



**BRIEFING THE PORTFOLIO COMMITTEE ON POLICE:
POLICY GUIDELINES FOR NATIONAL PRIORITY OFFENCES
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Introduction and Background

■ Introduction

- The purpose of this presentation is to brief the Portfolio Committee on Police about the Policy Guidelines for national priority offences.

■ Background

- In 2008 a process was embarked upon to establish the Directorate for Priority Crime Investigation (DPCI) to enhance the capacity of the South African Police Service (SAPS) to prevent, combat and investigate national priority offences. It also allowed for transfer of the powers, investigations and resources from the Directorate of Special Operations (DSO) to the SAPS.
- The South Africa Police Service Amendment Act, 2008 (Act No. 57 of 2008) and the National Prosecuting Authority Act, 2008 (Act No. 56 of 2008) which were assented to on the 27th of January 2009 and 30th of January 2009 respectively, gave legislative effect and content to the process *supra* by amending the South African Police Service Act, 1995 (Act No. 68 of 1995).

- In response to the SAPS Amendment Act the DPCI was established as a Directorate in the Service and comprises the Office of the National Head at National Level, Office of the Provincial Directorate at each Province and the Deputy National Head of the Directorate at National Level.



DPCI MANDATE

- The mandate of the DPCI is to prevent, combat and investigate national priority offences in particular Serious Organised Crime; Commercial Crime and Corruption, as provided for in section 17B of the South African Police Service Act, 1995 (hereinafter referred to as the “principal Act”).
- Section 17B of the principal Act provides that provides that, in application of Chapter 6A the following should be taken into account –(b) the need to ensure that the Directorate:
 - implements where appropriate, a multi-disciplinary approach and an integrated methodology involving the co-operation of all relevant Government Departments and institutions;
 - has the necessary independence to perform its functions;
 - is equipped with the appropriate human and financial resources to perform its functions;
 - is staffed through the transfer, appointment, or secondment of personnel whose integrity is beyond reproach.



Policy Guidelines

Section A: Selection of NPO by the National Head of the Directorate

- The National Head of the Directorate shall give due consideration to the offences and set criteria in order to ensure that serious organised crime, commercial crime and corruption are being attended to by the Directorate. The Directorate must focus on crimes of a considerable extent and scope, in other words “serious, complex or high level crimes”.
- In respect of the selection of national priority offences by the National Head of the Directorate, such selection should be informed by crime threat assessments.
- The National Head of the Directorate may conclude operational Protocol(s) with relevant Provincial and Divisional Commissioners in order to identify matters that will be addressed by the Directorate.
- The National Head of the Directorate may conclude Memoranda of Understanding with relevant government departments, law enforcement agencies and external stakeholders in order to identify matters that will be addressed by the Directorate.

- Any offence selected by the National Head of the Directorate must be a “national priority offence” as defined in section 17A of the Act, and the selection must be aligned with the strategic operational priorities of the Department of Police and the National Commissioner of the South African Police Service and must comply with at least one of the following criteria:
 - The offence is committed by a person, group of persons or syndicate acting in an organised fashion or a manner which could result in substantial financial gain for the person, group of persons or syndicate involved and must comply with the requirements set out in section 16(2A) of the Act;
 - The offence is committed or planned in more than one province or outside the borders of the Republic by the same perpetrators;
 - The offence has an impact on the revenue or expenditure of the national government;
 - The offence has an impact on the national economy or the integrity of currencies;

- An offence in respect of which the investigation in the Republic by the Service is requested by an international police agency or the police of a foreign country;
- An offence that involves mutual legal assistance and/or extradition proceedings or;
- An offence in respect of which the prevention or investigation requires the application of specialised skills and knowledge which are only available in the Directorate or can be sourced by the Directorate.

- **OFFENCES THAT MUST BE ADDRESSED BY THE DIRECTORATE**

- The investigation of the following national priority offences, irrespective of the extent, impact, nature or perpetrators thereof, is the exclusive responsibility of the Directorate:
 - High treason;
 - Sedition;
 - Any offence referred to in paragraph (a) of the definition of “specified offence” in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004);
 - Any offence referred to in Schedule 1 to the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002);
 - Any offence referred to in the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993); or
 - Any offence referred to in the Regulation of Foreign Military Assistance Act, 1998 (Act No. 15 of 1998), or
 - Prohibition of Mercenary Activities and the Regulation of Certain Activities in Country of Armed Conflict Act, 2006 (Act No. 27 of 2006).

- **SELECTION CRITERIA FOR OFFENCES THAT MAY BE ADDRESSED BY THE DIRECTORATE**
 - Any other national priority offence set out in the Schedule to the Act (section 16(2)(iA)) or which a Provincial Commissioner requests the National Head of the Directorate to prevent or investigate, may be addressed by the Directorate, depending on the following factors:
 - Monetary value [The amount / potential amount of money involved or associated with the criminal activity];
 - Complexity of the case [The skills required to solve the crime in terms of knowledge, skill sophistication, equipment etc.];
 - Extent of the case [The range and focus area of the criminal activity. Single province, more than one province or across national boundaries];

- Public interest [Relates to the way in which the public interest is jeopardized];
- Urgency [Importance to address the threat immediately or in the short term]; and
- Organised fashion [Includes the planned, ongoing, continuous or repeated participation, involvement or engagement in at least two incidents of criminal or unlawful conduct that has the same or similar intense, results, accomplices, victims or methods of commission, or otherwise is related by distinguishing characteristics.

- **NATIONAL PRIORITY OFFENCES NOT SELECTED BY THE NATIONAL HEAD OF THE DIRECTORATE**
 - Whereas the Act provides for a multi-disciplinary approach in achieving the objectives of the Directorate and whereas the National Head of the Directorate may select national priority offences, Protocol(s) between the National Head and relevant Provincial and Divisional Commissioners must be concluded, to ensure that offences not selected by the National Head are sufficiently addressed by a specific Province or Division of the South African Police Service, other than the Directorate.
 - Whereas the Act provides for a multi-disciplinary approach in achieving the objectives of the Directorate and whereas the National Head of the Directorate may select national priority offences, Memoranda of Understanding between the National Head and relevant government departments, law enforcement agencies and external stakeholders must be concluded, to ensure that offences not selected by the National Head are sufficiently addressed by those stakeholders, other than the Directorate.

- Offences which may need to be provided for in the Protocol(s) and Memoranda of Understanding include, but are not limited to:
 - offences which a Provincial Commissioner or other stakeholders request the National Head of the Directorate to prevent or investigate but to which the National Head does not accede to;
 - any offence referred to in Chapters 2, 3 and 4 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998);
 - any offence referred to in section 13(f) of the Drugs and Drug Trafficking Act, 1992 (Act No. 14 of 1992);
 - any offence relating to the dealing in or smuggling of ammunition, firearms, explosives or armament and the unlawful possession of such firearms, explosives or armament;
 - any offence contemplated in Chapter 2 and section 34 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004); and
 - any offence where the punishment may be life imprisonment.

- In respect of offences reported to the Directorate under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the National Head of the Directorate shall select cases which must be investigated by the Directorate, taking into account the offences mentioned and all other such reported matters shall be directed to the relevant Provincial, Divisional Commissioner: Detective Services or other relevant stakeholders for investigation.



Cont. Policy Guidelines

Section B: Referral of any offence or category of offences to the Directorate

- **REFERRAL OF ANY OFFENCE OR CATEGORY OF OFFENCES TO THE DIRECTORATE**
 - Any offence or category of offences, other than national priority offences, referred to the Directorate must comply with the following minimum criteria:
 - The prioritisation of the offence must be aligned with the declared strategic priorities of the Department of Police and the National Commissioner of the South African Police Service;
 - The referral to the Directorate must be in writing and must be accompanied, where possible, by an affidavit and supporting documents that contain *prima facie* evidence of the commission of a crime;
 - In respect of any offence referred to the Directorate, due consideration must be given in order to ensure that serious organised crime, commercial crime and corruption are being attended to by the Directorate.



Cont. Policy Guidelines

Section C: Operational approach

- The Directorate is required to operate at a strategic level which has a national and international scope. This requires a strategic response through the adoption of a threat based project driven, multi-disciplinary case planning and management investigative approach. Those individuals (threat generators) operate within an Organised Criminal Entity focusing on the higher levels (3-5) of the criminal value chain. This approach informs the deployment of dedicated multi-disciplinary capabilities focusing on the criminal business system with the following strategic outcomes:
 - Disruption;
 - Dismantling; and
 - Neutralisation of these organised criminal entities.

- The Directorate shall therefore adopt the following operational approach:
 - embrace an intelligence-led policing model;
 - apply a multi-disciplinary and integrated approach to prevent, combat and investigate national priority offences, which requires proper contracting with all relevant stakeholders;
 - request by the National Head for secondment of official(s) with specific capabilities from other departments or institutions to enhance the functioning of the Directorate;
 - target the criminal business system and value chain of organised crime by optimally utilising the operational support and following specialised investigation capabilities embedded in the Directorate:
 - Digital Forensic Laboratory
 - Financial and Asset Forfeiture Investigations
 - Integrity Management Unit
 - Priority Crime Management Centre
 - Tactical Operations Management Section

- disrupt, dismantle and neutralise threats through major case and project driven investigations;
- ensure specific focus in countering cyber-crime and serious corruption capabilities functioning across all levels of organised criminal groups;
- implement and optimise all legislative instruments to gather court-directed evidence in investigating national priority offences;
- ensure that all investigations and processes within the Directorate are dealt with by individuals whose integrity is beyond reproach;
- conduct an impact assessment to determine the Directorate's effectiveness in addressing national priority offences;

- conduct project driven investigations in accordance with the approved Divisional Instruction 1 of 2013 (DPCI Project Driven Investigation);
- fund all approved project driven/major investigations at national level;
- obtain authorisation for all undercover operations and police traps which the Directorate undertakes or participates in, in terms of section 252A of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). It is the responsibility of the investigating officer to ensure that section 252A authority is granted or the DPP is consulted prior to the operation taking place.

- **TRANSNATIONAL FOCUS: REGIONAL AND INTERNATIONAL COOPERATION**
 - The nature of national priority offences dealt with by the Directorate has a transnational dimension. The Directorate frequently encounters criminals that operate transnationally and it is imperative that the Directorate develops operational cooperation with foreign law enforcement agencies.
 - South Africa is a signatory and has ratified several regional and international conventions, protocols, and multi-lateral and bi-lateral agreements to perpetuate closer cooperation in addressing transnational crime.
 - Any request for evidence in criminal matters received from a foreign law enforcement agency or made by the Directorate must be in accordance with the International Cooperation in Criminal Matters Act, 1996 (Act No. 75 of 1996).

- Any requests for extradition and mutual legal assistance must be dealt with in conjunction with Interpol National Central Bureau Pretoria (Interpol) and the relevant Director of Public Prosecutions (DPP).
- Any requests received for controlled deliveries and operational cooperation between the Directorate and foreign law enforcement agencies must be addressed to the relevant Component Heads within the Directorate for further coordination.
- Component and Provincial Heads must maintain a capacity to coordinate requests for Mutual Legal Assistance (MLA) and operational cooperation.
- Any requests for operational cooperation to the SAPS liaison officers' network must be referred to Interpol.
- Any requests for cooperation within the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) member countries must be referred to Interpol for coordinating operational assistance.

- The Directorate’s members must be cautious not to be over zealous or act contrary to the accepted procedures.
- The Directorate must participate in regional and international forums to address national priority offences impacting South Africa.
- The arrest of foreign nationals must immediately be reported to Interpol, which shall notify the relevant embassies.
- When undertaking any official journeys abroad concerning training, workshops, conferences and investigation, Interpol and the Department of International Relations and Cooperation must be informed. Feedback must be provided after the journey has been undertaken, according to the prescribed directives.

- **IMPLEMENTATION**

These policy guidelines must be communicated and implemented within the Directorate.



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YEARS OF POLICING IN A DEMOCRACY

Thank you