

WHAT IS LAW ENFORCEMENT CORRUPTION?

'Corruption' is a nebulous term, and is frequently misunderstood and misapplied. ACLEI uses a descriptive approach to give the term meaning in the law enforcement context.

Corruption involves improper actions or abuse of power and trust by an official. It entails conduct that undermines or misuses the legitimate functions of a law enforcement agency, or of a position within an agency, for criminal, political or personal purposes.

Identifying what makes conduct *corrupt* rather than simply *unlawful* or *unethical* is difficult. Corrupt conduct may involve a crime, but not always. A person could act lawfully, but corruptly. A person's intention in acting in a particular way is relevant, but is not always the final factor in deciding if conduct were corrupt.

'Corrupt conduct' is defined in section 6 of the LEIC Act as applying to three categories of improper activity by a public official with law enforcement functions, namely conduct that is engaged in for the purpose of:

- abusing his or her office as a staff member of a law enforcement agency;
- perverting the course of justice; or
- corruption of any other kind, having regard to the duties and powers of the staff member.

The LEIC Act definition is deliberately broad, because corruption may involve a wide range of misconduct or behaviour, and because corruption is adaptable – like crime, it changes to take advantage of new opportunities.

The special role and powers of law enforcement agencies mean that corruption may manifest in particular ways within those agencies. Examples of behaviour that may indicate corruption in a law enforcement context are listed on the following pages.

ABUSE OF OFFICE

1. Conduct that seeks to gain profit or benefit for self or others

- accepting, receiving or seeking illegitimate rewards, ‘kickbacks’ and/or bribes for any service (including services that would normally be provided free of charge in the course of normal duties);
- providing preferential treatment in expectation of a reward;
- accepting, receiving or seeking rewards on behalf of another person, with or without that person’s consent;
- accepting, receiving or seeking payment for any corrupt act;
- improperly selling services or information to any person;
- extorting, or attempting to extort, benefits of any kind; or
- stealing money, property or drugs during arrests, execution of search warrants or other contact with the public.

Profits and benefits do not need to be of a high value. They may include: money, drugs, sexual favours or any other items. Advantages or favours may be for self or other people or groups.

2. Conduct that uses proper powers and discretions for an improper purpose

- misusing legitimate authority to apply discretion such as:
 - ‘turning a blind eye’ to the criminal actions of friends, family or criminal associates;
 - punishing or investigating other people without adequate cause;
 - favouritism in the discharge of duties (for example issuing fines or other penalties to one group, but not to another).
- misusing detention powers, such as unwarranted arrest or misuse of bail procedures;
- misusing surveillance, telephone interception or search powers;
- knowingly providing incorrect information in an affidavit to obtain access to intrusive powers;
- using powers to blackmail, extort or threaten individuals or organisations;
- excessive use of force (or threats) with a purpose to elicit information or prevent information from coming forward (see also 5); or
- using privileged access to information for personal purposes.

3. Conduct that uses law enforcement functions to support or assist criminal activity

- participating in criminal activity, including using agency property, for example vehicles, uniforms, firearms or surveillance devices;
- offering or providing protection to criminal activity;
- offering or providing information to one or more criminal groups (see also 4);
- engaging in any activity that sabotages law enforcement efforts (see also 5);
- diverting law enforcement efforts or attention to, or away from, an activity in order to advantage one criminal group over another; or
- using poor investigation practices to evade scrutiny of criminal activity.

4. Conduct that misuses information* to support or assist criminal activity

- seeking or obtaining classified, sensitive, confidential or personal information, for any improper purpose;
- improperly seeking or obtaining information about law enforcement investigations, methods, processes or plans;
- providing or leaking information to unauthorised persons about individuals, witnesses, investigations or any aspect of law enforcement (including 'backroom' information not directly related to an investigation);
- providing or leaking information to unauthorised persons that may assist them in a criminal act or that may advantage one criminal group over another; or
- making unauthorised public comments about law enforcement methods, practices or targets.

* 'Information' may include:

- the personal or financial affairs of a colleague or law enforcement employee;
- witnesses, informers or anyone connected with an investigation or prosecution;
- criminal intelligence;
- assumed identities;
- detection or investigation methods;
- criminal methods;
- planned law enforcement actions or investigations (for example, a 'tip-off' about a pending execution of search warrants or a timetable for regulatory inspections or interdictions);
- information technology or computer databases (that may assist hackers); or
- anything else that could provide an advantage to criminal activity.

PERVERSION OF THE COURSE OF JUSTICE

5. Conduct that sabotages the impartial detection, investigation and prosecution of crimes

- agreeing to 'look the other way' when a crime is committed;
- interfering with evidence, including failure to properly collect or document evidence;
- planting, falsifying evidence or 'verballing' to get a conviction or to 'frame' a person;
- destroying evidence which could incriminate a suspect or clear another;
- withholding criminal intelligence or information from an investigation;
- laying false charges, not laying charges or laying lesser charges;
- committing perjury; or
- interfering with witness testimony or prosecution processes using bribery, extortion, blackmail or other promise, threat or inducement.

CORRUPTION OF OTHER KINDS, HAVING REGARD TO THE DUTIES AND POWERS OF THE STAFF MEMBER

6. Conduct that may assist infiltration of an agency by criminal or corrupt groups

- 'grooming' or introducing others to corruption opportunities;
- forging qualifications or references to get a job or help place a person in an agency;
- favouritism or nepotism in recruitment, promotion or transfer;
- passing on information about recruitment or promotion practices; or
- leaking information about individuals engaged in investigations, joint operations, taskforces, etc.

7. Conduct that places at risk the impartial function of an agency

- improperly associating with criminals;
- engaging in criminal or suspect activity, such as illicit drug-taking or heavy gambling;
- using the uniform to support private business, for example, to imply law enforcement support for a questionable activity; or
- using a police vehicle, firearm or other law enforcement-related property for private or illegitimate purposes.

8. Conduct that facilitates corruption

- failure to declare conflicts of interest or improper associations;
- failure of supervisor to manage or treat conflicts of interest raised or declared by staff;
- accepting a 'share' of profit or benefits from others' corrupt activities;
- failing to report corrupt activity or misconduct;
- attempting to cover up or hide misconduct or corrupt behaviour of self or others; or
- obstructing inquiries of the Integrity Commissioner and others responsible for investigating corruption and misconduct.