



Submissions by Corruption Watch: Draft White Paper on the Police

Introduction

1. Corruption Watch is a non-profit civil society organisation. It is independent, and it has no political or business alignment. Corruption Watch intends to ensure that the custodians of public resources act responsibly to advance the interests of the public. Its ultimate objectives include fighting the rising tide of corruption and the abuse of public funds in South Africa, and promoting transparency and accountability to protect the beneficiaries of public goods and services.
2. Corruption Watch's has a vision of a corruption free South Africa, one in which educated and informed citizens are able to recognise and report corruption without fear, in which incidents of corruption and maladministration are addressed without favour or prejudice and importantly where public and private individuals are held accountable for the abuse of public power and resources.
3. Corruption Watch welcomes the opportunity to make submissions on the Draft White Paper on the Police ("the Paper") and hopes that these submissions will be useful in refining the conceptual framework for the administration and improvement of the South African Police Services.
4. We are concerned about those aspects of the Paper which aim to prevent and combat corruption within the police as well as the Paper's approach to the role of police in detecting and investigating corruption. We note from the preamble to the paper that::

“The policy realignment due to changing material conditions does not however negate the necessity for the 2015 White Paper on the Police to affirm the imperative that the police uphold, protect and champion the rights enshrined in the Constitution and the Bill of Rights. This includes entrenching the values of democratic policing and in doing so; constantly striving for a police service that is efficient, effective, accountable, trusted and account respected by all, while contributing towards ensuring the conditions for growth and prosperity for the country.”

5. Although we are impressed by the commitment shown in this statement to adhere to human rights and constitutional standards, we are deeply concerned about the following:
 - 5.1. The evident lack of research, planning and preparation in drafting the Paper;
 - 5.2. The lack of alignment between the Paper and applicable sections of the NDP;
 - 5.3. A resounding absence of draft measures for implementing the Paper and its objectives;
and;
 - 5.4. A failure to deal with and address issues of political control, accountability and appointments to key oversight institutions.

Our concerns are dealt with in more detail below.

Submissions on Promoting Police Integrity and Reducing Corruption

Accountability: Clause 2.4, pages 18 – 19

Alignment with Anti-corruption Strategy

6. The section on accountability fails to take into account the objectives of Chapter 14 of the NDP. In this regard, the NDP defines accountability as being, “the institutionalised

practices of how assigned responsibilities are carried out and public resources used.” The NDP identified the building of a resilient anti-corruption mechanism as a key objective and the role of various anti-corruption, judicial and other agencies are highlighted.

7. This section identifies IPID and Chapter 9 institutions as being involved in the good governance of the police. Nothing is mentioned about the role of anti-corruption and judicial agencies. It therefore appears that the development of accountable and transparent services within the police is taking place in a vacuum, without any reference to or incorporation into existing anti-corruption strategies.

Recommendation:

The White Paper needs to provide an integrated approach towards addressing the good governance and accountability of the police. The Paper must incorporate the police’s own anti-corruption strategy adopted in 2011 and existing anti-corruption strategies, including those envisaged in Chapter 14 of the NDP. Possible approaches include the re-establishment of the SAPS Internal Integrity Unit and the re-examination of the remit and powers of IPID in relation to investigating corruption in the police. A holistic and integrated approach to tackling corruption in the police depends on the alignment of these various strategies.

Evaluations of the efficacy or otherwise of the strategies must also be built into any approach towards dealing with corruption in the police.

Civilian Oversight Mechanisms

8. The Paper states that the principles of democratic policing also allows for civilian oversight that extends beyond formal government institutions, it mentions community-based formations and states that CPF’s must play a central role in carrying out localised oversight of the police. This statement is not elaborated upon and the nature and extent of the oversight, the mechanism through which oversight is exercised and the remedial nature of the oversight is not stated. Importantly, the measures for ensuring transparent oversight, free from political or other control and other forms of intimidation are not stated. We are

concerned about the attitude of the police towards civilian oversight and specific measures must be introduced to allow for accepted and effective oversight mechanisms.

Recommendation:

The civilian oversight mechanisms need to be clear and the nature and extent of the oversight needs to be detailed. Mechanisms for remedial action as a result of such oversight also need to be included. Importantly, measures for ensuring that civilian oversight is free from political control and intimidation need to be included.

Administrative Review

9. The section provides for the inspectorate to conduct administrative reviews to ensure adherence to departmental policies and procedures and where necessary propose corrective action. This appears to be an important avenue for ensuring that police officials and other administrative staff are held accountable for their actions. Sanctions for the abuse of public resources or power could well fall under the mandate of the Inspectorate as envisaged, however, there is no further information about the role, functions and powers of the Inspectorate in respect of administrative reviews.

Recommendation:

The Paper needs to ensure that any internal or external body which is involved in holding the police accountable for actions or inaction must have clear and defined rules of engagement and operation. The processes involved in administrative reviews, sanctions and other functions must be clear and practically enforceable.

Qualities needed in a police officer Clause 3.1, pages 20 – 25

Integrity strategies

10. In Chapter 3 of the Paper, dealing with building a professional police service, integrity and capacity development are identified as being key to developing a professional police officer. There is a stated demand for honest, efficient and professional policing.
11. There are however serious red flags identified in this section, these include the assessment of officers for “integrity”, the methods used to “instil integrity” and the incentive for police officers to have integrity and uphold integrity within the police force. These issues are not made clear in this section, instead broad, vague references are made to building professional officers who have integrity.
12. It seems obvious that integrity, professionalism and devotion to the police services must be inculcated in our youth in order for these ideas to be firmly rooted within individuals who become part of the police force. Yet, nothing is said about edifying the youth about the role of our police force or creating the right conditions for young people to choose policing as a profession.

Recommendation:

The strategies and methodologies to be adopted in regard to instilling integrity in the police service need to be stated with detail and clarity. At the moment, there are broad aspirations unsupported by research or data and therefore made without any contextual framework. The revival of the SAPS Internal Integrity Unit may go a long way to promoting integrity in the police.

The incentivisation of “best practices” and conduct is an important consideration in promoting integrity and should form part of the strategy. In-depth research into the reasons for non-compliance including socio-economic and other pressures should also inform the development of “integrity strategies.”

Any strategy which aims at developing honest, dedicated and hardworking police officers must also address the development of the youth and the brand and image of the police. These “groundup” strategies must therefore form part of any attempt to develop a professional police force.

Corruption among the leaders of the police

13. Currently, the situation in the SAPS suffers from too many senior managers who do not possess the skills and expertise for the posts they hold, have found to have been untruthful while testifying under oath, and are facing allegations, investigation or are being prosecuted on serious crime and corruption charges. Currently, cases against senior officers are not effectively prioritized or dealt with resulting in severe damage to the public and organisational integrity of the SAPS.

Recommendation:

The White Paper therefore needs to provide clear and concrete direction on how to ensure that only appropriately skilled, experienced and honest people are appointed to positions of police leadership. Moreover, it needs to provide guidance as to how police integrity is to be maintained when serious allegations against senior police officials emerge. The White Paper in its current form does not do this.

The NDP recommendations therefore should be included in the White Paper and expanded upon. It is suggested that the White Paper contain the following points as guided by the NDP:

A National Policing Board (NPB) with multi-sectoral and multi-disciplinary expertise will be established to set objective standards and oversee the selection, appointment and promotion of all people to senior management posts of Brigadier above, including the National Commissioner of the SAPS. This board will be chaired by a retired judge and it is recommended that the board consist only of people who are recognised as independent professionals with proven expertise in senior management and whose integrity is beyond reproach.

The National Commissioner should be appointed by the President only on the recommendations by a selection panel consisting of the members of the NPB

following a transparent and competitive recruitment process against clear and objective criteria. A shortlist of 12 applicants should be interviewed in public by the panel who may recommend three possible candidates once receiving security clearance to the President of which he may select one.

Deputy National Commissioners and Provincial Commissioners should be appointed by the National Commissioner only following a transparent and competitive retirement process overseen by the NPB.

As a matter of urgency, the NPB, will commission an independent assessment of the competency and integrity of all officers above the rank of Brigadier, starting with those holding the rank of Lt-General. Where individuals have been found to have been appointed irregularly, do not possess the required skills and expertise, they must be re-deployed to posts to which their skills or expertise are applicable. Where questions are raised about integrity or conduct, in terms of the SAPS Code of Ethics, the appropriate disciplinary investigations and processes should be undertaken under guidance by the NPB. Where senior management posts become available, they should only be filled following a competitive and transparent process overseen by the NPB.

Where senior managers face allegations of misconduct or criminality, investigations should be undertaken by an appropriately staffed Senior Management Integrity Unit. Such investigations must be given full attention and undertaken expeditiously so that they are completed within 30 days. Subject officers are to be suspended unless otherwise decided by an application to the National Commissioner.

Senior managers will be expected at all time to adhere strictly to the SAPS Code of Conduct and Code of Ethics and will be held accountable thereto.

Operational Integrity

14. There is a need to ensure that the direction given by the member of Cabinet is at all times within the law and aimed at promoting the SAPS Code of Conduct and Ethics.

Recommendation:

It is therefore recommended that the White Paper state that *“All direction given to the SAPS National Commissioner by the Minister of Police must be in writing and presented to parliament at least twice a year. Any direction to the SAPS Commissioner not in writing should be considered either illegal or merely an informal recommendation which is not binding on the SAPS National Commissioner.”*

The delivery of essential police services Clause 4.2, pages 29 – 31

15. The operational independence of the Hawks, the Office the DPCI Judge and crime intelligence are key in addressing serious crimes and corruption. The Paper speaks about the ability of the police to deliver essential policing services but fails to illustrate how this delivery will take place in practical terms, what accountability mechanisms will be put in place and how these institutions will be protected from political or other interference. The same considerations apply to IPID as described in clause 5.4
16. The role of the current Anti-Corruption Task Team and the strategy of “prosecutor-led investigations” are also not discussed despite being integral to the delivery of essential police services. The diagram on page 35 includes a section for “Integrated Justice System Co-ordination” but no reference is made to how this will operate in practice or the nature and extent of applicable rules and guidelines.

Recommendation:

The delivery of essential police services involves the proper co-ordination of a number of other institutions, including crime intelligence, the NPA, the Specialised Commercial Crimes Court, the Asset Forfeiture Unit, National Treasury and a potentially wide range of other state institutions. It is therefore recommended that existing co-ordination strategies be referenced and made enforceable or new co-ordination strategies be developed to ensure that police services are delivered in the manner envisaged in our Constitution.

The development of rules to ensure the operational independence of the Hawks, the Office of the DPCI Judge, IPID and any other applicable institution within the scope of the Paper, should be a key priority and should be addressed as a matter of urgency.

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