
IN PURSUIT OF “ABSOLUTE INTEGRITY”

Identifying Causes for Police Corruption



**TRANSPARENCY
INTERNATIONAL
SRI LANKA**

The coalition against corruption

"Most experts have also agreed that, aside from the negative influence of outside factors, one of the most serious obstacles in the effort to solve police corruption is the nature of the police work itself, as well as what one of them called 'the blue wall of silence,' meaning secrecy, seclusion, reality and solidarity."

The Thin Blue Line, Czheslaw Walek

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Identifying Causes for Police Corruption in Sri Lanka

Research Study conducted by

TRANSPARENCY INTERNATIONAL SRI LANKA



**TRANSPARENCY
INTERNATIONAL
SRI LANKA**

The coalition against corruption

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***This book is dedicated to every single
police officer serving this country***

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Message from Transparency International Sri Lanka

A Public opinion poll conducted by Transparency International (2001-2002) reflected that the Police is perceived to be the most corrupt public institution in the region including Sri Lanka. Taking into account the fact that the Police Department itself, due to its workload and other restrictions has no time and facilities to keep a tab on the pulse of its work which has an impact upon the public, TISL has taken this challenge to venture into this area of study. The sole objective of this research exercise was to identify the possible causes for such perception, with a view to improving the system and set in place sustainable accountability mechanisms. This report can be identified as a tool which can be used for favourable changes to be brought in by the policy makers.

TISL specially thank Mr. Chandra Fernando, the Inspector General of Police for his support and encouragement given throughout the project without which the study would not have been a success. We further wish to thank the project steering committee comprising experts, who advised the research team throughout the project. We also thank Mr. Pradeep Peiris and his team at Social Indicator for concluding the Provider Survey and Public Attitude Survey successfully. We acknowledge with thanks the assistance given by the NORAD without which this project would not have been a reality.

Last but not the least we wish to thank Mr. Asela Dassanayake, the Project Director, Miss Gareesha Peiris, the Project Researcher and all those who helped us for the successful completion of the project.

Let us join hands to make a crime free, corruption free Sri Lanka!!!

J.C. Weliamuna
Executive Director
26 July 2006

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CONTENTS

FOREWORD	20
1 HISTORY OF THE POLICE IN SRI LANKA.....	24
1.1 EARLY HISTORY OF THE POLICE	24
1.1.1 Dutch Period	24
1.1.2 British Period	24
1.2 GROWTH AND REORGANIZATION OF THE POLICE.....	25
1.2.1 Pre-independence developments.....	25
1.2.2 Post independence developments.....	25
1.3 EARLY HISTORY OF CORRUPTION IN THE POLICE.....	26
2 POLICE CORRUPTION.....	28
2.1 WHAT IS POLICE CORRUPTION?.....	28
2.2 VULNERABLE AREAS OF POLICE CORRUPTION.....	29
3 INSTITUTIONAL STRUCTURE AND PROCEDURAL FRAMEWORK.....	31
3.1 HIERARCHY AND STRENGTH.....	31
3.2 FUNCTIONAL DIVISIONS.....	32
3.2.1 Criminal Investigations Department.....	32
3.2.2 Police Narcotics Bureau.....	32
3.2.3 Women and Children Bureau.....	33
3.2.4 The Police Human Rights Division.....	36
3.2.5 Crime Prevention and the Police Public Relations Bureau.....	36
3.2.6 The Police Special Task Force.....	37
3.2.7 The Home Guard.....	37
3.3 RECRUITMENT PROCEDURES.....	37
3.4 TRAINING.....	38
3.4.1 Training process.....	38

3.5	PROMOTIONS.....	40
3.5.1	Promotion scheme.....	40
3.5.2	Steps taken to avoid politically motivated promotions, corruption etc.....	42
3.6	TRANSFERS.....	43
3.6.1	Transfer Scheme.....	43
3.6.2	Provisions to avoid arbitrary transfers	45
3.7	WAGES, ALLOWANCES, OTHER BENEFITS AND REWARDS.....	47
3.7.1	Monthly Wages.....	47
3.7.2	Allowances.....	49
3.7.3	Other Benefits.....	50
3.7.4	Rewards System.....	50
3.8	DISCIPLINARY PROVISIONS.....	51
3.8.1	Police Oath of Honour.....	51
3.8.2	Conditions of Service.....	52
3.8.3	Disciplinary Code.....	53
3.8.4	Public Complaints against The Police.....	54
3.8.5	Punishments.....	55
3.8.6	Appeals.....	56
4	THE NATIONAL POLICE COMMISSION ESTABLISHED UNDER THE 17TH AMENDMENT TO THE CONSTITUTION	57
4.1	OBJECTIVES.....	57
4.2	COMPOSITION AND PROTECTION.....	57
4.3	POWERS OF THE NPC.....	57
4.4	APPEALS TO THE NPC AND ADMINISTRATIVE APPEALS TRIBUNAL.....	58
4.5	ANSWERABILITY TO PARLIAMENT.....	58
4.6	DELEGATION OF POWERS.....	59
4.7	ACHIEVEMENTS OF THE FIRST NPC.....	59
4.7.1	Cancellation of mass scale politically motivated transfers.....	59
4.7.2	Promotions.....	59
4.7.3	Mechanism to Address Public Complaints.....	59

4.8	DELEGATION OF POWERS OF THE NPC.....	60
4.8.1	Issues relating to delegation of authority and present status.....	60
4.8.2	Appointment of the IGP.....	61
4.8.3	Other limitations.....	61
4.8.3.1	<i>Limitations on Operational Activities</i>	61
4.8.3.2	<i>Power to summon</i>	61
4.9	STATUS OF THE NPC.....	62
4.10	PERCEPTION OF THE POLICE OFFICERS AND THE PUBLIC REGARDING THE NPC.....	62
5	POLICE FUNCTIONS AND POLICE CORRUPTION - THE STATUTORY FRAMEWORK.....	66
5.1	POLICE ORDINANCE NO. 16 OF 1865.....	66
5.2	THE SECOND REPUBLICAN CONSTITUTION OF 1978.....	67
5.3	THE BRIBERY ACT NO. 11 OF 1974.....	67
5.4	DECLARATION OF ASSETS AND LIABILITIES ACT NO. 1 OF 1975.....	68
5.5	INDEPENDENT COMMISSION TO INVESTIGATE ALLEGATIONS OF BRIBERY OR CORRUPTION (CIABOC) ACT NO.19 OF 1994.....	69
5.6	THE PENAL CODE NO. 2 OF 1883 (AS AMENDED).....	69
6	PERCEIVED DETERIORATION OF POLICE.....	70
6.1	CRIME PREVENTION.....	71
6.1.1	Maintenance of Law and Order.....	71
6.1.1.1	Lack of Independence of the Police.....	73
6.1.1.2	Lack of Resources.....	74
6.1.1.3	Lack of Support from the Public.....	74
6.1.2	Deterrence.....	75
6.2	BRINGING OFFENDERS TO JUSTICE.....	76

6.2.1	Investigations.....	76
6.2.2	Prosecution of Minor Offences.....	79
6.2.3	Reform of Related Institutions.....	80
6.3	TRAFFIC CONTROL.....	80
6.4	HUMAN RIGHTS ABUSES.....	82
6.4.1	Torture & Detention.....	83
6.4.2	Forced Disappearances.....	84
6.4.3	Malicious Prosecution.....	85
6.5	POLICE - COMMUNITY RELATIONS.....	85
7	SYSTEMIC DEFICIENCIES.....	87
7.1	RECRUITMENT.....	87
7.1.1	Constables.....	87
7.1.2	Sub Inspectors.....	87
7.1.3	Assistant Superintendent of Police.....	87
7.1.4	Deficiencies.....	88
7.2	ASSISTANCE GIVEN BY THE POLICE DEPARTMENT.....	88
7.2.1	Supervision.....	88
7.2.2	Discipline.....	89
7.2.3	Training.....	89
7.2.4	Resources.....	90
7.3	PROTECTION OF VIPs AND THE DRAIN ON RESOURCES.....	91
7.4	PROBLEMS IN OTHER DEPARTMENTS.....	91
7.4.1	Political Influence.....	91
7.4.2	The Judiciary and the Attorney General's Department.....	92
8	STEPS TAKEN TO COMBAT CORRUPTION.....	93
8.1	EXISTING SRI LANKAN ANTI-CORRUPTION STRATEGY.....	94
8.1.1	The National Police Commission.....	94
8.1.2	The Commission to Investigate Allegations of Bribery or Corruption (The Bribery Commission).....	96

8.1.3	The Special Investigations Unit.....	97
8.2	RECENT ADMINISTRATIVE EFFORTS MADE BY THE IGP.....	97
8.2.1	Control of Discretion.....	98
8.2.2	Breaking the Monopoly.....	98
8.2.2.1	<i>Monopoly of the Local Police over their areas.....</i>	98
8.2.2.2	<i>Monopoly over selection of tenders.....</i>	99
8.2.3	Creating a system of Accountability.....	99
8.3	THE SRI LANKAN ANTI-CORRUPTION STRATEGY IN THE GLOBAL CONTEXT.....	99
8.4	EFFECTIVENESS OF THE EXISTING MECHANISMS.....	100
9	ANTI CORRUPTION STRATEGIES IN SELECTED JURISDICTIONS	102
9.1	METHODS EMPLOYED IN COMBATING CORRUPTION.....	102
9.1.1	The United States of America (The New York Police Department).....	102
9.1.1.1	<i>Corruption and Accountability.....</i>	103
9.1.1.2	<i>Internal Affairs Bureau (IAB).....</i>	104
9.1.1.3	<i>Complaints from the public.....</i>	104
9.1.1.4	<i>Proactive investigations.....</i>	104
9.1.1.5	<i>The Commission to Combat Police Corruption (CCPC).....</i>	104
9.1.1.6	<i>Anti Corruption Prosecutors.....</i>	105
9.1.1.7	<i>Civilian Complaints Review Board.....</i>	105
9.1.2	The United Kingdom (The Metropolitan Police)	106
9.1.2.1	<i>Mechanisms employed in combating corruption.....</i>	106
9.1.2.2	<i>The Anti Corruption Group.....</i>	106
9.1.2.3	<i>Internal Investigations Command.....</i>	107
9.1.2.4	<i>The Independent Police Complaints Commission (IPCC).....</i>	107
9.1.3	Hong Kong.....	108
9.1.3.1	<i>The Complaints against Police Officers (CAPO).....</i>	108
9.1.3.2	<i>Independent Police Complaints Council.....</i>	108
9.1.3.3	<i>Independent Commission Against Corruption (ICAC) ...</i>	109
9.1.4	India.....	109
9.1.4.1	<i>Mechanisms for Dealing with Corruption.....</i>	110
9.1.4.2	<i>The Central Bureau of Investigation (CBI).....</i>	110

9.1.4.3	<i>The case of Kerala</i>	110
9.1.5	Pakistan.....	111
9.1.5.1	<i>Reform</i>	112
9.1.5.2	<i>General Anti Corruption Initiatives</i>	113
9.2	COMPARATIVE ANALYSIS WITH METHODS FOR COMBATING CORRUPTION IN THE POLICE DEPARTMENT IN SRI LANKA.....	113
9.2.1	Proactive Investigations and Integrity Tests.....	114
9.2.2	Citizen Review and Participation.....	114
9.2.3	Monitoring of Investigations.....	115
9.2.4	Political Interference.....	115
9.2.5	Protection of Subordinate Officers.....	116
9.2.6	Fostering of an anti-corruption culture in Sri Lanka.....	116
10	CONCLUSION AND RECOMMENDATIONS.....	117
10.1	IMPROVING THE INSTITUTIONAL NETWORK.....	117
10.1.1	Recruitment.....	117
10.1.2	Structure.....	118
10.1.3	Training.....	118
10.1.4	Promotions.....	118
10.1.5	Transfers.....	119
10.1.6	Salaries, Wages and Allowances.....	119
10.1.7	Rewards and Punishments.....	119
10.1.8	Disciplinary Procedure.....	120
10.2	TO OVERCOME THE SYSTEMIC DEFICIENCIES	120
10.2.1	Human Rights.....	120
10.2.2	Police-Community Relations.....	120
10.2.3	Victim and Witness Protection.....	121
10.2.4	Lack of supervision.....	121
10.2.5	Lack of Resources.....	122
10.2.6	Coordinating with other institutions involved in the Administration of Justice (Judiciary and the Attorney General's Department).....	122
10.2.7	Combating Corruption.....	123
10.2.8	Political Interference.....	124
10.2.9	Unlawful Superior Orders and Protection of Subordinate Officers.....	124
10.2.10	VIP Protection.....	125
10.3	CONCLUDING THOUGHTS.....	125

ABBREVIATIONS

AG	-	Attorney General
AHRC	-	Asian Human Rights Commission
ASP	-	Assistant Superintendent of Police
CAPO	-	Complaints Against Police Officers
CBI	-	Central Bureau of Investigation
CCPC	-	Commission to Combat Police Corruption
CCRB	-	Civilian Complaints Review Board
CI	-	Chief Inspector
CIABOC	-	Commission to Investigate Allegations of Bribery and Corruption
CID	-	Criminal Investigations Division
COMPSTAT	-	Computerized Database of Crime Statistics
DIG	-	Deputy Inspector General of Police
DIU	-	Disappearances Investigations Unit
DL	-	Driving License
GCE (A/L)	-	General Certificate of Education (Advanced Level)
GCE (O/L)	-	General Certificate of Education (Ordinary Level)
IAB	-	Internal Affairs Bureau
ICAC	-	Independent Commission Against Corruption (in Hong Kong)
ICRC	-	International Committee of the Red Cross
IGP	-	Inspector General of Police
IP	-	Inspector of Police
IPCC	-	Independent Police Complaints Commission
JVP	-	Janatha Vimukthi Peramuna
LST	-	Law and Society Trust
MPU	-	Missing Persons Unit
NGO	-	Non Governmental Organization
NHRC	-	National Human Rights Commission
NIBM	-	National Institute of Business Management
NIC	-	National Identity Card
NPC	-	National Police Commission
NYPD	-	New York Police Department
OIC	-	Officer In-Charge
PA	-	Personal Assistant

PC	-	Police Constable
PCA	-	Police Complaints Authority
PNB	-	Police Narcotics Bureau
POBO	-	Prevention of Bribery Ordinance
PP	-	Passport
PS	-	Police Sergeant
PSP	-	Police Service of Pakistan
PTA	-	Prevention of Terrorism Act
SI	-	Sub Inspector of Police
SIU	-	Special Investigations Unit
SP	-	Superintendent of Police
STF	-	Special Task Force
TISL	-	Transparency International Sri Lanka
USA	-	United States of America
UNICEF	-	United Nations Children's Fund
UNHCR	-	United Nations Human Rights Commission
VIP	-	Very Important Person
VVIP	-	Very Very Important Person
WCD	-	Women's and Children's Desk

A word of Appreciation

We extend our heartfelt gratitude to...

- Mr.Chandra Fernando Inspector General of Police
- Mr.Nimal Mediwaka DIG Kandy Range
- Mr.Nimal Leuke DIG STF
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- Mr.Ananda Hettiarachchi, SSP, Anuradhapura, Former Director, PTS
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- Mr.Ranjith Abeysuriya, Presidents Counsel, Former Chairman National Police Commission
- Ret. Justice Amir Ismail, Bribery Commissioner
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- Mr. Kevin Kittridge, United States Technical Advisor to the Sri Lanka Police Department
- Mr.Nandee Amarasinghe, Director, Nation Builders Association, Kandy
- Mr.Sarath Jayawardena, Head of the Branch, Eksath Jathinge Mithra Sangamaya, Kandy
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- NORAD for supporting the project
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- Mr. Tassie Seneviratne, Retd. SSP for leading the project at the initial stage

Thank you!!!

Foreword

Functions of the police are inter-connected with the day to day life of the members of the public. The foremost responsibility of the police is to serve the community and they are expected to provide a high quality and transparent policing that satisfies the aspirations of the people and the society at large.

A regional corruption survey conducted by Transparency International (2001-2002), revealed that the police are perceived as the most corrupt public institution in the region including Sri Lanka. With a view to improving the system and setting in place sustainable accountability mechanisms, TISL undertook a project titled "*An in-depth analysis into corruption within the Police Department*" to analyze the likely causes for corruption within the police.

Key activities of this project included the following:

- Gathering of detailed historical and statistical information on the level and extent of corruption in the police
- Studying the procedures and regulations that are in place, and ascertaining the set-up prevalent for potential corrupt activities
- A practical ascertainment on whether the procedures and regulations are being followed or circumvented
- Facilitating stake holders to contribute to the study
- Comparative Study with countries across the region
- Identifying and investigating specific cases in which corruption has significantly overridden the idealistic norms of transparency and accountability
- Identifying key areas of reform in this sector.

The objective of this study is to facilitate the interested parties to identify the causes of corruption within the Police Department in the light of historical and statistical information and baseline surveys on attitudes of the Police and the Public.

As a part of the project, TISL commissioned Social Indicator (SI), an independent social research organization, to conduct a quantitative survey on "*Attitudes towards Good Policing.*" The survey was twofold - first involving the Police (Provider Survey) and second involving the Public (Public Attitude Survey).

The Provider survey was conducted by Social Indicator for Transparency International Sri Lanka with a view to gauge the attitudes and perceptions of the police officers in the department on various issues faced by them. The survey was conducted in the form of a face to face interview based on a questionnaire drafted by a group of experts from different backgrounds (i.e. Sociologists, ex-senior police officers, Lawyers etc.) within the period 05th February to 03rd March 2005. This was a unique exercise where 770 randomly selected serving Police Officers were given an opportunity to freely bring to light the attitudes, problems and issues faced by them within the Police Department.

The Public Attitude survey was conducted to gauge the attitude of the public for the ascertainment of their perceptions and satisfaction on the services of the police. The Public Attitude survey was conducted within the period of 14th February 2006 to 06th March 2006 through a face to face interview based on a questionnaire designed by a team of experts. Extracts of the Provider survey and the Public Attitude survey are included in this report.

In pursuance of the research we visited various parts of the island including Kandy, Kurunegala, Nikaweratiya and met approximately 1000 members of the public (through community based organizations island-wide) in order to analyze the relationship between the police and the public and to identify the problems faced by the public, through a face to face discussion. We have included the information gathered during these visits in this report.

We wish to extend our heartfelt gratitude to Mr. Chandra Fernando, the Inspector General of Police, his staff at Police Headquarters and all the police officers, including the Officers in Charge of Stations for extending their fullest cooperation in order to conclude this Project successfully. Further,

we wish to thank Mr. Pradeep Peiris and his research team at Social Indicator for successfully conducting these two surveys on behalf of TISL.

We hope that the findings reflected in this report would be an opportunity for the policy makers and interested sections of society to analyze and come up with suggestions to improve the Police Department which in turn would help in creating and maintaining a State in which there is peace, coexistence and order, so as to provide a conducive environment for sustained prosperity.

Research Team

1 HISTORY OF THE POLICE IN SRI LANKA

1.1 EARLY HISTORY OF THE POLICE

1.1.1 Dutch Period

The history of the Sri Lankan Police runs back to the latter part of the Dutch period. The Dutch entrusted the Military with the responsibility of policing the city of Colombo. In 1659 paid guards were appointed to protect the city by night through a Municipal Council Resolution. These guards were paid a monthly salary. Hence these men are considered the fore-runners of the police in this country. The Dutch established the first three Police Stations at the northern entrance to the Fort, at the cause-way connecting Fort and Pettah and at Keyman's gate in Pettah.¹

1.1.2 British Period

Immediately after the surrender of the island by the Dutch to the British (on 16th February 1796) law and order was maintained by the Military. In 1797 the office of Fiscal with a duty to supervise the police, was re-created. However due to the Fiscal being over-burdened with this additional duty of supervising the police, Magistrates and Police Judges were entrusted with the task of supervising the police. Lascarins were appointed to assist the magistrates in this task.

A Police Vidane or a Constable was appointed² to rural areas where it was felt that one was needed for the prevention and detection of crime. The city of Colombo was divided into 15 divisions and Police Constables were appointed to supervise each of these divisions.³ The rank of Police Inspector was created and an effective police system came into being in the British - ruled areas with Constables patrolling the towns and Police Vidanes or Constables functioning in rural areas.

By 1805 police functions came to be clearly defined and included safety, comfort and convenience of the people, prevention and detection of crime, and maintenance of law and order.⁴

¹ A.C. Dep, A History of the Ceylon Police - Volume I, 1982, Sridevi Printers, Dehiwela, p6

² Regulations No. 06 of 1806

³ Act No.14 of 1806

⁴ www. police.lk

1.2 GROWTH AND REORGANIZATION OF THE POLICE

1.2.1 Pre-independence developments

The Colebrook Commission in 1833 proposed to bring the whole island under one administration. Accordingly the country was divided into 5 provinces for the purpose of administration and policing.⁵ District judges had controlling influence over the police.

In the same year the Colombo Municipal Council adopted a resolution to establish a Police Force with a responsible officer to organize and supervise the police functions. Accordingly Mr. Thomas Oswin the then Secretary to the Chief Justice, was appointed as the first Superintendent of Police.

In 1867 by amending the Police Ordinance the designation of the Head of the Police Force was changed from Chief Superintendent of Police to Inspector General of Police. Subsequently an expansion of the police operations took place by establishing police stations in Jaffna, Trincomalee, Galle, Mannar, Kurunegala, Sabaragamuwa and Kandy.⁶ In 1858 a unified Police Force was created and in 1865 there were about 55 Police Stations in the country. In 1916 there were 138 stations opened all over the island. The Sri Lanka Police Force had thereby expanded to become a national rather than a local force.

In 1865 the Police Ordinance was enacted to stipulate powers and responsibilities of policemen and the Criminal Investigations Department (CID) was formed in 1870. Modernization of the force involving new techniques of investigation like fingerprinting, photographing, and improving telecommunications network for the police as well as increasing the mobility of the force took place during this time. On the other hand analysis of crime reports, and inspections became more systematic. These resulted in creating a new police image.

1.2.2 Post independence developments

Upon gaining independence in 1948 and the subsequent appointment of the first Sri Lankan Inspector General of Police, Sir Richard Aluvihare, a large number of innovative measures were introduced including new methods of training, improvement of the conditions of service, new methods of investigation,⁷ prevention and detection of crime, public relations⁸ and the

⁵ A.C. Dep, A History of the Ceylon Police - Volume I, 1982, Sridevi Printers, Dehiwela, p186

⁶ Regulation No.6 of 1813

⁷ On the 01st of August 1972 Crime Detective Bureau was established and in 1973 Colombo Fraud Investigation Bureau was established. In 1952 VHF Radios were introduced for communication

⁸ On 01st October 1966 The Police Public Relations Division and in March 1969 The Tourist Police and the Illicit Immigration Sector was established

introduction of the Women Police⁹. Policemen were afforded benefits such as medical treatment, railway transport, house rent allowance for officers below the rank of Chief Inspector, transport allowance and pension on retirement, since 1955.

After 1956 the role of the police gradually underwent structural and attitudinal change, in that its functions embraced not only the maintenance of law and order and the prevention and detection of crime - it also became service oriented.

The Police Higher Training Institute was established in 1978 and the Police Special Task Force was established in 1983. In 1993 the Police Information Technology branch was established. A Police website was launched in 1998.

The Ceylon Police which began as a city police during the Dutch period has evolved to being a national force whose primary duties are safety, comfort and convenience of the people, prevention and detection of crime and maintenance of law and order. On the other hand it was quite clear that a large number of innovative measures were introduced in order to develop the institution.

1.3 EARLY HISTORY OF CORRUPTION IN THE POLICE

In 1856 there was evidence of bribe-taking for granting promotions and increments, allowing gambling places and unlicensed arrack shops, releasing of persons brought to the stations without proper entries. The guilty officers were suspended upon inquiry.

During Governor Longden's time there were allegations of corruption and inefficiency. According to the administration report of 1879 recruiting untrained officers was highlighted as a cause for inefficiency.¹⁰

The question as to whether the Ceylon Police was open to bribery was raised by Sir Thomas Esmonde at the British House of Commons in 1883.¹¹ Governor Campbell answering the question stated that the Ceylon Police are less open to bribery than any he had ever met during his 30 years of police experience. The reason for this was stated as severity of punishment meted out to bribe takers (e.g. bribe - takers were dismissed with disgrace).

The Police Commission of 1906 was established to investigate the allegations of police corruption. The commission held 12 sittings between 3rd September and 13th October and examined 60 witnesses. They concluded that lower rankers receive illegal gratifications.

⁹ In 1952 Women were enrolled to the Police for the first time.

¹⁰ A.C.Dep, A History of Ceylon Police, Vol II 1866-1913, 1969, Colombo, P 251

¹¹ A.C.Dep, A History of Ceylon Police, Vol II 1866-1913, 1969, Colombo, P251

In 1912 police corruption was acknowledged publicly after the carters' strike. (In Colombo the street Constables were levying unauthorized tolls from rickshaw men etc.¹²)

Very firm action was taken by the senior officers to stop corruption. In 1910, 213 police officers were removed from the force on charges of bribery.

Hence it is clear that bribery and corruption existed in the Ceylon Police at the very beginning. However the gravity deviates from time to time depending on the measures taken to combat corruption.

¹² The Times 13.08.1912

2 POLICE CORRUPTION

A corrupt institution deepens poverty around the globe by distorting political, economic and social life.¹³ Where an institution or a person is corrupt, the decisions taken are not for the public benefit but to serve private interests. As a direct result democracy and legitimacy of the institutions are weakened and thereby public trust and support is lost. On the other hand there is ample scope for human rights abuses, threatening of basic social and economic rights and people's right to earn an honest living is threatened (especially in developing countries). This undoubtedly disrupts law and order in a democratic society. Hence it is evident that corruption results not only in undermining the democracy of a society but also the primary objective of a welfare State – the welfare of the people.

Where corruption prevails the police cannot get the cooperation of the public and without public cooperation the police cannot perform their task.¹⁴

2.1 WHAT IS POLICE CORRUPTION?

Police corruption is generally defined as misuse of authority by a police officer in a manner designed to produce personal gain for the officer or others.¹⁵ Hence, it is apparent that the key element of police corruption is "misuse of authority." The misuse of authority may result in not fulfilling the purpose for which the authority is granted or creating a harmful impact on the people, who are the beneficiaries of police functions.

Therefore it is palpable that corruption not only weakens the capacity of the agency to deal with wrongdoing but it also curtails potential for dealing with the full range of problems related to improving the quality of the police service.

As the enforcers of law, the police is empowered to appeal to the citizens to respect and abide by the laws of a State. The police is vested with powers to arrest, remand and produce before court those who do not abide by the law. For the functioning of this relationship effectively, building a positive public image of the police is imperative. Corruption weakens the credibility of the police as law enforcers of a State, thus leading the society towards lawlessness.

¹³ Peter Eigen – Chairman, Transparency International, Transparency International Pamphlet

¹⁴ Sesseional Paper XXI-1970 - Final Report of the Police Commission July 1970 (Basnayake Commisison Report), Department of the Government Printer, Ceylon

¹⁵ Herman Goldstein, Policing a Free Society, First edition, Bellinger Publishing Co., Cambridge, 1977

A police officer who accepts a bribe does what the tax payer pays him to prevent. He spreads serious anti-social behavior. Where a police officer is controlled by pay-offs from outside parties, the formal administrative control structure of the agency becomes increasingly ineffective.¹⁶ Corrupt police officers may do little police work. Their values and interests will undoubtedly run counter to the interests of the public whom they are bound to serve. Where a supervisory officer is corrupt, he loses the control over his subordinates, thereby affecting the effective functioning and the whole image of the entire police structure.

Hence it is vital that we combat police corruption in order to enhance democracy and the rights of the people of our country.

2.2 VULNERABLE AREAS OF POLICE CORRUPTION

Failure to arrest and prosecute suspects who have violated the law is one of the commonest forms of police corruption.¹⁷ There are several reported instances of drunk drivers being sent off scot-free by a bribe.

Agreeing to drop an inquiry or an investigation prematurely is another form of police corruption¹⁸ which may lead to an increase in crime and reducing public trust in the system. Dropping of an inquiry not only prevents the chances of punishing the perpetrator of an offence but also sets a bad example.

Similarly, refraining from inspecting locations or premises where violations of law and order are known to have occurred and where an officer's presence might curtail the illegal activity, is another form of police corruption. For instance a police officer may refrain from sending police patrols to areas in which criminals are known to operate at given times upon being bribed, or for any other financial or personal advantage from the wrong-doers.

Reducing the seriousness of the charge is another vulnerable area of police wrong-doing, particularly where the perpetrator offers a bribe or any personal advantage to the police officer concerned, or on the basis of a personal relationship between the officer and the perpetrator of the offence.¹⁹ This results in the offender not being punished proportionately for the wrongful act he committed.

¹⁶ Sandy Smith, You Can't Expect Police on the Take to Take Orders, Life, 6th December 1968, p40

¹⁷ Herman Goldstein, Policing a Free Society, First edition, Bellinger Publishing Co., Cambridge, 1977

¹⁸ Herman Goldstein, Policing a Free Society, First edition, Bellinger Publishing Co., Cambridge, 1977

¹⁹A.K.Chandranantha –Paper presented by former Deputy Director General CIABOC, Prevention of Bribery or Corruption, 01.01.2004

Providing more police protection or presence than is normally desirable is another commonly visible form of police corruption.²⁰ This may result in more important police duties not being performed well due to the inadequacy of officers resulting from the above mentioned practice.

Misappropriation of official property by police officers is quite common today. For instance, police vehicles are often used for purposes other than police work depriving police officers performing proper police duties of these facilities.

Another important form of corruption is arranging access to confidential departmental records or altering of such records.²¹ This harmfully impacts on the confidentiality of the police documents, intelligence etc.

²⁰ Herman Goldstein, *Policing a Free Society*, First edition, Bellinger Publishing Co., Cambridge, 1977

²¹ A.K.Chandranatha –Paper presented by former Deputy Director General CIABOC, Prevention of Bribery or Corruption, 01.01.2004

3 INSTITUTIONAL STRUCTURE AND PROCEDURAL FRAME WORK

It is important to be familiar with the institutional structure of the police and procedures that are to be observed in order to ascertain the extent of corruption within the institution. This chapter seeks to identify the institutional structure of the police, the formalities and the in-built procedures that are in place, in the light of police internal regulations and orders.

3.1 HIERARCHY AND STRENGTH

As at 31.12.2005 the strength of the Police Force was 63,797.²²

Permanent Cadre	
SENIOR GAZETTED OFFICER RANKS	
Inspector General of Police	1
Senior Deputy Inspector General of Police	6
Deputy Inspector General of Police	28
SUPERINTENDENT RANKS	
Senior Superintendent of Police	83
Superintendent of Police	144
W /Superintendent of Police	11
Assistant Superintendent of Police	197
W /Assistant Superintendent of Police	9
GAZETTED OFFICER RANKS	
Chief Inspector of Police	249
W /Chief Inspector of Police	6
Inspector of Police	1691
W/Inspector of Police	52
Sub Inspector of Police	41830
W/Sub Inspector of Police	562
NON-GAZETTED OFFICER RANKS	
Police Sergeant Major	68
Police Sergeant	8434
W/ Police Sergeant	811
Police Constable	42378
W/Police Constable	4247

²² Strength Particulars as at 31.12.2005 – Personnel and Records Division, Police Head Quarters (unpublished)

3.2 FUNCTIONAL DIVISIONS

3.2.1. Criminal Investigations Department

Prevention and investigating of crime is one of the main responsibilities of the police.²³ The Criminal Investigations Department of the Sri Lanka Police investigates major crimes. The main functions of the Criminal Investigations Department are:²⁴

- Investigating major criminal and security related crimes
- Investigating commercial crimes and allied offences involving amounts of over Rs.3 million and Intellectual Property related offences, Money Laundering offences and Financial Transaction reporting
- The CID renders assistance to the local police in investigations whenever such requests are made and ordered by the Inspector General of Police and renders assistance to International Police Organizations (INTERPOL)
- Investigating major terrorist crimes, procurement of intelligence related to terrorist activities and terrorist financing
- Investigating any other cases of importance as ordered by the President, Deputy Minister of Defence, Secretary to the Defence Ministry and Inspector General of Police
- Investigations of matters referred by the Attorney General, Judicial Authorities and Special Presidential Commissions
- Investigation of complaints of corruption by public officers and corruption affecting the national economy .

3.2.2. Police Narcotics Bureau

The drug menace is a growing threat to society and creates significant health, social and economic problems. On the other hand it is spreading widely through large scale drug smugglers who operate internationally. Recognizing the urgent need to curb the growing drug menace the Police Narcotic Bureau was established on 01st April 1973.

The Police Narcotics Bureau handles and co-ordinates all aspects of police action under the Poison, Opium and Dangerous Drugs Ordinance of 1936 and Amended Act No.13 of 1984 of the same Ordinance which has given wide

²³ Section 56, Police Ordinance

²⁴ Administration Report of the Inspector General of Police for the year 1998 (published in 2003), and Interview - Senior Officials of Criminal Investigations Department

powers to the drug law enforcement officers and imposes severe penalties on offenders. The Bureau is authorized to take over any investigation under the Poison, Opium and Dangerous Drugs Ordinance in any part of the island, if ordered to do so by the Inspector General of Police.²⁵

Functions of the PNB include prevention, detection and prosecution of drug related offences and gathering intelligence in respect of offences and offenders both in Sri-Lanka and abroad.²⁶ As the central agency that deals with the dangerous drugs offences, it further co-ordinates with island-wide Police Stations on drug law enforcement. Also, the PNB co-ordinates and liaises between the Attorney General's Department , and the other drug law enforcement government departments such as Customs, and the Excise Department of Sri-Lanka, in respect of detections of narcotics. Apart from this the PNB liaises between the relevant international drug enforcement agencies. A unit of the PNB is also established at the Bandaranaike International Airport.

PNB collects data and statistics and maintains records on drug related matters and analyzes them and disseminates important information to other relevant national and international agencies, which are engaged in curbing the drug menace.

It conducts diversified programs of awareness on the evils of drugs to various segments in society such as schools, universities, and other Government and Non Government Organizations- to students and the general public- by organizing lectures, anti-drug campaigns, poster campaigns etc.

3.2.3. Women and Children Bureau

Women and children are a most vulnerable group in any country as being victimized in crimes that are committed. The subordinate status accorded to them, the disabilities imposed upon them and the unequal treatment given to them, are being recognized as the core reasons for such victimization.²⁷

It was not until recently that the police gave special attention to the problems affecting women and children. Before the 1970s women and children who were victims of crime were not given specialized treatment. As a result of strong lobbying and international pressure regarding the protection of women and children from being victims of crime, Police Headquarters established a Women's and Children's Desk (WCD) in the City of Colombo in 1979, at which complaints by women and children who are victims of crime

²⁵ www.police.lk

²⁶ www.police.lk

²⁷ www.police.lk

could be made. This desk is operated by women officers who receive complaints from such victims giving them guidance and protection and referring them to the relevant departments concerned for cases that deserve further action.

In 1994, Police Headquarters took a very significant step forward to establish at every Police Station a Children's and Women's Unit, to cater exclusively for them.²⁸ The first such unit was established at the Mount Lavinia Police Station. In order to make these units more efficient and effective a separate Police division was also established in Colombo and placed in charge of a Senior Superintendent of Police.²⁹ This division is known as the "Bureau for the Prevention of Abuse of Children, Young persons and Women." The main functions of this Bureau are:

- ◆ To investigate crime committed against women, young persons and children;
- ◆ To follow-up and supervise the action taken by any Police Station regarding such crime;
- ◆ To give advice and guidance when and where necessary to Police Stations in the island with regard to such crimes,
- ◆ To promote public awareness in order to prevent such crime.³⁰

Almost all these units are being operated by women officers and the majority of the officers who are in charge of these units are women Sub Inspectors who have followed at least three specialized courses of training conducted by the Ministry of Women's Affairs, UNICEF and other NGOs relating to women and children.

There are 36 Children & Women Bureau Desks operating in the Island and 36 ASPs have been appointed to supervise these desks.³¹

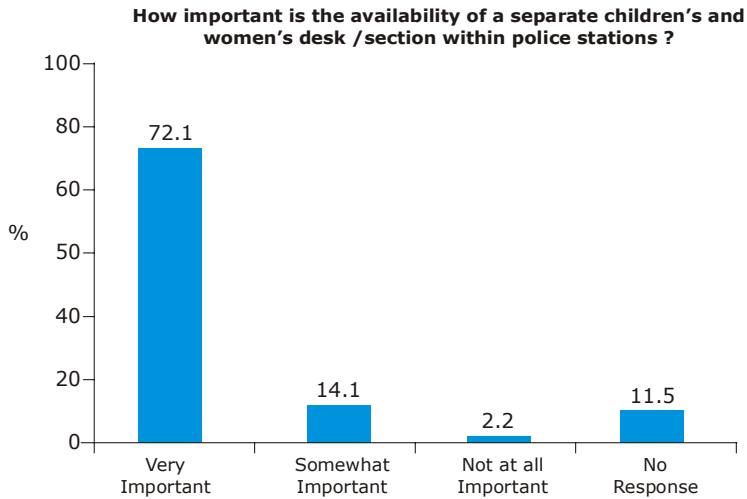
A Public Attitude survey conducted among 1400 randomly selected members of the public, within the period of 14th February 2006 to 06th March 2006, revealed that a majority as 72.1% of the persons interviewed believed that it is 'very important' to have such a separate children's and women's desk/section within Police Stations to attend to children's and women's issues, (see table below)

²⁸ IG Circular No. 1172/94 and Crimes Division Circular No. 13/94 both dated 1st November 1994

²⁹ IG 's Circular No. 1416/98 dated 04.08.1998

³⁰ www.police.lk

³¹ www.police.lk



In general, a majority across all provinces lay emphasis on the importance of a separate children's and women's desk/section. Nevertheless, in the North Central (56.9%) and Central (60.9%) provinces, a lesser percentage emphasizes the importance as opposed to the Uva (96.4%), Sabaragamuwa (83.4%), Southern (76.1%), Wayamba (74.9%) and Western (68.5%) provinces.

Those who say that a separate children's and women's desk/section is important, further stress its importance by saying that it will ensure the safety of children and women and enable women to freely make their complaints. In addition, they also cite the following reasons- having the flexibility of discussing problems of a personal nature; a female officer being able to obtain information of a complaint made by a woman more easily; women being able to expect a quick response to their problems; increased attention to issues of women and children; and having more confidence and trust to make a complaint - as to why they think a separate children's and women's bureau is necessary.

When questioned as to why they think a separate children's and women's desk/section is not necessary, some say it's because all people should be treated equally and since you cannot expect any justice and the law does not prevail.

However the view of the majority is that it is important to set up separate Children and Women Bureau desks. So far there are only 36 such desks islandwide. Hence it is recommended that more Children and Women Bureau desks should be set up in every Police Station.

It is strongly recommended that qualified Women Police officers should be recruited and be further educated regarding their task. These officers should

be trained on counseling; psychological aspects and other related areas to be able to offer relief to the women and children who are victimized and seek their support. Further monthly assessments should be carried out in every Police Range on the progress of the work done by these desks.

3.2.4 The Police Human Rights Division

The Sri Lanka Police Human Rights Division was established as a result of the Inter Ministerial Human Rights Working Group by the Sri Lankan government to ensure prompt attention to increasing human rights matters.

The functions of the Police Human Rights Division include:

- Prompt attention to the human rights related matters referred to the Division by the Inter Ministerial Human Rights Working Group through the Inspector General of Police.
- Promotion of human rights awareness amongst local police officers.
- Liaising with the local and international Human Rights Organizations.
- Maintaining records of local human rights violations.
- Maintaining human rights educational records.³²

This Division is under the direct supervision of the Inspector General of Police (IGP).

Protection of human rights needs special emphasis in the performance of Police duties mainly due to the powers that are vested with the police. Hence the Human Rights Division should play a vital role in creating further awareness among the police officers on human rights related matters.

It is recommended that more human rights awareness be created among the police officers islandwide, a mechanism to monitor human rights violations be introduced on an islandwide basis by strengthening the Human Rights Division, and that prompt disciplinary action be taken on officers who violate human rights.

Further it is recommended that the public be educated on their human rights and other related issues.

3.2.5 Crime Prevention and the Police Public Relations Bureau

The Police Public Relations Division was formed with a view to enhancing and bringing glamour to the relationship between the Police and the Public in order to create a better and a healthy understanding about the service of the Police Department. The Bureau conducts lectures for the general public and school children and programmes for Police officers.

³² www.police.lk

In addition to the Police Community Relations Bureau, 400 graduates have been appointed as Police public relations officers to Police Stations island-wide to coordinate with the public.

According to the interviews with the Police Public Relations Officers in the Kandy Range it was revealed that they face several difficulties including lack of resources, lack of specialized training, low salaries and in some areas lack of support from the police officers of the respective Police Stations.

It is recommended that these officers be given special training and their salaries be increased in order to maximize their services to the community. Further, the role of these officers should be recognized as vital and the fellow-members of the Police should be advised to coordinate more effectively with these officers.

3.2.6. The Police Special Task Force

The Special Task Force is the para-military arm of the Sri Lanka Police, deployed essentially for counter terrorist and counter-insurgency operations within the country and providing security for VVIPs.³³ The Special Task Force (STF) was formed in 1983, drawing on policemen already in service trained by the army in the handling of infantry weapons and given basic training in "jungle operations."

As the STF grew in numbers, they took on the added responsibilities of providing protection to key installations in the Colombo District and providing personnel for the protection of the President, Prime Minister and several Ministers of the Cabinet.

3.2.7. The Home Guard

As a result of the insurgency in the early 1980s, the government authorized the formation and arming of small militias for local self-defense.³⁴ The Home Guard Division is currently operating under the Ministry of Defence. By April 1987, there were reportedly 12,000 Home Guards throughout the country and the numbers have increased considerably since then.

3.3 RECRUITMENT PROCEDURES

Direct recruitments are made in the following ranks to the department:³⁵

- Probationary Assistant Superintendent of Police
- Probationary Sub-Inspector of Police
- Police constable
- Police woman constable
- Police constable drivers

³³ www.police.lk

³⁴ reference.allrefer.com/country-guide-study/sri-lanka/sri-lanka177.html

³⁵ www.police.lk

According to the police website the minimum qualification for joining the Police Department as a Police Constable is passing the General Certificate of Education (Ordinary Level) Examination in six subjects including Mathematics and medium language (in not more than two sittings) with passes in 05 subjects in the first sitting.

The minimum qualifications for joining as a sub - inspector are passing the General Certificate of Education (Ordinary Level) Examination in six subjects at one sitting including the medium language and Mathematics with four credit passes obtained in Mathematics, Medium Language and two other subjects; and passing 3 subjects in the General Certificate of Education (Advanced Level) Examination in one sitting.

25% of the Assistant Superintendents of Police are recruited on the basis of the results of an open competitive examination. Candidates for this examination should be graduates of a recognized university. Candidates face a written examination conducted by the Commissioner General of Examinations and a viva voce test before a Board of interview appointed by the Public Service Commission. Another 25% of the vacancies are filled on the results of a limited competitive examination from among the Chief Inspectors of Police and Inspectors of Police with over 10 years of service. They too are selected through a written examination and a viva voce test. 50% of the vacancies are filled from among the Chief Inspectors of Police who are confirmed in the rank. These candidates should pass a viva voce test³⁶.

It is manifest that in order to increase the quality of the service the quality of the officers who are recruited (background etc.) should be further considered. On the other hand the recruitment procedures should be made transparent.

3.4 TRAINING

3.4.1. Training process

The main Police Training School is at Katukurunda, Kalutara and there are three affiliated wings at Elpitiya, Nikaweratiya & Vehera performing the same tasks. The Police Training School trains newly recruited Assistant Superintendents of Police who are on probation, probationary Sub - Inspectors/ Women Sub - Inspectors, Police Constables/Women Police Constables, Police Constable Drivers and Security Assistants and equips them for active service in the country. It conducts induction training courses for Asst. Superintendents, Sub-Inspectors, Police Constables, Police Constable Drivers and Police Security Assistants.

³⁶ Ministry of Defence, Schemes of Recruitment and Promotions – Senior Gazetted Officers of the Police Department, 20.08.1998

Further, VIP Protection and Operational Training Courses, Refresher Courses, Promotion Courses, specialized courses on Criminal Investigation, Special Investigations, Traffic Management and training courses for doctors attached to the Police Medical Services are conducted. There are also weapon-training facilities for different ranks at a special wing titled 'in-service Operational Training' located in the same premises.

The Police officers are trained in various fields apart from their basic police training-crime investigation, motor traffic, fingerprint, mounted police, narcotics, VIP security, communication, transport (mechanical), information technology, multi-media, Police Band (musical), Special Task Force, para - military, medical services, marine services, life - saving, Police Kennels Division, Legal etc.³⁷

There are opportunities for enhancing their educational standard and obtaining scholarships abroad for training, as well as local training courses in various fields.

The Police Higher Training Unit on the other hand trains Sub Inspectors of Police and higher ranks, offering various courses including Administration, Management and Supervision courses, Courses on Human Rights, Women's and Children's Rights, Basic Principles of Law, Intellectual Property Rights and Information Technology, Financial Management etc.³⁸

Further, it conducts refresher courses for these officers. Training courses are conducted by training institutions in Sri Lanka and overseas. For instance the Legal Aid Foundation has conducted one - day workshops on Anti - Corruption and other related topics for Officers In Charge.

The Higher Training Institute conducts courses mainly in Sinhala and sometimes in English.³⁹

It is significant that no training courses are conducted in Tamil which can be highlighted as a huge lacuna in the system. However the Asia Foundation is currently planning on introducing intensive Tamil language training for the police as a pilot project in Jaffna during the course of 2006.

³⁷ www.police.lk

³⁸ Administration Report of the Inspector General of Police for the year 1998, Government Publications Bureau, Colombo, 2003

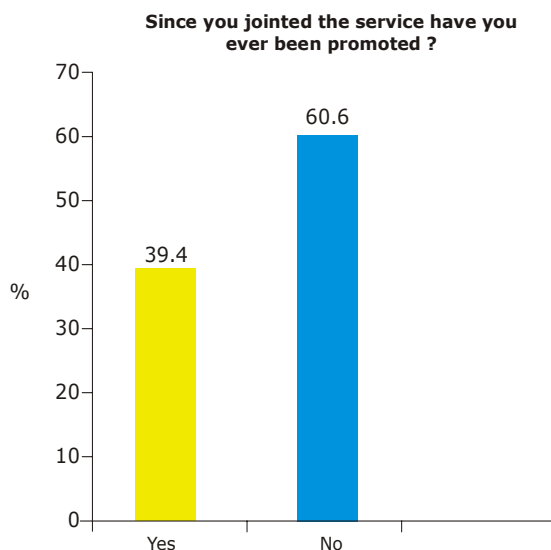
³⁹ Interview - S.S.P Deepal Dalpadatu, Director Police Higher Training, 13.02.06 at Police Headquarters

It is recommended that training programmes in Tamil should be conducted. Further, training programmes should cover public relations / human rights awareness, and mechanisms to improve efficiency etc and annual refresher courses should be introduced.

3.5 PROMOTIONS

3.5.1. Promotion scheme

Every police officer who completes 5 years of service in a particular rank is eligible for a promotion.⁴⁰ Promotion schemes are formulated in order to regulate promotions. For instance for police officers to be promoted to the rank of Superintendent of Police - Grade II , candidates should have completed 8 years of service as an Assistant Superintendent of Police confirmed in the rank and be in possession of an unblemished record. Candidates are selected through a viva voce test before a Board of Interview appointed by the Public Services Commission.⁴¹ Upon completion of 5 years as a Superintendent of Police Grade II a Police officer is eligible to be promoted as a Superintendent of Police-Grade I on the basis of seniority. Similarly there are promotion schemes for all other ranks within the service.



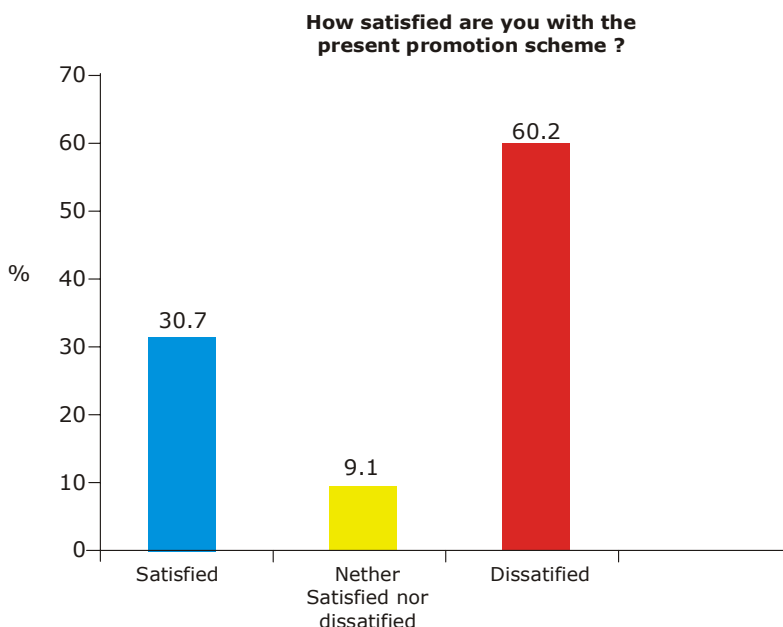
⁴⁰ Interview - S.S.P Deepal Dalpadatu, Director Police Higher Training, 13.02.06 at Police Headquarters

⁴¹ Ministry of Defence, Schemes of Recruitment and Promotions – Senior Gazetted Officers of the Police Department, 20.08.1998

Despite the procedural mechanisms stated above, the Provider survey findings reflect a different situation which raises huge concerns. This reduces job satisfaction of the police officers and thereby leaves scope for corruption. Only 39.4% of the police officers interviewed said that they had been promoted after joining the service, whilst a majority (60.6%) said that they had never been promoted since joining the service.⁴²

Further, the Provider Survey reveals that most of the police personnel who say that they have received promotions are those who have been in the service for a long period. 86.4% who have a service period of 21 - 25 years and 84.6% who have served more than 26 years say that they have received promotions since joining the service, as opposed to 6.4% with 5 or less service years and 7.7% with 6 - 10 years of service. 93.6% who have served for 5 years or less and 92.3% who have served for 6 - 10 years say that they have not received a promotion since they joined the police service.⁴³

It is revealed that an overwhelming 60.2% are dissatisfied with the present promotion scheme that the Police Department is practicing, while only 30.7% are satisfied with the same.⁴⁴



⁴² Provider Survey conducted by Social Indicator for Transparency International Sri Lanka within the period of 05th February to 03rd March 2005 by interviewing 770 randomly selected serving Police Officers

⁴³ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka

⁴⁴ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka

3.5.2. Steps taken to avoid politically motivated promotions, corruption

Setting up of the National Police Commission (NPC) is the biggest step forward in fighting politically motivated promotions and arbitrary promotions. The powers of the NPC include power to promote police officers (other than the IGP). However the performance of the NPC was initially disappointing due to its decision to delegate the disciplinary control of subordinate police officers to the IGP on the basis that it was considered necessary for the IGP to administer his own department. This resulted in the changes made by the 17th amendment to create an independent Police Commission to deal with transfers and promotions proving ineffective. Until July 2003 the NPC merely entertained complaints and referred them to the police for investigation.⁴⁵ However in mid - 2004 the NPC revoked its delegated powers mandated by the 17th Amendment over the police officers of all ranks, except the IGP.⁴⁶ This led towards creating fetters on the powers of the IGP which resulted in creating an animosity between the IGP and the NPC.

The term of office of the NPC ended in November 2005, and the new Commission was appointed by the President contrary to the constitution amidst much controversy (due to the fact that the Constitutional Council which has power to make such appointments was not functioning). It is recommended that promotion schemes should be made transparent and the NPC should play an effective role in effecting promotions. Further, a cross-functional team comprising a representative from each rank along with consultants named by the IGP should sit together and draft policies on promotions.⁴⁷

A system of performance - management should be put in place where evaluations are made on objective criteria rather than on subjective judgments. Phrases like "Satisfactory" "Good" "Excellent" are used which are totally judgmental decisions which are not supported by any objective evidence.⁴⁸ Consequent to this type of appraisal promotions have been called in question by the Supreme Court. Ironically police officers are promoted, transferred or demoted by the Supreme Court because of the deficiency in the performance management system which is existing in the police and which the NPC failed to address. Again this had caused a lowering of discipline as the perception of the rank and file is that they have no faith in the police hierarchy. A continuous performance- management system such as a monthly evaluation of the promo table PCC, PSS and SII and IPP would prove beneficial. This is nothing new to the police as this system has been in operation for several decades and was recently 'thrown away' in favour of examinations as the criteria for promotions.

⁴⁵ Kishali Pinto-Jayawardena, The NPC in Sri Lanka: Squandering a Golden Opportunity, Commonwealth Human Rights Initiative – Newsletter, Volume 12 Number 4, New Delhi, Winter 2005

⁴⁶ Mr. Ranjith Abeysuriya PC, chairperson of the NPC, at a consultation held jointly by the Law and Society Trust, the AHRC and the World Organisation against Torture on August 20

⁴⁷⁻⁴⁸ Interview - Mr. Achilles Joseph, Retired Senior DIG, Steering Committee Member

3.6 TRANSFERS

3.6.1 Transfer Scheme

The transfers within the Police Department are to be guided by a set of guidelines issued by the National Police Commission to the Police Headquarters. Guidelines for the transfer of police officers of the rank of Inspectors and below will be considered below.

Their transfers could be effected for the following reasons:

- On general orders
- Exigencies of service
- Disciplinary grounds
- Health grounds
- Promotion
- Operational Area duty
- Privileged transfers
- Compassionate grounds

These guidelines contain provisions to prevent corrupt practices. Accordingly, no officer shall be posted to a Specialized Branch until he/she has been confirmed in the rank and until he/she has completed at least the first spell of Operational Area duty. Further, the guidelines specify the manner in which the operational area duties shall be conducted.⁴⁹

Provisions have been made to prevent an officer remaining in the same Range for more than three years (subject to exceptions); to prevent potential corrupt activities as a result of him/her remaining in a particular area for a

⁴⁹ First Spell shall be to the Jaffna Division in the Northern Range/Vavuniya Division in the Wannu Range. Second spell shall be to the Trincommalee, Kanthale and Ampara Division in the Eastern Range. Third spell shall be to the Monaragala Division in the Uva Range, Polonnaruwa and Anuradhapura Divisions in the North Central Range, and Chillaw Division in the North Western Range. Fourth spell shall be at the choice of the officer from any of the Operational Areas mentioned above depending on the available vacancy.

Those officers who had never served in the Northern Range, Vanni Range and Batticaloa Division in the Eastern Range should do so on their posting to the Operational Area.

The above procedure shall be ignored if any officer is to be transferred to the Operational Area for disciplinary reasons or if the IGP makes a request to have an officer transferred for exigencies of service. A minimum of 300 days/ nights must be spent in the respective Operational area, during the stipulated one year.

All officers over and above the age of 55 shall be exempted from Operational area duty unless on disciplinary grounds or exigencies of the service. This Rule shall not apply to officers who have never served in the Operational areas before.

Those officers attached to the specialized branches too are encouraged to do their turn of duty in the Operational areas for this would certainly be an added factor when facing the Promotion Boards for promotion to higher rank.

Since there is an acute short fall of officers with a working knowledge of Tamil in the Northern and Eastern Provinces, Rule 3 and 4 may not apply to such officers already working in the operational areas. They may be rotated within the Police Division in the above two provinces at the end of every third year, and in exceptional circumstances after 4 years within the circumstances of the NPC.

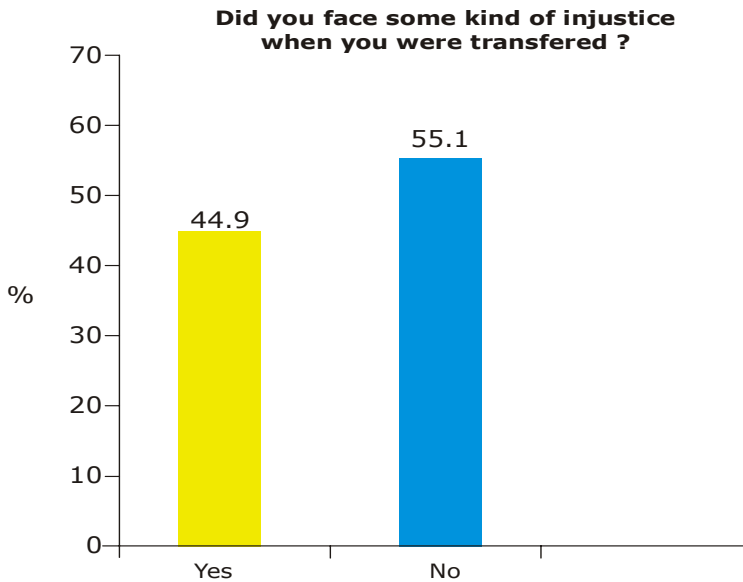
All officers reinstated or re-employed on condition that they serve in the Operational Area for a stipulated period should do so. No variation will be made.

long time. The guidelines specify that no officer shall be allowed to remain in a particular Range for more than 3 years and in exceptional circumstances for 4 years. (This rule may not apply to officers working in Specialized Branches.) They shall not be posted to an adjacent Range on transfer. The only exemption to this rule shall be on medical grounds supported by medical reports from the Police Surgeon. (This too is for a specified period of one extra year.) However where married couples are concerned every effort may be made to transfer them together to the same Division. The above rule applies to transfers on promotion as well. Accordingly all officers on promotion should be transferred out of the present Range but not to the adjacent Range.

Similarly officers serving in any one Division for over 5 years should be transferred as soon as possible. They shall not be posted within the Range or to the adjacent Range. Provisions have also been made to regulate transfers to the home Range of the officer. Accordingly no officer shall be posted to his home Range in the first ten years of service other than for exceptional reasons clearly specified by the Inspector General of Police. A transfer to the home Range will be allowed once in ten years for the stipulated period of three years at a time only (husband and wife will be considered as one unit.) Before posting to the home Range the officers concerned shall complete their Operational Area duty. It is put forward that if these provisions are enforced properly it would undoubtedly reduce potential corrupt practices committed as a result of the officer being transferred to the home Range.

No officer shall be posted back to a Range where he had previously served, for a period of ten years unless for exigencies of the service. In such instances a report from the IGP adducing reasons shall be attached to the transfer, for consideration. All officers seeking transfers to a Range they have previously served should have completed their Operational Area duties. Despite the existence of the above transfer schemes a reasonable amount of police officers indicate their distrust towards these schemes and the transfer procedure. 44.9% of the police officers interviewed said that they had faced some kind of injustice when being subjected to transfers which raises major concerns about the system. However the majority (55.1%) say that they have not faced any injustice when they were transferred either within their own division or outside their division.⁵⁰ (see table below)

⁵⁰ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka



When asked how satisfied they are with the present transfer system that the Police Department is practicing, 63.8% state that they are dissatisfied. 26.6% are satisfied with the present system, while 9.6% are neither satisfied nor dissatisfied with the same.⁵¹ (see table below)

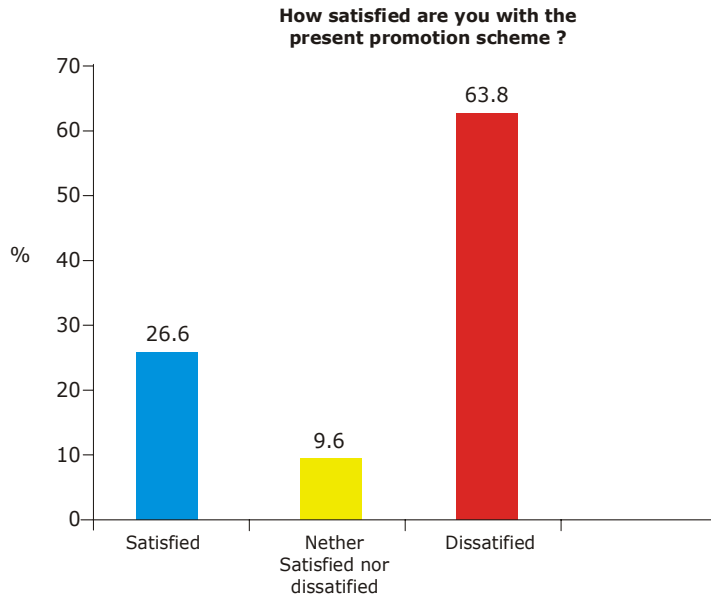
Regardless of their ranks, a majority of the police personnel across the ranks are dissatisfied with the present transfer system in operation. Compared to other rankers, dissatisfaction is high amongst the CI and SI ranks.⁵² (see tables below)

3.6.2 Provisions to avoid arbitrary transfers

Section 155G.3 of the 17th Amendment to the Constitution provides that “The Commission shall provide for and determine the standards to be followed in making transfers as the Commission may from time to time consider necessary or fit.”

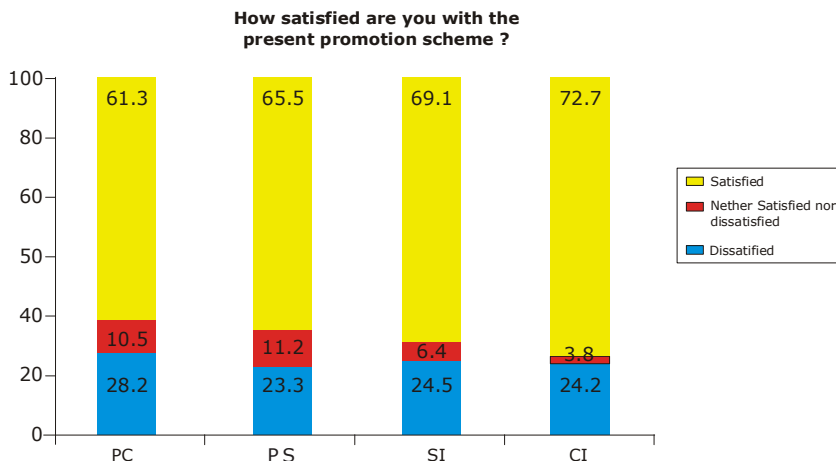
⁵¹ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka

⁵² Provider Survey conducted by Social Indicator for Transparency International Sri Lanka



The National Police Commission exercises power to transfer Police officers below the rank of the IGP and the Commission should exercise this power in consultation with the IGP.⁵³

In order to remedy the discontent of the officers it is recommended that a further transparent procedure be introduced in effecting transfers. On the other hand the role of the National Police Commission should be further enhanced to increase the trust of the police officers.



⁵³ Section 155G.1.a of the 17th Amendment to the Constitution provides that “the appointment, promotion, transfer, disciplinary control and dismissal of police officers other than the Inspector-General of Police shall be vested in the Commission. The Commission shall exercise its powers of promotion, transfer, disciplinary control and dismissal in consultation with the Inspector General of Police.”

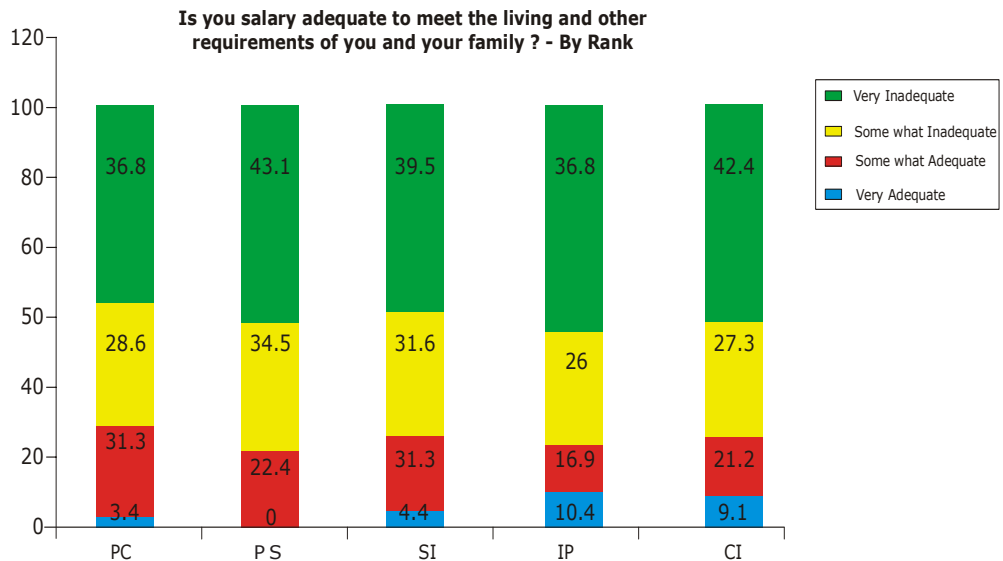
3.7 WAGES, ALLOWANCES, OTHER BENEFITS AND REWARDS

3.7.1 Monthly wages

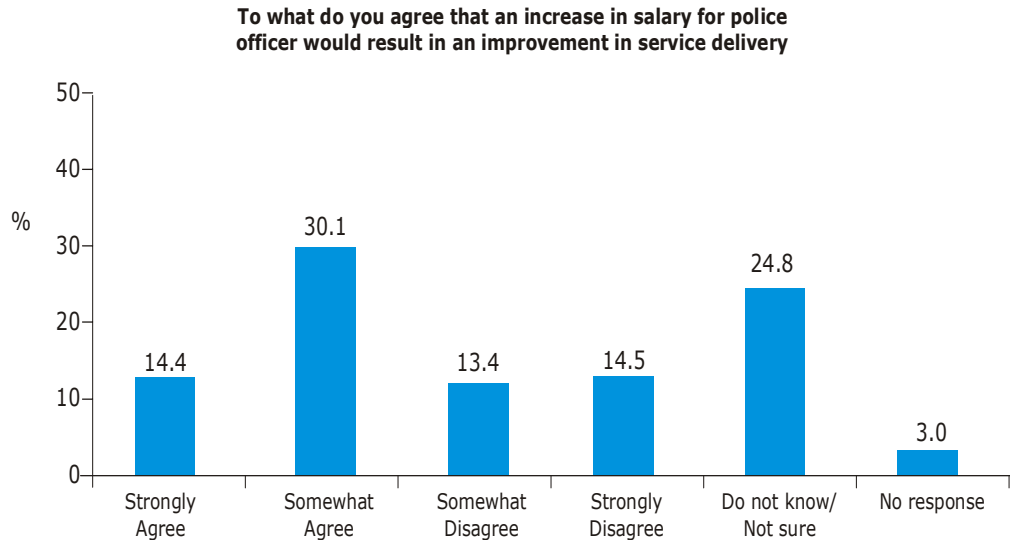
According to P.A Circular No.15 of 2003, from 01.01.2004 the minimum salary of a Police Constable is Rs.68, 160/- and the maximum salary is Rs.116, 400/- per annum. TISL interviewed a Police Constable (driver) with 3 years of service who disclosed that his salary is Rs.12, 130/- per mensum (excluding other allowances).

According to the circular mentioned above, the minimum annual salary of a Police Sergeant is Rs.79,440/- and goes up to Rs.124,560/-; the minimum salary of a Sub Inspector of Police is Rs.85,650/- and goes up to 142,920/-; and an Inspector of Police earns a minimum annual salary of Rs.100,440/- which goes up to Rs.161,940/-.

Provider Survey results revealed that the satisfaction of the police officers with regard to the adequacy of the salary to meet living expenses is low - a majority across all the ranks state that their salary is inadequate to meet their living expenses. This opinion is highest among those in the rank of sergeant (77.6%). (see table below)



Further, the public attitude survey revealed that 44.5% of the people interviewed think that such an increment would result in a better service delivery. On the other hand, 27.9% say that even a salary increment would not result in a better service delivery by the police. (See table below)

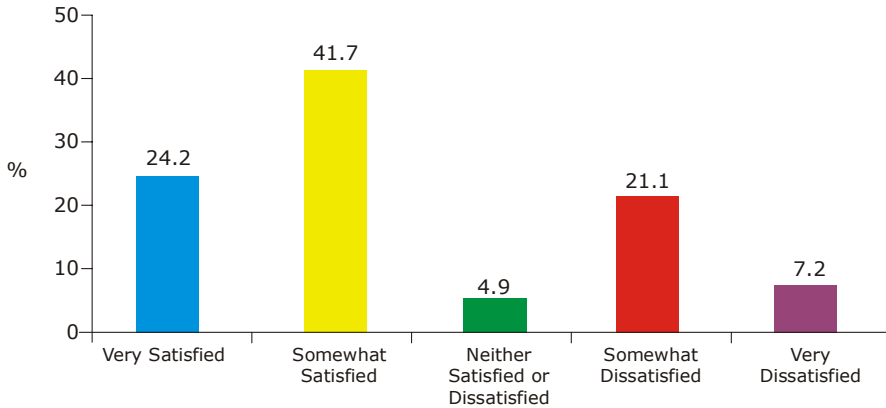


Hence it is important that the salaries of the police officers of all ranks be increased. Several police officers have also pointed out that the salaries of the police officers are not in line with the salaries of the three armed forces (Army, Air Force and Navy) and instead fall within the category of that of government servants. Considering the importance of the service and the manner in which the police officers are expected to perform duties (for instance there no fixed hours/days of service for a police officer) it is essential that their salaries be brought in line with those of the three armed Forces.

On the other hand the police officers showed a great deal of distrust towards the present increment procedure. 24.2% of the police officers are very satisfied with the increment procedure, whilst 42.1% are somewhat satisfied. Only 7.2% are very dissatisfied with the increment procedure.⁵⁴

⁵⁴ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka

How satisfied are you with the increment procedure of the Police Department



3.7.2. Allowances

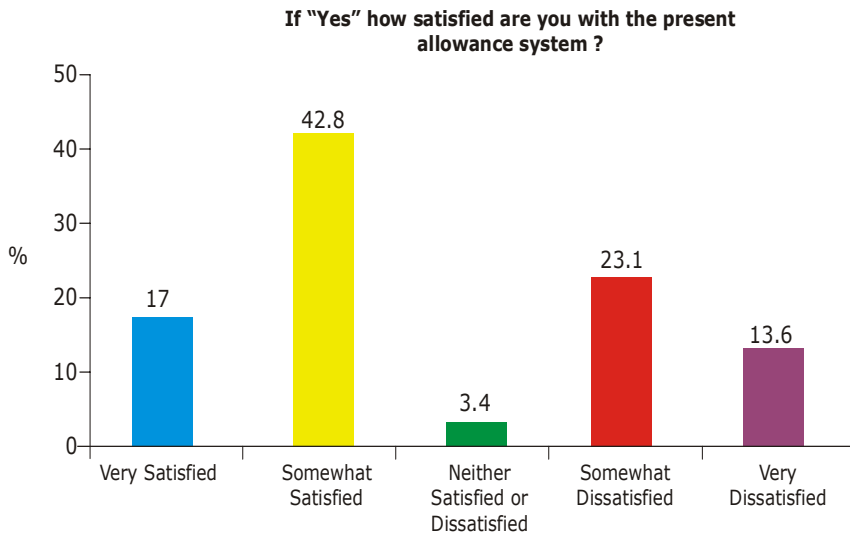
The following allowances are payable in addition to the salary:⁵⁵

- Arduous allowance - Rs.600.00 (for all ranks)
- Subsistence - Rs.1,125.00 (if annual salary is below Rs. 57,720.00)
 Rs.1,350.00 (if annual salary is between Rs. 57,721.00 and Rs.81,300.00)
 Rs.1,725.00 (if annual salary is between Rs.81,301.00 and Rs.33,440.00)
 Rs.2,100.00 (if annual salary is above Rs.133,441.00)
- Special allowance - Rs.2,200.00 (for all ranks)

However, 78.9%, of the police officers interviewed state that they are entitled to allowances from the Police Department, whilst 20.6% state that they are not entitled to any such allowances. When the officers who are entitled to some form of allowance from the Police Department, were asked how satisfied they are with the present allowance system, 17% say that they are very satisfied with the present system, whilst 42.8% state that they are somewhat satisfied. 23.1% are somewhat dissatisfied and 13.6% are very dissatisfied with the present allowance system.⁵⁶

⁵⁵ Source – Statistics Unit - Police Head Quarters

⁵⁶ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka within the period of 05th February 2005 10th to 03rd March 2005 by interviewing 770 randomly selected serving Police Officers



3.7.3 Other Benefits

Every police officer enjoys several other benefits -in addition to the salary and allowances - which includes free uniforms, medical facilities, travelling passes, living quarters etc.⁵⁷

3.7.4 Rewards System

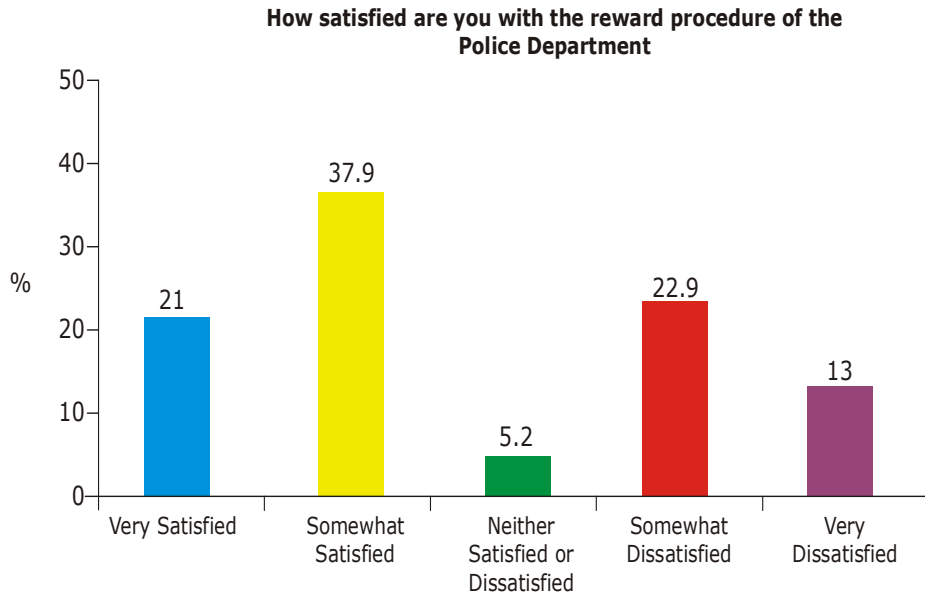
According to the Ceylon Police Constable's Manual⁵⁸ rewards may be granted to all police officers of and below the rank of Chief Inspector for good work including the detection of an offence while on beat or patrol or special duty; special good work in the successful investigation of an offence; or in obtaining information or finding of property, which has led to the successful investigation of an offence or arrest of an absconder; bravery in the effecting of an arrest; or saving a life from drowning. Special good work in putting out a fire, special zeal shown in the prevention of serious offences by energetic action in taking up minor offences; successful first-aid; special good work which necessitated the officer working long hours, overtime etc.

Provider Survey revealed that only 21% of the officers interviewed are very satisfied with the reward procedure, whilst 37.9% are somewhat satisfied. Of those who are dissatisfied, 22.9% are somewhat dissatisfied, whilst 13% are very dissatisfied with the procedure.⁵⁹

⁵⁷ Interview - S.S.P Deepal Dalpadatu, Director Police Higher Training, 13.02.06 at Police Headquarters

⁵⁸ 4th ed. 1953

⁵⁹ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka



3. 8 DISCIPLINARY PROVISIONS

3.8.1 Police Oath of Honour

The Police Oath of Honour is the primary reflection of the in-built disciplinary provisions within the police. According to the oath the members of the Police Force are bound by the rule to never betray their profession, integrity, character or the public trust and to hold themselves and others accountable in terms of the “Code of Ethics” and to uphold the country, laws etc. ⁶⁰

It is palpable that a policeman is primarily bound to uphold his integrity and the laws of the country in a manner which enhances public trust. Hence a policeman who acts contrary to the oath clearly violates his conditions of service.

The Ceylon Police Constable’s Manual too stipulates several disciplinary safeguards discussed below.

⁶⁰On my honor I, promise that, I will never betray my profession, my integrity, my character or the public trust. I will always have the courage to hold my self and others accountable for our action in terms of the “Code of Ethics”. I will always uphold my country, the laws and the Sri Lanka Police Force I serve.

3.8.2 Conditions of Service

Conditions of service as stipulated in the Constable's Manual are a classic example of strict disciplinary rules that have been laid down to protect the integrity of the police.

Rule (i) stipulates that every police officer shall devote his whole time zealously and honestly to the police service alone and he shall not take part in any trade or calling whatsoever unless expressly permitted to do so, and he and his family will act so as to be respected by all persons.

Rule (ii) states that he shall implicitly obey all police rules and orders. Thereby it is evident that each police officer is bound to be honest in performing his duties to the society and to obey all police rules and orders. Also he and his family should set an example to the society he serves.

According to rule (viii) the police officer shall not on any occasion or under any pretext whatsoever, directly or indirectly take or receive any present, gratuity or fee from any person whomsoever without the express permission of the Superintendent. Thereby it is clear that acceptance of a bribe of any form is a violation of the conditions of service.

Maintaining good police - community relations is emphasized in the conditions of service by stipulating that the police officer shall act with respect and deference towards all official authorities of the country and with forbearance, kindness, and civility towards all members of the public. (Rule ix)

The police officer who is guilty of misconduct is liable to a fine or other punishment, and to immediate dismissal or discharge by the Inspector-General, a Deputy Inspector-General or the appropriate Superintendent as the case may be, for unfitness negligence or misconduct, and he may be interdicted from duty at the discretion of the Provincial Superintendent or the Assistant Superintendent in charge of the Province, District or Division (Rule x).⁶¹

Hence it is clear that the conditions of service are a reflection of the strict disciplinary provisions that are available to maintain discipline among the officers.

⁶¹ Reference Police Gazette part II No. 4,953 of December 08 1948, page 175 and No. 5,083 of July 11, 1951, page 118.

3.8.3 Disciplinary Code

Any police officer commits a breach of discipline, if he is guilty of discreditable conduct,⁶² neglect of duty,⁶³ breach of confidence,⁶⁴ corrupt practices⁶⁵, being convicted of a crime or an offence,⁶⁶ or being an accessory to a breach of discipline.⁶⁷

According to Section 155G.3 of the 17th Amendment to the Constitution, the Commission shall provide for and determine codes of conduct of the police service.

The very purpose of the National Police Commission by way of the 17th Amendment to the Sri Lankan Constitution was to ensure an efficient police service where disciplinary control is properly exercised. The Commission was

⁶² Section 1, that is to say if he acts in a disorderly manner or in any manner prejudicial to discipline, or likely to bring discredit on the reputation of the police service

⁶³ Section 4, that is to say if he-

- (a) neglects or omits promptly and diligently to attend to or carry out anything which is his duty as Police Officer ; or
- (b) idles while on duty ; or
- (c) leaves the place of duty to which he has been ordered without due permission ; or
- (d) by carelessness or neglect permits a prisoner to wscape or
- (f) omits to make any necessary entry in any official document or book ; or
- (g) fails when knowing the whereabouts of an offender or absconder, to report the fact or to make due exertion to bring him to justice

⁶⁴ Section 6, that is to

- (a) divulges any matter which it is his duty to keep secret ; or
- (b) without proper authority communicates to the public press or to any unauthorized person any matters connected with the Service ; or
- (c) calls or attends any unauthorized meeting to discuss any matter concerning the Service ; or
- (d) signs or circulates any petition, statement or communication whether authenticated or anonymous concerning any matter relating to the Service, except through the proper channel of correspondence to the Inspector- General ; or
- (e) without proper authority makes a copy of any official document or is in possession of such copy ;

⁶⁵ Section 7, this is to say if he-

- (a) fails to give a satisfactory account of any money or property in his possession on or off duty ; or
- (b) fails to account for or to make a prompt and true return of any money or property received by him in his official capacity ; or
- (c) directly or indirectly solicits or receives any gratuity, present or subscription without the consent of the Inspector-General ; or
- (d) places himself under pecuniary obligation to any member of the public in such a manner as may be detrimental to the discharge of his duty ; or
- (e) improperly uses his character and position as a Police Officer for his private advantage.

⁶⁶ Section 15, That is to say if he is convicted by a court of law of a crime or offence, or dealt with under the provisions of section 325 of the Criminal Procedure Code.

⁶⁷ Section 16, That is to say if he connives at or knowingly abets any offences or any breach of discipline under this code.

given power of disciplinary control. With the appointment of the new NPC contrary to the Constitution the body given power by the Constitution to exercise disciplinary control, itself lacks legality leaving scope for inefficiency in carrying out disciplinary procedures⁶⁸.

3.8.4 Public Complaints Against The Police

Complaints from members of the public of misconduct by the police are to be treated as matters of supreme importance by the Officer in Charge of the station⁶⁹.

Every complaint against the police made at the Police Station is recorded in the information book in detail. The Officer in Charge of the station will personally hold an inquiry without delay. If an offence against the law is disclosed, the complainant is informed that he has a right to prosecute the offender. The Assistant Superintendent in charge of the district or division will inquire into it and ascertain whether a prima facie case has been made, the Assistant Superintendent of Police will forward all papers together with a draft charge sheet to the Superintendent / Assistant Superintendent in charge of the Province who will notify the complainant and the members of the panel, of the date, time and place of inquiry.⁷⁰At the inquiry if the Superintendent or the Assistant Superintendent in charge of the Police Station finds either a) that the offence discloses a case in which, if committed by a member of the public would cause him to be prosecuted (e.g. theft, stabbing, rape &c), or b) that the offending policeman has "knowingly and willfully exceeded his powers" or "offered unwarrantable personal violence to any person in his charge", full inquiries will be made and the offender will be prosecuted in a court of law. If however none of these cases are disclosed, and if the complainant does not wish an official prosecution but prefers a departmental inquiry the Gazetted Officer in charge of the inquiry will record evidence as laid down in Order No.21 on page 38 and the inquiry will be completed without delay. The finding and the order will be recorded in writing on the file, and the complainant will receive a written reply stating the action taken.

The Board of Inquiry will consist of the A.S.P of the district as Chairman, the Officer-in-Charge of the station and a member of the public. Where the Officer-in-Charge of the Station is the accused or a witness, the Chairman will be the S.P. or A.S.P. of the province or division, the A.S.P. of the district and a member of the public shall also comprise the board. (Reference Police Gazette Part II No.5,028 of June 14, 1950.) As a member of the public is

⁶⁸ A Statement by the Asian Human Rights Commission (AHRC), Sri Lanka: Functioning National Police Commission essential in eliminating crime within Sri Lanka, January 3rd 2006 , AS-001-2006

⁶⁹ Police Constable's Manual, 4th ed, 1953

⁷⁰ Police Gazette Part II, No.4,963 of February 26, 1949

already on the Board of Inquiry, the complainant will not be allowed to be accompanied by or assisted by any others at the inquiry. The same procedure applies to the accused police officer also. (Reference Police Gazette Part II No.4,963 of June 23, 1949.)

Where a complaint is made by means of a petition, the petitioner should be informed to attend the nearest Police Station and to acknowledge the authorship and the contents of the petition. The inquiry will be conducted in the same manner as laid down in Police Gazette Part II No.4,963 of February 23, 1949, page 26 read with No. 5,028 of June 14, 1950, page 105.

Further, the 17th Amendment to the Constitution introduced a public complaint mechanism to the National Police Commission. Article 155G 2 requires that the NPC establish a procedure for entertaining, investigating and redressing complaints against police personnel and the police service. However, initially an effective public complaints mechanism did not exist, mainly because the NPC referred complaints to the Inspector General of Police, who in turn referred the cases to the Special Investigation unit. This however was falling back to square one. However the NPC has appointed about ten area coordinators to deal with complaints. Until they can establish independent premises, these persons are stationed at the area offices of the National Human Rights Commission.

In several recent cases the Supreme Court has ordered the NPC to hold disciplinary inquiries. The Court has also pointed to the responsibility of higher-ranking officers to enforce discipline and prevent human rights violations by their subordinates.⁷¹

3.8.5 Punishments

Subordinate police officers are liable to the following punishments. (No police officer below the rank of Assistant Superintendent of Police has the power to inflict any punishment upon any member of the Service.)

Warning: A written warning entered in the Orderly Room Book or in the file of the defaulter.

Reprimand: A more serious warning than the warning mentioned above.

Punishment Drill: The defaulter will be given drill in full uniform for a specified number of days not exceeding 7 under the supervision of a sergeant. The period of extra drill must not exceed one hour per day.

Extra Fatigue: The defaulter will be given extra duty in cleaning barracks and furniture and equipment in the station - not exceeding 7 days. **Confinement**

⁷¹ Statement on 'The role of the National Police Commission of Sri Lanka in establishing an effective complaint procedure against police' received by Commission on Human Rights, PRESS RELEASE, Asian Legal Resource Centre – ALRC ALRC-PL-29-2004, Monday, 5th April 2004

to Barracks: The defaulter is not allowed to leave the barracks for a specified period, not exceeding 7 days except to report at intervals to the Reserve Sergeant.

Black Marks: These are the least severe form of punishment to be entered in the Service Register. A black mark can be cancelled by two months uninterrupted good conduct spent on duty. An outstanding black mark is a bar to promotion. Although the effect of a black mark is cancelled by two months uninterrupted good conduct, the entry remains as a bad entry in the defaulter's Service Register. Black marks do not entail a reduction, but are in the nature of a warning. Ten black marks entail dismissal.

Fines: Fines may be inflicted only for absence from duty without leave or for loss of Government property due to negligence. Deferment or stoppage of increment.

Reduction or forfeiture of promotion: This is a serious punishment. A man reduced in rank can gain reinstatement to the rank from which he was reduced by serving half the normal period in each grade, provided his work and conduct are satisfactory.⁷²

Retirement for inefficiency: This is meant to apply to police officers who are considered unable to discharge efficiently the duties of their office. A reduced retiring allowance may, in some cases, be allowed. Discharge: Intended to apply to police officers who show by their conduct that they are unsuitable for retention in the service.

Dismissal: Intended to apply to police officers found guilty of serious offences rendering them unsuitable for further service under the Government

3.8.6 Appeals

The Inspector General will deal with all appeals against an order made by a Deputy Inspector-General. Similarly a Deputy Inspector-General will deal with all appeals made against an order made by a Superintendent and a Superintendent will deal with all appeals from an order made by an Assistant Superintendent.

A second appeal to an officer senior to the officer dealing with the first appeal may be made only in any case where there has been any irregularity with regard to the procedure adopted in holding the inquiry.

⁷² Note.- When a promotion is due within a month, it may be stopped for a period not exceeding six months. This punishment involves loss of pay only for the period for which the promotion is stopped. When a Police Officer is found unfit for a promotion on the due date, no entry is made in the Service Register, but a Depot Slip is sent in. This punishment involves loss of pay and seniority until he is found fit.

4 THE NATIONAL POLICE COMMISSION ESTABLISHED UNDER THE 17TH AMENDMENT TO THE CONSTITUTION

4.1 OBJECTIVES

Extreme politicization of the entire public service including the police was pointed out by political parties, civil society organizations and individuals demanding that the government respond positively to depoliticize the public service. It is in this context that the 17th Amendment to the Constitution was introduced in 2001.

The main objective of the 17th Amendment to the Constitution was to broaden democratic values and good governance in the country while ensuring an independent and strong public sector, with no room for political interference. The scheme of the Amendment introduced a Constitutional Council, which in turn selects and screens those who would be appointed, inter alia, to the National Police Commission. The intention of the legislation was to ensure that people with integrity be appointed to the Police Commission.

4.2 COMPOSITION AND PROTECTION

The NPC consists of seven members appointed by the President on the recommendation of the Constitutional Council. Members are appointed for a term of 3 years and are eligible for reappointment for one more term. Removal could only be effected by the President on the recommendations of the Constitutional Council. Hence there is a guarantee against arbitrary removal of members.

Article 155F makes it an offence triable before the High Court, carrying a 7 year imprisonment and a fine of Rupees one hundred thousand for any direct or indirect influence or attempt to influence or interfere with any decision of the NPC or any of its members. However although Article 155F protects against interferences with the NPC or any committee thereof the protection does not extend to the IGP or any officer with delegated powers and functions in terms of Article 155 J. Hence there is still scope for political interference in respect of those to whom such functions have been delegated.

4.3 POWERS OF THE NPC

The NPC is vested with the power of appointment, transfer, promotion, disciplinary control and dismissal of all police officers except the Inspector General of Police. These powers are exercised by the NPC in consultation

with the IGP.⁷³ Any aggrieved police officer may appeal against the orders of the IGP, committee or a police officer to the NPC which has authority to alter, vary or rescind any such orders.⁷⁴ Any officer aggrieved by the decisions of the NPC may appeal therefrom to the Administrative Tribunal.⁷⁵

The NPC is also required to determine all matters regarding police administration including formulation of schemes, improving independence and efficiency of the service, nature and types of arms and ammunition and other equipment necessary for the use of National and Provincial Divisions.⁷⁶

The NPC is empowered to entertain and deal with public complaints. Thus it is the duty of the NPC to establish procedures to entertain and investigate public complaints and complaints of aggrieved persons made against a police officer or service⁷⁷

4.4 APPEALS TO THE NPC AND ADMINISTRATIVE APPEALS TRIBUNAL

According to Article 29 an officer who is aggrieved by any order of the NPC may appeal to the Administrative Appeal Tribunal established under the 17th Amendment.⁷⁸ Administrative Tribunal Act No.04 of 2002 provides that the Tribunal shall consist of three members appointed by the Judicial Services Commission with over twenty years experience as public officers or 10 years in the legal profession.

4.5 ANSWERABILITY TO PARLIAMENT

The NPC is answerable to Parliament for the exercise of its powers duties and functions and is required to submit an annual report of its activities to Parliament.⁷⁹ There is general immunity against court actions except under fundamental rights jurisdiction.⁸⁰

Absence of parliamentary answerability of the NPC is often being criticized mainly due to the fact that the NPC has not been placed under a minister (since the NPC is not under a minister there will not be an effective answerability in Parliament on the functions of the police.) This may be valid to some extent if the NPC had operational functions of the police, which are in fact left to the IGP and the police officers. Further, no independent institution could operate if the answerability through a minister is the yardstick to measure its accountability to Parliament. The NPC is responsible and answerable to Parliament in accordance with the provisions of the Standing

⁷³ Article 155G

⁷⁴ Article 155K(1)

⁷⁵ Article 155L, The Administrative Appeals Tribunal is appointed by the Judicial Services Commission

⁷⁶ Article 155G(3)

⁷⁷ Article 155G(2)

⁷⁸ Article 59

⁷⁹ Article 155N

⁸⁰ Article 155C

Orders of Parliament. It should also be noted that there is no specific Parliamentary Committee on Independent Commissions to ensure oversight of the NPC.

4.6 DELEGATION OF POWERS

The NPC is entitled to delegate to the IGP or to any other police officer, in consultation with the IGP, its powers of appointment, promotion, transfers, disciplinary control and dismissal of any category of police officers.⁸¹

4.7 ACHIEVEMENTS OF THE FIRST NPC

4.7.1 Cancellation of mass scale politically motivated transfers

Earlier the Police Department was quite frequently confronted with politically motivated transfers. In December 2002 the NPC is reported to have rejected transfer orders of 60 Assistant Superintendents of Police, and Officers In Charge of Police Stations which had been recommended by the Police Department under the direction of the Interior Minister.⁸² The NPC's action in countermanding the politically motivated mass scale transfers is certainly an effort to be appreciated.

4.7.2 Promotions

In a statement made by, Mr. Ranjith Abeysuriya the former Chairman of the National Police Commission explained that most of the NPC's work since its official inauguration in November 2002 had been devoted to matters relating to promotions, particularly the filling of about 4,000 vacancies in important posts which remained vacant due to inaction under the earlier system of administration.⁸³

4.7.3 Mechanism to Address Public Complaints

Similarly the NPC in an attempt to implement the provisions relating to the investigation of complaints against the police has constituted seven Coordinating Committees at district level to entertain public complaints more effectively. In July 2003, an advertisement drive called upon the public to forward any complaints in relation to the duties of police officers working in a Police Station or other police office located within the districts of Colombo and Gampaha. At a press conference held in September, the Chairman of the NPC disclosed that within three weeks of the advertising campaign,

⁸¹ Article 155J

⁸² Daily Mirror – 24th December 2002 “The transfer list was prepared at the request of certain ministers and government party MPs. In addition some of the transfer orders were made at the request of the UNP, SLMC, CWC and TNA the Interior Ministry”

⁸³ Asian Human Rights Commission Sri Lanka, New Measures to Ensure Police Disciplinary Control Welcomed, Statement on August 25, 2004

there were 26 public complaints received in response, and investigations are conducted irrespective of any bias or any political affiliations.⁸⁴

4. 8 DELEGATION OF POWERS OF THE NPC

4.8.1 Issues relating to delegation of authority and present status

The NPC is empowered to delegate its powers of appointment, promotion, transfer, disciplinary control and dismissal of police officers to the IGP or in consultation with the IGP to any police officer. The NPC delegated certain powers to the IGP by virtue of IGP Circular dated 26th March 2003 in respect of transfers of police officers. Hence, the IGP is delegated the authority to transfer any police personnel of any rank in the Police Service. However the transfer orders in respect of senior gazetted officers and Officers In Charge of Police Stations will be made in consultation with the National Police Commission. Other transfers are to be made as a general rule according to the schemes of transfer approved by the Commission.⁸⁵

The delegation of authority can be criticized on several grounds. Firstly it can be argued that the purpose of the establishment of the NPC is lost if the important powers are so delegated. For instance the main objective of the establishment of the NPC is to take away specific administrative powers of the IGP and Senior Police Officers in order to prevent political pressure being brought on the administration of the police. However in reality, the NPC does not have the capacity to handle administrative functions of a large national Police Service with a strength of over 60,000 officers.

This is more or less a going back to square one and ultimately would lead to police officers with such delegated powers bending backwards to please politicians.⁸⁶

However the NPC by - orders published in Gazette Extraordinary dated 30.07.2003 cancelled previous delegations in relation to officers above the rank of Chief Inspectors and delegated its powers mainly to a committee of three persons headed by a retired High Court judge, and the delegation to the IGP was limited.

The rationale behind the delegation of powers of the NPC to the IGP is that there is no technical person among the present members of the NPC. Inclusion of a retired senior police officer in whom the Constitutional Council has confidence would be more appropriate.⁸⁷ The capacity of the NPC needs to be strengthened if it is to effectively carry out the statutory functions.

⁸⁴ Daily News – 9th September 2003

⁸⁵ Circular No.1703/2003 dated 26th March 2003. Annexure A Clause 3

⁸⁶ Edward Gunewardena, Crime, Code of Ethics and the Police Commission, Island – 29th June 2003

⁸⁷ Mr.Ranjit Abeyesuriya - Chairman of NPC quoted by Mr.Tassie Seneviratne, Sunday Island 13th April 2003

Another salient feature of the delegation of powers of the NPC is that the mechanism introduced under Article 155F which made it an offence to interfere with the NPC or any of its committees is not applicable to the IGP or to other police officers, thus providing ample scope for political interference nullifying the purpose of the 17th Amendment to the Constitution.

4.8.2 Appointment of the IGP

The NPC has no role to play in the appointment of the IGP who is the head of the department. The appointment of the IGP is to be effected by the President upon recommendations made to the Constitutional Council by the President.⁸⁸ By virtue of Article 155G the NPC should exercise its powers of appointment, promotions, disciplinary control and dismissal in consultation with the IGP. Therefore the need to consult the NPC in order to ensure the integrity of the IGP is reflected. Hence it is regrettable that the 17th Amendment does not require the Constitutional Council to seek views of the NPC in appointing the IGP.

4.8.3 Other limitations

4.8.3.1 Limitations on Operational Activities

The inability of the NPC to impact on operational activities of the Police Department (even when political influence is manifest or where scandals are alleged in operational functions) is an obvious structural deficiency. The police is responsible for the prevention, detention, and investigation of all offences and, subject to the powers of the Attorney General under the code of Criminal Procedure, No.15 of 1979, the institution of prosecutions in the relevant courts in respect of those offences. Hence the operational powers of the police have been clearly separated and vested with the IGP.

4.8.3.2 Power to summon

The NPC has the power to deal with the discipline of police officers. This power obviously includes the power to hold disciplinary inquiries. However if the NPC wishes to call witnesses outside the police they have no specific legal authority to do so. Without the power to call for documents and to summon witnesses, the powers of investigation of the NPC is curtailed.

The establishment of the NPC is of historic importance in the pursuit of the fight against corruption and politicization in Sri Lanka. It upholds the rule of law. The Commission has wide powers to combat political interferences and institutional gaps that have so far frustrated the public at large. Now that the stage is set, it is of prime importance that the NPC must act responsibly to build public trust.

⁸⁸ Article 41C of the Constitution read with Part II of the schedule there under and Article 155G(1)

4.9 STATUS OF THE NPC

Setting up of the National Police Commission is the biggest step forward in creating an independent Police Service. Critics however say that the performance of the NPC was initially disappointing due to its decision to delegate the disciplinary control of subordinate police officers to the IGP on the basis that it was considered necessary for the IGP to administer his own department.

In relation to public complaints, until July 2003, the NPC merely entertained complaints and referred them to the police for investigation.⁸⁹ However in mid 2004 the NPC revoked its delegated powers mandated by the 17th Amendment over the police officers of all ranks, except the IGP.⁹⁰ This led towards creating fetters on the powers of the IGP which resulted in creating animosity between the IGP and the NPC.

The term of office of the NPC ended in November 2005; the new commission was not constitutionally appointed due to the fact that the Constitutional Council which has power to make the selections is defunct. Since November 2005, when the NPC was defunct, a large number of promotions, in all ranks, were effected by the IGP, without any legislative authority. A large number of transfers, particularly of Officers in Charge, were effected throughout the country⁹¹, amidst widespread allegations of returning to politicization of the police.

In an unfortunate move, President Mahinda Rajapakse in direct contradiction to the spirit of the Seventeenth Amendment appointed the members to the NPC, amidst widespread opposition and condemnation. It was alleged that the members of the NPC were hand-picked by the President with no transparency in the selection criteria. Thus, whether the NPC has any capacity now to reach its constitutional goal - to release the police service from the clutches of the politicians - remains a question.

4.10 PERCEPTION OF THE POLICE OFFICERS AND THE PUBLIC REGARDING THE NPC

In order to assess the perception of the police officers regarding the impartiality of the National Police Commission which came into operation towards the end of year 2002, police officers were asked in early 2005 whether they agree or disagree with the statement that "the National Police Commission is impartial".⁹²

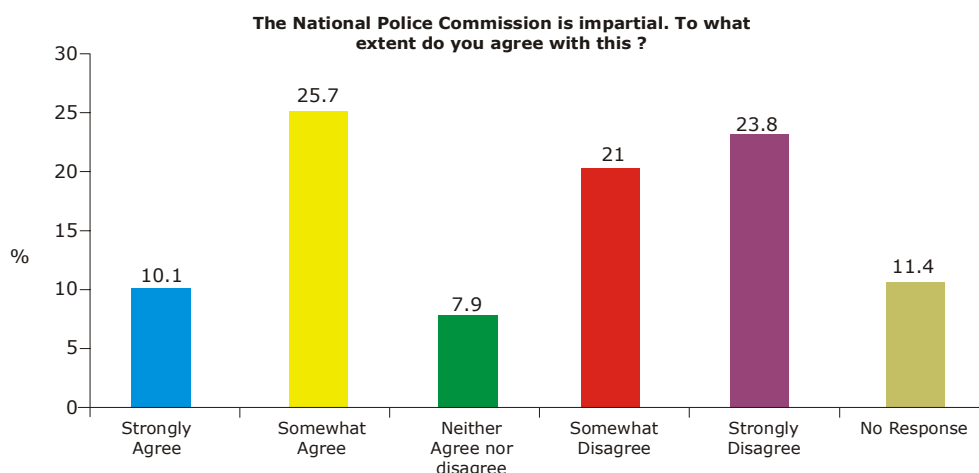
⁸⁹ Kishali Pinto-Jayawardena, The National Police Commission in Sri Lanka: Squandering a Golden Opportunity, Commonwealth Human Rights Initiative – Newsletter, Volume 12 Number 4, New Delhi, Winter 2005

⁹⁰ This was announced on August 20 by Mr. Ranjith Abeyesuriya PC, chairperson of the NPC, at a consultation held jointly by the Law and Society Trust, the Asian Human Rights Commission (AHRC) and the World Organisation against Torture

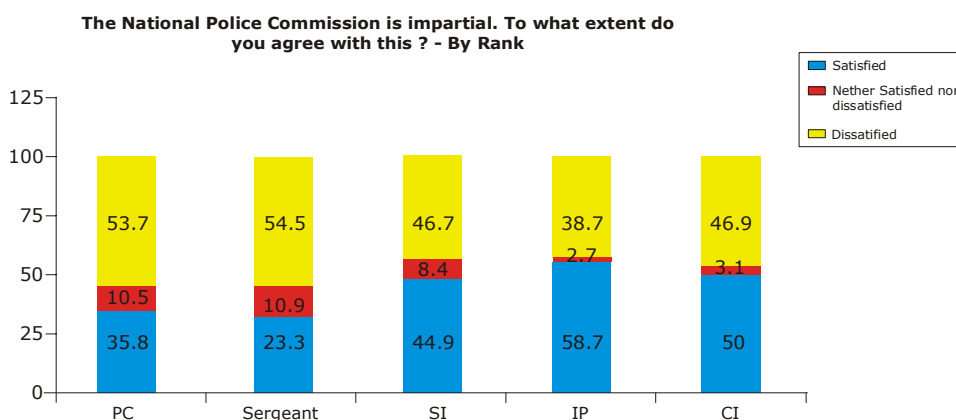
⁹¹ Some of these transfers were stayed by the Court of Appeal in writ applications.

⁹² Provider Survey conducted by Social Indicator for Transparency International Sri Lanka

Overall, 44.8% rejected the claim of impartiality with 21% somewhat disagreeing and 23.8% strongly disagreeing with the statement. 25.7% somewhat agree that the NPC is impartial while only 10.1% strongly agreed. (see table below) However it should be noted that the NPC had been in operation for only three years to undo the politicized public sector that had been deep rooted since 1972. The following needs to be understood in that background.

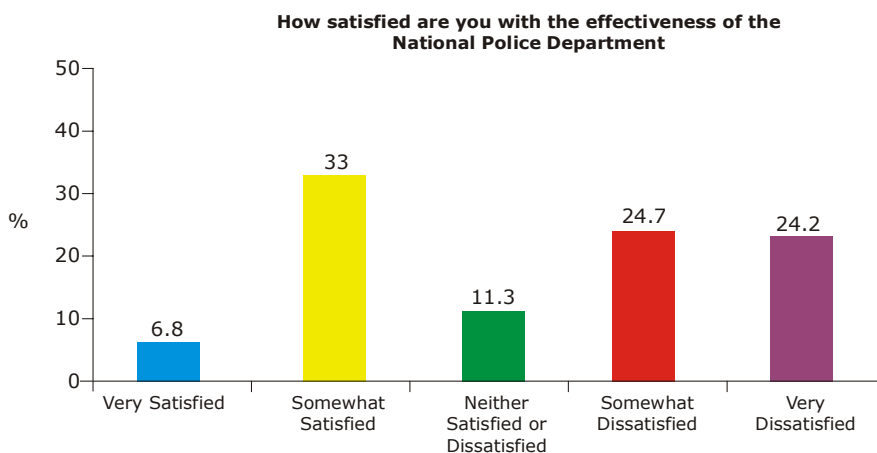


Within the ranks, 58.7% of the IPs agree with the claim of impartiality, whilst 50% of the Chief Inspectors assert the same. On the other hand, 54.5% of the Sergeants and 53.7% of the PCs disagree with the statement.⁹³



⁹³ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka

6.8% of the officers interviewed state that they are very satisfied with the effectiveness of the National Police Commission, whilst 33% state that they are somewhat satisfied. In contrast, 24.2% state that they are very dissatisfied, whilst 24.7% are somewhat dissatisfied with the effectiveness of the National Police Commission.⁹⁴



Those in the higher ranks, namely the IPs and CIs seem more satisfied (58.1% and 48.5% respectively) with the effectiveness / performance of the National Police Commission, whilst PCs, Sergeants and SIs show greater dissatisfaction (50.7%, 51.9%, 53.7% respectively). – see table on top of this page.

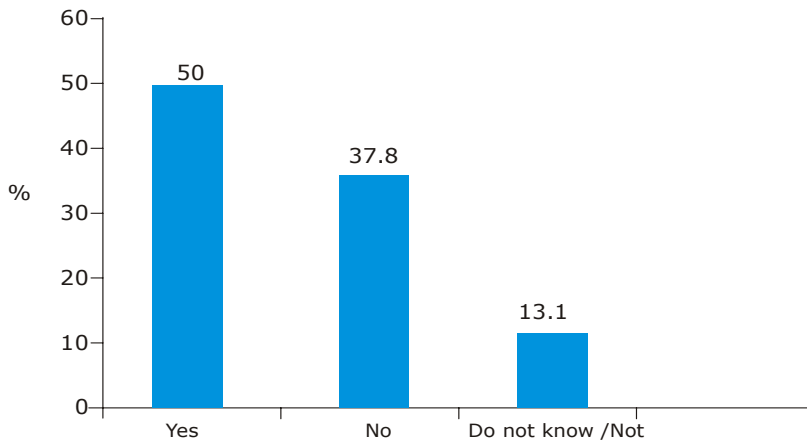
On the other hand according to the Public Attitude Survey results, the public awareness of the existence of the National Police Commission is low.

Though the National Police Commission (NPC) was not functioning at the time the survey was conducted (March 2006) the members of the public were asked whether they have heard about the NPC. Even though a majority of 49.1% had heard about it, a fair number of people (37.8%) said they had not.⁹⁵ (see table below)

⁹⁴ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka

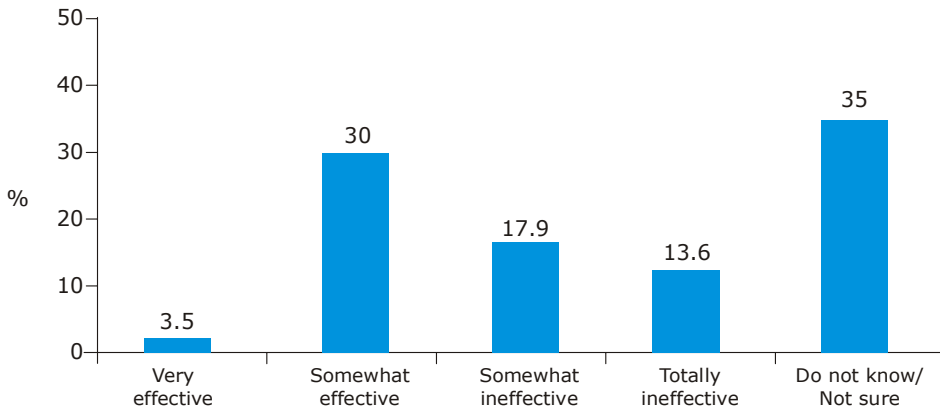
⁹⁵⁻⁹⁶ The Public Attitude survey was conducted by Social Indicators members of the public, within the period of 14th February to 06th March 2006

Have you ever heard about the National Police Commission ?



Those who had heard about the NPC were asked for their opinion on how effective the NPC has been in achieving its goal of 'helping the police personnel carry out their duties without fear or favour'. 33.5% believe the NPC has succeeded in achieving its goal, while 31.5% believe that the NPC has not been effective in achieving its goal. ⁹⁶

In your opinion, how effective has the National Police Commission been in achieving its goal ?



⁹⁵⁻⁹⁶ The Public Attitude survey was conducted by Social Indicators members of the public, within the period of 14th February to 06th March 2006

5 POLICE FUNCTIONS AND POLICE CORRUPTION - THE STATUTORY FRAMEWORK

The responsibilities of the police have been mainly laid down in the Police Ordinance⁹⁷ of 1865. However, there are a number of other statutes that empower and assign responsibilities to the police. Given below are several important statutes dealing with the police functions and police corruption.

5.1 POLICE ORDINANCE NO. 16 OF 1865

The duties and responsibilities of the police service are mainly stipulated in sections 56-80 of the Police Ordinance. Accordingly, for the purposes of the Ordinance, every police officer is deemed to be always on duty and have the powers of a police officer in every part of Sri Lanka.

The Ordinance broadly sets out the framework of the principle duties of police officers. Accordingly "it shall be the duty of every police officer, to use his best endeavours and ability to prevent all crimes, offences, and public nuisances, to preserve the peace, to apprehend disorderly and suspicious characters, to detect and bring offenders to justice, to collect and communicate intelligence affecting the public peace and to promptly obey and execute all orders and warrants lawfully issued and directed to him by any competent authority."⁹⁸

Thus, it can be asserted that the main duty of a police officer is to maintain law and order by preventing crimes and preserving peace. Hence, any study of the effectiveness of the Police Force and corrupt activity of the police should be viewed and analysed in the light of the objective functions as expected by the legislators in setting up the Police Department.

Section 55 empowers the Inspector General of Police to make rules "...as he may deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of its duties..." and also makes "...every police officer who shall neglect or violate any such orders or regulations, or any duty imposed upon him by this or any other enactment, guilty of an offence...".

Section 82 of the Ordinance provides that a police officer who shall be guilty of any violation of duty or wilful breach or neglect of any regulations and lawful orders,

⁹⁷ No. 16 of 1865 (as amended)

⁹⁸ section 56 (a)-(f)

- i. who shall "cease to perform the duties of his office without leave, or without having given two months' notice, as provided by this enactment; or
- ii. who shall engage without authority in any employment other than his police duty; or⁹⁹
- iii. who shall be guilty of prevarication in any judicial trial; or
- iv. who shall maliciously and without probable cause prefer any false, vexatious, or frivolous charge or information against any individual; or who shall knowingly and wilfully, and with evil intent, exceed his powers; or
- v. who shall be guilty of any wilful culpable neglect of duty in not bringing any person who shall be in his custody without a warrant before a magisterial officer as herein before provided or
- vi. who shall allow any person in his custody to escape; or
- vii. who shall offer any unwarrantable personal violence to any person in his custody"¹⁰⁰

is liable to a penalty and/or imprisonment.

5.2 THE SECOND REPUBLICAN CONSTITUTION OF 1978

The Third Chapter of the Sri Lankan Constitution which stipulates the fundamental rights of the people undoubtedly applies to the Police. Article 17 and 126 of the Constitution entitles every person to apply to the Supreme Court, in respect of any infringement or imminent infringement of the fundamental rights such as freedom from torture, freedom from arbitrary arrest, detention and punishment etc. The pronouncement of these rights undoubtedly acts as a check on the misuse of powers by the police. Therefore, chapter 3 of the Constitution which declares the fundamental rights and enforcement mechanism has a deterrent effect on corrupt practices and the abuse of power by police officers.

5.3 THE BRIBERY ACT NO. 11 OF 1974

The Bribery Act provides for the prevention and punishment of bribery and section 2 of the Act states that in the case of any inconsistency with the Constitution or any other written law the provisions of the Bribery Act shall prevail, thus placing the Act superior to any other law of the state. Accordingly, the Bribery Commissioner is empowered, notwithstanding anything in any other written law of the country, to direct and conduct the investigation of all allegations of bribery. There are certain limitations however with regard to Members of Parliament and judicial officers¹⁰¹.

⁹⁹ section 82 (b) (i) & (ii)

¹⁰⁰ Ss. 82 (c)-(h)

¹⁰¹ section 3(1)

Corruption and bribery with respect to police officers is specially dealt with by the Act. Thus, section 16 provides, "A person, (a) who offers any gratification to any police officer, peace officer, or other public servant employed in any capacity for the prosecution, detection or punishment of offenders, or to an officer of a court, as an inducement or a reward for such officer's or servant's interfering with the due administration of justice, or procuring or facilitating the commission of any offence, or protection from any offence, or protecting from detection or punishment the perpetrator of any offence, or abusing his official powers to the injury or detriment of any person (b) who, being such officer or servant, solicits or accepts any gratification as an inducement or a reward for such interfering, procuring, facilitating, protecting or abusing as is referred to in paragraph (a) of this section ... shall be guilty of an offence punishable with rigorous imprisonment for a term not exceeding seven years and a fine not exceeding five thousand rupees".

Further, the Act provides that any property that has been or had been acquired which cannot be or could not have been acquired with his known income or property which is or was part of his known receipts, shall be deemed until the contrary is proved by him, as property acquired by bribery¹⁰². Such assumption of bribery (unless contrary is proved) and imposition of the burden to prove the contrary on the accused is a strict standard for the prevention of corruption and bribery.

Therefore, it can be understood that a strict position is taken towards bribery and corruption of police officers and severe punishment is imposed by the Bribery Act for both bribing and for accepting such bribe by a police officer.

5.4 DECLARATION OF ASSETS AND LIABILITIES ACT NO. 1 OF 1975

The law compels certain categories of persons to make periodic declarations of their assets and liabilities in and outside Sri Lanka to provide for reference to be made to such declarations by appropriate authorities and for investigations to be conducted upon the receipt of any communications against a person to whom the law applies.¹⁰³ Section 2(1) b of the Act stipulates that "the provisions of the Act applies to judges and public officers appointed by the President, public officers appointed by the Cabinet of Ministers, judicial officers and scheduled public officers appointed by the Judicial Services Commission and staff officers of Ministries and Government Departments" thus bringing police officers within the scope of the section. Every person to whom the law applies shall declare his assets and liabilities; the assets of and liabilities of his spouse and children.¹⁰⁴

¹⁰² section 23A (1)

¹⁰³ Preamble to the Act No.1 of 1975

¹⁰⁴ Section 3(1) of the Act No.1 of 1975

5.5 INDEPENDENT COMMISSION TO INVESTIGATE ALLEGATIONS OF BRIBERY OR CORRUPTION (CIABOC) ACT NO.19 OF 1994

According to the Act the Commission shall consist of three members, two of whom shall be retired judges of the Supreme Court, or of the Court of Appeal and the third shall be a person with wide experience relating to the investigation of crime and law enforcement. All public sector institutions such as Ministries, Departments, Statutory Authorities, Local Councils as well as Public Officials came under the purview of the charter of the Commission. CIABOC commenced activities on 15th December 1994. It is accountable only to Parliament and a member of the Commission can only be removed by order of the President, made after an address of Parliament on grounds of proved misconduct or incapacity. The Commission is headed by three Commissioners, one of whom is the Chairman.

Functions of the Commission include harnessing public co-operation for the prevention of bribery and corruption, and instituting legal action and prosecuting persons in appropriate Courts. The Act empowers it to search bank accounts and to examine business and private documents to unravel deliberately convoluted transactions and identify hidden corrupt assets. It is empowered to arrest, detain and grant bail, detain suspects without warrant, and seize travel documents or restrain a suspect's property through a court order. Where an investigation discloses to the Commission any offence by any person under the Bribery Act or under the Declaration of Assets and Liabilities Law, a prosecution is initiated either in the Magistrates' Court or in the High Court with the sanction of the Commissioners.¹⁰⁵

5.6 THE PENAL CODE NO. 2 OF 1883 (AS AMENDED)

Any public servant who "accepts, obtains, agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever other than legal remuneration as a motive or reward for doing or forbearing to do any official act, or for showing or, forbearing to show in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person"¹⁰⁶ commits an offence under the Penal Code . Therefore it is evident that police corruption is actionable within the parameters of the penal code.

¹⁰⁵ www.icac.org.hk, Sri Lanka's Commission to investigate Allegations of Bribery or Corruption

¹⁰⁶ Section 158

6 PERCEIVED DETERIORATION OF POLICE

A survey conducted by Transparency International revealed that there is a fair amount of dissatisfaction with the efficiency of the criminal justice system as a whole.¹⁰⁷ 70.4% of those dissatisfied with the effectiveness of the criminal justice system felt that the police were to blame.¹⁰⁸ When considering the failure of the criminal justice system, the maintenance of law and order, and the general feeling of safety in the country however, it is important that these issues are not looked at in a vacuum. It is important to note that not all public perceptions are factually correct and that these perceptions are often influenced by the media. Further, many of the people who have interacted with the police have generally interacted with them merely on a superficial level. The public do not evaluate the police from a holistic point of view, but merely on the basis of the services they wish to receive.

Prior to dealing with the question of the deterioration of the police, it is important to examine the ground situation of many crimes in the country. During the last decade many of the crimes committed have been heinous and sensational and have been committed by service deserters. Many criminals are currently better equipped than the police, and the crimes committed by them are more sophisticated than in the past. This necessitates more technological training of the police. The other necessary result of this changing nature of crime is the militarization of the police. This in turn leads to a breakdown of community relations, which leads to a rise in crime rates. The problem therefore is circular in nature. In order to break this vicious cycle, drastic interim measures will have to be taken by the Police Department. In addition to this, increasing economic pressure, poverty and consumerism have also contributed to the increase in crime. Thus, some of the areas where the urban poor have been resettled have become breeding ground for criminal and anti social activity and¹⁰⁹ there is a public perception that the police have been ineffective in preventing these criminal activities.

This chapter seeks to examine various areas in which there has been a deterioration of the police. The duties of the police include prevention of crime and public nuisances, preservation of the peace, apprehension of disorderly and suspicious characters, crime detection and bringing of offenders to justice, communication of intelligence affecting the public peace, and execution of orders made by any competent authority¹¹⁰. Any distinction between crime prevention, maintenance of law and order and investigations of crime is an artificial distinction, as the success or failure in one aspect is inextricably linked to the success or failure in the other. In the interest of clarity however these aspects will be dealt with separately in this chapter. (Systemic deficiencies will be dealt with in Chapter 7 and the issue of bribery and corruption, its impact and efforts against it, will be dealt with in Chapter 8).

¹⁰⁷ A sum of less than 50% of the samplesurveyed felt that the Criminal Justice System was effective - Site public Attitude Survey.

¹⁰⁸ Ibid, Public Attitude Survey

¹⁰⁹ Professor Hettige, Head of the Department, Department of Sociology, University of Colombo

¹¹⁰ Article 56 of the Police Ordinance of 1864

6.1 CRIME PREVENTION

When asked to rate their satisfaction with the police in the areas of 'preservation of law and order in the country', 'preservation of human rights', 'crime prevention' and 'road safety', the public stated that they were least satisfied with the police in the area of crime prevention.¹¹¹ Police officers interviewed also felt that the internal security in Sri Lanka was not efficient. Of the sample surveyed 55.4% were somewhat in agreement with the statement that the internal security in Sri Lanka is not efficient and 17.9% strongly agreed with the statement. Further, 90.3% of the officers agreed that the crime rate in Sri Lanka is on the rise.¹¹² This section will seek to examine the root causes for this inefficiency and dissatisfaction and suggest methods for improvement.

6.1.1 Maintenance of Law and Order

Maintenance of Law and Order, is a method of crime prevention. It goes beyond the ambit of the criminal justice system in that it seeks to enforce 'order' and not just the 'law'. This is often referred to as a zero tolerance policy. Thus efforts are made to ensure that the roads are not littered and dustbins used, that walls are not spray painted, that protest marches are carried out peacefully and that traffic rules are obeyed. As pointed out by Mr Achilles Joseph retired DIG Police, this was the secret of success some years ago. A high degree of tolerance for minor misdemeanours has resulted in criminals launching into daring crimes knowing full well that the police will be slow to react.

Crime studies in the USA and other countries have revealed that the maintenance of law and order within the country has a bearing on the level of crime. Thus, in the case of New York, the police were involved in removing beggars and loiterers in subway stations and cracking down on squeegeeing. In the case of graffiti the police even went to the extent of repainting walls so vandals could not 'enjoy' their 'artwork'.¹¹³ This resulted in a drastic change in the commission of grave crimes. Thus the maintenance of an orderly society, as suggested by New York Mayor Guilani, is the primary method of dealing with crime.

It is heartening to note that there is a general perception that the state of law and order has improved during the last year.¹¹⁴ The Sri Lankan Police Department has stepped up crime prevention strategies in the last year. In

¹¹¹ 32.5% of the sample were most dissatisfied with the police in the area of crime prevention.

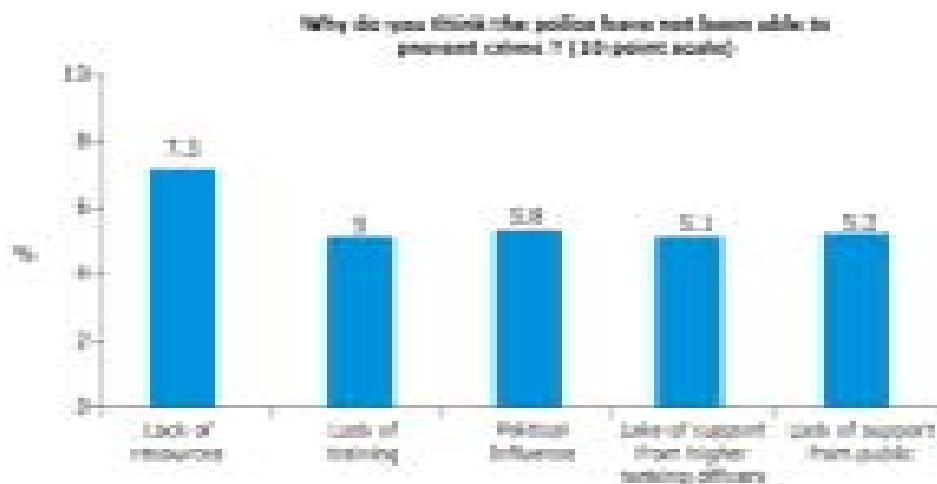
¹¹² Provider Survey conducted by Social Indicator for Transparency International Sri Lanka within the period of 05th to 08th February 2005 and 10th February to 03rd March 2005 by interviewing 770 randomly selected serving Police Officers

¹¹³ Kelling, G.L and Coles, C.M. Fixing Broken Windows; Restoring Order and Reducing Crime in Our Communities, 1997, Rockefeller Center, New York

¹¹⁴ The author is of the view that this is largely due to the raising of traffic fines.

addition to night patrols and other vigilance schemes, they conduct what is called a 'strangers night'. This is a cordon and search operation, in which the police search for fugitives or drug abusers or criminals of any nature. This has been extremely successful in the prevention of crime.¹¹⁵ In addition to this the police have of late begun to crack down on drug abusers. This is not limited to owners of big drug cartels or underworld drug barons, but includes small-time peddlers.¹¹⁶ They have also begun apprehending small-time dealers of illicit liquor. In the past the police more often than not ignored the smaller dealers of illicit liquor, focusing more on the bigger 'fish'. This has however changed. It is submitted that the crackdown on drugs and illicit liquor is an effective method of prevention of larger crimes such as rape and murder.

Some of the causes that have militated against the ability of the police to maintain an efficient system of law and order have been identified as the lack of independence of the police, lack of resources, lack of support from the public, a lack of support from higher ranking officers and a lack of training. (See table below)

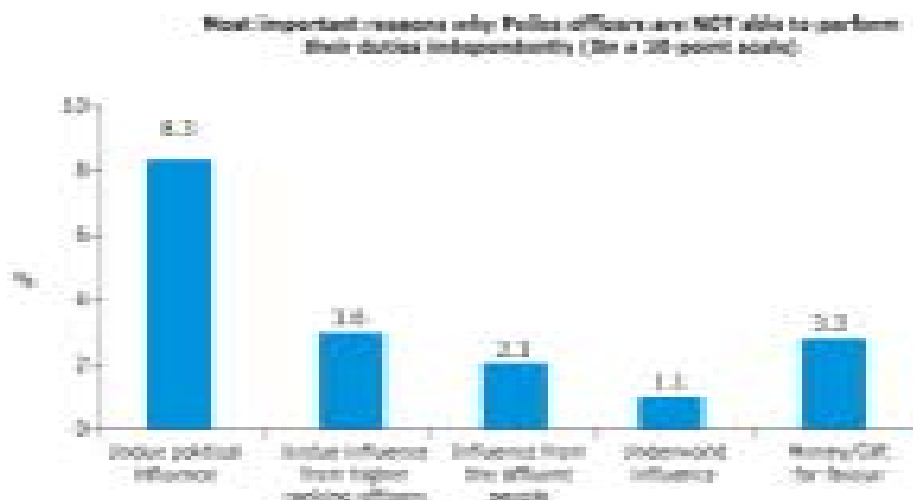


¹¹⁵ Information obtained from an interview of Mr Asela Dassanayake, Retired SSP, Sri Lanka Police Department

¹¹⁶ IGP Chandra Fernando mentioned that this is largely due to the fact that the head of the drugs operations in Sri Lanka are often situated in other countries.

6.1.1.1 Lack of Independence of the Police

On a scale of 1-10, on the reason for the failure of the police to prevent crime, police officers have given 'political influence' a rating of 5.8. (See graph on previous page) The public have also identified the reasons for the police officers not being able to perform their duties independently as follows:



Meetings conducted with the police officers themselves have also revealed that the police were afraid to arrest or prosecute certain criminals as they felt that the politicians of the area would have them transferred to another administrative district.¹¹⁷ Further, many police officers had either been accepted into the service because of political influence or wanted to be on the good side of the politicians and therefore treated them with impunity. This has resulted in the many incidents of the misbehaviour of gun - toting politicians' sons¹¹⁸.

Junior officers also stated that often their senior officers were in cahoots with the politicians and that people arrested by them would be released on receiving a call from a politician and that they would thereafter have to face the consequences of having made these arrests.

Another problem is that the police have been divided into various administrative districts, thereby giving officers of Police Stations a monopoly over the situation in their respective districts. Therefore police officers who have to work with the politician in the district often end up pandering to his

¹¹⁷ Though the NPC has been put in place to divert these transfers, few police officers of the lower ranks have faith in the NPC

¹¹⁸ See Article on Mervyn Silva's son - from newspapers

wishes. This results in a sense of frustration among the masses. A recent measure employed in dealing with this, is to undermine the monopoly maintained over administrative districts by employing central police forces as opposed to district based operations. There have also been numerous allegations and instances where police officers have been involved in accepting bribes and other inducements to stop prosecutions. This is most often heard of in the area of traffic offences. However there are also more serious instances where police officers are on the payroll of businesses. This creates a certain 'protected class' in society that is immune to the system of justice in the country. Further, police officers are often influenced by people's position or authority and are afraid to reprimand or apprehend such persons.

There have been documented instances of the police being hand in glove with the underworld. 3% of the public feel that the police do maintain close relationships with the underworld, and a majority of 44.6% say they are not sure of police officers' involvements with the underworld. Relationships with the underworld do not rate high in the public perception of the causes for the lack of independence of the police (4.4%). It is to be noted however that this does not mean that this is not *in fact* a main cause for the lack of police independence. This form of corruption however is not often exposed or known by the general public.

6.1.1.2 Lack of Resources

Lack of resources was one of the primary reasons identified by the police as a reason for their inability to prevent crime. A further discussion with officers pointed to the lack of human resources and the lack of transport facilities. Many of the Community Relations officers met with pointed out that police officers were overburdened and did not have time to engage in their duties properly.¹¹⁹

6.1.1.3 Lack of Support from the Public

Lack of support from the public has been identified by the police as one of the reasons for the failure to prevent crime. A survey of the public however revealed that 62.1% would definitely inform the police if there is a suspicious person in the neighbourhood and 61.6% would inform the police if there is any information relating to child abuse and exploitation. However, only 41% would contact the police if they knew that someone was involved in the production/distribution of illicit liquor in the neighbourhood. A further 74% of the southerners surveyed stated that they would definitely assist the police, while more than 45% of the people in the western province stated that they would never assist the police.

¹¹⁹ Discussions held with Police Community Relations Officers in Kurunegala and Kandy

It has also been pointed out that even the public that are willing to help, offer their assistance only in informing the police, but do not get involved in the further task of acting as witnesses. Of the people that stated that they would not assist the police, as many as 59.5% stated that informing the police might result in them getting into trouble and 23.9% stated that it would not lead to any action being taken at all. This finding clearly suggests that the lack of support from the public is largely due to systemic deficiencies regarding police - community relations.

It is also important to note the social causes for crime. Some people engage in unlawful activities merely to feed their families or to support drug habits. In such instances it is necessary that the government and the police work together to deal with the root cause of crimes and thereby ensure that it is possible to abide by the law. It is important therefore to ensure support systems where these problems can be addressed. Thus in some instances rehabilitation or dealing with poverty is also vital in dealing with crime. It is therefore not completely accurate to lay the burden of crime prevention on the police alone. It is a factor on which the government should concentrate as a whole.

6.1.2 Deterrence

This encompasses a 'fear to *commit* crime'. This is accomplished primarily through effective investigations and prosecutions. Potential criminals can also be deterred through the reduction of the opportunities for committing crime. This would include the lighting of dark streets, placing of police patrols in areas notorious for crimes and the conducting of raids.

There is a general belief that it is important that police patrols be conducted in order to maintain public safety in the neighbourhood. 70.4% of the sample surveyed believe that police patrols are very important and 23.3% believe that they are somewhat important. It is interesting to note however that while 94% say that police patrols are necessary, only 16% say that police patrols are often deployed, 24.2% say they are sometimes deployed and 28.3% say they are occasionally deployed. In addition to this 47.5% of the sample state that there aren't adequate patrol services in their area to deter criminals and 31.1% say that there are adequate patrols in their area.

It is important to note however, that though there is a perception that police patrols are important in deterring criminals this is not always the case. Studies of the situation in New York have revealed that the mere presence of the police has not always resulted in prevention of crime and that in some instances community policing has proved more effective. In the current context however, where media reports point to heinous crimes being committed in broad daylight with a certain degree of impunity, it may be necessary to resort to drastic interim measures.

Deterrence is largely achieved by the guarantee that commission of a crime will have punitive consequences. This guarantee of punitive measures needs to be constant.¹²⁰ A recent example is that of traffic fines. The discipline on the roads has drastically improved since the raising of traffic fines and since the police have been stricter regarding illegal parking, and have begun regular breathalyzer checks.

Another point of interest is the percentage of money and time spent on crime prevention. At the start of this report, it was observed that the Police Department seems to have concentrated more on apprehending and prosecuting criminals than on preventing crime. The question arises as to which aspect of these two duties of the police should be given priority. Recent interviews with the IGP, Mr. Chandra Fernando, pointed to a change in the focus of the police and a move to prevent the commission of larger crimes through dealing with the smaller crimes.¹²¹ It is however too early to comment on the success of these initiatives as yet.

In addition to programs that assist the police to enforce the law, it is also important that the police concentrate on causes for the committal of crimes. Further crime prevention is not something that the police are able to do effectively without the assistance of the community. This has been carried out in many countries, through 'community policing', which encourages civilian organizations to assist the police in watching for and preventing crime. This is done through 'neighbourhood watch' societies and local vigilance.

6.2 BRINGING OFFENDERS TO JUSTICE

6.2.1 Investigations

Criminals have become more sophisticated and have technologically surpassed the capabilities of the police. It is common knowledge that once a complaint is lodged in a Police Station it could take years for any case to materialize. In addition to this many people have reported that when a robbery is reported a simple call to a Police Station is insufficient and one has to go to the extent of going to the Police Station and bringing the police officer home. Fingerprinting teams are also reported to arrive hours after the crime is reported. In a country like Sri Lanka, this generally results in the fingerprinting Department being unable to distinguish the fingerprints of the criminal and the many neighbours and other sympathizers who eager to help visit the 'crime scene', before fingerprint experts get there.

¹²⁰ For example see the impact strict fines have had in Singapore

¹²¹ These methods have been discussed in Chapter 8 of the report

In addition to this, the police face problems of lack of resources for conducting a complete investigation. The department has recently obtained resources such as a new DNA and fingerprinting technology. It is however too early to assess its impact on the efficiency of the police. It is difficult to say that the failure in investigations is due to lack of resources alone as the police have made successful investigations in politically sensitive or expedited cases.¹²²

It is in the course of investigations that the police most often face the problem of corruption. This is often due to political or other hierarchical intimidation. Thus, where the police are instructed not to pursue investigations, files are closed for 'lack of evidence'. Interviews with senior police officials have also revealed that in certain instances police officers in charge of investigations are ignorant of the law relating to prosecutions and sometimes unlawfully obtain evidence which is inadmissible. On the other hand the Police often find investigations difficult, due to lack of public cooperation (investigation is an area in which the police need maximum cooperation of the public). It is pointed out that due to the breakdown of police-community relations public support is rarely forthcoming.

Public Attitude Survey revealed that 13% of those who wished to reply as an accused and 26.2% of the people who were arrested or detained were unable to obtain services in a language they speak. Further, 26.8% of those who wished to reply as an accused and 42.% of those who were arrested or detained stated that they were not given sufficient. time to explain the problem.¹²³ (The Public Attitude Survey was not conducted in the North and the East where the language issue is much more severe. Hence it is clear that the percentage of dissatisfaction there should be more.)

While these results could be said to be subjective in that they are based on the public perception of what 'sufficient' time is, it is indeed a serious finding. The two categories deal with restriction of a person's civil liberties, which is a drastic measure that should not be taken unnecessarily in any functional democracy. Further, it raises questions as to the type of investigations conducted if the accused is not given time or the ability to reply to questions in a language he/she can understand.

In addition to this there have been many instances of torture that have occurred in the course of investigations. This is largely due to a lack of investigating skills among the police. Interviews conducted with certain senior police officers further revealed that many officers are not aware of

¹²² For example the Rita John murder, murder of Justice Sarath Ambepitiya and the Royal Park murder

¹²³ The Public Attitude survey was conducted among members of the public, within the period of 14th February 2006 to 06th March 2006

the legal implications involved in investigations. These poorly conducted investigations often result in restricting the number of successful prosecutions. Detection of crime generally occurs in two ways: complaints and tip offs from the public and police raids. It is sad to note that the public is generally afraid to tip-off the police on illegal activities happening in their neighbourhood, as they do not trust the police. Interviews held with members of the public revealed that they feared that police officers in cahoots with the alleged criminals would reveal that they were the informants thereby exposing them to reprisals and threats.

In addition to responding to complaints and tip - offs the police are also expected to apprehend disorderly and suspicious characters, **detect** and bring offenders to justice and collect and communicate intelligence affecting the public peace.¹²⁴ (Emphasis added). This is done through raids and cordon and search operations¹²⁵ In addition to this, the Inspector General of Police, Chandra Fernando has created a Central Vigilance Committee operating throughout the country that cracks down on various Administrative Ranges.

It is submitted that greater rapport with the public could solve this problem¹²⁶. A pertinent factor is the number of police officers mobilized for detection, deterrence and crime prevention. It is indeed regrettable when police officers are unable to respond to urgent needs of the public, due to lack of staff and other resources. This will be dealt with in the chapter dealing with systemic deficiencies. However, a glaring example needs to be mentioned here.

A participant at a meeting held with community-based organizations and the Community Relations officers of the Police Department, stated that a thief had jumped into her house. She had managed to lock the thief in one of the rooms and had called the police. The police however had stated that their jeep was not in the station and they had no means of helping her, and that she should bring the thief down to the Police Station. The police officers acknowledged that this had indeed happened and stated that it was a very real problem, but that they were truly helpless. They further stated that the diesel quota given was insufficient to patrol their beat and that the existing officers were heavily overworked. This example brings to the fore the question as to which area of policing the police give priority. How do police officers who have no time to respond to urgent needs, deal with crime prevention and community relations?

¹²⁴ Section 56 of the Police Ordinance

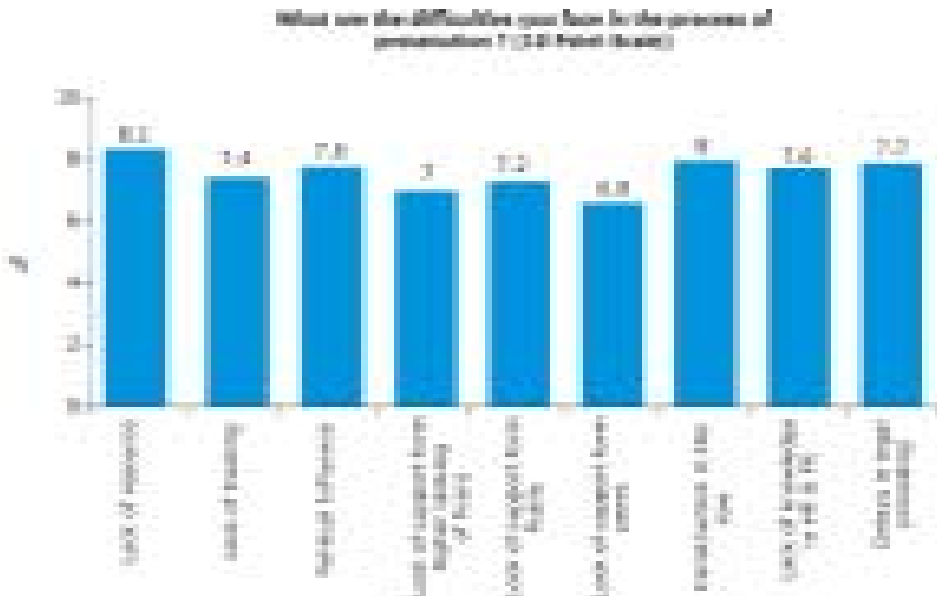
¹²⁵ For example 'strangers Night'

¹²⁶ This will be dealt with under 'Police Community Relations' below

6.2.2 Prosecution of Minor Offences

The police investigate crimes and in serious offences, present the file to the Attorney General’s Department. In all instances of minor offences it is the police that prosecute criminals. There are many allegations that investigations are of poor quality and many cases are therefore not prosecuted. There are also allegations that often criminals are better represented than the victims as police officers are not as skilled in prosecution. It has been pointed out that in many instances where higher ranking police officers are unable to attend trial, they send junior officers to prosecute the case.

A Provider Survey conducted by Transparency International indicated that on a 10 point scale, police officers rated the following obstacles encountered in prosecutions as follows:



It is suggested that selecting certain police officers to be involved in prosecutions alone and giving them adequate training could solve a lot of these problems. Further, in instances where the police feel that certain constraints in the law do affect their capacity to prosecute criminals, these grievances should be presented to the NPC and the NPC should bring them up to the Legislature for reform. It is also important to note that not all failures in proper prosecutions are the fault of the police and that it is important to examine related institutions as well.

6.2.3 Reform of Related Institutions

Reform of related institutions is also critical to improving crime prevention. This would include largely the reform of the Prisons and the Courts. Our reports indicate that in many instances the court registries have been guilty of acting in collaboration with criminals and that this has resulted in tampering with files.¹²⁷

Therefore, when discussing corruption within the police, any attempt to consider the same in isolation without making an attempt to ascertain the other closely connected institutes coming into direct contact with the police and providing ample opportunities for the police officers to be corrupt, could be a futile exercise.

At present even simple and straight forward cases such as trespass, intimidation, simple hurt etc. are being referred to the Attorney General's Department which contributes towards the workload handled by the Attorney General's Department. This however raises the question as to why the Legal Division of the Police Department which comprises police lawyers cannot do anything about it. It is therefore suggested that simple and very straight forward cases should be handled by the Legal Division of the Police Department in order to maximize the services of the Police Legal division.

6.3 TRAFFIC CONTROL

Traffic control, is an area that has developed over the years. A boom in technology, the increase in the number of vehicles on the roads, the sudden development in road systems and more complicated junctions, have left the police with an unfamiliar new playing field. This is also the area in which the police have the most contact with the public. Therefore this is one area on which a lot of the public perception of the police is founded.

There seems to be a common consensus that road safety has deteriorated and that the number of accidents has drastically increased. There is also a general perception that this is largely the fault of the drivers. While 12.7% of the public is very satisfied with the role of the police in preventing road accidents, 57.5% are somewhat satisfied, 16.9% are somewhat dissatisfied and only 4.4% are very dissatisfied. Of the people who are dissatisfied with the role played by the police 66% are of the view that this is due to the police obtaining money from the drivers in lieu of issuing tickets or prosecution as required. The police attribute their inability to make the roads safe largely to a lack of resources (62.3), lack of road space (79.4) and a lack of public

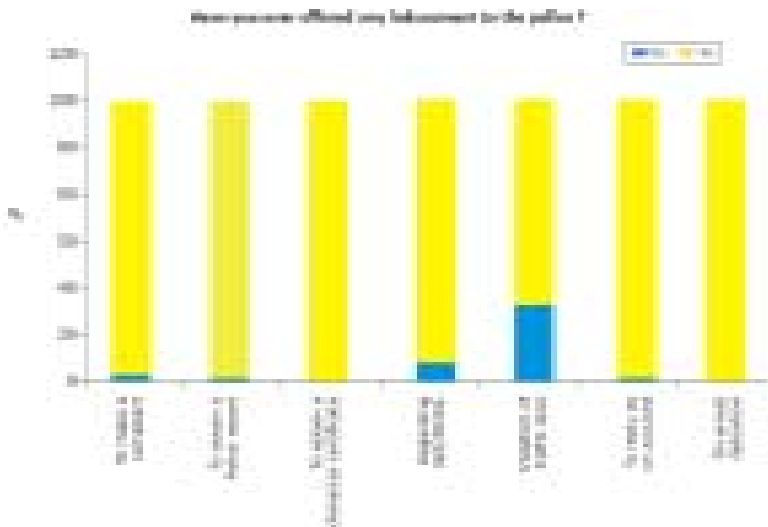
¹²⁷ Vide Kemasiri Kumara Caldera's Case (S.C.F.R) Application No. 343/99, SCM 6/11/2001– where it was mentioned by the courts that tampering with files and evidence was a regular practice.

support (42.5). It is important to note however that this data was collected prior to the increase in traffic fines or the aggressive approach taken by police officers against violators.

Of late the police have begun to strictly enforce existing traffic laws, towing away illegally parked cars and regularly checking on speeding and drunken driving. The police have also begun to concentrate on newer areas such as ensuring that vehicles on the roads are environment-friendly, and otherwise fit to be driven. This is indeed commendable.

The Traffic Police are however also well known for bribery and corruption. This is largely due to a lack of supervision and accountability and the existence of discretion. Thus the Traffic Police are permitted to give warnings instead of tickets in some instances. Many offenders are well used to doling out bribes to traffic officials to avoid the hassle of paying fines. This corruption is ingrained in society to such an extent that many drivers carry their driving license wrapped in a hundred rupee note to aid their handing over a bribe when asked for their license. It is this bribery that has given the public the impression that police officers can easily be bought over. In addition to this, police officers have also resorted to falsely accusing people of committing a traffic offence in order to obtain a bribe.

A Public Attitude Survey (on the question of instances where members of the public made offers of inducement to Police) revealed that 38.2% of those who interacted with the police regarding the violations of traffic laws say they have offered some inducement to the police. Of the 38.2% who offered some inducement to the police with regard to the violation of traffic laws 55.2% say that the police officer asked them for some inducement whereas 44.8% have voluntarily offered it.¹²⁸ 38.2% offered some inducement to the police with regard to the violation of traffic laws. (See table below)



¹²⁸ The Public Attitude survey was conducted among members of the public, within the period of 14th February 2006 to 06th March 2006

Traffic fines have recently been increased by over ten times in value. This has resulted in a bigger incentive for people to bribe police officers. It is difficult to monitor whether bribe taking by the traffic police has increased or decreased. There are no available statistics and any analysis is based totally on public perception and first hand experience. The only way to see a change therefore will be based on public opinion, which will take a fair amount of time to be created. Corruption by the police in this area therefore has far-reaching, long-term consequences on the perception of the Police Department as a whole.

Due to the lack of human resources in the Police Department, another point that has been mooted is that there are currently too many police officers involved in traffic control. It has been suggested that it might be possible to employ civilian volunteers to replace the police, in this area. This raises questions as to the limit of accountability and control that will be exercised over these officers. A program that integrates civilians and the police is however a thought well worth pursuing. Problems of discipline, control and financial resources however remain to be considered.

6.4 HUMAN RIGHTS ABUSES

The growth of interest in human rights¹²⁹ and the focus on it by the media has brought to light numerous abuses by the police in the last decade. It is sad to note that very little has been done regarding this aspect as police officers entertain the belief that human rights organizations are overreacting, and that a certain level of torture is necessary.¹³⁰ It is sad to note that 42.7% of police officers somewhat agree and 24.8% of police officers agree that it is permissible to violate human rights to some extent in order to prosecute a criminal who is a danger to society; and 59.2% strongly agree and 24.2% somewhat agree that it is more important to protect society than to protect the human rights of perpetrators of crime.

While the media has focused largely on torture within the Police Station, this is not the only violation of human rights. In addition discriminatory treatment, inaction, arbitrary arrest and detention and other harassment is also routinely practised by the members of the Police Department.

¹²⁹ For example the emergence of the second optional protocol to the international Covenant on Civil and Political Rights and the emergence of the Optional Protocol to the Convention Against Torture

¹³⁰ The NHRC and the NPC have however agreed to ensure that families and lawyers have access to detainees, display written summaries of detainees rights in police stations and hold officers in command in charge of torture that occurs in their stations.

6.4.1 Torture & Detention

Numerous media reports have brought to light custodial deaths and torture within the Police Station¹³¹. The recent cases of *Gerard Perera* and *Lama Hewage Lal* highlight the extreme instances of torture. In the latter case a man who was remanded on charges of stealing two bunches of bananas was beaten to death. In addition to this police are also reported to have tortured victims to obtain confessions or information. Whereas all police officers do understand that beating a suspect to the point of death is torture, they often do not know exactly where to draw the line between a legitimate use of force for the purposes of restraint, and cruel, inhuman and degrading treatment. This is generally due to a lack of training and the militarization of both the police and the criminals. Many police officers today are of the belief that the Human Rights approach is soft on criminals and ineffective in curbing crime¹³².

The police have also become an insurgency-quelling force over the past few decades¹³³. The involvement of the police in quelling the JVP insurgency and even in the 1983 ethnic riots has left its scar on the Police Force. These attitudes are also reflected in society, where 42.3% of the public believe that it is permissible for police officers to torture suspects to some extent in order to obtain confessions and/or evidence. Today the Prevention of Terrorism Act¹³⁴ entitles the police to keep people under remand for a lengthy period of time without producing them in court. The Human Rights Commission has pointed out that this has resulted in victimization of enemies and in racial discrimination.

The police have also violated equality provisions by siding with the village leaders instead of protecting the victimized. This is largely prevalent in situations of police inaction. This has occurred in the recent wave of religious problems. In this instance many churches stated that though they had informed the police of threats against them, no action had been taken. In addition to this police officers who were generally present in the area, were coincidentally not present when churches were burnt down.

Torture and other human rights violations by the police are generally heard of when brought before the Supreme Court in fundamental rights cases. In such instances the Attorney General's Department has taken a policy decision not to represent the police. In addition to this, cases against offending

¹³¹AHRC in 2001, documented 31 cases of torture Committed by police involding 46 victims at 29 police sttions. (RIGHTS-SRILANKA:Torture,still instilled in police Culture by Aaron Goodman.

¹³² It is difficult to analyze whether torture has increased or whether it is the focus of the media that creates the perception

¹³³ Ibid

¹³⁴ Act, No. 48 of 1979

police officers are supposed to be prosecuted under the Torture Act.¹³⁵ Few cases however have been prosecuted under this Act. However, in the recent past there has been an increase in the institution of proceedings in such situations.

There have also been many allegations of gang rape and murder of women while in the custody of the armed forces and the police.¹³⁶

There are many departments created to deal with torture. An example of this is the Torture Unit at the Attorney General's Department. It is interesting to note that though this unit seems to be a separate unit focussing solely on torture, this unit does not have any permanent staff or a separate office. All of the officers working in the unit conduct other work as well. This raises the question as whether this unit was created to appease the Human Rights Commission or for with bona fide intentions of reducing torture.¹³⁷

In all instances of prosecution for torture however, investigations are conducted by police officers and even in the instance of investigations conducted by the NHRC, the Attorney General's Department prefers to have investigations conducted by the police¹³⁸, to verify details. This is problematic as there have been many instances of tampering with official records.¹³⁹

It is perhaps in this aspect that the Police Department has deteriorated the most. This is based on the fact that unlike in other areas, the police do not seem to understand the gravity of the problem and even the higher echelons of the Police Department seem to believe that human rights organizations are acting impractically and that some degree of cruel treatment is necessary in policing. This has led to inadequate training in this aspect and a lack of training in alternative sociological methods of interrogation and other aspects of criminology.

6.4.2 Forced Disappearances

Together with the rise in insurgencies and the ethnic conflict there have been many allegations of enforced or involuntary disappearances. There have been many reports of people rounded up or taken in for questioning by the police and the army and not returning.¹⁴⁰ This is largely due to the operation of the Emergency Regulations and the Prevention of Terrorism

¹³⁵ The Convention Against Torture Act, prescribing a 7 year mandatory sentence for torture was signed ten years ago, in 1994, however only two people have been successfully convicted under the act.

¹³⁶ Amnesty International Report on Rape in Custody – Sri Lanka, 2001

¹³⁷ 'A Continuing Dilemma: The Prevalence of State Sponsored Violence in Sri Lanka' LST Review Volume 15

¹³⁸ Ibid

¹³⁹ Vide *Kemasiri Kunara Caldera's case* (SCFR) Application no.343/99, SCM6/11/2001

¹⁴⁰ See *Sinharasa's Case*

Act. While the Act ensured that relatives were permitted contact, there was no active participation on the part of the police to inform relatives of the whereabouts of the suspect.

The CID has currently set up the Disappearances Investigation Unit (DIU) and the Attorney General's Department has set up the Missing Persons Unit (MPU) to investigate disappearances. Here too however, investigating officers are not independent and since 1998 the MPU has secured only 9 convictions in cases of disappearance. Investigations for the MPU are carried out by the DIU, which is an organization of the police. This is unsatisfactory as there needs to be an independent body, such as the Human Rights Commission to monitor the police. The NHRC however, is not equipped to approach the courts directly.

6.4.3 Malicious Prosecution

There have been allegations of the conducting of malicious prosecutions against innocent civilians.¹⁴¹ In certain cases however, the police have been found to have attempted to trade off prosecution for non-prosecution on the grounds of torture.¹⁴²

6.5 POLICE-COMMUNITY RELATIONS

It is the duty of the police to play the role of mediator within the community.¹⁴³ It is quite clear that the police cannot perform their functions without public support. Hence a strong relationship between the police and the public is essential in crime prevention as well as in maintaining law and order. Information - gathering moreover requires a high degree of confidence in the police and cooperation from the public. Thus, the NHRC points out that the withdrawal of support by the people due to loss of confidence in the police is the greatest obstacle in crime prevention.

The youth insurrection and the violence that followed in the 1970s and the armed conflict entirely changed the culture of proactive policing which was built over the years, giving way to an approach, which is inimical to the interests of the public.¹⁴⁴ Accordingly the public perception of the police has reached an all time low.

¹⁴¹ It is difficult to assess the validity of the statement however, and it is to be noted that this is not presented as a fact or finding but as a public perception alone.

¹⁴² Tissa Kumara's Case

¹⁴³ (G.H. Indradasa Ret. SSP., Core Responsibilities of the Police, Synergy in Blue – A Journal of the Retired Senior Police Officers' Association, 2004, p 28)

¹⁴⁴ Achilles Joseph – Ret. Snr. DIG, Regaining Sri Lanka by "Zero Tolerance" Policing, Synergy in Blue – A Journal of the Retired Senior Police Officers' Association, 2004, p 18

Some cynics are emphatic that the Sri Lanka Police Training College has not adapted to the changing times to render the service more efficient, objective and people friendly.¹⁴⁵ They state that the police are not trained to respond to needs with a human touch. It is necessary for a police force to understand the community it serves. This cannot be achieved by an organization that responds only when called upon to investigate and deal with crime. Several initiatives have been taken recently in order to strengthen the police - community relationship. In Eheliyagoda and Kuruwita in the Ratnapura district¹⁴⁶ two such programs have already been launched incorporating community policing by way of Citizen's Committees that have been appointed in order to educate the public on how to make their neighborhoods secure. According to Mr. Chandra Fernando, there's a slight drop in the crime rate in Kuruwita. The Police Department plans to set up such committees island-wide if this system proves successful.¹⁴⁷

It is to be noted however that of the people who have interacted with the police a majority say they were helpful, except those who have gone on arrest/detention. Of those who have interacted with the police on arrest/detention, while a majority (42.2%) say the police were indifferent, 26.8% say they were harassed and 8.9% say they were physically tortured by the police. While the police are working on community relations they do not focus as much on the accused, as they prejudge them to be guilty and do not realize that even the guilty have human rights in any democracy.

A majority have also been able to obtain the services in the language they speak with the exception of those who have interacted with the police on arrest / detention. There is also a certain amount of dissatisfaction amongst the public with regard to the time afforded to them to explain their problems.

¹⁴⁵ G.H. Indradasa Ret. SSP., Core Responsibilities of the Police Synergy in Blue – A Journal of the Retired Senior Police Officers' Association, 2004, p 28

¹⁴⁶⁻¹⁴⁷ Kumudini Hettiarachchi, Crime's Ugly Figures, Sunday Times – Sunday August 29, 2004

7 SYSTEMIC DEFICIENCIES

In examining the causes for deficiencies in the Police Department, it is necessary to examine the quality of the officers in the Police Department, the training, supervision and other resources afforded to them, rewards and incentives, and the effect of corruption, hierarchical intimidation and the effect of corruption in other departments of the government.

7.1 RECRUITMENT

7.1.1 Police Constables

The requirement for constables (other than physical and visual requirements) is that the constable must be between the ages of 18-30 and have passed 6 six subjects at the GCE O/L Examination in not less than two sittings. Provided that these passes include Mathematics and Languages and that they pass at least 5 subjects in the first sitting.

In most instances a constable is one of the first people met by members of the public. The image of the police is largely portrayed therefore through the behavior of the constables. More often than not it is the constables that play a vital role in investigations. It is important that police constables are given adequate training. It is suggested that in addition to the GCE O/L Examination, an aptitude test is also conducted. This should include tests on diplomacy and problem - solving skills. In addition to this a certain level of screening is also required. This should involve an investigation into the candidate's background to ensure that he has not been involved in any aggressive or disorderly behaviour in the recent past, and is known for high integrity and moral standards.

7.1.2 Sub Inspectors of Police

The requirement for Sub Inspectors of Police (other than physical and visual requirements) is that the Sub Inspector must be between the ages of 18-25 and have passed 6 six subjects at the GCE O/L Examination in one sitting, provided that they have four credit passes, including credit passes for mathematics and languages. They are also required to have passed the GCE A/L Examination.

7.1.3 Assistant Superintendent of Police

The requirement for Assistant Superintendent of Police (other than physical and visual requirements) is that the Assistant Superintendent of Police must be between the ages of 22-26 and must be a University graduate of good character. In addition to this all candidates are expected to pass a written examination and a viva voce test.

7.1.4 Deficiencies

Other than the requirements for Assistant Superintendent of Police the qualifications for the other posts are not suited to the job entrusted to them. Passing of the GCE O/L Examination is not a difficult task. It mainly requires an ability to memorize and reproduce. The GCE O/L Examination is currently under criticism for not testing a student's ability to analyze or problem solve. In the case of police constables the recruitment requirements do not in any way examine their ability in public relations, communication or their skills in diplomacy. These skills are essential for constables as they are the first face of the Police Department.

It is submitted that aptitude or IQ tests or common General Knowledge tests should be employed. In the alternative a thorough training program must be conducted.

7.2 ASSISTANCE GIVEN BY THE POLICE DEPARTMENT

7.2.1 Supervision

A high level of supervision is envisioned in the current police system. The Basnayake Commission in 1970 however reported that records were not meticulously maintained and that the structure of supervision had broken down¹⁴⁸. An interview conducted with a senior member of the Police Department, who was part of the Police Training School, revealed that the demand for police officers was so high that Police Stations were overburdened and therefore there was a break down in supervision and follow - up training, prior to confirmation.

Many police officers (95.8%) officers have stated however that they were supervised by supervisors. 81.5% stated that they were satisfied with the existing supervision system. This view however has not been shared by most of the senior officers interviewed. Another revealing factor is that 48.36% of the population believe that the police do abuse their powers and that this is largely due to non-implementation of disciplinary action and a lack of supervision. While it is true that there is some level of supervision, it is noted that this supervision is not adequate and in the alternative, if it is adequate, then the senior officers are not enforcing sufficient discipline.

Many of the supervising officers however, are utilized for VIP security and 'movement' duty and are therefore unable to see to their supervisory duties. (However it is palpable that the existing security condition of the country

¹⁴⁸ Seseional Paper XXI-1970 - Final Report of the Police Commission July 1970 (Basnayake Commission Report), Department of the Government Printer, Ceylon

necessitates the service of a large number of officers.) In addition to this our interviews revealed that politicians, who instruct officers to turn in good reports, regardless of the work done, often hinder supervisory duties.¹⁴⁹

7.2.2 Discipline

It is clear that there is deterioration in the standard of discipline in the police. This is largely due to political corruption. 29.3% of the sample surveyed were dissatisfied with the overall behaviour of the police officers and stated that this was largely due to non-implementation of disciplinary action and non-recruitment of qualified personnel. Thus though disciplinary provisions do exist (as set out in chapter 4) there is a general perception that they are not put into practice effectively.

Many officers expressed frustration they experienced in disciplining junior officers. They stated that the junior officers had 'another boss' as it were. They felt that disciplining these officers would entail severe consequences from local politicians and that their hands were tied. This has resulted in the emergence of a 'protected class' of officers, who are permitted to behave as they wish and are ensured promotions.¹⁵⁰

7.2.3 Training

Training is conducted at the Police Training School and the Police Higher Training Institute. Every constable is given an initial training, including language training¹⁵¹. The Police Higher Training Institute concentrates on officers who have received promotions. The officers range from the rank of Sub Inspector to Superintendents of Police. Each officer is given a 2 month induction course and after confirmation is trained in administration, law and handling of petty complaints. Officers are also sent for training at the National Institute of Business Management (NIBM) and other public lectures and/or seminars organized by the Legal Aid Commission. The Higher Training Institute also conducts refresher courses every year¹⁵².

It is interesting to note that the Higher Training Institute, trains only officers from the rank of Sub Inspector to Superintendent of Police. The public however come into contact with Police Constables and sergeants more often than with any of the other officers. The training for constables and sergeants is limited to basic training. The general idea was that higher-ranking officers should train the constables and sergeants in their respective stations and supervise their work. The system of training is geared to work

¹⁴⁹ Observations made by a senior Police officer

¹⁵⁰ Observations made by Senior Officers in interviews conducted by TISL.

¹⁵¹ For further details on training see chapter 4 of the report

¹⁵² For further details on training see chapter 4 of the report

in a framework of supervision and in-house training by senior officers¹⁵³. Senior officers however are often overburdened and not in Police Stations, which leads to the breakdown of the system, resulting in a lack of training of junior officers.¹⁵⁴

7.2.4 Resources

Field research conducted outstation brought to light the fact that a lack of resources was a great hindrance in conducting police functions. Police officers stated that in many instances though there were many police officers assigned to the station they were sent on 'other duties'¹⁵⁵ and were not available to do police work. In addition they stated that the fuel quota given for vehicles was insufficient to patrol the whole beat even once, and when calls come in they were unable to attend in some instances. The IGP has recently ordered more motorbikes for Police Stations outside Colombo, but it is too early to comment on whether this has solved the problem or not.

It is saddening to note that departments such as the Criminal Investigation Department and the Crime Detection Bureau do not have sufficient resources to conduct investigations. An example given was the lack of DNA testing facilities.¹⁵⁶ Further, none of the Police Stations in the country have a proper computerized system of recording complaints, and all records are handwritten.

Another point that was brought to light was the lack of weapons. Police officers do not contend with petty criminals anymore. Most criminals are armed and dangerous and many being service deserters are highly skilled in using their weapons. The police however, are comparatively lacking in such training and do not have the same calibre of weapons.¹⁵⁷

In order to maximize the services of the department it is recommended that equipment which support investigations be upgraded to suit the growing demands of the modern world. This would include modernized interrogation rooms with hidden cameras, modern recording machinery, upgrading of the existing computer system etc.

Further, it is recommended that transportation facilities of the department be improved to enable carrying out investigations promptly and safely. One of the major obstacles faced by the department in carrying out investigations

¹⁵³ Observations made by a senior officer in an interview conducted by TISL.

¹⁵⁴ It must be noted however that constables are sent for in-service training, though they are often unable to regularly attend due to their workload.

¹⁵⁵ This generally involved VIP protection, or protection during mass rallies

¹⁵⁶ This however leads to the question as to how high priority investigations do not seem to meet with the same barriers.

¹⁵⁷ The question can be raised however as to how far the race to arms will go and as to whether equipping the police better is the way to handle the problem.

is that even though the vehicles used by the department do not bear the name "Police" they are often being identified by the criminals as police vehicles. Hence it is recommended that different vehicles (not only jeeps or vans) should be provided to the department to maintain confidentiality. On the other hand the transport fleet of the department should be improved to facilitate prompt investigations and gathering of criminal intelligence etc. It is also recommended that the officers of the department be continuously trained to meet the growing demands. This includes technical training etc.

7.3 PROTECTION OF VIPs AND THE DRAIN ON RESOURCES

Interviews conducted by TISL¹⁵⁸, revealed that Police Stations had insufficient human resources. It was noted that this was not often due to the lack of officers but due to the fact that though there were many officers listed in the Police Stations, these officers were often busy with VIP security and did not have adequate time for their other duties (especially in today's context where the country's security is questioned due to frequent security attacks). It was also pointed out that many senior officers are involved in 'movement' duties and therefore are unable to carry out adequate supervision of the Police Station in their care.

Although TISL made attempts to ascertain how a VIP would be defined, for the purpose of providing security by the Police, this has been a futile effort. It has transpired that this would often be based on subjective criteria. This however, is important in the light of the fact that the amount spent on VIP security has not significantly decreased even after the signing of the Ceasefire Agreement in 2001. It has transpired that a substantial part of the Police budget is still being utilized for VIP security.

7.4 PROBLEMS IN OTHER DEPARTMENTS

7.4.1 Political Influence

Sri Lanka faces problems of political influence as do India and Pakistan. Political influence has been ingrained in the police system for a long time and has created problems in all spheres of police work.¹⁵⁹ Interviews conducted revealed that many officers were afraid of being transferred and that many senior police officers were afraid to discipline junior officers or prosecute 'protected' criminals for fear of repercussions.

¹⁵⁸ Sources will not be revealed with the intention of maintaining confidentiality

¹⁵⁹ The Police Ordinance was created under the British and is geared to serve the ruling class and not the general public. The original ordinance has been amended over the years, but its structure still leaves room for corruption, as it does not include adequate independence from the other organs of government.

The National Police Commission was created to resolve this problem. While the Commission has been effective in dealing with this problem to a large extent, it is submitted that the Commission has not been in operation for long enough to effectively build a sense of trust among police officers. Thus police officers are still afraid of politically motivated transfers and therefore the problem of corruption still exists in this sphere.

7.4.2 The Judiciary and the Attorney General's Department

One of the major public complaints against the police was their lack of efficiency. There was a general perception that the failure to prosecute criminals and thereby to prevent crime and the delays in justice were due to the inefficiency of the Police Department. It is however important to note that many of the delays in prosecutions are also caused by the delays in the judicial organ of the state and the Attorney General's Department, which are both overburdened with work. Therefore it is clear that, not every case of failed prosecutions or 'closed files', is the fault of the Police Department.¹⁶⁰

NHRC in a recent statement stated that one of the primary causes for the lack of efficiency in prosecutions was the gap between the police who investigate crimes and the prosecuting officers. They stated that it may be helpful to create a system that enables prosecutors' departments and police departments to coordinate their activities from the very inception of inquiries. They also pointed to a lack of experienced prosecutors in the Attorney General's Department and the resulting low standards of prosecution

¹⁶⁰ Interviews revealed specific instances however, where Police officers had deliberately been asked to close the file or to make a finding of insufficient evidence.

8 STEPS TAKEN TO COMBAT CORRUPTION

Corruption in all its forms has been the foremost cause for the downfall of government departments in general and the police in particular. There is a general lack of independence in the Police Department. The National Police Commission was created to rectify this problem, however it has not been functioning long enough to create any major changes and the general perception is that it has not been sufficiently effective.

The traditional and better known form of corruption, bribery, has been reduced to a large extent. However 38.2% of the people who have interacted with the police regarding the violation of traffic laws have given monetary inducements and 7.0% of the people who interact with the police regarding their National Identity Card, Passport or Driving Licence have been guilty of bribing the police. These petty issues of bribery are generally looked into by the Bribery Commission. The Bribery Commission however is authorized to act only on the basis of reasonable complaints received by them.

In addition to this there is yet another form of corruption, which lies in the lack of independence of the police. Though corruption is often misunderstood to be synonymous with 'bribery', it does in fact include other forms of undue influence and nepotism. There is a belief that in order to obtain a just and fair service from the police, a certain amount of influence is necessary. 61.3% feel that one must be politically affiliated in order to receive a good service. 61.7% believe that one should have a personal affiliation to the police officers to be able to obtain a just and fair service. 59.2% believe that one should have a good social status and 57.2% believe that one needs to offer monetary inducement. The majority in Uva, however, believe that one does not need these forms of influence to obtain a just and fair service from the police in their area.

This form of corruption is not dealt with or specifically recognized by any of the existing mechanisms for the prevention of corruption. In a situation where resources are scarce there will inevitably be some sort of prioritization. It is important that this prioritization is not based on who has more influence.

This is similar to the situation in South Africa with regard to economic and social rights. In these cases it has been stated that for the sake of equality, hospitals must have definite criteria of which type of patients they accept and which they do not. In a similar manner it is important that there should be clear criteria as to which cases should be expedited and how resources should be allocated. Particular reference should be made to the allocation of police officers to VIP security duties or specialized investigations. This chapter will seek to examine the existing anti-corruption strategy in the light of these issues.

Steps taken to combat corruption can be divided into three primary categories: prevention through investigation; reduction of opportunities for corruption; prevention through education. This chapter will examine the existing mechanisms and their effectiveness, and propose changes where necessary.

The Sri Lankan Anti - Corruption Strategy is confined mainly to the Bribery Commission and the National Police Commission. While the Bribery Commission tends to focus mainly on corruption in the form of bribery, the National Police Commission focuses on maintaining the independence of the Police Department, prevention of nepotism and varied forms of inducement. Further, the IGP has identified many administrative deficiencies that lead to corruption and has begun to deal with this through reform of administrative practices.¹⁶¹

8.1 EXISTING SRI LANKAN ANTI-CORRUPTION STRATEGY

8.1.1 The National Police Commission

The National Police Commission (NPC) was provided for under the 17th Amendment to the Constitution, which came into force in 2001. The Commission however was officially set up in 2002. The Commission's powers included the appointment, promotion, transfer, disciplinary control and dismissal of police officers other than the Inspector General of Police;¹⁶² the establishment of procedures to entertain and investigate public complaints of any aggrieved person made against a police officer of the police service, and provide redress in accordance with any law enacted by Parliament for such purpose;¹⁶³ and the improvement of the efficiency and independence of the police officers¹⁶⁴.

Thus defined broadly, the mandate of the NPC includes protection of police officers from hierarchical or political intimidation, provision of redress to members of the public aggrieved by the police, and the improvement of the efficiency of the police. It is important to note that contrary to public perception, the NPC's mandate is not limited to the appointment, promotion, transfer, disciplinary control and dismissal of police officers.

The NPC was previously involved in a power struggle with the IGP relating to the promotion and transfer of police officers. In 2003 the NPC was instrumental in rejecting about 60 politically motivated transfers.¹⁶⁵ In addition to this the NPC has set up seven co-ordinating committees at district levels to deal with public complaints. Initially the public responded with about 26 complaints

¹⁶¹ It is interesting to note however that the Police Road Map for Development does not specifically identify corruption as an urgent problem.

¹⁶² Article 155G(1) (a) of the Seventeenth Amendment to the Constitution

¹⁶³ Article 155G(2) of the Seventeenth Amendment to the Constitution

¹⁶⁴ Article 155G(3) of the Seventeenth Amendment to the Constitution

¹⁶⁵ Supra – Chapter 5

which were investigated. The NPC has also published rules and schedules relating to requirements for promotions and procedures to be followed in disciplinary matters.

It is thereby possible to state that the NPC has been able to limit corruption in the area of political influence.¹⁶⁶ However it is pointed out that many police officers have lost faith in the NPC¹⁶⁷, and many police officers are still afraid of being transferred on political grounds.¹⁶⁸ 52.2% of the police officers surveyed believed that the NPC did not help them to discharge their duties without fear or favour as opposed to a mere 26.8% that believed that they did. It is also interesting to note that a majority of those who felt that the NPC did not assist were of the lower ranks such as PCs and Sergeants; with the dissatisfaction level of the PCs being as high as 66.8% as opposed to 18.7% that were satisfied with the NPC. This is problematic as it is the junior officers that are most subject to the corrupt orders of superiors and need assistance.

While the NPC seems to have met with success in administrative matters within the police, it does not seem to have made a breakthrough in petty forms of bribery committed by lower ranking police officers. It is submitted that since it's these officers that meet with the public, the public image of the police is largely affected by the abuse of power and bribes taken by these officials.¹⁶⁹

One of the strongest criticisms against the NPC is with regard to the public complaints procedure. In its concluding observations the UNHRC stated that the NPC should institute a public complaints procedure as soon as possible. This is yet to be done. Article 155G(2) of the 17th Amendment to the Constitution does envision a public complaints procedure, but the NPC is yet to create a specific unit to deal with this. Further the NPC should permit a limited amount of whistle - blowing to ensure that the public can voice their dissatisfaction with situations of nepotism and political thuggery. It is submitted that this too becomes difficult as most of the officers in the former NPC were serving part time and did not have time for extensive inquiries.

It is to be noted that a survey of the public revealed that only 49.1% of the public had even heard of the NPC. A majority, in the Western, Wayamba and Uva provinces have heard of the NPC - a majority in the Central, Southern, North Central and Sabaragamuwa provinces have not. Further, only 3.5% of

¹⁶⁶ For criticisms on the NPC and the delegation of the powers given to them see chapter 5

¹⁶⁷ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka within the period 05th February to 03rd March 2005 by interviewing 770 randomly selected serving Police Officers

¹⁶⁸ Information gathered through interviews carried out by Transparency International with the Community Relations Officers and the public in Kurunegala and Kandy

¹⁶⁹ Thus in many instances bribes taken by traffic police is sufficient to tarnish the image of the Police Department as a whole.

the public felt that the NPC was very effective and 30.0% felt that they were somewhat effective, whereas 17.9% felt that they were somewhat ineffective and 13.6% felt that they were totally ineffective.

8.1.2 The Commission to Investigate Allegations of Bribery or Corruption (The Bribery Commission)

The Bribery Commission which came into operation under Act no.19 of 1994, was created specifically for investigations into allegations of bribery or corruption and to direct the institution of prosecutions for offences under the Bribery Act and the Declaration of Assets and Liabilities Law No. 1 of 1975.¹⁷⁰ The Commission's investigations are however restricted to investigations of 'genuine complaints'. They are therefore not permitted to engage in pro-active investigations. The Bribery Commission's investigations department also consists solely of members of the Police Department. These officers are transferable by the IGP, and this creates difficulties in conducting difficult investigations as investigating officers are never assured that they will not be forced to work together with the very officers they investigate.

During the year 2002 out of a total of 29 public servants produced in courts by the Commission, 25 were police officers. In the year 2003 this dropped to 12 police officers out of 23 public servants. While this does point out that the Bribery Commission has not been totally ineffective, most of these cases deal only with 'bribery' and not with other forms of corruption. It is also to be noted that the high level of police among the public servants produced in court is not a basis for assuming that the Police Department is the most corrupt. The police move closely with the public and corruption within the police is generally reported more regularly than corruption in other sectors. In addition to this the level of corruption is different. Thus in the case of the police the person asked to make a bribe is often of a poorer class and obtains no return. This leads to more likelihood of complaints. In other departments, for example in the Customs sector, the 'victim' of corruption is generally of the business class and the benefits out of the said corruption is enormous. The likelihood of complaints to the Commission in this sector is therefore less.

The Commission was created primarily for investigations into allegations of corruption and therefore has no mandate to create corruption - prevention strategies or to create public awareness regarding corruption. The Commission however has engaged in public education on corruption and has carried out media campaigns inviting complaints, which have met with much success. It is important to note that the Sri Lankan Bribery Commission deals primarily with investigations and not with prevention strategies or community relations.

¹⁷⁰ Preamble of The Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994

The NPC and Bribery Commission are the main authorities for combating corruption within the institution of the police. The Bribery Commission focuses mainly on apprehension and punishment of officials involved in corruption; the National Police Commission on the other hand focuses on minimizing corruption through removing political influence and through creating administrative procedures that minimize the scope of corruption. In addition to this the standard procedures such as complaints to the Special Investigations Unit is still an option for the public against corrupt police officials.

8.1.3 The Special Investigations Unit

The Special Investigations Unit is the Sri Lankan Police inquiries procedure. They entertain and investigate public complaints. It is to be noted however that this Unit comprises only 3 or 4 ASPs and as only officers of the rank of ASP or above that are permitted to record complaints, this leads to a slowing down of the process. Further, the Sri Lanka Police Department is noted for torture and horrifying stories of brutal torture. It is therefore unlikely that a member of the public would complain to the police themselves. The UNHRC in its concluding observations on Sri Lanka has stated that the Police Department should maintain an *independent* investigations body. In the eyes of the public, this department is hardly independent.

There is however, a move to decentralise the SIUs, through the creation of regional complaint mechanisms. This has recently been set up and while it is indeed a commendable effort, it is still too early to comment on its methods or success.

Further, unlike an Internal Affairs bureau in other countries the officers in the SIU are not attached to the Unit and are transferable. This leads to the uncomfortable situation of the investigating officers having to work under the very officers they investigate!¹⁷¹

8.2 RECENT ADMINISTRATIVE EFFORTS MADE BY THE IGP

In addition to the existing mechanisms, the IGP Mr. Chandra Fernando has created new methods of limiting corruption. Corruption has been succinctly stated in the following formula, better known as the '**Klitgard Equation**': $C = M+D-A$. ie *Corruption = Discretion + Monopolies – Accountability*. With the enforcement of the mechanisms given below, the IGP has sought to reduce discretion and existing monopolies and increase accountability.

¹⁷¹ For further details on the practical working of the SIU, see 'A Continuing Dilemma: The Prevalence of State Sponsored Violence in Sri Lanka' LST Review, Vol 15. 208 & 209, February & March 2005

8.2.1 Control of Discretion

Discretion has been reduced in the area of traffic offences. For example, senior officers have been instructed not to interfere with Constables in charge of traffic.

8.2.2 Breaking the Monopoly

Over a period of time certain groups had begun to maintain a monopoly over areas under the police. These monopolies easily lead to corruption as it results in criminals or others controlling the relevant area being able to 'buy-over' the relevant officers, thereby exercising a monopoly over the area. Thus the saying 'power corrupts and absolute power corrupts absolutely' rings true in the system of the Police Department as well.

The following two examples will attempt to demonstrate the manner in which monopolies have been created in certain departments under the police, and the manner by which the Police Department is attempting to prevent corruption.

8.2.2.1 Monopoly of the Local Police over their areas

The Sri Lanka Police Force is divided into Ranges, Districts and Police Stations for administrative purposes. This has resulted in certain Police Stations maintaining a monopoly in their respective districts. Thus drug dealers and unscrupulous politicians have made 'contacts' within the local Police Station, thus enabling them to carry on their 'trade' without 'interference' from the local police. In addition to this in instances where the heads of these police stations have been bought over by the underworld, the community is helpless and unable to stand against crime in their area.

In order to overcome this, the 'Central Vice Squad' system has been created. The Vice Squad operates undercover and targets drugs dealers. The perception that the police must not go after the small-time dealer, but must catch the head of drug cartels, has now been done away with. This is largely due to the fact that the Sri Lankan drug market is dominated by 'small time' dealers and the main suppliers are from other countries. The Vice Squads have not received much publicity due to their operations being conducted undercover, but they have been quite effective in reducing drug dealing. They have additionally been able to instil a sense of fear of being involved in corruption, among the local Police Stations. Thus a local Police Station that is unable to apprehend drug dealers in its area, or which reports that there is no drug problem in its area is held to check, in the event that the Vice Squad discovers that the report of the local police is inaccurate.

This program deals largely with drug dealing. However the principle of the program is important in combating corruption.

8.2.2 Monopoly over selection of tenders

Previously the Technical Evaluation Committee maintained a monopoly over the awarding of tenders. The DIG of logistics had the power to select the Chairman of the Tender Board. Under the new system however the evaluation of the Technical Evaluation Committee was not binding and the Tender Board was given powers of evaluation. Further the Tender Board was not permitted to meet suppliers privately and the Senior DIG of supplies was made an independent monitor and not part of the Board. The monopoly of the Stores Manager was also removed, and all goods had to be evaluated by the Technical Evaluation Committee to ensure that the standard was the same as the sample, before being accepted. Further, tenders were no longer limited to registered persons but open to all interested parties.

8.2.3 Creating a system of Accountability

The IGP has also focused on creating a sense of accountability by holding senior officers responsible for the action of officers under them. Thus in instances where junior officers are convicted of an abuse of power the Officer in Charge of the relevant Police Station is held responsible. The OIC of the Police Station in Marawila was held responsible when 4 officers from the Police Station were arrested on allegations of bribery. The same system of accountability is also employed in the case of police omissions as well as actions.¹⁷²

8.3 THE SRI LANKAN ANTI-CORRUPTION STRATEGY IN THE GLOBAL CONTEXT

This section will seek to examine the Sri Lankan Anti Corruption strategy in the context of the Independent Commission Against Corruption in Hong Kong (ICAC). The study will focus on Hong Kong as its Anti-Corruption strategy has proved a model for the international community. A brief examination of the ICAC in Hong Kong¹⁷³, reveals the three pronged approach taken. The ICAC focuses on Investigation, Prevention and Education.

Investigations are handled by the Operations Department which receives, considers and investigates alleged corruption offences. Prevention is handled by the Corruption Prevention Department which examines practices and procedures of government departments and public bodies in order to reduce

¹⁷² Source: Interview conducted with Mr Chandra Fernando, IGP, Sri Lanka

¹⁷³ <http://www.icac.org.hk/eng/main/>

corruption opportunities and offers corruption-prevention advice to private organizations upon request. Education is handled by the Community Relations Department, which educates the public against the evils of corruption and enlists public support in combating corruption.

The Sri Lankan Anti-Corruption strategy currently focuses largely on Investigations. The other two prongs-Prevention Strategies and Education -are therefore sidelined. These arms of the three - pronged approach rarely have immediate or dramatic effects on corruption. They do however, pave the way for a sustainable corruption-free society and must be run concurrently with investigations.

It is encouraging to note that the Bribery Commission has launched educational awareness programmes and that the IGP has created systems for preventing corruption within the Police Department and has also created a steering committee to examine the specific problems within the Police Department. It is also encouraging to note that the NPC has laid down schemes for transfer and promotions thus reducing opportunities for political interference in these areas.

It is however submitted that there needs to be a more focused look at the core causes of corruption within the police, and on new methods of preventing corruption. This needs to be done at two levels. Firstly, petty forms of corruption such as bribe - taking in the area of traffic offences and in recording or making copies of statements needs to be dealt with. Secondly, the larger issues of corruption, such as political influence and underworld influence over police officers, needs to be addressed. It is submitted that both these levels are equally important, as it is the lower ranking officer that is later promoted to higher ranks and that once the public begin to view the Police Department as a corrupt institution, the police lose their credibility and are unable to effectively police the community.

8.4 EFFECTIVENESS OF THE EXISTING MECHANISMS

The previous National Police Commission ended its term in 2005. Before the appointment of members of the new NPC (within one month of the end of the term), many police transfers occurred, contrary to the very intention of the Constitution. Officers previously protected by the NPC, are subjected to transfer orders. Many police officers have lost faith in the National Police Commission and do not seek protection in matters of hierarchical intimidation.¹⁷⁴ Further the National Police Commission has *not effectively reduced the fear of politically motivated transfers*¹⁷⁵.

¹⁷⁴ Provider Survey conducted by Social Indicator for Transparency International Sri Lanka

¹⁷⁵ This was apparent in interviews conducted at with officers. Whether justified or not, even though the officers concerned were aware of the existence of the NPC they had not as yet, built up confidence in it.

Recent visits to Police Stations and Community Based Organizations outside Colombo, revealed that many police officers who do not wish to be corrupt, feel that they are victims of a system and have no redress. It is submitted that the existence of a mechanism to protect police officers is of little use, if police officers have no confidence in the mechanism. The contribution of the National Police Commission in vetoing many illegal transfers is appreciated - however, more such action is required. It is further submitted that the members of the Commission should be full-time officers.

It has also been suggested that the IGP be made part of the National Police Commission. This is difficult in the light of the fact that all members of the Commission are not considered to be public servants. It is submitted that this will further undermine the independence of the Commission, and will result in reducing complaints made by police officers. It is important however, that all decisions are made in consultation with, and as far as possible in concurrence with, the IGP. Further, the National Police Commission does not seem to have adequately carried out their mandate for inquiring into public complaints or in dealing with other administrative matters.

The Bribery Commission seems to be having some impact on corruption within the police. They have even taken additional steps of protecting witnesses in cases where police officers have attempted to intimidate witnesses. The Commission however is overloaded with work, is understaffed and finds it difficult to deal with every allegation that are presented to them. Further, the Commission does not engage in creating new strategies for prevention of corruption. The general public are also 'complaint shy' and investigations by the Commission are limited to investigations based on 'genuine complaints'. Thus in many instances civil society is ready to talk about corruption in the police, but is reluctant to come forward with concrete complaints. The new systems put in place by the IGP are encouraging - it is however difficult to comment on their effectiveness as yet.

9 ANTI CORRUPTION STRATEGIES IN SELECTED JURISDICTIONS

This chapter will seek to examine the methods employed by other selected countries in dealing with police corruption¹⁷⁶. These countries have employed many mechanisms that enhance accountability and transparency and prevent opportunities for corruption. While it is understood that the economic and social context of these countries is indeed different from that of Sri Lanka, it is submitted that the problems of corruption are not very different. It is therefore suggested that while it may not be possible to apply solutions that have been successful in other countries in toto, in Sri Lanka, it would prove beneficial to learn from the underlying principles employed. This chapter will focus largely on the internal and external mechanisms employed in creating a sense of accountability within the Police Department.

It is submitted that policing is done by consent and that a Police Department that does not inspire confidence among the people it serves is indeed an ineffectual department. In order to inspire confidence within the people it is important to create a sense of accountability. It is this that builds community relations, creates a system of law and order and increases the efficiency of the police service.

9.1 METHODS EMPLOYED IN COMBATING CORRUPTION

9.1.1 The United States of America (The New York Police Department)

The United States of America does not have a National Police Department, but instead comprises many Police Forces. The Tenth Amendment to the Constitution states that all residuary powers come under the purview of the States. Policing powers fall into this category of 'residuary powers' and is therefore the sole prerogative of the State. Each State therefore has its own form of police. Some states have both local and town police forces whereas others have territorial based police forces. While estimates suggest that there are about 20,000 police forces in the United States it is difficult to assess this, as many States and towns have two or three separate police forces.

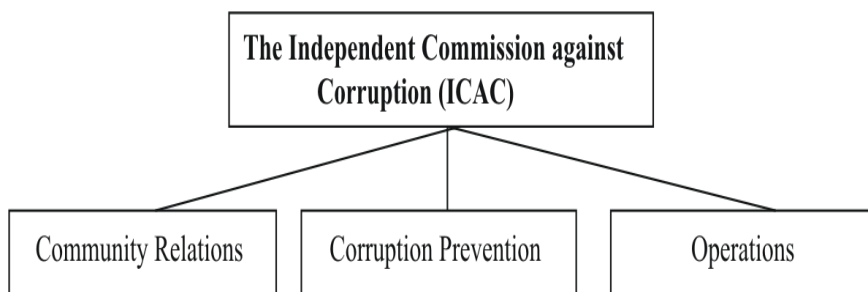
¹⁷⁶ The study will include: The New York Police Department, USA; The Metropolitan Police Service, the United Kingdom; Hong Kong; India and Pakistan

The New York Police Department (NYPD) is the largest police department in the United States. It is also a success story in combating corruption and will therefore be the focus of the discussion on the Police Force in the United States. The policing of New York is conducted largely on a territorial basis, and is divided into precincts and boroughs. In addition to this the NYPD has a number of special bureaus and units with specialized areas of policing. In recent years, the NYPD has had great success in reducing the amount of crime in the city. Much of the credit for this goes to COMPSTAT, the computerized database of crime statistics that allows the department to understand where most crimes occur and channel resources to such areas. Credit also goes to a change in approach begun by Mayor Rudolph Giuliani in the 1990s. Giuliani used the department to crack down on minor “quality of life” crimes such as turnstile jumping, squeegeeing men, panhandling, etc. He believed that a crackdown on these types of crime would (a) give the police an opportunity to search more suspects, thereby taking guns and drugs off the street and (b) contribute to the public perception that New York City was a relatively lawful environment and you would get caught and punished if you did something illegal. His hunch was correct, and crime rates in the city began dropping. Over time, these reductions in crime statistics were quite dramatic.

9.1.1.1 Corruption and Accountability

Policing in New York society works on the basis of consent going on the premise that the Police Department is able to function effectively only if sufficient confidence can be placed in it by the people it serves. However, since a large amount of power is given to the police there is ample room for corruption. Corruption as discussed in this section encompasses all acts done for personal gain with the abuse of authority, inclusive of bribery. There is therefore a need for a high level of accountability within the police force. In recognition of this factor the Mollen Commission of 1994, which was commissioned to recommend changes to the police force, recommended many mechanisms for enhancing accountability.

In furtherance of this objective the New York Police Department has succeeded in creating strong internal and external accountability systems.



9.1.1.2 The Internal Affairs Bureau (IAB)

The Internal Affairs Bureau consists of police officers who are familiar with the culture and organization of the police and are best able to collect evidence on corrupt officers. The Bureau investigates only grave crimes, which are classified as such, based on whether a police officer who has committed such crimes would be discharged from service or not.

9.1.1.3 Complaints from the public

The IAB receives complaints from the public on their hotline. All calls received are recorded and then reports are logged on the computer. A copy of these reports is also sent to the Commission to Combat Police Corruption and the Anti-Corruption Prosecutor of the borough. The complainant is asked to state as many details as possible when making a complaint. In addition to this the IAB subjects the officer being investigated to integrity tests. These targeted integrity tests are conducted by creating real life situations and evaluating how the said officer responds. The officer is generally not informed that he has been subjected to an integrity test unless and until necessary.

9.1.1.4 Proactive Investigations

In addition to the investigation of complaints received, the Internal Affairs Bureau also engages in the conducting of random tests. The Mollen Commission strongly recommended that in addition to the investigation of complaints made, a constant proactive checking mechanism must exist. Thus the chances of the decline in corruption being based solely on a fear of reporting instances of corruption are reduced. Officers are never informed that these tests have been conducted or that they have passed or failed them. In the event that the corruption is of a serious nature, the officer is prosecuted. In other instances he is warned and where necessary given additional training. The objective of these tests is to give the Police Department a feeling that the IAB is 'omnipresent'. It is expected that this will result in officers treating citizens in the same manner they would treat any IAB officer. All reports are forwarded to the Chief of Police of the New York Police Department, who is expected to dismiss or punish all offending officers, and to revise procedures where necessary.

9.1.1.5 The Commission to Combat Police Corruption (CCPC)

This Commission was created in 1995 to monitor the anti-corruption programmes conducted by the IAB and the methods by which complaints are dealt with. The Commission is completely independent of the NYPD, and comprises six Commissioners, appointed by the mayor, who advise a full-time staff of attorneys.

The Commission carries out its functions by examining and reviewing all complaints against corruption logged by the IAB, monitoring the methods employed by the IAB in handling such complaints, attending IAB meetings and giving them direction on handling certain cases where necessary, taking action on complaints made by the public and assisting in training of incoming IAB officers.

The Commission is however not empowered to take disciplinary action against any of the officers and can only ensure that investigations are conducted properly, and report on their findings to the IAB or the Chief of Police. The Commission also suggests reforms in IAB procedure- however, the IAB is not obliged to accept these suggestions and are at liberty to give reasons for disregard.

9.1.1.6 Anti-Corruption Prosecutors

New York City consists of five 'boroughs' each with its own elected Head Prosecutor. Each of these prosecutors has a dedicated Anti-Corruption prosecutor who also receives the complaints recorded by the IAB. Prosecutors are also informed of pending Integrity Tests to ensure that the IAB officers act in compliance with the law.¹⁷⁷

9.1.1.7 Civilian Complaints Review Board (CCRB)

The Civilian Complaints Review Board was originally an internal police board. In 1993 however, this board was replaced with an external CCRB. The current CCRB therefore does not consist of any police officers but comprises civilians only. The CCRB is authorized to investigate allegations against police officers. All substantiated allegations and recommendations have to be forwarded to the NYPD. The CCRB's actions are limited to such recommendations and they are not authorized to enforce any action against the police.

The board comprises 13 members. The mayor appoints members of the board who, as required by the authorizing statute, must be residents of New York City, must not work for any governmental agency, and must reflect the diversity of the city's population. The City Council designates five members of the board: one representative from each of the city's five boroughs; the Police Commissioner designates three members of the board, who are the only members who may have previously worked as law enforcement professionals; and the mayor designates the remaining five board members, including the chair. Board members serve for 3-year terms. The board hires the executive director, who, in turn, hires and supervises the agency's staff. The CCRB's staff consists solely of civilians.

¹⁷⁷ The law in New York City permits the IAB to offer an opportunity to commit a crime, but does not permit them to solicit or encourage the commission of a crime.

Complaints can be lodged with the CCRB through the internet or by means of a telephone call. The CCRB is generally assisted by the police in their investigations; if necessary they are also able to obtain subpoenas to gain access to police records and other testimonies. Officers failing to cooperate with the CCRB or failing to disclose evidence are liable for termination of office.

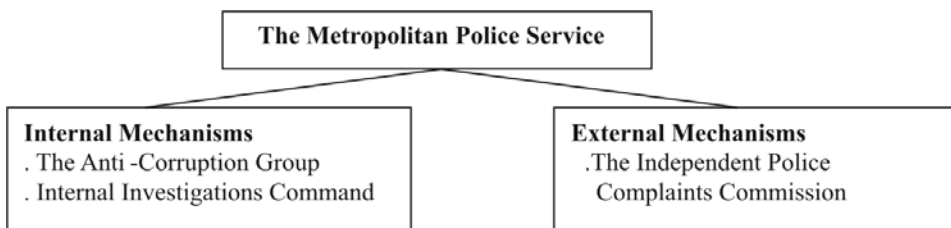
9.1.2 The United Kingdom (The Metropolitan Police)

The UK Police Force is not a national body. There are 43 police forces in England and Wales alone. In recognition of the need to combat cross-boundary crime however, the government has amalgamated certain regional Police Forces to form national policing agencies. The National Crime Squad is an example of such national policing agencies.

The United Kingdom Police Force has many systems of accountability in place, all of which will not be discussed in this section. Additionally they have created many systems which deal with combating corruption in the Police Force. This section will focus on the Metropolitan Police Service and their struggle against corruption.

The Metropolitan Police Service is indeed an example in dealing with corruption. Their policies have been aggressive, proactive and effective. They too, employ both internal and external mechanisms to investigate allegations of corruption within the force. The following is the basic structure of the most important mechanisms employed in tackling the corruption problem.

9.1.2.1 Mechanisms employed in combating corruption



9.1.2.2 The Anti-Corruption Group

The Anti-Corruption Group was created in 1998 with the sole purpose of dealing with corruption within the Police Force. It comprises 180 police officers and 32 civilian administrative officers. Many of the police officers have been transferred from the Police Force itself and are skilled in investigation techniques. They investigate the police as well as people who tend to corrupt the police. All evidence collected is handed over to the Crown Prosecution.

They also conduct non-targeted integrity tests, to evaluate the standards of officers within the Force. This proactive system of combating corruption is commendable as it does not rely on complaints to deal with corruption and is helpful in investigating those who corrupt the police as well. It also serves as a deterrent, which is preferable to post-corruption prosecution.

9.1.2.3 Internal Investigations Command

The Internal Investigations Command investigates most of the allegations of corruption and misconduct within the Police Force. Where the allegation is grave however the investigations are supervised by the IPCC.

The conducting of all investigations is governed by legislation, principally contained within the Police and Criminal Evidence Act 1984 and The Police (Complaints and Misconduct) Regulations 2004 and the Police (Conduct) Regulations 2004. Investigations are carried out by a team of officers headed by a Detective Chief Inspector or a Detective Inspector.

9.1.2.4 The Independent Police Complaints Commission (IPCC)

This Commission replaced the Police Complaints Authority, which was created in 1985 to review complaints against the police. The PCA consisted of police officers and thus was often accused of a lack of independence in conducting investigations. Their powers were also more limited than those of the Independent Police Complaints Commission.

The IPCC replaced the PCA in 2004 and was based on the Police Reform Act of 2002. The IPCC is not part of any government department, is independent of the police service, comprises 18 commissioners who must not have previously worked for the police; has its own investigative teams and has been established under an Act of Parliament setting out its role. Further, the decisions of the IPCC cannot be overruled except by a court of law.

This Commission assists with supervision and management of some police investigations. It also carries out independent investigations into serious incidents or allegations of misconduct by persons serving within the police. The IPCC is also empowered to take over an investigation where it feels the investigation is not being carried out properly. In addition, in situations of serious allegations, the IPCC takes over the investigation from the very beginning. They also conduct proactive investigations. These are investigations that do not require any complaints to be filed. In the absence of a public complaint, and where appropriate, the police investigate the incident as opposed to investigating the people concerned.

9.1.3 Hong Kong

The Hong Kong Police Service is run on a unitary basis and has been divided into six regional formations. Hong Kong has scored well on the Corruption Perception Index and ranked second least - corrupt place in Asia in the year 2004. In terms of actual scores they have even scored 8.0 out of a clean score of 10.0. The Corruption Perception Index did not deal with corruption within the Police Force alone. However, their commitment to wage war on corruption is evident in the mechanisms set out for combating corruption in the police force as well.

While corruption is not limited to bribery alone, the main piece of legislation used to combat corruption in Hong Kong is the Prevention of Bribery Ordinance (POBO). This Ordinance contains eight sections relating to corruption offences, four sections granting special powers of investigation and eight sections designed to assist the prosecution and to limit the defences available to any person accused of an offence under the Ordinance. It seeks to make illegal both the accepting of undue advantage and the offering of any advantage or inducement for doing one's duty. This too is not specific to the police alone, but deals with all forms of governance. It also makes it an offence for any government servant to maintain a standard of living or to own property beyond his means and to be unable to satisfactorily explain how this property came under his control. The Ordinance further reduces the strictness of the rules of evidence and protects the identity of the person under investigation, thereby attempting to make it possible to conduct investigations without creating a stigma on the person under investigation, who may later be absolved of the charges.

9.1.3.1 Complaints Against Police Officers (CAPO)

CAPO is the internal arm of the Police Department that deals with public complaints against the police. All investigations conducted by them are monitored by the Independent Police Complaints Council. No complaints can be made directly to the IPCC, and in the event of complaints being made to the IPCC they are channelled to the CAPO for preliminary investigation. In the case of an allegation being made about a CAPO officer, a higher ranking officer or the CAPO of another region will conduct investigations.

9.1.3.2 The Independent Police Complaints Council (IPCC)

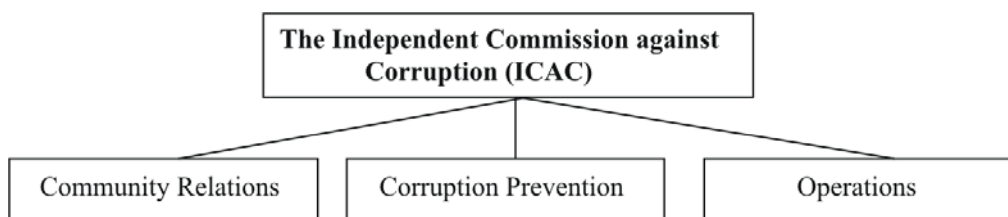
The IPCC is not an appellate body, and merely reviews every investigation conducted by the CAPO. If it is unhappy with the investigation it sends it back to be redone. Investigations are complete only once they have received a stamp of authority from the IPCC. The IPCC also suggests reforms within the Police Force.

While these authorities do not specifically deal with corruption but with other complaints too, they are important in curbing corruption, as a sense of accountability and constant scrutiny is a main contributory factor in the prevention of corruption.

9.1.3.3 *The Independent Commission against Corruption (ICAC)*

The ICAC was established in 1974 as a result of the recommendations made after the Blair-Kerr inquiry. The scope of its powers is defined in the Independent Commission Against Corruption Ordinance.

The ICAC is divided into three departments as depicted below:



- I. The Community Relations Department targets the public and aims at creating an anti-corruption culture within Hong Kong.
- II. The Corruption Prevention Department targets the government and all categories of organizations, both public and private, in its anti-corruption efforts; offers its expertise on improving systems and practices to reduce the chance of corruption occurring within an organization
- III. The Operations Department targets the corrupt and does this through investigation, both pro-active and complaint re-active.

Thus it is clear that the government of Hong Kong has decided to crack down on all forms of corruption. While the ICAC is not specifically assigned the task of curbing corruption within the police, this has been a natural result of its anti-corruption efforts.

9.1.4 **India**

In keeping with Article 246 of the Indian Constitution, police is a State subject. All the State Police Forces are however run in keeping with the central Police Act of 1861. Certain states have their own Police Acts. However, these are in keeping with the main Police Act. In addition, the Indian Police Service officers are trained by the centre. All senior officers can be selected

from members of the Indian Police Service alone. The Indian Police Service is directly under the Ministry of Home Affairs. After their training, these officers are assigned to various States. The centre also controls centralized agencies such as the National Security Guards.

Bribe-taking, political influence and abuse of authority has been a major problem throughout history. Due to the historical context of the creation of the Police Service, supervision of the police is vested in the State Government. This 'supervision' is not defined in the Act thus leaving room for undue political influence. Further, the National Police Commission was dissolved in 1981 and few of the recommendations set out in their eight reports have been put into force. The Padmanabhaiah and Ribeiro Commission reports have also now been put into force.

9.1.4.1 Mechanisms for Dealing with Corruption

In addition to the general law-enforcement agencies that deal with corruption in all forms, the police organization under the Central Government has set up, under the Police Force, an important organization that deals specifically with bribery, namely the Central Bureau of Investigation.

9.1.4.2 The Central Bureau of Investigation (CBI)

The Central Bureau of Investigation traces its origin to the Special Police Establishments set up in 1941 to investigate bribery and corruption during the Second World War. After the world war a Special Establishments Act was passed, transferring powers to the Ministry of Home Affairs and applicable to the whole of India. The Central Bureau of Investigation thus does not limit itself to investigation of police officers alone. When dealing with corruption the CBI derives its legal base from the Prevention of Corruption Act, 1988. They are supervised in these matters by the Central Vigilance Committee.

The CBI 2005 drives focussed heavily on anti-corruption. This includes investigation into excess assets possessed by policemen, proactive trap tests and investigation into complaints. Its work however is generally limited to the Central Government and Central Policy issues.

9.1.4.3 The case of Kerala

The State of Kerala has taken it upon itself to enforce two of the main recommendations of the NPC, relating to functional autonomy and periodic assessment. In furtherance of this objective it has created a Police Performance and Accountability Commission. While this has succeeded in taking powers such as powers of appointment and transfers away from the politicians, it has sadly not made any dent in corruption. The Commission does not have statutory backing and does not investigate individual cases. Its primary task is to recommend changes and measures for increasing accountability within the Police Force.

9.1.5 Pakistan

The Indian Police Act of 1861 (together with revisions dating from 1888 and the Police Rules of 1934), is still the basic document for police activity in Pakistan. This act endows the State Government with a great deal of power over the Police Force.¹⁷⁸ It is this lack of independence in the Police Service that has been a primary source of corruption, leading to political influence in all spheres of policing.

Basic law and order responsibilities are carried out by the four Provincial Governments. In addition to this, the Central Government controls a central police department and tribal territories in the North and North-West. The Police Forces of the four provinces are independent, and there is no nationwide integration - nevertheless, the federal minister of the interior provides overall supervision.

All senior positions in the police are filled from the Police Service of Pakistan. The Police Service of Pakistan is not an operational body; rather, it is a career service similar to the Civil Service of Pakistan, from which officers are assigned to the provincial services or, on rotation, to central government agencies where their skills are needed. Recruitment to the PSP is through an annual national examination that is common for several centrally recruited services, including the Civil Service, the Foreign Service and the Customs Service. Because the PSP is a relatively well-paid and powerful service, the selection process attracts students who rank highest. Successful candidates receive two years of training at the Police Training College in Sihala, near Islamabad, and are then assigned to duty with one of the provincial forces.¹⁷⁹

The lower ranks in the Police Force are not as educated and are paid the basic wages of an unskilled labourer. Head Constables are paid the same wages as those of a semi-skilled labourer. Most police officers are unarmed. The historic function of the police was to perform duties in the political interests of the government¹⁸⁰, which was at the formation of the Police Act, the colonial masters. The spirit of the Act does not therefore enhance police-public relations and does not focus on policing by consent.

¹⁷⁸ Section 3 of the Police Act of 1861, gives the government the authority to exercise superintendence over the police, but does not define the word 'superintendence.'

¹⁷⁹ Pakistan: Role and Structure of the Security Forces, Source: http://www.photius.com/countries/pakistan/national_security/pakistan_national_security_role_and_structure_o~10444.html , Revised, 27 March 2005

¹⁸⁰ Ibid

9.1.5.1 Reforms

The 'democratic' government of Pakistan realizing the structural flaws of the Police Act of 1861, have drafted a Police Ordinance 2001, which repeals the old Act. They have now brought in the Police Order 2002, amended by the Police Order (Amendment) Ordinance, 2004.¹⁸¹ These Ordinances maintain the government's superintendence of the police. However they limit the opportunities of abuse by defining the 'superintendence' as only such 'superintendence' that shall be exercised as to ensure that the police performs its duties efficiently and strictly in keeping with the law.¹⁸² It further states that this supervision shall be only supervision through policy, oversight and guidance and that the government shall ensure total autonomy of the police in operational, administrative and financial matters.¹⁸³

The Act has also created *Public Safety Commissions* at federal, provincial and district levels. These commissions comprise people appointed by the government as well as independent members. Their main functions are to prevent the police from engaging in any unlawful activity out of compliance with unlawful or mala fide orders, and to receive public complaints and to inquire into and recommend appropriate actions. It also created a *Police Complaints Authority* at the federal level. This independent body is mandated to deal with citizens' complaints against police misconduct or neglect.

The administration of the district police is vested solely in the district Superintendent of Police, who is no longer subject to the general control and direction of the district magistrate. He is responsible to the Zila Nazim (an elected person defined as such under the Local Government Ordinance, 2001) for police functions, except in respect of administration of the district police, investigation of criminal cases and police functions relating to prosecution.¹⁸⁴ Further, Heads of the police sub divisions and Police Stations are given a fixed tenure of three years, thereby reducing the possibility of politically motivated transfers or removal from office¹⁸⁵.

It has also established a *National Police Management Board* at the federal level to develop standards and advise the governments in that country on police matters.¹⁸⁶

¹⁸¹ Joshi G.P. 'Police Reforms in Pakistan: A Step Forward' Commonwealth Human Rights Initiative, Volume 12 Number 1 New Delhi, Spring 2005

¹⁸² Ibid

¹⁸³ Ibid

¹⁸⁴ Section 33 of the Police Order 2002

¹⁸⁵ Ibid

¹⁸⁶ Ibid

The proper implementation of the Police Order 2002 as amended in 2004 is yet to be observed. Speaking on corruption in Pakistan as a whole, Marshuk Ali Shah (Country Director, Pakistan Resident Mission , Asian Development Bank) stated that 'Pakistan requires a three-pronged approach of enforcement, prevention and awareness to combat corruption'. He pointed out that 'nearly one dozen commissions and committees on corruption failed to solve the issue because the recommendations put forward were not wholly implemented'.¹⁸⁷

9.1.5.2 General Anti-Corruption Initiatives

In addition to the specific police reforms made above, the Government of Pakistan currently maintains a National Accountability Bureau.¹⁸⁸ This bureau launched a national anti-corruption strategy in 2002.¹⁸⁹

Thus it is apparent that Pakistan has taken interest in reforming the police system and dealing with corruption in the last five years. The question however is not one of merely creating mechanisms but of ensuring implementation, enforcement and awareness of these mechanisms. This is yet to be seen.

9.2 COMPARATIVE ANALYSIS WITH METHODS FOR COMBATING CORRUPTION IN THE POLICE DEPARTMENT IN SRI LANKA

This section deals with the Special Investigations Unit, the National Police Commission and the Bribery Commission.

The Special Investigations Unit is an internal organ of the Police Department and deals with complaints against the police. Where the allegation is one of bribery, the SIU has the discretion to refer it to the Bribery Commission.

The National Police Commission is an independent commission created under the 17th Amendment to the Constitution. The NPC is vested with the power of appointment, transfer, promotion, disciplinary control and dismissal of all police officers except the Inspector General of Police. The NPC is also required to determine all matters regarding police administration, and to entertain public complaints.¹⁹⁰

¹⁸⁷ Asian Development Bank's Anti-Corruption Initiatives Speech by Marshuk Ali Shah, Country Director Pakistan, Resident Mission Asian Development Bank 20 August 2003 Islamabad, Pakistan (Source: ADB_org.htm)

¹⁸⁸ National Accountability Bureau 1999

¹⁸⁹ supra fn 10

¹⁹⁰ For a detailed analysis of the powers of the NPC see Chapter 5 of this report

The Bribery Commission's main function is to harness public cooperation for the prevention of bribery, to investigate allegations made to the commissioner, if the communication discloses material upon which an investigation ought to be conducted.

9.2.1 Proactive Investigations and Integrity Tests

While Sri Lanka does have mechanisms for investigating allegations of bribery, all these investigations are complaint specific. The Mollen Commission of USA clearly pointed out that this method of investigation is insufficient. This is even truer in a country like Sri Lanka where corruption has been entrenched in the system itself.

While it is indeed heartening to believe that corruption can be eliminated through instilling values within the officers, the most effective method is that of proactive investigations, which make officers draw back from engaging in corruption, as they are unaware of when they are being tested. Police work involves a lot of unsupervised discretion and a high level of integrity. While it is impractical to suggest that all police work be supervised, it is important to instil a feeling of constant supervision among the police. Thus the IAB of the US has managed to create a feeling of omnipresence among the Police Force. They state that it is generally believed that they conduct more examinations than they actually do, thereby creating a fear of engaging in corruption.

This method has proved effective in the United States of America, the United Kingdom, and Hong Kong, all of which are countries that have a score of above 7 on the Corruption Perception Index. Further National Integrity Tests also identify areas where training of officers needs to be improved.

While it could be pointed out that these proactive investigation and integrity tests require economic and human resources both of which are in short supply in the police institution in Sri Lanka, it is submitted that this is indeed a worthwhile investment for the government to make. The Police Department is the primary law enforcement agency, and corruption in this department leads to a break down in law and order and a general disrespect for the government as a whole.

9.2.2 Citizen Review and Participation

When complaints against the police are investigated by police officers alone, this leads to an assumption of bias. Thus whether the assumption is actually biased or not, the perception leads to a lack of confidence in the police. Sri Lanka at present has a system of investigation whereby officers handpicked by the IGP conduct investigations against the police. All complaints have to be made to the Police Department itself. Due to the current breakdown in

confidence in the police, many people fear to make complaints at the Police Stations. Police brutality has been given much publicity and there is a general feeling that it is not safe to make a complaint against the police.¹⁹¹ In the light of these facts it is submitted that a mechanism similar to that of the Citizens' Complaints Review Board in the United States would assist in dealing with complaints against the Police Department.

9.2.3 Monitoring of Investigations

Sri Lanka has no separate Commission for monitoring internal investigations. This was seen as a necessity in the US, UK and Hong Kong. While the National Police Commission could look into this it is better that a separate Commission be created. Cleaning up of the Police Department is a pressing need and it is submitted that the volume of work handled by the NPC is too large for it to handle this aspect adequately. While it is true that the Government of Sri Lanka may not have the economic resources to sustain all the above measures, they need to be considered. The Anti-Corruption Group in the Metropolitan Service of the United Kingdom in their report stated that though they were a rather large force, they anticipated that they would be able to reduce the size of the force, as an anti-corruption culture increases in the country.

It is therefore submitted that due to the high perception of corruption in the government as a whole, it is important that independent agencies work together to arrest the problem, before it escalates any further.

9.2.4 Political Interference

Political interference has become a major problem in dealing with police corruption. This is a problem faced by both India and Pakistan as well. This is largely due to the nature of the colonial Police Acts which are operative in those countries. Pakistan has recently addressed this problem through a revision of its Police Act. The National Police Commission in Sri Lanka is expected to ensure that appointments and transfers of police officers are conducted on an independent basis and that politicians don't have any say in the matter. Discussion with many police officers however revealed that they did not have faith in the National Police Commission and that this resulted in their succumbing to political pressure out of fear of being transferred to difficult areas, and making biased decisions.

It is submitted that targeting of politicians and other civilians who attempt to corrupt the police is necessary. This is done on a regular basis by the Anti-Corruption Group of the United Kingdom and has proved successful.

¹⁹¹ For example in the case of the murder of Gerard Perera it is widely believed, though not proven that the cause of the murder was his case against the police, which was pending at the time.

9.2.5 Protection of Subordinate Officers

The Police Department in Sri Lanka is one that seems to value loyalty above integrity. Unquestioning obedience to superior officers is viewed as part of discipline. Thus in most instances subordinate police officers find it difficult to disobey illegal orders. There is no method that offers assistance to these subordinate officers who find it difficult to stand against corruption. In the event of the officer complaining, he faces the risk of ostracism in the service and losing his chances of promotion. In addition to this there is a lack of faith in adequate prosecution of such complaints.

The Pakistan Government has created a Public Safety Commission whose primary duty is to prevent the police from engaging in any unlawful activity out of compliance with unlawful or mala fide orders. It is submitted that such an independent body should be created to assist subordinate officers. In addition to this the officers must be protected. This could be done through investigation into such acts and a tightening of the screws in common areas of corruption, which could be identified in this manner.

9.2.6 Fostering of an anti-corruption culture in Sri Lanka

While there are measures for dealing with corruption, inadequate though they may be, in Sri Lanka many of these organizations have been unable to carry out their mandate efficiently, due to the lack of public support. Corruption is soon becoming an accepted norm.

Hong Kong has identified a three - pronged approach which should be implemented in Sri Lanka. This approach has been set out as follows:

1. Creation of an anti-corruption culture – through programmes targeting the public
2. Prevention of Corruption – through a tightening of the screws and identification of loopholes
3. Prosecution and conviction of the corrupt.

10 CONCLUSION AND RECOMMENDATIONS

The Police in Sri Lanka renders a valuable service to society. However it is well known that there is a growing chasm between the citizens and the police. Thus the public often feel that the police are corrupt and inefficient. The sole objective of this report was to identify causes for corruption within the Police Department with a view to improving the system; and to set in place sustainability and accountability mechanisms and in turn allow members of the civil society to contribute towards new reforms.

We have made several recommendations below to meet the inadequacies and short-comings revealed upon analysis of survey results (Public Attitude survey and Provider Survey), and interviews conducted with several experts, Police officers of all ranks and members of the public in various parts of the country.

10.1 Improving the institutional network

10.1.1 Recruitment

- The quality and qualifications of the recruits should be considered further.
- Recruitment criteria and procedures should be made transparent.
- Basic qualification for the recruitment of Constables should be upgraded and their public relations, communication and diplomacy skills. Further, aptitude or General Knowledge tests should be employed. Special and technical branches should have different suitable criteria.
- In order to improve the quality of the service, direct recruitment of graduates for the post of Assistant Superintendent of Police and Sub-Inspectors of Police for specialised branches, should be considered. These officers should be provided further incentives (to encourage qualified persons joining the Police Department).
- Qualified women should be encouraged to join the service to remove the gender imbalance within the department. (a special quota system is recommended for women).
- A more effective level of screening into the candidate's background to ensure that he or she has not been involved in any aggressive or disorderly behaviour in the recent past, and is known for high integrity and moral standards is recommended.

10.1.2 Structure

- Lack of supervision within the department has been highlighted by many experts and senior police officers. It seems difficult for the Central Police to handle over 65,000 officers under one leadership. The structure is further weakened by having more officers in the middle of the administrative pyramid. Hence we recommend that the present cadre and the structure of the police should be re considered at the policy level.

10.1.3 Training

- Constables and Sergeants should be given adequate training on investigations, human rights, and public relations since they play a vital role in investigations etc.
- Training programmes should cover professional ethics, public relations, human rights awareness, and mechanisms to improve efficiency etc.
- Police officers must be encouraged to attend courses/lectures organised by civil society organisations to enhance police public relations.
- Training should be continuous. Refresher courses should be introduced for all ranks.
- Training programmes in Tamil should be conducted for Tamil speaking officers.
- Tamil language training should be further enhanced to Sinhala speaking Police officers (and Sinhala for Tamil speaking officers) to enable them to successfully deal with Tamil/Tamil speaking persons.
- Adequate incentives should be provided to police officers who are proficient in Tamil/Sinhala languages (other than their mother tongue).
- Overseas training should not only be limited to senior Police officers but be made available to junior officers.
- Overseas training should be organised in collaboration with countries that have high levels of police integrity.

10.1.4 Promotions

- Promotion schemes should be made transparent and the National Police Commission should play an effective role in effecting promotions.

- A cross functional team comprising a representative from each rank along with consultants named by the Inspector General of Police should sit together and draft policies on promotions.
- A system of Performance Management should be put in place where evaluations are made on objective criteria rather than on subjective judgments.

10.1.5 Transfers

- In order to remedy the discontent of the officers with regard to transfers, it is recommended that the role of the National Police Commission should be further enhanced to increase the trust of the police officers. It is urged that the independence of the NPC should not be interfered with.
- Transfer of Officers In-Charge and ranks above Chief Inspector must continue to be effected with the concurrence of the National Police Commission.
- During election times transfers and placements should be done only with the approval of the Elections Commission.

10.1.6 Salaries, Wages and Allowances

- Considering the importance of the service and the manner in which the police officers are expected to perform duties, it is recommended that their salaries should be brought in line with that of the other three forces (Army, Navy and Air Force). This will undoubtedly increase the job satisfaction of the police officers and thereby increase the quality of their services and reduce corruption.

10.1.7 Rewards and Punishments

- In addition to the system of rewards that is in existence, department should establish a rewards scheme to recognise police officers who demonstrate high degree of integrity in day to day practice and in dealing with the public.
- Punishments for bribery and corruption should be severe enough to avoid police officers from engaging in corrupt practices.
- Reward exemplary leaders in the Police Department by recognising their exemplary behaviour on the basis of an Objective criteria.

10.1.8 Disciplinary Procedure

- The disciplinary procedures should be conducted promptly and should be made transparent.
- A mechanism to give feed back to the complainants should be adopted by the Police Department to strengthen public trust on the system whenever disciplinary inquiries are initiated on public complaints.
- National Police Commission must evolve a separate complaint mechanism under Article 155 G 2 of the Constitution, and the Parliament needs to bring in legislation to define the relief that could be given for complaints in such instances.

10.2 TO OVERCOME THE SYSTEMIC DEFICIENCIES

10.2.1 Human Rights

- Knowledge on human rights by the police officers must be increased with continuous training, exposure and peer review.
- Courses in alternative sociological methods of interrogation and other aspects of criminology should be conducted.
- The public should be made more aware of their rights through media programmes, public lectures especially in outstation areas.
- The Police Human Rights Division should be strengthened to create a mechanism to monitor human rights violations on an island-wide basis and to take prompt disciplinary action on officers who violate human rights.
- The National Police Commission should take prompt disciplinary action on police officers who violate human rights.
- During emergency periods, arrest notes, detention orders, confessions made and other vital information should be reserved for review by the Human Rights Commission and the ICRC.

10.2.2 Police-Community Relations

- A continuous island-wide programme should be launched to improve police public relations. Police Stations could organise informal meetings monthly or weekly with the public in the areas they serve which will create a better dialogue between the public and the police.
- Crime Prevention and Police Public Relations Bureau should initiate special training programmes to improve public relations skills of all police officers who are directly in contact with the public.

- The graduates recruited as Public Relations Officers should be given special training and their salaries should be increased to maximize their performance. Further, the role of these officers should be given due recognition and fellow members of the Police should be advised to coordinate more effectively with these officers.
- Police Stations should play an active role in the community in collaboration with various community based organisations in the areas they serve, by organising community service projects including crime prevention activities.
- More Children and Women Bureau desks should be set up to cover every Police Station in order to protect women's and children's rights¹⁹².
- Qualified Women Police Officers should be specially trained on counseling; psychological aspects and other related areas, to be able to offer relief to the victim women and children who seek their support. Alternatively, civilians must be recruited on a different basis (such as contract) to assist the police on this aspect.
- Monthly assessments should be carried out in every Police Range on the progress of the work done by the officers of these desks.

10.2.3 Victim and Witness Protection

- A more organised witness and victim-protection system should be set up to encourage witnesses and victims to come forward to give evidence against perpetrators of crime.

10.2.4 Lack of supervision

- The structure of the Police Department should be reconsidered to enable strict supervision on a hierarchical basis.
- An internal system of checks and balances should be established to curtail corrupt practices.
- All endeavours should be made to ensure public participation to enable strict supervision (eg. American system of COMPSTAT is a participatory exercise to ensure strict supervision of Police).

¹⁹² There are only 36 Children and Women Bureau desks (Island-wide). Public Attitude survey too revealed that the majority of the public interviewed feel that setting up of separate Children and Women Bureau desks are important.

10.2.5 Lack of Resources

- In order to maximize the services of the department it is recommended that equipment which supports investigations be upgraded to suit the growing demands of the modern world including modernized interrogation rooms with hidden cameras, modern recording machinery, upgrading of the existing computer system, improve DNA testing facilities etc.
- Transportation facilities of the department should be improved to enable carrying out of investigations promptly, effectively and safely.
- Police officers should be continuously given technical training to meet the growing demands.
- In order to reduce the financial dependence it is recommended that the NPC and IGP must be free to hold direct discussions with Treasury and the Minister in charge of the police who shall take the lead in ensuring that no financial restraints are placed on administrative or operational functions of the police. The NPC and IGP, with the approval of the Treasury, must also be free to seek financial and technical assistance directly from international sources for improvements (not being subject to any unnecessary conditions).

10.2.6 Coordinating with other institutions involved in the Administration of Justice (Judiciary and the Attorney General's Department)

- A system must be created to enable prosecutors and the Police Department to coordinate their activities from the very inception of inquiries.
- Selected police officers should be trained in prosecutions in order to avoid delays caused by other institutions involved in the administration of justice. These prosecutors in addition to court sergeants should be given continuous training by Attorney General's department and by the Police Higher Training School.
- When the police feel that certain constraints in the law do affect their capacity to prosecute criminals, these grievances should be presented to the NPC to be brought before the Legislature for reform.

10.2.7 Combating Corruption

10.2.7.1 The National Police Commission

- Independence of the National Police Commission should be restored by appointing the members of the National Police Commission after the appointment of members to the Constitution Council.
- National Police Commission should be financially strengthened.
- Members of the NPC should be full time officers.
- The Structure of the National Police Commission should be re-considered by assigning certain administrative functions to the Inspector General of Police.
- It is however important that all decisions are taken in consultation with, the Inspector General of Police.
- National Police Commission and the Inspector General of Police together with a wide stakeholder base should introduce an anti-corruption strategy for police, which should address all vital mechanisms such as prevention, detection and strategic guidance to minimise corruption within the police.
- It should also address the handling of politically motivated corruption and nepotism within the police.

10.2.7.2 Proactive investigation and integrity tests

- Mechanisms for investigating allegations of bribery in Sri Lanka are complaint specific.¹⁹³ Proactive investigation and integrity tests should be introduced within the Police Department to enable successful investigation corruption without any complaint being made.

10.2.7.3 Citizen Review and Participation

- A mechanism of citizen review and participation in investigating complaints against the police officers should be introduced to mitigate assumptions of bias when dealing with complaints against the Police Department by getting members of the public involved in the process.

10.2.7.4 Commission for monitoring internal investigations

- In order to avoid assumptions of bias in dealing with internal investigations, we recommend that a separate independent commission comprising members of the civil society, senior

¹⁹³ The Mollen Commission of USA clearly pointed out that this method of investigation is insufficient.

police officers, persons with integrity and experience in law enforcement be appointed, for monitoring internal investigations. The commission shall sit whenever the Police Department conducts internal investigations. This will ensure the independence of the decisions made and thereby improve public trust in the department.

10.2.7.5 Oversight of the Police Department and the National Police Commission

- The work of the Police Department and the National Police Commission should be evaluated by:
 - a) Appointing a permanent Parliamentary Committee to evaluate performance
 - b) An independent peer review of the Police Department by another commonwealth country.

10.2.7.6. Integrity Unit

- The Police Department should establish an integrity unit with adequate resources/ personnel to investigate and identify potential sources of corruption, to develop strategies to address them including institutional safeguards against corrupt practices.

10.2.8 Political Interference

- Political interference with police functions should be made an offence.
- The National Police Commission should have authority to deal with such complaints on its own initiative or on complaints made by an officer or a member of the public
- The public should have access to all material on any instances of political interference or attempt thereof.

10.2.9 Unlawful superior orders and protection of subordinate officers

- An independent body should be created to assist subordinate officers when it comes to disobeying unlawful superior orders. It is essential that these officers are protected through prompt investigation and disciplinary action against senior officers who make such orders.¹⁹⁴

¹⁹⁴ The Pakistan government has created a similar Commission (Public Safety Commission) whose primary duties are to prevent the police from engaging in any unlawful activity out of compliance with unlawful or mala-fide orders.

10.2.10 VIP Protection

- Under normal security conditions protection of VVIP should not be the key function or the main cost item in the police. VVIP should be defined to include only the key figures and not all politicians and political party officials. (Note: Police are bound to protect persons and property at all times.)

10.3 CONCLUDING THOUGHTS....

We hope the recommendations made, if implemented, will bring successful results to improve the Police Department-maximising the services of the police to the community they serve, improving the public trust, enhancing police public relations and minimising police corruption.

This research study was conducted with the cooperation of the Sri Lanka Police Department. We sincerely hope that the recommendations made herein will be useful for the Police Department, the policy makers and the general public who work towards improving the police service of Sri Lanka.

PARLIAMENTARY CONTRIBUTION TO MAKE THE POLICE EFFECTIVE

This brief note deals with the analysis of the national budget on the police. The major observations and findings are given below:

1. The cadre in the Police Department has not changed over the years. It is seen from the statistics given in the Annex A & B the estimated cadre in 1999 was 68,932 while in 2005 it was 67,770 according to the annual estimates of the government. Further it was noted that the actual staff strength is 63,797 in 2005 according to the departmental records thus indicating 3,973 vacancies when compared to the approved cadre. This situation needs to be compared with the increasing trend of crime and the population.
2. Total expenditure of the police department as a percentage of the total National budget over the last 3 years is compared below.

Year	National Budget * Rs Mn	Police Budget Rs Mn ^x	%
2003	422,102 (Actual)	13,801	3.2%
2004	487,309	14,250	2.9%
2005	563,428	17,589	3.1%

3. Police Capital investment as a percentage of total National Capital investment Over the last three years is as follows

Year	National Budget*	Police Budget x	%
2003	87,409 Actual	341 Actual	.39%
2004	97,631	1,184	1.21%
2005	144,440	1,502	

- 4 Health and welfare (Recurrent) allocation compared to the approved cadre is compared below;

Year	Allocation	Total Cadre	Per head per Annum	Per head per month
	Rs		Rs	Rs
1999	43,873,000	68,932	636	53
2000	59,597,000	73,932	806	67
2001	96,336,000	75,719	1,272	106
2002	98,847,000	75,968	1,301	108
2003	107,861,000	86,715	1,244	103
2004	125,726,000	67,770	1,855	155
2005	195,776,000	67,770	2,888	240
2006	206,960,000	67,770	3,053	254

Amount allocated for welfare and health appear to be insufficient compared to the nature of work to be performed by the officers

5. VIP Security allocation (Recurrent)

Year	Allocation	Per person per annum
	Rs	Rs
1999	203,808,000	271,784
2000	280,505,000	374,006
2001	498,275,000	664,436
2002	562,885,000	750,513
2003	583,095,000	777,460
2004	612,910,000	817,213
2005	807,620,000	1,076,826
2006	843,500,000	1,124,666

Number of VIPP as per annual estimates is as follows

	2003 Actuals	2004 Estimates	2005 Estimates
Local (annual)	250	250	260
Foreign	500	500	500

VIP Security expenditure has not changed even after the Ceasefire agreement instead increased.

Some important expenditure budget details in respect of the Police department are given in Annexure A & B.

SUMMARY OF EXPENDITURE ALLOCATION BY CATEGORY AS PER ANNUAL ESTIMATE

Annex A

Category	1997	1998	1999	1999	2000	2000	2001	2001	2002	2002	2003	2004	2005
	Actual	Actual	Estimate	Revised	Estimate	Revised	Estimate	Revised	Estimate	Estimate	Estimate	Estimate	Estimate
Recurrent													
Personal Emoluments	3854,416066	4605010182	4199600,000	4199600,000	5205030,000	5329,377600	6202,355,000	6327046000	7818350,000	7711880,000	7,740000,000	9185380,000	
Travelling Expenses	1918,248,639	2303082,938	2020500,000	2020500000	2400,000,000	2517432510	2701500,000	2567721,000	2590,000,000	2632,000000	2677000,000	2898000,000	
Supplies	1155,659,216	1077107546	602000000	602000000	1498332,000	1148,500,390	1505,550,000	1208,433006	1631360,000	1645135000	1693715,000	2562005,000	
Maintenance	140023544	163933,168	74170000	95270390	102,000,000	166431980	162,000,000	173930006	168325,000	165525000	172300,000	217300,000	
Contracted services	369 141,587	429431462	336830000	336830000	415,000,000	554905520	490,975,000	587774006	615998	613045000	655155,000	847225,000	
Transfer	3059,316	1830987	950,000	950,000	900,000	1900,000	1700,000	1920,006	2500,000	3000,000	3000,000	3000,000	
Other Recurrent expenses	26332,409	223393821	165,950	165950006	30100,000	217814000	171620,000	262559,000	113010000	87265000	124830,000	271670,000	
Total	7466880777	8803790105	7400000000	7400,000000	9651362,000	9936362000	11235700000	111129393,006	12,913090000	12857850000	13066000,000	15984580,000	
Capital													
Rehabilitation and Improvements	211520,296	293967398	95000000	95000000	104350,000	164350,000	187630,000	205427006	56200,000	35800000	36300,000	71300,000	
Acquisition of assets	773,174263	1083073394	505000000	505,000,000	695650,000	1685650000	948450,000	855085006	238500000	187500000	1148565,000	1431900,000	
Total	98694559	1377040792	600000000	600,000,000	800,000,000	1850000,000	1136100,000	1060,512,000	294700,000	223300,000	1184865,000	101800,000	
Actual Grand Total	8451575336	10180830897	8000000000	8000,000,000	10451362,000	11292105326	123718000,000	12189895000	13207790000	13081150,000	14250865,000	17589580,000	
Staff	68488	68929	68932	73932	73932	75719	75719	75719	75968	86715	67770	67770	

SUMMARY OF EXPENDITURE BY CATEGORY PROGRAMME AND PROJECTS.

Programme/ Project title	1997	1998	1999	2000	2000	2001	2001	2002	2003	2004	2005	2006
	Actual	Actual	Estimate	Revised	Estimate	Revised	Estimate	Estimate	Estimate	Estimate	Estimate	
National security & Defence Recurrent Expenditure												
1. General administration & Establishment services	48,683,725	104844244	69930,000	69930,000	71490,000	78390,000	104710000	82,108000	99593,000	112133	215763	220910
2. Law Enforcement, public order and staff security	6686,703857	7794946638	6468384,000	6468384,000	8637395000	8590,795000	9,360,460,000	9486851,000	11,014495,000	1095601.1	12985,141	13246500
3. Special taskforce	566284856	667423533	613975000	613975000	642075000	927075000	1256100,000	965813000	1137,270,000	1220270000	1780,280	1806500
4. VIP Security	165208339	236575690	203838000	203838000	247005000	280505,000	421600,000	498275006	562,885,000	583095000	807620	843500
5. Health and Welfare	-	-	43873,000	43873,000	53397000	59597000	92830,000	96336,000	98847,000	125726	195776	206960
Total	7466,880777	8803,790,105	7400,000,000	7400,000,000	9651,362000	9936,362,000	11235700,000	11129353000	12813,090,000	13066000	15984580	16324370
Capital												
1. General Administrator & Establishment services	39995,983	330069862	20,000,000	-	-	-	-	-	-	-	-	-
2. Law Enforcement	944,086,576	990,173,828	512586,240	532,586240	628945,000	1487445000	7290000,000	648065000	1940000,000	1104165	1124630	1,160,000
3. S.T.F.	-	56,558,910	63163,760	63163760	146455000	291455000	376800,000	328480000	83000,000	69000	327470	350,000
4. VIP Security Division.	612000	238192	1600,000	1600,000	2100,000	45729746	1650,000	1350000	11000,000	7000	8000	8500
5. Health & Welfare	-	-	-	-	-	48600,000	-	32617000	6700,000	4700	43100	46300
Total	984694559	1377040792	2650,000	2650,000	22500,000	22500,000	28650,000	1060512000	294700,000	1184865	1503200	1564800

Policeman's Prayer

Teach me that sixty minutes makes one hour, sixteen ounces a pound, and one hundred cents a Rupee. Help me to live so that I can lie down at night with a clear conscience, without a gun under my pillow and haunted by faces to whom I have brought pain. Grant that I may earn my meal on the square and in earning it may do to others as I would have others do unto me. Deafen me to the jingle of tainted money and the rustle of unholy skirts. Blind me to the faults of the other fellow, but reveal to me my own. Guide me, so that each night when I look over the dinner table at my wife, who has been a blessing to me, I shall have nothing to conceal. Keep me young enough to laugh with little children and sympathetic enough to be considerate to the old. And when comes the day of darkening shadows and the smell of flowers, the tread of footsteps and the crunch of wheels in the yard, make the ceremony short and the epitaph simple:

Here lies a man...

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