Criminal infiltration and the impact of improper associations upon policing & public sector agencies

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To study criminal infiltration and the impact of improper associations upon policing/public sector

Report by
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[Signature]

Martin Hardy

Dated 24/12/2008
# Table of Contents

- Introduction ................................................................................................................. 4
- Executive Summary ........................................................................................................ 5
- Background and Acknowledgments ............................................................................... 7
- Programme .................................................................................................................... 8
- Main Body - Context ..................................................................................................... 11
  - Improper Association ................................................................................................. 11
  - Human Rights ............................................................................................................. 11
  - Improper Association versus Informer ...................................................................... 12
- Impact upon policing and public sector ......................................................................... 12
- Findings and Lessons learnt .......................................................................................... 13
  - International Approach .............................................................................................. 13
  - International Organisations ....................................................................................... 14
  - Police Organisations ................................................................................................. 15
  - Strategies .................................................................................................................. 15
  - Mobility ..................................................................................................................... 15
  - Drug and Alcohol Testing .......................................................................................... 15
  - Lawful Business Monitoring ...................................................................................... 16
  - Order to Cease Relationship ...................................................................................... 16
  - Remuneration ............................................................................................................. 17
  - Early Warning Systems ............................................................................................. 17
  - Polygraph ................................................................................................................... 18
  - Covert Human Intelligence Source ............................................................................. 18
  - Training and Development ......................................................................................... 19
  - Information Security, Auditing and Vetting ................................................................. 19
  - Active Supervision ...................................................................................................... 20
  - Oversight Organisations ............................................................................................ 21
  - Target Corruptors ....................................................................................................... 21
  - Identification of At Risk Groups .................................................................................. 22
  - Public Hearings .......................................................................................................... 23
- Conclusions .................................................................................................................... 23
- Recommendations ........................................................................................................ 25
- Dissemination Strategy ................................................................................................. 25
Introduction

The Winston Churchill Memorial Trust Fellowship enabled me to visit Austria, France, England, Northern Ireland, United States of America and Canada. I communicated with policing and anti-corruption bodies with proactive areas of emphasis that focused on responses to criminal infiltration and improper associations and the associated impacts upon policing and other public sector agencies. My research examined and compared factors that lead to the development of improper associations between police, public officials and organised crime groups including the infiltration of public officials by crime cells.

The views expressed in this report are my own and other than appropriately referenced material, do not purport to represent my employer or any other law enforcement or other related agencies.

Accepting the general proposition that it is difficult for organised crime to prosper without a measure of police protection, or in the case of other public sector agencies, the absence of transparent and accountable policy; corruption can and will be encouraged by those willing to exploit insufficient risk management strategies.

The regular catchcry that police organisations are overregulated, which concurrently strengthens many policing and to a lesser extent other public sector agencies' resistance to change has some level of validity. No matter how valid an argument, there are numerous examples of criminal infiltration and improper relationship corruption in Australia. These relate to misconduct in public office\(^1\) and release of confidential information to persons of interest.\(^2\) Internationally bribery of public officials is occurring to reduce property values below their true value to applicable taxes.\(^3\) There is no alternative, except for law enforcement and oversight bodies to adopt fundamental policy and management change. This research attempts to identify strategies and strengthen the capacity of police and public authorities to actively embrace the concept of corruption prevention, detection and the investigation of unethical practices.

Due to the highly sensitive and often covert nature of anti-corruption investigation and in the interests of protecting specific law enforcement techniques, methodologies and techniques, much of the detailed law enforcement material accessed during the course of my studies cannot be made public. Notwithstanding obvious security restrictions, I am committed to honouring the Fellowship undertaking of providing tangible and ongoing benefit to Australian law enforcement communities and more broadly the Australian public. Therefore, this report contains a general overview of the Fellowship methodology, organisations visited, key findings and implementation strategy.

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1 Western Australian Corruption and Crime Commission: Report on the investigation of alleged misconduct concerning Mr Stephen Lee, Mayor of the City of Cockburn September 2008

2 Office Police Integrity: Associations that compromise Victoria Police: risks and remedies, September 2008

Executive Summary

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The Winston Churchill Memorial Trust Fellowship travel was undertaken between 5 September and 25 October 2008. The aim of the fellowship was to study criminal infiltration and the impact of improper associations on policing and other public sector agencies. I was afforded an unparalleled opportunity to visit Austria, France, England, Northern Ireland, United States of America and Canada to conduct research and to directly communicate with anti-corruption practitioners.

Highlights:
- I spoke to a total of 17 organisations and over 160 people, in both individual interviews and by presenting to groups.
- I was privileged to speak to many hospitable, professional and committed people united in the global fight against corruption, bonded in the professional and collective relentless pursuit of the eradication of corrupt behaviours and practices.
- I had the opportunity to showcase Australian anti-corruption agencies providing an outline of charter, oversight and enforcement activities, current legislative landscape, case studies, and overview of policing.
- I developed numerous key contacts within international bodies across the world and gained a number of positive 'take away' ideas and strategies for potential application into Australian law enforcement.

Conclusions:
Interestingly, I found that Australian policing, oversight and corruption investigation agencies are well situated to deal with emerging issues relating to risk management of criminal infiltration. However, the establishment alone of such bodies is insufficient without long-term collaborative commitment from police services, Government agencies, the judiciary and community resourcing. It is incumbent upon policing, oversight agencies and the community to effectively rid policing, and the public sector of corruption, thereby providing integral support to the vast majority of police officers who carry out their duties with honesty, integrity and true loyalty.

Incidents of police collusion with criminals attract short-term media attention and give rise to recommendations that generally add more layers of regulation. Implementation expenses are perceived to be costly and onerous and drop off the radar due when some other higher competing issue arises. The insidious nature of corruption is allowed to invisibly fester and remerge in another time or location time. Vigilance and awareness are key principles of corruption prevention and must be supported by objective trend analysis, strategic training and education and government support to control emerging corruptive influences by providing sustainable layers of corruption resistant policy frameworks.
Key Findings:

The key strategies for policing and oversight agencies to consider in building corruption resistance include the following:

Mobility, Drug and Alcohol Testing (D&A Testing), Lawful Business Monitoring (LBM) Order to Cease Relationship policy, Declarable Associations policy, Appropriate Remuneration, Early Warning Systems (EWS), Polygraph, Covert Human Intelligence Source (CHIS), Training and Development (Specific corruption investigation training and prevention awareness), Information Security, Auditing and Vetting, Active Supervision Target Corruptors and Identification of At Risk Groups and use of Public Hearings.

The incorporation of these strategies in the development of robust, transparent and contemporary frameworks of proactive anti-corruption strategies, policies and procedures, will increase awareness and restore public confidence in police and other public sector agencies to reduce the impact of misconduct in public office by public officials and the associated financial burden to the community.

Dissemination and Implementation:

The findings in this report will be made available to the Winston Churchill Memorial Fellowship Trust, my employer, overseas organisations who participated in this research project and to interested law enforcement and oversight agencies.

I will compile a research paper and case studies for presentation at State, National and International educational forums.

I will attend at relevant anti-corruption forums to assist with and provide advice to develop oversight strategies, policy and procedures and deliver a detailed presentation to interested parties.
Background and Acknowledgments

My current role as Manager of Investigations, Office of Police Integrity, and previously 17 years policing including three years as a dedicated corruption investigator, places me at the forefront of corruption investigation within Victoria and Australia.

The honour to be awarded the prestigious Churchill Fellowship has provided me an unparalleled opportunity for international research work, and direct communication with anti-corruption practitioners and insight into organisational corruption prevention frameworks. By noting strategies and responses to the development of improper associations between police, public officials and organised crime groups including the infiltration of public officials by crime cells, I sought to identify proactive risk management strategies for application within the paradigm of Australian law enforcement.

I am extremely thankful to the many people I was privileged to meet during the course of my research. I am grateful for their time, professionalism and preparedness to talk openly in the collective pursuit of corruption prevention and provide cultural and contextual insight into the corruption issues facing each of the individual organisations.

My deepest appreciation goes to the Winston Churchill Fellowship Victoria Regional members, Ms Jan Grimwade and Mr Max Phelan for their assistance and guidance throughout the application process and the Winston Churchill Fellowship Trust for financial support. My gratitude is extended to Ms Julie Rees and the Churchill Fellowship Association Victoria for their ongoing support and encouragement.

I am also indebted to the Office of Police Integrity’s Deputy Director Graham Ashton and Assistant Director John Nolan for their professional guidance and for allowing me to be away from my day to day duties to undertake my studies. I thank my work colleagues for their support and encouragement.

Finally, thank you to my family for their enduring support and enthusiasm in sharing the prestigious Fellowship.
Programme

Vienna - Austria

United Nations Drugs and Organised Crime

Mia Spolander  Justice and Integrity Group, Governance, Human Security and Rule of Law Section Division for Operations
Mark Shaw     Inter-Regional Advisor, Policy expert and advisor
Tim Lemay    Chief Governance, Human Security and Rule of Law Section
Alexandra Martins  Policy and Strategy
Erik Larson  Crime Prevention Expert, Crime Conventions Section Division for Treaty Affairs
Oliver Stolpe Team Leader Justice and Integrity Unit, Division for Operations
Ian Munro    Chief Law Enforcement, Organised Crime and Anti-Money Laundering Unit, Governance, Human Security and the Rule of Law Section
Dan Wilson  Investigator, Investigations Division, Office of Internal Oversight Services

Bureau of Internal Affairs (BIA)

Gunter       Head of Unit, Prevention and International Relations
Niederleithner Deputy Head of Unit, Prevention and International Relations
Georg Grabenweger Head of Unit 2 Operational and Management Assistance
Manfred Kraupa BIA Unit 4 Prevention and International Relations
Dominik Fasching BIA International Relations
Rainer Demel  BIA International Relations
Peter Schwarz Public Relations

Lyon - France

Interpol

Jennifer Hurst    Assistant Director
Arnaud Tasciyan  Project Administrator, Anti-Corruption
Laetitia Hennebel Policy Analyst Global Security Imitative
Sylvia Tamagochian  I-24/7 and MIND and FIND technology
Véronique Tournier Director, Human Resources

Paris – France

Inspection Generale - Direction Centrale de la Police Judiciare

Anne-Sophie   Commissaire de Police, Chief of Division, Financial
Coulbois       Investigations
Sandrine de Missolz Commandant de Police, Brigade for the fight and control of Corruption

8
London – England

**Serious Organised Crime Agency**

Richard Watson  Head of CCD and CCD 3 Specialist Services Department

**Metropolitan Police: Directorate of Professional Standards**

Bernie Greaney  Detective Inspector Anti-Corruption Command (Intelligence)
Steven Wallace  Detective Inspector Anti-Corruption Command (Covert Unit)

**Metropolitan Police: New Scotland Yard**

Peter Spindler  Commander, Covert Policing, Specialist Crime Directorate
Sharon Whyte  Detective Inspector, Specialist Crime Directorate

Birmingham – England

**West Midlands Police**

Stuart Hyde  Assistant Commissioner, Crime
Bob Mills  Detective Chief Inspector, Anti Corruption Unit
Keith Vundum  Detective Inspector, Anti Corruption Unit

Belfast – Northern Ireland

**Police Service Northern Ireland**

Alan Crockett  Detective Chief Inspector, Professional Standards Department
Paul Hillis  Detective Inspector, Professional Standards Department
Michael Harvey  Detective Inspector, Professional Standards Department

**Ombudsman Office Northern Ireland**

Al Hutchinson  Police Ombudsman
John Larkin  Director of Investigations
Jim Kitson  Senior Lawyer
Anne McShane  Senior Investigator
Paul Holmes  Senior Investigator

New York – U.S.A

**New York Police Department (NYPD)**

Charles Campisi  Chief, Internal Affairs Bureau
Tim McKenna  Lieutenant, Internal Affairs Bureau
Jeff Rosenthal  Sergeant, Internal Affairs Bureau
Jorge Gomez  Sergeant, Criminal Research and Computer Crimes Investigation
Thomas Janow  Detective, Computer Crimes
New York City Commission against Corruption in the NYPD
Marnie Blit Executive Director
Christina Stuto Lawyer
Sonya Choung Lawyer
Gina Martinez Lawyer

New York County District Attorney’s Department
Richard Buckheit Unit Chief, Official Corruption Unit
Thomas Jackson Deputy Chief, Official Corruption Unit

Washington DC – U.S.A

Federal Bureau of Investigation
Nancy Bashaw Section Chief, Integrity in Government, Civil Rights Section

Ottawa – Canada

Commission for Public Complaints against the Royal Canadian Mounted Police
Michael McDonald Director, Strategic Policy and Research
Kevin Brosseau Senior Director, Operations

Royal Canadian Mounted Police
Alfredo Bangloy Inspector, Officer in Charge Professional Standards Unit

Vancouver – Canada

The Office of the Police Complaint Commissioner
Dirk Rynoveld Police Complaint Commissioner
Bruce Brown Deputy Commissioner
Dana Urban Lawyer
Rollie Woods Investigative Analyst
Dave Airey Investigative Analyst
Cindy Dyck Investigative Analyst

NB: A detailed list of the above contacts can be supplied upon request.
Main Body - Context

Improper Association

The concept of ‘Improper Associations’ is not new to policing. It can be broadly described as an association or relationship between a police officer or government official and criminals or organised crime cells or persons engaged in unlawful or reputed unlawful activities or police under investigation, that lacks Integrity, Transparency and Legitimacy. New South Wales Police state an improper association exists:

When a NSW police employee is associated with people, a group or organisation involved in (or perceived to be involved in) activities incompatible with upholding the law.

South Australian Police stipulate,

An employee must not, in the course of his or her employment or otherwise, behave in a manner that—
(a) reflects or is likely to reflect adversely on S.A. Police, or
(b) is prejudicial to good order and discipline in S.A. Police.

More recently, Victoria Police have introduced a comprehensive ‘Declara ble Associations’ policy requiring all Victoria Police employees to report all declarable associations (other than immediate family),

...that is incompatible with the role of the employee and Victoria Police in upholding the law, or may give rise to a perception in the mind of a reasonable person that the employee is not upholding his or her obligations as a Victoria Police employee, or may reflect adversely on the employee’s standing and reputation in the eyes of the community as a Victoria Police employee.

Human Rights

There is a tension between the prohibition of Improper Associations and human rights principle of Freedom of Association and the right to privacy. Arguably, there is a need for public officials to have a higher level of accountability. It is incontrovertible that police and public officials should be permitted to freely engage in reasonable personal associations. The United Nations support the notion that all necessary steps should be taken to ensure that the public official’s privacy is appropriately respected. However, as Cindy Davids asserts, “...any intrusion into anyone’s private life should be minimal (but) this principle must be qualified in certain circumstances.”

Casual relationships with a former police member whose integrity is in doubt or a person with a criminal record, or persons associated with the sex industry may not lead

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4 NSW Police, Conflicts of Interest (Improper Associations) Policy and Guidelines, October 2006, p6
5 Police South Australia, Regulations 1999 Section 13 Conduct prejudicial to S.A. Police, under the Police Act 1998
6 Victoria Police, Declarable Associations Chief Commissioner’s Instruction 01/08-September 2008
7 Charter of Human Rights and Responsibilities Act 2006
8 Council of Europe: Model Code of Conduct for Public Officials, Article 17 Protection of the public official’s privacy adopted by the Committee of Ministers of the Council of Europe on 11 May 2000 p 159
 inexorably to a criminal partnership. Those with something to gain from corrupting a police officer of public official will often prove adept at manipulating the relationship to their advantage. Subsequently, once embroiled in an arrangement of reciprocal benefit and obligation, a police officer may find it increasingly difficult to relinquish the association or to halt the progression from seemingly innocuous ‘favours’ to actively concealing or partaking in criminality.10

Another emerging corrupting influence is the officer, who is often the purveyor of ‘inside information,’ who as a hub of information, does not gain from the relationship other than elevated status in the eyes of colleagues, yet the transmitted information is subsequently used for corrupt purposes.

By virtue of public office, it is incumbent for police and public officials adhere to a higher level of integrity and transparency aligning with due public expectation. It is essential they adopt an impregnable shield resistant to corruption whilst being exposed to ever present corruptive influences as they carry out both professional and private activities. Accordingly, police and public officials will be subject to greater levels of judicial, media and community scrutiny and therefore upholding their own personal integrity, integrity of other officials and the reputation of the organisation and community they represent.

**Improper Association versus Informer**

There is sufficient literature within International law enforcement11 and Australian law enforcement working groups,12 which provides clear and contemporary guidelines for best practice methodology for the management and conduct of Covert Human Intelligence Source (CHIS), more commonly known as informers. A comprehensive CHIS management framework effectively precludes a defence against criminal association by pleading cultivation of an ‘informer.’ The management of CHIS will not be addressed in this report other than referenced in this document under section Covert Human Intelligence Source.

**Impact upon policing and public sector**

The impact of improper associations upon policing, public sector and the public manifests in a number of areas ranging from low level information dissemination to serious ‘leaks’ with serious consequences:

**Economic:** Lengthy and often delayed court hearings and associated costly legal processes, and the organisational financial expense incurred by a suspended officers awaiting outcome of criminal and or disciplinary investigations have a significant economic impact.

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10 Office Police Integrity: Associations that compromise Victoria Police- risks and remedies, September 2008 p4
11 The Serious Organised Crime Agency, United Kingdom, incorporating the former National Crime Intelligence Service
**Political:** The security and stability of governments can be threatened with often trumpeted calls for establishment of Crime Commissions and alleged association between senior police, government officials and trade union groups.\(^\text{13}\)

**Social:** Public confidence in police forces and governments’ ability to competently and transparently manage systems, which affect people’s daily lives, can be undermined.

**Safety:** In extreme cases, witnesses or informers linked to investigations of police have been murdered.\(^\text{14}\) And alleged links to gangland figures of police officers investigating corrupt officials face threats or intimidation.\(^\text{15}\)

**Findings and Lessons learnt**

**International Approach**
Corruption impoverishes national economies, undermines democratic institutions and the rule of law, and facilitates the emergence of other threats to human security, such as organized crime, trafficking in humans and terrorism\(^\text{16}\). Costa’s\(^\text{17}\) assertion encapsulates the impact of corruption and provides an ethical compass to formulate a proactive multi-faceted approach to address emerging corruptive influences that give rise to improper criminal associations.

Common threats present themselves to all the organisations visited as part of this research, yet the response to the identified areas of corruption vary depending on the prevalence and level of intensity of the specific threat and associated environmental factors. The response also depends on the capacity and capability of the relevant organisation, cultural context, community expectations and the strength of the legislative support.

Some organisations are ‘on the front foot’, effectively addressing the corrupting influences as they arise and in some instances, pre-empting issues through sophisticated frameworks and data collection systems. Conversely, other organisations are ‘log jammed’ with reactive historical investigations and are yet to achieve capability in proactive strategies.

In some instances the local context presents unique management dilemmas. For example, in one major city over 300 languages are spoken. This necessitates the active targeting of specific ethnic groups with identified strong links to deeply entrenched associations.

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\(^{13}\) Office Police Integrity: Exposing corruption within senior levels of Victoria Police, February 2008

\(^{14}\) Murders of Ferrence and Christine Hodson at Kew, May 2004

\(^{15}\) Personal Communication and Office Police Integrity: Coja Task Force Drug Related Corruption Third and Final Report, July 2007

\(^{16}\) Antonio Maria Costa , United Nations Office on Drugs and Crime, Vienna COMPRENDIUM OF INTERNATIONAL LEGAL INSTRUMENTS ON CORRUPTION Second edition, United Nations New York, 2005 Page v

\(^{17}\) Ibid
between criminals and a public officer who has grown up in the region and now has authority over the area.

**International Organisations**
- United Nations Drugs and Organised Crime
- Interpol

Global organisations such as the United Nations (UN) provide support to member nations, including Australia\(^\text{18}\) such as consultancy or delivering technical assistance on police reform. Australia is now a signatory to the United Nations Convention Against Corruption\(^\text{19}\). The United Nations Drugs and Organised Crime (UNDOC) conducts organisational assessments, facilitates and designs action plans and performance management models, advice, complaint systems and training.

The UN provide guidance on corruption proofing. It extols the general principle that public officials in a position of trust must act with integrity and impartiality and not display partisan preference. Specifically the UN provide Articles\(^\text{20}\) detailing benchmark reference points for application in developing countries and established societies with emerging corruption issues including, Conflict of Interest, Declaration of Assets (Business, Commercial and Financial), Gift Acceptance, Confidential Information Privacy and Non Partisan Behaviours.

Interpol is the world’s largest international police organisation, with 187 member countries\(^\text{21}\). It facilitates cross-border police co-operation and supports and assists all organisations, authorities and services whose mission is to prevent or combat international crime. Interpol aims to facilitate international police co-operation. It acts within the limits of existing laws in different countries and in the spirit of the Universal Declaration of Human Rights. Interpol’s constitution prohibits 'any intervention or activities of a political, military, religious or racial character'\(^\text{22}\)

Interpol provides framework models and incident response teams, it develops manuals, best practice guides and internet publications such as The fight Against Corruption, Global Standards to Combat Corruption in Police Forces/Services detailing Corruption Global Standards Articles. The guides are developed by The Interpol Group of Experts on Corruption a multi-disciplinary group representing all of Interpol’s regions. It facilitates the co-ordination and harmonisation of the different national and regional approaches to combating corruption.\(^\text{23}\)

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\(^{18}\) Australia has been a member nation since 1 November 1945

\(^{19}\) United Nations Convention Against Corruption signed by 165 states on 31 October 2003 in the United Nations General Assembly


\(^{21}\) Australia attained INTERPOL membership September 1948, 17th General Assembly Prague

\(^{22}\) http://www.interpol.int/Public/ICPO/default.asp 14/12/08

\(^{23}\) http://www.interpol.int/Corruption/Standards/ default.asp 20/12/08
The material produced by these organisations is clear and unambiguous. Poor management and failure to adhere to these guidelines is likely to result in corruption. Marie Chêne identifies that in most countries, corruption of public officials, including law enforcement and court officers, is a common feature of organised crime. Corrupting of public officials enables criminal organisations to secure survival and continue illicit activities, transfer information on police investigations and planned activities and undermines prosecutions.

Police Organisations

- Bureau of Internal Affairs (BIA)
- Inspection Generale- Direction Centrale de la Police Judiciare
- Metropolitan Police: Directorate of Professional Standards
- Metropolitan Police: New Scotland Yard
- West Midlands Police
- Police Service Northern Ireland
- New York Police Department (NYPD)
- Royal Canadian Mounted Police (RCMP)

The following strategies are adopted by the various policing and oversight organisations. Whilst the identified strategies are often sporadically applied, best practice suggests that they should be collectively adopted in order to produce a robust organisational framework to resist corruption and criminal infiltration.

Strategies

Mobility

The ability to relocate officers from their positions at the completion of a period of tenure (generally 2-3 years for general duties and high risk areas such as Narcotics / Drugs and Vice investigation and 3-5 year in specialist positions) has been demonstrated as an effective measure to ensure incumbent officers are less likely to develop an unhealthy or corrupt relationships. This approach encourages a cycle of learning and development and ensures a positively charged environment to maintain a 'fresh' healthy culture within the organisation. Another positive aspect is the cross pollination of learning that collectively raises the bar of employee skill. Conversely, negative aspects of this strategy are loss of specific knowledge, relocation costs and disruption of family life. However, by using this strategy little, if any, incidence of criminal infiltration or organised corruption has been identified.

Drug and Alcohol Testing

Drug and Alcohol (D/A) testing has been introduced across many of the organisations building corruption resistance. In some instances, new employees are drug tested upon recruitment to the organisation and employees attaining promotion undergo drug testing.

As an organisational risk management strategy some agencies conduct random testing and or targeted testing if an employee appears to have developed a drug or alcohol dependency or work performance appears to be affected because of drug or alcohol ingestion. D/A testing often regularly occurs in response to police employees involved in critical incidents such as shootings or urgent duty driving resulting in serious injury or fatalities.

A number of issues identified in adopting this process, saw a tension exist between management obligation and legislative authority to conduct such testing when sworn police and unsworn public sector employees coexist at the same workplace. This unequitable situation manifests through a lack of consistency across organisations and is further frustrated by poor legislative provisions. The disparity of reporting authority and legislation often results in robust discussion and consultation between employers, employees, health and safety and union representatives to align processes and develop appropriate frameworks for supervision and management of best practice D/A testing regimes.

The benefit of well constructed D/A testing policy is workplace safety. Employee welfare and equity becomes a feature of organisational culture. Risk management is enhanced through clarity of employee obligation, reliable data collection to identify predictable reactions to operational incidents and provides a useful proactive management tool for planning intrusive management. (See Active Supervision section)

There are associated set up and accommodation costs, and the need to afford privacy and confidentiality to the subject employee. Return on investment for this expenditure is reflected in the transparency of process and overall benefit to employees, the organisation and ultimately the community in which they operate.

**Lawful Business Monitoring**

Lawful Business Monitoring (LBM) provides the capacity for an organisation to overtly monitor telephone calls to and from and within police stations. Employees receive annual personal notification of the existence of the monitoring and that any material derived from the monitoring may be used in disciplinary matters. In addition to LBM, all organisations have adopted audit and tracking processes for employee internet usage including use of internet communication networks. The audits of data information systems ensure password protected access is applied.

**Order to Cease Relationship**

An employee suspected of being involved in an improper relationship with a person/s of ill repute, criminal history or other employee under suspicion of misconduct is subject to a ‘No contact order.’ This precludes the employee from continuing the identified relationship whilst the investigation is conducted. These temporary orders are routinely given to protect information, to avoid tainting evidence and to provide a transparent platform to preserve the effectiveness and integrity of the investigation.

The temporary order may be upgraded to a permanent requirement restricting a person’s freedom to engage in social or familial relationships. This takes into account the person’s
status as a convicted criminal for example; or the person having a professional status that could be seen as a conflict of interest. Other factors that justify this type of order may include the seriousness of the misconduct under investigation, and the organisation's ability to demonstrate an interest in controlling the flow of information during the investigation in a particular case.

A less burdensome alternative is an order that prohibits discussion about the investigation, or another type of order that restricts but does not prohibit the personal contact in question. Similar mechanisms of confidentiality exist in Australia intended to support the integrity of investigative process\(^\text{25}\).

Perception is a key and essential precondition to the imposition of such orders, reinforcing that the organisation has effective policy and procedures for identifying risk and efficiency in controlling such risks. The measure of effectiveness in these instances will be the level of public confidence in the ability of the organisation to maintain the highest level of integrity. The obvious invasion of privacy to an individual must be balanced with the workplace performance or other important public interests. Orders of this kind are most likely to survive constitutional scrutiny if they are narrowly tailored to the specific circumstances of the case.

**Remuneration**

Historically, low pay for police officers and public officials lead in some instances to corruption as a survival strategy.\(^\text{26}\) In addition, high visibility of police and the power to use force makes police susceptible to corruption.\(^\text{27}\) Whilst not the sole cause for corruption, many organisations have adopted remuneration strategies to adequately recompense police and public officials aligning salaries to reasonable cost of living standards. Another positive element for this strategy is the attraction of higher calibre recruits, higher employee self esteem and diminished need to resort to corruption. Interpol also recognised adequate remuneration as a corruption prevention strategy\(^\text{28}\), reducing the need for secondary employment, which often leads to conflict of interest.

**Early Warning Systems**

Early Warning Systems (EWS) otherwise known as profiling or ‘red flag’ systems, are a proactive risk management tool used to collect, collate and analyse a combination of employee activities (including but not limited to overtime, sick days, vehicle collisions), incidents, complaints (all outcomes not only substantiated matters) and associated data to identify individuals or locations as predictive areas for future misconduct and management intervention.

Some organisations have installed data based EWS as a management tool to identify employee behaviour or performance indicators that having reached a trigger point requiring a form of intervention. There is also an employee welfare element to the

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\(^{25}\) Police Integrity 2009 section 25 Confidentiality provisions

\(^{26}\) Fallen Blue Knights: Controlling Police Corruption S. Ivićević, Oxford University Press US 2005 p88

\(^{27}\) The Role of Parliament in Curbing Corruption R. Stephenhurst N Johnston RJ Pelizzo World Bank Publications 2009 p 256

\(^{28}\) The Fight Against Corruption, Global Standards to Combat Corruption in Police Forces/Services article 4 24
intervention, whereby the employee requires developmental assistance rather than formal disciplinary action. It is vital the EWS is an objective and fair system for data collection.

The essence of EWS is a four part strategy to cast the net wide, never stop, be proactive and make it a leadership problem. The proactive element of EWS is informed data input to organisational strategic long and short term planning which cascades into the construction of frameworks for leadership; and management of information sharing in the pursuit of organisational integrity.

A barrier to the effectiveness of EWS is the complexity and cost of setting up and ongoing maintenance of the information technology infrastructure. The EWS requires considerable investment of time and resources and cannot operate independently of organisational commitment to leadership, transparency and accountability.

*Polygraph*

The Polygraph (or more commonly known as a lie detector) operates by using sensors attached to a person’s body and the person is then questioned in relation to subject under inquiry. The instrument monitors and measures the person’s physiological response: breathing, blood pressure/pulse and perspiration. A graphical record for subjective (and therefore not infallible) interpretation by the Polygraph operator is then produced.

Traditionally investigators use the Polygraph as an aid investigating criminal offences. More recently, the Polygraph is used by organisations to assist with personnel management such as pre-employment and pre-promotion screening. Other uses include post covert or extended assignment testing as a screening process to ensure the integrity and security of organisational information and a preventative measure to ensure the employee has not developed improper associations.

In some instances, the Polygraph is used during the investigation of disciplinary and administrative breaches. Whilst the application is a voluntary process, it does provide predictive data to assist the conduct of the investigation.

Polygraph results and its acceptance in the Australian law enforcement context will require significant cultural change and review of the rules of evidence and admissibility of the material.

*Covert Human Intelligence Source*

Due to the highly sensitive and often covert nature of anti-corruption investigation and management of Covert Human Intelligence Sources (CHIS), specific law enforcement techniques, methodologies and techniques will not be discussed.

Broadly, it is imperative that comprehensive CHIS management frameworks are installed along with highly training personnel in dedicated units to centrally and confidentially manage risk (organisational / CHIS and CHIS controller), collate and assess information relating to the CHIS.

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Training and Development

Effective corruption prevention training is built on pillars of prevention, education and awareness. Grounded and accredited training reduces organisational skills gaps and minimises the long-term effect of problematic matters of criminal infiltration and improper associations.

Many organisations have identified the need for specific corruption investigator training to assist the investigation of misconduct by police involved with organised crime. By the very nature of policing, police and former police who conspire and engage with criminals have an ‘insiders’ knowledge to assist them evade detection. This makes the task of the corruption investigator more difficult.

Training DVDs depict key corruption themes: Situational (limited opportunity) Structural (Association) and the integral element of being self critical (ask yourself the question of the right thing to do) and the third aspect Compromised- when you have been caught in the corruption web – what are the consequences.

Prevention case study DVDs depicting officers who have become involved and caught in corruption, criminal associations and other forms of misconduct provide powerful and credible illustrations of the dangers and effects (organisationally and personally) of engaging in wrongdoing.

Information Security, Auditing and Vetting

Throughout my study, one constant and recurring theme was the misuse and unauthorised access and disclosure of confidential information. This corrupt behaviour continues to be subject to worldwide and local research by police and oversight bodies. Cindy Davids, re-affirms the British home office contention that the picture of corruption in England and Wales is dominated by the leaking of information to those outside the organisation30.

The world is now dominated by the internet, open source information and wireless technology. Criminals use these tools to develop dossiers on police and public organisations. Now more than ever there is a need to be vigilant against infiltration by stealth and subtle means. This situation requires all organisations to provide robust and auditable mechanisms to protect confidential organisational and employee information. Installations of sophisticated data software with password protected information and intelligence databases are essential.

All organisations conduct background checks on employees; however, in some organisations vetting generally only occurs at initial employment and then at five yearly intervals. Other organisations conduct comprehensive pre-employment and on going annual vetting of employees and particularly where the level of scrutiny of an employee’s background work history etc relates to the sensitivity of the position. In my opinion,

Highly Protected status should be the minimum requirement for all employees in policing and other public sector organisations.

Like the EWS, the effectiveness of vetting is balanced against the complexity and cost of setting up and ongoing maintenance of the supporting information technology infrastructure and personnel resources required to conduct the vetting inquiries.

The vetting process requires considerable investment of time and resources and cannot operate independently of organisational commitment to leadership, transparency and accountability.

**Active Supervision**

Police and public sector organisations have many systems in place to prevent and detect corruption, but often supervisors incorrectly assume that these systems are being used. In this way, systems can create a false sense of security and may be worse than having no system at all.

Active and appropriate supervision of employees is paramount to ensure policies, procedures and practices are complied with, particularly where officers are operating in known high risk areas. Areas such as Narcotics, Gaming and Vice and Organised Crime investigations regularly expose officers to tempting and seductive influences.

To combat these corruptive influences, organisations have adopted an attitude of active or intrusive supervision as a risk management strategy to ensure the welfare of the officer, integrity of the organisation and ensure transparency and accountability to the public they serve.

The UN identifies the obligations and accountability of supervisors,

The public official who supervises or manages other public officials should do so in accordance with the policies and purposes of the public authority for which he or she works. He or she should be answerable for acts or omissions by his or her staff which are not consistent with those policies and purposes if he or she has not taken those reasonable steps required from a person in his or her position to prevent such acts or omissions.

The public official who supervises or manages other public officials should take reasonable steps to prevent corruption by his or her staff in relation to his or her office. These steps may include emphasising and enforcing rules and regulations, providing appropriate education or training, being alert to signs of financial or other difficulties of his or her staff, and providing by his or her personal conduct an example of propriety and integrity.

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Oversight Organisations

- Serious Organised Crime Agency
- New York City Commission against Corruption in the NYPD
- New York County District Attorney's Department
- Federal Bureau of Investigation
- Commission for Public Complaints against the Royal Canadian Mounted Police
- The Office of the Police Complaint Commissioner

Generally, oversight organisations operate under similar mandates of police oversight through:

- Investigation of misconduct and corruption,
- Investigate incidents or complaints involving serious injury or death of any person, and matters of a serious or sensitive nature, that may have resulted from the actions of a police officer,
- Review and audit of policies, practices or procedures,
- Trend analysis, and
- Implementation of recommendations emanating from evaluations, inspections and investigations.

True oversight bodies are self contained independent organisations with investigation, covert surveillance, technical and forensic capabilities coupled with law enforcement powers of arrest ensuring total independence of police forces they oversee.

However, total separation from policing would be unwise as argued by Prenzler32, because corruption investigation cannot be totally removed from the realm of internal investigators. It is essential to seek input from the subject organisation to reassure the non corrupt employees that the whole organisation is not perceived to be corrupt and to maintain the balance of public confidence.

Target Corruptors

Public sector employees, police and unsworn police employees can be and often are viewed as 'soft targets' as an entry point into an organisation by organised crime groups. At this level, criminal networks may infiltrate the mid-rank of public agencies and gain employment in law enforcement agencies by various means with the view to easing criminal operations.

On occasions these infiltrations have been identified and appropriately dealt with, for example an unsworn employee with access to officer's confidential information was terminated for having an ongoing intimate relationship with a convicted criminal and her behaviour was deemed incompatible with her position33.

32 Police Reform: Building Integrity By T Prenzler J Randles Hawkins Press 2002 p188
33 Ortiz v L A Police Relief Assn  #B149574  98 Cal App 4th 1268 120 Cal Rptr 2d 670 (Cal App 2d Dist 2002)
Marie Chêne identifies infiltration into higher sensitive levels of Government can provide long term benefits and protection to criminal groups. Criminal groups gain systematic and broader access to confidential information and enjoy increased protection.

Oversight bodies are actively targeting and profiling identified high risk officers, criminals, organised crime gangs, private security industry, and high risk areas such as drugs and sex industry. By taking into account motives for corruption, organisational recruitment practices, comprehensive vetting and known associations, they provide regular public reports that include analysis of emerging corruptive risks to policing and other public sector organisations.

**Identification of At Risk Groups**

A number of individuals and groups are identified as being more susceptible to corruptive influences such as release/trade of information and form part of the oversight organisations’ active targeting strategy.

- The middle aged jaded employee usually separated or divorced, has accumulated substantial debt and has become involved in a relationship with a younger partner who invariably has access to drugs or exposure to the drug culture and the employee may become exposed to drug use. The relationship deteriorates or the ‘new lifestyle’ requires increased cash flow where corruptive influences present as attractive options.

- Junior employees with 1-4 years experience coming from a background or culture in which drug use is accepted or tolerated and the use of ‘party drugs’ is seen as the norm. Links to gymnasiums and steroid use with increase incidents of violent or aggressive behaviour.

- Private investigators with who are ex-police or have links back to serving police.

- Security industry with ex-police or links back to serving police and links to organised crime gangs.

- Officers from cultural and ethnic minority groups, having grown up and policing in same area are subject to pressure from family/friends for ‘favourites’ or preferential treatment.

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Pg 5
Public Hearings

Public hearings conducted by oversight agencies based on a number of public interest principles. A particular investigation is likely to be advanced by encouraging others to provide information, public ventilation of evidence may have a deterrent effect on police corruption and misconduct by making those responsible publicly accountable and by demonstrating that such conduct will be detected, investigated and prevented.

Public hearings are designed to expose police corruption and misconduct, educate the public in the nature, extent and causes of such corruption and misconduct, and highlight the need for reforms to address the problem.

Public hearings will inevitably draw criticism from sections of the law enforcement community and various stakeholders, who argue that identified behaviour is limited to an individual Rotten Apple 35 rather than the need to review policy and procedure management processes. Public awareness campaigns that illustrate the corrupt behaviour, case studies and impact on the community and advocacy of reform are required to provide sustainable change and positively affect and empower cultural change.

Conclusions

Interestingly, I found that Australian policing, oversight and corruption investigation agencies are well situated to deal with emerging issues relating to risk management of criminal infiltration.

It is incumbent upon policing, oversight agencies and the community to effectively rid policing and public sector agencies of corruption and thereby provide integral support to the vast majority of police officers who carry out their duties with honesty, integrity and true loyalty.

Vigilance and awareness are key principles of corruption prevention and must be supported by objective trend analysis, strategic training and education and Government support to control emerging corruptive influences by providing sustainable layers of corruption resistant policy frameworks.

Clearly defined policies and regulation provide the necessary guiding checks and balances for employees and employers alike. They also provide a safety net for employees who are committed to upholding the integrity and trust the community has bestowed upon police officers and public officials.

Australia is well placed to combat corruption. A number of agencies 36 provide independent and impartial investigation and detection (with accompanying coercive powers), and prevention campaigns. However, operation of such bodies is, by itself,

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36 1 Independent Commission Against Corruption New South Wales 2 Police Integrity Commission New South Wales 3 Crime and Misconduct Commission Queensland 4 Corruption and Crime Commission Western Australia 5 Office of Police Integrity Victoria and 6 Australian Commission for Law Enforcement Integrity (ACLEI) was established. It has jurisdiction over corruption and misconduct issues in the Australian Federal Police and Australian Crime Commission
insufficient without long-term collaborative commitment from police services, Government agencies, judiciary and community resourcing.

The suggested Holistic Oversight and Corruption Prevention model below provides a diagrammatic representation of the identified theoretical and practical findings based on my discussions and research with overseas policing and oversight for consideration in Australian Law Enforcement.

![Holistic Oversight and Corruption Prevention Model](image)

Figure 1: Holistic Oversight and Corruption Prevention model
Recommendations

The identified strategies and key findings are recommended to policing, other public sector organisations and oversight agencies for consideration and viability assessment for the reinforcement of the capacity of police and public authorities to actively embrace the concept of corruption prevention, detection and investigation of unethical practices including unauthorised trade/release of confidential information:

The key findings are:

- Mobility
- Drug and Alcohol Testing (D&A Testing)
- Lawful Business Monitoring (LBM)
- Order to Cease Relationship policy
- Declarable Associations policy
- Appropriate Remuneration
- Early Warning Systems (EWS)
- Polygraph
- Covert Human Intelligence Source (CHIS)
- Training and Development (Specific corruption investigation training and prevention awareness)
- Information Security, Auditing and Vetting
- Active Supervision
- Target Corruptors and Identification of At Risk Groups
- Public Hearings

The key strategies will provide guidance for the development of robust, transparent and contemporary frameworks of proactive anti-corruption strategies, policies and procedures and increase awareness and restore public confidence in police and other public sector agencies to reduce the impact of misconduct in public office by public officials and the associated financial burden to the community.

Dissemination Strategy

The findings in this report will be made available to the Winston Churchill Memorial Fellowship Trust, my employer, overseas organisations who participated in this research project and to interested law enforcement and oversight agencies.

I will compile a research paper and case studies for presentation at State, National and International educational forums.

I will attend at relevant anti-corruption forums to assist with and provide advice to develop oversight strategies, policy and procedures and deliver a detailed presentation to interested parties.