Accounting for ethics in action: Problems with localised constructions of legitimacy

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ACCOUNTING FOR ETHICS IN ACTION:

PROBLEMS WITH LOCALISED CONSTRUCTIONS OF LEGITIMACY

STEWART R. CLEGG AND RAYMOND D. GORDON

Socially constituted systems of order emanate from tacit interaction. While they are reflected in an organization’s culture, they do not necessarily align with the organization’s authorised rules and codes of conduct. Such misalignment renders legitimacy in organizations problematic. The paper explores the relation between power and legitimacy by showing how such systems of order recursively establish, and are established by, forms of legitimacy that may not formalised. Empirically, such forms of legitimacy thwarted a police organization’s attempt to reform. Theoretically, an understanding of organizational change is connected to the relationship between power and legitimacy. The paper provides insights into how power influences the social construction of legitimacy within the context of public organizations.

Key words: ethics, legitimacy, power, and police

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INTRODUCTION

Theoretically, an understanding of organizational change is connected to the relationship between power and legitimacy. The key research question we address is how power influences the social construction of legitimacy within the context of public organizations. All social systems, including organizations, are subject to socially constituted systems of order created from tacit interaction between members of the system. While these systems are reflected in an organization’s culture, their individual impact is less readily observable. They are embedded at such a deep level of social consciousness that their impact on behaviour can often be unrecognised as they become taken for granted as the “the natural order of things” (Haugaard, 1997). Lukes (1974) referred to such structures as hegemonic forms, while Giddens (1984) and Haugaard (1997) referred to them as forms of practical consciousness. Following the post structuralist literature, we refer to these as discourse formations. We argue that systems of social order such as these do not necessarily align with authorised organizational rules and codes of conduct and that such misalignment renders the constitution of legitimacy in organizations problematic. The paper illustrates how these systems of order recursively establish and are established by unofficial sources of legitimacy that are not formally encoded. Empirically, such forms of legitimacy thwarted a police organization’s attempt to reform.

We first review issues of legitimacy in theory: we argue that the functioning of any organization is subject to both formal structures and informal systems of social order and that the latter often do not accord with the institutionalized rationality of the former. Local issues come into play, which we develop in the second section of the paper. In the third section of the paper we revisit a concrete case – that of the NSW
Police Service. In the fourth section, we discuss how a ‘behind the scenes’ discourse 
operates as a form of practical consciousness grounded in a substantive rather than 
formal view of rationality. Hence, attempts at changing formal rationality will not 
necessarily change substantive rationality. In our discussion we look at the ways in 
which substantive principles had become the source of a local and deeply embedded 
corruption. Finally, we draw some general threads together that suggest orthodox 
managerial analysis of tangible management structures in organizations will struggle 
to achieve their objectives because they are bound by an ontological functionalist 
loop that fails to capture the discursive nature of the relationship between power and 
legitimacy.

**ISSUES OF LEGITIMACY IN THEORY**

Normally, the question of how power influences the social construction of legitimacy 
within the context of public organizations is not one that many management scholars 
would consider. Surely questions of legitimacy are related to authority, not to power? 
What is legitimate is what is authorized and, as far as ethical behaviour goes, what is 
ethical is usually spelled out in a code of ethics. Often, it is assumed that well 
functioning organizations have rational\(^2\) structures and systems as well as a strong 
organizational culture supporting these rational systems. If one were dealing with an 
organization in which the informal actions of members reflected its strong formal and 
authoritative culture, it might well be the case that the culture and the code of ethics 
would coincide: a strong regimental culture that had remained intact over generations, 
perhaps, might describe such a situation. Strong regimental cultures are an effect of a

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\(^2\) Here we define rationality with respect to a managerialist framework and underpinned by a functionalist ontology as something that exists or operates independent of the effects of context and distorted human emotions and interpretation.
deep foundation in specifically constructed traditions: the sacralised meaning
projected on to flags, regimental colours, campaigns, battles, medals, and stories.
These icons convey the culture and vest its symbols with a deep authority.

Authority has a central place in much organization theory because it is the fulcrum of
social order (Clegg, Courpasson and Phillips 2006). It is the authority vested in a
structuration of social relations as relations of rank, status, hierarchy and division that
is constitutive of local order and ordering. With this in mind, we observe, in general,
that mainstream organization theory discusses authority in terms of “legitimacy” and
power in terms of “illegitimacy”. Power is usually referred to as something exercised
by organizational members not formally sanctioned with authority (Clegg, 1989;
Gordon et al, 2009b). Resources should be used to target error and error should be
formally castigated and corrected. In short, irrespective of the different contexts that
in which members find themselves they should apply a rational model to the control
of decision-making and resources. Such a view of power as illegitimate is a projection
of managerialism, which Hodge et al (2010: 11) defines as ‘the doctrine that espouses
the meticulous practices of management and control should be applied to all forms
and levels of organization, irrespective of what they try and do’. In this perspective
deviance, or rule breaking, must be due to a failure of control, usually to be rectified
by further attempts at socialization, through training or other correctional programs.

Managerialism sees power relations shaped by “individual or group behaviour that is
informal, ostensibly parochial, typically divisive, and above all, in the technical sense,
illegitimate – sanctioned neither by formal authority, accepted ideology, nor certified
expertise” (Mintzberg 1983: 172). The managerialist view of power is both idealistic
and normative, in that it projects an idea about how power “should” be and neglects
an entire intellectual tradition within the broader literature on power that is not only interested in normative views of power embedded in managerialism but also in the pragmatics of power (Gordon 2007; Clegg 1989). More pragmatic writers do not begin with a theoretical framework that differentiates authority from power on the basis of positional criteria in which superordinates have authority and opposition to it by subordinates must be power because it is illegitimate. They do not begin with the assumption that those in positions of authority are divorced from contextual influence and that, “all things being rational”, they will behave as normatively managerial expectations would suggest. Where they do not so behave then the ensuing action can handily be defined as deviance, as illegitimacy.

Strongly normative views of power have consequences for the way that we think about organization culture. The assumption amongst many management writers and practitioners is that when it reflects the organization’s authorised image, structure and processes the organizational culture will be unitary and legitimate. The most cited managerial writer on culture is Geert Hofstede (1980: Hofstede and Hofstede 2005), whose approach envisages unitarianism at a national as well as organizational level. Given the sensitivity of the anthropological discipline, which is trained to analyse culture, it is doubtful that any of its members would have come up with a definition of culture quite as one-dimensional as ‘the collective programming of the mind that distinguishes the members of one group or category of people from another (Hofstede and Hofstede 2005: 4, their italics). The notion of ‘collective programming’ is that it guides ‘people’s behaviours without overt or covert supervision’ (Hitt et al 2007: 114). Yet, collective programming can sometimes produce error: when it does so then a cultural refit is required. As Hitt et al (2007: 115) suggest, ‘the wrong culture can lead otherwise good people to ‘to do bad things’. Typically, such issues occur one when
the culture does not reflect the formal rational elements of authority and its associated ethical codes and practices.

There has been a widespread belief, especially in management and consulting circles, in the goodness of strong cultures ever since the release of Peters and Waterman (1982) *In Search of Excellence*, despite widespread evidence from the earliest days of management theory onwards that there is always another side to the managerialist projection of the ‘good’. Taylor (1911), let us not forget, was on a mission to eradicate the role that strong employee-focused cultures could play. In his study of the Bethlehem Steel Works, it was a ‘bad’ culture of ‘soldiering’ that scientific management sought to eradicate. Soldiering restricted optimal output in a conscious practice of resistance to managerial authority. In this sense, Taylor signalled an early instance of reform attempted through a performance management system.

From a managerial point of view the assumption is that the “socially constructed system” in which organizational culture is embedded should be aligned with the rational and authoritative formal management system. We argue that it may be but need not be. Increasingly, it becomes more difficult for it to be so: few commercial or public sector organizations share such deep assumptions as might be found in an intact regiment with many hundreds of years of tradition. For one thing, they have probably been restructured for enhanced efficiency on far more frequent occasions. After all, one of the main elements of modern management is organizational reform aimed at achieving efficiency – reforming relations, incentives, discipline, and personnel through organizational restructurings and change programs. Within management theory, the solution for an organizational system that seems to be failing is more managerialism, often aimed at eradicating the informal practices considered
to be illegitimate. Ethical judgements wrapped up in managerial ideologies constitute what is taken to be good and bad, through application of categories of opprobrium and approval to a world of practices. Despite managerial fantasies, the functioning of any organization is subject to both formal structures and informal systems of order comprising the norms, values and beliefs. The latter often do not accord with the institutionalized rationality of the former.

THE IMPORTANCE OF THE LOCAL IN LEGITIMACY

Mobilizations of bias

The legitimacy of whatever rationality is institutionalized cannot be taken for granted; in a changing world legitimacy has to be regarded as a contingent variable dependent on interplay between historical, local and temporal circumstances. One can appreciate how viewpoints and action that resonate with the prevailing authority in a social system are more likely to be considered legitimate than those that do not. If this is the case however, legitimacy depends on an appreciation of localised meaning. By localised meaning we mean constituted knowledge of accepted practices that, over time, have become embedded in everyday life. We will illustrate how power exists in these informal networks of meaning in forms that are not necessarily formally *de jure* legitimate but, due to their embedded and taken for granted nature, are accepted as legitimate *de facto*. We argue that as long as policy formulations and interventions work only with issues of *de jure* legitimacy they will miss the subtle ways in which, *de facto*, all policy enactments flow through informal as well as formal circuits of power.
All organizations are subject to what Schattschneider (1960) referred to as a mobilization of bias. A mobilization of bias occurs reflects differentials in power embedded over time in the social system in which members of the system function. Depending on the strength of the bias, this differential in power privileges some and marginalises others. Over time, the influence of those privileged become taken for granted and both constrains and enables the values, beliefs and opinions of those less privileged, effectively determining not only whether certain demands come to be expressed and needed, but also whether such demands will ever cross people’s minds (Gordon et al, 2009b). A mobilization of bias influences what is considered to be legitimate and inconspicuously prevents crucial issues that may question this legitimacy from emerging for public debate (Gordon et al, 2009b)\(^3\). We argue that when a strong mobilisation of bias and systems of order (both formal and informal) simultaneously reinforce each other, problematic webs of legitimacy are formed – problematic because such webs of legitimacy are more likely to privilege the practices and perspectives of the select few in positions of dominance within the system of order (Gordon et al, 2009b). The mobilization of bias is not necessarily reflected in the formal documents and policies of the organization in question if only because of the embedded drift in interpretations and sensemaking that can occur in organizations. It is especially likely to occur in those organizations marked by a high degree of localization and street level bureaucracy, conditions that favour the development of cultural and ethical systems highly contingent in their relation to centrally formulated official policies and procedures, because of the difficulties of imposing centralized management control and surveillance in such conditions.

\(^3\) One can appreciate how a mobilization of bias has obvious applications in areas such as gender relations and assumptions in organizations or for issues such as climate change and the adoption by political parties and government agencies of appropriate policies.
**Legitimacy, power, and authority in managerial control**

Most approaches to legitimacy and control in the field of management have been associated with Weberian rule-based conceptions of authority in which the legitimacy of action is aligned with formal rationality and structures. In reality, such documents are often abstract, remote statements of principle or codes that serve more of a ceremonial than real purpose, laying out a framework of legitimate behaviour which organization members are supposed to adhere to, however vaguely.

Weber’s broader conceptions of authority have been captured in institutional theories that “have stressed that many dynamics in the organizational environment stem not from technological or material imperatives, but rather from cultural norms, symbols, beliefs, and rituals. At the core of this intellectual transformation lies the concept of organizational legitimacy” (Suchman 1995: 571). Suchman suggests “legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and assumptions” (1995: 574). The socially constructed system may not be that which is centrally mandated. As Gordon, Clegg and Kornberger (2009b) highlight, within this definition the evaluative and the cognitive dimensions of legitimacy are stressed.

Typically, approaches to power, politics and resistance are premised on an ontological assumption in which the rationality of those sanctioned with authority is taken as a given. The organization’s interests and those of its management are seen to be largely coterminous, so institutionalized legitimacy is largely unproblematic. Organizations that are functioning effectively will see a top down flow of formal rationality animating them, supported by strong local cultures that reinforce the central messages. Where homology fails then there is a problem of local deviance constructed as a case
of illegitimate power or resistance occasioned by some unforeseen contingency, such as coping with uncertainty, as in Crozier’s (1964) model.

Rather than see power relations as a contingent and deviant phenomena recent organization theory suggests that they are an inherent characteristic of every aspect of organizational life. In the stream that we draw on here they have been seen, for instance, as apparent in the discourses that organizations produce (Clegg 1975); the structuring of organizations as sedimented selection rules (Clegg 1979; Clegg and Dunkerley 1980). Organization is subject to both formal structures and unobtrusive structures of dominancy in which power is essentially a circulatory, relational property (Clegg 1989). Such power not only flows through distinct circuits but also drills into the body, soul, and mind (Clegg, Courpasson and Phillips 2006).

Courpasson (2000) both engages and extends Weber’s conception of structures of dominancy to explore legitimacy within an empirical study of three French organizations that were engaged in organization change strategies aimed at increasing their organization flexibility and innovative capacity. Moving from traditional hierarchical and bureaucratic forms of governance they developed what Courpasson terms contemporary tools and strategies of “soft” bureaucracy. Courpasson proposes that structures constrain and enable thinking, feeling and doing, constituting a structure of legitimacy. The legitimacy of viewpoints and proposed courses of action

4 Similarly, other writers in organization studies that have drawn on the work of post-structuralist theorists such as Foucault, Bourdieu, and Latour, and have extended our understanding of the complex workings of power (Townley 1993; Haugaard 1997; Flyvbjerg 2001; Courpasson, 2000; Gordon, 2007). Such positions might be referred to as ‘Machiavellian organization theory’ (Fleming and Spicer 2005). It is clear that Weber’s analysis of domination still retains a central role in this Machiavellian theory and that it makes problematic questions of ‘authority’ that are simply glossed or taken for granted in more mainstream organization theory. More specifically it shows how, in Weberian terms, “structures of dominancy” and in Schattschneider’s terms, “mobilisation of bias”, both constrain and enable the exercise of power in organizations.
that resonate with the prevailing social order are more likely to go unquestioned than those that don’t. The social order privileged by managerial accounts of a setting may not resonate with the lived experiences of those who actually constitute the setting. A managerialist solution to a problem that arises from culture experienced as a living, organic, grounded set of processes and practices is hardly likely to have much purchase on those practices in so far as they are grounded not in the official and formal accounting of the situation but in informal lived experience.

**ETHICS IN PRACTICE IN THE NSW POLICE SERVICE**

We want now to revisit an organization that we have written about previously: the New South Wales (NSW) Police Service (Gordon 2007; Gordon et al 2009a; 2009b). The NSW Police Service is a large police organization with more than 17,000 employees serving a population of seven million in the state of New South Wales, an area of more than 800,000 square kilometres, equivalent in size to the US state of Texas (see [www.nswpolice.gov.au](http://www.nswpolice.gov.au)). The New South Wales Police Service was an organization that, in the late 1990s, had lost a great deal of its legitimacy because of widespread publicity attached to reports of scandals and corruption in the media which resulted in a Royal Commission of Inquiry (Wood, 1997). From the inquiry there flowed a program of organizational reform that was pure managerialism: there was to be a restructuring, changes in practices, procedures and personnel, and the introduction of a new executive committed to the change program.

To judge from its website the New South Wales Police Service is an organization, with a stringent ethical code. Had the fine words of the NSW Police Code of ethics been observed as everyday behaviour in the service there would have been no ethical
problems in practice, no widespread media reporting of irregularities, and no sense of a legitimacy crisis.

Insert Table I about here

The code articulated fine principles but over many decades there had developed a widespread view in the Service that it was necessary to follow ‘noble cause corruption’ – where the ends justified the means – that ran counter to the formal rhetoric. At one time, Gordon (2007) suggests, these deep-seated informal practices might have been instrumental in preserving order in what was always a wild and rugged jurisdiction, from its earliest colonial days. However, over time the informal practices associated with the everyday culture of policing in the state had increasingly come to express and frame the lived experience of policing, which moved ever further from the noble sentiments of the formal codes.

The 1997 Wood Royal Commission into Police Corruption in the NSW Police Service was established to investigate what had become widely reported corruption in the NSW Police Service as a result of a campaign of investigative journalism by local media, inspired in part by stories of police practices that increasingly stretched the credulity of the community. The results of the Royal Commission, a statutory enquiry authorized by the state government with all the powers of a judicial body, revealed the reality of policing in NSW to be very different from the ethical values that the Service espoused: the Service was subject to unethical and corrupt behaviour (Gordon et al, 2009). Examples of such behaviour included the abuse of authority, the taking of bribes, providing false evidence, drug dealing, commissioning criminals to commit crimes, fixing internal promotions so that corrupted members were promoted, and the use of intimidation and stand-over tactics (Wood, 1997). During the period that
immediately followed the release of the Wood Report from the Royal Commission, numerous members of the service, including senior officers, were indicted and more than 500 found it in their best interests to resign from the organization.

The Royal Commission’s findings illustrate how strong discipline and a strict adherence to authoritarian principles of management constituted a culture of obedience, punishment and fear in the Service: even if one was not corrupt, one did not question the authority of superiors, one did not break rank (Gordon et al, 2009b). Dubious practices went unchecked; over time, the sense of dubiousness was lost to the point where practices that violated elements of the Service’s formal values became part of the everyday routine. As one officer appearing before the Royal Commission said:

You weren’t there to lose. You were there to win. If that meant bending the rules, so be it … we didn’t see ourselves as criminals by assaulting someone or trying to put criminals behind bars. That was – you know the morality that we saw. […] My view of it is – and it’s somewhat cynical – it’s a big game and the criminals tell lies, the police tell lies, or did tell lies, and if you, shall we say, played it by the rules the whole time, you’d lose (Wood 1997: 186)\(^5\).

Acting in response to the Royal Commission’s findings and recommendations, the NSW Government appointed Mr. Peter Ryan, from the UK, as the new Commissioner of Police, to initiate a reform program aimed at achieving “ethical and cost efficient policing” (Ryan 2002). Commissioner Ryan understood modern management concepts (empowerment, teams, and flatter structures) to be the solution to the

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\(^5\) See also Gordon et al (2009); we include it here because it provides a clear example of how people discursively come to rationalise the legitimacy of unauthorised behaviour.
problems highlighted by Justice Wood. He initiated a departure from a traditional hierarchical and military structure and, over the next five years, implemented a change management initiative, which, amongst other things, introduced contemporary theories of organizational design to create a frame within which to combat unethical behaviour (Gordon et al, 2009b).

The Royal Commission recommended that the Service implement contemporary management practices that included, amongst other practices, team based control mechanisms. The use of such control mechanisms were seen as a means by which to overcome the effects of the Service’s “code of silence” that hindered officers in blowing the whistle on the illegitimate practices of other police. One of the most significant changes was the attempt in one particular Local Area Command to dissolve the operations of the Detective Division by having detectives operate as members of cross functional operational patrol teams in an effort to break down territorial localism. These teams effectively comprised members from each of the major functional divisions of the Service (Gordon, 2007). The reform’s intended goal was to shift from:

- Organizational differentiation to de-differentiation
- Bureaucratization to de-bureaucratization
- Highly elaborated hierarchies of structural domination to organizational relations that that were more democratic

Justice Wood also created the Police Integrity Commission (PIC) to oversee the reform program. One can appreciate the irony of such a watchdog body – “who’s

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6 The Wood Royal Commission found that the power of Detective’s placed their division central to the corruption and unethical behaviour within the Service.
watching the watchdogs” – but in light of the extent and nature of police corruption revealed by the Royal Commission such a group was perceived as necessary. The PIC was intended to offer some assurance to the public that attempts to inappropriately influence the reform process would not go unchecked.

A large number of organizational behavioural and organizational development reforms were enacted along the lines indicated (see Gordon 2007 for the full account). Unfortunately, while many positive things were achieved, shortly after announcing the success of the three-year change program, there emerged secret video recordings made as part of an undercover operation for the PIC. These were widely shown on television news broadcasts after their airing in the PIC.

One corrupt cop caught receiving bribes from criminals on camera, filmed through a device hidden in the cop’s car cigarette lighter by PIC officials, became very well known indeed as a result of the PIC’s actions. The cop in question was Chook Fowler. Not so many people knew him before his unforeseen appearance on a prime time newscasts recording obtained from a hidden camera in his car, apart from his colleagues in the Police, his family, neighbours, and friends. Amongst the latter were many members of the criminal fraternity in Sydney. Indeed, many of these people were such good friends that they regularly paid him off, through one of his mates, Trevor Haken, another policeman, an officer junior to Chook. It transpired that members of the local command to which Fowler belonged were routinely busting drug dealers, seizing their supply, and selling it to rival dealers who were complicit with the cops. The court charged these officers with stealing money and drugs from a crime scene, drug trafficking, and other offences. Some "police were not just taking bribes but actively organizing crime, introducing one [drug] dealer to another and
encouraging them to work harder … [which demonstrated that] corrupt police continued to operate [amongst fellow honest and hard working police] without fear of or hindrance from anti-corruption measures that had been introduced by the police service” (Devine 2001:16).

The PIC findings demonstrated that the “ethical and cost effective policing” Commissioner Ryan’s reforms sought to achieve was in question. Since then there has been a steady stream of reports detailing unethical behaviour by police officers. In May 2005, 65 officers were brought before the courts for unethical and corrupt behaviour that included rape, drug trafficking and assault. In April 2005 five of the State’s most senior officers were suspended from duty for offences related to the handling of evidence in a major investigation. In 2007, ten years after the Royal Commission a headline appeared in an authoritative web-site www.crikey.com which reported that “A series of previously unpublished and highly confidential audit reports … reveal an alarming picture of mismanagement, harassment and possible corruption within the most senior ranks of the NSW Police Force … concerning allegations of conflict of interest, bullying and mismanagement.”

**DISCUSSION**

In the NSW Police Service, as we have explored elsewhere (Gordon 1997; Gordon et al 2009a; 2009b), the prevailing social order was both well entrenched and formally illegitimate, as the Royal Commission established. Subsequent events in other states, notably Victoria, have demonstrated that the problems registered in NSW (and even earlier in Queensland) were widespread nationally. Hence, it is hardly surprising that the last decade of police organization in Australia has been marked by widespread reforms. Over the last five years strategies employed to address unethical and corrupt
behaviour including beefed up internal affairs departments; the widespread use of covert surveillance technologies; surveys of internal informants; drug and alcohol testing; complaints profiling; compulsory officer rotation in corrupt-prone sections and comprehensive ethics testing (Gordon et al, 2009b). How is it possible that in the face of such correctional measures unethical and corrupt behaviour continued?

Structures of domination make problematic how local actors construct legitimacy. Organizational members legitimize certain forms of legitimacy and exclude others. In our case, organizational members did not legitimize either the public face of the ethics discourse displayed within the Service’s formally communicated code of conduct or the practical discourse of managerial change agents that was enacted after the Royal Commission. The already existing but problematic structure of local legitimacy undermined the agendas of the reforms. The structure of local legitimacy surreptitiously de-legitimized the authorised change initiatives.

Hodge et al (2010) provide an interesting explanation of how ‘behind the scenes’ discourses operate as a form of practical consciousness and undermine the formal authorised discourse. They refer to the “Larrikin Principle” at work, a principle that is very much embedded in the Australian culture. The Larrikin Principle is founded on a laid-back, ironical, irreverent attitude to rules and their necessity. Authority that seems useless will be circumvented and rules that seem unnecessary will be evaded. The Larrikin Principle is highly ethical but in a specific and local way – ethics are held in common with and owe their dues to immediate work mates. We draw this reference to the Larrikin principle because it resonates with the NSW Police Service’s (and other Police organizations throughout the world) culture, known within the Service as “the Brotherhood”. Our study of this culture was centred, in particular, on
the Detective branch. Traditionally, Detectives, non-uniformed officers, had been the most esteemed and significant branch of the service, often working undercover with criminals. Detectives were recognizable exponents of the Larrikin Principle. Being a larrikin always positions one close to the edge and, indeed, many members of the Detective Branch had crossed over from irreverent and ironic behaviours to acts that were clearly criminal. Local articulations of the Larrikin Principle had major system effects. In part this was because in the Service there was a rule of anticipated reaction that mobilized bias. Friedrichs (1937) explained the “rule of anticipated reaction” in terms of one entity anticipating another entity’s likely opposition to his or her viewpoint. Anticipating opposition and defeat one consequently does not raise the issue. In short, “Potential protagonists remain mute, from the expectation that they would invoke strenuous opposition” (Clegg, 1989: 79).

Indeed, in the Detectives branch, this opposition could be extremely forceful. Punishment is central to both the internal and external life of policing, where those who breach the formal and informal rules of organizational life are expected and expect, to be punished. This punitive culture established and reinforced a strong rule of anticipated reaction that privileged some and marginalized others, resulting in the viewpoints and preferred course of action of those who had historically held positions of dominance more easily acquiring legitimacy; in our case, the Detectives were carriers of meaning and the creators of legitimacy.

Flyvbjerg (1998) argues that when those actors in positions of dominance go largely unchallenged, they are free to “rationalize their own version of rationality”. In such situations those in positions of dominance in local circuits of power construct the version of rationality that is considered legitimate. It is through using these dominant
rationalities that subordinate others follow the rule of anticipated reaction in the actions, sensemaking and dispositions that they enact (Gordon, 2007). Hence, what is accepted as legitimate is largely based on power relations. Arguably, this might not be a problem if those in positions of dominance were capable of completely rational thinking and behaviour, but of course, they are not. While some may be more rational than others they are always subject to contextual pressures and interests. The Royal Commission’s findings illustrate that members of the Police Service in positions of dominance engaged in rationalizing their own versions of rationality. Their doing so was evident in the conceptualisation of corrupt behaviour by those charged with corruption as “noble-cause-corruption” – that is, while they might have been corrupt they were acting in terms of the greater social good of upholding the criminal justice system and putting the ‘bad guys’ away (Gordon, 2007).

The theoretical framework underpinning Commissioner Ryan’s reform plans did not capture power relations constituted through local rationalizations of rationality. It assumed that managerialism accurately represented the world; that straight-line linear thinking and reform could prevail rationally. In consequence, Commissioner Ryan’s reform plans, while valuable, do not offer an account or understanding of how new recruits, when subjected to dominant individuals and groups that have rationalized corrupt practices as not only “rational”, but also, “right” and “just”, found it difficult to speak against these practices, let alone eventually change them (Gordon et al, 2009b). Moreover, as it transpired, promotion opportunities were systematically skewed through corrupt officers grooming those recruits whom they knew were already corrupted with the answers to the exams that determined promotion. In this way the culture and ethics of local corruption were reproduced as practical consciousness through a combination of fear and commitment.
Practical consciousness forms the kind of knowledge that reflects what people do in practice (Giddens, 1984; Haugaard, 1997). For instance, a police officer would not know his way around an operating theatre just as a heart surgeon would not know his way around a police station. Similarly, those with commercial experience can appreciate that marketers and engineers, for example, often see the world very differently: each has a different practical consciousness.

In our study, a dimension of this practical consciousness reflected the need for officers to protect themselves continually, to keep themselves out of the ‘firing line’ of those in positions of power. Interestingly, the nature of this practical consciousness provides an alternative view of the now well-documented “Brotherhood” and “Code of Silence” (see Wood, 1997) that police organizations are famous for. For most people, the concept of “brotherhood” refers to a group of people who look after each other, stand by each other and never betray the brotherhood. Our data reveals that the reason police didn’t break ranks had less to do with a brotherhood or collective sense of loyalty to each other and more to do with a fear of retribution and a need to protect oneself. If you break ranks in the Service and blow the whistle on a fellow officer, if you break the ‘rules of the game’ as one police officer put it, “you can expect to be got” (punished). If you “rock the boat” for those in positions of power, irrespective of the base of their power, you leave yourself in a vulnerable position. While perhaps nothing like a “brotherhood” exists in accounting and financial fields, a graduate accountant with hopes of entering a partner track may well make similar interpretations when considering his/her actions.
For the police, the need for protection is housed in a hierarchical framework: whatever position an officer holds, his or her protection strategies are aimed at appeasing those who are superior. Those who are not superior, along with any operational plans and objectives that may be in place, both consciously and subconsciously, are only of secondary importance. Legitimacy is therefore, largely constructed through sensemaking around a practical ethical consciousness (Haugaard, 1997). As Weick (1995: 55) points out the prefix sense in the word sensemaking is mischievous because it invokes realist ontology, suggesting that things that are out there are sensed accurately and constructed realistically. However sensemaking is more about plausibility, coherence and reasonableness, than it is about accuracy. Sensemaking relies upon people’s perception, and perception is context significant and thus, not always accurate. For instance, most people at times will present representations that are seen by others as being plausible (Goffman, 1959, Hardy and Clegg, 2006) but this does not mean that these representations are accurate.

In organizational settings people are subject to different contextual constraints such as knowledge, interests, needs and political pressures. To deal with these constraints, people struggle for power by employing strategies and techniques (rhetoric, retribution, reciprocity, reason, and other forms of political action) so that preferred courses of action appear plausible and sensible to others (Meyer and Rowan, 1977). Drawing on Foucault, Haugaard (1997) argues that for a viewpoint or practice to be considered plausible, its representation would need to account for both the formal and informal social codes of order that people reflect on when making sense of their world: if it did not, it runs the risk of being considered infelicitous and thus, nonsensical (Gordon, 2007). Similarly to the way that people associate sense with sensemaking, people associate legitimacy with being sensible. In other words, for
something to be seen as legitimate it also needs to be seen as sensible (Gordon et al, 2009b). Such a relationship between legitimacy and sensemaking is problematic when sensemaking occurs within an organization where power relations are subject to a structure of dominance or mobilization of bias. In this case, something that is seen as legitimate can at the same time be seen as nonsensical.

Rational thought and action do not necessarily determine the outcome of social endeavours. In the case at hand the reforms that actually occurred did not reflect the rational ideals that underpinned the reform agenda (Gordon et al 2009a; 2009b). As Foucault (1977) argued and Flyvbjerg (1998), as well as Davies and Thomas (2003), have shown empirically, it is the outcome of the struggle for power that determines what reform occurs in an organization when it comes to change – and the Police Service was no exception. The organization’s constitution of power privileged certain individuals and groups with a right to dominate, a position from which they were expected by lower ranks to exercise discipline and punishment. Obedience, brought about by a fear of retribution and punishment, was thus habituated. Where local positions of dominance were infiltrated by the corrupt then it was corrupt practice that prevailed.

**CONCLUSION**

In an organization competing viewpoints and courses of action are not only subject to what Weber describes as structures of dominancy but also to structures of legitimacy. The more that some members or entities are free to dominate others, the more legitimacy, including authority and other rational rule based forms of legitimacy, will be rendered problematic. In the NSW Police Service, while the representations and/or instructions made by officers in positions of dominance may not seem sensible it is
plausible for other officers to regard these viewpoints, representations and/or instructions as being legitimate: they knew that it is not in their best interests to do otherwise (Gordon et al, 2009b).

In consequence, individuals in positions of dominance are vulnerable to cognitively rationalizing their own versions of rationality. In a social sense, all versions of rationality need to struggle for legitimacy; however, when domination is entrenched those entities in a position of dominance are freer to legitimize their version of rationality. Indeed, when a structure of dominancy is underpinned by a mobilization of bias, especially, as in the case of the NSW Police Service, if the mobilization of bias constitutes a sense of despotism on behalf of those subjected to it, the resulting structure of legitimacy enables those in positions of dominance largely to control the constitution of legitimacy. In short, those in positions of dominance have the greatest influence on what is accepted as legitimate. Not only does domination facilitate the rationalization of rationality, it can also facilitate the legitimization of legitimacy. The structure of legitimacy centralized local circuits of power into the hands of a few, leaving the Service vulnerable to unethical and corrupted behaviour.

There are some major implications associated with this argument. Structures of domination and organizational legitimacy can undermine change initiatives. Unless the recursive constitution of legitimacy and power is understood and, if needed, challenged, efforts to change organizations with respect to orthodox managerial analysis of tangible management structures in organizations will struggle to achieve their objectives. Even more bleakly, reform through organizational change breeds its own failure by generating even more subtle ways of being unethical for which further reform is seen as the answer, in a process that has no necessary end. In other words,
the question of the governmentality of governmentality, in Foucault’s terms, becomes its own rationalization.

How could it have been otherwise? The reform process might have started not from textbook recitations of managerialism but a more detailed ethnographic analysis of the social reality of NSW policing. This would have entailed trying to differentiate “Larrikin” from “criminal” elements in the practical consciousness of the police officer’s situated culture. The former could have been leveraged into formal ways of working while the latter could have been outlawed. Hodge et al (2010: 98) refer to the former strategy as one of supporting the institution’s goals against its own linear practices. Additionally, in implementing reforms, instead of imposing top-down linear solutions, translated from managerialism, a better strategy might have been to work with those police who were deemed not to be corrupt, in developing new strategies and structures grounded in their experience of policing. Instead, top-down solutions were imposed which only exacerbated the underlying issues; for instance, one solution, designed to enhance transparency in policing, meant that the meetings of an Operations Control and Review (OCR) were transmitted throughout the state’s police stations and viewed by the officers therein. Rather than spread the message of transparency it reinforced a message of intimidation as officers saw their commanders humiliated for failing to meet crime statistic targets set by the ‘top brass’. Increasingly, it was not crime that was being managed but crime statistics.

Managing statistical and other representations is, of course, indicative of the rhetoric that pervades the New Public Management (NPM) literature. Panoptical procedures such as those that captured Chook Fowler were clear evidence of legitimate power relations at work, albeit in covert and undercover ways. Panoptical versions of formal
power were, however, being supplemented by signs of synoptical power (Mathiesen 1997). In panoptical power it is apparent that the few watch the many. In synoptical power relations, such as prevailed in the OCR, the many were watching the few watching them and constantly adjusting their sense of legitimate representations accordingly. Mathiesen suggests that panoptical pressures make us afraid to break with that which is taken for granted as observably acceptable behaviour. Relations of panoptical power work through the psyche on the practices of actors subject to them, while synoptical power shows what representations of practice are legitimate. The theoretical frameworks of managerialism and NPM redefine acceptability not in terms of what is actually done but how it is represented.

The new managerialism that was adopted in the reforms that occurred in the wake of the Royal Commission established a new culture of targets, KPI’s and accountability in terms of these. However, by prioritising ends the means were once more placed in brackets. If results were what counted then what did it matter how these results were achieved? A corollary of this reform was that spin became a key element of policing: the new Police Commissioner who was appointed to succeed Commissioner Ryan was instructed that one his chief KPI’s was to keep policing off the front pages of the local papers. As a reforming Commissioner Ryan had grown accustomed to extensive media coverage – coverage that backfired when it was established that the reforms had not eradicated corrupt behaviour. His subsequent resignation and replacement by a long serving officer, with explicit instructions from the Minister for Police to make policing un-political, meant that one form of corruption was to be replaced by another. Now the corruptions of managerialism would render the Service vulnerable to a situation where representations counted more than underlying realities; where stories
were told in statistics that did not necessarily resonate with either citizen’s or police’s experiences, and where the old corruptions were once more swept under the carpet.

A great deal of what modern managers do displays a more symbolic and ritualistic purpose than is often acknowledged. Somewhat like voodoo, it is designed to eliminate ill fortune. The symbolic content of organizational change and reform programs is high. They demonstrate that the centre is aware of the problems in the branches or the field and that these problems have been defined in rational terms and that rational measures will be undertaken to resolve them. Codes of ethics will be reasserted; correctional behaviour instituted, and local deviance denounced. To the extent that the substantive principles have become deeply embedded in the ways that constitute local behaviour, and this has become shaped by local patterns of dominancy, such reforms will be seen through a deeply cynical lens. Seen cynically, they are just another misguided attempt to intervene from on high, in a job that those at the centre of the intervention do not, could not, understand because they lack local knowledge. Local knowledge defines which structures of domination and organizational legitimacy thrive. As we have emphasized, efforts to change organizations with respect to orthodox managerial analysis of tangible management structures in organizations, that deny parallel deep structured power, will struggle to achieve their objectives. Such analyses will move in a hermeneutic circle dominated by formal rationality in a self-referential loop. Organizational reform that fails can, of course, feed off its failure: where reform fails to deliver on formal expectations the answer can only be more reform, as public sector organizations, especially, know only too well.
So what of the Services’ success with reform since we finished our empirical work? We are told it has significantly improved. On the surface, it looks and feels this way. One of the most successful initiatives has been in recruitment policy, which has broaden to included recruits with existing university level education, as well as changes to the Police Academy’s curriculum that includes the social as well as the natural sciences. The profile of the new recruit is very different to that of 20 years ago.

While the vast majority of police officers are not corrupt or unethical, putting their lives on the line every day, and we wish to acknowledge that fact, we remain a little sceptical of the claimed success after living and working with the police for two years while completing the broader ethnography from which this paper is drawn. Any organizational social system that reinforces a “mobilisation of bias” and facilitates structures and acts of dominancy will remain vulnerable to corruption and unethical behaviour. In short, surface level measures such as tangible regulations and codes of conduct, while necessary, are simply not enough: deep structure also needs to be addressed. How to address deep structure is a concern on which our current empirical work is focused.
REFERENCES


CODE OF CONDUCT AND ETHICS

An employee of NSW Police must:

1. Behave honestly and in a way that upholds the values and the good reputation of NSW Police whether on or off duty
2. Act with care and diligence when on duty
3. Know and comply with all policies, procedures and guidelines that relate to their duties
4. Treat everyone with respect, courtesy and fairness
5. Comply with any lawful and reasonable direction given by someone in NSW Police who has authority to give the direction
6. Comply with the law whether on or off duty
7. Take reasonable steps to avoid conflicts of interest, report those that cannot be avoided and co-operate in their management
8. Only access, use and/or disclose confidential information if required by their duties and allowed by NSW Police policy
9. Not make improper use of their position or NSW Police information or resources
10. Report the misconduct of other NSW Police employees.