

# **CHAPTER 12**

## **PRISON OMBUDSMAN**

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## CHAPTER 12

### PRISON OMBUDSMAN

#### 1. INTRODUCTION

Corruption is a major challenge for the Department. However, it is not a challenge limited to the Department since it is a problem affecting South Africa as a whole, including the private sector and government more broadly. Corruption is also an international problem. It has been stated that corruption may even be one of the main reasons Africa is so deeply in debt and poverty.<sup>1</sup>

The Commission is of the view that corruption poses a major threat to the very fabric of a democratic state and should therefore be combated to save our young democracy. The Government's legal framework, in the fight against corruption in the civil service includes, amongst others:

1. The establishing of the Office of the Auditor-General in terms of chapter 9 of the Constitution of the Republic of South Africa;
2. The setting up of the Office of the Public Protector in terms of chapter 9 of the Constitution of the Republic of South Africa;
3. The creation of the Office of the Inspecting Judge in terms of the Correctional Services Act;<sup>2</sup>

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<sup>1</sup> Comments of Adama Dieng, a governance expert for the African Union as reported in the *Business Day* of 14 October 2004 "Corruption Sucking Africa Dry says AU".

<sup>2</sup> Parliament subsequently took away the Office of the Inspecting Judge's responsibility to fight corruption following an amendment which was proposed by the Office of the Inspecting Judge.

4. The setting up of the Special Operations Division of the National Prosecuting Authority (Scorpions) (National Prosecuting Authority Amendment Act 61 of 2000);
5. The formation of the Special Investigation Unit;
6. The Prevention of Organised Crime Act No. 121 of 1998;
7. The enactment of the Public Finance Management Act No. 1 of 1999, as amended (“the PMFA”);
8. The Prevention and Combating of Corrupt Activities Act No. 12 of 2004;
9. Preferential Procurement Policy Framework Act No. 5 of 2000;
10. State Tender Board Act No. 86 of 1986;
11. State Tender Board, General Conditions and Procedures (ST36);
12. User Manual Directives to the Department in respect of procurement (ST 37);
13. Provisioning Administration Systems Manual (PASM);
14. The Department of Public Service and Administration’s Anti-corruption policy.

All of the above institutions, statutes, regulations and policies are meant, amongst other things, to ensure that the Public Administration is corruption free. It is these endeavours that the Government has entered into that makes its efforts noticeable when it comes to the fight against corruption.

In its daily dealings, the Department must be conscious of the provisions of the abovementioned statutes and also be alive to the powers of the various organisations that fight corruption and act in compliance therewith.

The specific challenge to the Department, however, is that unless corruption is addressed urgently, it has the potential of discrediting whatever transformation initiatives the Department might have planned.

The main thrust of the Department’s anti-corruption strategy should be to encourage the disclosure by employees and prisoners of whatever

transgressions members, prisoners and visitors to the various institutions might have committed. In this regard, it might be appropriate to take into consideration the provisions of the Protected Disclosure Act No. 26 of 2000. Section 3 of the said Act stipulates that no employee may be subjected to any occupational detriment by his or her employer on account or partly on account of having made a protected disclosure.

Section 1 of the said Act then goes on to define what a protected disclosure is.<sup>3</sup>

While the abovementioned provisions only apply in respect of employees, the Department should seriously consider extending in their regulations (B-Orders), some of the relevant provisions of the Protected Disclosure Act to “expressly apply” to prisoners who are incarcerated in the various institutions belonging to the Department.

## **2. DEPARTMENT’S ANTI-CORRUPTION UNIT**

The Department embarked on an anti-corruption strategy in October 1997, which involved the setting up its own anti-corruption unit. The Commission, however, obtained information that even though there was an anti-corruption unit, it was

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<sup>3</sup> In Section 1 of the same Act a disclosure is defined as:  
*“disclosure” means any disclosure of information regarding any conduct of an employer, or an employee of that employer, made by any employee who has reason to believe that the information concerned shows or tends to show one or more of the following:*

- (a) That a criminal offence has been committed, is being committed or is likely to be committed;*
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;*
- (c) That a miscarriage of justice has occurred, is occurring or is likely to occur;*
- (d) That the health or safety of an individual has been, is being or is likely to be endangered;*
- (e) That the environment has been, is being or is likely to be damaged;*
- (f) Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000); or*
- (g) That any matter referred to in paragraphs (a) to (f) has been, is being or is likely to be deliberately concealed.”*

not receiving the support it was supposed to have received either financially or in terms of human resources. At some stage, the anti-corruption unit had a staff of less than ten (10) people who were expected to investigate corruption in the whole Department, including two hundred and forty three (243) Management Areas, which are spread all over South Africa. Adding to their difficulties was the fact that the members of the anti-corruption unit were junior members of staff and they did not command the respect one would expect such a unit to command if the Department was serious about an anti-corruption drive. One example of this was the way in which staff members treated the investigators into the Marimuthu release at the Durban/Westville Management Area, where investigators were threatened and not given co-operation.<sup>4</sup>

The Department has embarked on a drive to set up a new Anti-Corruption Strategy Plan with a view of fighting corruption internally, which has meant a new recruitment drive and the appointment of people from the outside to deal with corruption. This plan was implemented in August 2003. The said strategy has a three-pronged approach, namely Investigations, Prevention and Social Responsibility. The Department has also restructured the sub-branch of Legal and Special Operations. There is a unit in this branch called "Departmental Investigation Unit", which a Director heads. The Departmental Investigation Unit has three sub-units, namely Co-ordinator Investigation Unit, Analytical and Prevention Desk and an Integrity Unit. The Investigations sub-unit is supposed to have a staff of twelve (12) investigators at the level of Assistant Directors and two administration support staff. This, then, is the sub-unit that the Department has set up to investigate corruption internally. The Department's work in this regard is applauded.

However, corruption is a mammoth task and it cannot be left to the Department alone to deal with it. The Department has always had an anti-corruption unit and yet this has not been effective in dealing with the problems. It is the

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<sup>4</sup> See Chapter dealing with Conversion of Sentences for more details.

Commission's view that twelve (12) people will never be able to investigate corruption in the entire Department. Previously the anti-corruption unit of the Department had approximately ten (10) people and it never succeeded in fighting corruption within the Department. As a result, this led to a number of outside agencies being appointed to deal with the issue of corruption.

The Department's anti-corruption strategy cannot be considered in isolation from the Department's capacity and the role that could be played by an independent agency. The Department can retain the Prevention and Social Responsibility components of their three-pronged approach. However, the investigation branch should be given to an outside agency.

Although the Department's anti-corruption strategy is to be commended, it is nevertheless clear that corruption is best dealt with by an agency that is seen to be independent and has no links to the institution being investigated. The absence of this independence raises questions about the impartiality and the independence of the people who are supposed to investigate the corruption, which compromises the investigation and can influence those who are employees of the particular institution. This does not mean that the Department should not have an anti-corruption unit, but the Commission is of the opinion that there should also be an outside agency to look into the issue of corruption.

The Department, as is apparent from this report, lacks the capacity to fight corruption and maladministration. This is based on the history of the Department in the fight against corruption so far, coupled with the corruption discovered by this Commission. For the Department to be able to fight corruption, it must have not only the capacity to do so but also members of staff who are "willing and able" to fight corruption. For members of staff to show their willingness and ability to do so, they must be well trained to fight corruption. Furthermore, they must be willing to be impartial and independent in performing their functions and they must not be influenced by fear, sectionalism or intimidation.

In this report, it is clear that the Department does have problems with capacity when it comes to members who are willing and able to fight corruption. The Department also concedes that there is a lot of intimidation within it, which renders whatever programmes it might have regarding investigations ineffective. Even issues of relative simplicity such as disciplinary inquiries have been ineffectively dealt with. In actual fact, they are an embarrassment to the Department<sup>5</sup> and the entire management of the Department since no Department can be managed properly without an effective disciplinary system.

The Department's lack of capacity to fight corruption is also apparent in the manner in which it has handled some of the Interim Reports, which have been forwarded to it by this Commission. There was clearly an element of negligence and failure to appreciate the urgency with which some of these issues should have been attended to. The employees who are guilty of misconduct, as long as the provision of time frames in the Disciplinary Code are in place, will always raise the question of adherence to them, that is, the fact that disciplinary inquiries are instituted way beyond the three (3) month period without any just cause.<sup>6</sup>

Whilst dealing with the anti-corruption agency, it is appropriate to bring to the attention of the Department the comments set out in the Chapter dealing with disciplinary inquiries because of their relevance to this question.<sup>7</sup> An effective disciplinary inquiry is crucial in the fight against corruption. Discipline is the first step towards accountability on the part of staff.

However, even if the Department had the expertise and capacity to manage internal investigations into corruption, an independent agency can also act as a watchdog, monitoring the employees of the Department, including the members

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<sup>5</sup> The Commissioner in his address in Parliament to the Portfolio Committee on 14 April 2003, acknowledged this problem.

<sup>6</sup> See Departmental Disciplinary Code, Clause 7.4, as per *Government Gazette* No 8 023 dated 30 July 2004.

<sup>7</sup> There is a need for the disciplinary inquiries to be handled professionally and by independent people who have been properly trained on how to handle them.

of the Department's anti-corruption unit. As the Roman maxim goes: "who guards the guards?" The need, therefore, for an outsider to guard the guards cannot be over-emphasised.

Other Government departments have internal anti-corruption units. But even in these situations, it is found that there are outside agencies involved in overseeing the work of the Department. In the case of the Department, the drafters of the Act originally regarded the Office of the Inspecting Judge to be the appropriate body to oversee the Department. However, it no longer has this function since Parliament deemed it appropriate to amend the Act.<sup>8</sup>

The Commission has also considered the possibility of a recommendation to extend the powers of the Independent Complaints Directorate (ICD) to include the investigation of corruption and maladministration in the Department of Correctional Services. The Commission, however, is not convinced that this would be practically possible in the light of the problems and responsibilities the Independent Complaints Directorate currently faces, coupled with the fact that the institution it is investigating currently falls under a completely different department, that of Safety and Security.

Furthermore, the closure of the South African Police Services Anti-Corruption Unit also had the effect of increasing the ICD's workload. In the circumstances, it would not be practically feasible to entrust the ICD with the responsibility of investigating corruption and maladministration in the Department of Correctional Services.

However, the fight against corruption cannot, for reasons discussed above, be left to the Department. In this regard, it is the Commission's considered view that the fight against corruption and maladministration will have to be taken away from the Department and placed under the jurisdiction of an independent office,

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<sup>8</sup> For more details on this, see the chapter dealing with the Office of the Inspecting Judge.

which will be committed to fight corruption and maladministration within the Department. The Commission therefore only in part agrees with the proposals contained in the United Nations Report<sup>9</sup> focusing on corruption that there should be an autonomous anti-corruption structure. However, the Commission disagrees that this structure should be under the control of the Commissioner of the Department. In terms of section 3(1) of the Act, the Department “is under the control” of the Commissioner. He thus cannot investigate himself.

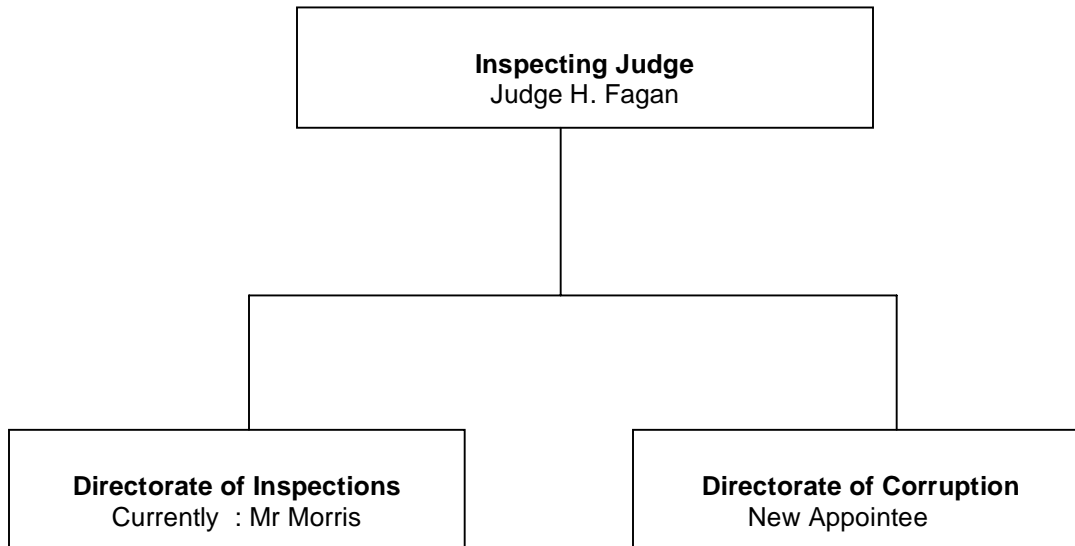
In the light of the above, it is the Commission’s view that an Office of the “Prisons Ombudsman” or an independent agency with any other name entrusted with a role to investigate corruption should be formed in addition to the Office of the Inspecting Judge. Effectively, a new agency should be formed and, to be effective, such agency should have offices all over the country and not be confined to only one city in order to ensure that there is adequate national access to its offices.

However, if costs are a constraint, then consideration should be given to opening up another directorate within the Office of the Inspecting Judge, with the responsibility of eliminating corruption. Somebody other than the Inspecting Judge could head “this directorate” and he or she could be referred to as an Ombudsman for Prisons who reports to the Inspecting Judge of Prisons. However, this route will mean the amendment of the Act and re-introducing the investigation of corruption as part of the objects of the Inspecting Judge.

The structure could be as follows:

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<sup>9</sup> See United Nations Final Consolidated Report (Focused Assessment of Anti-Corruption capacity within Department of Correctional Services), November 2003 at page 25.



### 3. OFFICE OF THE INSPECTING JUDGE

In the Chapter dealing with the Office of the Inspecting Judge, the Commission expressed its reservations about the fact that corruption was removed from the duties of the Office of the Inspecting Judge. It is still the Commission's view that the issue of corruption cannot be easily divorced from the treatment of prisoners.<sup>10</sup>

In the light of the above, if Parliament decides it is not prepared to amend the Act and empower the Office of the Inspecting Judge to investigate corruption once again, the said Office should at least ensure that it receives and takes complaints on corruption, which can then be passed on to the independent agency, which will be formed in terms of the recommendations contained in this Chapter.

The justification for the Office of the Inspecting Judge receiving complaints is based on the fact that the Office of the Inspecting Judge has a big presence on

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<sup>10</sup> See Chapters on Treatment of Prisoners and Sexual Abuse in Prisons that reflect that corruption directly impacts on the treatment of prisoners.

the ground in the form of the Independent Prison Visitors who are located in the various prisons. According to the 2004/2005 Annual Report, the Office of the Inspecting Judge has 221 IPVs.

This will also ensure that the fight against corruption is conducted on all fronts. Accordingly, the Commission's recommendations are motivated by the need for the two (2) offices to complement each other in the fight against corruption.

#### **4. CORRUPTION HOTLINE**

The Commission's view is that there might be a need to open a toll-free line to enable the prisoners to report corruption within the Department.

The opening of a toll-free line by the Commission during its investigations has been very successful in that it has been able to receive complaints from all over the country regarding corruption within the Department.

The Commission received a number of complaints on the toll-free line from prisoners incarcerated in the nine (9) Management Areas it investigated and members of the public. Calls were also made from other Management Areas.

The telephone leads from the nine (9) Management Areas, which were all followed up, amounted to approximately 3 799. The leads were made up as follows:

Durban/Westville Management Area	:	804
Pollsmoor Management Area	:	342
Grootvlei Management Area	:	245
Ncome Management Area	:	318
St Albans Management Area	:	315
Pietermaritzburg Management Area	:	528

Johannesburg Management Area	:	639
Pretoria Management Area	:	608
		_____
<b>Total</b>		<b>3 799</b>
		_____

The leads from the Management Areas that were not investigated were approximately 2 160.<sup>11</sup>

The toll-free line cost the Commission approximately R45 193,40 over a period of twenty seven (27) months commencing from December 2002 to February 2005. This is an average of R1 673,29 per month.

The Commission is of the view that this money was well spent and a corruption toll-free line should not be regarded as unnecessary or ignored in the fight against corruption. Corruption carries its own costs. Once it is endemic, it has the tendency not only to corrupt officials but also depletes the very revenue one is trying to save and results in the resources of the Department being abused or stolen. This leads to financial and other wastage. An appropriate anti-corruption strategy has the potential to save the Department a lot of money.

## 5. WITNESS PROTECTION

prisoners are a vulnerable group. On the one hand, they are the very group that is involved in corruption with warders. On the other, they are in a position to blow the whistle on corruption in prisons.<sup>12</sup> However, because of their circumstances,

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<sup>11</sup> For more details, see Chapter 1 (Appendix B) of this report.

<sup>12</sup> See the Fifth Interim Report dealing with corruption at the Grootvlei Prison, which would never have surfaced before the Commission had it not been for the prisoners being willing to blow the whistle.

it is necessary to protect those who are prepared to blow the whistle on corrupt officials. Without a well thought-out plan on how to protect them, it might be difficult to obtain the co-operation of prisoners. Similarly, the members of the Department who are prepared to co-operate need to be protected because of the extent of intimidation within the Department.

The Setlai incident, which is referred to in this report,<sup>13</sup> did not help much to instill confidence with the South African public as to the Department's commitment to protect whistle blowers as anticipated in the Protected Disclosures Act No. 26 of 2000.<sup>14</sup>

## 6. SMUGGLING OF CONTRABAND

The Department has a number of rules and regulations to prevent members and visitors smuggling contraband to the various Management Areas. The strategies set out in these rules and regulations take the form of, amongst other things, searching of people and establishing general rules as to how members and prisoners should behave during visitations.

Notwithstanding these rules and regulations, the smuggling of contraband into the prison continues unabated. It is one of the activities that keeps prisoners' imaginative minds active, in that they are constantly plotting new ways to smuggle contraband into the prison for their use and for purposes of economic

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<sup>13</sup> See the Chapter dealing with the Implementation of Interim Reports (Fifth Interim Report).

<sup>14</sup> See "Call for more support for whistle-blowers" – *Business Day*, Thursday 20 October 2005, as follows:  
*"A number of people who exposed corruption in the workplace have found themselves at risk of losing their jobs, facing charges of insubordination or being isolated. These include former Grootvlei prison head Tatolo Setlai, who exposed corruption at the prison by allowing prisoners to film warders engaging in illicit activities. After the exposure, Setlai was charged with unrelated offences by prison authorities and spent two years on suspension."*

activity. The evidence before the Commission is that, besides sex, contraband is one of the biggest trading commodities that is widely used within the prison environment.

The Department's rules and regulations are sufficient for purposes of effectively dealing with the smuggling of contraband into the prisons. However, a committed and dedicated work force, as well as compliant and obedient prisoners, are necessary for such rules and regulations to be effective. The main problem for the Department is the failure of the members to comply with and enforce the various rules and regulations and thus to allow contraband to enter the prisons either intentionally or through gross negligence.

Evidence in abundance has been brought before the Commission showing that most of the smuggling of contraband into the prison is not by members of the public, but in fact by members of Correctional Services, whether the contraband is firearms, drugs or alcohol. It is recommended that the failure to conduct searches should be added to the list of transgressions by members of the Department under Column A of the Departmental Disciplinary Code.

Only transgressions set out under Column A of the Disciplinary Code are dismissible transgressions.

In dealing with this problem, the Commission is of the view that it is important for the Department to consider a number of proposals to counter the scourge of contraband smuggling. The proposals, which will be dealt with below, call for commitment by the Department in their implementation for the fight against corruption to succeed. The proposals will be divided into long and short-term recommendations. Accordingly, they will have to be implemented as such.

## **7. SECURITY FUNCTIONS**

The Department has regulations dealing with the searching of staff, visitors and prisoners. However, notwithstanding these rules and regulations, contraband still enters the prisons.

The problem is the lack of commitment of those members who are supposed to be searching people entering the prison. It has been the Commission's experience that searching is done only to a very limited extent and on an ad hoc basis as and when members feel like searching. In some Management Areas, visitors and their vehicles are sometimes not searched at all. The Commission is of the view that an alternative solution, which will not only deal with the problem of searches and seizures in respect of prisoners, but also deal with the problem of searching of staff and visitors, might have to be considered.

The Department spends a significant amount of time training staff members in how to deal with the rehabilitation of prisoners, safe custody of prisoners, handling of firearms and the various rules and regulations etc. These members are also trained in the more basic functions of looking after prisoners, carrying out security duties or guarding the gates at the various prisons and searching whoever is entering and leaving the prisons. In the Commission's view, this is a waste of resources in that these more basic functions could be done by people who have been trained only to safeguard premises and search people entering and exiting the prisons. This could also be done at a far cheaper rate than the normal rate paid to the average correctional services official and the time spent on training such people would be far less than that spent on correctional officials.

This might even involve considering outsourcing the function of guarding the prisons and searching the employees, prisoners and visitors who are entering the prison premises. The South African Police Services have embarked upon a

similar programme where the guarding of some police stations is left to an outside security company, and thus allows the policemen and women to perform the duties for which they have been trained. Prisons, by their very nature, are high security risk areas. Given this, the appointment of an outside security firm to guard the prisons may create a number of strategic and other problems. The route the South African Police followed in dealing with the guarding of police stations may not therefore be appropriate for the prisons. However, it does not mean that the Department should not consider setting up a totally different unit, which will be similar to the Emergency Support Team.<sup>15</sup> The said Unit could have totally different training, which will be to only deal with the guarding and securing of the prisons.

This is the best solution for the Department because the problem of ensuring that contraband does not enter the prison will be the responsibility of an outside agency and the security unit. The Department officials can then be freed up to concentrate on the Department's core business, namely, the rehabilitation and safe custody of prisoners.

Furthermore, the evidence before the Commission also pointed to the fact that the layout of the various prisons contributes to the smuggling of contraband into them. The main problem with the layouts in some prisons is that the visitation areas are not conducive to thorough searching of visitors who come into the prison, and particularly not able to deal well with the requirements of searching both men and women visitors.

It has also become apparent to the Commission that, where smuggling, between a prisoner and members of the public is occurring, is at the visitation area. The further away this area is from the prisoner's cell, the more difficult smuggling is because the prisoner has to carry the smuggled goods over a greater distance. In

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<sup>15</sup> The Unit commonly referred to as "the EST" within the Department is in charge of security but it only gets involved under certain limited conditions. It also consists of ordinary warders.

doing so, even if the prisoner is in the company of a warder who is an accomplice, somebody else is more likely to become aware of the smuggling and deal with it accordingly. Similarly, members of the public might encounter the same difficulties if the searching area is a distance away. It might even call for two (2) or more searching areas; for example, at the gate, at the visitation room and thereafter the prisoner is searched before going back to his or her section. This could be a standard rule and should be strictly enforced in all prisons. This system will ensure that there are effective checks and balances.

## **8. ELECTRONIC BRACELETS**

Consideration should be given in this age of electronics to fit all prisoners, sentenced and awaiting trial, with waterproof electronic tracking bracelets. This device, worn on either the wrist or ankle, cannot be removed by anyone other than a prison official, which would only be done once the prisoner is released. Electronic monitors in and around the various prisons would track the movements of prisoners on a computer. Such a device would be invaluable in tracking any prisoner who managed to outwit the system and escape. Similarly, those prisoners who do not respond to their names when called for court appearances could be traced and hence, even the counting of prisoners would be made easier.

This could be done for the big Management Areas that have high escape problems, such as Durban/Westville, Pollsmoor, Johannesburg, St Albans and Pretoria.

Members could also be fitted with the same type of device when they enter and leave the prison on a daily basis, which should assist in reducing warder involvement in escapes.<sup>16</sup>

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<sup>16</sup> See Chapter dealing with Prison Security for more details.

## **9. PHOTOGRAPHS**

No photographs are currently taken of prisoners, sentenced or awaiting trial, on entering prison. Only fingerprints are taken. It is essential that a “mug shots” system be implemented immediately so that all prisoners can be positively identified.<sup>17</sup>

## **10. CONCLUDING REMARKS**

It is the Commission’s recommendation that a new independent agency similar to the Independent Complaints Directorate of the South African Police Service be set up to look into corruption, maladministration and the general conduct of the members of the Department. This agency will also ensure that the Anti-Corruption proposals set out in this report and which the Department should adopt is enforced.

The Commission accepts that the fight against corruption cannot be confined to any one agency or organisation but it is the duty of every manager and every employee to fight corruption. Although the recommendation is to establish an independent agency, this does not mean that the managers and the people within the Department have no obligation to fight corruption. On the contrary, they are crucial to the successful fight against corruption.

It is for this reason that the Commission feels that the setting up of the unit within the Department with a staff of twelve (12) will usefully complement the setting up of an independent, outside agency to look into corruption. The internal Department can feed the outside agency and vice-versa.

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<sup>17</sup> Also refer to Chapter on Prison Security for more details.

If we, as South Africans, want to uphold the hard-won rights protected in our Constitution, then we should be at the forefront of combating corruption and applaud those who fight for clean governance. Ultimately, good, clean governance is in the interest of all.

## **11. RECOMMENDATIONS**

### **11.1 Anti-Corruption Agency**

- a) An independent agency (Prison Ombudsman) similar to the Independent Complaints Directorate of the South African Police Service should be established.
- b) The agency should be mandated to investigate corruption, maladministration and dishonest practices within the Department.
- c) The agency should have a presence in the whole country, that is, offices should be opened in every province to deal with the issue of corruption, maladministration and dishonest practices.

### **11.2 Toll-free Number**

- a) A toll-free number should be opened for purposes of reporting corruption.
- b) The existence of the toll-free number should be conveyed to all prisoners upon their arrival at each institution.
- c) Notices must be put up in the various institutions about the existence of the toll-free number.

- d) The toll-free number should be published nationally for the benefit of the members of the public at large.

### **11.3 Witness Protection**

- a) The Department and/or the agency should set up an appropriate witness protection programme for their witnesses, especially prisoners, and can use the Witness Protection Act to support the protection of ordinary witnesses. This agency might have to develop a policy that will specifically deal with prisoners and how they are going to be incarcerated in the various prisons if they are under witness protection.
- b) A witness protection policy should be developed. Such policy should aim to ensure that the protected disclosure, which is given to employees in terms of the Protected Disclosure Act, should be extended to the prisoners who are incarcerated in the various prisons, insofar as it might be appropriate.

### **11.4 Inspecting Judge**

The reporting to and taking of corruption complaints by the Office of the Inspecting Judge should complement the work of the abovementioned agency.

### **11.5 Department of Public Service and Administration**

The Department should align itself with the recommendations of the Department of Public Service and Administration (DPSA) with regard to the anti-corruption strategy.

## **11.6 Security Functions**

### **11.6.1 Short-Term:**

- (a) The Department should seriously consider the restructuring of the security function at prisons so that a new unit should take full responsibility for guarding and searching members, visitors and all other officials who enter and exit the prisons. This will ensure that if contraband is found inside the prison, then the said security unit could be penalised in terms of penalty clauses incorporated into their contracts of employment for the failure to perform the functions accordingly.
- b) The employees of the aforesaid security unit to be appointed would have to be properly vetted by the necessary authorities to ensure that the unit does have integrity and has complied with the various statutory provisions in terms of which prisons are run.
- c) The separate security unit should only be in charge of searching and guarding the prison premises. The unit should be distinguishable from the correctional services members, who are in charge of safe custody of the prisoners. In this regard, the unit should be distinguishable in terms of uniform, ranks, salary structure and the nature of training, which would be given to them specifically for this task.
- d) The searching of warders, visitors and prisoners should not be limited to searching when warders are entering the prison in the morning or leaving in the afternoon. The searching of prisoners and warders should, in addition to the searching when they enter the prison, also be carried out at random when they are on duty. The searching should be done by

this newly formed security unit within the Department to carry out searches and seizures.

- e) For checks and balances, the searching of visitors should be done at three (3) different points. On visitation days, the prisoners, in addition to the random searches referred to above, should be searched before they return to their sections.
- f) The security unit that would be contracted to deal with the searching of the members, visitors and prisoners entering and exiting the prison should report to the agency, (Prison Ombudsman), which will be formed to fight corruption, which is set out in this report.
- g) The aforesaid Ombudsman should have full responsibility for ensuring that there is a corruption-free prison system in South Africa and thus should take responsibility for searching to ensure that no contraband enters the prison premises. Alternatively, depending on logistical issues, the aforesaid security unit could be the responsibility of the Area Manager of each Management Area until such time as the Office of the Ombudsman has been established.
- h) The Area Manager should ensure that each of the Prison Heads give the security unit unlimited access to the various prisons.
- i) When the security function has been outsourced, the monitoring and scanning equipment should become the responsibility of the security unit.

### 11.6.2 Long-Term:

- a) The issue of a prison layout, which is conducive to searching and to the fight against the smuggling of contraband into the prison, needs urgent attention and the Department should review all visitation areas in the various prisons to ensure that:
  - (i) The visitation areas are conducive to the searching of visitors, both males and females, whilst maintaining their dignity and privacy;
  - (ii) The monitoring or scanning machines are fully operational.
  
- b) The Department should give serious consideration to building a visitation area, which will be separate from the main prison, in all prisons the Department plans to build in the future;
  
- c) With the resources permitting it, consideration should be given by the Department to the renovation of some of the prisons to ensure that the visitation areas are separate from the main prison and are a distance away from the prison;
  
- d) If the Department, for whatever reason, does not restructure the security function as suggested in this Chapter, then it must seriously consider installing monitoring equipment, like video cameras in strategic positions in all prisons nationally.