

National Integrity System Assessment (NISA)

**Is There a New South Wales Public Integrity System?
A Preliminary Assessment**

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Abstract

This paper outlines the methodology and work-in-progress conclusions of the New South Wales public sector component of the National Integrity System Assessment. It describes the approach taken to assessing the NSW system, highlighting the difficulties of developing an assessment methodology from first principles, the possibly unique jurisdictional factors that arise to colour such an assessment, inherent limitations in the approach, and questions for how such assessments might be done in the future.

Is There a New South Wales Public Integrity System? A Preliminary Assessment

In April 2004, the NSW joint parliamentary Committee on the Independent Commission Against Corruption recommended that Premier Bob Carr establish a judicial review of the 1988 Independent Commission Against Corruption Act. In a subsequent report, the Committee acknowledged the ICAC's important roles in demonstrating the existence of corruption and 'building corruption resistance' in the NSW public sector. On the other hand, the Committee raised concerns about ICAC and its governing legislation. It queried whether ICAC dealt sufficiently with 'serious and systemic' rather than petty corruption, noted the 'poor' conviction rates in courts following ICAC investigations and questioned the Commission's 'soft standard' of proof of corruption. The Committee indicated that ICAC should be refocused solely on serious, systemic and costly corruption. Petty matters could be dealt with internally by public sector agencies or by the police. Many integrity issues for senior appointed and elected public officials could be dealt with by expanding the role of the NSW Parliamentary Ethics Adviser or by another agency modelled along the lines of the Canadian Office of the Ethics Counsellor. Premier Carr accepted the Committee's recommendation of a judicial review. He appointed Jerrold Cripps QC to undertake it and report by 29 October 2004 (Committee on the Independent Commission Against Corruption 2004; Totaro 2004).¹

Two elements of this story repeat familiar patterns in the recent history of NSW integrity politics. The first is the ongoing search to find the best match between agencies and integrity issues. In this search, parliamentarians and others critical of the apparent failures of an integrity agency call for it to be disbanded or overhauled. The agency's functions are redistributed to other integrity agencies, including agencies themselves under continued scrutiny for ethical and investigative failures. The second is the gradual expansion of the number of integrity agencies, as new specialist agencies are proposed and established in an attempt to meet the deficiencies of the agencies whose functions they inherit. Although counterswells of reform sometimes subsume smaller integrity agencies into larger bodies, the general tendency is for creeping increases in the number of integrity agencies that make up the NSW integrity system.

The purpose of this paper is to conduct a preliminary mapping of the NSW public sector integrity system within the wider framework of the National Integrity System Assessment (see Pope 2000; Brown and Uhr 2004).² The main data reported in this paper is drawn from judgements and perceptions of senior NSW public sector officials concerning public sector integrity in NSW. In this context, integrity is understood broadly to encompass all efforts to ensure that NSW public sector activities fall within acceptable legal and ethical boundaries. This includes matters such as codes of conduct, fulfilling agencies' stated corporate missions, honesty and transparency in the culture of agencies, fraud and corruption control, staff training in ethics, investigation of maladministration, corruption or ethical lapses, disciplinary and other compliance or monitoring activities. The paper adopts the coherence, capacity and consequences framework for analysing integrity systems proposed by AJ Brown and John Uhr (2004).

The evidence of this paper suggests that the NSW public sector integrity system is relatively complex. Although NSW integrity agencies can be divided into core, peripheral and specialist agencies, the relationships of different NSW agencies to the suite of integrity agencies vary considerably. Moreover, while NSW public sector agencies seem to be divided on whether the integrity agencies are well coordinated enough, the existence of multiple integrity agencies appears to have disadvantages for complainants, integrity agencies and agencies under their scrutiny. The coherence of the NSW integrity system must therefore be questioned. Major steps to improve the integrity system's coherence are likely to prove politically difficult, leaving open the possibility for smaller steps toward greater coherence worked out by agencies themselves.

The capacity of integrity agencies is hard to determine. Comparative data on staffing levels and budgetary expenditure suggest that NSW integrity agencies are relatively well resourced; however, the data hide fluctuations in the jurisdictional responsibilities of agencies that must be taken into account when estimating capacity. Money and staffing levels do not in themselves resolve the debate over where capacity ought to be directed. The evidence in this paper suggests that the long-running debate between those who want capacity directed to coercive investigations and those who want it aimed at systemic and cultural change is a false one. The best integrity activities couple the two types of activity.

The consequences of integrity activity are also notoriously difficult to pin down. In NSW, judgements differ on the state of public sector integrity. Greater agreement exists that public sector integrity has improved over the last decade or so. While external integrity oversight appears to be responsible for some of that improvement, activities within public sector agencies appear to have been equally important.

Methodology

On the face of it, New South Wales has many of the ‘pillars’ and ‘rules and practices’ of an ‘integrity system’ suggested by Transparency International (Pope 2000).³ These pillars and practices include an elected parliament, independent judiciary, free and fair elections, an independent media, a range of watchdog bodies and vibrant public debate within its civil society (see, for example, Smith 2003). Simply identifying and ticking off each of these institutions and practices may, however, give a misleading picture of the integrity system. The ways in which these institutions and practices inter-relate and combine, or fail to do so, provides a more important test of an integrity *system* than their mere presence (see Pope 2000: 37).

To get at these inter-relations and combinations requires moving beyond a checklist approach. This paper proposes an alternative approach in which integrity institutions are understood as being part of a network. Jean Cartier-Bresson (1997) has argued that much public sector corruption can be conceptualised in terms of networks that develop between officials in bureaucratic agencies. To mobilise resources and get things done in compartmentalised bureaucracies, officials need to establish networks across institutions. These networks are characterised by ‘concrete hidden practices’—legal and illegal—that do not register on the official charters and practices of institutions (Cartier-Bresson 1997: 53). As Cartier-Bresson (1997: 55) puts it: ‘... the network creates a web of pertinent interlocutors who are concerned with the definition of problems needing to be resolved and by their solutions. The network takes shape by assuming from the start that the legal boundaries of organizations are already scrambled....’.

These ideas can be adapted to conceptualise networks of integrity efforts across institutions. The presence of a number of integrity agencies means that each is unlikely to be effective without a workable day to day relationship with others. No

matter how carefully compartmentalised their formal powers, the nature of the integrity problems that they are trying to resolve will scramble the legal boundaries between them. The Ombudsman, for example, may be formally established to deal with maladministration and the ICAC to deal with corruption; however, some events brought to the attention of these agencies will involve both types of integrity failure. Similarly, specific integrity failures will scramble formal lines of division of agencies between those concerned with minor corruption and those that deal with significant corruption. If the goal of officials within these agencies is to resolve integrity problems, they will have to develop the sorts of networks based on concrete anti-corruption practices that mirror Cartier-Bresson's depiction of corruption networks. The nature and strength of these integrity networks, rather than the mere formal presence of integrity agencies, will define the integrity system and help determine its success or failure.

The development of these integrity networks could best be researched at the micro level through detailed observation of agency practices. The practical disadvantage of this methodology is that it would be very difficult to build up enough observations to draw system-wide conclusions. For this reason, the current study uses an alternative research tool, a series of structured interviews with senior NSW public sector agency officials covering the relationships between different NSW integrity agencies. While this approach yields fewer details of the precise practices that comprise NSW integrity networks, it allows those networks to be mapped in a reasonably consistent way across the NSW public sector.

The interview schedule on which this NSW mapping was based was initially adapted from the questionnaire used in the Queensland section of the NISA research (KCELJAC and TI 2001). The instrument was refined by subsequent discussions among the NISA researchers. A group of NSW public sector members of the Corruption Prevention Network offered critical comments on the interview schedule at a focus group meeting in November 2003, which led to further minor refinements.⁴ The final interview schedule covered perceptions of integrity across the NSW public sector and in respondents' own agencies, assessments of the importance, quality and promptness of a range of specific NSW integrity agencies, the most important types of integrity-related activity, the level of coordination across integrity agencies, areas for integrity improvement and impediments to improvement in the NSW public sector. A

self-completion questionnaire mirroring the questions and structure of the interview schedule was also developed.

Major NSW public sector agencies, including agencies whose primary responsibility was integrity protection, were identified from a larger list of 130 'Key NSW Government Agencies' posted on the New South Wales Government web pages (New South Wales Government 2004). Letters were sent to the heads of 37 agencies from February 2004, setting out the goals of the study and requesting a face to face interview. A self-completion questionnaire was offered as an alternative. Participants were assured of their anonymity unless they agreed to be identified in the study. The first of the eleven interviews reported in this paper took place on February 10 2004 and the last on June 24 2004. Interviews were conducted by the author, Michelle Savage and Richard Mills. Four other agencies responded by questionnaire. About one-half of all interview and questionnaire respondents were heads or assistant heads of agencies; the remainder were senior agency officers with specific probity roles.⁵

The fifteen NSW public sector agencies whose responses form the basis for much of this paper included six integrity agencies, two central coordinating agencies and seven line agencies. The seven line agencies range considerably in function and size. Most of the respondents from agencies requested anonymity, including almost all of the respondents from line agencies. Because of this, agency responses are generally identified by number throughout this paper (Agency 1 etc) and quotations from interviews have had identifying comments removed. Although these measures to preserve anonymity mean that some details of the relationships within the integrity network cannot be adequately conveyed in this paper, the overall patterns of those relationships can be reported.

Coherence

The possible ideal type models of integrity agency coherence are relatively limited. At one end of the spectrum we could imagine a single super integrity agency with comprehensive powers and responsibilities. This agency would almost certainly be divided internally into specialist sections. The problem of coherence in such a model would lie within the organisation, in the relationships between its sections.

The other end of the spectrum would be occupied by many small, more or less specialist agencies, each formally independent of the others. In this model, the

problem of coherence becomes externalised in the relationships between the agencies. Problems of coherence manifest themselves in duplication of integrity effort and gaps in integrity coverage. The extent to which these become problems is likely to differ according to the attitudes of the agencies to each other. Agencies that cooperate with each other seem more likely to reduce duplication but allow gaps to develop, as hard cases are left for other agencies to pick up. Agencies that compete with each other are likely to reduce the gaps in integrity coverage as they fight over jurisdictional territory but they are likely also to increase duplication of effort. Agencies that operate in indifference to each other—neither cooperating nor competing—will most likely engender both gaps and overlap.

Actually existing integrity systems like that in NSW lie between these two poles, with a combination of larger generalist agencies and smaller specialists agencies. Thus the problems of coherence are both inter- and intra-agency. While intra-agency coherence is an important issue, this paper focuses on inter-agency coherence.

In NSW, integrity efforts are spread across a wide range of agencies. The senior public servants interviewed for this study were asked to nominate the relative importance to their own agency of integrity agencies and organisations. Ten public sector agencies or types of organisations were listed in the interview schedule and questionnaire. Respondents were invited to supplement the list with any agencies or organisations they thought important.⁶

The results are presented in Table 1. The table shows the mean rating of each agency's importance as judged by the fifteen respondents (the lower the figure, the more important the agency or organisation) and the number of respondents judging each agency or organisation to be at least 'fairly' important.

Table 1 NSW Public Sector Agency Perceptions of the Importance of Integrity Agencies and Organisations

Agencies and Organisations ^a	Mean Rating Of Importance ^b	Number Thinking Agency Agency At Least 'Fairly Important' ^c
Independent Commission Against Corruption*	1.4	13 of 14
Ombudsman*	1.6	12 of 14
Audit Office*	1.7	13 of 14
Premier's Department*	2.0	9 of 14
Courts*	2.4	9 of 15
Parliamentary Committees*	2.4	7 of 15
Police Force*	2.6	8 of 15
Administrative Decisions Tribunal*	2.8	5 of 15
Health Care Complaints Tribunal*	2.9	2 of 14
Police Integrity Commission* ^d	3.1	3 of 15
Office of the Children's Guardian	3.3	3 of 15
Privacy Commissioner	3.3	2 of 15
Commission for Children and Young People	3.6	2 of 15
Coroner	3.8	1 of 15
Police Integrity Commission Inspector	3.8	1 of 15
Official Visitors	3.8	1 of 15
Royal Commissions	3.8	1 of 15
Joint Investigative Response Teams	3.8	1 of 15
Judicial Commission	3.8	1 of 15
Director of Public Prosecutions	3.9	1 of 15
NSW Crime Commission	3.9	1 of 15
Anti-Discrimination Board	3.9	0 of 15
Legal Services Commission	3.9	0 of 15

Notes:

^a Agency respondents were shown a list of agencies and organisations and asked to rate the importance of each in dealing with integrity issues for their own agency. The listed agencies are indicated with an * in this table. Respondents were invited to add further agencies to the list and rate them.

^b The response categories were: 'very important', scored 1; 'fairly important', scored 2; 'not very important', scored 3; and 'not at all important' and 'can't say', both scored 4. Mean scores can thus range from 1.0 to 4.0, with a mid-point of 2.5. The lower the score, the more important the agency or organisation in the eyes of the respondents.

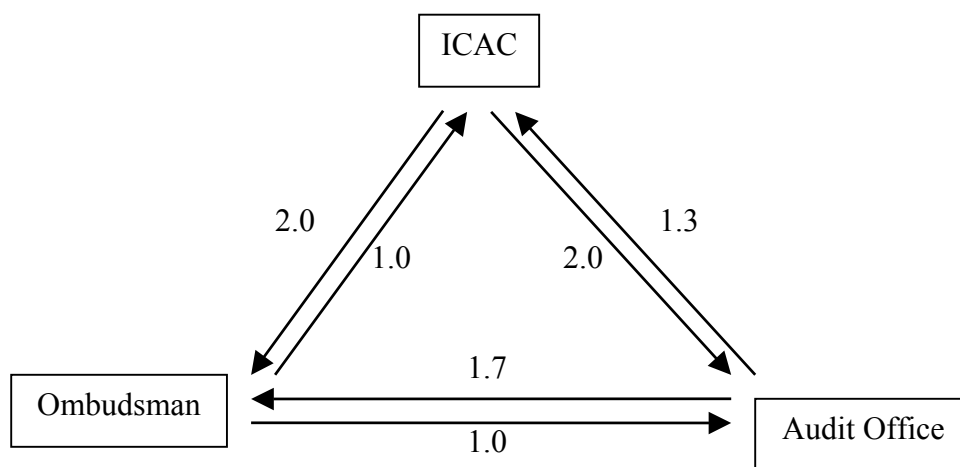
^c Since respondents were not asked to rate their own agencies in this question, some agencies have been rated by only thirteen respondents, rather than fourteen.

^d At the time of writing, the authors had not interviewed a respondent from the NSW Police Force, the agency most likely to rate highly the importance of the Police Integrity Commission.

Twenty-three agencies and organisations are included in the table, with 21 judged fairly important to at least one agency. This in itself suggests that issues of inter-agency coherence are likely to be significant in New South Wales. A closer examination of the table suggests, however, that the NSW integrity system can be roughly divided into four groups of agencies or organisations. The core of the system consists of the generalist investigative agencies—the ICAC, the Ombudsman and the Audit Office. These core agencies are seen as important by almost all other agencies. Less central, but still relatively important, are the central legislative, judicial and

executive agencies—parliamentary committees, courts and police, and the Premier’s Department. The third and fourth groups consist of progressively less important organisations with general oversight (the Administrative Decisions Tribunal, the Privacy Commissioner and so on) and specialist integrity agencies that are important only for the particular agencies over which they have specific oversight (the Police Integrity Commission and the Health Care Complaints Commission).

Figure 1 Relationships Between the Independent Commission Against Corruption, The NSW Ombudsman and the NSW Audit Office



Note: The direction of the arrows indicates the direction of judgements made by the agencies. Each score is the mean of three items covering judgements about the *importance* of an agency on integrity matters, the *quality* of the agency’s advice and actions, and the *promptness* of the agency’s advice and actions. Potential scores range from 1.0 (very important, very good quality and very prompt) to 4.0 (not at all important or can’t say, poor quality and poor on promptness), with a midpoint of 2.5.

Moreover, if we examine the relationships between the integrity agencies identified as most important within the overall system, they appear to be relatively coherent, at least on the measure of their own judgements. We would expect coherence between the ICAC, Ombudsman and Audit Office to be reflected in reinforcing judgements by each that the other two agencies are important, provide good quality advice and service, and provide it promptly. Figure 1 suggests that this is the case, although it is worth at least noting in passing that the ICAC judged its fellow integrity agencies more critically than did the Ombudsman or Audit Office. Interviews with these agencies suggest that these close links were maintained in a range of ways, including formal referrals of matters, cooperation on investigations, staff movements from one agency to another, and sharing of each others’ perspectives through agency publications.

Taking a bird's eye view, then, the NSW integrity system appears relatively coherent and manageable, with just a handful of closely aligned agencies centrally concerned with integrity work and a larger number involved only in a relatively peripheral or specialised way. From the perspective of individual agencies on the ground looking out into the system, however, the picture is often quite different. Table 2 shows this perspective.

Table 2: Relationships between NSW Public Sector Agencies and Integrity Agencies and Organisations

	ICAC	Omb	Aud-Gen	Prem	Courts	Parl	Police	ADT	HCCC	PIC	OCG	Other 1	Other 2	Other 3	Total
Agency 3	+	++	+		++	++		+			+	++	++	++	10
Agency 7	++	++	++	++	++	+	++	+				++			9
Agency 9		+	+	++	+	+	+			+		+	+		9
Agency 13	++	++	+		++		++	+	++	++		++			9
Agency 4	++	++	++	+	+		++	++			+	++			8
Agency 8	++	++	++	++			+		++		+	++			8
Agency 10	++	+	++	++	++	++									6
Agency 11	++		++			+	++			++		+			6
Agency 5	++		+	++	++		+								5
Agency 6	++	+	++	++	+										5
Agency 12	+	+	+			+						++			5
Agency 14	+	++	+	+				++							5
Agency 1	++	++		+		+									4
Agency 2	++	++	+		+										4
Agency 15															0

Notes:

++ indicates 'very important' to the agency.

+ indicates 'fairly important' to the agency.

The 'Other' columns refers to 'very' or 'fairly' important integrity agencies and organisations not listed in the interview schedule/questionnaire but raised by the respondent.

A greater potential problem of system coherence can be seen in this table. The median number of important integrity agencies and organisations with which NSW public sector agencies have to deal is six, with some dealing with up to nine or ten. There is no clear relationship between the broad type of public sector agency and the number of integrity bodies which it views as important, although line agencies with clients who pose clear integrity or vulnerability risks tend to fall above the median figure. The anomalous agency in this table is Agency 15, whose respondent claimed that none of the integrity agencies were important. This did not mean that Agency 15 had no contact with integrity agencies. Instead, it reflects the respondent's judgement that those integrity agencies had uniformly failed and therefore were not important. From Agency 15's point of view, the source of integrity system failure

seemed to lie with capacity rather than coherence. For the majority of NSW agencies, who see working with a number of integrity agencies, coherence is a potentially pressing problem.

How much coherence do NSW agencies see in the integrity system? As one indicator, respondents were asked to rate the level of coordination they perceived between NSW integrity agencies. The responses were widely dispersed. Of the thirteen agencies that answered this question, two thought the level of coordination between integrity agencies was very good and five that it was fairly good. Agency 13 represented this view:

[Y]ou have this matrix of watchdogs in New South Wales, and you won't find them stepping over each other's bodies to get to an issue. There's a very professional, well-honed process and interrelationship. For instance, if anyone makes a complaint about a judicial officer, the Ombudsman or the ICAC would defer to the Judicial Commission to undertake that investigation, because it's best placed'.

On the other hand, four agencies thought the level of coordination was not very good and two that it was poor. Agency 6 commented: '[It's n]on-existent. There's a level of comparison between Ombudsman and ICAC. Both refer to each other in dealing with matters such as conflicts of interest. Apart from that, it's poor'.

An agency's judgement about the level of coordination was not related to the number of integrity agencies with which that agency had important relationships. Instead, a fairly clear division emerged between the integrity and central agencies on the one hand and the line agencies on the other. All but one of the integrity and central agencies judged the level of coordination to be at least fairly good, while the strongest critics of the lack of coordination were found among the line agencies. The line agencies seemed to feel the consequences of a lack of coordination more sharply than the integrity and central agencies. According to Agency 8, these consequences included resource diversion and staff fatigue in agencies responding to overlapping investigations of the same incident, the encouragement of 'gaming' among complainants who know they can lodge complaints with a range of agencies, poaching of staff by integrity agencies competing for the small pool of personnel with forensic skills and, as a result, a loss of corporate memory within integrity agencies.

Regardless of their judgements about the level of coordination between the agencies, all the agencies interviewed implicitly or explicitly acknowledged that cooperative relationships between agencies were important. Only one respondent raised the idea in passing that competition between integrity agencies could be in itself be desirable. None seemed satisfied with a situation in which integrity agencies operated without regard for the operations of each other.

Eliminating competition and indifference between agencies as acceptable models leaves greater cooperation between integrity agencies and partial or full merging of agencies as the two available alternatives to the issue of coherence. Agency merger has proved politically difficult, as the interviewee from Agency 13 notes:

I think it's worked out pretty well, in recent times. We've had a bit of a rationalisation with the Ombudsman taking on the responsibility of the Children's Services Commissioner, and the ADT [Administrative Decisions Tribunal] being set up And people have thought, over the years, of the idea of merging ICAC and the Ombudsman and the Police Integrity Commission into one. But I think it's the way the system has grown up. ... [T]here's no ideal structure. It's part of the history, and I think it's working okay, and they seem to have worked out relationships between them.

The last attempt to partially merge the Ombudsman and ICAC was proposed in 1999, when the outgoing Ombudsman Irene Moss became ICAC Commissioner. She proposed merging the two jobs to allow better coordination and division of responsibilities between the two agencies. Premier Bob Carr immediately embraced the idea but just as quickly dropped it due to opposition from the Coalition parties and some minor parties in the Legislative Council (see Humphries 1999).

The most important NSW integrity agencies have evolved in a piecemeal way, largely as a direct or indirect result of partisan imperatives. The oldest NSW watchdog body, the Audit Office, can trace its history back to 1870 with the establishment of the Auditor-General as an independent official; however, it is only since the 1980s that the agency has played an expanded role in integrity investigation and monitoring through expansion of its auditing powers (see the *NSW Public Finance and Audit Act 1983*; Parker 1978: 283-4, 361; Funnell and Cooper 1998: 282-6). The parliamentary Public Accounts Committee that has in recent years worked

closely with the Audit Office in this expanded role was until the late 1970s seen as having an ‘ignominious history’ (Parker 1978: 236) until it became a stepping stone for ambitious MLAs such as Laurie Brereton, Nick Greiner, Peter Collins and Bob Carr (Cumming 1991: 298-300, 307; Funnell and Cooper 1998: 286; Collins 2000: 139-40; West and Morris 2003: 134-5).

The establishment of the NSW Ombudsman came ten years after the Liberal Party included the idea in its 1965 election manifesto. The *NSW Ombudsman Act 1974* allowed the Ombudsman to investigate complaints against public agencies on its own initiative but exempted a range of offices from scrutiny, including ministers, courts and tribunals, police, local councils. The Wran Government extended the Ombudsman’s scrutiny to local government and later to police (Parker 1978: 441-4). As noted earlier, in the 1990s, the Community Services Commission (a watchdog body primarily interested in the Department of Community Services) was incorporated into the Ombudsman, while its role in child protection increased following the Wood Royal Commission.

The Coalition Government of Nick Greiner set up the Independent Commission Against Corruption in 1988, partly because of its apparent potential to investigate actions of its Labor opponents while they had been in power over the previous decade. Then Opposition Leader Bob Carr supported the establishment of ICAC, against the wishes of strong elements in his party (Chaples and Page 1995; Dodkin 2003: 13-15, 46; West and Morris 2003: 168-74, 206). By the mid-1990s, Coalition critics were calling for the disbanding of ICAC. This hostility was largely driven by ICAC’s 1992 corruption findings against Greiner and Tim Moore, later overturned in the Supreme Court. It was also directed at ICAC’s failure to uncover police corruption and organised criminal activity. The Independents and Labor passed a motion supporting a royal commission into police corruption (Chaples and Page 1995: 69; West and Morris 2003: 258-9). The consequent Police Royal Commission under James Wood in turn proposed the creation of the Police Integrity Commission (PIC) to deal with police corruption. While the Ombudsman retained its role in investigating minor complaints against police, the PIC took over the ICAC’s former role of investigating police corruption (Lagan 1996).

This brief historical excurses indicates that the prospect of mergers between NSW integrity agencies based on considerations of the desirable overall pattern of integrity coverage is no strong. That leaves the possibility of the agencies themselves

forging closer cooperative networks as the most likely avenue for increased coherence. As was indicated above, willingness to cooperate often seems present. Two further barriers stand in the way of greater cooperation. The first is legal barriers, and particularly the operation of the *NSW Privacy Act*, which inhibits agencies sharing information:

Most of the agencies are more than happy to cooperate but coordination's the problem, given all of our various secrecy provisions and the Privacy Act has made that more difficult. With the Privacy Act, it wasn't drafted to clearly keep in mind that public officials shouldn't be able to use it to avoid scrutiny. We managed near the end to delay the act for a while we built in various exemption clauses, but that was an afterthought. ... So you've got all these different watchdog bodies, they all have varying jurisdictions and a number of them overlap to one extent or the other. You need to coordinate the activities of those bodies, as I say it's difficult because to a large extent all of us can't talk to each other. (Agency 11)

The second is the refusal of budgetary bodies to allow funds to be spent on cooperative projects between agencies. The interviewee from Agency 11 gives two examples of this barrier:

We managed to convince the heads of most of the complaint handling bodies in NSW that we should co-locate. ... [W]e could have a common reception, meeting rooms, hearing rooms, libraries, etc, etc. A one stop shop and the Premier's Department was quite keen and they started to do all the costings but this was rolled at the last minute by the Government Accommodation Management Committee who said ah no no, it would cost too much money.

So then we came up with another approach which was the complaint counter and this would be an electronic portal. So, faxes, phones, emails, web pages, all the rest of it, one place. You just went in there and all that material would be assessed and work out which place it should go to. So you didn't need to know about all the different agencies and whatever, you just needed to know about the

complaint counter, send it in. And we had our webpage booked, all the agencies had agreed, we'd gone through the privacy issues, worked it all out. We had a grant from the information technology people to improve electronic access to the public. ... It was all on the go. And then the Treasury said that's fine about the capital money but you're not allowed to spend it ... Basically the [project] was put on hold.

Treasury later withdrew the funding and the project closed down.

These examples help to make the point that failures of coherence among the NSW integrity agencies cannot be laid entirely at the feet of the agencies themselves. The political, legal and budgetary frameworks within which integrity agencies operate are just as important in promoting or frustrating coherence.

Capacity

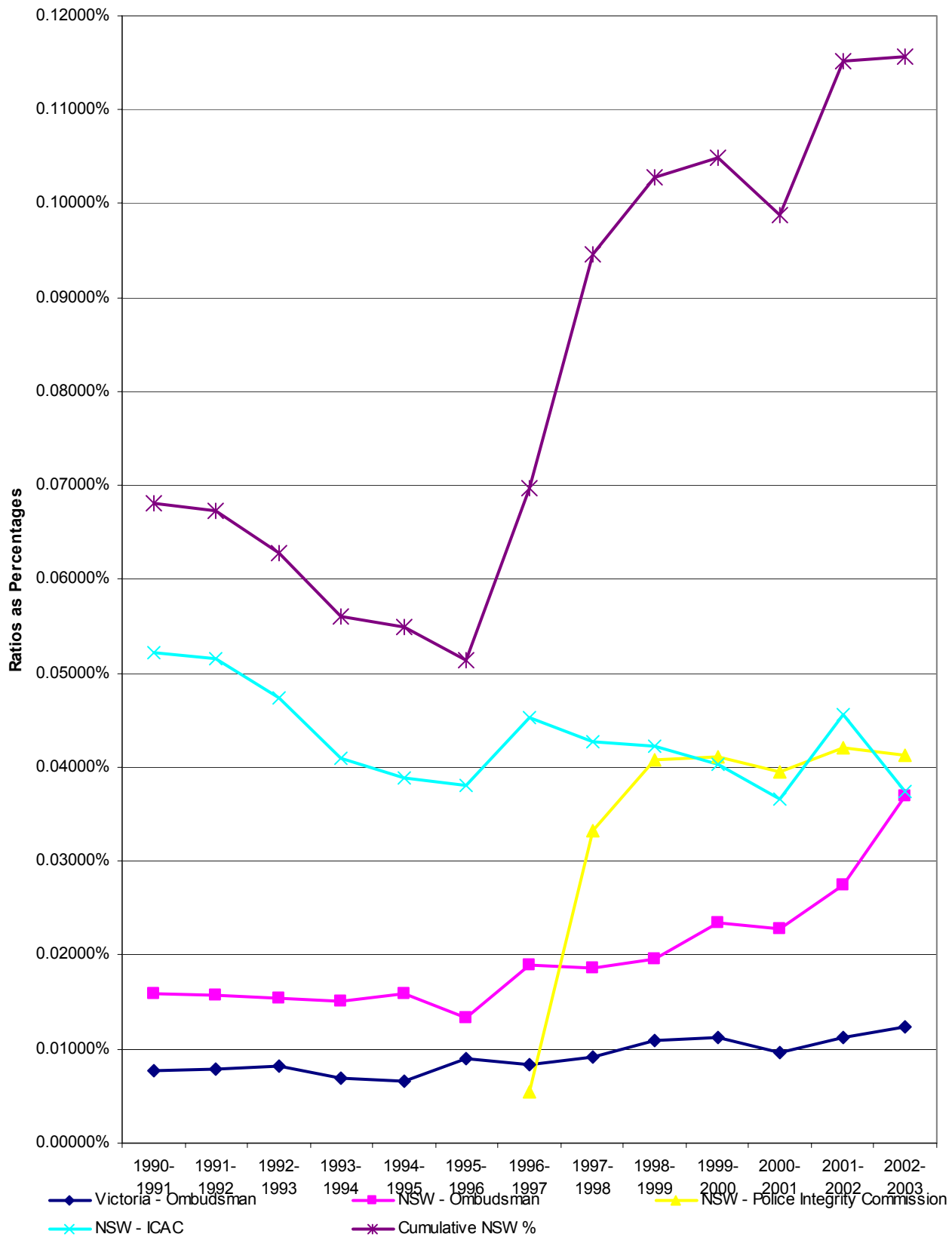
The capacity of integrity agencies is often understood in terms of resources. As R.S. Parker observed some years ago, '...the Public Service Board and Treasury between them, or perhaps the Treasury alone, could make the Auditor-General himself ineffectual, because they control his staff and its salaries' (Parker 1978: 285). By this simple measure, the capacity of the NSW integrity system is relatively high. Figure 2 indicates that compared with Victoria, NSW spends a higher proportion of its state budget on central integrity agencies. Indeed, NSW seems to spend a higher proportion than Victoria on its Ombudsman, despite also having other agencies such as ICAC and the PIC who share the integrity work done by the Ombudsman alone in Victoria. The comparative NSW and Victorian figures for staffing are similar.

While these figures undoubtedly point to real differences between the two states, they must be treated with some caution. Viewed from the inside, the New South Wales Treasury has not always seemed a generous provider of capacity to its integrity agencies. In 1998, then Ombudsman Irene Moss complained that her annual budget of 5.8 million dollars would not meet public service pay increases, while her staff faced an increased workload of 25 percent (Murphy 1998). Soon after Moss made her complaint, her agency came to an 'informal agreement' with NSW Treasury to increase the Ombudsman's funding in line with the range of new statutory responsibilities it was acquiring. The incorporation of the former Community

Services Commission into the Ombudsman, for example, brought with it 48 staff and increased funding (Interview). Thus although the NSW Ombudsman has the largest staff in Australia—its 168 in 2002-03 compares with 82 for the Commonwealth and 50 for Queensland—a good deal of this growth in capacity is due to growth in the Ombudsman's statutory responsibilities.

Similarly, although the Police Integrity Commission has received solid funding since 1996-97 and has built a staff of around 100, some of this capacity has come at the expense of the ICAC. The ICAC has, since 1998-99, lost around one quarter of its staff and has also seen its budget drop. Once responsibility for police corruption shifted from the ICAC to the PIC, resources soon followed. In these circumstances, judging whether the overall capacity of the NSW integrity system has been enhanced is difficult.

Figure 2 NSW v Victoria Public Sector Watchdogs - Individual and Cumulative Comparison of Ratios of Expenditure



Resourcing levels affect the investigative capacity of individual integrity agencies. Irene Moss has spoken of an ‘80 percent rule’—integrity agencies get 80 percent of what they need, so they have to refer most issues back to agencies for internal examination (Rayner 2003: 27). An interviewee from Agency 9 put the same point in a more positive way:

Of course more resources would help but we also accept that we’re part of a state budget. The state has its objectives and the budget is divvied out accordingly. That’s sort of like saying to the Department of Community Services—would it help you if you have more resources? Yes it would—of course it would. But, you have to manage with what you’ve got and it’s a bit like how long is a piece of string. We could be the super agency with super resources and still not get it all done.

...

But, from our perspective, we encourage the public sector to take responsibility for their integrity issues. ... [A]t the end of the day, its for them to build their integrity systems and we’ll help them with that but we can’t be the enforcer of integrity in their organisations because that’s got to come from within—it won’t work if it comes from outside. And that’s why you get such a good outcome following an investigation because then you’ve go the CEO’s attention. It relates back to the leadership issue.

These comments address the crucial issue of where existing capacity ought to be directed. Increases in funding and staffing may not represent real integrity gains if they are directed ineffectively. A long-running debate exists in the ethics and integrity literature between those who want capacity directed to coercive investigations and those who want it aimed at improving systems and changing cultures. The implicit model in the comments above is that both are important and that external investigations are valuable to the extent that they drive organisational reform and cultural change.

This model seems to be shared by most of the agencies interviewed for this study. Asked to identify the most significant types of contact between their agency and integrity agencies, the most common responses were information from integrity

agencies, followed by investigations, ad hoc assistance and meetings. Asked to identify the most important types of activity for achieving a high level of integrity across the New South Wales public sector, the most common responses were education and training, followed by organisational leadership and then external and internal investigations. Several respondents explicitly linked investigations with organisational leadership and cultural change in the same way as the interviewee from Agency 9.

These findings suggest that external investigative resources should not be the sole measure of integrity agency capacity. External investigations are important—failed investigations underlie the negative judgements of the integrity system made by two agencies in this study. Integrity agencies must retain the resources to carry out external investigations. Nonetheless, the crucial element of capacity is the capacity to use these investigations to bring about wider change.

Consequences

The consequences of integrity activity are notoriously difficult to measure. As is widely recognised, increases in reported corruption may indicate the success rather than failure of integrity agencies. The measure used in this paper is the judgements of senior NSW public servants. Their judgements differ widely on the state of NSW public sector integrity. Asked how well they thought integrity issues were currently handled generally in the New South Wales public sector, some respondents found it difficult to make blanket judgements:

[I]t's handled better in some agencies than in others. There are some, like the Police and like this one, that are dealing with these issues all the time, and they have an established machinery to handle them. There are others that come across examples infrequently, and need advice and support when it happens. So, it's a variable picture, but certainly in the bigger agencies, one that's dealt with at a high level. (Agency 4)

Two-thirds of those who did give a clear answer judged integrity issues to be handled 'very' or 'fairly' well across NSW, with the remainder answering 'not very well' or 'not at all well'. The pattern was almost identical when they were asked to judge their own agencies.

The most striking similarity in their answers was their assurance that the NSW public sector and their agencies had both improved their handling of integrity issues over the past ten years. This was true of all but one of the respondents who judged integrity issues to be relatively badly handled in the NSW public sector. The respondent from Agency 6, for example, thought that integrity issues were not handled very well across NSW, but still saw improvement over time: 'There's more effort now when issues come to notice. Ten years ago, it was "Who cares?". Now there's the expectation of third party scrutiny by the ICAC.'

Can this perceived improvement be attributed to the activities of NSW integrity agencies? The answer given by the senior NSW public servants seems to be 'at least in part'. Asked to explain what they saw as the most important factors behind the trends in their own agencies' handling of integrity issues, over half of the respondents raised the activities of integrity agencies in their answers. The other factors mentioned were, on the face of it, internal to agencies, including the development of codes and procedures and risk assessment activities. Whether these internal changes were prompted indirectly by the activities of NSW integrity agencies is difficult to determine.

Conclusion

This paper has, in a preliminary way, indicated the value of an approach to mapping and assessing integrity systems that goes beyond checking off the presence or absence of particular institutions. The relationships between those institutions have been shown to be more important in the NSW context than the mere presence of institutions. In this sense, a network analysis seems to have much to offer analysts of integrity systems.

This paper has gone some way to developing the concepts of coherence, capacity and consequences suggested by Brown and Uhr (2004). None of these concepts is as straightforward as they initially seem. This paper has also suggested some measures for each concept that could be applied to compare different integrity systems.

Finally, the paper has mapped in a rather crude way, the coherence, capacity and consequences of the NSW integrity system. New South Wales has an integrity system that is relatively complex. The main hope for greater coherence in the system

lies in removing barriers to cooperation between its multiple integrity agencies. The NSW integrity system appears comparatively resource rich. The challenge is to continually direct these resources into investigations that promote organisational reform and cultural change. The final section of this paper suggests that, with one or two notable exceptions, this consequence is being increasingly achieved.

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¹ The ICAC has made a submission to the Cripps review contesting the basis of the criticisms made by the joint parliamentary Committee on the Independent Commission Against Corruption. Linda Waugh, Executive Director, Corruption Prevention, Education and Research, NSW Independent Commission Against Corruption, personal communication, 6 September 2004.

² This paper focuses on NSW public sector agencies and ignores the impact of actors from civil society such as the news media and advocacy groups. These civil society actors are important and will be examined fully in later publications from the project.

³ Perhaps this is not surprising, since the Transparency International pillars and practices grew partly out of an examination of Australia. The legal, political and societal elements in TI's suggestions for developing integrity are not particularly novel. See, for example, the similar prescriptions at the conclusion of P.N. Grabosky's (1989) analysis of public sector illegality in Australia.

⁴ The NSW-based Corruption Prevention Network began in 1994 as a 'networking and self-help group' within the public sector sharing 'information and experiences in dealing with the challenges of fraud control'. It later expanded its focus to wider forms of corruption and now 'welcomes the participation of anybody in Australia and internationally, from both the private and public sector, who is interested in preventing fraud and corruption'. Corruption Prevention Network (2004).

⁵ Interviews and questionnaire for the study are continuing. The results will be incorporated into later publications. The final list of participants will include key NSW integrity focused non-government organizations, as well as key NSW news media organizations.

⁶ The item also asked respondents to rate the importance of the news media and non government organisations in dealing with integrity issues. Both rated reasonably highly. The mean score for news media was 1.8 and they were seen as at least fairly important by 11 of 14 agency respondents. Non government organisations were scored 2.2 and seen as at least fairly important by eight of 14 respondents. The role of these integrity actors from within New South Wales civil society will not be covered here but will be discussed in other publications resulting from the research.