EXPOSURE

The focus of these comments was the existence of a powerful corruption exposure capacity. Why is this so significant? Reasons canvassed during interviews included the following:

- It is important to remove the worst offenders. PS 5 highlighted the enormous damage that can be done if staff see someone in their organisation engaging in corrupt or unethical behaviour and getting away with it. These people must be removed, or

⁵ This is the Fraud and Corruption Control produced by Standards Australia Ltd, forming part of its suite of governance standards.

⁶ For further discussion on the issues canvassed in section 4 of this summary document, see Annexure A

rehabilitated. Anti-corruption agencies have powers and resources beyond those of individual public sector agencies. When things are bad, these agencies can often succeed when the line-agencies cannot.

- Rigorous and public exposure processes can act as a powerful deterrent for individuals. However, it can also provide an important frame of reference for organisations. Academic 3 spoke about the need for an anti-corruption agency to have “*brand*” value, whereby its mere name will engender a response. Auditor 1 spoke about how the ICAC used to have this. “*People in the public sector would speak about things being ‘ICACable’.*” He lamented that this “*brand*” significance had fallen away in recent years.
- Chan and Dixon, in their article *The Politics of Reform: Ten Years after the Royal Commission into the New South Wales Police Service*, spoke about the impact of anti-corruption agencies on a political environment, providing an “*official, objective truth,*” that “*may be inconvenient and challenging for the authorities*” (Chan 2007, p 444). A truth that cannot be spun. A truth that can demand reform.

There was general recognition that, for organisations with significant integrity problems, large scale, even scandalous, corruption exposure is conducive to, or even an essential prelude for, significant organisational change.

How can an anti-corruption agency most effectively fulfil this important forensic role?

5.1.1 LEADERSHIP

The organisation must be well led, according to Commissioner 3, by someone with a bit of “*mongrel*” in them, determined, active and innovative.

5.1.2 MATTER SELECTION

Anti-corruption agencies routinely have a discretion whether to investigate an allegation. They certainly have a discretion as to the way in which they investigate a matter. Professor Sparrow describes how regulatory agencies, consistent with a risk management approach to achieving their mission, are using this discretion pro-actively (Sparrow 2000, ch 17). They are picking ‘vehicles’ that will maximise their impact on identified risk areas.

This is not new. In 1757 the British executed Admiral Bing after he failed to lead his fleet into battle with the French near the island of Minorca in the Mediterranean. The French essayist and philosopher Voltaire, in his novel *Candide*, made reference to this. When his protagonist, Candide, witnessed the event he was told that it took place “*Pour*

encourager les autres (to encourage the others)”. The incident has been credited as contributing to the rise of the British Navy.

“Byng's death revived and reinforced a culture of aggressive determination which set British officers apart from their foreign contemporaries (Rodger 2004, p 272).”

What is new is the acknowledgment that choices are being made strategically and a move to carefully account for these choices so that inconsistencies can be shown to be demonstrably rational and, in the context of the agency’s mission, fair (Sparrow 2000, ch 17).

5.1.3 INVESTIGATION PROCESS

Critical to achieving maximum impact through corruption exposure, is the effectiveness of an agency’s investigation processes. Investigator 1 made the following comments about this:

- It is critical to have clear and decisive leadership leading to sound and timely decision making. He warned of the dangers of leadership by committee that inevitably blurs and delays decision-making (and diminishes accountability).
- Current arrangements, whereby anti-corruption agencies can make declarations that individuals engaged in corrupt conduct, using evidence that may or may not be admissible in criminal proceedings, is seriously threatening the impact of exposure processes. *“The community expects that people who have done the wrong thing should be punished. If not, they want to know why”*. Merely dismissing criminal prosecution as a secondary function is insufficient. Regular divergence between anti-corruption agency findings and prosecution outcomes is causing confusion and undermining the cogency of exposure outcomes. There is a need to ensure a sufficient emphasis is placed on criminal prosecutions, and to improve the quality and efficiency of the product that is passed on for prosecution purposes. Inevitably there will be situations where evidence is available for anti-corruption findings which is not available for criminal prosecutions. In addition, different standards of proof will culminate in different outcomes in the two jurisdictions. These matters need to be carefully explained. If decisions are made that undermine the prospects of criminal prosecution, in order to secure more effective corruption exposure, this needs to be done in a consistent, and accountable fashion.
- What are the measures for investigation success? The number of investigations, the number of corruption findings, the number of criminal convictions? These measures are often illusory. There is a need to better define what success is and have meaningful measures that can drive investigation performance towards worthwhile outcomes.

5.1.4 IMPACTING ON ORGANISATIONS

All existing anti-corruption commissions in Australia have legislative authority to make formal findings in relation to the behaviour of individuals. They generally make development recommendations in relation to organisations. Is this sufficient?

A number of persons spoken to lamented that insufficient attention is paid to the responsibility of managers and other organisation leaders.

“In an ICAC investigation, all the workers get taken out. But the inherent problem in leadership is not addressed (CPN member).”

“Organisations and managers are not being held accountable for deficiencies. This arises out of the lack of interest on the part of anti-corruption agency leadership and the fact that anti-corruption agencies haven’t developed the capacity to do this particularly well (Investigator 1).”

Individuals are held accountable against a standard eg “*corrupt conduct*” or “*misconduct*”. This gives their conduct a tangible meaning that is broadly understood within the community? Should a similar approach be taken with respect to organisations, or relevant managers?

When Juan Antonio Samaranch announced that the Sydney Olympics had been “*the best ever*”, games officials literally jumped for joy. All the complexities involved in the preparation and conduct of the games were brought down to this brief assessment that had powerful meaning for the officials and the community.

Would a designation standard enhance the accountability of organisations and their managers? Does this take accountability too far?

Under current arrangements, organisations and managers are indirectly held accountable in the following ways:

- The identification of corrupt individuals operating under your supervision, and within your organisation, inherently calls into question the adequacy of your existing management
- Current Australian anti-corruption agencies, in order to identify development options, routinely assess organisational deficiencies that may have contributed to relevant

circumstances. The results of these assessments are generally reported in the narrative of public reports and are reflected by the recommendations made.

Is there any need for anti-corruption agencies to be able to go further in holding managers and organisations accountable? Managers have not been found to have engaged in morally reprehensible conduct. At the same time, the indirect nature of organisational accountability provides an anti-corruption agency with strategic flexibility that can be extremely valuable when promoting organisational change. Organisations consistently have a heightened focus on addressing organisational issues, and are more receptive to new and external ideas, in the period between the exposure of core corruption facts and the making of final determinations. This was broadly recognised by interviewees. The “*Sword of Damacles*” reference emerged almost as regularly during interviews as “*TONE AT THE TOP*”. A more formal accountability arrangement in relation to managers and organisations is likely to diminish this flexibility, and may impact on the agency’s ability to propitiate the best developmental outcome for the organisation.

The focus of most suggestions made by interviewees was not directed at structural change to the way anti-corruption agencies impact on organisations, but rather, improving the way in which the existing arrangements are applied.

i. Process:

Auditor 2 commented that the analysis of organisational issues with a view to promoting development is very different from corruption exposure, which focuses on the misconduct of individuals.

He argued that although there may be a need to bring managers and other leaders to account for organisational deficiencies, this needs to be done carefully in the context of the broader agency operation.

In his view, a diagnostic approach, whereby anti-corruption operatives move through exposed incidents, looking for incidental systemic deficiencies, can be one-dimensional and unhelpful. For an effective analysis that can culminate in meaningful change, he recommended the following:

- a) Take time to learn and understand the history of the organisation, and incorporate this into your analysis. Tell a broad story of how the organisation came to the situation disclosed and how it can move on to an improved situation.

- b) Be clear about your objectives from the commencement and pursue your inquiry, and adjust your approach, so as to maximise these objectives. The objectives of a systems analysis in the context of a corruption exposure inquiry will routinely be:
 - i. to hold individuals to account for their role in the development of systemic circumstances, and
 - ii. to identify opportunities for improvement.
- c) Assess against a normative model, set up by reference to best practice. While stability of this model assists in the conduct of a well ordered assessment, some evolution of the model may occur, as things proceed, on account of learnings made during the course of the inquiry.
- d) Involve strategically selected persons from the organisation. They can assist in settling the most appropriate normative model. They can assist in understanding relevant evidence. They can assist in assessing the viability of development options. Ultimately, their organisation will be responsible for making any developments work. Greater investment or ‘ownership’ on their part will strengthen implementation and enhance the prospects of achieving sustainable change. Auditor 1 warned that, as you immerse yourself in an agency and its operations, you tend to become a five minute expert “*You can have enough information to be dangerous, but not enough to be useful*”.

ii. Engaging the subject agency

Auditor 2 spoke of “*involving strategically selected persons from the organisation*”. The manner in which anti-corruption agencies engage public sector organisations, the subject of their inquiries, was the subject of much of the comment made by public sector officials and academics spoken to.

Maintaining an aloof or even antagonistic approach to the subject organisation can have strategic benefits. Certainly, making anti-corruption agency scrutiny as unpleasant as possible may provide some incentive to ensure your organisation is in good shape to keep grim reaper at bay. However, as canvassed by Ayers and Braithwaite, such an approach can undermine the “*good will of the willing*”, and engender a game of cat and mouse between the anti-corruption agency and potential target organisations, that is about avoiding scrutiny, and subsequent damage, rather than improving the organisation (Ayers 1992, p 20).

A number of the public sector agency operatives were of the view that their agency had been the subject of inappropriately aloof, or antagonistic scrutiny, and that this had diminished the value of the process.

PS 1's organisation had been the subject of anti-corruption agency scrutiny in the course of a major public inquiry. He said that the agency did not seem so interested in genuinely addressing his organisation's problems, as they were in looking important, busy and useful. He said that his organisation wanted to address its problems, and would have appreciated some constructive assistance. But the anti-corruption agency resisted any engagement of his organisation. Instead it ultimately imposed its views in the form of analysis and recommendations.

His message for all regulatory and over-sight agencies:

"If people hate you, they aren't going to listen to you."

PS 3 also commented on his frustration with the aloofness of an anti-corruption agency's operations.

"Commission investigators and operatives don't always live in the real world so far as our organisation is concerned. They don't have sufficient understanding of the organisation. If they more effectively engaged the organisation their inquiries would be more effective and their developmental input would be more relevant. As it is, we get recommendations that are fairyland stuff."

The core argument of a number of public sector officials interviewed was that, not only was anti-corruption agency involvement unnecessarily unpleasant, but it was also inefficient, as the agency failed to access important benefits from the subject agency that could assist its fact finding and systems analysis.

This was a theme taken up by Academic 1. He pointed to the literature on the concept of "social exchange" (Alford 2006; others).

A core economic principle is that, in a financial exchange, maximum welfare is gained when the supplier's desire to supply (at a particular price), meets the purchaser's desire to buy. At this point, the supplier sells product at that price, when he would have been prepared to sell a quantity of his product at a lower price. He benefits from this additional profit. The purchaser buys product at that price when he would have been prepared to purchase an amount of the product at a higher price. He benefits from these savings. Although both the supplier and the purchaser could have benefited even more

individually from other arrangements, the maximum overall welfare occurs at the price where the desire for supply = the desire to purchase (Gans 2005, p 136).

Alford extends this concept for maximising welfare beyond financial exchange situations, and canvasses how overall welfare can be maximised in “*social exchange*” situations. He argues that, as agencies interact, an exchange of social value takes place. Information is passed, agreements are reached, services are supplied etc. He argues that greater care is needed to ensure that the nature of the exchange maximises the welfare gleaned from the interaction (Alford 2003, p 343).

Consistent with this, a directive, aloof exchange approach by an anti-corruption agency may see it walk away with some value, but a more carefully engineered exchange arrangement is likely to substantially enhance the overall value secured for the community.

Academic 1 and Academic 3 both raised the concept of strategically engaging the subject organisation so that the process of engagement itself can promote beneficial outcomes for the regulating agency. They both referred me to the concept of *responsive regulation* which has been explored by Ayres and Braithwaite. Ayres and Braithwaite have argued that a regulatory agency is more able to secure compliance when they have a benign ‘big gun’ (Ayres 1992, p 19). This involves using the threat of severe action, through a process of strategic engagement, responding to the circumstances and behaviour of the subject organisation (Ayres 1992, p 21).

The aim is to engender willing self regulation, but to respond strategically to problematic circumstances or contumacious conduct by moving to a more intrusive engagement, in a hierarchy of regulatory responses, often referred to as Braithwaite’s enforcement pyramid (Sparrow 2000, p39). Importantly, the regulatee must be aware of this pyramid of regulatory responses, and thereby have an incentive, through their own behaviour, to seek interaction at a lower level.

How would this operate in an anti-corruption agency context? It may involve the delineation of a hierarchy of engagement strategies, that can be applied in a consistent, and predictable manner, depending on the nature of the organisation’s problems and its ongoing behaviour.

The most benign strategy might involve the anti-corruption agency oversighting, consulting and supporting a subject agency as it addresses emergent problems, and providing some strategic support through public report commentary and recommendations. The most intrusive approach may be akin to that taken by the Wood Royal Commission, where leaders, who were in denial about the existence of systemic

corruption within NSW Police, were tied down in public proceedings to this position BEFORE corruption exposure evidence was led. The resultant, new leadership, was then called back to public proceedings, in the wake of this exposure, to detail and commit to a course of reform conduct. Finally a recommendation was made for a full strategic audit of this reform process, commencing some years after the conclusion of the Commission.

The existence of this strategic engagement hierarchy, and the rationale for the implementation of any particular strategy, would need to be promoted and explained in public reports and elsewhere so that organisations would have an incentive to seek, through their conduct, a particular level of engagement.

Ayres and Braithwaite emphasised that the strength of the regulatory approach will be enhanced by the height of the pyramid, “*the punitiveness of the most severe sanction*” (Ayres 1992, p 40). They recommended the use of belligerent dealings with “*recalcitrant*” organisations to “*under-write the authority of the regulator*” (Ayres 1992, p 26).

This structured, strategic approach to interaction with subject organisations may enhance an anti-corruption agency’s capacity to promote beneficial development in these organisations. It may also engender a greater consistency in anti-corruption agency operations, and a better understanding of these operations and their rationale on the part of subject organisations and the community generally.

iii. Managing the politics

Scott and Baehler in their paper “*An Integrated Model of Policy Analysis and Advice for Australia and New Zealand*”, proposed a model for policy making that includes a “*multi-loop policy cycle*”. This highlights three interacting policy terrains. The inside cycle is the “*business as usual*” loop. Policy making in this terrain is about growing government operations iteratively, as they go about the day to day business of government. Outside this is the “*politics as usual*” terrain, “*the true heart of policy making in a representative democracy* (Scott 2006, p 4).” Here policy making must endure the slings and arrows of a democratic political process. Quick and expedient responses are needed for survival. Outside this again is the “*policy crafting*” or “*blue skies*” policy terrain. Here there is scope for policy making to be innovative and ground-breaking.

Scott and Baehler argue that all terrains are realities. None can be overlooked or resented. The challenge for public servants is to become adept at managing policy in each cycle.

A constant theme that emerged throughout interviews was that the best endeavours of anti-corruption agencies can fall at the feet of “politics as usual”. What can be done about this?

The Wood Royal Commission was arguably the most comprehensive anti-corruption initiative in recent time in this State. It went further than other, similar enterprises in trying to drive beneficial outcomes from its graphic corruption exposés. After extensive consultation with core stakeholders, it made 174 recommendations. The final recommendation was that a qualitative and strategic audit be conducted of “the reform”⁷ within a suitable time after the handing over of the report.

The Commission’s recommendations were directed at transformational change within the organisation, building its capacity both operationally and culturally. However, as time passed, the organisation moved away from this towards a greater focus on front-line police numbers and crime statistics, the grist of ongoing political debate on law enforcement in this State. When the audit finally took place (QSARP)⁸, it immediately identified this and recommended a return to the focus established by the Royal Commission (QSARP Report 2000, p1).

The audit was completed in March 2000. It was finally made public in February 2001. At this time the Police Commissioner dismissed it as “old” and “narrow in its focus”(ABC Four Corners: Policing Chronology 1994 – 2001). Premier Carr criticised it as being “management jargon” (Dixon 2001, p211). The report was essentially disregarded.

There is general consensus that the Wood Royal Commission has had a profound beneficial impact on policing. However, many argue that this was tempered by the actions of the police leadership and the government in confining the reform process.

What can anti-corruption agencies do to manage the politics that can impact on reform initiatives?

One approach is to acquiesce. Commissioner 3 said “*I provide the report. They deal with it. How they do that is a matter for them.*” This is consistent with the Scott and Baehler assertion “*the politics as usual cycle is the true heartland of policy making in a representative democracy.*” Academic 1, in the course of our discussions, looked over his glasses and said “*You know, they are elected. We’re not.*”

⁷ This is the term generally used for the transformational change process that NSW Police committed to at the conclusion of the Wood Royal Commission

⁸ Qualitative and Strategic Audit of the Reform Process

Others qualified this. NGO 2 argued that the election of a politician and a government provides a certain legitimacy, but this can be mistakenly extended to mean anything they want is legitimate. Their power is provided on the assumption that they will maintain the condition for democracy, comply with the law and operate within the Westminster system, in that they will act after receiving frank and fearless advice from an independent public service that is acting in the public interest. Recently concerns have been raised about how effectively this latter aspect of the system has been operating (Gratton 2007). In particular there has been concern about the filtering of information through ministerial staff, described by one CPN member as “*the princes and princesses of darkness, who live life in their own fog*”.

In my discussions I explored alternatives to acquiescence.

a Seeking political support for anti-corruption agency initiatives

Should anti-corruption agencies take steps to ensure key reform messages are conveyed to political leaders?

Commissioner 1 described how he sought to maintain a good relationship with relevant political leaders. He described this as “*walking a tight-rope*”. He sought to keep the channels of communication open so that he could convey important messages. At the same time, he had to safeguard the independence of his commission and the appearance of independence.

Commissioner 1 spoke about general interaction with political leaders. Should anti-corruption agencies go further and seek to liaise directly with strategically selected political leaders on specific reforms to ensure these are fully understood?

Commissioner 3 indicated that he did not think it was appropriate for an anti-corruption commissioner to be required to play a political game. He said this can be difficult and threatening to the integrity of the position. However he indicated that he might make a stand if things are critical.

Are there impediments to political support for anti-corruption agency initiatives that might usefully be managed or removed?

The three politicians interviewed were all supportive of the existence of a strong anti-corruption agency. Politician 1 and Politician 2 highlighted specific concerns.

Politician 1 spoke about the impact that the Greiner decision had on the Parliament⁹, and how it led to a greater wariness of the ICAC. Politician 2 raised concerns about the lack of review of ICAC determinations. Both Politician 1 and Politician 2 raised concerns about the inconsistency in the operations of anti-corruption agencies; Politician 2 “*The ICAC takes on a different form with each commissioner.*” I raised the prospect of the ICAC Inspector facilitating greater accountability of ICAC decision making¹⁰. Politician 2 was encouraged by this, but indicated that this was not well understood and needed clarification. I discussed strategies to engender greater consistency in agency practices. I canvassed whether the development of set policies and guidelines, in the manner of those published by Director of Public Prosecutions, might engender greater consistency and alleviate concerns. This received a positive response from Politician 2 (not raised with Politician 1 or Politician 3).

Can anti-corruption agencies do more to support politicians?

“Politics as usual” is run by something of an invisible hand. There are influential people in parliament, the media and elsewhere, but even these are generally reacting to community attitudes and developing circumstances. Politicians often manage rather than control debate. Should anti-corruption agencies be more considerate of the circumstances that politicians find themselves in? Should they study the history of issues, anticipate the pressures, and seek to design initiatives that politicians will be able to support over time in the maelstrom of “politics as usual”?

b. Succeeding in spite of the politics

Much of the discussion related to strategies for quarantining anti-corruption initiatives from political influence. Scott and Baehler would see this as extending out the “opportunity creation” cycle by structurally restricting “politics as usual”.

Returning to the dilemma of the QSARP report, interviewees generally canvassed strategies to support the intent of the Commission. NGO 2 suggested that arrangements might be made for the Royal Commission to reconvene to receive the report. This could, in my view, be a powerful driver for change, bringing back the authority of the

⁹ In a report to the NSW Parliament in 1992, Commissioner Temby of the ICAC made a determination that the State’s Premier, at that time, the Hon N.R. Greiner, had engaged in corrupt conduct. Mr Greiner resigned from the position of Premier. Later, the NSW Supreme Court’s Court of Appeal found that Mr Temby had applied an incorrect standard when making this determination. The Supreme Court’s decision did not affect the initial determination.

¹⁰ In a paper presented to the 6th National Investigation Symposium in November 2006, *ENSURING INTEGRITY AGENCIES HAVE INTEGRITY*, His Honour Justice James Wood AO QC confirmed that there can be no “merit review” of an ICAC determination, however the ICAC Inspector can “recommend reconsideration” although “it would not appear that such a recommendation could be directed or a merit review undertaken”.

Commission, and if necessary, calling further evidence to hold development efforts accountable. Others commented that the situation highlighted the importance of having standing commissions that can be around to manage responses to these later reviews. Politician 2 suggested that anti-corruption agencies might develop their own capacity to effect follow-up audit processes¹¹. His argument was that anti-corruption agencies, like all public sector agencies, need to be able to identify what works and re-engineer themselves to take advantage of this.

5.5 IMPACTING ON THE BROADER PUBLIC SECTOR

So far in my discussion about the role of corruption exposure in promoting public sector integrity, my focus has been on the impact on agencies which are the subject of review. Auditor 1 highlighted that there is a need to exploit such episodes to promote integrity more broadly across the public sector. He pointed to the ICAC's Persis investigation which related to a RailCorp engineer responsible for the maintenance of air-conditioners in trains and at train stations. The investigation disclosed that he exploited his position to steer contractual opportunities to his own family's business which culminated in substantial financial benefits for his family and himself. Auditor 1 pointed out that these issues of procurement and conflicts of interest are relevant right across the public sector, where the risk of similar conduct is prevalent. He argued that more needs to be done to exploit this graphic disclosure and the management of RailCorp's response to drive messages through the public sector; to generate broader discussion and development.

“Why aren't we holding forums where we ask those agencies with substantial procurement operations what they are doing to guard against this type of development; where we draw out suggestions for developing practices in these areas and where we generate advice and guidelines that will be broadly useful for responding to this generic threat?”

6 SUPPORT AND EDUCATIONAL ROLE FOR ANTI-CORRUPTION AGENCIES

Can anti-corruption agencies play a role in promoting integrity and supporting improved management practices independently from their corruption exposure operations, or in addition to their corruption exposure operations?

6.1 SEPARATE AGENCIES?

NGO 2 was adamant that there was a crucial role to play in promoting integrity and supporting agencies in their efforts to achieve this, but in his view this should be performed by a separate agency. He was concerned that the blending of the corruption exposure and support roles was dysfunctional. In his view, the blending operated to undermine both functions. *“Organisations find it very difficult to feel comfortable and develop trust with an agency that is also holding it publicly accountable.”* At the same time, having the responsibility of guiding and supporting subject organisations operated

¹¹ QSARP was conducted by the Hay Consulting Group after a public tender process.

as a distraction for an agency charged with exposing corruption and holding organisations to account. He suggested the establishment of two agencies, a corruption exposure agency and a support agency, operating side by side with strong intelligence links. While the corruption exposure agency scrutinises the conduct of individuals and explores associated systemic issues, the support agency would shadow the investigation, advising the organisation on how it should respond, and how it might develop its operations to address the systemic concerns raised. He claimed that the ICAC had suffered from being handed both responsibilities.

6.2 GETTING THE MESSAGE OUT

A key role of an anti-corruption agency, either as a single or dual entity, is to drive key messages about the importance of integrity, the dangers of corruption, and management options for addressing these issues. The kind of messages that might be promoted have been discussed in the course of this summary document. Corruption prevention executive CP 1 said that the precise message at any point in time needs to be adapted to meet the particular circumstances.

One issue that came up was the role of the agency leader in promoting core messages. A number of interviewees spoke of the significant influence the head of the agency has and how this needed to be exploited. Others expressed concerns about the risk a more public profile for the head of the agency can pose to the standing of the agency, as public utterances can be taken out of context and manipulated

I spoke to Commissioner 4 in relation to this issue. He made the following points:

- Media has a strong preference for speaking to the head of an organization. They will report much more heavily if they speak to the head.
- The leader of the organization generally has the best feel for the link between the issue under scrutiny and existing community circumstances and attitudes, and is in the best position to put forward the organization's views in a salient manner.
- There has been some criticism of leaders, such as Professor Alan Fels in his time as the Chairman of the ACCC, for going over the top in pursuit of publicity for issues. It has been argued that frequent media appearances by the leader can personalize the organization and the issues and that this is a bad thing. Commissioner 4 disagrees. He argues that to attract attention to organizations and issues, it helps if things are personalized. People relate to people.
- It is important to seize the right moment. The media is not interested in general lectures on areas of law and law enforcement. Generally, what gets reported is events. What gets picked up is something new. An emerging case or individual story will attract media and community attention (this again highlights the significance of exposure operations). People can understand the relevant

principles in the context of a particular story. These present opportunities (quickly passing opportunities) for organizations to convey important messages.

- There are limitations as to the use of media by an anti-corruption agency on account of legal constraints and general considerations of fairness for affected individuals. But by and large, the public are entitled to know what its anti-corruption agencies are doing.

6.3 SUPPORT SERVICES

This is a terribly important area and one that I failed to adequately address in my initial discussions with panel members.

PS 5 spoke about the benefit that he gained from the Crime and Misconduct Commission's *Fraud and Corruption Control* publication. A number of interviewees pointed to the NSW Audit Office's *Fraud Control Improvement Kit* as an excellent aid. Similar comments were made about the ICAC's *Ethical Culture Survey Kit*.

Some of the public sector officers interviewed spoke warmly about the support they had received from ICAC Corruption Prevention officers. Comments were made that real benefits flowed once they had developed relationships with people in the organisation, but this was not initially easy.

However, apart from this general feedback, there were some important issues that I failed to address, these include:

1. Should support services be provided by the public sector at all? What benefit can a public sector agency bring that commercial service providers cannot, or cannot provide as well?
 - Close intelligence links with the corruption exposure limb may place a public sector support agency in a stronger position to provide relevant support?
 - A public sector agency may be able to more effectively garner specialist public sector experience?
 - Private sector service providers may not provide the kind of comprehensive service that is needed?
2. Would a public sector support agency be better off to contract into a more coordinating role, utilising its close links to the corruption exposure process, and specialised public sector knowledge, to 'steer rather than row', that is, to guide the provision of support services, rather than necessarily providing services itself? Mainstream and resource intensive service roles, such as internal auditing, education and long term consulting could be left to 'guided' private sector entities.

3. What kinds of services will best assist public sector agencies in their efforts to develop higher standards of organisational integrity?

These are important issues that I intend to explore more thoroughly in my further discussions following the circulation of this summary.

7 ANTI-CORRUPTION AGENCIES AS A MODEL OF BEST PRACTICE

There was a great deal of discussion about the need for anti-corruption agencies to model best organisational practice. A number of the public sector officials expressed concerns about the hypocrisy of anti-corruption agencies promoting values and practices which they do not appear to ascribe to themselves.

I raised this matter with Commissioner 1, canvassing whether anti-corruption agencies should strive to ensure they are a model of best practice. He stressed that there can be problems if you are too fixated on waiting until everything is in order in your own organisation, *“You need to get on with the task”*.

One matter that has concerned me for some time is measuring standards of integrity within public sector agencies. If your core business is promoting integrity within public sector agencies, and you have no meaningful outcome measures, how can you know whether you are succeeding? How can you model best management practice, when you have no meaningful performance outcomes to drive performance and development?

On the last day of the APSACC conference, in the morning, Professor Anechiarico gave his paper in which he argued the need for integrity and effectiveness to be brought together as collectively essential for successful public sector management. He emphasised the need for both to be closely measured and for the results of this measurement to be collectively considered.

At the end of his presentation I asked a question. I pointed out that issues such as organisational integrity are generally considered too difficult to measure. He responded by saying this was a challenge that must be met. He said that organisations in the United States were placing more and more emphasis on measurement and finding ways to measure performance in areas, previously considered illusive.

In the afternoon a panel of the current commissioners of anti-corruption agencies in Australia made itself available to answer questions from the floor.

I asked whether anti-corruption agencies should aspire to be models of best practice and, in that context, and in the context of Professor Anechiarico’s call for enhanced measurement of organisational integrity, in conjunction with effectiveness, whether anti-corruption agencies need to do more to lead in the area of integrity measurement, *“otherwise we might find ourselves telling others to do what we are not doing ourselves.”*

One of the Commissioners confirmed that it was essential that an anti-corruption agency operate as a model of best practice. He left the remainder of the question unanswered. O’K, it was a long and rambling question, and it was late in the day. Perhaps it was not the right forum to raise a difficult issue such as integrity measurement. But the issue is an important one, and one that warrants greater attention in the further discussions I hope to have with people following the circulation of this summary document.

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ANNEXURE A

DO RULES MATTER?

In section 2 of this summary, I canvassed the high road and the low road for achieving integrity. What emerged from interviews is the strength of a values based approach to integrity. This raises the question of whether formal controls, or rules, matter. The answer obviously is that they do. They matter a great deal.

- As Lewis and Gilman advise "... the integrity route (relying on basic ethical values alone, without rules) has not worked all that well, and abuse and corruption persist" (Lewis 2005, p 17).
- By and large, particularly in Australia, people are compliant, and rules will be effective in shaping values and guiding conduct.
- Our authority structures facilitate coordination, information sharing and collective learning, through the lines of authority. The benefits of this generally flow out through the formal structures (rules) that sustain these lines of authority.
- Rules can encapsulate preferred conduct approaches and simplify decision making, leaving greater time and energy for more difficult and contentious discretionary areas.

Formal rules that are out of alignment with entrenched values can culminate in dysfunctional outcomes. The United States alcohol prohibition rules in the early part of the last century are an infamous example of this. However, when rules and values are aligned; they are generally very effective, indeed essential, in guiding conduct. Try driving through Sydney traffic relying solely on your value set and see how far you get.

Professor Fiona Haines in her paper *Safety, Security Politics and Fact: Shaping the Regulatory Solution*, canvasses the critical interplay between values/social norms and formal control structures/rules.

Haines revisits the concept of 'regulatory character'¹², "*an heuristic device for exploring the 'compliance gap' in different regulator arenas* (Haines 2006, p 5)." This canvasses two considerations:

¹² Haines had previously canvassed this concept in her publication *Globalization and Regulatory Character: Regulatory Reform after the Kader Toy Factory Fire*, Darmouth, Ashgate.

1. Group (social relations)
2. Grid dimensions (authority)

Group is about the extent to which group norms (for better or worse) influence individual behaviour. The grid dimension canvasses the authority framework in which conduct takes place. It starts at social norms and progresses through increasing formalisation to formal rules.

“Ideally (where behaviour operates consistently in a desired direction), a regulatory framework thus formed accurately reflects how individuals behave and relate on a day to day basis, ensures that the actual norms of the organisation are reflected in the framework developed, and further, that individuals relate through the formal processes, as a living document that shapes their behaviour (Haines 2006, p 6).”

The converse is individuals operating distinctly from their colleagues according to their own separate or non-group values, or the authority structure becomes an abstraction from the values of the individuals, the collective and the general reality of the regulated environment.

The problem highlighted by Haines is that group and grid are affected by different influences. Group can be affected by inter-organisational matters such as reaction to the treatment of a colleague, or the emergence of an influential character or group. These may fly under the radar of those setting formal policy. The grid can be affected by external political demands that may not influence a more informed workforce. In particular, conflicts emerge out of mistrust as grid regulation is used strategically, in pursuit of other (unshared) values. Accordingly *“... for employers, safety is unhelpfully tied to industrial relations, whilst for workers, employer use of screening tests as a pre-condition for employment is an illegitimate intrusion into their private lives (Haines 2006, p 9).”*

Perhaps, in the context of organisational integrity, workers may see regulatory arrangements as indicative of their employer’s mistrust of them, or their employer’s lack of confidence in their ability to adequately and appropriately control their own work environment.

Haines remarks:

“It seems to me that this (the danger of mistrust) requires that development of a regulator regime requires a genuine exchange to take place concerning the values to be pursued, and only once these are agreed, should there be debate about the appropriate means by which such values can be enshrined in a formal institutional form (Haines 2006, p 9).”

Haine's article is written in the context of her analysis of occupational health and safety regulation in Victoria. Ironically, occupational health and safety in NSW is an area where the regulatory approach has experienced success in recent years¹³.

I spoke to a senior WorkCover NSW (WorkCover) executive about this. He pointed to a Safety Summit they held in Orange in 2005 involving delegates from industry and unions. WorkCover had approached this with some trepidation as previous forums had been fairly bitter and divisive. At this summit they divided the delegates up into industry groups, with employers and unions from particular groups, sitting around a table. WorkCover fed in statistical information and encouraged broad ranging discussion about the issue of worker safety. At the end, they held a plenary session. Out of this emerged a critical consensus. Employer representatives stood up and said "*We can't continue to blame workers. We have a responsibility to make the workplace safe.*" Union representatives responded "*We can't go on blaming employers. Workers have a role to play.*" I asked the WorkCover executive whether they were claiming credit for this forging of collective values as well as the positive statistical outcomes. He said they were happy to take the credit, but he also saw these developments as indicative of an increasing maturity within the workplace. He said that WorkCover did draw comfort from all these circumstances as an indication that they were working in the right direction as a regulating agency.

The same unanimity as seen at the Orange summit does not appear to exist with respect to public agency integrity. One of the Commissioner's I spoke to expressed concern that unions and professional associations have at times acted in a way that placed their members ahead of the anti-corruption objective and that it is essential to involve them as active participants in the fight against corruption.

An example, that I have observed, of a professional association that has at times arguably placed its members' immediate interests ahead of the anti-corruption objective is the NSW Police Association. In the wake of the Wood Royal Commission this agitated to water down the Police Commissioner's confidence provisions that were to be included on the Police Act 1990¹⁴, thereby inhibiting that organisation's capacity to shed corrupt elements in its ranks.

¹³ The year 2005/06 saw NSW experience the lowest incidence and frequency rates of major employment injury since the commencement of the workers compensation scheme in 1987. Over this time, the number of deaths resulting from work have also dramatically fallen away with the overall drop being 30% and the fatality incidence rate (number of fatalities per 100,000 employees) declining by 50%. Since 1996/7, workers compensation claims for injuries resulting in permanent injury have dropped by 30%.

¹⁴ These provisions provided the Commissioner with greater powers to remove errant officers from the organization.

It may be argued however, that police associations, and other unions, tend to get pushed in this direction. Police leaders and other public sector executives have long ascribed to the 'few bad apples' concept of corruption, which absolves them of responsibility. In keeping with this, once a person is identified as possibly having engaged in corrupt practices, they are quickly 'set adrift' and often treated harshly to exemplify how seriously the organisation takes corruption. This is classic strategic manipulation of the grid. It is left to the association to ensure that its member receives proper assessment of their conduct and humane treatment whether or not they have offended. Being pushed into this role in turn pushes the association's services, and possibly its leadership, away from integrity control. Perhaps, in keeping with Haines idea of having a "genuine exchange...concerning the values to be pursued", a starting place might be for the police leadership, the association, and other stakeholders to engage in a dialogue with respect to the treatment of suspected offenders with a view to removing strategic manipulation of the grid and achieving a more consensual commitment to integrity, its benefits, and the need to treat all people fairly and humanely during associated processes.