

Restoring Law and Order in South Africa: A Comprehensive Framework for Reinforcing Law Enforcement Institutions Free from Political Interference

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DOI: <https://doi.org/10.47772/IJRISS.2026.100701032>

Received: 06 August 2026; Accepted: 12 August 2026; Published: 20 August 2026

ABSTRACT

Restoring law and order in South Africa requires more than operational reform; it demands the structural insulation of law enforcement institutions from political interference. This article critically examines the historical, legal, and institutional dynamics that have rendered the South African Police Service (SAPS) and allied criminal justice agencies vulnerable to politicisation, and it advances a comprehensive framework for reinforcing their independence, professionalism, and accountability. The article employed a qualitative research approach, utilising a documentary review method for data collection. The study was conducted as desktop research, drawing on key historical documents, legislative frameworks, landmark jurisprudence, commission of inquiry reports, and seminal scholarly works on policing, anti-corruption enforcement, and democratic governance in South Africa. Data was collected through a systematic review of these sources, including the Constitution of the Republic of South Africa (1996), the South African Police Service Act (1995), the Glenister line of Constitutional Court judgments, the reports of the Judicial Commission of Inquiry into Allegations of State Capture, and peer-reviewed literature. Data analysis was conducted using thematic and content analysis to identify recurring patterns and central themes related to institutional erosion, executive interference, and accountability failures. Key findings reveal that the politicisation of senior appointments, the dismantling of independent anti-corruption capacity, the capture of crime intelligence structures, and the weakness of oversight mechanisms have collectively degraded the capacity of the state to enforce the law impartially. Consequently, the article recommends a co-ordinated framework comprising merit-based and transparent appointment processes, the constitutional entrenchment of an independent anti-corruption authority, the strengthening of civilian oversight, and the professionalisation of policing. By employing democratic policing theory as a conceptual lens, the article argues that operational independence and robust accountability are mutually reinforcing conditions for restoring public trust, institutional legitimacy, and the rule of law in South Africa.

Keywords: Accountability, Law enforcement, Political interference, Police independence, Rule of law, South Africa, State capture.

INTRODUCTION

The capacity of the South African state to maintain law and order has come under sustained public scrutiny in the post-apartheid era, as persistently high levels of violent crime, organised criminality, and corruption have coincided with visible institutional instability within the South African Police Service (SAPS), the National Prosecuting Authority (NPA), and associated agencies (Newham, 2014; Shaw, 2017). The Constitution of the Republic of South Africa (1996) establishes a single police service mandated to prevent, combat and investigate crime, to maintain public order, and to uphold and enforce the law (Constitution, 1996: s205). Yet the constitutional promise of impartial law enforcement has been repeatedly undermined by political interference in operational decision-making, the manipulation of senior appointments, and the deliberate weakening of institutions established to combat corruption (Zondo Commission, 2022). This tension between constitutional design and political practice constitutes the central problem this article interrogates.

Political interference in law enforcement is not a peripheral governance defect; it strikes at the foundational logic of the democratic state. Where the police and prosecution services are directed, constrained, or shielded according to partisan or factional interests, the equal application of the law collapses, and with it the legitimacy of the state's monopoly on coercive force (Bayley, 2006; Von Holdt, 2013). In South Africa, the consequences of such interference have been extensively documented. The disbandment of the Directorate of Special Operations (the "Scorpions") in 2008, at the height of its investigations into politically connected individuals, was found by the Constitutional Court in *Glenister v President of the Republic of South Africa* (2011) to have left the state without an adequately independent anti-corruption entity, in breach of its constitutional and international obligations. A decade later, the Judicial Commission of Inquiry into Allegations of State Capture (the Zondo Commission) concluded that law enforcement and intelligence structures had been systematically repurposed to protect politically connected networks and to neutralise investigators who threatened them (Zondo Commission, 2022).

The problem has not receded with time. Successive national police commissioners have left office prematurely amid allegations of misconduct or political conflict, producing chronic command instability at the apex of the police service (Bruce, 2013; Newham, 2014). Crime intelligence structures have been implicated in factional political battles rather than in the disruption of criminal networks (Duncan, 2014). More recently, explosive public allegations by senior police officers concerning the relationship between political office-bearers and organised criminal syndicates prompted the establishment of a further judicial commission of inquiry into the integrity of the criminal justice system, underscoring that the boundary between political authority and operational policing remains dangerously unsettled. These developments have corroded public confidence: survey evidence consistently indicates that a majority of South Africans distrust the police, a deficit that fuels vigilantism, private security dependence, and the erosion of state authority in many communities (Lamb, 2021; Faull, 2017).

At the same time, the solution cannot be the wholesale removal of law enforcement from democratic control. Policing in a constitutional democracy must remain answerable to elected authority for policy, budget, and overall performance, while remaining operationally independent in individual investigations and prosecutions (Stenning, 2011). The challenge, therefore, is one of institutional design: constructing arrangements that insulate operational decisions from partisan direction while strengthening, rather than weakening, accountability to the Constitution, the courts, Parliament, and the public. This article explores the historical context, institutional pathologies, and legal architecture surrounding law enforcement in South Africa, and proposes a comprehensive framework for reinforcing these institutions against political interference. By drawing on scholarly literature, jurisprudence, and policy analysis, the article aims to contribute to the ongoing discourse on restoring law and order and rebuilding the rule of law in South Africa.

BACKGROUND

Historically, policing in South Africa can be categorised into four distinct phases: colonial, apartheid, early post-apartheid transformation, and the contemporary period of institutional erosion and attempted renewal (Brogden & Shearing, 1993; Rauch, 2000). Each phase reflects significant shifts in the purpose, control, and legitimacy of law enforcement, shaped by broader political transformations. Understanding this trajectory is essential, because the contemporary vulnerability of law enforcement to political interference is not an aberration but a continuation of a long institutional inheritance in which the police served political power rather than public law.

In the colonial era, policing emerged primarily as an instrument of conquest and control rather than of community safety. Colonial police forces enforced pass laws, protected settler property, and suppressed African resistance, establishing an enduring template in which the police answered upward to political authority rather than outward to the policed population (Brogden & Shearing, 1993). This template was consolidated and racialised under apartheid. The South African Police became a central pillar of the apartheid state, enforcing racial legislation, conducting political surveillance, and deploying lethal force against opponents of the regime (Cawthra, 1993). Policing was explicitly politicised: promotion, deployment, and operational priorities were determined by the security imperatives of the ruling party, and mechanisms of independent oversight were essentially absent (Rauch, 2000). The legacy of this period was a police force with deep expertise in political policing and public order suppression, but with limited capacity for, or culture of, impartial criminal investigation and community service.

The democratic transition of 1994 initiated an ambitious project of police transformation. The Interim Constitution and thereafter the Constitution (1996) reconstituted the police as a service rather than a force, subject to the Bill of Rights, civilian oversight, and parliamentary scrutiny. The South African Police Service Act (1995) established the office of a National Commissioner appointed by the President, created community police forums, and instituted an Independent Complaints Directorate, later reconstituted as the Independent Police Investigative Directorate (IPID) under the IPID Act (2011). Early transformation efforts prioritised demilitarisation, human rights training, and community policing (Marks, 2005; Rauch, 2000). However, scholars observed from the outset a structural weakness at the heart of the new design: the concentration of appointment and dismissal powers over the National Commissioner in the executive, without robust merit-based criteria or transparent processes, left the command of the police exposed to political capture (Bruce, 2013).

This vulnerability materialised progressively during the 2000s and 2010s. The appointment of national commissioners drawn from political rather than professional policing backgrounds coincided with a series of leadership crises: successive commissioners were removed or resigned amid findings of corruption, misconduct, or unfitness for office, and none completed a full term between 2000 and 2017 (Newham, 2014; Faull, 2017). The disbandment of the Scorpions in 2008 and their replacement with the Directorate for Priority Crime Investigation (the "Hawks"), located within the SAPS and subject to greater ministerial influence, marked a decisive weakening of independent anti-corruption capacity (Berning & Montesh, 2012). The state capture period deepened these pathologies: the Zondo Commission (2022) found that appointments, suspensions, and prosecutions were manipulated to shield politically connected individuals, while crime intelligence resources were diverted into factional political projects (Duncan, 2014). The contemporary period is thus characterised by a paradox: a sophisticated constitutional and jurisprudential framework demanding independent law enforcement, as articulated in the Glenister judgments, coexisting with entrenched political practices that continue to subvert it.

LITERATURE REVIEW

Colonial and Apartheid Foundations of Politicised Policing

The scholarly literature on South African policing consistently locates the roots of politicisation in the colonial and apartheid periods. Brogden and Shearing (1993) demonstrate that colonial policing was constructed around the protection of racialised political order rather than the impartial enforcement of law, while Cawthra (1993) documents the apartheid police's role as an instrument of state security, engaged in surveillance, detention, and repression of political opponents. This historiography establishes an important analytical point: in South Africa, political control of the police has never been a deviation from institutional tradition but its default condition. Mamdani's (1996) account of the bifurcated colonial state further illuminates how coercive institutions were structured to answer to central political authority, embedding an upward accountability logic that democratic reform would later struggle to reverse. The literature of this period thus frames the post-1994 project not as the restoration of a lost impartiality, but as the unprecedented construction of impartial law enforcement on politicised foundations.

Early Post-Apartheid Transformation

Scholarship on the transition era records both genuine achievement and structural compromise. Rauch (2000) and Marks (2005) analyse the demilitarisation of rank structures, the introduction of community policing, and the establishment of civilian oversight as significant departures from the apartheid model. Shaw (2002) and Altbeker (2007), however, highlight the simultaneous explosion of violent and organised crime during the transition, which generated intense political pressure for visible, forceful policing and created incentives for executive intervention in operational matters. Steinberg (2008) offers an influential ethnographic account of the gap between formal transformation and the lived realities of policing, arguing that the authority of the post-apartheid police remained fragile and negotiated at street level. A recurring theme in this literature is the incompleteness of institutional insulation: while oversight bodies were created, the appointment architecture for police leadership remained essentially presidential and discretionary, a design choice whose consequences would dominate the subsequent two decades (Bruce, 2013).

The Erosion of Independent Anti-Corruption Capacity

A substantial body of work examines the rise and fall of specialised anti-corruption enforcement. The Directorate of Special Operations, established in 2001 within the NPA, achieved notable success against complex corruption and organised crime, in part because of its location outside the police and its integration of investigators and prosecutors (Berning & Montesh, 2012). Its disbandment in 2008, following a resolution of the governing party while it was investigating senior political figures, is widely interpreted in the literature as a watershed moment in the politicisation of law enforcement (Montesh & Berning, 2012; Newham, 2014). The subsequent Glenister litigation produced what scholars regard as the jurisprudential cornerstone of institutional independence in South Africa: the Constitutional Court held in *Glenister v President of the Republic of South Africa* (2011) that the state is constitutionally obliged to establish an adequately independent anti-corruption entity, and specified indicia of independence including secure tenure, adequate resourcing, and insulation from political direction. *Helen Suzman Foundation v President of the Republic of South Africa* (2014) extended this reasoning by invalidating provisions that rendered the head of the Hawks vulnerable to ministerial removal. Later, in *McBride v Minister of Police* (2016), the Court affirmed the structural independence of IPID against ministerial suspension of its executive director. This jurisprudence, as Hoexter (2019) and others note, articulates a coherent constitutional doctrine of insulated law enforcement that political practice has persistently failed to honour.

State Capture and Institutional Repurposing

The most recent wave of scholarship, catalysed by the Zondo Commission, analyses the deliberate repurposing of law enforcement and intelligence institutions to serve private and factional interests. The Commission's reports (2022) found that appointments to critical criminal justice positions were manipulated, that investigations into politically connected individuals were obstructed or abandoned, and that crime intelligence and state security structures were deployed against political opponents rather than criminal networks. Duncan (2014) had earlier documented the securitisation of politics and the politicisation of intelligence, while Shaw (2017) traces the entanglement of politics, policing, and organised crime, arguing that the boundary between the state and criminal networks became porous in key institutions. Buthelezi and Mkhize (2023, in the broader governance literature) and related work on cadre deployment argue that party-political appointment practices systematically subordinated institutional integrity to factional loyalty. The literature converges on the conclusion that South Africa's law enforcement crisis is not primarily one of resources or skills, though both matter, but one of institutional design and political incentive.

Public Trust, Legitimacy, and the Consequences of Politicisation

A final strand of literature examines the downstream consequences of politicised policing for legitimacy and public safety. Survey-based research demonstrates sustained declines in public trust in the police, with confidence levels among the lowest recorded for any state institution (Lamb, 2021; Faull, 2017). Scholars link this trust deficit to the growth of vigilante violence, the privatisation of security, and the withdrawal of community cooperation upon which effective policing depends (Von Holdt, 2013; Berg & Shearing, 2015). Procedural justice scholarship emphasises that legitimacy is built through impartial, lawful, and respectful conduct, precisely the qualities that political interference undermines (Bradford et al., 2014). The literature thus suggests a self-reinforcing spiral: interference degrades impartiality, degraded impartiality erodes trust, and eroded trust further weakens the police's capacity to maintain order, inviting yet more coercive and politically driven responses.

THEORETICAL FRAMEWORK

The challenge of insulating law enforcement from political interference while preserving democratic accountability is theorised in this article through **democratic policing theory**. Democratic policing theory, associated most prominently with Bayley (2006) and developed in the South African context by scholars such as Marks (2005) and Stenning (2011), holds that policing in a democracy must satisfy two conditions simultaneously: responsiveness to democratically determined policy and law, and operational independence from partisan political direction in the enforcement of the law against particular persons. The theory rejects both extremes of the institutional spectrum. A police service wholly subordinate to executive direction becomes an instrument of the ruling party, as under apartheid; a police service wholly autonomous from democratic control becomes an unaccountable power unto itself, equally corrosive of constitutional order (Bayley, 2006).

Democratic policing theory resolves this tension through the distinction between *policy control* and *operational direction*. Elected authorities legitimately determine the legislative framework, budgetary allocations, strategic priorities, and performance standards of law enforcement; they may not legitimately direct whom to investigate, whom to arrest, whom to charge, or whom to shield (Stenning, 2011). This distinction is given constitutional expression in South Africa: section 207 of the Constitution empowers the National Commissioner to exercise control over and manage the police service, while section 206 confines the Minister to determining national policing policy (Constitution, 1996). The Glenister jurisprudence operationalises the same distinction for anti-corruption enforcement, specifying structural conditions, security of tenure, independent appointment processes, adequate and ring-fenced resources, and insulation from executive removal, under which operational independence becomes institutionally real rather than merely declaratory (Glenister, 2011; Helen Suzman Foundation, 2014).

The theory further insists that independence and accountability are complements, not opposites. Operational independence is defensible only where it is matched by rigorous accountability to law: judicial review, independent investigative oversight, parliamentary scrutiny, transparent reporting, and community engagement (Bayley, 2006; Berg & Shearing, 2015). Accountability mechanisms discipline the exercise of police power without transferring operational control to partisan actors. This dual structure, insulation from partisan direction combined with dense accountability to constitutional institutions, constitutes the normative benchmark against which this article evaluates South African arrangements and constructs its reform framework.

Applied to the South African case, democratic policing theory generates three analytical propositions that guide the analysis. First, where appointment and removal powers over law enforcement leadership are concentrated in partisan hands without merit-based and transparent processes, operational independence will be structurally precarious regardless of formal legal guarantees. Second, where anti-corruption capacity is located within hierarchies subject to executive influence, investigations that threaten political power will be systematically obstructed. Third, where oversight institutions lack their own structural independence and enforcement powers, accountability will fail precisely in the cases where it matters most. These propositions organise the findings that follow and anchor the recommendations advanced in the final section.

METHODOLOGY

Research methodology refers to the systematic and logical process employed to investigate a research problem, explaining the rationale behind selected methods and the philosophical assumptions guiding the study (Bryman, 2012). It involves a coherent plan for collecting, analysing, and interpreting data to generate meaningful insights (Denzin & Lincoln, 2018). In this article, a qualitative research approach was adopted to explore, interpret, and contextualise the institutional and political dynamics that have exposed South African law enforcement to political interference. A qualitative methodology was selected for its capacity to facilitate a profound, contextual analysis of governance dynamics, prioritising the interpretation of institutional behaviour, legal doctrine, and historical narratives over the measurement of quantifiable variables (Creswell & Poth, 2018).

Research Design and Approach

This article utilised a documentary review as the primary technique for data acquisition. This method involves the systematic examination of existing written materials such as books, journal articles, legislative instruments, judicial decisions, commission of inquiry reports, policy papers, and institutional records to extract relevant information that informs the research objectives (Mogalakwe, 2006; Scott, 2014). The documentary review enabled the researcher to trace the evolution of law enforcement institutions from the colonial period to the present, to reconstruct the legal architecture governing police independence, and to identify thematic patterns in institutional erosion, executive interference, and accountability failure. Desktop research of this kind is particularly appropriate where the phenomena under investigation, executive decision-making, institutional capture, and constitutional litigation, are extensively documented in authoritative public records.

Document Selection Process

The selection of documents followed a non-random purposive sampling strategy. According to Etikan, Musa and Alkassim (2016), purposive sampling allows the researcher to deliberately select documents that are most relevant

to the research question and rich in information. This approach was appropriate because the study sought in-depth contextual understanding rather than statistical generalisability.

The inclusion criteria were as follows. Relevance to the research topic: documents had to focus on policing, prosecution, anti-corruption enforcement, political interference, or the governance of the criminal justice system in South Africa. Scholarly and institutional credibility: only peer-reviewed journal articles, recognised academic books, official legislation, reported judgments, and reports of statutory commissions and research institutions were included. Temporal scope: documents covering both historical and contemporary perspectives (1993 to 2025) were included to ensure temporal balance between the transition-era design of institutions and their contemporary condition. Geographical focus: priority was given to South African sources, although comparative and international materials on democratic policing were considered where relevant. Language and accessibility: only English-language publications were used to ensure conceptual clarity and consistency in analysis.

Using these criteria, a total of 42 documents were reviewed. These comprised 24 peer-reviewed journal articles and scholarly books; 8 legislative and constitutional instruments (including the Constitution of the Republic of South Africa, the South African Police Service Act of 1995, the National Prosecuting Authority Act of 1998, and the Independent Police Investigative Directorate Act of 2011); 5 reported judgments of the Constitutional Court; and 5 official reports, including the reports of the Judicial Commission of Inquiry into Allegations of State Capture, the Marikana Commission of Inquiry, and the National Development Plan 2030.

Data Analysis and Thematic Development

The article employed both content analysis and thematic analysis to analyse the selected documents. Content analysis facilitated the systematic identification and coding of recurring concepts, terminologies, and ideas within the texts (Krippendorff, 2019). This process enabled the categorisation of content into meaningful clusters aligned with the study's objectives.

The thematic analysis process followed Braun and Clarke's (2019) six-phase framework. The analysis began with familiarisation with the data through repeated reading of documents. Initial coding followed, involving the categorisation of key thematic segments related to appointment practices, institutional location of anti-corruption capacity, oversight architecture, and legitimacy outcomes. Related codes were then grouped into preliminary themes such as "politicisation of senior appointments," "dismantling of independent anti-corruption capacity," "capture of intelligence and investigative structures," and "oversight and accountability deficits." Themes were reviewed by cross-checking them against the data to ensure coherence and representativeness, then defined and named to capture their essence and relationship to the research questions. Finally, the narrative was produced, in which themes were synthesised and linked to existing literature to develop a comprehensive analysis. The themes were generated inductively, emerging from patterns observed in the documents rather than being pre-determined by theory. However, interpretation was guided by democratic policing theory, which distinguishes legitimate policy control from illegitimate operational direction and treats independence and accountability as mutually reinforcing (Bayley, 2006). For example, analysis of the Glenister litigation and the legislative history of the Hawks revealed recurrent patterns of structural exposure to executive influence, which informed the theme "institutional location and vulnerability."

Ensuring Validity and Reliability

To ensure trustworthiness and rigour, the article applied Lincoln and Guba's (1985) criteria of credibility, transferability, dependability, and confirmability. Credibility was enhanced through triangulation of multiple source types (academic literature, legislation, judgments, and commission reports). Transferability was supported by providing rich contextual descriptions of each institutional period. Dependability was ensured through a consistent coding process and verification of emerging themes against primary legal sources. Confirmability was achieved by maintaining an audit trail of analytical decisions and by grounding interpretive claims in publicly verifiable documents.

Scope and Limitations of the Method

The documentary review method employed in this article carries specific limitations that bear directly on the

status of its conclusions. First, the method generates a normative and conceptual framework rather than an empirically tested one. Because the study did not incorporate interviews with police, prosecutorial, or oversight personnel, surveys of affected communities, comparative institutional data, or an evaluation of any jurisdiction that has implemented comparable reforms, the article cannot demonstrate that the proposed framework would, in practice, produce the anticipated improvements in law enforcement effectiveness and public trust. The recommendations advanced in Section 8 should accordingly be read as theoretically and doctrinally grounded propositions for institutional design, derived from documentary evidence and democratic policing theory, and not as empirically validated interventions. Second, the analysis draws a distinction, made explicit throughout Section 6, between findings that the documentary sources directly establish, such as the dates and circumstances of the disbandment of the Scorpions or the Constitutional Court's holdings in *Glenister* (2011), and the author's interpretation of the causal and systemic significance of those findings. Where the article characterises a pattern as evidence of political interference, or attributes a downstream effect, such as declining public trust, to a specific institutional defect, this represents an analytical inference consistent with the documentary record and democratic policing theory, rather than a causal claim independently verified through primary data collection. Third, the purposive and English-language sampling strategy, while appropriate to the study's interpretive aims, means the framework has not been tested against the perspectives of serving officials, affected communities, or comparative implementation experience. These limitations do not undermine the article's diagnostic contribution, which rests on a defensible reading of an extensive and authoritative documentary record, but they do mean that the transition from diagnosis to implementation, addressed in Section 8, requires further empirical substantiation. Future research employing expert interviews with current and former police, prosecutorial, and oversight officials, stakeholder consultations with Parliament, civil society, and affected communities, comparative case studies of institutional-insulation mechanisms in other jurisdictions, and ex post evaluation of policy implementation would strengthen, and where necessary revise, the framework proposed here.

Contribution of the Method to the Study

The documentary review method was particularly effective in this article because it provided a longitudinal and multidimensional understanding of the evolution of law enforcement governance in South Africa. By synthesising historical, legal, and contemporary documentation, the researcher was able to identify enduring continuities, notably the persistence of upward political accountability inherited from the colonial and apartheid periods, and significant transitions, including the constitutionalisation of independence norms through the *Glenister* jurisprudence. The purposive selection of sources ensured that each document contributed meaningfully to addressing the research questions, thereby enhancing analytical depth and institutional sensitivity.

FINDINGS AND DISCUSSIONS

The findings presented in this section are organised around the four themes generated through the thematic analysis described in Section 5. Consistent with the distinction drawn in the Methodology, each subsection separates what the reviewed documentary sources directly establish, such as statutory provisions, judicial holdings, and the factual findings of commissions of inquiry, from the article's interpretation of the systemic significance of those sources within the analytical framework supplied by democratic policing theory. Direct evidentiary claims are presented with specific reference to the underlying legislation, jurisprudence, or commission findings; interpretive claims linking these findings to broader patterns of institutional erosion, or to anticipated policy outcomes, are offered as the article's reasoned inference from that evidence rather than as independently verified causal findings.

Politicisation of Senior Appointments and Command Instability

The article found that the appointment architecture for law enforcement leadership constitutes the primary channel through which political interference enters the system. The Constitution vests the appointment of the National Commissioner of Police in the President without prescribing merit criteria, a transparent selection process, or an independent nominating panel (Constitution, 1996: s207). In practice, this discretion has repeatedly been exercised in favour of politically aligned candidates without professional policing backgrounds, several of whom subsequently left office amid findings of misconduct, incapacity, or corruption (Bruce, 2013; Newham, 2014). The resulting pattern of truncated tenures has produced chronic instability at the apex of the SAPS, with

cascading effects on strategic continuity, internal discipline, and organisational morale. The National Development Plan 2030 explicitly identified this defect and recommended that the National Commissioner be appointed through a competitive, merit-based process overseen by an independent selection panel (National Planning Commission, 2012), a recommendation that remains substantially unimplemented more than a decade later.

The findings further indicate that politicised appointment practices extend below the apex, shaping provincial commissioner posts, crime intelligence leadership, and the command of specialised units. Where loyalty displaces merit as the effective criterion of advancement, the incentive structure of the entire organisation is distorted: officers learn that careers are made through political alignment rather than professional excellence, and investigative decisions become entangled with factional calculation (Faull, 2017; Shaw, 2017). This finding confirms the first theoretical proposition derived from democratic policing theory: formal guarantees of operational independence are structurally precarious where appointment and removal powers remain concentrated, discretionary, and opaque.

The Dismantling of Independent Anti-Corruption Capacity

The article reveals that the trajectory of specialised anti-corruption enforcement provides the clearest demonstration of deliberate institutional weakening. The Directorate of Special Operations achieved conviction rates and asset recoveries unmatched before or since, owing to its prosecutorial location, integrated investigative model, and relative insulation from police and ministerial hierarchies (Berning & Montesh, 2012). Its statutory dissolution in 2008, while investigations into senior political figures were in progress, and its replacement by the Hawks within the SAPS, subject to ministerial policy guidelines and located inside the very hierarchy most exposed to political influence, materially degraded the state's capacity to prosecute grand corruption (Montesh & Berning, 2012).

The Constitutional Court's response established the jurisprudential foundation for reform. In *Glenister* (2011), the Court held that the Constitution, read with South Africa's international obligations, requires an adequately independent anti-corruption entity, and that adequate independence is assessed by reference to structural and operational autonomy, security of tenure and remuneration, and insulation from political direction and interference. In *Helen Suzman Foundation* (2014), the Court invalidated provisions permitting ministerial suspension and renewal of the Hawks head, reasoning that a renewable term dependent on executive favour compromises independence. The findings of this article indicate, however, that legislative compliance with this jurisprudence has been minimalist: the anti-corruption function remains within the police, subject to the same appointment pathologies identified above, and dependent on budgetary allocations controlled by the executive it must be capable of investigating. The subsequent establishment of an Investigating Directorate within the NPA, and its later conversion into a permanent entity, represents progress, yet its location within a prosecuting authority whose own leadership has historically been vulnerable to executive manipulation, as demonstrated in *Corruption Watch NPC v President of the Republic of South Africa* (2018), leaves the structural problem unresolved.

State Capture and the Repurposing of Investigative and Intelligence Structures

The article found that during the state capture period, interference progressed beyond the obstruction of particular investigations to the affirmative repurposing of law enforcement and intelligence institutions as instruments of factional protection and attack. The Zondo Commission (2022) documented the manipulation of appointments and suspensions within the NPA, the SAPS, and crime intelligence; the abandonment or sabotage of investigations threatening politically connected networks; and the targeting of honest officials through contrived disciplinary and criminal processes. Duncan (2014) demonstrates how intelligence structures, whose secrecy renders them peculiarly susceptible to abuse, were drawn into internal party contestation, diverting capacity from organised crime to political surveillance.

These findings illuminate the systemic character of the problem. Interference was not episodic but architectural: it operated through the very levers of appointment, discipline, procurement, and budgeting that the formal system placed in executive hands. The consequence, as Shaw (2017) argues, was a progressive blurring of the boundary between state institutions and criminal networks, culminating in credible public allegations by serving senior

officers that elements of political authority over policing had become entangled with organised crime, allegations of sufficient gravity to warrant a dedicated judicial commission of inquiry into the criminal justice system. The article finds that this trajectory confirms the second theoretical proposition: anti-corruption and investigative capacity located within politically exposed hierarchies will be neutralised precisely when it threatens political power.

Oversight and Accountability Deficits

The article further reveals that the oversight architecture, though formally extensive, has proven too weak to arrest institutional erosion. IPID possesses statutory independence and a mandate to investigate deaths in custody, torture, and corruption within the police, yet it has been chronically under-resourced, its recommendations frequently disregarded by the SAPS, and its leadership subjected to executive pressure, resisted only through litigation culminating in *McBride v Minister of Police* (2016), in which the Constitutional Court affirmed that the Directorate's independence precludes unilateral ministerial suspension of its head. Parliamentary oversight has been episodic and frequently subordinated to party discipline, while civilian secretariat structures have lacked the authority and capacity to discipline a recalcitrant police leadership (Bruce, 2013; Dintwe, 2018). The Marikana Commission of Inquiry (2015) exposed the catastrophic consequences of this accountability vacuum in the public order domain, finding systemic failures of command, planning, and truthfulness surrounding the deaths of thirty-four mineworkers.

The findings also confirm the corrosive effect of these deficits on public legitimacy. Trust in the police has remained among the lowest recorded for state institutions, and communities have increasingly resorted to private security and, in the worst cases, vigilante violence (Lamb, 2021; Von Holdt, 2013). Procedural justice research indicates that legitimacy is generated by impartiality and fairness (Bradford et al., 2014); a police service visibly entangled in political contestation cannot generate it. The article accordingly finds, consistent with the third theoretical proposition, that accountability fails where oversight bodies lack structural independence, enforcement powers, and resources commensurate with their mandate, and that this failure compounds, rather than merely accompanies, the crisis of political interference.

Comparative Perspectives: Institutional Insulation in Other Constitutional Democracies

Situating the South African case within comparative experience clarifies both the plausibility and the limits of the reform framework advanced in this article. The comparative literature on anti-corruption agencies indicates that structural insulation of the kind contemplated for a South African anti-corruption entity is achievable and has produced durable results in some jurisdictions, but is far from self-executing. Hong Kong's Independent Commission Against Corruption, established in 1974, is widely regarded as among the most effective anti-corruption bodies internationally; it reports directly to the territory's chief executive rather than through the police hierarchy, refers cases for prosecution to an independent Department of Justice, and has retained sustained political backing and secure funding over five decades, conditions credited with its durability (Quah, 2010). Singapore's Corrupt Practices Investigation Bureau, reporting directly to the Prime Minister's Office and vested with independent powers of investigation, arrest, and search, offers a comparable example of an anti-corruption agency insulated from the police and line ministries (Quah, 2010).

The comparative literature simultaneously cautions against assuming that formal insulation guarantees effectiveness. De Sousa's (2010) comparative review of anti-corruption agencies finds that agencies vested with strong formal independence become genuinely empowered only where sustained political will, adequate resourcing, and public demand for accountability coincide; absent these conditions, formally independent agencies drift into irrelevance, starved of budget, staff, or political cover, regardless of their statutory design. Meagher's (2005) analysis reaches a similar conclusion, arguing that anti-corruption agencies are commonly established with considerable institutional fanfare but subsequently underperform where they lack either prosecutorial powers or genuine autonomy from the executive that appointed them. Applied to the South African proposal, this literature indicates that constitutional entrenchment of an independent anti-corruption institution, of the kind recommended in Section 8, is a necessary but not sufficient condition for effectiveness; it must be accompanied by adequate, ring-fenced resourcing, sustained political will across changes of administration, and public and parliamentary vigilance against the gradual attrition of capacity that comparative experience shows to be a more common mode of institutional failure than outright abolition.

A comparable pattern is evident in the civilian oversight literature. Prenzler and Ronken's (2001) comparative critique of police oversight models distinguishes internal review, external civilian review, and hybrid or ombudsman models, and finds that the effectiveness of any model depends less on its formal classification than on whether the oversight body possesses independent investigative capacity, binding or judicially enforceable powers, and resourcing proportionate to its caseload, precisely the deficits this article identifies in IPID's current design in Section 6.4. This comparative finding lends support to the article's recommendation that IPID be granted binding-recommendation powers with enforceable compliance timelines, rather than additional resourcing alone, since the comparative evidence suggests that under-powered oversight bodies remain ineffective even where adequately staffed.

These comparative cases are illustrative rather than directly transposable. Hong Kong and Singapore are city-states with unified executive authority and distinctive political histories that differ materially from South Africa's multi-party constitutional democracy, provincial governance structure, and continental scale, and the literature itself cautions against assuming that institutional transplants succeed independently of the political and administrative context into which they are introduced (Meagher, 2005). The comparison is therefore offered to test the plausibility of the proposed framework's design logic and to identify the conditions, political will, resourcing, and enforceable powers, on which its success is likely to depend, rather than as a claim that the Hong Kong or Singaporean models can be directly replicated in the South African context.

CONCLUSIONS

The restoration of law and order in South Africa is inseparable from the restoration of institutional integrity in law enforcement. This article has demonstrated that the vulnerability of the SAPS, the NPA, and allied agencies to political interference is not incidental but structural: it flows from an appointment architecture that concentrates discretionary power in partisan hands, from the location of anti-corruption capacity within politically exposed hierarchies, and from an oversight system too weak to enforce accountability against determined resistance. These design defects, inherited in part from a long history in which policing served political power, were systematically exploited during the state capture period, with consequences that continue to reverberate through command instability, degraded investigative capacity, and a profound public trust deficit.

The article concludes that neither operational reform nor resource injection will suffice while the underlying incentive structure remains intact. The Glenister jurisprudence supplies a constitutional doctrine of adequate independence; the National Development Plan supplies a policy blueprint for merit-based leadership; the Zondo Commission supplies a granular diagnosis of capture mechanisms and a set of remedial recommendations. What has been absent is the institutional entrenchment of these prescriptions in forms that political actors cannot readily reverse. Democratic policing theory clarifies the destination: a system in which elected authority determines policy and is answerable for performance, while operational decisions about investigation, arrest, and prosecution are insulated from partisan direction and disciplined instead by law, independent oversight, and transparency. Independence and accountability, properly designed, are not rivals but partners; each is the condition of the other's legitimacy.

These conclusions are advanced as a defensible reading of an extensive documentary and jurisprudential record, interpreted through democratic policing theory; they are not, and do not purport to be, empirically validated predictions of institutional performance. As set out in Section 5, testing the framework proposed here against expert interviews, stakeholder consultations, comparative case studies of institutional insulation in other constitutional democracies, and the eventual implementation experience of any reforms adopted, remains necessary future work, and the operational implementation framework advanced in Section 8 should be read as a starting point for that further inquiry rather than as a finished blueprint.

RECOMMENDATIONS

Flowing from these findings, and consistent with the article's normative aim of translating documentary and jurisprudential diagnosis into institutional design, the article advances a comprehensive framework comprising six mutually reinforcing pillars.

Because the pillars differ substantially in constitutional complexity, resource intensity, and political feasibility, they are not proposed as a single undifferentiated package to be enacted simultaneously. Pillars One (depoliticised appointments) and Three (strengthened oversight) are prioritised as foundational, since they are achievable primarily through statutory rather than constitutional amendment, require comparatively modest new expenditure, and directly address the appointment and oversight deficits identified as the primary channels of interference in Sections 6.1 and 6.4; sequencing reform here first is intended to reduce the risk that the leadership of any new anti-corruption institution would itself be exposed to the politicised appointment pathologies the framework seeks to eliminate. Pillar Two (constitutional entrenchment of anti-corruption capacity) and Pillar Four (intelligence insulation) form a second tranche, since constitutional amendment requires the special parliamentary majorities prescribed by section 74 of the Constitution and correspondingly sustained political consensus, and are therefore more resource-intensive and politically contested. Pillars Five and Six (professionalisation and community legitimacy) are conceived as continuous, longer-term processes that should commence immediately but whose returns accrue over a longer horizon and whose credibility is partly contingent on visible progress in the first two tranches. Table 1 summarises, for each pillar, the responsible institution, the legal or administrative reform required, an indicative implementation timeframe, resource requirements, measurable indicators of progress, and the principal implementation risks, including institutional resistance and political feasibility constraints, together with proposed mitigations.

First, the appointment and removal of law enforcement leadership must be depoliticised through statutory, and where necessary constitutional, amendment. The National Commissioner of Police, the National Head of the anti-corruption directorate, and the National Director of Public Prosecutions should be appointed through competitive, transparent, merit-based processes conducted by independent selection panels, with public interviews, prescribed professional criteria, non-renewable fixed terms, and removal only for cause established by an independent inquiry confirmed by Parliament. This gives institutional effect to the National Development Plan's recommendation and to the tenure logic of the *Glenister* jurisprudence (National Planning Commission, 2012; *Glenister*, 2011).

The independent selection panel envisaged for each of these posts should comprise a majority of members drawn from outside active party politics and the executive, for example retired judges, representatives of the Judicial Service Commission and the Public Service Commission, and professional and civil society bodies with relevant expertise, appointed through a process itself insulated from ministerial discretion, with the President's role confined to appointing from a shortlist the panel certifies as meeting prescribed criteria. Parliamentary confirmation should operate as a check on, rather than a substitute for, the panel's merit assessment: the relevant portfolio committee would hold public hearings on the shortlisted candidate, and confirmation would require a supporting resolution of the National Assembly, with removal before expiry of a fixed term permitted only where an independent tribunal or judicial inquiry has made a finding of misconduct or incapacity, itself subject to parliamentary ratification. This design mirrors, and could draw institutional lessons from, the Judicial Service Commission model already operative in the South African constitutional order for judicial appointments, adapted to the operational and security-sensitive character of law enforcement leadership.

Second, anti-corruption capacity should be entrenched in a permanent, constitutionally protected institution, standing outside both the SAPS and executive departments, in the manner of the Chapter Nine institutions, with guaranteed budgetary independence appropriated directly by Parliament, integrated investigative and prosecutorial capability, and jurisdiction extending to all organs of state. Constitutional entrenchment raises the cost of the kind of legislative dissolution that eliminated the Scorpions, converting institutional existence from a matter of majority preference into a matter of constitutional amendment.

The proposed institution's jurisdiction should extend to corruption, and to organised crime with a corruption nexus, committed by any organ of state, public official, or private party in relation to public funds or public office, replicating and extending the mandate originally held by the Directorate of Special Operations. Its relationship with the SAPS and the NPA requires careful delineation to avoid the jurisdictional ambiguity that has historically weakened comparable bodies: the institution should retain exclusive investigative primacy over matters falling within its statutory mandate, governed by a formal referral protocol with the SAPS's own detective and organised crime components for matters at the margins of that mandate; it should retain integrated prosecutorial authority exercised by prosecutors seconded to or employed within the institution, analogous to the original Scorpions

model, rather than being wholly dependent on referral to the ordinary NPA hierarchy, thereby reducing a further point of political exposure identified in Section 6.2; and it should remain subject to accountability mechanisms commensurate with its independence, including annual reporting to Parliament, audit by the Auditor-General, judicial review of its investigative and charging decisions on the ordinary administrative-law and criminal-procedure principles applicable to any prosecuting authority, and oversight of its own conduct by the Inspecting Judge or an equivalent independent office, to ensure that operational insulation from the executive is not achieved at the cost of accountability to the Constitution and the courts.

Third, oversight must be strengthened commensurately with independence. IPID should receive resourcing proportionate to its mandate, binding-recommendation powers with judicially enforceable compliance timelines, and the same appointment and tenure protections proposed for police leadership. Parliamentary oversight should be reinforced through dedicated research capacity and statutory obligations of disclosure, while the civilian secretariat's monitoring role should be expanded to include public reporting on compliance with oversight recommendations.

Fourth, crime intelligence and related covert capacities require a dedicated insulation regime, including independent inspector-general oversight with unrestricted access, judicial authorisation of intrusive capabilities, and statutory prohibition, backed by criminal sanction, of the deployment of intelligence resources for party-political purposes (Duncan, 2014).

Fifth, professionalisation must be pursued as the internal complement of structural insulation. This entails a demilitarised, service-oriented organisational culture; merit-based promotion administered through an independent policing board; sustained investment in detective and forensic capability; and ethical leadership development, so that the police service possesses the internal professional identity that resists politicisation from within (Marks, 2005; Faull, 2017).

Sixth, legitimacy must be rebuilt from below through community-oriented policing, procedural justice training, transparent publication of crime and performance data, and genuine partnership with community police forums and the plural network of non-state security providers, harnessed under public regulation rather than abandoned to market logic (Berg & Shearing, 2015; Bradford et al., 2014). Public trust is both the product of impartial policing and a resource for it; its restoration is therefore not a soft supplement to the framework but its ultimate test.

Table 1: Operational Implementation Matrix for the Six-Pillar Framework

Pillar	Responsible Institution(s)	Legal/Administrative Reform Required	Timeframe	Resources Required	Measurable Indicators	Principal Risks and Mitigation
1. Depoliticised appointments	Presidency; Parliament (portfolio committees); new independent selection panel; Judicial Service Commission (model)	Amendment of the SAPS Act, NPA Act, and anti-corruption directorate's enabling legislation to prescribe panel composition, merit criteria, fixed non-renewable terms, for-cause removal; no constitutional amendment required	Short term: legislation within 0-2 years; first appointments under new process within 3 years	Modest: secretariat and panel operating costs, comparable to existing JSC administrative costs	Enactment of amending legislation; share of senior appointments made via new process; average tenure of National Commissioner/NDPP/anti-corruption head vs pre-reform baseline	Executive resistance to relinquishing appointment discretion; mitigated by phased roll-out beginning with sub-apex posts and by leveraging the pre-existing NDP commitment (National Planning Commission, 2012)
2. Constitutionally entrenched anti-corruption institution	Parliament (special majority); Presidency; transitional task team; NPA and SAPS (handover of functions/staff)	Constitutional amendment (s.74 special majority) to entrench the institution akin to Chapter Nine institutions; enabling statute on jurisdiction, powers and budget	Medium term: 3-5 years, given special-majority requirement	Substantial: ring-fenced parliamentary appropriation comparable to, or exceeding, the former Scorpions' real budget	Passage of constitutional amendment; caseload and conviction/asset-recovery rates vs Hawks/Investigating Directorate baseline; budget execution free of in-year executive adjustment	Highest political-feasibility risk; requires cross-party consensus. Comparative evidence (De Sousa, 2010; Meagher, 2005) shows formal independence alone is insufficient;

						mitigate via sustained civil society/media monitoring of post-establishment budget and staffing
3. Strengthened oversight	IPID; Parliament; Civilian Secretariat for Police	Amendment of the IPID Act granting binding-recommendation powers with judicially enforceable compliance timelines and tenure protections matching police leadership	Short to medium term: 1-3 years	Moderate increase in IPID budget and investigative staffing, proportionate to caseload	IPID budget as a share of SAPS budget; SAPS compliance rate with IPID recommendations; case backlog and average investigation duration	SAPS non-compliance persisting despite binding powers; mitigated by judicial enforceability and mandatory public reporting of non-compliance to Parliament (Prenzler and Ronken, 2001)
4. Intelligence insulation	Crime intelligence division; Office of the Inspector-General of Intelligence; judiciary (authorisation of intrusive measures)	Amendment of intelligence oversight legislation expanding inspector-general access; criminal sanction for party-political deployment of intelligence resources	Medium term: 2-4 years, given sensitivity of intelligence legislation	Moderate: expanded inspector-general capacity and judicial-authorisation infrastructure	Frequency and outcome of inspector-general audits; number of prosecutions/disciplinary actions for unlawful political deployment	Highest institutional-resistance risk given secrecy of the domain; mitigated by strengthened parliamentary intelligence committee access and periodic independent review
5. Professionalisation	SAPS; new independent policing board; training institutions	Administrative and policy reform (SAPS regulations, promotion policy); enabling legislation required only for a statutory policing board	Continuous from year 1; measurable culture change over 5-10 years	Significant recurrent investment in training, forensic and detective capacity	Merit-based promotion rate; detective/forensic caseload clearance rates; officer survey measures of organisational culture	Slow, incremental resistance from entrenched internal networks; mitigated by linking metrics to the public reporting proposed under Pillar Six
6. Community legitimacy	SAPS; community police forums; civil society and regulated non-state security providers	Policy and regulatory reform of community policing structures and data-publication obligations	Continuous from year 1; trust indicators tracked over the medium to long term	Moderate: primarily data-publication infrastructure and community-engagement capacity	Published crime and performance data; periodic public trust and procedural-justice survey results (cf. Lamb, 2021; Bradford et al., 2014)	Legitimacy gains undermined by continued interference elsewhere in the framework; mitigated by sequencing legitimacy-building alongside, not instead of, the structural pillars above

Implemented together, these pillars would convert the constitutional promise of impartial law enforcement from doctrine into institutional fact, and would anchor the restoration of law and order in South Africa not in episodic political will, but in durable institutional design.

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