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OPTIONS FOR CITY POLICE SERVICES

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INTRODUCTION

The implementation of city policing¹ is currently one of the most important items on the political agenda in Gauteng. The issue of crime has been used extensively as a mobiliser for public support by many of the parties competing in the recent local government elections in the province. It is also clear that the omnipresence and the increasing levels of violent crime in the suburbs, townships and central business districts, have entrenched the idea that the South African Police Services (SAPS) do not have the ability to address the situation. With this perception having taken root, the search for solutions to this apparent anarchy has reached further than the mere upgrading and reorientation of the SAPS. In a recent paper, Shaw puts it succinctly: "*Sections of the citizenry are undoubtedly unwilling to wait for the uncertain benefits of police transition, and have made their own arrangements to protect themselves and their possessions. The result is a substantial growth in private security establishments, demands for the establishment of local authority policing agencies and possible forms of self-policing, all of which could have an important impact on how South Africa is policed in future.*"² It is with these 'demands for the establishment of local authority policing', particularly in Gauteng, that this paper is concerned.

BACKGROUND

The development of city policing in Gauteng, both as a concept and a reality, can be traced back to the 1980s. As the grip of national security considerations, according to the definitions of the security apparatus of the apartheid state, tightened on the nation, and with increasing crime, local authorities undertook their own initiatives to address these concerns.³

Primarily, the traffic police which has been placed under local authority control in the 1930s,⁴ began to venture into crime prevention in an approximation of their SAP counterparts. The utilisation of traffic officers as agents against crime, over and above their normal traffic duties, was concretised through the according of 'peace officer' status to all traffic officers, under the Road Traffic Act, No. 29 of 1989.

Furthermore, local authorities established and developed their own security departments. In many areas, these burgeoned into unique entities of varying powers that were often in line with national security considerations. Initially established to protect council property against criminal activities and the ravages of political unrest, security departments soon outgrew their brief and moved into active anti-crime operations outside council property, and even pursued 'intelligence' activities.⁵ The Johannesburg security department earned particular notoriety by the late 1980s for its monitoring of political opponents of the State, including diverse individuals such as students, anti-apartheid activists and even a newspaper editor.⁶

With local authorities' growing confidence in their policing capacities, coupled to increased disillusionment with the SAP's abilities in the face of ever increasing crime, local authorities were encouraged to lobby for the "*establishment of full-blown local police forces.*"⁷ Strategy meetings of the former Germiston City Council identified the need for a city police service as far back as 1987. Similarly, the Local Authority Security Association has lobbied for the extension of the powers of its personnel and the creation of city police services, since its inception in 1986.⁸ In general, this seems to have been vigorously opposed by the SAP. The suggestion that local authorities develop their own police capacities coincided with a period in

which the SAP was enjoying the amalgamation of other police services under its command - the Railway and Harbour Police, and the municipal police of the Black Local Authorities.⁹ According to the SAP, the establishment of local services would have been an unnecessary fragmentation of police services.¹⁰ More realistically, SAP endorsement of city policing would have been tantamount to an admission of a failure by the national force to make a successful impact on crime.

This history calls into question claims by local traffic police, and more particularly security departments, to be free of the political baggage that continues to weigh down the SAPS. On a local level this is obviously not as insurmountable as that affecting the SAPS, but it needs to be taken into account that moves towards city policing should not be undertaken without the necessary assurances to those communities that were previously victimised by these same local policing agencies. Any perception that future city policing is nothing more than the resurrection of the municipal police of the Black Local Authorities, must be allayed.¹¹ This position emerged clearly at a workshop on Metropolitan Policing held by the Gauteng Ministry for Safety and Security on 17 February 1996, where numerous delegates raised the fear that city policing could be perceived by some communities as regression rather than a new and practical undertaking. Even in local traffic and security departments such concerns are freely admitted. When questioned on the prospects for city policing in his local authority, Engelbrecht, the Acting Chief of Traffic in Boksburg, pointed out that his council's security department has the dubious honour of having involved itself in the eviction of squatters from Boksburg lake, and that this could jeopardise a future city policing service's acceptance by many people.

CURRENT CAPACITIES AT LOCAL COUNCIL LEVEL

Despite this background, the post-1994 democratic government of South Africa has inherited, with few exceptions, municipal traffic and security departments that are at present engaged in crime prevention as a central pillar of their work. A tacit acknowledgement of this reality was provided by the provision for metropolitan and municipal policing in Section 221 (3) of the Interim Constitution Act, No 200 of 1993. The extent to which local agencies are involved in crime prevention, and the nature of specific activities, vary. Some departments record responses to crisis calls from members of the public, and appear in some cases to comprise more than fifty per cent of their work. This results from local policing agencies' impression that the SAPS do not respond to seventy per cent of crisis calls. However, such percentages should be treated with circumspection as they are often based on guesswork in the absence of adequate statistical data. These perceptions serve to illustrate the point that traffic police services feel that they respond to most crisis calls, and they are acutely aware of their policing role in this regard. Among local authorities, a variety of attitudes prevails towards the SAPS. Heads of traffic departments have often expressed disregard for the SAPS and their abilities, while patrolmen are keen to co-operate with SAPS personnel and see themselves as part of the same occupational fraternity. There are those departments that could be described as 'traffic purists', such as the Roodepoort Traffic Department that only spent 1 173 man-hours on nineteen unspecified actions in support of SAPS during 1995. This, however, appears to be the exception rather than the rule.

A simple explanation exists for the development of crime prevention capacities of local traffic departments. In a speech to the Local Government Security Association seminar in 1995, Smit has said that " ... on a general level, crime prevention and visibility and availability of law enforcement officers (any) are concomitant. My experience of security officers and especially traffic law in the past, was that they had been quite successful in preventing general offences. Traffic officers probably are the most visible entity of the criminal justice system... They are particularly close to their respective communities. High visibility allows for rapid recognition of law enforcement officers by innocent citizens as well as offenders."¹² In short, local traffic services carry out patrols as a matter of course, travel in distinctly marked cars and wear uniforms that immediately identify them as symbols of authority while they are on duty. They are ideally placed to provide a crime reaction service, by already being 'on the road' when a crisis or emergency call is made, and by their visibility, can act as a crime prevention agency.

With most traffic departments increasingly being drawn into policing activities outside the enforcement of traffic laws, their structures and equipment have changed accordingly. Most

local traffic services co-operate well with the SAPS, and many of their personnel are former SAP or SAPS personnel. Moreover, many traffic services have amalgamated the heads of traffic and security into one umbrella department, or have placed both under a public safety umbrella in the local council. Most traffic departments have complementary relations with departments in neighbouring jurisdictions which allow them to assist their colleagues there, and to pursue criminals or offenders into neighbouring jurisdictions (provided the crime or offence was committed in their own jurisdiction).

Notwithstanding tremendous efforts undertaken by other departments, the Midrand Substructure of the North East Rand Transitional Metropolitan Council, and the North Eastern Metropolitan Substructure (Sandton) of the Johannesburg Transitional Metropolitan Council, are the most advanced in terms of restructuring themselves towards city police services. Since 1987 the traffic and security departments of Kempton Park have also been on joint patrol with the SAP, in an operation appropriately called 'Fruit Salad'.¹³ With the support of their local councils, both Midrand and Sandton have set up crisis centres with a single telephone number service that provide an integrated traffic, fire and ambulance service (and an emergency helicopter service in the case of Midrand), which alert the SAPS when necessary. Sandton has also embarked on an initiative similar to that of Kempton Park where traffic and police officers are on duty together in one patrol vehicle. If, like Kempton Park, it proves to be sustainable, Sandton might provide a model to other local authorities on how to co-ordinate and integrate local police activities with those of the SAPS. Sandton, Midrand, Edenvale and the North East Rand Transitional Metropolitan Council have specific visions on the expansion of their current operational methods. However, the realisation of these visions, according to them, depends on the endorsement of the city policing concept in new legislation or the amendment of existing legislation.¹⁴

Even in areas where no such amalgamated crisis centres exist, or where a comprehensive vision for city policing is as yet unformulated, the traffic departments will have one emergency telephone number where they can be reached, and will relay crisis calls to other emergency services where necessary. Only in areas where the citizenry is not aware of the capacity of the traffic department to come to their assistance in times of crises, are departments underutilised with regard to their reaction capacity, notably in Alexandra and Soweto.

The role of the municipal security departments varies from authority to authority. In the Pretoria Metropolitan Area, the Security Department bears the brunt of patrolling with a specific view to crime prevention. The Pretoria Security Department has a total of 375 staff members, divided into Operations, Guard Duties, Investigations and Training. Its investigation division conducts investigations into crimes and two investigators are dedicated to investigating any allegations of corruption against the traffic service.¹⁵ In a similar manner, the profile of municipal security is high in Krugersdorp. In areas where the role of the security department is central to crime prevention, security officers enjoy 'peace officer' status and, in the case of Krugersdorp, they are also trained traffic officers, and can fulfil traffic duties on a mutually interchangeable basis.

In other local authority areas the role of the security departments is restricted to patrolling and guarding council property. In Soweto, the security department consists of a total of seven staff members, and its role is simply to oversee the effective employment of private security firms to guard council property and installations. However, regardless of the size and function of security departments, their separate existence, as well as the existence of licensing inspectors (who should conceivably be included in any amalgamated city police services¹⁶), has ensured the development of separate power bases and vested interests. It is likely that resistance will be encountered in trying to amalgamate these. Consequently, efforts at amalgamation should be structured to include as many of the personnel of these departments as possible in any future city police services. This may be achieved by stipulating that such personnel are given preference in filling vacancies in existing traffic departments, or in any future city police services, as they arise.

Regardless of the policing efforts aimed at crime prevention, undertaken by local traffic and security departments, their work is regarded as essentially feeding into and complementing that of the SAPS (in keeping with the stipulations of the Police Act, No 68 of 1995, Section

64(5)).¹⁷ Few Heads of Traffic would agree to extending their policing powers to a level that would impinge on their ability to fulfil their traffic function adequately. Local traffic departments have no lock-up facilities, very little investigative capacity (limited to offences or crimes committed on council property), and the SAPS retain the ability to receive traffic fines and investigate traffic accidents. Most of the members of traffic departments agreed that city police services, if established, should not be equipped with lock-up facilities. Such services should also not be expected to engage in investigative policing (barring investigation of offences committed on council property). While both Tarbitt¹⁸ and Bester¹⁹ mention the need for some investigative capacity in city police services, this is contradicted by the opinion of many Heads of Traffic, particularly those in services that have already begun to reform themselves into crime prevention services. They argue that it is the absence of the need to engage in investigations that allows them to fulfil their highly visible crime prevention role and that an investigative capacity would tie up valuable personnel behind desks and telephones, when these personnel could be utilised to patrol the streets of their jurisdiction. It is better to have the city police on the street, while the SAPS dedicates itself to investigating crime.²⁰ However, many Heads of Traffic feel that the investigation of traffic accidents could be the responsibility of city police services.²¹ These services are better equipped from the outset to deal with such investigations, and the transfer of this responsibility would free valuable SAPS personnel to investigate other crimes.

Two further issues regarding current capacity need to be raised. Firstly, the SAPS still monitor local crime information, while local traffic departments undertake patrols based on data provided by the SAPS. Any future city police service will need to maintain its own crime and accident data. This would be especially necessary while SAPS local jurisdictions still cut across newly created municipal boundaries. Even if SAPS jurisdictions were brought in line with municipal boundaries, a strong case could be made for city police services continuing to maintain their own data-bases. Secondly, few local traffic departments operate on a 24-hour basis. Where they do, only a small patrol shift remains for the 00h00 to 05h00 period. It should be mandatory for city police services to have a 24-hour duty roster.²² The detail of the number of officers on patrol at any time during a 24-hour period must clearly be left to the local authority concerned, and will be based on average crime rates for such periods.

It is an unfortunate reality that most local traffic and security departments on the whole are, and will probably continue to be, understaffed and materially ill-equipped to police areas under their jurisdiction adequately. However, the individual patrol officer is usually equipped, uniformed, and armed to deal with his responsibilities. With the increase of crime in South Africa, and particular its violent aspects, many local councils have taken out extra life insurance for their traffic officers, in addition to the normal provisions made for these officers by the Workmen's Compensation Act.

The uniform of the police services has also become militarised, which impacts on their ability to present the kind of 'community friendly' attitude one would expect of a city police service. Unfortunately the kinds of violent crime afflicting South Africa necessitate that police officers continue to be heavily armed and to wear armoured jackets. However, in the future, as the effectiveness of the police services is enhanced to reduce crime, so uniform requirements may be revisited.

One of the complexities associated with attempts to assess which resources are necessary for a particular traffic or city police service, given the size and nature of the area it is expected to police, is the absence of any formulae by which such resource needs can be gauged. While the CSIR designed a personnel ratio model in 1989,²³ the recommendations contained in its report are dated, and staff at the Roads and Transport Technology Division are currently engaged in developing new models to assess existing systems. Rates of transformation within these services and changing circumstances make the design of generic formulae difficult, and few foreign models exist that can be used as guidelines. Most foreign models are designed to structure national agencies that run down to local level, and are thus limited in their applicability to the South African environment where a variety of separate local traffic services exists. South Africa's unusual crime situation also complicates the design of adequate formulae - formulae based purely on crime data may encourage the stationing of large numbers of police personnel in crime ridden areas, resulting in an overflow of staff once

these areas have been 'stabilised'. The new formula under design by the CSIR's Roads and Transport Technology Division seeks to establish correlations between productivity, offences and collisions (POC). A 'stable' local traffic department would be one in which these three factors are in equilibrium. How, if at all, this formula would serve as a guide to effective utilisation of the resources of city police services with their wider crime prevention powers, would need to be assessed in future.

Various other formulae have been bandied about recently. The figure of a ratio of one city police officer per 1 000 people was mentioned by the syndicate examining National Regulations and Training at the Workshop on Metropolitan Policing of the Gauteng Ministry of Safety and Security in February 1996. Councillor Craig Stephens of the Sandton Substructure, suggests that one police vehicle per 5 square kilometres should be the minimum saturation required to adequately police that substructure.²⁴ Jooste utilises the current national average of 2,5 per every 1 000 people.²⁵ In the final analysis, however, a comprehensive base formula which can be adopted by each city police service in Gauteng, will have to be designed. This will need to include into its calculation issues such as the geography and size of the local area, the size and density of the population, rates and types of crime, total mileage and type of road that needs to be patrolled.

Presently resources at the disposal of traffic, fire, security and ambulance services in the Johannesburg Metropolitan Area are heavily biased in favour of Johannesburg itself. A new formula will greatly assist initiatives to distribute these resources more equitably throughout those substructures that carry the burden of providing the daily operations of city police services.

Lastly, the question of reservists needs to be addressed briefly. Municipal traffic departments presently make use of reservists as traffic wardens, who assist mainly with point duties, parking control and scholar crossings. The issue that arises is whether reserve officers could be utilised further by city police services in traffic and crime prevention capacities. Obviously the concept of allowing members of a local community to police as reservists in the local police service is, at first glance, commensurate with the ideal of police and community co-operation to which the present government is committed. However, it is also true that the SAPS already makes use of a sizeable reserve contingent, and this probably should not be encroached upon by any future city police services. Secondly, the maintenance of a reserve police contingent has implications which need to be borne in mind. Reservists will need to be trained, equipped and kept 'in the field' at the cost of the metropolitan or local authority. The current *status quo* regarding reservists should therefore not be tampered with: citizens who wish to fight crime on a voluntary basis, should do so through the SAPS, while city police services should continue to make use of traffic wardens whose existence will in any event free local professional officers for crime prevention work.

TRAINING

The training of any future city police service is the responsibility of the National Commissioner of Police (according to the Police Act of 1995). However, provincial, metropolitan and local government are in a position to lobby the National Commissioner in this regard and thus mention will be made of training here.

Traffic officers are currently placed on a three to four month diploma course to equip them for their work. This, many Heads of Traffic and patrol officers have pointed out, will be inadequate, should they be transformed into city police services and their crime prevention function formalised. The Midrand Substructure already provides augmented training to its officers at its own expense. Some local authorities are confident that their present personnel are qualified for any policing functions they need to undertake, as many come from the SAP or SAPS.²⁶ This random exchange of expertise, however, is not a solution for the absence of comprehensive city police training. The Kempton Park/Tembisa Substructure has laid out an interim training programme for new recruits to their envisaged city police service. This will include proactive policing, crime prevention, conflict management and interpersonal skills. Where new recruits have had previous training, either as SAP or SAPS officers, or as traffic officers, their training will have to emphasise those aspects of the city police officer's duties they lack. In the long term, city police officers would be given ongoing training in the following:

general police duties, statutory law, court procedures, current trends in policing, common law, basic social studies, police/public relations, practical charge office duties, first aid, and driving skills.²⁷

The suggestion of ongoing training is also particularly important. It is a concern among some traffic patrol officers that insufficient follow-up training is given by local departments. The officers feel that certain mandatory levels of firearm proficiency, negotiation skills, and crisis management skills need not only be acquired, but should be actively developed during their careers.

An issue that must receive particular attention, is counselling. Members of local traffic services are exposed to the same stress factors as the SAPS. Traffic officers in some departments often work long hours overtime in an environment of high levels of crime and violence. This, officers freely admit, often leads to a revenge culture (which is not without a detectable racial tinge). Yet, no opportunities seem to exist for counselling, except for any initiatives that officers take at their own expense. It should not be inconceivable that local authorities or the metropolitan authorities provide counselling services to their officers as a matter of course. City police officers, by the very nature of their work, will be at the forefront of interaction between the policing services and the public. As such, personnel in these services must present the image of confidence, control, authority and stability at all times. Failure to do so could jeopardise the entire concept of a city police service.

FORMALISING CITY POLICING

Unanimity on the necessity to formalise city policing, and the priority it should enjoy, does not exist. Opposition to city policing (more precisely, to police agencies outside established SAPS structures), was expressed recently by some Community Police Forum delegates to the Workshop of the Gauteng Ministry of Safety and Security. Concern was also expressed about the creation of new infrastructures and the financial implications of city policing for local authorities by delegates from the Northern and Western Cape to the Task Group on a Proposed Municipal/Metropolitan Police Service in March 1996.²⁸ Similarly, a lukewarm response on the urgency of introducing the concept into the new draft constitution was experienced at the same meeting.²⁹ At the local level, officials are not always convinced about the usefulness of city police services. Hartser, the Acting Head of Traffic in Roodepoort, expressed the opinion that city policing would interfere with the adequate fulfilment of traffic policing functions. However, these concerns are overwhelmed by the clamour for city policing emanating from Heads of Traffic and security departments in most areas, from directors for public safety in local and metropolitan councils, and from provincial political authorities (most notably of Mpumalanga, Gauteng and KwaZulu-Natal). At the provincial level, particularly in Gauteng, the political parties are in agreement, to the extent that they are now trying to outmanoeuvre each other in agitating for the establishment of city policing. This is borne out by the speed and ease with which proposals were accepted for a trial integration between the SAPS and the Sandton Traffic Police as a step towards the establishment of a city police service by the Sandton Substructure on the evening of 30 January 1996. This, if nothing else, indicates an awareness by local politicians of the groundswell of public support for a local police service that will assist in making inroads against the unacceptable crime situation.

The motivations of those against the establishment of city police services are diverse. This is not to deny that some of their concerns are legitimate. However, the rest of this paper aims to address those concerns uppermost in the minds of policy makers who have already committed themselves to the process towards city policing in Gauteng, but for whom some issues still need clarification. These issues are: the legislative framework, the structure of city police services (accountability, corruption, and the impact of the transformation into city policing on traffic law enforcement), the funding of city police services, and mechanisms for provincial supervision of such services.

THE DEBATE THUS FAR

It has been shown above that the concept of city policing may be traced back to the early 1980s. The first reference to the possibility that city policing might be entrenched in legislation seems to have been made by the former Minister of Justice, Mr H J Coetsee, at a meeting of

the Institute of Town Clerks in 1990. Coetsee expressed the opinion that certain policing functions might be devolved to local authorities in the future.³⁰ Thereafter, various developments have acted to spur on the debate. Most notable was the incorporation of the concept in the Interim Constitution which makes provision for the establishment of 'metropolitan and municipal police services' in Section 221 (3). In keeping with the stipulations laid down in the Interim Constitution, the concept was also incorporated in the South African Police Services Act of 1995.

Regardless of this legislation, neither the descriptive detail, nor the powers and functions of any future city police service are clear. Essentially, the question that needs to be answered is: what is a city police service and what is its function within the existing legislative framework?

From mid-1994 the debate seems to have evolved, with the first contribution made by Major M Tarbitt, Deputy Director of Organisation and Work Study of the SAPS. In a report commissioned by Major General George Fivaz, then Chief of Efficiency Services, Tarbitt argued that "*... it would appear that there is a distinct divide between the illegal acts which the SA Police and the metropolitan and municipal police may address. As far as crime prevention is concerned, the 'crime' which metropolitan and municipal police services may address, is limited to by-laws and provincial laws applicable to a specific local government - and not statutory and common law offences. This in effect means that, as a metropolitan or municipal police service member, such a person may not act against anyone about to commit, or that is in the process of committing, a statutory or common law offence.*"³¹ However, Tarbitt contends that "*... it is, in terms of section 221 (3)(c) of the Constitution, the prerogative of the MEC responsible for Safety and Security to determine which powers are required by metropolitan and municipal police services to perform their functions... The MEC responsible for Safety and Security will be able to have certain persons declared as peace officers in terms of section 334 (1) (a) of the criminal procedure Act (act No 51 of 1977), but not as police officers.*"³² Tarbitt advises that "*[a]ll police powers in terms of section 334 of the Criminal Procedure Act, should be available to metropolitan and municipal police members.*"³³ "*The fact that crime prevention is limited to by-laws is unacceptable, as this would benefit the criminals - not the community. The more trained 'police officers' there are, the better. Whilst on patrol, a metropolitan or municipal police member should be able to prevent the commission of a common law or statutory offence before being committed, or whilst in progress.*"³⁴ Tarbitt arrives at "*... the opinion that all present indications, together with healthy reasoning, indicates that metropolitan and municipal police services should not be merged in any way with traffic departments.*"³⁵

Tarbitt was severely censured by Bruce-Brand, Director of Legal Services of the SAPS for his interpretation of the existing legislation to mean that city police services would not be able to police statutory and common law offences, but only local by laws. More importantly, Bruce-Brand took Tarbitt to task for his suggestion that traffic policing and city policing were mutually exclusive. Bruce-Brand concluded "*... that there is no provision in the Constitution which would have the effect of prohibiting a member of the SA Police Service from carrying out functions in terms of the Road Traffic Act. And if that is so, then it is likewise submitted that there is no such prohibition vis-à-vis members of MMPS [Metropolitan and Municipal Police Services].*"³⁶

The next contribution by the SAPS to the debate was made by a senior colleague of Tarbitt, Major General M J A Bester, Deputy National Commissioner of the SAPS. Bester seemed to appreciate the unavoidability of actually including the municipal traffic departments into any city policing services, in this sense taking the debate a step further than Tarbitt. In an interesting series of intellectual gymnastics, Bester arrived at the conclusion that traffic services can be brought on board the city policing structure, firstly by weighing the definition of 'crime prevention' and, secondly, by suggesting that all national laws to be policed are to be encapsulated in local ordinances. "*According to the State Legal Advisor, the words 'crime prevention' imply an extensive exposition. It means the prevention of any crime according to any legislation and common law, that these police services may encounter in the course of undertaking their specific duties and powers. With regard to road traffic law enforcement, members of metropolitan and municipal police services will be able to act in a crime prevention capacity in their dealing with traffic affairs. In terms of the law enforcement powers*

of members of metropolitan and municipal police services, it should be noted that the current Road Traffic Act of 1989 is a national Act of Parliament. Thus, members of these services cannot merely apply the Act, as their powers are limited by municipal and metropolitan ordinances, according to article 221(3)(b) of the Interim Constitution.

If this exposition is followed, traffic services can only form part of metropolitan and municipal police services to the extent that:

1. The metropolitan and municipal police services can act in preventing crime with regard to traffic affairs; and
2. The power to act is included in local government ordinances."[37](#)

Oddly enough, Tarbitt and Bester's wrestling with the legislative complexities that might impact on city policing took place at a time when a consensus was emerging in debates elsewhere on realistic actions to establish city policing in Gauteng. Constructive recommendations were made by a technical committee of the United Municipal Executive in November 1994, and can be summarised as follows: that most local authorities already possess a type of city policing in the form of traffic and security departments that are usually responsible to a department of safety and security; that traffic and security personnel are limited in their jurisdiction and powers and therefore can never appropriate the full spectrum of SAPS services; that the status quo should be recognised, but that the jurisdiction and powers of traffic and security personnel are expanded; and that structures for co-operation between these municipal services and the SAPS should exist.[38](#)

A separate and, apparently, unrelated report also emerged from the strategic summit of the Traffic Management Team of the Edenvale Substructure of the North East Rand Transitional Metropolitan Council, held in April 1995. This report contained, among others, the recommendation that the existing traffic departments form the core of a new city police service, and that this be augmented with the amalgamation of security services; that the main focus of the city police service will be crime prevention, and not crime investigation; that traffic policing continues to be a primary function, but under one command structure falling under public safety or security departments; that all existing traffic and security officers receive the same training to render them completely interchangeable; and to accord all officers with traffic officer status, in terms of Sections 3 and 11 of the Road Traffic Act of 1989 with the powers due to such officers in terms of Section 334 of the Criminal Procedure Act of 1977.[39](#)

The concept of city policing was also advanced by the Democratic Party in mid-1995. Priming itself for the November 1995 local government elections in Gauteng, during which it campaigned on an anti-crime platform, the Democratic Party released two policy papers advocating and detailing city policing. The Democratic Party's Safety and Security Policy of 1995 recommended that the basic powers of 'peace officers' are accorded to all police officers who would uphold one body of law across the nation, regardless of the communities they serve. It also suggested that "*legislation should consolidate the range of provisions currently relating to the various powers and status of different categories of police officers and peace officers.*"[40](#) The distinction between police officers and peace officers will be returned to elsewhere in this paper. Suffice it to say that, while any future city police service will augment the SAPS by virtue of its crime prevention function, it should never simply become a local component of the national service. The value of the "*maintenance of uniform standards of policing at all levels*"[41](#) need not be debated. However, this can be achieved by methods other than deliberately blurring the distinction between SAPS and city police personnel. Apart from the police/peace officer synthesis, the Democratic Party's report recommended that the existing metropolitan traffic and security departments are integrated into one 24-hour crime prevention and traffic policing service; and that the law enforcement service is placed with other emergency services (fire, ambulance and civil defence) under single metropolitan public safety directorates. Future city police services must augment and supplement the SAPS, but not replace it. Such services must be accountable to local government authority, and must be trained according to criteria laid down by the SAPS National Commissioner.[42](#)

The ideas contained in the policy paper were expanded by Peter Leon in *Combating Crime Creatively*. Leon reiterated the points laid out in the first policy paper, but added that a broader definition of crime prevention should be included in the Constitution, that city police services needed to be empowered to enforce Acts of Parliament, and that 'peace officer'

status be conferred on all city police personnel. Leon added that such a service should concentrate on visible policing, that it should hand all crime suspects over to the SAPS, and that criminal investigation should remain the responsibility of the SAPS.⁴³

Jooste, Chief of Public Safety of the Midrand Substructure, echoed what had been recommended by the others in a memorandum to the MEC for Safety and Security in Gauteng, Jessie Duarte, but added specifically that traffic officers must be provided with the full powers to investigate road traffic offences and culpable homicide offences in motor vehicle accidents.⁴⁴

By the end of 1995 two further positions on city policing had been put forward. The first was designed by a workshop convened by the Department of Constitutional Development on 6 November 1995⁴⁵ to map out a path towards city policing, and the second was contained in a report to the Transitional Local Council of Germiston.⁴⁶ While these gave different breakdowns of how city policing should come about, they did not add anything new to the debate.

Arguably the most comprehensive contribution to the city policing debate was made in mid-1995 by Shaw, in his report: *Partners in Crime?*⁴⁷ This report, emerging from a policy researcher rather than an involved participant, details all the issues and recommendations in the city policing debate, and continues to be a guide to policy makers in this regard. Shaw concluded his discussion on city policing by saying that "*... it seems as if metropolitan policing is - at last - finding some support among all political parties at local level, eager to be seen to improve the conditions of city life. This implies that local authority policing, particularly in the large metropolitan areas may become an issue during and after the local elections...*"⁴⁸

Consensus in the city policing debate has coalesced around the necessity to equip any city police service with 'peace officer' status, despite the fact that there is no provision made for this in any existing legislation. Contrary to Shaw⁴⁹ and Tarbitt⁵⁰, this status might actually have to be given by the Minister of Justice according to the provisions laid out in the Criminal Procedure Act of 1977. Consensus has also been reached on the notion that city police services should be constituted out of existing traffic, security and civil defence structures, and that these should operate under a public safety umbrella at local or metropolitan council level; that city police services would need to operate on a 24-hour basis; that their work should be confined to crime prevention and traffic policing; that they should not have detailed investigative powers similar to those of the SAPS (except traffic offence and accident investigation and the investigation of offences committee on council property); and that their work should not be seen to replace that of the SAPS, but to augment it.

THE LEGISLATIVE FRAMEWORK REVISITED

The legislative framework remains out of synchronicity with the consensus on what the core components, powers and functions of a city police service should be. The provisions, and possible amendment of the legislative framework are being addressed with renewed vigour as the momentum towards city policing has developed. The issue is given added urgency by the fact that no reference to city policing appears in the new draft constitution. While this absence may reflect the confidence of its designers that the subject has been adequately dealt with in the existing Police Act, it does not inspire confidence in the future of city policing. It is clear that city policing has only been given rudimentary attention even in the Interim Constitution and the Police Act of 1995.

When viewed against the 'reality' that city policing has been occurring in substance, if not in name, and against the consensus on how the concept should be advanced, it would not be impudent to suggest that actual legislation, as well as legislation that will have an impact on city policing, are separated into 'empowering' and 'disempowering' legislation. The 'disempowering' legislation needs to be laid out at length:

1) The Interim Constitution of 1993

Section: 221 (3):

The Act referred to in Section 214 (1) shall make provision for the establishment by any local government of a municipal or metropolitan police service: Provided that:

(a) such a police service may only be established with the consent of the relevant member of the Executive Council of the province referred to in Section 217 (1);

(b) the powers of such a police service shall be limited to crime prevention and the enforcement of municipal and metropolitan by-laws;

(c) the said member of the Executive Council of the province shall, subject to paragraph (b) and the provisions of the said Act, determine the powers and functions of such a police service; and

(d) the said Act shall provide that its provisions shall, as far as practicable, apply *mutatis mutandis* to any such police service.

2) The South African Police Services Act (No. 68 of 1995)

Section 64:

(1) Any local government may, subject to the Constitution and this Act, establish:

(a) a municipal police service; or

(b) a metropolitan police service.

(2)(a) The Minister shall prescribe which provisions of this Act shall apply *mutatis mutandis* to any municipal or metropolitan police service.

(b) The Minister may make regulations regarding the establishment of municipal and metropolitan police services, including which categories of local governments may establish metropolitan police services.

(3) The National Commissioner shall determine the minimum standards of training that members of municipal and metropolitan police services shall undergo.

(4) Legal proceedings in respect of any alleged act performed under or in terms of this Act or any other law, or an alleged failure to do anything which should have been done in terms of this Act or any other law, by any member of a municipal or metropolitan police service, shall be instituted against the local government concerned and section 57 shall not be applicable to such legal proceedings.

(5) The establishment of a municipal or metropolitan police service shall not derogate from the functions of the Service or the powers, duties or functions of a member in terms of any law.

(6) Where a municipal or metropolitan police service has been established, such service shall be represented by at least one of its members designated by such service for that purpose on every community police forum or sub-forum established in terms of section 19 in its area of jurisdiction.

It was clearly not the intention of the designers of this legislation to disempower future city police services. On the contrary, their motivation was to facilitate the creation of such services. Paradoxically, the opposite has been provided for. No clarity exists on the role of existing traffic departments - as it stands, the Constitution does not allow for the incorporation of traffic departments into a city police service. This suggests that city police services might be distinct from the traffic police and require that a separate and new force is created at local level.⁵¹ That this is contradicted by Bruce-Brand's rejoinder to Tarbitt mentioned above, is obviously insufficient, and the issue needs to be clarified by legislation.

Secondly, city police services are limited to 'crime prevention', the definition of which is not detailed, and the enforcement of by-laws. The Germiston Council's report is candid on the result: "... it becomes clear that neither the bill [sic] nor the constitution really come to grips with basic terminology and important terms ... one is struck by the fact that the intended Metropolitan-Municipal Police are fraught with insignificance."⁵²

In contrast to the provisions of the Interim Constitution and the Police Act of 1995, traffic officers and some security officers already have policing powers under existing 'empowering' legislation. Traffic officers who are appointed in terms of Section 3(1) of the Road Traffic Act of 1989, are, by virtue of this appointment, also 'peace officers' in terms of Section 334 of the Criminal Procedure Act of 1977. It is with these policing powers that traffic and security officers are already rendering a 'city police' service. Those powers which are not bestowed in terms of the Criminal Procedure Act are in any event not necessary for crime prevention or street level policing. Jooste is unequivocal: "*The opinion is held that with these legal powers provided for ... officers will be able to render effective metropolitan/municipal services within their areas without having to change existing legislation.*"⁵³ According to the regulations attached to the Criminal Procedure Act, traffic officers appointed as 'peace officers' enjoy "[a]ll powers conferred upon a peace officer or police official in terms of the Criminal Procedure Act, 1977, excluding the powers in terms of Sections 25, 43, 59, 179(1)(b) and 329 of the Criminal Procedure Act." Security officers who currently do not enjoy 'peace officer' status, would need to be appointed as traffic officers to provide them with the requisite policing powers in a city police service. The most important powers for crime prevention are those accorded to 'peace officers' in terms of Section 40 and Schedule 1 of the Criminal Procedure Act. Some of these should be listed here. A 'peace officer' is empowered to arrest any person without a warrant whom he suspects of: treason, sedition, public violence, murder, culpable homicide, rape, indecent assault, robbery, kidnapping, childstealing, assault, arson, malicious injury to property, breaking or entering any premises, theft whether under common law or a statutory provision, receiving stolen property, fraud, forgery, and offences relating to coinage. This list is by no means complete, and other provisions that apply to the powers of 'peace officers' under the Criminal Procedure Act are not listed here.

The versatility of the Criminal Procedure Act is contained in Section 334. This states inter alia that "[t]he Minister may by notice in the Gazette declare that any person who, by virtue of his office, falls within any category defined in the notice, shall within the area specified in the notice, be a peace officer for the purpose of exercising, with reference to any provision of this Act or any class of offences likewise specified, the powers defined in the notice." This means that the powers of any specific kind of 'peace officer' may be declared by the Minister of Justice, and may vary in terms of the duties that a 'peace officer' needs to exercise. (These powers would be separately defined in the regulations to the Criminal Procedure Act.) Therefore, city police officers could conceivably have powers commensurate with their functions, if they were appointed as 'peace officers'.

The central dilemma is then to have city police officers appointed as 'peace officers'. Unfortunately the provisions of Section 221 (3) (b) of the Interim Constitution do not allow for the application of 'peace officer' powers.⁵⁴ Shaw suggested that, as the Interim Constitution provided for the provincial MEC to determine the powers of any proposed city police service as long as these are subject to the confines of the Constitution, the MEC could declare city police as peace officers.⁵⁵ The Department of Justice makes it clear that "[s]hould the Constitution not be amended, a municipal/metropolitan police service would only be able to acquire powers connected with the prevention of crime and enforcement of municipal and metropolitan by-laws. The utilisation of section 334 of the Criminal Procedure Act, 1977, to confer such powers upon members of a municipal/metropolitan police service, would in such an event also not be viable. Section 221 (3) (c) of the Constitution provides that the relevant member of the Executive Council of the province shall, subject to the limitations in subsection (b) referred to above, determine the powers and functions of such a police service. This, in effect, would not allow the Minister of Justice to freely exercise his discretion in terms of section 334 of the Criminal Procedure Act, 1977."⁵⁶

The situation is thus one where the formation of city police services is granted by legislation, but that such services' capacity to act has been severely limited. If these services were to

exist parallel to separate traffic departments, traffic departments would be empowered to render a more effective crime prevention service.

Some policy options, however, remain open. It is possible that the term 'crime prevention' can be interpreted as bestowing all or some of the powers 'peace officers' currently enjoy. This more detailed understanding of crime prevention would have to be encapsulated in legislation to establish city police services. In terms of such an interpretation, the MEC may then be able to act as Shaw had proposed, but only to provide city police with similar powers as 'peace officers' without actually being able to have them formally designated as 'peace officers'. Such a solution is unsatisfactory in itself, and moreover, would not address the future of traffic departments. A second option is that the existing Constitution, and correspondingly the Police Act of 1995, are amended to allow for the amalgamation of traffic and security departments and the transfer of their powers to a city police service. Any dedicated legislation on the establishment of a city police service would have to stipulate that such services have the power to police the Road Traffic Act of 1989 (as appointed traffic officers), that members are appointed as 'peace officers', and that the regulations of the Criminal Procedure Act of 1977 are amended to reflect the specific powers such officers have.

Policy design is further complicated by the fact that city policing is removed entirely from the new constitution. This results in leaving the future of city policing at the mercy of the one remaining piece of legislation, the Police Act of 1995. It effectively removes the powers of the provincial MEC in this regard, and even eliminates the clumsy 'powers and functions' provisions of the Interim Constitution. If the omission in the new draft Constitution remains, the Police Act of 1995 will have to be amended to provide precise details of the powers and functions of a city police, and the authority under which they are to be established. This is in itself unsatisfactory because any city police service would not enjoy the security of tenure that constitutional provisions invariably imply, and would instead exist at the whim of the legislature. This has not protected similar police services from any centralising impulses of previous governments, for example the Durban City Police, and there is no reason to assume that it will do so in future.

The point of departure for policy makers must therefore be to lobby the Constitutional Assembly to ensure the entrenchment of the concept of city policing in the new constitution. Such a provision will need to take as its point of departure the existing 'empowering' legislation that applies to traffic police services, and the amalgamation of traffic services into a city police. Secondly, the Police Act would have to be amended to incorporate the suggested constitutional provisions. The function of any constitutional provisions, and any amendments to the Police Act, should be to consolidate the existing powers of local police services, and possibly augment these. Lastly the power of the provincial MEC to endorse the creation of city police services must be reflected in the new constitution. The Police Act of 1995, currently only refers to the creation of city police services on the initiative of local government, and details the role of the National Minister and National Commissioner. It is inexplicable why the role of the provincial MEC should expire with the advent of the new constitution. Any establishment of city police services must take place with due consideration to the crucial oversight function that the provincial MEC, by virtue of his or her office, must exercise.

As an aside to the discussion on 'powers and functions', the case of the Durban City Police (DCP) remains instructive. The DCP is a colonial relic that has existed since 1854.⁵⁷ However, it is the most likely model for city police services in South Africa, and its powers should be noted here. The DCP not only deals with traffic policing, but its officers have full police officer status, albeit within the confines of the jurisdiction of the Durban Transitional Metropolitan Council. These powers, which include those of peace officers, are conferred in Part 3 of the Regulations under Section 334 of the Criminal Procedure Act of 1977. While the DCP are an exception and it is unlikely that the extension of full police officer status to new city police services would be endorsed immediately, the existence of the DCP will ensure that as newer city police services are formed, the question of full police officer status will likely be revisited.

The debate on city policing has, from the outset, been sectorially located. The legislation that does, or should have an impact on city police services, is wide and ensures that the debate

will continue to cut across local, provincial, and national boundaries. Where it results in the establishment of city police services, it will be evidence of the combined efforts of local and metropolitan councils, provincial MECs for Safety and Security, local government and transport structures; the national Ministers for Safety and Security and of Justice, the National Commissioner of the SAPS, and probably members of the Constitutional Assembly to ensure the encapsulation of the concept of city policing in the new constitution.

STRUCTURE AND ACCOUNTABILITY

A distinction must be made between horizontal and vertical structural considerations for future city police services.

Vertical structural considerations have been dealt with in the existing legislation to a degree. In the Police Act of 1995, the Minister is empowered to decide which categories of local government may establish city police services. This provision has yet to be utilised by the Minister for Safety and Security. In the absence of any declarations under this provision, the debate continues at local and provincial level on how city police services should be accommodated in local or metropolitan councils.

Thornhill has identified an important principle that applies to local government, that should be taken into account in any deliberations on city policing: *"It has to be stated unequivocally that primary local government - in the constitution defined as urban government - constitutes the basic building block for metropolitan government. This point of departure is considered important to indicate that metropolitan government should develop from primary local government structures and not the other way around. This implies that metropolitan government should only be established if primary or constituent local governments cannot meet the requirements of extensively and densely populated urbanised communities."*⁵⁸ In keeping with this principle, city policing should have its authority devolved to the lowest possible level. Thornhill's sentiment is vigorously endorsed by local traffic and security heads. Indeed, a strong case can be made for maximum devolution of policing authority to local councils or substructures. The devolution of city policing to the lowest level of democratically elected government is arguably its very *raison d'être* - if this is not the case it may begin to develop those same characteristics that presently afflict the SAPS: lack of responsibility to local communities; long response times, or no response at all, to calls for help; long and bureaucratic lines of communication; inappropriately allocated resources and staffing; and ponderous lines of accountability.⁵⁹

Maximum devolution would also be in keeping with current local government realities in Gauteng where some areas are substructures of a metropolitan council, while others fall outside the metropolitan area and exist as separate local councils. If power was concentrated overwhelmingly at the metropolitan council level, then those local councils that fell outside the jurisdiction of any metropolitan council would be disproportionately autonomous vis-à-vis their counterparts that do fall into a metropolitan substructure.⁶⁰

On the other hand, numerous concerns have been raised recently about the real effects of such devolution. The experience of the DCP has led them to examine the question closely. The arguments of the DCP in favour of a strong metropolitan authority need to be laid out. The most important of these are: the maximum effectiveness and efficiency of a single service; one uniform area of jurisdiction; standard law enforcement; a large pool of resources; reduced costs resulting from standardisation; improved career paths; maximum visibility; and effective liaison with business and government off the metropolitan platform.⁶¹ A further argument in favour of centralisation which emerged from a discussion with the officers of the DCP, was the political consideration that various substructures will fall under different political control and that this would fragment the provision of policing in a single metropolitan structure. The argument for the uniform application of policing across a single metropolitan structure is a powerful one.

The way forward negotiates a path between the two positions. It should be suggested that a director of policing exists at metropolitan council level, while divisional directors exist for the substructures and local councils. The divisional directors would be responsible to their local councils and administer the daily operational functions of their services. The metropolitan

director of policing would co-ordinate policing and formulate uniform policy across the metropolitan area.⁶² In other words, constituent local divisions, acting in concert, should collectively constitute the metropolitan police service. This approach is already encapsulated in the Concept Document on Metropolitan and Municipal Policing of the Gauteng Ministry of Safety and Security: "*Metropolitan policing sub-structures should be responsible for the day to day management and operation of the service in question while the Metropolitan Council should provide a co-ordinating and policy formulation role for the whole metropolitan police service for which it is responsible.*"⁶³

Vertical structural designs will determine lines of accountability in any city police service. The pressure to act against criminals is most often borne by local councils. Local councils are also ideally positioned to gauge local needs and the attitudes of their constituent communities. It therefore stands to reason that, while divisional directors command the constituent components of a metropolitan service with the accountability this implies to the metropole, they should be responsible for the daily actions of their divisions to their local councils. Moreover, if a member of the public has a complaint against a city police service or any of its officers, a local area director or the local council is the most immediate authority to address such a complaint. Accountability would be enhanced by retaining the current localised accountability and loyalty of traffic officers to their employing local council. Traffic officers are usually not employed by a provincial or national authority to which they owe allegiance and which has the ability to shift them around the country at whim. It would be quite impractical to have city police officers employed independently by different substructures of the same metropole. Employment guidelines will have to be laid down by the metropole, and officer loyalty will need to be fostered to the metropole and not just to the employing substructure.

The proposal for separate lines of accountability (to the metropolitan director and the local authority or substructure) introduces a system of 'checks and balances'. Gouws, Chief of Traffic in Randburg, suggested that city police services could not be absolutely accountable to their local council. Gouws based this view on personal experience where previous local councillors made use of traffic officers to drive their children to school or their wives shopping. Such concern about council abuse of the police service at its disposal is obviously not to be taken lightly, and the existence of a director of policing at the metropolitan level would act as a counterweight to abuses where they occur. However, Gouws' opinion that all authority should rest at the metropolitan level is one of the exceptions in this regard. Those traffic departments that have advanced furthest towards the city policing concept (and away from exclusive traffic functions), have the most sound relationships with their local councils. In Midrand, Sandton, Krugersdorp and Germiston the Heads of Traffic report regularly to their councils, and have their councillors' support to address any needs of their services. Perceptions of the relationship in these areas are complementary and mutualistic.

It should not be overlooked that rudimentary provisions to ensure the accountability of city police services is made in the existing legislation. The Police Act (Section 64(6)) stipulates that "[w]here a municipal or metropolitan police service has been established, such service shall be represented by at least one of its members designated by such service for that purpose on every community police forum or sub forum established in terms of section 19 in its area of jurisdiction." This provision effectively entrenches the responsibility of any future city police service to the community it serves, and in effect provides for the most immediate and democratic accountability of such a service.

The discussion on accountability is incomplete without reference to the sensitive concern of police officer corruption. Few Heads of Traffic or security deny that corruption exists in their services, but none believe it to be of unmanageable proportions. Perceptions of the best way to combat, and even eliminate corruption are varied. This is exacerbated by the absence of clear definitions of corruption: at what stage of receiving goods or favours from the community is an officer guilty of corruption? Does it begin when an officer receives free coffee and sandwiches at the late night 'take-away' (a method often used by shopkeepers to ensure a police presence near their establishments)? Or does it only begin when gifts are given to enlist leniency towards traffic offenders? If officers may receive certain goods from the public, should a maximum value be put on such goods? Should acceptable goods be defined? Should goods be acceptable by officers from grateful members of the public after a service

was rendered?

Most Heads of Traffic pointed out that corruption was notoriously difficult to police, and that they relied heavily on calls by members of the public to alert them to the existence of corrupt officers. Some felt that they had a feel of the 'pulse' of their departments and could detect the existence of corruption (supposing that commanding officers themselves are above corruption), while the experience of others indicated that even statistical data of fining and arrest trends were unreliable indicators of suspect behaviour. At its most extreme, the Pretoria Security Department has two investigators dedicated to the investigation and bringing to book of corrupt traffic officers. Both Roodepoort and Randburg laid the blame for the susceptibility of traffic officers to corruption at the door of low salaries. This is clearly debatable, but it might be necessary to investigate the suggestion that low salaries lead to greater corruption among traffic officers. It should be noted that Randburg and Roodepoort are the two departments where indications are that their relations with the local council are not always complementary.

If the perception exists among officers and commanders that their council is not interested in their plight, it could lead to a breakdown in officer discipline and open the way to corruption. Again, this perspective would need to be tested by further investigation before any policy is designed in this regard.

When looking at horizontal structural considerations, organigrammes detailing the proposed operational divisions of city police services abound.⁶⁴ How a city police service constructs its operational divisions is best left as an internal matter to the particular police service. What is of concern here, however, is the impact that the formalisation of the crime prevention powers of traffic officers will have on their ability to perform their traffic function.

It was pointed out above, that few Heads of Traffic would condone the extension of their crime prevention responsibility to the extent that it impacted on their ability to uphold the Road Traffic Act 1989 effectively. This is also reflected in written positions on city policing.⁶⁵

Most traffic departments already invest a large degree of individual initiative in their officers in terms of policing priorities. A traffic officer will at his or her discretion attend to a life-threatening emergency before he or she will apprehend a traffic offender. Even so, it is the traffic officer's most important duty to ensure the smooth flow of traffic in and out of the central business district, and it is to this end that all his or her attentions will be focused during critical traffic periods. The challenge to a city police service will be to provide a uniform level of traffic and crime policing throughout a 24-hour period.

Two proposed solutions exist in this regard. The first is a recent proposal by the DCP that the crime prevention function be vested at the metropolitan level, and those responsibilities that need not function at the metropolitan level, should be the responsibility of substructures. According to the DCP, the metropolitan operation would not relinquish its traffic policing function (and thereby duplicate the national error of regarding crime prevention and traffic policing as unrelated). Crime policing and the maintenance of law and order, however, would be the primary objective of the metropolitan operation. Routine traffic functions that do not require a fully trained and equipped city police could be left with the substructure's traffic and security departments, who would then also be solely accountable to the local council. More precisely, "[c]ertain by-laws and traffic matters are better handled by a separate agency, to free the Metro Police for its main functions."⁶⁶ This is a function of the particular circumstances of the DCP. The Durban Transitional Metropolitan Council has inherited a city police service with an inclination to emphasise crime policing, as well as 49 local authorities with their own traffic and security departments. This proposed model, while perhaps overcoming the national error, has not substantially departed from the dilemma of the existence of separate services at local level, should traffic and city policing be retained as distinct entities. A more satisfactory solution is needed that could be applied.

In Gauteng the appropriate approach that might be applied was first outlined by Van Rooyen in 1995. He wrote in *Metropolitan Policing: Specialist Functions*, that the "... restructuring of the three disciplines ... traffic, security and licensing into a unified structure (department) will

*result in departmentation (specialisation) to render a comprehensive service ... The goal of local enforcement agencies would be to train officers as professional generalists, officers who would be able to provide a wide range of police functions, most important of all, traffic police functions.*⁶⁷ The officers of a city police service would thus all be trained together, have the same powers and be mutually interchangeable, but would function in different operational divisions within this service. A city police service might, as its policing units, have a crime prevention unit, a patrol unit, a traffic unit, and a stationary offences unit. A member of one division would be able to act in the capacity of his or her colleagues in another division, but would be dedicated to one specific function. In this way, the construction of city police services would avoid a degeneration of the traffic police function.

FUNDING

The first draft of the Police Act (published as Notice 790 of 1994) made unequivocal provision for the cost burden of city police services. Section 108 (5) read: "*Police Services established in terms of this section shall be responsible and accountable to the relevant local government who shall also be responsible for the funding of such police services.*" The final Police Act of 1995, on the other hand, makes no such provision. Van der Waals had suggested that the draft bill implied the delegation of the financial burden of policing to local authorities.⁶⁸ The elimination of the provision from the final Act will not have addressed Van der Waals' concern. It is a moot point that local authorities that establish city police services will be liable for the costs of these. It is not as problematic as it would seem at first glance.

Most local authorities that are pursuing city police services are squaring up to the question of funding, with varying solutions on offer. The Germiston City Council contemplated the notion of utilising RDP funds⁶⁹; the Sandton Substructure has designed specific funding mechanisms⁷⁰; and the Kempton Park/Tembisa Substructure is confident that "*[t]he implementation of the envisaged City Police Service will have no immediate effect ... as existing divisions which are currently financed by the Council, will only be combined to form the City Police Service.*"⁷¹

A solution is probably to be found somewhere in the middle of these positions - funding will have to be generated at local council level, but central government allocations should not be ruled out as city police services develop. Unfortunately, until such central government allocations are forthcoming, local authorities will have to fend for themselves.

Some support for the 'privatising' of certain 'non-essential' functions is to be found in most departments. This includes the privatisation of guard functions, but could also include the privatising of traffic point duties near busy shopping complexes by training the complex security to undertake this task (as Eastgate is already doing). Traffic departments, and city police services in future, might also consider billing event organisers or companies hosting special functions for any point duties or escort services that they are expected to provide.

One funding option that has already proven its success, and therefore deserves some mention here, is that which has been instituted in the Midrand Substructure. The council levies every property owner to the value of R0-000209 of the total value of their property (excluding fixtures) per month for the provision of the crisis service. This ensures a payment of between R700 and R5 000 from residential to larger industrial properties, and has paid for Midrand's emergency helicopter and the provision of a model crisis management and crime prevention system. More recently, the Sandton Substructure announced its city policing plans to the public, which contained some plausible funding options such as funding capital expenditure by issuing Police Bonds; the creation of a Section 29 company to raise funds; applying special levies; and sales of emergency and security equipment.⁷²

It has already been indicated that much crime prevention activities are undertaken on existing budgets, and where integration has taken place between traffic and security departments, it has not occurred without rationalisation. The dimensions of the funding issue must be seen in this context. The case of the DCP should once more be regarded as an example. The DCP exists solely on its council budget and the revenue it generates in terms of local ordinance and traffic violations. Obviously its long history stands it in good stead - the costs of its police service have been a budgetary allocation since 1854 and will be built into the functioning of

the Durban Metropolitan Council. This contrasts with the perception in Gauteng that city policing will constitute a new and unexpected expense. Given time, however, there is no reason why metropolitan councils or local authorities in Gauteng should not equal the performance of the Durban Metropolitan Council in this regard.

As with funding choices, salary levels remain with local authorities. These are presently fixed to the categorisation of local authorities. This accounts for the variance in salaries from one local authority to another. The determination of salaries for city policing services solely according to these criteria will not be sustainable in future. Some standard will have to be established, probably by the provincial MECs for Safety and Security, Transport, and Local Government.

Much has been made of the discrepancy between salaries of existing traffic officers and members of the SAPS. This has never emerged as a problem, however, and is unlikely to become one in future city police services. SAPS salaries have consistently been lower than those offered by local councils, and while many local traffic officers were originally SAPS members, the offer of higher salaries at local level has never led to a mass exodus from the SAPS. The salary discrepancy has also been largely ameliorated by the SAPS salary increases announced in the 1996 national budget. The overriding concern at local level, is that competitive salaries should attract a suitable calibre person to undertake the work of a city police officer. Salary uniformity only needs to exist with other city police services in a province. One suggestion that was made to ensure the dynamism and individual initiative of the city police officer, was to separate salaries from rank structure. It has been pointed out that excellent officers are often taken from the 'streets' and promoted so that they can be given the financial reward commensurate with their performance. The result is that an excellent patrol officer is now confined to his desk, often in an administrative capacity. While the concept has merit, it might be difficult to achieve in reality. What might be contemplated is that rank be separated from job description. Thus a promotion need not necessarily confine the promoted officer to a desk.

PROVINCIAL OVERSIGHT

The creation of a provincial inspectorate to monitor the establishment and functioning of city police services has become integral to the discussion on city policing. It was initially injected into the debate to facilitate the creation of a provincial oversight mechanism that would ensure that city policing occurred adequately and uniformly across Gauteng. Since then the concept has grown to include the idea of an accreditation process whereby the inspectorate will evaluate future city police services. Carter and Sapp present accreditation as follows: *"The process of meeting uniform, codified standards following an exhaustive self-study and peer review is well established in higher education, hospitals, laboratories and selected types of industry. Regardless of the profession, the goals of accreditation remain essentially the same. These include the articulation of definitive standards, quality control of organisational functions, a self-assessment of current policies and procedures in comparison to the standards, a review of operating practices by a recognised team of peers, and the acceptance - at least by inference - of professional and ethical principles in the performance of responsibilities."*⁷³ Traffic departments are already subject to an AA audit every year. The concept of being reviewed is thus not new, and the spin-off effect of being reviewed and accredited - competition among departments - also exists. The creation of a provincial inspectorate will quantitatively and qualitatively enlarge this process.

The staffing of such a provincial inspectorate has been discussed in the Syndicate on Provincial Oversight and Guidelines at the Workshop of the Gauteng Ministry for Safety and Security in February 1996. Agreement was reached that the inspectorate should include the following:

1. a representative of the MEC for Safety and Security;
2. a representative of the MEC for Transport;
3. a representative of the MEC for Local Government;
4. a representative of the Provincial Commissioner of Police; and
5. two representatives from the Gauteng Association of Local Authorities.

These suggested members of the provincial inspectorate should only form its core personnel. If the essence of the inspectorate is in fact the notion of peer review and self-study that Carter

and Sapp have referred to, it supposes that members of the various city police agencies will also have a seat on the inspectorate, perhaps on a rotational basis. The provincial inspectorate should not just be the province's watchdog over city policing. It will also have to accredit services according to uniformly agreed standards and to encourage interdepartmental competition for excellence.

The Ministry of Safety and Security's concept document on metropolitan and municipal policing lists further guidelines for the functioning of the inspectorate. While these are not cast in stone, they represent a point of departure in the debate on the inspectorate. The duty of the provincial inspectorate will be to: report annually on the status of city policing; make recommendations to the MEC for improvement of the services of the city police; recommend and ensure uniform standards of city policing; visit city police services regularly; monitor the investigation of complaints against such services; mediate in disputes involving city police services; receive public complaints against services; ensure that the activities of city police services are co-ordinated with those of the SAPS; and assist the MEC for Safety and Security in applying accreditation for city police services.⁷⁴

This document also distinguishes between mandatory and non-mandatory accreditation.⁷⁵ The mandatory requirements are those required as a minimum to transform an existing traffic and security department into a metropolitan or municipal police service. The non-mandatory requirements are those that will signify a department's service excellence over and above the required bare minimum, and which will serve to encourage competition between departments.

CONCLUSION

Policy recommendations have been made throughout this paper. However, by way of conclusion a broad guideline must be laid out. Extensive revision will need to be given to the newer legislation that ostensibly promotes the establishment of city police services - that is the Interim Constitution and the Police Act of 1995. This must be preceded by a careful reading of the older legislation that had already empowered traffic and security officers to engage in crime prevention. The original impetus for the concept of city policing was provided by the growth of the function of traffic departments from exclusively policing traffic to reacting against crime. The lack of recognition that this historical condition is given in the Interim Constitution and the Police Act of 1995 must be overcome.

The Interim Constitution and the Police Act of 1995 also exacerbate the complexity of formulating new policy, in their failure to establish the authority under which new policy should be formulated. The result is that numerous processes examining the prospects for city policing are already concurrently underway at various authority levels: the national and provincial Executive, national and provincial departments, and metropolitan and local authority levels. This will have to be co-ordinated to ensure that city policing is not retarded by the disparate concerns that arise at these various levels. Finally, democratically elected local councils are under pressure to address their constituencies' most pressing needs. The effective combating of crime has been one of the most important and immediate needs of all communities for some time, and city policing has thus become a *de facto* reality. The legislative process must now be geared towards the formalisation of this reality.

ENDNOTES

1. The term 'city policing' is used to refer collectively to 'metropolitan', 'municipal' and 'local authority' policing. Each is technically distinct, but the term 'city policing' is sufficiently generic to serve the purposes of this paper.
2. Mark Shaw, *Towards Safer Cities? Political Transition and Changing Forms of Policing Control in South Africa*, *African Security Review*, 4(5), 1995, pp. 8-9.
3. Mark Shaw, *Beating the Bobbies or More Bobbies on the Beat?*, unpublished article, 1996, p. 1.
4. A P L Portelli, *Traffic Control in the Metropole*, paper presented to the Local Government Security Association, August and September 1995, p. 3.
5. Gavin Cawthra, *Policing South Africa: The SAP and the Transition from Apartheid*, Zed Books, London, 1993, pp. 70-71; Shaw, op. cit., 1996, p. 1.
6. Cawthra, *ibid.*, p. 70.

7. *Ibid.*, p. 71.
8. Greater Germiston Transitional Local Council, Medium Term Project: Crime Prevention, report by the Chief Executive, 15 June 1995, pp. 120 and 123.
9. Johannesburg City Council, untitled, report by the Committee for the Establishment of a Municipal Police Force to the Management Committee, 2 October 1990, p. 416.
10. *Ibid.*
11. See especially Cawthra, *op. cit.*, pp. 61-63.
12. B F Smit, *Safety and Security in the Metropole*, paper presented to the Local Government Security Association, August and September 1995, p. 6.
13. Kempton Park/Tembisa Metropolitan Substructure of the North East Rand Transitional Metropolitan Council, City Police, undetailed report, 1996, p. 1; Mark Shaw, Partners in Crime? Crime, Political Transition and Changing Forms of Policing Control, Research Report 39, Centre for Policy Studies, Johannesburg, June 1995, p. 90.
14. See for instance, R J M Kruger, Letter by the Director, Public Safety, Kempton Park/Tembisa Substructure, to the MEC, Safety and Security, Gauteng, 12 February 1996, p. 1; also J J Jooste, Letter by the Chief, Public Safety, Midrand Metropolitan Substructure, to the MEC, Safety and Security, Gauteng, 13 December 1995, dealing with "Proclaiming of the Midrand Municipal/City Police Service", p. 1.
15. W S van der Waals, Letter by the Executive Director, Community Safety to the Town Clerk, Pretoria, 22 November 1995, raising questions on article 11 of the Standing Orders, p. 1; also W S van der Waals, Performance Report 2: 1994/1995 Financial Year, report of the Executive Director, Community Safety, 4 April 1995, part 5.
16. B van Rooyen, Local Policing, Transitional Council of Greater Germiston, first concept document, 1 December 1995, pp. 5, 9 and 14.
17. Kempton Park/Tembisa Metropolitan Substructure, *op. cit.*, p. 1; J J Jooste, Metropolitan/Municipal Policing: Midrand Metropolitan Substructure Proposal, report by the Chief, Public Safety, Midrand to the MEC, Safety and Security, Gauteng, 9 October 1995, p. 3.
18. M Tarbitt, The Functioning of Metropolitan and Municipal Police Services in a New Constitutional Dispensation, report to the Chief, Efficiency Services, SAPS, [n.d.], pp. 21, 23 and 24.
19. M J A Bester, Positionering vir Metropolitaanse Polisie, paper presented to the Local Government Security Association, August and September 1995, p. 5.
20. Van Rooyen, *op. cit.*, December 1995, p. 6; Kempton Park/Tembisa Substructure, *op. cit.*, p. 2.
21. See also Van Rooyen, *ibid.*, p. 13.
22. *Ibid.*; Kempton Park/Tembisa Substructure, *op. cit.*, p. 2; Jooste, *op. cit.*, October 1995, p. 3; Greater Germiston Transitional Local Council, *op. cit.*, p. 136.
23. CSIR, Verkeerspolisiëring: Die Ontwikkeling van 'n Voorlopige Mannekragsmodel, Technical Report DPVT 85, Division: Roads and Transport Technology, Pretoria, 1989.
24. C Stephens, Proposal for Implementation of an Eastern Metropolitan Police Department, report to the Sandton Metropolitan Substructure of the Greater Johannesburg Transitional Metropolitan Council, 25 January 1996, p. 4.
25. Jooste, *op. cit.*, October 1995, p. 3.
26. Greater Germiston Local Council, *op. cit.*, p. 135.
27. Kempton Park/Tembisa Metropolitan Substructure, *op. cit.*, p. 4.
28. Department of Constitutional Development, Resumé of the Meeting of the Task Group on a Proposed Municipal/Metropolitan Police Service, 5 March 1996, p. 4.
29. *Ibid.*, p. 7.
30. Johannesburg City Council, *op. cit.*, p. 422.
31. Tarbitt, *op. cit.*, p. 14.
32. *Ibid.*, p. 16.
33. *Ibid.*, p. 21.
34. *Ibid.*, p. 23.
35. *Ibid.*, p. 33.
36. A A Bruce-Brand, Functioning of Metropolitan and Municipal Police Services in a New Constitutional Dispensation, undetailed report, 1994, p. 4.
37. Bester, *op. cit.*, p. 9 (translated from Afrikaans).

38. Van der Waals, *op. cit.*, November 1995, p. 3.
39. Edenvale Substructure of the North East Rand Transitional Metropolitan Council, Implementing of a City Police Service, report by Traffic Services, 1995, pp. 2, 10 and 11.
40. Democratic Party, Democratic Party Safety and Security Policy, Democratic Party, Johannesburg, 1995, p. 25.
41. *Ibid.*
42. *Ibid.*, pp. 28-29.
43. P Leon, Combating Crime Creatively: A Metropolitan Police Service for Gauteng, Policy Proposal, Democratic Party, Gauteng, 1995, pp. 7-8.
44. Jooste, *op. cit.*, October 1995, p. 3.
45. Department of Constitutional Development, Report of the Workshop on a Municipal/Metropolitan Police Service, November 1995.
46. Van Rooyen, *op. cit.*, December 1995.
47. Shaw, *op. cit.*, June 1995, chapter 6.
48. *Ibid.*, p. 101.
49. *Ibid.*, p. 95.
50. Tarbitt, *op. cit.*, p. 16.
51. Shaw, *op. cit.*, 1996, p. 5; Leon, *op. cit.*, p. 6.
52. Greater Germiston Transitional Local Council, *op. cit.*, p. 126.
53. Jooste, *op. cit.*, October 1995, p. 4.
54. Department of Justice, Letter by the Acting Director General titled 'Comments on the Workshop held on 6 November 1995 on Powers and Functions of a Proposed Municipal/Metropolitan Police Service', 10 January 1996, p. 2.
55. Shaw, *op. cit.*, June 1995, p. 95.
56. Department of Justice, *op. cit.*, p. 2.
57. Shaw, *op. cit.*, June 1995, p. 92; Shaw, *op. cit.*, 1996, p. 2.
58. C Thornhill, Metropolitan Government: Governing and Administrative Issues, paper presented to the Local Government Security Association, August and September 1995, p. 4.
59. Durban City Police, Policing of the Greater Durban Metropolitan Area, memorandum, 13 December 1995, p. 7.
60. See especially Jooste, *op. cit.*, October 1995, pp. 3 and 4.
61. Durban City Police, *op. cit.*, 1995, pp. 5-6; Durban City Police, Division of Responsibilities: Metropolitan Police and Municipal Protection Services/Traffic Departments, memorandum, 28 February 1996, pp. 1-2.
62. See also Durban City Police, *ibid.*, 1996, pp. 2 and 3.
63. Gauteng Ministry of Safety and Security, Concept Document Metropolitan and Municipal Policing, February 1996, p. 11; also T J Walter, Metropolitan Police: A Comparative Viewpoint, paper presented to the Local Government Security Association, August and September 1995, pp. 4-5.
64. Edenvale Metropolitan Substructure, *op. cit.*, Annexure A, B, and E; B van Rooyen, Metropolitan Policing: Specialist Functions, undetailed report, 1995, Annexures.
65. Jooste, *op. cit.*, December 1995, p. 5; Edenvale Metropolitan Substructure, *op. cit.*, p. 11; Van Rooyen, *op. cit.*, 1995; Portelli, *op. cit.*, p. 7; Shaw, *op. cit.*, 1996, p. 5.
66. Durban City Police, *op. cit.*, 1995, p. 11.
67. Van Rooyen, *op. cit.*, 1995, p. 9.
68. Van der Waals, *op. cit.*, November 1995, p. 4.
69. Greater Germiston Transitional Local Council, *op. cit.*, p. 131.
70. See Stephens, *op. cit.*
71. Kempton Park/Tembisa Substructure, *op. cit.*, p. 4.
72. Stephens, *op. cit.*
73. D L Carter and A D Sapp, *Issues and Perspectives of Law Enforcement Accreditation: A National Study of Police Chiefs*, Journal of Criminal Justice, 22(3), 1994, pp. 195-196.
74. Gauteng Ministry of Safety and Security, *op. cit.*, pp. 14-15.
75. *Ibid.*, p. 16; also B van Rooyen, The Accreditation Program for Law Enforcement Agencies, paper presented to the Joint Task Group on Traffic Policing, 1994, p. 2.

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