

Corruption Watch (RF) NPC

Reg. No. K2011/118829/08
8th Floor Heerengracht Building, 87 De Korte Street
Braamfontein 2001 Johannesburg
P O Box 30630 Braamfontein 2017
T +27 (0)11 242 3900 F (0)11 403 2392
info@corruptionwatch.org.za www.corruptionwatch.org.za



**PUBLIC SUBMISSION ON THE 2018/2019 BUDGET, ANNUAL PERFORMANCE PLAN AND STRATEGIC PLAN
OF THE SOUTH AFRICAN POLICE SERVICE, THE CIVILIAN SECRETARIAT OF POLICE, AND THE
INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE**

Corruption Watch's experience of police corruption

1. Corruption Watch is a non-profit organisation that was established in January 2012. We encourage and enable the public to report incidents of corruption to us and we use these reports as an important source of information to fight corruption in South Africa and hold leaders accountable for their actions. We achieve this through policy advocacy, public mobilisation and litigation. We strategically select a number of the incidents that are reported to us for further investigation.
2. The incidents reported to us generally carry criminal sanction. If this conduct is to be deterred a sufficient number of perpetrators must be appropriately sanctioned. We accordingly acknowledge the critical importance of the various bodies that constitute the Department of Police and keenly appreciate their role in combatting crime and corruption in the Republic. We also acknowledge the importance of ethics and accountability in the effective functioning of these agencies.
3. However, it is evident that corruption is being experienced at two levels in our country. Firstly, corruption occurs in the broader society across all sectors at both a 'petty' and 'grand' scale. Incidents of petty corruption typically occur in the provision of basic public services – hence education, health, housing and various licensing services feature prominently in the reports that we receive. Relative to incidents of grand corruption, the amounts of money involved in each incident of petty corruption are small, however the impact on the lives of ordinary South Africans is significant – they may determine whether school learners receive the daily meal to which they are entitled or whether a family gains access to public housing rather than being forced to live in an informal settlement. Official inaction in the face of petty corruption influences the attitude of citizens towards their public representatives and public officials. It is, we believe, directly responsible for the declining levels of trust reposed by the public in their public representatives and public officials.

4. Grand corruption is most widely experienced in the process of awarding major public contracts. This form of corruption has increasingly taken the form of the wholesale capture of the budgets and decision-making structures of key ministries and state-owned enterprises. Grand corruption implicates senior political, public and private sector leaders and institutions.
5. Secondly, and most concerning, our whistleblowers tell us that corruption is rife in public institutions that are precisely mandated to combat graft, in particular the institutions of the criminal justice system, including policing services. It is this that accounts for the sense of impunity with which perpetrators engage in corruption; it accounts for the low level of risk which is perceived to be attached to engaging in acts of corruption. Corruption Watch firmly believes that impunity is the major underlining cause of burgeoning levels of corruption across society and that this sense of impunity is largely a consequence of corruption in the provision of policing services. Thus in order to effectively deal with corruption in society, the Executive and Legislature must urgently prioritise combatting corruption in the law enforcement agencies.
6. Police corruption also manifests itself in diverse forms ranging from the 'petty' to the 'grand'. Petty police corruption typically targets particularly vulnerable groups – for example, refugees and asylum seekers, street traders, and lone motorists. Disadvantaged communities generally are victims of petty police corruption – the local police officers who are in the pay of the neighbourhood drug dealers and other criminal gangs feature commonly in reports of police corruption.
7. 'Grand' police corruption typically manifest as police inaction in the face of strong prima facie evidence of corruption, most frequently in relation to major corruption in the awarding of public procurement contracts or to evidence of the capture of key state-owned institutions, inaction that is only explicable by reference to the power and wealth of those implicated. Grand police corruption is also evident in relation to reports of police involvement in major criminal enterprises – allegations of senior police involvement in the Western Cape bouncer wars and in the sale of weapons confiscated by the police to criminal gangs appear to exemplify this aspect of grand police corruption. Grand corruption in relation to the criminal justice system has also manifested in the capture of key institutions. Indeed, arguably the National Prosecuting Authority (NPA) and the Directorate of Priority Crime Investigations (DPCI commonly referred to as the Hawks) may well have been the first institutions to have been captured by corrupt interests in the political establishment in cahoots with business and criminal interests

8. These observations are rooted in our experience. Corruption Watch has received a large number of reports from the public that paint a harrowing picture of petty corruption in the police service. Since Corruption Watch's inception, we have received 1165 reports from the public that expose corruption in the South African Police Service (SAPS). This comprises 6% of the total number of overall reports that we have received since 2012, which total just over 20 000. The majority of reports (39%) relate to bribery in the SAPS which refers to officers accepting bribes from drug dealers and other so-called 'petty' criminals. These reports also highlight how police extort bribes from refugees and asylum seekers, small businesses and motorists. The second highest reporting trend (23%) is the abuse of power by police officials. This particularly relates to police officers who use their power to obtain money or sexual favours from the public in exchange for not reporting illegal activities or expediting bureaucratic processes. Dereliction of duty (18%) is the third highest form of corruption reported to us which refers to officers who fail to act upon grievances that are reported to the SAPS.
9. We have, over the years, referred a sample of the reports that we have received and verified to various policing units and agencies. Regrettably the typical response is one of indifference. However we are pleased to record that in some instances we have successfully engaged with police officials. For example, some officers and provincial units of the Hawks have responded positively and constructively to reports referred by us alleging corruption in the treatment of refugees and asylum seekers.
10. However, we have disturbing experiences of police inaction in face of evidence of grand corruption in matters in which we have been closely involved. For example, we are astonished at police indifference to strong prima facie evidence of corruption in the award of major public contracts for the management of the social grants programme. We are deeply concerned at the belated and desultory response of the Hawks to strong evidence of corruption at the highest level in the South African Revenue Service (SARS). In this particular instance we have laid criminal charges against the now suspended SARS Commissioner, Mr Tom Moyane and his erstwhile second-in-command, Mr Jonas Makwakwa. So confident are we of the strength of the prima facie evidence that we are considering instituting a private criminal prosecution of the officials in question. Police inaction in response to evidence of corruption at key state-owned enterprises implicated in the state capture saga has been widely commented upon. We are particularly engaged with the infamous McKinsey/Trillian relationship with Eskom. Concerned at the lack of interest shown until recently by the Hawks in this matter, we have referred McKinsey's conduct to the USA criminal justice authorities. In these and many other similar instances, the only inference to be drawn is that the

Hawks are reluctant, despite powerful prima facie evidence, to pursue investigations in instances where politically connected individuals and institutions are implicated.

11. We note that not only is the non-responsiveness of the policing authorities evident in their poor record of actual investigation, it is also reflected in their refusal to engage with those who have laid charges with the police in the first place. In the SARS matter referred to above, it has proved to be well-nigh impossible to receive basic information regarding the progress, if any, with the investigation by the Hawks despite being the complainant in the various matters. In this regard, we are considering approaching the Courts to seek clarification of the police's responsibilities to keep complainants apprised of the progress of investigations, particularly investigations which are supposed to serve the broader public interest.

Corruption Watch's response

12. Due to the large volume of reports of police corruption that Corruption Watch has spontaneously received and cognisant of the particular relationship between police corruption and corruption in the wider society, in mid-2018 we will be launching a campaign that focuses specifically on corruption in the policing sector. Our campaign will include activities that engage ordinary members of the South African public about their experiences of corruption in relation to the police services, and encourage whistleblowers to report incidents of corruption to Corruption Watch.
13. As evident in similar campaigns that were conducted by Corruption Watch in the past, we anticipate that there will be a significant increase in the number of police corruption reports that the organisation will receive. While we have neither the resources nor the institutionalised power to investigate and verify but a small fraction of the reports received, there is absolutely no reason to believe that the whistleblowers are fabricating the reports that they submit to us. It is accordingly our wish and our intention to build strategic partnerships with the SAPS, the Independent Police Investigative Directorate (IPID) and the Civilian Secretariat for Police (CSP) to ensure that the individual grievances reported to us by the public are addressed in a timely manner. Above and beyond investigation of the individual instances of police corruption reported to us we believe that our reporting data will greatly assist these agencies in identifying hotspots and patterns of police corruption.
14. We should note that we are able to point to the benefits of a cooperative relationship with the authorities. The Department of Basic Education and the provincial education departments, most notably the Gauteng Department of Education, have been willing to cooperate with us. This has

not only guided our activities but, we respectfully submit, has also assisted the authorities in confronting corruption in their sector. By contrast, the Department of Home Affairs has proved to be thoroughly uncooperative despite overwhelming evidence of rampant corruption in the treatment of refugees and asylum seekers. We can only infer that the hostile response of the Department of Home Affairs reflects the complicity of senior officials in the systemic corruption that characterises this sector. We have no reason to believe that cooperation between ourselves and other civil society organisations and the policing authorities will generate anything other than mutually positive outcomes, as with our experience in the education sector.

Focus on police leadership

15. Despite an increase in the SAPS budget, which has grown by approximately 60% since 2012, there is evidence of deterioration in various functions of the police service. For example, the decline in intelligence crime threat analysis and network operations, as well as a decrease in detection rates for violent crime and visible policing. The consequences of this, as revealed in the 2016/2017 Annual Crime Statistics¹, is that murder and armed robbery has been on a steady increase since 2012.
16. The above trend is also evident in the functioning and performance of the Hawks. In a time period of five years, 2010-2015, the number of arrests made by the Hawks declined by 83% and the conviction rate decreased by 60%².
17. The only inference that we can draw from the coincidence of increasing resources and deteriorating performance is that the resources are misallocated and that the morale and competence of those responsible for deploying the resources is questionable. Accordingly it appears that the SAPS and Hawks are confronted with a leadership problem rather than a resource problem. This is not surprising when consideration is given to the chronic instability that has characterised key leadership positions in the SAPS.
18. In relation to the appointments of key leadership positions, Corruption Watch in partnership with the Institute for Security Studies (ISS) has made a public call for the implementation of the recommendations from the National Development Plan (NDP) as it pertains to the appointment of the SAPS National Commissioner and Deputies. This requires that a merit-based, transparent and

¹ <https://www.news24.com/Analysis/crime-stats-the-devil-is-in-the-detail-20171102>

² Parliamentary Question 3522, 2015

competitive selection process be undertaken prior to the appointment of the SAPS National Commissioner. Given the authority and status of the Head of the Hawks and its particular responsibility for combatting corruption, we believe that the same should apply before appointments are made to this post.

19. In the past, individuals who have been appointed to the position of SAPS National Commissioner and the Head of the Hawks, have lacked the necessary experience, expertise and integrity to effectively carry out the requirements of these crucial positions. The NDP has accordingly identified a “serial crisis of top management” in the police. While we are cautiously optimistic at recent appointments to senior positions in SAPS, it is our firm view that a thorough and urgent reconsideration of appointment procedures in line with the recommendations of the NDP is long overdue.

Response to the Annual Performance Plans

20. With regards to the performance indicators of the SAPS, IPID and CSP, Corruption Watch’s submission focuses mainly on matters of corruption that are of interest to the organisation. To this end, we submit that the following issues should be considered by the Portfolio Committee on Policing:

21. SAPS Annual Performance Plan

- 21.1. There are no clear performance indicators for improving integrity and ethical compliance within SAPS. One of the strategic deliverables stipulated in the APP is the transformation of SAPS which includes the implementation of an Anti-Corruption Strategy, as well as the institutionalisation of integrity and ethics management. Despite the existence of this deliverable, and of the Integrity Management Service (IMS), there are no clear indicators for measuring its success.
- 21.2. The relevant indicators under Section 6.3.2 set targets for the police to address “serious” internal corruption within the police service. These indicators however exclude targets that deal with instances of “petty” corruption or small monetary amounts, which as previously noted in paragraph 8, constitutes a large volume of reports that Corruption Watch has received.
- 21.3. In relation to the performance indicators of the Hawks, the targets for the next three years remain especially low with no clear indication of mechanisms that will improve the capacity or performance of the organisation.

22. IPID budget and performance plan

- 22.1. IPIDs 2016/2017 annual report highlights that the majority of the institution's targets could not be met due to budgetary constraints and a lack of internal capacity. This is particularly concerning due to the large volumes of reports that the organisation receives relating to police misconduct. Both IPID's and Corruption Watch's data on policing highlight that there has been a breakdown of trust between the police service and the communities that they are meant to serve, resulting in an abuse of power and increased crime levels.
- 22.2. In contrast with the increasing resources available to SAPS generally, IPID's predicament may well be rooted in resource constraints. The budget allocation of IPID comprises a mere 0.4% of the total SAPS budget. With a staff complement of only 415 in the 2018/2019 financial year, as well as a budget of only R300 million per annum for the next three years, it is noted with concern that given the importance of IPID in ensuring accountability and combatting misconduct and corruption in the police service its budget cannot adequately fund the core work that the organisation is mandated to undertake. Given the potential knock-on effects of successfully combatting corruption in the SAPS we believe that resources devoted to strengthening IPID will be particularly effective.

23. CSP budget and performance plan

- 23.1. The budget for the CSP is also alarmingly minimal in comparison to that of IPID and the SAPS. Both IPID and the CSP were established to have oversight and ensure accountability in the SAPS. The inadequate funding of these institutions will prevent them from achieving their constitutional duty and further allow misconduct and corruption to cripple the police service.
- 23.2. Section 4 of the APP mentions that part of the mandate of the CSP is to establish a National Policing Board, the function of which would be to set standards for appointments and promotions with the SAPS. Corruption Watch strongly supports the initiative for establishing the National Policing Board as it would assist in ensuring that appointments to key leadership positions within the police are set on clear merit-based criteria and transparency. We are however concerned that no clear timeframe has been put in place to establish the Board.
- 23.3. Whilst there are performance indicators for ensuring accountability for official budgets and finances, there are no specific performance indicators to measure integrity or ethics of police officers. Issues of police integrity may not always be recorded in official surveys or complaints, and therefore cannot be adequately measured by the given indicators. A new method of measuring integrity and ethics of police needs to be developed.
- 23.4. Finally, in the interests of transparency, Corruption Watch believes that the audit and performance reports that have been compiled by the CSP should be released publicly and made available for public scrutiny.

Summary of Recommendations

- Establish a mechanism in the police services dedicated to receiving reports of corruption from civil society organisations such as Corruption Watch with regards to corruption within the SAPS;
- Urgently review the process of the appointment of senior police officers with particular regard to the recommendations of the National Development Plan;
- Review the role and budgetary allocation of IPID and the CSP; and
- Establish timeframes for the establishment of the National Policing Board