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## GENERAL NOTICE

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### NOTICE 616 OF 2013

# CIVILIAN SECRETARIAT FOR POLICE

## GREEN PAPER ON POLICING SUBMISSIONS AND HEARINGS

The Civilian Secretariat for Police invites interested people and stakeholders to submit comments on the Green Paper on Policing.

The object and purpose of the Green Paper is:

- to put in place a comprehensive framework that will guide the development of policing strategies over the medium- to long-term;
- to contribute towards the building of a well-resourced, professional and highly skilled police service; and
- to contribute to entrenching effective and accountable policing.

Interested individuals and groups wishing to comment are kindly requested to forward written submissions to the Civilian Secretariat for Police by no later than 7 July 2013.

Members of the public and stakeholders who wish to obtain copies of the Green Paper may access it from the following websites:

- The Government Gazette ([www.gov.za](http://www.gov.za))
- The South African Police Service (SAPS) ([www.saps.gov.za](http://www.saps.gov.za))
- The Secretariat for Police ([www.policesecretariat.gov.za](http://www.policesecretariat.gov.za))

All correspondence must be submitted to the Civilian Secretariat for Police (Attention: Ms Jenny Irish-Qhobosheane, Secretary for Police: DDG) at Private Bag X922, Pretoria, 0001. Written correspondence can also be delivered to the 7<sup>th</sup> Floor, Van Erkom Building, 217 Pretorius Street, Pretoria, 001 by no later than 7 July 2013.



**police**

Department:  
Police  
REPUBLIC OF SOUTH AFRICA

# **CIVILIAN SECRETARIAT FOR POLICE**



# **GREEN PAPER ON POLICING**

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## SECTION 1: BACKGROUND

Since achieving democracy in 1994, South Africa has scored many successes in consolidating its approach towards the creation of a safe and secure environment for all its inhabitants. The immediate challenge post 1994 was to reform the policing apparatus into an institution of governance while also dealing with the pressing need to address spiralling crime rates. Ensuring the well-being of all citizens thus became the primary focus of the democratically elected government. This would be partly achieved through the establishment of a transformed, accountable, and accessible Criminal Justice System (CJS).

The amalgamation of the eleven policing agencies constituted under apartheid was the starting point for building legitimacy and trust in the newly established South African Police Service (SAPS). The need to inculcate a culture of police accountability and an ethos of democratic policing was particularly important considering the historical practices of police brutality and unaccountability. Ensuring transparency and building trust meant that the SAPS would have to be subject to the rule of law and embody the values enshrined in the Bill of Rights. The new philosophy of community-oriented policing also formed a cornerstone of policing post 1994. This approach is predicated on building sustained working relationships with communities built on collaboration and trust.

Early strategies regarding the provision of safety and security in the country centred on instilling collaborative working relationships amongst key government departments and stakeholders. This holistic approach was first articulated in the 1996 National Crime Prevention Strategy (NCPS). This strategy was geared towards the development of integrated cross-cutting programmes. Government's policy approach to policing and community safety was cemented in the 1998 White Paper on Safety and Security. The object of the paper was to provide a comprehensive policy framework that would direct the implementation of a more holistic approach towards safety and security in South Africa until 2004. The key focus areas of the White Paper aimed at enhancing service delivery were law enforcement, crime prevention and institutional reform.

The notion of social crime prevention as an approach to curbing and reducing high levels of crime was embedded in this policy. Provision was also made for the development of community-based crime prevention plans signalling an increased responsibility of local government to combat and prevent crime. While the broad policy thrust was largely understood, effective implementation was limited by conceptual differences between crime prevention and crime combating. The roles and responsibilities assigned by these concepts were at times not properly understood by key role players. This created expectations that the police would fulfil functions that fell outside their core mandate rather than positioning itself as a specialised agency.

During the late 1990s growing concern about high crime, particularly violent crime, meant that short-term law enforcement solutions were favoured over more long-term developmental ones. These short term approaches to dealing with crime however created tensions between the need for short-term results in reducing crime vis-à-vis a long-term developmental approach to addressing the roots causes of crime that was central to the NCPS. While the SAPS continued to fulfil social crime prevention responsibilities, it became increasingly evident that the police had limited scope in influencing the complex interplay of social, economic and environmental factors that impact on crime.

Assigning the SAPS with the primary responsibility for reducing crime, particularly those beyond its control like social contact crimes hampered the effective implementation of the NCPS. Proper implementation was further hamstrung by the inability of key stake-holders and role-players to coordinate effectively on cross-sectoral programmes. A constantly evolving crime and policing landscape also meant new demands were being placed on the South African Police Service which required a re-think in terms of policy and strategy.

Nearly two decades into democracy the police and policing has undergone many changes in an attempt to provide adequate responses to crime. Crime prevention approaches and strategies have been closely tied to the broader constitutional vision of ensuring that all citizens are safe and secure. The development of targeted responses to crime and safety over the long-term must therefore be guided by a

sober analysis of the successes and challenges regarding policy implementation. Assessing government's progress on the provision of safety and security broadly requires analysing the impact of the objectives along with the outcomes outlined in the 1998 White Paper on Safety and Security.

Against the backdrop of some of the challenges identified above it has become necessary to conduct a thorough review of the 1998 White Paper on Safety and Security. The review process is informed by the need to reexamine important safety, security and policing policy issues, highlight gaps in the implementation of multi-agency approaches, and identifying additional measures for building a professional and responsive police service. Government-wide consultations on the draft White Paper on Safety and Security identified the need for a more coherent policy framework that will inform the development of policing strategies and operations over the medium- to long-term. Linked to this is the recognition that strengthening professionalism, and enhancing accountability and transparency are central to achieving the organisation's broader transformation objectives.

This Green Paper on Policing sets out the broad policy thrust for the South African Police Service over the medium- to long-term. This policy must position the police service to adapt and respond to a constantly evolving crime landscape while remaining steadfast in its commitment to democratic policing. Continuous transformation of the organisation is then seen as central to achieving these goals and objectives. However, after nearly two decades of democratic policing, questions must be asked about the meaning of transformation of the police service in the 21<sup>st</sup> century. The Green Paper on Policing aims to address both practices in the police and perceptions of the police through concrete policy principles regarding for example crowd management and the professionalisation of the police.

As an institution of governance, the SAPS has a key role to play in realising the objectives of the developmental State. This means it has an important role to play in terms of a holistic approach to safety and security. The SAPS is often the first responder to social contact crimes such child and gender-based violence. Despite the root causes of these crimes falling outside the scope and mandate of policing, they must be investigated and the perpetrator(s) must be apprehended. The SAPS

must thus continue to work with key role-players and stakeholders on a range of cross-cutting programmes. The effective provision of safety and security in the long run will essentially be dependent on the ability of the police to work collaboratively with other role players within the broader Justice, Crime Prevention and Security (JCPS) cluster. This is supported through government's 'Outcome' approach where governmental priorities have been clustered to ensure greater cooperation, coordination and alignment throughout the entire criminal justice value chain. Essentially, the development of targeted strategies must take cognizance of the interrelated, causal relationship between the broad range of factors (e.g. social and environmental), that impact on safety and security broadly.

### **Impact of crime on a developmental state**

Since the advent of democracy, much emphasis has been placed on improving the country's social and economic conditions. Redressing the structural inequalities caused by apartheid remains central to achieving sustainable development in South Africa. Prevailing high levels of inequality, unemployment and violent crime have however proved counterproductive to the goals of the developmental State. Violent crime in particular constrains the ability of citizens to participate actively and meaningfully in all spheres of social and economic life. The pervasiveness of child and gender-based violence equally hamper social and economic development.

High crime rates, particularly violent crime, in South Africa have elicited direct responses by government in terms of criminal justice expenditure. For example, budget allocations to the SAPS have increased by 61% over a five-year period (2007/08 to 2011/12). This trend is however not unique to South Africa with international governments linking increased criminal justice expenditure with high crime rates. Meeting the direct needs of governments in terms of responses to violent crime means billions will be diverted away from socially and economically constructive efforts to law enforcement. Issues that must be addressed in the South African context is the impact of violence on lost productivity and lost investment, and how together, they slow economic development, increase socioeconomic inequality and erode human and social capital.

In South Africa, the importance of personal safety as a pre-condition for human development has been reiterated in the National Development Plan (NDP). This plan sets out the long-term developmental trajectory for the country and states that the necessary space must be created where all citizens can participate productively in all facets of social and economic life. South Africa's ability to achieve this will however be constrained where people do not feel safe and live in fear.

The rapid pace of globalisation and constant advancements in Information Communication Technology (ICT) means that violent crime is no longer the single biggest threat to development. Increased exposure and access to the internet and our ability to download large volumes of data at high speed has heightened people's exposure to other crimes like cyber-crime. Smart phone technology and increased interaction through a range of social media platforms further exacerbates the problem. This has created opportunities for organised criminal syndicates to reach large numbers with great ease.

While not limited to specific groups, the effects of cyber-crime are most visible on the most vulnerable in society like the elderly and the poor. Once, scammed, these people often have little chance of recovering their loss which has a direct impact on their livelihoods. Mitigating the risks associated with both violent and cyber-crime must be supported by coherent crime and justice policy. This Green Paper must therefore contribute to the development of targeted solutions to specific crimes that may impede growth and development in South Africa.

#### **Changes in policing since 1994**

Positioning the newly established SAPS to function effectively in a post democratic South Africa required fundamental changes to the manner in which the apartheid police forces operated. Closely tied to this was the need to ensure race and gender parity at all levels of the organisation. The broader transformation agenda had to yield a police service that could effectively combat crime and ensure that all South Africans are safe and secure. Achieving this would however be dependent on the SAPS enjoying the trust and support of the communities they serve. This necessitated a fundamental shift in the culture and style of policing with the introduction of democratic policing along with a myriad mechanisms aimed at

inculcating a culture of transparency and accountability within the organisation. Moving away from past practices of police brutality and excessive use of force meant that the SAPS' approach to policing had to center on protecting fundamental human rights as enshrined in the constitution.

A community-oriented approach to policing underpinned by police integrity and professionalism formed the bedrock of early endeavours to secure legitimacy. Key to this process was to ensure the police would act in ways aimed at winning the trust of those citizens who once feared them. The establishment of Community Policing Forums (CPFs) was central to addressing widespread animosity and distrust between community members and the police. This new partnership approach to policing served two purposes; firstly, it provided a platform for community concerns and perceptions regarding crime and safety to be taken on board during police planning at station level. Secondly, it functioned as part of the larger police oversight architecture.

Since 1994 the South African Police Service has also increasingly become engaged in policing approaches, cooperation and mutual assistance in the field of crime combating at regional, continental and international level. Over the last decade and in particular since 9/11, greater priority is being placed on international cooperation and engagement.

While South Africa is asked to play an increasing role in the region and on the continent broadly, the challenge is to ensure that we have the strategies and capacitate ourselves to ensure this engagement addresses SAPS' responsibilities and opportunities. Any international engagement is underpinned by the desire to fashion a better South Africa through harnessing effective partnerships. This effort must be directed towards meeting certain key imperatives, including, but not limited to:

- Deepening our involvement in regional and continental security and stability; and
- Enhancing our support to peace missions.

## **Privatisation and Policing**

Any approaches to policing must recognise and address the significant growth in the provision of private security services since 1994. It is important to note that the rapid expansion in the provision of private security services in South Africa over the last two decades is comparable to international trends. However, the growth of the South African private security industry has outstripped other countries and as a percentage of our GDP, has the largest private security industry in the world. The profits and growth rates of this industry in South Africa are significantly higher than in North America and Europe. For example, figures show that in 2000 the private security sector contributed approximately 1.25% of SA's GDP compared to 0.3% in the USA and some European countries.

Historically the private security industry was broken down into specific areas or categories of security services (such as guarding, armed response, private investigations, etc.). However, over the last decade the industry has diversified and many companies now provide a wide range of services that cut across the different categories. This diversification has resulted in the lines between private security, private intelligence and private military becoming increasingly vague and blurred.

The private security industry is increasingly performing functions which used to be the sole preserve of the police. This has, and will continue to have a serious influence on the functioning of the criminal justice system as a whole. While it is true that private security does and can fill certain vacuums, it can never replace the public police. They have very different objectives:

- Public police aims to protect the public while private security is profit-driven; its main objective being the protection of its clients' interests. The interests of private clients and those of the state and public are not always the same.
- A key concern is that private security takes power away from the state and does not distribute it more equally throughout society. It therefore creates disparities between those who can afford the services of private security companies and those who rely solely on public policing.

- Private security shifts the responsibility for social control and order away from the state.
- The police have special powers that are exercised in the context of public accountability. Private security companies have no special powers beyond those of citizens or those delegated to them by the owner of a private or “public-private” property. Private security guards do not have the same legal mandate or powers as police officers. Security guards do however exercise discretion over criminal matters that occur on the property of their clients.
- Over the last decade the police have come under intense scrutiny by the state and the public. This has not been the case with the private security industry whose accountability is market driven.
- Because the private security industry is less constrained by statutory limitations, it is more likely to infringe the rights of the people it polices than the public police.

The global growth and expansion of the private security industry has resulted in the United Nations (UN) and governments internationally placing greater emphasis on both effective oversight of the industry and its relationship and role with the criminal justice system. This is premised on recognising that while private security may and can contribute to crime prevention, civilian private security services are private entities or individuals, not public entities. It is also based on the fact that states have the primary responsibility for maintaining public order, safety and security and in some countries civilian private security services may create challenges for the criminal justice system.

As private security officers become more involved in the work of ‘traditional’ policing it is necessary to put in place strong checks and balances. Clear guidelines must be set and accountability mechanisms established to regulate these activities. Review of the regulatory framework must emphasise the importance of effective oversight of civilian private security services by the State.

In 2000 the Private Security Industry Regulatory Authority (PSIRA) was established to replace the old Security Officers Board. However, after more than a decade it is essential that we review both the role and regulatory framework for the private security industry. Another fundamental issue is how to structure these relations between the police and private security service providers.

Although, the issue of partnerships between private security and public policing agencies has been debated since the late 1980s there is no clear blue print that exists internationally regarding the proper regulation of such partnerships. In South Africa the NCPS called for partnerships in crime prevention and specific reference was made to private security. However, while there have been sporadic partnerships since the 1990s between police and private security providers there has been little documentation and review of these partnerships and their benefits and pit falls.

What is required is the development of clear guidelines, based on research conducted that will guide relations between the police and private security service providers. This will ensure that such relations are not left to individual relations that may exist between certain police official(s) and security service providers.

Essentially, both our approach to regulation and to relations between the police and private security service providers must be integrated into a coherent system of policing with the objective of enhancing overall policing and safety.

## SECTION 2: INTRODUCTION

South Africa's transition into its second decade of democracy has been underpinned by the recognition that safety is a fundamental human right. Safety is regarded as a precondition for human development and enhancing productivity. Where citizens do not feel safe and live in fear, their ability to contribute to the country's overall development is greatly compromised. The NDP recognises the importance of creating an environment that is conducive to citizens pursuing their personal goals, and to take part in social and economic activity.

The NDP further outlines key areas for improvement and innovation across all areas of government responsibility, including policing. Realising the broad objectives espoused in the report will be made easier in the presence of a well-resourced, professional, and highly skilled police service.

The renaming of the Department of Safety and Security as the Department of Police sought to reinforce the importance of focusing on its core objectives and mandate as outlined in the Constitution. This had the added impact of clarifying roles and responsibilities previously blurred in the NCPS in relation to crime prevention. The Constitution defines the role of the police as being, *"to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law"*.

Policing for the future must be guided by the understanding that the crime landscape will continuously evolve. This will require the South African Police Service to remain innovative and adapt its policing approaches to respond to this changing environment. This will be supported by the effective functioning of coordinating and operational structures at all levels of the criminal justice system. The regular flow of information and intelligence between relevant structures must aid better resource deployment. Ensuring the safety of citizens will require of police to strengthen ties with communities and community structures.

## **SECTION 3: CONFRONTING CRIME IN DEMOCRATIC SOUTH AFRICA**

All South Africans are directly or indirectly affected by criminal acts and increasing violence that has become associated with these acts. Internationally it has been found that crime and violence erodes social cohesion, limits mobility and erodes citizens' trust in the state to protect them.

Research has pointed towards the connection between poverty and crime being a complex one. While severe poverty may motivate people towards criminality not all poor people commit crime. In fact the majority do not. The National development Plan thus calls for a clear distinction between 'crimes of need' and 'crimes of greed' in terms of responses by the criminal justice system. In addition, poverty also increases peoples' vulnerability in terms of their exposure to crime and the associated impact is often worse for people living in poorer areas.

Therefore, while issues of poverty are important factors in addressing crime, there are other elements that must be addressed when dealing with crime and criminality more holistically. Some of these include a lack of social cohesion, access to mobility, perception of and/or exclusion, and economic and social access and inequalities.

Gender-based violence and domestic violence not only affect the most vulnerable in society but can also contribute to the normalisation of violence and a situation where violence is seen as an acceptable and valid means of self-assertion and ensuring cooperation. Protection of individuals and communities must also be central to strategies aimed at reducing incidences of gender-based violence. A victim-oriented police service is thus an important part of the overall criminal justice response to crimes against vulnerable groups in society. This approach will also encourage victims to report incidents of crime and ultimately contribute to building confidence and trust in the police.

Violence and crime can change social networks and interactions and create mistrust, not only of the state, but also within communities. This not only makes communities more vulnerable to crime, but also perpetuates crime and violence. For example,

international studies have shown that an individual's experience of trauma can be repeated either through repeat victimisation or by the victim themselves becoming involved in the victimisation of others. The capacity to heal from trauma and the emphasis placed on victim support by government is not only a matter of psychological health and support to victims, it is also a means of addressing the cycle of crime and violence.

The emergence of complex crimes such as organised crime and corruption, coupled with other violent crime has greatly altered the operational environment, posing unique challenges for the police. Organised crime and corruption are intricately related and not new phenomena, but in the South African context, the levels of organisational sophistication, international networking with other criminal syndicates and transnational crime trends has expanded rapidly. Organised crime jeopardises the capacity of states to ensure the security of territories and similarly increases levels of corruption.

The relationship between trafficking of illicit drugs and the commission of violent crimes compounds the crime situation. Drugs are known to be linked to crime in multiple ways through use, possession, manufacture and/ or distribution. Drugs, like alcohol abuse, impair rational judgement and create a heightened predisposition to violence and other illegal activity. The abuse of alcohol and drugs in South Africa has impacted on a variety of crimes including domestic violence, assaults and even murders.

Post 1994, rapid globalisation has resulted in increased exposure by South Africa to transnational drug trafficking. This has resulted in the country becoming a transit hub for drugs such as cannabis, cocaine and heroin. The lucrative world drug market has seen the formation of intricate organised criminal networks that facilitate the spread of illicit drugs across regions and continents. The world drug problem undermines economic development and democratic institutions, and threatens international stability. Effectively arresting this global problem will require the SAPS to deepen ties with international law enforcement agencies and bodies.

The intensity of drug-related violent conflicts has been fuelled by the global surge in illegal firearms in recent years. The proliferation of firearms, both legal and illegal, can greatly enhance the overall level of violence linked to crime. The availability of these weapons also increases the level of destruction caused by crime. Firearms are commonly used by criminal groups both in the commission of crime and in the protection of their merchandise and territory.

Achieving a reduction in and ultimately combating violent crime will impact positively on government's efforts of ensuring that "All people in South Africa are, and Feel Safe". The fact that these acts of violence are often committed with firearms exacerbates the element of fear and frequently results in death or serious injury.

Policing must be informed by a detailed analysis of intelligence and crime risk information. This must identify high risk areas (hotspots) and peak times of activity to guide police visibility operations. Additionally, analysis of modus operandi must be continuously conducted to identify potential suspects and/or syndicates due to the organised nature of some of these crimes. Issues such as repeat victimisation can then also be identified. Overall, this process will allow for more thorough profiling and linkage analysis so that the police can simultaneously focus on the perpetrator(s) and syndicate bosses. Consequently, a dedicated emphasis on intelligence analysis will yield many benefits for the police in dealing with violent crime.

### **Approaches to addressing crime**

Globalisation, technical advances such as in information and communications technology, and the ease of international travel also benefit criminals to the extent that crime has become highly organised and sophisticated. The limitations inherent to national borders and criminal jurisdiction are constantly being abused by criminals who are able to move across borders with greater flexibility. Law enforcement to combat crime with international dimensions or links has become dependent on greater international cooperation, not only in respect of obtaining evidence from foreign jurisdictions, but also information-sharing and cooperation to ensure that crime combating is not only reactive in respect of detecting and investigating crimes already committed, but to be able to prevent crimes at its incipient stage.

## **SECTION 4: POLICING IN SOUTH AFRICA**

After 1994 the South African Police Service has undergone various changes to ensure it abides by democratic principles and human rights as well as adopting effective policing methods. Organisational transformation, community-oriented policing, crime prevention policies and strategies, and operational strategies are some of the key areas which were given special focus. Closely linked to this has been the need to clarify the role of the police in crime prevention.

In line with the Constitution, the police have been structured as a national competency with structures at national, provincial, and local (police station) level. Within this structuring, the police must be accountable to the people whom they serve. Unless it is firmly rooted in, and remains accountable to the communities in whose name they police, they will not enjoy public support.

### **Role of the police**

The process of reconstruction of our society requires the establishment of a security service that reflects the national demographics and gender character of the country. Such service must also be professional, uphold the Constitution and respect human dignity. The police have to deal with increasing demands for police service delivery as well as dealing with high crime levels and the growth of organised crime.

### **Ensuring effective policing**

Policing in democratic societies operates in a space between their constitutional framework and the legal framework that defines how they must operate. To ensure an effective service, the police must understand their role and function in society. Police action must always be motivated by sound knowledge of police purpose and involve constant application of the law.

It should be noted that while the Constitution also provides for checks and balances on police powers and protection of the rights of citizens, it does not prevent the police from vigorously fighting crime. The South African Police Service is vested with the legal authority to use force in achieving its constitutional mandate. The application of force must however not be left to the unfettered discretion of police

officers, but must be guided by clear policy guidelines and regulations. This use of force must be balanced against citizens' rights as protected in the Bill of Rights.

Policy and guidelines around the use of force must be easily understood by front-line officers when having to make split second value judgements. They must also be sufficiently equipped to be able to apply force that is reasonably necessary and proportionate to the level of resistance encountered.

### **A single police service**

In order to effectively manage the responses and governance of law enforcement, our Constitution makes provision for the establishment of a single police service. Section 199(1) of the Constitution reads:

*“The security services of the Republic consist of a single defense force, a **single police service** and any intelligence services established in terms of the Constitution”.*

An analysis of this section indicates that the constitution requires that the national police service must be structured to function in the national, provincial and, where appropriate, local spheres of government. Whilst national legislation exists for single command and control over the South African Police Service the same cannot be said regarding the growing number of Metropolitan police structures that have arisen since 1994.

The South African Police Service must act in accordance with the national policing policy and the directions of the Minister of Police and are ultimately accountable to Parliament. In addition the SAPS is subject to civilian oversight mechanisms which have recently been strengthened with the introduction of the Independent Police Investigative Directorate and Civilian Secretariat for Police legislation. Furthermore, the SAPS are also required to engage and participate with CPF established at a local level. These structures are a necessary instrument to achieve the goal of a society where the members of the public are active participants in deciding matters of safety and security, and where there is accountability of the law enforcement agencies.

The Metropolitan Police on the other hand are less subject to strong accountability measure and this in itself poses serious risks to our democracy. Where you have police unaccountable, situations may arise that require specific interventions from national government. Police accountability is a cornerstone of any democracy and given our particular history, we have to make sure that all police agencies must be accountable, including the Metro Police agencies. In addition, the philosophical orientation and training of police must be standardised. This is not possible under the current system of fragmented police service operating at both a national and local level and where as a result the training and command of such services are not centralised. Throughout the world when such situations prevail you will find a disjuncture in crime fighting efforts.

It must be noted that the call for a 'single police service' has been informed by a desire to maximise our capacity for effective, accountable and efficient policing. The primary objective is to address issues relating to the effective functioning of policing in the country. This is guided by the understanding that streamlining command and control, discipline and ensuring uniform standards must result in improved policing.

Taken together, these key principles must inform policing in the country over the medium- to long-term. Enhancing levels of accountability in term of policing then becomes imperative. This will be supported by clear, uniform standards regarding discipline and training for example. This uniform approach must ultimately strengthen the accountability of both institutions to structures like Parliament. This should fundamentally address current concerns around inadequate accountability on the part of the metro police.

In this context, it is essential that a framework is created that would give expression to the need for effective, competent and accountable policing in South Africa. This must be underpinned by the presence of strong checks and balances at all levels of government; allowing for the appropriate mechanisms of accountability and evaluation. Such a framework must also ensure high standards of professionalism, impartiality and accountability that all South Africans desire.

To address this, it is necessary to investigate the feasibility of implementing the policy resolutions surrounding single policing in the country. It is acknowledged that achieving this will be a protracted process.

### **Transformation**

Since 1994, considerable progress has been made in transforming the South African Police Service. The early transformation objectives of SAPS were to dramatically alter the demographic composition of the service and, to change the manner in which the organisation functioned. While transformation targets in terms of race have largely been met, issues around gender parity may still be a concern. Nonetheless, transformation must be viewed as a continuous and iterative process. As such, going forward we must develop a clear strategy for transformation that does not exist as a separate or stand-alone strategy, but one that is incorporated into, and reflected in the overall strategy of the organisation. This must then guide transformation over the medium- to long-term. It must speak to human resource development from recruitment to retirement. It must involve a change in attitude, values, norms and behaviours. Similarly, there must be a responsibility of management to foster and implement the changes and strategy.

The transformation ethos of the police remains one that is guided by conscious efforts directed toward ensuring the alignment of organisational structures, practices, policies and procedures with the principles of democratic policing. Ensuring that SAPS functions as an institution of governance must center on instilling a culture of professionalism, efficiency and effectiveness, transparency and accountability.

The continuous process of transformation must position the SAPS to adapt to a constantly evolving organisational environment while also responding to the ever changing needs of a democratic society. Achieving these objectives will be dependent on ensuring change at the level of the organisation, the individual, and the job. This must be carried out while focusing on the structured aspects of policing, and must translate into a service that upholds and protects the fundamental rights of all people and executes its mandate in accordance with the constitution, legislation and the needs of the community.

The continued investment in, and focus on the institution must address not only changing the demographics of the service (including both race and gender), but also the orientation of the police. Transforming the organisation must result in South Africans viewing the police service '*as their own*'. This will not happen if the service is not representative, responsive, and accountable.

As mentioned previously, after nearly two decades of policing, questions must be asked about what transformation of the police means in the modern day context. As will be suggested later in the document, a key element of this transformation process means that SAPS must demonstrate a commitment to carrying out policing that is fair, just and equitable. Building sustainable partnerships with communities based on mutual trust forms a central part of this process. Police management must address systemic challenges and weaknesses, but also be able to anticipate changes to the internal and external environments that impact on policing. There are a myriad ways that police management can achieve this; one of which is to assess the impact of contingent liability on SAPS.

Civil claims against the SAPS must be used as an indicator of two things. Firstly, a cursory analysis of all claims could potentially highlight specific trends and patterns directly linked to police training and conduct. Any increase in civil claims for assaults or police shootings for example must be carefully analysed to identify potential systemic challenges linked to command and control or training. Similarly, more effective internal systems for managing processes for civil claims are needed.

### ***The Police as a Service***

Since 1994 there have been numerous initiatives undertaken aimed at ensuring that we build an accountable and credible police service and while there has been significant success achieved in both depoliticising the police and in ensuring a more accountable police service the overall transformation of the police remains a work in progress.

A strongly politicised police force under apartheid was characterised by a lack of credibility, transparency and accountability. The oppressive style of policing meant that the use of excessive force and regular abuses of human rights were common

practice. The ushering in of the new South African Police Service in 1994 required fundamental shifts in the nature of police work. Civilianising a highly politicised police force was thus a key part of the transformation process post 1994. Professionalising the police required a shift in approach towards forming positive community-police relations based on mutual trust. Equally it was recognised that the police must be subject to strong and effective oversight in the form of Parliament, the Executive Authority and structures such as the Civilian Secretariat for Police and the Independent Police Investigative Directorate.

A change in the organisational culture was explicitly required through conscious efforts aimed at changing key aspects of the police ideology and approach. Fundamental to this was the need to inculcate a human rights culture into the police – one that was sorely lacking under apartheid. A human rights approach therefore became central to policing in a democracy and would guide SAPS operationally.

After just over a decade of policing in a democratic South Africa, SAPS continued to grapple with the challenges of dealing with high levels of violent crime as well as building the necessary skill, competence and discipline in the organisation. At this juncture, a decision was taken to make use of ranks within the police. The rationale behind this was two-fold. Firstly, it sought to reinforce a more focused approach to dealing with crime and secondly, it sought to improve discipline, morale and ultimately the overall efficiency and effectiveness of the SAPS.

The use of ranks did not change the constitutional requirement of the police operating as a police service nor did it alter the need for both strong oversight and the ethos of policing needing to embrace a human rights culture. Therefore the use of rank titles should not in and of itself be construed as militarisation.

The principles of a community-oriented police service that is both fair and professional and has strong oversight mechanisms must continue to guide our approach to policing. Effort must be directed towards building the necessary management and strategic leadership that is pivotal to organisational stability, morale and integrity.

The use of ranks does not constitute a remilitarisation of the police; neither does the use of rank titles on its own give rise to increased brutality. What is important is the emphasis we place on the philosophy and orientation of community-oriented policing that is both disciplined and accountable.

### **Community-oriented policing**

The policing philosophy in the 1990s shifted from an authoritarian approach to a community-oriented policing philosophy. This philosophy was not simply about the existence of Community Policing Fora (CPF) nor was it intended to be a public relations exercise.

Community-oriented policing must speak to the manner in which police operate and how they understand and engage with the communities they serve. This philosophy must recognise that policing is not something done *to* people, but rather policing is something that is done *with* people. Vision 2030 has identified an active citizenry and effective coordinated partnerships with civic organisations as one of the core elements for a sustainable strategy for citizen safety. A community-oriented approach to policing must be grounded in a social contract between the police and the communities they serve. In this context, policing must be seen as a service provided to communities, and where communities have trust and confidence in this service.

The success of community oriented policing hinges on policing that is carried out fairly and respectfully and in a responsive manner. People are more likely to voluntarily obey the law if they believe the police will act towards them in a fair manner. The police must be able to deal with police service delivery and respond to the need to address crimes occurring in communities. Community-oriented policing recognises that the police's success is dependent on their ability to secure and maintain public order and respect.

This is not done by pandering to communities or certain opinions, but by constantly demonstrating fairness and competency and by readily offering service and respect to communities and through regular engagement and interaction. This approach

does not require the police to be soft on crime, but that their response must at all times be professional, measured and fair.

For the SAPS to sustain its focus on community-oriented policing, added emphasis must be placed on building strong locally-based leadership. This is fundamentally geared towards equipping station commanders and station personnel with the required skills to effectively address community-specific safety and security concerns. It is against this backdrop that concerns raised by unions for a more flexible and flattened management structure should be considered by police management. The rationale behind this call is to ultimately improve accountability at station level where services are rendered to communities

### **Crime prevention**

Post 1994 many of the changes in policing have occurred with attempts to expedite progress through operational policies and strategies. The NCPS was one such attempt. It sought to establish a coherent framework for problem solving involving all spheres of government in partnership with civil society and the private sector. The aim of this multi-disciplinary approach was to ensure that anti-crime activities across the broad spectrum would be implemented in an integrated manner. The success of this strategy hinged on fostering integrated programme implementation across all levels of government as well as other role-players. The central objective was to improve coordinated planning. One of the early barriers negatively affecting implementation of the strategy was a lack of information regarding the development and implementation of the many programmes outlined.

It was assumed that coordination and cooperation would develop organically as all role-players and stakeholders understood their role and function within the broader objectives of the NCPS. Adopting a multi-agency approach meant that a distinction needed to be drawn between crime combating and crime prevention.

### **Crime information management**

Prevailing high levels of recorded crime in South Africa have brought into sharp focus the need for accurate data to understand, explain and control crime. The rate of crime – whether it increases or decreases has served two purposes. Firstly, it is

used as a measure of the success of the police in fighting crime. Secondly, understanding its occurrence informs crime control policy and practice.

Police management tasked with crime prevention need quality information to make informed decisions. It therefore follows that appropriate information must be collected, accurately assessed and timeously analysed to have a meaningful impact on policing. As a result, processes linked to the management of police information must focus on mitigating the risks attached to that information and planning.

This can be done by ensuring there are clear and consistent processes for collecting, recording and evaluating crime risk information. Essentially, if crime statistics are to be viewed with integrity it must be trusted, acceptable and useable. This is dependent on data being collected, recorded and evaluated in a consistent manner across the organisation.

A comprehensive understanding of the criminal landscape will be facilitated by conducting two key activities, namely crime analysis and criminal intelligence. The former will provide police leaders with a more complete picture of crime patterns and trends while the latter gives a snapshot of criminality and criminal behaviour. Without this understanding of both crime patterns and criminal behaviour decision makers will not have access to critical information to direct strategy and planning.

### **Visible policing**

Visible policing entails the visible performance of duties as well as the regular and discernible presence of the police in public spaces. This visible presence has an important bearing on the perception of communities that the police are 'alive' and efficient. The resultant effect is heightened feelings of safety coupled with improved confidence in the SAPS. While visible policing cannot deter and prevent all forms of crime, it impacts on people's perceptions of the police and it provides a strong deterrent to would be criminals.

For visible policing to be effective, front-line police officers need to assertively and fairly perform their policing functions. This entails communicating with members of the public and engaging in street level law enforcement. Because effective visible

policing entails vigorous law enforcement, it relies on the support of the local community. It must therefore be conducted in terms of the relevant principles of service delivery and carried out in a responsive and fair manner.

Accurate crime information regarding the locality and nature of crime in a particular area is central to effective visible policing. To ensure that these interventions reduce crime, the establishment of an overt crime analysis and information capacity must receive urgent attention at local level. In addition, while the police cannot be said to control the amount of crime reported, they can control their own internal management, including the distribution and use of resources. This includes managing the quantity and quality of personnel and equipment assigned to various locations and functions for maximum efficiency.

In this regard, resource allocation must be aligned to provincial and station operational needs and priorities. This also requires the police look at deployment times while addressing effective shift patterns and ensuring effective and efficient fleet and resource management.

In addition, visible police need to be deployed in ways that meet organisational objectives, and needs to be supervised to ensure that visible police officers perform their tasks fairly and effectively.

Visible policing can be conducted in various ways to achieve specific objectives:

- **Preventive patrol:** This consists of a constant uniformed police presence in an area targeted on the basis of an analysis of crime patterns. Officers on patrol activities can also respond to incidents reported by the public – the immediacy of the response being determined by the seriousness of the incident. This type of patrol has been found to be most effective in major urban areas.
- **Directed patrol:** This involves the assignment of patrol officers to provide a visible presence in a specified location for a limited period and for a particular purpose. Directed patrol relies on crime pattern analysis to provide timely information of crime in a specific area.

- **High density policing:** This entails the saturation of areas experiencing high levels of crime with patrolling police officers. Policing of this nature is often required to stabilise high crime areas so that normal policing can resume. Such interventions go beyond merely saturating any area with police. It entails increasing the number of police officers for a particular purpose with the added goal of making arrests. In South Africa, high density policing is largely performed by the public order units of the police. These units are tasked with the primary function of managing incidents of public collective action. Given the shortage of policing resources and the requirement for well organised and disciplined public order units, these constitute an important resource which should be used strategically, drawing on the accurate and timely provision of intelligence.
- **Sector policing:** Adopts a more decentralised approach to policing. The central objective is to enhance service delivery driven by a partnership building approach between the police and local communities. This policing philosophy can be regarded as being simultaneously proactive and reactive in its approach. However for sector policy to succeed it needs some form of geographic permanency and the sectors must be clearly demarcated and manageable. Some of the challenges encountered locally are not only that it has not been clearly communicated but also it has been dependent on volunteer reservist(s) for its implementation. It has also not necessarily had the full support of all police management and is often dependent on the view and approaches of a local station manager. The success of this policing model is dependent on engendering a supportive organisational culture and ensuring sufficient resource planning for implementation. The former may entail revising performance measures to accommodate sector policing. Additionally, it must be clearly communicated throughout the organisation.

### **Crowd management**

The right to peaceful assembly forms a cornerstone of our democracy – built on the principle of collective expression – in whichever form they may occur. The slow pace of development and service delivery, and the widening inequality gap has resulted in a surge in mass protests since mid-2000. SAPS are thus continually being called

upon to respond to the manifestations of discontent with government service delivery and labour disputes. Figures recorded by SAPS for 2011/12 shows a marked increase in unrest-related incidents. Research conducted supports this indicating a significant increase in the proportion of mass gatherings that turn violent. This then requires that the police have the ability to effectively manage these situations.

This Public Order Police (POP) unit was established to deal with public order policing. However, numerous restructuring exercises carried out after 1994 impacted on its ability to effectively execute its mandate and function. The addition of crime combating responsibilities to POP as part of this restructuring impacted negatively on the unit fulfilling its core responsibility of crowd management. Part of the rationale behind this change was a significant decrease in the number of service delivery protests. An upsurge in the number of public gatherings, particularly violent ones, again highlighted the need for the re-establishment of the units.

This recognition came in the form of the development of a Public Order Policing Policy and Guidelines document that provides a broad framework regulating the policing of public protests, gatherings and major events. The point of departure is that the SAPS must ensure peaceable order is sustained without infringing or appearing to infringe upon individual and collective democratic freedoms. This means applying force that is reasonably necessary and proportional to the level of resistance encountered.

Effective crowd management that is informed by constitutional and legal imperatives will be dependent on a number of factors. This includes continuous training and education which hinges on effective knowledge management systems within the police. Closely tied to this is the availability of equipment that will allow the police to respond adequately across the entire continuum of force. Importantly, the use of intelligence must form a central part of the policing response to ensure that public disorder is effectively contained. Internationally recognised practices involving the police's ability to negotiate with parties involved is also an important aspect of public order policing.

### **Rural safety**

The general safety of rural communities in South Africa has remained on the forefront of debates due to the high levels of crime in rural areas and the impact this crime has on rural development. Government and the SAPS in particular remain acutely aware of the importance of ensuring the safety and security of rural communities and this led to the development of a comprehensive and holistic rural policing strategy. This approach principally aims to contribute toward the creation of a safe rural environment and ensure food security.

Current policing strategies aimed at curbing the problem have been framed based on the historical context of how safety was provided to these communities. The Rural Safety Strategy was developed after consultations with key role-players and seeks to provide a coherent approach and guidelines for achieving safety and security within the rural environment. Importantly, rural development will be prioritised along with safety.

### **Crime Intelligence**

There is a difference between national security intelligence and law enforcement intelligence. Law enforcement intelligence should support the development of evidence for prosecution of criminal cases and be able to identify crime risks and crime information that can support policing approaches and the efficient deployment of resources.

One of the main problems faced by Crime Intelligence is that it has had a bit of a “blank cheque”. This has allowed officers to operate in areas that traditionally fall within the domain of the State Security Agency (SSA). This blurring of the lines between crime intelligence and state security has led to serious tensions and issues relating to a lack of accountability within crime intelligence.

The National Strategic Intelligence Act, 39 of 1994 demarcates the roles and responsibilities of crime intelligence within the police. In this regard it must:

- a) gather, correlate, evaluate, coordinate and use crime intelligence in support of the objects of the South African Police Service as contemplated in section 205(3) of the Constitution;

- b) Institute counter-intelligence measures within the South African Police Service; and
- c) Supply crime intelligence relating to national strategic intelligence to NICOC.

While this Act provides a clear focus for intelligence, the division Crime Intelligence is not established in terms of specific detailed provisions in the South African Police Service Act, 1995. In the review of the of SAPS Act 1995, it will be necessary to provide for the establishment of a Crime Intelligence Division and its particular functions in relation to the rest of the SAPS (much in the same way that the Defence Intelligence is in terms of the Defence Act, 2002, Act No 42 of 2002).

In defining the role of crime intelligence and detailing relevant provisions in the review of the SAPS Act it will be necessary to clearly distinguish its role and mandate from that of a national security agency. As part of the crime intelligence function, added focus must be placed on vetting of personnel to ensure that fit and proper persons are employed within this area of policing.

A clearly defined role for Crime Intelligence must essentially address confusion regarding the coordination of broader strategic intelligence. A clearer understanding of the role of strategic and tactical intelligence must eliminate any duplication of effort and, ultimately, impact positively on policing. Coupled with this is

### **Intelligence-led policing**

Rapid globalisation and the spread of communications and other technologies are some of the factors that have given rise to a constantly changing criminal environment in South Africa. Criminals and criminal enterprises have become increasingly organised and sophisticated in their operations. This requires SAPS to respond both tactically and strategically to a range of crime problems in the most effective and efficient manner. Strategies aimed at reducing and combating crime must thus be guided by the proactive analysis of crime information.

Intelligence-led policing is based on collaborative working relationships with various role-players and stakeholders geared towards generating sound intelligence that will

enhance understanding of the operational environment. This policing methodology is applied within SAPS targeted at detecting various crime types, for example, the illegal possession of firearms and drug-related crime. Gradual reductions in overall crime trends can partly be attributed to the application of this approach. Enhancing the effectiveness of intelligence-led policing within the SAPS will be dependent on stringent processes that provide a framework for the collection, organising, analysing, and utilisation of intelligence that will guide both operational and tactical law enforcement decisions. This approach can play a meaningful role in supporting existing policing strategies like community policing or problem-oriented policing.

Effectively implementing intelligence-led policing allows the police to prioritise the deployment of resources in a manner that improves efficiency in crime reduction and prevention outcomes. Continuous assessment of all criminal information and intelligence generated will allow for a more detailed analysis of the organisation's effectiveness while also highlighting changing patterns and trends. This should translate into a better understanding of the operational environment and how policing needs to adapt to these changing conditions.

### **Crime investigations**

Investigation of crime will not impact positively on crime unless such investigations result in proper detection, successful prosecution and final conviction. The fight against crime thus rests on two critical aspects; improving the rate of detection and ensuring sanctions are meted out that are commensurate with the type of crime that has been committed.

The prosecution and conviction of people involved in crime is not dependent solely on the police and requires the improvement in the criminal justice system as a whole. However, by not just focusing on improving the detection rate of suspects, but also on ensuring that the police improve the nature and quality of investigations, the police can contribute significantly to increasing the overall conviction rate.

Police investigation and detection practices require greater sophistication and training. In addition, investigations must be properly conducted and the work of prosecutors adequately supported in order to improve conviction rates. The

improvement of this rate also requires strengthening the link between police investigators and prosecutors.

Continuous focus must be given to improving the capacity and quality of criminal investigations. This requires allocating sufficient resources to detection and developing the skills and techniques of the relevant detective personnel involved. In addition, there is a need to ensure improved management of investigations and information as well as technical support provided.

Key areas that must be addressed in this regard include:

- *The size of the detective service:* In 2011/12 the detective services comprises approximately 19% of the total SAPS staff complement and utilises roughly 16% of the organisation's budget. A key concern however remains the fluctuation in the vacancy rate within this unit. International comparisons of the ratio between the number of detectives and the total number of cases under investigation suggest that the detective component(s) of the SAPS remains understaffed. It is therefore imperative that scientific calculations be made to determine the ideal number vis-à-vis the needs and requirements of the organisation. This calculation should also factor in challenges experienced around fluctuation and propose measure to deal with this.
- *Quality of Detectives:* This entails improving the quality and personnel within the detective services. To address this, there is a need to ensure that the detective service is able to attract, retain and improve the quality of personnel within its ranks. Effective recruitment and career-pathing of detectives must play a central role in enhancing and improving the quality of personnel. In addition, the establishment of legally qualified persons in the detective services could play a role in assisting and advising detectives and thereby improving the quality of investigations.
- *Improving the training of detectives:* The increase in detectives within the police service has grown exponentially between 1998 and 2011. The need to increase actual numbers without a concerted emphasis on training and development has created a legacy of police officers who are deployed without having undertaken the requisite detective training. It is against this backdrop

that training of all detectives must become a priority within the police. Building the capacity of the detective services must require that police officers only be deployed to the detective component after having undergone the necessary training.

- Managing detectives: The management of the detective functions needs constant intervention and enhancement to guide and improve deployment and performance. The role of detective management must be clearly defined and linked to a clear set of objectives, targets and performance indicators. These performance indicators must essentially provide the framework and basis for regular assessment and monitoring. Inspection of dockets by detective management during the investigation should not only ensure accountability but also assist in guiding the investigation process. Improving overall performance also requires that detective management monitor cases that are struck off court rolls in order to identify weaknesses in the investigative process. Clearance rates should also be monitored alongside conviction rates to allow for a thorough assessment of the quality of dockets finalised.

Special investigative techniques, skills and knowledge are required for dealing with certain types of crime, for example crimes against women and children. Post 1994, several specialised units were created to ensure focused investigative capacity in dedicated areas. However, as part of the police's restructuring process most of these specialised units were subsequently scaled or closed down. This led to gaps in certain areas of investigation where specialist expertise is required. Added to this, an analysis of crime patterns and trends, along with a re-evaluation of government's priorities has necessitated a review of this initial decision.

The decision to reinstate the Family Violence, Child Protection and Sexual Offences (FCS) Units was informed by the understanding that a dedicated law enforcement approach is needed – one that would focus on the victim while also ensuring that the perpetrator(s) are prosecuted.

Efforts aimed at achieving a comprehensive policing response to sexual crime have however been hindered by certain challenges that need to be addressed. Some of the most glaring challenges in this regard relate to a significant under-reporting of

rape cases. Research suggests that current performance practices within SAPS (target-setting) may create adverse consequences with cases either not being registered or dockets being 'dumped'. It is therefore recommended that performance targets in relation to rape and domestic violence specifically be reviewed to encourage reporting.

Additionally, discrepancies that exist in terms of the investigation of rape cases must be clarified. Current practice leaves room for children's cases to be investigated by the FCS units with similar provision not being made for adult matters. Operationally this should be reviewed to ensure equal access by both children and adults. This review process may in turn have implications for the number of detectives assigned to the units. Resource allocation must thus take this into consideration. Additionally, initial closures of the Units may have resulted in a loss of skills due to some detective having left the service. Bridging this gap will require on-going training of current detectives to ensure adequate service delivery.

This training must be extended to uniformed members in the Client Service Centre (CSC) as the first point of contact for initial reporting. This will ensure improved knowledge and understanding of relevant sexual offences legislation and the proper treatment of victims. Focus must further be placed on building capacity in terms of statement taking to aid the investigative process and contribute to increased conviction rates.

### ***Forensics***

Solving and preventing crime through proactive and timeous forensic analysis has become a major focus of police agencies around the world. In South Africa, significant effort has been directed towards improving the forensic and criminal records capacity. Continuous improvement in this arena is dependent on a number of factors. This includes lessons learned through international best practice and ensuring that the quality of service of our forensic laboratories adheres to international quality standards. This improved level of service delivery hinges on the availability of trained crime scene technicians and improving the capacity of staff involved in forensic services at a provincial level. Effective recruitment, career

pathing and retention of forensic experts also form a critical part of improving the overall effectiveness of the labs.

### Basic service delivery

Varying new crime types as well as a high crime rate in the country discussed in the previous chapters have demonstrated the need to adopt new approaches to policing. Modern day policing now has to deal with both increasing demands for service delivery at a local level and highly organised and sophisticated transnational criminal networks that requires specific focus and expertise. In adapting to this, many police organisations have adopted a mixed two tier model of policing. The first dealing with a basic police service delivery and the second, addressing a targeted priority crime approach.



The size of the police is a common challenge debated around the world. The key debate is always around what should be the size of the police and what size are the different components within the police. In South Africa the police has grown rapidly both in size and structure since 1996. The challenge now is not necessarily to focus on rapid expansion and allocation of sufficient resources to the police. Rather, effort should now be firmly on focusing attention on the quality of the service and the police's ability to implement service delivery.

### **Effective local policing**

The local police station is the basic unit that looks after law and order at a local level. Communities' perceptions of the police will, more often than not, be informed by their experience in terms of accessibility and the effectiveness of their local police station. The local police station is also the first line of implementation of policing and crime fighting. The functioning of a local station, or lack thereof, can therefore not only impact on crime levels within a particular area, but also on how the police as an organisation are viewed by the public.

The historical manner in which police stations were located prior to 1994 created pockets of service delivery. A key priority thus remains to redressing these imbalances in line with government's priorities. This re-determination of the geographical areas of the nine provinces has been provided for in the Constitution 12<sup>th</sup> Amendment Act of 2005. This legislative process is principally aimed at aligning justice service delivery points with municipal boundaries. The objective is to ensure effective integration of services across a wide spectrum. The challenge is to ensure that the demarcation process of police precincts conform to broader government demarcation objectives.

In addition to the demarcation of police stations there have also been initiatives taken to capacitate police stations more effectively such as those taken during the restructuring of the police between 2004 and 2008. However, while these restructuring initiatives were aimed at capacitating and improving local stations and service delivery, they have failed largely because the solution did not rest only in providing more resources to local stations, but also effectively addressing how stations are managed and controlled. Therefore the management and effective functioning of police stations requires specific focus and attention. Demarcation and police station boundaries should never provide a hindrance to the provision of services and regardless of such boundaries and demarcations local community members must be able to report crime to their nearest local police station and should not be turned away based on demarcations and police boundaries.

To promote more effective local policing, station management and provincial management must be held accountable for the implementation of instructions,

operational plans, internal management, management of complaints, response times as well as the general functioning of stations.

### **Community Policing Forums (CPFs)**

CPFs have a critical role to play in building relations between the police and the communities they serve. This approach was adopted after 1994 to build trust and legitimacy, particularly in those areas in which the relationship between the police and the community had been characterised by mistrust and conflict. CPFs have been established at some police stations across the country to ensure that station commanders are held accountable to the communities they serve.

New policy guidelines developed clearly define the establishment of CPFs, the functioning and roles of the different entities, such as the MECs, as well as that of the police and the community. The role of CPFs as defined by prescripts should be:

- Building cooperative relations between the police and communities;
- To ensure effective communication between the police and communities;
- To share information regarding crime in order to assist the police and educate the communities;
- To act as an instrument of building local community partnerships with the police; and
- To ensure that the police are accountable to local communities.

CPF should not engage in actual policing function or operate as reservist because they do not have the legal mandate and once they become reservists they become part of SAPS structures and can no longer be civilian representatives.

For CPFs to be effective the following must be addressed:

- SAPS must fully participate in CPF meeting at a local level. This participation should involve station management and not an individual or individuals assigned to CPFs
- CPFs must be an inclusive structure and the process of establishing CPFs needs to address this more effectively

- Local stations need to be involved in the establishment of CPFs but should not run this process. The process should be run through the Provincial Secretariats based on a clear scoping of communities. The structures need to be inclusive rather than based on individuals
- A national budget framework must be developed that speaks to the role and functions of CPFs and the budget should then come through Provincial Secretariats. The Civilian secretariat for Police needs to assist provinces in this regard.
- SAPS need to review the training and performance measures regarding community policing and elevate the training of SAPS management in this regard
- A national training and induction manual must be developed and implemented by Provincial secretariats. This should include annual training sessions. All regulation and prescript should be compiled into an accessible national manual
- Local government structures should be encouraged to support and participate in CPFs through elected officials

### **Targeted priority crime approach**

*“Transnational organized crime is considered as one of the major threats to human security, impeding the social, economic, political and cultural development of societies worldwide. It is a multi-faceted phenomenon and has manifested itself in different activities, among others, drug trafficking, trafficking in human beings; trafficking in firearms; smuggling of migrants; money laundering; etc.” (United Nations Office for Drugs and Organised Crime 1998)*

The ability of the State to deal effectively with organised crime and corruption requires a specialised capacity to investigate such cases. Their insidious nature has a real and lasting effect on the ability of the state to deliver vital services to its people. It is thus imperative that the appropriate techniques, measures and means to prevent and investigate corruption and organised crime are developed. Targeted strategies must as such deal with these crimes concurrently.

In developing a suitable model aimed at investigating organised crime and systemic corruption, adequate attention must be directed towards building the capacity of the police to respond sufficiently and effectively to potential threats. Eventual governance structures must then allow for a measure of flexibility due to the ability of organised crime networks to circumvent bureaucratic processes.

It is clear that the structures required to combat serious organised crime have in various countries undergone dramatic changes in order to keep abreast with current challenges faced by law enforcement agencies.

The establishment of the Directorate for Priority Crime Investigation (DPCI) gives expression to governments approach to addressing organized crime and corruption and to the need for specialist investigative capacity in terms of both organised crime and corruption in South Africa. The operating basis of and the design of the DPCI architecture however must be able to effectively:

- Disrupt established criminal networks/enterprises through preliminary investigations and enquiries;
- Dismantle criminal networks and enterprises. Its investigations must be targeted at persons whose role is central to criminal business systems, criminal practices and capability; and
- Neutralise established and budding criminal enterprises.

Key organisational principles exist that must constitute the core of the DPCI approach:

- Agility and flexibility in addressing priority crime threats;
- Efficiency and effectiveness;
- Succinct ability to effectively guard against the criminal enterprise and illicit economy;
- The highest professional standards, ethics and integrity; and
- The provision of certainty in investigations with an acute ability to neutralise the threats posed by organised crime.

The success of the DPCI requires the complete support of the JCPS cluster in executing its mandate as the essence of its success lies in its ability to work collaboratively with other departments, and in so doing, effectively disrupt the architecture and frameworks that allow for the growth of the criminal enterprise.

There are clear matters that the DPCI is tasked with and a clear delineation of such issues should be made right at the onset so as to minimise the often creative tensions and disputes over jurisdiction in particular matters with other sections and ordinary members of the police.

Considering the interrelatedness of the organised crime phenomena, strategies aimed at dealing with the scourge must be developed in a systematic and coherent manner involving a broad range of organisations. This requires instilling a culture of cooperation and coordination amongst key institutions such as the SAPS, DPCI and the IPID. The integrated efforts of these agencies should result in destabilising the operations of organised criminal enterprises.

The implications of these crimes on South Africa's internal security are far reaching; the consequences of which are evident in the sustained proliferation of illegal firearms and the increasing use of this country as a destination and transit port for the growing illegal drug market. Over the recent past these factors have served as a catalyst for the commission of violent crimes, often heightening the intensity of conflicts. The causal relationship between these variables is apparent in the gang violence that continues to plague communities.

The insidious and complex nature of organised crime and corruption means that cross-cutting strategies aimed at curbing the problem must adopt a long-term, sustainable approach with a dedicated focus on stemming the problem at the source. The long-term strategic approach taken must simultaneously focus on rooting out corruption across all spheres and levels of government which at times not only acts as a facilitator, but also allows for the continuation of organised criminal activity. The resultant impact of drug-related crime on public safety in South Africa has warranted a more focused policy stance as a means of dealing with the scourge.

Internationally, there is growing consensus that the illicit drug problem needs to be dealt with in an integrated manner that aims to reduce both supply and demand. The ability of firearms to escalate conflict and intensify violence has been recognised by the SAPS and thus forms an important part of its approach to fighting crime. This control involves the eradication of illegal firearms as well as tightening up on the control of legal firearms.

## **SECTION 5: MAINSTREAMING POLICE PROFESSIONALISM**

### **Structuring of the police**

Post 1994, the South African Police Service has gone through a number of restructuring processes. While these have been mostly aimed at reprioritisation of resources, streamlining of service delivery and transforming the police, it is questionable whether they have achieved the required results. In some instances aspects of this restructuring have subsequently been abandoned or overturned either because they were found to be ineffective or due to procedural flaws. A recent example of this is the much needed re-establishment of the Family, Child and Sexual Offences (FCS) Units which had been closed as part of earlier restructuring in the police.

In addition, some of the restructuring has led to a top heavy and bloated administration where some functions and authority are duplicated or unclear. It is thus evident that future decisions aimed at streamlining organisational structures and processes must be subject to a thorough needs analysis and environmental scan. Equally, any restructuring of the police must also be guided by the principles of the Constitution and speak to other legislative requirements.

Like all international police bodies, the SAPS must to be able to adapt to the changing policing environment and be allowed to grow and expand. However, any processes regarding the restructuring of the SAPS must be guided by the following:

- A transformation strategy and relevant policy guidelines.
- Be based on sound research, environmental factors and best practice.
- Give effect to the Constitution and legislative requirements.
- Clear definitions with no confusion regarding roles and responsibilities.
- Clear understanding and communicated to both rank and file members of the police and the public at large.
- No duplication of structures and resources.
- Streamlined management and accountability.
- Subject to Executive Authority approval and other accountability mechanisms and processes that apply to other sectors of the public service.

**Recruitment**

Crucial to creating a professional police service is the area of police recruitment. In order to fight crime, and do so effectively, the right calibre of police officers must be recruited.

Whilst fitness and the ability to operate firearms are important, discipline, upholding of the Constitution, defending the weak, enforcing the law and being generally upright must constitute the defining values of the police. To ensure the right type of officer is recruited emphasis should be shifted toward the recruitment of quality candidates. This means that a high calibre of officer must be recruited; one that reflects the core values of the police.

It would appear that the challenges the police currently face with regard to recruitment have less to do with the requirements and standards and more to do with weaknesses in relation to the implementation of existing recruitment measures. This shows that attempting to develop additional requirements and standards cannot be seen as a panacea for achieving the organisation's goals and objectives. Rather systemic problems surrounding the implementation of existing measures must be rectified. In this regard, the NDP recommendation of a two-stream system for recruitment must be considered. Recruitment based on set criteria and objective testing is argued will enhance overall levels of professionalism within the organisation.

**Training**

Training forms an integral part in developing the right type of police officer, and in contributing to the broader transformation goals of the police. It must be based on modern techniques and principles of policing, and be a deliberate approach to improving the quality of the police. This is supported by Vision 2030 which places specific emphasis on strengthening capacity and training of detectives and specialised investigators. The overall orientation of training must equip police officers to respond to changing crime trends such as cyber-crime, international crime syndicates and gender-based violence. Advances in technology have had played a major role in altering the

crime landscape, facilitating the commission of a broad range of offences. The NDP stresses the importance of police training remaining current and relevant. This can be achieved by maintaining high standards of instruction supported by partnerships with the private sector, universities as well as international law enforcement agencies. .

Adopting a narrow focus on training aimed at meeting outputs in terms of the actual number of officers trained will however be counterproductive. It must constitute the ethos of the organisation and be conducted regularly to ensure sustainability. While basic training is important, in-service training must be rigorous and continually undertaken throughout a police officer's career. Advanced, specialised and refresher training must be seen as part of the career-pathing of police officers and should be linked to specific promotions and job opportunities within the police.

The extension of basic training from 12 to 24 months has been one of the mechanisms used to ensure that recruits are properly skilled to deliver policing in the country. The first 10 months of theoretical learning must prepare and equip recruits for the 12 months of practical training at police stations. During the final two months, recruits are required to return to their respective colleges to undergo an assessment of their basic training.

The inclusion of basic investigative skills for all newly trained police officers, as well as the development of a detective training academy, are all steps aimed at improving police training. Crime scene management training must be provided to all uniform members. Those members who have already completed the basic training course must attend the crime scene management training. A review of the new training modules must be undertaken and steps taken to address issues arising out of the review.

The management of training facilities and the manner in which training occurs can and will have an impact on the quality of police officers. If a police recruit's first experience of the police is a poorly run and managed training facility, this will impact on the ethos of such an officer and will not promote a professional police officer. Emphasis regarding police training also needs to be focused on the quality of the trainers and facilitators.

Training facilities and the quality of trainers must be held to the highest standards and be regularly evaluated and assessed.

Training should also form an integral part of ensuring that the right caliber of police officer is selected and deployed. The tendency to pass all recruits must be avoided and those who clearly fail to meet the standards and requirements for a professional police officer need to be weeded out during basic training. Training must be continuous and form part of every police officer's ongoing development. In addition more attention must be given to training of police officials before they are appointed to different designated ranks at both junior and senior levels.

The establishment of a more effective dedicated leadership academy needs to be explored. The academy could then address the needs of the two streams of recruitment and development.

### **Promotion**

Developing a professional police service should also entail the effective career- pathing of police officers from recruitment to retirement. Promotion opportunities should be linked to specific career-pathing which must be clearly understood and mapped out from the time of recruitment. Promotion policies and practices must not be skewed in favour of qualifications only, but be based on skill and leadership qualities shown. Members must first qualify for a position then be appointed into the new position.

All new senior manager appointments must undergo management training at a training facility. In this instance, the division Human Resource Development and the division Training must develop training courses for senior management. Promotions must reflect a proper training, commitment to effective resource management and service delivery and reward professionalism within the police.

Within any police institution, recruitment, training and promotion patterns and processes can mesh with the values of the institution and can as a result influence the ethos and

values positively or negatively. The task of the police is to ensure that the processes of recruitment, training and selection actually encourage and instill the values of a transformed and professional police service. For this reason, these aspects of human resource development cannot be managed in silos and must be integrated and form part of a single and clear resource management approach.

The importance of these factors in building a professional police service is emphasised in the National Development Plan. The NDP advocates for the establishment of a national policing board that must set standards for the recruitment, selection, appointment and promotion of police officials and police officers. The Police Board should comprise of specific skilled professionals appointed by the Minister of Police.

### **Police performance measures**

Internationally, law enforcement agencies have invested considerable effort in developing appropriate systems of performance management and implementing clear performance assessment frameworks. This drive towards improving performance has been informed by an ever growing need for governments to account for their expenditure. As an institution of governance, the South African Police Service is required to deliver its services in the most efficient and effective manner. This requirement along with the broad range of functions and activities undertaken by the service warrants the need for a coherent performance management and assessment framework.

Setting goals for service delivery and monitoring progress towards these goals means that performance measures must be quantifiable in order to be directly linked to expenditure. In this way, an objective assessment of value for money can be made. The chosen measures must be aligned to the priorities and objectives the SAPS hopes to achieve. In this sense, focus must be placed on measuring outcomes rather than outputs. In constructing suitable measures, care must be taken when developing indicators which may have unintended consequences. Research indicates that a pre-

occupation with meeting numeric targets may create perverse incentives such as the non-recording of some crime types, ultimately hindering service delivery.

Thus using recorded crime as a performance indicator may be considered problematic as the police cannot control the many variables that impact on increases or decreases in the crime rate. The yardstick for effective police performance should be based on indicators that:

- Identify what the police actually do;
- Identify what is in their scope of control; and
- Motivate police to deliver the kind of quality service desired by citizens.

Police management thus have a vested interest in putting in place a coherent performance measurement and management framework. This serves dual purposes of measuring progress towards strategic and operational goals, but also encourages adherence to departmental policies and procedures.

A clearly defined measurement framework will as a result ensure uniform understanding of the activities that must be carried out and the results sought. Effective law enforcement management thus entails measuring performance, regularly assessing and monitoring performance data, and adjusting proactive responses to crime problems. Continuous improvement by SAPS means that once agreed upon, measures must be consistently applied and utilised.

### **Internal and external corruption**

Corruption can be found in virtually all police agencies around the world and exists at all levels within the police. In 1994 the Mollen Commission in the United States found the following with regard to the New York Police Department:

*“The problem of police corruption extends far beyond the corrupt cop. It is a multi-faceted problem that has flourished.... not only because of opportunity and greed but because of police culture that exalts loyalty over integrity..... because*

*of wilfully blind supervisors who fear the consequences of a corruption scandal more than corruption itself.... and because for years the NYPD abandoned its responsibility to ensure [the] integrity of its members”.*

Extensive international research on police corruption has found that not only is corruption a fundamental occupation of policing in all countries but also that it typically involves group behaviour and which can easily become systemic. Research has also shown that the key difference between policing organisations around the world is not based on the existence of corruption but rather the extent. It has been found that the extent of corruption is directly related to organisational and managerial shortcomings.

Corruption within the SAPS is not something that has arisen post 1994. There is concrete evidence of systematic fraud and corruption existing in the police during the Apartheid era. However, the insular, secretive nature of the police and the lack of external accountability meant that much of this corruption was never known to the general public. Research has also shown that there are a broad range of factors that influence the level of corruption occurring within the police which can be broken down into three main categories:

- Environmental factors such as the existence of organised and illicit markets;
- Organisational factors such as inadequate leadership, poor management and supervision and a police culture where police adopt a culture of silence regarding cases known to them; and
- Individual factors such as incongruent personal attitudes and behaviour.

A recent study conducted into corruption within the South African Police Service shows that while the SAPS cannot be said to be a corrupt organisation, it does exist within all levels within the organisation. The Police Advisory Council that operated between 2006 and 2008 also found that the SAPS had insufficient capacity to

investigate corruption, that codes of conduct and ethics were not adhered to, and that disciplinary issues were not dealt with timeously.

Corruption within police organisations can take a variety of forms including:

- Misuse of authority (unethically accepting material benefits by virtue of being a police officer);
- Abuse of internal authority (procurement, promotion and shift allocation);
- Accepting bribes not to arrest a suspect;
- Not collecting evidence or selling docket;
- Becoming involved in kick-backs by referring business to particular individuals or companies for commission (e.g. tow trucks, private security companies or lawyers);
- Accepting cash or goods on a regular basis to protect certain criminals or criminal activities;
- Engaging in opportunistic theft by stealing from a crime scene or stealing items or cash during raids and searches;
- Planting evidence or manipulating evidence to prevent or secure a conviction (also known as padding); and
- Using the knowledge, access to information and skills to commit crimes e.g. getting involved in robberies.

When the NCPS was launched in 1996 it highlighted police corruption as a national priority and advocated the establishment of Anti-Corruption Units (ACUs) within the police. Post 1996, ACUs were then established throughout the country. In 2002 these units closed down and their mandate shifted to organised crime units and to detectives at station level.

Between 2002 and 2009 the police developed three different anti-corruption strategies which existed on paper but were never effectively implemented. In 2010 the police developed a new anti-corruption and fraud strategy. This strategy focused on four pillars:

- Prevention of corruption.
- Detecting corruption.
- Investigating corruption.
- Resolution of corruption.

Some of the problems that have arisen regarding the South African Police strategy and approaches to corruption include:

- The historical lack of buy-in from top and senior management to strategies and plans that have been developed.
- Ineffective implementation of actions and inadequate monitoring of the required implementation actions.
- The actual implementation of anti-corruption plans and strategies has not been linked to performance management of top and senior police management.

Dealing with corruption within the police is not just about dealing with the individual cases and people that come to our attention, but is also about making sure systems and processes are able to detect and prevent corruption. Addressing corruption and cannot be separated from attempts to transform the police into a professional and accountable police service.

Leadership in the police must actively promote this through:

- Improving command and control and discipline within the police.
- Establishing and ensuring the implementation of professional standards for the police.
- Ensuring the core values of the South African Police Service is evident in all police work.
- Enhancing accountability through:
  - Improving systems for receiving, processing and analysing complaints;
  - Establishing internal mechanisms and investigation processes to deal specifically with complaints. This will require the police to evaluate how

corruption cases are currently being managed internally and to assess whether the closure of the ACUs has impacted positively or negatively on police approaches to corruption; and

- Improving internal disciplinary management and systems.
- Recognising and rewarding professional police officers.

In addition, it is important that there is community engagement in the current approach to developing a more professional police service. We need to create a civic movement that encourages professional policing and demands honest, efficient and professional policing. This can be done through creating awareness about the importance of supporting professional policing and educating the public around what to expect from a police officer. Part of this campaign must encourage community members to report both positive and negative behaviour by the police.

### **New technology**

Since 1994, high levels of violent crime have received considerable focus considering its impact on feelings of safety and security in a developmental state. However, during the same period, the opening up of South Africa's borders coupled with rapid developments in technology meant that the country became vulnerable to organised crime and cyber-crime. Nearly two decades into democracy violent crime statistics continue to dominate public discourse and debate. Yet, research shows that cyber-crimes are more common and have a larger impact. The sustained pace of globalisation and significant advances in Information Communication Technology (ICT) post 1994 have increased the risk factors for South Africans falling victim to cyber-crime. A constantly evolving crime landscape has, and will continue to require of SAPS to adapt its policing responses.

Internationally, new and emerging technologies play a crucial role in the daily work of front-line police officers, equipping them with enforcement and investigative tools that have the potential to make them better informed and more effective.

In this context it is essential that the SAPS is able to stay current with on-going technological developments. Remaining current with developments in law enforcement technology must be supported by a working knowledge of what this technology can do for the organisation.

Technology that will improve policing must however be properly planned for, assessed and implemented. There are numerous examples of technology being introduced within the SAPS which has either never been fully utilised or is inappropriate in relation to its needs and demands. Increased effort must be directed towards effectively aligning and integrating existing systems before new technologies are introduced.

The introduction of any new technology must be appropriate, needs driven, cost effective, sustainable and implementable. There must be an improvement in the police's ability to assess and implement technology since it cannot be imposed on the operational aspects of the organisation without their full input and understanding. SAPS must partner with external organisations on issues of technology, particularly around areas causing challenges.

In addition, it is important that SAPS align its different systems to be able to speak to each other and avoid duplication of functions. Equally, SAPS needs to ensure that its technology solutions are aligned with processes within the Criminal Justice Cluster of government departments. This must be aimed at improving the criminal justice system from end to end.

### **Command, control and communication**

Discipline, command and control are essential in an accountable and democratic police service. Equally important is clear and regular communication at all levels within the police and to the public at large. It requires that police officials are clear on their role, especially in relation to decision-making. Essentially, directives must be clearly understood and carried out once issued.

For command and control to be effective the following must be in place:

- Clear commonly understood command protocols which delineate command lines of responsibility;
- Clear lines of communication and responsibility; ensuring officials are held accountable for these lines; and
- Every officer in the police is aware at all times who is in command.

Between 2006 and 2008, the Advisory Council released its report on the state of policing in which it identified poor discipline and a lack of command and control as key factors affecting service delivery. The Council stated that at the core of this ill-discipline and breakdown in command and control were inadequate supervision and management control measures.

Another key problem in the police is also non-adherence to National Instructions and Standard Operating Procedures (SOPs), which in some cases are viewed as guidelines rather than instructions or procedures that needed to be followed. Some of the key issues that must be addressed in ensuring that instructions, procedures and command and control are effective within SAPS include:

- Ensuring that instructions and procedures are clearly spelt out and not drafted in a manner which is too complex and not clearly understandable.
- Ensuring proper communication processes are in place whereby instructions and procedures are communicated to police management and officials.
- Ensuring there are adequate controls and supervision to ensure instructions are carried out and accountability for non-compliance by both managers charged with communicating and supervising such instructions as well as those members responsible for implementing them. In this regard the police need to look at reviewing and professionalising its disciplinary procedures.
- That the requisite systems are in place to access and evaluate compliance and ensure that they are taken seriously by management.

***Assurance and compliance***

While there are a number of bodies charged with conducting civilian oversight over the police, these structures cannot be seen to replace internal systems of control and measures designed to ensure the effective functioning of the organisation. The National Inspectorate and Internal Audit are two of the key mechanisms for achieving this.

***Inspectorate***

The Inspectorate of the SAPS is one of the key mechanisms within the organisation responsible for internally inspecting the police and conducting evaluations. This Inspectorate has over the last few years been restructured a number of times. It has also suffered from serious problems not only related to its capacity but also regarding the seriousness with which it is taken within the police.

The Special Advisory Council further highlighted the inability of the Inspectorate to carry out its mandate as one of the factors leading to poor discipline and accountability with the SAPS. An efficient and effective police inspectorate should be able to identify and address weaknesses with regard to discipline and command and control and to ensure that appropriate mechanisms are put in place to identify shortcomings and redress problems. It should also be able to identify best practices that can be rolled out within the police.

For the Inspectorate to be effective it must have sufficient and appropriate capacity to both manage and conduct inspections and to deal with service delivery complaints. Its command and control role needs to be strengthened at national and provincial levels. Provincial and divisional commissioners should not be able to influence or change the findings of the Inspectorate at national and provincial levels, and they should be compelled to report back on steps taken to implement the recommendations and findings of the Inspectorate. The implementation of such recommendations and findings should form part of Provincial and Divisional Commissioner's performance measures and agreements.

## **SECTION 6: INSTITUTIONAL ARRANGEMENTS AT NATIONAL LEVEL**

As has already been argued, policing in South Africa before 1994 was authoritarian and characterised by weak accountability and a lack of civilian input into policing policy. The National Commissioner of the South African Police (SAP) was responsible for policy formulation, budgeting and operations and the police force thus maintained an extensive degree of autonomy.

In 1994 government's assessment of the nature of the SAPS, and therefore the form that civilian oversight would take, was shaped by the realities of the immediate transition environment. Therefore civilian Secretariats were established at national and provincial level to provide oversight and monitoring over the new SAPS.

These institutional arrangements reflected government's concern with police commitment to the new democracy. The current context in which policing policy is made differs from that in 1994. The police need to be viewed as trusted vehicles of law enforcement in the new democracy. The focus of accountability is now primarily to ensure effective service delivery to the public and must be shaped to reflect those in other democracies.

### **Minister of Police**

The Minister of Police is responsible for the development, monitoring and implementation of policy and is accountable for all these dimensions.

Comparative international experience has shown that conflicts of interest - particularly between the policy, monitoring and implementation functions - impact negatively on government's ability to redirect delivery to priority areas.

Ensuring effective service delivery and systems of accountability thus requires a reorganisation of policy, monitoring and implementation functions. The role of the Minister (supported by the Secretary for Police) is to set policy objectives and measure the effectiveness and efficiency of the SAPS in meeting these targets. By reorganising

these functions, systems of accountability are improved and managerial responsibility is clearly allocated.

Such an approach aims at separating departmental service delivery functions from the determination of strategic policy and the setting of broad objectives at the political level. It also clarifies roles and responsibilities within the Department. Thus, institutional reform is intended to provide a clear delineation of the roles and responsibilities of the various actors in the delivery of safety and security, while recognising that their functions are closely and continuously interrelated.

A mode of accountability based on performance agreements between those responsible for service delivery and those responsible for policy and regulatory functions exists and a key element of this arrangement is thus developing, monitoring and maintaining a professional and performance-based relationship with those institutions in government tasked with the provision of law enforcement and the facilitation and delivery of crime prevention.

The roles and responsibilities of the Minister are informed by the following outline of broad roles and responsibilities.

- To account to the President, Cabinet and Parliament for the management and delivery of safety and security services;
- To provide, with the support of the Secretary of Police, the national policing policy which directs the SAPS;
- To appropriate from Parliament the single budget vote for the Department of Police and budgets for other entities reporting to the Minister of Police. To direct the manner that will allow for expenditure allocations to be linked to policy directives and priorities.

### **South African Police Service**

The SAPS is headed by a National Commissioner appointed by the President to fulfil the terms of a performance agreement outlining specific performance indicators as

approved by the Minister for Police, for a specified period. The National Commissioner will be directed and fall under the Minister, and will function as the Accounting Officer for the SAPS.

The National Commissioner will take responsibility for the following functions which constitute the activities of the SAPS as a single police service:

- Assume responsibility for the operational management and control of the SAPS in the performance of the objectives of the police as set out in the Constitution;
- Function as accounting officer for the management and expenditure of the budget allocated to the SAPS;
- Provide an effective and efficient police service in terms of the specific performance indicators outlined in the performance agreement which directs the National Commissioner to manage and control the SAPS to meet specific goals;
- Formulate an operational budget for its line and support functions in terms of the national policing policy articulated by the Minister and the terms of the National Commissioner's performance agreement;
- Maintain executive management control and accountability for this budget and associated performance agreements;
- Ensure effective and efficient management and control of police resources, including human resources, to meet the specific goals articulated by the Minister in the performance agreement; and
- Focus the resources and activities of the SAPS on the following major policing priorities including :
  - Improving capacity for criminal investigation, crime intelligence and forensics;
  - Improving crime prevention through targeted visible policing; and
  - Improving service delivery.

The Directorate for Priority Crime Investigation (DPCI), commonly known as the 'Hawks' was established in 2009 following the disbanding of the Directorate for Special Operations (DSO), formerly referred to as the 'Scorpions'. This move was seen as a step towards strengthening South African Police Service's position in terms of addressing organised crime and corruption.

The DPCI is structured to function as part of the SAPS but has a degree of structural autonomy which is secured through reporting lines and appointment processes as well as through its finances being "ring-fenced" and powers assigned to the Head of the DPCI.

The mandate of the Directorate also remains clear in respect of its responsibility "*to prevent, combat and investigate national priority offences, in particular serious organised crime, serious commercial crime and serious corruption*". The determination of what constitutes national priority offences will be done through policy guidelines issued by the Minister and approved by Parliament.

#### **Civilian Secretariat for Police**

The Civilian Secretariat for Police must be headed by the Secretary of Police who will be a public servant directed by the Minister to function as Head of Department and accounting officer. The Secretary must be a civilian who comes from outside the ranks of the South African Police Service.

The role of the Civilian Secretariat for Police is to:

- Give strategic advice to the Minister in respect of developing and implementation of policies;
- Provide administrative support services to the Minister to ensure South Africa's engagement with relevant international obligations;
- Liaise and communicate with stakeholders;

- Implement a partnership strategy aimed at mobilisation of role-players and stakeholders to strengthen service delivery by the police service and safety and security of communities;
- Implement, promote and align the operations of the Secretariat at national and provincial spheres of government;
- Coordinate the functions and powers of the Secretariat at national and provincial spheres of government; and
- Exercise civilian oversight over the police service.
- Develop policy approaches to policing and
- Develop legislation to give effect to policing policies and approaches.

In all matters the Civilian Secretariat for Police reports directly to the Minister through the Secretary of Police.

#### **Independent Police Investigative Directorate**

Provision is made in the Constitution for the establishment of an independent body charged with conducting oversight of the SAPS and the Municipal Police Services and for providing independent and impartial investigations of identified criminal offences allegedly committed by members of the police. The word 'must' in the constitution obliges the structure to investigate alleged police misconduct and to make recommendations to police management for appropriate action.

The organisation set up for this purpose, the Independent Complaints Directorate (ICD) was later renamed the Independent Police Investigative Directorate (IPID) with the promulgation of the Independent Police Investigative Directorate Act No.1 of 2011. The change was informed to some degree by criticism levelled against the ICD in relation to how it was viewed by the police and how it conducted investigations and enforced recommendations.

The independence of IPID requires that it function independently of the SAPS and Municipal Police to allow it to fulfil its investigative mandate in relation to any deaths in

police custody, deaths as a result of police action, corruption matters within the police initiated by the Executive Director on his/her own, or after the receipt of a complaint from a member of the public, or referred to the Directorate by the Minister, an MEC or the Secretary of Police. The Act also provides for close cooperation between the Directorate and the Civilian Secretariat for Police.

For the IPID to realise its broad objective of promoting proper police conduct, its capacity and public profile must be strengthened to effectively carry out its mandate.

### **Private Security Industry Regulating Authority**

South Africa has a relatively long history of state attempts to improve control over the private security industry in the country, motivated by factors other than the industry's rapid growth outnumbering the national policing service. Total number of Private security officers registered in the database is 2 054 947, while SAPS total establishment is 193 892 (SAPS Act employees is 154 748 PSA employees is 39 144).

Other factors include doubt with regard to the industry's role in certain areas such as guarding of national key points, the industry consisting of former military and police officers at management level, and the possibility of the industry's ability to destabilise any security situation, especially with highly trained, legally armed operatives.

These factors led to the need for a regulatory model for the industry and the issue of accountability, leading to the establishment of the *Private Security Industry Regulating Authority (PSIRA)*.

PSIRA functions as an independent regulatory body established to monitor the private security industry and promote compliance with minimum standards. PSIRA is primarily responsible for the regulation of the private security industry and of exercising effective control over the practice of the occupation. To ensure that the industry acts in the interest of the public, the country and the industry itself, when rendering security services. The Authority's powers and duties are to promote a legitimate private security

industry characterised by the principles contained in the Constitution and other applicable law which include professionalism, accountability, transparency, equity, accessibility and stability of the industry. Some benefits of the Authority include improved regulatory control to distinguish between sincere and disreputable private security companies and improved professionalism in the sector to boost public confidence in the private security industry.

PSIRA is also responsible for the protection of security officers' rights. The Authority is responsible for consideration of applications for registration, suspension or withdrawal of registrations, prevention of exploitation or abuse of employees, ensuring high quality standards of training, and establishment of a complaints office to receive, process, refer or deal with complaints regarding the quality of service rendered by security service providers (*Private Security Industry Regulation Act, 2001*). Adequate training of security officers ensures a satisfactory level of professionalism in the sector, and guarantees that the rules and regulations on what constitutes proper conduct in respect to the operations of the sector are understood and therefore respected (Born, Caparini, and Cole: 2007).

The Authority is administered by a Council which is accountable to the Minister of Police for performance of functions and must provide the Minister with any requested information (PSIRA Amendment Bill, 2012).

## SECTION 7: INSTITUTIONAL ARRANGEMENTS AT PROVINCIAL LEVEL

### Role of provincial government

The Constitution introduced the concept of cooperative government, structured in the national, provincial and local spheres, which is distinctive, interdependent and interrelated. This implies that all spheres of government must conduct its business within the spirit and principles of cooperative governance and intergovernmental relations.

Provincial government has a critical role to play in the monitoring of police conduct and service delivery, as well as promoting good relations between the police and communities. Section 206(4) outlines the policing mandate of provincial executives (MECs). The MEC is thus responsible for those functions assigned to it in terms of sec 206(3) or those conferred upon it in terms of national legislation or assigned through national policing policy. The *Member of the Executive Council (MEC)* plays a pivotal role in terms of ensuring democratic control over the Police Service. This function, carried out in conjunction with the Minister for Police entails giving direction in line with the spirit and objects of the Constitution. The monitoring and oversight role played by the Provincial Secretariats is considered an important generator of information that informs the inputs of Provincial Governments – through the MECs for Safety and Liaison – into the national policing policy process.

### Implementation forum: MINMEC

It is evident that the MEC plays a central role both in terms of oversight over the police as well as making inputs into the policy process. The space for this interaction is created by the MINMEC forum – an informal structure constituted by the Minister, MECs of the respective provinces and their Heads of Department (HoDs). The primary function of this forum is to ensure effective coordination and problem solving. This is geared towards ensuring that the Delivery Agreement is achieved. Through regular monitoring and reporting on progress regarding the implementation of the delivery agreement, potential blockages can be identified and corrective measures proposed. This must

result in interventions that will improve implementation. Also, thorough needs analyses will determine whether existing policies must be reviewed or if new ones should be developed. This forum thus plays a pivotal role in ensuring effective and efficient policing is carried out nationally.

The mandate of provincial government, as outlined in Section 206(3) of the Constitution is:

*“to monitor police conduct; to oversee the effectiveness and efficiency of the police service, including receiving reports on the police service; to promote good relations between the police and the community; to assess the effectiveness of visible policing and to liaise with the Cabinet member responsible for policing with respect to crime and policing in the province”.*

The monitoring function of provinces is aimed at ensuring SAPS’ adherence to government policy, the achievement of objectives and targets set out in the national policing plan and the alignment of policing practice to the concept of “community-oriented policing”. The latter concept requires a broader focus than just community policing and underlies the principles of consultation with communities in determining provincial policing needs and priorities and engagement with all relevant community structures in reducing crime.

The MEC subsequently plays a central role (in conjunction with the Minister) in developing a comprehensive monitoring programme that will inform monitoring activities of the Provincial Secretariats. These monitoring reports provide MECs with a basis for holding the police accountable. Comparative international experience has shown that adequate monitoring enhances service delivery. However to be effective it must be integrated with indicative planning processes at national level. In fact, provinces must align with the national planning process, based on cooperation and intergovernmental relations.

In order to formalise some of these arrangements, the Civilian Secretariat for Police Service Act, Act 2 of 2011, has been enacted. The Act provides for the alignment of provincial strategic and annual performance plans with the Secretariat and the integration of strategies and systems. This emphasises strong collaboration in the areas of research, monitoring and evaluation as well as partnerships to direct and guide anticipated and specific outcomes.

### **Provincial safety and security**

The delivery of safety programmes is necessary for development. Such programmes focus on socio-economic factors which inhibit crime and address the underlying causes of crime in a multi-faceted and multi-agency fashion.

This paradigm shift was directed at changing the crime and crowd control nature of the apartheid policing regime towards a more safety and community-oriented approach in addressing crime.

In order to fulfil this function, provinces should take responsibility for:

- Initiating and coordinating safety programmes at a provincial level;
- Mobilising resources for safety (social crime prevention) programmes;
- Coordinating a range of provincial functions - health, education, welfare, and local government - to achieve more effective safety programmes;
- Evaluating and supporting the safety (social crime prevention) programmes at local government level;
- In consultation with local government, implement and take joint responsibility for safety (social crime prevention) programmes in areas where local government is poorly resourced or lacks capacity; and
- The establishment of public and private partnerships to support crime prevention.

The NCPS was introduced and served as an overriding framework for all social crime prevention/safety initiatives (national and provincial). Although provinces identified

interventions and initiatives, it struggled to secure support and cooperation from other sector departments. The success and effectiveness of any multi-agency approach can only be effective if it relies on formal links. However, the lack of uniform guidelines resulted in diverse approaches.

Such guidelines must clarify roles and responsibilities of each role-player in safety (social and crime prevention). It should also facilitate identifying departments to lead targeted strategies on behalf of government.

### **Role of local government**

Each municipality is responsible “to promote a safe and healthy environment” within its financial and administrative capacity. [Chapter 7 of the Constitution - Section 152]. In order to give effect to this, Section 154 stipulates that “the National and Provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.”

This translates into an obligation that municipalities must participate in national and provincial development programmes. The White Paper on Local Government later paved the way for policy and legislative reform in the local sphere which led to the enactment of the Municipal Structures and Systems Acts. The latter Act prescribes that an Integrated Development Plan (IDP) must be developed and amongst others, cater for community safety needs.

These developments created the opportunity for safety and security policy and reform at a local level towards transformation of local policing and the introduction of improved safety and crime prevention thinking.

### **Delivering crime prevention at local level**

The rationale behind decentralisation of SAPS policing services applies equally to social crime prevention in the local sphere. Initiatives can only work if they are focused on

meeting the specific needs and priorities of a particular community taking into account that crime varies from locality to locality and requires the development of tailored solutions. While national government might provide frameworks to encourage and support crime prevention, implementation must take place at local level.

Unfortunately, some municipalities see crime prevention a national and/or provincial competency and thus direct resources to other local priorities. International experience suggests that, without the cooperation of local government, social crime prevention initiatives, targeted at specific problems seldom succeed on the ground. Cities and towns should be encouraged to establish local crime prevention strategies within its resource capacity. Reducing crime and crime prevention should be central to municipal planning functions.

The inability on the part of municipalities to link crime prevention principles with existing local development projects remains cause for concern. Development projects which do not subscribe to crime prevention principles run the risk of increasing the burden on resources of the State, in particular the justice system.

Local government involvement in crime prevention can be broadly summarised into a number of categories which span a spectrum of functions, internal and external to municipal government.

The local government crime prevention spectrum must take the following into consideration:

- The internal prevention of crime within the structures of, and on the property of the municipality.
- Working with local police in setting joint priorities and identifying possible areas for local government intervention.
- Aligning internal resources and objectives within a local crime prevention framework.
- Ensuring development projects take account of crime prevention principles.

- The coordination of all crime prevention initiatives within the municipal area to avoid duplication.
- The effective enforcement of by-laws to ensure safer and cleaner environments less conducive to crime.
- Effective traffic law enforcement to ensure well-managed and regulated environments less conducive to criminal activity.
- Assisting victims of crime through the provision of networks and information around available services and or where capacity exists to provide limited victim support services.
- Initiating targeted crime prevention programmes aimed at specific problems and groups at risk.

Safety programmes must be put firmly on the agenda at local level. Much may be gained from "learning by doing", an incremental approach, which emphasises the development of a culture of innovation and experimentation. Notwithstanding this, national and provincial governments have a key role to play. Among others, this will include:

- Designing and initiating a capacity building programme to enable municipalities to better incorporate safety programmes and issues into the execution of their normal functions.
- Where specific safety programmes are established the provision of expert guidance, monitoring, training, the provision of material relating to best-practice and advice related to the obtaining of donor, business and government funding.
- The inclusion of local government inputs into the developing policy process around safety at local level through the establishment of local government safety forums at provincial level. Here, experiences of best-practice can be exchanged and national and provincial policy processes impacted upon.

The introduction of the Community Safety Forum (CSF) approach, which has been developed and researched into a policy, aims to facilitate the establishment of

appropriate capacity at local level to serve as a coordinating structure of government and civil society deliberations on local safety and security towards the development of a local crime prevention strategy to guide joint planning and deployment of resources. This is informed by the understanding that the crime levels at a local level are affected by the interplay of a complex set of interrelated factors (e.g. economic, social and environmental), and must consequently be addressed in a multi-faceted manner. A cooperative and integrated working relationship at local level must improve the functioning of the criminal justice system both in terms of law enforcement and crime prevention.

The effective implementation of this approach clearly hinges on the existence of sustained, multi-disciplinary partnerships. The police thus play a central role in creating an environment that is conducive to meaningful development through ensuring effective law enforcement and crime combating. Equally, sustained reductions in crime cannot be achieved in the absence of targeted strategies aimed at dealing with the root causes of crime and offending.

With local government being the seat of service delivery, community safety forums are ideally positioned to provide feedback on the efficacy of policy implementation. Vertical and horizontal working relationships established through integrated processes for planning and delivery must facilitate the effective sharing of information – particularly in terms of identifying gaps in implementation and making inputs into national policy. The full effect of these structures will however only be realised once persistent issues regarding sustainability are addressed. Some of these include the need for local government to own the process through incorporating them into their Integrated Development Plans (IDPs) and ensuring that dedicated funding is given. The role of CSFs in relation to coordinated planning and delivery of safety and security programmes as well as issues hindering their effective implementation will be elaborated upon in the White Paper on Safety and Security.

## **SECTION 8: LEGISLATIVE REVIEW**

The SAPS Act was enacted to give effect to the requirement of national legislation, as envisaged in the Interim Constitution. Unfortunately, no attempt was made to align this Act to the final Constitution which was promulgated during 1996. Initiatives must now be put in place to rectify the situation and to ensure the Act is reviewed and amended to align with both the White paper on Policing and the Constitution of the Republic of South Africa.

## SECTION 9: WAY FORWARD

This Green Paper on Policing emanates from a review of the 1998 White Paper on Safety and Security that commenced in 2010. The review of the 1998 White Paper was informed by a number of factors. The starting point was that it was intended to provide a framework for the provision on safety and security until 2004 and was thus outdated. Additionally, implementation challenges, particularly around social crime prevention and the holistic approach meant that gaps needed to be identified and addressed. As part of the review process, a broad number of role players such as the South African Police Service (SAPS), the Director's Generals (DGs) Forum of the Justice, Crime Prevention and Security (JCPS) Cluster as well as the Development Committee (DevCom) were consulted.

The Civilian Secretariat for Police presented the draft White Paper on Safety and Security to the DGs forum in July 2012 where concerns were raised that the document was "too inward looking" and did not adequately address the broader safety and security concerns. The DGs requested that a task team be established comprising of members from the Secretariat and DevCom to address some of these shortcomings. At a meeting of the task team it was resolved that a Green Paper on Policing be drafted while retaining the White Paper on Safety and Security. The review of the latter will run concurrently to the Green Paper process. The rationale behind the decision was that there was a need for a clear policy framework that would guide the development of policing strategy and practice over the medium- to long-term. This Green Paper on Policing therefore articulates the Ministry of Police's vision for policing for the future. It aims to provide a framework for building a professional, accountable, transparent and responsive police service.

The drafting of the Green Paper has also involved extensive consultations with all role players listed above. It was presented to Cabinet in May 2013 and approved for public consultation. The Civilian Secretariat for Police will at the request of the Portfolio Committee on Police oversee the public consultation process.