

BRING THEM INTO LINE

Managing corruption in SAPS and metro police departments

Andrew Faull, Research consultant
andrewfaull@gmail.com

Police corruption has become increasingly topical following the corruption charges levelled against the SAPS National Commissioner early this year. South Africa has a national police service as well as one municipal and five metropolitan police services. Public debate around the 'police' generally fails to distinguish between these independent organisations, and perceptions of police corruption negatively undermine the entire policing fraternity. Because of this, the various police agencies should consider working together on corruption. This article examines approaches to corruption in the national, metropolitan and municipal police services. Among others, important issues that need to be addressed are the disciplinary code within the metro police departments, the lack of investigative powers granted MPD officers, and the SAPS's failure over the past seven years to effectively implement any relevant strategies.

It is commonly accepted that corruption is an immeasurable phenomenon. Even when we are able to identify its presence in an organisation, we are never able to definitively quantify the extent to which it exists. This is particularly true within police organisations where individuals often feel isolated from civilian communities and show particular loyalty to their colleagues.

Police institutions, unlike many other sectors, endow members at the very bottom of the organisational hierarchy with easily abused discretionary power. Because this street level corruption tends to take place beyond the gaze of organisational oversight, it is unlikely that evidence of the corrupt act will survive. As a 'victimless' crime in which both bribe payer (whether monetary or otherwise) and receiver benefit from the transaction, it is unsurprising if neither blows the whistle.

Of course corruption is not victimless. At the simplest level the law has not served its intended

purpose. Additionally, police officers who solicit bribes not to issue speeding tickets know they have undermined the law. Perhaps they do it in isolation, perhaps with the knowledge that their colleagues do the same. Either way, as law enforcement officers they are unlikely to maintain full faith in either their own or other justice institutions, having themselves been involved in obstructing justice.

The same is true of the other party. Some of the most vehement protestors about police corruption are those who pay roadside bribes. They fail to see themselves as active proponents of the crime, instead laying the blame at the feet of the police officer. As a result they too lose faith in policing and justice institutions.¹

Which 'police' are corrupt?

Both the corrupt cop and corrupting member of the public (or vice versa) inevitably share their experiences with others, leading to the creation of

hearsay-based discourses. These accounts combine with media reports on police corruption to form a public discourse in which all police across national, metropolitan, municipal and traffic departments are often painted with a single, tarnishing brush.

The results of a nationally representative study published in the *SA Crime Quarterly* in 2006 found a direct correlation between perceptions of pervasive police corruption and a loss of faith in the police in South Africa (Mattes 2006). The survey suggests that an astounding 50 per cent of the populace believe all or most police to be corrupt. One of the only other major surveys producing relevant data, the ISS's 2003 national Victims of Crime survey revealed 'traffic fines' and 'policing' respectively to be the two areas in which respondents were most likely to have been asked to pay bribes. In both these surveys, as with the public discourse referred to above, it becomes unclear which 'police' are being referred to.

The issuing of traffic fines is generally restricted to provincial or city traffic officers, or to metro² officers where relevant. However, SAPS members are able to issue what are known as J534 fines for traffic violations. By the same token, other policing activities are carried out by metropolitan, municipal and SAPS members. As with the hearsay and media discourses, neither of the surveys mentioned above are clear on which police are involved in the perceived and real corruption.

While to some these distinctions may be irrelevant, their importance is evident when considering that the SAPS, each of the country's five metropolitan departments, and the only municipal police department, are each independently responsible for the management of corruption (and all other functions) in their organisations. A brief examination of developments in each follows below.

Corruption and the SAPS

To be fair, when most people refer to anything to do with 'police' they tend to refer to the national police body. This makes sense considering the sheer size and reach of the organisation across the country. However, with the increasingly public presence of metro police, particularly in Gauteng, this trend is fast changing.

Difficulties with corruption data and reporting

Annual reports of the South African Police (SAP), predecessor to the SAPS, are fairly scant compared with the transparency afforded the South African public under democratic rule. SAP reports made no mention of internal disciplinary processes, let alone corruption. However, as transparent as SAPS reports may now appear, they remain at times misleading.

In 1996 the SAPS formed its first dedicated Anti-Corruption Unit (ACU). Through this unit the public was for the first time able to access accurate data on organisational action against corrupt members. During its first six years of operation the ACU was increasingly successful in bringing to book such members. The unit's success peaked in 2000 when 1 048 members were arrested and charged by the unit.

Ironically it was the following year, 2001, that the unit had its staff halved in a move towards its closure in 2002. According to the SAPS, the ACU's function was duplicated by the organised crime unit and should thus be located there (SAPS 2005). Ironically in 2002, just prior to the ACU's closure, the head of KwaZulu-Natal's organised crime unit was convicted on corruption charges brought against him through the ACU's work.

While in line with the restructuring the organisation has seen since 2002, the closure of the ACU, led by the national commissioner, has been widely questioned by some within the SAPS as well as many outsiders. Since the closure of the unit, the SAPS alters the manner in which it presents corruption related disciplinary data almost annually, making comparisons with the ACU era almost impossible. This is largely due to the fact that in recent years the only available data refer to suspensions of members rather than the arrest and conviction based reporting implemented by the ACU.

Despite difficulties in comparison it seems clear that the organised crime unit, with its broad and busy mandate, has been unable to replicate the ACU's success in the sphere of SAPS corruption. Data available from 2006/07 show a total of 222 members suspended for corruption and fraud

during that financial year (SAPS 2007). This must be compared with the 1 048 corruption arrests (the majority of which, it can be assumed, resulted in temporary suspensions) and 193 convictions led by the ACU in 2000 (SAPS 2002).

The later figures reek of organisational inaction, and inaction there has been. From 2001 to 2007 the SAPS reported the development (and implied the implementation) of various macro anti-corruption strategies. In truth, rollout for what is now called the Corruption and Fraud Prevention Plan only began in September 2007, despite it still being incomplete.³ This obscene delay, combined with the misleading approach to reporting, raises serious questions about political will to tackle corruption in the organisation.

However, should the National Prosecuting Authority (NPA) successfully prosecute National Commissioner Jackie Selebi, new light may be cast on this lack of action and aspects of the closure of the ACU, as well as some aspects of the new Plan. In such a case all the Commissioner's decisions relating to corruption management, as well as any other plans he may have spearheaded, will need to be revisited.

The Corruption and Fraud Prevention Plan

Delays and potential concerns aside, the rollout of the Plan must be viewed in a positive light. From what little is known about it, it seems both extremely complex, yet promising if fully developed and implemented effectively.⁴ One of the most exciting aspects of the Plan is its leaning towards public education on police corruption. Through as yet undecided means, the SAPS hopes to educate the public about police corruption and the mechanisms it will put in place to combat it. Importantly, one of these mechanisms will include a SAPS anti-corruption hotline, something else that was lost with the ACU.

Public education around police corruption is perhaps the most important anti-corruption approach, though as yet never pursued by the SAPS. The campaign will need to be handled delicately and in partnership with the media so that it is not misconstrued as further evidence of apparent rampant corruption in the organisation.

Other promising new tools include an 'alternatives to corruption' policy which will provide exit plans to members whose hands are already dirtied by corruption, and anti-corruption training modules taught in both basic training, and following promotions.

A possibly contentious aspect of the new Plan is that it fails to reintroduce a dedicated anti-corruption body in the SAPS. Instead the investigation of corruption remains with station level detectives, with high profile cases referred to the organised crime unit.

While policing its own members is obviously not the organisation's priority, the checks and balances that keep a democratic police agency in line cannot be ignored. The SAPS has adopted a community-centric approach to policing which is heavily reliant on the presence of strong, trusting relationships between its members and the public. As the Afrobarometer findings referenced above suggest, broad national trust in 'the police' remains an illusive prize at this stage.

For this to change the SAPS is going to need to tread with careful haste in the rollout of its new Plan. The organisation will also need to carefully manage its response to the charges against the national commissioner.

Corruption and the metropolitan police departments⁵

Since 2000 Durban, Johannesburg, Ekurhuleni, Tshwane and Cape Town have established metropolitan police departments (MPDs). Swartland in the Western Cape established the country's only municipal police department. Accountable to municipal governments and tasked with crime prevention, by-law and traffic enforcement⁶ within municipal limits, MPDs are considerably smaller than the SAPS.

The Johannesburg MPD, the country's largest, has a total staff complement of 2 200 which is proportional to 0,1 per cent of the SAPS. While for the most part MPDs appear to exemplify an ease of corruption management when compared with the SAPS, they have their hands tied in some aspects of

their work through restrictions imposed by the SAPS National Commissioner.

With few circumstantial exceptions, MPDs do not have the power of investigation. While many within the MPDs consider this as a hindrance to their work, the absence of detective services means one of the most fertile grounds for corruption is absent from the organisations. SAPS detectives might 'lose' dockets or parts thereof, alter statements, plant or destroy evidence, or any other number of actions in return for reward. In this regard MPD officers might be seen as less corruptible than SAPS members.

However, the area of traffic enforcement in which the majority of citizens will encounter metro police, is one in which corruption is most visibly rife. Because corrupt traffic related exchanges span a greater proportion of the population, affecting the wealthiest to the poorest (rather than the SAPS who often disproportionately police the poor), it is one of the more public and damaging forms of corruption.

Tackling traffic related corruption will be extremely important when the Administrative Adjudication of Road Traffic Offences Act (AARTO) is implemented. AARTO is a license points demerit system through which traffic violations will result in license demerit points and suspensions, in addition to fines. After a decade in the making, a pilot of the system will be rolled out in Tshwane in 2008.

While it has the potential to revolutionise traffic enforcement for the better, many within MPD management believe it will increase the prevalence of bribery and corruption among their officers. The logic follows that if motorists are willing to pay bribes to avoid monetary fines, they will be more willing to pay bribes to avoid the loss of points which could lead to the suspension of their licenses.

Effective integrity and anti-corruption management within the MPDs and other traffic policing agencies will be vital if this system is to be effective. While all but the Swartland Municipal Police Service (SMPD) have anti-corruption related units, none has any formal anti-corruption or integrity management

policy, strategy or training, and few have any functionally relevant structures outside of these units.

MPD anti-corruption related units

Within the MPDs there exist three basic models of anti-corruption unit. The Johannesburg (JMPD), Ekurhuleni (EMPS), Tshwane (TMPD) and Cape Town MPDs (CTMPD) all have anti-corruption related units.⁷ For the most part these units are reactive in nature, sharing a general mandate to investigate all complaints (including those not deemed corruption related) against members of their respective organisations.

In 2007 the JMPD introduced a 'proactive' subsection to its unit. These investigators are tasked with visiting offices and officers to conduct spot firearm, ticket book, process adherence and other systems checks. This function is similar to what the TMPD calls its Inspectorate. The TMPD's Inspectorate monitors and assesses all departmental processes and conducts spot checks to measure adherence and uncover irregularities. If foul play is suspected, a case will be referred to their anti-corruption unit.

The TMPD also has a unique Civilian and Internal Affairs Unit mandated to advise TMPD managers with regards to civil claims, disciplinary and departmental action against employees, and to provide pre-emptive legal assistance for operations. The TMPD is currently moving to combine these three anti-corruption related units into a single Integrity Unit.

Durban's MPD is unique in its current approach to combating corruption. While it previously had an anti-corruption unit, this was closed in 2007 and its function (but not members) moved to the city's Ombudsman's office. This is the only example of corruption investigation capacity located outside the city's police department. While the importance of an independent unit is clear, the fact that investigators are unfamiliar with the police environment, and that the office's capacity was not increased when taking on this role, is concerning.

The Swartland MPD does not have any dedicated anti-corruption structures. All complaints and

investigations are headed by the chief or his deputy. This is understandable considering the uniquely small size of the MPD (46 members) operating in a peri-rural, small town environment. According to Swartland's chief, the MPD has not received a single corruption complaint.

While there is as yet no clear best practice among the different MPDs' approaches to anti-corruption units, a number of points stand out. It makes sense that related functions are located within a single unit and that this unit is positioned outside the department or in the office of the chief. It is also vitally important that the inspectorate-type function is fulfilled by all units, signalling a proactive drive against corruption. Ideally such a proactive drive would include monitoring of officers on the road, though at present this is only done by the JMPD.

MPD perceptions, structures and challenges

Top management within all of the MPDs consider corruption a serious challenge. However, almost none of the units tasked with combating it share these views. Most point to the relatively few corruption related complaints they receive to illustrate the health of their organisations. While not a focus of this article, most MPD civilian oversight committees, none of which is concerned about corruption, adopt the same attitude.

This argument flies in the face of public opinion and survey results and would only be valid if anti-corruption reporting and investigation structures existed, functioned and were advertised to the public. In such a scenario the whistleblower would know who to call and would feel safe doing so, the MPD would respond swiftly, justice would be served, and complaint figures would rise before declining. The same would happen if MPD employees were educated about, and encouraged, to report misconduct amongst colleagues, or if anti-corruption type units were proactive in their functions. This is not the case.

None of the MPDs have structures or guides for blowing the whistle on corrupt colleagues and none, with the exception on the JMPD, runs any form of public education campaign relating to corruption. The JMPD is the only MPD with a

dedicated anti-corruption hotline, impressively advertised on all its vehicles. The JMPD and DMPD are also the only MPDs to introduce driver identification and vehicle tracking technologies to help ensure personal accountability should a whistleblower refer to a particular vehicle when reporting corruption.

One of the most aggressively proactive forms of combating police corruption – the field integrity test – is not readily available to South African MPDs. Through such a test, anti-corruption officers posing as members of the public would cajole officers into potentially engaging in corruption. While such strategies raise obvious ethical questions, the knowledge that officers may be set up would likely deter many. However, due to complications around applying for entrapment orders from the Director of Public Prosecutions, this strategy is not available to MPDs unless a credible complaint against an officer arises. It is for this reason that the EMPD's Integrity and Standards Unit views lack of entrapment powers as its greatest hindrance. However, entrapment orders and the resulting video and audio evidence of a corrupt act are only necessary for criminal prosecution. Councils should be able to take their own disciplinary action, based on evidence gathered without such an order. At present this does not happen.

Additional challenges

Perhaps the greatest hindrance to the governance of integrity in the MPDs is the disciplinary code. Unlike the SAPS, which has a code separate from that of other civil servants, MPD employees are governed by the same code as all council employees. In other words, firearm wielding, fast car driving individuals with immense discretionary power are liable to the same disciplinary definitions and punishments as secretaries, human resource managers and grounds staff.

Infringements are not considered within a policing context but in a civilian, council context. For example a 'lost' firearm would be treated as 'lost council property', not as the loss of a lethal weapon. Furthermore, disciplinary action is taken by council rather than by the MPD, further removing the misconduct from the policing context.

In all but the JMPD, only councils can handle expulsions.

No case history or law exists to guide MPD discipline. MPD employees receive very different punishments for the same acts across time and departments.

With little control over discipline, MPDs complain of councils drawing procedures out to the extent that blatantly guilty employees are allowed to return to work based on the legally stipulated three-month maximum suspension preceding disciplinary action. The result is that officers who have been caught red-handed remain unpunished within their original positions while councils prepare to hear the case.

A solution to this situation would seem to lie in the development of a new disciplinary code in line with that of the SAPS rather than that of council, and the shifting of disciplinary management to within the departments. Ideally, MPDs would also develop and share precedents on the punishment of offences, and in so doing educate employees about the consequences of illicit self-enrichment.

The fact that MPD investigators do not have the criminal investigative powers of SAPS detectives also has a negative effect on the manner in which MPDs approach corruption. Criminal corruption investigations against MPD offenders must be handed over to already overburdened SAPS detectives. Solid cases are then at risk of being neglected and eventually withdrawn by senior prosecutors. Even when an MPD unit has gathered the necessary statements and evidence to convict officers, progress often slows once dockets are handed to the SAPS.

Again, this can result in blatantly guilty officers returning to work after the maximum three-month suspension. In order for this to change, the SAPS National Commissioner needs to appoint MPD investigators in terms of the Criminal Procedure and SAPS Acts, endowing them with the powers vested in these acts. Similarly, the inability to trap officers without prior orders issued by the Director for Public Prosecutions restricts the independence and power of MPD units in seeking out corrupt officers.

Conclusion

Discourses on 'police' in South Africa seldom differentiate between the country's national, metropolitan and municipal police. As such, the Afrobarometer and ISS Victims of Crime surveys, among others, make it difficult to determine the extent to which MPDs influence public perceptions of 'police'. While such distinctions may not be of paramount concern, they are worth considering when scrutinising management within the different organisations.

Perceptions of corruption in the country's policing bodies negatively undermine the entire policing fraternity. As such, these disparate bodies with mostly separate management systems and structures might consider working together on corruption, among other management issues. While proactive, healthy relationships already exist between most of the MPDs and the SAPS (at a senior management level), it would seem that much could come from closer cooperation in the future. The SAPS could share much with the MPDs in terms of its detailed Corruption and Fraud Prevention Plan. By the same token, the MPDs' relevant anti-corruption units might stand as models that the SAPS may choose to replicate.

Both the SAPS and MPDs lack publicly familiar and effective corruption reporting mechanisms. More importantly, advertising of hotlines and reporting procedures, where they exist, does not seem widespread. Given that the development of such resources and advertising can be costly, particularly in the context of local government budgets, it would seem logical for the country's policing institutions to pool their resources in publicising anti-corruption structures. This would need to be managed effectively so as to encourage whistle blowing against offenders whilst not bolstering negative perceptions of police. Additional partners could be found in the National Anti-Corruption Forum and Public Service Commission, among others.

The simplest strategy would be a well marketed campaign (including television or radio commercials) advertising a national police anti-corruption hotline.⁹ Call centre employees would

direct complaints to relevant organisations, units or stations. In addition to ease of use, this would allow for the centralisation of complaints within a single database through which oversight bodies could follow up on action taken.

This option is particularly favourable in light of the SAPS's future plans to embark on a public anti-corruption campaign. This campaign, through partnerships with the media, would also benefit from publicising the arrests and prosecutions of members of the public involved in police corruption, which would hopefully arise through a proactive policing of officers and their engagements with the public.

Other important issues that need to be addressed are the disciplinary code within the MPDs, the lack of investigative powers granted MPD officers and the SAPS's failure over the past seven years to effectively implement any relevant strategies. If these issues can be checked, the country's police will have made an important step towards restoring their credibility.

References

Mattes, R 2006. Good News and Bad: Public perceptions of crime, corruption and government, *SA Crime Quarterly*, 18. Institute for Security Studies.

South African Police Service 2002. *Annual Report 2001/2002*. Pretoria: South Africa Police Service.

South African Police Service 2005. *Reorganising of specialised units (detective service) and in particular the anti-corruption units of the SAPS*. SAPS handout at the 2nd National Anti-Corruption Summit hosted by the National Anti-Corruption Forum, CSIR, 22-23 March.

South African Police Service 2007. *Annual Report 2006/2007*. Pretoria: South Africa Police Service.

Endnotes

- 1 In a bizarre manipulation of the justice system based on the country's climate of police corruption, the Ekurhuleni Metropolitan Police Department alleges that some motorists *falsely accuse* EMPD officers of soliciting bribes in order to evade legitimate traffic penalties. Such a claim would have appeal if it were institutionally accepted that corruption is pervasive.
- 2 For ease of reading, the terms 'metro' and 'MPD' will refer to both metropolitan and municipal police.
- 3 SAPS strategic management reports that a national

instruction was issued by the national commissioner for the rollout of the strategy in September 2007, although this claim has not been independently verified.

- 4 For more detail on the Corruption and Fraud Prevention Plan see Faull, A 2007. *Corruption and the South African Police Service, A Review and its Implications*. ISS Occasional Paper 150. Pretoria: Institute for Security Studies. Despite regular correspondence with the developers of the Plan at the time of writing, the pace at which the Plan continues to change means that some early SAPS goals presented in the paper are no longer valid.
- 5 Information in this section was gleaned through interviews with senior management, heads of relevant units and where possible, oversight committees in the following departments: SAPS, Johannesburg Metropolitan Police Department, Tshwane Metropolitan Police Department, Cape Town Metropolitan Police Department; Durban Metropolitan Police Service, Ekurhuleni Metropolitan Police Service and Swartland Municipal Police Service. Interviews were conducted between 26 October 2006 and 1 October 2007.
- 6 In the last quarter of 2007 Cape Town relocated its traffic enforcement outside of the Cape Town Metropolitan Police Department in a separate Traffic Department.
- 7 For ease of reading I refer to the TMPD's 'Internal Conduct Investigations Unit' and the EMPS's 'Integrity and Standards Unit' by the same name used by the JMPD, an 'Anti-Corruption Unit'. All three have very similar functions.
- 8 Alternately advertisements for the current national anti-corruption hotline could be made which then include reference to police corruption.