LEARNING FROM EXPERIENCE:
A project to maintain knowledge-based prevention policy

ALEXANDRA MILLS

DEIRDRE COOPER

Alexandra Mills is a Senior Corruption Prevention officer at the Independent Commission Against Corruption in the Australian state of New South Wales. She has qualifications and experience in law, public policy and administration as a practitioner in the private sector and government and as an analyst in independent public inquiries. Between 1995 and 1998 she was an in-house consultant at the OECD Public Management Service in Paris. E-mail: icac@icac.nsw.gov.au

Deirdre Cooper has qualifications in social sciences and education. She has over 25 years experience in public sector service delivery and management in the areas of social welfare, public policy, corrections and education and is currently a Senior Corruption Prevention Officer at the Independent Commission Against Corruption in New South Wales, Australia. E-mail: icac@icac.nsw.gov.au

Abstract

In Australia, the Independent Commission Against Corruption (=the ICACø or =the Commissionø) is an anti-corruption agency in the State of New South Wales (NSW) that has a dual mandate to investigate and to prevent public sector corruption. These roles are pursued by the Commission both separately and in combination.

The investigative function employs standard law enforcement investigation techniques and the ICACø prevention activities include training, policy and analysis and advice for the public sector as well as public education.

The two functions merge in a cooperative way in particular operational activities and projects. They also have a conceptual symbiosis in the sense that public inquiries can be a method of deterring corruption as well as detecting it. The Commissionø investigations are required to be conducted with a view to õdetermining the factors that may allow, encourage or cause corruption to occurö (s 13(2) ICAC Act 1988).

After 16 years of conducting investigations the Commission now has a sufficiently large body of investigation reports to analyse for information they may contain about factors that might õcause, encourage or allow corruption to occurö.

This paper reports on the project, which is ongoing, and presents its findings to date.

The paper describes the context of the project, including the role and work of the NSW Independent Commission Against Corruption, and the methodology chosen. It relates findings from the study and indicates some of the ways that the information obtained might be incorporated into routine improvements to the ICACø prevention work.

Resumo

Na Austrália, a Independent Commission Against Corruption (Comissão Independente Contra a Corrupção, a seguir designada õa ICACö ou õa Comissãoö) é uma agência anti-corrupção do Estado de Nova Gales do Sul, que tem o duplo mandato de investigar e prevenir a corrupção no sector público. Estas funções são desempenhadas pela Comissão quer separadamente, quer em conjunto com as demais instituições envolvidas no combate à corrupção.

A função de inquérito da ICAC utiliza técnicas normais de investigação em matéria de execução da lei, ao passo que as suas actividades de prevenção incluem a formação, a elaboração de políticas, análises e pareceres destinados ao sector público, bem como a educação pública.

As duas funções conjugam-se coordenadamente em actividades e projectos operacionais específicos, além de constituírem uma simbiose conceptual, no sentido de que os inquéritos públicos podem ser um método de dissuasão da corrupção e não apenas de detecção da mesma. Os inquéritos da Comissão devem ser realizados com o intuito de õdeterminar os factores susceptíveis de permitir, incentivar ou causar a ocorrência de corrupçãoö (s 13(2) Lei ICAC 1988).

Após16 anos de experiência adquirida na administração de inquéritos, a Comissão já possui um conjunto suficientemente grande de relatórios para poder analisar as informações neles contidas sobre os factores susceptíveis de õcausar, incentivar ou permitir a ocorrência de corrupçãoö.

A presente comunicação apresenta informações sobre o projecto, que está em curso, bem como sobre os resultados obtidos até à data.

Descreve o contexto do projecto, incluindo o papel e o trabalho da Comissão Independente Contra a Corrupção do Estado de Nova Gales do Sul e a metodologia escolhida. Refere as conclusões do estudo e indica algumas formas de incorporar as informações obtidas no aperfeiçoamento constante do trabalho de prevenção da ICAC.

Palavras-chave: administração pública, governança, corrupção, controlo de corrupção, prevenção de fraude, fiscalização, cultura organizacional, liderança

LEARNING FROM EXPERIENCE: A project to maintain knowledge-based prevention policy[1]

PART 1: INTRODUCTION

This paper describes a project undertaken by the Corruption Prevention Education and Research Division of the Independent Commission Against Corruption (ICAC) in the Australian State of New South Wales (NSW).

The purpose of the project is to maintain the currency of the Commission's knowledge about how and why corruption occurs and, as a consequence, how it might be prevented. Its relevance to this conference lies in the fact that the project is an example of one way that an anti-corruption agency can learn from its own experience to improve its capacity to achieve its objectives. The project is a logical consequence of the ICAC's integrated operating model of investigation, prevention and education. The project was designed to explore information collected in the Commission's investigations that might inform its prevention policy, knowledge and advice.

The NSW ICAC has a mandate to investigate corruption as well as to build the capacity of the public sector to prevent it. Over 16 years of investigating allegations of corruption the Commission has amassed considerable knowledge about the circumstances in which corrupt conduct has occurred in the NSW public sector. The project reported in this paper reviewed the recent research literature about how corruption occurs as well as the information collected in the public reports of ICAC investigations in which findings of corrupt conduct have been made.

The paper begins with the background to the project which includes some salient features of the ICAC itself such as the policy context in which it operates, its statutory roles, functions and powers and its organisational structure. The paper then describes the project itself, the way it was undertaken, and some of its findings. Finally it identifies some of the possible applications of the information that the project has produced.

---

1 Presented by Alexandra Mills at the workshop European Anti-Corruption Agencies: Protecting the Community's Financial Interests in a Knowledge-based, Innovative and Integrated Manner, CIES-ISCTE, Lisbon, 17-19 May 2006

PART 2: BACKGROUND TO THE PROJECT

Policy context

The ICAC was established in NSW by the *Independent Commission Against Corruption Act 1988* (ICAC Act) as a political response to perceived community concern about the integrity of public administration. It followed events including the imprisonment of a Chief Magistrate and a Cabinet Minister, criminal trials of senior officials, and an enquiry into the police force, which led to the discharge of a Deputy Commissioner of Police. The Commission commenced in March 1989 with the mission to expose and minimise corruption in the NSW public sector.

The principal objectives of the ICAC Act are to promote the integrity and accountability of the States' public administration.

Operating structure

The ICAC is often referred to as a "standing Royal Commission" (or commission of inquiry). It follows the commission of inquiry model in terms of having a specific rather than general law enforcement focus (ie public sector corruption), it is concerned with fact finding rather than prosecuting, its operations and findings are independent of the government of the day[2], it is headed by an appointed Commissioner rather than a career public servant and it possesses and directs its own operational resources such as investigative and legal staff.

The permanent or standing nature of the ICAC gives it operational advantages over an ad hoc body. A permanent body can recruit and retain staff with a mix of skills and expertise - such as investigators, lawyers, analysts and other specialists - to meet the needs of its environment. Over time strategic intelligence can be collected and research about corruption risks can be gathered in order to improve the performance of all of the Commission's functions. These features allow the Commission to respond more

---

2 The ICAC is accountable not to a Government minister but to the people of New South Wales through a parliamentary committee. It is subject to a number of other accountability mechanisms: an inspector provides external oversight and inter-divisional operational committees ensure internal accountability.

effectively to the demands of an investigation or other anti-corruption work than a temporary organization could.

Definition of corruption and jurisdiction

The scope of the Commission's jurisdiction is particularly wide, focusing on the acts of 'public officials', broadly defined, and extending also to 'conduct of persons who are not themselves public officials but whose activities impact on honest public administration. The most obvious example would be an attempt by a private person to bribe a public official'[3]. It can also include those performing public functions on the part of government.[4]

Broadly, corrupt conduct is that which involves:

- dishonest or partial exercise of public functions, or
- a breach of public trust, or
- misuse of information or material acquired in the course of official functions.

The definition is not limited to criminal, or even unlawful, conduct. Nevertheless it must be conduct that breaches standards 'recognised by law'[5], defined as:

> *(a) a criminal offence, or*
>
> *(b) a disciplinary offence, or*
>
> *(c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or*
>
> *(d) in the case of conduct of a Minister of the Crown or a member of a House of Parliament – a substantial breach of an applicable code of conduct.*[6]

---

3 Legislative Assembly Hansard 26 May 1988 Mr Greiner (Ku-ring-gai)

4 The NSW public sector comprises over 300,000 people (12 per cent of the State's workforce) in over 130 public sector organisations, around 160 local government authorities, ten public universities and over 1000 boards and committees.

5 NSW Legislative Assembly Hansard 26 May 1988.

6 Section 9(1) *ICAC Act* 1988. A breach of applicable code of conduct also includes a breach of a code of conduct required to be complied with by s 440(5) of the Local Government Act 1993 NSW.

In deciding which allegations to pursue the ICAC is also required to prioritise õserious and systemicö corruption in its work[7].

Consequently the ICACøs prevention policy must be capable of addressing non-criminal as well as criminal behavior in a wide range of institutional contexts.

Statutory role and powers

The ICAC Act gives the Commission a dual role to:

- investigate, expose and prevent corruption involving or affecting public authorities or public officials, and

- educate public authorities, public officials and members of the public about corruption and its detrimental effects on public administration and on the community[8].

These roles are expressed in terms of the three main functions of investigation, prevention and education[9]. The combination of these roles and functions in a single organisation has been described as the õthree-prongedö anti-corruption model which was first adopted by the Hong Kong ICAC in the 1970s. From a policy perspective it recognises the complexity of corruption and operationally it allows for interaction between the functions.

As an example, the ICAC Act requires that:

(2) The Commission is to conduct its investigations with a view to determining:

í

(c) whether any methods of work, practices or procedures of any public authority or public official did or could allow, encourage or cause the occurrence of corrupt conduct[10].

---

7 Section 12A *ICAC Act* 1988

8 http://www.icac.nsw.gov.au/index.cfm?objectid=D6F452F7-966A-4483-856CECB41203A0C7

9 Section 13(1) *ICAC Act* 1988.

10 Section 13(2) *ICAC Act* 1988.

Investigations can improve understanding about how corrupt behavior occurs or persists[11] which can help direct prevention efforts and ICAC prevention officers are routinely assigned to investigation teams. In this role they analyse evidence, examine the ways affected organizations operate and, ultimately, advise them about improving their capacity to inhibit corrupt practices.

Investigation process

The ICAC Act prescribes investigative powers to the ICAC including to enter premises to inspect and copy documents. Warrants may be obtained to search properties, use listening devices and intercept telephone calls. As part of investigations, the ICAC can require a public authority or official to provide information or documents, and hold compulsory examinations and public inquiries where witnesses are obliged to answer questions.

The Commission may make findings of fact and form opinions based on facts obtained about whether a person, a public official or not, has engaged in corrupt conduct. Whenever a public inquiry is conducted the Commission is obliged to issue a public report of the investigation process and findings.[12]

The ICAC does not investigate every allegation received and only a few become public inquiries. Allegations that do not concern õserious and systemicö behaviour may indicate a corruption risk that can be addressed with preventative action. These allegations may be referred for prevention policy advice rather than further investigation.

Prevention staff are also part of investigation teams for public inquiries and are responsible for analysing causative and contributory factors and developing recommendations for preventative action.

11 This analysis is taken from C Small & G Coulthart 2005 õInvestigating Allegations of Corruptionö *ICAC/ANU Course materials* 2005 ICAC internal document.

12 *ICAC Act* 1988 s 74(3)

Research and prevention policy

The Commission's prevention work includes analysing laws and management practices and providing advice and assistance to reduce the likelihood of corruption[13]. This occurs in the form of:

- individualised advice to agencies about corruption prevention polices and procedures;
- analysis of evidence;
- published advice such as guidelines, discussion papers and resources for public sector organisations;
- training and speaking engagements with agencies or groups of agencies (ICAC 2004: 57).

The ICAC's current prevention policy was developed over time from sources such as research conducted by the Commission including[14]:

- studies of employee perspectives of corruption
- studies of public sector managers' perspectives on corruption prevention
- a study of contractors' perspectives of corruption
- reviews of the relevant research literature
- analysis of types of allegations of corruption made to the ICAC
- surveys of community awareness and support for the minimisation of corruption.

The unifying theme of the ICAC prevention model is the concept of 'organisational integrity' which is an institutional policy framework intended to help an agency make itself resistant to corruption, rather than being forced to react to it. It works by integrating organisational values (such as integrity, honesty, excellence) into the usual work of the organisation largely through the example of managers. The anticipated

13 Section 13 *ICAC Act* 1988

14 Described in A Gorta 2001 'Research: A Tool for building corruption resistance' in P Larmour & N Wolanin (eds) *Corruption and Anti-Corruption* Asia Pacific Press/AIC Canberra.

outcome is an institutional culture of integrity that enables resistance to corruption and operational effectiveness[15].

The model emphasises the use of risk analysis to understand the corruption risks that the agency faces, institutional policies, procedures and management controls to address those risks, and the leadership of managers to enforce policies and demonstrate and audit compliance.

PART 3: THE PROJECT

Objectives

The project is being undertaken by the Corruption Prevention, Education and Research Division of the ICAC which is responsible for the Commission's statutory õpreventionö functions. It is a policy development project rather than a piece of research. In this sense the project has a scoping purpose in that it is intended to capture both current thinking and the ICAC's collected information about factors associated with corruption.

The project's objectives are to:
- Examine current research literature and ICAC investigation reports to identify factors that could õallow, encourage or cause the occurrence of corrupt conductö in order to update the policy and knowledge base of the ICAC's prevention work.
- Produce resources to support the prevention work of the ICAC, eg a literature review, an investigation report review and a policy statement.
- Formulate an evidence-based prevention policy position for use in training, advising and recommendations.
- Identify new policy issues for further research.

---

15 ICAC 2001 *The First Four Steps* ICAC Sydney; Boardman Catherine and Vicki Klum 2001 õBuilding organisational integrityö in Larmour, P and Wolanin, N (eds) *Corruption and Anti-Corruption* Asia Pacific Press/ AIC Canberra.

Methodology

Two sources of evidence about the factors that could allow encourage or cause corruption were reviewed: the body of ICAC investigation reports, and research literature about the corrupt conduct. The reviews were conducted separately without reference to each other and their findings compared.

ICAC investigation reports

Since its creation in 1988 to February 2006, the Commission has conducted and publicly reported on 100 major investigations. For the purposes of this project we decided only to use data from the 63 investigations in which findings of corrupt conduct were made.

The format of ICAC investigation reports has varied over time. Each report sets out the evidence on which findings and recommendations for future action are based. Information about the circumstances in which the corrupt conduct occurred and recommendations about ways to prevent it recurring is usually included in reports but it is not required by statute and not routinely or systematically collected.

Consequently the categorical variables (the factors) reported in this paper are not consistent across all investigation reports. It was possible to identify some factors that could have allowed or contributed to the corrupt conduct, but it is also possible that more factors would have been identified if the data had been collected with a view to future research.

The review of the reports was an exploratory exercise. It was an attempt to find out what factors were identified in reports and whether any patterns could be detected. A sample of ten reports was used to refine a template of relevant factors to collect the information recorded in the remaining reports.

Research literature

The other source of evidence reviewed for this project was the relevant research literature. Corruption is not limited to a single behaviour and the study of corruption is

still developing as a unified discipline. Consequently we undertook an inter-disciplinary literature review[16] that looked at institutional factors that could õallow encourage or cause corrupt conductö (in the terms of the ICAC Act).

Research literature was selected for review if it had the capacity to inform the development of ICAC prevention policy and advice. The criteria used to meet this requirement were that the literature:

- reported empirical, experimental or analytical research;
- related to conduct that would meet the ICAC Act definition of corruption if it occurred in the public sector;
- reported investigations of institutional factors that might contribute to the occurrence of corruption or conduct that occurred in an institutional context.

The sources of research chosen for review were selected because they are established and reputable in the disciplines that we identified as relevant to the project. They included peer-reviewed journals, published authors, and professional organisations. Web-based material was limited to monographs or articles that were published under the auspices of a journal or research institution. The keywords used in searches of journals, the internet and library catalogues included corruption prevention, fraud prevention, institutional ethics, public sector ethics, business ethics, organisational culture, ethical decision making, and noble cause corruption.

PART 4: EVIDENCE

This part of the report presents the evidence of both the literature review and the review of the ICAC investigation reports.

---

16 This ranged across the fields of criminology, economics, social psychology, moral philosophy, regulatory compliance and organisational management.

The literature review identified factors that could allow, encourage or cause corruption. We categorised these factors as:

- factors related to the individual perpetrator, internal or institutional (also called local) factors which occur within the organisation and over which the organisation has some control, or

- external or environmental factors which originate outside the organisation or agency and over which the organisation has little or no control.

These categories are not mutually exclusive in contributing to corrupt conduct. The factors were often found to coexist and/or interact with each other.

We also reviewed the ICAC reports and found a total of 18 factors that singly or in combination could have allowed or contributed to the corrupt conduct that occurred. These may also be broadly categorised as -individualø, -internalø or externalø From the information available it is not possible to state that any of these 18 factors -causedø the corrupt conduct. However, it is evident from the reports that the presence of one or a number of these factors played a role in the conduct occurring in each case.

The format of ICAC investigation reports has varied over time. Each report sets out the evidence on which findings and recommendations for future action are based. Information about the circumstances in which the corrupt conduct occurred and recommendations about ways to prevent it recurring is usually included in reports but it is not required by statute or always reported. Consequently, it is possible that more factors could have been identified, or some identified factors could have been found to be more prevalent, had a consideration of those factors been more consistent and the presence of such factors been recorded more systematically.

Individual factors

Personal information

Individual perpetrators have been a traditional subject of analytical and empirical research into the reasons for corruption and crime. Studies of the personalities and

attitudes of perpetrators are common[17]. Most studies of individuals collect information on gender, age, length of service and institutional experience**.**

Research about individual perpetrators commonly reports employment data about the rank and length of service of perpetrators. One survey[18] reports that perpetrators who occasioned the largest losses to their employer organisations were those in higher positions and with the longest tenure and that they were in the 41-50 age group. A review of the files of the Criminal Justice Commission (CJC), as it then was, found a õspread of offending across all ranks with a concentration amongst middle managers and section supervisorsö.[19]

Personal information about individual perpetrators such as age, sex and length of service is of limited use in relation to ICAC prevention policy because of the context in which the Commission operates. The consumers of ICAC advice are public sector employers who are constrained by the extent to which they can, or indeed should, use or obtain information about individuals to take action that might be interpreted as detrimental. To decline to employ or promote someone on the basis of a personal profile, for example, would be, at least, controversial and possibly unlawful.

Nevertheless, agencies can still look at categories of high risk employees and consider or seek to institute some preventive measures, such as training, where appropriate.

The ICAC investigation reports did not always collect information about the perpetrators of corrupt conduct; nevertheless some themes about perpetrators emerged. These are largely consistent with findings reported in the research literature. Where length of service in the agency or the related industry was reported in the ICAC investigation reports, perpetrators generally had many years of service or experience. Twenty-three reports recorded the length of service or experience in that field of 32 corrupt public officials. Their average length of service was 13.25 years. Another report noted that 18 corrupt staff of one large New South Wales agency each had 20 to 30 years experience.

---

17 Buckley, Ronald M, Wiese, Danielle S. & Harvey Michael G. 1998 õIdentifying Factors which may Influence Unethical Behaviourö *Teaching Business Ethics Vol. 2.*

18 For example Association of Certified Fraud Examiners (ACFE) 2004 *Report to the Nation on Occupational Fraud and Abuse* ACFE

19 Homel R, Clark R and Macintyre S 1995 õThe Prevention of Corruption in Public Sector Organisationsö paper presented at *The Fourth International Seminar on Environmental Criminology and Crime Analysis* Cambridge University July 7-9, 1995 p16.

Corrupt public officials were also more likely to be managers or elected officials than staff without supervisory or management functions. In 30 investigations, findings of corrupt conduct were made against public sector managers or supervisors. In 10 investigations findings of corrupt conduct were made against elected officials. A prior criminal history was not reported as a relevant factor. The literature review supported this finding.

Individuals and motivation

Individualsø decisions to engage in corrupt or criminal behaviour have been explored in the criminology research, drawing on theories such as control theory[20], rational choice[21] and the theory of routine activities[22].

Routine activity theory had particular application to this project.[23] Its acknowledgement of several contributing factors (motivation, opportunity and the lack of a credible guardian[24]), makes it particularly useful for understanding how corruption occurs and can be prevented.

Individual motivation was not discussed in all the ICAC investigation reports but where it was mentioned the most commonly stated motive was financial gain for the perpetrator. Other stated or inferred motives (not in order of prevalence) were:

- perceived reduced, or absent, risk of being caught
- personal problems such as gambling or drug use
- to expedite business (for example the executive acting to increase profit, or using unofficial improper channels rather than official ones because it is easier and quicker).

One study found that people who are more dependent on their employing organisation, in the sense that they have few options for alternative employment, are more likely to engage in behaviours that may be regarded as unethical but which

---

20 Cullen F T & Agnew R (eds) 2003 *Criminological Theory Past to Present: essential readings* Roxbury Publishing pp 219-226.

21 Cornish Derek B and Clarke Ronald V. 1986 *The Reasoning Criminal* New York: Springer-Verlag 1986

22 Felson M õLinking Criminal Choices, Routine Activities, Informal Control, and Criminal Outcomesö in Derek B. Cornish and Ronald V. Clarke (eds) *The Reasoning Criminal* New York Springer-Verlag 1986 pp 119-128.

23 Cohen Lawrence E and Felson Marcus õRoutine Activity Theoryö in Cullen T and Agnew R *Criminological Theory Past to Present* pp 284-285 at 285 and 286

24 P Grabosky & P Larmour 2000 õPublic Sector Corruption and its Controlö *Trends and Issues in Crime and Criminal Justice* January 2000 Australian Institute of Criminology Canberra p 2.

potentially may serve to protect or enhance their career.[25] Dependence of a different sort was also a factor in the CJC study which found that individuals with a dependence on alcohol or gambling are also õat risk for certain corrupt practicesö.[26]

A source of motivation that has been the subject of research, and was noted in the ICAC investigation reports, was the phenomenon of perpetrators feeling dissatisfied or perceiving unfairness in the workplace. In the research literature links have been made between staff dissatisfaction and deviant behaviour such as theft and minor workplace misbehaviours.[27] Some studies report that dissatisfaction that results from perceived unfairness in the workplace can be one of several õjustifications for devianceö that act to neutralise or rationalise the behaviour.[28]

The issue of perpetrators labelling the institution or another person as the indirect cause of the behaviour[29] also emerged from the literature review, particularly in relation to õnoble causeö corruption, in which the individual may try to make up for perceived system failures or unfairness[30]. Noble cause corruption was not well represented in the ICAC investigation reports but the need to act expediently in the interests of õgetting the job doneö was evident in some reports.

Individuals and relationships

One analysis from the corruption literature suggests that relationships facilitate corruption by providing the opportunity for the exchange of power between individuals who are looking for ways to get something they want. Warburton contends that when

---

25 Wahn J õOrganisational Dependence and the Likelihood of Complying with Organisational Pressures to Behave Unethicallyö *Journal of Business Ethics* 12: 245-251, 1993 p 248.

26 Homel R, Clark R and Macintyre S 1995 õThe Prevention of Corruption in Public Sector Organisationsö paper presented at *The Fourth International Seminar on Environmental Criminology and Crime Analysis* Cambridge University July 7-9, 1995 p 17.

27 Challinger D 1994 Feeling Good at Work: an antidote to workplace crimeö Paper presented at *Australian Institute of Criminology Conference: Crime Against Business* 28 February-2 March 1994 Melbourne; Trevino L K and Brown M E 2004 õThe Role of Leaders in Influencing Unethical Behaviour in the Workplaceö in Kidwell RE & Martine LC (eds) *Managing Organisational Deviance* Sage Publications Inc 2005 pp 69-96. Workplace dissatisfaction may also help to understand the contested relationship between low salary and corruption discussed in Gorta A 1998 *Minimising Corruption: Lessons from the Literature* ICAC Sydney pp 7-8.

28 Wellen J 2004 õFrom Individual Deviance to Collective Corruption: A social influence model of the spread of deviance in organisationsö Paper presented to the *Social Change in the 21st Century Conference* Centre for Social Change Research Queensland University of Technology 29 October 2004 p 7; DF Sunahara 2004 õSearching for Causes: Entitlement and Alienation as Precursors of Unethical Police Behaviourö Canadian Police College, Ottawa at *http://www.cpc.gc.ca/research/causes_e.htm* last accessed 21 April 2006; Buckley, M. Ronald, Wiese Danielle S. & Harvey Michael G. 1998 õIdentifying Factors which may Influence Unethical Behaviourö *Teaching Business Ethics* Vol. 2, 1998.

29 Buckley, Wiese & Harvey 1998 "Identifying Factors which may Influence Unethical Behaviour" *Teaching Business Ethics* Vol 2 1998 28.

30 Kleinig John 2002 õRethinking Noble Cause Corruptionö *International Journal of Police Science & Management* Vol 4 No 4 pp 287-314 at 289.

professional relationships become personalised an õinfluence debtö can develop and lead easily to a õpower swapö or corruption[31].

The perpetrators of corrupt conduct in the ICAC investigations were more likely to act with another person than alone. The majority of cases involved one or more public officials as perpetrators acting with one or more private individuals. The public official perpetrators were more likely to engage in the corrupt conduct with a private individual than with another public official. In several ICAC investigations, the public official had regulatory or decision-making authority and their non-public sector accomplice was a person in a related industry with whom they had a pre-existing relationship. The relationship provided the opportunity for the two parties to engage in corrupt conduct.

Another common scenario involved public sector perpetrators who developed inappropriate relationships with clients whom they had met through their work. Many public official functions require staff to form professional relationships with private individuals as part of their work, especially in service provision, contracting or regulatory roles. In the investigated cases, these relationships often provided opportunities for the public official to act improperly, either intentionally or because they lacked the skills to prevent relationships becoming improper.

The two most common types of behaviour present in the ICAC investigation reports were acceptance of bribes, gifts and secret commissions and collusion. Both relate to relationships between public officials and those outside the public sector. Most of the corrupt conduct found in the ICAC investigation reports occurred in relation to contracting, engaging in secondary employment or regulation such as licensing and certification. Once again, the most common functions or activities required forming professional relationships with members of the public.

Internal (institutional) factors

Factors that can be described as internal or institutional are those that are largely within the control of the agency and result from agency decisions, actions or inaction.

---

31 Warburton J õCorruption, Power and the Public Interestö *Business and Professional Ethics Journal* Vol 17 No 4 pp 80-99 at 8731. In the public sector context, power comes from õbeing given administrative control of decision-making processes and control of scarce resources on behalf of the publicö.

The literature indicates that organisations are more susceptible to fraudulent behaviour by employees if they are large[32], intensely competitive - either internally or externally, prioritise financial success,[33] operate in industries with a culture of misconduct[34], and are experiencing a state of dynamic change such as corporate restructuring or business diversification[35]. Another finding mentioned in the literature was that corporate financial problems may be related to, and encourage, unethical behaviour.[36]

Few of the ICAC investigation reports described the size, governance type (department, enterprise etc) or organisational structure (centralised/regionalised etc) of the agency. However, it was clear that a variety of agencies of different sizes and types were represented in the investigation reports and no apparent relationship emerged between the size or type of agency and the occurrence of corrupt conduct.

The internal factors identified from the ICAC investigation reports as being associated with corrupt conduct are listed below. The numbers in brackets represent the number of ICAC investigation reports (out of 63) in which these factors were present:

- Inadequate policies, procedures or systems (46)
- Inadequate knowledge, skills or experience of corrupt public official or related supervisor or manager (46)
- Inadequate supervision or work review (45)
- Failures of senior or corporate management (36)
- Aspects of the culture of the agency, for example a culture where corruption was tolerated (28)
- Failure to follow existing policies, procedures or systems (17)
- Poorly managed contracting or commercial relationships (17)

---

32 Baucus Melissa S. & Near Janet P "Can Illegal Corporate Behaviour be Predicted? An Event History Analysis" *Academy of Management Journal* Vol. 34, 1991; Barnes P & Webb J 2005 *Reducing an Organisation's Susceptibility to Occupational Fraud: Factors Affecting its Likelihood and Size* BDE Gobal London.

33 Clinard Marshall B 1983 "Why Some Organisations Are More Ethical than Others" *Corporate Ethics and Crime: The Role of Middle Management* Sage Publications Beverley Hills pp 70; Hegarty, W Harvey & Sims, Henry P Jr. 1978 Some Determinants of Unethical Decision Behaviour – An Experiment *Journal of Applied Psychology* Vol.63, No. 4, 1978. In the public sector this approach can also refer to a "political bottom-line" rather than a financial bottom-line, see Sims Ronald R 1992 "The Challenge of Ethical Behaviour in Organisations" *Journal of Business Ethics* July 1992

34 Victor Bart& Cullen John B. 1988 "The Organizational Bases of Ethical Work Climates" *Administrative Science Quarterly* Vol.33, No.1, March 1988.

35 Baucus & Near 1991; Theobald 1997 "Enhancing Public Service Ethics: More Culture Less Bureaucracy?" *Administration and Society* v 29 No 4 p 490 Sep 1997; Weber RJ, Kurke Land Pentico D 2003 "Why do Employees Steal? Assessing Differences in Ethical and Unethical Employee Behaviour Using Ethical Work Climates" *Business and Society* Vol 42 No 3 Sept 2003: 359-380.

36 Clinard Marshall B 1983 "Why Some Organisations Are More Ethical than Others" *Corporate Ethics and Crime: The Role of Middle Management* Sage Publications Beverley Hills

- Corrupt public officials had high levels of personal discretion, autonomy, power or influence (17)

- Inadequate agency resources, for example, insufficient staff (8)

These factors are explained in Attachment 1.

Internal factors were the most common factors identified in the ICAC investigation reports and were present in nearly every case. This is not surprising given that ICAC investigations often tend to focus on the agency rather than the broader context. This finding is also consistent with Clinard's findings from a survey of middle managers about their perceptions of unethical behaviour.[37]

The literature indicates that internal factors that might influence employee conduct are of two types: system failures such as poor supervision[38], oversight, or procedural rules; or socialisation factors such as the conduct of peers and managers in the organisation.[39] This is consistent with the information derived from the ICAC investigation reports.

System failures evident from the ICAC investigation reports include inadequate knowledge and skills on the part of perpetrators, their supervisors, managers and other relevant staff. Related to this factor was the lack, or poor quality, of agencies' policies and procedures. In many cases agencies had no policies or procedures that addressed the conduct. In others perpetrators failed to follow adequate procedures but the failure was not identified because monitoring was inadequate. In some cases, agencies may have introduced policies and procedures but they were not comprehensive, or were confusing, complicated or outdated. This made it easier for perpetrators to engage in corruption and harder for managers to supervise and monitor their activities as it often was not clear how things should have been done.

---

37 Clinard Marshall B 1983 "Why Some Organisations Are More Ethical than Others" *Corporate Ethics and Crime: The Role of Middle Management* Sage Publications Beverley Hills

38 Dunkleberg J & Jessup DR 2001 "So Then Why Did You Do It?" *Journal of Business Ethics* 29:51-63; Clinard Marshall B 1983 "Why Some Organisations Are More Ethical than Others" *Corporate Ethics and Crime: The Role of Middle Management* Sage Publications Beverley Hills

39 Ethics Resource Center *National Business Ethics Survey: How Employees View Ethics in Their Organisations* 1994-2005 Executive Summary at *www.ethics.org* last viewed 8 August 2006.

The absence of relevant policies and procedures creates a ‑policy vacuumø The literature describes the effect of a policy vacuum as introducing a level of uncertainty among employees about what constitutes acceptable behaviour. This highlights the importance of socialisation factors in preventing corruption. For example, where standards of conduct are not made explicit through policy, or enforced, the consequent uncertainty among employees is said to create conditions that can encourage deviant behaviour.[40]

Poor supervision and work review practices appear frequently in the ICAC investigation reports. As well as these inadequacies in line or supervisory management, the investigation reports revealed many instances of inadequate senior or corporate management. These took a number of forms, including failure to:

- implement the corruption prevention recommendations of previous external investigations
- effectively implement organisational change
- implement effective audit and risk management programs
- act on internal reports about misconduct
- take timely action to address identified corruption risks.

The literature identifies two particular forms of poor management that shed further light on these findings from the investigation reports. One, described elsewhere as õorganisational incompetenceö[41] was evident in a variety of forms including the failure to monitor performance or implementation, supervise and plan strategically. The second is the way that senior managers respond to specifically ethical issues[42] which can include behaviour - on the part of managers - such as:

- tolerating or rewarding unethical behaviour[43]

40 Wellen J 2004 õFrom Individual Deviance to Collective Corruption: A social influence model of the spread of deviance in organisationsö *Paper presented to the Social Change in the 21st Century Conference Centre for Social Change* Research Queensland University of Technology 29 October 2004

41 Kagan R and Scholz J 1984 õThe ‑Criminology of the Corporationø and Regulatory enforcement Strategiesö in K Hawkins & John Thomas (eds) *Enforcing Regulation* Kluwe Nhijhoff, Boston pp 67-96 quoted in Grabosky P N 1989 *Wayward Governance: illegality and its control in the public sector* Australian Institute of Criminology Canberra chapter 19 at *www.aic.gov.au/lcj/wayward/ch19.html* p 8 last viewed 8 August 2006.

42 Grabosky 1989 *Wayward Governance: illegality and its control in the public sector* Australian Institute of Criminology, Canberra p 9; ERC *National Business Ethics Survey* 1994 – 2005.

43 Bart Victor & John B. Cullen õThe Organizational Bases of Ethical Work Climatesö *Administrative Science Quarterly* Vol.33, No.1, March 1988; Hegarty, W & Sims, Henry P Jr 1978 "Some Determinants of Unethical Decision Behaviour - And Experiment" *Journal of Applied Psychology* Vol 63, No. 4; Baucus Melissa S & Near Janet P "Can Illegal Corporate behaviour be Predicted? And Event History Analysis" *Academy of Management Journal* Vol 34 1991; Sims Ronald R 1992 " Are

- õindividual ethics, personal ambition and poor supervisionö[44]

- not taking action about corruption and behaving inconsistently[45]

- emphasising the õbottom lineö of the organisation over other values.[46]

Factors of this kind have been said to contribute to the particular õwork climateö of an organisation.[47]   Studies have identified the existence of work climates and concluded that certain *ethical* work climates can encourage ethical employee behaviour.[48]

Evidence from a number of ICAC investigation reports, shows that the corrupt staff had been allowed to attain high levels of personal discretion, power and influence in their area of the workplace. When they acted corruptly it was in an environment where they were not effectively supervised and were allowed a high degree of autonomy. In many cases they occupied a role that might be described as a ̵resident expert̸ This meant that they held the corporate knowledge or expertise in a particular functional area. They were frequently highly trusted and respected for their knowledge. Public official perpetrators were also allowed to assume high levels of personal discretion as a result of seniority, long-service, trust and popularity. These situations often came about in an informal, rather than official, way and became accepted over a long period of time.

Situations of this kind resonate with a formula for corruption devised by Klitgaard that õmonopoly + discretion ó accountability = corruptionö.[49]   In this application of the formula the employee is given a monopoly on a body of essential information with discretion as to its use but without effective accountability on its exercise.

Challenge of Ethical Behaviour in Organisations" *Journal of Business Ethics* July 1992; ERC *National Business Ethics Survey* 1994‗ 2005; Trevino L K and Brown M E 2004 õThe Role of Leaders in Influencing Unethical Behaviour in the Workplaceö in Kidwell RE & Martine LC (eds) *Managing Organisational Deviance* Sage Publications Inc 2005 pp 69-96; Clinard Marshall B 1983 õWhy Some Organisations Are More Ethical than Othersö *Corporate Ethics and Crime: The Role of Middle Management* Sage Publications Beverley Hills

44 Clinard Marshall B 1983 õWhy Some Organisations Are More Ethical than Othersö *Corporate Ethics and Crime: The Role of Middle Management* Sage Publications Beverley Hills p 69.

45 ICAC 1999 *Tips from the Top* ICAC Sydney

46 Sims Ronald R 1992 " Are Challenge of Ethical Behaviour in Organisations" *Journal of Business Ethics* July 1992: 505-513 at 507.

47 Victor Bart & Cullen John B 1988 "The Organisational Bases of Ethical Works Climatesö *Administrative Science Quarterly* Vol 33 No.1 March 1988 pp 101 ó 125.

48 Weber J, Kurke L and Pentico D 2003 õWhy do Employees Steal? Assessing Differences in Ethical and Unethical Employee Behaviour Using Ethical Work Climatesö *Business and Society* Vol 42 No 3 Sept 2003: 359-380.

49 Klitgarard R 1988 *Controlling Corruption* University of California Press p 75

External (environmental) factors

For the purposes of this paper, the external factors found were those that originated in the environment in which the organisation operates and have a demonstrable impact on it while being outside the control of the agency. The numbers in brackets represent the number of ICAC investigation reports in which these factors were found:

- Potential for significant personal gain – financial or otherwise (56)

- Highly competitive operating environment (28)

- The nature of the agency's work (20)

- Significant change imposed from outside on the agency resulting in, for example, organisational restructure, allocation of new functions by government, the need to operate on a commercial basis (17)

- Inadequate legislative provisions (10)

- Poor understanding of proper agency functioning by certain sectors of the community[50]. (5)

These factors are explained in more detail in Attachment 1.

A factor evident in several ICAC investigation reports was the incidence of significant organisational change, such as an agency's restructure or the acquisition or outsourcing of functions. Another increasingly common change being imposed on public sector agencies is the requirement for agencies that previously had only an administrative or advisory function to take on a more commercial and competitive focus. The literature supports the view that illegal behaviour is more probable in "dynamic corporate environments."[51] Increased commercialisation in the public sector has been identified as a specific example[52].

In the cases described in the ICAC investigation reports, it appears that the upheaval brought to the agency by the change and the fact that it was not well managed was more significant than the type of change. As with the absence of adequate

---

50 The investigations that demonstrated this factor involved people from non-English speaking backgrounds.

51 Melissa S. Baucus & Janet P. Near "Can Illegal Corporate Behaviour be Predicted? An Event History Analysis" *Academy of Management Journal*, Vol. 34, 1991 p 31.

52 Theobald R 1997 "Enhancing Public Service Ethics: More Culture Less Bureaucracy?" *Administration and Society* v 29 No 4 Sep 1997 pp 490ff; Van Wart 1996 "The Sources of Ethical Decision making for Individuals in the Public Sector" *Public Administration Review* Vol 56 No 6 p 526.

knowledge or management leadership mentioned earlier, uncertainty about proper behaviour may be the corruption risk associated with major organisational change.[53]

Operating in an intensely competitive environment or industry was also a factor in the corrupt conduct that was found in a number of ICAC investigation reports. In the New South Wales context agencies facing this factor could include those that regulate property development or liquor licensing or universities competing to attract students. This factor also appears in the literature as one associated with unethical behaviour.[54] The response of organisations in such environments has been described as a õtendency to push too aggressively for profitsö[55] without regard for institutional values and also as õstrong goal orientationö.[56] Grabosky notes that this phenomenon õtranscends distinctions between the private and public sectorsö [57]. If so, Simsø identification of a õbottom-line mentalityö [58] might also be applied to a political bottom line in which the goal to be achieved is a political outcome rather than a commercial one.

PART 5: THEMES EMERGING FROM THE EVIDENCE

This project was an attempt to explore two sources of evidence about factors that may contribute to the occurrence of corruption in the New South Wales public sector. It has reviewed selected relevant research literature and it has produced an analysis of the ICACøs investigation reports for information about factors associated with corruption. The review of investigation reports studied a range of corrupt conduct that is limited by the ICACøs statutory definition and operational decisions. Within the constraints of the limited scope of the study the project identified some research themes that, having been identified, can provide a basis for the Commissionøs own further research, monitoring of

Baucus Melissa S & Near Janet P "Can Illegal Corporate behaviour be Predicted? And Event History Analysis" *Academy of Management Journal* Vol 34 1991; Grabosky 1989 *Wayward Governance: illegality and its control in the public sector* Australian Institute of Criminology, Canberra p 9; ERC *National Business Ethics Survey* 1994_2005.

54 Hegarty, W & Sims, Henry P Jr 1978 "Some Determinants of Unethical Decision Behaviour - And Experiment" *Journal of Applied Psychology* Vol 63, No. 4

55 Clinard Marshall B 1983 õWhy Some Organisations Are More Ethical than Othersö *Corporate Ethics and Crime: The Role of Middle Management* Sage Publications Beverley Hills.

56 Grabosky 1989 *Wayward Governance: illegality and its control in the public sector* Australian Institute of Criminology, Canberra p 9; ERC *National Business Ethics Survey* 1994_2005 p 10.

57 Grabosky 1989 *Wayward Governance: illegality and its control in the public sector* Australian Institute of Criminology, Canberra p 9; ERC *National Business Ethics Survey* 1994_2005 p 8.

58 Sims Ronald R 1992 " Are Challenge of Ethical Behaviour in Organisations" *Journal of Business Ethics* July 1992.

research undertaken elsewhere and to further develop the Commission's prevention policy.

Prevention policy

The 18 factors identified in the reviews as associated with corrupt conduct are consistent with the substance of the ICAC's current prevention policy model which advocates using institutional mechanisms to minimise the risks of corruption inherent in certain public sector activities.

The study of corruption and corruption prevention is constantly developing. The project has identified a number of substantive policy issues, discussed earlier, that are likely to be fruitful areas for ongoing monitoring and further research, in particular:

- The management of professional relationships by public officials
- The impact of significant organisational change on public officials
- The impact of commercialisation in public sector agencies
- The role of organisational culture in preventing or contributing to corruption
- The dynamics of policy implementation
- The role of levels of management in preventing corruption
- The use of detection systems
- The responsible exercise of personal discretion
- The relationship between motivation and the workplace.

These themes are proposed here as issues for analysis and investigation. Some of them overlap and more research may indicate that some can be merged into broader categories. While there is no evidence of a need for significant changes to the current policy approach further consideration of these themes may lead to shifts in focus or adjustments to its application.

Managing professional relationships

The public functions most represented in the investigation report review (regulation, procurement and law enforcement) required forming professional relationships with members of the public. A number of investigations also involved a

public official who had a pre-existing relationship with a person who was, or subsequently became, a client.

The need to develop professional relationships with individuals from outside the public sector is an unavoidable aspect of the work of many public agencies. The project's evidence indicate that the corruption risk in functions such as regulation or certification, may lie in the professional relationship that is formed between a public official and a private individual for an official reason, where either party could benefit from misuse of the public official's authority.

Significant organisational change

The types of organisational change experienced in agencies undergoing ICAC investigations included extensive internal restructure, commercialisation, amalgamation, downsizing, taking on new functions and major outsourcing. Poorly managed significant change appears to be capable of producing an environment that is conducive to corrupt conduct.

In some cases, agencies had been subjected to a series of major changes in a relatively short period of time. The common factor was the upheaval that was brought to the agency. It appears that the significant risk factor in these cases was major change that was not well-managed rather than the specific nature of the change. Exactly why and how this is the case could be usefully examined.

Commercialisation

An increasingly common form of organisational change in the public sector is the requirement for a previously non-profit and non-competitive advisory, technical or service provision agency to operate according to commercial business principles.

The commercialisation of an agency brings considerable change and introduces new corruption risks. Agencies without a commercial focus are significantly different from those that are required to operate commercially. They may need different skill sets, management styles, policies, procedures etc. In addition, many non-commercial agencies, such as universities, may be required to behave in commercial ways in order to obtain additional funding, for example, competing for overseas students.

It was not apparent whether the increased risk was due to a poorly managed need to address new and different corruption risk or to something inherent in the commercial environment.

Organisational culture

The impact of an organisational culture on employees was evident in many of the investigation reports reviewed. ‑Organisational cultureø develops from practices and attitudes that have, over time, become widespread, entrenched and unquestioned in an agency. Cultures may have positive or negative influence on behaviour. In the ICAC investigation reports examples included:

- the then police practice of closing ranks and protecting colleagues at all costs,[59]
- the practice of theft from the deceased by staff at the State morgue,[60]
- the NSW Grains Board encouragement of the bending of rules to get the job done,[61]
- the reluctance of correctional officers to search other correctional officers,[62]
- the then common practice for Department of Housing staff to accept gifts from clients.[63]

Policy implementation

Some investigation reports indicated that poor implementation of existing policy and procedure may be as significant in contributing to corrupt conduct as an absence of policy and procedures. Such a phenomenon may be attributable to the policy instruments being of poor quality, lacking official authority or not being internalised by those they affect. Each of these causes will require a different remedy.

---

[59] ICAC *Investigation into Harassing Telephone call made to Edgar Azzopardi* December 1990.

[60] ICAC *Report on the Investigation into the Glebe Morgue* March 1998

[61] ICAC *Report on investigation into the conduct of certain officers of the New South Wales Grains Board* August 2003.

[62] ICAC *Report on investigation into the Dept of Corrective Services, first report: The conduct of Josh Sua* February 1998

[63] ICAC *Report on investigation into the handling of applications for public housing by an officer of the Dept of Housing* May 2003

Management

It became clear during the project that the term õmanagementö is too generic in this context. Different sets of corruption risk factors relating to two management groups emerged: those related to line and supervisory management; and those that arise from senior and strategic management.

In many ICAC investigations it was evident that the corrupt conduct might not have occurred or would have been uncovered far sooner had there been sound but not intrusive day-to-day supervision and basic work review procedures by immediate or line managers. There were many instances of inadequate day-to-day supervision and checking mechanisms (such as checking that the fees charged were the same as the agreed fees before paying an account). Often perpetrators failed to follow seemingly adequate procedures but there was no immediate or even eventual identification of this failure. Frequently the reason for this was that the line manager did not have the knowledge or experience to adequately supervise and review the activities of the staff perpetrator. This allowed the staff perpetrator to continue their corrupt activities undetected.

Poor decisions and leadership or inaction at the senior management level of agencies was common. Examples included failure to act on internal reports about misconduct or inappropriate conduct, failure to address corrupt conduct known to be occurring, failure to implement corruption prevention recommendations of previous external investigations, failure to take timely action to address identified corruption risks, poor leadership, failure to successfully implement change and failure to implement effective audit and risk management programs.

Detection systems

In almost all the ICAC investigations, the agencies had inadequate detection systems, such as audit, risk management, internal investigation and internal reporting systems. This made it more difficult for the agency to identify the corrupt conduct in a timely manner, if at all.

Personal discretion

There were many cases in both the literature and the ICAC investigation reports where staff found to have been corrupt had been allowed an unusually high degree of personal discretion, autonomy, power or influence in their work. Some had been allowed to develop an inordinate amount of power in their particular area. Some were the 'resident experts' who held all the corporate knowledge or expertise in a particular area, while others were highly trusted and left to work independently. These people were not necessarily senior staff. Often they were relatively junior employees who gained and used considerable power through developing 'resident expert' status. All were poorly supervised and had a high degree of autonomy. Their recommendations and actions were not questioned to any effective degree. Often these arrangements were informal and had been operating for some time. The need for the accountable exercise of personal discretion is likely to increase as the size of modern public sectors decrease.

Individual motivation and the workplace environment

The literature indicates that the motivation of perpetrators to commit misconduct is a key factor in deviant behaviour. It also indicates that there may be a strong relationship between workplace environment and motivation, for example, job dissatisfaction. There may be things that agencies can do to influence motivation.

Staff dissatisfaction and alienation may have been present in more investigations than were reported because these factors were not routinely identified and explained as separate prevention issues. For example, it may have been an unstated aspect of a situation in which an agency had poorly managed or implemented systems and policies or was undergoing rapid change.

Related to the question of motivation is the need to understand why perpetrators engage in corrupt conduct when there is no obvious financial or other personal benefit.

CONCLUSION

This project has been exploratory in several ways. It was intended to enhance the ICAC's corruption prevention work by formulating an evidence-based prevention policy position that can be used in training and advising public officials. It was expected to deliver information that could be used to both assess current prevention policy and to point to new issues to be pursued in order to develop policy to meet new challenges.

The project has so far reinforced the general direction and principal themes of the Commission's prevention policy and identified, from the literature and the Commission's own experience, some new issues for further consideration and research.

It is planned to develop a set of resources for use by Commission staff in their work. Some of these are completed and others are in the process of development:

- a literature review of corruption prevention resources that are relevant to ICAC work;

- a summary of the policy articulated in ICAC prevention and research publications that relates to the causes of corruption and recommended prevention strategies;

- a summary of the information, obtained in the course of ICAC investigations, about the factors that "allow, encourage or cause the occurrence of corrupt conduct";

- a standard appendix to investigation reports, that explains the principles that the ICAC follows in its corruption prevention analysis, advice and recommendations.

In addition, the project will produce a set of recommendations for ongoing activities or adjustments to current programs in the ICAC's prevention work that would maintain and allow development of policy knowledge.

This project was enabled by the ICAC's integrated approach to anti-corruption of investigation, prevention and education. The experience and information acquired in the course of investigations is an invaluable resource for an agency tasked with providing advice about preventing corruption. Having extracted a set of broad themes from both the research literature and the record of the Commission's investigative experience the prevention work of the ICAC will continue to monitor these themes and apply them in the continuous development of its evidence-based policy.

ATTACHMENT 1: FACTORS ASSOCIATED WITH CORRUPTION

This project reviewed ICAC reports since 1989 and from this produced a total of 18 factors that singly or in combination could have allowed or contributed to the corrupt conduct that occurred. These factors may be broadly categorised as ÷individualø ÷internalø or externalø

From the information available it is not possible to conclude that any of these 18 factors ÷causedøthe corrupt conduct. However, it is evident from the reports that the presence of one or a number of these factors played a role in the conduct occurring in each case. These 18 factors were also present in the research literature reviewed for the project.

INDIVIDUAL FACTORS

1. **Public officials developed inappropriate relationships with clients**
   Public officials with responsibilities for such functions as contracting, regulation, development approval and managing inmates developed improper relationships with clients that they met through their work. Their jobs required them to form professional relationships with these people, however, the relationships did not remain professional, they moved on to a closer and inappropriate level. In the investigated cases, these relationships often provided opportunities for the public official to act improperly either intentionally or because they lacked the skills to prevent relationships becoming improper. The acceptance by public officials of inappropriate gifts and favours featured significantly in most of these relationships.

2. **Public officials failed to declare conflicts of interest (pre-existing relationships)**
   Public officials failed to declare existing relationships with clients such as tenderers, suppliers, development applicants, regulatees and contractors. In a significant number of ICAC reports, the public official with the decision-making authority had a pre-existing relationship with their non-public sector accomplice in a related industry. The relationship provided the opportunity for the two parties to engage in corrupt conduct.

3. **Public officials had feelings of dissatisfaction or perceptions of unfairness**
   This factor was only reported on in 4 investigations. An example was staff dissatisfaction with new premises, and potential conditions and salaries following a council boundary change.

INTERNAL (OR INSTITUTIONAL) FACTORS

4. **Inadequate supervision or work review**
   This refers to the direct supervision of the work of individuals, rather than overall management issues (see 15 below). Public officials and their work were poorly supervised and there were inadequate day to day checking mechanisms on their work. This assisted the corrupt conduct not to be identified.

5. **Aspects of the culture of the agency**
   This refers to behaviours and characteristics that were peculiar to a particular agency or section of an agency and had existed in that agency for some time. They were ‑tradition, ‑common practice and ‑the way things were.

6. **Inadequate knowledge, skills or experience of corrupt public official or related supervisor or manager**
   This generally refers to public officials not having adequate knowledge and/or skills to do their job, for example, inadequate knowledge of tendering, internal investigations, financial management and commercial management. A number of public officials did not have an adequate understanding of what their job entailed, eg site supervisor, cleaning contract manager. Some supervisors did not have adequate knowledge in technical matters to supervise their staff effectively.

7. **Failures of senior or corporate management**
   Poor decisions or lack of action by senior management was a factor in many of the cases. Examples included failure to act on internal reports about misconduct or inappropriate conduct, negligence, failure to implement corruption prevention recommendations of previous external investigations, failure to take timely action to address identified corruption risks, poor leadership examples, failure to successfully implement change and failure to implement effective audit, internal investigation and risk management programs.

8. **Inadequate policies, procedures or systems**
   This was a factor in many investigation reports. The types of policies/procedures and systems fell into the following groups:

   a. Financial ó For example, failure to check fees charged against fees negotiated, defective debtor tracking systems, payment of contractor claims without supporting documentation and systems that were easy to override.
   b. Recruitment ó For example, inadequate position descriptions and recruitment checks and large numbers of staff employed in a temporary capacity for years.
   c. Code of conduct ó For example, codes that failed to cover standard issues such as secondary and post separation employment and personal relationships with clients.
   d. Conflicts of interests ó For example, no requirement for senior staff to declare or manage conflicts of interests.

e. Purchasing and disposal of assets – For example, poor inventory practices, gaps in policies and procedures.

f. Tendering/contracting – For example, inadequate quotation procedures, no systems to ensure that the required three quotes were obtained or contracts were awarded fairly.

g. Record keeping – For example, key records kept at a staff member's home, records not updated, inadequate records systems in respect of stock held, transferred goods, meetings, expenditure, decisions, student records and instructions from head office.

h. Complaint handling/internal reporting – For example, lack of effective complaints mechanism for staff or clients, no alternative mechanism for reporting senior staff, lack of effective internal reporting system.

i. Asset management – For example, inadequate stocktake and asset loans systems, lack of policies for disposal of goods or tracking the movement of valuables around the agency.

j. Parliamentary entitlements. In general the issues related to poor systems and guidelines for the administration of entitlements and allowances. One matter also involved the post-separation employment of Ministers.

k. Inadequate security - this related to both physical and information security:
    - Physical security – For example, leaving external doors chocked open, failing to use locks which provided the key security for the agency, open and unsupervised access areas such as the mailroom and storage depot and inadequate search procedures (correctional centres).
    - Information security – For example, lack of rudimentary systems to protect confidential information and poor password security.

l. Computer systems - For example, sales administrators with individual databases so there was no centralised record of expenditure on surveyors and systems that were easy to override.

m. Other - this section reflected:
    - a lack of or inadequate policies, procedures and systems on a range of specific operational matters
    - general problems such as complicated, outdated and confusing policies, failure to update policies following restructure and procedures without supporting policies, and
    - inadequate systems relating to specific operational matters.

9. **Failure to follow existing policies, procedures or systems**
    In a number of cases, apparently adequate provisions existed but were not followed by perpetrators or others and there was no immediate, or sometimes even eventual, identification of this failure. For example, not following the provisions for checking overtime claims, purchasing and disposal of goods, approving secondary employment, booking travel, body searches, Board meetings, tendering and password security.

10. Poorly managed contracting or commercial relationships

This section relates to commercial dealings with the private sector. The issues identified covered a wide range of poor practices including:

- one staff buyer with unchallenged control of the entire tendering process
- the agency relying on contractor goodwill rather than developing contract management strategies
- a tendering advertisement with little detail
- no reply deadline published for tenders
- poor record keeping
- tenders opened in mailroom and placed on file instead of placed unopened in tender box
- suppliers taking buyer to lunch regularly
- lack of specifications, and
- no contract.

11. Inadequate agency resources

The effects of inadequate resources featured in a number of reports, particularly heavy workloads and inadequate staffing.

12. Corrupt public officials had high levels of personal discretion, autonomy, power or influence

In several reports it was clear that particular public officials had been allowed or even encouraged to gain substantial amounts of influence over their own domains.

ENVIRONMENTAL (OR EXTERNAL) FACTORS

13. Significant change imposed on the agency (eg internal restructure, introduction of new functions, commercialisation)

Major change featured as a factor in many of the reports. Examples of the type of change referred to include:

- an agency being required to take on a major new and unfamiliar function
- amalgamations of agencies
- splitting of larger agencies into a number of smaller entities
- requiring an agency to operate as a commercial organisation
- Outsourcing of a major function
- Major organisational restructure
- Agencies that had experienced a succession of reorganisations and amalgamations.

14. Inadequate legislative provisions

This refers to the legislative environment in which the agency operated. In some cases there was a lack of appropriate legislative provisions, in others, the existing legislation was deficient or ambiguous in some way.

15. **Nature of the work or the agency**
    This factor generally relates to things that were traditionally or intrinsically related to the actual job of the perpetrator or the work environment. For example, some jobs involved close working relationships with clients or particular sectors, some involved work in remote locations and some involved competing roles.

16. **Poor understanding of proper agency functioning by certain sectors of the community**
    This relates to cases where numbers of non English speaking background clients either:
    - were not aware of normal correct procedures
    - believed that bribery was expected, or
    - were taken advantage of by public officials of the same ethnic origin.

17. **Potential for significant gain ó financial or otherwise**
    This factor was present in many of the investigation reports and relates to the potential for gain existing in the work or operating environment of the agency. Examples include property development, gambling regulation and large-scale contracting.

18. **Highly competitive operating environment**
    This factor can overlap with the potential for significant gain in some fact situations. It is identified separately in the research literature as a factor that may encourage short cuts in proper process in order to achieve a competitive advantage.

REFERENCES

Association of Certified Fraud Examiners (ACFE) 2004 *Report to the Nation on Occupational Fraud and Abuse* ACFE

Barnes P & Webb J 2005 *Reducing an Organisation's Susceptibility to Occupational Fraud: Factors Affecting its Likelihood and Size* BDE Gobal London, pp 1-10.

Baucus Melissa S. & Near Janet P "Can Illegal Corporate Behaviour be Predicted? An Event History Analysis" *Academy of Management Journal* Vol. 34, 1991 pp 9-38.

Boardman Catherine and Vicki Klum 2001 "Building organisational integrity" in Larmour, P and Wolanin, N (eds) *Corruption and Anti-Corruption* Asia Pacific Press/ AIC Canberra pp 82-96.

Buckley, Ronald M, Wiese, Danielle S. & Harvey Michael G. 1998 "Identifying Factors which may Influence Unethical Behaviour" *Teaching Business Ethics* Vol. 2 pp 71-84.

Challinger D 1994 Feeling Good at Work: an antidote to workplace crime" *Paper presented at Australian Institute of Criminology Conference: Crime Against Business* 28 February-2 March 1994 Melbourne

Clinard Marshall B 1983 "Why Some Organisations Are More Ethical than Others" chapter 4 in *Corporate Ethics and Crime: The Role of Middle Management* Sage Publications Beverley Hills pp 53-70.

Cornish Derek B and Clarke Ronald V. 1986 *The Reasoning Criminal* New York: Springer-Verlag 1986

Cullen F T & Agnew R (eds) 2003 *Criminological Theory Past to Present: essential readings Roxbury Publishing* pp 219-226.

Dunkleberg J & Jessup DR 2001 "So Then Why Did You Do It?" *Journal of Business Ethics* 29:51-63

Ethics Resource Center *National Business Ethics Survey 1994-2005*.

Felson M "Linking Criminal Choices, Routine Activities, Informal Control, and Criminal Outcomes" in Derek B. Cornish and Ronald V. Clarke (eds) *The Reasoning Criminal* New York: Springer-Verlag 1986 pp 119-128.

Gorta A 2001 "Research: A Tool for building corruption resistance" in P Larmour & N Wolanin (eds) *Corruption and Anti-Corruption* Asia Pacific Press/AIC Canberra pp 11-29.

Gorta A 1998 *Minimising Corruption: Lessons from the Literature* ICAC Sydney

Grabosky P N 1989 *Wayward Governance: illegality and its control in the public sector* Australian Institute of Criminology Canberra

Hegarty, W Harvey & Sims, Henry P Jr. 1978 Some Determinants of Unethical Decision Behaviour ó An Experiment *Journal of Applied Psychology* Vol.63, No. 4, 1978 pp 451-457.

Homel R, Clark R and Macintyre S 1995 õThe Prevention of Corruption in Public Sector Organisationsö paper presented at *The Fourth International Seminar on Environmental Criminology and Crime Analysis* Cambridge University July 7-9, 1995

ICAC 1996 *Practical Guide to Corruption Prevention* Sydney

ICAC 1999 *Tips from the Top: Senior NSW public sector managers discuss the challenges of preventing corruption* ICAC Sydney

ICAC 2000 *What is an ethical culture? Key issues to consider in building an ethical organisation ó a Survey?* Sydney

ICAC 2001 *The First Four Steps: building organisational integrity* ICAC Sydney

ICAC 2001 *Troubleshooting Corruption Hot Spots* Sydney

ICAC 2002 *DIY Corruption Resistance Guide* Sydney

Kleinig John 2002 õRethinking Noble Cause Corruptionö *International Journal of Police Science & Management* Vol 4 No 4 pp 287-314.

Klitgarard R 1988 *Controlling Corruption* University of California Press

New South Wales Legislative Assembly *Hansard* 26 May 1988

Sims Ronald R 1992 õThe Challenge of Ethical Behaviour in Organisationsö *Journal of Business Ethics* July 1992: 505-513

Small C & Coulthart G 2005 õInvestigating Allegations of Corruptionö *ICAC/ANU Course materials* ICAC internal document.

Sunahara D F 2004 õSearching for Causes: Entitlement and Alienation as Precursors of Unethical Police Behaviourö Canadian Police College, Ottawa at *http://www.cpc.gc.ca/research/causes_e.htm* last accessed 21 April 2006

Theobald R 1997 õEnhancing Public Service Ethics: More Culture Less Bureaucracy?ö *Administration and Society* v 29 No 4 Sep 1997 pp 490ff.

Trevino L K and Brown M E 2004 õThe Role of Leaders in Influencing Unethical Behaviour in the Workplaceö in Kidwell RE & Martine LC (eds) *Managing Organisational Deviance* Sage Publications Inc 2005 pp 69-96.

Van Wart 1996 õThe Sources of Ethical Decision making for Individuals in the Public Sector *Public Administration Review* v 56 No 6 p 525-31.

Victor Bart & Cullen John B. 1988 õThe Organizational Bases of Ethical Work Climatesö *Administrative Science Quarterly* Vol.33, No.1, March 1988 pp 101-125.

Warburton J õCorruption, Power and the Public Interestö *Business and Professional Ethics Journal* Vol 17 No 4 pp 80-99 at 871.

Weber RJ, Kurke L and Pentico D 2003 õWhy do Employees Steal? Assessing Differences in Ethical and Unethical Employee Behaviour Using Ethical Work Climatesö *Business and Society* Vol 42 No 3 Sept 2003: 359-380.

Wellen J 2004 õFrom Individual Deviance to Collective Corruption: A social influence model of the spread of deviance in organisationsö *Paper presented to the Social Change in the 21st Century Conference Centre for Social Change* Research Queensland University of Technology 29 October 2004

Wittmer, Dennis, 1992 Ethical Sensitivity and Managerial Decisionmaking: An Experiment *Journal of Public Administration Research and Theory* October, 1992 pp 443-462