

CHAPTER 2

INTEGRITY TESTING: AN OVERVIEW

Introduction

2.1 Integrity testing is a term that is used to describe a range of activities designed to assess compliance with the integrity requirements of an office. In essence, integrity testing involves putting an individual in a simulated situation where corrupt behaviour can occur, and observing the individual's behaviour. Such a test can be arranged on a targeted basis as a result of specific intelligence about an individual or group, or on a randomised basis in order to provide a general deterrent. Targeted integrity testing of police officers occurs in a number of jurisdictions, including New York City, Hong Kong, London and in most Australian states, although not currently at the Commonwealth level.

What is integrity testing?

2.2 A number of descriptions of integrity testing were provided in submissions. For example, the Australian Commission for Law Enforcement Integrity (ACLEI) described integrity testing as follows:

As an anti-corruption measure, an integrity test is an observed, covert, simulation that tests an employee's adherence to the law (relating to the employee's duties) or to key agency guidelines through a 'realistic scenario' which is designed to allow a subject a clear choice to pass or fail. A subject will 'pass' an integrity test if his or her conduct was consistent with organisational and legislative requirements. A subject will 'fail' an integrity test if, for example, he or she engaged in corrupt activity or criminal behaviour.¹

2.3 The Attorney General's Department gave a similar description, submitting:

Within the law enforcement context, integrity testing refers to the act of covertly placing an officer in a simulated situation designed to test whether they will respond in a manner that is illegal, unethical or otherwise in contravention of the required standard of integrity. The test must provide the subject with an equal opportunity to pass or fail the test. Depending on its severity, the consequences of failing integrity tests can include disciplinary action, termination of employment or criminal charges.²

2.4 The defining factor in integrity testing is therefore the simulated nature of the scenario in which an individual is placed. This differentiates it from traditional anti-

1 ACLEI, *Submission 4*, p. 4.

2 AGD, *Submission 5*, p. 1.

corruption investigation tools, which seek to substantiate corrupt behaviour that has already occurred.

2.5 Most of the examples of integrity testing provided to the committee are targeted at police officers. Typical scenarios might include:

- a covert operative handing in a wallet containing cash to a police officer or police station, and observing that correct handling protocols are observed³;
- leaving valuable goods at a simulated crime scene, such as at a burglary or in a stolen vehicle, to test whether an officer steals the items³;
- a covert operative offering an officer a bribe³;
- handling and or on-selling of illicit substances such as drugs;⁴ or
- putting false information in a database so that a person who you suspect of unlawfully disclosing that information to another person would then see that information and then disclose it.⁵

2.6 While failing the tests set up in these examples would probably constitute a criminal offence, in practice, integrity testing can be used to target behaviour ranging from minor misconduct to serious corruption.

2.7 At the less serious end of the spectrum, ACLEI notes that 'mystery shopper' programs that test the quality of customer service is a form of integrity testing – in this case, testing that employees are meeting department standards of service.⁶

2.8 Reflecting on the different uses of integrity testing, ACLEI submitted:

[D]epending on the behaviour being tested and the design of the program, the results of individual tests may be used for training purposes, for disciplinary purposes, or to found criminal charges. Again, depending on the program design, a scenario may specifically test behaviour that may constitute corruption, or may test lower-level wrong-doing that, if left unchecked, would contribute to a poor ethical culture and may lead to corrupt conduct becoming widespread. In both types of model, the policy purpose includes creating an “omnipresence” – a wide deterrence effect based on the prospect that wrongdoing is more likely to be detected than not.⁷

2.9 Submissions and witnesses also distinguished between integrity tests that are conducted on a targeted or random basis. A targeted integrity testing regime is

3 Anti-Corruption Resource Centre, Corruption and possible cures FAQ, <http://www.u4.no/helpdesk/faq/faqs2b.cfm>, accessed 5 November 2011.

4 Mr Philip Moss, *Committee Hansard*, 13 October 2011. p. 2.

5 Mr Philip Moss, *Committee Hansard*, 13 October 2011. p. 5.

6 ACLEI, *Submission 4*, p. 5.

7 ACLEI, *Submission 4*, pp 4– 5.

intelligence-based and targets individuals or groups suspected of engaging in corrupt conduct. For a targeted test to occur, some kind of trigger is required, such as a complaint, allegation, identified pattern of behaviour or some other basis that gives rise to suspicion.

2.10 In contrast, integrity testing may also be conducted on a random basis, where individuals or groups are tested in the absence of any suspicion of corruption. All individuals with the organisation have an equal chance of being subject to a test. In practice, the committee is aware that the distinction between random and targeted testing is not clear cut. For example, an integrity testing regime that targets particular sections of an organisation on the basis of higher corruption risk, but in the absence of any intelligence about corrupt behaviour, could be considered either random or targeted depending on the definition used. The terms 'random' and 'targeted' are at either end of a spectrum of integrity testing methodologies.

2.11 A key difference between the two categories is that random testing is focused on deterring unacceptable conduct whereas targeted testing is primarily for detecting or investigating unacceptable conduct (although there can be a flow-on deterrent effect).⁸ As the Attorney General's Department submitted:

Random integrity testing involves the testing of officers who are not under suspicion for any specific corruption or misconduct. Its primary goal is deterrence from engaging in such behaviour. Random integrity testing can be applied widely within an organisation, or only to specific areas or units that may be subject to a higher risk of corruption. Random integrity testing is not an investigation, although its outcomes may lead to one.

Targeted integrity testing involves the selection of officers for testing based on intelligence gathered by other methods. Targeted integrity testing can be conducted in relation to individuals or groups. Its primary goal is to proactively 'catch' or 'clear' the target. Targeted integrity testing can be conducted as part of a formal criminal investigation relating to corruption.⁹

2.12 In the following chapter, the committee considers the relative merits of targeted and random testing regimes in the context of the possible introduction of a Commonwealth integrity testing regime.

History of integrity testing

2.13 Police integrity testing appears to have been first introduced by the New York City Police Department (NYPD) in the 1970s. The Commission to Investigate Alleged Police Corruption (Knapp Commission) found that traditional investigative techniques

8 AFP, *Submission 10*, p. 3.

9 AGD, *Submission 5*, p. 2.

were of limited value and obtained greater success using undercover police in 'sting' operations.¹⁰

2.14 Its purpose was and continues to be to provoke a response from a targeted police member to ascertain whether that member shows sufficient integrity to resist the temptation of personal gain and avoid committing a criminal offence or disciplinary breach.¹¹

2.15 Following the Knapp Commission, the NYPD instituted an ongoing integrity testing regime. Historically, operations included:

- an undercover policeman giving a uniformed officer a 'found' wallet full of money and observing whether protocol was observed in logging the lost property;
- 'set-up' arrests of undercover personnel who possessed measured quantities of narcotics or cash, with subsequent testing to ensure that these amounts were tendered as evidence; and
- Planting of valuable contraband in a police car or at the scene of a supposed burglary, to observe the behaviour of the attending officer.¹²

2.16 The NYPD used both random and targeted integrity tests. However, in 1996, a KPMG report found that the results of randomised testing did not justify the cost. The NYPD subsequently moved to higher levels of targeted testing, though it retained a reduced randomised regime.¹³ Nevertheless, the committee understands that random testing remains a significant part of the NYPD's overall integrity testing strategy.

2.17 Hong Kong's Independent Commission Against Corruption also has a long-running integrity testing program, which it deploys across the public sector, as well as in relation to police.¹⁴

2.18 In the United Kingdom, integrity testing was introduced into the London Metropolitan Police in 1998, with potential expansion to cover constabularies then foreseen.¹⁵

10 T. Prenzler and C. Ronken, *Police Integrity Testing in Australia*, Criminology and Criminal Justice, 1(3) 2001, p. 320.

11 Commonwealth Ombudsman, *Submission 1*, p. 3.

12 Vincent Henry, Lifting the Blue Curtain: some controversial strategies to control police corruption, National Police Research Unit Review 6, 1990, pp 51–52.

13 *Executive Summary: 1. New York City Police Department: Random Integrity Testing Program*, NYC Commission to Combat Police Corruption, 1996.

14 ACLEI, *Submission 4*, p. 4.

15 Prenzler and Ronken, p. 323.

Integrity testing in Australia

2.19 New South Wales adopted police integrity testing measures as part of the Wood Royal Commission in the 1990s.¹⁶ The NSW regime, which involved targeted rather than random testing, drew heavily on the NYPD model.¹⁷ The actual testing is conducted by the Professional Standards Command within the NSW Police, and enabled by specific legislative provisions.¹⁸

2.20 Of the 90 integrity testing operations conducted in NSW until 1999, 37 per cent were failed, 27 per cent were passed, 12 per cent were forwarded for further investigation and 24 per cent were inconclusive or were discontinued. 51 criminal charges followed from the failed tests, of which 54 per cent were against police, 23 per cent against staff and 23 per cent against civilians.¹⁹

2.21 Sworn members of the New South Wales Police can be targeted for a test on the basis of intelligence, including complaint patterns. The *Police Act 1990* supports the integrity testing program by providing that actions committed for the purpose of running an integrity test are considered lawful.²⁰

2.22 Victoria introduced targeted testing for its police force in 1998.²¹ Victoria Police operates an Integrity Testing Unit, within its Ethical Standards Department.²² As with other Australian jurisdictions, Victoria Police operates a targeted, not random, integrity testing regime. The Victorian capability is supplemented by the Office of Police Integrity's own dedicated integrity testing unit.

2.23 Western Australia Police (WAPOL) can authorise targeted integrity tests. In 2005, WAPOL and the Corruption and Crime Commission (CCC) formed a joint Targeted Integrity Testing Unit that provided integrity testing with the benefits of the CCC's legislative powers and WAPOL's operational experience.²³ Proposed changes to legislation may enhance the state's ability to conduct integrity testing. The CCC

16 Prenzler and Ronken, p. 320.

17 Prenzler and Ronken, p. 328.

18 *NSW Police Act 1990*, s. 207A.

19 Prenzler and Ronken, p. 329.

20 Porter, L. & Prenzler, T. (2011). *A National stocktake of police integrity strategies*. Brisbane: Australian Research Council Centre of Excellence in Policing and Security, Griffith University, p. 47.

21 Prenzler and Ronken, p. 331.

22 Porter, L. & Prenzler, T. (2011). *A National stocktake of police integrity strategies*. Brisbane: Australian Research Council Centre of Excellence in Policing and Security, Griffith University, p. 165.

23 Porter, L. & Prenzler, T. (2011). *A National stocktake of police integrity strategies*. Brisbane: Australian Research Council Centre of Excellence in Policing and Security, Griffith University, p. 194.

itself can conduct both random and targeted tests on police officers, although it is unclear that any random tests take place.²⁴

2.24 In Queensland, the Crime and Misconduct Commission conducts integrity tests on Queensland Police officers, on a targeted basis only. Criteria have been developed in order to assess the seriousness of the response against the seriousness of the case. For example, integrity testing would only be used in cases where a criminal offence which might warrant dismissal is suggested.²⁵

2.25 Similarly, in South Australia, targeted integrity testing is also an available tool that has been used to aid internal investigations, generally conducted by the South Australian Police Anti-Corruption Branch rather than the Internal Investigations Section. Random integrity testing is not used on the basis that it raises significant resource issues.²⁶

2.26 Tasmanian legislation also allows for the Tasmanian Police to conduct integrity tests, but this does not occur in practice.²⁷ Northern Territory Police does not conduct integrity tests due to resource constraints.²⁸

2.27 While police integrity testing regimes have been introduced in most Australian states, there has been no integrity testing regime for Commonwealth law enforcement officers. In the next chapter, the committee considers whether the introduction of integrity testing at the Commonwealth level is desirable.

24 Mr Robert Sutton, CCC, *Committee Hansard*, 9 September 2011, p. 2.

25 Porter, L. & Prenzler, T. (2011). *A National stocktake of police integrity strategies*. Brisbane: Australian Research Council Centre of Excellence in Policing and Security, Griffith University, p. 119.

26 Porter, L. & Prenzler, T. (2011). *A National stocktake of police integrity strategies*. Brisbane: Australian Research Council Centre of Excellence in Policing and Security, Griffith University, p. 132.

27 Porter, L. & Prenzler, T. (2011). *A National stocktake of police integrity strategies*. Brisbane: Australian Research Council Centre of Excellence in Policing and Security, Griffith University, p. 153.

28 Porter, L. & Prenzler, T. (2011). *A National stocktake of police integrity strategies*. Brisbane: Australian Research Council Centre of Excellence in Policing and Security, Griffith University, p. 84.