

POLICE INTEGRITY TESTING AND ITS OUTCOMES IN THE REPUBLIC OF SERBIA

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Abstract: The article addresses integrity testing and its outcomes in the Serbian police practice. Besides defining integrity testing and outlining the procedure for its initiation and implementation within the existing legislative framework, the article also considers potential obstacles to applying integrity tests in certain areas of police work. Research on the integrity testing of police employees is based on data provided by the Report of the Internal Control Department, the authorized organizational unit of the Ministry of Interior responsible for implementing integrity testing. The data includes tests conducted from 2019 to September 2024. The research findings show that the focus of integrity testing was solely on police officers conducting police tasks in the capacity of authorized officials. Regarding the area of work, the tested officers were employed in the Uniformed Police Department and the Traffic Police Department. The integrity testing has proven to be a significant investigative tool for detecting corruption and other forms of unlawful behavior by police officers, as 28.8% of the tested officers failed to demonstrate their professional integrity. The results of the integrity testing revealed the presence of criminal offenses related to corruption, such as Abuse of Office and Soliciting and Accepting Bribes. This led to the filing of 15 criminal complaints against five police officers. Disciplinary proceedings were initiated against two police officers for severe violations of official duty. However, at this stage, integrity testing does not produce satisfactory outcomes, as police officers who fail to demonstrate professional integrity may evade criminal prosecution and, in some cases, even the initiation of disciplinary proceedings.

Keywords: *police, integrity, tests, outcomes, Republic of Serbia.*

Field: Social Sciences

1. INTRODUCTION

Professional and efficient police play a key role in maintaining public order in every country and represent an essential actor in the fight against corruption and organized crime, as a strategic goal for all modern countries. To effectively and legally fulfill its intended role, the police must act in accordance with all valid regulations and the code of police ethics. The issue of integrity is crucial for the police profession, especially for determining the legitimacy of the police as a body of executive government, whose task is to uphold the rule of law (Hickman et al., 2016). Various forms of police integrity violations, such as undisciplined behavior, corrupt behavior and police torture, represent a problem that has stimulated significant reforms within the police internal control system (Brkić, 2018). Police agencies around the world are striving to develop innovative strategies to prevent and detect violations of police integrity, such as integrity testing programs for police officers.

The integrity testing program was originally instituted in 1995 by the New York City Police Department's Internal Affairs Bureau (IAB) as a specialized corruption detection tool (Davis et al., 2000, p. 1). The integrity test represented a "sting operation", i.e., the use of undercover officers who create an artificial situation or condition designed to provoke a reaction from the police officer being tested, in order to observe whether the subject will act, or refrain from acting, in a way that aligns with the Department and legal guidelines (Girgenti et al, 1996, p. 3). Since its inception, police agencies in numerous states have implemented integrity testing.

Essentially, the testing is conducted by placing the police officer in a situation where they are given the opportunity to engage in unlawful or unethical behavior, without being aware that the situation is simulated. For example, police officer from the Internal Control Department (ICD) may conduct integrity testing by acting as a citizen who offers a bribe to a traffic police officer who stops him for speeding (DCAF, 2020, p. 7). The focus is on observing the reactions and behavior of the officer being tested in this simulated situation to assess his/her professional integrity, i.e., whether he/she refuses or accepts the bribe. In this context, integrity testing can be considered as an investigative method for evaluating the ethics and legality of a police officer's actions in a given simulated situation (Marinković, 2020, p. 594).

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In the scientific literature and police practice, integrity testing typically falls under two categories: random and targeted testing (Resimić, 2023; Pušić, 2022; Marinković & Kesić, 2020; Prenzler, 2006; Prenzler & Ronken, 2001). Random integrity testing focuses on corruption trends and is not based on prior specific knowledge that those being tested are engaging in unlawful or unprofessional behavior or are prone to corruption (Pušić, 2022). This means that each police officer has an equal chance of being subjected to testing within a specified period, although random testing often involves specific geographic locations and commands. As a result, testing may also include police officers who diligently and flawlessly perform their official duties (Mandić & Đorđević, 2016).

For that reason, Miller (2016) argue that integrity testing should be applied exclusively as a targeted measure, focusing on individual officers or groups of officers who are reasonably suspected of committing relevant crimes. This kind of testing is initiated by preliminary, objective and reasonable information that provides sufficient reason to believe that the tested individual may engage in corruption or other unlawful or unprofessional behavior (Šakočius, 2021). Such knowledge is often based on operational/intelligence information or citizen complaints referring to a police officer or group of officers (Marinković & Kesić, 2020). However, such knowledge is not sufficient to initiate disciplinary proceedings or criminal prosecution against the individual involved; thus, targeted testing is used to further verify it (Prenzler, 2006).

The results of integrity testing can serve as the basis for taking further measures and actions against police officers who have not proven their integrity. In addition to the possibility that disciplinary proceedings can be initiated and conducted against such officers, a negative test result may be used to initiate operational and evidentiary actions to gather evidence for their criminal prosecution.

2. MATERIALS AND METHODS

The article presents a comprehensive overview of police integrity testing in the Republic of Serbia, covering its definition, the procedures for initiation and implementation, as well as the outcomes achieved. The research employed a theoretical analysis of available scientific and professional papers in this area, along with an analysis of the content of the relevant legal acts in Serbian legislation. The primary data source for this paper was the Ministry of Internal Affairs, Internal Control Department (ICD), which maintains records of implemented police integrity tests. Based on a written request submitted to the ICD, the authors gathered a report containing the requested information regarding integrity tests conducted since their introduction into police practice in 2019, up until the date of the request (September 2024).

The research study was guided by the research questions concerning the total number of police employees tested during the specified time period, their classification by status (police officers, civil servants, or state employees) and organizational unit in which they were employed. It also addressed the total number of positive and negative test results, the actions taken by the ICD based on those results against the tested employees, as well as the outcomes achieved (the initiation of internal disciplinary proceedings, filing of criminal complaints or other outcomes). Additionally, tabular representations were used to effectively present the summarized data under analysis.

3. POLICE INTEGRITY TESTING IN THE SERBIAN LEGISLATIVE

Integrity testing is regulated within the Law on the Police of the Republic of Serbia (hereinafter: LOP, “Official Gazette of the RS”, no. 6/2016, 24/2018 and 87/2018), and it is further determined by the Rulebook on the Manner of Conducting an Integrity Test (hereinafter: Rulebook, “Official Gazette of RS”, no. 39/2018). According to the Law on the Police, the integrity test is one of the anti-corruption measures that the Internal Control Department (hereinafter: ICD) shall apply during the implementation of the preventive activities (Art. 230, para 1). The implementation of the integrity test falls under the competence of its specific division - the Division for Preventive Activities.

The integrity test is defined as an assessment of the employees’ reactions and actions in a simulated situation, closely resembling their actual work activities, with no prior notification to the organizational unit in which the tested individual is employed (Art. 230a, para. 1 of the LOP). Given that the legislator uses the term “employee”, it can be concluded that all individuals employed in the Ministry of Internal Affairs can be tested. In terms of the Art. 10 of the LOP, employees at the Ministry shall be: police officers, civil servants and state employees.

In accordance with the provisions of the LOP, the integrity test must be conducted in compliance with the principles of legality, fundamental human rights and freedoms, and the professional integrity and dignity of the individual being tested (Art. 230a, para. 7-8). Finally, it is important to note that activities carried out during the implementation of the integrity test do not constitute special evidentiary actions as

outlined in the Serbian Criminal Procedure Code (Art. 230a, para. 9 of the LOP).

3.1. THE PROCEDURE OF INITIATING AND IMPLEMENTATION OF THE INTEGRITY TEST

To initiate the procedure for implementing the integrity test, a written and reasoned initiative from individuals authorized by law is required (Art. 4, para. 1 of the Rulebook). According to the provisions of the LOP, persons authorized by the law shall be: the minister, the Chief of Police and the Chief of the Internal Control Department (Art. 230a, para. 5). The initiative shall be based on a reasoned report that includes an analysis of employees' unlawful conduct within the Ministry, as well as an analysis of risk and exposure to corruption. It will also incorporate intelligence data, operational awareness of unlawful phenomena and events, and complaints regarding the employees' performance (Art. 230a, para. 4 of the LOP). After reviewing all the data and facts contained in the reasoning of the initiative, the Chief of the Internal Control Department shall issue a decision regarding the fulfillment of conditions for the implementation of the integrity test. Furthermore, the Chief is responsible for approving the implementation plan for the integrity test (Art. 230a, para. 6 of the LOP).

The integrity test may last up to twelve months from the date of approval of the Implementation plan (Art. 5, para. 2 of the Rulebook). The implementation plan must include detailed information about the place, time and duration of the test, including the anticipation of covert activities by police officers of the ICD who are directly conducting the integrity test and a security assessment of the test's implementation (Art. 6, para. 1, § 3–4 of the Rulebook). Police officers of the ICD are authorized to conduct the testing, and their actions during the implementation of the test must be anticipated in advance as a possibility in the prepared Implementation plan, considering that they may involve elements of unlawfulness or violations of official duty. These actions will not be considered as such only if they were necessary to achieve the purpose of conducting the integrity test, as anticipated in the plan and detailed in the report on the conducted test (Art. 7, para. 1–2 of the Rulebook). The Implementation plan must also specify the material, technical and financial resources that will be used during the implementation of the test, as well as the necessary fictitious means and documents (Art. 6, para. 1 of the Rulebook).

3.2. THE RESULTS OF INTEGRITY TESTING AND ITS EVIDENTIARY VALUE

After implementation of integrity testing, the police officers of the ICD have 15 days to prepare a report detailing all activities undertaken during the testing, the reactions and actions of the tested employee, as well as a statement of the results obtained (Art. 9 of the Rulebook). According to the provisions of the LOP, a positive result means that the tested employee has demonstrated professional integrity, i.e., that during the performance of official duties, he/she did not exhibit any unlawful behavior or tendencies toward corruption. A negative result indicates that the tested employee has inclination toward unlawful or corrupt behavior; therefore, collected material may be used to initiate and conduct disciplinary proceedings against him/her (Art. 230a, para. 11).

The legislator has adopted the stance that the purpose of applying integrity testing is to effectively identify police employees who are prone to non-compliance with regulations or ethical standards. The goal is to initiate and conduct internal disciplinary measures against them, rather than to gather evidence for use in criminal proceedings (Drozd et al., 2021). This stance is further supported with the argument often emphasized regarding the application of integrity testing: namely, that it has a provocative character. In line with the jurisprudence of the European Court of Human Rights, integrity tests for police employees must not involve any procedure or action that could be considered provocative (Šakočius, 2021, p. 304). Corrupt or other unlawful behavior of the tested employee should not result from the significant pressures created by the test (Prenzler, 2006, p. 396).

Accepting the results of integrity testing as evidence in criminal proceedings would require amendments to the provisions of the Serbian Criminal Procedure Code to explicitly recognize integrity testing as an evidentiary action. Given that such a solution is not incorporated into the current procedural law, the results of integrity testing may serve only as one of several indicators contributing to the establishment of reasonable suspicion that the tested individual has committed a specific criminal offense subject to ex officio prosecution.

On a practical level, if the integrity test report indicates a negative result for the employee being tested, it will be submitted to the competent public prosecutor, who may order measures and actions to be taken against him/her, in line with the provisions of the criminal procedural law (Art. 11, para. 2 of the Rulebook). This means that police officers of the ICD can take further appropriate operational measures and actions toward the tested employee. Once the conditions prescribed by procedural law are fulfilled, evidentiary actions may be undertaken, and their results can be admitted as evidence in criminal proceedings.

4. RESEARCH ON INTEGRITY TESTING AND ITS OUTCOMES IN THE SERBIAN POLICE PRACTICE

For the purpose of analyzing the integrity tests conducted in the Serbian police context, a written request was delivered to the ICD, asking for information regarding the number of integrity tests conducted since their implementation in 2019, up to the date of the request, along with the results of these tests. The ICD responded with a Report providing the requested information (05 number: 07-2-545/24-6, dated October 3, 2024).

According to the Report of the ICD, the total number of tests conducted from 2019 to September 2024 is 104, of which 74 had a positive result, while 30 had a negative result (Source: Table 1). In all cases, integrity tests were conducted on police officers, i.e., authorized official persons, who were assigned within the Uniformed police directorate and Traffic police directorate.

The outcomes of the integrity testing are presented in Source: Table 2. Following the testing results, police officers of the ICD initiated criminalistics-operational processing in 17 cases, concerning 26 police officers out of a total of 30 tested officers who had negative integrity test results. The criminalistics-operational processing was initiated to apply special evidentiary actions and properly gather evidence to prove the commission of criminal offenses. In certain cases, the implementation of special evidentiary actions was initiated within one year, but the evidence that could be used in criminal proceedings was gathered in the following year, at which point a criminal complaint was also filed against the tested employees for criminal offenses related to corruption.

Table 1. Positive and negative results of the integrity testing

Year	The number of police officers tested	Positive results	Negative results
2019	5	4	1
2020	17	12	5
2021	19	17	2
2022	21	14	7
2023	24	18	6
2024 (up to September)	18	9	9
Total	104	74	30

Source: Report of the ICD of the Ministry of Interior of the Republic of Serbia

Table 2. The outcomes of the integrity testing

Year	Criminalistics-operational processing initiated	Police officers included	Criminal complaints filed	Police officers included	Disciplinary proceedings initiated
2019	1	1	/	/	/
2020	4	7	3	2	/
2021	2	5	/	/	/
2022	5	6	3	2	2
2023	2	3	/	/	/
2024 (up to September)	3	4	9	1	/
Total	17	26	15	5	2

Source: Report of the ICD of the Ministry of Interior of the Republic of Serbia

The results of the integrity testing revealed the presence of criminal offenses related to corruption, specifically those defined in the Criminal Code of the Republic of Serbia, (hereinafter: CC, "Official Gazette of the RS", no. 85/2005, 88/2005 – corr., 107/2005 – corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, and 35/2019) as: 1) Abuse of Office and 2) Accepting Bribes. This led to the filing of 15 criminal complaints against five police officers.

Considering the first offense, police officers, as public officials, may commit it by abusing their office or authority, exceeding the limits of their official authority, failing to perform their official duties, and thereby

obtaining a benefit for themselves or for another individual or legal entity, causing harm to a third party, or seriously violating the rights of another (Art. 359, para.1 of the CC).

With regard to the offense of bribery, as stipulated in Article 367 of the CC, there are several forms, which may vary depending on the official actions in connection with which the bribe is demanded or accepted. A shared characteristic among all these forms is that an official demands or accepts a gift/other benefit, or the promise of such, either for personal gain or on behalf of another individual. This can be done directly or through intermediaries. A police officer, as an official, may demand and accept bribes to perform a legal official act or illegal official act, as well as after performing or failure to perform an official in relation thereto (Vujičić, 2019). A more serious form will exist if an official commits the offence in respect of uncovering of a criminal offence, instigating or conducting criminal proceedings, pronouncement or enforcement of criminal sanction (Art. 367, para. 3 of the CC).

Research has also shown that, in two cases with negative results, following criminalistics-operational processing, it was proposed that the immediate supervisor of the tested officer initiate disciplinary proceedings for severe violations of official duty. These involve severe violations of official duty, as defined in Art. 207 of the LOP, such as: 1) Behavior detrimental to the Ministry's reputation (Para. 1, §7); 2) Illicit, conscienceless, negligent work or failure to perform action for which the employee is authorized, which caused or could have caused harm or illegality (Para. 1, §16); and 3) Negative result of the integrity test (Para. 1, §24).

5. DISCUSSION

The finding that integrity testing was focused solely on police officers within the Uniformed Police Directorate and Traffic Police Directorate can be explained by the fact that their work positions and roles within the organizational structure, as well as their areas of work, provide greater opportunities and chances for corruption or other forms of unlawful behavior (Kesić, 2017). These are individuals who conduct police tasks in the capacity of authorized official persons, applying police powers and actions, while also maintaining frequent contact with citizens.

The focus of integrity testing on officers in the Uniformed and Traffic Police can also be explained by practical reasons. It cannot be denied that integrity testing, based on the criteria mentioned above, would also be beneficial in other areas of work, such as the Border Police, Criminal Police, Administrative Affairs, and others. However, implementing simulated situations in these areas could be challenging in practice, and in some cases, they might be detected by the police officers being tested. In certain instances, the integrity test could not be conducted for legal reasons.

For example, citizens may indicate in their complaints that valuable items (e.g., art paintings, expensive jewelry, etc.) went missing during a crime scene investigation in their apartments. Designing a simulated situation that aligns with the regular activities of the police officers conducting a crime scene investigation may not be difficult, but challenges can arise during its implementation. The reason for this is that it is necessary to simulate the perpetration of a criminal offense (event) and report it to the police dispatcher, who will then inform the members of the crime scene investigative team. Subsequently, the public prosecutor must be consulted to authorize the delegation of the crime scene investigation to the police. Such a simulated situation, in addition to requiring significant material and technical resources (e.g., a fictitious apartment and the setup of audio-visual recording equipment), would necessitate fabricating a criminal offense or event and reporting it, which could place the police officers of the ICD in a zone of criminal liability. More precisely, they would be committing the offence of False Reporting, as stipulated under Article 334, paragraph 4 of the CC.

The conducted research has shown that integrity testing has proven to be a significant investigative tool for detecting corruption and other forms of unlawful behavior by police officers, as 28.8% of the tested officers failed to demonstrate their professional integrity. Depending on whether the tested police officers exhibited an inclination toward corruption or other forms of unlawful behavior during the performance of their official duties, several courses of action may be considered in cases where the test results are negative.

The usual practice of the ICD is to forward the Report on the integrity testing to the competent public prosecutor, which has been done in the majority of cases. In 56.6% of cases where the result was negative, criminalistics-operational processing was initiated, meaning that operational and evidentiary measures and actions were taken to establish facts and data that could serve as proof for criminal prosecution. However, the outcomes of the conducted criminalistics-operational processing show that proving the corrupt criminal offenses identified during the implementation of the integrity testing was not always successful.

For instance, out of the 26 police officers involved in the processing, criminal complaints were filed against only five of them. The possible explanation for the mentioned outcome may be related to the fact that the application of special evidentiary actions is time-limited. Consequently, it is possible that during their implementation, the police officers of the ICD were unable to gather the evidence that could lead to the prosecution of the police officers with a negative test result.

The research finding that disciplinary proceedings were initiated against only two police officers should primarily be considered in the context of the provisions of the LOP and the Rulebook. Under the provisions of the LOP, the initiation of disciplinary proceedings for severe violations of official duty is subject to a statute of limitations. If disciplinary proceedings are not initiated within a year of the commission of the violations, it is no longer possible to launch them (Art. 215, para 1 of the LOP). In addition, provisions of the Rulebook stipulate that the Report on the integrity testing with a positive result must be forwarded to the Head of the organizational unit where the individual undergoing testing is employed within 30 days from the completion of testing (Art. 10, para. 2 of the Rulebook). In the case of a negative test result, the submission of the Report may be postponed if further action is taken against the tested employee by order of the on-duty public prosecutor (Article 11, paragraph 2 of the Rulebook). In this regard, it can be concluded that the postponement of disciplinary proceedings against police officers with negative test results was made to ensure confidentiality and the successful completion of the ongoing criminalistics-operational processing.

6. CONCLUSION

The research findings demonstrate that integrity testing can reveal corrupt criminal offenses by police officers; however, their criminal prosecution is significantly limited. A negative test result can only serve as the basis for initiating disciplinary proceedings against the tested officer. Police officers of the ICD have the possibility to notify the competent public prosecutor about the negative test result of specific police officers, who can approve initiation of the criminalistics-operational processing against them. This means that further operational and evidentiary actions, including special evidentiary measures, are needed in an effort to prove the corrupt behavior exhibited by police officers during their integrity testing.

However, the fact that processing is conducted following a negative test result does not guarantee that it will lead to the initiation of criminal proceedings. For example, the tested police officer may not repeat the same corrupt or unlawful behavior during the processing, or may be reassigned to a different position that does not provide significant opportunities for such behavior. As a result, police officers who fail to demonstrate their professional integrity may avoid criminal prosecution and, in some cases, even the initiation of disciplinary proceedings.

To ensure the successful criminal prosecution of police officers who have exhibited corrupt or other unlawful behavior during integrity testing, it is essential to explore the possibility of incorporating the results of these tests as evidence in criminal proceedings. One possible legal solution could be the one suggested by Marinković (2020), where targeted integrity testing is prescribed as a third form within the evidentiary action of Simulated Deals, with the ICD being the authorized proponent for its implementation.

The research findings demonstrate that integrity testing in the Republic of Serbia serves as a valuable investigative tool and a unique opportunity to detect and document corrupt and other unlawful behaviors among police officers. However, at this stage, it does not produce outcomes that can be considered satisfactory, indicating a need for further discussion and research on potential amendments and supplements to the existing legislative framework.

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