



Briefing Paper 528

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Leadership Crises in the SA Police Service

1. Introduction

At the end of June this year, Parliament's Portfolio Committee on Police warned that a 'war of generals' in the SA Police Service was causing a loss of public confidence in the police and was hampering its crime-fighting capacity.¹

A few weeks later, when rioting and looting broke out across KwaZulu-Natal and in parts of Gauteng following the imprisonment of Jacob Zuma, the police were extremely slow to react and appeared to have had no idea that violence was in the offing, despite numerous public warnings and threats from people in Mr Zuma's camp.

It might be simplistic to draw a straight line connecting these two things, but there is undoubtedly a link between the problems that have affected the SAPS at leadership level for many years now, and the service's ever weaker performance in foreseeing, countering and resolving crimes and lawlessness. The negative consequences of a dysfunctional police service for citizens' freedom and security, for investment and economic growth, and for the country's overall stability, are obvious. Unfortunately, there is little indication that the problem is

receiving anything like the attention it deserves from the country's political leaders.

2. Background

One way of illustrating the crisis at the top of the SAPS is to consider the number of senior leaders who have been tried for, or suspected of, serious crimes and improprieties, or who have actually been convicted of them. The list begins with the second post-apartheid National Commissioner, Jackie Selebi, who occupied the position from 2000 to 2008. His association with the notorious criminal Glenn Agliotti led to a conviction for corruption and a 15-year sentence in 2010.

Mr Selebi was succeeded by Bheki Cele, appointed in 2009, but Mr Cele lasted only two years before being suspended due to allegations of unlawful expenditure and maladministration in connection with the leasing of a building. He was finally dismissed in 2013, only to make a comeback as Minister of Police 2018.

Mr Cele's successor, Riah Phiyega, was never accused of corruption, but a 'ministerial reference group' found that she had committed both fraud and perjury in

connection with disciplinary and performance matters,² and the Farlam Commission of Enquiry into the Marikana massacre recommended that her fitness for office be investigated. She was suspended in 2015, and Khomotso Phahlane was appointed as Acting National Commissioner. Mr Phahlane, however, was charged with fraud and corruption in 2018, and dismissed from the SAPS in 2020. His trial has not yet been finalised.

The current Commissioner, Khehla Sitole, was appointed in 2017, shortly before the ANC's five-yearly National Conference which saw the tightly contested battle for power between the Ramaphosa and Zuma factions. Mr Sitole is now facing the strong possibility of dismissal, the High Court having found him to have been in breach of his duties in the matter of the purchase of an intelligence 'grabber' at a greatly inflated price, which grabber was used to monitor communications at the ANC conference.

The position is no better at the levels immediately below that of National Commissioner. Towards the end of last year the Deputy National Commissioner, Bonang Mgwenya, appeared in court with 14 other officers, charged with fraud, theft, corruption and money-laundering.³ Among her fellow accused are the Gauteng Provincial Commissioner and the province's Deputy Commissioner. (This is the same case in which the former National Acting Commissioner, Mr Phahlane, is appearing.)

In May 2018 the Western Cape Provincial Commissioner, Arno Lamoer, received a six-year sentence for corruption; two brigadiers were sentenced with him. In October 2020 a former KwaZulu-Natal Provincial Commissioner, Mmamonye Ngobeni, appeared in court on charges of corruption and defeating the ends of justice, in connection with accommodation tenders dating back to the 2010 Football World Cup.

To extend the list beyond Commissioner level is not feasible in a short paper, but one other case involving senior police management

must be mentioned – that of Richard Mdluli, head of crime intelligence from 2009 to 2012. It is widely accepted that Mr Mdluli used his position to support then President Zuma, as well as to employ a number of his own relatives irregularly.⁴ However, when Mr Mdluli went to jail for five years last September, it was because he had assaulted and kidnapped his former lover's husband.

3. Why This Succession of Poor Leaders?

3.1. Politicisation

This question was put to Gareth Newham of the Institute for Security Studies, one of the speakers at a webinar on police leadership organised by CPLO and the Hanns Seidel Foundation.⁵ Mr Newham's reply was, in one word, "politics". Commissioners of police are appointed by the President and the political decision-making behind the appointments determines who gets the job; in turn, the approach and agenda of the appointee – and any political pressure they might be subjected to – determines how they carry out their leadership task and how they choose to apply police resources.

A vital aspect of the National Commissioner's leadership function is the appointment of the next tier of command – the heads of the various directorates such as crime intelligence and detectives, as well as the more behind the scenes administrative, training and logistics departments. Equally importantly, the Constitution provides that the National Commissioner must "with the concurrence of the provincial executive" appoint the various Provincial Commissioners.

Thus, if a National Commissioner has been appointed as a result of primarily political considerations, it stands to reason that his or her down-the-line appointments will also be influenced by the same considerations. This, of course, need not be an overt process. Merely choosing the right type of person – one who is naturally in step with the desires of the political authority – ought to be enough to

ensure that the second and third levels of command are also filled by 'the right types'. But those 'right types' will quite likely not be the best, most experienced available leaders, merely the most politically acceptable.

3.2. Transformation

The first National Commissioner appointed by the ANC government was George Fivaz, a white, apartheid-era SA Police general; he served one five-year term of office before being replaced by Jackie Selebi. Mr Selebi's appointment was a clear case of 'cadre-deployment', the ANC's policy of ensuring that as far as possible the most important state positions are occupied by party members who can be relied upon to pursue an agenda of transformation. It is not hard to understand the ANC's desire to see such an important, and potentially dangerous, instrument of state power as the police being transformed from a white-dominated instrument of oppression into an institution that would serve the interests of democracy, and with a leadership corps that would reflect the country's demographics.

That, at least was the theory. Mr Selebi was a senior ANC member of long-standing, having headed its youth league, been an MP and a member of the party's national executive, as well as having served as the Director-General of Foreign Affairs in the late 1990s. Unfortunately, not for the first time, and certainly not for the last, it turned out that while the cadre behaved in a politically acceptable way, and ticked the transformation boxes, he was not objectively up to the job. Mr Selebi turned out to be a crook, deeply in league with organised crime, and went to jail.

After a short interregnum under an acting National Commissioner who was a career officer, another cadre, Bheki Cele, was appointed in 2009. Mr Cele had been an ANC MEC in the KwaZulu-Natal provincial government; like Mr Selebi, he had had no previous policing experience, but he could be relied upon to pursue the transformation agenda. Once again, though, he was not up to the job of leading the police service and was

suspended after a little more than two years in connection with the unlawful expenditure of R1.7 billion rands on a property lease.

If we add to these two examples those of General Phahlane (now on trial for fraud) and the incumbent, General Sitole (accused of wasting millions on the intelligence grabber and of using it to interfere in party political matters) an obvious pattern emerges: a number of unsuitable people have been chosen to head SAPS for reasons other than strictly objective ones.

It is important, though, not to be naïve or simplistic about this. It must surely be conceded that the SAPS could not have continued to be led by the same white, mainly Afrikaner, generals that were in charge up to 1994. It needed to be transformed at all levels, and the governing party needed, reasonably enough, to feel secure that the leadership corps would not be pursuing an agenda contrary to its own. But there was a price to be paid and the price, it seems, is still being paid.

3.3. Lack of stability

From Generals Fivaz to Sitole inclusive, there have been nine National Commissioners since 1995, four of whom served in acting capacities. This means that each of them was in the job for an average of less than three years. In fact, since Mr Fivaz and Mr Selebi between them served 14 years, the most recent seven Commissioners averaged only 20 months each in the job.

This very rapid turnover has not been conducive to the establishment of leadership stability. No one has been able to stamp their authority or management style on the vast institution that is the SAPS, and neither have they been able to groom and train a second-tier leadership corps from which their successor could be drawn. Acting Commissioners, naturally, have not known if they would be permanently appointed and have not been able to settle into the job or to make long-term plans. (Some of these, however, have also acted precipitously, altering systems and appointing senior

officers without following procedures, giving the impression of wanting to cement major institutional changes before their acting term came to an end. This, too, does nothing for stability.)

This lack of stability must also be viewed against the background of the unstable situation that pervaded much of the rest of the state apparatus during the state capture years. Numerous senior officials in institutions such as the National Prosecuting Authority, the State Security Agency, the SA Revenue Service, to name only a few, were sidelined or resigned from their posts as a result of political interference. Even a well-qualified and otherwise suitable SAPS Commissioner would have had to do his or her job with one eye continually watching out for political machinations that could, at any moment, have ended their tenure. Hardly a recipe for calm, focused leadership.

3.4. Failure to develop leaders internally

According to Sydney Mufamadi, Minister of Safety & Security from 1994 to 1999, there needs to be a conscious intention to foster leadership talent in SAPS. A process of producing a new skills base was begun in 1997/8, but it apparently petered-out. There was also a failure to ensure that important policing skills, such as investigation and detective work, were adequately passed on from the old guard to the new. Indeed, says Dr Mufamadi, SAPS did not succeed in setting up a 'talent pool' that was unencumbered by the divisions of the past.

Fourteen years later, when the National Development Plan (NDP) was launched, not much had changed. The plan referred to the "serial crisis of top management" in the police, and made various recommendations concerning the appointment of future National Commissioners (see section 4 below). However, like much of the rest of the NDP, these recommendations were ignored by the Zuma administration, which had little interest in encouraging competent and independent police leadership.

The problem is exacerbated by the fact that there are no detailed qualifications for the post of National Commissioner. According to Mr Newham, there are only three firm requirements for someone to be appointed – he or she must be over 18 years of age, a South African citizen, and must have no criminal record. (To become a police constable, on the other hand, you must satisfy a list of 18 criteria.) Consequently, it is easy for unsuitable people to be appointed to head SAPS, and there is little incentive within the institution to develop or nurture potential top leadership.

4. Addressing the Problem

The appointment of the police head is always going to be a very sensitive matter, and it would be naïve to think that it can be completely divorced from political and historical considerations. It will probably be a long time before a white Afrikaans-speaking officer can aspire to become National Commissioner, and likewise a long time before a candidate's perceived party loyalties are regarded as irrelevant. However, these two essentially extraneous considerations should at least be de-emphasised, and above all, factionalism in the governing party should not be allowed to influence the appointment. Easier said than done, of course.

Another approach would be to follow the recommendations of the NDP, summarised by Mr Newham as follows: a board of experts would interview a range of qualified people in a transparent and merit-based process, open to public scrutiny, and forward its preferred candidate to the President for formal appointment. A process much like this was followed when the new head of the National Prosecuting Authority, Adv Shamila Batohi, was chosen. This method also has similarities with the way that judges are selected after a public interview process by the Judicial Service Commission.

There is also arguably a role for Parliament. The Constitution provides that the Public Protector, the Auditor-General, and the

members of the Human Rights Commission, the Commission for Gender Equality, and the Electoral Commission must all be appointed (by the President) on the recommendation of the National Assembly. In the case of the PP and the AG, at least 60 per cent of MPs must support the recommendation. This is to ensure, as far as possible, that appointees enjoy broad support across party lines. It would seem reasonable to suggest that the National Police Commissioner should also enjoy such support.

But there is a counter argument too. As Dr Mufamadi said during the webinar, “building a police service that must serve the country is a matter of national interest. It can’t be a matter for political football that is played in the national legislature.” And we certainly know that not all the appointments to vital national posts that have gone through the parliamentary process have turned out to be successful.

5. Conclusion

Police reform, according to Gareth Newham, is a notoriously difficult thing to achieve. Often,

that reform has to do with trying to cleanse a police department of deep-seated corruption, as has happened in fairly recent times in the New York Police Department in America, and the Queensland Police Department in Australia. In our case, though corruption is also no doubt an issue, the more pressing need is for reform at leadership level. It is not a coincidence that the long period of crisis in police leadership has also been a period of decline in rates of arrest, and in the detection and successful prosecution of crimes, while at the same time the overall levels of most serious crimes have been rising.

But there is an encouraging precedent. South Africa’s transformation of the apartheid-era SA Police force into a more community-oriented police service in the post-1994 years is regarded internationally as a success story, says Mr Newham. If we could do it once, we can surely do it again. As with a number of other governance issues in our country today, what mostly seems to be lacking is the necessary political will and energy, as the governing party continues to be sidetracked by its internal problems.

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¹ <https://www.news24.com/news24/southafrica/news/war-of-generals-in-saps-will-hinder-crime-fighting-says-parlys-committee-on-police-20210629>

² <http://www.rdm.co.za/politics/2015/11/12/police-commissioner-riah-phyega-liar-fraud-and-bully>

³ <https://www.dailymaverick.co.za/article/2020-10-12-sas-second-most-senior-cop-lieutenant-general-bonang-mgwenya-appears-on-corruption-charges-for-dodgy-tenders/>

⁴ <https://www.timeslive.co.za/politics/2019-09-19-state-capture-how-charges-were-dropped-against-richard-mdluli-it-just-didnt-make-sense/>

⁵ A video of the webinar can be found on the CPLo website www.cplo.org.za The other speaker was Dr Sydney Mufamadi, Minister of Safety and Security in the Mandela government from 1994 to 1999, and recently appointed to be President Ramaphosa’s national security advisor.

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