



Oversight agencies in South Africa and the challenge of police corruption

INTRODUCTION

During the first quarter of 2011 there were a number of high-profile police scandals. These included the Public Protector's findings that the South African Police Service's top management interfered in a R500 million tender process; indications that Crime Intelligence officials acted improperly to hamper a Hawks investigation into Czech fugitive Radovan Krejcir; allegations of abuse and murder against the head of Crime Intelligence and members of Tactical Response Teams; evidence of increases in fatal shootings by police, police torture, and greater pay-outs for civil claims against police.

This does not bode well for an organisation struggling to contest an image of widespread corruption, most powerfully symbolised by the conviction of former National Commissioner Jackie Selebi in 2010. Fortunately South Africa has several institutions responsible for holding the police to account. The questions that need to be answered are: How effective are these institutions? And how might they play a more meaningful role in reducing police corruption and promoting police professionalism in South Africa?

When the interim constitution was passed in 1993 it sought to promote the establishment of a police service that would break with the unaccountable, often abusive policing of the apartheid era. Oversight of the police was made a priority in the transformation period. The apartheid-era South African Police (SAP) force had at times been ruthless in its dealings with citizens, employing both torture and gratuitous violence in the course of its often politically driven work. No longer a police 'force', the new 'service' was to be transparent and accountable. The result in subsequent years was that, in addition to the merging and internal reformation of the SAP and ten homeland police agencies, emphasis was placed on the establishment of oversight infrastructure.

With all eyes focused on police reformation and the development of external oversight, the SAPS regressed

in terms of internal systems of command and control. While it is no longer perceived as overly political or brutal, the police service has developed a reputation of unprofessionalism, corruption and criminality, a reputation that has damaged citizen trust in the police.¹ Similarly, as fear about crime escalated in the late nineties, emphasis on police oversight declined.² Although it is ultimately the responsibility of the SAPS to ensure the professionalism and integrity of its members, oversight bodies have an important role to play in making sure the SAPS takes action to bring this about. While South Africa has a thriving civil society sector, which includes organisations engaged with issues relating to the police, its expertise and research findings often fail to hold the attention of government bodies. As such, its potential to offer advice is not often taken advantage of by government.

This paper outlines the challenge of tackling corruption in the SAPS. It then sketches the history and structure of three of South Africa's main police oversight bodies: parliament's Portfolio Committee on Police, the Secretariat for police, and the Independent Complaints Directorate (ICD), and asks how these structures have dealt with corruption in the SAPS in recent years, offering suggestions for future engagement. The paper also seeks to identify possible areas in which civil society can better support the structures in their work.

The challenge of tackling corruption in the SAPS³

It is not possible to quantify corruption in any organisation. It is therefore unhelpful to ask the question 'What is the level of corruption in the SAPS?', or to accept disciplinary data as an answer to this question. What can be valuable when approaching the subject, however, is to consider organisational response to corruption, as well as public and insider perceptions thereof. Victim surveys are also helpful in assessing the

frequency of corruption across organisations/government departments.

In a 2002 survey of police respondents conducted by Gareth Newham, 55 per cent of the respondents answered 'yes' to the question 'Police corruption is a problem at my station?'⁴ One in three respondents claimed that they knew of a police official who was involved in corrupt activities.⁵ Research conducted by the Centre for the Study of Violence and Reconciliation at 21 Johannesburg stations in 2004 found that 92 per cent of respondents believed corruption was a serious challenge facing the SAPS.⁶ Similarly, research conducted by the ISS at three police stations in 2009 showed that 85 per cent of police respondents believed corruption to be a major problem in the organisation, but not necessarily at their own stations.⁷ Police officials' perceptions of corruption within the SAPS therefore appear worse than those of members of the public, as shown from the findings reported below.

The ISS's 2007 national victim survey found that 22 per cent of respondents who were unhappy with police performance in their area justified their views by saying the police 'are corrupt', while 13 per cent said police 'cooperate with criminals'.⁸ Another national survey conducted by Afrobarometer in 2008 found that 46 per cent of respondents believed 'all' or 'most' police were corrupt.⁹ A 2007 survey by the Human Sciences Research Council (HSRC) that measured civilian trust in police showed that 39 per cent of respondents 'trusted' or 'strongly trusted' police.¹⁰ These findings suggest the majority of people do not trust the police. In addition, a more recent survey conducted in 2010 by TNS Research Surveys in which a sample of 2 000 adults were interviewed found that one in 13 respondents admitted to having bribed a traffic or police officer.¹¹

Qualitative research conducted by the ISS in 2010 that explored civilian experiences of police corruption showed that the most commonly experienced abuse by police is roadside corruption involving SAPS members working alone or in pairs. However, participants also reported robbery, theft, torture and gross sexual harassment by police.¹² These findings show that both civilians and police members have negative perceptions of the SAPS with regards to corruption.

An analysis of complaints lodged with the ICD also suggests that corruption-related complaints have increased in recent years, along with deaths at the hands of police, and civil claims made against police. This has also resulted in an increase in the payment to settle civil claims by police.

All police deviance, whether fraud, assault, corruption or torture, can be linked to organisational integrity and professionalism. So what has the SAPS done to counter corruption in the democratic era?

- In 1996 the National Crime Prevention Strategy identified police corruption as a national priority and the SAPS established a national Anti-Corruption Unit (ACU).
- Between 2000 and 2002 ACU capacity was reduced and the unit was closed down. Its mandate was moved to the organised crime unit and station level detectives.
- Between 2002 and 2009 the SAPS developed a 'Service Integrity Strategy', a 'Corruption & Fraud Prevention Strategy', and a 'Corruption & Fraud Prevention Plan' (CFPP). There is little evidence to suggest that these strategies were implemented.
- In 2009 the Directorate for Priority Crime Investigations (DPCI or Hawks) was established to replace the disbanded Directorate for Special Operations (DSO or Scorpions). The unit comprised organised crime officials. The DPCI takes over the anti-corruption mandate previously held by the Scorpions.
- In 2010 the SAPS reverted to military ranks (as part of an attempt to improve discipline). The Minister and National Commissioner increased anti-corruption rhetoric; the CFPP was reworked and rebranded as the 'Anti-Corruption Strategy' and an anti-corruption newsletter and sensitisation courses were introduced. (In the same year the former National Commissioner Jackie Selebi was convicted on corruption charges following an investigation by the Scorpions.)
- In December 2011 the SAPS launched a new Anti-Corruption Strategy.

SAPS officials have admitted that it has been a struggle to implement the various strategies that were developed over the years.¹³ A study of the extent of the implementation of the Corruption and Fraud Prevention Plan at three Gauteng stations in 2009 found no evidence that it had been implemented at these stations.¹⁴

Since the closure of the ACU in 2002, data on corruption complaints, investigations, and arrests have not been published in SAPS reports. Instead the SAPS has reported on the total number of suspensions of police officials each year, and indicated what proportion of these suspensions related to corruption. In 2009/10, only 362 SAPS personnel were charged under the Prevention and Combating of Corrupt Activities Act (2004), 193 of whom were suspended. With a staff of 190 199 as of March 2010, this accounts for a mere 0,002 per cent of the workforce having been charged with corruption, a figure which stands in stark contrast to citizen and police perceptions of the extent of corruption in the organisation.

In that corruption is one of a broad range of interconnected integrity violations and crimes, it is somewhat reassuring to note that general disciplinary hearings occur fairly regularly in the SAPS. For example, 4 136 disciplinary hearings were finalised in 2009/10 resulting in 2 595 guilty verdicts, 506 of which were dismissals.¹⁵ The SAPS needs to build on these systems to aid the fostering of a culture of integrity, but cannot expect to reform organisational culture through punishment alone.

A multifaceted approach to integrity management, as proposed by the ACS, is necessary if the SAPS is to purge corrupt members and build a professional police body. This would include fostering a culture of integrity and honesty, and winning the support of the public. While the bulk of this work must be carried out from within the SAPS, oversight bodies have an important role to play in ensuring police implement appropriate strategies.

The following sections explore the manner in which the ICD, National Secretariat and Portfolio Committee on Police have engaged with police corruption in the past, with an eye to exploring ways of strengthening their engagement on the matter.

THE INDEPENDENT COMPLAINTS DIRECTORATE/ INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE

Background

The Independent Complaints Directorate (ICD) is South Africa's primary police complaints body. It was established in 1997, a time when the spectre of apartheid still hung over the SAPS and it needed to re-earn public trust. Chapter 10 of the South African Police Service Act (1995) provided the legal basis on which the ICD was established. This Act made the ICD's sole and compulsory mandate the investigations of deaths in police custody or as a result of police action. However, it also received civilian complaints regarding police involvement in criminal activity, poor service delivery and failure to comply with the Domestic Violence Act. The ICD has offices in urban centres in all nine provinces and has its head office in Pretoria. It has an additional six 'satellite' offices in more remote areas.¹⁶

Although the ICD is not part of the SAPS (it exists as a separate government department), the ICD reports to the Minister of Police, who also oversees the Department of Police. This has been a matter of discontent for many supporters of the ICD who believe the same Minister should not be responsible for both the police and the ICD.

The ICD's mandate is spelt out in Section 53(2) of the South African Police Act (1995), which states that the ICD¹⁷:

- 1) May *mero motu* or upon receipt of a complaint, investigate any misconduct or offence allegedly committed by a member, and may, where appropriate, refer such investigation to the Commissioner concerned;
- 2) Shall *mero motu* or upon receipt of a complaint, investigate any death in police custody or as a result of police action; and
- 3) May investigate any matter referred to the Directorate by the Minister or member of the Executive Council.

Additionally, Section 18 of the Domestic Violence Act (1998) stipulates that failure by a member of the SAPS to comply with the obligations of the Act and related National Instructions constitutes misconduct.¹⁸ The Act states that the ICD must be informed of any failures reported to the SAPS. Unless the ICD directs otherwise in any specific case, the SAPS must institute disciplinary proceedings against any member who allegedly fails to comply with an obligation.¹⁹ The ICD has the same authority with regards to the Municipal Police Services as it has with the SAPS. Every six months the ICD reports to parliament about its work while the National Commissioner of the SAPS must report on steps taken in response to recommendations made by the ICD.²⁰

Oversight in practice

In 2009/10 the ICD had a staff compliment of 267.²¹ This means that there was approximately one ICD staff member for every 730 SAPS employees. Of these, only 145 were involved in investigations, but very few had as their primary function the investigation of cases against the police. In March 2011 Gauteng had only eight ICD investigators while the Free State had only five.

The ICD's budget allocation for 2009/10 was R129 million – or 0,02 per cent that of the SAPS. The ICD budget for 2008/09 was reduced by more than 3 percent between 2007 and 2009 so that, as reported by the ICD, 'only the commitment and sacrifices of our staff members will ensure delivery on the ICD's mandate'. Although the 2010/11 allocation of R151,6 million was an increase from previous years the allocation was still woefully short of what was required for the ICD to realise its mandate, and incomparable to the SAPS' R47.6 billion allocation.

With its limited capacity the ICD tended to refer many of the complaints it received back to the SAPS for investigation. While this was a practical necessity, there

was no onus on police agencies to report the outcomes of referrals to the ICD.

As indicated in the table below the ICD has struggled to complete all cases received in a financial year, but has increased the number of completed cases substantially in the past financial year.²²

The actual number of complaints received during 2009/2010 was 6 377. However, if one includes those complaints carried over from the previous year the Directorate had 10 437 complaints on its books.²³

Table 2 below provides a breakdown of the kinds of cases dealt with by the ICD and the proportion of each type of case. In 2009, 87 per cent of cases were closed as 'unsubstantiated', meaning there was insufficient evidence contained in the complaint to take it forward.²⁴ It should be noted that a lack of supporting evidence does not mean the complaint was not without merit. It can be very difficult for victims of police abuse to build strong cases against a police organisation in which members tend to cover for one another.

In light of these figures it is unsurprising that the ICD has, for much of its existence, suffered the public perception of being a 'toothless watchdog'. Yet this is largely a consequence of insufficient political support accorded the ICD in the past, which has led to its limited resources and powers. It has also received limited support from the SAPS.²⁵

ICD-SAPS relations have improved significantly in recent years. While they reached a low point under Selebi's leadership, in 2010 the ICD said that it had received an unprecedented number of complaints from within the SAPS itself as police officials' trust in the ICS grew.²⁶

The Anti-Corruption Command

The ICD's Anti-Corruption Command (ACC) was established at the national office in 2005 in response to the closure of the SAPS' anti-corruption unit in 2002. The vision was that the unit would investigate serious and high-profile corruption cases, and that

eventually a similar unit would be established in each province. Since the starting budget for the unit was only R2,4 million, and it only had four staff members, the expansion was never realised.

Most complaints received by the ACC came through the Public Service Commission's anti-corruption hotline while others came from complaints laid directly with the ICD by civilians and police members.²⁷

In 2010 the ACC was assigned to the Gauteng ICD office for provincial work and the vision of nationwide provincial anti-corruption offices was abandoned.

Despite its size, the ACC showed some successes. However, in the five years of its existence it dealt with over 600 complaints – but only achieved 22 convictions.²⁸ This translates into a cost of almost R2 million per conviction.

According to the ICD the ACC struggled for a number of reasons:²⁹

- Budget limits prevented it from expanding
- Its workload was overwhelming
- The SAPS and metro police were not compelled to report allegations of member involvement in corruption to the ICD
- Lack of support from SAPS and Metro police management
- Unenforceable recommendations
- Ineffective disciplinary mechanisms in police agencies
- Lack of protection of whistle blowers in the SAPS and metros
- Information on police misconduct was generally not readily available to the ICD or public so that it was difficult to understand the extent of the problem

Recent developments

In September 2010 the Independent Police Investigative Directorate (IPID) Bill was tabled in parliament. The Act was published in the Government Gazette in May 2011 and, following a number of delays, is due to come

Table 1 ICD complaints and recommendations

Year	Complaints	Recommendations to DPP	Recommendations to SAPS	Cases completed
2008/09	11 193	723	1 212	55%
2009/10	10 437	526	1 666	76%

Table 2 General categories of complaints, 2009/10

Misconduct	Criminal offences	Deaths in custody or from police action	Non-compliance with DVA
4 488	3 947	723	1 212

into effect in January 2012. The IPID Act provides the Directorate with its own legislation so that it is no longer weighed down by the uncomfortable connection to the SAPS Act. It also significantly expands the Directorate's mandate as set out by clause 29, which stipulates it must investigate:³⁰

- Any deaths in police custody
- Deaths as a result of police actions
- Any complaints relating to the discharge of an official firearm by any police officer
- Rape by a police officer, whether the police officer is on or off duty
- Rape of any person while that person is in police custody
- Any complaint of torture or assault against a police officer in the execution of his or her duties
- Corruption matters within the police initiated by the Executive Director on his or her own, or after the receipt of a complaint from a member of the public, or referred to the Directorate by the Minister, an MEC or the Secretary, as the case may be
- Any other matter referred to it as a result of a decision by the Executive Director, or if so requested by the Minister, an MEC or the Secretary as the case may be, in the prescribed manner

The new Directorate will thus be compelled to investigate complaints of police corruption. In addition to the matters that must be investigated, clause 28 states that the Directorate may investigate matters relating to systemic corruption involving the police.

The new legislation compels police officials who become aware of any infringements listed in clause 29, to notify the IPID immediately and to submit a written report to the Directorate within 24 hours. National and provincial commissioners, to whom disciplinary recommendations are sent following IPID investigations, must initiate disciplinary proceedings within 30 days of receipt thereof. Quarterly reports on disciplinary actions taken must be submitted to both the IPID and the Minister of Police. The Minister should also be notified following the conclusion of any related disciplinary process.

These developments significantly bolster the potential for the IPID to have a positive impact on police oversight in South Africa. However, questions around the ICD/IPID's capacity to realistically realise its mandate remain.

Civil society engagement

In 2010 and early 2011 the ICD co-hosted a number of successful workshops with civil society organisations. These included:

- *Investigating Torture: The New Legislative Framework & Mandate for the Independent Complaints Directorate* – 24 & 25 March 2010 (with the African Policing Civilian Oversight Forum)
- *Towards Understanding the Independent Police Investigative Directorate (IPID) mandate for addressing police corruption* – 16 & 17 September 2010 (with the Institute for Security Studies)
- *Policing oversight in Southern Africa: advances, challenges and prospects* – 23 & 24 March 2011 (with the African Policing Civilian Oversight Forum and ISS)

The workshops were well attended by members of various law-enforcement agencies and civil society. These initiatives demonstrated the ICD's willingness to operate in an open and transparent fashion and draw on the expertise of those beyond its institutional boundaries. One conclusion reached at the September workshop was that if the IPID is to successfully engage with its new mandate of addressing 'systemic' problems in the SAPS and metros, it will be necessary for it to formally collaborate with both government and non-governmental bodies. These include the SAPS and the Special Investigating Unit (SIU), as well as university and civil society research institutes.

Recommendations and way forward

In the coming months and years it will be important for the IPID to determine the best approach to fulfilling its corruption mandate, while also fulfilling the other important elements of its mandate. Considering the ICD's current budget allocation and staff capacity, it is difficult to imagine how it will be able to do justice to the IPID Act without passing the majority of complaints on to other agencies such as the Special Investigating Unit (SIU), Human Rights Commission (HRC) or to the SAPS and Metro police themselves. Since it will be impossible for the IPID to hire more investigators and provide them with the specialised training required to investigate corruption and other offences listed in the Bill, the ICD will need to re-negotiate its relationships with these other agencies to ensure that complaints are investigated.

The IPID needs to review and strengthen its monitoring capacity in order to keep track of all referrals, to ensure that cases are pursued to their conclusion, and to liaise with complainants.

The ICD should embark on a campaign to educate citizens about the kind of evidence and testimony required to pursue a complaint against the SAPS in order to strengthen complaints lodged. It is unacceptable that almost 90 per cent of complaints are currently closed as 'unsubstantiated'.

In light of the imminent legislative amendments, it will be important for civil society to support the IPID as it takes on its new mandate, which is substantially broader than that of the ICD.

The ICD should take advantage of the opportunity to work closely with civil society organisations. This would have the effect of multiplying the capacity of the IPID, in particular in relation to the following:

- Reviewing SAPS, metro and IPID compliance with the new legislation, including compliance of the provincial commissioners tasked with overseeing members in their jurisdictions
- Conducting research to understand and thus tackle systemic corruption
- Contributing to the re-branding of the IPID by publishing relevant commentary and analysis relating to the new Directorate
- Supporting calls for increased political and financial support of the IPID so that it is able to realise the potential contained in the IPID Act

CIVILIAN SECRETARIAT FOR POLICE

Background

Prior to 1994 the government relied on the police to advise it on policing and crime-related policy. No input on related legislation was obtained from civil society.³¹ In an effort to change this, the SAPS Act of 1995 allowed for the establishment of Civilian Secretariats for Police at national and provincial levels. The purpose of the national Secretariat is to independently advise the Minister of Police on all relevant policy matters. To ensure its independence from the SAPS it was to be staffed by civilians and reports directly to the Minister of Police.³² In July 2010, around the same time that the IPID Bill was released for public comment, a Civilian Secretariat for Police Bill was also published. In March 2011 the Act was published in the Government Gazette. As with the IPID Act, the Secretariat Act aims to strengthen the powers and independence of the Civilian Secretariat by providing it with its own legislation.

The SAPS Act (1995) prescribes the following functions for the Secretariat:

3. (1) The Secretariat shall-
 - (a) advise the Minister in the exercise of his or her powers and the performance of his or her duties and functions;
 - (b) perform such functions as the Minister may consider necessary or expedient to ensure civilian oversight of the Service;

- (c) promote democratic accountability and transparency in the Service;
- (d) promote and facilitate participation by the Service in the Reconstruction and Development Programme;
- (e) provide the Minister with legal services and advice on constitutional matters;
- (f) provide the Minister with communication, support and administrative services;
- (g) monitor the implementation of policy and directions issued by the Minister and report to the Minister thereon;
- (h) conduct research into any policing matter in accordance with the instructions of the Minister and report to the Minister thereon;
- (i) perform such functions as may from time to time be assigned to the Secretariat by the Minister; and
- (j) evaluate the functioning of the Service and report to the Minister thereon.³³

Oversight in practice

The national office of the Civilian Secretariat for Police is located in Pretoria. The Secretariat is composed of five chief directorates with a total of 52 staff members. While this structure may change in response to the passing of the new Act, the current directorates are:

- Office of the secretary
- Policy and research
- Monitoring and evaluation
- Partnerships
- Support Services

A 2004 review of the national Secretariat noted that it played a prominent role in formulating policy and overseeing implementation thereof until 1999.³⁴ Following the 1999 elections in which Thabo Mbeki replaced Nelson Mandela as president, the Secretariat's influence rapidly diminished under the new Minister of Safety & Security, Steve Tshwete. The national secretary's post was downgraded from director general to deputy-director general, and then to that of a Chief Director.³⁵ The National Commissioner of Police was put in charge of the Secretariat's budget, and the responsibility for social crime prevention was moved from the Secretariat to the SAPS. The review by Mistry and Klipin concluded that the Secretariats (both national and provincial) provided only *ad hoc* monitoring, policy advice, and project coordination.³⁶

By 2003 the National Secretariat's capacity had diminished to such an extent that it was not able to produce its own annual reports. Rather, the Secretariat's report to parliament each year was

included as part of the SAPS Annual Report under the section 'Information on the Ministry of Police'. The printed report consisted of one or two pages covering developments in the Ministry with regards to legislative and policy developments. Nothing in these pages apart from the sentence 'Purpose: To provide support to the Minister in performing his duties' related directly to the Secretariat. A review of the Secretariat's reports included in the SAPS Annual Reports (as provided on the SAPS website since 2002) revealed that the reports did not provide sufficient information about the nature of the Secretariat's oversight function to make an assessment of its contribution to oversight. There was also no indication that the National Secretariat ever addressed the challenge of police corruption.

Recent developments

The appointment of a new Minister of Police, Nathi Mthethwa in 2008, who spoke of a need to be tough on crime and have firm oversight of police, resulted in a turnaround in the fortunes of the National Secretariat. The Minister rapidly went about appointing a new National Secretary of Police at the level of a Director General (the same rank as a Deputy National Commissioner in the SAPS) who oversaw the hiring of new staff to administer the National Secretariat. The National Secretariat changed its name, crafted a new vision and mission statement and has asked the national treasury to advise it on its ideal structure and budget.

Workshops held by the Secretariat and civil society in January and February 2010 recorded the challenges it faced at the time. These included:³⁷

- Lack of strategic direction
- Historical under-performance
- Lack of capacity, including leadership and management
- SAPS not taking the Secretariat seriously
- Having a budget controlled by the SAPS

The workshops were held in light of the development of legislation specific to the Secretariat that was being drafted at the time, and that was released for comment in August 2010. The legislation aimed to address the challenges identified during the workshops. The Bill (now an Act) outlined the creation of a Secretariat that would, among other things, provide policy and strategic support to the minister, provide civilian oversight of police, liaise with stakeholders, and contribute towards effective, ethical and efficient policing.³⁸

At a conference in October 2010 the national secretary, Jenni Irish-Qhobosheane, addressed delegates

about changes that were taking place, including the new legislation, and on the Secretariat's vision for police oversight. She acknowledged that the role and functions of the Secretariat in relation to the SAPS had blurred in recent years. She said the current changes would reflect the lessons that had been learned and problems encountered in the past. She said that there would need to be a clear demarcation between political decision-making and operational command. According to Irish-Qhobosheane this division of roles was not previously properly adhered to.³⁹

The Civilian Secretariat for Police Service Act was passed in March 2011 and frees the Secretariat from the bounds of the SAPS Act, and hopefully will improve the effectiveness of its work. The new Bill makes it compulsory for provincial governments to establish provincial Secretariats, and also attempts to define the responsibilities of the Secretariat in relation to the ICD, with which there has been some overlap in the past.

The new legislation states that the Secretariat must:⁴⁰

- (a) monitor the performance of the police service and regularly assess the extent to which the police service has adequate policies and effective systems and to recommend corrective measures;
- (b) monitor the utilisation of the budget of the police service to ensure compliance with any policy directives or instructions of the Minister;
- (c) monitor and evaluate compliance with the Domestic Violence Act, 1998 (Act 20 No 116 of 1998);
- (d) make recommendations to the police service on disciplinary procedures and measures with regard to non-compliance with the Domestic Violence Act, 1998;
- (e) consider such recommendations, suggestions and requests concerning police and policing matters as it may receive from any source;
- (f) conduct or cause to be conducted any research as it may deem necessary;
- (g) enter into either memoranda of understanding or agreements or both, in consultation with the Minister, with civilian oversight groups and other parties and engage such groups and parties to strengthen cooperation between the various roleplayers;
- (h) advise and support the Minister in the exercise of his or her powers and the performance of his or her functions;
- (i) provide the Minister with regular reports with regard to-
 - (i) the performance of the police service; and
 - (ii) implementation of and compliance by the police service with policy directives issued or instructions made by the Minister; and

- (j) assess and monitor the police service's ability to receive and deal with complaints against its members.

In order to accomplish the above, the Secretariat must establish competencies and capabilities to:

- (a)
 - (i) conduct research into any policing matter and report to the Secretary thereon;
 - (ii) provide policy advice to the Minister through the Secretary;
 - (iii) make available recent, relevant and evidence-based research to the Minister and to Parliament;
 - (iv) create a resource information centre; and
 - (v) develop at least one civil society reference group;
- (b)
 - (i) conduct quality assessment[s] of the police service and monitor and evaluate its performance;
 - (ii) identify problem areas for early interventions;
 - (iii) review police practices and develop best practice models;
 - (iv) recommend steps for improved service delivery and police effectiveness;
 - (v) develop frameworks and strategies to ensure improved police accountability; and
- (c)
 - (i) facilitate and implement intergovernmental cooperation on safety;
 - (ii) conduct ongoing interaction with citizens in the manner contemplated by this Act;
 - (iii) enhance the quality and accessibility of safety programmes through improved participation by the community;
 - (iv) encourage national dialogue on safety and crime prevention;
 - (v) facilitate pro-active and interventionist models in communities;
 - (vi) coordinate efforts to deal with challenges faced by the police service as requested by the Minister;
 - (vii) develop frameworks and strategies to ensure uniformity, accountability and enhancement of community police fora and associated structures; and
 - (viii) maximise capacity and expertise in the Civilian Secretariat.

Most importantly with regards to police behaviour and corruption, are the mandates to 'monitor the conduct of members and ... recommend corrective measures', and to 'assess and evaluate the performance of the police service', which should be applied to its attempts to stem corruption and other criminality.

Another important and encouraging element of the legislation is the mandate that the Secretariat enter into partnerships with non-governmental groups to strengthen police oversight. One recent initiative introduced in accordance with this was the establishment of a civil society reference group. This group is composed of researchers and academics from a variety of organisations working in the fields of crime and policing. These experts provide the Secretariat with independent advice and input to inform its work. This allows civil society to gain greater knowledge of the policy direction in which the Secretariat, and thus the police, are heading, and provides the Secretariat with access to additional skills and insight. This kind of engagement would be beneficial across all levels of police oversight, where practical. However, it should be noted that despite good intentions, the reference group has struggled to meet at regular intervals due to other Secretariat responsibilities taking preference over scheduled meetings. It will be important to ensure that regular meetings take place and that the reference group is not relegated to window dressing.

Another concern around Secretariat/civil society relations surfaced in late 2010 when the Centre for the Study of Violence and Reconciliation (CSV) presented to parliament a report on the violent nature of crime. This important report was commissioned by the Civilian Secretariat for Police in 2008, yet its findings were largely dismissed by both the Portfolio Committee for Police and the Secretariat, apparently because they were politically uncomfortable, rather than because the report had conceptual or methodological shortcomings. This, along with the fact that the Secretariat failed to respond to the report for almost two years, raises some doubt about its commitment to partnering with civil society.

Perhaps one of the most important outcomes of the new legislation is that it establishes the Secretariat as a designated department, which the Secretary hopes will be functional by 2013. This, together with the independent legislation, will help to establish the Secretariat as an independent consultative and oversight body.

Recommendations and way forward

Like the ICD, the Secretariat is in a period of transition. In terms of civil society cooperation, the establishment of the reference group, as well as the willingness of senior members of the Secretariat to participate in civil society events, is a positive development. In order to build on this momentum the Secretariat might consider some of the following:

- Informing civil society groups (and the public at large) of its policy and research focus through, for

example, an e-newsletter on a regular basis. This would allow civil society to offer strategic support/critique, and formulate research to inform and assess the Secretariat's work.

- Where it does not have sufficient research capacity, the Secretariat should consider outsourcing research to better-resourced research groups, much like it did with the CSVR report. This could be done through direct tenders, or simply by keeping these groups informed of the Secretariat's agenda and inviting research in particular areas.
- Drawing on the previous two points, the Secretariat may consider serving as an informal coordinator and tracker of civil society research on police and policing. In so doing it could facilitate communication across the police research environment, allowing opportunity for strategically informed research that does not duplicate the work of others. However, this would require an acceptance that research would have to be undertaken objectively and the findings published, even if they were uncomfortable for the Secretariat. This type of coordination is hinted at in the new legislation.

Specifically with regards to its role in overseeing corruption and integrity management in the SAPS the Secretariat could consider the following:

- Call the SAPS to account for the almost ten years of foot dragging around anti-corruption policy implementation. This could include a review of the compliance indicators built into the Anti-Corruption Strategy (ACS) to assess action taken.
- Monitor SAPS disciplinary systems and establish why so many cases are withdrawn.
- Interview members about their understanding of disciplinary systems, processes and their impact in order to ascertain how readily or rarely infringements are formally dealt with. This would include an exploration of claims of racism and nepotism in discipline management.
- Where possible ensure that those promoted into senior SAPS leadership are promoted on merit rather than political or factional affiliation. Where irregular promotions are evident, intervene to ascertain whether they are justified or not. As a starting point the Secretariat could conduct a mini-audit of senior appointments over the past year to ascertain to what degree they abide by SAPS and Public Service Act requirements.
- Ensure the existence and popularisation of functional civilian complaints/praise structures, including a complaints/praise desk at every police station. These should form part of a drive to foster a civic

culture that supports honest, professional policing by reporting and rewarding good conduct, and not tolerating poor service or criminality.

- Be aware of the dangers of a police culture that glorifies the use of violence as a 'tough' means to curb crime, and which is encouraged by political rhetoric. Such a culture lends itself to organisationally sanctioned deviance.

THE PARLIAMENTARY PORTFOLIO COMMITTEE FOR POLICE

Background

The South African constitution provides for the division of the power of the state into three components: the executive, the legislature (parliament), and the judiciary.

The executive (president, deputy and ministers) is responsible for the development of policy and legislation, as well as the day-to-day administration of the country. However, before proposed legislation can be passed into law, it must be considered by parliament. Parliament consists of two houses, the National Assembly and National Council of Provinces.⁴¹

Portfolio committees are constituted by the National Assembly to oversee the work of national government departments. One committee is constituted for every department. Committees comprise approximately 20 members drawn from the National Assembly. They consider bills and budget votes, and oversee research and make recommendations about the departments to which they are assigned. In addition to government departments, committees may investigate any other matter within their portfolio area deemed to be of public interest. Committees also represent an interface between the public and government, as it is to committees that public interest groups are able to make submission and presentations.

In terms of police oversight, the portfolio committee on police is responsible for monitoring the actions of the Minister of Police, the National Secretariat, the Independent Complaints Directorate and the SAPS, and for legislation relating thereto. It has the authority to ask questions of the Minister and National Commissioner of Police, as well as any other person it deems relevant, with regards to the functions, conduct, vision, actions and impact of the SAPS. It may also request the opinions of members of the public and civil society groups it deems familiar with police-related matters.

In the event that the SAPS is believed not to be complying with legislation, its mandate, or is underperforming, it would be the committee's responsibility to compel the SAPS leadership to correct this. The same

applies to the SAPS' response to corruption in its ranks. If the committee (and public) feel the SAPS is not acting to take sufficient steps to curb corruption, the committee, together with the Secretariat, may compel the police to do so.

Oversight in practice⁴²

The analysis presented below is based on an assessment of the minutes of committee meetings and parliamentary Q&A sessions published by the Parliamentary Monitoring Group. A search for the word 'corruption' within the minutes of the committee's meetings was undertaken. Records dated back to 1998 and are described in detail in Appendix A.

Parliamentary committees have repeatedly discussed the issue of police corruption since 1998. However, minutes of committee sessions suggest that many of these sessions have lacked critical awareness and have not been followed up. For example, concerns that were raised in the committee in 1998 remain relevant. It would appear that the SAPS has succeeded in assuaging the committee's concern through the provision of standard rhetoric about not tolerating corruption and disciplining members found guilty.

Minutes from a 2001 presentation by former National Commissioner Selebi and other senior members provide the clearest example of the ease with which the SAPS was able to mislead the committee. In that presentation the SAPS told the committee that it wasn't possible to compare its Service Integrity Framework to anti-corruption strategies internationally because comparable strategies didn't exist. This is blatantly untrue. Dozens of police agencies around the world have developed anti-corruption policies, strategies and systems following various scandals and reforms over the past forty years. In the same presentation the SAPS told the committee that corruption was decreasing in the SAPS, a statement unsupported by any data.

While the police unions SAPU and POPCRU have condemned police corruption in committee meetings, they have not been required to provide any evidence of action taken against corrupt union members. In providing representation for members faced with disciplinary action, unions should do so in an ethical manner that supports professional policing rather than promoting the job security of blatantly guilty members, as appears to occur at times. If presentations do not follow this form, the committee should query unions on their motives and approach.

Much of the committee's engagement with the theme of police corruption has occurred through its interactions with the Independent Complaints

Directorate. The committee has not appeared supportive of the ICD's anti-corruption command while at the same time it has questioned the ICD's effectiveness in reducing police corruption and criminality. This seems to represent a misunderstanding of the role of the ICD, as it is the responsibility of the SAPS to address police corruption. It would have been apt for the SAPS to be asked to provide evidence that it is working to clean its house and implement systemic changes to prevent corrupt and criminal behaviour.

In 2009 a new committee was established. This coincided with the swearing in of the new National Commissioner, General Bheki Cele. These changes appear to have led to somewhat healthier engagements on the subject of corruption. Cele has conceded to parliament that corruption is a serious problem in the SAPS.

Importantly, Cele has admitted to training and disciplinary problems in the SAPS, and has acknowledged the broader structural causes of corruption. He shared information about police members that clearly cast the organisation in a bad light, such as that numerous students have been found to hold criminal records. This is important as it provides a firm point of reference against which the committee can demand proof of subsequent action.

The new committee has proven itself to be more alert than the previous committee. In March 2010 it criticised the SAPS for being 'thin' on information in presentations and demanded that they return better prepared. This stands in contrast to the former committee, which at times appeared to accept SAPS data without criticism or question. In October 2010 the committee researchers made the committee aware of the need for the SAPS Anti-Corruption Strategy to be implemented. This suggested greater awareness about the need for evidence of a holistic response to corruption beyond the presentation of disciplinary data. On a positive note, the committee summoned the SAPS to present its Anti-Corruption Strategy (ACS) in September 2011, together with a presentation on police corruption by the ISS. This summons appears to support the accelerated development and roll-out of the ACS and serves to put the SAPS on record as committing to realising certain anti-corruption objectives.

Besides these positive developments, two examples highlight the limited nature of the committee's engagements at times. In 2009 the SAPS told the committee that the Hawks would not have a specialised anti-corruption unit, yet less than a year later such a unit had been established. While the establishment of the unit is positive, the misinformation provided to parliament is not. Similarly, as police readopted

the military rank system the SAPS told parliament that the SAPS would remain a 'service' and blamed the media for introducing the rhetoric of 'force'. Only a few months later the Minister and National Commissioner fully adopted the use of 'force' to refer to the SAPS, and now do so in all official statements. These two examples highlight the ability of the SAPS to rapidly alter what is presented to the committee, and thus to disrespect the committee and its oversight role. The committee must take a stand against such misinformation.

Recommendations and way forward

A review of committee minutes suggest that, of the three bodies discussed here, the Portfolio Committee on Police has the least established relationship with civil society organisations, and could benefit from forging such relationships. Although the current committee and police leadership appear to be engaging with one another more honestly and rigorously than committees and police leadership of the past, minutes indicate the ease with which the SAPS can mislead the committee. Some ways in which the committee might seek to capitalise on civil society expertise are:

- The committee should demand that all requests for information from police, including presentations, are supplemented by detailed, referenced supporting evidence in order for police claims to be independently corroborated by the committee and independent researchers.
- Committee researchers would benefit from more direct engagement with civil society working in the area of police. They should consider the feasibility of attending more civil society roundtables, workshops and seminars, including hosting consultative roundtables of their own.
- Committee researchers could compile 'minute packs' for quarterly distribution to civil society organisations. These bodies could review police/committee engagements through the minutes and provide feedback on how the committee might have engaged differently, and whether particular information provided by the SAPS requires questioning.
- The committee might consider holding bi-annual sessions to specifically engage the SAPS on issues of corruption and integrity management. These sessions would relate to the ACS and discipline management, but also to the status of organisational

culture in the SAPS and how it encourages either professional policing or punitive, cowboy behaviour in members.

- The ICD, Secretariat and civil society organisations should be invited to comment on the SAPS annual report shortly after it is tabled in parliament. The committee should question the SAPS on the basis of these inputs (as is done for example by the Portfolio Committee on Correctional Services).

Conclusion and way forward for government

Corruption in the SAPS has been a concern since the organisation's establishment. South Africa's transition from apartheid brought with it an intense focus on police reform and the establishment of an array of oversight structures including the ICD, Civilian Secretariat for Police and the parliamentary portfolio committee for police. Although monitoring and assessing efforts to reduce corruption is only a small part of the responsibilities of these bodies, it remains an important and often neglected issue.

While it is true that corruption within a police organisation must ultimately be dealt with by that organisation itself, the structures discussed in this document all have important roles to play in ensuring the SAPS acts appropriately and promptly in this regard. Considering the ongoing challenge of corruption in the organisation it would seem that these bodies might have done more to ensure the SAPS responded to the problem more effectively.

This paper has outlined some of the challenges the ICD, Police Secretariat and parliamentary portfolio committee on police have faced in realising the goal of effective police oversight in relation to corruption, and outlined recent progress.

In addition to formal oversight structures, South Africa has a strong network of civil society research and advocacy organisations working in the area of police and policing. This paper has highlighted some of the ways in which oversight bodies have utilised the expertise of the ISS and others, and makes suggestions for future cooperation. It highlights the recent gains made by all three bodies in their collaboration with civil society, among other areas, and calls for such initiatives to become more regular and formalised, towards the shared goal of fair, accountable, effective and professional policing in South Africa.

APPENDIX A – SUMMARY OF PARLIAMENTARY ENGAGEMENT WITH POLICE CORRUPTION

1998 – In March the SAPS presented its ‘Pockets of excellence’ strategy to the portfolio committee. The strategy aimed to transform the SAPS into ‘a more effective and quality focused organisation’. This included ‘instituting and enforcing departmental codes of conduct to ensure discipline and to prevent racism and corruption’. An ANC member asked whether the number of police involved in crime was on the increase. The SAPS replied that arrests of police involved in crime had increased, but that this may have been a result of concerted efforts to investigate police corruption. The SAPS hoped the enforcement of the code of conduct would curtail corruption in future.⁴³

In August the committee held public hearings on the draft White Paper on Safety and Security. A submission from the Banking Council stated that the Paper should address the ‘serious allegations of corruption, negligence, brutality, incompetence, racism and poor training’ against police. The ICD told the committee that the commission of crimes such as ‘assault, theft, rape ... particularly corruption’ were common in the SAPS. It called for the White Paper to highlight the role the ICD could play in addressing these. The Human Rights Commission subsequently told the committee that to ask the overburdened ICD to investigate corruption in the police would have ‘radical resource implications’ for the Directorate.⁴⁴

In a meeting soon thereafter, the various political parties made submissions on the draft White Paper. In the Freedom Front’s (FF) presentation it stated that ‘a tough approach to corruption within the police was needed. A structure independent from the police service would be required such as [an] FBI-type agency.’ The FF also said the ICD should be independent of the Department of Safety & Security (now ‘Police’).⁴⁵

1999 – In September the then South African Narcotics Bureau (SANAB) presented the committee with the main challenges it faced in relation to corruption of its members. Following ‘various questions relating to corruption within SANAB’ the National Commissioner said the police were dedicated to rooting out corruption. However, he said it existed in police agencies around the world and that SANAB was ‘as clean as could be expected given the nature of human beings’. He said members of SANAB were subjected to polygraph and psychometric tests, and that the SAPS had ten anti-corruption units across the country. In closing the session, the committee chair reiterated his concern about corruption in the unit and asked that it

submit a document detailing its anti-corruption efforts. He said a lack of funds could not be seen as an excuse for lack of action.⁴⁶

In October the SAPS briefed the committee on its witness protection programme. An ANC member asked what assurances the SAPS could give that witnesses would not be exposed to corrupt officials. The SAPS admitted it was possible for members involved to be corrupted, but that this would be difficult considering the various levels of secrecy and protection afforded witnesses.⁴⁷

In November the new National Commissioner, Jackie Selebi, was introduced to the committee. Outlining the difficulties faced by the SAPS in reducing crime, Selebi said: ‘The small number of South African police involved in corruption needs to be dealt with. The majority of police are not involved in corruption. Swift and decisive action should be taken against the small number who are.’⁴⁸ That same day the SAPS’ Criminal Record Centre (CRC) and Forensic Science Unit presented their work to the committee. Although no follow-up questions were reportedly asked, the CRC explained that it was involved in the scientific examination of money, documents and cheques used by corrupt police. Scientific methods for exposing such police were explained.⁴⁹

Later that month what was then the SAPS’ Anti-Corruption Unit (ACU) briefed the committee. The presentation addressed the areas in which the unit worked, its structure and problems, and the need for pro-active measures to reduce corruption, including regular inspections/audits. The DA asked about the ACU in relation to the newly founded Scorpions, to which the SAPS expressed concern over losing members to the new unit. The FF asked whether the ACU shouldn’t give more power to provincial units, which the SAPS disagreed with. The ANC chairperson agreed it should remain national, and said salaries should be increased for ACU members. Other questions related to whether ACU members could be identified by their cars, whether civilians worked in the unit (only administratively), and why prevention was better than response. It was asked why whites were so overrepresented in the ACU. The SAPS responded that it struggled to recruit non-white members due to the stigma SAPS members attached to the ACU. The SAPS closed by saying the public was also to blame for police corruption.⁵⁰

2000 – In February members of the (non-SAPS affiliated) National Crime Prevention Centre presented on the Firearms Control Draft Bill, together with two SAPS Directors. During the presentation it was stated that the destruction process for firearms would be secure to avoid corruption. The training programme for prospective firearm owners would also ensure no corruption

in the issuing of competency certificates. Two ANC members questioned these assurances, expressing their concern about the integrity of SAPS members. The civilian presenter agreed corruption was an issue for police management to deal with. The SAPS presenters acknowledged the challenge of corruption in the Service and that a particular kind of person would be hired to work with firearms. They said a code of conduct would expressly condemn corruption.⁵¹

In March the SAPS presented its strategic focus for 2000–2003 to the committee. This included ‘doing away with corruption and ill discipline in the SAPS’. It was stated that ‘to root out corruption, it is intended that each and every member knows what to do in any given situation. Corruption is an immense problem but not a generalised one’. It was also stated that there was a need for better information management, accountability at lower levels of command, and better whistleblowing systems. Service conditions for police would also be improved.⁵²

At a budget vote presentation in April by the SAPS, ICD, POPCRU and others, the ANC chair asked the SAPS whether there were incentives in place for non-corrupt officials. The SAPS responded that it was the duty of police to report corruption so there would be no rewards for them. During the ICD’s presentation it was said that corruption in the SAPS formed one of the Directorate’s five strategic objectives. The ANC chair commented that the ICD needed to be allowed to do its work. He reiterated that corruption in the police must be dealt with. The chair also asked the unions what they were doing about corruption, to which POPCRU responded that it ‘condemned corruption in the police service and those engaged [in it]’. The chair called for corruption among union members to be discussed at a future meeting.⁵³

In June the ICD presented its budget to the committee, again stressing police corruption as an area it sought to focus on.⁵⁴ In October the ICD presented its annual report to the committee, reiterating its strategic objective in relation to corruption but saying that its limited resources hampered its work. It said the SAPS anti-corruption unit should not be incorporated in the ICD (as must have been suggested). The ANC chair said he would like to see more of the ICD and that its work was vital in addressing corruption and racism in the SAPS.

2001 – In December the SAPS made a presentation about corruption in the organisation. It introduced its Service Integrity Framework; highlighted the success of the anti-corruption unit; and referred to the reorganising of specialised units such as organised crime and commercial crime to aid intelligence sharing. It referred to the code of conduct, disclosures of income for senior

staff and publicised convictions against police as promoters of integrity. It also mentioned a toll-free corruption reporting hotline and the establishment of PolTV to educate members, as other initiatives undertaken. Challenges that remained were to reinforce members’ ability to expose and resist corruption, command and control, clamping down on corrupt members, optimising witness protection and intelligence gathering, and cooperating with other government departments. The ANC chair asked if corruption was decreasing, to which the SAPS replied that it was. The ACDP asked why some cases took five years to finalise, to which the SAPS replied that this was rare. A member asked about the size of the ACU, to which the SAPS replied that there were 23 organised crime units. The PAC asked about provinces in which the ACU did not have units, to which the SAPS replied that other structures were in place. The ACDP asked about what would happen to members who interfered with corruption investigations. The SAPS replied that they would be prosecuted. The ACDP asked how other countries’ anti-corruption strategies compared with that of the SAPS. The SAPS replied that other countries didn’t have strategies, for fear of creating a negative image. The UDM asked about the type of corruption SAPS members were involved in. The SAPS replied that it was mostly syndicate-related such as false registrations and false claims. The UDM also asked how the ACU related to the ICD, to which the SAPS responded that it sought to work more closely with the ICD. The ANC chair asked about the role of the trade unions in fighting corruption, to which the SAPS said it had the unions’ support.⁵⁵

2002 – In April the ICD presented the committee with its annual programme. A committee member asked why the ICD used the SAPS’ forensic facilities, believing this might allow for corruption. The ICD responded that it could not afford its own facilities.⁵⁶

2003 – In March, the South African Police Union (SAPU) briefed the committee on a number of issues. With regards to discipline SAPU expressed its condemnation of SAPS members involved in corruption. SAPU reiterated that most members are loyal and committed.⁵⁷

In April the SAPS briefed the committee about the disbandment of its specialised units. The process included decommissioning the anti-corruption units. An ANC member asked how the SAPS intended to handle police corruption. The SAPS responded that it was the only department that had taken action against its members and that this was evidence of its commitment. The ANC chair said the SAPS should first have wiped out corruption before embarking on the restructuring process. The Chair was not happy with the SAPS’ answers and said a second meeting would be called for

it to answer questions relating to corruption. The SAPS acknowledged that it had not been prepared to talk on the subject. An ANC member noted that the public widely believed the SAPS to be corrupt.⁵⁸

In November the National Commissioner and others briefed parliament. An ANC committee member asked how the SAPS planned to deal with corruption. The SAPS responded that although the ACU had been closed down, its expertise had been taken to other specialised units like organised crime. They said that internal disciplinary and criminal action was taken to stop corruption. A DA member asked whether SAPS salaries would increase as he saw these as a cause of corruption. The SAPS did not answer this question.⁵⁹

2005 – In October the ICD presented its annual report to the committee, including the establishment that year of the Anti-Corruption Command. An ANC member asked why the ICD needed the unit in that she felt there were enough such units in the country. The ICD responded that units such as the Scorpions were not interested in the kind of petty corruption that the ICD's unit would investigate. The ANC chair expressed regret in the ICD having created the unit despite the committee having recommended it first consult the minister.⁶⁰ The briefing was continued a few days later where the committee expressed its concern that the ICD's presence was not felt by police. An ACDP member asked whether the ICD had any impact on police criminality, to which the ICD responded that since the closure of the SAPS ACU, corruption had increased.⁶¹

2007 – In March the SAPS briefed the committee about budget allocations and its strategic overview for 2007/08. Again, corruption and fraud in the SAPS was mentioned as a strategic area of concern. An ANC member asked why it was difficult to get hold of information pertaining to SAPS misconduct, to which the National Commissioner responded by referring the member to the annual report.⁶²

In November the ICD presented its annual report and explained that it did not have enough funding to establish Anti-Corruption Command units at provincial level.⁶³

2008 – In May the SAPS presented its strategic plan and budget. Corruption and fraud reduction remained a strategic objective. A DA member asked whether the SAPS' own crime intelligence had been involved in the arrest of Jackie Selebi. She said corruption in the police was a great concern and that clarity should be reached around who monitors the police. The ANC chair ruled that the SAPS should not answer this question. An ANC member asked for access to the SAPS Policy Advisory Council report which she heard mentioned rampant corruption and lack of an anti-corruption

strategy. The SAPS said it would forward the report to the committee.⁶⁴

In May SAPU told the committee that the SAPS needed to put in place a system to deal with corruption. SAPU also said police members should be paid more than other public servants. An ANC member asked the union what it was doing about corruption, to which it responded that it had informed its members not to cooperate with corrupt members.⁶⁵ Also in May, in response to a question previously put to the SAPS by a DA member, the SAPS furnished the committee with a breakdown of the numbers of police criminally charged and dismissed for murder, rape, corruption or armed robbery in the previous 24 months.⁶⁶

In 2009 a new committee was constituted

2009 – In June the ICD presented its annual report and again complained of insufficient funds and personnel.⁶⁷ At a meeting to review the work of the previous committee, the new ACDP member questioned the effect of the National Crime Prevention and Crime Combating Strategies on corruption in the SAPS, saying that crime couldn't be controlled with dishonest police. The committee researcher responded that research needed to be conducted to ascertain the degree to which punishment deterred corrupt members.⁶⁸

In August the SAPS held an information-sharing session with the committee. The presentation included concerns on corruption and perceptions of corruption in the SAPS. A COPE member challenged the SAPS, saying that corruption was not a 'perception' but a reality in the SAPS. The National Commissioner conceded that corruption was a serious challenge to the department but that many officers were doing an excellent job. He asked the public to support good officers and come down hard on the corrupt.⁶⁹

In October the SAPS presented its annual report. A COPE member asked why 990 charges were levelled against police for corruption but only half of these had resulted in convictions. He also said police should have concrete facts before charging police members. The National Commissioner responded that the decision to prosecute was out of the hands of the SAPS but said the SAPS would charge anyone it suspected of involvement in corruption. The ANC chair asked a question around the definition of police corruption, which was not answered. The SAPS said corruption among members working at ports was a problem, and that polygraph testing had been introduced as a deterrent. Training and discipline were also a problem.⁷⁰

In the same briefing committee researchers made a presentation about the ICD's annual report. Researchers said it was 'inconceivable' that the ICD

had only received 254 corruption complaints while the SAPS had reported 990 incidents. The chair closed by saying the image of the SAPS needed to be looked after and that corruption police should be dealt with without mercy.⁷¹

In September it was asked whether the DPCI would have a specialised anti-corruption unit and whether the SAPS had a specialised unit in line with the UN convention against corruption. The reply was negative, that the DPCI would investigate corruption cases so did not need a specialised unit.⁷² As in the previous year, a DA member asked the Minister via parliamentary questions how many SAPS members had been criminally charged and dismissed for murder, rape, corruption and armed robbery in the previous 24 months.⁷³ A COPE member asked for a breakdown by province of corruption charges and actions against members, and the outcomes of these charges.⁷⁴

A presentation by the SAPS in November about their annual report highlighted the implementation of risk management. The presentation mentioned that the Corruption and Fraud Plan had been included in all performance agreements of divisional commissioners, national component heads, provincial commissioners and station commissioners.⁷⁵

2010 – Just prior to the new rank implementation in April, the SAPS briefed the committee on the changes. They said the new ranks would allow for promotions and discipline in the organisation. An ANC member asked what research had informed the decision to change ranks and how rank change would improve discipline. The SAPS did not respond to the research question, prompting another ANC member to suggest this cast doubt on the SAPS' motives. The SAPS stressed that the SAPS would remain a 'service', not a 'force' as incorrectly touted in the media.⁷⁶

Also in March provincial commissioners informed the committee of the challenges they faced. The committee blasted the SAPS for being 'thin' on information and attempting to mislead them. An IFP member asked why police abuse and brutality was not mentioned as a challenge. Only the Free State commissioner responded by reporting the arrest of two senior officers. Mpumalanga's commissioner said corruption was a problem and was caused by poor pay and working conditions.⁷⁷

In May the National Commissioner told parliament the SAPS was 're-igniting discipline, command and control' in the SAPS and that abuses by individual officers would not go unchallenged.⁷⁸

In June the ISS presented the committee with research it had conducted on restructuring within the SAPS, including mention of the negative impact of the closure of the anti-corruption unit. An ACDP member

asked whether there was proof that corruption had increased as a result of this closure, to which the ISS said it was not possible to assess this.⁷⁹

During August the committee discussed the Independent Investigative Directorate (IPID) Bill. Civil society presenters and committee members recommended that the first draft of the bill be expanded to include corruption.⁸⁰ These changes were incorporated into a new draft presented at a later stage, in which the investigation of corruption had been added to the IPID's mandate.⁸¹

In September the SAPS gave a briefing about police training. An ACDP member asked whether the fact that students in the SAPS had criminal records could account for the high levels of corruption. Cele told the committee that students had been discovered with criminal records and that vetting processes needed to be changed. He also said the SAPS wanted to avoid placing students under the care of members who then taught them to be corrupt.⁸²

In October the committee's research team presented its recommendations around the police budget. This included the recommendation that 'the Anti-Corruption Strategy needed to be strengthened and implemented and SAPS should provide a progress report on measures taken to strengthen the implementation of the' strategy. The Chairperson called for the committee to be informed on land ports of entry where there was 'rampant corruption'.⁸³ Another presentation that month, on the SAPS annual report, led to the chair asking if only 362 members in the service were corrupt, as reported. The SAPS responded that these members had been charged, and that the DPSA found the SAPS to have among the lowest levels of fraud in government.⁸⁴

NOTES

- 1 See for example: Human Science Research Council, Between trust and scepticism: public confidence in institutions, http://www.hsrc.ac.za/HSRC_Review_Article-85.phtml (accessed 13 September 2010); R Mattes 'Good News and Bad: Public perceptions of crime, corruption and government, *SA Crime Quarterly* 18 (2006); Michael O'Donovan, South Africans' perceptions of the police and the courts: results of the 2007 National victims of crime survey, ISS Paper 176, December 2008; R Mattes, Good News and Bad: Public perceptions of crime, corruption and government, *SA Crime Quarterly* 18 (2006); A Faull, Civilian perceptions and experiences of corruption and the South African Police Service, ISS Occasional Paper (forthcoming in 2011); M Corrigan, We won't tolerate impunity, *Sunday Independent*, 7 November 2010, and other articles in this series.
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- 14 Andrew Faull, Need or Greed? Corruption and integrity management in a Gauteng police station, *SA Crime Quarterly* 28 (2009).
- 15 South African Police Service, *Annual Report 2009/10*, Pretoria: South African Police Service.
- 16 Bethlehem, Umthatha, Upington, Rustenburg, Thohoyandou and Eshowe.
- 17 *South African Police Service Act 1995*(Act 68 of 1995), Cape Town: RSA.
- 18 *Domestic Violence Act 1998*(Act 116 of 1998), Cape Town: RSA.
- 19 *South African Police Service Act 1995*.
- 20 Ibid.
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- 22 Ibid.
- 23 Ibid.
- 24 Ibid.
- 25 Johan Burger & C Adonis, *South African Police Service's compliance with recommendations made by the Independent Complaints Directorate*, Pretoria: Institute for Security Studies (2007).
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- 27 Ibid.
- 28 Presentation by ICD head of investigations, Tommy Tshabalala, at an Institute for Security Studies and Independent Complaints Directorate workshop, 17 September 2010, Garden Court Marine Parade, Durban.
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- 41 For a detailed description of the structure and function of parliament see <http://www.parliament.gov.za>
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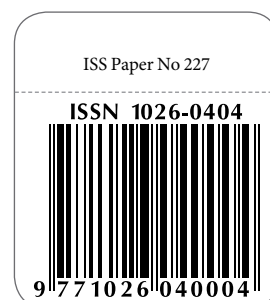
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ABOUT THIS PAPER

This paper is a discussion document exploring the role of the Independent Complaints Directorate, Civilian Secretariat for Police, and Parliamentary Portfolio Committee on Police, with regards to corruption in the South African Police Service – towards improved partnerships with civil society.

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