

SAPS SHADOW REPORT

Analysis of the SAPS annual report - a community perspective

POLICE
&
COMMUNITY
UNITE4 CHANGE

2012 / 2013

NDIFUNA
UKWAZI



DARE TO KNOW



KHAYELITSHA

Khayelitsha was established in 1983 and is a mostly informal area within the boundaries of Cape Town. It encompasses roughly 40 km² and it has a population of just under 400 000 people.

Some of the challenges faced by police in Khayelitsha include the close proximity of houses and the lack of roads in informal areas. Many of the roads that are available are often flooded when it rains. This can make it difficult to access these areas using normal methods. A lack of street lights increases the vulnerability of people at night, and makes it difficult for police to patrol. This is made worse by the fact that many people do not have access to clean and safe toilets nearby, meaning they often fall victim to crime while walking to the toilet.

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INTRODUCTION

Communities across South Africa suffer a daily and persistent attack on their constitutional rights because of violent crime. Crime (and the fear of crime) violates people's rights to life, dignity, freedom and security of the person, and limits their freedom of movement.

Poverty and unemployment, combined with poor service delivery and infrastructure, have created neighbourhoods where people do not feel safe in the streets and in their homes. In these neighbourhoods, women and children in particular risk their safety by going to the toilet or walking to school. One such community is Khayelitsha in the Western Cape.

Section 195 of the Constitution describes the democratic principles that govern all of South Africa's government departments and other public services, including the South African Police Service.

The Constitution, together with the South African Police Service Act (68 of 1995), makes the police responsible for building a democratic, accountable, ethical, efficient, and effective police service under professional command. This makes better policing a constitutional imperative.

In particular, the South African Police Service (SAPS) is bound by the principles enshrined in [section 195](#) of the Constitution. These include:

- Promoting and maintaining a high standard of professional ethics;
- Using resources efficiently, effectively, and economically;
- Providing services that are fair and equal;
- Being responsive to the needs of the public; and
- Being accountable and transparent "by providing the public with timely, accessible and accurate information

Ndifuna Ukwazi works closely with other organisations who are based in Khayelitsha and who have strong membership in the area. As a result of our

experiences and those of our partner organisations, we have become concerned with the progress that SAPS has made towards ensuring a democratic and effective police service for poor and working-class communities.

This is why, for the first time, Ndifuna Ukwazi has decided to publish a shadow report on SAPS. In this case, our report is a response to the 2012/2013 SAPS Annual Report.

The National Commissioner presents the SAPS Annual Report to the Minister of Police. The report focuses on the performance of police nationally. For our [shadow report](#), the question is more limited and specific: When SAPS is the only protection that people in poor and working-class townships have against violent crime, how do we measure their performance?

A shadow report is written in response to information presented in a different report, and gives an alternative perspective on the information in the other report.

We have analysed various reports from SAPS, the Independent Police Investigative Directorate (IPID), and the Auditor-General. We have also monitored and participated in proceedings of the O'Regan-Pikoli Commission of Inquiry, which is investigating alleged inefficiency by the police in Khayelitsha and an alleged breakdown of relations between the community and the police. Where applicable, we have included excerpts from community testimony and data on Khayelitsha, to demonstrate how this specific community experiences national trends.

This shadow report is not a comprehensive analysis of policing in South Africa. It focuses on a few key areas within SAPS, namely how the budget is spent; the quality of leadership and management; the quality of training; the issuing of Information Systems (IS) and Information Communication Technology (ICT) tenders; and the reliability of the data SAPS supplies.

The findings in this report are based largely on reports produced by SAPS and other government departments, not on the first-hand collection of evidence. These findings clearly indicate that SAPS has a long way to go towards becoming a democratic service that is effective and accountable, under ethical and professional command.

BUDGET REVIEW

We can tell a lot about the priorities of SAPS by looking at how it spends its money. In this section we look at the police budget and how much is spent on different programmes. We also look at civil claims, which are a major cost to SAPS.

AVAILABLE FUNDS

The financial year runs from 1 April to 31 March.

Parliament approves the annual budget for policing every year. For the 2012/2013 financial year, the total budget allocated to SAPS increased to R63.4 billion.¹ This is an increase of R4.8 billion or 8% from the previous year, when SAPS received R58.6 billion.

In addition to the money from Parliament, SAPS collected R342 million from other sources. As required by law, SAPS transfers this additional revenue to the Treasury and Parliament then redistributes it as it sees fit.²

SAPS generated:

- R150.3 million from the sale of goods and services such as firearm licenses and accident reports;
- R227 million from fines, penalties, and forfeits;
- R780 000 in interest from bank accounts;
- and R2.6 million from the sale of capital assets (such as buildings and cars).³

Parliament allocates just under 10% of the total national budget to public order and safety, which includes the courts, prisons, and police services. If you take into account the effect of inflation on the value of the rand, the budget for public order and safety has increased by 165% since 1990. This may reflect the government's attempt to respond to rising crime rates. The

policing budget alone takes 6.5% of the total budget, behind education (21%); social grants (15.4%); and health (13.1%).⁴

Increased spending seems to have had some effect. For example, the murder rate has decreased between 1994 and 2013, from 66.9 murders for every 100 000 people in 1994 to 31 murders for every 100 000 in 2013. However, crime rates have started to rise again in recent years. The murder rate has increased by 2.8% between 2012 and 2013. This means that we need to look at how SAPS is spending its money, because increased spending is not necessarily resulting in safer communities.

Murder is generally regarded as the most reliable crime statistic because each murder results in a dead body, which can be counted.

SPENDING

Government departments are supposed to plan ahead in order to estimate expected spending. Parliament allocates funds based mostly on those plans.

The efficiency of a business is judged by its profits. For a business, having money left over is a good thing. Government departments are judged according to how they spend their money and whether that results in better service delivery. If a government department does not spend all of its allocated budget, it means one of two things. Either it has not planned properly or it has misspent the funds given to it. This is a problem because Parliament could have allocated those funds to other areas, such as healthcare or education.

Section 43 of the Public Management Finance Act (1 of 1999) says that departments, such as SAPS, can transfer money between programmes with the Treasury's approval. However, these amounts cannot exceed 8% of the programme's total budget. Transferring more than this amount requires parliamentary approval.

In the 2012/2013 financial year, SAPS failed to spend R232.1 million of its budget. However, this was an improvement over the previous year, where it failed to spend R617.4 million.⁵

The budget is spent across five programmes. These programmes are Administration, Visible Policing, Detective Services, Crime Intelligence, and Protection and Security Services. Parliament allocates funds directly to these programmes. SAPS overspent on some programmes and covered this by transferring funds from programmes where it underspent.

Examining spending within these programmes helps identify whether the police service is spending its money efficiently and effectively.

ADMINISTRATION PROGRAMME

The Administration Programme is responsible for managing the police service, providing administrative support, and developing policy. Its strategic objectives include improving management and centralising support services.

Most of the underspending was in this programme. SAPS received a budget of R15.9 billion for administration and failed to spend R362.9 million (2.3%

The National Assembly appoints the members of parliamentary Portfolio Committees. There is a committee for each ministry and its associated departments. These committees consider bills; debate departmental budget allocation; and provide oversight over the department, including recommendations regarding its functions, structure, and policy. The Portfolio Committee on Police provides oversight of SAPS, the Independent Police Investigative Directorate, the Civilian Secretariat of Police, and the Private Security Industry Regulatory Authority.

of the allocated budget). Most of this unspent money was transferred to other programmes which had overspent. This left only R14 000 unspent at the end of the year.⁶ In October 2013, the Parliamentary Portfolio Committee on Police asked whether the police service had received approval before transferring funds between these programmes. The police asserted that they had received approval and this was not challenged further by the committee.⁷

BUILDINGS

The Administration Programme did not complete many of its planned building projects. These included building new stations and upgrading existing stations. This was the main reason the programme was not able to spend its entire budget.

Although SAPS planned on completing 95% of these projects, it only completed 37.5%. SAPS blamed this on contractors and the service's reliance on third parties, such as the Department of Public Works. Many of these projects have stalled because the Department of Public Works is in court with the contractors over issues with the contracts.⁸

It is interesting to note how long, on average, it takes to complete building projects. SAPS did not display project start dates in the 2012/2013 Annual Report. However, using the dates in the 2011/2012 Annual Report, it takes SAPS an average of four years to complete building projects. Some projects, such as the reestablishment of Site B station in Khayelitsha, took seven years to complete.⁹

THE SIU INVESTIGATES

The Special Investigating Unit (SIU) investigated the police's consistent inability to complete building projects on time. In August 2010 the SIU investigated the police's Expert and Facility Management Services. It looked at 33 building projects.

The investigation found that 88 members of SAPS did not declare their interest in businesses that are registered as suppliers. (For example, SAPS officers might own shares in the company or benefit from the business in some way.) These suppliers have done R31.9 million worth of business with SAPS. The SIU has recommended disciplinary action against the SAPS members involved.

It is illegal to have an undeclared interest in a business that does contract work for a department.

So far the SIU has identified:

- Possible collusion between suppliers and personnel within the police service, in order that the supplier may submit multiple quotations and make them appear to be independent quotes. This is known as cover quoting.
- Possible inflation of the contract price. This results in the police service paying more than the fair market value for the services provided.
- Fruitless and wasteful expenditure.
- And contractors have charged a higher price than they originally quoted, without any proof of this being authorised.

The SIU investigation is on-going.¹⁰

The Department of Public Works is responsible for, among other things, the management of government buildings. This includes determining building requirements and project planning. Generally, SAPS will provide a budget based on the plan developed by the Department and the Department will pay the contractors.

The main role of the Special Investigating Units (SIU) is to investigate and recover the loss of government money due to possible corruption, fraud, and maladministration.

SIU has the power to subpoena, search, seize, and interrogate witnesses under oath.

The Public Management Finance Act (1 of 1999) defines fruitless and wasteful expenditure as spending that would not have occurred had "reasonable care" been taken.

The Prevention and Combatting of Corrupt Activities Act (12 of 2004) prohibits members of government departments, such as SAPS, from having an interest in a business that has a contract with that department.

There is a clear lack of transparency and accountability within the Administration Programme. Given what the SIU has uncovered so far in its investigation, as well as the failure by SAPS to improve its ability to implement and complete projects, it is evident that the police are failing to efficiently allocate resources within the administration programme.

If SAPS does not properly maintain its buildings, this will severely hamper its delivery of services to the public. For example, some stations have been forced to use steel containers to store dockets because they don't have enough storage space. This affects their ability to properly store and find case records – many go missing. This also stops police officers from taking pride in their workplace.

THE IMPORTANCE OF GOOD ADMINISTRATION

In July 2012 the National Commissioner, Riah Phiyega, asked the National Inspectorate to appoint a task team to investigate allegations of police inefficiency and a breakdown in relation between the community and the police. This was in response to a complaint handed to the Premier of the Western Cape by the Social Justice Coalition; Ndifuna Ukwazi; Equal Education, the Treatment Action Campaign; and Triangle Project.

The findings of the report were never made public until the Minister of Police filed them as part of his court papers during his urgent application to stop the O'Regan - Pikoli Commission from going ahead in November 2012.

The 2012 SAPS Task Team Report (which we will refer to throughout this document)¹¹ found that the buildings at the three police stations in Khayelitsha:

“..do not provide sufficient accommodation for the various sections and personnel at the respective Police Stations. At all three of these Police Stations, steel containers are used to accommodate some of the sections such as the Archives.”¹²

The report also found that:

“..it needs to be acknowledged that the circumstances, in which personnel are working, might have an indirect effect on service delivery because of poor self-esteem, low morale and a negative attitude of the police personnel.”¹³

Another problem facing Khayelitsha is the shortage of police officers. As of 31 March 2013, there was 1 police officer for every 341 people in South Africa. However, the ratios for the three precincts in Khayelitsha are significantly higher than the national average, with 1 officer for every 1 675 people for Site B; 1 officer for every 1 702 people for Harare; and 1 officer for every 592 people for Lingeletu-West. A nice building means very little if there aren't enough trained peoples to run it and police the surrounding area.¹⁴

VISIBLE POLICING PROGRAMME

Visible policing is one of the core functions of policing. It is the most common way in which people in our communities interact with SAPS. This programme pays for the policemen and women you might see patrolling the streets or who would respond to your call if you report a crime. It also provides unique responses to specific types of crime that arise and includes SAPS members who police South Africa's borders. Its ultimate strategic objective is to reduce the levels of crime in South Africa by being proactive and responsive.

The importance government places on visible policing is clear from the amount of money they allocate to it. SAPS spent R29.5 billion on visible policing and it is by far the police's largest programme. In fact, it overspent on this programme by R11.9 million. The overspending was covered by transferring funds from other programmes where there was underspending.¹⁵

One of the most common ways to measure the success of visible policing is to look at crime levels. In the official crime statistics released in October 2013, nearly all categories of contact crimes (murder and rape for example) increased. The number of reported murders increased from 15 609 to 16259. It generally requires more than visible policing to reduce contact crimes. However, burglaries and crimes that depend heavily on police action to detect, such as drug-related crime, also increased by large margins. This raises questions about whether the visible policing strategy is working.

SAPS says that it overspent in the Visible Policing Programme because the cost of petrol was much higher than expected. Following sharp increases in the petrol price in 2013, the Bureau for Economic Research expects far more moderate petrol price increases over the next year.¹⁶ The Bureau is a respected economic research institution attached to Stellenbosch University. This should ease pressure on the visible policing budget.

DETECTIVE SERVICES PROGRAMME

Detective Services support crime investigation. Quality investigations are necessary to ensure that people who commit crimes are held accountable. Detective services constantly strive to increase the number of crimes that are solved. This requires that detectives ensure enough evidence is collected to indict a suspect before a court of law. It aims to improve the way detectives

investigate, collect, and analyse evidence. A well-functioning detective service is important for the proper prosecution of cases in court.

In May 2012, the Minister of Police announced that the police service would prioritise the improvement of detective services.¹⁷ This is the reason the budget has increased to R137 billion from R9.9 billion the year before. The programme accounts for almost a quarter of the total police budget.

SAPS overspent by R383.8 million on the programme. Once again, SAPS paid for this overspending by transferring funds from other programmes where there had been underspending.

The overspending was primarily due to salary increases; SAPS also overspent by buying new equipment, such as laptops and vehicles. SAPS has explained this as necessary in order to implement the planned improvements.¹⁸

Has the increased spending on detective services resulted in concrete results? SAPS admitted that it did not perform as well as it should have in terms of detecting and investigating crime. The **detection rate for serious crimes** was 54%. This means that only 1.1 million of the 2.1 million reported complaints classified as serious resulted in a suspect being charged with a crime.

Once a suspect has been charged, the investigator must prepare a docket for the prosecutor. The prosecutor will then build a case to convince the court to convict the suspect of the crime.

A fully investigated case docket was prepared for 61% of outstanding charges. A fully investigated case docket means that all the evidence has been obtained and that there is no additional information that requires investigation. 88% of concluded court cases resulted in a conviction.

While these figures on their own do not mean much, it is clear that a very small proportion of the over 2 million reported cases actually resulted in a conviction (17%).¹⁹

To calculate the detection rate, you divide the total number of charges that the prosecutor refers to court by the number of charges that SAPS investigated.

Serious crimes include contact crimes, such as murder or rape; contact-related crimes, such as arson; property-related crimes, such as burglary; and other serious crimes, such as shoplifting.

The court-ready docket rate is calculated by dividing the number of fully investigated cases by the number of outstanding charges.

The conviction rate is calculated by dividing the number of guilty verdicts by the number of judgments in those cases (guilty and not guilty).

The role of the Public Service Commission is to investigate, monitor, and evaluate government departments and programmes to ensure that they are promoting the values found in section 195 of the Constitution.

These values include, among others, a high standard of professional ethics; efficient and economical use of resources; accountability; transparency; and responsiveness to the needs of the public.

In a 2011 report on the detective services, the Public Service Commission reported that in nearly all the stations it inspected, detectives did not have sufficient training. In terms of resources, 70% of the stations inspected did not have enough detectives; 49% of stations did not have enough computers; and 24% of stations did not have enough vehicles.²⁰

It is positive that SAPS is focussing on improving detective services, spending more money on it than ever before. However, there are still serious challenges within the programme that need to be remedied. SAPS must give stations the resources they need to ensure that crimes are investigated properly and thoroughly.



DETECTIVES FAIL KHAYELITSHA SCHOOLS

The Task Team Report found that in Khayelitsha:

"...the investigation of case dockets by the Detectives does not result in any extraordinary achievements or successes. Very little impact is made on serious crimes such as armed robberies and housebreakings. In most of these cases no facial identification profiles are compiled even where the complainants had described the suspects, witness statements are not always taken, the complainants/witnesses are not given the opportunity of viewing the photo albums of criminals available at the Police Station to identify suspects and no section 205 applications are sent to the cellular mobile companies in order to track stolen phones, where necessary."

M.M. is a principal at a secondary school in Khayelitsha, which has been burgled many times. During the robberies, computers and other equipment were stolen. He recently gave evidence at the O'Regan–Pikoli Commission of Inquiry into alleged inefficiency by the police and a breakdown of relations between the community and the police.

For a full history of the campaign leading up to the appointment of the commission of inquiry, read *Our Struggle for Safety and Justice in Khayelitsha* produced by Ndifuna Ukwazi.

The Commission was established after civil society organisations and social movements within Khayelitsha spent more than 10 years campaigning for safe communities. The Commission began public hearings on 23 January and heard many testimonies from community members, academics, police officers, and other people working within Khayelitsha.

In his submission before the Commission, M.M. states that he has a negative perception of the police's ability to investigate crimes. He does not receive information on how the investigations are proceeding. In his experience:

"In most cases we have reported we get an initial SMS indicating that the case is registered, along with the case number. One month later we tend to receive another SMS stating that the case has been closed. I have no idea at what point these investigations were closed and if any of the cases ever went to court. I do not know what steps the police took to investigate any of the cases."

Proper investigation is essential in order to ensure that evidence is collected, completed dockets are sent to court, and the case is properly prosecuted. If communities believe that the police service can be relied upon to thoroughly investigate crime and ensure that justice is served, it will go a long way to restoring trust in SAPS. Detectives in stations that have the most dockets need to have the resources necessary to do their job.

CRIME INTELLIGENCE PROGRAMME

The Crime Intelligence Programme gathers data about crime and criminals and analyses it to give police officers technical support. It is widely recognised that crime cannot be effectively combated without proper crime intelligence.

For the 2012/2013 financial year, Crime Intelligence had a budget of R2.6 billion, but failed to spend R20.5 million. The unspent funds were used to fund budget shortages in other programmes.²¹

PROTECTION AND SECURITY SERVICES

Protection and Security Services provide personal security to dignitaries (such as diplomats and foreign heads of state), as well as to secure strategic government interests such as special government buildings.

Parliament allocated R1.8 billion for protection and security services. SAPS underspent by R11.2 million on the programme due to lower than expected spending on employee salaries.²²

CIVIL CLAIMS AGAINST THE POLICE

A civil claim occurs when a person or entity claims damages from another person or entity because that person have violated their legally recognised interest or right.

People are bringing more civil claims against SAPS. These individuals come to court to claim damages for a range of rights violations by police officers, for actions that include crimes such as assault and murder. Between March 2010 and March 2013, the total value of civil claims against SAPS rose from approximately R7.5 billion to

R184 billion. This includes court costs, because courts sometimes order SAPS to pay the lawyers' fees for people who have brought cases against the police. This amount also includes possible future costs from court cases that are still on-going. This amounts to a fifth of the entire SAPS budget.²³

There is a clear and direct link between the conduct of police officers and the cost of civil claims to SAPS. If police officers are found guilty of abusive conduct, it erodes the public's trust in SAPS. It also results in massive costs to the state, because people are forced to take SAPS to court in order to protect their rights.

In October 2013, the parliamentary Portfolio Committee on Police asked SAPS to explain why there were more civil claims against the police. SAPS

said that the most likely reason was that people are becoming more aware of their rights as we progress from apartheid into a democratic system. But there have also been more reports of abusive behaviour by police officers. Some examples include the murder of Andries Tatane in April 2011; the massacre of 34 miners at Marikana in August 2012; and the death of Emidio Macia after he was dragged behind a police van in February 2013.

The Minister of Police recognised this link and issued a statement in March 2013, demanding that SAPS management provide better supervision for officers in order to avoid court costs.²⁴

Every rand wasted on civil claims is another rand that could have been on improving training, providing resources such as vehicles for visible policing, or improving police stations.

THE O'REGAN—PIKOLI COMMISSION OF INQUIRY

One example of unnecessary court costs that SAPS has incurred is the Minister of Police's court action to stop the O'Regan–Pikoli Commission of Inquiry.

After 10 years of campaigning by civil society organisations and community members in Khayelitsha, the Premier of the Western Cape finally relented and appointed the commission to investigate allegations of police inefficiency and an alleged breakdown of relations between the community and the police.

Six civil society organisations handed over a complaint to the Premier of the Western Cape in November 2011, calling for a commission of inquiry into the entire criminal justice system in Khayelitsha. These organisations were the Social Justice Coalition; Equal Education; Ndifuna Ukwazi; the Treatment Action Campaign; Free Gender; and Triangle Project.

The Minister responded by making an urgent application to the Western Cape High Court for an interdict to stop the Commission. The Minister said that a commission should not be able to subpoena the police because he felt that this would mean that the commission is directing the police. The Social Justice Coalition represented the civil society organisations that handed the original complaint to the Premier in November 2011. The complaint led to the appointment of the Commission.

The High Court application failed and the Minister appealed to the Constitutional Court. The Constitutional Court upheld the ruling of the high court and dismissed the Minister's application.

The police service was ordered to pay the court costs of the Social Justice Coalition.



LEADERSHIP

POLITICAL AND OPERATIONAL LEADERSHIP

The role of the Public Service Commission is to investigate, monitor, and evaluate government departments and programmes to ensure that they are promoting the values found in section 195 of the Constitution. These values include, among others things, a high standard of professional ethics; efficient and economical use of resources; accountability; transparency; and responsiveness to the needs of the public.

The Civilian Secretariat of Police (CSP) helps the Minister of Police to develop policy by providing both advice and research. The CSP also provides oversight of the police by monitoring their overall performance and reporting this to the Minister of Police.

The current Minister of Police is Nathi Mthethwa. In terms of section 206(1) of the Constitution, the Minister of Police is the political head of police and develops national policing policy.

The Civilian Secretariat of Police helps the Minister to determine policing policy. It does so by providing the Minister with advice and research support.

The Minister is also the political head of the Civilian Secretariat of Police, the Independent Police Investigative Directorate, and the Private Security Industry Regulatory Authority.

The National Commissioner of Police reports directly to the Minister of Police. When SAPS develops strategic plans and objectives, the National Commissioner must present these plans to the Minister of Police. The Minister can either accept or reject them. Ultimately, the National Commissioner is responsible for the day-to-day functioning of SAPS.

As the Head of Department, the National Commissioner is also the Accounting Officer of SAPS. In terms of the Public Management Finance Act (1 of 1999),

the accounting officer's key responsibilities include:

- Making sure the police budget is properly spent, and preventing overspending or underspending.
- Making sure that the police's resources are used efficiently, effectively, economically, and transparently. This means using resources in a way that maximises results.
- Taking disciplinary action against any member of SAPS who makes or allows fruitless and wasteful expenditure.
- And publishing annual reports on the performance of SAPS.

According to section 195 of the Constitution, SAPS leadership and management is expected to maintain a high level of professional ethics, setting a good example for the rest of SAPS. Poor leadership can seriously damage ethics, morale, and discipline throughout SAPS. Unfortunately, since 2000, National Commissioners have been undermined by criminal and political interference.

COMMISSIONER JACKIE SELEBI – 2000 TO 2008

In 2000, Jackie Selebi replaced George Fivaz as National Commissioner. Selebi served as National Commissioner for eight years before he was arrested on charges of corruption and defeating the ends of justice. He was accused of taking bribes from a convicted drug dealer, Glen Agliotti. In 2010 Selebi was convicted of one count of corruption and sentenced to 15 years' imprisonment. An appeal against the conviction failed, but he was released on medical parole in July 2012.

Section 11 of the Public Finance Management Act (1 of 1999) requires all government departments to pay any revenue they generate into the National Revenue Fund. This fund is controlled by the Treasury. Only Parliament is allowed to decide how to spend this money.

COMMISSIONER BHEKI CELE – 2009 TO 2012

Bheki Cele succeeded Selebi as National Commissioner in July 2009. After three years he was fired because he was involved in a corrupt lease deal. Cele insisted that the police service lease two building from a man called Roux Shabangu. However, Shabangu had not yet bought one of the buildings and had wanted to charge rents that were much too high. A board of inquiry found that Cele had violated the Public Finance Management Act.

COMMISSIONER MANGWASHI “RIAH” PHIYEGA – 2012 TO PRESENT

Riah Phiyega was appointed as National Commissioner in June 2012. In October 2013, IPID announced that it was investigating allegations against Phiyega for defeating the ends of justice. She is alleged to have leaked details of an investigation by the Hawks. The Hawks were investigating an alleged affiliation between the Provincial Commissioner, Arno Lamoer, and a local drug dealer.

The ideal police service is one that is governed by professional and ethical leadership. If the National Commissioner fails to display these qualities, this can seriously damage the public’s trust in the police and morale within SAPS. Those in leadership positions need to be held accountable so that everyone can see that the people who are meant to fight crime are not becoming the criminals themselves.

OPERATIONAL COMMAND

The current National Commissioner for SAPS is Riah Phiyega. Each province has a Provincial Commissioner who reports directly to the National Commissioner. For example, General Arno Lamoer is the Provincial Commissioner in the Western Cape. There are many Deputy Provincial Commissioners under him. One of these is the Deputy Provincial Commissioner for Operational Services, who is currently Major-General Peter Jacobs.

Each province is organised into clusters, which are then divided into station precincts. The Western Cape is divided into 25 clusters. These clusters coordinate a total of 150 station precincts. The Khayelitsha cluster is made of eight station precincts: Site B, Harare, Lingelethu-West, Somerset West, Gordon’s Bay, Macassar, Strand, and Lwandle.

The police station is central to service delivery in terms of policing and the relationship with the community. Each station is further broken up into areas known as sectors. Harare Police Station, for example, has four sectors. Each sector has a dedicated sector commander who is employed by the police service. Each sector also has a Sector Forum. The Sector Forum is made up of community representatives from within the sector.

Sector policing is a geographical approach to policing whereby each station precinct is sub-divided into smaller areas called sectors. Sector policing is meant to reduce crime through increased patrols and visibility by SAPS, while also improving the police service’s relationship with the community.

Each station also has an attached Community Police Forum (CPF). CPFs are meant to improve communication between the station and the community. CPFs allow communities to have oversight of the police service while letting SAPS know what is happening on the street. CPFs are meant to be elected every two years. CPF members are residents of the precinct and people who

are part of community structures, such as businesses and civil society organisations.

On the face of it, the operational structure of the police service seems to be well organised. However, things do not always operate the way they are meant to. This is illustrated by two examples, sector policing and CPFs.

The Task Team Report found that sector policing does not have enough resources. Only one officer and one vehicle are devoted to each sector. Often police officers are asked to perform other duties, which means that one officer has to patrol more than one sector. This seriously affects police visibility. According to the Task Team:

"...resources that have been allocated to Sector Policing are [however] on the decrease. As the demand for service increases more members allocated to Sector Policing are redeployed to perform other functions. At present only one (1) member and a vehicle is deployed in each of the Sectors at the Khayelitsha Police Station. This creates a situation whereby Sectors are jointly policed by two (2) members from different Sectors. This has a negative impact on both the visibility of police presence in the Sectors as well as on the reaction time to attend to complaints."²⁵

The Task Team also found that the CPFs in Khayelitsha do not work properly. Members of SAPS do not participate in the CPFs, and there was little evidence that anything was being achieved at CPF meetings.

There are not enough legitimate structures, such as CPFs, through which the community can have a voice in the fight against crime. This has been cited as one of the reasons for high levels of vigilante violence in areas like Khayelitsha.²⁶

CONDUCT

Section 195 of the Constitution demands that every police officer be held accountable for their conduct. The principles found in this section apply to the leadership of SAPS as well as every member of the police.

Members of SAPS must be accountable for their actions. They also need to be independent enough to ensure that they can effectively prevent crime and promote the rule of law. But it can sometimes be difficult to balance these two things.

This section considers the conduct of SAPS members. It considers what the current arrest statistics reveal about police conduct. It also looks at the number of criminal and professional misconduct cases brought against officers during the year.

Between 1 April 2012 and 31 March 2013, SAPS reported that it had conducted:

- 34 428 crime prevention operations
- 46 079 roadblocks
- 204 million person searches
- 17 million arrests

ARRESTS

In a perfect world, every crime committed would result in an arrest. In an area with a high crime rate, a higher arrest rate should suggest that SAPS is doing a good job. However, this figure can be misleading unless people are arrested for the right reasons. To judge the number of arrests, we need to look at why people are arrested.

1.8 million "serious crimes" were reported in 2012/2013. In total, the police made 806 298 arrests for serious crimes.²⁷ This means that only 44% of reported serious crimes resulted in an arrest. However, this is an improvement over the previous year's arrest rate of just over 30%.

In Khayelitsha, the Task Team Report sheds some light on the arrest and detention of people. Up to half of the arrests at in Khayelitsha are for the possession of pocket knives. Many of these cases are withdrawn by the prosecutor, who finds that the accused is not a danger to society. The majority

of case dockets are “settled otherwise,” with the accused being referred to a rehabilitation centre.²⁸

Looking at case dockets at the Khayelitsha stations, the Task Team found that people are often arrested without any clear suspicion that they committed the crime. The report goes on to say:

“The large number of suspects that are detained, not charged, and then later [being] released on a SAPS 328, is however of concern. The general reason for the release of suspects often indicated that the suspects could not be linked with the crimes committed. This creates the impression that members are arresting and detaining suspects without the prerequisite of a reasonable suspicion that the suspects committed the crimes in question exists. In general, the arresting officers do not make statements that indicate the reason for the arrests made.”

Suspects who are arrested are often held for more than 48 hours without any charges being filed. This is a violation of the section 50 of the **Criminal Procedure Act**.

The Criminal Procedure Act (51 of 1977) provides rules regarding the arrest, detention, and trial of suspects, among other things.

At least within Khayelitsha, the arrest and detention of individuals without just cause appears to be systemic. It suggests that station commanders tolerate unlawful behaviour or that they have lost control over their stations.

So, when it comes to serious crimes, the higher arrest rate raises questions about whether the police are arresting people based on a reasonable suspicion that they committed a crime.

The fact that arresting officers do not often give reasons for arresting people indicates at best incompetence, and at worst an abuse of power.

CASES OF CRIMINAL AND PROFESSIONAL MISCONDUCT

IPID opened 6 728 cases of criminal and professional misconduct against members of SAPS in 2012/2013. Some officers were investigated more than once. If you compare the number of cases to the total number of service members (197 946), it equates to 3.4% of SAPS members. Many of these cases also involved multiple victims.²⁹

ASSAULT AND TORTURE – 4 181

In 4 131 (61%) of the cases IPID investigated, someone accused a police officer of assaulting a member of the public. **Assault** can include anything from spitting or shouting at a person to hitting them. 1 236 of these cases involved assault with the intent to do grievous bodily harm. The rest of these cases (2 855) were for common assault.

As its name suggests, assault with the intent to do grievous bodily harm is assault where the assailant wants to seriously hurt the victim.

Common assault involves unlawfully and intentionally applying force to another person. This can include both physical and verbal assault.

When the IPID Act was introduced in 2011, it was the first time that IPID had to report on complaints of torture by police officers. In 2013/2013, IPID opened 50 cases of torture by police officers. In 37 cases, people claim to have been tortured by being beaten. In the rest of the cases, people claimed that police had tortured them by electrocuting them or suffocating them with a bag or a tube.

RAPE BY A POLICE OFFICER – 147

The law requires IPID to investigate any allegations of rape by a police officer, regardless of whether the officer was on duty.

RAPE IN POLICE CUSTODY – 22

22 cases of rape while in police custody were opened by IPID. This excludes cases of rape by a police officer.

DEATHS IN POLICE CUSTODY – 275

IPID opened 275 cases of death in police custody. SAPS recorded nearly a third of these (94 people) as suicide. 72 people committed suicide using items they are not allowed to have while in custody, such as belts or shoelaces.

DEATH AS A RESULT OF POLICE ACTION – 431

IPID investigated 431 cases of death as a result of police action. This means that people died while the police were fulfilling their duties.

For example, one of the cases is that of the Marikana massacre, where 34 miners were killed during a strike.

156 cases involved people being killed by the police during the course of an arrest. Nearly 10% of these cases resulted from police breaking up a domestic violence incident. Overall the 431 cases resulted in 485 deaths.

CORRUPTION – 126

In 2012/2013, IPID opened 120 cases of corruption against members of SAPS. Of these, 90 cases were for extortion or soliciting a bribe; 11 were for the sale or theft of evidence; 10 were for the sale, theft, or destruction of police dockets; 6 were for aiding an escape from custody; and 3 were for issuing fraudulent documents.

IPID also opened another six cases of systematic corruption. The IPID Annual Report defines this as “an institutionalised, endemic manipulation of a system by individuals or networks/organisations, taking advantage of weakness in the processes and systems for illicit gain, where there are leadership deficiencies, collusion and/or abuse of power.”³⁰

The high numbers of assault, rape, and death at the hands of police officers are unacceptable given the constitutional imperative for transforming the police. It shows that there is an overly aggressive culture in SAPS.

The high numbers of deaths and suicide while in police custody show that SAPS has poor custody management, and does not treat detainees with enough concern. This is especially clear from the number of suicides that occurred using items that were not supposed to be allowed into the cells.

CONSEQUENCES

Often there is little or no consequence for poor conduct. The IPID Annual Report shows that in many cases where police officers have been charged with serious crimes like rape and murder, these officers receive little more than a written warning.

IPID referred 1 088 cases to the **National Prosecuting Authority (NPA)** because it believed there was enough evidence to prosecute and convict the relevant police officer.³¹

The National Prosecuting Authority (NPA) will decide whether to proceed with a case after it receives a case docket, based on whether the NPA believes there is enough evidence. If the NPA decides to proceed with the case, the NPA is responsible for prosecuting the suspect in court.

This included:

- 683 cases of assault
- 87 cases of death as a result of police action
- 37 cases of rape by a police officer
- 21 cases of death in police custody
- 6 cases of corruption
- 5 cases of torture
- 3 cases of rape in police custody

These numbers are low and do not indicate how many of these cases actually result in convictions. They also do not indicate how many officers are currently in the courts facing charges. The 2013/2014 SAPS Annual Performance Plan revealed that at 31 March 2012, 8 846 police officials were facing criminal charges.³²

What is more worrying is that a 2013 internal audit showed that 1 448 officers are still actively serving despite being convicted criminals. Many of those were officers of high rank, including 1 Major-General; 10 Brigadiers; 21 Colonels; and 10 Majors.³³

Another example of the lack of consequences for criminal acts or misconduct relates to fraud and corruption charges. The police service reported that 892 officers were charged with fraud and corruption in the 2012/2013 financial year.

This included:

- 349 for helping a detainee escape custody
- 319 for corruption
- 153 for fraud
- 149 for defeating the ends of justice
- 46 for extortion
- 10 for bribery

Despite these officers being charged with crimes, only 22 were suspended. 8 continued to receive a salary and 14 were suspended without pay.

Clearly SAPS is unwilling to act strongly against misconduct and corruption, especially when it involves senior members of SAPS. Often, police officials who were acquitted of criminal offences in internal disciplinary hearings were convicted in a court of law. In August 2013 the parliamentary Portfolio Committee on Police said that this was a major contributing factor to the presence of criminality within SAPS.³⁴

The Minister of Police said in December 2010 that, “We shall never get tired of ridding the SAPS of rotten apples.”³⁵ Typically, police management attempt to distance themselves from these cases by blaming the individual officers and referring to them as “bad apples”. For example, following the death of a Mozambican taxi driver at the hands of police officers, the Minister of Police released a statement on 7 March 2013 saying, “With a staff compliment in excess of 200 000 personnel, on any given day, if three or eight of them are alleged to be involved in criminal acts and brutality, we would still remain extremely worried.”³⁶

It is clear that police abuses are more systemic and widespread than SAPS leadership often realises or would like to admit. Unfortunately, the internal investigative ability of the police was severely hampered in 2001 when half the provincial anti-corruption units were closed down. This was in line with an attempt to move skills from specialised groups to police stations, where most of the corruption occurs. This lack of independence creates difficulties when colleagues at a station are required to investigate each other.



TRAINING

The National Development Plan (NDP) lays out the long-term vision for South Africa. The plan aims to remove poverty and reduce inequality by 2030.

Chapter 12 of the NDP provides a plan for building safer communities, including reforming the police services.

Professionalism must extend right down from the Minister of Police to the officers on the ground. The National Development Plan recognises that a “professional police service is essential for a strong criminal justice system.” A professional service is one that knows the law and understands its duties according to the law; performs those duties competently; and is responsive to the needs of the public.³⁷

This professionalism cannot be achieved without adequate and on-going training. The SAPS 2010-2014 Strategic Plan prioritised the implementation of “on-going and relevant” training on “issues of human rights and [to] the principles of Batho Pele.”³⁸

Batho Pele is a Sotho phrase that translates to “people first”. This is the name of an initiative the government started to improve service delivery. It includes eight principles:

- Consultation with the public.
- Setting service standards.
- Increasing access to services.
- Ensuring courtesy.
- Providing information on services to the public.
- Openness and transparency.
- Having remedies to deal with failing services.
- Ensuring value for money.

Police officers must be trained to understand the rights they are meant to protect, know how to take statements, and know how to collect evidence. It is essential that they must be able to effectively manage crowds and protests. The deaths of protesters such as Andries Tatane and the mineworkers at Marikana shows that this is sorely needed.

In 2012/2013, 144 298 new recruits and SAPS members received some form of training. 129387 successfully completed the modules. This was a decline from the previous year where 200 657 individuals received training and where 180 900 passed their modules. However, while fewer individuals were trained, the amount

SAPS spent on training increased from at least R1.2 billion in 2011/2012 to at least R1.6 billion in 2012/2013.³⁹ It costs SAPS more to train fewer people.

BASIC TRAINING

Basic training is provided to new recruits. A number of officers who have not yet received basic training are also enrolled in the course. The programme is broken up into three phases:⁴⁰

- Phase one is six months long and is presented at SAPS training colleges. The entrants are exposed to various subjects such as the law, oral and written communication, crime investigation, and street survival.
- Phase two is six months long. During this time the entrant gets field training as student constables.
- Phase three involves 12 months of in-service training, working alongside qualified officers.

5 045 people successfully completed basic development training in 2012/2013.⁴¹

DETECTIVE TRAINING

The Minister of Police announced in 2012 that SAPS would make it a priority to improve the detective services.⁴² 14 580 people successfully completed various detective courses, which was up from 11 450 the year before. Detective courses include: basic investigation; how to resolve crime; specialised detective courses; fraud; stock theft; and short interventions to address specific areas of their work such as interviewing or statement writing.⁴³

DRIVER TRAINING

In April 2013 SAPS reported to the Portfolio Committee of Police that 10352 (8%) of its 129603 operational members did not have a driver’s license. This was primarily because SAPS no longer considered a driver’s license an essential requirement for new recruits, whose socio-economic background may have made it difficult for them to obtain a license.⁴⁴

In 2012/2013, 973 individuals managed to obtain their driver’s license. This was less than 10% of the number of SAPS members who need a license.⁴⁵

ADULT EDUCATION AND TRAINING (AET)

The AET course provides adult literacy training for individuals who have not passed matric. It is available for all police service members, whether or not they are officers.

Given the large amount of paperwork police officers need to work with, as well as skill needed to handle potentially crucial evidence, it is essential that police officers have a basic level of education. When questioned by the Portfolio Committee on Police, SAPS admitted that some of its operational officers are enrolled in the AET course, but has not been able to say how many. However, SAPS did state that all new recruits are required to have a matric certificate.⁴⁶

The police service sent 1 315 of its members to AET, with 870 successfully completing the course.⁴⁷

STATION COMMANDERS

Although SAPS spent a lot of money on training, many station commanders are not trained or competent to fill the role. Rather than training qualified station commanders before appointing them, the current policy is to train them on the job. Once SAPS appoints someone as a station commander, he or she is put on a training waiting list. An untrained station commander can wait many years before receiving any sort of training necessary to be competent in their role. In the meantime the station is run by someone without the necessary knowledge and competence.

In April 2013, SAPS acknowledged to the Portfolio Committee on Police that 817 out of 1 133 station commanders had completed their management training. However, not all of the 817 were still managing stations. Therefore, well over 300 stations do not have a station commander qualified to manage the station.⁴⁸ Only 92 station commanders successfully completed management training in 2012/2013. SAPS plans to train 125 in 2013/2014, and 191 in the year after that.⁴⁹

A competent station commander is essential for an efficient and effective station. For this reason, it is clear that SAPS has set its training targets too low. The common position in SAPS seems to be that is that the police service does not have the capacity to train more commanders.⁵⁰ (The management training course is an intensive programme that lasts for 17 weeks.) Therefore

there is an urgent need to improve training within SAPS, and perhaps partner with private institutions that could assist with this process.

The process whereby station commanders are appointed before being trained must also change. Recognising this, the Chairperson of the Portfolio Committee on Police, Annelize van Wyk, stated that officers should be trained to become station commanders before the need arises for them to fill the role. That way trained officers will be available to take the post when it becomes vacant.⁵¹

WE DON'T TRUST THE POLICE IN KHAYELITSHA

For an example of training and competency at a station level, let us look at the Harare station. The Task Team Report found that more than 20% of officers at the station (40 out of 195) were still trainees and not yet competent to perform their tasks. This includes 16 detectives and 24 student constables who were still doing field training.

Because of this lack of competency, SAPS was forced to hire legal advisors to help officers in their duties. They give police officers advice about the application of legislation; crime investigations; and the effective management of resources. However, the Task Team Report found that these legal advisors often did not have the required knowledge of policing to make any serious impact. This would explain why the Task Team found that the police stations in Khayelitsha were unable to comply with departmental directives.⁵²

The Task Team's findings are supported by Funeka Soldaat's statement to the O'Regan-Pikoli Commission of Inquiry in January 2014. Funeka is the Coordinator of Free Gender and she spoke about her interactions with the Harare and Site B police stations.

Funeka described how a lack of training about the best way to interact with members of the public, particularly victims of crime, has affected the public's trust in the police:

"I have reported numerous cases involving rape, housebreaking, robbery, etc. perpetrated against me at Site B and Harare Police Stations. I have also worked with many individuals who have similarly fallen victim and these and other crimes...They [SAPS] do not have the experience and skill to deal with telephone complaints... Community service centre personnel also lack the knowledge and skill to record complaints/witness statements properly. They have a poor command of generally all languages."⁵³

A "NEW" POLICE UNIVERSITY

In January 2014 the Minister of Police, Nathi Mthethwa, officially opened the new SAPS University in Paarl, Western Cape. According to SAPS, the university is a cost-effective way to improve leadership and management training within SAPS.

The University will be open to members of SAPS. The entrance criteria will be based on each officer's record, both their merit as an officer and whether any disciplinary action has been taken against them. Entrants will be expected to pay university fees, but will receive a salary while studying. Students will receive both academic and professional training. Graduates will receive a Bachelor of Policing degree from the University of South Africa (UNISA), with whom the university has signed a memorandum of understanding.

According to the National Commissioner, Riah Phiyega: "the men and women who study in this beautiful setting will play a major role in restoring the dignity of the police of this country".⁵⁴

However, the university has received some criticism. There are other universities that offer policing degrees, which raises questions about whether it really is cheaper for SAPS to run its own university. People have also raised concerns over the funds used to upgrade an older campus and establish the university. These funds came from what SAPS described as a "semi-official" fund as part of the money from Department of Public Works. This fund is unaudited, which raises concerns over how much public money is in the account and how is it being used.⁵⁵

Any initiative to increase training capacity within SAPS should be welcomed. However, this university only takes between 100 to 200 entrants, so it still does not deal with the lack of proper and on-going training needed by the rank and file.

TRAINING OF PUBLIC ORDER POLICE UNITS

Everyone in South Africa has the right to peacefully gather, picket, protest, and present petitions according to section 17 of the Constitution. To this end, section 218 of the Constitution requires the National Commissioner to establish public order policing (POP) units. POP units must help the provincial commissioners to maintain and restore public order. By 31 March 2013, there were 4 563 police service members assigned to 28 POP units.⁵⁶

Between 1 April 2012 and 31 March 2013, SAPS reported 12 399 protests or gatherings, which amounts to 34 protests every day. 1 882 (15%) of these resulted in violence, with police making 3 680 arrests. That means that at least 5 violent protests or gatherings occur every day. Most of the violent protests happened because of labour disputes in the mining sector or unsatisfactory service delivery by local municipalities.⁵⁷ Given the large number of gatherings and protests occurring daily, the number of POP units available to manage crowds seems hopelessly inadequate. Because of the low number of POP units, regular police officers are usually the first to respond to protests or gatherings. This is a problem because ordinary members of SAPS often lack the required level of training.

Recently, the police service's POP capabilities have been criticised because officers have used excessive violence, which has led to unnecessary deaths. IPID reported that in 2012/2013 it investigated 431 cases of death due to police action, which had resulting in 485 deaths. One of those cases occurred at Marikana where police opened fire on protesting mineworkers. 34 miners were killed and 270 miners were injured so badly that they qualify as possible cases of attempted murder.⁵⁸ The Farlam Commission has been tasked with investigating the events of that day and the role of the police in the massacre that occurred. It is not clear how many of the other deaths IPID reported were the result of police action during a protest or gathering.

Irvinne Kinnes in his report entitled "Public Order Policing in South Africa" found that it is vital that POP units remain up to date with the latest professional techniques. Doing so is crucial for them to manage crowds that turn violent. Furthermore, Kinnes found that returning to barracks after a protest to train both physically and tactically would help the POP units to remain fit and plan tactical manoeuvres. He states that "[a] fit, trained and well-managed and disciplined unit would not lose its nerve in the face of continuous taunts from violent demonstrators." In order to maintain safety at protests and gatherings, it is essential that police officers are trained and have the discipline to respond appropriately to volatile situations.⁵⁹

The life-long activist Zackie Achmat recently described his experience with public order policing in post-Apartheid South Africa. He says that although police have generally been professional when dealing with protesters, they have resorted to violence on at least two occasions.

In his statement before the O'Regan-Pikoli Commission of Inquiry Mr Achmat states the following:

"In 20 years of activism in democratic South Africa I have participated in and led countless demonstrations and some civil disobedience actions. These have included marches for gay and lesbian equality, locally and internationally; HIV treatment access; safe communities; gender based violence; equal education for all children; freedom for Palestinian people; and against the invasion of Iraq. In most cases the Public Order Police were uncomfortable but always professional. There were only two incidents of police brutality which occurred against TAC members. The first incident occurred in Durban Central Police Station where scores of people living with HIV, who had gone to lay charges against the Ministers of Health and Trade and Industry, were brutally assaulted. The following week, TAC organized a march of more than 5000 people into the police station grounds to demand an apology. The second incident occurred in Queenstown in the Eastern Cape where police brutally assaulted and shot rubber bullets at TAC activists who had peacefully occupied the hospital administration building because of a delay in providing treatment which had led to 53 deaths. Again, TAC organized a demonstration of nearly 5000 people to the police station to demand an apology and action to be taken against those who assaulted and shot protesters without a warning to disperse."⁶⁰



SAPS



GUGULETU

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WELCOME TO GUGULETU POLICE STATION



IS/ICT PROJECTS

Information Systems (IS) and Information Communication Technology (ICT) projects involve the upgrading of equipment (like computers) and software. This can improve service delivery because SAPS can process information better.

For example, SAPS could save a lot of time by making it possible for police officers to upload case information to a network where it can be immediately accessed by the prosecutors and the courts.

Examining the issuing and implementation of ICT projects within the police service reveals a serious lack of both accountability and transparency within SAPS.

The Integrated Justice System project aims to link all stakeholders in the criminal justice system more closely. One way it does this is by allowing courts and prosecutors to almost immediately access case dockets that SAPS uploads to a network.

The Criminal Justice System covers multiple departments involved in preventing and reducing crime. This includes SAPS, the National Prosecuting Authority, and even departments such as the Department of Social Development.

The Technology Management Services (TMS) unit is responsible for the police's IS/ICT projects. The police service reported on 22 IS/ICT projects in the 2012/2013 financial year. Of these, 10 targeted the Integrated Justice System; 9 targeted the Criminal Justice System; and 5 directly targeted the police service.⁶¹

The law requires SAPS to use two external statutory bodies as service providers. These are the Department of Public Works and the State Information Technology Agency (SITA). This means that (to a certain extent) SAPS relies on these statutory bodies when entering into ICT contracts. SAPS will give these statutory bodies a budget, depending on the plan the statutory body provides, and the statutory bodies will pay

the contractor.

SAPS often blames these two statutory bodies for it being unable to meet its deadlines for IS/ICT projects. According to SAPS, this overreliance is the reason for the potential failure of 6 of its 24 current projects. Relying on a third party, such as the Department of Public Works, to handle contracts can make it difficult for SAPS to monitor the status of contracts.

Unfortunately, it is not clear how SAPS sets its targets for IS/ICT projects, or how it measures whether it has met these targets.

For example, in the 2011/2012 SAPS Annual Report, the target for the Automatic Fingerprint Identification System was to “[e]xpand capacities to accommodate criminal and non-criminal searches.” SAPS reports that it completed 70% of the project. However, SAPS did not provide more context for that number or explain how it came up with this number. In the 2012/2013 Annual Report SAPS failed to set any targets for the project.

The Automatic Fingerprint Identification System allows for people to capture, store, and search for fingerprints on an electronic system.

This suggests that no accurate measures of performance are in place. Also of concern is the fact that SAPS has omitted some projects from its latest report. One example of such a project is the Enhancement of Firearm Registration System, which will be discussed later. Of the 24 ICT projects mentioned in the 2012/2013 Annual Report, SAPS claims to have met its targets for 6 projects; failed to meet its targets for 13 projects; and failed to set targets for 5 projects.

This report will focus on three projects, namely the implementation of the e-docket system; MAXID terminals; and the Enhance of Firearm Registration System (EFRS).

THE E-DOCKET SYSTEM

The e-docket system allows SAPS to capture dockets on an electronic database. This can be done either by scanning in each original docket or by typing it in manually.

Ideally, the police, the courts, and the National Prosecuting Authority should all be able to access the same docket. This would speed up the flow of information within the criminal justice system significantly. Using electronic copies of dockets also significantly reduces the chances of a docket being

lost. SAPS reports that 655 dockets were lost or stolen during the 2012/2013 financial year.

During the 2012/2013 financial year, SAPS implemented the e-docket system at 64 stations. This brought the total number of stations who have the system to 185.⁶²

However, in October 2013, the parliamentary Portfolio Committee on Police raised concerns about how the e-docket system was being implemented. In questions before parliament, the committee agreed that computers and scanners had been installed so that case dockets could be captured electronically. But they also pointed out that these computers had not yet been linked to the courts or correctional services.

The committee were also concerned that it had taken 11 years to install the e-docket system at only 16% of police stations.⁶³ Therefore, although SAPS reported exceeding its targets for implementing the e-dockets system, it is clear that the target is too low and the system is not yet fully functional at all the stations in which it has been implemented.

MAXID TERMINALS

MAXID terminals allow police officers to enter information into a database and search the same database for information about a person, firearm, or vehicle. It prevents police officers from unknowingly releasing anyone who is wanted for serious offences.

For example, an officer at Harare Police Station could arrest someone for assault, enter their details into the MAXID terminal, and find out that they are wanted for murder at Lingelethu-West. An officer could also enter the number plate of a vehicle to find out if it has been reported as stolen.

SAPS reported that it deployed 934 MAXID terminals to the provinces in the 2012/2013 financial year. This exceeded their reported target of 490 units. In October 2013 SAPS revealed that MAXID terminals that had been deployed to 934 stations had not yet been installed. At all of these stations the previous Mobile connectivity system had been discontinued.⁶⁶

The Portfolio Committee on Police raised this as an issue of serious concern. It means that, if the police arrest someone at one of those stations and he/she is on the most wanted list, SAPS will not be able to circulate that information.

MISSING DOCKET FAILS MOSES DIBELA

Would the e-docket system have any meaningful effect on the justice system in Khayelitsha? To answer this question we need to look at the current handling of dockets in Khayelitsha.

Rochelle Harmse is a Senior Public Prosecutor for the office of the Director of Public Prosecutions, at the Khayelitsha Magistrates Court. In her submission to the O'Regan–Pikoli Commission of Inquiry in January 2014, Harmse described the problem of court dockets not arriving at the district court as “an on-going issue”. She said a large number of cases are withdrawn because dockets are not brought to court.⁶⁴

This is supported by the experience of Moses Dibela, which is recounted in Phumeza Mlungwana’s submission to the Commission.

In May 2012 Moses was beaten by a group of people outside a tavern in Khayelitsha because they thought he had stolen money. When the police arrived, they joined in the beating and accused him of being a thief. Moses was so badly injured he could not stand.

Moses was taken to Site B police station. After sitting overnight in a cell with no medical attention, he was taken to Site B Day Hospital. After a few days the case against Moses was withdrawn and he was released. Moses laid an assault charge against his attackers, but when he asked about the case he was told that the docket was missing. This one of many cases reported to the Commission where dockets were lost.⁶⁵

Reports of missing dockets are common through both the expert and community testimony submitted to the Commission. It is clear that a fully functional e-docket system would greatly improve people’s access to justice in Khayelitsha.

Other stations could be wasting resources searching for that person even though they have already been arrested. Also, the station that arrested the person may not realise that the person they have arrested is wanted for serious crimes and release them unknowingly.⁶⁷

THE FIREARMS REGISTRATION SYSTEM

Most illegal firearms were once legal firearms, so it is important to keep an accurate database of licensed firearms. Although little data is available, the 2008 Small Arms Survey recognised that the private security industry and the police service have been major sources of firearms for criminals.

The Firearms Control Act (60 of 2000) requires that the National Commissioner establish a central database of gun dealers and manufacturers. To do this, SAPS entered into a contract with Waymark Technologies in September 2004. SAPS agreed to pay Waymark R92 million to provide what was called the “Enhancement of Firearm Registration System” (EFRS). According to the 2011/2012 SAPS Annual Report, the system was meant to “provide for the registration of dealers/gunsmiths and submission of returns by ammunition manufacturers.”⁶⁸

The original date for completion of the contract was July 2006. Waymark missed the completion date, and over the life of the contract SAPS agreed to four amendments with Waymark. This meant that by March 2012, SAPS had paid Waymark R342 million without receiving the database.

In August 2012, SAPS placed the contract on hold pending an internal investigation. By this time the price of the contract had risen to R413 million.

In September 2012, when SAPS presented its Annual Report to Parliament, it failed to disclose that the contract had been placed on hold. Instead the Report only stated that “outstanding development could not be completed due to contractual issues to be resolved.”⁶⁹

In a report about the use of consultants (January 2013), the Auditor-General noted that Waymark had failed to produce any results almost six years after the original end date. The Auditor-General said this meant the contract amounted to fruitless and wasteful expenditure.⁷⁰

According to a response that Ndifuna Ukwazi received from the office of the Minister of Police, the internal investigation into the EFRS contract did not

reveal any contravention of the law by Waymark Technologies and SAPS had not terminated the agreement with them. However, SAPS failed to mention the status of the EFRS contract in its 2012/2013 Annual Report.

The performance of the Technology Management Services remains a serious concern. In October 2013, before the Portfolio Committee on Police, Riah Phiyega claimed that the reason that SAPS was not meeting its targets regarding ICT projects was because the people responsible for these projects were still only in an acting role. She claimed that SAPS just needed time to get the right people in place. However, the committee said that SAPS has failed to meet its targets for many years.⁷¹

KHAYELITSHA

Community
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DATA INTEGRITY

The National Crime Prevention Strategy, which Cabinet adopted in 1996, made it a priority to gather “reliable” crime statistics. Crime statistics could be used to “properly [inform] public opinion in the fight against crime.”

Every year, SAPS releases crime statistics for the previous financial year (1 April to 31 March), usually in September. Unfortunately, this means that the statistics are at least six months out of date by the time they reach the public.

Accurate and up-to-date crime statistics are essential if communities, businesses, civil society organisations, and government departments are going to respond appropriately to crime trends. SAPS needs reliable and regular statistics to test whether crime prevention strategies are working.

REPORTING OF CRIME STATISTICS

Whenever someone reports a crime, the police are supposed to upload the information to the electronic Case Administration System (CAS). The CAS system is linked to nearly all police stations.

Whenever someone calls 10111 to report a crime, the police are supposed to open a case docket and the relevant police station is supposed to dispatch police officers to the scene. Every 10111 call that reports a crime results in a positive incident report. Each positive incident report should be linked to a docket on CAS.

Between 1 April 2012 and 31 March 2013, 10111 call centres received 9.1 million calls. There are 20 such emergency call centres across South Africa. Approximately 2.6 million of these calls were crime related.

In 2011/2012 the Auditor-General found that 58% of positive incident reports were not linked to dockets on CAS. In 2012/2013 the Auditor-General again found that at least 15% of positive incident reports were not linked to dockets on CAS.⁷²

SAPS is supposed to capture 10111 calls on the Incident Report System (IRS) at the relevant station. (The IRS generates an incident number that is dispatched to a police vehicle.) SAPS is also supposed to use the IRS to monitor police reaction times. However, in the 2012/2013 SAPS Annual Report, the Auditor-General found that there was no way to verify police reaction time because no systems are in place to confirm that the recorded data is reliable. SAPS did not explain which methodology it used to compile its data. SAPS also did not say whether it has systems in place to check how valid the data is.

These findings illustrate that recorded crime statistics are highly questionable, and more than likely seriously underestimate true levels of crime in our communities.

THE BENEFITS OF MORE REGULAR CRIME STATISTICS

It is possible for SAPS to provide more regular and accurate crime statistics. Dockets on the CAS are updated every 24 hours. This means that SAPS has access to crime statistics that are no more than a day old. The records on the CAS include information such as the crime’s location and what time it occurred. SAPS currently uses this data to see what crimes are happening; where they are happening; and what time of day they are occurring. These records are also used to build profiles of both the victims and perpetrators of crime. SAPS uses this information to identify crime “hotspots.” Some police stations already supply more regular crime statistics to their Community Police Forums.

National policing policy should be realigned to allow for the more regular publication of accurate statistics. It would not be difficult to publish station statistics on a monthly basis. This would allow communities to have an accurate picture of crime rates and types in their neighbourhoods, and to test whether crime reduction projects are working.

TWEAKING THE NUMBERS

In October 2013 the police service released the crime statistics for the 2012/2013 financial year. Comparing the number of reported crimes per 100 000 people in order to compare “apples with apples”, the police reported that overall, crime had declined.

Internationally, it is standard practice to compare crime rates per 100 000 people. This is because it allows us to compare the crime rates of areas with different population sizes. This method makes it easier to assess the impact of crime on people. Stating that 31 out of every 100 000 people are murdered provides more information than just providing an arbitrary figure. Analysing crime rates this way also allows you to identify trends over time, regardless of changes in population size. The only difficulty is ensuring that the population estimates are accurate.

One month after the 2011/2012 crime statistics were released (covering the previous financial year), Statistics South Africa released updated population estimates for South Africa. Based on the results of the 2011 Census, South Africa’s population increased from 50.6 million to 52.3 million people.

However, SAPS did not update its crime rate estimates using the new population estimates. This means that when it compared the crime rates between 2011/2012 to those of 2012/2013, it used the incorrect numbers. Therefore, the reported changes to the crime rate between 2011/2012 and 2012/2013 were incorrect.

- While SAPS reported that the murder rate had declined by 0.6%, it had in fact increased by 2.8%.
- Sexual offences were reported to have declined by 0.4%, but actually increased by 1.5%.

Failure to report accurate statistics diminishes people’s trust in the police. Also, crime rates are used to measure the performance of SAPS and it is therefore vital that we have accurate performance measures in order to assess the success of current strategies.

CRIME STATISTICS IN KHAYELITSHA

Khayelitsha covers an area of roughly 43 square kilometres, with a population of approximately 400 000 people. The area is covered by three police precincts: Khayelitsha (Site B); Harare; and Lingelethu-West.

When the 2012/2013 statistics from the three stations in Khayelitsha are combined and compared with other precincts in the country, the area has the highest number of specific crimes in South Africa. This includes reported murders (354); sexual crimes (617); attempted murders (342); assaults with the intent to do grievous bodily harm (1 486); and aggravated robberies (1 932) in the country. According to the police’s own figures, at least 45 new crimes are reported in Khayelitsha every day.

The Task Team found widespread problems regarding the accurate reporting of crime, both in terms of how crimes are recorded and in terms of how police responded to specific incidents. For example, the Task Team found that incidents were not captured on the IRS. It also found that police officers did not always make entries in the Occurrence Book after people reported incidents. Although Community Service Centre commanders claim to check every 30 minutes to ensure that a complaint has been attended to, this is not happening.⁷³

All major incidents or events during the day are meant to be reported in the occurrence book, from times of patrols to reported incidents.

Although Khayelitsha may not reflect reporting standards at all police stations, the report demonstrates the lack of proper systems at a station level to ensure the accurate recording and reporting of crime statistics.

IN CLOSING

After 20 years of democracy in South Africa, it is important to assess our progress in transforming the police from a 'force' to a 'service' that is dedicated to protecting people's constitutionally recognised rights to safety and security.

The findings of this shadow report raise serious concerns regarding the ethics, effectiveness, accountability and transparency of the service.

The O'Regan-Pikoli Commission of Inquiry provides a crucial opportunity to learn what challenges are facing the police, and to provide solutions to those challenges. The recommendations will help communities to work together with the police.

These recommendations should be welcomed by the police service as a way to rebuild the public's trust in SAPS, and create a democratic service that is both effective and accountable, under professional and ethical command.

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