

# BAD COPS GET A BREAK

## The closure of the SAPS Anti-Corruption Unit

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In 1996 the SAPS established its first internal anti-corruption unit to tackle what was identified as a growing problem of police corruption. Seven years down the line, combating corruption is still a national priority of the SAPS. But recently the SAPS announced that it is closing the anti-corruption unit and integrating some of its members into the organised crime unit. International experience suggests, however, that a specialised unit dedicated to investigating police crime and corruption is crucial if these problems are to be tackled effectively.

Police corruption is not limited to South Africa. It is a problem that has been encountered around the world, throughout history, wherever there are police agencies. It is now generally recognised that corruption is an occupational hazard of policing – where there are police officials with powers to investigate crime and enforce the law, there will be individuals and organised groups who will try to influence these officials. They will typically attempt to do so by offering the police officials cash or other rewards.

The more this becomes the norm in the policing environment, the more policing resources are diverted from tackling crime. Instead, increasing numbers of police officials start using their powers to make extra cash, either by protecting criminals, or by deliberately failing to enforce the law. As a result, police corruption undermines the rule of law, and, moreover, becomes a direct threat to the consolidation of democracy in transitional societies such as South Africa.

In any country the problem of police corruption is typically influenced by a large number of cultural, institutional and environmental factors. However, researchers and analysts studying the phenomenon have over the past decade begun to emphasise the importance of changing police organisational culture to effectively combat corruption and other abuses.<sup>1</sup> This is based on the argument that punitive or reactive approaches (focusing primarily on investigations and prosecutions) are usually inadequate measures to tackle an endemic police corruption problem.

Therefore, to effectively prevent corruption, police agencies should also improve recruitment and selection processes, integrate professional police ethics into all training, enhance management accountability, and strengthen internal disciplinary systems.<sup>2</sup>

### **A need for specialised police anti-corruption units**

Apart from efforts to change police organisational culture, strong and independent internal investigation

units are recognised as indispensable for effectively tackling police corruption. Around the world, official commissions of inquiry into police corruption have consistently identified weak systems and structures for internal control as significant shortcomings that contribute to a corruption problem.<sup>3</sup> Indeed, a common recommendation flowing from such inquiries is the establishment of internal units tasked with investigating police misconduct and criminality, or, if in existence, that they are significantly strengthened.

While external civilian structures may already have the task of overseeing police misconduct, it has been argued that strong internal units are likely to be more effective in tackling corruption and criminality.<sup>4</sup> This will be the case if such units are staffed by carefully screened and experienced detectives with a deep understanding of the culture of the organisation and how corrupt activities take place and are hidden.

Furthermore, it is critical that these units and their members operate in a secure environment and are 'insulated' from the rest of the policing organisation. The reasons for this are as follows:

- Police culture typically tends to be characterised by the so-called 'code of silence'.<sup>5</sup> This code emerges as a result of the strong supportive bonds that are commonly formed between police members. They do not want to jeopardise their relationships, or be labelled 'sell-outs', in the event that they investigate or provide information on the activities of their colleagues. This is especially so if such information may lead to the arrest, discipline or dismissal of a police official.
- Police officials have extensive networks within the police agency, and are therefore in a position to obtain information on the case that is being investigated against them. Often they will quickly be able to obtain the details of any witnesses involved. With their careers on the line, they will not hesitate to seriously threaten witnesses to withhold information or to withdraw their co-operation.
- Police officials have detailed knowledge about how the criminal justice system works,

particularly with regard to investigations and prosecutions. They are therefore far more adept in preventing detection, or covering up their tracks when involved in crime or corruption, than ordinary civilians. Generally investigations against police officials (particularly against those involved in organised or 'grand' corruption) require special techniques and skills if they are to be successful.

The above factors are generic to the problem of police crime and corruption around the world, and are the reason why it has been highlighted internationally that "internal affairs units are relatively common in police agencies that have, or are concerned about, problems of corrupt practice".<sup>6</sup>

Apart from independence and resources, such units, if they are to be effective, also need to develop proactive investigative strategies that look for patterns of corruption rather than single events. Not only can the greatest possible number of corrupt police officials be arrested in this way, but the organisational weaknesses that allow for such corruption can be addressed so as to prevent other officers from becoming involved in similar arrangements. Moreover, such units must be able to conduct well-planned undercover operations to trap corrupt police officials, and have the ability to work sensitively with witnesses and ensure that they are adequately protected.<sup>7</sup>

#### **The SAPS Anti-Corruption Unit (ACU)**

In September 1995 the then national commissioner of the SAPS, George Fivaz, instructed that a study be conducted on the feasibility of establishing anti-corruption units, one nationally and one for each of the provinces. Up to that point such investigations had been handled by a special investigating unit that had been operating from Pretoria only, with a branch in Johannesburg.

As a result of the instruction the National Anti-Corruption Unit of the SAPS was formally established on 1 January 1996, to:

- investigate all allegations of corruption within the SAPS;
- initiate and implement an anti-corruption awareness programme amongst employees of

- the SAPS;
- identify and report on dysfunctionality in the SAPS;
- develop and maintain an effective integrated information management system to support corruption investigations within the SAPS;
- co-ordinate all anti-corruption investigations in the SAPS; and
- educate SAPS employees.<sup>8</sup>

At its full strength the ACU comprised a total of 240 staff members, made up of 201 police members and 39 civilian personnel. These personnel were dispersed between the national office in Pretoria and nine provincial offices, each with its own provincial commander at the rank of senior superintendent.

From the outset the ACU appeared to take heed of international lessons regarding the operations of such a unit. Their offices were separate from other SAPS buildings and they worked from a secured database. Investigators were carefully chosen according to a specific human resources profile, and were required to obtain a 'Top Secret' security clearance, renewable every three years.<sup>9</sup>

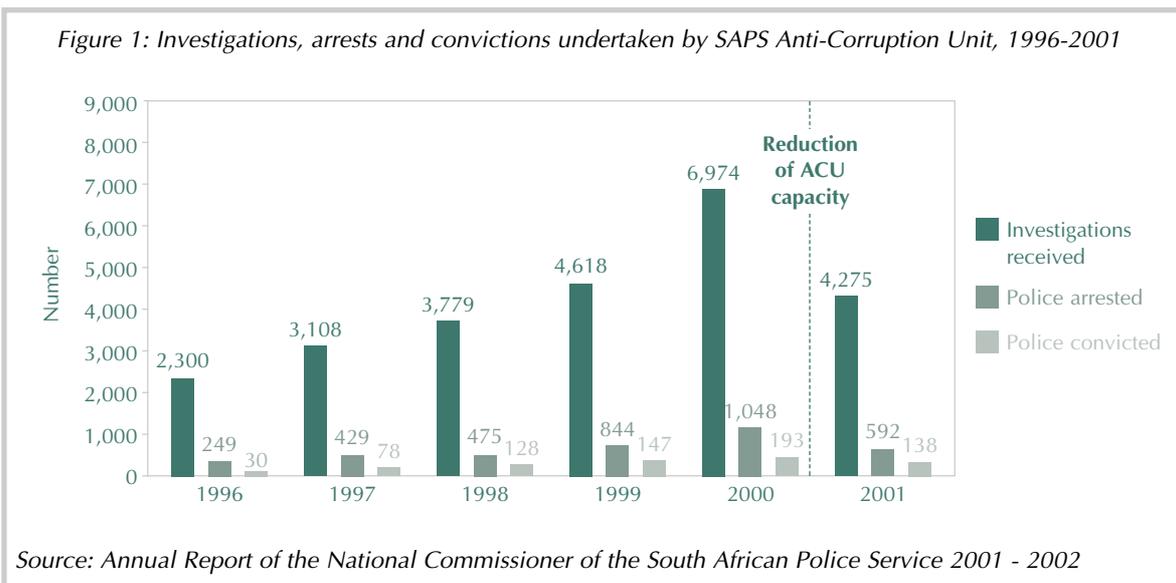
In its seven-year existence the unit was involved in both small-scale investigations against single police officials, and larger-scale anti-corruption 'operations' during which members of criminal

syndicates as well as large numbers of police members were arrested. In one such operation, 'Clean Deal', which lasted eight months, 16 people, including police officers involved in a stolen vehicle syndicate, were arrested, and over R6m worth of exhibits confiscated. Furthermore, a directive was issued by the national commissioner to ensure that members of the SAPS who provided information to the ACU were adequately protected – even if it meant the immediate relocation of the member and family.

As can be seen from Figure 1, as the profile of the unit increased, so did the numbers of allegations of police corruption that were reported to it. Between its establishment in 1996 and the end of 2001, the ACU had received a total of 20,779 allegations of police corruption, 3,045 police members were arrested, and 576 were convicted.

The large discrepancy between the numbers of allegations received and the conviction rate has been put down to a number of factors, including:

- capacity constraints of the unit to respond adequately to all the allegations received;
- the large number of witnesses who remained anonymous and provided insufficient information; and
- the flawed Anti-Corruption Act of 1992 which repealed the common law offence of bribery and provided inordinately difficult legal requirements to prove corruption.<sup>10</sup>



Nevertheless, the work of the ACU resulted in hundreds of corrupt police members going to jail, and the disruption of the activities of thousands of others.

While there have been no independent evaluations of the work of the ACU, it appears to have had a relatively significant impact in a variety of ways. The unit played an important role in sending out a message that the SAPS was serious about tackling the problem of corruption. Indeed, the annual report of the national commissioner of the SAPS argues that the work of the unit (as reflected in the above statistics), "...demonstrates the commitment displayed by management and members alike in eradicating corruption in the SAPS."<sup>11</sup>

The huge number of complaints received by the unit suggests that police corruption had reached endemic proportions in South Africa, and that the ACU was recognised by the public as a structure where complaints of corruption could be made without fear of victimisation. Moreover, the Review of South Africa's National Anti-Corruption Agencies argues in relation to the SAPS Anti-Corruption Unit that "it is important to retain a specific and dedicated focus on addressing corruption in the Criminal Justice System, which this Unit has done effectively over the years".<sup>12</sup>

Clearly, both perceptions and incidents of police corruption and criminality are a serious problem in South Africa. A recent survey found that, of all government services, the police were perceived to be the most corrupt, with 37% of respondents stating they believed it 'very likely' or 'likely' that they would be expected to offer some material reward or favour in return for services rendered from a police officer.<sup>13</sup> While these are perceptions, and do not necessarily reflect the actual extent of police corruption and criminality, the fact that on average 1,320 police officials were convicted on criminal charges per year between 1995 and 1999 suggests that a serious problem exists.<sup>14</sup> The question may therefore legitimately be asked: why then was the Anti-Corruption Unit closed?

#### **Why close the ACU?**

Long before the SAPS announced that the ACU was to be closed, it was clear that the future of the unit

was uncertain. Towards the end of 2000 the SAPS closed five of the ACU provincial offices, leading to a substantial reduction in cases reported and police members arrested (see Figure 1). For two years the unit continued to operate without knowing what the future would hold, until a newspaper article appeared announcing that it was to be closed down.<sup>15</sup>

The official reason given by the SAPS was that the closure was in line with the reorganisation of the detective service, "in order to pool resources and make the SAPS more efficient".<sup>16</sup> Surprisingly, the official statement also included the following sentence: "Furthermore, it should be noted that the investigation of corruption is the duty of each and every member of the service and not a certain sector of the South African Police Service."

This statement flies in the face of both what is considered as international best practice in tackling the problem of police corruption, and the current reality of the SAPS. Only a small number of police commanders referred cases to the ACU when they received substantiated complaints against their members. Very few, if any, cases were opened by ordinary police members against their colleagues.

However, there are various other concerns regarding the transfer of ACU investigators to the Organised Crime Unit (OCU) and to station level. These concerns include:

- Valuable skills and lessons developed by the ACU in investigating corruption in the SAPS could be lost as its investigators are dispersed amongst the OCU and various police stations.
- A significant reduction in cases brought to the attention of the SAPS, as most of the public would not know that they need to report corruption to the OCU (particularly as a large amount of police corruption is ad hoc and does not necessarily involve organised crime syndicates).
- OCU members who may be involved in corruption may now have better access to information about investigations against them, and opportunities to interfere.
- Some investigators may find themselves working with, or at the mercy of those they previously investigated.

As there was very little substantive information given regarding the closure of the ACU, there was much speculation that there were other reasons behind it, such as:

- The ACU had become too independent and had started to tread on the toes of powerful police commanders.
- The unit was not that effective, as most of its investigations did not strictly focus on corruption, but often examined other types of crimes such as petty theft and fraud that other police units could investigate.
- The ACU was perceived as being racist, as most of its commanders and many of its members were white, while most of the members investigated by the unit were black.

There is no verifiable evidence that any of these factors were behind the decision to close the ACU, but they illustrate the importance of proper internal and external communication by the SAPS if it is to gain the trust and support of the public for its decisions.

### Conclusion

It is too early to say whether the decision to close the unit and integrate it into the OCU will truly improve the ability of the SAPS to effectively deal with its corruption problem. However, many years of international experience in tackling police corruption would suggest that a better decision would have been to identify the shortcomings of the ACU, and ensure the necessary changes to make it a stronger and more effective unit than it had been before.

If this had been the case, it would have sent a powerful message to those members of the SAPS who abuse their powers and positions for personal gain. Such an announcement would have been welcomed by those many dedicated police members deeply frustrated by the impact of the activities of their corrupt colleagues on the organisation. It certainly would have been welcomed by most ordinary South Africans, who long for a police service characterised by professionalism and integrity.

### Endnotes

- 1 See CB Klockars, SK Kutnjak Ivkovich, W Harver & MR Haberfeld, *The measurement of police integrity*,

National Institute of Justice Research Brief. Washington DC: Office of Justice Programs, U.S. Department of Justice, 2000. See also JBL Chan, *Changing Police Culture. Policing in a Multi-Cultural Society*. Cambridge: Cambridge University Press, 1997.

- 2 See T Newburn, *Understanding and preventing police corruption: Lessons from the literature*. Policing and Reducing Crime Unit. Research, Development and Statistics Department, London: Home Office, 1999.
- 3 For a few examples see the findings of the Mollen Commission of inquiry into corruption in the New York City Police Department, 1994, the Fitzgerald Inquiry into the Queensland Police Service in Australia at about the same time, and more recently the findings of the inquiry into the Rampart Bay police corruption scandal in the Los Angeles Police Department, 1999.
- 4 See M Punch, *Control in the Police Organisation*, Cambridge: The MIT Press, 1983.
- 5 Klockars et al, op cit, p 2.
- 6 T Newburn, op cit, p 37.
- 7 Ibid, p 39.
- 8 Report of the Anti-Corruption Unit - An Overview (1996-1998), SAPS National Anti-Corruption Unit, 1998, <<http://www.saps.org.za/divstat/anticor>>
- 9 Ibid.
- 10 Interview with the National Commander of the SAPS Anti-Corruption Unit, Director Stef Grobler, June 21, 2001.
- 11 Ibid.
- 12 A Review of South Africa's Anti-Corruption Agencies, Office of the Public Service Commission, Pretoria, 2001, p 41.
- 13 Country Assessment Report, South Africa, United Nations Office on Drugs and Crime, Regional Office for Southern Africa, Pretoria, 2003, p 96.
- 14 S Masuku, Policing the Police: SAPS members charged and convicted of crime, *Nedbank/ISS Crime Index 5 (2)*, 2001, pp 13-15.
- 15 A Jurgens, Police close corruption probe unit, *Sunday Times*. October 20, 2002, p 9.
- 16 Ibid.