



**South Africa – Researched and compiled by the Refugee Documentation Centre of Ireland on 2 January 2013**

**Any information on South African police officers being killed by fellow officers. Is there any witness protection for a former police officer who was dismissed for whistle blowing on corrupt colleagues?**

No reports of South African police officers being killed by fellow officers were found among sources available to the Research and Information Unit.

A News 24 article refers to the frequency of murders of police officers in South Africa as follows:

“Cape Town - Altogether 299 SA Police Service officers were murdered between April 1 2008 and March 31 this year, Police Minister Nathi Mthethwa said on Tuesday. In written reply to a parliamentary question by the Freedom Front Plus' Pieter Groenewald, he said 13 officers died in the line of duty between January 1 and May 31 this year. During these five months, another 15 officers committed suicide and 57 more died of ‘unnatural causes’, Mthethwa said. In a statement later, Groenewald said although the number of murdered officers had dropped from 105 in 2008 to 93 in 2010/2011, it was worrying that so many members were being murdered.” (News 24 (26 July 2011) *299 police officers murdered in 3 years*)

See also news report published on the website of the Democratic Alliance party which states:

“The spate of police killings since the beginning of October is of grave concern. The Civilian Secretariat for Police must conduct an investigative research project into police killings to determine the causes of police deaths and identify appropriate steps to stem the tide. From April 2011 to March 2012, 81 SAPS members have been killed – 38 while on duty, and 43 while off duty. National Police Commissioner General Phiyega said in August that a police officer had been killed every 10 days since she took up the position in June this year. This was shortly before another two SAPS members were killed at the Lonmin mine in Marikana.” (Democratic Alliance (18 October 2012) *Inquiry needed for cop killings*)

A report published by Freedom House, in a section titled “Anticorruption and Transparency”, states:

“The Protected Disclosures Act legally protects whistleblowers from various forms of retribution, but it does not protect their identity, and in practice they are rarely shielded from negative repercussions. Moreover, internal mechanisms for acting on reports of corruption are unclear, ineffective, and inconsistent across provinces and municipalities.” (Freedom House (7 April 2010) *Countries at the Crossroads 2010 - South Africa*, p.14)

An article from the Sowetan refers to the treatment of a police whistle-blower as follows:

“The City of Cape Town is allegedly gunning for a whistleblower who exposed more corrupt relations between a businessman and senior traffic officers. Whistleblower and metro police officer Gavin Knipe gave the South African Municipal Workers Union (Samwu) a list of incidents, alleging that the former chief inspector of Cape Town's metro police, Henry Swift, withdrew traffic fines for a company owned by someone who allegedly has ties to Swift's family.” (Sowetan (15 November 2010) *Another traffic scam hits Cape Town*)

This article also states:

“But now the union says that instead of being protected, Knipe is being victimised. Knipe was dismissed in July this year for giving another metro police officer (also a whistleblower) a lift to work earlier this year. When he appealed against his axing he was reinstated. But for the past three months, he has not received any pay.” (ibid)

See also article from South African newspaper The Mercury which states:

“Former superintendent Ivan Myers was dismissed in July 2007, months after exposing alleged malnutrition at the dog unit, which he commanded. The dogs' rations were reduced from 700g to 500g a day, apparently on the instruction of the police management while Myers was on leave. The issue made news headlines, with some reports that the dogs had resorted to eating their own excrement as a result of malnutrition. Myers e-mailed a newspaper to explain his view of the situation. He stated he had been criticised for ‘starving’ the dogs, that he had been ‘forced to remain silent’ and that the issue needed to be placed in its true context. He was then dismissed for contravening the police's disciplinary regulations by speaking to the media, and ordered to pay a R500 fine. Myers appealed internally and the fine was set aside, but he also took the matter to the Safety and Security and Sectoral Bargaining Council in an attempt to be reinstated. The bargaining council confirmed his axing, finding that Myers had no right to speak to the media without first consulting his commander and the police's media liaison office.” (The Mercury (5 March 2012) *Whistle-blower cop loses appeal to keep his job after court battle*)

An Institute for Security Studies report on witness protection, in a chapter titled “South Africa's Witness Protection Unit: Africa's first domestic protection mechanism” (Chapter Five), states:

“The national witness protection programme was established in 1996 by the Department of Justice under the national crime prevention strategy. The Witness Protection Act 1998, which came into effect on 31 March 2000, provided the legal framework, and the programme received operational and administrative support from the South African Police Service (SAPS) in the nine South African provinces. This was the foundation of the current WPU and most of the operational staff employed in 1996 still work in the programme. State and prosecution interests appear to have usurped those of the South African citizenry in the act's construction, despite its relatively progressive nature. Another relevant piece of legislation is the Protected Disclosures Act 2000 that was enacted to facilitate and protect private and

public sector employee disclosure of unlawful practice. The legislation provides for disclosure of unlawful or irregular practice of legal practitioners, employers, members of cabinet, members of state council, the public protector (the state ombudsman), the auditor-general or other appropriate body, where disclosing parties are protected from occupational detriment. Observers have welcomed the legislation as a crucial tool of corporate governance. However, the law places no duty on protected disclosure recipients to investigate, does not protect whistleblower identity, provides no independent authority to receive complaints, and requires no parliamentary reporting on legislation effectiveness. While the legislation prohibits penalising or dismissing whistleblowers, it does not prohibit limiting whistleblower career opportunity or pay increases.” (Institute for Security Studies (6 May 2010) *The justice sector afterthought: Witness protection in Africa*, p.96)

This chapter also states:

“Whistleblowers are only protected under the Witness Protection Act if they cooperate as witnesses. Protection of whistleblowers and witnesses is often conflated. Whistleblower legislation seeks to protect persons (informants) who bring illegal or unethical practice to the attention of appropriate authorities. Witness protection legislation seeks to protect witnesses only in a legal proceeding, normally criminal in nature, and it does not protect informants.” (ibid, p.96)

In a section titled “Admission to the Programme” this report states:

“Applications for protection brought by the police are ordinarily submitted to the regional protection officers who then provide an assessment to the WPU director. If a protection officer adjudges an immediate risk, temporary protection may be provided while admission is considered. All evidence relevant to the applied criteria is made available to the protection director. This ensures protective measures are based on information as reflective of the threat as possible, prior to and during protection. However, this gives great weight to information provided by the applying party. The WPU has found investigating police officers to be the greatest source of information.” (ibid, p.105)

A document published on the website of the Western Cape Government states:

“If you are a witness and are afraid for your safety for reasons linked to being a witness, you can apply for witness protection. You can be afraid for your own safety or that of anyone related to you. You can be afraid of a single person or of a group of people.” (Western Cape Government (19 November 2012) *Getting Witness Protection*)

This document also states:

“You are a witness if you are giving evidence (testifying in court or making an affidavit) right now, or if you may have to give evidence in the future, or if you have given evidence in the past. This evidence can be in a serious criminal case, an inquest, a commission or a tribunal, an investigation by the Independent Complaints Directorate or an asset forfeiture case. You or anyone else threatened will be removed from the dangerous situation as soon

as possible. You will be placed into temporary witness protection, after which your application for permanent protection will be considered. If your application is approved then you will be placed in permanent witness protection.” (ibid)

A copy of the Witness Protection Act, No. 112 of 1998 is attached for reference.

A report published by the National Prosecuting Authority of South Africa, in a section titled “Sub-programme 2: Office for Witness Protection”, states:

“During the past year, 407 witnesses and 462 related persons were handled on the programme with a total of 28 criminal prosecutions finalised where witnesses were on the programme. A total of 32 witnesses signed-off from the programme. This refers to cases where protected witnesses voluntarily leave the programme because they do not seek protection services any longer. After completing their testimonies, 31 witnesses with 21 dependants were discharged. This number includes witnesses in cases where a decision was taken not to use their testimonies or where witnesses were not required to testify. In 33 cases, witnesses and their related persons were successfully discharged, relocated and reintegrated back in to society throughout the year.” (National Prosecuting Authority (31 March 2012) *Annual Report 2011/2012*, p.46)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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