

**AN EXPLORATION OF THE IMPACT OF CORRUPTION ON SERVICE DELIVERY IN
THE EMFULENI LOCAL MUNICIPALITY, GAUTENG**

by

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DECLARATION

I, Zakhele Thomas Melane, student number: 47708328, hereby declare that this dissertation, titled “**An evaluation of the impact of corruption on service delivery in the Emfuleni Municipality, Gauteng**”, submitted in accordance with the requirements for the Master of Arts in Criminal Justice at UNISA, is my own original work and has not previously been submitted to any other institution of higher learning. All sources cited or quoted in this research paper are indicated and acknowledged by means of a comprehensive list of references.

Z.MELANE

February 2023

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ABSTRACT

This study was conducted as a result of the various media reports and complaints from the Emfuleni Local Municipality residents on the impact of corruption on service delivery in the Emfuleni local municipality. The municipality does not have any strategy to fight corruption and it only relies on the South African Police Service (SAPS) to investigate internal crimes. A qualitative research approach was used to investigate this problem. A thorough literature study and documentary analysis were used to gather the relevant data related to this topic.

Key terms: Corruption, forensic investigation, criminal law, service delivery

LIST OF ABBREVIATIONS AND ACRONYMS

| | |
|--------------|---|
| ANC | - African National Congress |
| ACRC | - Anti-Corruption and Civil Rights Commission |
| APEC | - Asia-Pacific Economic Cooperation |
| ACFE | - Association of Certified Fraud Examiners |
| CCTV | - Closed Circuit Television |
| CPA | - Criminal Procedure Act |
| DPCI | - Directorate for Priority Crime Investigation |
| ELM | - Emfuleni Local Municipality |
| FCA | - Financial Conduct Authority |
| IARC | - International Anti-Corruption Resource Center |
| ICAC | - Independent Commission Against Corruption |
| IPID | - Independent Police Investigative Directorate |
| KPMG | - Klynveld, Peat, Marwick, Goerdeler |
| MFMA | - Municipal Financial Management Act |
| NPA | - National Prosecuting Authority |
| OECD | - Organization for Economic Cooperation and Development |
| PCCAA | - Prevention and Combating of Corrupt Activities Act |

| | |
|---------------|---|
| POCA | - Prevention of Organised Crime Act |
| PSC | - Public Service Commission |
| PSIRA | - Private Security Industry Regulatory Authority |
| PRECCA | - Prevention and Combating of Corrupt Activities Act |
| PSA | - Public Service Act |
| PP | - Public Protector |
| RICA | - Regulation of Interception of Communications and Provision of Communication Related Information Act |
| SAPS | - South African Police Services |
| SA | - South Africa |
| SIU | - Special Investigation Unit |
| TI | - Transparency International |
| UNIDO | - United Nations Industrial Development Organization. |
| UNODC | - United Nations Office on Drugs and Crime |
| UNISA | - University of South Africa |
| UNDP | - United Nations Development Programme |
| USAID | - United States Agency for International Development |

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CHAPTER ONE

GENERAL ORIENTATION

1.1 GENERAL ORIENTATION

According to Welman (2021:13) the Emfuleni Municipality is committing a crime against humanity and is guilty of corruption. This sounds severe but when one lives in the Vaal Triangle, this is precisely what the African National Congress-run local municipality in Gauteng implemented upon its ratepayers. The pitiful situation that residents find themselves in is a result of mismanagement and corruption as it has been reported time and again in the news media and on television. The problem is that the council has been under semi-administration for two years, and there has been absolutely no changes implemented. In fact, the situation has become worse.

The Emfuleni Municipality failure to adhere to the practices of good governance means that stakeholders increasingly demand accountability. Mass action and strikes are organised in the form of protests as residents begin to lose faith in the ability or willingness of their elected officials of the municipality. In all this, political instability increases, investments decline, the sale of shares by investors decreases the value and the rating of companies declines. Some have argued that it is the legitimate function of the municipal to redirect resources and distribute services and resources equitably to all in an attempt to address the legacy of colonialism and the apartheid-heightened risk of corruption.

Corruption has impacted the service delivery in South Africa to an extent that the citizens decided to take to the streets and strike due to the lack of service delivery. While the citizen takes to the streets, properties are damaged, shops are looted and buildings are burned beyond recognition.

Investigators dealing with corruption in municipalities will need to be familiar with the legislations supporting the prevention and combating of corruption which are stipulated in the Corrupt Activities Act (12/2004). According to Chelin (2021:1), South Africa has battled with corruption since the days of apartheid, and post-apartheid South Africa is a more open society, hence more opportunities have been created to enable the detecting and exposing of corruption.

1.2 PROBLEM STATEMENT

According to Battlefield (2013:138), a problem statement is a clear and concise description of a problem and the effect expected from the solution. Gliner, Morgan and Leech (2010:21) also state that the research process begins with a problem. It is normally a sentence or a statement on the relationship between two or more variables.

The Public Service Commission (PSC) (2012:17) annual report highlighted that the impact of corruption on service delivery has been a serious issue and remains a huge problem in South Africa. According to the National Prosecuting Authority (NPA) (2019-2020:25) annual report, the fight against corruption was intensified systematically during the year under review (2019-2020), with several short and long-term initiatives being implemented. This resulted in a 17.8% increase in the number of persons convicted of either public and/or private sector corruption. During the current reporting period, a 94% conviction rate was realised.

The Emfuleni Municipality situated in Gauteng-Vereeniging/Vanderbijlpark is one of three municipalities that fall under the jurisdiction of Sedibeng district municipality. The researcher is a resident in the Emfuleni municipality and has personal knowledge that residents are facing corruption challenges that are a result of the municipal officials. Since 1994 when the African National Congress took power in the Emfuleni municipality and introduced the tender system, the Emfuleni municipality's performance towards its residents became poor. Some municipal officials have awarded illegal tenders and

contracts, while most of the projects have not been completed by the contractors. Criminal cases of corruption have been opened by the municipality against the contractors, but no arrests have been made to date.

According to Masondo and Mashego (2019:1), Hawks boss, Dr. (advocate) Godfrey Lebeya, appointed a task team of top investigators to probe allegations of fraud, corruption and maladministration in the awarding of contracts in Gauteng's Emfuleni municipality. Dr. (Advocate) Godfrey Lebeya said, "a task team has been formed to beef up the investigations that were already under way." The team, he said, had already started its work to investigate all the allegations made to the Hawks by the residents. "Once the task team concludes the investigation," he said, "it would hand over the docket to the National Prosecuting Authority (NPA) for a decision on whether action must be taken or not."

The impact of corruption in Emfuleni municipality resulted in residents not having clean water to drink, the development of potholes on roads which cause accidents, sewerage spillages all over the place which result in some residents getting sick, refuse not being collected, and residents dumping garbage ubiquitously, leading to grave environmental hazards.

1.3 AIM OF THE STUDY

According to Denscombe (2010:14), the aim of the investigation should include broad descriptions of the researcher's overall goals or target and should be given at the beginning of any research report. Fouché and De Vos (2017:94) state that the researcher must decide on the aim and objectives of their study. The aim of this research was to investigate the impact of corruption on service delivery in the Emfuleni municipality areas.

1.4 OBJECTIVES OF THE STUDY

According to Thomas and Hodges (2010:39), the objectives of the study indicate in more detail the specific research topics or issues which the project plans to investigate, building on the main theme stated in the research aim.

The objectives of this study are to:

1. Analyse the impact of corruption in Emfuleni municipality,
2. Analyse the current situation on service delivery in Emfuleni municipality,
3. The plan to increase the number of forensic investigators in the municipality,
4. Analyse if corruption in the municipalities is the course of service delivery protests,
5. Determine method of investigation of corruption in Emfuleni municipality,
6. Provide possible solution on the impact of corruption on service delivery,
7. Explore and assess the nature of corruption, and
8. Develop a long-term corruption investigation system.

1.5 PURPOSE OF THE RESEARCH

According to Zikmund (2012:118), a research purpose is the deliverables of the research project. Furthermore, Dane (2011:6) explains that the purpose is to formulate questions on testable phenomena and to find answers to those questions. The purpose of this study was to investigate the impact of corruption in Emfuleni municipality. The specific intention was to evaluate the strengths and weaknesses of the current procedures used to investigate corruption cases in the municipality. Ultimately, recommendations on how to improve the current system were made.

1.6 RESEARCH QUESTIONS

According to Leedy and Ormrod (2013:39), research questions can be an excellent way of collecting data and providing guidelines on how the researcher should analyse and interpret data. De Vos (2011:352) encourages researchers to follow a logical sequence and limit the research questions. Miles, Huberman and Saldana (2014:25) state that the

invention of the research question leads, advises and improves a concrete framework of a research. The following research questions guided the researcher in an attempt to provide answers to the research questions as defined above:

1. What is the impact of corruption in the Emfuleni local municipality?

1.7 VALUE OF THE RESEARCH

According to Marshall and Rossman (2011:70), convincing the reader that the study is likely to be significant and should be conducted entails building an argument that links the research to important theoretical perspectives such as policy issues, concerns of practice, or social issues that affect people's everyday lives. In this study, it was thus expected that:

- From the unique nature of this research, the Emfuleni municipality and its residence may benefit by considering and implementing the research results.
- After the formation of the new forensic investigation unit by the municipality, the unit will benefit from this study as it can be used as a toolkit for additional knowledge and appreciation on how to execute their powers and functions towards fighting corruption.
- The findings of this research can be positively utilised to the benefit of the academic information riches and the prospective and current students in the field of criminal justice and forensic investigations.

1.8 LITERATURE REVIEW

According to Neuman (2011:111), literature review assumes that knowledge accumulates, and that people learn from and build on what others have done. The researcher obtained data directly from original sources which is thus classified as primary data. The primary sources for this study consisted of interviews with the respondents at Emfuleni municipality, the residents, and the South African Police Services (SAPS). The transcripts of the interviews, textbooks, documents and articles in journals, academic

dissertations and theses, and newspapers adverts were used.

1.9 RESEARCH METHODOLOGY

According to Williams (2011:19), research methodology is used to give a clear-cut idea on how the researcher is carrying out their research. Research methodology can be understood as a methodical system to resolve a problem. It is the science of reviewing how investigation is to be carried out. Basically, the actions by which academics go about their effort of relating, explaining and expecting a phenomenon is referred to as research methodology.

1.9.1 RESEARCH DESIGN AND APPROACH

The researcher adopted the qualitative research approach. This approach is defined by Maxwell (2013:3) as conducting an investigation with the idea of addressing goals and real situations, collecting data, analysing answers from the participants, and ensuring consistence and rationality. Babbie and Mouton (2012:72-74) define a research design as a blueprint for the proposed research project as it provides a specific strategy for the researcher to follow in the process of collecting and analysing the data and interpreting the findings.

1.9.2 DATA COLLECTION TECHNIQUES

Steinburg and Cannella (2012:37) explain that data collected and presented as information is not always mutually or collectively understood or agreed upon, and the complexity of this misunderstanding lies in the frame of reference in accordance with which individuals perceive data. The researcher conducted in-person interviews, and data was written on notes pads with the aid of an audio recording device. Further data was obtained through documentaries and statistical reports.

1.9.3 DATA ANALYSIS AND INTERPRETATION

Creswell (2013:182-188) explains that the researcher engages in the process of moving in analytic circles rather than using a fixed linear approach. A researcher begins with data

or text, and ends with an account or a narrative. In this study, the researcher captured data with the aid of an audio recording device during interviews with the participants. This was after meetings were arranged to be conducted in person, with strict adherence to Covid-19 protocols, including wearing masks, sanitising and social distancing.

1.9.4 RELIABILITY AND VALIDITY

According to Thyer (2010:57), reliability is the degree to which the same research instrument provides a similar score when used repeatedly. To ensure reliability in this study, the researcher guaranteed that the interviews were to be conducted in a consistent manner, and without any bias. According to Kumar (2011:179), a researcher can also be asked by others to establish the appropriateness, quality and accuracy of the procedures adopted to find answers to research questions. In this study, the validity of the interviews conducted was determined by the literature review, the research questions as well as the researcher's own experience and observations of corrupt activities within the Emfuleni municipality.

1.9.5 SAMPLING TECHNIQUES

According to Kumar (2011:397-398), sampling is the process of selecting a few respondents referred to as a sample, from a bigger group referred to as the population, to become the basis for estimating the prevalence of information of interest to one. The researcher adopted qualitative sampling strategies in this study. Creswell (2014:192) is of the view that the purpose of sampling in qualitative research is to either gain in-depth knowledge about a situation, event or episode, or to know as much as possible on the different aspects of a topic.

1.10 ETHICAL CONSIDERATIONS

The concept "research ethics" is described by Gray (2014:68) as conducting research in a way that goes beyond merely adopting the most appropriate research methodology but conducting research in a responsible and morally defensible way. Gray (2014:68) categorises ethical considerations into the following four main areas:

- i. Avoiding harm to participants.
- ii. Ensuring informed consent of participants.
- iii. Respecting the privacy of participants; and
- iv. Avoiding the use of deception.

The researcher ensured that the respondents exercise their right to be briefed on the study and their right to give informed consent.

1.10.1 VOLUNTARY PARTICIPATION

Gray (2014:78) emphasises that respondents have the right to withdraw from an interview or survey questionnaire as was the case in this study, at any time or decline to answer any question they find intrusive. The researcher emphasised that participation in the study is voluntary, and respondents are not obligated to participate in the interviews. Respondents were informed that they have the right to withdraw from the study at any time without the obligation to explain the reason for their withdrawal.

1.10.2 PROTECTION FROM HARM

According to Gray (2014:74), there may be dangers in causing the participants psychological damage, anxiety, stress, embarrassment or loss of self-esteem. It could be argued that researchers need to go beyond avoiding harm to participants and should aim for positive benefits instead. The researcher did not expose participants to physical or psychological harm.

1.10.3 INFORMED CONSENT

According to Flick (2014:538), informed consent is the participants' agreement, willingly provided, to cooperate with the research that has been explained to them which they are also able to understand. The researcher ensured that all participants were informed of the nature and purpose of the study to avoid deceit. Further, the participants' voluntary

consent was obtained prior to conducting the interviews.

1.10.4 ANONYMITY AND CONFIDENTIALITY

According to Flick (2014:59), when the researcher interviews the participants or administers survey questionnaires as is the case in this study, their personal details and the information they provide should not be identified by third parties. In this study, the researcher requested the participants not to indicate their names during the interviews as a precaution to maintain anonymity and confidentiality.

1.11 STRUCTURE OF DISSERTATION

Based on the research problem and research questions, the research is structured as follows:

CHAPTER 1: GENERAL ORIENTATION

This chapter provided the reader with information on the background of the study and research problem identified. Important aspects such as the aim and purpose of the study, research question, research design and approach, sampling methods, data collection and analysis, ethical issues, and validity and reliability were discussed in the chapter.

CHAPTER 2: LITERATURE REVIEW

This chapter explains that the researcher obtained data directly from original sources which is thus classified as primary data. The primary sources of data for this study consisted of interviews with the respondents at Emfuleni municipality, the residents and the SAPS. Interview transcripts, textbooks and articles in journals, academic dissertations and theses, and newspapers adverts were utilised to explore a review of literature by various scholars and authors.

CHAPTER 3: THE CORRUPTION INVESTIGATION METHODOLOGY AND SUCCESSES AND FAILURES OF THE SOUTH AFRICAN ANTI-CORRUPTION AGENCIES.

The chapter discusses the methodology utilised in the internal investigation of the corporate environment in South Africa, and in exploring the successes and failures of the South African anti-corruption agencies in their fight against corruption. In this chapter, the researcher discusses the legislative framework applicable to the prevention, detection, investigation and criminalisation of acts of corruption in South Africa. This chapter also looks at the institutional mechanisms that are in place to combat corruption in South Africa.

CHAPTER 4: LEGISLATIVE FRAMEWORK AND THE CONSEQUENCES OF CORRUPTION FOR BOTH PRIVATE AND PUBLIC SECTOR.

The chapter provides the reader with the definition of the concept of 'corruption', its elements and characteristics in South Africa, and an overview of corruption-related legislation. The chapter further focuses on the consequences of corruption such as the sanctions that may be imposed by the courts, for example, imprisonment and/or monetary fines. The contraventions by Prevention and Combating of Corrupt Activities which encompass the act of corruption, including a fine of unlimited value, prison sentences and/or the removal from office are also discussed.

CHAPTER 5: THE IMPACTS OF CORRUPTION IN SOCIETY

The chapter explains to the reader the impacts of corruption in the society and provides the evidence.

CHAPTER 6: FINDING, RECOMMENDATION AND SUMMARY

The findings, conclusions and summary of the study are discussed in this chapter.

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION

This chapter discusses the data obtained directly from original sources which is thus classified as primary data. The primary sources of data used in this study consisted of the interviews with the respondents at Emfuleni Municipality, residents and the police. Transcripts of the interviews, documents, textbooks, articles in journals, academic dissertations and theses, and newspaper adverts were also utilised.

2.2 DEFINITION OF LITERATURE REVIEW

According to Fink (2014:1), literature review surveys books, scholarly articles and any other sources relevant to a particular issue, area of research or theory and, by so doing, provides a description, summary and critical evaluation of these works in relation to the research problem being investigated. Literature review is designed to provide an overview of sources explored while researching a particular topic and to demonstrate to the readers how the research fits within a larger field of study. The researcher agrees with Fink (2014:1) as this study obtained data from books, articles, interviews, journals, newspapers and academic dissertations and theses.

Hurst (2011:13) further explores the meaning of literature review, stating that it is a summary and critical analysis of writings by scholars on a particular topic or theme. It is a combination of (i) what has already been written on the topic, (ii) an identification and discussion on what has not been written on the topic, and/or (iii) the conceptual or methodological weaknesses of the literature, and finally (iv) how the weaknesses or gaps

in the existing knowledge base will be addressed. A literature review does not simply reproduce or summarise the literature, but it also describes and analyses.

The descriptive aspect of the literature review does the following:

- Discusses the most widely accepted findings on the topic;
- States the most widely accepted definitions of concepts and hypotheses in relation to the topic;
- Identifies the methods used to make and support the findings in the literature; and
- Establishes the most recent authoritative theory on the subject.

Further, the analytical function focuses on:

- The integration of ideas from different sources, highlighting the differences and similarities;
- Showing the relevance of the literature to the research topic, including how it supports and contradicts the study's main hypothesis; and
- Illustrates which arguments are most important or are pertinent in the field of study through the use of examples and primary sources to do so.

Lau and Kuziemy (2017:23) explain that literature reviews play a critical role in scholarship because science remains, first and foremost, a cumulative endeavour as in any academic disciplines, rigorous knowledge syntheses are becoming indispensable in keeping up with an exponentially growing e-health literature, assisting practitioners, academics and graduate students in finding, evaluating and synthesising the contents of many empirical and conceptual papers.

Among other issues, literature review is essential for: (a) identifying what has been written on a subject or topic; (b) determining the extent to which a specific research area reveals any interpretable trends or patterns; (c) aggregating empirical findings related to a narrow research question to support evidence-based practice; (d) generating new frameworks and theories; and (e) identifying topics or questions requiring more investigation.

Literature review can take two major forms. The most prevalent one is the “literature review” or “background” section within a journal paper or a chapter in a graduate thesis. This section synthesises the extant literature and usually identifies the gaps in knowledge that the empirical study addresses. It may also provide a theoretical foundation for the proposed study, substantiate the presence of the research problem, justify the research as one that contributes something new to the cumulated knowledge, or validate the methods and approaches for the study. Therefore, literature review is an overview of previously published works on a topic.

2.3 LITERATURE STUDY

According to Klarer (2004:3), literature is any current encyclopedia and which strikes the researcher by its vague usage and an inevitable lack of substance in the attempts to define it. In most cases, literature is referred to as the entirety of written expression, with the restriction that not every written document can be categorised as literature in the more exact sense of the word. The definitions, therefore, usually include additional adjectives such as “aesthetic” or “artistic” to distinguish literary works from texts of everyday use such as telephone books, newspapers, legal documents and scholarly writings. Etymologically, the Latin word “*litteratura*” is derived from “*littera*” (letter), which is the smallest element of alphabetical writing. The word “text” is related to “textile” and can be translated to “fabric” just as single threads form a fabric, so words and sentences form a meaningful and coherent text. The origins of the two central terms are, therefore, not of great help in defining literature or text. It is more enlightening to look at literature or text as cultural and historical phenomena and to investigate the conditions of their production and reception.

The researcher consulted numerous literature sources from the University of South Africa (UNISA) library in Florida and books collected over the years regarding the subject of corruption, as well as literature from the Association of Certified Fraud Examiners (ACFE)

SA. Data was also obtained from certain sources on the internet such as relevant corruption-related websites, Google, training institutions websites, international journals, the Emfuleni local municipality internal policies, newspapers, the ACFE website for written literature, journals and discussion forums on the topic, and ACFE examination preparation material. Literature collected and sources are referenced in the “list of references” at the end of the study.

2.4 INTERVIEWS

According to the researcher’s understanding, an interview is a qualitative research method that depends on asking questions to collect data. Interviews are about two or more people, including the interviewer who asks the questions. There are several types of interviews, often differentiated by their level of structure. Easwaramoorthy and Zarinpoush (2006:1) is of the agreement with the researcher that an interview is a conversation aimed at gathering information. An interview involves an interviewer who coordinates the process of the conversation and asks questions, and an interviewee who responds to the questions. Interviews can be conducted face-to-face or over the telephone. The internet is also emerging as a tool for interviewing.

Interviews are an appropriate method when there is a need to collect in-depth information on people’s opinions, thoughts, experiences and feelings. They are useful when the topic of inquiry relates to issues that require complex questioning and considerable probing. Face-to-face interviews are suitable when the target population can communicate through face-to-face conversations better than they can communicate through writing or phone conversations. The latter is commonly applicable when the population comprises children, the elderly or disabled individuals.

Interviews can be designed differently depending on the needs being addressed and the information required by the researcher. They can be grouped into the following three types:

- i. Structured interviews – In a structured interview, the interviewer asks a set of standard predetermined questions on a particular topic and in a specific order. The respondents need to select their answers from a list of options. The interviewer may provide clarification on some questions. Structured interviews are typically used in surveys (see the “Survey Research Methods” Tip Sheet).
- ii. Semi-structured interviews – In a semi-structured interview, the interviewer uses a set of predetermined questions and the respondents answer in their own words. Some interviewers use a topic guide that serves as a checklist to ensure that all participants provide information on the same topics. The interviewer can probe areas based on the participants’ answers or ask supplementary questions for clarification. Semi-structured interviews are useful when there is a need to collect in-depth information in a systematic manner from several participants or interviewees.
- iii. Unstructured interviews – In an unstructured interview, the interviewer has no specific guidelines, restrictions, predetermined questions or list of options. The interviewer asks a few broad questions to engage the respondent in an open, informal and spontaneous discussion. The interviewer also probes with further questions and/or explores inconsistencies to gather more in-depth information on the topic. Unstructured interviews are particularly useful for getting the stories behind the participants’ experiences or when there is little information on a topic.

According to Noaks and Wincup (2004:123) when researchers want to conduct interviews, they need to plan to identify, address and analyse the key concepts. Creswell (2009:181) further adds that the intention of interviews is to obtain the participants’ views and opinions.

According to Denscombe (2003:167) in an unstructured interview, the interviewer still has

a clear list of issues to be addressed and questions to be answered. However, with the semi-structured interview, the interviewer is prepared to be flexible in terms of the order in which the topics are considered and, perhaps more significantly, to let the interviewee develop ideas and speak more widely on the issues raised by the researcher. The answers are open-ended, and there is more emphasis on the interviewee elaborating points of interest.

Bryman (2017:224) describe qualitative interviews as usually unstructured or semi-structured interviews as the interviewer varies the approach taken. With both methods, the interview is flexible and the emphasis is on how the interviewee frames and understands the issues and events. This also entails what the interviewee views as important in explaining and understanding the events, patterns and forms of behaviour.

In this study, the researcher conducted semi-structured one-on-one interviews with all the participants in order to get the personal views of each participant through the use of open-ended questions, enabling them to elaborate on their experience based on the questions. A detailed interview schedule was compiled which comprised various research questions as the foundation for the interview schedule. The interview schedule also consisted of different key concepts to explain the research question and address the topic under study, (see Attachment A).

Kumar (2014:13-14) is of the opinion that “when the purpose of a study is to determine its feasibility, it is also called a feasibility study or a pilot study and utilises a small-scale study to decide if it is worth carrying out a detailed investigation of study.” Prior to conducting the interviews, a pilot interview was conducted to test the questions and the responses, and to ascertain if the study was in line with the research questions and aim of the study.

2.4.1 STRUCTURED INTERVIEWS WITH THE RESIDENTS AND WARD COUNCILLORS

The researcher is of understanding that a structured interview is a qualitative research method used in a research survey. It aims to ensure that interview is presented with the same questions and in the same order. According to Welman, Kruger and Mitchell (2005:165), the interviewer presents a previously compiled interview schedule to the interviewees. Interviews for this study were face-to-face, and the participants' answers were audio recorded with the researcher also writing notes.

During structured interviews, an interviewer is restricted to the questions as they appear on the schedule and the wording thereof (Welman & Kruger, 2001:160). Welman and Kruger (1999:166) state that an interviewer has little room to deviate from the pre-compiled interview schedule during structured interviews. Bika (2022:1) agrees with Welman and Kruger (2001:160) that during a structured interview, the predetermined questions asked are all correlated to important job competencies derived from a detailed job description. The questions can be either behavioural or situational. They are rated with a specific scoring system with a range of acceptable answers. When there is more than one interviewer, the team should reach a consensus on the order of questions and the interpretation of answers.

This process has shown greater reliability and validity than the unstructured interviews, reducing the likelihood of a bad hire. It still does not predict future job performance as work samples or cognitive tests do, but it has the added benefit of face-to-face contact. Structured interviews also ensure the reduction of discrimination issues since all candidates are treated fairly and given the same opportunities to showcase their abilities. It takes a little more time and expense, but its benefits far outweigh its costs.

The concepts and variables involved, and the relationships being investigated – possibly in the form of hypotheses, theories, models or evaluative frameworks, should be clear and should guide the questionnaire design process. The researcher followed the same process in compiling the interview schedule with open-ended questions. The researcher conducted ten (10) interviews with the residents and two (2) interviews with Emfuleni local municipality ward councilors. The main question during the interviews was: what is the impact of corruption on service delivery?

Based on the interviews conducted with the residents, the following was discovered:

- Eight out of the ten residents are employed and paying rates and taxes to ELM, but they do not receive services from the municipality.
- Two out of the ten residents are unemployed but are registered as indigents to the municipality although they do not receive services from the municipality.
- All ELM roads are completely damaged by potholes, including those in two towns.
- Waste collection is sometimes done once in a month.
- All the streetlights are not in working conditions.
- The sewerage system is in a bad state in ELM areas that even the South African National Defence Force (SANDF) was called to attend to it, but it was fruitless. Currently, Rand Water is trying to fix the system, and meanwhile, residents are affected as sewerage is flooding their yards, resulting in them getting sick.
- The unemployed rate in ELM areas is very high and some residents cannot afford to pay rates and taxes due to unemployment. Even in areas where residents are paying for services, they do not get the services.
- The businesspeople are leaving the ELM areas because their businesses are affected by poor service delivery.
- Due to the streetlights which are not working, crime rate has increased in ELM areas.

- Interviews conducted with the ward councilors established the following: Residents of Emfuleni Local Municipality (ELM) have, on several occasions, complained about the potholes that are in every street, streetlights that are not working, sewerage spillages that are affecting their health and the lack of waste collection in their areas which happens sometimes once in a month.
- Resident complaints are tabled in municipal meetings, but the ELM officials claim that residents are not paying for the services, hence the municipality does not have adequate resources to deliver the services to the residents.
- Corruption has also affected the service delivery.
- Criminal cases have been opened on some ELM officials, but no action has taken place to date.
- The ELM owes Eskom and Rand Water approximately eight (8) billion rands. The ELM bank accounts and assets such as vehicles were attached by Eskom and Rand Water to this effect.
- The ELM does not have by-laws enforcement unit.

2.5 SUMMARY

This chapter addressed how the researcher obtained data directly from original sources. The primary source for this study consisted of interviews which were conducted with the ward councilors at Emfuleni municipality, the residents and the SAPS.

Interview transcripts, textbooks, articles in journals, academic dissertations and theses, and newspapers adverts were utilised, and referenced accordingly in the list of references. The secondary sources were obtained at the Unisa Florida Library and online, on Google and on websites of crime-fighting agencies. All sources were referenced in the “references” section at the end of the study.

Structured interview questions take many forms. Some candidates can be asked to answer based on the situations encountered or their job experiences, or past experiences that measure essential abilities and characteristics. Interviewers can use a behavioural checklist to measure how well candidate responses overlap with competencies.

CHAPTER THREE

THE CORRUPTION INVESTIGATION METHODOLOGY AND SUCCESSES AND FAILURES OF THE SOUTH AFRICAN ANTI-CORRUPTION AGENCIES.

3.1 INTRODUCTION

This chapter discusses the meaning of the concepts of “forensic investigations” and “corruption”. It further explains the methods and techniques used during internal investigation in the corporate environment and on the functions of Emfuleni local municipality Forensic Investigative Unit (FIU). The successes and failures of the anti-corruption agencies are also discussed in the context of the South Africa’s fight against corruption.

3.2 FORENSIC INVESTIGATION

The researcher is of the opinion that forensic investigation as a key concept in this study and as part of the internal investigation process in the corporate environment in South Africa was researched on to establish and determine what it is and what the objectives of forensic investigations would be. Benson (2015:2) describes forensic investigation as involving more than mere investigation of crime and is firstly a recognised science in its own rights. Benson (2015:2) further mentions that during forensic investigation, natural science may play a role in solving a crime such as DNA, but the human science may also feature and play a role. Benson (2015:2) describes forensic investigation as a two-fold concept with reference to the investigation process through the courts or litigation

process, and then the application of science within the investigation process.

In more detail of the actual matters that resort under the duties or investigation functions of a forensic investigator, Goss (2016:2) states that the forensic investigator should investigate, prevent, detect and assist in the resolving of commercial offences such as fraud and corruption. Goss (2016:128) explains that “forensic auditing and investigation of fraud is the task of gathering and analysing data such as information and evidence from various data sources and drawing inferences from the relationship between these data sources, combined with witness evidence.”

Van Rooyen (2004:7) describes the term “forensic investigator” as a buzz word used by many people who are directly or indirectly involved with investigations. According to Van Rooyen, forensic investigation has to do with the courts and the legal system, and the function of examining and analysing questions that arise from crime or litigation. Further, Van Rooyen (2008:14) explains that forensic investigation is, in most instances, associated with the investigation of computer-related crimes, corruption, fraud, embezzlement and other white-collar crimes. Bennett and Hess (2007:06) explain further that forensic investigation is a step-by-step enquiry, observation, thorough examination and recording of evidence and is intended to establish facts using science to present evidence before a court of law.

According to the researcher, the meaning “forensic investigation” is very broad. It involves some form of scientific method or other skill such as accounting or valuation expertise and looks retrospectively to decide on a matter that happened in the past. Turvey and Crowder (2017:1) agree with Van Rooyen (2004:7), stating that forensic investigation is part of our cultural identity and it can be found in the news, on television and in film. It is invoked, implying that highly trained personnel will be collecting some form of physical evidence with eventual scientific results that cannot be questioned or bargained within other words. It is invoked to imply the reliability, certainty and authority of a scientific

inquiry.

This can be a good thing, the authors agree, when there are well-educated and properly trained professionals involved in the process primarily because everyone lies, some intentionally and some unintentionally. Gathering and examining physical evidence is thus the only way to ensure that lies are exposed and kept from the gates of justice. As a mechanism for this effort, the forensic investigator is meant to be an objective truth seeker. The researcher agrees fully with Financial Conduct Authority (FCA) (2022:1) who explains the meaning of forensic investigations as the practice of lawfully establishing pieces of evidence that must be presented in a court of law. It includes all investigations, ranging from cases of financial fraud to murder. When most people think of forensics, they think of crime scene investigation where physical evidence is gathered. There are other forms of forensic investigation, however, such as computer forensics and sub-fields that focus on dentistry or insects and crime scenes.

3.2.1 CRIME SCENE FORENSICS

According to Financial Conduct Authority (FCA) (2022:1) this type of forensic investigation revolves around crimes. Forensics used in these investigations can uncover scientific evidence that may provide enough proof or evidence to convict a criminal. These methods can also help disprove outdated evidence that could lead to the release of someone who was wrongly convicted. One of the main kinds of evidence this form of forensic investigation yields is biological evidence. Impression evidence, like fingerprints, helps connect people to a crime scene or victim. After the evidence is carefully collected, it is sent for processing.

3.2.2 COMPUTER FORENSICS

According to Financial Conduct Authority (FCA) (2022:2) this is a fast-growing division of forensics which involves digital or computer investigations. It is a branch of science that involves evidence found in digital storage mediums and computers. This field of forensic investigation has several subdivisions. Digital forensic investigation is useful in a variety

of situations. Investigators use different programmes and utilities to recover lost data after a system-wide computer crash. Careful handling and presentation of digital evidence are necessary for it to remain admissible in a courtroom setting.

3.2.3 OTHER FORENSIC FIELDS

According to Financial Conduct Authority (FCA) (2022:2) there are several other subdivisions of forensic investigation that can be used for the collection of evidence. Investigators specialising in entomology conduct examinations of insects on or near human remains, which can help determine the location and time of death. Forensic odontology is the investigation of dentition or teeth which is often crucial in identifying the remains of a victim. Other subdivisions include forensic anthropology, geology and toxicology. Investigators in all these divisions use exacting techniques to collect data to help prove or disprove accusations of criminal or civil wrongdoing.

3.2.4 FORENSIC ACCOUNTING AND AUDITING

According to Financial Conduct Authority (FCA) (2022:2) Victims of fraud or financial crimes benefit from forensic accounting investigations. This type of analysis, also known as financial investigation, employs intelligence gathering techniques, accounting, business and communication skills to provide evidence to attorneys involved in criminal and civil investigations. They conduct investigations by sifting through a large amount of relevant data, looking for irregularities or illegal financial practices. Tax evasion and asset theft are examples of such crimes. They also investigate insurance claims and large payouts.

3.2.5 FINAL THOUGHTS

According to Financial Conduct Authority (FCA) (2022:2) Forensic investigation is the practice of legally establishing evidence and facts for presentation in a court of law. The term is applied to nearly all investigations, from financial fraud to murder. Most people associate forensics with crime scene investigation where physical evidence is gathered.

However, there are other types of forensic investigation such as computer forensics and sub-fields focusing on dentistry, insects and crime scenes.

3.3 GENERAL DEFINITION OF “CORRUPTION”

Anti-corruption and Civil Rights Commission (ACRC) (2015:2) notes that the term “corruption” comes from the Latin roots, “cor”, meaning “together”, and “rupt”, meaning “to be ruined”. Furthermore, the words “corruptors”, meaning “spoiled”, and “corrupter”, meaning “to ruin or break into pieces”, were developed and stand as roots for the term “corruption”.

According to Bosman (2012:3), corruption derives from the old French word “briber”, meaning “to beg”. The English managed to twist this to the present meaning, “to corrupt by giving gifts”. Corruption is a term denoting dishonest or illegal profits, and it means to damage or spoil a person or their hopes.

According to Jain (2012:22), corruption arises from the misuse of legislative powers by the government in power. Rose-Ackerman (2013:7) correctly argues that corruption is essentially equated with bribery, which includes nepotism and unlawful appropriation of public assets for private use, and as a conduct which goes amiss from the ordinary obligations of a public role for financial or status gain.

The researcher is of the opinion that to understand the meaning of corruption, there is a need to be familiar with all the legislation supporting the PRECCA Act (12/2004). It is necessary to know the available legal tools to assist in investigations, and what charges can be brought against an accused.

The South African definition of corruption is found in Section 3 of the Prevention and Combating of Corrupt Activities Act (PCCAA) 12 of 2004 where corruption is defined as “any direct or indirect acceptance or willingness to offer any gratification from any other person, whether for the benefit of themselves or for the benefit of another person.”

3.4 COVERT INVESTIGATION AS A METHOD TO INVESTIGATE CORRUPTION

The researcher understands that covert investigations are fact finding missions much like conventional investigations. This type of investigations needs experienced investigators. Section 5 of the PCCAA further distinguishes corruption in relation to public officials as the acceptance of or an agreement to accept any form of gratification directly or indirectly from any person for personal gain or for the benefit of another person (South Africa, 2004a). The PCCAA also makes it an offence to directly or indirectly give or agree to offer any gratification to a public official, regardless of whether such gratification will benefit such public official or another person, and for a person in position of authority to not report corrupt activities and the suspicion of corrupt activities.

Van Rooyen (2013:9) sets the overview of the Prevention and Combating of Corrupt Activities Act (PCCAA). The Act sets out different types of corruption which are all very similar, noting that someone gives or offers to give someone else something to use their power illegally and unfairly or to get an advantage for themselves or for anybody else. The person making the offer is always guilty of corruption if the offer is accepted. The crime of corruption often involves money, but other types of payment such as donations, gifts or giving someone a job are also not allowed.

The PRECCA Act 12 of 2004 highlights various crimes of corruption in both the public and private sectors. Some of these crimes are:

- Applying to members of both the public and private sector.
- Dealing with the relationship between the public sector and members of the private sector.
- Dealing with the relationship between members of the private sector.
- Covering things related to corrupt activities such as destroying evidence of

corruption.

The National Prosecuting Authority (NPA) (2008:150) defines corruption as the misuse of public office with a corrupt intent and may include any crime. In support, Swanepoel, Lotter and Karels (2014:13) define corruption as the misuse of public office with a corrupt intent and may include crime. For the purposes of this study, the researcher defined corruption as the abuse of the power entrusted to public officials. It is a crime that may include acts of bribery, nepotism, extortion, fraud and theft for personal gain. It involves the offering or receiving of benefits to influence public officials to commit or omit to do their official duty. The Special Investigative Unit (SIU) Training Manual (2010:22) is on the same understanding with the researcher that corruption on the part of public officials, on the other hand, may take the form of, inter alia, the preparation of slanted tender specifications, the approval of inappropriate tenders tampering with tenders, breaching confidentiality, the taking of bribes, the use of position to obtain a private benefit, and/or lax administration of a contract after its conclusion.

The researcher is also of the view that corruption is a very serious crime and one can be sentenced up to 15 years for committing such a crime. In *S v Shaik and Others* 2006] ZASCA 105; 2007 (1) SA 240 (SCA), para 222, the SCA stated: [the] seriousness of the offence of corruption cannot be over-emphasised. It offends against the rule of law and the principles of good governance. Courts must send out an unequivocal message that corruption will not be tolerated, and that punishment will be appropriately severe. It is thus not an exaggeration to say that corruption of the kind in question eats away at the very fabric of society and is the scourge of modern democracies.

Organization for Economic Cooperation and Development (OECD) (2013:9) notes that corruption can take many forms, but all involve the abuse of public or private office for personal gain. A corrupt official may exercise his or her authority in a way they should

not, for example, where a purchasing manager grants a contract to a supplier that has paid a bribe or fail to exercise authority in the way they should, for example, where a building inspector ignores the use of sub-standard building that should be reported. Other parties to corruption may act for a variety of personal or business reasons.

Corrupt transactions can be extremely simple or incredibly complex, involving companies in many different countries. Corruption can take place at the highest levels of government and at the top of large multinational companies. It can also happen at the local level, wherever someone has the power to influence decision-making.

3.4.1 METHODS AND TECHNIQUES USED DURING THE INVESTIGATION OF CORRUPTION FOR INTERNAL INVESTIGATION IN THE CORPORATE ENVIRONMENT

The first point that the investigator should know is to conduct the search and seizure and familiarise themselves with the laws that govern search and seizures. There are procedures that need to be followed when conducting such. The constitutional rights of the accused should always be adhered to. Furthermore, Schuchter (2012:51) states that it is the responsibility of the investigative team to conduct thorough searches and seizures on the perpetrators and their respective businesses, after which all the physical evidence should be analysed and well-documented. Evidence which is seized should be analysed immediately after the items were seized. Interviews of witnesses and suspects have a significant role to play during the investigation of corruption cases.

Turner (2015:9) shows that in most corruption investigations, the processes used by the investigators to discover official records, photographs, fingerprints and so on, are outdated techniques as opposed to every day, head-on interactions with the public. An investigation officer is usually a mature person who has substantial knowledge of criminal investigations.

Turner (2015:17) elucidates that for most investigations, the preliminary investigation process is the basis of the investigation process. During this stage, the visible policing officials arrive at the scene before the investigator is called to the scene, and conclude some significant tasks.

The researcher is of the opinion that these tasks include securing the crime scene, effecting arrests of any suspects and identifying and splitting up the eyewitnesses. Normally, the official executing the preliminary investigation will take some notes and turn over all the collected information to the criminal investigators upon their arrival at the scene. Turner (2015:12) clarifies that the success of a criminal investigation is illustrated in the clues collected which will probably assist in determining a successful outcome for the investigation. Some examples of clues are the availability of witnesses, information concerning the suspect, physical evidence recovered, as well as determining whether there is enough information to continue with an investigation. Furthermore, Internet Crimes Against Children Task Force Program (ICAC) (2020:1) notes that investigating corruption can broadly be divided into two categories, namely investigating past corruption offences, and investigating current corruption offences.

3.4.1.1 INVESTIGATING PAST OFFENCES

According to Internet Crimes Against Children Task Force Program (ICAC) (2020:1) the investigation normally commences with a report of corruption, hence the normal criminal investigation technique should apply. Much will depend on the information provided by the informant and, from there, the case should be developed to obtain direct, corroborative and circumstantial evidence. The success of such investigation relies on the meticulous approach taken by the investigators to ensure that no stone is left unturned. Areas of investigation can include detailed checking of the related bank accounts and company ledgers, and obtaining information from various witnesses and sources to corroborate any meetings or corrupt transactions.

At the initial stage, the investigation should be covert and kept confidential. If there is no evidence discovered at this stage, the investigation should normally be curtailed, and the suspects should not be interviewed. This would protect the suspects who are often public servants from undue harassment. When there is a reasonable suspicion or evidence discovered in the covert stage, the investigation can enter its overt stage. Action can then be taken to interview the suspects to seek their explanation and, if appropriate, the suspects' homes and offices can be searched for further evidence. Normally, further follow-up investigation is necessary to check the suspects' explanations or to go through the money trails as a result of evidence found during searches. The investigation is usually time-consuming.

3.4.1.2 INVESTIGATING CURRENT CORRUPTION OFFENCES

Internet Crimes Against Children Task Force Program (ICAC) (2020:1) suggest that such investigation will enable greater scope for ingenuity. Apart from the conventional methods mentioned above, a proactive strategy should always be preferred, with a view to catching the corrupt red-handed. In appropriate cases with proper authorities obtained, surveillance and telephone interception can be mounted on the suspects and suspicious meetings monitored. A co-operative party can be deployed to set up a meeting with a view to entrapping the suspects. Undercover operation can also be considered to infiltrate a corruption syndicate.

The pre-requisites to all these proactive investigation methods are professional training, adequate operational support and a comprehensive supervisory system to ensure that they are effective and in compliance with the rule of evidence. As mentioned above, corruption is always linked and can be syndicated. Every effort should be explored to ascertain if the individual offender is prepared to implicate other accomplices or the masterminds behind the scheme. In Hong Kong in China, there is a judicial directive to allow a two-thirds reduction of the sentence of corrupt offenders who are prepared to provide full information to the ICAC and to give evidence against the accomplices in court.

The Internet Crimes Against Children Task Force Program (ICAC) (2020:2) provides special facilities to enable such “resident informants” to be detained in ICAC premises for the purpose of de-briefing and protection. The “resident informant” system has proved to be very effective in dealing with syndicated or high-level corruption.

3.4.2 INVESTIGATIVE TECHNIQUES

To be a competent corruption investigator, an official should know many investigation techniques and skills. The following are the essential one’s skills and techniques required:

- Ability to identify and trace persons, companies and properties;
- Interview techniques;
- Document examination;
- Financial investigation;
- Conducting a search and arrest operations;
- Physical and technical surveillance;
- Acting as an undercover agent;
- Handling informers;
- Conducting an entrapment operation; and
- Witness protection.

3.4.2.1 INTERVIEW TECHNIQUES

According to Internet Crimes Against Children Task Force Program (ICAC) (2020:3) As corruption is a secret crime involving parties who are often sworn to a code of secrecy and silence, a successful corruption investigator should always be a good interviewer to break the code of silence. The interview technique always forms a very important part of the professional training of corruption investigators. Interview techniques should include the following elements:

- Proper preparation and planning before the interview – The interviewer must study the case thoroughly, including the background of the interviewee, the available evidence against him or her, and the list of question areas. He or she should then

formulate the structure of the interview.

- Ability to deal with reluctant witness – It is fully understandable that the interviewees in corruption cases are reluctant to come forward in the interview. The interviewer must have the ability to identify the reasons behind the interviewee's reluctance, whether it is due to his or her dislike of the agency, fear of intimidation, fear of going to court, his or her relations with the corrupt offenders, etc, and to use the appropriate strategy to win his or her co-operation.
- Ability to build rapport – by putting the interviewee at ease in a hospitable environment, giving him or her reassurance and handling him or her with patience and sympathy.
- Need for active listening and flexibility in the line of questioning, depending on what the interviewee has said.
- Maintaining eye-contact and watching the body language which often gives clues on the truthfulness of what the interviewee is saying. Always attempt to test the truth and to identify the motive of the statements made by the interviewee.
- If the interviewee is prepared to relate the full version, ensure that maximum details are obtained such as the when, where, who, what and how, in chronological sequence, and most important of all, who else is also involved in the corruption.
- Always retain control in the interview.

3.4.2.2 PROFESSIONAL INVESTIGATIVE SUPPORT

Internet Crimes Against Children Task Force Program (ICAC) (2020:1) In order to ensure a high degree of professionalism, many of the investigation techniques can be undertaken by a dedicated unit, such as the following:

- Intelligence section – The intelligence section is a central point to collect, collate, analyse and disseminate all intelligence and investigation data, otherwise there may be major a breakdown in communication and operations.
- Surveillance section – The surveillance section is a very important source of evidence and intelligence. The Hong Kong ICAC has a dedicated surveillance unit

of over 120 surveillance agents, and they have made a significant contribution to the success of several major cases.

- Technical services section – This section provides essential technical support to surveillance and operations.
- Information Technology (IT) section – The rapidly advancing telecommunications techniques have created a threat to corruption investigation. Corrupt negotiation can be carried out without personal contact. It can be done through email, mobile phone or fax, all without trace. Corrupt transactions via e-banking can, with a switch of button, transfer money to overseas accounts.

Van Rooyen (2013:366) agrees with the above-mentioned that corruption investigations are becoming more and more difficult. There are no witnesses or complainants. It is an unconventional crime requiring unconventional investigation methods. The success factors for an effective corruption investigation include:

- An effective complaint system to attract quality corruption reports;
- An intelligence system to supplement the complaint system and to provide intelligence support to investigations;
- Professional and dedicated investigators who need to be particularly effective in interviewing techniques, financial investigations and collecting digital evidence;
- More use of proactive investigation methods such as undercover operations and technical surveillance;
- Strict confidentiality of corruption investigation, with a good system of protection of whistleblowers and key witnesses; and
- International co-operation and the need to strike the right balance between effective law enforcement, protection of human rights and privacy.

Section 252A of the CPA (South Africa), 1977) reads as follows: “Authority to make use of traps and undercover operations and admissibility of evidence so obtained.” The following must be taken into consideration before the commencement of an undercover operation in terms of the above-mentioned Act:

- Before conducting an undercover operation, authorisation is acquired, and it can be obtained from the DPP;
- Any other factor which, in the judgement of the court, must bear on the application to conduct the undercover operation;
- The level of persistence and number of attempts made by the public official or his/her informer or agent before the accused committed the crime;
- The availability of other techniques for the detection, investigation or revealing of the commission of the crime;
- Type of inducement utilised – deception or reward;
- Proportionality between the participation of the public official or his/her informer or agent in comparison to the accused;
- Nature of the crime – security of the state; public order: the safety of the public; or whether the national economy is seriously threatened thereby.

Tyska and Fennelly (1999:165) state that surveillance is the private and incessant recognising of people, vehicles, places and objects in order to collect data on the activities and characteristics of a person or conditions. Van Rooyen (2001:99) portrays surveillance as the cautious and persistent observing of something or somebody, done in a private or tactful way in order to gather proof on a subject.

MI5 (2019:1) states that surveillance, by nature, is covert when the subject is unaware that they are or may well be a subject of investigation that is taking place. Undercover observation is separated into two categories, both which are subject to the Covert Surveillance and Property Interference code of practice. Undercover surveillance methods are utilised to one's benefit when the target is not conscious of surveillance and is subsequently not on guard. On most occasions, people who are in the spotlight are beneath the radar professionally, or are politically habitually under suspicion.

To be able to accumulate data on a suspect, places of interest such as businesses places are observed to collect data on the suspect. Covert surveillance is regularly performed by government organisations and private agents employed for individual or business investigations. The evidence concerning the debate on electronic surveillance has been wide-ranged and long-lasting. Empirical evidence on the topic has, thus far, not fully covered all its aspects (Ashby, 2017:49). The United Nations Office on Drugs and Crime (UNODC) (2009:4) states that,

- The importance of utilising electronic surveillance in the investigation of crime, specifically organised crime, is indisputable as it permits the collecting of “impossible” evidence through other means. Various countries have engaged secret electronic surveillance for nearly a century. Some see it as a new concept, while others have not utilised it at all. The use of electronic surveillance, by law, should be used when the less invasive methods have proved unproductive.
- When it is appropriate to use electronic surveillance, it will be seen as a

contribution to other investigation methods to be most effective. For those authorities without any regulation or legislation, the challenge is to create a stable system for the use of collecting electronic evidence. When electronic surveillance gathering is done for the purpose of gathering evidence, there must be a balance between evidence gathering and invasion of privacy, together with the public interest and the conviction weighed against the invasion of privacy. This includes matching the cost of employing these approaches against the eventual public advantage added from a conviction. These reflections should be considered cautiously by legislators and prosecutors.

- Electronic surveillance is comprised of an array of competences and practices. Previously, surveillance has been based on covert/overt distinctions and they have been determined as efficient by the amount of interaction with the target, whether remote or direct.
- Where overt/covert lines are not as easy to draw, these distinctions might, questionably, generate an incorrect contrast, mainly in the framework of modern surveillance technologies.

Pinow.com (2017:17) describes electronic surveillance as the monitoring of a home, business or individual, using a variety of devices such as CCTV, legal wiretapping, cameras, digital video equipment and other electronic, digital and audio-visual, including surveillance being done by computers using various apps as well as smartphones. Email tracking, internet surveillance and remote PC are examples of computer surveillance.

UNODC (2009:9) states that the importance of utilising electronic surveillance in the investigation of crime, specifically organised crime, is indisputable as it permits the collection of “impossible” evidence through other means. Therefore, electronic surveillance, considering the various sources of literature as well as interviews conducted with the various respondents, is an immeasurable tool or aid in the investigation of crime

and/or organised crime.

In his study, Chetty (2019:43) agrees with Pinow.com (2017:3) that law enforcement and government agencies utilise electronic surveillance for the purposes of preventing criminal activities as well as preventing the respective states' acts of terrorism. Personnel security and the protection of property are the main reasons large and small companies utilise electronic surveillance techniques. Regardless, electronic surveillance is an efficient tool that can be utilised for crime prevention and for classifying potential acts of spying, theft and property damage (Study.com. 2018:1).

The act of monitoring and gathering of digital “footprints” left behind by suspects is seen as electronic surveillance. Reading text messages, examining internet browsing history and social media, covertly activating webcams and microphones, or even following a person on CCTV is all seen as electronic surveillance (Aljazeera, 2017:1). Electronic surveillance is an immeasurable tool used for a variety of purposes such as discovering valuable evidence against an individual who is suspected of committing a crime or individuals who are a threat to the security of the state (Aljazeera, 2017:1). According to Aljazeera (2017:1), the definition of electronic surveillance is very similar to the responses of all the participants of both samples.

Chetty (2019:25) further states that the usage of electronic surveillance is a covert method where electronic gadgets are camouflaged to gain the data or proof of criminal targets in order to verify their illegal activities. In this chapter, the researcher advises the reader on the concept of criminal investigation, the objectives and purpose of criminal investigation, the covert surveillance technique, concept of electronic surveillance, the legal principles involved in the use of electronic surveillance, types of electronic surveillance, the concept of organised crime, the value of electronic surveillance in investigation, the use of Act 70 of 2002 (RICA) as an investigative tool in the investigation of organised crime, the procedural protocol for the use of electronic surveillance, the advantages of electronic surveillance in the investigation of crime, crime intelligence, and the assistance of

electronic surveillance to prosecutors during the prosecution process.

According to the researcher's experience as an investigator in one of the state-owned enterprises, covert investigation has been utilised in so many cases and it was a success. Covert investigation should be handled by experienced investigators or else it can pose a life risk once it is uncovered by the suspects. Proper planning, investigation experience and having adequate resources will bear fruitful results during covert investigation.

3.4.3 CHOOSING INVESTIGATIVE METHODS AND TECHNIQUES

The USAID (2005:24) explains that it is important for the investigating officer to think like a judge selected to decide on a case. The USAID observed that utilising this approach is beneficial to the investigative team when presenting the evidence in court. Once a piece of evidence is collected, it needs to be determined for relevance and admissibility.

The investigative team has certain tasks to perform which should be addressed during the investigative phase. These include discovering the motive for perpetrating the crime, knowledge of the crime, opportunity to perpetrate the crime, identity of the perpetrators and victims, intent to perpetrate the crime, the absence of mistakes or accidents during the perpetration of the crime, preparation to perpetrate a crime, and the plan to perpetrate the crime. The consent to or absence of the plan to perpetrate the crime also needs to be established in some cases. The UNIDO (2012:2) points out that when cases are prioritised, it is important for certain elements to be considered such as the gravity of the investigation to be conducted, the risks in a timeous response to the investigation, from who the complaint originates, or any other applicable influences.

The relevant resources should be readily available and the investigations should be conducted in the most efficient and effective manner, and completed in the shortest possible time. A decision can thus be made regarding the priority of an investigation before the initiation phase. Schuchter (2012:33) states that it is the responsibility of the investigative team to conduct thorough searches and seizures on the perpetrators and

their respective businesses, after which all the physical evidence should be analysed and well-documented. Evidence which is seized should be analysed immediately after the items are seized. Interviews of witnesses and suspects have a significant role to play during the investigation of corruption cases. The APEC (2014:18) suggests that standardised investigative techniques are applied when interviewing witnesses and perpetrators. Physical surveillance is a good starting point when collecting evidence of unknown suspects which might include trash runs and official searches to obtain the requisite evidence.

The researcher is of the opinion that choosing investigative methods and techniques depends on the crime that is being investigated and the evidence to prove the crime committed is sought. According to the researcher, the following investigation methods and techniques have been helpful to him while conducting corruption investigation cases:

- i. the development of informants,
- ii. use of undercover agents,
- iii. laboratory analysis of physical evidence,
- iv. physical and electronic surveillance, and
- v. interrogation.

The Guide to Combating Corruption and Fraud in Development Projects (2011:1) points out that responding to the complaint should be the first step. The complainant will undergo a full debriefing with the intention to acquire as much detail as possible for the investigation to be followed. When a red flag is detected with the laying of the complaint, the red flag should be matched with potential patterns and other red flags with similar suspicious patterns should also be identified. This will enable the investigator to determine the nature of the complaint.

The OECD (2011:3) explains that the interviewing of witnesses should, as far as possible, be carried out once certain information has already been obtained. This will then, in turn, be presented straightforward to the witness in order to avoid his/her possible collusion

and taking sides with the suspect. During these kinds of circumstances, the witness gains an impression that a great deal of information is already available to the investigative team. Collusion with a suspect then implicates him/her in the commissioning of the crime. This may result in more reliable and detailed information being obtained from the witness who can be used in the investigation.

3.4.4 SPECIAL INVESTIGATIVE TECHNIQUES

The APEC (2014:1) makes use of the following special investigative techniques during the investigation of corruption cases: intercepting communications, controlled delivery, cross-border observation and undercover operations. Schuchter (2012:33) enlightens that covert operations are mostly conducted based on information which was received from the public. He elaborates that investigators should be more frequently involved with proactive investigations such as developing intelligence sources, telephone interception, covert surveillance, physical surveillance and undercover operations.

The OECD (2011:1) elaborates further, stating that special investigative actions are generally performed with a great deal of secrecy. The different types of special investigative actions include observation and specialised recording of broadcast communications; access to personal computer (PC) frameworks and automated information handling; surveillance and specialised recording of premises; covert following and specialised recording of people and objects; the use of covert agents and sources; replicated purchase of specific objects and imitated payoffs; and controlled transport and conveyance of objects in criminal offenses depending on the prevalence of the crime the seriousness of such a crime; and whether an average individual who was in the same position as the would have been inducted into the commission of a crime.

The researcher is of the opinion of experience which mentioned that specialised investigative engagements vary from country to country, as each country has its own set of legislation, treaties and guidelines within which they are allowed to execute their

respective mandates. It is important that investigators become resourceful within the ambit of the law when conducting corruption investigations, as it is not a constant, but a variable that evolves with new developments around the globe.

The Guide to Combating Corruption and Fraud in Development Projects (2011:8) suggests that the use of special investigative techniques is mostly required during the investigation of multi-faceted corruption and complex fraud cases such as corruption within the public service sector. Some of the most common special investigative techniques are highlighted below:

- Surveillance and technical recording of broadcasts or telecommunications.
- Access to computer frameworks and computerised data processing.
- Surveillance and technical recording of premises.
- Covert following and technical recording of persons and objects.
- Use of covert investigators and informants.
- Replicated purchases of specific objects such as drugs, firearms and so forth, and replicated bribery.
- Controlled transport and delivery of objects of criminal investigation.

3.4.4.1 STEPS OF CORRUPTION INVESTIGATIONS

According to IACRC (2022:1), the steps are general suggestions that should, of course, be adjusted to the specific allegations. Some cases will require fewer steps than those listed, others perhaps more or different steps such as requesting international legal assistance, which is not addressed here.

- **Step 1: BEGIN THE CASE BY RESPONDING TO THE COMPLAINT**

If the case starts with a complaint or report, fully debrief the complainant, getting as much detail as possible. If the case starts with the discovery of a red flag, match the red flag to the potential scheme and then look for other red flags of the suspected schemes. An

automated “proactive” search for fraud indicators might be effective if the necessary data is available.

- **STEP 2: EVALUATE THE ALLEGATIONS OR SUSPICIONS**

Determine whether the allegations or suspicions – the red flags, are specific and serious enough to justify an investigation which can, of course, be time-consuming, disruptive and costly.

If a complaint warrants further investigation, try to make a quick, preliminary assessment of the accuracy of the report. For example, if the complainant alleges that he or she was unfairly disqualified from a tender, examine the relevant project files in an attempt to determine if the basic facts may have occurred. Use this information to prepare for a follow-up interview with the complainant to obtain more information. You will, of course, examine the transactions in much greater detail later.

- **STEP 3: CONDUCT DUE DILIGENCE BACKGROUND CHECKS**

Check online and other records on the suspect firm and individuals to evaluate the allegations and to look for other evidence of fraud or corruption such as the presence of shell companies as subcontractors, prior debarments of a contractor or evidence that a project official is living beyond his or her means.

- **STEP 4: COMPLETE THE INTERNAL STAGE OF THE INVESTIGATION**

Complete the collection of documents, data and interviews within the investigating organisation. For example:

- Look into the bidding documents for evidence of corrupt influence through the manipulation of the “SPQQD” factors – Selection, Pricing, Quantity, Quality and Delivery.

- Carefully examine bids and proposals, CVs and other documents submitted by a suspect firm for possible fraudulent representations.
- Access, with the proper authority, the relevant e-mail and computer hard drive information.
- Determine if an early interview of the subject is warranted.

- **STEP 5: CHECK FOR PREDICATION AND GET ORGANISED**

Review the results of the investigation to date to determine if there is adequate “predication” – a sufficient factual basis, to proceed. Decide or refine your initial “case theory” and organise the evidence according to the elements of proof of the potential claims. If law enforcement assistance is needed, for example, to subpoena documents, exercise search warrants or to request international legal assistance, take the necessary steps to ensure that there is sufficient “probable cause” to refer the case and obtain such cooperation.

- **STEP 6: BEGIN THE EXTERNAL INVESTIGATION**

Conduct interviews of witnesses outside the investigating organisation, proceeding up from the disinterested cooperative witnesses to facilitators, co-conspirators, and to the subjects. Request or compile documents from third parties and suspect contractors through negotiated agreements, the exercise of contract audit rights or, if available with law enforcement assistance, subpoenas or search warrants.

- **STEP 7: PROVE ILLICIT PAYMENTS**

Determine the best strategy to prove illicit payments, from the point of payment by examining the contractor’s records, or back from the point of receipt from the suspect employee’s records, and begin the tracing process.

If it is not possible to prove the corrupt payments directly, attempt to prove them circumstantially by showing the subject displayed unexplained sudden wealth or expenditures.

- **STEP 8: OBTAIN THE COOPERATION OF AN INSIDE WITNESS**

This could be an honest inside observer or a lesser participant in the offence such as the middleman or a cooperating bribe payer. Decide the best strategy to obtain his or her cooperation.

- **STEP 9: INTERVIEW THE PRIMARY SUBJECT**

In a corruption case, conduct a thorough interview of the primary subject, usually the suspected bribe recipient. Ask about his or her role in the suspect contract award and relevant financial issues such as sources of income and expenditures. Decide if there is sufficient evidence to obtain a confession, which is unlikely; otherwise, make an effort to get helpful admissions, information on the subject's source of funds and possible defenses. Detailed preparation is the key to success.

In a fraud case, interview the person most knowledgeable and responsible for the suspected false statement or fraudulent document. Again, decide if there is sufficient evidence to obtain a confession and, if not, make efforts to get helpful admissions and identify possible defenses. These typically include that any false statement was an honest mistake, or that another person was responsible for a fraudulent document. Record the interview, if possible, and request all relevant financial and other records. Again, detailed preparation is essential.

STEP 10: PREPARE THE FINAL REPORT

Decide what action to recommend based on the results of the investigation, an administrative sanction or criminal referral, for example, and prepare a concise final

report, organised according to the elements of proof for the relevant offenses.

Based on the researcher's experience, by implementing the above-mentioned steps of corruption investigations, it will lead the investigator to successful investigations of corruption cases. Furthermore, ensure that the rights of the accused are always in your mind. When compiling the investigation reports, ensure that the following headings are in the report: findings, conclusions and recommendations. Your facts, conclusions or recommendations should be supported by the company policies and/or the South African law or constitution.

3.5 FUNCTIONS OF THE EMFULENI LOCAL MUNICIPALITY FORENSIC INVESTIGATIVE UNIT

According to the researcher, the Emfuleni local municipality should begin to have a Forensic Investigative Unit that will investigate criminal cases. According to Van Rooyen (2013:143), in the past, investigations were primarily the function of the police, and policing was primarily a reactive task. In South Africa today, there has been a dramatic shift towards businesses and government departments conducting internal crime investigations and, specifically, incidents of corruption.

As per the researcher's experience, many corporate companies and government departments have accepted the challenges and responsibilities to fight crime internally. They acknowledge that they cannot leave the responsibility to the police alone, but they have to take the initiative to reduce their risks, protect assets, combat crime as well as address ways of preventing the assets from being abused by the employees. The management of these organisations authorised appointed staff members to conduct internal investigations and to grant consent to seize and search on property and assets of an organisation.

3.5.1 RESPONSIBILITIES OF THE FORENSIC INVESTIGATIVE UNIT

The researcher is of the opinion that the same responsibilities of the forensic investigative unit of Emfuleni local municipality should be the same as that of Rand Water. According to the Rand Water Investigation Policy (2009:11), Group Forensic Services is an independent assurance function established by Rand Water's management and board to identify, prevent and report on white collar crime and risk areas in the organisation; and investigate criminal and irregular conduct, non-compliance to policy and procedure, assist management with prosecution of identified offenders and recovery of identified losses. Discipline in the workplace remains the management's responsibility, hence Group Forensic Services acts as expert witnesses during disciplinary hearings, unless otherwise directed by the management.

Other responsibilities include:

- Crime investigation – this includes representing Rand Water in courts
- Provide risk advising – includes evaluation of control measures
- Maintain incident database, including dockets
- Investigate insurance claims –reporting to the Insurance Administrator
- The aim of risk investigations is to identify the risk exposure – root causes of incidents to Rand Water and implement controls and corrective action.
- Disciplinary breaches referred to the risk department.

3.5.2 RESPONSIBILITIES OF FORENSIC INVESTIGATORS

According to Betts (2017:13), an investigator is responsible for the following:

- Identifying lines of enquiry,
- Securing material,
- Recording information,
- Producing a report,
- Giving evidence, and

- Retaining records.

SARS (2022:1) on advertised investigator positions is of agreement with Betts (2017:13) that the responsibilities of investigators are to:

- Aid other law enforcement agencies as and when required, within the mandate of the Acts administered by SARS.
- Prepare accurate links and/or association diagrams to explain the relationships between individuals, activities, premises and so forth to investigators.
- Evaluate, collate and analyse information received from various sources to support internal stakeholders with timely and accurate intelligence.
- Liaise with law enforcement agencies in relation to specific investigations and with third parties regarding information/evidence.
- Plan and implement action necessary to conduct full scope investigations without supervision.
- Work independently on all cases and supervise others.
- Hand over a completed case docket with evidence to the SAPS to enable registration and processing of the case.
- Appear as a specialist witness in court and attend to court proceedings as and when required.
- Determine offences and recommend appropriate punitive actions according to the relevant legislation.
- Execute specialist input through investigation and opportunities within the product process, including risk concern.
- Provide specialist input through the investigation of opportunities for operational and process product and risk optimisation.
- Correctly apply policies, practices, standards, procedures and legislation in the delivery of work outputs.
- Apply practical and applied knowledge and Act authoritatively on methods,

systems and procedures to identify trends and potential risks.

- Communication of situational interpretation and judgement of work outputs and queries in area of specialisation.
- Draw on own knowledge and experience to diagnose symptoms, causes and possible effects in order to solve emerging problems.
- Initiate process and procedural change, implement the change and provide guidelines and support related to new requirements due to the change.
- Plan for value-added process improvements, initiatives and services to deliver on operational strategy and objectives.
- Accumulate information to review work progress which provides input to reporting, decision-making and the identification of improvement opportunities.

The researcher is of the opinion that the above-mentioned responsibilities should be practiced by Emfuleni local municipality in order to properly investigate criminal cases

3.5.3 QUALIFICATIONS OF A FORENSIC INVESTIGATOR

Based on the researcher's experience, the qualifications for forensic investigators should be at least a Matric certificate, diploma, or a bachelor's degree in forensic science and technology with different institutions. Payne (2022:1) is of agreement with the researcher that criminal investigators typically need to have a high school diploma to meet the educational requirements of their profession. While investigators will need additional training before starting their careers, many employers do not require a postsecondary qualification. However, certain specialisations within this profession may need additional education. Criminal investigators with a specialisation in forensic science, for example, often need an associate or bachelor's degree. Similarly, cybercrime experts may wish to pursue a postsecondary degree to gain a better understanding of information technology and criminology.

According to Van Rooyen (2013:143), adequate training and resources are necessary to ensure that reported cases are dealt with effectively and to encourage those aware of corruption to come forward with information. The number of investigators with the necessary skills and training to work effectively generally depends on the extent of the resources available as well as the personnel, funding and other resources such as systems for the creation, retention and analysis of records.

The researcher is of the opinion that investigators. Affiliations with institutions such as the ACFE and attending conferences for information sharing and networking will be helpful. Career development helps the investigators to have continued improvements to their career.

3.5.4 CRIME REPORTING

Based on the researcher's work experience as an investigator at Rand Water, if an organisation intends to fight crime such as corruption, there must be a way of reporting wrongful doing. The Emfuleni local municipality should have a hotline number where employees and residents can report criminal activities which should be managed by an outsourced company. However, the municipality only has emergency numbers such as that of the police, ambulance and traffic department which are not intended for the reporting of crimes committed within the municipality.

The Researcher would like to provide an example of a hotline number and information that Emfuleni local Municipality should have. The Unisa (2022:1) whistle-blower hotline number is independently administered by KPMG FairCall. It is a toll-free number, and is as follows: UNISA Ethics Line – 0800 005 311.

Posters bearing the whistle-blower hotline number are distributed across all sections of the university. Regional offices and centers are sent new posters via courier services. The whistle-blower hotline has been established with the aim of enhancing an honest

work ethic and to simultaneously provide all Unisa stakeholders with a mechanism to bring any unethical business practices to the attention of the management. The hotline serves as an independent conduit between management, employees, students and all other relevant stakeholders. All information that is reported is treated with the utmost confidentiality and the anonymity of callers will always be protected.

The hotline number operates 24 hours a day throughout the entire year. All reports, once processed by KPMG FairCall, are forwarded to the Unisa Internal Audit department so that issues that have been reported can be followed-up and investigated. To make a report to the whistle-blower hotline, please follow the steps set out below:

1. Dial 0800 005 311 toll-free from any Telkom line. You may choose to remain Anonymous.
2. Provide full details of the matter you want to make a report on to the KPMG Fair Call operator. This can be on a matter that involves fraud, corruption or any other unethical practice.
3. Make sure the following is clearly communicated:
 - Who is involved or doing what?
 - What has happened?
 - How was it done and how often was it done?
 - Where is it done – exact location or place?
 - When was the incident observed – dates and time?
 - Value involved – estimated monetary value if this can be determined?

You will be given a reference number by the KPMG FairCall Operator. Keep this confidential as you will need the number for follow-up. You can make calls at a later date to provide additional information to the original report and for feedback purposes. You can also call and request for feedback on the matter earlier reported.

3.5.4.1 GUIDELINES OF WHAT SHOULD BE REPORTED

The following matters should be reported to the whistle-blower hotline:

1. Fraud

Submission of fraudulent overtime claims, tempered medical certificates, fraudulent travel claims, fraudulent tutor and invigilation claims, and so forth.

2. Misconduct

Misusing university vehicles for personal purposes, reckless and negligent driving of university vehicles, intimidation, discrimination of any sort, solicitation of payments from students to do favours, performance of unauthorised outside work, unethical behaviour such as exam and assignment or assessment irregularities, nepotism, plagiarism, transgression of university policies and standard procedures, undeclared conflict of interest, and favouritism.

3. Theft

Theft of university resources such as stationery, study material, printing plates, printing paper, ink cartridges, library books, computer parts, cash, equipment and other resources.

4. Corruption

The solicitation of kickbacks in exchange for undue gratification, abuse of power, any form of bribery, any form of blackmail and any third-party collusion.

Further details for reporting such incidents to the whistle-blower hotline are as follows:

Hotmail South Africa: hotline@kpmg.co.za

Hotlink South Africa: www.thornhill.co.za/kpmgethicslinereport

Hotfax South Africa: 0800 200 796

According to Jayasinghe and Perera (2021:1), crime reporting is a service that the police provide. By the time the number of reported crime cases get increases, the law enforcement may find out that there is a gap between reported crimes and crimes not reported. Numerous reasons may be involved for this gap. It is not a good thing to give a chance for criminals to stay safe in the community as innocent citizens, as it motivates them to commit more crimes. Due to this, the community is at high risk of being a victim.

The law enforcement agencies are unable to do their jobs because many crimes are not reported. Sometimes, this affects the ongoing investigations too. To fill this crime report gap, some law enforcement agency launched online crime reporting systems for the public to report crimes. Jayasinghe and Perera (2021:2) focus on reporting to the police only but the researcher explains that even at workplaces, unlawful acts should be reported. Some companies even have hotlines to report crimes, hence employees should familiarise themselves with the reporting procedures at their organisations.

3.6 SUCCESSES AND FAILURES OF ANTI-CORRUPTION AGENCIES

According to Heeks (2011:30), most anti-corruption initiatives fail. This brief sets out to understand why that is and what might be done about it. Anti-corruption initiatives fail because of over-large “design reality gaps”, which means that there is a great mismatch between the expectations built into their design compared to on-the-ground realities in the context of their deployment. Successfully implemented initiatives find ways to minimise or close these gaps, while unsuccessful initiatives do not. Effective design and implementation processes enable gap closure and improve the likelihood of success. However, beyond enablers, it is the politics of the situation that determine the drivers to anti-corruption success.

Pillay (2017:9) is of the same opinion with Heeks (2011:31) that corruption at all levels has become an everyday reality in South Africa and Brazil, with dire consequences for both countries, leading to the perpetration of social inequality. In both countries, the existing legislation and anti-corruption agencies have been unable to curb the

phenomenon efficiently. One of the key reasons for this failure has been the modus operandi of the anti-corruption agencies which, throughout the years, have faced serious political, legal, administrative and organisational changes in their fight against a multi-facet, complicated and multi-layered reality. In both countries, the state bureaucracy apparatus has, over the years, faced both grand and petty corruption in both the public and private sector domains, where the competition for irregular thirst for wealth accumulation has reached unprecedented levels.

The anti-corruption agencies must then deal with a multiplicity of corruption diversions and dimensions in their efforts to detect, dissect, investigate and prosecute. There are several differences in the legislative frameworks determining the structure, functions and operations of such organisations in these countries. This article which was based on an empirical paradigm rooted on interpretative qualitative methodology analysed and dissected the similarities, differences, achievements, failures and challenges in terms of mandates, efficiency efficacy and resources allocation. This comparison was located within the 'multiple versus single agency' debate.

According to Mthethwa (2022:1), specialised commercial crime courts have managed to achieve an overall conviction rate of 92% for all cases, resulting in a verdict, according to the Department of Justice and Correctional Services. The department established two more specialised commercial crime courts in Mthatha and East London in the Eastern Cape to fight corruption. According to the department, two courts in Palm Ridge and Pretoria North in Gauteng were enhanced. "These courts are in line with the commitment made by President Cyril Ramaphosa to the National Council of Provinces when he responded to questions pertaining Covid-19 corruption or procurement irregularities," the department spokesperson Chrispin Phiri said. Ramaphosa was quoted saying, "the rise in serious commercial crimes and incidents of Covid-19 corruption has meant that we are fast-tracking the establishment of additional commercial crime courts and also increasing

the capacity of existing ones."

The researcher is of the opinion that clearly, South Africa is on the good move to fight corruption and prosecute the wrongdoers. According to the NPA (2021/2022:23), in expediting high-profile corruption cases, the top-10 corruption cases were identified and enrolled through close collaboration between the ID, AFU, the Specialized Commercial Crimes Unit (SCCU) and the Directorate for Priority Crime Investigation (DPCI). The following noteworthy cases were prioritised:

The Gauteng High Court granted an order to seize assets worth R1.4 billion belonging to the accused implicated in the corruption scandal involving the construction of Eskom's Kusile power station. The extradition hearing of former Eskom contractor, Mr Michael Lomas, is being heard in London, United Kingdom (UK).

Former Transnet board member, Iqbal Sharma, and former senior members of the Free State Department of Agriculture were charged with contraventions of the Public Finance Management Act 1 of 1999 in fraud and money laundering.

The Bloemfontein High Court granted an unlimited restraint order to the value of R520 million for assets belonging to Sharma, his company Nulane Investments, and the Gupta family through their company, Island Site.

The Free State High Court confirmed a provisional restraint order against Edwin Sodi and his companies as well as others accused, to the value of almost R300 million.

The Nelson Mandela Bay Municipality matter which resulted from a contract with a consultancy firm from the Eastern Cape was enrolled in July 2021 involving an amount more than R25 million.

The Free State Housing matter involving the Free State Department of Human Settlements was enrolled in August 2021. The value of purchases made are approximately R500 million.

One of the legs of the investigation into the Steinhoff matter has been finalised. A Mutual Legal Assistance (MLA) request to one of the foreign authorities was submitted, and another MLA to a different foreign authority is in the process of being transmitted.

The Zondo Commission has issued parts I-IV of its reports which contain numerous recommendations on conducting further criminal investigations and/or possible prosecutions and asset recovery.

The investigating director (ID), under whose mandate state capture cases fall, and the DPCI, working closely with prosecutors in the SCCU, are investigating the matters arising from the respective Zondo Commission reports. The NPA task force is coordinating activities and responses between the various role players. The NPA has made submissions to the Minister on creating a permanent ID in the NPA focusing on high profile and complex corruption-related matters, and for the creation of permanent investigator posts where such investigators have full criminal investigating powers in terms of the Criminal Procedure Act (CPA), 51 of 1977. In this way, the ID can effectively deal with investigations authorised by the investigating director.

According to SIU (2021/2022:38), the unit has successfully investigated corruption cases such as the following:

- Number of referrals made for disciplinary action against officials and/or executives – 496
- Rand value of potential loss prevented – R5,541,897,317

- Rand value of actual cash and/or assets to be recovered – R436,416,719
- Rand value of potential cash and/or assets to be recovered – R5,960,575,800
- Number of referrals made for administrative action – 24,786
- Number of referrals made to the relevant prosecuting authority – 225
- Number of investigations closed out under a published proclamation – 28,135
- Number of cases issued in the Special Tribunal – 54

The researcher is aware of the successes of the Special Investigative Unit performance, especially on the media where so much has been seen on government entities being investigated by the unit.

3.7 SUMMARY

The chapter analysed the methods and techniques used during the investigation of corruption for internal investigation in the corporate environment, covert investigations as a method to investigate corruption, choosing investigative methods and techniques, and special investigative techniques. The steps of corruption investigations and the functions of the Emfuleni local municipality forensic investigative unit were also discussed. If the Emfuleni local municipality can implement the above-mentioned issues effectively, it will have zero crime incidents and be able to deliver quality services to the communities.

CHAPTER FOUR

LEGISLATIVE FRAMEWORK AND THE CONSEQUENCES OF CORRUPTION FOR BOTH THE PRIVATE AND PUBLIC SECTOR

4.1 THE CRIMINAL PROCEDURE ACT 51 OF 1977 (SOUTH AFRICA, 1977)

The Criminal Procedure Act, hereinafter referred to as the CPA, was signed into law on 21 April 1977. It was introduced to make provisions for procedures and related matters in criminal proceedings. The CPA is essential in enabling SAPS officials to execute their functions. It represents the conduct of police officials in dealing with criminal cases and procedures in courtrooms. Section 205 of the CPA (South Africa, 1977) permits a judge or a magistrate to summon a person who is probably going to provide substantial or significant information regarding an alleged crime. This is usually used to obtain information from financial institutions, government departments, private enterprises, unwilling witnesses, and so on.

The legislation which gives police the power to search a person or premises and/or seize articles is provided for in sections 19 to 36 of the CPA (South Africa, 1977), and states that a search warrant issued under subsection (1) shall require a police officer to seize the article in question and shall, to that end, authorise such a police officer to search any person identified in the warrant and to search any person found on or at such premises. These are all essential actions that need to be taken during the investigation of corruption. The following sections of the CPA (South Africa, 1977) are important when investigating financial crimes and are available to investigators to present evidence in court.

4.1.1 THE PUBLIC SERVICE ACT

The Public Service Act 103 of 1994 (South Africa, 1994b) hereinafter referred to as the PSA, was signed into law on 3 June 1994. The PSA was introduced to enable the government of the public service of South Africa and to regulate conditions of employment. This is predominantly used to obtain more information on public officials who are the object of an investigation. Documents which may be relevant to such an investigation include the official's application for deployment, dependents, financial declarations, his delegated authority, job description and official travel arrangements.

4.1.2 THE SOUTH AFRICAN POLICE SERVICE ACT

The South African Police Service Act 68 of 1995 (South Africa, 1995), hereinafter referred to as the SAPS Act, was signed into law on 28 September 1995. It provided the legal basis for the establishment of the SAPS. The SAPS was thereby established, and it outlined the functions of the service. The SAPS Act (South Africa, 1995) exists “to provide for the establishment, organisation, regulation and control of the SAPS and to provide for matters in connection therewith.” The SAPS Act (South Africa, 1995) provides clear rules for all parts of the successful operation of the police service, from the government, through to the conduct of conventional police officials.

The South African Police Service Amendment Act 57, of 2008 (South Africa, 2008), herein referred to as the SAPS Amendment Act, was passed and amended to Act 68 of 1995. The SAPS Amendment Act enhances the capacity of the SAPS to prevent, combat and investigate national priority crimes by establishing the DPCI.

The SAPS Amendment Act also made provisions for the DPCI to investigate national priority crimes through cooperation with other government departments. The DPCI is a statutory body responsible for preventing, combatting and investigating national priority crimes, for instance, serious organised crime, serious commercial crime and serious

corruption cases as stated in section 17B(a) of the SAPS Amendment Act (South Africa, 2008). It appears from this section that the DPCI will investigate serious corruption only, leaving a gap for which the unit will choose to investigate police corruption.

4.1.3 THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

The constitution (South Africa, 1996b) was signed into law on 10 December 1996, and is the supreme law of South Africa. The constitution was formulated by an integration of ideas from ordinary citizens, civil society and political parties and, therefore, represents the collective wisdom of the people of South Africa. In the discussion on the relevant legislation in the fight against corruption, it should be noted that for the purposes of this study, the following legislative regulations are relevant, although the investigation of corrupt activities is not merely restricted to the legislation that will be discussed below.

Currie and De Waal (2016:39) state that the constitutional supremacy decrees that the rules and the principles of the constitution have priority over all departments of the state and other rules made by the government, the legislation and the courts. As the highest law of the land, the constitution provides the police and all other public sector institutions with the necessary powers and authority to conduct their duties. In terms of section 205 of the constitution (South Africa, 1996b) the objectives of the SAPS are to prevent, combat and investigate crime. Furthermore, the police must maintain public order, and protect and secure the inhabitants of South Africa and their property.

4.1.4 THE WITNESS PROTECTION ACT

The Witness Protection Act 112 of 1998 was signed into law on 19 November 1998 to provide for the establishment of an office for the protection of witnesses and make provisions to regulate their powers, functions and duties. The Witness Protection Act 112 of 1998 further provides for temporary protection and placement of witnesses under witness protection. Commonly used for the protection of whistle-blowers such as employees in the workplace, this is decisive in the fight against corrupt activities to protect witnesses and enable them to testify in court.

Furthermore, the Witness Protection Act 112 of 1998 expounds on the application for a person who needs protection, stating that any witness who has reason to believe that his or her safety, or the safety of any related person is or may be threatened by any person, group or class of persons, whether known to him or her or not, by reason of his or her being a witness, may report such belief. The act is aimed at the following:

- To the investigating officer in the proceeding concerned;
- To any person in charge of the police station; and/or
- If he or she is in prison, to the person in charge of the prison.

Where he or she is being detained, to any person registered as a social worker under the Social Work Act 1978 (Act 110 of 1978), or deemed to be registered and who is in the service of a department of state, the following are addressed:

- To the public prosecutor or the interested functionary concerned;
- To any member of the office; and
- Apply in the prescribed manner that he or she, or any related person, be placed under protection.

4.1.5 THE PREVENTION OF ORGANISED CRIME ACT

The Prevention of Organised Crime Act 121 of 1998 (South Africa, 1998b) herein referred to as the POCA, was signed into law on 24 November 1998. It presents legislation that works against organised crime and gang activities, with a special focus on money laundering and racketeering or unlawful corporate practices. The criminal activities identified with gangs, money laundering or racketeering can be prosecuted in terms of the provisions as set out in the POCA, regardless of the possibility that the crime was committed before the POCA was signed into law, or on the off chance that a South African in another nation committed the crime. The POCA is typically utilised alongside the PRECCA, because multi-faceted corrupt activities are intermittently carried out as a once-off, and these crimes embroil persons in positions of authority who receive direct or

indirect gratification from private entities that provide services to the state in an organised fashion. The three basic elements of organised crime comprise a pattern of racketeering activities, an enterprise and an accused. These basic elements of organised crime can be briefly explained as follows:

- There must be at least two crimes which are classifiable as a pattern of racketeering activities.
- The criminal group must be linked in some way to an enterprise which is an organising principle.
- Since organised crime has to be committed by an organised criminal group, there must always be more than one accused.

4.1.6 THE PUBLIC FINANCE MANAGEMENT ACT

The Public Finance Management Act 1 of 1999 (South Africa, 1999) herein referred to as the PFMA, was signed into law on 2 March 1999. The PFMA requires public institutions to ensure and maintain proper financial management and effective internal control measures, which must be established by the management of those public institutions.

The Public Finance Management Act 1 of 1999 intends:

- To regulate financial management in the national government;
- To ensure that all revenue, expenditure, assets and liabilities of the government are managed efficiently and effectively;
- To provide for the responsibilities of persons entrusted with financial management in the government; and
- To provide matters connected therewith.

De Waal and Serfontein (2015:122) clarify that the aim of the PFMA is to promote accountability, transparency and sound financial management at institutions. The PFMA criminalises financial-related activities in government which are not administered

efficiently and effectively by accounting officers. In the tender procedures routinely utilised by the government, multi-million-rand tenders are unjustifiably awarded or extended to service providers of the state.

4.1.7 THE PROMOTION OF ACCESS TO INFORMATION ACT

The Promotion of Access to Information Act 2 of 2000, herein referred to as the PAIA, was signed into law on 2 February 2000. It was introduced to “give effect to the constitutional right of access to any information held by the state” (South Africa, 2000b). The PAIA permits legitimate and appropriate access for the exercise of any rights.

The PAIA provides the means of promoting good governance within the public sector. However, while the notions of transparency and accountability were catered for, the PAIA was deemed to be less effective than ideally preferred. It provides an indirect means for all citizens to take part in combatting corruption and maladministration within the public sector by granting the people means with which to hold the state to account. The Promotion of Access to Information Act 2 of 2000 intends to give effect to the constitutional right of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights, and to provide for matters connected therewith.

4.1.8 THE PROTECTED DISCLOSURES ACT

The Protected Disclosures Act 26 of 2000, herein referred to as the PDA, was signed into law on 1 August 2000. The PDA originates from the Bill of Rights in the constitution. It makes provision for procedures in terms of the employees in both the public and private sectors who disclose information of unlawful and corrupt conduct by their employers or fellow employees, provisioning for their protection from victimisation by corrupt police officials. Commonly used for the protection of whistle-blowers such as employees in the workplace, this is decisive in the fight against corrupt activities. The employees’ rights are legally protected when reporting corrupt activities, hence the Act intends to protect the employee from persecution.

The purpose of the Protected Disclosures Act 2000 is to provide procedures and to offer protection. The Act provides procedures in which any employee may disclose information relating to an offence or a malpractice in the workplace by his or her employer, or fellow employees.

4.1.9 THE FINANCIAL INTELLIGENCE CENTRE ACT

The Financial Intelligence Centre Act 38, of 2001 (South Africa, 2001) herein referred to as the FICA, was signed into law on 28 November 2001. It was accented to combat financial crime, for example, money laundering, tax avoidance and terrorist financing activities. The FICA aligns South Africa with the comparable enactment in other countries intended to uncover the movement of money that forms part of the proceeds from unlawful activities and, in this way, curb money laundering and other criminal practices.

The FICA is predominantly used to obtain intelligence on individuals and entities within the country and abroad. The information provided contains a financial transaction involving specific individuals and entities as stipulated in the request for the FICA in terms of section 27 of the FICA. The intelligence received is followed up accordingly with a section 205 application in terms of the CPA (South Africa, 1977) to enable the investigator to submit the evidence in a court of law.

The purpose of the Act is to impose certain duties on institutions and other persons who might be used for money laundering purposes, to amend the Prevention of Organised Crime Act 1998 and the Promotion of Access to Information Act 2000, and to provide for matters connected therewith.

4.1.10 THE ELECTRONIC COMMUNICATIONS AND TRANSACTIONS ACT

The Electronic Communications and Transactions Act 25 of 2002, herein referred to as the ECTA, was signed into law on 31 July 2002. It regulates the admissibility of documents from an electronic source, whether email, fax, text message or, more recently, social

media posts. When documents or other evidence in an electronic format are used as evidence in court proceedings, it is crucial to ascertain whether the documents are authentic, which means ascertaining if they are an unaltered original version of the electronic document or data message.

The aforesaid is in place to address one important consideration – whether the evidence is admissible. If inadmissible, the court will not consider the evidence, and this can have dire consequences for the party relying on it. The purpose of the Act is to provide for human resource development in electronic transactions, prevent abuse of information systems, encourage the use of e-government services, and to provide for matters connected therewith.

4.1.11 THE REGULATION OF INTERCEPTION OF COMMUNICATIONS AND PROVISIONS OF COMMUNICATION RELATED INFORMATION ACT

The Regulation of Interception of Communications and Provisions of Communication-Related Information Act 70 of 2002 (South Africa, 2002b), herein referred to as the RICA, commenced on 30 September 2005. This is one of the government's fundamental crime prevention initiatives towards improving South Africa. All Subscriber Identity Module (SIM) cards, including data, contract and prepaid SIM cards must be registered as per RICA legislation. All subscribers of MTN, Telkom and so forth who do not comply with the Act will be placed in a RICA lock status. Although the network operators are able to operate as a service provider, their clients are unable to use social media, cell phones, the internet and other services. This will result in their inability to conduct business which will ultimately lead to its closure. The compliance with the RICA is imperative for business and individuals who need to utilise the services of network operators.

The RICA was accented to:

- Regulate the interception of communication;
- Monitor certain signal frequencies;

- Regulate the application for interception;
- Assist postal and Telkom service providers, including the decryption key holders;
- Prohibit the possession, assembly, purchase, manufacture, advertising and selling of certain equipment; and
- Define crimes and penalties.

Consequently, the investigator can make a reference from what the RICA governs and the information that he/she is able to obtain by making use of the Act during an investigation. This might be a valuable tool to acquire covert intelligence on a subject.

The term “serious crimes” is defined by the RICA (South Africa, 2002b) as follows:

- crime mentioned in the schedule to the Act;
- the crime alleged has been, is being or will be committed by an individual, group of individuals, or syndicate who act in an organised fashion, contributing to or engaging in no less than two activities of criminal or unlawful conduct; in the execution or advancement of a common purpose or conspiracy which could achieve considerable monetary profit for the individual, group of individuals or syndicate committing the crime; and
- Any conspiracy, instigating or attempting to commit any of the already said crimes.

4.1.12 THE MUNICIPAL FINANCE MANAGEMENT ACT

The Municipal Finance Management Act 56 of 2003 (South Africa, 2003) herein referred to as the MFMA, was ratified on 1 July 2004 and applies to all municipalities and municipal entities. It was introduced to “secure the sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government” (South Africa, 2003) and to establish treasury norms and standards for the local sphere of government. The MFMA is predominately used in cases of maladministration in municipalities when complaints of service delivery are endemic.

4.1.13 THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT

The Prevention and Combating of Corrupt Activities (PRECCA) Act (South Africa, 2004) was signed into law on 27 April 2004. This Act served to reflect and coordinate relevant previous legislation and international conventions, and form the central point of the overall legal framework in South Africa. The PRECCA was introduced to “provide for the strengthening of measures to prevent and combat corruption and corrupt activities” (South Africa, 2004). It is indispensable in the battle against corruption and the different structures thereof. The Act is utilised as a part of all corruption-related investigations, including important supplementary legislation.

It criminalises distinctive acts in a corrupt relationship and unmistakably portrays their parts and, in addition, criminalises any type of gratification as a result thereof. The PRECCA was legislated to bring South Africa’s legislative framework in line with the UN and African Union (AU) conventions against corruption. The Act encompasses the general crime of corrupt activities, including crimes, and moreover accommodates investigative measures alongside preventative measures in the battle against corrupt activities. It has a powerful pedigree and is well placed to play a pivotal role in future anti-corruption efforts in the country they exist. Corruption is illegal in relation to the PRECCA (South Africa, 2004).

The PRECCA has repealed the Corruption Act 94 of 1992 (South Africa, 1992) which is the first statutory law that repealed the common law crime of bribery. In addition to the general crime of corruption, sections 4 to 21 of the PRECCA made provisions that specific persons can be charged for their specific conduct during the commission of the crime of corruption. An overview of the PRECCA (South Africa, 2004) follows for discussion to illustrate how this Act defines and regulates corrupt activities. This Act also clarifies that preventing and combatting corruption and related corrupt activities requires cooperation, with the support and involvement of individuals and groups outside the public sector such as organs of the civil society and non-governmental and community-based organisations.

The PRECCA provides a detailed definition of corruption and consists of several clauses and sub-clauses, making the understanding of corrupt acts and corruption easier (Newham & Faull 2011:41). Furthermore Basdeo (2010:390) indicates that strict penalties such as life imprisonment should be meted out by the courts for individuals found guilty of corrupt crimes.

4.2 CONSEQUENCES OF CORRUPTION FOR BOTH PRIVATE AND PUBLIC SECTOR

According to UNODC (2019:10), the vast body of literature focuses on public sector corruption, but there is very little systematic analysis of private sector corruption. International anti-corruption efforts have also mostly focused on public sector corruption. This makes it difficult to estimate the exact cost of private sector corruption, although private sector corruption has serious and lasting impacts on the economy and the wider society.

The occurrence of private sector corruption is reportedly high. According to the Pricewaterhouse Coopers (2011:13) 28% of the companies that reported internal corruption in the last two years noted that they had suffered from business misconduct, and 45% stated they had suffered from asset misappropriation. The World Bank which measures the incidence of bribery in companies shows that in some countries, up to 51% of all firms experience at least one bribe payment request per year. Private corruption affects the entire supply chain as it distorts markets, undermines competition and increases costs to firms. It prevents a fair and efficient private sector, reduces the quality of products and services, and leads to missed business opportunities UNODC (2013:7).

According to the researcher's experience, even if there is the adoption of the position that the primary goal of business is to increase wealth or profits, using corruption to maximise profit will generate negative effects for the company, including decreased employee morale, reduced productivity, loss of shareholder and investor confidence, and damaged

reputation and business relations. Companies must also bear the costs associated with investigation and remedial action. Conversely, in many contexts, higher levels of firm integrity correspond with stronger commercial performance. Furthermore, according to the United Nations Global Compact website (2022:1), there is growing understanding, especially by business leaders and investors ahead of the curve that it is not enough for companies to concern themselves only with short-term profits because natural disasters, social unrest or economic disparity can damage long-term prosperity. The businesses that understand this challenge and thus take action will be a step ahead.

Below are some of the ways in which private sector corruption erodes economic development and investment:

- Unfair competition - The company offering the bribe gains an unfair advantage over its competitors whose products and services will not even be considered. While some companies pay bribes to gain advantages, others may be unwilling or unable to do so. Therefore, corruption undermines competition because companies that refuse to pay bribes will likely be excluded from the market.
- Inflated costs – The lack of competition caused by corruption can result in higher prices and poor quality of goods and services, ultimately harming the consumers. For example, a company already paying bribes to sell its products may consider it unnecessary to invest in innovations, new technologies, training of personnel and other activities that could improve its productivity and quality of services or products.
- Societal impact – Business corruption can have devastating impacts on the environment and human rights.

The Independent Online (IOL) (2022:1) is addressing the consequences of public sector corruption which various studies have established as discouraging investment, noting that it acts as an additional cost of doing business, thus reducing the profitability of investment

projects. Consequently, if people are not willing to invest in the country, it is almost impossible to generate new jobs.

Since the outbreak of the Covid-19 pandemic, one of the most challenging and distressing periods for the whole of humanity, especially for the poor, the vulnerable and marginalised, unscrupulous people have found opportunities to either abuse or misappropriate the funds set aside for social relief, including food parcels. There has also been a plethora of financial and supply chain maladministration, bribery and nepotism, including political and administrative interference.

The former Minister of Health was implicated in the looting of 150 million rands of public funds in the Digital Vibes scandal. The South African Revenue Service (SARS) publicly announced that it has been focusing on 52 non-compliant companies that received one billion rands in contracts for the supply of protective personal clothing (PPE) and other Covid-19-related services, and that 11 companies have already been convicted.

Corruption Watch (2022:3) is of agreement with IOL (2022:1) that corruption affects us all. Corruption threatens sustainable economic development, ethical values and justice, and it destabilises our society and endangers the rule of law. It undermines the institutions and values of our democracy. However, since their public policies and public resources largely beneficial to the poor people, it is they who suffer the harmful effects of corruption most grievously.

Being dependent on the government for housing, healthcare, education, security and welfare makes the poor most vulnerable to corruption since it stalls service delivery. Delays in infrastructure development, poor building quality and layers of additional costs are all consequences of corruption.

Numerous acts of corruption deprive our citizens of their constitutional and their human rights. Furthermore, the South African Government (2022:9) welcomes the Pretoria

Commercial Crime Court sentencing of businessman Veloro Davids and former Ekurhuleni employees, Nilesh Singh and Andrew Mphusomadi, who were involved in a corrupt IT tender. Davids received 10 years for fraud and 15 years for corruption, while Singh was sentenced to 10 years for fraud and 15 years for corruption. Mphusomadi, former IT senior manager at Ekurhuleni, was given a 10-year prison sentence of which four (4) years were suspended for money laundering.

Minister in The Presidency, Mondli Gungubele, said,

This ruling serves as a deterrent to any persons involved in any form of corruption. The sentencing is a testament to President Cyril Ramaphosa's State of the Nation Address which emphasised that the government, guided by the National Anti-Corruption Strategy (NACS), will take decisive steps to expose and punish corrupt activities and reform institutions to make them stronger and more transparent. Fighting corruption and promoting good governance is a fundamental priority of this administration.

Public servants must be resolute in stamping out corruption and in creating a culture of service delivery and excellence. "There is a lot of work being done by the government and its partners to fight this scourge, and we are confident that we will see more convictions in corruption-related cases. We applaud the Special Investigative Unit and the judicial system for their sterling work," added Minister Gungubele.

The researcher's personal experience is that the poor are the first victims of corruption and are the ones who are mostly affected. The OECD (2014:1) shares the same sentiments with the researchers that corruption has a direct specific impact on the cost of a project both for the business and for the public sector. The study shows corruption causing higher prices in all the sectors, including higher prices for medicine, health services, textbooks, utility services, infrastructure and extra payments on import of inputs needed for petroleum production or mining. However, corruption also has indirect consequences, including damaging public institutions, impairing citizens' trust in their

government and causing lower incentives for innovation and higher inequality. For example, high levels of perceived corruption are associated with lower spending on social services, including health and education which, in turn, can undermine social welfare, skills in the work force and trust in institutions.

Furthermore the OECD (2014:2) states that the poor are often the first victims of corrupt practices in the education sector since for them, the illegal fees and bribes for promotion to the next grade or to obtain a qualification, are a heavy burden that leads many of them to drop out. Therefore, it is fair to say that corruption tends to increase social inequality. Corruption burdens market players by adding an unpredictable tax on their operations. This unpredictability may prevent entry of foreign players and thus also impacts the benefits of competition and technology spillovers. The mere fact that officials collect bribes which may accumulate to large sums for those involved even if each single bribe is small, reflects serious institutional dysfunctions, often an indicator that conditions and incentives for economic activity can be made more efficient. For example, in the power infrastructure sector, investors' decision to enter a market is significantly driven by the perceived risks of corruption. Distortions of political decisions due to corruption are likely to cause the clearest economic damage. They result in budget allocations, sector regulation and trade barriers contrary to the public interest, and eventually losses of revenue for the state. This is particularly the case in the extractive sector.

OECD (2014:1) further states that the available evidence suggests that such distortions have severe consequences where governance institutions and integrity systems are weak. Large resource revenues facilitate rent seeking and patronage, potentially resulting in higher levels of corruption, diversion of time and talent from productive activities, inefficient public spending, and low political accountability. Several factors make extractive sectors prone to corruption, including high-level discretionary political control, frequent blurring of the public, shareholder and personal interests, limited competition

among firms which can result in collusive behaviour, complex financial structures requiring stringent auditing, lucrative opportunities resulting from the control of resource export channels such as via exclusive export licenses, and the control of imported goods such as exclusive import licenses in these often highly import-dependent economies.

The ultimate function of the development of mining and petroleum operations for resource rich countries is to create, out of their natural resource endowment, a reliable long-term source of financial flows that can be converted into sustainable economic activities through sound revenue management. In view of all the points exposed above, this sector requires special scrutiny and strong action.

According to OECD (2014:2) there is also a particular challenge in construction, for example, in large infrastructure projects that are not necessarily desirable as one of the consequences of excessively constricted connections between politicians. In the utilities sectors, corruption may undermine the independence of the regulator with distortive impacts on prices, service delivery and expenses. This, in turn, results in excessively expensive subsidies and over-inflated costs, leading to losses for taxpayers. In the health and education sectors, one key consequence of corruption is suboptimal budget allocation. Corruption hampers the quality of products and services, and reduces their availability. For example, among the factors linking corruption in education to economic growth are the lower value for money in terms of inefficient utilisation of public resources and fewer people trained given the number of resources. In a particular city, a reform consisting of the reduction of distorted practices in teacher management made it possible to serve 120,000 additional pupils without an additional recruitment of teachers, demonstrating the impact of corruption on efficiency. Finally, corruption has a clear impact on the rise of other criminal activities which have their own negative consequences on growth. Corruption is closely related to activities such as money laundering, tax evasion, illicit trade and misuse of corporate vehicles. The researcher lists cases where an

appellant was sentenced for committing corruption:

1. The appellant was charged in the Bloemfontein Regional Court as follows:

Count 1:

- Fraud

Count 2:

- Corruption in contravention of section 1(1)(b), read with sections 2 and 3 of the Corruption Act 94 of 1992;
- Corruption in contravention of section 3(a)(ii), read with sections 1, 2, 20, 24, 25 & 26 of the Prevention and Combating of Corrupt Activities Act 12 of 2004;

Count 3:

- Alternatively receiving an unauthorised gratification by a person who is party to an employment relationship, in contravention of section 10(a), read with sections 1, 2, 20, 21, 25 & 26 of the Prevention and Combating of Corrupt Activities Act 12 of 2004; and

Count 4:

- Money laundering in contravention of the provisions of section 4 of the Prevention of Organised Crime Act 121 of 1998 (POCA).

The accused pleaded not guilty to all counts and, after a lengthy trial, was convicted on counts 1, 2 and 4. He was found guilty on count 3 and not guilty in respect of the alternative thereto. He was sentenced as follows:

Count 1 - ten (10) years' imprisonment;

Count 2 - eight (8) years' imprisonment;

Count 3 - eight (8) years' imprisonment;

Count 4 - seven (7) years' imprisonment, suspended for three years on condition that the appellant is not convicted of contravening section 4(b) of the POCA, fraud, theft or attempted theft, within the period of suspension. The sentences in respect of counts 2 and 3 were ordered to run concurrently with that in respect of count 1.

2. In *S v Shaik and others* of 2008 (2) SA 208 CC, the High Court sentenced Mr Shaik to an effective 15 years' imprisonment, this being the minimum sentence in terms of the Amendment Act. The second to the eleventh applicants were sentenced to the payment of fines in varying amounts. As described above, the applicants applied first to the High Court and then to the Supreme Court of Appeal for leave to appeal against the sentences, with limited success. Ultimately, the Supreme Court of Appeal dismissed all their appeals. Although all the applicants applied for leave to appeal against their sentences, their submissions in this Court specifically focus on the sentence of 15 years' imprisonment imposed on Mr Shaik.

3. The Special Investigating Unit (SIU) (2022:1) welcomes the imprisonment of two former City of Ekurhuleni officials and businessman for tender fraud, corruption and money laundering in connection with R21.8 million.

4. The Pretoria Commercial Crimes Court sentenced Businessman Velero David to 10 years for fraud, amounting to R21,806,331 and 15 years for corruption to the sum of R12,678,602. Former Ekurhuleni IT executive, Nilesh Singh, was also sentenced to 10 years for fraud, amounting to R21,806,331 and 15 years for corruption to the sum of R12,678,602. Andrew Mphushomadi, former IT senior manager at Ekurhuleni, was given a 10-year prison sentence for money laundering, of which four years was suspended. Mphushomadi received the proceeds of crime to the value of R3,365,574.02. Two entities that were used to commission the crime, Meropa Sechabeng Technology CC, represented by David, and Nanga Transport CC represented by Princes Dlongolo, the wife of Mphushomadi, were each given a fine of R600,000 wholly suspended for five

years.

The researcher has experienced innumerable municipal officials' arrests for corruption and most of these cases were investigated by the Special Investigating Unit. Some of the cases are still under investigations by SIU and Hawks.

5. Moneyweb (2022:1) notes that with a spending budget of R521 billion a year, municipalities offer rich pickings for corrupt managers. Several recent arrests of municipal managers in Mpumalanga, and one each in Limpopo and the Free State indicate that the Hawks are taking their anti-corruption campaign to the local level. In August, the Hawks said that it had 22 000 cases worth R1.5 trillion in investigations. While most of these are high profile, regional branches of the Hawks are investigating smaller cases of corruption which might otherwise not make the headlines.

Nelspruit's Serious Commercial Crime Investigation (SCCI) unit arrested former Nkomazi municipal manager, Muzi Daniel Ngwenya, for fraud, theft and contravening the Municipal Finance Management Act (MFMA) on 28 October. He is alleged to have purchased a R900,000 Mercedes-Benz from a dealership in Bedfordview, Johannesburg, using municipality funds. According to a statement released by the Hawks in Mpumalanga, he is reported to have registered the vehicle in his name. Ngwenya who says his arrest is political was previously visited by the Hawks for allegedly spending R27 million in municipal funds on Covid-19-related issues, without following procurement processes.

6. According to the Daily Maverick (2022:1), the National Prosecuting Authority (NPA) continues to make progress in bringing high profile national corruption cases to court, and significant gains are also being made in a number of cases in the Eastern Cape, most of which involve municipal officials. In many of these cases, the modus operandi is the same as that seen in some of the high-profile cases elsewhere in the country, with public servants working in informal consortiums collaborating with service providers to siphon money from the public purse.

7. According to South African News (2021:1), former Ngqushwa local municipal manager, Misiwe Phyllis Mpahlwa aged 54, and her co-accused have been each released on R1,000 bail after they were arrested on allegations of fraud and corruption. Mpahlwa, the municipality director of corporate services, Mkhuseleli Wiseman Mxekezo, as well as former acting Chief Financial Officer, Tinus Matthysen aged 66, were arrested by the East London-based Hawks Serious Commercial Crime Investigation team on allegations of fraud, corruption and contravention of Municipal Financial Management Act (MFMA). They were released on bail.

Eastern Cape Hawks spokesperson, Captain Yolisa Mgolodela, said it was alleged that Mxekezo deliberately or negligently created irregular expenditure by signing a memorandum dated the 11th of December 2019 for an event that would be held on the 12th December 2019 without procurement processes being followed. The expenditure was an amount of more than R273,000 for a Christmas event for the elderly people of the Peddie community. She said,

It is further alleged that Matthysen failed to prevent the irregular, unauthorised fruitless and wasteful expenditure by approving payments to service providers without necessary documentation while he was on leave. Matthysen is reported to have been complying with the instruction for him to affect the payment by the municipal manager at the time, Misiwe Mpahlwa.

Mgolodela said the arrest of the trio was after the arrest of Busisiwe Mfunda aged 34 on 29 July 2021. She also appeared before the Peddie Magistrates' Court on the same day and was released on R1,000 bail. Mfunda was alleged to have signed a memorandum as an applicant requesting for the procurement of goods and services for the said Christmas event.

It is further alleged that after approval, she went on to source the quotations from various fictitious service providers for her personal enrichment by bypassing the supply chain

office. Mfunda thus joined her co-accused at the same court on 6 October 2021, pending further investigations.

The researcher is of the opinion that corruption affects the economy of the country, and numerous investors are pulling out due to corruption. The worst part is that the government is not being seen taking any action against the perpetrators. Furthermore, the OECD (2013:9) is of the same view that corruption is one of the main obstacles to sustainable economic, political and social development for developing, emerging and developed economies. Overall, corruption reduces efficiency and increases in equality. Estimates show that the cost of corruption equals more than 5% of the GDP or is equated to USD2.6 trillion (World Economic Forum), with over USD1 trillion paid in bribes each year (World Bank).

The costs of corruption can be felt in many ways. Investors are often unwilling to invest in countries where systems are perceived to be corrupt because they are less able to assess the likely risk or return on their investment. Bureaucratic processes may be slowed down by both corrupt officials and mechanisms introduced to identify and combat corruption.

4.4 SUMMARY

This chapter explored the legislative framework and consequences of the private and public sector corruption in South Africa, including the systemic corruption in the public sector which erodes public trust in government institutions, damages policy integrity and distorts public sector outcomes. Corruption also has a deep-seated negative impact on the public sector in that it leads to a self-perpetuating organisational culture of corruption.

Clearly the poor are the most affected by the corruption. The Economic Model postulates that corruption affects poverty by first impacting economic growth factors which, in turn, impact poverty levels. Economic theory and empirical evidence both demonstrate that

there is a direct causal link between corruption and economic growth. Most of our municipalities are covered by the cloud of corruption, numerous officials have been arrested and there are no funds to service the municipal areas. The majority of the residents are unemployed, waste is lying all over the place without collection and potholes are eroding the roads. We have also seen the Emfuleni Local Municipality debt of R6 billion to Rand Water and Eskom. Both State Owned Entities SOE's have attached assets and bank accounts of the ELM. At the end of the day, both paying and nonpaying residents are suffering.

CHAPTER FIVE

THE IMPACT OF CORRUPTION IN SOCIETY

5.1 INTRODUCTION

This chapter provides the reader with insights on the impacts of corruption in our society, especially poor service delivery by the municipalities. The researcher is of the opinion that corruption erodes the trust the community has in the public sector to act in its best interests. It also wastes the communities' taxes or rates that have been earmarked for important community projects, hence the communities must put up with poor quality services or infrastructure, or miss out altogether.

5.2 THE IMPACT OF CORRUPTION IN EMFULENI LOCAL MUNICIPALITY

Unlike crimes that regularly feature in media reports such as murder, sexual offences and robberies, victims of corruption may not be so obviously affected by acts of corruption and are thus rarely identified (Brooks, Walsh, Lewis & Kim, 2013:27). Likewise, Vorster (2013:2) indicates that corruption affects both the government and the private sector annually and costs South Africa billions of rands and erodes the moral fabric of society. The Centre for the Study of Democracy (CSD) (2012:26-27) indicates that corruption reduces national wealth because local and foreign investments are likely to be discouraged, owing to the higher costs and the uncertainties of operating in a corrupt environment. Corruption also lowers the quality of basic public services. In this instance, public services such as public education, health services, infrastructure and police services are normally distorted because of the misappropriation of funds designated for such services. Moreover, corruption leads to the distortion in the distribution of public funds because of the misallocation of public spending in favour of private interests.

Brinza (2013:8) is also of a view that corruption is the perfect way for organised crime to manifest its power, and for as long as there is an existence of organised crime, corruption

will continue to exist. Camerer (1999:2) also indicates that corruption is an obstacle to economic and social development, particularly in the developing world where resources are limited and institutions of governance are weak. Corruption also undermines democratic reform efforts such as in South Africa where democratic systems are relatively new.

According to Transparency International (2015:1) corruption increases inequality and decreases popular accountability and political responsiveness, thus it produces rising frustration and hardships among citizens who are then more likely to accept or even demand hard-handed and illiberal tactics. Those tactics shift the blame for economic insecurity and political decline onto immigrants or other minority groups, and onto economic and political elites who must, as the theory goes, be dealt with swiftly and decisively.

The United Nations Human Rights (2022:1) agrees with Transparency International (2017:1) that disadvantaged groups and vulnerable persons suffer disproportionately from corruption. They are often more reliant on public services and public goods, and have limited or no means to look for alternative private services. They further state that:

1. Disadvantaged sectors of society typically have fewer opportunities to participate meaningfully in the design and implementation of public policies and programmes.
2. They often lack the resources and knowledge to seek redress and remedies. As concerns the indigenous people, corruption involving the illegal exploitation of land and natural resources affects indigenous peoples in particular ways, given the importance of land, forests and natural resources to sustain the singularity of their culture and survival.
3. Exploitation of natural resources through corrupt practices may involve environmental degradation and threaten the traditional modes of indigenous life. The benefits from the

exploitation of natural resources may not be shared equitably. Corruption can undermine the right of indigenous people to participate in decisions related to natural resource extraction. With regard to women, a recent study highlighted the gendered impact of corruption such as on access to public services and resources, the specific vulnerability to sexual extortion and the impact of corruption on reducing women's access to markets and credit. Corruption has the effect of reinforcing marginalisation in economic life.

4. Recent studies also indicate a strong correlation between corruption, poverty and inequality.

5. Extant literature tends to agree that the poorest segments of the population are those who suffer the most from corruption as they are apt to be more vulnerable to bribe extortion, and the amount of bribes represent a higher share of their income.

Based on the researcher's experience as a resident of Emfuleni Local Municipality, the impact of corruption at the municipality results in people not having clean water to drink, the development of potholes on roads which cause accidents, sewerage spillages all over the place which cause sicknesses among residents, and the failure or lack to collect refuse, with residents dumping garbage hazardously, resulting in environmental danger.

According to Independent Broad Base Anti-corruption Commission (Ibac) (2022:1), the impact of corruption goes beyond the corrupt individuals, the innocent colleagues who are implicated or the reputation of the organisations they work for. Ultimately, victorians are the ones who lose out. Corruption erodes the trust the communities have in the public sector to act in its best interests. It also wastes the society's taxes or rates that have been earmarked for important community projects, and the community must put up with poor quality services or infrastructure, or miss out altogether.

5.3 ORGANISATIONAL IMPACTS OF CORRUPTION

- financial loss,
- damage to employee morale,
- damage to the organisation's reputation,
- organisational focus and resources diverted away from delivering core business and services to the community, and
- increased scrutiny, oversight and regulation.

5.4 INDIVIDUAL IMPACTS OF CORRUPTION

- disciplinary action,
- termination of employment,
- criminal charges, and
- may affect relationships with family, friends and colleagues.

5.5 COMMUNITY IMPACTS OF CORRUPTION

- wasted taxpayer funds,
- loss of goods and services,
- lower community confidence in public authorities, and
- disadvantages honest businesses that miss out on government contracts.

The Corruption Watch (2022:3) is of the agreement with ibac (2022:1) that:

Corruption affects us all – It threatens sustainable economic development, ethical values and justice. It destabilises our society and endangers the rule of law, and undermines the institutions and values of our democracy. Since public policies and public resources are largely beneficial to poor people, it is they who suffer the harmful effects of corruption most grievously. Being dependent on the government for housing, healthcare, education, security and welfare makes the poor most vulnerable to corruption since it stalls service delivery. Delays in infrastructure development, poor building quality and layers of

additional costs are all consequences of corruption. Numerous acts of corruption deprive the citizens of their constitutional and human rights.

Economic implications – Corruption and international perceptions of corruption in South Africa has been damaging to the country's reputation and has created obstacles to local and foreign direct investment, flows to the stock market, global competitiveness, economic growth and has ultimately distorted the development and upliftment of the citizens. Public money is for government services and projects. Taxes collected, bonds issued, income from government investments and other means of financing government expenditure are meant for social grants, education, hospitals, roads, the supply of power and water, and to ensure the personal security of our citizens.

Corruption and bad management practices eat into the nation's wealth, channeling money away from such projects and the very people most dependent on government for support. Countless studies around the world show how corruption can interrupt investment, restrict trade, reduce economic growth and distort the facts and figures associated with government expenditure. Nevertheless, the most alarming studies are the ones directly linking corruption in certain countries to increasing levels of poverty and income inequality.

Since corruption creates fiscal distortions and redirects money allocated to income grants, alters eligibility for housing or pensions and weakens service delivery, it is usually the poor who suffer most. Income inequality has increased in most countries experiencing high levels of corruption.

According to Lagide (2014:10-11), scholars argue that corruption is not endemic to a given society or state. Corruption can be found in all walks of life. Combating corruption is instrumental to the broader goal of achieving a more effective, fair and efficient government. When there is inadequate transparency, accountability and probity in the

use of public resources, the state fails to generate credibility and authority. Systemic corruption undermines the credibility of democratic institutions and counteracts good governance.

There is a high correlation between corruption and an absence of respect for human rights, and between corruption and undemocratic practices. Corruption alienates citizens from their government. Literature on the corruption shows that its consequences are not only limited to the economic aspect in any given state, but it also affects the growth and developmental process of a nation. It has a wide range bearing on economic, social, political, developmental, human rights issues, and in what follows, the study presents only the economic consequences of corruption which are more prevalent and devastating.

Lagide (2014:10-11) argues that when one considers the economic consequences of corruption, the adverse impact of grand corruption comes readily to mind. Corruption on a grand scale associated with some dictators and their cronies can involve embezzlement of huge sums of public funds, and the mismanagement, wastage, inequity and social decay that come along with it can be disastrous for an economy. There are familiar tales of fortunes in gold, gems and jewellery stashed away in secret hiding places by corrupt officials, and hundreds of millions of dollars spent in acquiring real estate abroad, with some being deposited into their foreign bank accounts. The devastating impact of misconduct on such a massive scale, especially for poor countries that are facing perennial and severe foreign exchange shortages is obvious and requires no further comment. Nonetheless, corruption does not have to be on a grand scale to inflict serious damage. There are other adverse effects that can be just as damaging for a poor country.

Mail & Guardian (2021:1) published a different opinion by Mr Rebone Tau that while corruption remains a thorny issue at local government level, experts warn that it may not be the only challenge making it difficult for municipalities to deliver proper services. Experts said at a webinar on the impact of corruption on local government, hosted by the

Mail & Guardian in partnership with the Rosa Luxemburg Stiftung, that graft was not the only challenge facing the country's ailing municipalities. The webinar was moderated by TV and radio broadcast journalist, Cathy Mohlahlana.

Despite the Auditor-General (AG) having expressed concern that after all the years of reporting shortcomings and making recommendations, municipalities have still not mastered the basics of financial reporting, with only 28% being able to submit quality financial statements for audit purposes in the (2019/2020) financial year.

Among many adverse findings, including blowing billions of rands because of irregular and unauthorised expenditure, the AG's report noted that 64% of municipalities did not provide adequate records, appointed consultants too late or did not manage the consultants' work properly to benefit from their appointment, effectively outsourcing responsibilities. Dr Tracy Ledger, senior researcher at the Public Affairs Research Institute, suggested during the webinar that perhaps it is time to review the current framework governing municipalities. Ledger argued that while corruption is a major challenge at municipal level, the situation in municipalities is much more complex and the problems extend beyond graft. She cited high levels of poverty and the fact that most households cannot afford to pay for services as one of the contributors towards poor service delivery. Ledger highlighted that under the current system, municipalities are expected to raise most of their revenue through selling water, electricity and sanitation services to households. "Corruption is not the only problem," she said, adding that there are other problems, including a lack of understanding of the functions and roles from the three tiers of government.

Rebone Tau, the programme manager for Political Affairs at the Rosa Luxemburg Stiftung, identified a lack of professional workplace experience among councilors and a lack of skills as major challenges facing municipalities. He cited revelations by the South African Local Government Authority (SALGA) that 66% of councilors have no post-matric

qualifications, and that 62% cannot use a computer, which are major indicators of a sector in trouble.

He added that the fact that some councilors have no work experience meant that they also have no understanding of what is expected of them professionally. Tau said the councilors lack the basic principles of Batho Pele, which means that they need to put the people first. The researcher agrees with Tau that most of the councilors have no work experience, and some have no matric or computer literacy, and their communication skills are poor. "They tow the party line at the expense of the people," said Tau, citing as an example the decision made by the Eastern Cape provincial government to appeal the landmark judgement ordering it to dissolve the Makana municipality for failing to meet its constitutional mandate to deliver services.

Tau also raised concerns about whether the department of Co-operative Governance and Traditional Affairs (Cogta) was adequately playing its role to ensure the smooth running of municipalities. "What is the role of Cogta? We do not see Cogta taking municipalities to account," Tau said, adding that councilors and civil servants at local government lack patriotism, which is why they do not seem to appreciate their roles in ensuring the smooth running of the country. "Some are put there because of political connections but have no understanding of the role they need to play. Politicians are taking people for granted by placing unqualified people in positions," Tau said.

Tau agreed that there needs to be a general change in behaviour and attitude. "You can change the system, but if the people who are put there are not patriotic, there also has to be behavioural change among civil servants and politicians. The ruling party has made its councilors sign a pledge, but will they comply?" Tau queried. "If there is no behavioural change among these people that the people of South Africa come first, we will still have a problem," Tau added.

While all the suggestions about recruiting skilled people to run municipalities may sound like a way of resolving the prevailing situation, Ledger raised a critical issue regarding convincing such people to take up such positions. “Good skilled people do not want to work in municipalities that are a hotbed of political activity,” she said, adding that in addition to this, they fear for the safety of their families in such environments. She added that while the treasury has regulations for municipalities to follow in terms of filling up such positions, not even half of municipalities comply with these guidelines and that many of them cannot afford to have those skilled people or pay for them. “We need a different structure that can deliver. Twenty-five years after apartheid is a good time to go back to the drawing board,” she added.

Mail & Guardian (2021:1) is supported by Oscar, Granados and Carlock (2021:10) that corruption undermines human development. It diverts public resources away from the provision of essential services. It increases inequality and hinders economic development by distorting markets for goods and services. It undermines the rule of law and democracy, foremost because it destroys public trust in the government and leaders. In many countries across the world, corruption cases make the headlines. Exposing corruption and holding the corrupt to account can only happen if there is an understanding of the way corruption works and the systems that enable it. The current literature and research on corruption in network-like structures mostly focuses on systematic corruption in that most network members are involved in bribe paying of any sort.

The researcher has experienced most of the municipal officials committing victimless corruption. Li (2019:29) gives an example of victimless corruption, advancing that,

Let us assume that the mayor of a city has tremendous power and wants to benefit from it. Let us further assume that the mayor knows that if he or she forces businesses to pay or to steal from the state without delivering anything of value, the chance of being caught is high, since he or she will be hated by the victim who may be the briber or the society. So, instead, the mayor tries to identify entirely

new projects that do not use public funds, may benefit the society at large and are profitable enough for him or her to take a cut. For example, he or she may propose to create an amusement park with local characteristics, and then award the project to business friends to invest in and build. The park fills a market need, and it brings tax revenues to the city and profits to the mayor's business friends who, in turn, pay him or her handsomely in private.

The researcher is of the opinion that corruption has also impact on taxes. The more we pay tax, the more criminals are feeding themselves by committing corruption. Many government departments have been allocated a budget for service delivery but there is nothing on the ground; the people are still suffering.

Ataja (2013:2) concurs, stating that corruption in the public sector erodes tax compliance and leads to higher tax evasions. Moreover, corrupt public officials abuse their public power to extort bribes from the private agents. Generally, corruption discourages private investment and increases the costs of doing business while raising uncertainty over expected returns on capital.

This supports the view that corruption hampers growth, and calls for institutional reforms to improve the quality of governance as a prerequisite for achieving investment-led growth. Corruption may also affect growth through public investment. The effect may be due to adverse elections of public investment projects or bias allocation of public funds towards large and capital-intensive projects.

5.5 SUMMARY

This chapter addressed the impact of corruption in societies which is very high in the local municipalities yet no action has been taken against the perpetrators. Instead, they are awarded with more tenders. There is nothing that motivates the communities to pay rates and taxes because there is poor service delivery from the municipalities. Municipalities are losing skilled people as they are afraid that one day, they will never receive salaries. On one hand, municipalities have cadre deployment and most of the councilors are lacking skills. Most of the people who occupy high positions in the municipalities do not have qualifications. On the other hand, high levels of poverty and the fact that most households cannot afford to pay for services are some of the contributors towards poor service delivery.

CHAPTER SIX

FINDINGS, RECOMMENDATIONS AND SUMMARY

6.1 INTRODUCTION

This research focused on the investigation of the impact of corruption in the Emfuleni Local Municipality. The specific intention was to evaluate the strengths and weaknesses of the current procedures and processes used to investigate corruption cases in the Emfuleni Local Municipality. Investigators need to be properly trained and skilled in handling complex investigations and in using specialised expertise where senior government officials are alleged to be involved. From the researcher's observations experience, the Emfuleni Local Municipality does not have a Forensic Investigation Unit, hence it mostly relies on the South African Police Services (SAPS) to conduct internal investigations. This study was intended to enhance the formation of the Forensic Investigation Unit (FIU), recruit qualified forensic investigators and conduct crime risk awareness. The following research question enabled the researcher to investigate the research problem systematically:

- What is the impact of corruption in the Emfuleni Local Municipality?

The findings and recommendations set out below are based on the information obtained during document and content analysis combined with a thorough literature study on the topic of corruption.

6.2 FINDINGS

The following findings were made based on the information obtained from various literature sources.

6.2.1 RESEARCH QUESTION 1: WHAT IS THE IMPACT OF CORRUPTION IN THE EMFULENI LOCAL MUNICIPALITY?

This section presents the research findings based on this research question.

The study analysed the impact of corruption in the Emfuleni Local Municipality. The impact of corruption has led to mass action and strikes being organised in the form of protests as residents begin to lose faith in the ability or willingness of their elected officials. Political instability increases, investment declines, the sale of shares by investors decreases, and the value and rating of companies also declines. Some have argued that it is the legitimate role of the municipality to redirect resources to distribute services and resources equitably to all in an attempt to address the legacy of colonialism and apartheid which thus heightens the risk of corruption.

From the municipality's point of view, there is no investigation unit with skilled investigators in place to investigate cases of corruption effectively. There is no platform created for the communities and the employees of the municipality to report cases of corruption. The municipality failed to address and tackle the following offences that were committed by its employees and contractors:

Corruption is a form of dishonesty or a criminal offence which is undertaken by a person or an organisation which is entrusted and in a position of authority in order to acquire illicit benefits or abuse power for their personal gain. According to Brooks, Walsh, Lewish and Kim (2015:3), corruption may include gain that is not only limited to financial abuse but can also include the abuse of power to enhance personal or organisational reputation or for political purposes.

Quah (2011:590) is of agreement with Brooks, Walsh, Lewish and Kim (2015:23) that corruption is the abuse of public office with a corrupt intention and may incorporate any

crime. Moreover, corruption is a social phenomenon with a negative effect on any community. According to Jain (2012:22), corruption arises from the misuse of legislative powers by the government in power. Rose-Ackerman (2013:7) correctly argues that corruption is essentially equated with bribery which includes nepotism and the unlawful appropriation of public assets for private use as a conduct which goes amiss from the ordinary obligations of a public role for financial or status gain.

According to Welman (2021:13), the Emfuleni Local Municipality is committing a crime against humanity and is guilty of corruption. This sounds severe, but when one lives in the Vaal Triangle, this is precisely what the African National Congress-run local municipality in Gauteng has implemented upon its ratepayers. The pitiful situation that residents find themselves in is caused by mismanagement and corruption. It has also been reported time and again in the news media and on television. The problem is that the council has been under semi-administration for two years, and there has been absolutely no change. In fact, it has even worsened.

Enca (2021:1) is of agreement with Welman (2021:13) that Emfuleni residents have had enough of being denied basic services. They blocked roads in the area, accusing the municipal leaders of corruption. They have threatened to shut down the district until their grievances are heard. "We have problems of sewerage, potholes and water," said community leader, Themba Mnisi. "When the provincial government imposes interventions, they call on people suspended elsewhere for corruption in their municipalities," he added. Mnisi says that they will shut down the municipality despite Covid-19 as they feel that the pandemic is being used as a scapegoat to their concerns which are not being addressed.

eNCA was unsuccessful in attempting to reach out to the mayor. The administrator explained that they are aware of the service delivery issues and are looking into them. Mashego and Mdakane (2020:1) shared the content of the investigation report that

was conducted by Comperio Consulting, an outsourced forensic investigation company to investigate allegations of corruption in the Emfuleni Local Municipality. The report revealed that at least 33 officials at Emfuleni Local Municipality are implicated in a massive looting spree that saw the municipality spending more than R870 million in irregular contracts. However, six months after the report by Comperio Consulting was finalised and adopted by the municipality's council, none of the officials have been disciplined for their alleged role in bankrupting the municipality.

The report revealed deep rot and linked the municipal manager, chief operating officer, chief financial officer or the deputy municipal manager to each of the 15 contracts under investigation. "This is a concern as it is much easier for a top executive or senior manager to override processes and procedures as has been seen with the cases in hand," said the report. The report further reveals that the municipality lost R873 million in irregular expenditure through several violations of the Municipal Finance Management Act (MFMA), including irregular expenditure, the extension of contracts without following the due process, the transfer of contracts to separate legal entities, and the manipulation of procurement processes by altering bid evaluation scores.

The forensic investigators also found that more than R100 million was lost owing to duplication, fraud and overcharging by service providers, and they recommended that those identified to have been party to the looting must be held to account. "The municipality needs to take a stance if it is committed to addressing irregular practices within its structures. Officials still under the employment of the municipality must be afforded the opportunity to discuss the findings of the investigation with the investigating team, as several of the officials were not available during the investigation process to present their side of the events," says the report.

The report further recommended that the Emfuleni Local Municipality lays criminal charges against all implicated officials and ex-officials so that they can present their case

in trial. The report alleges that there were irregularities in the municipality's contracts with Aurecon SA, Gijima Holdings, Meso Automation, Fleet Horizon Solutions, Dikopane Project Management, Vaal Toyota/Hallmark, Amasondo Fleet Services, and Sungu-Sungu Projects. Most of the contracts, except those with Vaal Toyota, Amasondo Fleet Services, Brilliant Telecommunications and Red Ant Security, have been cancelled.

“There has been massive resistance in cancelling some of the contracts because of the crucial services that they offer. It also appears that there are officials who are blocking the procurement and appointment of new service providers,” one insider told City Press. The report paints a worrisome picture of the affairs of Emfuleni Local Municipality which was placed under administration in June 2018 and whose financial woes saw its vehicle fleet, including essential services vehicles, being repossessed. The municipality reportedly defaulted on payments with service providers, including Eskom. It entered into a R50 million payment arrangement with the power utility following the intervention of Gauteng Cooperative Governance and Traditional Affairs MEC, Lebogang Maile, after creditors began attaching its assets.

Investigators revealed in the report that contracts were not concluded in line with the terms and conditions of the contracts concluded by other organs of state, and that the processes were managed and controlled by senior officials and not the user department, as per its needs. The report reveals that tenders were disqualified for not complying with the minimum requirements, although they were found to be compliant. Further, the report established that the scoring of the bid evaluation committee was altered, resulting in tenders not being awarded to companies with the highest scoring points.

6.2.1.1 R16 Million worth of expired goods

Gijima, previously trading as AST Vaal Triangle, a division of AST Holdings, was awarded a three-year contract in March 2003 to provide Emfuleni Local Municipality with 20 cellphones to be used as standby phones for councillors and staff at the office of the

mayor. That contract was automatically renewed in successive one-year periods unless terminated. The report found that there was no documentary evidence to substantiate such extensions.

Gijima, now owned by ANC benefactor, Robert Gumede, was paid more than R16 million between April 2007 and December 2017 after the contract had expired. Based on the report, these payments can be deemed as irregular in terms of the MFMA. Gumede's lawyer, Nicqui Galaktiou, said the businessperson was not part of the company or its executive during the period in question. "More importantly, Gijima was not a party to the contract concluded between AST-A Holdings and the municipality. Gijima is being compromised by the conduct of City Press and it will, without a doubt, take steps to protect its reputation if it is in any way defamed or portrayed negatively.

"Gijima has also not been informed of what allegations have been made against it but is expected to answer the questions in a vacuum. It is interesting that City Press will rely on a report ostensibly referring to Gijima, notwithstanding that Gijima's representatives were never engaged by the investigating company, which leads one to question the reliability of such a so-called forensic report and your motivation in relying thereon," Galaktiou said. She said that the matter predates to 2003, "long before our client acquired AST and, 17 years later, none of our client's board of directors or executives was part of AST and, therefore, have no knowledge of these facts."

6.2.1.2 Red Ants Security relocation and eviction

Comperio Consulting recommended that the municipality must enter discussions with Red Ant Security regarding the invalid VAT number reflected on invoices that the company submitted to the municipality. If the company fails to provide sufficient proof to substantiate the validity of the VAT number, a total of R9.86 million paid to it must be recovered, following which the municipality must report Red Ant Security to the SARS. "Duplicate payments totaling R205 101.75 must be recovered from the service provider.

All services with the Red Ants and Red Ant Security Relocation and Eviction should be terminated within the required notice period and a proper procurement process should be followed to procure a new service provider,” the report says. Attempts to reach Red Ant Security were unsuccessful.

6.2.1.3 Mafoko Security Services

The report found that Mafoko Security Services was appointed over a festive season at a fixed fee of R4.6 million without the contract going out to tender. The contract was found to have not been properly managed as the service provider claimed more than the fixed monthly fee. “The council resolved that security costs be capped at R4.5 million per year, but management failed to adhere to the resolution. The municipality paid Mafoko Security Services an amount of R4,911,300.04 in relation to supplementary security services costs. According to the public safety manager, Nnete Makhubo, the costs related to risk assessment are authorised by the office of the municipal manager. These authorisations could not be obtained. The Emfuleni Local Municipality manager, Oupa Nkoane, did not have any knowledge of the costs being authorised from his office,” says the report.

6.2.1.4 Emfuleni Local Municipality response

Emfuleni municipality spokesperson, Stanley Gaba, said that the municipality-initiated investigations into several contracts in 2017. “This process revealed that several contracts had been irregular. To date, the municipality continues to implement recommendations, including matters or contracts where there are cases of malfeasance which are referred to the Directorate for Priority Crime Investigation. “In some matters, the disciplinary process had already started, but were brought to an abrupt halt by the Covid-19 pandemic and the national lockdown regulations,” he said.

Gaba said that the municipality supported and had adopted the recommendations of the forensic investigations, and that a report would be tabled at the next council which sits on July 24 to appraise the developments. Based on the researcher’s experience, criminal

cases of corruption were opened by the municipality, but no arrests have been made and no employees were dismissed due to corruption.

6.2 INTERVIEW RESPONDENTS

The researcher conducted interviews with ten (10) Emfuleni Local Municipality residents and ward councilors. Their responses are presented in this section.

6.2.1 Section 1: Personal information

The respondents are between the age of 35 and 45. Eight (8) respondents are employed and two are business owners. Eight (8) respondents have completed matric and two have degrees.

6.2.2 Section 2: Responsible resident

All the respondents are residents of Emfuleni Local Municipality. They are all tax and rates paying residents and proof was provided. All respondents' properties are registered with the Emfuleni Local Municipality. All the respondents have been residents of the Emfuleni Local Municipality more than 15 years.

6.2.3 Section 3: Municipality services

All the respondents complained that they do not receive services that they are paying for, except for water supply, although sometimes taps run dry due to unpaid water services by Emfuleni Local Municipality to Rand Water. Eight (8) out of ten (10) respondents stated that they have raised their concerns with the ward councilor that they do not receive the services they are paying for. One of the respondents is a ward councilor who stated that each time they raised the residents' concerns in ward councillors' meetings, the municipality responds by saying they do not have adequate resources such as diesel for waste trucks and for field cleaning, and inadequate sewer unblocking equipment and other resources to service the residents. All the residents have access to the ward councillor, but the councillors are toothless.

6.2.4 Section 4: Impact on poor services

The sewerage spillage is all over the place, and residents are getting sick. Motor vehicles are getting damaged due to pothole-ridden roads. The crime rate is very high because there are no streetlights. The investors are exiting the area because there are no municipal services. The municipality failure to deliver services to the residents is due to corruption that is committed by the employees of the municipality and contractors. All the respondents claimed that they intend to leave the area.

6.2.5 Section 5: Reporting

Cogta is aware of the residents' concerns, including President Ramaphosa but nothing has been done.

6.3 SUMMARY

This chapter discussed the findings of the impact of corruption in the Emfuleni Local Municipality. The findings are based on the interviews that were conducted with the residents and employees of ELM, and media reports. There is corruption in ELM and no action has been taken against the perpetrators. Some of cases have been reported to the SAPS but no change or action has been effected.

6.4 RECOMMENDATIONS

The following recommendations are provided based on what was discovered during the course of the research.

6.4.1 Research Question 1: What is the impact of corruption in Emfuleni Local Municipality?

It is recommended that the Emfuleni Local Municipality should establish a Forensic Investigative Unit, recruit skilled forensic investigators, have a hotline number where employees, contractors and residents can anonymously report crime incidents, and enhance anti-corruption awareness campaigns.

6.4.1.1 Functions of the Emfuleni Local Municipality Forensic Investigative Unit

- Investigating all internal crimes incidents within Emfuleni Local Municipality (ELM),
- Conducting crime risks awareness,
- conducting disciplinary investigations such as misconduct and labour disputes,
- Investigating loss of assets such as missing office equipment and unaccounted missing funds,
- Investigating insurance claims,
- Investigating ELM vehicle accidents,
- Compiling investigation reports to management with recommendations,
- Instituting recovery procedures arising from the investigations,
- Presenting evidence in disciplinary procedures, criminal prosecutions and civil litigation proceedings, and
- Investigate any other matter as per senior management mandate and information received from the employees or residents.

6.4.1.2 The recruitment of skilled forensic investigator within the unit

The forensic investigator should meet the following requirements:

- Based on the researcher's experience, credentials such as being a Certified Fraud Examiner or other similar certification, preferred membership in the Institute of Commercial Forensic practitioners (ICFP) and in the Association of Certified Fraud Examiners (ACFE), and a bachelor's degree in forensic investigations.
- At least three years overall professional investigative experience in law enforcement, corporate investigations, organized or syndicated crime, and municipal-related areas. Experience in a municipal environment is an advantage.
- Experience may be acquired through a combination of formal investigative and/or fraud awareness training as well as practical, hands-on experience gained through employment in law enforcement, with specific reference to experience with investigations in a municipal environment.

- Experience in financial, business, and/or statistical analysis is preferred.
- Strong investigative, analytical, networking and negotiating skills are critical. Experience in using the EIR is preferable. Experience in the investigation, initiation and leading of evidence in disciplinary hearings is preferable. Experience in giving evidence in a criminal court of law is essential.
- It is also recommended that when the Emfuleni Local Municipality is recruiting for these positions, they must avoid cadre deployments. The ELM should ensure that competent investigators are employed without any favour.

Further, the municipality should ensure that they recruit candidates who have qualities of an investigator as stated by Fennely and Perry (2018:1) to the uninitiated, the aspirant and the distant observer, that there is an aura of romanticism surrounding the investigator and his or her work. That illusion is quickly dispelled in the light of reality. The real world of investigative work is difficult, demanding and rarely glamorous. The investigator should be observant, resourceful, patient, people-oriented, endowed with an understanding of human behaviour, knowledgeable on the legal implications of the work, skilled in communication, receptive, pose a sense of well-being, dedicated to the work, be a self-starter, sceptical, intuitive, energetic, a good actor, capable of sound judgement, logical, intelligent, creatively imaginative, of good character, professional, and ethical.

In his book, Van Rooyen (2013:183) outlines the responsibilities and duties of investigators in phases as follows:

Phase 1: Preparation

Before starting a major investigation, clear and comprehensive terms of reference should be drafted. Consideration should be given to any need for additional resources to maintain the secrecy of the investigation. Complaints which may include criminal conduct or acts contrary to the rule and regulations of the organisation should be registered, reviewed

and evaluated to determine if they fall within the jurisdiction or authority of the investigator. There should be the opening of case file (docket) and filing of statements, and documentary documentation should be available in one case file.

Phase 2: Investigation activities

Investigative activity should include the examination of all evidence, both subjective and objective. Investigative activities by an investigator should not be inconsistent with the rules and relations of the department, and with due consideration to the criminal law, criminal procedure Act and law of evidence. Investigators may seek advice on the legal, cultural and ethical norms in connection with investigators.

Phase 3: Confidential and the Protection of witnesses

Where it has been established that a witness or other person assisting in an investigation has suffered retaliation due to assistance in the investigation, the investigators should undertake, or otherwise engage the management to undertake measures to prevent such acts from taking effect or otherwise causing harm to the person. Steps taken to protect the security of the investigations could include renting non-governmental or undercover locations and making them secure, using fictitious names to purchase or rent equipment, using standalone computer systems not linked to any other governmental operation, and liaison and communication with other law enforcement organisations. Investigators should, when necessary, protect witnesses and whistle-blowers.

Phase 4: Due Process

Investigators should advise suspects of the allegations against them, recording the time and manner of disclosure. Investigative methods may include the gathering of documentary, video, audio, photographic or computer forensic evidence, provided such activities are not inconsistent with the applicable rules and regulations of the department, and with due consideration to the applicable laws of the state where the activity occurs.

Phase 5: Findings

Where the investigative findings substantiate the complaint, those findings should be reported to the appropriate managers along with recommendations for corrective action. Recommendations may include disciplinary steps or immediate suspension and, in other cases, sanctions available to the manager as the steps needed to minimise the risk of recurrence. Other actions may also include compensation for losses occurred or seizure of assets.

During the recruitment of the investigators, recruiting officials must ensure that the candidates have knowledge/experience of the above-mentioned phases. Again, the phases will be helpful to the investigators when executing their duties without any favour or fear. According to Indeed (2021:1), a recruitment site, investigative skills are the abilities which individuals have and use to gather data and generate conclusions to reveal important facts. These skills also help professionals to examine a topic closely and discover items of importance that may not have been clearly apparent to those who lack this skill. Some professionals who often use investigative skills include:

- Private investigators
- Forensic scientists
- Anthropologists
- Art historians
- Investigative journalists
- Police officers
- Legal investigators
- Detectives

6.4.2 Twelve (12) investigative skills that are helpful for professionals to develop.

Below is a list of 12 investigative skills that can help professionals perform their tasks

effectively:

6.4.2.1 Curiosity

Curiosity, which involves asking questions to discover the reasons why a particular event occurred, is a valuable skill when conducting investigations. This skill entails the desire to learn more about a subject matter and can help a professional persist in an investigation when its pacing slows.

6.4.2.2 Problem-solving

This skill helps investigators to compile pieces of information they gather. The majority of investigation work involves solving a case or attempting to understand an occurrence further, hence it is important for the investigation professionals to determine ways to connect series of events. Effective investigators evaluate their data to gather conclusions that guide them on how to best progress forward with a situation.

6.4.2.3 Research skills

When investigating, it is often helpful to know how to collect relevant information and interpret it. Investigators often analyse background information on particular subject matters in order to comprehend a situation fully. For instance, a legal investigator may research the background of perpetrators to learn about their criminal history and other important facts.

6.4.2.4 Evidence collection

Evidence collection is the ability to find relevant facts such as clues that help investigators understand why something may have occurred, and that support or verify a certain belief. Often, investigators collect evidence by conducting experiments or visiting and analysing a crime scene. When collecting evidence, it is often important for investigators to adhere to common legal procedures.

6.4.2.5 Interviewing

Having the ability to interview subjects helps investigators gather essential information.

This may include interrogation where a professional questions the perpetrator or victim to understand what happened during a particular criminal event. Those with effective interviewing skills understand the types of questions to ask to elicit helpful answers and the techniques to foster cooperation.

6.4.2.6 Report writing

This type of writing allows those investigating to properly submit documentation on their findings. It is typically important for these professionals to ensure clarity so that readers understand their reports. They also include supporting evidence to verify findings and may present these findings to a court that uses these written pieces to convict or acquit an individual.

6.4.2.7 Critical thinking

These skills help investigators to analyse cases objectively and avoid assumptions that can hinder their ability to derive factual conclusions. These abilities allow professionals to evaluate circumstances and make important decisions regarding an investigation. Critical thinking can help them either confirm previous inferences or correctly alter their opinions on a case.

6.4.2.8 Honesty

This skill is essential to those conducting investigations to avoid biases and ensure fairness when gathering information. Since investigators may handle confidential information, it is important for them to strategically reveal it or choose to never reveal it. Effective investigators also often adhere to a code of ethics when collecting information and are truthful with the evidence they present.

6.4.2.9 Flexibility

Since the course of investigations may shift as an individual gathers information, it is important for these professionals to remain adaptable. This may require shifting from an initial idea and reconsidering the right path to proceed. Successful investigators are often non-judgmental and consider other ideas when researching a subject matter or event.

This skill also entails the willingness to use new technology and innovative investigation methods to assist them in their work.

6.4.2.10 Observation

Another important investigative skill is observation where an individual remains attentive to their surroundings. When gathering information, it is often important to survey an area and record the important details. Professionals can also use this skill when interviewing a subject to determine non-verbal cues and contradictory statements that can help an investigator discover truthful conclusions.

6.4.2.11 Courage

Some investigations may involve dangerous people or settings and require possessing courage to persevere. Remaining prepared for various situations can help when investigating. This skill can also help professionals gather information that may upset certain parties involved in an investigation.

6.4.2.12 Self-motivated

Remaining self-motivated is helpful in an investigating role since these positions often entail working independently. Professionals who investigate employ perseverance to continue researching, even when a challenge or setback arises. Effective investigators often remain focused on their overall goal so that they can eventually develop truthful conclusions.

6.4.3 Tips for improving investigative skills

Below are some ways to improve investigative skills:

6.4.3.1 Find multiple sources

When investigating, it is important for professionals to seek information supported by more than one source. This can help to ensure the factuality of the evidence. Multiple sources also allow the investigator to defend their findings when preparing a report or making recommendations to a client. Attempting to find multiple sources also helps them

to hone their research skills.

6.4.3.2 Maintain neutrality

To avoid biases in investigations, it is also essential to maintain a neutral stance. This often involves separating personal beliefs from the investigation. This can be accomplished by removing prior judgements and considering each case as unique.

6.4.3.3 Practice interviewing

To improve interviewing and evidence collection skills, consider questioning family members or friends. Conducting this can help to develop confidence when interviewing. For mock interviews, try to write effective questions that elicit helpful responses.

6.4.3.4 Pace the investigations

Prior to analysing the causes of a situation, it is important to gather all relevant evidence before progressing. It is also essential to analyse collected information first to determine whether there is a relationship between events. Once you feel that you have conducted a thorough analysis, try to develop a root cause.

6.4.4 Hotline reporting

The tips are, by far, the most common means of initial investigation, audit, ethics and fraud issues. According to the Association of Certified Fraud Examiners (ACFE) (2018:1), report to the nations internal audits were the initial fraud detection method constituting only 15 percent of the time, but tips were the source for 40 percent of the cases reported. In this report, the ACFE found that organisations that have a fraud hotline in place experienced losses that were 50 percent lesser than those that did not have a hotline. Additionally, and even more dramatic, the duration of the fraud was cut in half when a hotline was in place. The empirical data supports the cost effectiveness of fraud hotlines without a doubt, hence minimising the time the fraud operates which is priceless.

The researcher recommends that the Emfuleni Local Municipality should make sure that

all the employees and resident are aware and know the hotline number to report unlawful acts. To ensure residents know the number, monthly rates and tax statements should have the hotline number, while all ELM vehicles, staff computers and payslips should be printed with the number, including any other methods that can make employees and residents be aware of the hotline reporting number.

6.4.5 Enhanced anti-corruption awareness campaigns

The researcher recommends that awareness campaigns by the Emfuleni Local Municipality on corruption should not only be centered around informing members of the public on what constitutes corruption and how members of the public should report incidents of corruption. Awareness campaigns should also make the public aware of the impact of corruption. Members of the public ought to know that corruption contributes, amongst other things, to lawlessness, and affects the local economy. The public must also be made aware that engaging in acts of bribery is a criminal offence and it makes them liable for arrest.

The researcher also recommends the intensification of anti-corruption awareness campaigns within the ELM. This can be done through various communication media such as posters, radio, television, social media and newspaper campaigns. Such awareness campaigns should look at highlighting what constitutes acts of corruption, the impact of corruption, and where members of the public can report incidents of corruption.

The researcher further recommends that the positive impact of combating corruption should also be included in the anti-corruption campaigns. This is likely to motivate members of the public to report incidents of corruption and to discourage the public from engaging in corrupt activities.

6.5 SUMMARY

This research aimed to explore the impact of corruption on service delivery in the Emfuleni Local Municipality (ELM). Based on the findings of the study, it can be deduced that the current measures applied by the ELM to curb corruption are not as effective as they should be. Therefore, the findings and recommendations outlined above are useful in the fight against corruption in ELM. The methodology and research design of this research have accordingly addressed the stated research question and they reveal that there are definite ways of fighting corruption in the municipality. The results show that there is a serious need to form the Forensic Investigative Unit (FIU) and the employment of competent investigators in the unit. There is also a need for specialised experts in the fields of forensic auditing, forensic accounting and internal auditing when handling complex investigations in the municipality. The researcher hopes that this study will inspire municipalities in the fight against corruption.

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UNISA 2022 ETHICS REVIEW COMMITTEE

Date: 18 August 2022

ERC Reference No.: ST74-2022

Name: TZ Melane

**Decision: Ethics Approval from
2022:08:18 to 2025:08:18**

Researcher: Mr Zakhele T Melane

Supervisor: Dr Bennie Khotso Lekubu

***AN EXPLORATION OF THE IMPACT OF CORRUPTION ON SERVICE DELIVERY IN THE
MFULENI MUNICIPALITY, GAUTENG***

Qualification: Master of Arts (Criminal Justice)

Thank you for the application for research ethics clearance by the Unisa 2022 Ethics Review Committee for the above-mentioned research. Ethics approval is granted for 3 years.

*The **low-risk application** was **reviewed** by the CLAW Ethics Review Committee on in compliance with the Unisa Policy on Research Ethics and the Standard Operating Procedure on Research Ethics Risk Assessment.*

The proposed research may now commence with the provisions that:

1. The researcher will ensure that the research project adheres to the relevant guidelines set out in the Unisa Covid-19 position statement on research ethics attached.
2. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy on Research Ethics.
3. Any adverse circumstance arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the CLAW Committee.

4. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.
5. Any changes that can affect the study-related risks for the research participants, particularly in terms of assurances made with regards to the protection of participants' privacy and the confidentiality of the data, should be reported to the Committee in writing, accompanied by a progress report.
6. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the specific field of study. Adherence to the following South African legislation is important, if applicable: Protection of Personal Information Act, no 4 of 2013; Children's act no 38 of 2005 and the National Health Act, no 61 of 2003.
7. Only de-identified research data may be used for secondary research purposes in future on condition that the research objectives are similar to those of the original research. Secondary use of identifiable human research data requires additional ethics clearance.
8. No field work activities may continue after the expiry date **2025:08:18**. Submission of a completed research ethics progress report will constitute an application for renewal of Ethics Research Committee approval.

Note:

The reference number TS74-2022 should be clearly indicated on all forms of communication with the intended research participants, as well as with the Committee.

Yours sincerely,



Prof L Fitz
Chair of CLAW ERC
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Web: www.emfuleni.gov.za

7 October 2022

Ref: S. Roets

To Whom It May Concern

RE: Approval to Conduct Research at ELM viz. Mr Z Melane

This serves to confirm that **Mr. Zakhele Melane** - a Masters student registered in the Criminal Justice Department at the University of South Africa (UNISA) - has been granted permission to conduct research at Emfuleni Local Municipality (ELM) in pursuance of a masters` thesis in Forensic Investigation titled "*An Evaluation of the Impact of Corruption on Service Delivery in the Emfuleni Local Municipality, Gauteng*".

ELM is granting **Mr. Z Melane** special access to its premises and relevant personnel in designated Departments (and related business Units) for the purposes of conducting this research. The research access will terminate automatically and immediately upon the completion of the research period as stipulated.

The general rules and regulations of the ELM Code of Good Conduct will be binding on *Mr. Melane* whilst on the premises of ELM for the purposes of this research.

This includes any confidentiality obligations imposed by ELM and the research project as agreed.

Breach of any such prescripts as contained in the ELM Code of Good Conduct may result in immediate termination of the research access approval and ELM will reserve its rights to take any concomitant legal mitigating action where necessary.

ELM accordingly wishes Mr. Melane success in his research endeavour.


Asst. HR Manager: S Roets


Date

PARTICIPANT INFORMATION SHEET

Ethics clearance reference number:

Research permission reference number:

14 January 2022

Title: AN EXPLORATION OF THE IMPACT OF CORRUPTION ON SERVICE DELIVERY IN THE EMFULENI MUNICIPALITY, GAUTENG.

Dear Prospective Participant

My name is Zakhele Melane and I am doing research with Dr. B.K Lekubu, a senior lecturer in the Department of Criminal Justice towards a Master's degree in Forensic Science and Technology at the University of South Africa. We are inviting you to participate in a study entitled **AN EXPLORATION OF THE IMPACT OF CORRUPTION ON SERVICE DELIVERY IN THE EMFULENI MUNICIPALITY, GAUTENG.**

THE PURPOSE OF THE STUDY

The purpose of this study is to investigate the impact of corruption in Emfuleni Local Municipality. The specific intention is to evaluate the strengths and weaknesses of the current procedures used to investigate corruption cases in the municipality.

REASON FOR INVITATION TO PARTICIPATE

I have chosen you as Ward Councilors to participated in this research and was referred to by the ward committee and community who gave me your physical address and contact details. I have chosen you because you have a clear picture of challenges of service delivery in your ward. I have chosen Nine Ward councilors under Emfuleni Local Municipality to participate in this research.



THE NATURE OF MY PARTICIPATION IN THIS STUDY

Describe the participant's actual role in the study.

The study involves semi structured interviews and are as follows:

Section 1: Personal information

1. Would you please indicate your age group: 20-30, 40-50 and 60-70
2. What is your present occupation?
3. What qualifications do you have?

Section 2: Responsible resident

1. Are you resident to Emfuleni Local Municipality?
2. Do you pay for Emfuleni Local Municipality tax and rates?
3. Is your house/land registered with the Emfuleni Local Municipality?
4. For how long have been a resident of Emfuleni Local Municipality?

Section 3: Municipality services

1. Do you receive services you're paying for from the municipality?
2. If not, have you raised your service dissatisfaction with the municipality?
3. Do you have access to the ward counsellor?

Section 4: Impact on poor services

1. What is the impact of poor services in your area?
2. What makes the municipality failer to address your concerns?
3. Are you proud of your municipality?

Section 5: Reporting

1. Did you report poor services to cogta?
2. Do you have any knowledge of corruption committed by the employees of the municipality, if yes, did you report it to the South African Police Services?

The interview will only last for 30minutes...

WITHDRAWAL FROM THIS STUDY EVEN AFTER HAVING AGREED TO PARTICIPATE

The participation in this study is voluntary and that there is no penalty or loss of benefit for non-participation.

Participating in this study is voluntary and you are under no obligation to consent to participation. If you do decide to take part, you will be given this information sheet to keep and be asked to sign a written consent form. You are free to withdraw at any time and without giving a reason. Please think carefully before agreeing to participate in this research because it will not be possible to withdraw once the interview is completed.



THE POTENTIAL BENEFITS OF TAKING PART IN THIS STUDY

Emfuleni Local Municipality and its residence may benefit by considering and implementing the research results.

- After the formation of the new Forensic investigation unit by the municipality, the unit will benefit from this study as it can be used as a toolkit for additional knowledge and appreciation on how to execute their powers and functions towards fighting corruption.
- To analyse the impact of corruption in Emfuleni Local Municipality.
- To analyse the current situation on service delivery in Emfuleni Local Municipality.
- The plan to increase the number of forensic investigators in the Emfuleni Local Municipality.
- To analyse if corruption in the municipalities is the course of service delivery protests.
- To determine method of investigation of corruption in Emfuleni Local Municipality.
- To provide possible solution on the Impact of corruption in service delivery.
- To come up with a long-term corruption investigation system.

NEGATIVE CONSEQUENCES FOR ME IF I PARTICIPATE IN THE RESEARCH PROJECT?

There are no foreseeable risks of harm or side effects identified except that all participants and the researcher should adhere to covid-19 regulations (wearing of mask, keep social distance and sanitize during interviews).

THE CONFIDENTIALITY OF THE INFORMATION CONVEYED TO THE RESEARCHER AND IDENTITY.

You have the right to insist that your name will not be recorded anywhere and that no one, apart from the researcher and identified members of the research team, will know about your involvement in this research OR your name will not be recorded anywhere and no one will be able to connect you to the answers you give. Your answers will be given a code number or a pseudonym and you will be referred to in this way in the data, any publications, or other research reporting methods such as conference proceedings.



The only person who will have access to the data provided by the participants is the researcher only. The data will be stored in safe that is located in the researcher's office and the researcher is only person who has access to the safe keys.

The participants answers may be reviewed by people responsible for making sure that research is done properly, including the transcriber, external coder, and members of the Research Ethics Review Committee. Otherwise, records that identify you will be available only to people working on the study, unless you give permission for other people to see the records.

Please be aware that the anonymous data may be used as a research report, journal articles and/or conference proceedings.

A report of the study may be submitted for publication, but individual participants will not be identifiable in such a report.

While every effort will be made by the researcher to ensure that you will not be connected to the information that you share during the focus group, I cannot guarantee that other participants in the focus group will treat information confidentially. I shall, however, encourage all participants to do so. For this reason, I advise you not to disclose personally sensitive information in the focus group.

THE RESEARCHER(S) PROTECT THE SECURITY OF DATA

Hard copies of your answers will be stored by the researcher for a period of five years in a locked safe in my office that is situated at Rand Water Head office, for future research or academic purposes; electronic information will be stored on a password protected computer. Future use of the stored data will be subject to further Research Ethics Review and approval if applicable. After a period of five years' hard copies will be shredded and/or electronic copies will be permanently deleted from the hard drive of the computer through the use of a relevant software programme.

RECEIVING PAYMENT OR ANY INCENTIVES FOR PARTICIPATING IN THIS STUDY

There will be no payment or any incentive for participants. I don't foresee any costs incurred by the participants but if it happens it will be attended by the researcher as soon as possible.

THE ETHICAL APPROVAL



This study has not yet received any written approval from the Ethics Committee.

INFORMING PARTICIPANTS OF THE FINDINGS/RESULTS OF THE RESEARCH?

If you would like to be informed of the final research findings, please contact myself (Zakhele Melane on 084 609 5696 or email: melanet@webmail.co.za). The findings are accessible from January 2023.

Should you require any further information or want to contact the researcher about any aspect of this study, please don't hesitate to the researcher on the above mentioned cell numbers or email.

Should you have concerns about the way in which the research has been conducted, you may contact my Supervisor Dr. B.K Lekubu on contact details: 012 433 9409, email: lekubbk@unisa.ac.za.

Thank you for taking time to read this information sheet and for participating in this study.

Thank you.

Signature: **Z.MELANE**

Name and Surname: Zakhele Melane



CONSENT TO PARTICIPATE IN THIS STUDY

I, _____ (participant name), confirm that the person asking my consent to take part in this research has told me about the nature, procedure, potential benefits and anticipated inconvenience of participation.

I have read (or had explained to me) and understood the study as explained in the information sheet.

I have had sufficient opportunity to ask questions and am prepared to participate in the study.

I understand that my participation is voluntary and that I am free to withdraw at any time without penalty (if applicable).

I am aware that the findings of this study will be processed into a research report, journal publications and/or conference proceedings, but that my participation will be kept confidential unless otherwise specified.

I agree to the recording of the interview.

I have received a signed copy of the informed consent agreement.

Participant Name & Surname..... (please print)

Participant Signature.....Date.....

Researcher's Name & Surname... (please print)

Researcher's signature.....Date.....



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Certificate

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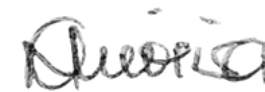
Zakhele T. Melane

**"AN EXPLORATION OF THE IMPACT OF CORRUPTION ON SERVICE DELIVERY IN THE EMFULENI
LOCAL MUNICIPALITY, GAUTENG"**

It is certified that the above-mentioned report is edited by professional editors at Saight Scholarly Publishing for accuracy in language, grammar, style and punctuation use. The report is also edited for accuracy in technical formatting. The certificate attests the fact that the editor did not alter the idea and aim of the researcher.



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CHAPTER ONE

INTRODUCTION

1.1 Introduction

According to Welman (2021:13), the Emfuleni Municipality through being guilty of corruption is committing a crime against humanity. As severe as it sounds, when one lives in the Vaal Triangle, this is precisely what the African National Congress-run local municipality in Gauteng implemented upon its ratepayers. It has been widely reported in the news media and on television that mismanagement and corruption are to blame for the deplorable situation in which residents find themselves. The problem is that the council has been in semi-administration for two years, during which time no changes have been made. In actuality, the situation has worsened.

The Emfuleni Municipality inability to stick to good governance practices results in increasing accountability demand from its stakeholders. Consequently, strikes and mass action are organised in the form of protests as residents start to lose faith in their elected municipality officials. In all this, political instability increases, investments decline, share sales by investors decreases the value and the companies' ratings decline. Some have claimed that in order to overcome the legacy of colonialism and the apartheid-exacerbated risk of corruption, municipalities have a legitimate obligation to refocus resources and distribute services and resources to everyone equally.

Corruption has impacted the service delivery in South Africa to an extent that the citizens decided to take to the streets and strike due to the lack of service delivery. While the citizen takes to the streets, properties are damaged, shops are looted, and buildings are