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FOREWORD

POLICING ASPECTS

Maj.-Gen. (Dr) Phillip R Vuma

The Head: Research - South African Police Service

The South African Police Service was in awe of the relaunched edition of the **JUST AFRICA** Journal.

Policing aspects are about keeping society safe. Therefore, it is no surprise that as society changes, so too are policing aspects. New technologies, new methods and new ideas have brought significant change to the profession of policing, but at its core, policing aspects require the same dedication to communities, the same sense of duty and sacrifice, and the same integrity as always.

As policing aspects continue to evolve, it is important to look back at its history, to the nine principles of policing set out by Sir Robert Peel, to understand where we came from and what we can do to solve our most pressing challenges. To understand those challenges, the principles of Sir Robert Peel can be a fantastic tool allowing options to create more publishing outlets for policing aspects and looking forward to the future trends shaping policing aspects.

These days, technology is accelerating at a faster pace than ever as new devices and services seem to appear every day. We are able to order almost anything, from groceries to software to a lift from a complete stranger from anywhere, at the touch of a button on a mobile device. We can reach anyone, or millions of people, in an instant. My question is, how does this shape policing aspects?

Our capacity to learn and to do good, and the capacity of some to cause harm, are greater than ever when one looks at policing aspects. Technology is changing the core aspects of how we interact as a society, and as society changes, so too will the tools, techniques and concepts the men and women in law enforcement use to keep us safe. Innovation is not just about the latest gadget, it is about finding new ways to improve policing. Innovations in policing can take the form of new concepts, new methods or new tools, but innovation tends to work best when all of these come together to enable policing and law enforcement agencies to gain better insight and make a greater impact than ever before. The innovations that are shaping the future of policing aspects, begin with emerging technologies that support new concepts of operations, enabling the interventions and relationships that keep society safe.

Policing and law enforcement agencies across the country are driving the change, pioneering creative ideas, adapting to changing contexts and incorporating insights from officers and community partners. To understand how these innovative practices may transform the

future, we must begin by understanding the journey a police official takes from evidence to insight. Police officials need to be able to rapidly assess their environment by optimally using technology as they pursue public safety, increase their successes and become deeply involved in their communities.

I have visited many countries and engaged in a dialogue of policing aspects. During my tour of visits, it became clear to me that every police investigative journey begins with collecting facts about the world. Traditionally, this work has been tough. It could mean relying on an official's memory of a licence plate to look out for, or long hours searching for the right pieces of information. It often means being there - to see, to hear and to deter and no police department can be everywhere. However, new technologies like the Internet of Things (IoT) and smart sensors, can be used when needed.

Change is inevitable, but the police and law enforcement agencies can take proactive steps to prepare for the future. Along with these future trends, changing demographics will result in the police of the future looking differently and spending their day in a different way. The police leadership must recognise these changes, not only to recruit suitable personnel, but also to effectively manage them in a world shifting from bricks and mortar to bits and bytes.

The millennial officer of the future will be the one in uniform as police departments struggle to transition today's policing standards to tomorrow's. To make that transition as seamless as possible, one requires not only knowledge of the trends shaping the future, but also a deep understanding of past policing aspects. By studying the history of law enforcement with resources such as the principles of policing as set out by Sir Robert Peel, and by understanding the innovations that will drive the future, the policing aspects of tomorrow will potentially be better prepared for change, but need to be used to their advantage.

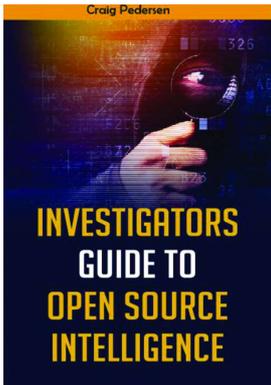
And though technologies, methods and tools may continue to evolve, the core of law enforcement remains the same - tirelessly working to improve community engagement and public safety. Innovation is likely to enable greater insight and safety than ever before, but the same professionalism and discipline that brought law enforcement through the last century, have to continue to be the keys to success in the next one.

BOOK REVIEW

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INVESTIGATORS GUIDE TO OPEN SOURCE INTELLIGENCE



Author: Craig Pedersen
Published: 2020
ISBN: 978-0-620-86531-9

Investigators guide to open source intelligence is a highly recommended manual for investigators, an additional reading source for students studying at training institutions, and is published at the right time.

The function or skill of investigation and the methods used to collect and analyse information to become intelligence is rooted in social science. This science and the accompanying methods and techniques are well-defined and taught across the world. The shortfall however is that most, and in some cases all of the learning material, address only the theoretical aspects of investigation, intelligence and broad statements on what should be investigated and that analysis of cases and data should be performed by the investigator. These sources will typically state that some of the steps in an investigation are to gather sufficient information, intelligence or evidence, to obtain all the intelligence on a person or organisation including from open sources, identify and trace the offender etc., without explaining how this should be done. The how is the key to success if you want to be an investigator.

This is why the book **Investigators guide to open source intelligence** is such a valuable and timely source for investigators within the South African context. It explains in very basic, logical and clear language what actions should be performed to obtain information and intelligence from open sources. Furthermore, it provides step-by-step information on accessing these sources with specific detail on available open sources of information, website addresses, latches and pivot points.

The manual is based on the experience of a seasoned practitioner with very important advice to investigators on their operations, personal security, operational security and how to conduct searches inconspicuously while protecting your own assets. The guide also describes the boundaries of an investigation into open sources.

The manual furthermore deals with the skills that an investigator requires in an objective manner and which basic tools are to be used in mining open sources to obtain intelligence. In addition, it provides informed step-by-step guidance in accessing, mining and extracting information with regard to Google-Fu, people searches, phone numbers, e-mail addresses, social media, verification services, bureau data, meta data (the buzz word globally) and websites.

The manual is well-grounded in practical experience, case studies, examples, illustrations and the subject material is used very well to demonstrate and argue the thesis and practical actions to obtain open source intelligence. The author also explains the difference regarding the basic principles and definitions in an investigation.

This manual furthermore identifies more skills, tools and methodologies that may be important to an investigator with specific reference to the more pertinent topics to be studied in this respect.

This is a manual to be studied and used by all investigators - law enforcement and all other investigators alike. Understanding the value of intelligence and developing the practical know-how to mine data on open sources to get information, to turn that to intelligence and to reveal the truth is the future and basic requirement to be an investigator in modern times.

If you want to order the book, send an e-mail to the author at: craig@tcgforensics.co.za

ARTICLE

ALTERNATIVE THINKING ABOUT POLICING IN SOUTH AFRICA: ARGUING A CASE FOR A SOUTHERN POLICING EPISTEMOLOGY FROM A HISTORICAL PERSPECTIVE

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ABSTRACT

The theme of this edition of **JUST AFRICA** aims to cover alternatives to traditional policing. It can be expected, and rightly so, that authors may tend to look at issues such as governance, leadership, policy, operational issues and corruption in the South African policing environment. This article argues that one could start by looking at the history of policing in South Africa since a careful study of the policing historiography may lead us to alternative thinking about policing in South Africa. It can be argued that the term "policing" was not visible in the vocabulary of South Africa's first people, since the available policing body of knowledge (POLBoK) suggests that the term was designed in Europe and brought to South Africa by colonial powers. However, it is a submission of this article that a "policing" system of some sort existed in South Africa among our first people before the colonial era, even though it is not visible in the written tradition. It is a further submission of this article that the investigation of a southern policing epistemology could assist in understanding alternatives to policing in South Africa. The interplay between a southern policing epistemology, an African policing epistemology and a South African policing epistemology, it is argued, may provide policing practitioners and policing academic researchers alike with new imperatives in the holistic approach to strengthen the POLBoK.

KEYWORDS/PHRASES

Alternative policing thinking; policing historiography; South Africa's first people; colonialism; colonial policing; centralised policing system; societal safety; community safety; societal order; southern policing epistemology; policing body of knowledge (POLBoK); constitutional democracy under the rule of law; voluntary obedience to the law; knowledge leadership (KL); evidence-based policing.

INTRODUCTION

Policing is simply not an average job that is executed between specific hours and without a sense of urgency. It is a hugely complex societal function since it involves a relationship with just about all scientific disciplines in society. These disciplines include the law, sociology, psychology, natural sciences (especially where scientific evidence of a crime or criminal is submitted to court), political science, economics, information technology and many more. In fact, policing a constitutional democratic state under the rule of law is a huge responsibility based on a vast amount of knowledge and experience. The knowledge part of the equation should be based on solid, internationally accepted, peer reviewed research. It follows that, if one wants to work on alternatives to traditional policing, one needs to generate and disseminate research from which base current practices and alternative possibilities are evaluated. Since very little is known about societal safety during the times of South Africa's first people, it is deemed prudent to start with a study of the policing historiography of South Africa by addressing the first people perspective. Typically, South Africa's policing historiography concentrates on the development of policing in the northern parts of the globe, and the application of such in the southern areas of the globe. In this regard, the practice has been to concentrate on a historiography as from 1652, the year in which the Dutch East India Company from the Netherlands created a post in the area today known as Cape Town. The Dutch occupation was twice replaced by British occupation, with South Africa eventually becoming a British colony. This brought along the British thinking about policing, with the exception that it created in South Africa a policing environment drastically different to that of the British. But, it was a bureaucracy that generated paper trails from which a historical account of policing in South Africa can be deduced. Prior to colonisation, the history was carried over orally and scholars had to use other means to determine the issues of societal safety during the period of the oral tradition. A holistic approach to the policing historiography, taking into account societal practices before colonialism, may assist scholars in advancing alternatives to the way in which policing is executed in South Africa.

GOAL AND OBJECTIVES

The goal of this article is to argue a case in support of a southern policing epistemology. Since this goal is executed within a paradigm of alternative policing thinking, an exploration of the early policing history of South Africa is envisaged. The early policing history can serve as an example of a part of knowledge about South African policing that is often ignored, namely the precolonial period of existence. The latter refers to the period during which South Africa's first people inhabited the geographical area of current South Africa. An exploration of the early policing history of South Africa, therefore, also serves as an attempt to influence research on other precolonial aspects of policing which may share light on the substantive and procedural aspects of order maintenance during that time. The eventual aim of such an endeavour is to

include the precolonial history in the policing body of knowledge (the POLBoK) for possible utilisation in the determination of policing policy and resultant policing practices during the execution of the job.

In order to interrogate this goal, several objectives are set, namely:

- To provide brief conceptual considerations of the terms policing, knowledge leadership (KL) and southern epistemology with the view of arguing from a specific base in pursuit of the article goal.
- To provide a brief history of the first people of South Africa, since it is not described adequately in policing literature and the influence on current policing policy development is therefore unknown. In order for an understandable, contextually-based societal safety sketch to be achieved, the origin of South Africa's first people and a description of same, inclusive of the latest information from genetics research and developments of diaspora, should be described. It is envisaged that adequate coverage of the aspects mentioned above will augment the POLBoK towards understanding the socio-cultural systems of the first people, thereby assisting researchers to develop insights into aspects such as governance, leadership and societal safety.
- The final objective is to describe the relationships between an envisaged southern policing epistemology on the one hand, and knowledge leadership as well as professional policing on the other. The aim is to interrogate the value of the relationships in the quest to determine policing policy and resultant policing tactics during the execution of the police's role in society.

CONCEPTUAL CONSIDERATIONS Policing

Since no evidence to the contrary could be found, the authors of this article accept that the terms "police" and "policing" were not known at the time of South Africa's first people. Our scant information from the era of the oral tradition does not clear the matter. However, things changed during the era of the written tradition where the noun "police" ("the regulation and control of a community") was first described in the 1530s in France while the verb "police" ("to keep order") was first noticed in France during the 1580s (Online Etymology Dictionary, nd). It was thus during the 16th century that the ancestors of the current terms "police" and "policing" were first mentioned. Unfortunately, policing institutions in continental Europe were frequently used to dominate subjects, a situation that caused the word "police" to be regarded with suspicion in Britain during the 18th century, as the English considered themselves to be living in a country of liberty not to be curtailed by organised governmental power (Emsley, 2009:13). Safety and security was still the responsibility of each individual (Van Heerden, 1976:22) and various structures of constables and watchmen (Howard, 1953:61). However, this was also the century, specifically during the year 1796, in which Dr Patrick Colquhoun supported a centralised policing system to guarantee these same liberties in the United Kingdom (Van Heerden, 1976:25) and used

the word "police" to indicate "a new science" (Mellville Lee, 1901:vii). The 19th century indicated a step forward in the historiography when, during the year 1829, Sir Robert Peel steered the Metropolitan Police Act through Parliament in the United Kingdom (Mellville Lee, 1901:232; Howard, 1953:64; Van Heerden, 1976: 25-27; Emsley, 2009:8). With this, an organised policing agency, staffed by professional police officials, were formally instituted in the British system, the colonial power of South Africa. Unfortunately, the consequences for South Africa were not necessarily as positive as in the United Kingdom as Britain created a paramilitary force to deal with the colony's alleged wrongdoers.

Knowledge leadership (KL)

Following a thorough conceptual analysis, Botha (2017b:7) defines knowledge as "valid reality, ascertained through methodical and systematic inquiry from within a chosen scientific paradigm" and leadership as "authentic influence that integrates management systems on all levels of the organisation and creates value" (Botha, 2017b:11). Therefore, knowledge leadership is defined as "authentic influence on all levels of the organisation based on valid reality, seeking to integrate knowledge development processes and knowledge management initiatives, and to create value to the benefit of an envisioned future" (Botha, 2017b:12).

When applied to the policing environment, this definition enables the utilisation of research in the development of policing policy and practice. It emphasises the role of leadership to influence all levels of the organisation towards the utilisation of research for this purpose and it therefore has the execution of professional policing as its goal.

Southern policing epistemology (and the possibility of an African and South African policing epistemology)

Continuous academic research on African and South African policing, augmenting the policing body of knowledge (POLBoK), is visible. An example of such research titles is reflected in Van der Spuy and Banchani (2013) in South Africa. The work done by Alemika from his base in Nigeria (see, for instance, Alemika, 2009) is particularly useful as we endeavour to expand POLBoK.

Researchers from other continents, notably working from countries in the northern parts of the globe, contribute to the POLBoK of Africa and their research is widely used on the continent. These researchers include Hills (2000), Francis (2012) and Baker (2014). Although the work done by these researchers are not discounted, it should be augmented by research from southern hemisphere countries particularly from Africa, Asia, Oceania and Latin America, clustered from the beginning with the quest to create a southern policing epistemology. This state of affairs could lead to an African policing epistemology, led by African researchers. The term "African researchers" is defined as all researchers in Africa who produce peer-reviewed African policing research for Africa. Much may be gained by building onto the African policing epistemology by combining both northern and southern research findings

leading in turn to the development of a southern epistemology in general, and an African policing epistemology in particular. It stands to reason that the geographical and cultural individualities of countries in Asia, Oceania and Latin America, based on the southern epistemology, may lead to unique policing epistemologies addressing the policing intricacies of those countries, such as a South African policing epistemology.

The rest of this article will focus on an example of a contribution to a southern epistemology by emphasising the societal safety issues of South Africa's first people. The exposition aims to explore the uncovering of issues of societal safety among South Africa's first people, with the goal of evaluation of same for incorporation into South Africa's knowledge and evidence-based policing endeavours. In other words, what did our first people do that we may perhaps use today in our efforts to make South Africa safer? However, the results may not be suited to the ideals of a constitutional state under the rule of law, such as South Africa's. This article therefore, could play a role in the identification of future areas of research thereby supporting alternative thinking about policing in South Africa.

A COMMUNITY SAFETY HISTORIOGRAPHY OF SOUTH AFRICA: A FIRST PEOPLE PERSPECTIVE

Point of departure

Too often, policing historiographies in Africa start from the date of colonial occupation of Africa's countries, thereby ignoring issues of community safety prior to colonisation (Botha, 2012:247-248; Botha, 2015:80-81). In South Africa, and because of its colonial past, it is common cause that the majority of historiographies take the British policing system as its basis and link the South African policing historiography to the arrival of the Dutch (1652) and the later (first in 1795 and finally in 1806) British control of the Cape (Van Heerden, 1976:27; Botha, 2012:248; Botha, 2015:81). The colonial history of Africa is consequently well-covered. With the demise of colonial rule in Africa, mostly during the sixties, the post-colonial era has been covered quite extensively as has the policing situation in current times (Botha, 2015:79-90).

Policing literature does not typically describe the early situation of communal order. In the case of South Africa, this means a dearth of written information prior to 1652. Fifty of Africa's countries were however also colonised albeit during different times, and the same situation with regard to a lack of published sources applies (Botha, Nd:8-11). Alemika (1988:166) confirms that a lack of sources about policing prior to Africa's colonial era is visible on the whole of the African continent. It is therefore not only South Africa's issue, augmenting our opinion the need for exploring a southern (and, eventually, an African) policing epistemology.

While describing early community safety among the first people of South Africa, the authors are not attempting to solve archaeological, anthropological, paleoanthropological or any other scientific discourses that may exist, or to render the final word on disagreements that may exist between scientists who study South

Africa's first people. Describing the first people of South Africa therefore takes into account the differing views of scientists in different disciplines, but focuses on the governance and leadership issues of societal safety, or other designations that may indicate "policing" as we currently know it, such as community safety, societal order or rule-abiding in society.

The lack of readily available information about governance, leadership and the maintenance of order in society during the era of South Africa's first people is mostly due to the absence of the written word and the tradition of oral history during early times (De Jongh, 2016:5;13). In the latter tradition, elders shared history with the next generation in a narrative format (De Jongh, 2016:13). Rock art, however, would play a significant role in understanding the first people's history in the absence of the written word (Parkington & Dlamini, 2015:135). Combining rock art with the oral narrative, Rust (in De Jongh, 2016:94) finds it striking that the /XAM stories recorded on rock a century ago "are similar to those still related by the local people (that is to say, the descendants of the early Khoekhoen)".

The evidence on South Africa's first people leans strongly on the work done by anthropologists (Parkington, 2006; De Jongh, 2012; Parkington & Dlamini, 2015; De Jongh, 2016; Kuljian, 2016). This is significant for policing, since it is common cause that policing is in a perpetual relationship with other disciplines (as touched upon in the introduction to this article). In Africa, and therefore also in South Africa, structured state policing is executed mostly within the borders of a state and governed by the laws of the state. Immediately, one can understand that policing is in a relationship with disciplines such as law, political science and public administration. Should one need the physical sciences, such as during the investigation of crimes, then one will understand a relationship between policing and medical sciences (inclusive of psychiatry), chemistry, engineering, ballistics, biology, dactyloscopy and so forth. The behaviour sciences (psychology in all its formats and offshoots) are visible and so are disciplines studying people in society such as sociology and also anthropology. Anthropology, a social science, has fairly recently started working with scientists studying people's ancestral past through genetic testing, and has come to appreciate the contributions made by deoxyribonucleic acid (DNA) (De Jongh, 2012:47; Kuljian, 2016:241) which informs researchers about the development, growth, functioning and reproduction of organisms and viruses. De Jongh (2012:58-59) found that DNA analyses of the subjects in his study "... provided significant affirmation for some of the data that my anthropological methodology had produced ...". Kuljian (2016:241) describes the finding that "mitochondrial DNA showed quite convincingly that the root of modern human origins evolved in Africa. In fact, the Khoisan people of southern Africa still harbour signatures in their genome that carry these ancient traits". Working on a precolonial policing history without taking note of the scientific progress offering us insights of our ancient peoples, will be folly. These authors hold the opinion that, even if only for the sake of a complete argument augmenting a southern (and later African) policing epistemology, they could not simply focus on the first people's communal safety

substance and process in a vacuum.

It is against this background that we will explore South Africa's first people with the aim of utilising science to understand pre-colonial policing aspects.

The origins of South Africa's first people

Homo sapiens lived in the great Karoo area of South Africa about 200 000 to 100 000 years ago (De Jongh, 2012:25) and also in the western, southern and eastern areas of our coastline, both on the coast as well as inland (Parkington, 2006:9; De Jongh, 2016:13). This vast area covered parts of the current Namibia, and went at least as far as the Great Fish River in the east (De Jongh, 2016:13). Evidence exists that early people also inhabited the central areas of the current South Africa (Parkington & Dlamini, 2015:76).

How did South Africa's first people end up here? In his 1871 essay, *The Descent of Man*, Darwin (Kuljian, 2016:25) states that "it is somewhat more probable that our early progenitors lived on the African continent than elsewhere". Darwin's theory was not widely accepted and was derided for about 150 years (Kuljian, 2016:25). Support from researchers in the field of genetics changed this position somewhat. According to Parkington and Dlamini (2015:69), Africa's people did not arrive here from somewhere else. Africa was rather the location of the male and female ancestor to all of us. It is widely accepted that studies focusing on mitochondrial DNA (mtDNA) which is passed on only through women, are increasingly indicative of the belief that the scientific "Eve" was an African woman (Kuljian, 2016:205; De Jongh, 2016:105; Parkington & Dlamini, 2015:52; 69). In the same vein, because of parallel studies on the Y-chromosome (De Jongh, 2016:105) which is passed uniquely through the male line, it is believed that the scientific "Adam" was an African man (Parkington & Dlamini, 2015:52). These first people were the geographic ancestors of the San (Parkington & Dlamini, 2015:52). According to these studies then, the origins of South Africa's first people are relatively covered. However, there is still no consensus as to who these people were.

Consider the attempts to identify and describe the first people, discussed in the next paragraph.

A description of the first people

Although some similarities are visible, the literature differs on the composition of South Africa's first people. Some views are discussed in this article. The "San" were nomadic hunter-gatherers and lived in small family groups as an egalitarian society, with a nominal leader who controlled the available resources (which belonged to the group) on behalf of the group. The "Khoikhoi" originated from the "San", learned how to domesticate animals and became relatively settled pastoralists. "Khoisan" indicates a convergence between the "San" and the "Khoi" (Botha, 2017a:1-4).

With the arrival of the Dutch in what is currently known as Cape Town, South Africa, the "San" were called "bosjesman" which eventually evolved to "Boesman" ("Bushman" and "Bushmen"). "Khoi" (also "Quena") or "Khoikhoi" was actually described

incorrectly, as a more correct description would be "Khoekhoen" (De Jongh, 2016:3;10). The Dutch called these people "Hottentot" which eventually evolved to "Hotnot". Both terms, namely "Boesman" and "Hotnot", are widely regarded as insulting and derogatory derivatives. The "Nama" ("Namaqua") and "Korana" people use the collective term "Khoekhoen" to describe themselves. Jan van Riebeeck, the Dutchman who arrived in the Cape on 6 April 1652, called the "Khoekhoen" who collected and hunted seafood, "Strandlopers" ("Beach walkers"). "Khoisan" (or "Khoesan") denoted the racial stock to which the "Bushmen" and "Hottentots" belong (De Jongh, 2012:25; De Jongh, 2016:23). Against this background, one may postulate the following:

- The "San" should actually be called "/XAM", and the "Khoekhoen" included the "Griqua" and the "Korana" (De Jongh, 2012:25; Parkington & Dlamini, 2015:135; De Jongh, 2016:3-5).
- A gene flow between East African people and the "Southern San" formed what is now known as the "Nama" population (Lombard, as cited in De Jongh, 2016:3).
- When "San" hunter-gatherers of Southern Africa mixed with pastoral immigrants from East Africa more than 1300 years ago, "Khoe" herders were the descendants (De Jongh, 2016:14).

In an effort to provide some clarity for use in this article, the following description is offered:

- The geographic ancestors of the San from Southern Africa, combined with pastoralists from East Africa, were South Africa's first people.
- This gene pool produced the San (/XAM) and the Khoekhoen (Quena/Khoe).
- The Khoekhoen consists of the Nama (Namaqua), Korana, Griqua and Strandlopers.
- The racial stock of the combination of San and Khoekhoen is the Khoesan (Khoisan).

The Out of Africa theory

The Smithsonian National Museum of Natural History (Nd) supports the view that Homo sapiens evolved 300 000 years ago in Africa. The museum is further of the opinion that modern humans (Homo sapiens sapiens) originated in Africa more than 50 000 years ago. In this vein, Parkington and Dlamini (2015:69) posit that commentators are almost in agreement on the African origin of Homo sapiens sapiens, but that consensus does not exist as to when and why our first people have expanded. However, evidence exists of where our species went and when they arrived there. Parkington and Dlamini (2015:69) summarise it as follows:

- To Europe: 45 000 years ago;
- to Australia: 50 000 years ago;
- to North America: no earlier than 15 000 years ago; and
- to the distant islands (Madagascar, Caribbean, New Zealand, the Pacific): only around 2000 years ago.

Consequently, if we accept the Out of Africa theory, we will be able to conclude that the first people of South Africa, as the origin of our species, had migrated to Europe, Australia, North America and the distant islands as described above. It is then also possible

to conclude with some certainty that they would have taken their socio-cultural systems with them. These systems are discussed in the next paragraph.

Socio-cultural systems of the first people

Against the background of a dearth of written history, non-consensus on several aspects of first people life, and the increasing evidence from genetic research, it is important to study the available information on first people governance, leadership and societal safety/societal order. The above explanation allows for the study of the Khoesan (the racial stock of the combination of San and Khoekhoen) as a type through which a relative universal first people pattern of governance, leadership and societal safety/societal order may be described.

Governance and leadership

Elphick and Giliomee (as cited in De Jongh, 2016:80) explain that the chief of a chiefdom or tribe would overrule the clan heads of the tribe (also called headmen) only if he was extraordinarily talented or wealthy. Chiefs and headmen were elected (Heese, as cited in Botha, 2015:79) and political power was weak (De Jongh, 2016:80). The chief was a nominal one in an egalitarian society (Botha, 2015:79) and his decision-making was not absolute but subject to agreement by his councillors, which were the heads of the clans (De Jongh, 2016:80). The Dutch called these clan heads "capitain" ("captain"; De Jongh, 2016:80). The patrilineal principle (family membership through the father's lineage) and kinship system (a web of social relationships through descent or marriage) determined governance and leadership importance as well as seniority in the community. The chief was the political leader who headed the tribal council, the military commander when necessary, played the senior role in peace negotiations and had jurisdiction over civil disputes and criminal offences (De Jongh, 2016:80). Given the nominal role of the chief, the tribal council was the real governing body of the tribe. Although the chief presided over the council, he was a representative rather than a ruler. However, if the chief had a strong personality, he would be able to sway council decisions (De Jongh, 2016:80;83). In some cases, the tribe and even other tribes, would afford the chief power because of the tribe's reverence of the chief and his leadership abilities. Chief Gaukou, the influential chief of the Hessequa, is a case in point (De Jongh, 2016:85). According to Heese (as cited in Botha, 2015:79) "the shaman (a religious leader) and the medicine person (who could be either a woman or a man) formed an important leadership centre".

Societal safety and societal order

De Jongh (2016:85) does not use the word "policing", but describes societal order and safety in terms of "law and order". In his opinion, the maintenance of law and order among our first people was based on norms and conventions, or rules of behaviour, which became commonly accepted in the community over time. Formal legal codes were not available to South Africa's first people as these would only be developed much later in the early

history in Africa and the Middle East. In this respect, Lippert (2012) is of the opinion that no clear evidence of written law was visible before the Middle Kingdom (2013-1640 BC), but written law may have been available in the period preceding the New Kingdom (1550-1070 BC). This is supported by Van Heerden (1976), when he states that the first criminal code in written format appeared during the reign of Hammurabi in Babylon at approximately 2001 BC. During the period 549-486 BC, Darius 1 of Egypt had codification done in an effort to collect and order all existing laws in one corpus (Lippert, 2012). The norms and conventions that South Africa's first people obeyed were visible in religious practice, kinship and marriage, interpersonal relations, economic practices and property rights and members of the community were expected to conform (De Jongh, 2016:85). It stands to reason that these were executed thousands of years before the developments of the sixteenth, seventeenth and eighteenth centuries AD. The people were allowed to settle disputes on a personal level (even through physical confrontation) but more serious matters were heard and concluded by the chief in council, or in some cases by a headman in council with the adult men of the clan (De Jongh, 2016:85). Complainants, defendants and witnesses were given a full opportunity to speak. After a matter was comprehensively discussed, a majority verdict was delivered. Murder, theft, adultery and incest were punishable by death, which sentence was executed immediately upon the final decision by beating the offender to death with walking sticks (De Jongh, 2016:85-86).

Reflecting on governance, leadership and societal safety and order during the times of our first people

The nominal nature of the chief's role and the concurrent participative governance style is an indication of the egalitarian society that our first people lived in. The leadership style was equally one of participative leadership, and allowance was made for wide recognition of chiefs with particular influence or capabilities. The leadership group in these communities were male-oriented, although some mention is made of women (particularly as the medicine person) playing a role in the leadership group. Societal safety was reinforced by the death penalty for certain offences, which probably served as some sort of deterrent. A definite set of rules for human behaviour would have served the quest for order in society. Although this rule-based behaviour within the council system indicates a relationship between the system of rules and the leaders, it is not clear whether societal safety and order were unduly influenced by the leaders. The need to have the councillors concur with decisions would most probably have acted against undue leader influence and partisan behaviour. This situation, given the alleged influence of East African people in South Africa's gene pool, was tested in a learning setting in Rwanda. The results may hopefully provide researchers with the type of information needed to understand some influences on societal safety issues among South Africa's first people. The Rwanda study is described below.

One of the authors formed part of a two-person team delivering a Post-Graduate Diploma in Strategic Leadership at the

National Police College of Rwanda during 2015 and 2016 (Botha, 2018:83-84). The diploma was certified by the Maastricht School of Management in the Netherlands (MSM). Thirty-two participants from 16 African states attended this intervention and with the exception of three participants, participants were from East African states. Given the relationship between the San in South Africa and pastoralists from East Africa (above) and the origins of our gene pool, it was decided to investigate the East African view of leadership while at this location. Appropriate permissions were obtained from participants, the Rwanda National Police College and the MSM.

The participants, who were senior police officers, attended a police staff course and the diploma formed an integral part of this course. When compared with the British system of military ranks, which has since April 2010 again been used in South Africa despite the country's efforts to demilitarise after 1990, ten participants were in the equivalent rank of major-general while the rest were all in the equivalent ranks of brigadier, colonel, lieutenant-colonel and major. The average years of service were 20.

The research was designed as an ongoing andragogical activity in groups during Module 1 (November 2015), through Module 2 (February 2016) and Module 3 (April 2016). The underlying issue was an attempt to explore the largely verbal tradition on leadership in East African states through the ancient, colonial and post-colonial periods. The theoretical basis for this action-learning process was found in Schwella (2014:87) and consisted of four questions namely:

- what happened here;
- why did this happen;
- what can we learn from this; and
- how can we put the learning back into the system to improve the system's quality and performance?

These questions constituted a specific and systematic way of doing things. It follows that the questions can cumulatively be assembled as a methodology since "specific and systematic way of doing things" is a definition of research methodology in general (Du Plooy-Cilliers, Davis and Bezuidenhout, 2014:6; Welman, Kruger and Mitchell, 2005:2). Since action research can be defined as the investigation of societal problems and finding practical solutions (Babbie & Mouton, 2001:63), it was possible to cluster the four questions and conceptualise it as the Schwella Action Learning Methodology. This allowed for the creation of the mnemonic SALM (the first letters of the term as conceptualised) as a possible useful structure for investigations of this kind.

The results are described below:

- Ancient African leadership, from the perspectives of the participants, was mostly embodied in a centralised monarchy. The family received prominence while gender and religious sensitivity were emphasised. The leaders were mostly male and succession was managed. These leaders had the services of a body of elderly men to consult. The authority of the leader was visible as he was the ultimate provider and made the decisions following on advice and consultation with the elders - it ensured that he had a warrior capacity.

- Colonial leadership in Africa, in the participants' view, was dictatorial, worked on the principle of divide and rule and was destructive of traditional African culture. This system was foreign to Africa, oppressive, discriminatory and exploitative. The system of parallel administration was aimed at appeasing traditional leaders while the colonial power claimed superiority.
- In the post-colonial world, the new regimes used the leadership view of the colonial masters because they found it useful to them. The new African leadership, the participants concluded, was aimed at regime protection and the suppression of the community, especially those in the community who opposed the regime.

CLOSING THE LOOP: THE RELATIONSHIP BETWEEN A SOUTHERN POLICING EPISTEMOLOGY AND ITS ESCORTING PHENOMENA

The relationship between a southern policing epistemology and knowledge leadership (and evidence-based policing)

For purposes of continuity, the definition of knowledge leadership (KL) offered earlier in this article is repeated. KL is defined as "authentic influence on all levels of the organisation based on valid reality, seeking to integrate knowledge development processes and knowledge management initiatives, and to create value to the benefit of an envisaged future" (Botha, 2017b:36).

It is a submission of the authors that KL can play an important part in the development of a southern policing epistemology since knowledge development and management can contribute to the development of such an epistemology (Botha, 2019). As such the present debate on evidence-based policing (Sherman, 2013) is part of both a northern discourse (with British origins) as well as a southern discourse (in Australia and South Africa) (Botha, 2019). Given the influence aspect of KL, it can make a contribution to evidence-based policing in that it aims to influence a partnership between policing practitioners and policing researchers to the benefit of policing policy. To this end the imperatives of policing in a constitutional democracy under the rule of law may be served.

The relationship between a southern policing epistemology and professional policing

In Britain, the early view of professional policing was to create an organised policing environment with the aim of moving away from the system of voluntary protection of the self and others (see the conceptual clarification of "policing" above. This entailed the creation of an official policing organisation and staffing it with official policing people appointed for the purpose of protecting and serving the community while receiving a salary and other employment benefits (Mellville Lee, 1901:231; Howard, 1953:131-133; Van Heerden, 1976:25; Emsley, 2009:8). According to Neyroud (2014), this led to a professional policing model characterised by random patrol, rapid response and reactive investigation. This model has largely been criticised by research and Neyroud (2014) postulates that it should be replaced with a new professional

model based on targeted intervention, problem-solving, public engagement, partnerships and legitimacy. This view of professional policing is regarded as "the transformation of an occupation into a profession" a conclusion made by Green and Gates (2014:75) after studying the definitions of professional policing provided by 11 authors in Britain, the United States of America and Australia. Professional policing could thus no longer only be regarded as work done by specially appointed people, fit for purpose and paid to do so - the original paradigm shift from individual responsibility to dedicated responsibility. This meant that "professional" police was now considered very different as during the times of Colquhoun and Peel in Britain. Among others, a compulsory characteristic of a profession is the necessity of higher education for the police official including research published in professional literature (Green and Gates, 2014:80). In this sense then, the policing agency is motivated to use peer-reviewed research as the basis for its role in society. This view is augmented by the increasing complex body of knowledge (POLBoK) needed to ethically and effectively influence the role of policing in society, especially where we exist in a constitutional democracy under the rule of law, as South Africans do.

CONCLUSION

If one accepts the imperatives of a southern policing epistemology, one will be able to advance knowledge leadership as an alternative concept to utilise in our thinking about policing. This alternative could have a positive effect on the determination of policing policy with its resultant influence on the execution of the police role in the South African society. We argue that policing policy should be based on knowledge. It is therefore necessary to search for precolonial habits in societal safety in order for researchers to understand the full picture. The example used in this article, where it is argued that knowledge of the precolonial societal order should be included in the policing historiography, is an effort to motivate researchers to expand their research to other fields of study in the policing environment with the aim of finding alternative ways of thinking about policing.

With this article, we have endeavoured to do a first interrogation of precolonial policing with specific reference to South Africa's first people. Colonial and post-colonial policing were consequently not the focus of the article. This explains the passing reference to those systems which were merely provided for purposes of completeness and context. We needed to call attention to the fact that precolonial policing knowledge is not readily available in written format and that policing practitioners and academics alike may be able to use such knowledge (of precolonial policing) for the determination of policing policy and the resultant policing practices. Searching for such knowledge is an epistemological exercise anchored in history while the addition of KL looks to influencing the determination of policing policy and practice from the evidence gathered through the epistemological exercise (influencing - not manipulation - being the operative term in leadership definitions). As such, evidence-based policing is also supported. Africa, and therefore also South Africa, can make a contribution to a

southern policing epistemology by interrogating the neglected historical evidence. At the same time that contribution could also possess utility value for an African, and South African, policing epistemology. The relationship between southern, as well as African (and consequently South African) policing epistemologies has bilateral influences and mutual benefits for the role-players in southern policing, without ignoring the northern policing epistemology in totality.

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ARTICLE

POLICE SUPERVISORS' ROLE IN CONSTRUCTING AND RECONSTRUCTING ORGANISATIONAL IDENTITY: LESSONS FROM SOUTH AFRICA

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ABSTRACT

This article addresses the question of how police organisations attempt to reconstruct the professional identity of employees. It draws from three different studies conducted by the author at various sites of a single organisation namely the South African Police Service (SAPS). The study presents three cases to demonstrate different attempts to shape employee identity in the direction of what is required by the specific business unit of the organisation. Case one explores the effectiveness of training to change police officials' attitudes towards clients. Case two presents the ways in which police officials learned to cope with internal pressure in an operational environment where the focus of the study was on client service. Case three reflects on police trainers' attempts to become academics and explores how police officials learned to develop desired police identities. All three cases were analysed in terms of organisational efforts to steer identity development and the actions of police officials in response to the organisation's efforts. Specifically, this article highlights the role that supervisors and role-models play in shaping or reshaping professional identities to advance the organisational identity of the organisation. The cases presented with examples of how police officials resist change, deviate from police directives and develop alternative ways to get their work done if they are not closely supervised. Police officials find themselves confronted by what the organisation requires of them and what they experience in the workplace. While developing professional identity within the police, the individual police official has to navigate between organisational prescripts and own discretion in the field. The article argues that supervisors and suitable role-models play an integral role in guiding colleagues and junior police officials to develop the desired police official and organisational identity, emphasising discipline and compliance to organisational directives. This is done through observation, mentoring, modelling, encouragement, skills development, appraisals and just reward.

KEYWORDS/PHRASES

Police, identity construction, supervision, organisational identity, policy, culture, performance.

INTRODUCTION

Police agencies rely greatly on their frontline personnel to act as ambassadors for the values of the organisation. Organisations approach the construction or reconstruction of professional identity of employees in different ways, mostly by regulating conduct through directives such as policies and standing operating procedures. Yet, such efforts do not always have the desired effect on police officials. Brown (1981, in Dantzker, 1997) points out that policies that aim to improve or change an organisation's professionalism, tend to have minimal effect on the line employee. It is only when there is buy-in from police officials that the organisation can commence with efforts to create clarity, consistency and alignment with its culture and identity (Fekete & Keith, 2003). Police agencies can thus expect challenges with shaping police officials' professional identity to fit organisational norms if there is limited buy-in from frontline officials and supervisors.

The role of supervisors usually entails being a link between management and operatives to ensure that workers are present at work and their work is completed correctly. In other words, they need to see to it that management's expectations are met in respect of performance (Mullins, 1999:177). In police agencies, such role is complicated as much of what operational police officials do at work is in the field and not observable by their supervisors who must oversee the work of several police officials in different locations. The nature of police officials' work also presents opportunities for misconduct as police work is highly discretionary (Klockars, Ivkovich, Harver & Habersfeld, 2000:1). To this end, this article explores the roles of supervisors (who should act as organisational role-models) in shaping police officials' professional identities in their specific business units by drawing from different studies conducted at various sites of the SAPS.

LITERATURE REVIEW

Potgieter's (2014:90) statement emphasises the need for police agencies to reconsider their current organisational identity and to shape their police officials' professional identities to be in line with the characteristics that the organisations strive for. He states:

"Public expectations about police role performance also seem to suffer as a result of police operational characteristics which may hamper sound police-public relationships. An analysis ... confirms an unfavourable image of the police. The lack in setting an example in terms of their own obedience to the law, followed by deviant characteristics such as: abuse of power and authority, arrogance and corruptive behaviour are important indicators in this regard."

Police agencies need to ask themselves who and what they are? While answers to these questions are stated in the vision, mission and value statements of police agencies, there is no certainty that its members will internalise such organisational values. Police officials may deviate from what the police as an organisation expects of them. To this end, Newham (2015:39) argues that police behavioural changes are in the hands of police supervisors who should be aware of their influence on police culture and behaviour. The broader implications of this argument are explored

by looking at supervision, organisational identity, culture, management of performance and professional identity construction.

Supervision

Supervision has multiple definitions and several models of supervision exist, but as Uys, Minnaar, Simpson, Brysiewicz and Ribeiro (2003:31) state, supervisors follow diverse approaches which they have developed over time. These supervisory approaches are developed within the context of the organisation's climate, policies and regulations, management systems and available resources (Uys et. al., 2003). Kim, Tavrow, Malianga, Simba, Phiri and Gumbo (2000:6) found in their study, where the supervisors interviewed subordinates who work with clients in a health service environment, that supervisors tend to establish rapport with subordinates when they give feedback about performance, but they overlook critical aspects such as encouraging participation and discussing service standards. They mostly do not consider the broader context of problems in the workplace. The work environment itself, be it healthcare, education or policing, therefore has a profound influence on the way in which supervision is applied. To this end, Newham (2015:46) posits that supervisor honesty and competence will not guarantee the reduction of police misconduct or poor performance, although it is a prerequisite for the improvement of the organisation.

In the SAPS, specifically in the detective environment, supervision and mentoring have been neglected for many years (Mofokeng, 2012:70; Mofokeng, 2015:45). Mofokeng (2012:70) also explains that supervisors have traditionally focused on command and control, something that was later posited as a reason for not meeting annual targets by the SAPS (SAPS, 2016). He then draws from Mastrofski, Rosenbaum and Fridell (2011:1-11) to argue that supervisors have an additional responsibility to develop committed employees who can perform well and who accept accountability for their actions. To this end, mentoring, which is focused on teaching and development of competence in the workplace, will put the mentee in a better position to work more productively (Mofokeng, 2012:72). From these two positions it appears that while mentorship is viewed as a process that functions as an enabler to master skills needed in the workplace, supervision encompasses mentoring of supervisees and extends to managing and measuring their performance. Supervision thus necessarily forms a vital part in the management of employee behaviour and performance within the organisation. Inadequate supervision leaves police organisations vulnerable as frontline police officials generally apply their discretion in split seconds when they make decisions in the field. These actions of frontline police officials are in most cases unsupervised and generally accepted as work that meets the required standard of the organisation. Wrongful conduct of frontline officials on the other hand, will not only expose the police to legal action, but it will also highlight system failures in the organisation (Savage, 2007:15). Engel and Worden (2003:132) draw from Goldstein (1990) to argue that managing police discretion is problematic in stable conditions, but more problematic during change such as when the way of policing

has to change, for example from incident-driven responses to become more creative and problem-focused. Grobler and Prinsloo (2012:52) who draw from Mollen (1994:79), highlight the fact that poor supervision is synonymous with high levels of corruption. In Mollen's (1994) study in New York, many supervisors believed that dealing with misbehaviour was not part of their job. Such shortcomings in supervision contribute to a culture of tolerance of misbehaviour in police agencies. The absence of supervision or neglect of supervision over police officials' use of discretion in their daily work may have negative consequences for the organisation. If supervisors do not supervise subordinates, it not only raises questions about their skill, commitment, placement and job fit, but also whether or not supervisors associate with the organisation's identity.

Organisational identity

Communication with the community is an important aspect to shape corporate identity and is done by means of the messages communicated through its members' behaviour (Van Riel & Balmer, 1997:345). While corporate identity is shaped through corporate communication, behaviour and symbolism which present the organisation in a positive manner (Van Riel & Balmer, 1997:341), organisational identity is considered to be an organisation's collective view of who they are as an organisation (Gioia, Likhonina & Gioia, 2015; Scott & Lane, 2000). For Albert and Whetten (1985:265) organisational identity refers to the "central, enduring and distinctive" beliefs and values which differentiate the organisation from other comparable organisations. For SAPS members, this means that they will have a different organisational identity to that of metro police or security officers for instance. Yet, Van Rekom and Van Riel (2000:347) point out that there is more convergence on where identity is relevant than its operational meaning. This makes a supervisor's task difficult as the shaping of the organisational identity depends greatly on how he or she guides subordinate police officials towards that desired identity.

The policing environment constantly changes which requires both frontline officials and supervisors to be conversant with the direction, approaches to policing and the norms of the organisation during such change. Supervisors therefore need to be clear on their own as well as the organisation's direction as they may need to steer their subordinates to do their work in new ways. Supervisors are thus in a unique position to decide on a course of action for their subordinates by considering demands from both police management and the community. Whetten and Mackey (2002) add that organisational identity is constructed by members of an organisation through interaction with the community. The organisational identity of the police will thus be constructed or reconstructed in a social space where police officials interact with the community they serve. The police officials' interaction will be influenced by the prevailing culture of the police as an organisation. Police agencies can thus not afford to relax its efforts to constantly align its officials' police identity, through supervision, with that of the desired organisational identity. Such realignment is needed to construct or reconstruct police official identity to

conform to the prescribed ways of working (Chappel, Farrell, Scheeres & Solomon, 2000:135). The Back-to-Basics approach of the SAPS is an example of such deliberate measure to address both public criticism about ineffective policing methods and realigning the actions of the police to reconstruct a more professional police official identity and to professionalise and improve the organisation.

The construction or reconstruction of organisational identity should be considered carefully as such identity depends on the makings of its members. The construction of organisational identity is also shaped by the interaction between individuals and the collective identities of the members of the organisation. There is thus a link between professional identity and professional action, because what we do is being influenced by who we think we are (Watson, 2006:510). The comprehension of the construction of the identity of individuals is therefore critical and it has to be understood in the light of the organisational identity (Nair, 2010:8). To this end, organisational identity is regarded as that which is taken to be central by organisational members, that which is perceived by members to be an enduring or continuing feature and that which distinguished the organisation from others (Nair, 2010:9). The greater the buy-in of members, the stronger the organisational identity.

Organisations are capable of constructing organisational identities through particular interventions or by institutionalising directives in the form of policies, but Nair (2010:6) argues that care must be taken how the regulation of employee identities is regulated, influenced and changed within organisations. Such deliberate use of policies and rules can be an effective form of organisational control to inculcate organisation identity. In view of Nair's (2010:12) explanation, police agencies can, depending on their own contexts, shape their organisational identities by:

- defining the police official;
- defining the police official by defining others (emphasising the different mandates of police officials and security officers for example);
- specifying a specific police vocabulary that includes goals, strategies, etc.;
- detailing specific police morals and values;
- defining knowledge and skill requirements for police officials;
- providing for group categorisation and affiliation for police officials such as members who need to register with professional bodies;
- locating police officials in a hierarchical order with position, title, etc.;
- defining a set of rules of the job, such as the codes of conduct; and
- defining the context of policing in society.

The use of organisational policies for transformation is more prevalent than anticipated. It was particularly evident during the early transformation stages of the SAPS shortly after the new democratic South Africa was born in 1994. Rauch (2000) explains that the police had to affect changes to its policy, rank structure and insignia and approach to policing in general. However, policies on

its own do not contribute much to the construction of professional identities. To this end, Marks and Bruce (2014:364) argue that police officials do not always commit to service quality standards despite internal directives. They cite a study conducted by the Centre for the Study of Violence and Reconciliation and Society Work and Development Institute which explored policing methods during protest action between 2009 and 2010. Marks and Bruce (2014:364) emphasise that the report pointed out that police action was "heavy handed and violent" which provoked violence from protestors because police officials viewed protests as a threat to public order, rather than as a democratic right which should be protected by the police. Police officials must internalise the values of the new police service (SAPS), embrace its culture and function within its directives to strengthen the organisational culture and identity.

Reissner (2010:289) argues that individuals experience four different needs for meaning which affect their identities during change. Individuals seek meaning in the purpose of the current actions in relation to the future. They also seek efficacy and control over the outcomes of their actions, value and justification of their self and self-worth. Individuals want to know that they are worthy individuals in the organisation. Policies will therefore only be effective when implemented in conditions that provide meaning to members of the organisation. Yanow (2000:6) posits that:

"... all actors in a policy situation (as with other aspects of the social world), interpret issue data as they seek to make sense of the policy. Furthermore, human artefacts and actions, including policy documents, legislation and implementation, are understood here to be not only instrumentally rational but also expressive of meaning(s), including at times individual and collective identity."

Culture

When police agencies embark on change initiatives, it inevitably also affects the culture of the organisation as it changes the working conditions and relationships within. Veldsman (2002:222) argues that organisational members are diverse in the degree to which they contribute to an organisational culture, and how they share the same assumptions, beliefs, value set, norms and attitudes of a culture, because all organisational cultures incorporate contradictions, ambiguities, paradoxes and gaps. Police cultures seem to be included in this view of Veldsman (2002), but for Marks, Howell and Shelly (2017:318; Steyn & Mkhize, 2016) the term "police culture" may create artificial representations of policing. Marks et. al. (2017) argue that the term "police culture" in the SAPS often serves to express a number of normative presuppositions to homogenise and oversimplify the complexity of day-to-day policing. They argue that it does not fully capture the influences and pressures of the structural field in which police official experiences are defined, and which shape their understandings of themselves and others. Schein (1999) also cautions that "corporate culture" is a multi-level concept that should be analysed at every level before it can be understood as it represents what employees learn and share and their tactical assumptions that influence their daily behaviour.

The development of culture is an ongoing process during which members of the organisation individualise the culture for their own ends (Veldsman, 2002:169). Chappell, Farrell, Scheeres and Solomon (2000:135) point out that the broader changes in the workplace always entail changes in the detailed processes of work, the ways in which individuals do their work, relate to one another and how they access and produce knowledge. However, the degree to which such members participate in the actual business of the organisation during change depends greatly on their identity, position in the organisation and the returns for their effort (Veldsman, 2002:169). The way in which police officials learn to do their work will thus shape their police identities and it inevitably affects the culture of the organisation. Supervisors are in a unique position to help shape the professional identities of their subordinates and ultimately also help to shape the identity of the organisation. By reconstructing frontline police officials' identities and controlling the way in which frontline personnel conduct their policing activities through enforcement of policies and directives, supervisors reinforce the culture of the police. They can also correct it when it moves in the wrong direction. In South Africa and in other countries such as New Zealand, the Auditor-General of the latter country found that although it takes time to change inappropriate police conduct, it can be done by implementing an early intervention system to identify inappropriate police behaviour and potential resistance to change. The New Zealand police confirmed a slow and gradual improvement in police conduct since the implementation of the system (OAG, 2012:45-46).

Management of performance

Engel and Worden (2003:135-136) explain that there are mainly two supervisory models in police contexts namely the command and the exchange models. The command model of supervisory influence is based on the formal authority of police supervisors to enforce the rules and policies of the agency in the hope that frontline officials will do the right thing. The exchange (bargaining) model of supervision allows supervisors and officials to be mutually dependent. While supervisors influence and steer their subordinates' behaviour towards the organisation's objectives, they also rely on their subordinates to be productive. The type of model adopted by supervisors matter as it may encourage police officials to develop to become more professional or it may deprive them from such learning or development opportunities.

Timma (2007:175) asserts that workers utilise their experiences of work, learning and performance assessments in the workplace to shape their identities in the workplace. Supervision, monitoring and measuring of performance in the workplace are therefore useful for the construction of professional identities. When supervisors manage the performance of police officials, they control what their subordinates do at work. They provide guidance during the execution of work activities. Supervisors share knowledge and expertise when they guide subordinates. This is where learning takes place as supervisors and subordinates participate in collaborative problem-solving and decision-making techniques (Billet, 2001). Morris and Beckett (2004) point out that workers construct

knowledge and make meaning from such shared experiences. Clear instruction to do a job is thus significant for subordinates as they find meaning in the actual execution of the task (Tikka, 2007:175). When police officials execute their work unsupervised or without having co-workers to help solve problems in the field, they stand a chance of deviating from standard organisational operating procedures. When police officials fail to understand the meaning of their actions at work, they may construct knowledge that shape unwanted identities in the workplace. Moreover, the meanings of important actions in the workplace may be ignored or go unnoticed when they seem unimportant to subordinate police officials. Supervisors should therefore facilitate the construction of desired professional identities by monitoring performance closely and through regular performance assessments in the workplace. This implies that supervisors must know that they are shaping the identity of their personnel and the organisation. However, Engel and Worden (2003:159) found in their study that by relying less on the authority vested in supervisors, and more on transactional leadership styles (similar to the exchange model of supervision), supervisors were unable to clearly articulate the goals and objectives of the police agency in a problem-solving approach. Supervision was therefore less effective in shaping the police officials' way of work. In order to perform in the appropriate manner, police officials will need to do two things. They have to understand how a particular practice is enacted in terms of language and vocabulary, the goals and purposes and the broader environment in which a practice takes place and further be able to construct for themselves a legitimate identity (Hinchliffe & Jolly, 2011:563). The next question relates to how a professional police identity can be constructed.

Professional identity construction

Identity is more relational than fixed and is defined by the difference between ourselves and others. Identity therefore has "meaning within a chain of relationships, i.e. there is no fixed point of reference for 'an identity'" (Watson, 2006 and Michael, 1996). Hotho (2008:729) argues that the development of the desired professional identity provides a sense of stability and belonging. It encompasses the values of the professional community and reduces ambiguity while it fulfils the need for status that drives social identity ascriptions. Yet, Reissner (2010:289) argues that police officials do not necessarily construct their professional identities in the same fashion as in other environments. Blåka and Filstad (2007:59) for instance, state that the construction of identity is not only dynamic, but a "mutual process between individual disposition (pre-existing identity) and the work structure" in which they learn and function. How individuals learn and what they learn is influenced by the level of individuals' engagement in available learning opportunities which render the latter matter important (Billett, 2001:3).

Newcomers in the policing environments use initiative and the ability to act in anticipation of future problems to learn from and build on existing knowledge for the creation of a new identity in a new profession (Blåka and Filstad, 2007:59). Tikka (2007:168)

also points out that workers actively learn through the embodied performance of routine and non-routine tasks, in making judgments and solving problems collaboratively. Frontline police officials will thus learn in participative social acts in which their behaviour is informed by their learning, resulting from doing the actual work. What newcomers learn and how they learn matter, because it has to transform into practice.

Employees with longer service tend to engage in deliberate actions that reinforce their professional identities. When such employees perceive themselves to have more control over their development, they also experience increased self-esteem and self-worth (Reissner, 2010:296). Individual experiences and expectations for their future therefore play pivotal roles in making sense of organisational change and their associated professional identity construction, but these worker identities are fluid to the contingent nature of their work (Tikka, 2007:163). This notion is in itself not a problem as organisations require flexible and adaptable workers who are expected to be multi-skilled, willing to work in teams and to regularly upgrade their skills and qualifications.

Frontline police officials tend to be younger and more inexperienced than most of their supervisors which places a great emphasis on the need to be exposed to practical and real-life learning opportunities. As a result, ensuring that frontline police officials learn and develop their competency to perform well within the organisational culture is a critical responsibility of supervisors. More importantly, diverting frontline police officials from deviant behaviour places an even greater responsibility on supervisors to instil sound work ethics that help shape the desired police identity. Constructing a professional identity is thus not an automatic process, but rather the effect of a deliberate effort of negotiating and balancing personal beliefs and the rules in the organisation (Caihong, 2011).

THREE CASES: FINDINGS

Three cases are presented to illustrate how the organisation attempted to influence police officials' behaviour and identity. It further shows how supervisors are instrumental in this effort to regulate police officials' performance and their response to the organisation's efforts to shape their professional identities in terms of the organisation's needs.

Case one: Developing a client-focused service

This study, conducted on the East Rand of Gauteng, was prompted by the roll-out of Batho Pele service delivery principles in all government departments in South Africa. The study entailed a quantitative two group design which involved a control group and an experimental group of 100 respondents. Both groups were pre-tested and post-tested on their attitudes towards clients while only the experimental group received training on client service as intervention. No practical development in the real police world took place, but scenarios were used to simulate police station client centres. The post-test was conducted three months after the second assessment of the experimental group. Respondents completed the questionnaires in their normal workplaces. The

study found that there was no difference in the attitudes towards clients between the control group and experimental group. Based on this study a deduction was made that once-off classroom training of frontline police officials in client service does not change the attitudes of frontline police officials towards clients (Schwartz, 2004). The case points out that training alone is not effective to develop professionalism, especially when the opportunity to be exposed to challenging problems to satisfy client needs is lacking. This study prompted exploration of supervisor involvement in improving professionalism and shaping desired professional police identity.

Case two: The social construction of client service by frontline police officials

The study was conducted during 2005 and 2006 to explore the social construction of client service by frontline police officials on the East Rand of Gauteng (Stanz, Schurink & Schwartz, 2007). At the time of the study, the policing area experienced service delivery challenges due to the negative way in which service was rendered. The study entailed a qualitative approach using Grounded Theory and involved operational police officials such as uniformed members attending to complaints in the community and in the Community Service Centre, crime prevention members and detectives. Several participants were in a supervisory capacity in the frontline. The methods of data collection included observations in the field, seven focus groups (consisting of up to 15 participants each) and eight one-on-one in-depth interviews.

The study revealed that frontline police officials' behaviour and service level are linked to their level of satisfaction or discontent with the way in which internal policies are applied by supervisors and managers. Police officials' own experiences and participation in work practices shaped their professional identities. Since such experiences are often gained through affordances for personal development and exposure to new tasks in the workplace, frontline police officials adapted their behaviour to demonstrate their disagreement if such experiences are not afforded to them by their supervisors.

This study pointed out that there was a degree of friction among frontline employees and their supervisors. Frontline employees in this study constructed their service in response to their level of satisfaction with the internal workings of the organisation, especially with the way in which their supervisors applied internal processes. Critical factors impacting on what frontline police officials are willing to do and how they behave at work include the following:

- perceived managerial skills of supervisors;
- poor inter-departmental coordination;
- questionable utilisation of personnel by supervisors;
- resource availability;
- distrust in management;
- not being informed about what is happening in the workplace;
- not understanding change;
- unclear goals;
- disagreement with change processes;

- being exposed to protesting behaviour of colleagues;
- unhappiness with rewarding mechanisms;
- perceived unfair treatment by supervisors;
- unsupportive working climate and/or unsupportive working conditions;
- feelings of alienation when not being involved in new activities; and
- uncertainty over career prospects.

Frontline police officials not only experienced low morale, but also questioned the competence of colleagues and supervisors. These factors largely contributed to the way in which frontline police officials reacted to clients' call for service. Several participants explored alternative income streams such as starting businesses, rendering private protection services, or simply withheld their service in response to the perceived unfair treatment of supervisors. Participants pointed out that their supervisors do not monitor their work and do not know what they were doing. In some instances, police officials tried to "get back at supervisors and commanders" by purposefully not following organisational directives in the hope that the supervisors will get into trouble.

Case three: Constructing academic identities in a police context

This study was conducted in 2010 in the Western Cape at a police leadership academy. A qualitative approach was followed by applying a constructivist methodological design, involving personal interviews with police trainers, document analysis and observations at the academy. It was found that police trainers construct their professional identities through active involvement in activities when they are exposed to role-models and mentors in the academic and Education, Training and Development (ETD) environments (Schwartz, Omar & Groener, 2016).

Shortly before the study commenced, the SAPS started to transform the police academy into a university setting. The library was upgraded and several other changes were made in the student accommodation to make life comfortable for a three year stay at the academy. The details of the "university structure" was still unclear at the time and the majority of the personnel and managers did not know how such a transformation would impact them. It soon became clear that the organisation needed to develop its police trainers to become academics who would lecture programmes for tertiary degrees. The trainers had to obtain higher tertiary qualifications and obtain various occupational ETD certificates. However, all these efforts took place while the police management insisted on reinforcement of the police culture and identity.

The few trainers who were selected to become academics were confronted by having to construct an unfamiliar professional identity on the one hand, while the strong police identity was reinforced by the organisation. The construction of the new identity and the constant practising of the police culture created tension which left several trainers frustrated. As police officials, the trainers had role-models and their supervisors were informed enough to guide them in terms of police-related activities and training. As trainers they could not construct academic identities because they

did not have role-models and were not exposed to lecturing methodologies. Without clear expectations and understanding of the new academic roles, the trainers maintained their existing police identity and started to develop what they perceived to be academic.

The study pointed out that the police trainers did not construct or reconstruct police identities as they merely conformed to their existing police official roles in which they embraced the police culture. In the absence of clear guidance and role-models the trainers also tried to construct a new identity that was based on their perception of what such identity should be. The training academy's personnel was generally frustrated with the imposed changes at the academy because there was very little clarity of what was expected of them or guidance on what they had to do. Moreover, academy trainers could not navigate the tension of developing the unknown identity while the police culture and identity was reinforced by the organisation.

SHAPING POLICE OFFICIAL IDENTITY: LESSONS LEARNED

Regulating the construction or reconstruction of professional police identity

Police agencies influence professional identity construction of frontline police officials mainly by reinforcing and protecting the police culture by using the organisational regulatory framework that consists of policies, instructions and other directives. Blåka and Filstad (2007:61) argue that organisational policies play a cardinal role in the manner in which officials learn the formal part of their practice. However, organisational directives can only be effective if frontline police officials regard such policies or other official documents as important for their practice. In the second case scenario, police officials rejected the inconsistent application of internal policies and directives by supervisors and commanders and started to alienate themselves from the police organisation. This dissatisfaction prompted many police officials to focus their efforts on external activities to generate additional income while they were still employed in the police. Policies therefore play a limited role in the construction of officials' professional identities if not applied correctly and consistently by supervisors. Organisational directives become influential when they are implemented as intended, allowing police officials to practise the police culture in conditions where they can learn (Billett, 2004:318). This strategy is supported in Nair's (2010:12) work in which she argues that organisational identities can be shaped by specifying the goals, mission, morals and values, defining the knowledge and skill requirements for the organisation, and using identification forms such as positions and titles. Moreover, organisations can shape their employees' professional identity by reinforcing its rules, behaviour and protocols. Yet, Wexler, Wycoff and Fischer (2007:18) explain that leadership should in fact be committed to "empowering managers to make important decisions, creating leadership academies, and sponsoring personnel for external management and leadership training" to ensure the identification and preparation of the next police leaders.

Frontline officials are confronted by what they practise on the one hand, and what is expected of them to practise on the other. As a result, they have to navigate the tensions between the existing institutional culture in their daily actions and in constructing their professional identities in the new or desired culture and identity of the organisation. In the third case scenario supra, evidence was found that if the role and desired identity are unclear, police officials struggle to develop such expected identity, especially if they are unsupervised or they do not have role-models.

The construction of professional identity is further shaped through police officials' experience of change in their work environment and working conditions. If the workplace is generally slow to adapt to the new ways of policing, it will take quite some time for frontline police officials to reconstruct their police identities effectively, leaving the organisational identity unchanged. For policies to regulate frontline police officials' identities, there has to be an association or belongingness to the organisation before identity reconstruction or manipulation of professional identity can really occur (Nair, 2010). Reinforcing police identity requires a stronger focus on the police culture. Police agencies tend to rely much more on controlling the conduct of frontline police officials because they conduct their duties in the public eye. However, police officials react to change in different ways and because the change is often synonymous with amending the way they execute their duties, not all police officials embrace the change.

To this end, Hotho (2008) explicates that professional identities are constructed on practice (profession) level when individual professionals use and rewrite scripts of their profession and draw upon new scripts when they engage with change in the environment. If the environment itself does not change, there is little chance for frontline police officials to change their ways. At most, the existence of policies, official directives and other police documents serve as enablers for the construction of the required police identity and image. Conversely, the absence of policies or other guiding documents does not prevent officials from constructing a police identity. Such identities are still being shaped when police officials pick up bits and pieces from what other police officials do and from their interactions with colleagues in the workplace, whether or not appropriate for the desired new police identity. It is up to the supervisors, who must act as facilitators and implementers of policies, strategies and change initiatives, to follow through on organisational efforts to construct or reconstruct the desired police identity for the organisation, but this is only possible if supervisors understand their roles. Engel and Worden (2003:36) suggest that one can argue that supervisors have influence over what their subordinates do even though it is linked to the rewards that supervisors receive. They propose that supervisors should clearly articulate the police's priorities for police work regardless of their own reward.

The consequences if police officials work without supervision

As frontline officials find themselves in a very regulated and authoritarian work environment, the police culture is constantly

being reinforced. The strong sense of hierarchical structures, seniority and military rank system that are synonymous with police culture tend to reinforce police identities through its practice. However, there are also arguments that police official misconduct results from "bad" police organisations as opposed to the few "bad apple" police officials" (Huff, White & Decker 2018:1). Grobler and Prinsloo (2012:56) also point out that the strict hierarchical structure of the police may make whistleblowing ineffective, particularly for police officials in lower ranks. There is no support culture for members who want to report deviant behaviour. Frontline officials need support from the organisation to adapt to new ways which includes exposure to experts, opportunities to practice the new ways and to be supervised by role-models. Desired police identities can be constructed when officials practice the new ways and learn from what they practice. Without supervision, as is the case with the majority of frontline police officials, they have to rely on their previous experience and exercise discretion when they exert their duties. It is very likely for unsupervised officials to develop habits that are in conflict with the police ethos and code of conduct as was found in the first case scenario. This could be because police officials resist change or see themselves as the protectors of the status quo (Kotze, 1994) or agents of state punishment (Faull & Rose, 2012:4). This is similar to what Mollen's (1994) study revealed. Moreover, the more police officials practice that unwanted behaviour, the more likely it is for them to construct unwanted identities. Police officials in the second case scenario supra, developed undesired skill sets which did not contribute to the police's objectives when they started to focus their attention to alternative income streams. Unwanted habits result in undesirable police official conduct. Undesirable behaviour should be observed during supervision, but this requires presence of a supervisor to monitor, correct and guide towards acceptable conduct.

Police agencies need to consider the fact that not all police employees wanted to become police officials as a first career option and that many of them joined the police simply to earn a living. These employees, especially frontline officials who work unsupervised in the field, are at risk of developing unwanted habits that are susceptible to corruption, especially if they do not fully commit to serving the community. Wood, Roithmayr and Papachristos (2019:1) argue that police misconduct is most likely a learned behaviour acquired from others while working, including peers and supervisors. This has also been acknowledged in a study conducted by Benson (2008:75) which indicated that 75.3% of police official participants in her study agreed that a lack of proper supervision contributed to corruption. In the absence of supervision, frontline police officials may exploit the opportunity by engaging in unbecoming behaviour. The reconstruction or construction of the desired police identity in police officials is clearly dependent on the level of supervision of a competent and committed supervisor. The first case further confirms that training without supervised practice does not change police official attitudes in the workplace. Practical application of knowledge and skills in supervised environments will show more appropriate police official conduct when they are corrected on the spot.

The critical role of supervisors in the shaping of police identities

Supervisors are generally functioning as an extension of line management. Supervisors of frontline police officials have a crucial function which involves both the reinforcement of the police ethos among frontline police officials and dealing promptly with alternative behaviour that confront this ethos. Much of the supervisors' influence on frontline officials relate to their own competence and relationship with frontline police officials. Unfortunately, as shown in the third case supra, the relationship is often marked by frontline officials' perception of their supervisors' poor decision-making skills and their inability to manage frontline officials' performance objectively and consistently. This is also the perceived reason why supervisors apply organisational policies and instructions in their own way. Police officials regard their supervisors' inability to enforce discipline as proof of their lack of managerial skills and deem their ineffective handling of non-performers as contributing to poor service delivery. Frontline employees also find it extremely difficult to perform well these days, because they regard their supervisors as not being "clued up" to guide them in their work. A study conducted by Mofokeng (2012:77) attests to this finding as the participating police officials perceived their detective commanders to be lacking the necessary skills, capacity and experience to perform in their areas of responsibility, which includes supervision. Furthermore, supervisors can also not provide answers to employees when they ask for clarity on internal changes.

Poor relationships between frontline officials and their supervisors cause resistance to efforts to strengthen the police ethos in frontline officials, especially when unbecoming behaviour is to be addressed. However, misconduct can be reduced when frontline officials and supervisors with greater differences are paired to work together (Wood et. al., 2019:15). Supervisors tend to draw from their role as an extension of management to command and control police official conduct by issuing instructions. Frontline officials respond by drawing from their experience with their supervisors and management to adjust their police work according to their experience of satisfaction with their supervisors, as was clear from the second case scenario. However, supervisors are expected to deal with such resistance to change in the organisation and to prevent frontline officials from developing unwanted professional identities. It is the responsibility of supervisors to manage the performance of their subordinates, but when frontline officials perceive the performance measurement instrument as being applied inconsistently by supervisors, they withhold or slow down their service in reaction to these perceived unfair rewarding processes. Case two revealed that dissatisfaction with promotion and performance measurement processes are major factors that cause frontline officials to book off sick, cheat their supervisors in the execution of their duties, or openly resist instructions. Such an unhealthy environment is a crucial factor influencing police officials' behaviour (Sherman, 1983). To provide supervisors and frontline officers with the most relevant training and resources is a crucial first step to ensure that policies and practices are followed uniformly (Wood et. al., 2019:14).

Supervisors need to be informed that when they reward exceptional performance and conduct commensurate with ethical and professional policing, police officials may become less tolerant to attitudes and behaviour that undermine the organisation. Supervisors also need to be role-models for those under their command. They have to set and maintain standards in terms of following the rules and procedures (Newham, 2002). The role of the supervisor is therefore argued to be the key to changing aspects of policing (Bayley, 2001), but many supervisors tend to see their jobs in a mechanistic manner in which they consider their key responsibilities as simply implementing orders from their superiors and taking care of paper work.

Cases one and two paint a rather negative picture of what can happen in the frontline of policing in the absence of supervisions or when supervisors do not understand the impact of their roles. Case three shows that if supervisors rely heavily on instruction and the maintenance of the police culture and ethos, they are enforcing the organisation's efforts to maintain the status quo even if stronger focus is required to reshape police identity. This is not what is needed when police agencies have to adapt to new ways of policing or need to improve their image in the community. It is important for police officials to constantly align their conduct in terms of the requirements of their policing strategies and respective codes of conduct, but supervisors must realise that they play a critical role in shaping the professional identities of frontline police officials. They must understand that part of their responsibility is to ensure that their subordinates follow organisational precepts and that by doing so they actively help shape their professional identity and the organisational identity. They must become competent role-models who are able to provide guidance in the workplace and be present where their subordinates perform their work. Supervisors must understand that conforming to rules and policies assists police officials to maintain their professional identity and helps to deter members from constructing alternative unwanted identities. There will be resistance from some police officials because of the perceived "noble aspects of the police culture" such as "camaraderie and loyalty" that will be used to protect corrupt colleagues (Grobler & Prinsloo, 2012:53). There must be some engagement with acceptable and standardised work practices, or even to solve poorly defined problems, for frontline police officials to construct their professional identities. Supervisors must be in a position to immediately deal with unbecoming behaviour in a manner that frontline officials deem appropriate. This would not only reduce improper conduct but allow the supervisor to shape police officials' conduct until their new conduct becomes common practice and culture. In doing so, supervisors may facilitate the construction or reconstruction of the professional police identity.

CONCLUSION

Police agencies such as the SAPS may be confronted with a public outcry to change its methods of policing and to become more professional. This may require the development of a new image or identity. Considering that the organisational identity is greatly

influenced by what its members do and how they do it, police agencies will have to regularly evaluate and align or reconstruct the professional identities of its police officials if necessary. Police agencies should understand that for regulating their police officials' identity construction, policies and other directives alone may not be sufficient. Rather, these policies and directives must become embedded in practice as the police will become that what its members collectively do and how they behave.

Professional identity is shaped through learning affordances through exposure to policing practices, conduct of colleagues, examples of role-models and active involvement in other social practices. Police officials also learn to exert discretion in such contexts which prompt closer supervision of frontline police official conduct to monitor and guide the use of such discretion. This is crucial as frontline police officials' professional identities are shaped by learning experiences and practices.

Supervisors are key to regulate police official conduct and identity construction. Even though police officials exercise agency when they decide which type of learning opportunities in the organisation they want to get involved in, their conduct can be controlled through close supervision and constructive feedback.

The identity of the police is mutually constructed by frontline police officials, their supervisors and the community when they perform their duties. The more tasks executed correctly, the more likely it is for frontline police officials to develop the skills needed to be professional in their practice, which would simultaneously result in the reconstruction of the desired organisational identity.

As the enforcers of the rituals and protocols of the organisation, supervisors must become competent role-models who encourage sound practices until these become inculcated in police culture and police officials' professional identity.

Unsupervised police officials develop undesired identities when they distance themselves from organisations that are not clear about who and what they are. Supported by Mollen (1994:71), Wood (1997:208) and Griffith (2003:72), Grobler and Prinsloo (2012:42) put the blame for deviant police behaviour on inadequate leadership, managerial denial, protection of the SAPS's reputation, a lack of supervision, inconsistent discipline and managers who are detached and uncaring.

MANAGERIAL IMPLICATIONS/ RECOMMENDATIONS

Although the article is based on somewhat dated studies, the findings remain relevant in the current policing context. The implications are therefore even more critical to avoid a pathological situation from which few police organisations will be able to recover. The police leadership must accept that creating a good organisation involves the development of the next generation police official. Such police officials' professional identity can be regulated through policy and other organisational directives but it should be approached with caution as officials may resist such realignment of identity. Reconstruction of identity of the organisation will also involve the empowerment of managers to make

important decisions, create leadership academies and provide external management and leadership training.

Police agencies must recognise that, as they embark on initiatives to reinforce their organisational identity, the role of supervisors as change agents or protectors of the status quo is critical because they have great influence on the construction of the individual police official identity. Their influence over frontline police officials should therefore be carefully managed.

If frontline officials do not perceive their supervisors as competent and/or available to provide guidance, they will not buy into any change efforts as they will deem supervisors simply as puppets of management. Policymakers must engage with first-line supervisors, clearly explaining the objectives and new strategies of any change initiatives and conveying the importance of adapting to new methods. This must be followed up by active engagement and close monitoring in the workplace by senior officials, because without first-line supervision, chances are that the status quo will remain unchanged.

Police organisations that embark on processes of change must ensure that the face of their organisation is well-supervised by competent individuals to help facilitate such change on the front line. As stated by Wexler, Wycoff and Fischer (2007:51), in policing "greatness is ... also creating great systems for overcoming obstacles and establishing a strong, self-disciplined culture within the organisation ..." Such change can, as Collins (2001:74-80) describes, be achieved by creating a climate in which supervisors lead with questions and not answers, engage in dialogue and debate without coercion, conduct "autopsies" of mistakes without blame and build "red flag" mechanisms that prevent them from ignoring the data.

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ARTICLE

ASSESSING DEMOCRATIC POLICING IN ONE OF GAUTENG'S METROPOLITAN POLICE DEPARTMENTS

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ABSTRACT

Rooted within the cross-sectional research tradition, the primary purpose of this research was to explore whether a metropolitan police department operating in the Gauteng Province, displays the characteristics of a democratic police organisation. Data was collected through a survey instrument which probed the extent to which individuals inside the organisation believed the mechanisms, systems and processes needed to create these characteristics, existed within a randomly selected department. By using a simple statistical analysis, the extent to which participants believed these mechanisms, systems and processes were present within the department concerned were quantified. The results emerging from this analysis indicated that in relation to the majority of these mechanisms, systems and processes, there was a belief that they were present within the department concerned. However, this belief was limited, as it was consistently outweighed by those who did not believe that these mechanisms, systems or processes existed and those who were indifferent in relation to the existence thereof. This finding suggested that although the relevant mechanisms, systems and processes were present, they were not significantly prominent within the selected department. With this as background, it was concluded that although the characteristics of a democratic police organisation were present, they were not decisively displayed as a prominent feature of the selected metropolitan police department.

KEYWORDS/PHRASES

Cross-sectional; democratic policing; legitimacy; metropolitan police department; organisational characteristics; police accountability; transparency.

INTRODUCTION

The literature infers that the notional understanding and material application of democratic policing varies significantly in accordance with the context in which it is applied (Aitchison & Blaustein, 2013:496; Reiner, 2013:9; Rogers, 2014:1). Despite this variation, it appears that there is some consensus that a police organisation must display certain organisational characteristics if it is to be considered as democratic (Nalla, 2009:521; Manning, 2015:37).

According to Pino and Wiatrowski (2012a:80), these characteristics *inter alia* include:

- A commitment to the protection of human rights;
- submission to the rule of law;
- legitimacy;
- accountability;
- transparency;
- subordination to a civil authority; and
- a local autonomy in developing policing strategies.

If one takes South Africa's policing history of tyrannical and legalistic oppression into consideration, there is no question that that submission to the rule of law and the vigorous protection of human rights should form the central philosophy of democratic police practice, as was highlighted by Bayley (2009:80), Lemieux (2014) and Marx (1995). One would thus expect police organisations in South Africa to view the protection of human rights as their core objective, while acting within specified legal constraints when interfering with societal life, in addition to enforcing laws fairly, unbiasedly and without prejudice (OSCE, 2008:9). In terms of legitimacy, metropolitan police departments should generate normative legitimacy by being morally and legally justified in exercising its authority (Sullivan, 2009:290), while generating descriptive legitimacy by creating and maintaining a public belief that the organisation and its behaviour are in fact legitimate (Bradford, Jackson & Hough, 2013:553). This then implies that metropolitan police departments must act within the constraints of their legislative mandate, while delivering professional services which are morally objective and responsive to community needs (Baczor & Zheltoukhova, 2017:9; Carlan & Lewis, 2009:46).

Babakhel (2015) believes that police accountability should be ensured by creating a balanced integration of internal, state and social control mechanisms. The mechanisms to ensure internal control within this context will include appropriate internal investigations, proper standing orders, effective disciplinary processes, focused counselling systems and appropriate supervision (Lumina, 2006:98). State control is created through mechanisms that exist within the State itself, such as Parliament and the judiciary (Berg, 2005:7), together with legislatively authorised institutions that may demand answers from other State institutions such as the Public Protector, the South African Human Rights Commission (SAHRC) and the Commission for Gender Equality, in addition to the Independent Police Investigative Directorate (IPID). Many of these mechanisms also contribute towards social accountability, while individuals, communities, autonomous media houses and social media platforms ought to be used to hold metropolitan police departments and their members socially accountable (Menzies & Melis, 2012; Singh, 2009:1). The principle of civilian control over police organisations is related to the notion of social accountability. This principle ensures that policing organisations are held accountable in relation to a variety of public interests, needs and emerging trends (Pino & Wiatrowski, 2012b:108), rather than to the ideologies of the political leadership of the day (Kohn, 1997:141). Within the paradigm of contemporary South Africa, which is characterised by substantial inequality, extreme poverty and a significant geographically disproportionate distribution of crime, one would expect to see numerous civilian oversight structures composed in such a way that is representative of the demographic characteristics of the community being policed.

Considering that such structures can be used to create a platform for workable and sustainable community relations (Kumar, 2000:28), it is argued that the institutional requirements of community policing and a localised autonomy in developing policing strategies are fundamentally interlinked with subordination to a

civil authority. Community policing denotes a wide array of philosophies, policies, tactics and programmes that are directed towards forging a long-term relationship between policing organisations and communities (Wilder-Bonner, 2009:139). Metropolitan police departments must thus have clearly defined community policing goals, such as joint problem-solving, community empowerment and community trust (Pino & Wiatrowski, 2012a:92). If community policing is implemented correctly and effectively, it will inadvertently create a local autonomy in developing policing strategies, as it will provide the necessary platforms where communities can provide input relating to local policing priorities and strategies.

Since 2000, six metropolitan police departments have been established in four of South Africa's nine provinces. Metropolitan police departments, which are established independently from the South African Police Service (SAPS) are predominantly tasked with traffic law enforcement, municipal by-law enforcement and crime prevention and resort under the direct control of a local authority (Van Biljon, 2014:36). As empirical research on metropolitan police departments is fairly limited (Madihlaba, 2018:21; Van Biljon, 2018:66), little is known about the systems, mechanisms and processes metropolitan police departments have implemented to create the organisational characteristics as were outlined by Pino and Wiatrowski. News reports and social media postings however create the impression that not much progress has been made in this regard. These reports and postings, which are too vast and varied to analyse in this article, link to international experiences (Hinton, 2005:75; Ramsey, 2014:4; Walker 2016:616) which found that internationally, policing organisations are experiencing significant challenges in relation to creating suitable accountability, maintaining institutional processes to ensure democratic governance and maintaining public trust.

Based on the assumption that a mechanism, system of process to ensure democratic policing can only exist if it is observable, this research is directed towards investigating whether a metropolitan police department operating in the Gauteng Province displays the organisational characteristics of a democratic police organisation, by quantifying how individuals who are subjected to these mechanisms, systems and process experience them to exist within such a department. The value of this enquiry therefore lies in the prospect that the results thereof can provide metropolitan police departments with valuable information on how they can enhance and ensure democratic policing practises, thus empowering these departments to develop strategies, policies and programmes that are truly constructive to South Africa's democratic ideal.

METHODOLOGY

Essentially, this research is descriptive in nature, as it finds its roots within the cross-sectional research tradition. Cross-sectional studies in general are not intended to examine relationships between variables, but rather to describe how a particular phenomenon exists within a given population at a specific point in time (Alexander, Lopes, Ricchetti-Masterson & Yeatts, 2015:1; Cherry, 2019; Hemed, 2015:1). The researcher thus does not

manipulate any variables, subsequently resulting in a "snapshot" of certain characteristics prominent within a defined population at a certain point in time (Zangirolami-Raimundo, Echeimberg & Leone, 2018:357). As cross-sectional research is traditionally associated with the quantitative research paradigm, a quantitative research design as described by Apuke (2017:41), Muijs (2004:36) and Daniel (2016:93) was adopted.

Although three metropolitan police departments are operating within the Gauteng Province, the Tshwane Metropolitan Police Department (TMPD) was selected for this study. At the time of the study, the TMPD had a staff component of 4109 employees, which comprised 3841 officials who were registered as members of a metropolitan police department and an administrative component of 268 employees. As the administrative staff component is not directly involved in policing activities, they were excluded from the population relevant to this study. Subsequently, the population (*N*) relevant to this research can be defined as all individuals employed by the TMPD who are appointed and registered as members of a metropolitan police department. As this study was cross-sectional in nature, variables such as age, gender, ethnicity, educational background, rank and experience did not form part of the population selection criteria (Setia, 2016:261). This is justifiable, as all members of a metropolitan police department, irrespective of these variables are responsible for ensuring democratic police practice. As the basic training curriculum for metropolitan police officials reflects on the notion of democratic policing, it is assumed that all individuals within the selected population, at the very least, have a basic understanding of democratic policing.

After written permission to conduct this research was obtained from the Chief of Police of the TMPD, the researcher employed a systematic sampling strategy to draw an appropriate sample. The researcher was provided with a name list of all those individuals who conform to the selection criteria (*N=3841*), and with an interval of 15, a sample of 240 (*n*) potential participants, representing 6.2% of the population (*N*) was selected. While contacting these potential participants, it emerged that some were either not able or willing to participate in this research. Subsequently, the initial interval of 15 were sporadically adjusted upwards until a willing and able participant was found, resulting in an average selection interval of 16. As the selected participants are on duty at different times and at different places, the data collection process unfolded over a five-week period.

Data was collected from participants by means of a survey instrument, which probed the extent to which participants believed that mechanisms, systems and processes to create and ensure democratic police practice, were present within the TMPD. This survey instrument categorised the organisational characteristics as outlined by Pino and Wiatrowski into eight categories:

Category	Organisational characteristic
A	A commitment to the protection of human rights
B	Submission to the rule of law

Category	Organisational characteristic
C	Legitimacy
D	Transparency
E	Accountability
F	Subordination to a civil authority
G	Community Policing
H	Local autonomy in developing policing strategies

Participants were provided with various statements relating to the mechanisms needed to create the organisational characteristic concerned. Participants were requested to indicate the extent to which they agreed with the provided statement on a three-point scale. This scale provided participants with the following options:

- Response 1: I agree (*f*₁)
- Response 2: Neutral (*f*₂)
- Response 3: I disagree (*f*₃)

To ensure the validity of the survey instrument, a pilot study, as recommended by Van Teijlingen and Hundley (2002:34) together with Fraser, Fahlman, Arscott and Guillot (2018:263) involving 50 participants preceded the actual data collection and analytical process. Additional validity and reliability were ensured through a triangulated strategy containing elements of content, construct and criterion validity together with internal stability, as recommended by Heale and Twycross (2015:67). Collected data was analysed through a simple statistical analysis strategy as outlined by Ali and Bhaskar (2016:663) and Sykes, Gani and Vally (2016:227). The focus of the analytical and interpretive processes was placed on the frequency distribution of participant observations, as outlined by Manikandan (2011:55). The impetus for focusing on frequency distribution is based on the supposition that the presence of mechanisms to ensure democratic policing will emerge from how frequently it is believed to exist by individuals in the organisation.

Research is aimed at creating public trust and for it to be valuable, it must be ethical (Parveen & Showkat, 2017:4; Resnik, 2015). As this research used human participants, all principles to ensure ethical research, as outlined by the Belmont Report of 1978 (Adams & Miles, 2013:18) and The National Statement on Ethical Conduct in Human Research (The National Health and Medical Research Council, 2018:10) were followed during all stages of the research process. These principles *inter alia* included autonomy, informed consent, non-maleficence, beneficence, justice and confidentiality as described by the European Commission (2010:36).

RESULTS

The results which are presented below, mostly reflect on the collective frequency distribution within the outlined categories, while highlighting significant differences between individual items within each category. From this perspective, the results generally revealed that in relation to six of the eight categories, individual mechanism systems and processes needed to ensure democratic police practice were frequently observed by most participants,

whereas in relation to the remaining two categories these systems and mechanisms were seemingly less observable. It was interesting to note that in relation to these two categories, the neutral response was the most frequently appearing response as apposed a definite observation that individual systems, mechanisms and processes did not exist. As was mentioned earlier, empirical

research relating to metropolitan police departments is limited. Subsequently, no credible results emerging from previous studies could be found to compare these results. These results are thus quite unique in nature, and it is hoped that future studies will emerge in relation to other metropolitan police departments which will either confirm or contest these results.

Characteristic A: A commitment to the protection of human rights

In terms of a deep-seated commitment to the protection of human rights, participants were provided with two statements:

- Item A1: Within the department, there is a deep commitment towards the protection of human rights.
- Item A2: The department views the protection of human rights as its core objective.

Participant responses in relation to these statements yielded the following results:

Item	(f)				(f/n)				(f/n * 100)			
	f1	f2	f3	n	f1	f2	f3	Total	f1	f2	f3	Total
A1	102	73	65	240	0.43	0.30	0.27	1.00	42.5%	30.42%	27.08%	100%
A2	91	89	60	240	0.38	0.37	0.25	1.00	37.92%	37.08%	25.00%	100%
Total	193	162	125	480	0.40	0.34	0.26	1.00	40.20%	33.75%	26.05%	100%

It is noticeable that *f1* was the most frequently occurring participant response across both items. In relation to item A2, the small variation in the distribution between *f1* and *f2* is of noteworthy interest. Of further significance is the fairly similar

distribution of *f3* across both items, while the distribution of *f2* account for an approximate third of all participant responses in relation to this category.

Characteristic B: A submission to the rule of law

Participants were provided with four statements which related to the rule of law:

- Item B1: The department has submitted itself to the rule of law.

- Item B2: The department has mechanisms in place to ensure that its members always act within the constraints of the law
- Item B3: The department has mechanisms in place to ensure that its members always enforce laws fairly, unbiasedly and without prejudice.
- Item B4: The department is not above or beyond the law.

Participant responses in relation to these statements yielded the following results:

Item	(f)				(f/n)				(f/n * 100)			
	f1	f2	f3	n	f1	f2	f3	Total	f1	f2	f3	Total
B1	116	69	55	240	0.48	0.29	0.23	1.00	48.33%	28.75%	22.92%	100%
B2	96	77	67	240	0.40	0.32	0.28	1.00	40.00%	32.08%	27.92%	100%
B3	113	70	57	240	0.47	0.29	0.24	1.00	47.08%	29.17%	23.75%	100%
B4	150	48	42	240	0.63	0.20	0.17	1.00	62.50%	20.00%	17.50%	100%
Total	475	264	221	960	0.50	0.27	0.23	1.00	49.47%	27.50%	23.03%	100%

The results revealed that *f1* was once again the most selected participant response across all items. Strikingly, *f1* occurred more frequently in relation to item B4 than any of the other items in this category. Of similar interest is the relative similarity in which

participant responses of items B1 and B3 are distributed. It should be noted that the distribution of *f2* and *f3* account for respectively 27.50% and 23.03% of all participant responses across all items.

Characteristic C: Legitimacy

In relation to legitimacy, participants were provided with three statements:

- Item C1: All the operations and actions of the department are legitimate in nature.

- Item C2: The department ensures that it operates within the limits of its legislative mandate.
- Item C3: The department delivers professional policing services, which are morally objective and responsive to community needs.

Participant responses in relation to these statements yielded the following results:

Item	(f)				(f/n)				(f/n * 100)			
	f1	f2	f3	n	f1	f2	f3	Total	f1	f2	f3	Total
C1	87	100	53	240	0.36	0.42	0.22	1.00	36.25%	41.67%	22.08%	100%
C2	96	90	54	240	0.40	0.37	0.23	1.00	40.00%	37.50%	22.50%	100%
C3	95	77	68	240	0.40	0.32	0.28	1.00	39.58%	32.09%	28.33%	100%
Total	278	267	175	720	0.39	0.37	0.24	1.00	38.61%	37.08%	24.31%	100%

It is significant that in relation to item C1, *f2* occurred more frequently than in either items C2 or C3, while *f1* was the most frequent response. With a collective distribution of 38.61% for *f1* and 37.08% for *f2* across all items, it is noticeable that the

difference between the two is a marginal 1.53%. It is also of interest that collectively, *f2* accounted for more than a third and that *f3* accounted for almost a quarter of participant responses across the whole category.

Characteristic D: Transparency

Participants were given five statements relating to transparency. They were:

- Item D1: All the operations and actions of the department are transparent in nature.
- Item D2: The department has mechanisms in place to ensure that it is accessible and responsive in its operations.
- Item D3: The department ensures a free flow of information between itself and the general public through the regular

publication of comprehensible and appropriate information to the general public.

- Item D4: The department has mechanisms in place to ensure that individuals within the department who report police misconduct are protected.
- Item D5: The department has mechanisms in place to ensure that members of the public who report police misconduct are protected.

Participant responses in relation to these statements yielded the following results:

Item	(f)				(f/n)				(f/n * 100)			
	f1	f2	f3	n	f1	f2	f3	Total	f1	f2	f3	Total
D1	79	79	82	240	0.33	0.33	0.34	1.00	32.92%	32.92%	34.16%	100%
D2	77	94	69	240	0.32	0.39	0.29	1.00	32.08%	39.17%	28.75%	100%
D3	93	71	76	240	0.39	0.29	0.32	1.00	38.75%	29.58%	31.67%	100%
D4	64	80	96	240	0.27	0.33	0.40	1.00	26.67%	33.33%	40.00%	100%
D5	97	89	54	240	0.40	0.37	0.23	1.00	40.42%	37.08%	22.50%	100%
Total	410	413	377	1200	0.34	0.34	0.32	1.00	34.16%	34.42%	31.42%	100%

It is significant that in relation to item C1, *f2* occurred more frequently than in either items C2 or C3, while *f1* was the most frequent response. With a collective distribution of 38.61% for *f1* and 37.08% for *f2* across all items, it is noticeable that the

difference between the two is a marginal 1.53%. It is also of interest that collectively, *f2* accounted for more than a third and *f3* accounted for almost a quarter of participant responses across the whole category.

Characteristic E: Accountability

In term of accountability, participants were given eight statements relating to accountability mechanisms and practices:

- Item E1: The department is held accountable for its actions and operations.
- Item E2: The department has created an effective internal investigation unit.
- Item E3: The department has a range of proper standing orders in place.
- Item E4: The department has focused counselling systems in place through which police misconduct can be corrected.

- Item E5: The department has effective disciplinary processes in place.
- Item E6: Effective supervision is used as a tool to keep members accountable for their actions.
- Item E7: Effective police accountability is ensured by the state through a variety of mechanisms, such as the judiciary, the public protector, IPID and Parliament.
- Item E8: Individuals, communities, autonomous media houses, civil organisations and social media platforms are used by the department as mechanisms to ensure that it is accountable to the public.

Participant responses in relation to these statements yielded the following results:

Item	(f)				(f/n)				(f/n * 100)			
	f1	f2	f3	n	f1	f2	f3	Total	f1	f2	f3	Total
E1	102	81	57	240	0.43	0.34	0.24	1.00	42.50%	33.75%	23.75%	100%
E2	111	65	64	240	0.46	0.27	0.27	1.00	46.25%	27.08%	26.67%	100%
E3	85	97	58	240	0.36	0.40	0.24	1.00	35.42%	40.42%	24.17%	100%
E4	92	71	77	240	0.38	0.30	0.32	1.00	38.33%	29.58%	32.08%	100%
E5	103	65	72	240	0.43	0.27	0.30	1.00	42.92%	27.08%	30.00%	100%
E6	94	58	88	240	0.39	0.24	0.37	1.00	39.17%	24.17%	36.67%	100%
E7	117	88	35	240	0.49	0.37	0.15	1.00	48.75%	36.67%	14.58%	100%
E8	95	99	46	240	0.40	0.41	0.19	1.00	39.58%	41.25%	19.17%	100%
Total	799	624	497	1920	0.42	0.32	0.26	1.00	41.62%	32.50%	25.88%	100%

Across all items, except for item E3, *f1* was the most frequently occurring participant response. In terms of item E3, *f2* constituted the response appearing most frequently. Collectively across the

entire category, *f1* accounted for 41.62% of all participant responses, while *f2* and *f3* accounted for respectively 32.50% and 25.88% of all responses.

Characteristic F: Subordination to a civil authority

In relation to subordination to the department's subservience to civil authority, participants were provided with three statements:

- Item F1: The department has subjected itself to civilian control and oversight.

- Item F2: Civilian oversight and control ensure that the department is held accountable in relation to public interests, rather than to the ideologies of the political leadership of the day.
- Item F3: There are multiple community oversight mechanisms, representative of the community in place.

Participant responses in relation to these statements yielded the following results:

Item	(f)				(f/n)				(f/n * 100)			
	f1	f2	f3	n	f1	f2	f3	Total	f1	f2	f3	Total
F1	83	111	46	240	0.35	0.46	0.19	1.00	34.58%	46.25%	19.17%	100%
F2	61	115	64	240	0.25	0.48	0.27	1.00	25.42%	47.82%	56.67%	100%
F3	71	110	59	240	0.30	0.46	0.25	1.00	29.58%	45.83%	24.58%	100%
Total	215	336	169	720	0.30	0.47	0.23	1.00	29.87%	46.66%	23.47%	100%

It is noticeable that contrary to the majority of the previous categories, *f2* was the most frequently occurring participant response across all categories and subsequently for the whole category, as it represented 46.66% of all participant responses. Significantly, the

distribution of *f2* is relatively similar across all items, with a maximum variation of 1.99% between these items. In this regard, it is significant to note that collectively *f1* and *f2* constitute respectively 29.87% and 23.47% across the entire category.

Characteristic G: Community policing

Participants were given three statements relating to community policing practices:

- Item G1: The department actively participates in community policing.

- Item G2: The department has clearly defined community policing goals and objectives.

- Item G3: The department has mechanisms in place to ensure that long-term relationships with the community are created and maintained.

Participant responses in relation to these statements yielded the following results:

Item	(f)				(f/n)				(f/n * 100)			
	f1	f2	f3	n	f1	f2	f3	Total	f1	f2	f3	Total
G1	113	68	59	240	0.47	0.28	0.19	1.00	47.08%	28.33%	24.58%	100%
G2	93	86	61	240	0.39	0.36	0.27	1.00	38.75%	35.83%	25.42%	100%
G3	71	103	66	240	0.30	0.43	0.25	1.00	29.58%	42.92%	27.50%	100%
Total	277	257	186	720	0.38	0.36	0.23	1.00	38.47%	35.70%	25.83%	100%

Although by a small margin of 2.77% between *f1* and *f2*, *f1* was the most frequently occurring participant response in relation to all items and subsequently is representative of 38.47% of all responses across the category. It noticeable that the distribution of

f3 for items G1 and G2 is fairly similar, with a percentage difference of only 0.84%. The distribution of *f3* across all items constitutes an approximate quarter of all responses in relation to the whole category.

Characteristic H: A local autonomy in developing policing strategies

In relation to this organisational characteristic, participants were provided with four statements:

- Item H1: The department allows the community to participate in the formulation of policing strategies and policing priorities.
- Item H2: The department has various platforms in place which

the community can use to engage with the department in relation to policing strategies and priorities.

- Item H3: The department takes community inputs into consideration when policing strategies and priorities are formulated.

- Item H4: The department is actively participating in structures such as community policing forums, community safety forums and ward committees.

Participant responses in relation to these statements yielded the following results:

Item	(f)				(f/n)				(f/n * 100)			
	f1	f2	f3	n	f1	f2	f3	Total	f1	f2	f3	Total
H1	71	86	83	240	0.30	0.36	0.34	1.00	29.58%	35.83%	34.58%	100%
H2	67	103	70	240	0.28	0.43	0.29	1.00	27.92%	42.92%	29.17%	100%
H3	82	85	73	240	0.34	0.35	0.30	1.00	34.17%	35.42%	30.42%	100%
H4	100	80	60	240	0.42	0.33	0.25	1.00	41.67%	33.33%	25.00%	100%
Total	320	354	286	960	0.33	0.37	0.30	1.00	33.33%	36.87%	29.80%	100%

In relation to items H2 and H3, *f2* was the most frequently occurring response, whereas *f1* was the participant response appearing most frequently in relation to items H1 and H4. Across the category, *f1* constituted 33.33% of all participant responses,

while *f2* and *f3* represented 36.87% and 29.80% respectively of these responses. Subsequently, *f2* was the most frequently appearing response across this category.

DISCUSSION OF RESULTS

The objective of this research was to investigate whether the characteristics of a democratic police organisation, as was outlined by Pino and Wiatrowski (2012a:80), are present within a metropolitan police department operating in the Gauteng Province. For this purpose, the Tshwane Metropolitan Police Department was selected. The objective was achieved by quantifying how often officials within the TMPD observed the mechanisms, systems and processes to create these characteristics to exist within the organisation. Considering the negative image of democratic police practices frequently painted by the media in relation to metropolitan police departments, the results were surprising. While one would have expected an absence of these mechanisms, systems and processes within the selected department, the results indicated that the majority thereof was fairly observable within the TMPD. This observable existence was however not convincing enough to suggest the characteristics of a democratic police organisation are definite and prominent features of the TMPD.

Characteristic A: A commitment to the protection of human rights

The vigorous protection of human rights should form part of the central philosophy of democratic police practices. One would thus expect the TMPD to view the protection of human rights as its core objective. Although a significantly small majority of participants demonstrated a belief that the protection of human rights was the core objective of the department concerned, this belief was by no means widely shared among participants. This strongly suggests that the protection of human rights is not central to the department's organisational philosophy. Should this be the case, it will be nearly impossible for the TMPD to demonstrate an organisation-wide commitment to the protection of human rights. Within the context of a democratic South Africa, this is an extremely worrying thought, as the absence of such a commitment might result in more frequent unjust limitations of fundamental human rights.

Characteristic B: A submission to the rule of law

Fundamentally, submission to the rule of law within this context infers that police organisations are not above or beyond the law. This implies that police organisations must act within specified legal constraints when interfering in the lives of citizens, while always enforcing laws fairly, unbiasedly and without prejudice. It is encouraging that a significant majority of participants held a presumption that the TMPD is not above and beyond the law, as such a presumption is a keystone of democratic police practice. It is also remarkable that in relation to mechanisms to ensure legislatively restrained police action and fair and unbiased law enforcement, a modest majority of participants believed these mechanisms to exist. This serves as a strong indication that the TMPD, at the very least, has made some progress in ensuring submission to the rule of law. However, the assumption that these mechanisms, systems and processes are in place was not prominent enough to suggest that the TMPD conclusively displays this characteristic, as this

assumption was outweighed by those who remained neutral in this regard and those who held an opposing belief.

Characteristic C: Legitimacy

Within the framework of a democratic South Africa, a metropolitan police department should generate both normative and descriptive legitimacy. Normative legitimacy, within the context of a metropolitan police department is generated when such department acts specifically within the constraints of its legislative mandate. Descriptive legitimacy on the other hand is generated by the delivery of professional policing services, which is morally objective and responsive to community needs. It is interesting that when participants were asked outright whether the actions and operations of the department were legitimate, most participants remained neutral. Yet, in relation to mechanisms, systems and processes relevant to both normative and descriptive legitimacy, a modest, but similar majority of participants demonstrated an inference that these mechanisms, systems and processes were in fact in place. This inference was however outshone by those who demonstrated an opposing belief and those who were indifferent to these mechanisms, systems and processes. With these results, it will be fair to infer that although this characteristic is present within the TMPD, it is not prominently displayed.

Characteristic D: Transparency

Transparency is a three-dimensional construct, consisting of government openness, publicity and whistle-blower protection. In terms of government openness, metropolitan police departments should be transparent, accessible and responsive in its operations. In addition, a free flow of information should be maintained between the department and the community, while individuals who report police misconduct should be provided with an appropriate level of protection. It was significant that a relative majority of participants did not believe that the department provides employees who report police misconduct with appropriate protection. In contrast, a strikingly similar number of participants believed that the department provides community members who report misconduct with the relevant protection. It thus appears that the department offers civilians who report police misconduct better protection than it does for its own employees. It will subsequently be fair to accept that employees of the department, who are in many cases the primary witnesses to police misconduct, will be less inclined to report deviant and questionable conduct. It was furthermore notable that in relation to systems, mechanisms or processes directed towards ensuring that the department is transparent, accessible and responsive in its operations, most participants remained indifferent in this regard. This suggests that very few systems, processes and mechanisms are in place in this regard. In terms of publicity, there was a small majority of participants who believed that the department maintains a free flow of information between itself and the community. This belief was however, overshadowed by those who held an opposing belief and those who remained neutral in this regard. Taking the above into

consideration, it will be reasonable to articulate that although some mechanisms, systems and processes associated with characteristic are present, it is unlikely that the department will distinctively display the characteristic of transparency.

Characteristic E: Accountability

Police accountability is created through an amalgamation of internal, state and social control mechanisms. Internal control mechanisms largely consist of effective internal investigations, suitable standing orders, effective disciplinary processes, focused counselling systems and proper supervision. It is interesting to note that in relation to all the mechanisms, excluding suitable standing orders, a small majority of participants demonstrated a belief that these mechanisms were in place. As was the case on previous occasions, this belief did not definitively outweigh those participants who held an opposing belief and those who remained neutral regarding these mechanisms. In the case of suitable standing orders, a modest majority of participants remained neutral in relation to the existence thereof, thus suggesting that participants may be unfamiliar with these standing orders. In terms of mechanisms to ensure state control, a notable majority of participants perceived that these systems were in place. However, it was again the case that this perception did not conclusively outweigh those holding contrasting perceptions and participants who remained neutral. When it comes to the use of individuals, communities, autonomous media houses, civil organisations and social media platforms to ensure social accountability, most participants remained indifferent in relation to whether these mechanisms are being used. Taking all the above into consideration, it seems fair to postulate that it is highly unlikely that the TMPD will distinctively display the organisational characteristic of accountability, despite the presence of various mechanisms, systems and processes relevant in this regard.

Characteristic F: Subordination to a civil authority

Subordination to a civil authority ensures that metropolitan police departments are held accountable in relation to a variety of public interests, needs and trends as opposed to the ideologies of the ruling political leadership. It was also contended by the researcher that one would expect to see numerous civilian oversight structures which are representative of the demographic characteristics of the community concerned. It is interesting that in relation to both these sentiments, a notable majority of participants remained indifferent to its existence. It will thus be nothing but reasonable to assume that the department cannot conclusively display this characteristic.

Characteristic G: Community policing

Community policing is a wide array of philosophies, policies, tactics and programmes that are directed towards forging a long-term relationship between policing organisations and communities. One would thus expect metropolitan police departments to have clearly defined community policing goals and objectives,

while having mechanisms in place to ensure long-term community relationships. In relation to clearly defined community policing goals and objectives, a small minority of participants surmised that the department has these goals and objectives in place. However, as was the case on multiple previous occasions, this stance did not conclusively outweigh those who remained indifferent and those who demonstrated an opposing belief in this regard. Subsequently, it can be assumed that these goals and objectives are not significantly prominent within the department. In terms of mechanism that can be used to foster long-term community relationships, a modest majority of participants remained neutral regarding the existence thereof. It will thus be reasonable to assume that if these mechanisms exist, they are not as distinctive and commonly used as they ought to be. It consequently appears to be very unlikely that the TMPD convincingly display the characteristic of community policing.

Characteristic H: A local autonomy in developing policing strategies

A democratic police organisation allows communities to participate in the setting of local police priorities and in strategy formulation processes. One would subsequently expect the department to have various platforms in place through which community consultation can take place, in addition to taking community inputs into consideration when developing policing priorities and strategies. It is interesting to note that in relation to both these mechanism and process, most participants remained neutral concerning the existence thereof. This was also the result when participants were asked outright whether the department allows communities to participate in these processes. As the prominence of this system and process thus becomes questionable, it can be argued that the TMPD cannot definitively display this characteristic.

CONCLUSION AND RECOMMENDATIONS

The primary purpose of this research was to explore whether a metropolitan police department operating in the Gauteng Province displays the characteristics of a democratic police organisation. This was achieved by quantifying to what extent participants believed mechanisms, systems and processes needed to create and sustain these characteristics exist within the TMPD. In relation to the majority of these systems, mechanisms and processes, participants demonstrated a relative belief that they do in fact exist within the department. However, this belief was limited, as it was consistently outweighed by the collective of participants who did not have the same belief that these mechanisms, systems or processes existed and those who were indifferent in relation to the existence thereof. This suggests that although the relevant mechanisms, systems and processes to ensure democratic police practice are present, they are not significantly prominent within the TMPD. This being the case, it can be concluded that although the characteristics of a democratic police organisation are present, they are not decisively displayed as a prominent feature of this metropolitan police department. It is subsequently recommended that the TMPD, and by implication all existing and

future metropolitan police departments, place the notion of democratic policing at the centre of its organisational philosophy. The protection of human rights should thus be the cornerstone of this organisational philosophy, and all actions of the department, irrespective of the nature thereof, should be focused upon this philosophical underpinning. In addition, it is imperative to develop mechanisms, systems and processes to ensure that democratic police practices are multilaterally incorporated into all facets of daily organisational life. Should this be done, democratic police practices will become inseparable from these departments' organisational culture, thus ensuring that the characteristics of a democratic police organisation become prominent features of such metropolitan police departments. As this enquiry focused only on the presence of these mechanisms, systems and processes, it is proposed that future research probe how they function and how effective they are within a real-world setting. One must nevertheless give credit where credit is due. There is no question that the TMPD, at the very least, has made a laudable attempt to ensure democratic police practices. However, much still has to be done to create police practices that are truly constructive to South Africa's democratic ideal.

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ARTICLE

EXPANDING THE HORIZONS FOR THE PREVENTION OF CORRUPTION IN THE SAPS: A 360-DEGREE MODEL TO ACHIEVE THIS GOAL

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ABSTRACT

The article provides a brief overview of corruption and explains the understanding thereof. The statistics of the South African Police Service (SAPS) for the 2017/2018 financial year and that of Corruption Watch are presented in this article. In the study corruption refers to the illegal and unlawful activities performed by police officials when they enrich themselves by taking money and other valuable property from offenders, victims and other people they come into contact with. Participants were purposefully chosen and comprised a first group that included former police officials who were convicted and sentenced for committing corruption and related offences. The second group were active police officials suspected of having committed corruption and related crimes where some participants in this group were dismissed from the SAPS following disciplinary tribunals. The research was qualitative and semi-structured interviews were conducted at four police stations in Gauteng. The five main themes that emerged are the high incidence of corruption involving all levels of police, multiple environmental factors which contribute to corruption, forms of corruption, dynamics resulting from corruption and anti-corruption mechanisms to prevent corruption. The article further focuses on trends such as the high incidence of corruption involving all levels of the police and legal forces among others and it also provides a description about corruption and the extent of corruption in the political, economic and the governmental sphere. A great deal of effort has to be placed on the way selection and recruitment has to be undertaken in the police. The police official should be properly inducted into the SAPS by learning and signing the code of conduct. Other mechanisms that would help tremendously would include supportive leadership, supervision, mentoring and coaching. The SAPS must conduct specific and targeted inspections and auditing of the work and lifestyle audits of high flyers. Whenever a police official faces a disciplinary case, the hearing must be fair and speedily finalised.

KEYWORDS/PHRASES

Corruption, bribery, extortion, preventative mechanisms, re-active mechanism, grass eaters, meat eaters, noble cause corruption.

INTRODUCTION

During the 2020 State of the Nation Address (SONA), President Cyril Ramaphosa highlighted government's stance on intolerance towards corruption. The President urged communities to be involved in the fight against corruption (IOL news, 2020). During the 2018 SONA, the President declared war on the corruptors in the government and private sector (South African Government, 2018). Mr Bheki Cele, the Minister of Police, also promised the people of South Africa that the South African Police Service (SAPS), as the lead role-player in dealing with corruption, "have to clean our house first". Corruption in the SAPS will not be tolerated since the integrity committee, which comprises highly experienced senior personnel in the SAPS, the Directorate for Priority Crime Investigation (DPCI) (or Hawks) as well as fit and proper civilian, have been launched. Their role will be to enforce a high level of ethics and "to root out corruption in our ranks". Considering the promise, the SAPS launched the revised Anti-Corruption Strategy in June 2018. The aim of the strategy is to ensure good governance in the SAPS by dealing severely with corruption, at the same time acknowledging that it hampers service delivery (SAPS Annual Report, 2017-2018:7; Khumalo, 2018).

The SAPS is entrusted with a specific mandate in terms of section 205 of the Constitution of the Republic of South Africa, 1996 namely to prevent, combat and investigate crime. Furthermore, the SAPS is responsible for maintaining public order, protecting and ensuring that the people in South Africa feel and are safe. Therefore, the people are dependent on the police to deliver on these services and are seeking justice when crime is committed. The SAPS have many hardworking and dedicated police officials who willingly risk their lives for rendering a service to the community and must be acknowledged for their commitment. However, there are reports that within the rank and file of the police there are some employees following their own agenda. They are openly and maliciously on a get rich scheme by stealing, robbing and taking money from suspects, drug dealers and known criminal. These few corrupted police officials are causing serious harm to the image of the police and in the process stigmatise all police officials as corrupt and thus hamper their critical service delivery (Cengic, 2019; Manyathela, 2019).

The problems caused by corruption are complex and serious. Irrespective of how slight the perception or allegation, the SAPS must investigate and get rid of the rotten elements from within its own ranks. The corruption perception levels depend on the side of the spectrum it is viewed from. If it is viewed from outside the SAPS those who witnessed corruption, may perceive it as high. If it is viewed from inside the SAPS, it will be perceived as under control. The corruption levels change continuously and when people say corruption is high then they have witnessed it and it should be taken seriously. The Minister's statement, when he promised the people of South Africa that the SAPS will root out corruption in the police, is a step in the right direction in dealing with corruption and his promise is reliant on all leaders and senior management in the SAPS to enforce (Khumalo, 2018).

The article will argue that deterrence by arrest and punishment alone will be inadequate to prevent corruption and that the proverbial belief that prevention is better than the cure can be particularly true. This is because the number of corruption cases brought against police officials confirms corruption in the SAPS which cannot be tolerated, no matter how low the statistics may seem (SA News, 2019). Therefore, drastic and urgent proactive and reactive steps must be implemented to curb the tide of corruption in the SAPS. It makes sense to look at new, cost-effective methods and approaches to deal with corruption.

This article will share knowledge gleaned from the research which was undertaken with the aim of developing a model for the prevention of corruption at police stations in Gauteng (Rajin, 2016:207). Likewise, it provides recommendations for high level strategic solutions for the prevention of corruption in the SAPS. The article expands on the experiences of police officials arrested for corruption. The high-level recommendations are straightforward, viable and practical for implementation in the SAPS and can be used to halt corruption.

The extent of corruption

Corruption Watch is an organisation which raises awareness and reveals the negative effects of corruption. Corruption Watch utilises researchers who study the levels of corruption in the public and private sectors through various means such as surveys, interviews and reports from people across South Africa. They have published articles regarding the levels of corruption and the people's perceptions and experiences feel about it (Karim, 2019; SA News, 2019). The perceptions provided by Corruption Watch include that police corruption manifests itself in various ways, ranging from petty and bureaucratic corruption to the criminal infiltration of the state, state capture and other forms of political corruption (Corruption Watch, 2018). Further to this, Corruption Watch revealed that it received 1591 cases from whistle-blowers for the first six months of 2019. These include cases where interviews were conducted with the whistle-blowers who witnessed corruption that occurred in various government departments. The SAPS is topping the list with a 9.2% contribution of the total number of incidents received for the mentioned period. The most common forms of corruption in the SAPS reported was bribery and abuse of power which accounted for 30% and 35% respectively (Corruption Watch, 2019). The figures presented by the Corruption Watch report revealed that bribery and abuse of police power were the leading types of violations committed by the police. Little has changed in terms of the trends when comparing the 2018 and the 2019 reports (Corruption Watch, 2018 and 2019). Figure 1.1 (see p38) further depicts the types of crimes that whistle-blowers allege were committed by the police in 2018 and in 2019.

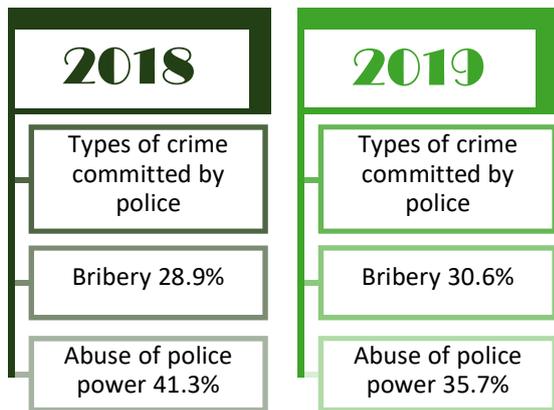


Figure 1.1
Types of crimes committed by the police
(Corruption Watch, 2018 and 2019)

South Africa consists of nine provinces as indicated on the map in Figure 1.2. South Africa has a land surface of 1 219 090 km² and an estimated population of 55.6 million according to Statistics SA (Stats SA, 2019). The Republic of South Africa is situated on the southern part of the African continent.



Figure 1.2
Map of South Africa

When Corruption Watch revealed its trending areas of corruption level per province in 2019, it mentioned that the majority of the alleged corruption cases emanated from Gauteng with 59%. KwaZulu-Natal followed with 16.3%. The Western Cape had 5.8% cases reported, while the remaining six provinces contributed minor percentages to the total in South Africa (Corruption Watch, 2019).

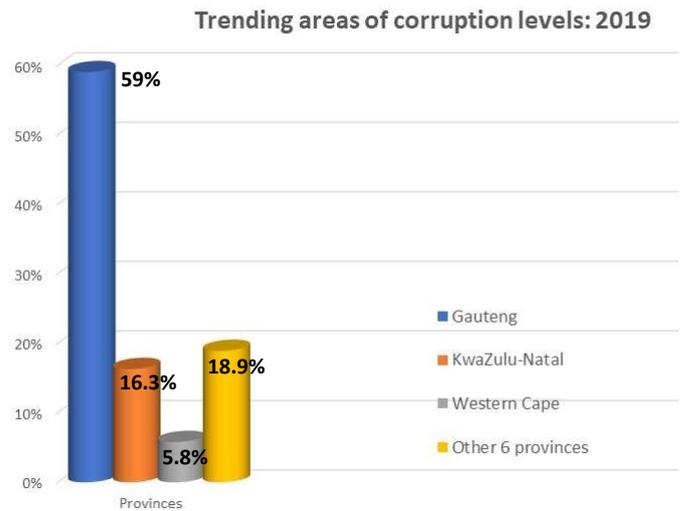


Chart 1.1
Trending areas of corruption level in South Africa
(Corruption Watch, 2019).

Unlike the statistics provided by Corruption Watch, the SAPS's Annual Report for 2017/2018 provides a profound breakdown of the departmental charges which is well-documented in a form of a register kept at each SAPS provincial disciplinary office. The national statistics presented in the SAPS Annual Crime Report indicate that 315 departmental cases were registered against police officials which include 113 corruption cases; 109 cases for aiding an inmate to escape; 66 for defeating the ends of justice; 15 for bribery, 11 for extortion and one fraud case.

The departmental charges are recorded in a register against police officials involved in corruption and other criminal cases in the event of an allegation levelled against them as detailed above. The statistics for Gauteng show that there were 52 departmental charges during the 2016/2017 financial year, which, when compared to the 2017/2018 financial year, shows an increase to 74 departmental charges (SAPS Annual Report, 2016/2017:267-268; SAPS Annual Report, 2017/2018:231-233).

Each provincial SAPS disciplinary office collates and keeps statistics of corruption and corruption-related offences which are fairly reliable and updated monthly with records kept regarding the criminal cases. The detailed report with the criminal case number is reported to the disciplinary office, whereafter the data is immediately recorded into a register. The progress of the investigation and the outcome of the case are monitored weekly by these offices (Rajin, 2016: 90-91; SAPS Annual Report, 2017-2018:227-237).

The provincial disciplinary office statistics for corruption in Gauteng show that for the period 2014 to 2018, 468 police officials were arrested for corruption-related offences. These SAPS figures are much lower than those provided by Corruption Watch. Corruption Watch provided figures for the first six months of 2019 of which the majority of these offences were bribery and abuse of power. Corruption is a complex issue of which the meaning and understanding will be explained infra.

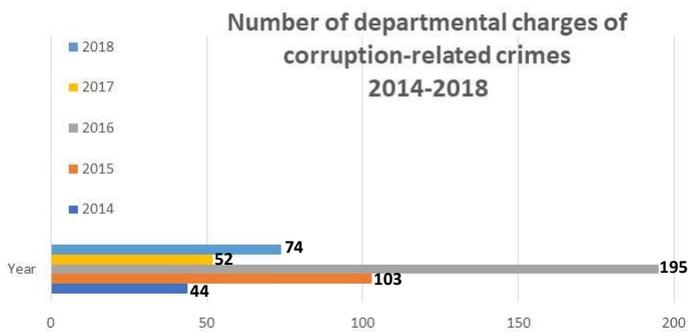


Figure 1.3

Number of departmental charges for corruption-related crimes in Gauteng

(Rajin, 2016:3; Booysen, 2018; SAPS Annual Police Report, 2016-2017:267-268; SAPS Annual Police Report, 2017-2018:227-237).

As reflected in the figure 1.3, the 44 departmental cases reported to the Gauteng disciplinary office in 2014 were low. These might be attributed to a variety of factors, including but not limited to people affected by corruption and who did not report due to the fear of the police. In addition, statistics could be missing as well as the previous year's strict disciplinary and investigative action levelled against police officials by SAPS management. The investigation of corruption cases reported against police officials are investigated by the local detective at station level, provincial task teams, the Directorate for Priority Crime Investigations (DPCI) (or the Hawks) and the Independent Police Investigative Directorate (IPID).

The IPID is an independent body promulgated according to section 208 of the Constitution of the Republic of South Africa, 1996. The IPID came into effect on 1 April 2012 which resulted in the replacement of the Independent Complaints Directorate (ICD) with the passing of Act 1 of 2011 (South Africa, 2012). The ICD only functioned according to its mandate mentioned in section 50 of Act 68 of 1995, which included the investigation of complaints against the police and all incidents of deaths in police custody or as a result of police action (South Africa, 1995). The IPID was given a broader scope in its operations and an increased mandate to investigate corruption against police officials (Joubert, 2015). The IPID started with a "big bang" by going on a national campaign in South Africa marketing its services vigorously to the people. This was done in the form of a three-week campaign on the South African Broadcasting Cooperation (SABC) television channels and radio stations. The drive included 82 media statements, 306 public awareness campaigns, and 900 queries from media (IPID Annual Report, 2012-2013:8). These steps taken by SAPS management and IPID with their huge media campaigns are some of the factors which could have led police officials to become a little more cautious about committing corruption. Then in 2019, the acting head of IPID briefed Members of Parliament that it had achieved some major successes and that it referred more than 1000 cases to the National Prosecuting Authority (NPA) for prosecution in that year. In addition, insight was provided on more successes in their

investigations during 2017-2018 which increased to 65% and that it had a further increase to 83% during 2018-2019, which included high profile cases of senior SAPS officials (Ndenze, 2019).

In 2015, the total number of corruption cases increased significantly to 103, which may be attributed to the factors mentioned in the previous paragraph. In addition, the increase may have been the result of the improvement in coordinating statistics from different departments and units investigating corruption against police officials, people who felt unthreatened to report, and improved police investigative techniques. There was an increase again during 2016 when 195 police officials were charged for corruption-related offences. In 2017, there was a drastic decrease to 52 in corruption-related offences reported against the police (Booyesen, 2018; SAPS Annual Report, 2016/2017:267-268). The 2018 figures show an increase to 74 cases in Gauteng alone (SAPS Annual Report, 2017/2018:227-237). The increase can be attributed to factors mentioned in the previous paragraphs and actions taken by the SAPS simultaneously in 2018 by implementing the expeditious process. This process was new to SAPS and its intentions were for it to become a faster method of dealing with departmental cases for those police officials who were involved in corruption. It basically meant that SAPS managers could gather all the facts in the form of written statements of corruption, whereafter the case would be handed to a senior manager to be the presiding officer in the case. The presiding officer can read the facts emanating from the criminal docket regarding a corruption or corruption-related offence made against a police official and that case must be finalised within a prescribed timeline (South Africa, 2017:11). As stated previously, the increase could also include that more people reported police corruption.

Conceptualising corruption

There are many ways in which corruption occurs, including the direct taking of petty cash or large amounts of cash, committing fraud and stealing other people's property. For the purposes of this article, corruption-related offences will include corruption, extortion, bribery, business robbery, house robbery, armed robbery, theft and fraud. Although bribery is no longer an offence in terms of the Prevention and Combating of Corrupt Activities Act 12 of 2004, the term will still be used for the purpose of the article as the word bribery is still included in SAPS internal categories in the organisation's Annual Report for 2017-2018 (SAPS Annual Report 2017-2018, 2018:228). MacVean and Neyroud (2012:117) are of the opinion that police corruption is used to describe a range of illicit police behaviours, from falsifying evidence to obtaining personal financial or other materialistic items for either pursuing an investigation, accepting bribes for not reporting criminal activities, providing police information to offenders, opportunistic thefts and corruption during policing activities. In addition, the Prevention and Combating of Corrupt Activities Act 12 of 2004 lists certain categories of crime and includes the term gratification as part of corruption. The term gratification is defined as the taking of money, any donation, gift, loans, fees, rewards, valuable security, property or interest in any type of property. It also

involves the avoidance of loss, liability, penalty, for future punishment or other disadvantage. In addition, it includes the illegal provision of employment, contract of employment or services, any agreement to give employment or the rendering of a service in any capacity and residential or holiday accommodation. Any payment, release, discharge or liquidation of any loans, obligation or other liability, whether in whole or in part, as well as any action to demand any money or money's worth or valuable thing (South Africa, 2004:2-6).

Punch (2009:20-21) agrees about the complex nature of police corruption and explains that the definition of corruption is multifaceted as it involves a range of offences involving abuse of power and authority, theft and defeating the ends of justice, which makes the offence much broader than bribery. Faull (2007:3) stipulates that for any act to be corrupt, it must involve abuse of entrusted power for personal gain. Holmes (2014:3) argues that the term corruption is a contested phrase with a restricted definition, referring to police personnel who utilise their position, authority and power as police officials for their personal gain. Budhram and Geldenhuys (2018:23) describe corruption as essentially involving the giving, agreeing or offering to accept ("corruptee") of any gratification in order for the latter to in return act, refrain from acting or influence someone else to do so in an illegal, dishonest, unauthorised, incomplete or biased way in the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or other legal obligation. This includes the misuse or selling of information and material acquired as a result of the corrupter's position or while performing his or her duties or other functions. Corrupt conduct amounts to an unjustifiable abuse of a position of authority, a breach of trust, the violation of a legal duty, or any unauthorised or improper inducement to do or not to do something.

Corruption Watch defines corruption as the abuse of entrusted power for personal and private gain and adopted Transparency International's interpretations of corruption (Corruption Watch, 2019). Drawing from the views of the various authors, corruption is a complex crime as both the "corruptor" and "corruptee" incriminate themselves. In the broader sense, corruption will include any violation of rules, policies of the government departments and legislation for personal gain, as long as the power of authority was abused. In addition, corruption also occurs when there is personal gain by police officials due to their actions, committing offences of perjury, physical abuse of prisoners, sexual misconduct, robberies, theft and fraud and even when police officials choose specific suspects according to race ethnicity and physical characteristics.

Corrupt activities committed by police officials are typically grouped into three broad categories namely the "grass eaters", the "meat eaters" and the "noble cause" corruptors. Punch (2009:21) utilises the term "grass eaters" and alludes that in this category of corrupt police officials there are relatively small amounts of money exchanging hands in an opportunistic manner from alleged offenders, drug dealers, sex workers and protection money. The corruption medium may not necessarily be in the form of cash, but may consist of sexual favours, food and drink, and discounts for goods

and services as explained by Newham and Faull (2011:8). Chin (1997:1) similarly states that all occupations develop their own terminology for certain issues. He mentions two terms, namely "meat eaters" which refer to those police officials who aggressively misuse their police powers for personal gain, and "grass eaters" who simply accept the payoff that is given to them by corrupt individuals. Although these corrupt deeds may appear to be insignificant, they have the risk of snowballing into the next "meat eaters" category (Basdeo, 2010:390). Delattre (2002:157) explains that the "grass eaters" also turn a blind eye to their superiors committing large scale corruption. Echoing these symptoms, Mabuza (2019) published various cases that are trending, similar to grass-eaters' actions. In one case a police official was arrested for soliciting a R3000 bribe in exchange for releasing a vehicle from a police pound. Another case involved two police officials who took R1500 from a motorist who knocked down a pedestrian. In two totally different incidents police officials took R600 to R700 from tuck-shop owners.

This second category of police officials go out of their way to plan the misdeeds and are prepared to risk their jobs to take large amounts of money unlawfully from offenders. These so-called "meat eaters" take the initiative themselves and go in search for opportunities to engage in corrupt activities and are deliberate in doing so (Grobler, 2005:82). They work with organised criminals, unscrupulous businesspeople through corrupt tender practices, often compromising serious crime investigations for money and goods. They make deals taking the lead, either for mutual benefits to the parties involved or in aggressive forms of extortion such as enforcing the licensing of illegal enterprises in return for payments for offering protection from arrest and harm from competition (Punch, 2009:21).

In South Africa, Lt-Gen. Phahlane, the Acting National Commissioner of the SAPS for the period 2015 to 2017 is alleged to have committed fraud and corruption along with several other high-ranking police officials. The allegations against Gen. Phahlane resonates the modus operandi of the meat eaters profile. The details of the case are sub judice as it is presently in court (Stone, 2020). A case which resembles that of the deliberate and planned activities of corruption was finalised in the Western Cape High Court in 2018. The convicted persons all held senior police management positions in the Western Cape. The former Provincial Commissioner of the province, Lt-Gen. Lamoer; the former Cluster commander of Stellenbosch, Brig. Van der Ross; and the former Station Commander of Cape Town Central, Brig. Kolindren Govender were all convicted for corruption, fraud and defeating the ends of justice. Their co-accused was the businessman Salim Dawjee who was the owner of Towbars Cape and Towbars King (Thamm, 2018). Besides this case there was one which involved the former National Police Commissioner of the SAPS, Jackie Selebi. He served in this position from 2000 to 2009 and was found guilty in 2010 for fraud and racketeering and contravening section 4(1)(a) of the Prevention and Combating of Corrupt Activities Act 12 of 2004 (South Africa, 2004). The conviction was as a result of his corrupt relationship with the drug dealer Glenn Agliotti in

exchange for giving him access to top secret police reports (Mail and Guardian, 2010).

The third category of corruption is referred to as "noble cause corruption," and relates to the fearless behaviour by the police to attain a perceived larger social good, such as the "judicial" killing of criminals and the withdrawal of charges (Bayley & Perito, 2010:660). "Noble cause corruption" is not committed for personal benefit but refers to the apprehension of criminals and ensuring that they are put away and convictions are secured (Prenzler, 2009:35-36). The police officials who are involved tend to use illegal tools because they lack the necessary legal ways available with which they can do their job (Porter & Prenzler, 2012:216).

This article will focus on the first and second category of corruption, where the SAPS police officials use terms such as "tjo-tjo" or "make a plan for a cold drink" for the taking of petty and large amounts of cash from people. According to the participants in this study, there are many of their fellow police officials who take small amounts of money from a range of people while they are on duty. The research conducted by Basdeo (2010:390) and Faull (2011:7-8) found a similar trend of police corruption. The "grass eaters" constitute the largest number of those arrested in the SAPS and although their corruption is petty, it does have major knock-on effects. This includes that the community lose trust in the police, because they witness the systematic and opportunistic manner in which these officials commit corruption.

The term corruption-related offence will be used in this article to refer to illegal and unlawful activities performed by police officials to take both small and large amounts of money from offenders, victims and other people to enrich themselves financially. The participants in this study argued that the majority of police officials have an intention and are greedy to collect money from the people they serve. They have a predetermined idea of how much they need and go out with the intention of making money. During a tour of their duties they may pay "courtesy calls" to well-known drug dealers and other criminals to collect small amounts of money and they may also stop and search suspected persons at roadblocks to collect money from offenders and illegal immigrants. Some even steal money, drugs and property that have been seized from the scene of crimes. Others break into people's houses and businesses to rob them of their cash, drugs and other valuable properties because they know beforehand that the money and property are illegal. Others commit fraud by forging documents to favour their family and friends and change medical certificates to promote their own needs. All these actions are done illegally so that police officials can enrich themselves financially.

Anti-corruption strategies in the SAPS

The reporting mechanism implemented in the SAPS also makes it easier to identify repeat offenders, and keep a closer observation on the lives they lead. The decrease in number of corrupt officials does not imply a decrease in corruption but could mean that corrupt officials have become more sophisticated in evading arrest as a result of improved monitoring processes of corruption-related cases by the SAPS management. Delegated powers are embedded

in police work and are something police officials have in abundance. The legal power entrusted on the police starts with the objects of section 205 of the Constitution of South Africa, 1996. The police are given the power to arrest and detain people who are suspected of having committed an offence.

Section 40 of South African Police Service Act 68 of 1995 stipulates that disciplinary proceedings must be instituted against police officials involved in criminal offences which are linked to corruption cases, among other crimes (South Africa, 1995). The DPCI has been established as an independent directorate within the South African Police Service in terms of section 17C of the South African Police Service Act 68 of 1995 as amended by the South African Police Service Amendment Act 57 of 2008 (South Africa, 2008). The DPCI is responsible for the combating, investigation and prevention of national priority crimes such as serious organised crime, serious commercial crime and serious corruption in terms of section 17B and 17D of Act 68 of 1995 as amended.

Act 12 of 2004 brought about a change to police corruption charges and provides for the offence of corruption and offences relating to corrupt activities. This Act outlines corruption and gratification further noting that police officials can be charged for these offences if they abuse their power for personal, monetary and other valuable gains (South Africa, 2004; Newham & Faull, 2011:7-8).

The Independent Police Investigative Directorate (IPID) Act 1 of 2011 came into operation on 1 April 2012 with extended powers in terms of section 28(2). IPID is tasked to also investigate police officials who commit corrupt offences (Joubert, 2015:13; South Africa, 2012). IPID has been challenged to perform their function effectively due to a lack of resources, making it difficult to investigate allegations of corruption (Perez, 2012:59-62). The SAPS and IPID report to the Minister of Police, creating tension between the two organisations and threatening their independence when there is an allegation against one of these organisations. These tensions boiled over when the then Head of the IPID, Robert McBride, was suspended in March 2015 after IPID had completed an investigation and recommended that top DPCI officers not be charged in a specific case due to a lack of evidence. The Minister of Police at the time intervened in the controversial events involving the DPCI Head and suspended the Head of IPID (Germaner, 2016).

In terms of section 24 of Act 68 of 1995, the Code of Conduct for police officials was gazetted on 19 September 1997 (South Africa, 1997:2). The Code of Conduct is the first attempt in the prevention of corruption. Every serving police official, including new recruits, must sign the Code of Conduct. A police official committing a criminal offence associated with any form of corruption, theft, robbery and fraud, among other offences, must be charged departmentally in terms of the SAPS Disciplinary Regulation 5(3)(q), implying that a common law or statutory offence has been committed. An additional departmental charge will be added in terms of Regulation 5(3)(u) and 5(3)(z dd) failing to adhere to the Code of Conduct (South Africa, 2017:5).

In 2011/2012, the SAPS management started to develop the Integrity Management Framework to support the prevention of

corruption and criminality in the SAPS (Faull & Rose, 2012:12). In addition to the Code of Conduct, the SAPS drafted the Service Integrity Framework (SIF) in order to proactively prevent corruption (Rose, 2011:1). The SAPS then established a new section, namely Integrity Management Service whose functions include the promotion of ethical behaviour and reduction of the re-occurrence of incidents of fraud and corruption.

The powers entrusted to police officials open a gap for the commission of corruption. Police officials are required to patrol streets where criminals will try to evade justice by offering police officials sums of money in return for their freedom. The laws and policies relating to corruption are hard to implement, because the law requires hearing the accused's side of the story as well and that a case must be proved beyond a reasonable doubt. The witnesses in a case against an accused police official often disappear and become untraceable. In addition, the legislation provides that whistle-blowers have to be protected and may remain anonymous, but a gap arises when they must testify in court and their identity is compromised. This often gives the corrupt official the upper hand. A clear message needs to be sent from the courts that corruption will not be tolerated when police officials are charged, convicted and sentenced.

The legislative framework has to be designed in a simplified way providing harsher penalties, making it costly to benefit from the proceeds of crime, corrupt acts and corruption. These actions will help to restore respect for the country's laws as long as the legislation and policies are implemented fairly and without favour.

Corruption committed by police officials has vast negative consequences for the police and for the government, since communities lose trust in the entire Criminal Justice System (CJS). People rely on the police so that perpetrators of crime can be arrested but corrupt police officials let criminals off scot-free. The communities need and rely on the police to investigate their cases and to place the criminals before court for justice to be meted out. Communities are already afraid of reporting crimes to the police, but due to ever-looming corruption trends there will be much more adverse effects relating to the trust in the police resulting in communities being afraid of reporting incidents to the police in the long-term (Corruption Watch, 2019).

Methodology of the study

The pragmatic qualitative design was utilised in this study (Creswell, 2013:28-29). The population consisted of police officials from four police stations in Gauteng who were either incarcerated in two correctional facilities or suspended on charges of corruption. The 18 participants, of whom nine were convicted and the rest suspended, were purposively chosen for their information-richness (Rajin, 2016:93). The data was collected during unstructured, in-depth interviews and observations on the research site and field notes added to the depth of the data. The interviews were recorded and transcribed, which yielded rich and deep data and further allowed for verbatim quotes regarding their experiences of corruption (Creswell, 2013:185).

The methods of triangulation used in this study to draw conclusions of what constituted the truth about corruption were the detailed description of the emergent themes. The emergent themes were described using thick and rich descriptions. The *in vivo* quotes were taken directly from the participants' responses to their experiences of corruption and were stated verbatim. Typically, this process involved corroborating evidence from different sources to shed light on the themes (Creswell, 2009:199).

The study was guided by UNISA's research ethics guidelines, adhering to the requirements of informed consent, voluntarily participation and a confidentiality agreement (Rajin, 2016:112). Ethical clearance was obtained from the College of Law, UNISA's ethical clearance committee, gatekeepers of the SAPS and the Department of Correctional Services in the form of permission letters. As the researcher has served in the SAPS for 40 years, he made a conscientious effort to bracket his own knowledge and experience on corruption (Van Manen, 2014:215; Babbie & Mouton, 2012:277-278).

Discussion of the findings

The findings were analysed into themes which were described and enriched with *in vivo* quotes. Four themes, with sub-themes, emerged from the analysis and are described in the following section.

■ High incidences of corruption involve all levels of the police and legal forces

The participants indicated that corruption is committed by a range of police officials, including reservists, often in cooperation with officials from other legal entities, such as the South African Revenue Service (SARS), the Department of Home Affairs (DHA) and the National Prosecuting Authority (NPA). The sub-themes that emerged include that corruption can be found on all levels in the policing area of the four stations, including among reservists.

The participants in the research indicated that corruption takes place on all levels within the SAPS including among junior officials, supervisors and at senior management level. Some participants mentioned the ways in which corruption occurs, stating that corruption is rife and that police officials go on duty with the intention of collecting money illegally.

P 10: "It is a daily thing it's like normal for them I come to work I go to house number 1, collect my R20 go to house number 2, collect my R20, it's normal."

P 3: "They go from point A to point B, from point B to point C, collecting money that cold drink."

P 15: "You get used to it and that now is lawful because you don't get caught, then you go bigger and bigger and higher."

The above quotes indicate that SAPS officials plan their corruption with colleagues, resulting in it becoming a habit.

P 3: "So even the police who has never seen that dealer, will go there in the morning and park there, the dealer will come and throw the money in the car."

P 10: "You will see the unmarked police vehicle pull up talking to the guys through the window and the vehicle it belongs to organised crime, now they are in the drug

hotspot, nobody gets out of the vehicle, somebody will just come out of the house and greet them somebody was getting something if it is money."

P 10: "Senior officers that I know personally they get brown envelopes."

P 3: "The brown envelope has money maybe there is R10 000, they call it protection fees."

P 17: "There are actually policemen can get close to R100 000, R250 000 pertaining to corruption itself."

These quotes illustrate the way corrupt members of the public give envelopes containing money to junior officials who then hand them to their senior officers. It demonstrates the devious methods used by drug pedlars to hand over money to police officials, to turn a blind eye to drug dealing. It appears that corruption has become accepted and normalised among some community members and business people in the four police station areas.

The reservists are enlisted by the SAPS who work on a voluntary basis and assist the police with their functions. They must work in a specific police area where they reside and wear the full police uniform with the normal SAPS insignia. The participants stated that reservists also take money from the public and it was reiterated that people do not want to report corrupt police officials. Similar to their permanent colleagues, reservists will get involved in corruption if they are left to work on their own unsupervised. Even the uniform worn by a reservist does not reflect the difference between a permanent police official and a reservist which means the public will only look at the uniform worn. This aspect will be addressed in the awareness campaigns as part of the recommendations.

P 4: "The reservist also collect money and they will tell you will not do anything because you know very well that we are just reservists and we are not earning any income and this is the way of making a living."

P 5: "The lifestyle is more or less the same I said because specifically themselves they don't earn a salary but they are driving cars, the reservists are working consistently every day."

P 6: "Reservists proceeds with life getting money from the people. It can be money, and it can be stolen goods that is what is happening."

The participants revert back to mentioning reservists, that they work long hours and are involved in plundering money from the community that they serve. A case reported in Polokwane seems to confirm the participants' feedback regarding reservists. In this case it was alleged that two reservists arrested a foreign national on a Friday night and demanded R2000 to release him. The Hawks in Limpopo arrested the two reservists after the complainant reported the matter. The two reservists allegedly only got R400, and put pressure on the complainant for the balance. They kept on demanding the outstanding [balance] until the matter was reported (Makana, 2017).

The participants state that reservists work seven days a week and every day of the month and are said to be thriving on corruption. Some of them also own vehicles and live beyond their means.

This theme is repeated that people are afraid to report corrupt police officials, and on the other hand some police officials feel obligated, and practice a code of silence when it comes to reporting their colleagues for corruption. In other words, they feel and have a belief that they must look the other way when their colleagues commit corruption. Corruption is compromising service delivery which result in criminals continuing their crime spree. It therefore seems that the SAPS should adopt a new approach to enlisting and working with volunteers.

The participants in this study indicated that other government departments that have investigative powers, formulate their own devious plan cooperating with the SAPS members to commit corruption. This is a risky and difficult position as the police and other law enforcement officers that must ensure that criminals are arrested and face justice are the ones involved in corruption. The vulnerable people that have large amounts of money and goods are let down as the SAPS who deal with corruption are the ones who are also involved.

P 4: "You might find that most of the case they are SARS members they are involved in the corruption with the police."

P 9: "In cases where members confiscated illegal cigarettes SARS took it out, because it falls under them. Not even a week after that they came and booked it out. All the cigarettes they came and booked it out and he got it back."

Participants described ways where SARS and SAPS officials jointly commit corruption such as by targeting foreign business owners by examining their products in stock for any non-compliance.

The following quotes from participants indicated that foreigners without valid documentation contribute to corruption because it is easy for SAPS and Home Affairs officials to take a bribe from an undocumented immigrant.

P 10: "We called in the guys of Home Affairs to come and check if the paperwork was valid. We took them and went to Home Affairs they checked and said that all the papers are valid. I asked them a question why don't they have their passports. They said that's human trafficking that's another process but they will take it from there, not even one week that people they moved out."

P 2: "If the Home Affairs structures were doing a good job you wouldn't have the problem of having a lot of illegal immigrants here in Policing Area 'A' that you find having in possession of papers that are not legal, that are fraudulent to be precise and as a result that puts a big strain on policemen. You find that these people that are here put everybody's lives in danger if they are offenders because there are no records of them that are proper and yet because they were able to bypass the Home Affairs system and everything and also now extends to the SAPS and we have to clean up the mess that Home Affairs did or the Home Affairs department and the government is not really taking serious concern of. So to elaborate further the police end up feeling they have to actually take a bribe because nobody is doing anything about it in any case so they feel they have to take a bribe."

The participants explained that police officials along with immigration officers would, during official law enforcement operations which are established to trace unwanted and illegal immigrants, eventually find these so-called illegal immigrants. When they do, money is extorted from these illegal immigrants for being illegally in the country. It is said that they have the paper work, which police officials are aware is illegally obtained, but the immigration officials let them free and the police then take a bribe and release them.

The third sub-theme focuses on the collusion between officials from the NPA and SAPS in the mishandling of dockets that should be used to charge accused persons. The courts have to ensure that justice is carried out in a fair and just way. Police officials investigate a case and present the docket to the prosecutors who are supposed to provide advice on improving the investigation. This is done by giving guidelines regarding the evidence that is required for a successful prosecution. The participants said that SAPS investigating officers collude with prosecutors to close criminal dockets as "withdrawn" and "struck off roll" citing the reason as a lack of evidence.

P 2: "You arrest a person and put everything that incriminates the person, proper evidence, and as a detective then you find that that the person is let out."

P 6: "You can arrest a guy for four times for the very same crime when he gets there he pays and he gets."

P 17: I know for a fact especially where you find hijackers but you'll never get them caught, why and there's cases against them because the dockets have gone missing and you will never find them and vital evidence that's in dockets are missing."

The participants feel that they might have a good case which can get a conviction. Offenders often connive with investigators and prosecutors to weaken the case by destroying evidence from the docket. Money is exchanged and police officials are aware that these acts constitute corruption. The participants stated that witnesses are forced and intimidated to change their statements in the dockets. These statements are important for the facts to prove the case in court. Others say that offenders are promised to be released when they change their statements and implicate police officials who made the arrests.

P 6: "Some of the witnesses are being forced to rewrite what they have written in the docket."

P 16: "If someone came and told me to make a statement against you and they would not charge me then I will do it."

P 17 "A man (is) still in an awaiting trial and if a policeman comes to say listen this policeman that arrest(ed) you stole money I'm going to withdraw the case against you no one is going to refuse that."

The above-mentioned statements gives the impression that the police in South Africa operate in an oppressive manner. There was a similar trend in the New York Police Department when a witness in a corruption charge against police officials was charged with murder (Armstrong, 2012:226-234) and people who witnessed corruption are forced into changing their statements to favour the

corrupt police official. Once this coercion and intimidation have taken place, the evidence and facts against the offenders are destroyed and the facts in the dockets are altered to help the offender.

■ Multiple factors in the policing context contribute to corruption

The participants identified multiple factors contributing to corruption. The factors relate to personal circumstances that inspired the people to enlist in the police and also include the internal and external environment of the police. This theme consists of eight sub-themes, namely the SAPS officials' motivation to join the SAPS; their fear of retaliation from the criminal elements in the policing area if they do make arrests, as well as the numerous temptations and opportunities in some communities. Further sub-themes focus on the greedy nature of some SAPS officials and their financial constraints, social and peer pressure to accommodate criminal elements in the communities and the skewed supervision that they receive. The last theme focuses on the willingness of the community to exchange money for favours from SAPS officials.

The participants indicated that some officials join the police according to their personal need. They have their own ambition and lack job opportunities. And it seems this will not change as society is a difficult place to earn money and have a legal job in some parts of society.

P 6: "Actually it was not my career, it was not my dreams. It only came as a quick job."

P 12: "After completing my studies I looked for a job. Unfortunately, I didn't get my engineering job."

The participants claim that there was unemployment in the private sector and despite completing an engineering qualification it was difficult to get a job. In terms of unemployment in the private sector, participants indicated that the last resort and only choice was to join the SAPS for employment.

P 1: "It's abuse of power because as a policeman you have the power to stop a vehicle, to search that you have been trusted by the state. That you have a right to arrest a person that has done something unlawful."

The above quotes indicate that some police officials lack the necessary commitment and attributes required of a police official. In addition, police officials are in a powerful position with an abundance of authority, including the power to decide whether to arrest or to take money for the release of the suspect, implying that excessive power leads to corruption.

Police officials fear harassment from community members who are involved in crime. Police officials fear retaliation for the arrest of the offender which can endanger their own lives.

P 6: "You continuously arrest him he will end up planning something for you."

P 8: "Either you take the money or you die, you are disturbing my business, so I must get rid of you."

P 10: "He was so scared he told them just sign here the withdrawal statement was written already."

From this set of quotes, it can be deduced that some police officials perform their duties fearing known offenders. They are afraid that once the offenders are released, they may be killed. The fear of being harassed and killed also leads to corruption.

There is even a practice to bribe a police official in return for being released from detention. Some police officials thrive on the offers and their desire for money. They are enticed with money readily available and given in abundance by the offenders.

P 16: "You see opportunities and the public offers you."

P 15: "Then you see this robber doesn't know about this money, no robber can say I have robbed, they always deny."

P 4: "The accused committing the crime so he has to generate the opportunity and he feels that well, you never hear people actually being caught for corruption, so let me try and bribe the officer catching me."

P 10: "There is a lot of temptation and let me say 80% of the people fall for the temptation."

The participants explained that the duties of the police official are unsupervised and when they come across an offender where money is offered, they are willing to take it. The participant mentions 80% are tempted, while it is the author's opinion that the remaining 20% are good police officials who are dedicated and committed; they perform their work honestly in whichever department they function. These 20% officials then seem to be those who are dedicated to go the extra mile and are successful in arresting criminals and obtaining the necessary convictions.

The luxurious lifestyle wants and desires of SAPS officials exceed the standard of living which they will be able to afford on their salary. Police officials then become greedy due to their excessive materialistic needs.

P 8: "No, it's not like we do need the money, we take it for fun or greed. It's like you want everything."

P 10: "It's like financial lust I can buy a BMW because all the money that I am getting from the side."

P 17: "Greed will always be the only factor that promotes corruption because everything boils down to greed for money."

Participants mentioned greed as one of the contributors to corruption. They also explained that it was difficult to stay within their budget since they earn low salaries to cater for their families' living costs. The police officials want to live an expensive lifestyle which would result to greed (Grobler, 2013:244). The police official must prevent crime; giving fines and arresting those perpetrators of crime, but at times the police violence, corruption and burglaries are done unreasonably except to say it is for greed which played a vital role (Holmes, 2014:225).

P 2: "When I see that person supplementing their salary through corruption I'm actually bound (to) follow suit and also commit corruption."

P 7: "They are not earning a lot of money that is why they are doing these things."

P 9: "Like if you got maybe four children and they at school and then you earn about R9800, you pay a bond, you pay transport for the children, your transport to go to work

again, the food at house."

Some participants mentioned that they are greedy while others stated that they have serious financial constraints. Police officials have vast discretionary powers to use and they also know there will be opportunities to be greedy. If they find in their day to day work a perpetrator having illegal drugs, they can either decide to arrest such a suspect or release him or her, often at a "fee".

The police maintain healthy partnerships with the community, establishing good and friendly interactions with the people they serve. The police working with the community find it difficult to differentiate between offenders and law-abiding community members. The friendship creates a problem when it leads those helping offenders instead of law-abiding citizens.

P 5: "So most of us police officers are friends to the offenders, so that when they see them doing something wrong, they must not have them arrested."

P 6: "You end up becoming friends even if he stole or he damaged something he gives you something and then he walks away."

The offenders are often well-known in the community and among the police. Their friendly relations oblige the police to take money and some kind of gift to release them when they have committed a crime. This influences the police to take the money offered, leading to corruption.

While interacting with the external environment and being influenced by the social pressures of life internally, the peers also place pressure on their colleagues to live up to a high standard of living which is beyond their means. They look for motives to commit corruption.

P 16: "Let's say if I'm driving a 1995 Toyota and you driving a 2014 BMW the pressure of trying to keep up with life or to move with the times and the old policeman."

P 4: "You got to be within and drinking a R1500 bottle of Chivas Regal when they go to the party. It's kind of keeping up with the Joneses."

They are driven to own expensive items because of peer pressure and competition with one another to own and use expensive material things.

The participants mentioned that police supervisors have a heavy workload and have many tasks to complete after executing an arrest which compel supervisors to concentrate on attending to crisis situations. The junior officials causing problems are left unattended and are not sufficiently mentored.

P 1: "So the policeman may be busy on the street, because when you arrest someone and when you arrive at the station it's paperwork that must be done. Instead of arresting him you say 'go and fix your thing'."

P 10: "You expect one person to supervise all 24 to 30 people."

P 18: "The pressure of working long hours, doing lots of work."

The participants explained that opening a case docket for the arrest and detention of an offender involves too much tedious administrative work.

An act of corruption needs two parties to constitute an offence, such as a police official and a community member.

P 1: "It takes two to tango, because for someone to be corrupt it involves another party, which is here the community."

P 16: "You say this guy who you stop now at the roadblock, he has done something wrong this community member."

P 9: "It's some people that corrupted the police, the people they know they are wrong, there's one owns a shebeen and he don't have papers and the police are always there he gives R100."

The above quotes indicate that corruption is often initiated by criminals from the community who want to evade justice whereafter police officials join them. This means that offenders from within communities are also involved in the corruption with the police.

■ Forms of corruption and corruption-related crimes

Police officials use different ways and practices to commit corruption and corruption-related offences for satisfying their financial greed. The three sub-themes presented in this section each focuses on the forms of corruption mentioned by the participants, namely money and gifts. The third sub-theme demonstrates how SAPS officials misuse their power to release arrested suspects resulting in cases being withdrawn.

In the first theme, the participants focused on describing ways in which police officials take money from offenders and drug dealers. The police receive money from the people who are supposed to be arrested and taken to court to face the charges against them.

P 2: "If I have to work outside and we arrest somebody and there's three of us in the vehicle and two of the members actually want to take the money and that money is R900."

P 3: "When you report on duty, they come with that mind that of today I really want to see myself going home maybe having R2000 in my pocket."

P 6: "He gives me money so he walks free with the stolen vehicle."

P 12: "If you find an illegal immigrant without a valid document then they ask them to pay R50, R100 or R200 it will depend."

P 5: "I want to supplement my salary with extra money that I will get somewhere through corruption."

P 3: "The person comes to the vehicle is the drug dealer he gives the police officer something like R200."

The participants said that offenders give money to the police in order to be unlawfully released. Police officials specifically choose to patrol in areas of drug trade to collect money. An incident of this nature occurred when two Cape Town cops who took a R1000 bribe from drug dealers were actually arrested, convicted and sentenced to three years' incarceration for accepting bribes from a drug dealers (Hyman, 2019).

In this theme, participants described how offenders befriend police officials. The offenders' actions involved giving unlawful gifts to police officials and often come in the form of a lunch.

P 6: "Whenever he meets you, he will buy you lunch."

P 11: "They can also give you gifts."

P 15: "I've been promised for every recovery of the money I will get 10%."

Gifts are provided to the police officials in order to establish a purposeful friendship so that offenders can be prevented from getting arrested. The gifts might start as small tokens, but are the beginning of all the dishonesty which can lead to larger forms of corruption.

The focus in the third sub-theme is the manipulation of the criminal justice system by offenders by relying on SAPS officials who are under their influence. After an offender has been arrested, he or she will involve a senior SAPS officer to interfere with the case docket. This interference will either result in the offender being released or the case docket closed.

P 2: "There's been many incidents of the arresting officers get phone calls that release that man."

P 6: "If I'm arresting a guy and then he's the station commander's friend, he will straight away call his friend, the station commander."

P 14: "When there are stolen goods maybe those people of the stolen goods, they know the seniors, then when you arrest them they contact the seniors, then the seniors come to you and say man what about those people man they just ask forgiveness."

The above-mentioned quotes indicate the consequences of when an offender is known to someone in the higher echelons of the police. That offender will, through various means, send a message to the senior official about the arrest. The senior police official will visit the junior official and instruct him or her to unlawfully release the offender - this is referred to as interfering with police work. Meanwhile the junior police officials watch and monitor the situation carefully, they now see this as an opportunity to also arrest offenders, use their discretion to release the offender at the same time they take a bribe. They will now view the senior as being obligated to them and also part of the team involved in corruption.

■ Dynamics resulting from corruption and corruption-related crimes

Corruption leads to certain underlying forces and the themes are clustered in these sub-themes which are as follows: providing the offender permission to commit the crime; negative emotional responses leading to stigmatisation; and being framed by the disciplinary processes. The last two sub-themes indicate that corruption has been normalised and sanctioned in the four police stations and that existing anti-corruption mechanisms are often ignored.

The authority and discretionary power vested in SAPS officials give them all the scope to do as they wish. Especially when there is a lack of direct supervision. The police official needing money even use this power to connive with offenders and provide them with permission to commit crime. Some police officials follow this route since they can protect the offender and get them released from the criminal justice system. There is currently a lack of training to

curtail this excessive misuse of power by police officials in order to prevent them from being involved in crime and corruption.

P 4: "Have soldier boys that you can either send to intimidate someone because you as an officer can go there and say listen here, your liquor licence is not up to date."

P 7: "They are hijacking the car and the other policemen are escorting those people to go where they are chopping the cars."

P 15: "They used to give you money to become corrupt. I came to you, I got R5000 you can take R2500, give that man R2500 - that man must organise a big robbery so we can have the money."

The participants revealed that offenders are provided with permission from police officials to commit crime. Some police officials acquire extra money through this unlawful means.

Some participants felt that they were stigmatised when departmental actions were instituted against them by the SAPS. They have negative feelings regarding the consequences from being arrested for corruption.

P 7: "Those policemen took that gentleman and go and open a case, saying that I am robbing the money."

P 16: "Someone comes and say is committing corruption because you are involved in those things automatically you put the stigma on me."

P 18: "I heard about those senior officers and I feel very bad about it that our seniors are committing crime, I was also a senior member."

The participants explained that they feel bad when allegations of corruption are made against them. They feel stigmatised even before any investigation of the corruption cases. They also experienced sadness to be involved in any illegal activity and felt embarrassed and guilty about their involvement in corruption.

The participants described the manner in which they perceive that they were framed during the disciplinary process. They stated that the departmental trials and dismissals resulting from the hearings of corruption cases are unfair and explained that sanctions that are determined at the hearings are severe and biased, even if they are not guilty.

P 9: "The prosecutor of the hearing if you don't go to them and speak with them, maybe you are under hearing, you are to speak outside that you are going to give them something."

P 6: "You can be in jail without committing anything at court you can walk free but in the police service surely they will dismiss you."

P 11: "After he went through the findings of the hearings, he's the one who said because he can see in this case there is a personal vendetta."

The participants felt that the departmental hearings were setting them up and the cases were presented in an unfair manner. They stated that they may be found not guilty of the crime in a court of law, but will still be dismissed from the Service.

The participants believed that corruption has become normalised in their police stations and that it forms part of their daily activities while performing their normal duties.

P 1: "Most of the time corruption is not about getting a lot of money, a R10 is a corruption, a R5 is a corruption, members know that for a day I must stop five cars and if all these cars give me R20 that means at the end of the day I am having R100."

P 10: "I come to work I go to house number 1 collect my R20, go to house number 2 collect my R20, it's like normal."

P 17: "When you are working on the vehicles you stop a guy for broken tail lights he gives you R20."

The participants regard the taking of money as normal; in the sense that the junior police officials emulate what they have seen being done by the much longer serving police official taking money from criminals. This behaviour becomes their routine and it is their everyday activity while on duty. The taking of small amounts of money is regarded as a common practice and not corruption. The police official has no fear of arrest and continues to take small amounts of money from people.

The level of knowledge of the anti-corruption mechanism known to police officials is determined by their rank level in the organisation. The strategies to prevent corruption were presented to the majority of police officials employed in the SAPS. The presentation included one-hour compulsory sessions facilitated by the management information official as an awareness programme not to commit corruption. Only one of the high-ranking participants was able to explain the strategy and none of the remaining 17 participants could recall it.

P 4: "I don't know of any anti-corruption methods that are in place."

P 10: "You hear about it but it is not effective, because you got this big complaint about anti-corruption, people go to the station and explain to the people what is anti-corruption, what is the consequence of it but the person that come and explain corruption is in the same pot."

P 11: "So now which means even though they can be those workshops of anti-corruption everyone that is there, is there for money, it will be just like talking, sending out pamphlets, it won't make a difference."

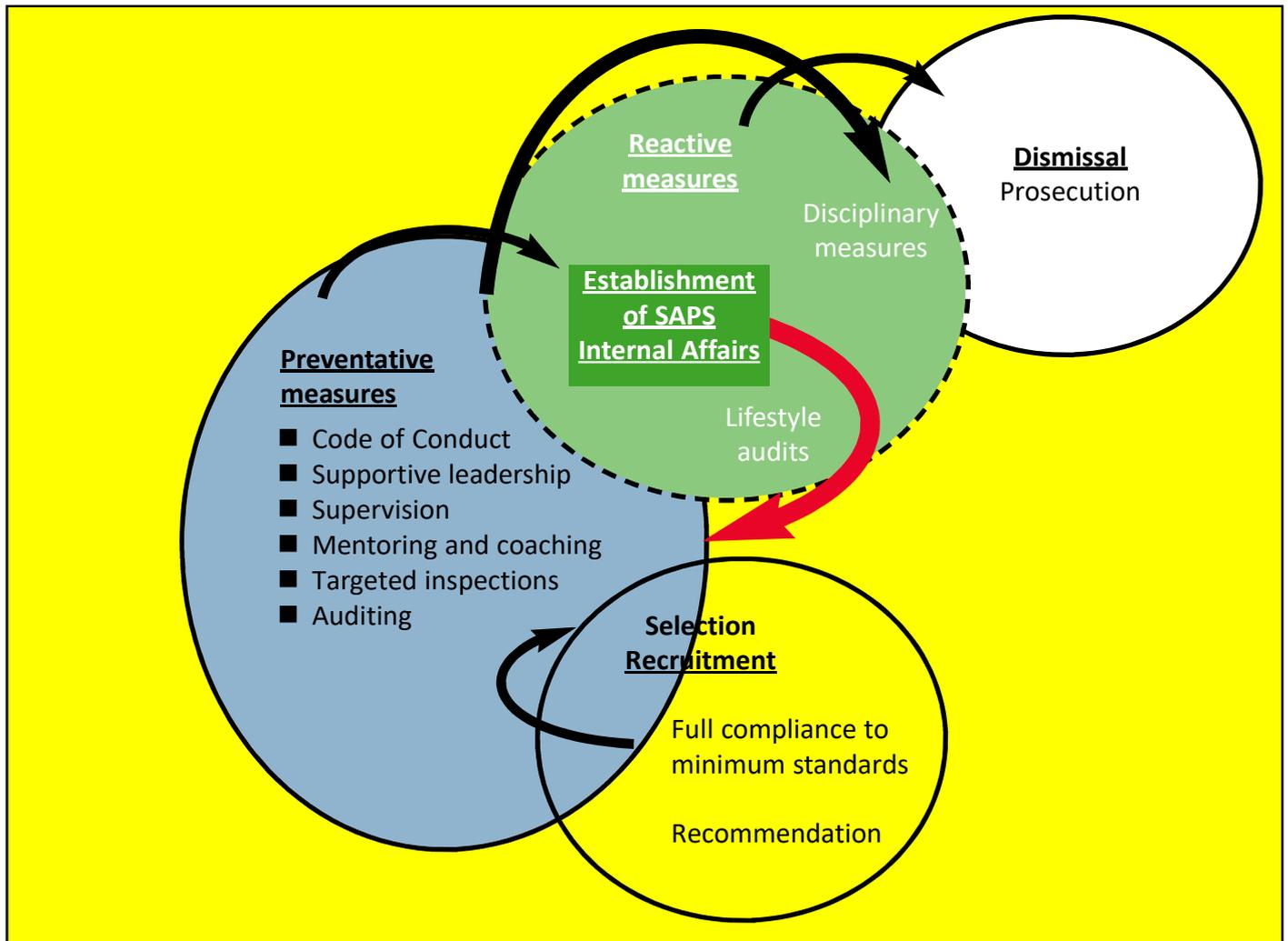
The participants' views differed on the extent to which their colleagues are aware of any available anti-corruption strategies. They explained that some know about the anti-corruption strategies and say they are ineffective. Others have no knowledge about it which implies that the SAPS need to vigorously market these strategies and ensure that every police official is sensitised.

RECOMMENDATIONS

The model which was developed from the research is intended to prevent corruption in the SAPS. As far as it could be established, there is currently no model in place that aims to prevent corruption in the police. The model is further aimed at improving the ability of the police to trace and apprehend corrupt police officials and community members who bring about corruption. The preventative measures need to be both proactive and reactive in nature. A 360-degree model is recommended in order to eradicate corruption in the SAPS. It is noteworthy that corruption prevention in

SAPS should also focus on the communities in which the police function, due to the nature of police corruption which requires both a corruptor and corruptee (both a SAPS official and a member of the community), for a corrupt act to be perpetrated. The recommendations are the researcher's contributions and will add value to the current anti-corruption mechanisms in SAPS.

The elements of the model are clustered into four groups and the model should be read from the bottom up. The background on which the four circles appear, represent anti-corruption awareness which needs to be created within the communities.



A 360 degree model towards a corruption-free SAPS

The discussion on the elements of the model will be provided below.

■ Selection and recruitment policy

The prevention of corruption and corruption-related offences starts when posts are advertised in the SAPS. The advertisement should mention the special requirements for selection. The selection process should consist of demanding criteria which emphasise important aspects for the selection of the best applicants suitable for the job. The selection process should start by conducting integrity tests with the person who will form part of the selection process. Thereafter the selection process should concentrate on testing the applicants for their honesty and potential to work with people and to be client-orientated. Their behaviour pattern and trends towards corruption should be tested with a psychometric assessment and a polygraph test, ensuring individuals with corrupt tendencies are ruled out. Interviews must be thorough regarding ethics and honesty.

The process should entail tests and reference checks in the applicant's neighbourhood by a dedicated unit whose function it would be to determine the background of the applicant and to find out whether the applicant has been involved in criminal activities. The view that reference checks have to be done on an applicant is also supported by the concepts expressed by Cascio (1992:147). More and Miller (2011:433) suggest that recruitment should be a multidimensional process planned to encourage people to pursue careers in the police service and to select individuals who are qualified to do the job. Encouraging communities to join the SAPS can have a speedy response; experience shows that whenever there is an advertisement for employment in the police the number of applicants far exceeds the number of positions that are available. People apply as a result of the unemployment crisis with varying degree that occurs in the rural areas and the area in which they live. When the SAPS published an advertisement in February 2020 for 7000 vacant posts, there were 530 000 applications (Head,

2020). This implies that the amount of people interested in the job is far greater than the posts available. This is where the police need to screen the applicants thoroughly in order to get the best. Porter and Prenzler (2012:183) explain that the Victoria Police in Australia has a dedicated integrity testing unit administered by the Office of Police Integrity which was established in 2004. Applicants complete a personality profile questionnaire and the next phase involves a panel interview using a behavioural interviewing method. Applicants may also be interviewed by the police psychologist for further psychological assessment. Aspects of an applicant's character and background are taken into consideration, as well as fingerprint checks and any integrity issues (Porter & Prenzler, 2012:143).

■ Preventative mechanisms

Preventative mechanisms are all proactive processes and procedures that should be undertaken to prevent the occurrence of corruption. These mechanisms include the Code of Conduct, supportive leadership, supervision, mentoring and coaching, targeted inspections and auditing.

The Code of Conduct should be the guiding framework for the ethical and honest handling of police officials' behaviour, both on and off duty so that they conform to pre-set disciplinary standards and norms. It was proven that similar processes have been undertaken in the South Australian Police where their Ethical and Professional Standards Branch is involved in ethics training at all levels of the service, including cadet sergeant, officer training, protective services officers, and call centre operators. While ethics are taught generally within the cadet courses by trainers, the Ethical and Professional Standards Branch provides sessions to enforce particular points where the need arises (Porter & Prenzler, 2012:143). However, for this to be implemented successfully to address overall corruption, the police officials currently in service found guilty for corruption must be departmentally heard and given their chance to relay their story. If they are found to be guilty at the departmental hearing, they must be dismissed. Those who were found guilty for minor transgressions should serve under probation and thoroughly trained so that the police culture can change. A special unit should be formed that should be provided with resources and given time to finalise all outstanding departmental and criminal court hearings and to make findings relating to those cases not yet finalised.

Ethics are closely linked to the idea of integrity. Integrity means being trustworthy and honest, it is about knowing the vision and Code of Conduct of the police service and always behaving according to those values as a guide (Rogers, 2008:79). Regulation 5(3)(u) provides that a police official who contravenes the Code of Conduct warrants disciplinary action - this fact must be stressed from the day of enlistment (South Africa, 2017:5).

The Code of Conduct should be enforced in terms of the disciplinary process in order to discipline police officials who should also be made aware that their failure to comply will lead to dismissal if found guilty. Therefore, the outcome of failure to comply with the Code of Conduct should first be to develop the police

official's knowledge around the failure to comply. Training should be provided in detail at police training academies and should be ongoing to all police officials. Police officials who disobey the Code of Conduct relating to corruption must be disciplined fairly and when found guilty they must be dismissed from the police.

The leadership in the SAPS should be supportive to police officials by providing legal actions whenever a police official has an allegation levelled against them when they arrest violent criminals and take decisive actions in dangerous situations. Rogers (2008:79) argues that police officials should be praised and awarded for their good work, which it is a vital element of being a good leader. The reason leadership is so important to the SAPS is that police officials will achieve the aims and objectives of their job descriptions according to a plan. Accepting any form of financial gain from communities must be clearly prohibited as it presently seems that some officials regard it as being part of their job description. The participants in this research indicated that police officials have a desire to enrich themselves and have a greedy tendency. The excellent work done by every police official should be officially recognised and rewarded by the organisation's leadership. The procedures and processes must be clearly stated with every police official having an equal opportunity to compete. The process of applying for an award must include both the police official who performed the outstanding work and the immediate commander. The awards must be granted with pre-set criteria for excellent performance of outstanding work undertaken with success, irrespective of the field or the level in the SAPS. The support given should be in line with the organisational goals, which has to be a fair and transparent process. The work to award outstanding performers need to be scrutinised by internal auditors biannually. The author is of the opinion that if such steps are implemented, others doing their normal work would not feel discriminated. With strict and principled compliance to the laws aligned with the vision of the SAPS, the police officials would then strengthen and reinforce the goals and objectives of the SAPS. The support should follow a pre-set standard and guideline, with proper policies in order to ensure fairness. Whenever it is discovered that certain police officials are good performers, they must be given all the support in the form of employee wellness programmes and support to ward off any threats to the police.

Supervision requires proper control, monitoring and responsibility for the performance of the junior police official's work. Police supervisors should guide their juniors to undertake their work with honesty, integrity while being exemplary role-models themselves. The supervisors should spend 70% of their work time with the juniors, following a hands-on approach to services rendered. The supervisors should physically participate in operations. Dunham and Alpert (2001:504) explain that supervisors should pay more attention to organisational culture and value, and less time to formal systems, written rules and disciplinary procedures. More and Wegener (1990:141) support the view that supervisors in police organisations are multidimensional players who act as technical advisors, role-models, teachers, counsellors, leaders and when all else fails, as disciplinarians.

Mentoring and coaching refers to the development of police officials' skills and knowledge through informal teaching. It is very important for the SAPS to eventually improve productivity and service delivery. Rogers (2008:82) states that mentoring includes motivation, the provision of encouragement and support, as well as teaching individual police officials the correct and responsible way to do their work. More and Miller (2011:316) support this definition and agree that mentoring is an essential leadership skill for managers for the motivation of police officials. Smit, Cronje, Brevis and Vrba (2013:348) explain that mentoring aims to enhance an individual's capabilities and standing in the organisation. SAPS managers should develop the skills and knowledge of every police official through a systematic and well-structured mentoring and coaching programme. This should be in the form of informal training provided to subordinates to develop skills, knowledge and confidence in addressing challenges within the SAPS. Every police official has to ensure that the strategies and objectives of the SAPS are to be achieved. The development of police officials will be a venture which will improve the morale and productivity. Therefore, to improve learning in the SAPS, mentoring and coaching should be vigorously promoted and formulated as part of every police official's contract.

Inspection and auditing which should be done by the supervisors should form the backbone of corruption prevention as the work performed by the police service must be regularly and properly inspected and audited, not only where large amounts of money and state resources are used. Those who are in supervisory positions must be given ample time to do these inspections. Police officials who work on patrol duties and investigation of dockets must be inspected, unannounced. The dockets need to be inspected thoroughly with key questions to the victims to analyse the findings in court and whether the victim was aware of the outcome. Patrol officials have to be supervised to determine whether they are patrolling in the area they are deployed to work in, and vehicles must be checked to determine whether those transported are detained for valid reasons. The successes of these officials must be scrutinised to determine whether there are any irregularities, while the nature of the cases of those who are detained should be scrutinised. Police officials must wear their name badges on their chests at all times so that their identities can be recorded by victims of corruption. In keeping with the latest and modern technology, police officials should wear body cameras which can record events during patrol duties.

Porter and Prenzler (2012:131) explain that the targeted approach of monitoring and audits has a deterrent effect through the organisation when people are aware that their work is subjected to audit and review. Vazquez, Granado and Boex (2007:153) state that internal and external procurement quality controls and independent auditing should be performed frequently to administer the transparency of the system utilised. In order to keep corruption out of the police procurement process, higher ranked officials should be kept out of procurement decisions. The high-ranking officials should form a committee to make a decision on awarding a contract, and it should not be an individual's decision.

The key factor to seek a corrupt-free procurement process should be merit-based recruitment and training programmes and there should be job rotation within the same environment.

Lifestyle audits are valuable tools to determine whether SAPS officials live within their means. There are few members among the vast majority of SAPS officials who are dishonest, corrupted and who connive with criminals to enrich themselves. Even if salaries are increased across all levels, some police officials will still be corruptible. The SAPS should continuously monitor the financial activities and lifestyles of police officials with a view to uncover the sudden wealth gained by some of their employees. Porter and Prenzler (2012:120) mention that in the Queensland Police Service a commission was formed in 2002 to handle and deal with a wide range of misconduct, part of which was to improve integrity. In order to achieve a high standard of integrity, the commission focused on investigations, monitoring, capacity building, prevention, conducting research, intelligence gathering and protecting witnesses.

The use of covert tactics, especially surveillance, has been viewed as effective and provides great intelligence to help in courts as was the case in the United States used by the Knapp Inquiry (Armstrong, 1972:43), and in Australia by the New South Wales Wood Commission (Porter & Prenzler, 2012:120). These covert strategies and the display of selected results in the media were considered to make police officials afraid of committing corruption (Porter & Prenzler, 2012:120), but it must also include garnering public support. The SAPS should have a high level, ethically strong section that continuously monitors police officials' lifestyles. This should be a properly legalised section, established separately and independently from the SAPS, performing duties under the Minister of Police. This section should perform lifestyle audits on each and every police official, monitor their bank accounts, do polygraph tests and continuously verify the security clearance of every police official. This section should also be involved in awareness programmes, dealing with police officials' knowledge regarding anti-corruption mechanisms and steps to be taken. This section has to be independent, since communities and police officials have to trust and have confidence in this section. These police officials have to volunteer to be witnesses in corruption cases of their own police colleagues.

■ Reactive mechanism supervision and disciplinary measures

The reactive mechanism is supervision and disciplinary measures. The management has to supervise their subordinates and continuously keep in contact with them regarding their productivity to prevent corruption. Disciplinary measures should be stringently enforced against those police officials who commit corruption.

The disciplinary trials need to be speedily finalised, especially when allegations of corruption surface. These matters have to be properly investigated and placed before the disciplinary tribunal with all the relevant evidence in an unbiased manner. Those investigating and prosecuting these cases should be trained in all

aspects of the disciplinary processes and the law. Even the persons presiding over such cases have to be trained in the procedures in chairing a tribunal in a fair manner, free of any favouritism. After the completion of the tribunal and when a guilty verdict has been determined, the sentence should entail a dismissal from the SAPS together with a back payment of the cost of training and all losses incurred by the client. These steps should be incorporated in the regulations which in turn need to be fair and effective. The SAPS Discipline Regulations 9(2) provides for departmental cases where police officials are accused of corruption to be heard expeditiously (South Africa, 2017). The researchers More and Miller (2011:331) view negative discipline as the use of punishment, rather than rewards and that these be used by senior officials when all positive methods have failed to change a police official's attitude to comply with the specific, expected performance standards. These two researchers further suggest that a good disciplinary system should portray the following characteristics: Proper assignment of personnel to jobs within the organisation, based on their interest, skills, utility and specialised training. Necessary and reasonable job-related policies, procedures, rules and regulations formulated to govern behaviour in the workplace, meet employee needs and accomplish the department's mission, goals and specified objectives.

A formal appeals procedure designed to ensure fairness of all disciplinary actions and to serve as checks and balances on the imposition of punitive sanctions. The police official has to be given an opportunity to appeal against the sanction which has to be verified by an independent structure to ensure fairness in the disciplinary procedures.

Before enlistment and after training, police officials should be vetted, receive security clearance, while their bank accounts and their friends be monitored; and undue wealth must be investigated continuously on a three-year basis. Priority should be given to an anti-corruption unit, solely investigating police officials involved in criminal activities. These state investigators should work independently from the police, with their own resources and the power to monitor police officials' bank accounts and movement of money to other accounts. These officials should have no links with the SAPS and must be professional and legally correct in their decisions and actions during investigations. In line with this unit, a specific field should be created on the Crime Administration System (CAS) for corruption cases that are registered against police officials. This will assist in proper monitoring corruption within the SAPS by this unit and police management.

■ Awareness and education

Throughout this study, mention has been made that there are always at least two parties involved in police corruption, namely a police official and a community member. To prevent corruption, a thorough awareness campaign should be launched with communities and the police.

Communities are aware that when they bribe the police and vice versa, the police are knowledgeable about the corruption

committed by them. The police strategy should include continuous and vigorous awareness campaigns in the community, sensitising them that it is illegal to pay a bribe and that it constitutes corruption. They must be sensitised to refrain from giving money, gifts and gratuities to police officials for crimes committed by themselves and for favours, for instance in obtaining a firearm licence and for being awarded a tender by the SAPS.

The awareness programmes can be done through the electronic and print media. Newsletters containing guidelines and telephone numbers can be given to communities at shopping centres, at informal settlements and to commuters passing through taxi ranks. Community police forums can also hold workshops free of charge, encouraging the public to report corrupt police officials and to report corruption if they have witnessed such an act. On various platforms, such as community radio stations, community police forums should create awareness around the negative aspects of corruption and encourage communities to report the corruption. Communities at sector crime forum and neighbourhood watches levels should be educated regarding the duties and responsibilities of the police, possible levels of misconduct and which acts can be regarded as criminal offences.

The police should provide an improved systematic operational hotline. The success of the hotline must be marketed vigorously and speedily and the public must gain trust in reporting corrupt police officials. Those receiving the complaint must act swiftly on the information and there must be a team of investigators to investigate these complaints and reports. The police's basic training programmes should involve compulsory subjects dealing with an understanding of the Code of Conduct and the anti-corruption strategy. These two important proactive measures should include cases studies where senior and junior officials have been arrested for corruption, as well as measures how to arrest community members who try to bribe the police. It is important to keep abreast of the changes in society and artificial intelligence by constantly reviewing the anti-corruption strategies. Similarly, small incremental changes can be made to the anti-corruption strategies of the police which must be rigorously implemented, as alluded by Hough (2013:122).

CONCLUSION

Any effort to prevent and eradicate corruption in the SAPS needs to be done by tackling it in a 360-degree way while involving the communities. Current preventive measures focus on the SAPS alone, yet the broader context in which they conduct their work, must also be cleansed of intentions and opportunities for corruption. During the course of the research, mention was made that corruption occurs across the broad spectrum of society and that it happens in the private sector, communities and within the police. Implementing the model is a suggestion and if the SAPS get individuals that have integrity and are aware of the harmful effects of corruption during the recruitment process, the toxic disease of corruption in the police will be grounded to a halt.

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ARTICLE

THE DEVELOPMENT OF AN INDEPENDENT ANTI-CORRUPTION AGENCY TO COMBAT CORRUPTION IN SOUTH AFRICA

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Einstein once said: "The world will not be destroyed by those who do evil, but by those who watch them without doing anything."

ABSTRACT

Corruption is a problem which many countries experience. After the alleged State capture in South Africa became public knowledge, it was a shock to discover how broken down the crime-fighting agencies really were. Taking the already existing agencies in South Africa into account, the author's aim is to propose a new, independent anti-corruption agency that can assist in the fight against corruption within an appropriate existing agency.

It was found that South Africa is indeed in need of an independent crime-fighting agency and by adopting certain ideas from the United States of America, it will be possible to build such an independent anti-corruption agency. It was also determined that such an agency should be established within the National Prosecution Authority due to its prosecutorial powers in terms of the Constitution of South Africa, 1996.

KEYWORDS/PHRASES

Corruption; independent anti-corruption agency; US Department of Justice; US Securities and Exchange Commission; National Prosecuting Authority; Financial Intelligence Centre.

INTRODUCTION

"Money and corruption are ruining the land, crooked politicians betray the working man, pocketing the profits and treating us like sheep, and we are tired of hearing promises we know they will not keep" (Davies, Nd).

Emanating from the arms deal in 1999, former President Jacob Zuma is facing corruption charges stemming from 783 questionable payments (Thamm, 2017c; Masego, 2018). He allegedly accepted various payments from the French arms company Thales in exchange for political protection related to the arms deal (Thamm, 2017c; Hofstatter, Afrika, Rampedi & Jurgens, 2014). The Seriti Commission (Commission of Inquiry) that was appointed by former President Zuma to investigate allegations of fraud,

corruption, impropriety or irregularity in the arms deal, allegedly ignored evidence contained in affidavits. It was furthermore alleged that on receipt of evidence, the Commission applied suspicious procedures (Mbeki, 2015; Quinthal, 2016; Thamm, 2017b). In 2015, Judge Seriti found that there had been no evidence of corruption or wrongdoing during the procurement of the arms deal in 1999 (Mbeki, 2015; Editorial, 2016; Quinthal, 2016; Thamm, 2017b).

Pityana (2017) and Gumede (2019) report about State capture where former President Zuma was allegedly receiving instructions from the Gupta family on who to appoint as ministers or in prominent positions. Newham (2015) reports about the unstable leadership in the South African Police Service (SAPS) and the National Prosecuting Authority (NPA). He wrote that "holding the president liable may, however, be justified when it comes to the unparalleled leadership crises ..." Nathi Nhleko, the Minister of Police at the time, appointed Maj-Gen. Berning Ntlemeza as Head of the Directorate of Priority Crime Investigation (DPCI) (also referred to as the Hawks), despite the North Gauteng High Court finding Ntlemeza "to be dishonest, lacking integrity and honour for lying under oath" (Newham, 2015). This crisis in leadership in the SAPS and the NPA not only undermined these institutions' ability to combat corruption, but is also undermined public trust in these institutions.

The question arose why former President Zuma repeatedly appointed unethical and incompetent individuals to lead the criminal justice system.

Perhaps Zuma has to protect many of his benefactors who are involved in crime and corruption? Or perhaps he believes a compromised justice system will assist him in the future if he ever has to answer to the 783 criminal charges for fraud and corruption (Newham, 2015; Corruption Watch, 2015).

From the information uncovered by Pauw (2017a), it seems that the above-mentioned reasons are true, in addition to personal financial gain.

In 2016, Adv Thuli Madonsela, the Public Protector at the time, released a report documenting the evidence uncovered during her office's investigation into the State capture allegations. Several key allegations were made against the Gupta family and former President Zuma, ranging from the appointment of ministers in certain positions without proper procedure to corruption, and undue enrichment (Madonsela, 2016).

According to Pauw (2017a), the country's tax system, law enforcement and the NPA were compromised by the Gupta brothers and former President Zuma. Key personnel were fired by former President Zuma or those who reported to him directly, when they refused to stop their investigations into him and his benefactors. Examples of such include the Minister of Public Enterprises, Mr Pravin Gordhan testifying at the Zondo Commission of Inquiry into State Capture that former President Zuma's firing of former Minister of Finance, Mr Nhlanhla Nene for stopping alleged corrupt deals, cost the economy more than R500 billion resulting in a loss of 148 000 jobs (Gumede, 2019). The magnitude of the corruption is yet to be determined.

Tamukamoyo (2015) states that "South Africa cannot afford to have unstable anti-corruption institutions". South Africa's state institutions are critical to keep the country safe and to protect its democracy. As is clear from the alleged corrupt relationship between former President Zuma and the Gupta brothers, political interference, corruption and manipulation are a significant problem for South Africa's state institutions.

"Political decisions to terminate anti-corruption agencies are often justified in terms of efficacy (or the lack thereof), but without an assessment of concrete performance indicators" (De Sousa, 2009:20).

Inadequate institutional capacity at a local and central level can prevent an effective response to corruption (Mashaba, 2005). The Directorate of Special Operations (or the Scorpions as the Directorate was commonly referred to) was replaced by the Directorate of Priority Crime Investigations (DPCI), commonly referred to as the Hawks, which was incorporated under the South African Police Service (SAPS) even though the Constitutional Court in *Glenister V President of the Republic of South Africa & Others* (CCT 48/10) prohibited this move. All other commissions, task forces and ministerial committees failed to play a significant role in combating corruption (Langendorf, 2015:85; McLaughlin, Nd). McLaughlin (Nd) writes that the failing independence of the National Prosecuting Authority (NPA) "undermines the Constitution and threatens the rule of law in South Africa". The wider effects of this tendency by the ruling African National Congress (ANC) indicate that other areas of the Constitution can also be interfered with and by attacking the NPA, they are attacking the Constitution.

South Africa's numerous credible corruption-fighting institutions are undermined to fit political interests (Mathekga, 2017:224; Pauw, 2017). "Weak leadership in institutions such as the NPA undermines the broader criminal justice system in the country" (Mathekga, 2017:221). The frail management of the NPA can be a result of "the concentration of powers given to the president to appoint and remove an official" (Mathekga, 2017:259). Mashaba (2005) echoes this sentiment and notes that political instability and conflict can hinder the development of effective responses to corruption. There has long been a request for an independent body to combat corruption (Tamukamoyo, 2015; De Sousa 2009:10-11; Southern African Development Community, 2001). Corruption in South Africa is linked to politics in two ways, namely to accomplish political interference, and to impact the success and legitimacy of state institutions as well as institutions of democracy (Mathekga, 2017:223; Corruption Watch, 2017). Attacks are launched on state institutions tasked with investigating political elites as soon as they face accusations of corruption (De Sousa, 2009:20; Mathekga, 2017:224 and Pauw, 2017), which challenges these investigations into corruption (Corruption Watch, 2017). This was clearly illustrated when the ANC decided to disband the Scorpions after investigations into former President Zuma started.

South Africa received a score of 44 out of 100 on the Corruption Perceptions Index (CPI) (2019) which means that it is considered a corrupt country. This Index portrays that lower-ranked countries "are plagued by untrustworthy and badly functioning public institutions like the police and judiciary", thus anti-corruption laws are in place, but in practice, they are not enforced as they should be (Transparency International, 2017; Mantzaris, 2017).

The general objective of this study was to propose an independent anti-corruption agency (IACA) to combat corruption in

South Africa. Not only was the establishment of an IACA suggested, but the author approached fighting corruption from a different point of view. As can be noted in the paragraphs above, South Africa's credible corruption-fighting institutions have been undermined to fit political interests by weakening the leadership of such institutions. A suggestion on how to avoid political interference, has also been made. The literature review will illustrate the importance of this study.

LITERATURE REVIEW

Clarke (1980:137) is of the opinion that due to a lack of sufficient attention to the phenomenological differences between different crimes, preventative measures have been insufficiently tailored to different kinds of offences. The question of "... at what point in the infinitely regressive chain should one stop in the search for effective points of intervention," made the author consider a different approach to combating corruption.

In contrast to utilising an offender-based approach, the author followed the offence-based approach, specifically the Situational Crime Prevention Theory (SCPT). "Situational crime prevention is a criminological perspective that calls for expanding the crime-reduction role well beyond the justice system" (Freilich & Newman, 2017:1).

SCPT's major concepts include rationality (readiness), specificity and opportunity. Rationality (readiness) refers to consciously making a decision (Freilich & Newman, 2017). Specificity refers to SCPT being crime-specific (Cornish & Clarke, 1985; Freilich & Newman, 2017), whereas opportunity refers to the opportunity structure of crimes (Clarke, 1997; Freilich & Newman, 2017:3-5).

The SCPT is essentially concerned with the practical question of how offenders successfully commit their crimes. "Understanding how the offender carries out the crime is used to craft interventions that remove crime opportunities and thereby prevent offending". SCPT mainly seeks to solve and decrease crime difficulties in an action setting (Freilich & Newman, 2017). Hence establishing an IACA can be a practical solution to decrease crime (corruption) problems.

Establishing an IACA where its leadership is selected on an impartial basis, while it receives adequate resources and space to fulfil its mandate (Tamukamoyo, 2015), was the author's approach to tackle the corruption problem from a different angle (to be discussed later). The IACA is based on a proposal made by the OECD (1996); the Southern African Development Community's Protocol against Corruption (2001); and the African Union Convention on Preventing and Combating Corruption during 2003 (De Sousa, 2009:10).

Burger (2015:12,15) reports on the Constitutional Court's 2011 verdict dealing with the inadequate independence of the Hawks by stating that "... [the] establishment [of] independent anti-corruption bodies ... by governments, signalling that corruption will not be tolerated and that significant steps will be taken to eradicate it'..." (Office of the Public Service Commission, 2001; Hugh Glenister V President of the Republic of South Africa & Others (CTT 48/10)). There has long been a request for an independent body to

combat corruption (Tamukamoyo, 2015; De Sousa 2009; Southern African Development Community, 2001).

Langendorf (2015:84-88) provides five reasons why South Africa is struggling to combat corruption effectively. The reasons are:

1. Anti-corruption laws are not applied;
2. anti-corruption agencies are not independent;
3. the administration of public entities and funds is not effective;
4. international cooperation is not utilised; and
5. access to information is good, but not sufficient.

The United Nations Office on Drugs and Crime (UNODC) (2016) reiterates that "the Government of South Africa faces a growing demand from all sectors of society to strengthen national anti-corruption efforts. Public trust in government is becoming increasingly dependent on its ability to hold the public officials accountable".

Prior to their disbandment in January 2009, the Scorpions consisted of investigators, prosecutors and analysts who, among others, collected intelligence information (Montesh, 2007). The Scorpions were mandated by section 7(3) of the National Prosecuting Authority Act 32 of 2008 to conduct intelligence operations, but they were in violation of section 199 of the Constitution of South Africa, 1996, the National Strategic Intelligence Act 39 of 1994 and the Intelligence Oversight Act 40 of 1994 (Anon, 2008; Hoffman, 2016; Montesh & Berning, 2012). Section 199 of the Constitution of South Africa, 1996 specifies security services as "a single defence force, a single police service and any intelligence services established in terms of the Constitution".

The Khampepe Commission (2006) was appointed to review the mandate, location, accountability, effectiveness, efficiency and oversight with regard to the intelligence operations of the Scorpions while reporting on and making recommendations. This Commission made the following findings about the Scorpions:

- Their structure was not unconstitutional;
- they do not have a legal basis to gather intelligence;
- due to the above reason, the Inspector-General for Intelligence and the National Security Council had no oversight authority over the Scorpions; and
- the Scorpions were located in the appropriate agency (Khampepe Commission, 2006).

It was concluded that the Scorpions were placed within the NPA for four reasons, namely:

- The SAPS was unable to deal with high-level crime;
- the SAPS was perceived to be illegitimate in light of its apartheid era past;
- there was a need to recruit top-level persons to the anti-corruption unit; and
- there was a threat of corruption within the SAPS itself (Langendorf, 2015).

Although the Khampepe Commission favoured retaining the Scorpions as part of the NPA, the ANC resolved during its 2017 Conference that the Scorpions be disbanded (ANC, 2007; Langendorf, 2015).

The disbanding of the Scorpions resulted in the birth of the Hawks within the SAPS's structures. Ironically, during 2011, the

Constitutional Court ruled that the national legislation that created the Hawks was inconsistent with the Constitution and that the Hawks were invalid due to this Directorate's lack of independence (Burger, 2015). Two vital findings were made by the Constitutional Court namely that:

- It imposed an obligation on the State to create and maintain an independent body "to combat corruption and organised crime"; and
- the Hawks do not meet "the constitutional requirement of adequate independence", in other words, the Hawks were not adequately protected from political interference (Montesh & Berning, 2012).

In *Glenister V the President of the Republic of South Africa and Others* (2011), the possibility of political interference in the SAPS was identified. The Constitutional Court further elaborated on the independence of the Hawks in that its grave disquiet stemming from the fact that the policy guidelines for the Hawks and the selection of national priority offences would be determined by ministers designated by the President (Langendorf, 2015).

International organisations such as the Organisation for Economic Cooperation and Development (OECD) (1996) (as cited by De Sousa, 2009) suggested the creation of anti-corruption agencies as part of their "ethics infrastructure" to combat corruption, which was supported by the Southern African Development Community (2001).

No standardised model for the development of an anti-corruption agency exists although many have been designed from special units in the police or prosecution offices. Few have been established from the outset with its own statutory act (De Sousa, 2009:12).

De Sousa (2009:12) argues that an anti-corruption agency has eight established requisites, namely:

- Distinctiveness: agents have distinctive skills to function in this domain;
- durability: it cannot have a sporadic existence;
- powers to centralise information: the power to collect, store, process and distribute information from a central point;
- articulation: dictating initiatives commenced by other control actors;
- knowledge production and transfer: the role research plays and participation in international forums and networks;
- rule of law: accountability towards a higher authority;
- existence: it must be known and accessible to the public; and
- preventative and/or repressive dimensions: the ability to develop controls with regard to preventative and/or repressive dimensions.

It requires "strategic and comprehensive arrangements and implementable initiatives that are multi-dimensional" to combat corruption (Mantzaris, 2017). In 2015, South Africa developed a national anti-corruption strategy aimed at reducing corruption through various initiatives. Nine proposed pillars were given, however, to limit the scope, the focus will be on anti-corruption tools and improving consequence management for noncompliance (Corruption Watch, 2017b) because South Africa wants to:

"develop an anti-corruption compliance culture in private companies and state-owned entities through the development of a new offence, i.e. failure by a commercial organisation to prevent bribery and possibly other forms of corruption, which requires companies to proactively put measures in place to manage the risk of corruption and to ensure that they have a defence against the offence of failure to prevent bribery and other forms of corruption" (South African Government; Nd).

Meagher (2002:1) recommends the basic functions of an anti-corruption agency as follows:

- To receive and respond to complaints;
- intelligence, monitoring and investigation;
- prosecutions and administrative orders;
- preventive research, analysis and technical assistance;
- ethics policy guidance, compliance review, and scrutiny of asset declarations; and
- public information, education and outreach.

General features and principles include independence; inter-institutional cooperation and networking; recruitment and specialisation; wide competences and special powers; the role of research; and durability with independence being crucial. Inside the context of investigations into corruption, independence refers to the capacity to carry out missions without political interference (De Sousa, 2009:13-17).

The types of political interferences that will minimise the effectiveness of an anti-corruption agency include reducing the agency's mandate and powers; limiting the agency's financing; the threat of termination of the agency; and dismissing its most senior officials (De Sousa, 2009:13).

Recruitment and specialisation relate to the fact that specialised knowledge of corruption is vital to the character and performance because of the increasing complexity of the crime. Therefore, it is important to develop an integrated, multi-disciplinary and informed strategy. Unfortunately, the inadequacy of recruitment and training procedures is one of the main reasons why specialisation does not exist (De Sousa, 2009:15).

Currently, the NPA is the only agency in South Africa with the power to prosecute. The NPA's independence has been tainted in the past and the fact that the National Director of Public Prosecution (NDPP) reports to the Minister of Justice and Correctional Services who reports to the President, can be problematic due to the potential of political interference.

The literature review not only illustrates the problem South Africa is facing, but it also documents the basic functions and requisites of an IACA.

DISCUSSION

The IACA should be retained as part of the NPA because as noted, it is the only prosecuting authority according to section 179 of the Constitution of South Africa, 1996. Based on a report by Transparency International (2017), the author proposes that the IACA should report to whichever one of the following structures that will pose a minimum threat of political interference:

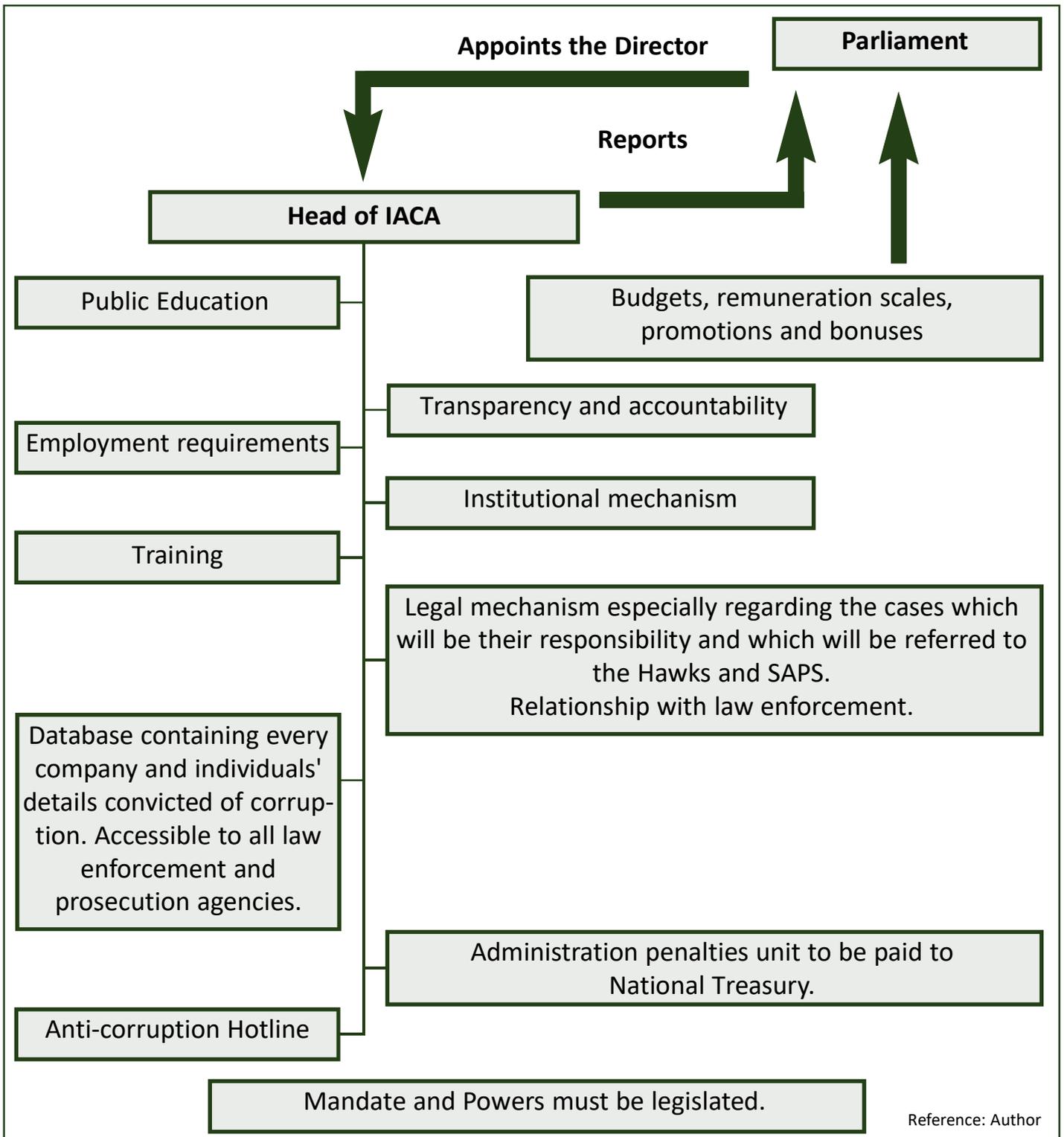
- A committee specifically set up to oversee and evaluate its performance; or
- Parliament (a parliamentary committee consisting of equal members of the political parties holding seats in Parliament); or
- the Constitutional Court.

However, to limit the extent of the scope, the option of reporting directly to a parliamentary committee will be analysed. The reason is to eliminate undue pressure which can still be exercised on a committee's members (set up to oversee and evaluate); and reporting to the Chief Justice of South Africa will increase the already heavy burden of this position (Hoexter & Olivier, 2014).

In the wake of the NPA's tainted past, the first proposed step will be to amend the National Prosecuting Authority Act 32 of 2008 to change the reporting structure from ministerial level to a parliamentary committee strong enough to prevent political intrusion (Meagher, 2002:2). The amendment should also contain the new agency's powers, mandate, the scope of investigations and prosecutions.

Figure 1 is based on Transparency International (2017) and the research conducted by Meagher (2002:1-3) shows the preliminary matters to be addressed to establish an IACA as identified by the author.

Figure 1: Preliminary matters identified to be addressed within the agency



The head of the IACA

The individual who heads such an agency must be appointed and removed by a parliamentary committee as discussed in previous paragraphs. This parliamentary committee should consist of at least two individuals from each representative political party (parties holding seats in Parliament), who are qualified to do so. The individual must have an extensive legal background as well as the requisite experience to lead such an agency (Meagher, 2002:2).

Removing the power to appoint the head/director of the IACA or the NDPP from the President may strengthen the leadership in the NPA, prevent political intrusion and restore society's trust in government.

Public education

Meagher (2002:1) mentions education and public awareness as

some of the key functions of an anti-corruption agency. Matheka (2017:260) states that more public awareness is needed regarding the effect of corruption on society as to make citizens more aware of the impact of corruption on their daily lives. The aim of such "civilian education" will be to initiate the demand for anti-corruption initiatives among communities.

Employment requirements

The success of such an agency lies in the competence (and integrity) of its employees (Meagher, 2002:2). Distinctive skills are some of the requisites that will separate an anti-corruption agency from other agencies (De Sousa, 2009:15-16). In order to determine the basic employment requirements of the IACA, a review (Table 1) of the requirements of the United States of America (USA), United Kingdom (UK) and Australia's agencies has been done.

Table 1: Employment requirements

	Degree: sufficiently accredited college or university	Senior certificate	Other
FBI (USA) (FBIAgentedu.org)	Four-year degree		
CIA (USA) (CIAAgentEDU.org)	Bachelor's degree with an average of 85%		
NSA (USA) (www.intelligencecareers.gov)			Depends on the vacancy to be filled
MI5 (UK) (www.mi5.gov.uk)	X		
MI6 (UK) (www.sis.gov.uk)	X		
NCA (UK) (National Crime Agency, Nd)			Depends on the vacancy to be filled
AFP (www.afp.gov.au)	X		
ASIS (www.asis.gov.au)	X		
ASIO (careers with the ASIO)	X		
Hawks (SA) (www.saps.gov.za)		X	
SAPS (SA) (www.saps.gov.za)		X	

Reference: Author

Based on Table 1, the qualifications should depend on the position within the IACA, with at least a senior certificate (or equivalent qualification) with emphasis on a degree (in the relevant fields of study) from an accredited institution for higher education.

Transparency and accountability

The lack of transparency and accountability within South Africa's government is problematic for its democracy because all that will be achieved from having a government without transparency is the loss of public trust (Thlapane, 2014).

Legal mechanism

The legal mechanism referred to in Figure 1 must be developed and implemented in order for the head or director of the agency to be guided as to which cases to investigate and which to refer to the Hawks and the SAPS. The IACA should not have the freedom to

selective prosecutions, therefore very clear guidelines have to be established regarding the types of cases that have to be investigated.

The author makes the following suggestion:

Cases where the monetary value of corruption is less than R5 000 000, and no politically exposed person or political party or state-owned entity is involved, can be handled by the Hawks and the SAPS. The remainder of the cases, including companies who self-report after the discovery of corruption (to be discussed later), should be handled by the IACA. In this way political intrusion, as well as the caseloads of the Hawks and SAPS, may be minimised.

Mandate and powers: amendments to legislation

According to Montesh and Berning (2012:135), the mandate of an IACA must include the following key functions, namely investigation, prosecution, education and awareness creation, prevention and coordination.

The mandate of this agency should be clear leaving no space for misinterpretations. It must be constitutional to ensure that the agency does not operate outside of its powers. This might entail amendments to the National Prosecuting Authority Act 32 of 1998 and other legislation to include the powers of the agency.

The preliminary matters have been set out in Figure 1 and discussed in the paragraphs above. The proposed structure (an institutional mechanism) is set out in Figure 2 and will be discussed in the paragraphs to follow.

The Independent Anti-Corruption Agency (IACA): Proposed structure

The following departments were identified to form part of the IACA, based on the research conducted by Meagher (2002:1-3):

- Human resources and finance;
- training;
- public education and a hotline for reporting corruption;
- investigations: covert and overt;
- administration fines and penalties;
- tax unit dedicated to SARS;
- centralised database; and
- research unit.

Only relevant departments, not yet explained, will be discussed in the following paragraphs. Figure 2 (see p. 61) illustrates the proposed structure on the distribution of the various units envisioned.

Human resource and finance

Another hindrance in developing an effective response to corruption is setting aside a sufficient budget in light of competing national needs (Mashaba, 2005). The financing of the agency will initially be the taxpayers' responsibility. As administrative penalties (to be discussed later) are paid, this burden can be removed or reduced. Currently, the suggestion is that the administrative penalties enforced by the IACA should be paid directly to the National Treasury to eliminate independency issues.

Training

Training provided to law enforcement is inadequate, and this will prevent the development of an effective response to corruption (Mashaba, 2005). Meagher (2002:2) reiterates that "agencies in this field [anti-corruption] depend on well-trained personnel - including sufficient numbers with highly specialised skills".

A continuous professional development programme should also be implemented for all employees. Training can be provided by universities or other international law enforcement agencies to ensure that the employees remain up-to-date and have the necessary knowledge to accomplish the mission of the agency.

Tax unit dedicated to the South African Revenue Services (SARS)

In February 2007, SARS established an internal unit with the objective to penetrate and intercept the activities of tax and customs-related crime syndicates, which later became known as the High-risk Investigations Unit. Similar to the enforcement capabilities required in any tax and customs administration globally, this unit also formed part of the broader enforcement division of SARS (Van Loggerenberg, 2016:40-53; Minister of Finance responds to the Hawks, 2016).

Over time, units such as the one mentioned above were disbanded by Tom Moyane, the Commissioner of SARS at the time (an appointee of former President Zuma), who noted that "from now (2016) on investigations will be done by Internal Auditing in SARS ..." The critique against this decision included the lack of capacity of the Internal Audit section as well as these members not travelling and working nationally. A point crucial to the development of an IACA is that the Internal Audit section does not consider the activities of a syndicate. Since taxpayers are viewed as individuals, it means that this SARS section audits an individual without considering the legal entities linked to that individual (Marrian, 2015; Thamm, 2016).

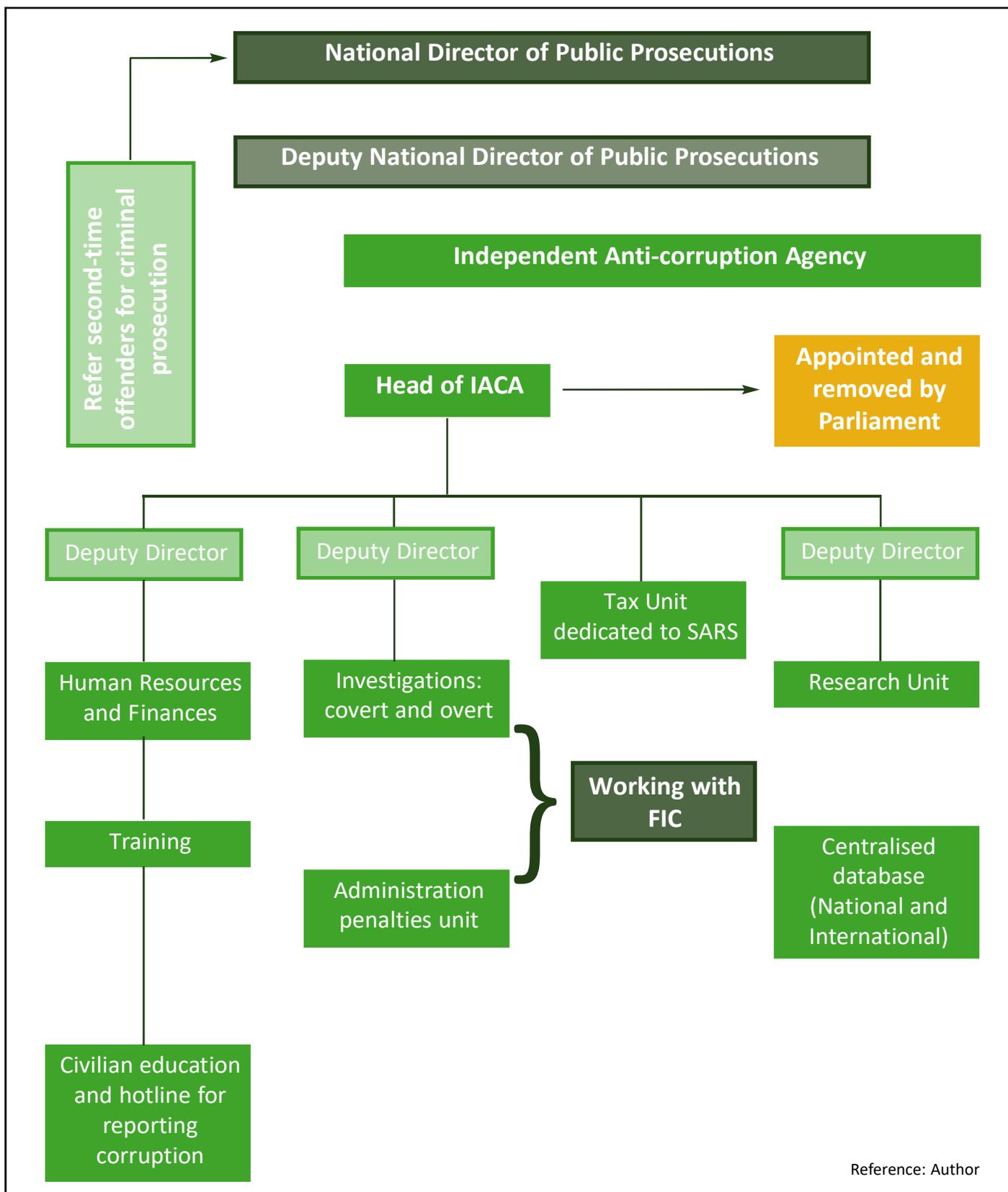
Haysom (2016) summarised the situation as follows:

"The NPA is severely compromised, and crime intelligence and the Hawks are consumed with factional battles - battles that are directly linked to criminal interests. With SARS's capacity decimated, there now exists no part of the State with the independence or skill to pursue serious organised and commercial crime cases. The bill for that damage can only grow ..." (Van Loggerenberg, 2016).

The Tax and Customs Enforcement Division assisted the NPA to develop a "dedicated capacity" for SARS cases, therefore, creating the Specialised Tax Units within the NPA. However, these units were disbanded in 2013 (Thamm, 2016; Thamm, 2017a; Haysom, 2016).

After the above-mentioned were taken into consideration, establishing a new Tax Unit within the NPA, dedicated to SARS's cases, is recommended. The motivation is to have a tax unit within the NPA which is based on the proposition that the power of the President (or anyone or political party) to appoint the director of the NPA should be removed.

Figure 2:
Distribution of the various units envisioned (schematic of an extracted concept of the IACA)



Reference: Author

Research unit

South Africa does not have a dedicated organisation for research to assist law enforcement in detecting and preventing serious organised crime. According to Meagher (2002), a successful anti-corruption agency will have "strong research and prevention capabilities ..." The FBI has a Counterterrorism and Forensic

Research Unit that provides technical leadership and advancements of forensic sciences to the FBI through applied research and development. This information is also available from federal, state, local and international agencies (FBI, Nd). The research unit suggested for South Africa will be responsible for conducting preventative research, analysis and technical support.

The Administration Penalties Unit: fighting corruption from a different angle

Background: The Department of Justice (DoJ) and the Securities and Exchange Commission (SEC)

The working relationship between the United States's DoJ and the SEC, which share enforcement authority for the Foreign Corrupt Practices Act's (FCPA) (1977) anti-bribery and accounting provisions, is a model for South Africa to consider for implementation. The success rates are illustrated in Figures 3, 4 and 5. The DOJ's Fraud Section is responsible for the criminal FCPA (1977) enforcement (Department of Justice, 2018a), while the SEC's Division of Enforcement is responsible for the civil FCPA (1977) enforcement (US Securities and Exchange Commission) (FCPA, 2012).

The Fraud Section plays a significant role in the DoJ's fight against sophisticated economic crime and advises the Department's leadership on legislation, crime prevention and public education. Coordinating interagency and multi-district investigations and international enforcement efforts occur frequently. The Fraud Section also assists prosecutors, regulators, law enforcement and the private sector through training and advice. They also participate in domestic, national and international working groups, often in a leadership position. In order to fulfil its mission, the Fraud Section provides direct supervision, training and mentoring to its dedicated professionals (Department of Justice, 2018). Because the Fraud Section has the primary responsibility on all FCPA (1977) matters, these matters are handled primarily by the FCPA Unit (US DoJ & US SEC, 2012).

The SEC supervises key participants such as security exchanges, security brokers, dealers, investment advisors and mutual funds in the securities world. Its mission is to protect investors, to facilitate capital formation and to maintain fair, orderly and efficient

markets. The SEC primarily promotes the disclosure of important market-related information, the maintenance of fair dealing and protection against fraud. Typical violations are insider trading, accounting fraud and providing false or misleading information. The consequence of this type of violation of the securities laws is civil enforcement actions against individuals and companies (US Securities and Exchange Commission, Nd).

These enforcement actions are brought against the accused by the Division of Enforcement. The Division recommends the commencement of investigations into violations of securities laws by recommending civil actions in federal court or as administrative proceedings before an administrative law judge and to prosecute on behalf of the SEC (US Securities and Exchange Commission, Nd).

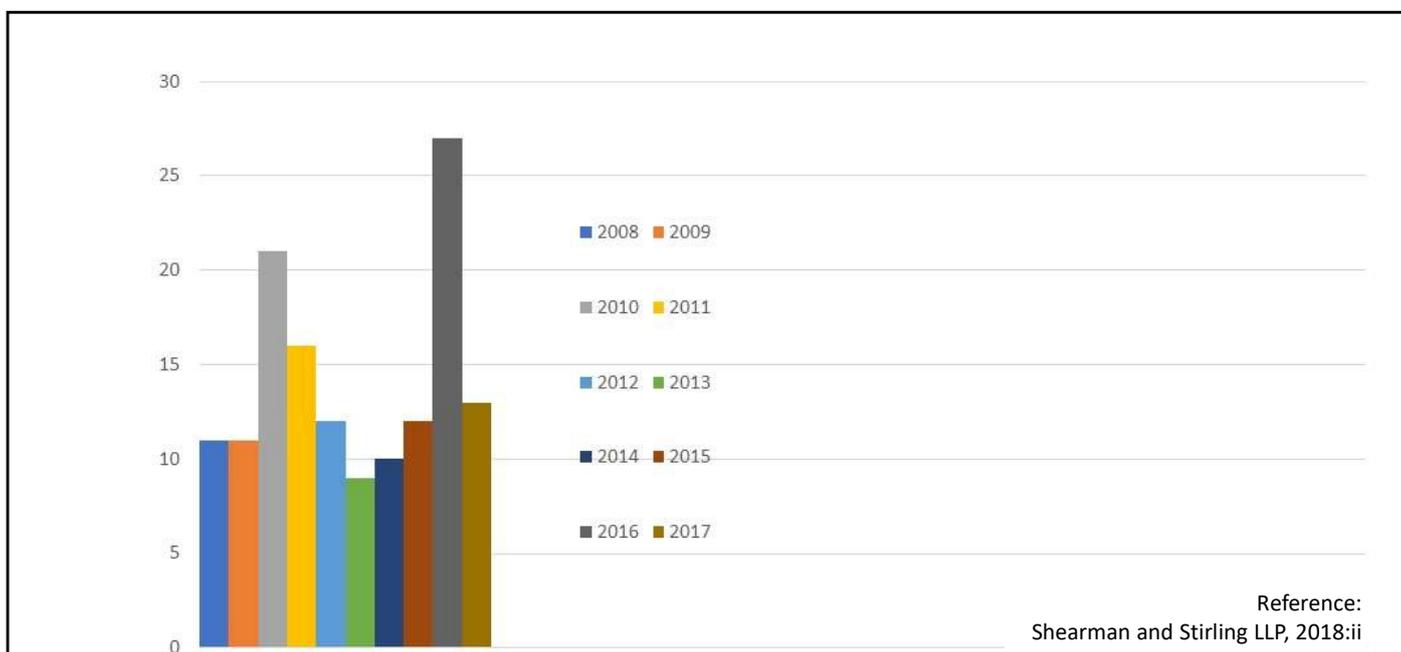
Settlements by companies: DoJ and SEC

During 2004, the DoJ introduced settlements by companies as part of their effort to combat corruption. It entails the payment of fines and penalties by companies that are engaged in corrective actions and whereby the government will not file criminal charges. This settlement introduction "enabled the enforcement agencies to resolve FCPA investigations without the risk and expense associated with proving their allegations at trial" (Mark, 2012; Langendorf, 2015:35-36).

The deferred prosecution agreements and the non-prosecution agreements have almost replaced prosecution (Langendorf, 2015:43). A deferred prosecution agreement is when the government agrees to suspend criminal charges for a specified period if the company makes an admission, pays the fine and takes every step possible to rectify the corruption practices.

Figures 3, 4 and 5 show the increase in settlements in the United States of America until 2017.

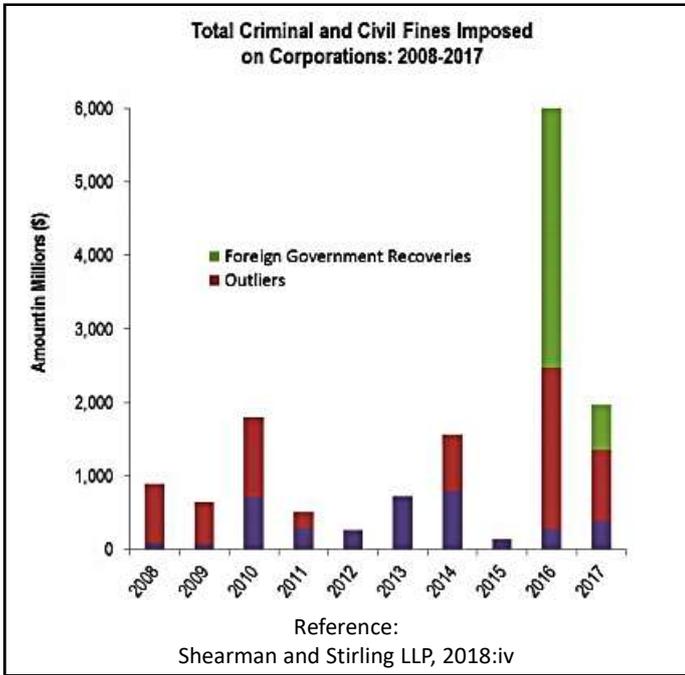
Figure 3:
United States: Total aggregate corporate cases



According to Figure 3 (p. 62), the DoJ and the SEC resolved 13 corporate enforcement actions during 2017. While the SEC relied solely on administrative proceedings, the DoJ used a variety of settlement agreements. The choice of the agreement was basically

connected with the "seriousness of the conduct or the timing and degree of disclosure and cooperation" (Shearman and Stirling LLP, 2018).

Figure 4:
United States: Total fines imposed



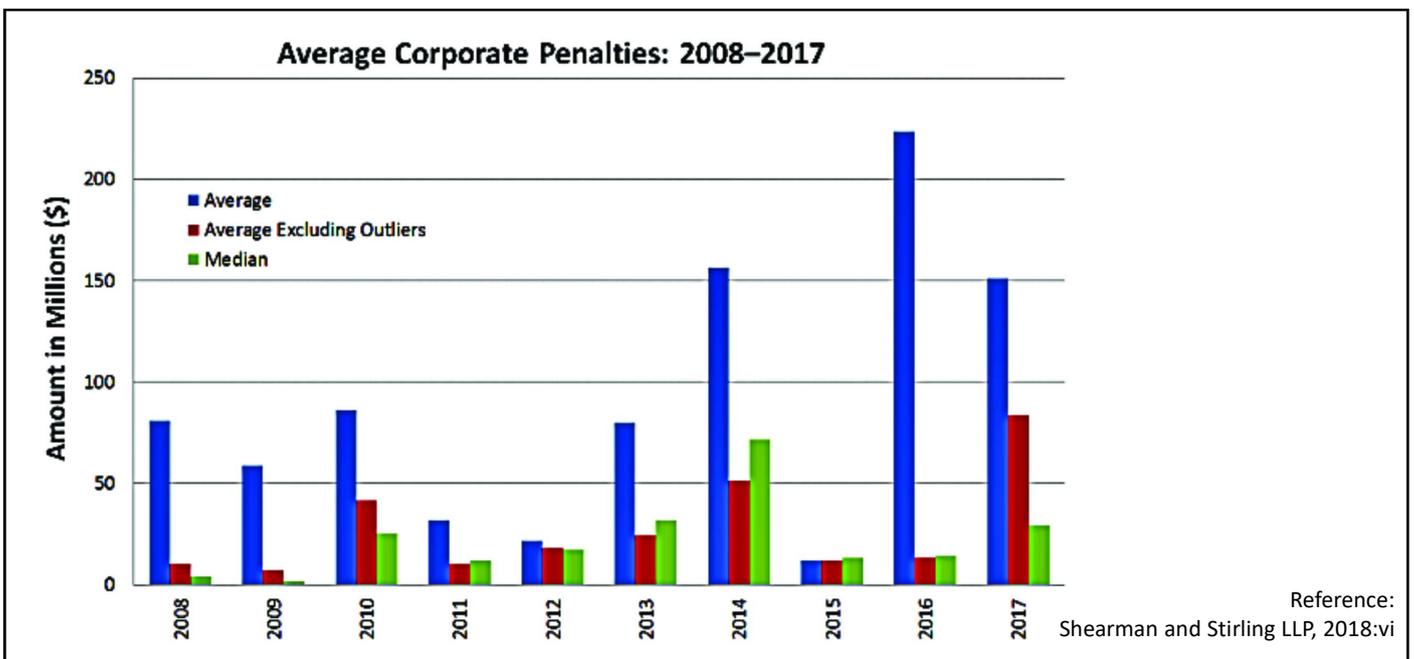
The total criminal and civil fines imposed for the period 2008 to 2017 are depicted in Figure 4.

For 2015, the total criminal and civil fines dropped due to a decision by the SEC to bring several low-value FCPA (1977) enforcement actions. The 2016 and 2017 years showed an increase in the total criminal and civil fines with the highest amount raised in 2016 totalling almost \$6 billion.

During 2017, the FCPA enforcement actions generally alleged the following schemes:

- Third-party intermediaries where companies used local (US citizens) consultants or agents as a conduit for bribes to foreign officials.
- Fake invoices where payments were documented with "invoices for services that were not rendered".
- Charitable contributions where donations made to charities that were associated with government officials (FCPA Digest, 2018).

Figure 5:
United States: Average corporate penalties



The 2016 FCPA enforcement actions "were much more typical of an FCPA enforcement year, with a pure average penalty of \$223.4 million". For the 2017 year, the FCPA corporate enforcement actions netted sanctions that amounted to approximately \$1.95 billion, which proved to have been the second-highest total since the FCPA's enactment in 1977 (Shearman and Stirling, 2018:i).

The OECD discussed settlements as part of combating corruption after Transparency International, Corruption Watch UK and the United Nations Convention against Corruption Coalition and Global Witness urged the OECD to give serious attention to non-government organisations' suggested principles (Corruption Watch - UK, 2016; OECD, 2017). Fourteen principles were developed over a decade in the use of settlements (Corruption Watch - UK, 2016) and can be summarised as follows:

- It should be a tool in a broader enforcement strategy where prosecution also plays an important role;
- the conditions should be to only use it in cases where a company has self-reported and cooperated fully;
- judicial oversight that includes proper scrutiny of the evidence should be required;
- settlements should only be used where a company acknowledges misconduct;
- these settlements should entail the strengthening and monitoring of compliance programmes as well as forcing full disclosure of these misconducts;
- these settlements should require companies to cooperate with all parties involved;
- companies with previous corruption-related misconducts taken against them are excluded; and
- further legal actions should not be precluded in other jurisdictions not a party to the settlement subject to the double jeopardy principle.

It is suggested that the NPA can adopt the DoJ's role based on their authority to prosecute, while the Financial Intelligence Centre (FIC) can adopt the SEC's role based on their responsibility for receiving and analysing financial information, and distributing the findings to the authorities. However, the SEC has a Division of Enforcement handling the civil and administrative proceedings (US Securities and Exchange Commission, Nd), whereas the FIC forwards its findings to the relevant competent authorities (FIC, 2017). As a result, it is suggested that an additional department be established within the FIC's structures similar to the Division of Enforcement.

As discussed earlier, the USA has already introduced such a system in 2004 with the DoJ and the SEC working together. South African could implement the model used by the DoJ and the SEC, but it would necessitate amendments to South African legislation and the infrastructure of the applicable agencies where necessary. Due to the differences in the legal systems of South Africa and the USA, the working relationship between the DoJ and SEC cannot simply be a "copy-paste" action.

Foreign Corrupt Practices Act: DoJ and SEC

The FCPA (1977) has two provisions namely anti-bribery and accounting, which are of importance to this study, as the general public also refer to bribery as a form of corruption, although it no longer constitutes an offence in South Africa.

According to the anti-bribery provision, it is a crime "for US individual business entity or employee of a US business entity to offer or provide directly or through a third party anything of value to a foreign government official with corrupt intent ...". According to the accounting provision, it is illegal for a company that reports to the SEC to have false or inaccurate records or fails to maintain a system of internal accounting control (Clayton, 2011).

Each agency has different jurisdiction over different types of violations and classes of persons and companies. The cooperation between the DoJ and the SEC assists in the negotiation of larger

settlements. According to the FCPA (1977), the DoJ has authority over "issuers (companies), officers, directors, employees and agents or stockholders acting on the issuers' behalf".

The responsibility of the DoJ is the enforcement of criminal and civil prosecutions of the anti-bribery provisions as well as for wilful violations of the accounting provisions. The responsibility of the SEC is to file civil charges for violating the anti-bribery and accounting provisions. The SEC's jurisdiction is more limited than that of the DoJ, and its overall responsibility can be described as ensuring fairness between the publicly-traded companies and its shareholders. Yet, the jurisdictions of the DoJ and the SEC can overlap, and therefore the DoJ handles criminal and civil penalties related to bribery, while the SEC handles civil enforcement of violations of the FCPA's (1977) accounting provisions (Whistleblower Justice Network, Nd).

The DoJ and the SEC can undertake simultaneous criminal and civil or administrative actions in matters involving the same circumstances (Dresser Industries, Inc. V United States 596. F2d 1236). The principle laid down in this court case upheld the lawfulness of parallel proceedings conducted by the SEC and the DoJ (Richardson, 2016).

To elaborate on the administration penalties model, the case of US Securities and Exchange Commission V Siemens Aktiengesellschaft will be discussed.

US Securities and Exchange Commission V Siemens Aktiengesellschaft (Case 1:08-cv-02167)

During 2008, Siemens Aktiengesellschaft (hereafter "Siemens") was fined for violating the FCPA (1977). Siemens' penalties were determined by the violations of the FCPA (1977) (US Securities and Exchange Commission, 2008).

The SEC found Siemens guilty of violating:

- Section 30A of the FCPA (1977): the employees of Siemens "corruptly offered", or promised to pay or authorised bribe payments to persons for either retaining business or obtaining business.
- Section 13(b)(2)(A) of the FCPA (1977): the employees failed to "keep books, records and accounts, which in reasonable detail, accurately and fairly reflected its transactions and dispositions of its assets".
- Section 13(b)(2)(B) of the FCPA (1977): the employees failed to "devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances".

As civil law is about the redress of wrongs, the SEC levied its "redress" or disgorgement to the amount of \$350 million, whereas the DoJ entered into a plea bargain with Siemens, the criminal side of the law, to punish (Geldart, 1984) Siemens for its wrongs with a \$450 million fine, entering into a two-count guilty plea. The guilty plea was for violating the internal controls and books and records provision of the FCPA, Title 15, United States Code, sections 78m(b)(2)(A), 78m(b)(2)(B), 78m(b)(5) and 78ff(a) (US Securities and Exchange Commission, 2008; US Securities and Exchange Commission V Siemens Aktiengesellschaft Case 1:08-cv-02167).

What follows next is an explanation as to why the NPA and the FIC have been chosen to adopt the administration penalties model. The author focused on South African agencies with similar functions as those of the DOJ and the SEC to minimise radical changes to infrastructure and legislation.

Prevention and Combating of Corrupt Activities Act: The NPA and FIC

The NPA's role has already been mentioned, while its powers are to institute and conduct criminal proceedings on behalf of the

State; to carry out any necessary functions incidental to instituting and conducting such criminal proceedings (this includes investigations) and to discontinue criminal proceedings (Justice and Correctional Services, 2016).

The FIC's core objective is protecting South Africa's financial system from criminal activities and illicit funds by working with the relevant national and international authorities (FIC, 2017). When comparing the NPA and FIC with the DOJ and the SEC, the following similarities (Table 2) have been identified.

**Table 2:
Similarities identified**

	NPA (SA)	FIC (SA)	DoJ (USA)	SEC (USA)
Criminal actions	X		X	
Civil actions (remedial actions)				X
Prosecuting power	X		X	
Accounting irregularities		X		X
Combating corruption	X	X	X	X

Reference:
Author

As the FCPA (1977) is used by the DOJ and the SEC to investigate and convict companies for bribery, corruption and violating accounting and internal control measures, the Prevention and Combating of Corrupt Activities (PRECCA) Act 12 of 2004 and the Financial Intelligence Centre (FIC) Act 38 of 2001 will have to be amended to incorporate the anti-bribery and accounting provisions of the FCPA (1977). PRECCA is the lead legislation dealing with corruption while the FIC Act "brings South Africa in line with similar legislation in other countries designed to reveal the movement of monies derived from unlawful activities" (The Banking Association South Africa, Nd). This will expand the power and jurisdiction of law enforcement agencies, especially the NPA, the FIC and the proposed IACA.

The Monitoring and Analysis Division within the FIC is responsible for receiving and analysing data to identify the proceeds of crime. This division works closely with law enforcement and other agencies to provide support during investigations. Therefore, establishing another division in the FIC that can instigate civil actions against entities that specifically provide false or inaccurate accounting records and fail to maintain a system of internal accounting control, can be accomplished.

SOUTH AFRICA'S ADMINISTRATION PENALTY UNIT (APU)

The USA has used administration penalties successfully since 2004. Incorporating administration penalties into South Africa's legislation may reduce the caseloads in courts, thereby reducing government expenditure associated with court trials. The author has developed the following conceptual framework for the proposed practical side of these administrative penalties which correlates with the 14 principles compiled by Corruption Watch-UK, Transparency International, United Nations Convention against Corruption Coalition and Global Witness.

The goal of establishing this unit is twofold namely to provide a once-off option of self-reporting by an entity with minimum consequences; and to lessen the caseloads in South African courts.

This process can be divided into three phases namely self-reporting; action and future implementation.

1. The self-reporting phase

Any entity that detects corrupt practices should be able to report it immediately to the APU in order to avoid criminal prosecution. A number of factors should be considered prior to launching an investigation into that entity's affairs, including:

- The nature and seriousness of the offence;
- the extensiveness of misconduct;
- the history of similar misconducts;

- timely and voluntary disclosure of misconduct and willingness to cooperate;
- existence and effectiveness of pre-existing compliance programme;
- remedial actions;
- collateral consequences;
- appropriateness of prosecution of individuals responsible for the misconduct; and
- appropriateness of remedies such as civil or regulatory enforcement actions. (FCPA, 2012).

2. The action phase

After declaring the corrupt activities, a team will be assigned to the case. During this phase, the following steps should be taken:

- Investigation procedures should be written up together with the details of the team (auditors and lawyers) investigating the matter;
- investigations should be conducted into all affairs of the entity, for example, accounting records, internal control measures;
- investigations should be conducted into the persons involved in corrupt activities. It is advisable to suspend these employees for the duration of the investigation to avoid interference;
- an investigation should be conducted into the entity's current disciplinary process regarding serious matters;
- a report should be compiled, substantiated with the evidence to present to the NPA, FIC and the entity under investigation;
- the administrative penalties to be levied by the FIC if any accounting provisions have violated should be calculated;
- consideration should be given about entering into a plea bargain with the entity under investigation. Based on the US Securities and Exchange Commission V Siemens Aktiengesellschaft Case 1:08-cv-02167, the plea bargain should contain, as a minimum, the following terms and conditions:
 - Charges;
 - potential penalties, assessments and restitution;
 - the sentencing guidelines;
 - actual penalties and assessments;
 - waiver of rights;
 - waiver of appeal rights;
 - press release;
 - sales, mergers or transfers;
 - continuing cooperation;
 - remediation;
 - corporate monitor;
 - department concessions;
 - breach of agreement; and
 - full disclosure or the reservation of rights;
- the administrative penalties to be levied by the NPA on the enrichment through the corruption should be calculated; and
- the entity should make payment to National Treasury as soon as possible.

3. The future implementation phase

During this phase, an investigation into the entity's corrupt activities has already taken place and the investigators' report has been submitted to the entity, the Administration Penalty Unit of the NPA and the FIC. The plea bargain will determine the terms and conditions this entity needs to adhere to. During this phase, the entity will be monitored by an independent monitor appointed by the APU which should be an auditing firm. The period of monitoring should be determined by the seriousness of the case.

Panacea to the problem?

The IACA in general will not only address the problem of corruption on a judicial level, but also on a societal level by educating and making citizens aware of the cost of corruption. By educating citizens, the rationality (readiness) concept of the SCPT is (partly) addressed because if the cost of corruption is more widely known, it might assist individuals in making rational decisions when they find themselves in such a situation. However, this is not set in stone as various factors may influence rationality (Freilich & Newman, 2017).

The IACA should be able to do investigations without political interference, which might lead to higher conviction rates on all levels of society. The deterrent will not only be in the prosecution of corrupt government officials (without political interference), but also in the penalties for first-time offenders and criminal prosecutions for the "habitual" offenders.

The APU will not only assist in minimising court loads with the self-report system, but the penalties paid by the offending company can contribute towards the State's budget. Decreasing the court loads will enable more swift processing of cases, which might lead to a more efficient law enforcement and judicial system. This in turn might lead to an overall reduction of crime which is the main objective of SCPT.

However, the potential positive consequences of establishing an IACA will not be instantaneous - it will take time. It took the Scorpions a year to show results, and after another three years, their successes were evident. They had a conviction rate of between 82% and 94% prior to their disbandment (Dlamini, 2018).

RECOMMENDATIONS AND CONCLUSIONS

Political interference in South Africa's law enforcement agencies has led to weak leadership in these institutions which resulted in the broader criminal justice system being damaged. Among others, the CPI (2019) for South Africa illustrated that the development of effective responses to corruption is required.

One can argue that there might be a myriad of solutions available to combat corruption in South Africa. Based on the research results, the author's framework and the implementation of an APU can be regarded as one of many solutions. It is also the author's opinion that the APU can be regarded as an opportunity for entities to report corruption without being criminally prosecuted, which in turn might be a motivation for entities to declare and eradicate corruption within their midst.

Establishing the IACA with its APU will be no easy feat. More in-depth research on a variety of important aspects is required before it can be considered for implementation. The recommendations for future research include, but are not limited to:

- How the system between the USA's DoJ and SEC works, to determine how the APU can function within South African legislation;
- how the above-mentioned system should be adapted to fit within the NPA and the FIC;
- which specific legislation will have to be amended;
- which provisions need to be included in such legislation;
- how the inclusion of legislative amendments will affect other South African legislation;
- the content of the South African version of the non-prosecution agreements to make it legally binding;
- what the court process will entail; and
- determining the basis of the calculation of administrative penalties.

In the light of future developments regarding this subject, the author hopes to develop this IACA into a much more detailed law enforcement strategy to combat corruption and other economic crimes in South Africa.

"Man perfected by society is the best of all animals; he is the most terrible of all when he lives without law and without justice" (Aristotle).

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UPCOMING ISSUES 2020

The editorial team of the **JUST AFRICA** Journal invites submissions for articles for the publication in its upcoming issues for 2020.

The details are as follows:

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