



How can the South African Police Service prevent another Marikana?

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Overview



- Understanding policing in a democracy
- The politicisation of the SAPS
- The impact on an ethos of professionalism
- Recommendations

Policing in a democracy



‘One element in defining a democratic society is a police force that:

- is subject to the rule of law embodying values respectful of human dignity, rather than the wishes of a powerful leader or party;
- can intervene in the life of citizens only under limited and carefully controlled circumstances; and
- is publicly accountable.’

Police and Democracy, by Gary T. Marx in M. Amir and S. Einstein (eds.) Policing, Security and Democracy: Theory and Practice, vol. 2, 2001

Key objectives of democratic policing



- Public trust and confidence in the police are prerequisites for effective policing. Without this trust the public will not be willing to report crimes and provide the police with the information needed to work successfully.
- Furthermore, democratic policing requires that the police simultaneously stand outside of politics and protect democratic political activities and processes (e.g. freedom of speech, public gatherings, and demonstrations). Otherwise, democracy will be threatened.
- When intervening in conflicts, the police must be guided by the principle that everyone shall be subject to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(Geneva Centre for the Control of Armed Forces, International Police Standards: Guidebook on Democratic Policing, 2009)

SAPS' Code of Conduct



I commit myself to creating a safe and secure environment for **all people** in South Africa ...

...

In carrying out this commitment, I shall at all times –
uphold the Constitution and the law;

...

I undertake to –
act with integrity in rendering an effective service of a high standard which is accessible to everybody

...

uphold and protect the fundamental rights of every person;
act in a manner that is impartial, courteous, honest, respectful, transparent and accountable;

exercise the powers conferred upon me in a responsible and controlled manner; ...

Key concerns surrounding police killings at Marikana



- The belief by protagonists that the police were amenable to acting in response to political and private pressure.
- That political pressure was brought to bear on the police to act against the strikers.
- The close relationship between Lonmin management & the police
- Police did not appear to be primarily focused on doing everything possible to minimise violence & loss of life on the day of the killings.
- Lack of any investigation by the SAPS to identify any possible criminality & misconduct on part of its members despite available evidence.
- Lack of any clear plan of action to prevent such an incident from re-occurring.

SAPS Leadership Context



Jackie Selebi appointed in 2000

- No policing experience
- Instances of poor decisions making (closure of specialised units)
- Ignored & weakened accountability mechanisms
- Inappropriate appointments and promotions
- Misuse of SAPS crime intelligence capacity against Scorpions & NPA
- Protected by the President Mbeki who fired NDPP to protect Selebi
- Selebi convicted for corruption & sentenced to 15 years

SAPS Leadership Context (Cont)



Lt. Gen Richard Mdluli

- Involved in the SAPS campaign against the Scorpions in 2008
- Appointed head of SAPS National Crime Intelligence Division 2009 by Minister of Police without following procedures
- In 2011 he faces charges of murder, fraud, corruption and nepotism following various investigations & suspended.
- Releases report demonstrating SAPS intelligence capacity misused for internal ANC political purposes
- Alleged that the Minister of Police instructed Acting SAPS Comm Mkwanazi to lift suspension & halt all investigations against Mdluli.
- 27 March Mdluli re-instated & Police Minister announces that he is to be given increased powers
- 23 September 2013, High court orders Mdluli to re-suspended & criminal charges reinstated without delay.

SAPS Leadership Context(cont)



Bheki Cele appointed July 2009.

- No police or public sector operational management experience.
- Established the Tactical Response Teams and increased rhetoric encouraging the police to be more forceful.
- In February 2011 **Public Protector** found that his conduct re the leasing of office accommodation was ‘improper, unlawful and amounted to maladministration’.
- Subsequent **Board of Inquiry** found that he was ‘unfit for office’ and on 12 June 2012 he was ‘released’ from his duties.
- Board also found that 2 Lt Gen’s who testified before it - ‘attempted to mislead the board’ which raised concerns with integrity at the highest levels.

SAPS Leadership Context (cont)



Riah Phiyega appointed 2012

- No police or police management experience
- States four days after killings that this represents “the best of responsible policing”
- Continues to protect Mdluli. High court judge stated that *"She apparently sees no need to place any obstacles in the way of Mdluli's return to work, despite her constitutional duty to investigate allegations against him and the unfeasibility of his holding of a position of trust at the highest level in SAPS."*
- 2013 first time in 20 years releases official police crime-ratios are inaccurate thereby downplaying increases. No acknowledgement or corrective steps taken
- Being criminally investigated for defeating the ends of justice.
- 2014 reduces qualification levels for SAPS Provincial Crime Intelligence Heads and demotes qualified officers without following legal processes.

Tough talking by leaders



‘You must ***kill the bastards*** if they threaten you or the community. *You must not worry about the regulations.* I want no warning shots. You have one shot and it must be a kill shot. I want to assure ... policemen and women ... that they have ***permission to kill*** these criminals. I will not tolerate any pathetic excuses for you not being able to deal with crime. You have been given guns, now use them’

Susan Shabangu, Deputy Minister of Safety & Security, on 9 April 2008, to police members at an imbizo in Pretoria

Tough talking by leaders



‘We have taken a stance ... of **fighting crime and *fighting it tough***.

The rank changes ... [are] in line with our transformation of the **Force** ... [including a] *change in attitude, thinking and operational duties* ... This [is] *not* ... *merely the militarization of the police but* ...

part of our new approach of being fierce towards criminals...
*there are certain steps we have undertaken to ensure we win this war ... This is a **people’s war against criminals**.*

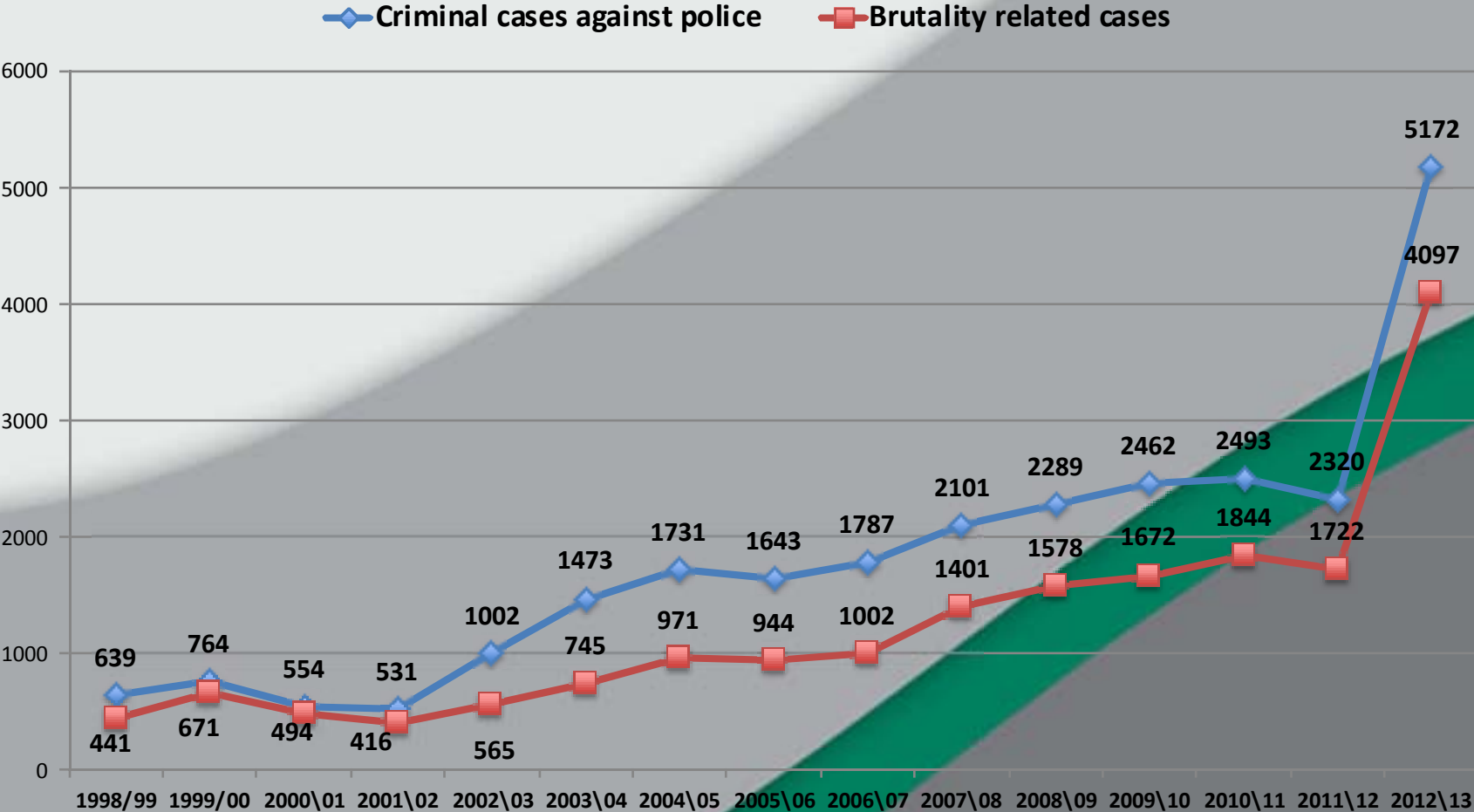
Minister of Police, 12 March 2010, announcing the new police ranks

Impact on Professional Ethos



- Action not taken against certain senior officials despite evidence of wrongdoing
- People are sometimes appointed into senior positions for reasons other than merit and integrity
- Creates the impression that political approval or loyalty are more important than hard work, honesty and qualifications to achieve senior positions in the SAPS
- Contributes to the organisational culture characterised by a 'code of silence' & lack of willingness to reflect openly & honestly on key challenges.
- Undermines police morale & willingness to improve
- Some of these issues have been raised by the Portfolio committee on Police over the years without avail.

IPID Cases against the Police



Recommendations



- There are no simple solutions to reforming the police
- The National Development Plan 2030 (NDP) has been formally adopted as a government plan for improving policing.
- The NDP acknowledges the serious systemic and leadership problems within the South African Police Service
- It contains constructive and far-reaching recommendations to address these challenges which we support.

National Development Plan



The NDP recommends the professionalisation of the police by:

- In the short term the **Code of Conduct** should be included in disciplinary regulations and performance appraisal system & conduct **periodic checks** on the level of understanding and practice of the Code.
- A **code of professional and ethical police practice** should be developed and members should be **trained and tested** (failure to pass should lead to suspension or dismissal). Oversight bodies should monitor adherence.
- A **National Policing Board** with **multi-sectoral and multi-disciplinary expertise** should be established to set *standards for recruitment, selection, appointment and promotion*
- All officers should undergo a **competency assessment** and be **rated** accordingly.

National Development Plan (cont)



- In the next 5 years a ***two-stream system*** should be developed to create high caliber officers & recruits (officer and non-commissioned officer streams) to be trained as professionals
- There should be ***objective testing*** based on **set standards & criteria** to reward experience & competence. Recruitment to officers' stream should be followed by further training and testing
- The **National Commissioner** and **Deputies** should be appointed by the President on a competitive basis. A ***selection panel*** should select and interview candidates against **objective criteria**. This would enhance the incumbents standing in the eyes of the community and increase the respect accorded them by their peers and subordinates.

National Development Plan (cont)



- More focus on **training for professionalism** (detectives; spec units; operational planning; community policing; etc)
- The police force must ***demilitarise*** (as ‘a short term objective which should happen in the immediate term’)
- Finally, the ***organisational culture and subcultures*** of the police should be reviewed to assess the effects of militarisation, demilitarisation, remilitarisation and ‘the ***serial crises of top management***’

Recommendations



- Once a team of highly experienced, skilled and knowledgeable officers is in place, they should be tasked with developing a clear plan of action with measurable outcomes for professionalising the police.
- Senior Officers should at all times adhere to the code of conduct, & all rules and procedures.
- The implementation of this plan should be independently assessed by the National Police Board and reported to before parliament annually.
- This would also ensure that the SAPS becomes de-politicised & is able to withstand political pressure within its field of operations.
- Over time the SAPS would see an increase in public trust and respect from communities to the benefit of all.



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