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Assessing Ethical Governance in a Policing Environment²

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Abstract

Governance describes the processes by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, the direction and control exercised in the organisation. This paper argues that the shape of policing has changed in recent years; the service is more innovative and less risk averse than ever before. In this environment, governance structures are needed that support the complexities of the change in police roles and functions and assessment of corporate performance must include criteria such as ethical values and codes of conduct.

Keywords

Governance, Police Governance, Board Assessment, Evaluation

Introduction

Although governance relates to issues such as risk assessment and audit, this paper addresses evaluation and benchmarking of governance issues related to boards and committees. It reviews why governance is important in a police environment, how governance is related to an organisation's values and ethics and identifies some criteria for assessing best practice in governance arrangements in this context.

Let us start by putting governance into the context of a police environment. In 2004 while the authors were visiting Cambridge University, a Chief Inspector was also studying there. Richard Morgan, a Chief Inspector with 17 years operational experience, wrote of his experiences in the Magazine of the Cambridge Society. In his article, he captured the complexity of the environment in which police work and the challenges facing police today. He said (Morgan, 2004, p. 24):

The constant effort to encourage, cajole, intervene, reassure, prevent, enforce, negotiate, develop, maintain and celebrate is truly extraordinary. The shape of policing had to change in recent years; the service is more innovative and less risk averse than ever before. The complexities of the role, and society's problems, have forced a tide of change that has seen the service develop closer links with the communities we serve. We work more closely with partners, too, who share, and often own, the responsibility for solving the problems. These relationships are never easy, and working together towards a common purpose never quite happens in an environment full of differing priorities and overstretched resources. Community representatives and leaders do not always truly represent and rarely

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² This paper was based on a keynote address delivered to the Police Audit Conference, Melbourne, 2006.

lead, making the goal of delivering tailor made, locally accountable services, particularly problematic. There are communities within communities and complex affiliations that often go back many decades; friendships, family ties, criminal networks and racism combine to frustrate commendable efforts to create a better environment. Some of those problems – racism, deprivation, and the erosion of community cohesion – pose a constant risk of civil disorder; the disintegration of civic society with all its diabolical consequences. Challenging yet rewarding, we, all of us, cannot afford to get it wrong.

While Richard Morgan captures the police experience, other changes in the wider society are also affecting police work. These include accelerating flows of resources, people, information, rising ecological environmental pressures, growing inequalities, and rising citizen expectations about access to information and services. The types of crime have also changed. Organised white collar crime, money laundering and corruption, and the threat of terrorism, while not new, have a new edge to them.

Chief Inspector Morgan spoke of the complexity of the police environment. Understanding the governance of this environment, that is the structures, legislation and practices of governance in this environment, is equally as difficult.

Why is Understanding Governance Important?

Governance is the latest innovation that comes on the back of a massive change in the ways that citizens interact with government and the arm of the law, police. Innovations implemented under both liberal and labor governments in Australia, and in most western jurisdictions, include the new managerialism with its emphasis on corporate models of management and the three Es, efficiency, effectiveness and economy; competition in a market economy; privatisation of many police services (e.g. prisons, security, investigation of white collar crime); performance management; new controls evident in the setting of objectives and targets; and evaluation and accountability.

Table 1. Why understanding governance is important

Changes driving new modes of governance
Growing complexity of the police environment
Latest of public sector management initiatives
Changes in relationships between politicians/ police commissioner/boards
New roles of citizens
Customer Statistics
Community governance
Changes in Government policy:
Whole of government
Joined up government
Networked government
Changes in police roles and skills

In this context governments determine priorities, direct resources to address a priority, set performance targets that are measured by financial and social indicators, and evaluate performance against the targets. Treasuries have the capacity to arbitrate which programs will be funded and therefore decision making is strongly influenced by Cabinet and implementation endorsed through setting performance targets and auditing performance.

Not only relations with politicians, but relations with citizens have also changed. Citizens are now classified as a customer to be served, a cog in a statistical profile, or a committee member to be co-opted to take a role in the resolution of problems in their communities.

Customer service, service response times, etc are forming part of the police performance reviews. With current information technology and communications (ITC) police are more visible, more accessible and citizens are now better informed and more able to voice any concerns.

Another trend driven by better information management is described by O'Malley (1999) as the 'the Risk Society' which has emerged in response to the growth of 'risk based government'. Dupont (2001) who agrees says: "They redefine how Australian communities are being policed, discarding the legal obligation to enforce the law and maintain police for the public good, and replacing it with a more pragmatic approach, which consists of managing the risks posed by the 'dangerous classes'" (Dupont 2001). What this means is that individuals are commonly attributed with the characteristics of the risk category to which they are assigned. Among the consequences is the emergence of an actuarial model of policing in which individual profiles assign members of the public to risk categories where their treatment, e.g. sentencing or parole, can be influenced by their membership.

Another consequence is the shift in responsibilities for risks, which can be minimised or reduced, to communities in which problems are located.

Community/Network Governance

Terms such as 'Community' governance, 'participatory' governance or 'network' governance are used to describe the community level management and decision making that is undertaken by, with, or on behalf of a community by a group of stakeholders. Local government, business, not-for-profits and other community representatives are brought together in a committee structure to address community problems. An example is the Local Safety Committees established by Victoria Police.

Similarly, partnerships with other departments and service providers in 'whole of government' and 'joined up government' initiatives provide the leverage that allows police to address complex problems whose solution require multiple services. An example is a whole-of-government approach to crime prevention. This is intended to coordinate activities from various departments, each with its own specialisation, but working together to achieve a common objective. The metaphor is often given of a symphony orchestra in which the 'score' tells each of the players when to come in and make their contribution. An example in crime prevention is the strategy directed at reducing youth crime by contributions from education to reduce truancy, human services to address drug problems and police to ensure regulation.

Partnerships with the community or other agencies involve various forms of committee structures, allocations of resources and accumulation of credit for successful performance. This can lead to a certain amount of rivalry between agencies about who 'owns' the committees formed to oversee any activities, and uncertainty among government representative committee members re their roles and responsibilities.

Competitive bids to deliver services by the private and not-for-profit sectors have also changed the way services are being provided, heightened the need for professional expertise in these areas, and added, to the traditional roles and functions of many government agencies such as police, co-ordinating and facilitating functions.

These changes infer a shift in police and other public sector organisations from traditional bureaucratic structures to structures that engage police in a variety of boards and committees, many of which include aspects of network governance.

Why is Governance Important in the Police Environment?

Governance provides the framework, the formal system governing:

- roles and responsibilities throughout the force;
- legality for decisions and actions;
- the structure roles and responsibilities of the members of an executive or other board; and
- the relationships between police executive boards, the political executive, and other departments and the community. These latter can include membership of portfolio boards, boards of state owned enterprises, whole of government committees, industry boards and advisory committees.

What do we Mean by Governance?

Governance is not new. It has existed since people formed into groups and surrendered their individual freedom for the security offered by a united front. “The word “governance” is derived from the Latin, *gubernare*, to steer, and it is helpful to keep that root in mind. The task of the helmsman is to set the course for the ship and to maintain her on that course. This is in line with the definition of corporate governance used in that first definition by the Cadbury Committee, “the system by which companies are directed and controlled” (Cadbury and Millstein 2005) p.7.

In Australia, both Commonwealth and State Auditors-General have presented models of governance.

Governance is defined by the ANAO (1999) as:

The processes by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation. For CAC bodies, key elements of corporate governance include transparency of corporate structures and operations, the implementation of effective risk management and internal control systems; the accountability of the board to stakeholders through, for example clear and timely disclosure; and responsibility to society.

Similar elements of governance are found in all models of governance such as that proposed by the Victorian Auditor-General (Cameron 2003).

Leadership refers to how well a chair and board set the strategic vision and direction for the entity and add value to its organisation. It relies on clarity about roles and responsibilities and compliance with ethical and governance standards. Stewardship refers to the structures, systems and processes for decision making and control, communication and financial responsibilities, risk management and compliance. Accountability addresses standards of behaviour and systems in place for auditing, risk management and reporting procedures such as disclosure, transparency and the role of audit committees. It also includes the ways in which relationships are managed with various stakeholders: the relevant ministers, various partners, and external bodies such as the ombudsman and Office of Police Integrity, media and society.

In general, a framework for exploring governance in the public sector is concerned with:

- the underlying principles that describe the basic values and ethics of an organisation;
- the relevant law; and
- best practice in governance.

One should mention that the only reason for focussing on governance at all is to add value to the organisation.

In this paper I would like to talk a little about values and the law but the major focus of this paper is world best practice because the attributes identified as best practice are those addressed in evaluation and benchmarking.

The Values and Ethics of an Organisation

Values that have particular relevance to governance (Standards Australia 2003a) are honesty, integrity, accountability and transparency (Table 2). The public sector values set out in the Public Administration Act are: responsiveness, integrity, impartiality, accountability, respect and leadership. Victoria Police have similar values but also value professionalism and flexibility.

Table 2. Values

VicPolice	Victorian Public Sector	Governance Standards Australia
Integrity	Integrity	Accountability
Leadership	Leadership	Transparency
Flexibility	Impartiality	Honesty
Respect	Respect	Fairness and balance
Service	Responsiveness	Dignity
Professionalism	Accountability	Legality
		Goodwill

Francis (2000) suggests that one of the principle mechanisms for embedding agency values throughout an organization can be through its values embedded in a code of conduct. Unique to the governance principles in Australian Standards International's 8000 Series on governance is publication of their underlying ethical values attached as an Appendix to the Standard. The argument for the values is that while legal standards requiring compliance provide a guide for the minimum standard of behaviour, adherence to the ethical principles contained in the values fosters an ethical climate in organisations that prevents corruption and *'is aspirational to higher standards and not oriented to legal minima'*(p.25).

The relevant law

The second element of the governance framework is the law. All public sector organisations are subject to a variety of legislation. Many entities have their own Acts and others are established by regulations.

The statutory law governing Victoria Police are the Police Act, the Public Administration Act 2004, the Financial Management Act, Audit Act 1999 Freedom of Information Act 2004 and directives from other departments such as the Departments of Treasury and Cabinet (for example, Guidelines for appointment of boards and requirements for Annual Reports) and Workcover, (OH&S, Whistleblower protection).

All entities are required, the same as a natural person, to act within the boundaries of the law.

Best practice in governance arrangements

The last element in the framework is 'World Best Practice' in governance which addresses such things as: governance structures, board roles and responsibilities, leadership, stewardship, direction, control, independence, skills, appointment and succession criteria, remuneration practices, board assessment, accountability.

An effective scheme of governance should incorporate systems for monitoring the effectiveness of governance arrangements.

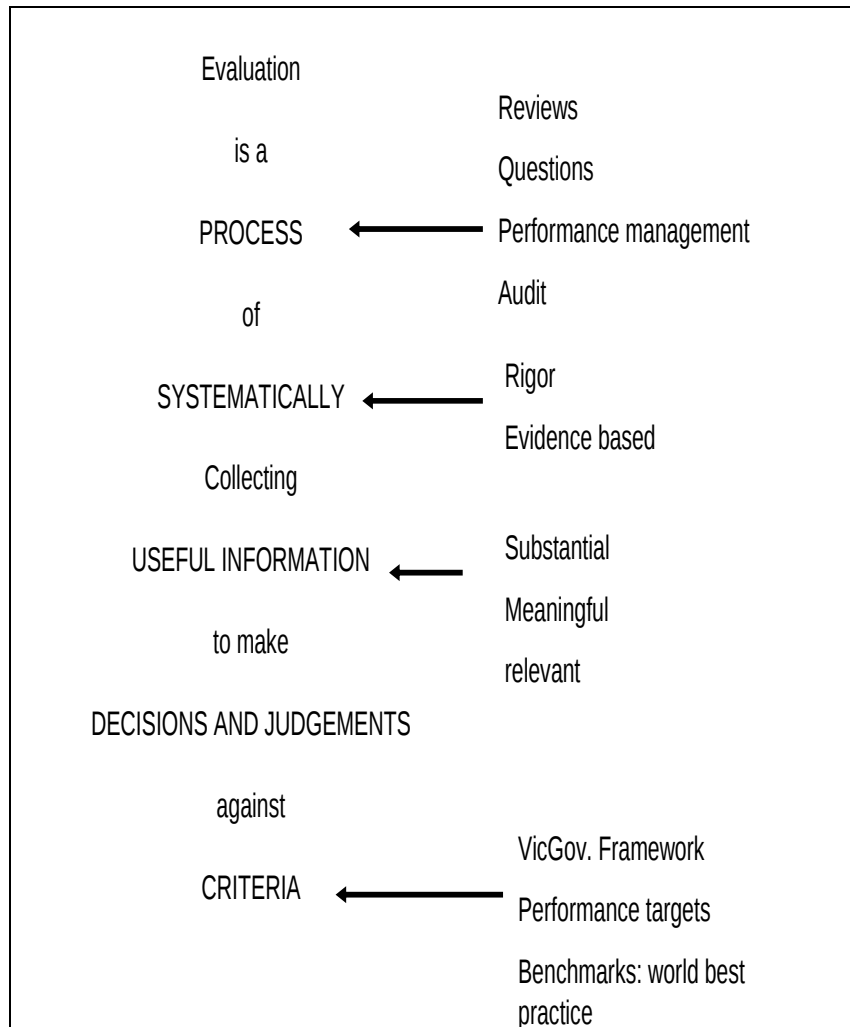
Evaluation and benchmarking of governance

Evaluation is a process applying systematic methods to collect substantial, meaningful, and relevant information to make decisions or judgments about performance. The process of evaluation is not any one particular procedure but can take the form of reviews, quantitative or qualitative data collections directed at answering evaluation questions, or financial, compliance or other audits. The selection of the method depends on what is most useful for the evaluation audience. The distinctive features of evaluation compared with other types of information collection activities is its emphasis on systematic and rigorous approaches to data collection, and secondly, the use of the information to make judgments about performance. The judgments are not arbitrary but judge performance against transparent criteria.

The Victorian Department of Treasury and Finance in its Evaluation Framework (Victoria 2000) uses both whole of government and department evaluation frameworks to provide a means of assessing existing and ongoing implementation of management reform. The process aligns department activities with government priorities and reports the extent to which each department achieves its desired performance outputs, the resources involved and the management of risk. The indicators of performance, or 'reform elements' are output management, best value services provision and financial management.

The criteria for judging performance are similar to those used in a project management approach in which progress is assessed against the percentage of a 'reform element' which is completed.

Figure 1. Definition of Evaluation



Performance is measured against percentages that indicate commencing, commitment, capability and completion (Figure 1) of an activity. Boards are responsible for ensuring that there is a financial risk management policy and internal control system in place, and a financial code of practice. (Wong, 2003).

Figure 2. Evaluation Framework. Source: Victoria, Department of Treasury and Finance, 2000

	Commencing	Commitment	capability	Completeness
% complete	10	20 30 40	50 60 70	80 90 100
Systematic performance improvement				
Improved service delivery choices				
Management of risk				

In general, the type of evaluation conducted depends on its purpose and what questions are being asked. For example, questions about efficiency and effectiveness are answered by performance measures. In the police environment efficiency indicators are concerned with the resources required to solve crimes, attend traffic accidents or other operations. Effectiveness indicators deal with the target of activities or services and measure such things as crime, clearance rates and also public satisfaction with police services, fear of crime and repeat victimisation. In the Victorian government framework example, “Best value service provision” is captured by measures of performance improvement, service delivery choices and management of risk.

An alternative to internal continuous improvement as the criteria for evaluating performance, are benchmarks.

Benchmarks are the performance targets achieved by the best performer in an industry or *world's best practice*. Usually they describe *how* things are done, that is, the processes used to achieve the desired outputs and outcomes. They are useful to show how an organisation is performing compared with the best, for identifying how things should be done and for establishing future performance targets.

There are many criticisms that can be made in regard to both types of measures. (See for example, Armstrong and Francis (Armstrong and Francis 2003). In regard to police work, (Dupont 2001) Dupont (2001) criticises performance indicators for, among other things, failing to capture the complexity of police work and that their aggregation masks the huge disparities within local communities. Benchmarks are criticised for encouraging organisations to ‘follow’ the leader instead of ‘being’ the leader.

Despite the criticisms, both types of measures are useful tools for evaluating performance. The criteria for making an assessment of governance performance could be indicators measuring benchmarks for performance targets or world's best practice. There are many reports of benchmarks related to corporate governance in the private sector. One example published by the Age is The Good Reputation Index in which the top 100 companies are ranked by 22 experts and community stakeholder groups on six performance categories one of which is ethics and governance.

Guidelines that are applicable to the public sector for evaluation of world's best practice in governance have been issued by numerous international organisations such as the OECD (OECD 1999) and the International Federation of Accountants (IFAC 2000). In the Public Sector in Australia, widely used corporate governance guidelines include those distributed by the Australian Auditor-General (Australian National Audit Office 1999), the NSW Audit Office Corporate Governance Guidelines (NSW 1998), the Victorian Auditor General (Cameron 2003) and the Municipal Association of Victoria and the Victorian Local Government Association Code of Good Governance for local governments (MAV 1997). (Refer to Armstrong (Armstrong 2004) for a review). More recently, the State Services Authority in Victoria is producing its own recommendations for governance practice in Victorian government entities.

A body which intended its governance standards to apply to both the public and private sectors is Standards Australia (Standards Australia 2003a). Standards Australia International is the body responsible for the establishment and maintenance of ISO quality standards and this philosophy has influenced the development of their corporate governance standards. These Standards are complementary to the SAI standards on risk management and compliance.

The five AS 8000 series of Corporate Governance Standards issued by SAI consists of a set of Principles and four specific standards.

The Standards are:

AS 8000, *Corporate governance—Good governance principles*

AS 8001, *Corporate governance—Fraud and corruption control*

AS 8002, *Corporate governance—Organizational codes of conduct*

AS 8003, *Corporate governance—Corporate social responsibility*

AS 8004, *Corporate governance—Whistleblower protection programs for entities*

AS 8000 Corporate Governance-Good Governance Principles (Standards Australia 2003a) is the foundation both underlying and complementing the other Standards.

The objectives of the Standards are to:

- o assist members of boards, chief executive officers and senior managers to develop, implement and maintain a robust system of governance that fits the particular circumstances of the entity;
- o provide the mechanisms for an entity to establish and maintain an ethical culture through a committed, self-regulatory approach; and
- o provide shareholders, or stakeholders, as the case may be, with benchmarks against which to gauge the entity's performance.

AS 8000 *Corporate governance—Good governance principles*, aims to 'provide a blueprint for the development and implementation of a generic system of governance suitable for a wide range of entities' and is intended for application in all public and private sector entities with boards including small business and not-for-profit organisations.

To assist organisations in the implementation of the standards, Standards Australia has also published two accompanying Handbooks, *Introduction to Corporate Governance* and *Applications of Corporate Governance* (Armstrong and Francis 2004; Armstrong and Francis 2004), which provide detailed case studies, a history to the development of standards, and a check list to evaluate adherence to the standards. The checklists provide a means for organisations to conduct an evaluation of best practice in governance in their organisations. The checklist used in the exercise is based on one of these.

As not all the standards can be addressed here and issues in ethics, audit and fraud are addressed by other speakers in this conference, this paper is limited to evaluation of world best practice as it applies to:

- Governance Structures: types of boards and committees
- Governance policy and principles
- Board composition
- Selection of board members
- Duties and responsibilities of board members
- Asking the right questions
- Self-assessment: The role of the board

Governance structures

The governance structures of organisations refer to the models of authority, control and accountability within the organisation. Government sector boards are not usually elected, as happens in the private sector, but appointed by the Minister under relevant legislation to be responsible for the vision of the organisation and overseeing its execution.

Table 3. Examples of different types of boards found in the Police environment**Examples of Government Boards found in a police environment**

Governing Board (Canada)
 Executive Board (Victoria Police Corporate Committee)
 Agency initiated boards: Regional Boards
 State Owned Enterprises
 Statutory Authorities
 Representatives of government on private/public partnerships: prisons
 Advisory committees
 Local community committees: Local Safety Committees

Boards can be governing boards, as is the case of the Municipal Police boards in British Columbia which are responsible for selection and appointment of the Chief Commissioner as well as the other functions of boards.

Best practice suggests that the best boards are limited in size to 7-15 members; have a balance of power and authority; a majority of independent directors, a diversity of gender, age and experience and appropriate expertise. The expertise differs with the type of board but between them members should have financial, business, legal, and management expertise and knowledge of the particular industry in which the organisation operates.

Boards are increasingly used in portfolios and representatives of an agency can serve on a variety of entities including State Owned Enterprises, statutory authorities, advisory committees, and in partnership arrangements.

The accountabilities of agency boards, such as those found in police forces, include financial and other legal responsibilities. Their structure may include subcommittees responsible for such things as internal audit, governance and appointments.

The Victoria Police board has a slightly different structure. The Chief Commissioner is accountable to both the Minister of Police and the Minister of Finance. She is the head of the Police Corporate Committee and its six standing committees: People Management and Development, Information Technology, Ethical Health, Organisation Development, Policy Operations, Finance and Physical Resources. The Victoria Police Audit operates as a separate unit outside the Board committees.

External accountability is to the Auditor General, the Office of Police Integrity and the Ombudsman. External auditing is conducted by the Auditor-General and a formal report is made to the Portfolio Minister and the Minister for Finance.

The governance structures of many government entities, similar to the Police board, fall somewhere between a governing board and an advisory committee. An example is the Victorian Police Board which has a different structure to either an Advisory Committee or the Board of a government business entity. Although it is called a 'Board', it does not exhibit many of the characteristics expected of a Board. It sets the strategic directions of the organisation, controls the budget, reports on activities, but does not appoint or review the performance of its Chair, the Chief Commissioner, and it has limited autonomy or independence.

I noted that ratings of the performance of the Chief Commissioner appeared in the AGE newspaper on Monday 6 Feb 2006: Minister Tim Holding gave her a score of 10 out of 10; Police Association Secretary Paul Mullett gave her 9 for the first three years and 5 for the last two; and even the Shadow Minister gave her 7.5 out of 10. Although no credence should be attached to these ratings, the use of ratings is indicative of the wide acceptance and expectations that there should be ratings of the performance of boards and their members.

Members of the Victorian Police Board include representatives of the major entities responsible for implementing the various programs and it also acts as a board of review in relation to implementation of programs. This type of structure is not unusual to many boards in the public sector today.

State Owned Corporations and Advisory Committees

It is useful to distinguish between a board appointed to manage a government business corporation and an advisory committee. Businesses are incorporated under the corporations law and members have the same duties and responsibilities as boards in the private sector.

The Australian Wheat Board enquiry is an example of where a government has divested itself of direct responsibility for an activity, in this case wheat sales, to a corporation in the private sector. Yet, to the public at large the government is still perceived as being responsible. It is a good example of how political responsibility is not as easily divested as financial responsibility.

In addition to agency board committees, there are many advisory committees, particularly in statutory authorities, to advise and make recommendations to a minister in relation to their industry. Therefore, it is also useful to distinguish between a board appointed to manage a government entity and an advisory committee.

Statutory and Advisory Committees

There are major differences between the responsibilities of government sector boards and advisory committees. An executive board is not seen as a representative institution but is appointed, usually by legislation, to be responsible for the vision of the organisation and overseeing its execution.

The accountabilities of boards include financial and other legal responsibilities and consequently, a board acts with independence in setting its targets and its structure may include subcommittees responsible for such things as audit, governance and appointments. Auditing is conducted by the Auditor-General and a formal report is made to the Minister. Membership should be based on the merit principle and the requirements of a board for particular skills or expertise.

In contrast, an advisory committee is often a representative committee, appointed by the Minister. There is little independence and accountability rests with the Minister or Senior Officer of the relevant government agency. In making appointments the key criteria for appointment is often the extent to which members represent some particular group or constituency. In making appointments the key criteria for appointment is often the extent to which members provide knowledge of or represent some particular group or constituency.

In a review of statutory and other authorities Uhrig stated that the board committees set up in the public sector are unlike the board committees that operate in the private sector, and have their own independent decision making power. They are only to (Uhrig 2003: 97):

assist in the efficiency of operations and for reasons of accountability, (and) committees should operate with a clear written mandate from the full board. The operations of committees should also be agreed including how committees will report to the board and how committees will interact with management and other relevant parties. This will clarify whether a committee has the power to make decisions and approve management proposals or report to and make recommendations to the board.

In the public sector, apart from the general model of minister-board-management, there are also different governance arrangements such as the partnership models of governance between agencies or between a department and the community.

The partnership model of governance

Among the new models of governance is the partnership model of governance, a response to the complexity of the problems addressed and the environment in which police work. In a recent study of

Local Safety Committees, we found that local committees were successfully collaborating across agencies in whole of government and joined up government initiatives, and with local government, business and non-profit organisations to address local problems. Among the major problems hindering their performance were governance issues of ownership of the initiatives, lack of resources, and uncertain leadership and accountability.

Governance Policies and Principles

Governance principles refer to: governance policies, the roles and powers of the various boards and committees, and the provision of governance infrastructure.

Compliance with Governance Principles

In a recent study of governance in the Victorian Department of Treasury and Finance CICGR used a series of questions to evaluate whether the Department was complying with good governance infrastructure requirements (Table 4).

Table 4. Evaluation of compliance with governance policy and principles

Is there a top-level governance/audit/ethics committee of the governing body?
Is governance a standing item on the governing body's agenda?
Does this body have a term of reference attuned to managing governance issues and does it meets regularly to discuss these issues?
Is there a senior executive with overall responsibility to governance in the organization?
Is there an organisational governance plan that is endorsed by top management, implemented and monitored?
Is there a "Governance" Manager, i.e. someone who has the day-to-day responsibility of ensuring the smooth running of the program i.e. implementation and maintenance of the organisation's governance plan?
Is there a cross-functional middle management governance committee that oversights and pulls together the relevant aspects of governance?
Are there adequate resources to ensure governance outcomes?
Is corporate governance training provided?

Source: CICGR Evaluation of Governance in the Victorian Department of Treasury and Finance

The premise underlying these principles is that good governance infrastructure is required if governance practices are to work. These are evident in the commitment of the top management demonstrated by the presence of governance policies, governance sub-committees, adequate resources and regular reporting of governance issues to the board.

Board Composition

A general consensus in the literature is that effective boards have between 7 and 15 members, a balance of power and authority between the members, a diversity of representation of gender, age, skills and international experience where appropriate. In private boards a majority of members should be independent members. Many public sector boards include independent members because they offer a different perspective on activities and in some boards can offer a balance of power when a board is chaired by the CEO.

Table 5. Board composition

Structures: Board Composition
Size: 7-15 members
Balance of power and authority
Majority of independent directors
Appropriate expertise(financial, business, legal, management, industry)
Diversity of members (to meet needs gender, age, international)

In regard to Board committee structures best practice suggests that a board's committees should include at least Nomination and Audit Committees but could also include Remuneration, Governance/ethics, corporate social responsibility, Investment and Public policy committees.

In Victoria, under the Financial Management Compliance Framework from the Department of Treasury and Finance, government entities must establish an Audit Committee with at least 2 independent members unless an exemption is obtained. Where the responsible body is a board, the Audit Committee must have at least 3 non-executive directors and the Accountable Officer and CFAO are not to be members of the committee.

Selection of Board Members

The NSW Audit Office has summarised best practice on the selection, appointment and removal of board members in state owned enterprises (Table 5). Selection and appointment decisions and processes should be recorded and maintained, and, with board policies, disclosed to new directors and supported by induction training. A board should review the mix of skills and experience of its members to ensure it has an appropriate mix of skills (but stopped short of indicating what these could be) supported by induction and professional development programs. Legislation should provide a clear basis for removal of a board member and the Chair and CEO should resign from a board when they resign from those positions. A Code of conduct approved by the board should set out the ethical and behavioural expectations for both directors and employees.

Duties of Members of a Board

Members of a board have both duties and responsibilities. Duties are defined by legal requirements. The prime duties are duties of loyalty and good faith, care and skill. The first of these, a duty of loyalty and good faith, means to act in good faith in the interests of the organisation and for a proper purpose, to retain discretions and to avoid conflicts of interest.

Table 6. Responsibilities of individual members

Fulfil functions of the board:	
o	Legislation should clearly define roles, responsibilities and relationships of key stakeholders
o	Government and Ministers should provide boards with written guidance on the boards decision making authority
o	Internal control: procedural, financial and operational systems
o	Stewardship:
o	ensure public funds are safeguarded, used economically, efficiently and appropriately
o	risk management
o	Appropriate and balanced reporting to stakeholders (board and organisation, external interests)
Responsibilities: Meetings	
o	Attend meetings regularly
o	Read background material and minutes
o	Be willing to serve on committees
o	Ask questions and contribute to the discussion
o	Keep comments relevant
o	Keep confidential information confidential
o	Request and be open to feedback from the community, police members and other members
Responsibilities to the board:	Source: BC Police Board Handbook
o	Represent the interests of the whole police board and department
o	Be willing to negotiate and compromise
o	Respond quickly and effectively to issues/problems
o	Anticipate issues/problems before they develop
o	Be willing to set aside personal agendas
o	Respond objectively to department and community
o	Demonstrate discretion and common sense in communications
Responsibilities to other members:	
o	Work as a team
o	Model appropriate behaviour (Code of ethics & conduct, management of conflicts of interest)

A duty of care requires a board member to act in a prudent and diligent manner keeping informed as to the policies, business and affairs of the department. Meeting the duty of skill requires members to use their knowledge and expertise effectively when dealing with the affairs of the department.

Responsibilities

Responsibilities (Table 6) are more closely aligned to best practice. They concern fulfilling the functions of a board, following the relevant legislation, following standing orders or rules for procedures at meetings, and managing performance at meetings and relationships with the other members of the board including working as a team and modelling appropriate behaviour. Standards Australia suggests that Boards should have a Code of Board behaviour.

Board independence

It is entirely appropriate for a government to determine priorities. An issue is the extent to which the independence of the Commissioner and the police board is compromised, the Commissioner because of political influence and the board because of an imbalance in power and authority.

One of the tenets of the Westminster tradition has been the independence of the law enforcers from political interference. Police have traditionally guarded that distinction. Yet, with the new controls and requirements for accountability, political intrusion is more possible, if not probable. A study reported in the Australian Journal of Public Administration of the experiences of senior Commonwealth public servants reported that in many supposedly 'independent' authorities, ministers interfere in ways as diverse as inconsistency in interpretation of the role of the minister or ministerial staff, 'informal' meetings or communication giving directions to board members, appointing 'friendly' chairs or

members to boards (Cosmo and Seth-Purdie 2005), and exercising control of budgets. Others have described instances in NSW where a police commissioner suffered from being sidelined by the relevant police minister who began making appointments and other operational decisions.

These raise governance issues about the roles and responsibilities of politicians, Police Commissioners, and boards.

Board independence in the private sector can be evaluated by measures such as a majority of independent members, the independence of the Chairperson from management, disclosure of and protocols to manage conflicts of interest, the active involvement of directors in Agenda setting and opportunities for periodic meetings, separate from the CEO and management, by non-executive members..

While the independence of directors on private sector boards may be compromised by dominant shareholders (such as was the case with News Limited), the independence of boards in government entities is more complex. Often they are chaired by the Commanding Officer, their responsibilities are to approve major decisions made by others, and they can only make recommendations (rather than decisions) to the Minister.

In public sector boards we have studied, we found that when the CEO was the chair, the power and influence of the CEO was seen as an advantage for the board but that the down side was that it also stifled comment and questions especially by those who were members of staff.

The best practice criterion is that there should be formal definitions of the roles, responsibilities, and duties of the Chair, members and ministers. The process for decision making should be transparent and directives from Ministers should be in writing. A separate issue is that members of boards should have the right to seek independent advice on an issue before the board.

Best practice suggests that there should be a distinct distinction between the responsibilities of a board and the operational responsibilities of management. Cadbury and Millstein (2005, p.7) Cadbury and Millstein 2005 state that: "This functional division may be achieved by separating the governing board from the management board, or by separating the roles where those who direct also manage. The task of the governors is to direct and control, and that of the executive to manage". Cadbury and Millstein 2005 make the distinction between direction and management. Direction and control are the task of governors, while that of executives is to manager. In their article they are referring to the private sector. In the public sector, once again, this distinction is not so clear.

Evaluation of best practice in maintaining board independence in the public sector would see a separation of the governing board from the management board or statements of clear formal roles where those who direct also manage. Without it, confusion can occur over where the power for a decision lies and therefore who can be held accountable for decisions and actions.

All individual members of boards are expected to exercise independence of judgment on all matters. This means acting in the interests of the organisation, not of sectional interests. It also means managing meeting procedures (which are found in the Act and Standing Orders), being prepared, asking the right questions, when appropriate taking a stance and promoting a point of view, and making decisions based on logic and evidence. And, in all this, to operate in a spirit of co-operation, discussion/dialogue and participation.

I should mention here "cabinet solidarity", that is, maintaining confidentiality of discussion and decisions and supporting in practice and spirit the decisions arrived at by the board.

Board functions

The functions of boards operating in both the private and public sectors are similar. Table 7 shows the function of police boards in Canada and Australia. The major difference is the appointment of the Chief Constable in Canada where assessment of performance is a function of a governing board while appointments at this level in Australia are not the prerogative of the board but the portfolio Minister. This has a major bearing on the independence of a board.

Table 7. The functions of police boards

Board functions: Canada	Board functions: Australia
Appointment of the Chief Constable	Executive board
Provide direction and approve strategic plan/values	Provide forum for collegiate leadership under CEO
Identify performance measures and set targets	
Policy formulation	Plus
Approve budget	Client/customer satisfaction
Monitor control, performance, risk, compliance	Relationships with external stakeholders
Approve hr plan	Internal and external communications
Reporting	Employee relations
Assess performance of the CEO/Chair	Acquisition and divestment strategies
Assess performance of the board and members	Balance short and long term issues
Source: British Columbia Police Board 2004; ANAO 1997	

Board Self-assessment

The selection of any method of evaluation depends on the purpose of the evaluation. Board self-assessment is designed to improve the operations of a board; internal auditing monitors issues related to operational accountability, and external auditing often emphasises performance indicators, risk management and compliance.

In the exercise prepared for this session you were invited to complete a board assessment. Using a rating scale board members can see where a board is not meeting best practice criteria.

The results of board performance are rarely benchmarked against external organisations. An exception is a series of studies of large corporate companies in Sweden by Professor Rolf Solli, one of our CICGR Advisory Board members who videot board meetings and subsequently analysed the results to evaluate the performance of the boards and their members..

Table 8. Assessment of board effectiveness: Elements in the CICGR self-assessment checklist

Compliance with terms of reference and board responsibilities
Leadership
Structures and relationships
Performance
Accountability
Compliance with legal requirements and duties

In CICGR we have been working with boards using self-assessment checklists which can be most useful is in assessing performance against world best practice and identifying areas for improvement. It appears that an external facilitator is more successful in facilitating the process than an internal one.

Accountability

Accountability is at the heart of good governance. Experiences over the past few years with the failure of government entities such as the State Bank in SA, and Enron, OneTel, HIH and more recently with AWB in the private sector provide compelling reasons to believe that where there is little or no accountability there is a substantially increased risk of damage to the organisation's performance and reputation. In all cases, the failure of the entities was due to ineffective boards, lack of asking the right questions and lack of control over senior management.

In the case of the SA State Bank, the Auditor-General said (referred to by Henry Bosch, 1995 p.110):

There is nothing esoteric about asking questions, seeking information, demanding explanations and extracting further details. There is nothing unduly burdensome in expecting each director, to the best of his or her ability, to insist on understanding what was laid before them, even at the risk of becoming unpopular. Both the law, and a basic sense of duty and responsibility, demand it.

Internal accountability of governance is achieved through organisational policies, codes of ethical standards, the cultural ethos, disciplinary regulations, internal audit controls and transparent and accurate reporting. Most police departments have an Audit Committee reporting to their Board to which the internal audit unit may also report; they are audited by the Auditor-General and as stated above, the Chief Commissioners report to their Portfolio Minister and the Minister for Finance. There is also monitoring by the Ombudsman and the Office of Police Integrity. The final arbiter of accountability is the media.

Conclusion

Evaluation against benchmarks describing world best practice can be useful as are board self-assessments. A self-assessment can rate the extent to which individual board members comply with their code of conduct including disclosure of personal interests and potential and actual conflicts of interest.

Have we found the Holy Grail of governance? No. far from it. There are significant gaps in our knowledge of how governance is practiced in the public sector, how governance should be implemented and what benchmarks could exist across police jurisdictions.

Lack of research evident in many areas includes:

- Implementing the change to best practice governance
- Balancing government priorities and police independence
- Extent of transparency and public access to relevant information
- Extent of control across State and National borders
- Indigenous community relationships
- Accountability in outsourcing/partnership arrangements
- Accountability in private policing
- Information sharing, data flows, privacy and accountability
- Community participation/governance
- Benchmarking governance across jurisdictions

In conclusion, governance matters because it contributes to the sustainable long term success of any organisation. It matters because it ensures citizens can have a more transparent and productive relationship with their police force.

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