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WHY YOU SHOULD SWEAT THE SMALL STUFF

THE MORAL CODE AND DISHONESTY

Dan Ariely is a Professor of Psychology and Behavioural Economics at Duke University in North Carolina. His recent research focuses on what drives people to cheat and what motivates them to be honest. The results of the research are fascinating and provide an interesting basis for how we might think about governance and protecting the integrity of our public institutions.

In an attempt to understand human behaviour, Professor Ariely has, over a number of years, conducted hundreds of experiments involving tens of thousands of people. What he has discovered is that the majority of people are only a little bit dishonest. The reason that people generally limit their dishonesty is that most people like to see themselves as good and honest people. By keeping cheating to a minimum, there is no need to re-evaluate the image you hold of yourself. However, there are some people who are quite dishonest who are prepared to cheat a lot.

When all of the cheating was analysed, the result was that collectively, the little cheaters were doing far more damage than the big cheaters, which is ultimately why public institutions should sweat the small stuff.

Here's how one of the experiments worked. Participants were given five minutes to solve as many simple maths problems as possible. At the end of the five minutes, every person was asked to mark their own test, shred the paper and collect \$1 for every problem they solved correctly. What the participants did not know is that the shredder had been tampered with and did not actually shred their paper. On average most people had solved four questions correctly, but claimed to have solved six correctly, hence cheating the system out of \$2. A very small number of participants were big cheaters and claimed to have got all 20 questions correct.

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WHY YOU SHOULD SWEAT THE SMALL STUFF

THE MORAL CODE AND DISHONESTY

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Over 40,000 people have participated in these experiments, and only twenty of those have turned out to be big cheaters. These big cheaters have collectively stolen \$400 from the research project; whilst at the same time, over 28,000 people have proven themselves to be little cheaters who have collectively stolen over \$50,000.

With so many people being prepared to cheat a little, it is in the best interests of our public institutions to find a way to disrupt even the smallest dishonesty.

Without unpacking all of Professor Ariely's research on the many ways you can do this, one of the simplest and most compelling ways of disrupting people's inclination to be a little bit dishonest is to remind them of a moral code.

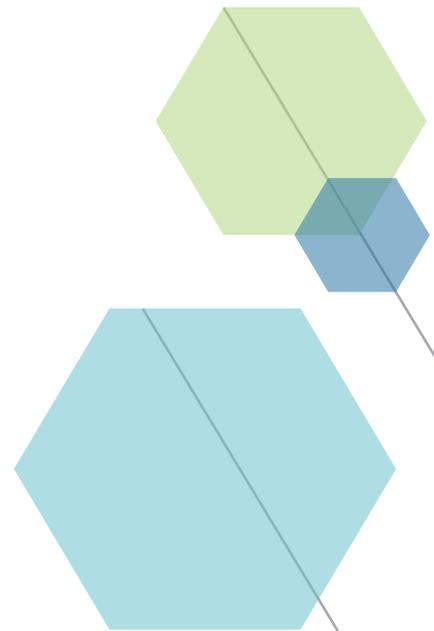
Professor Ariely ran a similar experiment to the one outlined above; however, on this occasion, 400 participants were first asked to recall as many of the Ten Commandments that they could remember. Regardless of how many of the Commandments they could recall, and what religion, if any, they practised, nobody cheated. It would seem that being reminded of a moral code, even if it's not the specific moral code that you prescribe to, disrupts your inclination to cheat.

Our public institutions have codes of conduct and although different codes might be expressed in different ways, they are ultimately about good behaviour. Reminding people of values and ethics and embedding them within public administration, will, as this research has proven, disrupt dishonesty.

References:

Dis(Honesty): The Truth about Lies 2015, documentary, Salty Features, USA.

Ariely, D 2012, *The (Honest) Truth about Dishonesty*, Harper Perennial, New York.



HOW CAN YOU KNOW WHAT'S NOT KNOWN?

The Commissioner's office is sometimes the subject of criticism for identifying and investigating what is described as 'low level' corruption. It has been suggested that some of the less serious matters that have been investigated by the ICAC should have been referred to SAPOL for investigation.

The Commissioner himself concedes that, on reflection, there are a small number of matters that could have been referred. However, this is not always obvious at the point where the decision is made to investigate conduct that might be corruption, or to refer it for investigation.

A complaint or report might raise quite serious allegations that are ultimately not substantiated by the evidence collected.

Alternatively, evidence might be obtained that supports a case of 'low level' corruption. Once the corruption is supported by evidence, regardless of where it sits on the seriousness scale, it will be referred for prosecution if it is in the public interest to do so.

With the benefit of experience, it is likely that the ICAC will investigate fewer matters, but will refer more matters to SAPOL or another law enforcement agency.

LEGISLATIVE CHANGES

2017 will bring some significant changes to the integrity landscape in South Australia. Recently passed amendments to the ICAC Act will result in changes to the way complaints and reports about public administration will be managed. Some of those changes came into effect on 16 December 2016 and some will take effect on 1 April 2017.

The primary object of the Commissioner has been refocused on investigating corruption in public administration, with the expectation that matters of misconduct and maladministration will be appropriately referred to an inquiry agency or public authority. The Commissioner retains the function to exercise the powers of an inquiry agency to deal with misconduct

and maladministration that he considers to be serious or systemic, which will be defined in section 4(2) of the ICAC Act from April 2017.

There have also been changes to the functions of the Office for Public Integrity (OPI). The OPI will no longer be required to make a recommendation to the Commissioner as to how every complaint or report might be dealt with. In some circumstances, this decision will lie with the OPI.

Amendments to section 42 of the ICAC Act will allow the Commissioner to prepare and table in Parliament a report, including findings and recommendations from completed investigations into

corruption, misconduct and maladministration in public administration.

The other change that will affect the integrity landscape is the passing of the *Police Complaints and Discipline Bill 2016*, which will create a new scheme for the management of complaints about police.

This new scheme is in response to a review of the legislative scheme governing the oversight and management of complaints about police, conducted by the Commissioner in 2015.

More information about the management of complaints about police will be published in the next newsletter.



EDUCATION UPDATE

One of the Commissioner's primary functions is to deliver an education program aimed at preventing or minimising corruption, misconduct and maladministration in South Australian public administration. Last financial year, the Commissioner's office delivered 76 education sessions to almost 3,000 people. These sessions have taken the form of lectures, seminars and workshops, all of which will be on offer again in 2017.

The Commissioner will deliver his first ICAC awareness session for the year on 31 January. You can register to attend by visiting the [ICAC website](#).

The ICAC workshop 'What happened? How to conduct an internal investigation' continues to be successfully rolled out to public officers involved in conducting investigations for their respective agencies.

The next workshop for state government employed public officers is scheduled for 25 January 2017 and is fully booked. Another date will be announced shortly. A workshop for the local government sector will be held in late March 2017. Please register your interest in this workshop by visiting the [ICAC website](#).

In addition to providing education sessions, the Commissioner makes available a number of education resources including brochures, posters, fact sheets, case studies and an online course. For a quick and easy way to get up to speed on the role and functions of the office, and to learn about your reporting obligations as a public officer, please complete our online learning course, [ICAC Induction for Public Officers](#).

To request education resources or an in-agency education session provided by one of the Commissioner's education team, please contact us by emailing education@icac.sa.gov.au.

COMMISSIONER APPOINTS NEW CEO

In November 2016, the ICAC and OPI farewelled their much respected inaugural CEO, Patricia Christie. The Commissioner, who has worked with Mrs Christie for many years, thanks her for her hard work and dedication in the establishment of both his office and the Office for Public Integrity. Mrs Christie resigned to take up the position of CEO of the Australian Family Court.

The Commissioner has appointed Michael Riches to the role of CEO of his office and the OPI. Michael was formerly the ICAC Director of Legal Services and Reviews.

He commenced his career as a project officer and later a project manager in the Crime Prevention Unit of the Attorney-General's Department. During that time Michael worked on a number of projects including the management of a multi-site project aimed at reducing the incidence of domestic violence.

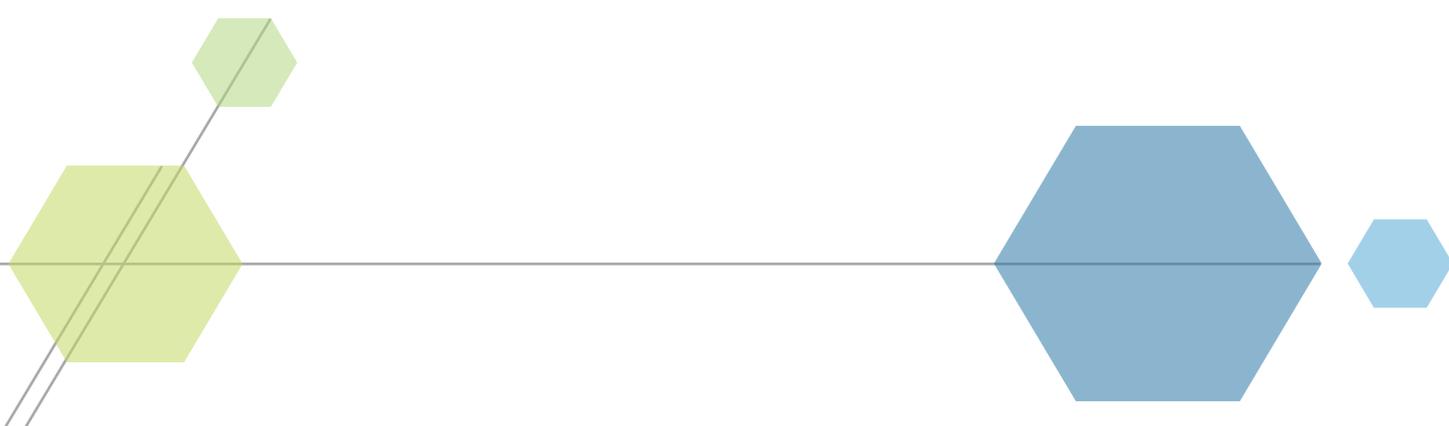
After recruit training at the Police Academy, Michael spent almost nine years as a South Australian police officer. He worked in a number of operational and corporate roles, including general duties policing, tactical teams, police communications and media liaison.

After obtaining a Bachelor of Law and Legal Practice from Flinders University, Michael worked as a solicitor in the Police Legal Branch before moving to the Crown Solicitor's Office, where he worked in the Civil Litigation section, Advising section and as counsel in the Crown Counsel section. He has advised state government agencies in a wide variety of matters and has appeared as counsel in a number of cases, including several high profile coronial inquests. He also worked part time as a tutor in the University of Adelaide Law School.

As a member of the Public Integrity Reform Team, Michael took a lead role in the establishment of the office of the Independent Commissioner Against Corruption and the Office for Public Integrity. When those offices commenced, he took up a position as a senior legal officer before being appointed Director of Legal Services and Reviews.

In addition to an Honours Degree in Law and Legal Practice, Michael holds a Degree in Arts and a Diploma in Public Safety.

On 13 December 2016, Michael was appointed Chief Executive Officer of the ICAC and OPI for a 5 year term commencing 1 January 2017.



JUDICIAL CONDUCT COMMISSIONER

In August 2016, the Attorney-General announced that the Hon. Bruce Lander QC had been appointed South Australia's first Judicial Conduct Commissioner. Commissioner Lander will act concurrently as both the Judicial Conduct Commissioner and the Independent Commissioner Against Corruption.

The office of the Judicial Conduct Commissioner commenced on 5 December 2016.

In this role, the Commissioner receives and deals with complaints made about the conduct of serving judges, magistrates and other judicial officers.

PROSECUTION UPDATE

JANUARY 2017

In November 2016, the court finalised the case against former Forestry SA Chief Executive, Adrian Hatch. Mr Hatch pleaded guilty to a breach of section 36 of the *Public Corporations Act*. He was convicted and fined \$4,800.

There remain 14 people before the court as a result of investigations by the ICAC, or joint investigations by the ICAC and the anti-corruption branch of SAPOL.

Former University of South Australia employee, Professor Dayang Wang, is charged with one count of making a false declaration under the *Oaths Act 1936*. The matter was heard in the Adelaide Magistrates Court in December 2016, at which time a guilty plea was entered. Mr Wang is next scheduled to appear on 14 February 2017.

Charges laid against TAFE Education Manager, Josephine Cray and a man who is not a public officer, James Richard Beaumont, were first heard in the Adelaide Magistrates Court in November 2016. Ms Cray has since pleaded guilty to 30 counts of abuse of public office and Mr Beaumont has pleaded guilty to 30 counts of aiding and abetting, counselling or procuring an abuse of public office. They have both been committed for sentencing on 20 January 2017 in the District Court.

The case against the Chief Executive Officer of Bio SA, Jurgen Michaelis, is scheduled to return to court on 30 January for a no case to answer hearing.

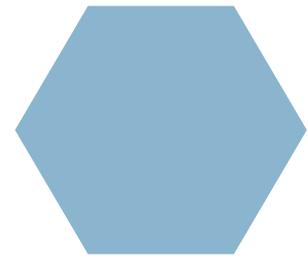
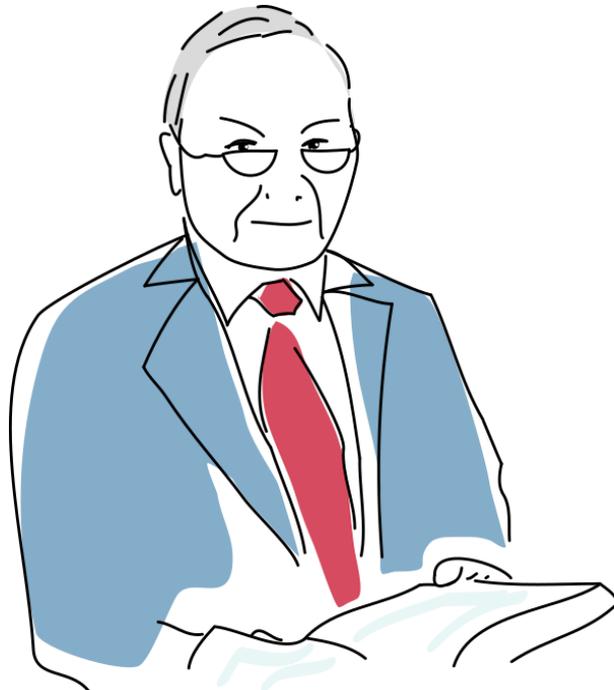
Yvonne Buza was arrested and charged with 36 counts of deception on 15 January 2016. This matter has been set for trial commencing 20 March 2017.

South Australian Police Officer, Hayley May Greenwood, was arrested on 21 August 2015 and charged with abuse of public office, drug trafficking, theft and possession of a prohibited item. The abuse of public office charge has been set for trial in the District Court on 15 May 2017. The remaining charges will be dealt with at a later date.

Alana Bartels was a public officer employed by the Public Trustee at the time she was charged with five counts of abuse of public office and five counts of aggravated theft on 17 May 2016. This matter returns to court on 19 January 2017.

Department of Planning, Transport and Infrastructure employee, Michael King, was arrested on 24 February 2016 and charged with several counts of theft and deception to act dishonestly. This matter remains before the court.

Six South Australian Police Officers, who were arrested and charged with various offences in March 2014, remain before the court.



THE INFORMATION CONTAINED IN THIS NEWSLETTER MUST NOT BE UNDERSTOOD TO CONSTITUTE LEGAL ADVICE.