

ETHICS IN POLICE MANAGEMENT AND ADMINISTRATION: A SOUTH AFRICAN PERSPECTIVE

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INTRODUCTION

Within South African society there are many who believe that widespread corruption, maladministration and unethical practices occur in the public sector in general. In an opinion survey 73 percent of the respondents indicated that they believe most of the officials working in the public sector are involved in corruption, while 64 percent asserted that the Government is wasting the taxpayer's money. Although there are no definite figures for the amount of money involved in corruption, estimates run into R20 billion (Preliminary Draft Discussion Paper on Corruption and Ethics in Gauteng 1998: 3).

The foregoing statement confirms that ethics and corruption go hand in hand. But what are "ethics"? In a general sense ethics are concerned with what is good or bad, right or wrong in the eyes of society. In practice, variables and influences from the society (environment) can overshadow definitions of ethics. If opinions regarding ethics in society do not conform to those of the South African Police Service it is likely that police officers will act in accordance with the public's view. In such cases police officers will transgress the law. Nothing affects the work of those working in the South African Police Service more clearly than the different variables or trends in the environment. The high crime rate, an inherited system of governance in 1994 and the changing role of Government all significantly impact on ethics. These variables will determine the relevance of the strategies required to curb unethical practices (Draft White Paper on Safety and Security 1999:10-11; Sullivan & Decker 1988: 122).

Over the past two decades, both academics and practitioners in the field of police management and administration have become more interested in the ethics of police services. The South African Police Service is no exception. Since the democratic transformation process started in 1994 it is confronted with ethical dilemmas such as fraud, unjustifiable nepotism, conscious victimisation, luxury overseas trips undertaken at the taxpayer's expense, receipt of bribes, disclosure of confidential information, discrimination in the workplace and abuse on a daily basis (Cheminais, Bayat, Van der Waldt & Fox 1998:77).

Unethical behaviour is unlikely to be addressed merely because the causes thereof have been identified or a set of clauses have been studied in the Constitution of South Africa 108 of 1996 (hereafter referred to as the "new Constitution"). It will take something over and above for this to happen. Police ethics management and administration consist of identifying, clarifying and applying democratic values and principles (Mavuso & Balia 1999: 64). And although this is an enormous task, the necessity thereof lies beyond doubt. The application of these values and principles will ensure that functional activities are executed in accordance with ethical norms. In a democratic state such as South Africa police officers must remember that they are operating within a political context. This means that they have to follow the guidelines which are consistent with democratic responsibilities. These responsibilities are derived from two main categories,

namely guidelines from the body politic and guideline set by community values (Cloete 1994: 64-86).

How does a police officer promote more ethical practices or responsible behaviour in the institution? Actually, it can be achieved by means of a number of strategies. For example, there are a variety of formal controls regarding the behaviour of those working in public sector institutions. In terms of section 196(4)(a) of the new Constitution the Public Service Commission has the power and function to investigate, monitor and evaluate the personnel practices of the public service. In addition to the new Constitution, the White Paper on the Transformation of the Public Service has also been put into place to serve as a guideline for creating a strategic framework for change. One of the key priority areas identified for change is the promotion of professional service ethics (White Paper on the Transformation of the Public Service 1995:72). After offering some definitions and examining conceptual issues, this article will analyse the ethical context of police management and administration. In the balance of the article the ethical guidelines which are basically founded on the body politic and community values, are outlined. Particular focus is placed on strategies for ethical conduct.

DEFINING ETHICS

In order to understand the relevance of ethical frameworks in police management and administration it is necessary to define the concept of ethics. Needless to say that to arrive at a proper definition for ethics is problematic.

Although a clear academic distinction can be drawn between morality and ethics, authors often use the two terms interchangeably. When embarking on a discussion of morality and ethics, actions are often called ethical actions when they are regarded as morally correct. Similarly, reference is made to codes of moral conduct as codes of ethics. Consequently, the overlapping use of the terms can create confusion.

However, it is important for the morally and ethically correct police officer to make a distinction between the two terms. This distinction is important, not only for philosophical reasons, but because the term ethics emphasises the police officer's active involvement in looking for morally correct decisions and positions. Three key issues regarding ethics are relevant:

- it calls the police officer to action,
- it requires reasoning, and
- it encourages the police officer to seek guidance as to the proper course of action (Denhardt 1995: 108; Mullins 1996: 316; Shafritz & Hyde 1992: 523).

An interesting dimension of the ethics debate is the fact that the police officer must note the distinction between something that is ethical and something that is legal. The law is very exact and precise and defines various kinds of actions as either acceptable or unacceptable. In contrast to the law, ethics go beyond the law and are based more on prevailing societal norms. This means that an action can be both legal and ethical, legal but unethical, or both illegal and unethical. It is obvious that there are differences of opinion as to whether an action can be regarded as ethical yet illegal (Van Fleet & Peterson, 1994: 124). For example, should a police officer lie to a legislator so as to carry out a policy the police officer thinks is correct? How can a police officer be sure a specific approach to police decisions is fair and equitable? What is a police officer's reaction when a superior tells that person to do something wrong?

The ethical issues that a police officer will be confronted with are rarely black or white. There are no universally agreed ethical frameworks. This, however, is not to offer the excuse of collapsing in a quagmire of immoral behaviour. It can be accepted that some ethical frameworks will be more relevant to the practice of police management and administration. For the police officer to act properly from an ethical point of view, he/she will have to be able to make choices from

amongst the myriad of competing values that underlie the work, clarify the facts and come to a reasoned conclusion.

ETHICAL CONTEXT OF POLICE MANAGEMENT AND ADMINISTRATION

Many people think of ethics simply in terms of absolute standards of right and wrong. Unavoidably, there are other factors to be taken into consideration. Police management and administration are influenced by ethical frameworks and beliefs from the outside as well. Basically, police officers are faced with three key contextual dimensions, namely, personal ethics, organisation ethics and environmental ethics.

Personal ethics

Any worker's personal ethics is a major determinant of ethical behaviour and the way in which actions will be taken (Beardwell & Holden 1995: 416). Every individual worker's ethics is determined by amongst others one's family, peers, past experiences and situational factors (Fisher, Schoenfeldt & Shaw 1990: 745). Family influences play a key role in determining an individual worker's beliefs as to what is right or wrong. A key determinant of a police officer's personal ethics is peer influences, and on balance, it is probably accurate to say that peer influences is one of the most important contextual factors in determining a police officer's personal ethics. Particular examples include childhood friends, classmates and others in a police officer's social network. All these peers can have a specific influence on ethical behaviour in the day to day policing activities. For example, peer pressure, as it was experienced from school days, can help determine in which way a police officer will deal with questionable activities such as shoplifting and drug abuse (Luthans 1995: 65; Van Fleet & Peterson 1994: 124).

As a police officer develops and grows in the workplace past experiences can also play a key role in

determining the evolution of ethical standards. There is overwhelming evidence that unethical behaviour in a given situation, which is related to negative consequences, could result in more ethical behaviour next time. Moreover, such behaviour will probably be more ethical and result in feelings of guilt. Situational factors are also important in determining personal ethics. At any point in a police officer's career there are events that may occur in a perhaps random way and have the potential to determine behaviour positively or negatively. Even the most honest and hard working police officer could be influenced by such situational events (Leopold, Harris & Watson 1999: 313; Van Fleet & Peterson 1994: 125).

Organisation ethics

The specific organisational context is important for ethical police management and administration. Organisational influences, which determine ethical behaviour, derive from amongst others, ethical codes and disciplinary measures.

Over the years a tendency has developed amongst public officials not to express publicly their misgivings about public policies and the conduct of public sector institutions. Normally those who are critical and involved in "wave making" against government activities are more likely to be ostracised than applauded. This is largely because the political, management and administrative systems have traditionally demanded "conformity rather than conviction." Organisation ethics in the public sector demands loyalty and acceptance on the side of the individual worker. In return the worker gets security, advancement and the shared adventure of the common institutional companionship (Jun 1986: 272). This ethic is also dominant in the South African Police Service and is confirmed with the implementation of ethical codes and disciplinary measures (Swanepoel, Erasmus, Van Wyk & Schenk 2000: 703-704).

The whole idea of ethical codes is an old one and can

be traced back to the Hippocratic oath, which has guided the practice of medicine for more than 20 000 years (Starling 1977: 109). Codes of ethic perform an important function in police administration and management in the sense that it informs employees of the minimum ethical standards or behaviour expected of them. It also provides guidelines for disciplinary action when someone contravenes the code (Leopold, Harris & Watson 1999: 331). More specifically, disciplinary measures ensure that employees conduct themselves in accordance with the organisation's rules and standards of acceptable behaviour (Andrews 1985: 226). In other words, if a police officer contravenes the stipulations of the ethical code, punishment could be expected. Organisational ethics is necessary but not the only way of shaping ethical frameworks. The environmental context also has to be taken into consideration.

Environmental ethics

It could be said that the political environment is the most important determinant of ethics in the South African Police Service. Theoretically, political representatives (who form the legislature) are responsible for determining policy and the police officers are responsible for the implementation. Actually, this means that these policies set by the elected politicians determine the ethical context for police management and administration (Denhardt 1995: 121).

One should be aware of the possible ethical implications of the political dimension in environmental ethics. On the one hand it is expected of the police officer to be accountable to the legislature who determined the policy. A good synonym for accountability is "answerability." Actually, it means when something goes wrong, someone must be held responsible (Van der Waldt & Du Toit 1997: 49; Starling 1977: 90). The possibility is always there that political representatives can create too many laws and regulations. This can curtail the police officer to such

an extent in the execution of the policies that rules are bent which leads to unaccountable and unethical behaviour. By the same token, too little regulation can provide opportunities to become engaged in questionable ethical practices (Van Fleet & Peterson 1994: 128). On the other hand, for a police officer to respond blindly to legislation may not always be in the public interest and could have serious ethical implications. Political representatives must secure reaffirmation from their constituencies every five years by means of elections. Winning the election puts the emphasis on the efficient and effective rendering of police services and short term achievement of administrative goals. However, these political pressures may force police officers into implementing "quick and dirty" administrative solutions, which may often happen at the cost of bypassing ethical standards (Jun 1986: 273).

ETHICAL GUIDELINES FOR POLICE MANAGEMENT AND ADMINISTRATION

Police management and administration is a field of activity with its own characteristics. As it forms an integral part of public administration, the fundamental guidelines ("ethos") of the larger unit will also apply to its parts (Cloete 1997: 11). Therefore police officers should ensure that their behaviour conforms to the broader public administration ethical guidelines prescribed by the body politic and community values.

Guidelines from the body politic

The *supreme new Constitution* governs the system of police management and administration in South Africa. In essence, this means that the new Constitution provides the essential foundation within which police officers must perform their daily activities. Moreover, it provides the legal framework and guidelines that have a direct impact on the management of unethical practices (Robson in Wessels & Pauw 1999:159). But what are these guidelines enshrined in the new Constitution? In terms of section 195 (1) of the new

Constitution public administration must be governed by the following democratically guided *values and principles*:

- a high standard of professional ethics must be promoted and maintained;
- efficient, economic and effective use of resources must be promoted;
- public administration must be development oriented;
- services must be provided impartially, fairly, equitably, and without bias;
- people's needs must be responded to, and the public must be encouraged to participate in policy making;
- public administration must be accountable;
- transparency must be fostered by providing the public with timely, accessible and accurate information;
- good human resources management and career development practices, to maximise human potential, must be cultivated; and
- public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.

It is also necessary to stress that the new Constitution reaffirms the *Bill of Rights* as set out in Chapter 2. The Bill of Rights is a cornerstone for democracy and binds all legislative and executive institutions of the state at all levels of Government. These guidelines about fundamental rights will have to be taken into consideration when police officers are engaged in with the execution of laws and regulations and other rules of police management and administration. It entrenches the democratic values of human dignity, equality and freedom. For example, with regard to equality it stipulates that police officers may not unfairly discriminate against anyone on one or more grounds,

including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth (section 9).

The new Constitution also provides for the establishment of such institutions as the *Public Protector* and a *Constitutional Court* charged with the responsibility of ensuring that police officers do not abuse their authority. The Public Protector was instituted to investigate maladministration in government affairs at any level (section 182 of the new Constitution). The main function of the Constitutional Court is to ensure that the overriding authority of the new Constitution is upheld. The Constitutional Court has the final say in all matters pertaining to the interpretation, protection and enforcement of the provisions of the new Constitution.

Apart from specific guidelines in the new Constitution, police officers also have to adhere to the factor of *political supremacy*. What the factor "political supremacy" implies for police management and administration is that Parliament has to be accepted as the policy-making institution (Hays & Kearney 1995: 284). In actual fact, Parliament is the authoritative dictator of values and has to provide guidelines on how police management and administration should function. That is to say, that Parliament has the final say on police management and administration. In practice this means that the police officer must execute the policies set by Parliament and follows the guidelines thereof. One of the key policies which should be executed is the South African Police Service Act 68 of 1995. The police officer should bear in mind that he or she cannot determine the nature and extent of this Act without Parliamentary approval (Denhardt & Hammond 1992: 157; Van der Westhuizen 2000: 54).

Guidelines from community values

Ethical guidelines are taken further with guidelines emanating from society or community values. Applying

ethics to the concept of community values is practical in the sense that the police officer questions the “adequacy” of actions in the light of obligations to the public. Through personal reflection during the policing process, the police officer may come to modify personal ethical standards by considering the views from the actors in the community. Knowing the correct course of action is not enough. The views of others in the broader field of the community should be taken into account in determining what is good, fair and just. In doing this the police officer is likely to construct a more useful view of the situation and will probably make a choice that reflects his/her ethical responsibility towards others (Jun 1986: 278).

In a democratic state like South Africa it is expected of a police officer to adhere to community values such as *fairness and thoroughness*. A value such as fairness has traditionally been considered important to democratic police management and administration and has largely been achieved by the judicial “Rule of Law” principle. Although it has traditionally been accepted that judicial rules have to apply, fairness cannot be achieved through the judgments of the courts only. Police officers need to display a positive attitude when performing their policing duties and responsibilities by putting the interests (the “will to serve”) of the public first. Another key community value is thoroughness. The ethical issues posed by the requirements of thoroughness are indeed wide spread. A first step in promoting thoroughness in policing is to maintain a high standard of work. This can be ensured by putting into operation proper performance appraisal systems in order to evaluate the activities of police officers. In addition, thoroughness can also be promoted by providing good quality police services without wasting money and material (Cloete 1994: 80; Cheminais, Bayat, Van der Waldt & Fox 1998: 73).

STRATEGIES FOR PROPER ETHICAL CONDUCT

Thus far the focus has been placed mainly on the

theoretical aspects of ethics in police management and administration. Before the focus is turned to the last aspect, namely strategies for proper ethical conduct, the author wishes to deal with some of the dramatic ethical problems the South African Police Service is confronted with.

Problems

There has been a tendency in the past to focus mainly on poverty and starvation as the causes of ethical problems. Yet, perspectives on unethical conduct shows that in some of the poorest communities, people are of the opinion that they should improve their socio-economic conditions without becoming involved in wrong practices. A significant issue, however, has been ignored namely that the so-called “wealthy areas” have produced some of the worst criminals in society. Moreover, available evidence shows that the cause of unethical conduct revolves around greed and is clearly a question of personal morality and integrity. There are numerous factors which may be regarded as causes of ethical problems. Basically these are:

- weak political and managerial leadership;
- lack of education on proper ethical conduct;
- weakness of civil society;
- deficient control and accountability;
- complex legislation; and
- low quality of the criminal justice system (Baai 1999:376; Stapenhurst & Langseth 1997: 316-317).

One of the most troublesome ethical issues in the field of South African policing is that of corruption. South Africa is battling with a public service that daily weakens the democratic order: police officers were implicated in acts of corruption and other crimes in the taxi industry, escapes from prisons, deaths during imprisonment, bogus qualifications, and improper financial management and administration (*Sake-Beeld* 11 Mei 2000; *Sowetan* 22 March 2000; *The Star* 28 April 2000 & *The Star* 24 May 2000). According to a

Transparency International Corruption Index, South Africa is ranked as the 33rd most corrupt country in a poll of 52.

Strategies

The responsibility for the management of ethical strategies rests with the police service itself. Fighting unethical behaviour requires a clear ethical commitment by the political head and senior managers. With the above ethical problems in mind, what has the Government done to ascertain proper ethical conduct? The Government came to an agreement with police officers (through their organised labour representatives) about the basic principles that should be used to resolve ethical issues in the South African Police Service. In the first place Chapter 10 of the new Constitution stipulates that public administration (including policing) must be governed by, among other things, democratic ethical principles (values) such as “a high standard of professional ethics”. Secondly, the Government has also had to promote more ethical practices in the day-to-day activities of the police service (Dimock, Dimock & Fox 1983: 100; Wessels 1999: 29). It was realised that additional steps would have to be considered to facilitate proper ethical conduct when taking into consideration the above problems - steps that would contribute towards greater honesty, integrity and efficiency. Two of the key measures relevant here were the introduction of a code of conduct and the establishment of an Ethics Component in the Office of the Public Service Commission (Carrel, Elbert, Grobler, Hatfield, Marx & Van der Schyf 1998: 33). The Code of Conduct was put into operation to provide guidelines to police officers with regard to their relationship with the legislature, political and executive office-bearers (for example, to loyally execute the policies of the Government), and other employees (for example, to refrain from favouring relatives and friends in work-related activities) (Van der Westhuizen 1998: 19).

Thirdly, Section 7 (3) of the Public Service Act 103 of 1994 also provides that police officers are held responsible for the effective management and administration of their offices, which includes the maintenance of discipline and the promotion of good labour relations. Although it is not stated in direct terms, it can be inferred that all the above activities have ethical implications. Fourthly, the Standing Committee on Public Accounts in Parliament was established to investigate any anomalies and discrepancies pointed out by the Auditor General in the spending of public funds in police management and administration (Van der Westhuizen 2000: 57). It is also invested with the authority to:

- subpoena witnesses to appear before the Committee;
- have declarations made under oath; and
- obtain written proof.

There is a constant risk that police officers may have to appear before the Committee to testify about maladministration and corruptive practices and is an indication of the fact that the Committee serves as a deterrent. Actually, all the testimonies, declarations and proof are collected as “public” records. Thereby it exposes unethical behaviour to public scrutiny.

In the fifth place, one of the key instruments for high standards of ethical conduct in police management and administration is the establishment of ethical structures (in general terms referred to as the so-called *watchdog agencies*) such as the Ombudsman, Auditor-General and the Public Service Commission. Normally, these agencies are regarded as supreme institutions which originate from the constitution of the relevant country. In real terms the Ombudsman constitutes an office that independently receives and investigates allegations of maladministration (Smit & Cronje 1999: 500). Another ethical structure that has been in use for a number of years is the Auditor-General. According to the new Constitution the main responsibility of the Auditor-General is to audit and

report on all government income and expenditure. Other responsibilities include ensuring that the executive complies with the will of the legislature (as expressed through parliamentary appropriation); promotion of efficiency and cost-effectiveness of public sector programmes (so-called *performance* or *value-for-money auditing*) and prevention of corruption (Thornhill & Hanekom 1995: 236-237). As the agency responsible for investigating, monitoring and evaluating on human resource matters in the police services, the Public Service Commission acts in terms of the Public Service Commission Act 46 of 1997. In more practical terms the Public Service Commission can improve the ethical conduct of police employees in the following ways:

- raising awareness about human resource ethical issues;
- promoting ethical behaviour;
- disseminating ethical practices among police officers;
- communicating codes of ethical conduct;
- providing training in ethics;
- taking the lead in enforcement proceedings; and
- overseeing whistleblowing procedures (Winstanley & Woodall 2000: 7).

CONCLUSION

The preceding arguments suggest at least the following four principles in relation to ethics in police management and administration.

Ethics in the South African Police Service will require special decision-making skills on the part of the individual police officer. An understanding of the myriad of competing values will be a basic requirement. But what will ultimately make the difference is the police officer's willingness to clarify facts and come to a reasoned conclusion based on moral principles.

It is imperative that a police officer's decisions are

based upon certain contextual frameworks, namely personal ethics, organisational ethics and environmental ethics. This requires a continued sense of awareness regarding the influences of the family environment, peers, past experiences and situational factors on ethical conduct. In this regard, police officers must also understand the purpose of ethical codes and disciplinary measures as mechanisms to ensure proper ethical behaviour.

As professionals, police officers must take cognisance of the ethical guidelines prescribed by the broader public administration field. These guidelines require that police officers should adhere to the provisions of the supreme new Constitution and political supremacy.

Police officers can ascertain ethical conduct by following a number of strategies. These range from adherence to Constitutional ethical principles (values), a code of conduct, other legislative measures such as the Public Service Act 103 of 1994 and appearances before the Standing Committee on Public Accounts.

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