

CHAPTER NINE: CONCLUSIONS AND RECOMMENDATIONS

9.1 INTRODUCTION

The primary aim of this study was to determine what the perceptions of the members of the SAPS in the North Rand area of the Gauteng Province are about the disciplinary process in the SAPS. This chapter gives an overview and understanding of the research conducted by the researcher. In order to determine the perceptions and preferences of the respondents, a thorough understanding of the concept and practice of discipline was necessary. Consequently a review of the literature on discipline and the disciplinary process was done.

The identified role players during the disciplinary process as shown in this study have a role to play towards disciplining the employees in the working environment. These role players also have a role to play in training the employees about the discipline and the disciplinary process.

Emanating from the conclusions and in answering the research questions asked in this dissertation, several recommendations are made based on the perceptions and preferences of the SAPS members in the North Rand area of the Gauteng Province regarding the disciplinary process. Also arising from the recommendations made in this dissertation, opportunities for future research in the subject will be identified.

9.2 CONCLUSIONS

Conclusions of all the chapters presented in this dissertation are provided within the context of the structural framework of this study. The results of the literature review is presented in chapter two in the form of a theoretical exposition of discipline. Various

definitions of discipline as given by various authors on this subject were also provided.

Based on all these definitions of discipline the researcher has provided his own definition of discipline which was his point of departure when approaching this subject.

The purpose and objectives of discipline are important. The purpose of discipline is corrective rather than punitive. The employer-employee relationship is regulated among others by means of the prevailing directives. In this relationship the employee has to behave in accordance with the stated directives. Behaving contrary to these directives will mean that the employer must correct the unacceptable behaviour. In chapter two it was highlighted that, unacceptable behaviour of the employee should be corrected by the employer in accordance with the given definition of discipline. It was never suggested that an employer should condone unacceptable behaviour of an employee.

In general the purpose and objectives of discipline are closely related to an approach adopted by the employer in the employment relationship. Two approaches to discipline were referred to in chapter two, namely the traditional approach (also known as the progressive approach), and the modern approach (also known as the corrective approach). The literature study showed that in the progressive approach the committing of a misconduct is automatically followed by a penalty. In institutions where the progressive approach is applied employees are always punished for their misconduct. The corrective approach to discipline implies that the employee and the supervisor share the responsibility of resolving the problem. A committed misconduct therefore is seen by both the employee and the supervisor as a challenge which needs to be faced and overcome. The emphasis of the corrective approach is on correcting the unwanted behaviour of the employee rather than punishing him/her.

In order to limit inconsistencies during the disciplinary process the literature study showed that misconduct and penalties should be classified and made known to the employees in advance. The classification of misconduct and penalties did not prescribe

to presiding officers of disciplinary hearings that they should be inflexible when executing them. Presiding officers should still consider the circumstances surrounding the misconduct committed.

In chapter two the role players during the disciplinary process were identified. These role players are the employer, supervisor, presiding officer, employees and shop stewards as representing trade unions. Employees can play a dual role during the disciplinary process, namely either as accused or as shop stewards for example as representatives of fellow employees during disciplinary hearings.

The directives of the employer in the employment relationship are implemented and monitored by among others supervisors and presiding officers. Their roles include that of correcting and moulding the employee's behaviour to re-establish the employer-employee relationship. Correcting and moulding the employees' behaviour may be effected by instituting the disciplinary process. In instituting the disciplinary process the employer has to follow various steps which are interlinked. The identified steps of the disciplinary process are the committing of misconduct, investigation, disciplinary hearing and the imposition of a disciplinary sanction. Employees who are unsatisfied with a disciplinary sanction may appeal to institutions that are recognised by the disciplinary policy of the employer. Entering into an employment relationship with the employer, means that the disciplinary policy is also agreed to and shall be adhered to. However, disciplinary policies should not disadvantage employees by being contrary to the purpose of the prevailing labour laws applicable to the employment environment. It is the responsibility of trade unions, as role players during the disciplinary process, to challenge provisions of the disciplinary policy which they do not agree with or if the policies are to the disadvantage of an employee. The literature study of discipline and the disciplinary process, as presented in chapter two, formed the basis of the questions asked in the distributed questionnaire. The main purpose of the questions was to determine the preferences and

perceptions of the employees in the SAPS regarding the disciplinary process. It was

therefore important to give an overview of the composition of the SAPS employees which the sample in this study was derived from.

In chapter one of this dissertation it was stated that the unit of analysis for the purpose of this study will be the SAPS employees of the rank of captain, inspector, sergeant and constable. In chapter three an overview of the composition of the employees in the SAPS was given with regard to the three levels of command, namely the national level, provincial level and area level. The composition of employees at each level was given (table 3-1, table 3-2, table 3-3). Organisational structures of these levels were also presented (diagram 1, diagram 2, diagram 3).

There is one national commissioner in the SAPS who is assisted by five deputy national commissioners. As shown on diagram 3-1 the deputy national commissioners have been assigned specific duties to perform.

The nine provincial commissioners report directly to the national commissioner. The Gauteng Province is one of the nine provinces. Within this province there are seven areas, of which the North Rand area is one. The study shows that there are less members in the ranks sergeant, captain and constable than in the rank of inspector nationally as well as in the Gauteng Province. The national composition of the SAPS as far as race is concerned shows that African employees are a majority, more than all the other racial groups combined. The Asian employees at the national level are a minority in comparison to all other employees of the other racial groups.

The composition of employees in the Gauteng Province of the SAPS shows that male employees are in the majority. The domination of male employees is seen in all the ranks. The

majority of employees are in the rank of inspector followed by employees in the rank of sergeant. Employees in the rank of constable as regards numbers are third and fourth are the employees in the rank of captain. African employees are in the majority in the

Gauteng Province. Asian employees are a minority group compared to employees of all the other races in the Gauteng Province.

The North Rand area is one of the seven areas of the Gauteng Province of the SAPS. The North Rand area is also headed by a person holding the post of area commissioner and the rank of assistant commissioner and he/she is assisted by two deputy area commissioners. The deputy area commissioner holds the rank of director. One deputy area commissioner is responsible for operational services and the other one is responsible for organisational management. There are ten area heads who are responsible for specific duties. There are fifteen police stations in the North Rand area of the Gauteng Province as indicated in chapter three of this study. Each police station is headed by a person holding the post of station commissioner. The composition of employees at each police station determines the rank of the person who will head the particular police station. The highest rank held by a person heading a police station is that of director. Station commissioners report directly to the area commissioner, but any administrative matters are referred directly to the responsible area head.

The following important aspects were discussed in chapter three of this study: firstly, it was determined that the SAPS is male dominated at all three levels. Male employees are by far a majority group. Female employees do not even constitute half of the number of males employees. Secondly, on the national level, provincial level and area level African employees are in the majority. On the national level and provincial level White employees in the rank of captain, superintendent, senior superintendent and director are in the majority. Thirdly, it became clear that there are a great number of employees in the rank of inspector followed by employees on the rank of sergeant in all three levels of the SAPS.

In chapter four the research methodology applied in data collection and sampling was mentioned. It was also indicated that quantitative research methodology has been applied and the data collection instrument used was a questionnaire. Various sampling concepts

were defined and emphasis was placed on those concepts which were to be applied in the sampling procedure. Two sampling methods were discussed, namely the probability method and the non-probability method. The former was described in detail because it was the sampling method followed in the sampling procedure. The cluster sampling method was preferred as a suitable data collection method for this study due to the heterogeneous nature of police stations and in order to improve the representativeness of the sample.

It was shown how the survey instrument used for the purpose of this study was designed. The purpose of the questionnaire, its physical format, length, types of questions and instructions to be followed by the respondents in answering the questions were described. The questions asked in the questionnaire were based on the literature study done in chapter two of this study. The questionnaire was structured in such a way that the questions dealing with the same aspects were grouped together to avoid confusing the respondents.

Before the main questionnaire was distributed, pretesting was done at one police station on a small number of police officials who have the same characteristics as the prospective respondents. Pretesting was done to determine whether respondents would have difficulty in answering the questions or in following the instructions. The same questionnaire without changes was used in the pretesting stage and maintained as the main questionnaire and distributed to the selected sample. The questionnaires were hand-delivered and collected by the researcher at the police stations selected and included in the sample. The collected questionnaires were sent to the Department of Computer Services (Section: Research Support) at the University of South Africa for data capturing and analysis.

Chapter five of this dissertation deals with the analysis of the research findings on the perceptions and preferences of the employees regarding the disciplinary process of the SAPS. It was shown that various role players participate during the disciplinary process.

Role players referred to are the employer, employees and the trade unions as represented by shop stewards. The employer is represented by the supervisor and the presiding officer during the disciplinary process. It was shown that a great majority of the respondents prefer disciplinary officers and presiding officers to have legal qualifications. It is argued that legal qualifications should be a prerequisite in the appointment of a disciplinary officer and a presiding officer. Duties of these role players during the disciplinary process involve the interpretation of certain laws applicable to a disciplinary hearing. Of importance is the fact that the employee's case should be proved on a balance of probability during the disciplinary hearing. Therefore, the presiding officer should have prior knowledge as to what a balance of probability means before he/she can find an employee guilty of misconduct. A presiding officer should understand the elements which are taken into consideration in order to reach a decision on balance of probability during the disciplinary process.

Respondents demonstrated that they have different preferences regarding the role of a presiding officer. A small percentage of the respondents indicated that they prefer a presiding officer to impose disciplinary sanctions, whilst a bigger percentage was not in favour. This is an indication that the respondents are not in favour of the existing situation where presiding officers impose disciplinary sanctions. Respondents have differed regarding representation during the initial disciplinary interview. Some respondents indicated that they prefer shop stewards to represent them during the initial disciplinary interview whereas some do not. The respondents' differences may be attributed to the lack of knowledge about the role and obligations of the role players during the disciplinary process.

Furthermore, respondents indicated that they prefer legal representation during the initial disciplinary interview. It is stated that the SAPS directives do not allow legal representatives to represent employees during the initial disciplinary interview. In terms of the SAPS directives an employee may exercise his/her right to have legal representation

only during the disciplinary hearing itself. It is further argued that when the employer denies an employee the right to legal representation during any stage of the disciplinary process, it is in actual fact infringing on the employee's basic labour rights. It is further stated that it should be the responsibility of both the employer and trade unions to educate and train employees about the disciplinary process. The reason for the existence of trade unions, among others as mentioned in chapter two of this study, is to advance and protect the interests and rights of employees. The second step during the disciplinary process as described in chapter two is investigation. The disciplinary policy of the employer should state clearly in advance which kinds of conduct is regarded as misconduct. When this has been done the investigation will immediately follow after the misconduct has been committed. Disciplinary investigators who have been assigned by the employer to investigate misconduct have to fulfil this duty immediately after the misconduct has been committed. It is stated in chapter six that investigators should adhere to the stipulated time frame within which investigations should be completed.

The main purpose of the investigation is among others to gather evidence surrounding the committed misconduct. It has already been stated in chapter two of this dissertation that the committed misconduct should be regarded as a challenge which needs to be faced and overcome by both the supervisor and employee. The evidence gathered therefore should be used positively to determine the cause of the misconduct and to help the employee correct his/her behaviour, thus rectifying the disturbed relationship. Investigators should conduct their investigations fairly and objectively so that subsequent decisions based on them may also be fair

and objective. Employees should also be treated fairly by investigators and their rights as prescribed in the disciplinary policy of the employer and other relevant directives should also be respected. The most important basic right to be enjoyed by employees being investigated is the presumption of innocence. It is also stated in chapter six of this dissertation that even if the gathered evidence may suggest that an employee has committed a misconduct it should be remembered that it is only an allegation and that it does not mean that the employee is already guilty of misconduct.

The innocence or guilt of the employee will be determined during the disciplinary hearing. Furthermore it was stated that suspending an employee from work without salary in essence means that an employee is already found guilty of the alleged committed misconduct.

The disciplinary policy has to state in advance to which misconduct suspension is appropriate. However, it is submitted again that the disciplinary policy should be regarded as a guideline and each situation of misconduct should be investigated on its own merits.

In chapter five of this dissertation it was discussed that respondents indicated that they prefer legal representatives to be present during the initial disciplinary interview. Investigations should be completed within the prescribed time frame. A decision whether or not an employee should be charged with misconduct should be taken once the disciplinary investigation has been completed. The employee should be informed of a decision to be charged as soon as possible, so that he/she can prepare himself/herself for the upcoming disciplinary hearing. The decision to charge an employee with misconduct is normally based on the evidence gathered during the disciplinary investigation. In chapter seven of this study it was stated that a written notice served on an employee should furnish all the information which will allow the employee to prepare his/her defense. The employer should not surprise an employee during the disciplinary hearing by placing different charges from those appearing on the written notice already served

on an employee.

A disciplinary hearing has to be held at a place which can be reached without difficulty by an employee. It was stated in chapter seven of this dissertation that it is the employee's responsibility to see to it that he/she attends a disciplinary hearing at the time and place mentioned in a written notice. A majority of the respondents indicated that they prefer disciplinary hearings to be held at the station where the misconduct was committed. The respondents' preferences regarding this issue may be attributed to the fact that they will

not experience difficulties in attending disciplinary hearings and therefore will not run the risk of being charged with another misconduct for failing to attend the disciplinary hearing. In chapter six of this study it was stated that employees should be treated fairly and with respect. In order to maintain fairness and treat employees with respect role players during the disciplinary hearing should have no vested interest in, nor prior knowledge of, the case. The purpose of discipline as already referred to in the literature study in chapter two, is among others to correct the employee's unaccepted behaviour. The main objective of the evidence gathered and presented during a disciplinary hearing is to allow the presiding officer to reach a fair decision. In the event where a presiding officer finds the employee guilty, the evidence presented should also show that the employer has proved its case on a balance of probability. When a presiding officer has reached a decision of guilty based on the presented evidence during the disciplinary hearing, his/her next task will be to impose a disciplinary sanction which should assist the employee to adjust to a more acceptable standard of behaviour. The presiding officer should respect the employee's rights throughout the disciplinary process. It is also the responsibility of the employee's representative during the disciplinary hearing to ensure that the employee is treated fairly and his/her rights are respected.

Before imposing a disciplinary sanction on the employee found guilty of misconduct the

presiding officer should consider the mitigating circumstances. It was suggested in chapter two of this dissertation that in order to improve consistency during the disciplinary process it will be better if misconduct and penalties are set out in a policy guideline. The presiding officer will consider the mitigating circumstances placed before him/her and also consider the merits of the case in question before imposing a disciplinary sanction. A careful consideration of these two issues should then be followed by the imposition of an appropriate disciplinary sanction. It is still maintained that the main purpose of the imposed disciplinary sanction should be aimed at moulding and returning the employee to an acceptable standard of behaviour. An employee who is not satisfied with an imposed disciplinary sanction should challenge it by approaching the relevant recognised

institutions.

The disciplinary policy of the employer normally makes provision for institutions to be approached by an dissatisfied employee. The labour laws which are applicable to an employment relationship should be acknowledged in the disciplinary policy of the employer. In chapter eight of this dissertation it was stated that the highest institution recognised by the employer (SAPS) which can be approached by an dissatisfied employee is the Appeals Authority. It was also stated that the decision of the Appeals Authority is final and binding, meaning that whether or not the decision is in favour of the employee or the employer it cannot be challenged any further.

An overwhelming majority of the respondents mentioned in chapter eight of this study indicated that they do not know the duties of the Appeals Authority. That being the case the question is how an dissatisfied employee can approach an institution of which he/she does not know the duties? Two deductions can be made from the respondents' lack of knowledge about the duties of the Appeals Authority. Firstly, an employee will consider the imposed disciplinary

sanction to be correct and unchallenged. Secondly, the services of the Appeals Authority remain unused, that is, that people working at the Appeals Authority believe that employees are satisfied with the disciplinary sanctions imposed on them. In chapter five and chapter six of this dissertation it was stated that the employer should respect the employee's rights and in chapter seven of this dissertation it was stated

that the employee's representative during the disciplinary process should ensure that the employee's rights are respected. The role of the presiding officer at the commencement of a disciplinary hearing among others is to inform the employee of his/her rights which include the right to appeal against an unsatisfactory disciplinary sanction. A disciplinary hearing is not a platform where an employee should be educated about the duties of the Appeals Authority. It is the responsibility of both the employer and the respective trade unions to educate employees about the disciplinary process, which will include the duties of the Appeals Authority.

The majority of the respondents as mentioned in chapter eight indicated that they feel negative about the current disciplinary system. It is submitted that the employer and the trade unions should take into consideration and act on these preferences and perceptions of the employees regarding those aspects in the disciplinary system which have a negative impact on them. It is also the responsibility of the employees' respective trade unions to approach the employer with those aspects in the disciplinary system which their members (employees) feel negative about in an effort to address them, thereby paving the way for a friendly employment relationship. Educating employees about the disciplinary process will minimise situations of misconduct in the employment environment and improve the employer-employee relationship. Furthermore, the employer's disciplinary policy should make provision for institutions other than the Appeals Authority which may be approached by dissatisfied employees. The labour laws make provision for other institutions which may be approached by dissatisfied employees, therefore the SAPS disciplinary policy should also make provision for such institutions. It is still

the responsibility of the respective trade unions to challenge the employer's disciplinary policy and legislation with reference to the recognition of one institution with which an appeal may be lodged. This will ensure that the employees will also enjoy their basic labour rights.

The above conclusions were also advanced in addition to answer the research question asked in chapter one of this dissertation, *to wit* "How members of the South African Police service in the North Rand area of the Gauteng Province perceive and prefer the disciplinary process." Based on the arguments already presented above it can be stated that the disciplinary process of the SAPS is perceived mainly negatively by the members in the North Rand area of the Gauteng Province. Furthermore, this study confirmed the validity of the reasons given in chapter one of this study for investigating how the members of the SAPS in the North Rand area of the Gauteng Province perceive and prefer the disciplinary process.

Firstly, it was shown that employees have different perceptions and preferences regarding the way in which role players execute their tasks during the disciplinary process. Some employees perceive that race is taken into account during the disciplinary process whereas others do not. Some employees prefer that disciplinary officers and presiding officers should have legal qualifications.

Secondly, it was shown that members have different perceptions with regard to the process of investigation into misconduct, the disciplinary process as well as remedies for unsatisfied employees. Some employees perceive that investigations into misconduct are being conducted fairly, whereas some perceive that they are conducted unfairly. Even though there is a prescribed time frame within which disciplinary investigations should be completed, some employees still perceive that the time frame is not adhered to. It was also shown that the

majority of the employees have no knowledge about the remedies available to them, should they be unsatisfied with a disciplinary sanction.

Furthermore, employees have different perceptions and preferences with regard to the disciplinary process. The perception is that the members' rights are not respected during the disciplinary process because, among other things, the employer's disciplinary regulations seem to deny the employees the right to be represented by a legal representative during the initial disciplinary interview. The disciplinary regulations furthermore prescribe that an employee may not insist that he/she be represented by a specific individual during a disciplinary interview. Employees are not presumed innocent until the contrary has been proved. This is seen when employees are suspended from work without salary pending disciplinary investigation. In other words allegations of misconduct are considered conclusive proof that indeed a misconduct has been committed therefore the *audi alteram partem* is not respected. This practice furthermore indicates that the SAPS follows a traditional approach (progressive approach) to discipline. To make matters worse is the fact that the decision to suspend an employee without salary is not taken during a disciplinary hearing. The majority of the employees indicated that they feel

negative about the current disciplinary system which should be a matter of great concern to the employer.

9.3 RECOMMENDATIONS

The provisions of the disciplinary policy of an institution should not be made known to an employee after a misconduct has been committed. The disciplinary policy should be communicated to the employees well in advance of the lodging of a complaint of misconduct. Preferably such communication should be on a continuous basis, starting from the time when the

employer enters into a contract of employment with the employee. Communication by supervisors must also be improved through feedback, when any unacceptable behaviour is noticed, the supervisor should bring it to the attention of the employee concerned and corrective steps should immediately be taken to prevent a repetition. This means that the supervisors must take corrective measures while the employee still remembers the incident.

In order to improve communication during the disciplinary process, misconduct and penalties should be set out well in advance. Misconduct should be set divided into two categories, namely serious and non-serious. Non-serious misconduct should be dealt with at the lowest level of the institution. The current situation in the SAPS where the station commissioner decides if misconduct is serious or non-serious is not recommended. This practice increases inconsistency in the current disciplinary system. The disciplinary policy should empower police stations to hold disciplinary hearings at their respective places of work following a non-serious misconduct. Such an arrangement will aid the disciplinary process to be completed as soon as possible and be effective as well. When police stations are empowered to hold disciplinary hearings, they should also be empowered to impose certain disciplinary sanctions. This means that penalties which may be appropriate to non-serious misconduct should also be set out.

The disciplinary policy should make provision for serious misconduct be referred to the area level for the purpose of holding a disciplinary hearing. Appropriate disciplinary sanctions which may be imposed at the area level should also be specified. As stated earlier in this study, the classification of penalties should be regarded as guidelines and therefore penalties which are classified under serious misconduct should not exclude penalties applicable to non-serious misconduct. The reason for advancing this argument is that each situation of misconduct differs

and presiding officers will then be flexible when imposing a disciplinary sanction. The disciplinary policy should include suspension without salary as a disciplinary sanction. The period of validity of suspension without salary as a disciplinary sanction should also be stipulated in the disciplinary policy. Misconduct of which suspension without salary as a disciplinary sanction may be appropriate, should also be mentioned. By suspending the employee without salary for a specified period the employer would have given the employee a second chance to behave himself/ herself in accordance with the rules and regulations and thereby restoring the damaged relationship.

It will also be the concerned employee's responsibility to ensure that after the period of unpaid suspension his/her behaviour is acceptable, that is he/she conforms to the prevailing rules and regulations. The classification of penalties will increase consistency during the disciplinary process so that cases of misconduct may be treated alike. Confidence and trust of employees towards the disciplinary process can also be improved.

In order for the classification of misconduct and penalties to achieve the stated objectives, role players should be trained in the execution of their duties during the disciplinary process. Firstly, the employees indicated that they prefer a situation where disciplinary officers and presiding officers have legal qualifications. The employer should regard these preferences in a serious light and make legal qualifications to be an additional requirement in the appointment of disciplinary officers and presiding officers. Role players with legal qualifications will have little or no difficulty in the interpretation of the

applicable laws during the disciplinary process. Providing training to role players with legal qualifications will not be time consuming nor costly, compared to those without legal qualifications. Secondly, the employer should develop its human resource base (disciplinary officers, presiding officers and prospective officers) by referring them to academic institutions where they could acquire academic qualifications relevant to the management of the disciplinary process. As a result the disciplinary process will be handled by

academically equipped role players, thus increasing consistency during the disciplinary process as well as restoring the trust of employees in the disciplinary system.

On the other hand employees are also members of their respective trade unions. These trade unions should also take it upon themselves and train their members (employees of the employer) about the disciplinary process. It will be advantageous to both the employer and trade unions for the sake of sound employment relationships to engage themselves in a joint training programme about the disciplinary process. Communication between the supervisor and the employee will be improved because each role player will know what is expected of him/her and therefore act accordingly.

9.4 FURTHER RESEARCH AREAS

The disciplinary process and discipline as a phenomenon have proved to be complex subjects. Their complexity result from the fact that they are interrelated to other variables such as communication, decision-making, trade unionism and labour rights. This confirms the fact that one study cannot answer all the various questions. The one area of interest as highlighted in this study, opens the door to other research projects that could be of importance for further research in the field of Public Administration.

The following aspects are the proposed further research areas that have come to the fore as a result of this study:

- The importance of communication in decision-making with the specific reference to policy implementation.

- The need to undertake a study of the role trade unions can play in the military and paramilitary institutions. The purpose of such a study will be to compare the execution

of disciplinary process with main emphasis on the aspects such as the place and role of trade unions during the disciplinary process, how employees are sensitised about discipline in the workplace and which measures are undertaken to minimise misconduct in the working environment.

- A comparative study between flat and tall organisational structures and their influence on communication.
- How delegated authority can be controlled by management.

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