

the law for sale

corruption
watch



Endemic corruption in the
Johannesburg Metropolitan
Police Department

2012 Summary

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An important objective of this report is to generate more public reporting and public comment

endemic corruption in the JMPD



Although the evidence on which the report relies is drawn from the Johannesburg metro, the practices that the report discusses are common to traffic policing across the country, as are the solutions.

The purpose of the report is to identify the systemic weaknesses and stresses that have caused an important law enforcement agency to become synonymous with corruption. Much of the data that the report draws on has been gleaned from the reported experiences of members of the public. An important objective of this report is to generate more public reporting and public comment that will assist in the urgent quest for solutions.

The JMPD has three functions. These are traffic policing, the enforcement of metropolitan by-laws and, as an agent for the province, the administration of the facilities responsible for certifying drivers' and motor vehicle licences. All are commonly believed to be riven with corruption. However, this report is exclusively concerned with the JMPD's traffic policing function. In time we will also prepare reports on these other areas of jurisdiction.

Although the evidence on which the report relies is drawn from the Johannesburg metro, the practices that the report discusses are common to traffic policing across the country, as are the solutions. We have received many reports of traffic policing corruption drawn from other metros as well as from small towns and from the provincial traffic police. We will use this report to speak to the public outside of Johannesburg and we will encourage those subject to other traffic policing agencies to share their own experiences, good and bad.

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why traffic policing?



The sight of a police officer is not a reason for feeling comfortable and secure, it is a reason for clutching one's wallet or, worse, for outright fear.

Most South Africans have little contact with law enforcement authorities. Indeed for many drivers and taxi passengers, their only frequent interface with law enforcement will be with a traffic officer. As our report recounts, every day tens of thousands of taxi passengers bear close witness to their taxi being pulled up, often for no discernible reason, by a traffic officer, the driver getting out of his cab, walking over to the traffic officer, having a murmured conversation and handing over the bribe. Every day hundreds of drivers of private vehicles are pulled over, often because they have been talking on their cellphone while driving or for failing to wear a seat belt. They then go through a familiar routine – described in the report - in which 'lunch' and 'cooldrinks' are frequently mentioned and the hardship entailed in paying the (often vastly exaggerated) potential fine or, worse, the horrors of spending the weekend in a prison cell, are pointedly mentioned.

Either the tjo-tjo (a bribe) is then handed over to the traffic officer, or the driver that pretends not to understand the routine is impatiently waved on (even those who are indeed guilty of an offence) by the officer who cannot waste his time on a non-paying 'customer' while other lucrative prospects are driving by.

The impact that this has upon ordinary citizens is immeasurable. On the basis of their daily experience, they conclude that the vast majority of public officials, critically including those specifically charged with upholding the law, are, as our report is entitled, 'for sale'. For them no public service is rendered without some tjo-tjo. Whether it is maintaining the rules of the road, getting a place in line at the dispensary of a public hospital or securing a place in a queue for an RDP house, public service comes with a price. The sight of a police officer is not a reason for feeling comfortable and secure, it is a reason for clutching one's wallet, or worse, for outright fear. Every day these experiences further erode an already low level of trust between the public and those who are meant to serve them; every day a part of the resources of a poorly-paid taxi driver, or a citizen who has to get to work on time, are transferred to the pockets of the officials charged with ensuring lawful use of our roads.

The impact on the rule of law is incalculable. Taxi drivers interviewed for this study, argue that there is no point in obeying the rules because, whether or not they obey them, they will be harassed and held up by traffic officers who know only too well that the simple expedient of reducing the driver's number of trips by one eliminates his margins for the day. Indeed, breaking the rules by using the yellow lanes or speeding or overtaking dangerously may allow the taxi driver to make up for that one trip that the corrupt traffic officer's calculated harassment will eliminate. It may lead to a total breakdown in trust between the citizenry and the law enforcement authorities; it may raise the level of stress and road rage; it may lead to a horrific 'accident'. This is what happens when the law is put up for sale.

“ Clear evidence of ‘systemic’ corruption also raises the thorny issue of deciding how high corruption extends up the chain of command ”



Corruption in traffic policing cannot begin or end with those JMPD members on the road

how widespread is the problem?



Clear evidence of 'systemic' corruption also raises the thorny issue of how high corruption extends up the chain of command.

Systemic corruption is in evidence when, for example:

- The Yeoville respondents in our survey tell us that it is cheaper to pay some tjo-tjo a few times a month than it is to get new tyres for your car or to acquire, by lawful or corrupt means, a driver's licence.
- The taxi drivers tell us that they have no incentive to obey the law because whether or not they obey the law has little bearing on the traffic officer's decision to pull them over and so reduce or eliminate their margins for the day.
- The residents of Bryanston are content to have traffic officers coming to their neighbourhood every Friday and Saturday night in order to reap the lucrative opportunities for bribery, because the visible presence of so many police officers reduces other crimes like house-breaking.

We are reluctant to recommend that the police arrest drivers who attempt to bribe them, because this will simply enhance the already considerable capacity and leverage that corrupt and powerful police officers have to abuse their power.

Clear evidence of 'systemic' corruption also raises the thorny issue of deciding how high corruption extends up the chain of command. Our report is focused on corrupt practices in which the traffic police on the road engage. However, it is crystal clear that corruption in traffic policing cannot begin or end with those JMPD members on the road. The extent of corruption alone is an indicator that those higher up the operational ladder must be aware of the true extent of corruption and must even be able to identify individual corrupt members. But, in addition, the decisions that flow through the chain of command and the hierarchical nature of law enforcement lends itself to high-level involvement in the bribery that occurs on the roads. Is it possible to believe that those who assign shifts or who command shifts are sending police men or women out onto the streets knowing that they will tap into a lucrative source of 'informal' income, without claiming a share of what will accrue to those who are assigned the most lucrative areas and shifts? Common sense dictates that this cannot be and so we must conclude that those manning the desks and operational command structures are not only aware of corruption on the streets but that many are actively sharing in the largesse.

There are many other examples of systemic corruption that are revealed in the report. But these should serve to illustrate that we may have reached the point where corruption has become so deeply rooted in the system that both the perpetrators and the victims have a positive interest in the continuation of a corrupt system. Fortunately, our evidence shows that this depressing conclusion is ameliorated by the evident anger and outrage of the users of the road to growing levels of corruption. Certainly, there are strong signs that many drivers are not ready to enter into a pact with the devil that is corruption.

“ Official data received from the JMPD tells us that between 2009 and 2011, only 184 instances of alleged corruption on the part of JMPD members had been reported ”



An important objective of this report is to generate more public reporting and public comment

what does the JMPD have to say?



Until the JMPD acknowledges the magnitude of the problem it will not be treated with the seriousness and the urgency it demands.

The Chief of the JMPD is on record estimating that about 10% of his officers are involved in corruption. The MMC for Safety and Security concedes that the figure may be closer to 20%. Official data received from the JMPD tells us that between 2009 and 2011, 184 instances of alleged corruption on the part of JMPD members had been reported. They will tell you that out of these reports, 37 officers were found guilty, and these had led to 19 dismissals, 7 resignations, and 11 suspended sentences or demotion. From these figures one may justifiably conclude that the estimate of one or two in ten corrupt JMPD officers is an overstatement of the extent of the problem. However we know that corruption – often a consensual crime – is difficult to detect, much less punish. And so we should expect something of a downward bias in the data.

But, contrast the JMPD statistics with data gathered in any survey of the experience of road users. We have examined as much of this survey data as we have been

able to find. Some surveys are clearly more scientific than others but our sample of surveys include the StatsSA survey. Our interpretation of the data indicates that one in four Johannesburg road users has been asked to pay a bribe. This is corroborated by the anecdotal evidence gathered in the course of preparing this report. This scale of corruption suggests that it is more likely that approximately 50% of traffic officers are involved in corruption.

How does one reconcile these data? Differences of this magnitude are not accounted for by subtle methodological differences in the gathering and analysis of data, or reasonable statistical error. The real explanation is that the JMPD data is entirely inward focused. It is a more accurate measure of the efficacy, or lack thereof, of their internal disciplinary mechanisms than it is of the incidence of corruption.

On the other hand, the survey data and the interview results are indicators of the perceptions and experiences of those road users whom the JMPD are sworn to serve. One could only reject or discount the survey data by arguing that they are the product of a concerted, co-ordinated campaign on the part of the road users of Johannesburg to discredit and embarrass the JMPD. This cannot be a plausible claim. And so we are forced to conclude that the JMPD data is a gross case of denialism. At best it is a product of a myopic fixation on the inner workings of an institution, at the expense of a willingness to hear the voices of the public. It is for this reason that the first demand of our 'no more tjo-tjo' campaign is for the JMPD to 'get real'. Until the JMPD acknowledges the magnitude of the problem it will not be treated with the seriousness and the urgency that it demands.

We should add that with approximately 50% of traffic officers involved in bribery, it is likely that even those who do not engage in bribery are able to identify those who do. And, more sinister, those who are involved in bribery are able to identify those who are not and thus who are potential whistle blowers. This is yet another example of the systemic nature of the problem. Those who are honest are by their silence drawn into the web of corruption.

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It is widely known that most serious transgressions of traffic law can be 'sorted out' by a bit more tjo-tjo

who is responsible: the drivers or the police?



Surely the first step in securing compliance with the law is to demonstrate that those responsible for upholding it, respect it.

Our report reprises a debate that is well known but demands further consideration. This is centred around JMPD's contention that it is the willingness of the public to bribe, and thus tempt the traffic police, that is the root of the cause of burgeoning corruption. Like dancing the tango there are, by definition, two parties involved in an act of bribery. So who is principally accountable, the payer of the bribe or the recipient of the bribe?

Were citizens never to break the law, we would have no need of law enforcement authorities. But they do break the law and so we have a number of complex institutions employing thousands of people who are responsible for upholding the law. Of course, they cannot do their job effectively unless the broad mass

of citizens upholds the law. This will be the case if that broad mass of citizens actually respects the law or if they are sufficiently afraid of the consequences of breaking the law. However if it is widely known that the most serious transgressions of traffic law can be 'sorted out' by a bit more tjo-tjo, and, moreover, that the upholders of the law themselves have no respect for the law, then both the fear that citizens may have for breaking the law diminishes, as does their own respect for the law.

Our report argues – and this is corroborated by the interviews conducted - that there are not many citizens who would risk the consequences of engaging in so serious a criminal act as bribery, unless they had good reason for believing – either from the experience of their peers or from signals sent via 'the JMPD routine' - that the bribe would be accepted. And so fear of the consequences of breaking the traffic law is diminished because road users know that those charged with upholding it will sell their oath for a bit of tjo-tjo.

So while we do not absolve the bribe-paying road users from all responsibility for the extent of corruption on our roads – and a large part of our campaign is directed at the road users – we are in no doubt that the principal responsibility for the extent of corruption on our roads rests with the enforcement authorities.

And, of course, as a practical matter, while we think public education campaigns are necessary and useful, it is far easier to hold law enforcers to account than it is the public at large. Surely the first step in securing compliance with the law is to demonstrate that those responsible for upholding it, respect it.

“ For its part the JHB Metropolitan Government should remove obstacles for effective criminal investigation and prosecution of JMPD members implicated in acts of corruption ”



Members of the public who encounter corrupt JMPD members are often afraid to report corruption

what is the solution?



Johannesburg Metropolitan Government should remove obstacles to effective criminal investigation and prosecution of JMPD members.

Our report offers five elements of a solution:

1. Take responsibility for addressing corruption

At a minimum this requires that the leadership of the JMPD and the city recognise the scale of the corruption problem and its systemic character, that they 'get real' and cease relying on data drawn from their compromised disciplinary mechanisms and give credit to the experiences of the road users as the primary data source. A more realistic acknowledgement of the problem presupposes that specific steps be taken to improve the performance and integrity of the internal affairs and disciplinary system – for example the introduction of measures, such as the regular use of lie detector tests, to ensure that members of the internal affairs division adhere to standards of integrity. For its part the Johannesburg Metropolitan Government should remove obstacles to effective criminal investigation and prosecution of JMPD members implicated in acts of corruption.

2. Steps must be taken to ensure that JMPD members who are on duty are identifiable

The flouting of the requirement to wear name tags is widespread in the JMPD. This is a way for corrupt JMPD members to avoid being identified and therefore being held accountable for their actions. Easy identification of individual JMPD members should be a non-negotiable issue and failure to wear identification should be grounds for summary dismissal. Members of the public should not be required to cooperate with members of the JMPD who are not clearly identifiable by name – indeed a public campaign should be mounted to encourage members of the public to report encounters with JMPD members who are not wearing identification, regardless of whether or not incidents of corruption were involved in these encounters. This should be reinforced by random inspections by plain clothes personnel to check that on-duty JMPD members are wearing visible identification.

3. Members of the public, and JMPD members, must be able to report corruption with greater confidence and ease

Members of the public who encounter corrupt JMPD members are often afraid to report corruption, whether or not overt steps are taken to intimidate them. The same is likely to apply to JMPD members who are unhappy about corruption involving their colleagues. JMPD members and members of the public who wish to report corruption should be able to do so with absolute certainty that they may do so confidentially. This requires setting up a corruption reporting system that is not managed and controlled by the JMPD. The corruption reporting mechanisms should be widely publicised, notably in the form of roadside posters.

An information campaign should be mounted to remind members of the public and the JMPD that is a criminal offence

4. Use proactive 'field integrity tests' for purposes of gathering evidence for disciplinary measures and criminal charges

There are likely to be ongoing problems in gathering evidence of corruption for both disciplinary purposes and in order to file criminal charges against alleged perpetrators. These problems relate partly to the fact that corruption is often consensual in nature. But it's also a product of fear which deters whistle blower and, particularly, the willingness to serve as witnesses in disciplinary hearings and in court proceedings. The Johannesburg Metropolitan Government should ensure that the use of proactive field integrity tests is institutionalised as a means of combating corruption in the JMPD. These are essentially 'sting' or entrapment operations. The legal and institutional requirements for mounting successful sting operations are challenging and the Metro Government should urgently investigate ways of overcoming these obstacles.

5. Measures need to be introduced to address the willingness of members of the public to pay bribes. However this must be approached with caution if it is not going to be abused by corrupt JMPD members.

An information campaign should be mounted to remind members of the public (and members of the JMPD) that corruption is a criminal offence, carrying the possibility of a criminal record and even a prison sentence. 'The taxi drivers' associations and the unions representing the JMPD officers bear a particularly strong responsibility for reminding their members of the possible consequences of accepting or paying bribes. However, the existing levels of abuse of power by JMPD members raise the likelihood that any policy in favour of arresting members of the public who offer bribes will be used as a cover by corrupt JMPD members for malicious arrests of those who challenge their corrupt behaviour. For this reason the JMPD officers should be actively involved in this campaign. This could be done by mandating JMPD officers to hand out leaflets to any member of the public with whom they intend to engage. These leaflets should be signed by the Mayor and should serve as a reminder of the possible consequences of participating in corruption. However, any campaign of arrests and prosecution of members of the public who offer bribes to JMPD members should be closely monitored and controlled.



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this publication was made possible by funding provided by the Open Society
Foundation South Africa, the Raith Foundation and the Bertha Foundation