

Conference Report
Policing in South Africa
2010 and beyond



Compiled by Gareth Newham and Amanda Dissel
Kloofzicht Lodge, Muldersdrift, 30 September and 1 October 2010



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Acronyms

AC	Audit Committee	JOC	joint operation centre
ACS	Anti-Corruption Strategy	MACC	Minimum Anti-Corruption Capacity requirement
ACU	Anti-Corruption Unit	NATJOC	National Joint Operation Centre
CCR	Centre for Conflict Resolution	NATIS	National Traffic Information System
CCU	Crime Combating Unit	NCOP	National Council of Provinces
CFPP	Corruption and Fraud Prevention Plan	NCPS	National Crime Prevention Strategy
CID	City Improvement Districts	NGO	non-governmental organisation
CJS	Criminal Justice System	NIA	National Intelligence Agency
COGTA	Cooperative Governance and Traditional Affairs	NPA	National Prosecuting Authority
COSATU	Congress of South African Trade Unions	NRC	National Risk Committee
CSVR	Centre for the Study of Violence and Reconciliation	NYPD	New York Police Department
DPCI	Directorate of Priority Crimes Investigation	OCU	Organised Crime Unit
DPSA	Department of Public Service and Administration	POP	Public Order Police units
FCS	Family Violence, Child Protection and Sexual Offences units	POPCRU	Police and Prisons Civil Rights Union
FIFA	Federation of International Football Associations	PPAC	Police Policy Advisory Council
HSRC	Human Sciences Research Council	PROVJOC	Provincial Joint Operation Centre
IBC	International Broadcasting Centre	RAPCAN	Resources aimed at the Prevention of Child Abuse and Neglect
IBIS	Integrated Ballistic Identification System	SANAB	South African Narcotics Bureau
ICC	Intelligence Cooperation Centre	SANDF	South African National Defence Force
ICD	Independent Complaints Directorate	SAPS	South African Police Service
ICT	Information Communications Technology	SARPCCO	South African Regional Police Chiefs Cooperation Organisation
IDASA	Institute for Democracy in Africa	SARS	South African Revenue Service
IPCC	International Police Cooperation Centre	SDIP	service delivery improvement programme
IPID	Independent Police Investigative Directorate	SSSBC	Safety and Security Sectoral Bargaining Council
IS	information systems	SVC	Serious and Violence Crimes Unit
ISS	Institute for Security Studies	UMAC	U Managing Conflict Organisation
JCPS	Justice, Crime Prevention and Security Cluster	UN	United Nations
		VIP	very important person
		WC	FIFA World Cup

Day One

Thursday 30 September 2010

Welcome address:

- Dr Jakkie Cilliers, Executive Director, Institute for Security Studies

Session I: Overview of policing in 2010 and the vision for the future

- The Honourable Nathi Mthethwa, National Minister of Police
- Lieutenant General Mzwandile Petros, SAPS, Gauteng Provincial Commissioner
- Professor Elrena van der Spuy, Centre of Criminology, University of Cape Town

Session II: Shoot to kill: legislation and policy approaches in relation to the use of deadly force by police

- Major General (Dr) Tertius Geldenhuys, SAPS Legal Division
- Mr David Bruce, Centre for the Study of Violence and Reconciliation

Session III: From a service to a force – is the SAPS militarising? Understanding the dynamics of police discipline and rank

- Mr Nathi Theledi, General Secretary, Police and Prisons Civil Rights Union (POPCRU)
- Professor Anthony Minnaar, School of Criminal Justice, University of South Africa

Session IV: Policing and the FIFA World Cup: what lessons can be learned for policing in the future?

- Lieutenant General André Pruis, SAPS Deputy National Commissioner Operational Services
- Dr Chris Botha, (Major General, retired) Consultant on police training

Session V: Police strategy beyond 2010 and lessons from the past

- Colonel Johan Schnetler, SAPS Strategic Management
- Dr Johan Burger, Crime and Justice Programme, Institute for Security Studies

Opening

DR JAKKIE CILLIERS

Executive Director, Institute for Security Studies

Dr Cilliers officially opened the workshop and began his presentation by noting the many exciting developments in policing in the recent past, starting with the appointment of the Honourable Minister Nathi Mthethwa and the National Commissioner of Police, General Bheki Cele. He reflected that their appointments had contributed to a new dynamic in the police service. In particular he noted that the minister had referred to developing constructive partnerships in policing and dealing with crime.

Dr Cilliers briefly sketched the background of the Institute for Security Studies (ISS), stating that it was one of the largest independent research organisations in Africa, with offices in four countries and projects in 40 different countries in 2009. Besides its studies on crime and justice in South Africa, other ISS programmes focus on international crime, peacebuilding and conflict prevention in Africa, as well as organised crime and money laundering, and corruption and governance.

As an example of the regional crime focus, Dr Cilliers noted that the ISS had recently completed a survey on the state of organised crime in southern Africa for the South African Regional Police Chiefs Cooperation Organisation (SARPCCO), and has a programme on cattle rustling at its Nairobi office. The ISS has worked through the SARPCCO structures in Harare on a number of projects and has helped raise funds to support capacity building across Africa. In this regard, the ISS has supported SARPCCO capacity building with training and developing training materials on UN peace building, HIV/Aids and policing, and by producing a course on small arms and one on counterterrorism. Some of this support has been through training-the-trainer programmes, whereas other interventions have been at broader multi- or bilateral levels. The ISS has been working on crime, justice, correctional and policing issues since the mid-1990s. It has worked closely with governments in conducting research and analyses of various issues.

Dr Cilliers remarked on the current willingness of governments for greater engagement with civil society. He said that the purpose of this conference was to build on this sentiment by bringing together the different stakeholders, including policing practitioners, policy experts, academics, and civil society organisations to share ideas

on policing in South Africa, and to discuss their respective roles and contributions. He noted that the deliberations of this conference would be captured in a report and would be available on the ISS website. It was intended that the report provide a useful basis to take stock of the current situation in policing, as well as to serve as a basis for engaging with future initiatives. He said that there was a need to reconsider policing transformation as well as for a new policy document that would provide guidance on how to reduce crime, given the current challenges. The White Paper on Safety and Security 1999–2004, adopted in 1998, was now out of date and important policy shifts had since occurred. Any new policy document should be drafted following assessment, research and consultation about the current and future challenges.

Politically, the 2009 administration signalled major policy shifts, such as strengthening the police's response to crime through proposed amendments to section 49 of the Criminal Procedure Act and attempts to improve supervision and discipline by reintroducing military ranks. Recent initiatives to tackle corruption and organised crime by establishing a Directorate for Priority Crime Investigations (DPIC, also known as 'the Hawks') and strengthening the Independent Complaints Directorate (ICD) and the national Civilian Secretariat of Police were further examples of this trend. Dr Cilliers noted that the police had successfully ensured security during the 2010 FIFA World Cup and that the lessons learned then could be applied to the policing of public protest action and violence. However, it had to be noted that there were key differences between policing the World Cup and reducing violent organised crime and interpersonal violence.

Dr Cilliers said that the ISS's work had shown that increases in the Gini coefficient as a measure of income inequality posed new challenges for Africa. He said that it was clear that the South African Police Service (SAPS) could not combat crime on its own. Crime is a societal problem that requires the mobilisation of everyone and the government must seriously consider the interests of its citizens, including the sharing of information on crime statistics.

In closing, Dr Cilliers welcomed everyone to the conference, and said he looked forward to insightful and stimulating debate.

Overview of policing in 2010 and the vision for the future

THE HONOURABLE NATHI E MTHETHWA
National Minister of Police

After greeting the guests, the Honourable Minister of Police expressed his pleasure at being invited to address the conference. He viewed the conference as coming at an opportune time since he had recently released the annual crime statistics to the nation. He saw this conference as an opportunity to reflect on strategies and share thoughts geared to defeating the scourge of crime. Such conferences are crucial to helping the government shape its approach to policing. However, conferences must not be mere 'talk shops', but should aim to contribute to tangible solutions and policy frameworks.

The Minister expressed his appreciation for the efforts made by communities, institutions, researchers and other stakeholders throughout South Africa to address various challenges, including that of crime. He recognised that the government needed to join hands with its partners in order to win the war on crime. The government is committed to adopting a tough, yet smart stance to fighting crime, while holding firm to its commitment to a community policing philosophy.

The government's crime statistics corresponded closely with data gathered from independent sources such as the business sector. The government therefore appreciates and recognises the role played by its partners in reducing crime. Minister Mthethwa emphasised that he was optimistic that these relations would go from strength to strength. He then presented an outline of the government's multifaceted approach to tackling crime.

- **Review of the criminal justice system:** This review stems from recognising the interrelationship between all aspects of the criminal justice system and aims to clarify the roles of all players in the value chain, from

the police, justice and corrections, to home affairs.

It is for this reason that the criminal justice cluster participants have signed service delivery agreements to give concrete expression to the key areas of delivery required by the review.

- **Improving policing and systems of policing within the country:** The government has a clear vision of the kind of police service required. This informs the measures it is putting in place to improve policing and policing systems. In any policing set-up intelligence is a nerve centre and plays a crucial role. Therefore, the need to revitalise the intelligence component of the SAPS has been prioritised to ensure the integration of intelligence into all aspects of policing.
- **Strengthened detective arms in fighting crime:** Equally, SAPS is continuously making efforts to improve the skills of and capacitate the detective service. This means not only increasing the number of detectives, but also improving the quality of those recruited. The Hawks have been established to address organised crime and have already yielded significant successes. However, more attention must now be given to improving general detective services.
- **Capacitating forensics:** This is a key priority as the detective service cannot be strengthened without equally addressing SAPS' forensic capacity. It is not simply a matter of purchasing new equipment or employing new staff, but rather SAPS has developed a clear plan incorporating the monitoring of an evaluation process. This plan includes both international experience as well as tangible outcomes to ensure that the targets set are achieved over the next five years.
- **A lasting security legacy of the 2010 FIFA World Cup:** The successful hosting of the FIFA World Cup demonstrated that working smarter can have

a significant impact on safety and security. The opportunity provided by this experience has laid a basis for SAPS to utilise both the experience and the infrastructure created for the event as part of its general approach to fighting crime. It has become important to ask what type of police officer is needed in SAPS. Now the emphasis is being placed not only on the type of people being recruited, but also on the training being provided. Significant advances will be seen in both these areas during the next year.

- **The triple C approach:** Key to addressing service delivery in the police force is to ensure that there are no lazy police officers. To achieve this a concerted focus has been placed on what has been termed the ‘triple C approach’. The methodology of this approach consists of the following components:
 - The need for greater *command and control* within the police service. This includes the management of members at provincial and national level. Management is not only about issuing instructions, but includes managing how these are implemented. Station commissioners cannot manage from their laptops at home. They must be on the ground overseeing the station daily, be in touch with the community and community policing forums and, most importantly, they must lead by example. Managers must be held accountable and must assert discipline throughout the police service.
 - There must be greater *coordination* between different components of the police service. All the different components need to be working together and supporting each other: everyone is in this service together and not as individuals.
 - The final ‘C’ stands for improving internal and external *communication* in the police service. Once the police have arrested criminals, they must communicate this to society.
- **Tougher stance on crime and a balanced approach:** The government is taking a tough stance against criminals, but this is being balanced by ensuring that all police embrace a human rights culture and uphold the constitution. It is important that police officers are seen to be serving society and that they inspire confidence in the people on the street. It is also important to inspire confidence in those who are undecided about their careers to encourage them to join the police service and not dampen their enthusiasm with reports of corrupt police officers. Police officers must uphold the Constitution at all times.
- To ensure this balance, measures have been put in place to strengthen civilian oversight through new legislation regarding the Independent Complaints Directorate and the Civilian Secretariat for Police.
- **Fostering partnerships with various stakeholders:** Over the past year, the national secretariat had established a partnership unit to strengthen partnerships with communities. This resulted from acknowledging that currently effective crime prevention depends on partnerships and a multi-agency approach. This move will help the government to maximise its strengths and minimise its weaknesses. Categories showing a decrease in crime statistics are those where strong and effective partnerships operate.
- **Addressing the most vulnerable in society:** A major responsibility of the police service is to address the security needs of the most vulnerable sectors of society. To this end the Family Violence, Child Protection and Sexual Offences units (FCS) have been reintroduced and the focus on children has been intensified through the Child Justice Act.
- **Protecting rural communities:** A new rural safety strategic plan is in place that goes beyond focusing on farm killings and murders and looks at the broader issues of rural safety. It is important that the authorities address the configuration of police stations to improve rural people’s access to police stations. The SAPS is also committed to ensuring the implementation of sector policing.
- **Ridding society of illegal firearms:** Firearms were used in more than 70 per cent of aggravated robberies, therefore it is important for the police to work with both communities and firearm owners to find a solution to the problem of illegal firearms. More visible policing is helping the police to intensify their seizure of firearms. The police service is also addressing the weaknesses in its management of firearms, including introducing the integrated ballistic identification system (IBIS) testing of all SAPS firearms.
- **Drug trafficking:** The police are cautious about the increase in the quantity of drugs seized, as this could be the result of successful policing and the work of the Hawks, or it could be due to an increase of drugs in circulation. There is a need for effective partnerships between the government and non-governmental organisations to address this particular problem.
- **Research:** The Minister acknowledged that organisations such as the ISS had played a key role in undertaking research and providing insights into fighting crime, and he encouraged these organisations to continue with their research. He said that further research should include the analysis of issues such as crime-motivating factors like greed and selfishness; disproving the common belief that only poor people commit crime; and the displacement of crime from one place to another in response to security measures. He encouraged locally based researchers to probe the

violent nature of crime. He particularly commended institutions such as the ISS, who have, in the last two years, been exemplary in providing objective analyses and input to help defeat the scourge of crime. The Minister acknowledged that these organisations had desisted from polarising the crime debate and grandstanding, but had rather ensured that they provided valuable feedback and suggestions to government. While the government could never expect independent organisations to sing its praises, nevertheless it was appreciated that where the government had done well, for example during the recent crime statistics announcement, the ISS had remained objective, honest and complimentary.

- The Minister concluded that although there are no 'quick fixes' to dealing with the challenges of policing in South Africa, he believed that various processes that had been implemented in the past year had begun to yield some success. He noted that these would become the building blocks for the type of police service envisaged for the future. He ended by challenging society to support the call for a pragmatic, robust and tangible approach to the fight against crime. This, indeed, is what gives hope and profound confidence that South Africa has a bright future.

LIEUTENANT GENERAL MZWANDILE PETROS

SAPS, Gauteng Provincial Commissioner

Lieut. Gen. Mzwandile Petros, the newly appointed Gauteng Provincial Commissioner of the SAPS, presented the SAPS mission for 2010 and its vision for 2020. He stated that each year the police service is given a bigger budget and the community then expects the SAPS to use these funds correctly. Therefore, he said, the police are required to run the SAPS as a business where it has happy clients who want to revisit the business. The police are required to translate their budget into service delivery, which, in the public sector, is informed by the Batho Pele principles. These are consultation; setting service standards; increasing access; ensuring courtesy; providing information; openness and transparency; redress, and value for money.

The Lieut. Gen. noted that Gauteng had a high rate of crime and that there were many guns in circulation. Having travelled throughout Gauteng during his first month in office to gain an understanding of the needs of the community, he realised that a safer Gauteng would contribute to a safer South Africa. The Gauteng policing strategy therefore follows the Batho Pele principles to ensure service delivery in action.

In particular, there is a need for principled policing. It has been noted that the public wants better access to services; greater police visibility; a quick response time;

police with integrity; the proper investigation of crime; and increased safety. There must be better access to police stations. Stations must be closer to where people live so that they can go to stations easily to report crimes. The police are the first line of approach for the community, and more police stations need to be established to make services more accessible. Therefore, six new police stations were built in Gauteng in 2010.

There is also a need for a geographical approach. The police need to ensure that they deal with problems where they arise, and that their actions do not cause the problems to be displaced from one place to another. There should also be interprovincial cooperation.

Lieut. Gen. Petros said that a proactive strategy must be put in place to deal with corruption in the police service. He said it was important for the building of credible partnerships with communities for the police to be seen to be doing something about corruption and also to communicate this to the public. During September 2010, 30 police officials had been arrested.

He further maintained that police visibility was a deterrent to crime. One way of implementing this strategy was to continue with sector policing. This involved dividing each police precinct into smaller, manageable areas. In each precinct there should be 52 police vehicles on patrol so that one would see at least one police vehicle every ten minutes. He stated that there were sufficient resources in the police service to do this, but queried whether these were being optimally used. He also indicated that there should be a smart approach, as well as fast cars to apprehend people on the national roads and freeways.

The provincial command centre has an operations room that manages all vehicles and enables the police to monitor the whereabouts of all their vehicles. The call number 10111 is responsible for dispatching vehicles on the freeways as well as those in the precinct. There are norms for the time it should take to respond to reported crimes. For example, a hijacking must be reported to the 'war room' within 20 minutes of the initial report so that the police can start to analyse what has happened. There should also be focused deployment of the flying squad.

Lieut. Gen. Petros also spoke about the surveillance support centre, which conducts electronic surveillance. He stated that Gauteng had many cameras, but that the information captured on these cameras was not being reported to the police. He noted that there were resources to fight crime, but they needed to be better utilised. The surveillance centre aims to integrate all the cameras and have people physically observing the feedback and reporting it to the police. According to Lieut. Gen. Petros, there should be 28 operations rooms nationally, with

five in Gauteng. These must interact with the provincial command centre.

With regard to investigating crime, Lieut. Gen. Petros said that an integrated approach was the only solution. The command centre should become familiar with the modus operandi of every criminal syndicate and establish good communication between the police and other agencies. Detectives, in turn, need to use a focused approach when investigating crime in order to put criminals behind bars.

Currently, the police are working closely with non-governmental organisations (NGOs) on re-establishing the Family Violence, Child Protection and Sexual Offences units (FCS units). At present, there are 20 units in Gauteng, and another two are in the process of being established.

In terms of police corruption, Lieut. Gen. Petros was of the opinion that the problem does not lie with the media and media reports. There is corruption among the police, but the concern is that there are many officers to monitor, as well as private security companies. He noted that often private security employees had no respect for the code of conduct.

According to Lieut. Gen. Petros, it is important to develop key principles to guide commanders and to help them become leaders. The police need to build partnerships. They also need to improve their physical and mental condition – here he referred to a gymnasium in Gauteng that is intended to help institutionalise a culture of physical training.

In closing, Lieut. Gen. Petros asked how one could measure a reduction in crime. He posed the question: ‘What will it be like when it is safe?’ In answer he said that one would know when it was safe when one was able to walk out of one’s office in Parktown, walk through Hillbrow and to the place where one stays without incurring any harm.

ASSOCIATE PROFESSOR ELRENA VAN DER SPUY
Centre of Criminology, University of Cape Town

Prof. van der Spuy stated that over the past 20 years there had been much discussion on the police and policing in South Africa. Participants had also come from other countries to share their experiences, and in this way, she said, South Africans had learned that our country was not alone in the quest for a system of policing which is more humane and responsive to the needs of ordinary people. It had also become apparent that the reform of security agencies was difficult, and that enlightened rhetoric did not translate easily into democratic practices.

The political space for engagement on policing opened up only in the early 1990s. The first time this occurred was at a conference in Durban in 1991, entitled ‘Policing the conflict in South Africa’, which resulted in a book edited

by Antony and Mary Mathews and Philip Heymann. This book deals briefly with the past, while its main focus is on the future. It draws on the experiences of police restructuring in the United States, Britain, Northern Ireland and Namibia. Prof. van der Spuy observed that since 1994 there had been a staggering number of discussions on an ever-widening range of topics relevant to policing, and that a new generation of research and policy-based institutions interested in crime and policing had emerged. Examples included the Institute for Democracy in Africa (IDASA); U Managing Conflict organisation (UMAC); the Centre for the Study of Violence and Reconciliation; the Centre for Conflict Resolution (CCR); the Institute for Security Studies (ISS), and tertiary-based research units, all of which had contributed to the development of an indigenous, substantive body of research.

Prof. van der Spuy welcomed the growth of studies on policing in South Africa, pointing out that they span a considerable breadth and depth, and are characterised by thematic and research methodological diversity, and have a very strong applied and policy-based orientation. She noted that there had also been some innovative attempts at re-imagining and reconceptualising the police, and the function of policing in an age of diversification and commoditisation.

In her view the conference presented an opportunity to take stock of developments, to assess where policing stood in 2010 and to identify challenges for the future. Although the questions posed in 2010 are similar to those posed in earlier years, the prevailing social and political conditions are now different. The bold optimism of the earlier years has given way to greater realism and pragmatism. Nevertheless, there was every reason to celebrate both on account of the growth in research over the past 20 years, and because an organisation such as the ISS could organise this conference, which would allow for interactive policy dialogue between the police, policy analysts and researchers.

Prof. van der Spuy then traced the evolution of policing research from 1990 to 2010, dividing it into five phases:

- The first phase belonged to the decade of political and state repression of the 1980s. At the time the study of the police was sharply divided by the deep ideological cleavage between ‘Police Science’ developed at Afrikaans-medium universities and the ‘Critical Policing Studies’ of the liberal English-medium institutions. The latter focused on the excesses of apartheid policing and the routine use of violence.
- The second phase was ushered in by the political liberalisation of the 1990s. Generous spaces opened for real debate about the historical legacies of apartheid

policing, and conceptual debate about desirable models of policing beyond apartheid took place. Many international visitors helped to inform these discussions, and there was much focus on human rights and community policing.

- The third phase involved constructive engagement with the actuality of police reform. Policy-orientated discussion formed the bulk of the discussions, which were more concerned with legitimacy and accountability, than with the idea of police effectiveness. Green papers and white papers were produced and numerous policy briefs and frameworks crafted. These dealt with issues such as community policing, public order policing, equity, crime prevention strategy, accountability, oversight, use of force, victims' rights, domestic violence, abuse of children, internal discipline and corruption in the police. However, this soon led to policy fatigue and disengagement by the police from discussions with civil society.
- In the fourth phase, researchers began to confront the dilemma of 'transitional policing'. A more comparative angle was adopted to look at the 'structural restrictions' to change. It was acknowledged that policing in the South African society was a function of the country's fractious past, 'uncivil' present and an uncertain future. While much had changed, much had also stayed the same. Analysts realised that while the

national police service played an important role, so did the private sector and self-help community actors.

- The fifth, and current, phase is one of innovation and bold experimentation. There is a new genre of policing research, which is bottom up, inside out and outside in, and which has succeeded in bringing raw, actual experiences and the perceptions of the police in their everyday work to the nation's attention. Prof. van der Spuy cited the research of people such as Antony Albeker, Jonny Steinberg, Monique Marks, Andrew Brown, Andrew Faull and former Commissioner of Police, Johan van der Merwe, whose work has contributed to a better grasp of the actual dynamics of the policing experience.

In closing Prof. van der Spuy noted that one should celebrate the ISS initiative to create the space for dialogue during this phase where one can think about the kind of intellectual partnerships that will guide cooperation between the police and researchers in the future. Where these types of spaces were closed in the past, they appear to have re-opened. The country appears to have come full circle and to be asking researchers to engage constructively again. She stated that it was important to seize this opportunity, but to do so thoughtfully and to uphold the principles of intellectual integrity and political transparency.

Session II

Shoot to kill

The use of deadly force by police

MR DAVID BRUCE

Centre for the Study of Violence and Reconciliation

Mr Bruce's presentation focused on the recent debates in relation to changing section 49 of the Criminal Procedure Act governing the 'use of deadly force to affect an arrest'. He started his presentation by stating that the debate could be said to be about the right to flee, but he pointed out that this is an implied rather than an explicit right. It implies that if a person commits an offence and wishes to avoid apprehension, he or she may flee. However, the constitution provides for the limitation of this right, which may include the police (or a private person in some situations) being able to run or drive faster than the suspect and being able to apprehend him or her, or where the police believe that they cannot apprehend the suspect, they can shoot at him or her to prevent flight. This involves the use of force, and may result in the person being killed. However, he questioned whether it is justified in a democratic society to shoot at a fleeing suspect in any situation, and if so, in what situations it would be. Secondly, he asked whether the level of violent crime in society would impact on the answers to these questions.

Mr Bruce pointed to four approaches to legal provisions for the use of lethal force commonly found around the world:

- Generally, most jurisdictions recognise the principle of self-defence, where a person may use lethal force only in situations of self-defence, and where there is an immediate or imminent threat. Where this is the only principle, lethal force cannot be used against a fleeing suspect, as he or she no longer poses an immediate risk.
- The future danger principle, which is embodied in the current section 49, allows for the use of lethal force

against a person in self-defence or if there is reasonable belief or suspicion that a person poses future danger of death or serious harm to another person.

- The third approach is the principle permitting the use of lethal force in self-defence or on a reasonable belief or suspicion that a person has committed a serious violent offence in the past (involving death or serious bodily harm). This principle is espoused in the court cases of Govender (in the Supreme Court of Appeal) and Walters in the Constitutional Court.^{1,2}
- The fleeing felon rule, which is embodied in the old section 49, allows lethal force to be used on the belief or suspicion that the person has committed any kind of offence for which he or she may receive a sentence of imprisonment of six months or more.

According to Mr Bruce, the core of the current debate lies between the provisions of the current section 49, the 'future danger' principle (2 above) and the Govender-Walters principle (3 above). He then compared these two principles.

The key strength of the future danger principle is that it aims to protect people against future harm, whether it is immediate or likely to materialise in the future. In his view, this approach may contribute to greater effectiveness of the police service as the police would be seen to be supporting higher principles, and this could contribute to their greater credibility and support. However, the weakness of this approach is the lack of clarity about what is meant by 'future danger'. This concept is often abstract, speculative and badly formulated. It may be interpreted in an unnecessarily narrow way, which may restrict the use of lethal force by the police, and therefore lose favour with them.

On the other hand, the Govender-Walters principle provides more clarity in its wording. The notion that a

person has committed a serious violent offence is more concrete and easier to understand. It appears to promote effective law enforcement and may encourage greater accountability. However, it is also ambiguous because it is not always clear whether the use of lethal force is justified on the basis of the seriousness of the offence committed, or whether this is really just used as a proxy for 'future dangerousness'. Mr Bruce suggested that sustaining this approach depends on continuing to accept that some people are more worthy of protection from the law than others. This stance may ultimately discredit the police, as it fails to recognise that in a democracy the police need to win public respect by demonstrating their adherence to the highest principle of providing protection to all citizens.

In trying to find a legal provision that would be of the greatest assistance to the police in addressing violent crime, Mr Bruce said that the police need to be able to protect people against violent criminals. However, he said that greater latitude in the use of lethal force may cause more problems for the police as it may lead to increased incidents of unjustified force, which could result in greater conflict between the police and communities.

Mr Bruce suggested an alternative to the Govender-Walters principle to strengthen the legislation. This would entail accepting the future danger principle in a better-clarified form than in the current Act. He suggested the following wording:

Police officers may use deadly force to stop a fleeing suspect only if they have reasonable grounds to believe that the suspect (1) has committed an offence involving the actual or threatened infliction of serious physical injury or death, and (2) is likely to endanger human life or cause serious injury to another unless apprehended without delay.³

Ultimately, Mr Bruce said that the law should make it clear that deadly force should not be used where, firstly, other means of apprehension are reasonably available to the officers, or secondly, it would endanger the lives of innocent bystanders.⁴ In addition, in order to minimise the potential for killings in error, the legislation should emphasise the need for a high degree of certainty about, firstly, the identity of the fleeing person, and secondly, the fact that he or she has been linked to an offence of the kind specified.

MAJOR GENERAL (DR) TERTIUS GELDENHUYS
SAPS Legal Division

Referring to the previous presentations on policing policy by Lieut. Gen. Petros and on the provisions regarding the use of lethal force by David Bruce, Maj. Gen. Geldenhuys

stated that it was necessary to look at these issues in context, and to look at 'how this affects ordinary police on the ground'. He said that operational police officials always ask the question: 'When can I shoot?' He reflected that as a young police officer he had sometimes been in a situation where he had had to decide whether he should shoot or not. At times, this decision had been extremely difficult to make. In each case, he said that he had decided not to shoot, but he was still haunted by those decisions because it meant that some criminals had gotten away and had been able to commit further crimes.

He stated that the legal authority to shoot came from two sources, namely from the principle of self-defence and from section 49 of the Criminal Procedure Act.

For the self-defence principle to be invoked, there must be an attack on a person which is unlawful, directed at a person, and which must be imminent or must have commenced. The attacked person must take defensive actions, which, in turn, must be directed at the attacker, and must be necessary and reasonable. Every single person in the country is entitled to defend him- or herself and a police official is also entitled to defend him- or herself in terms of this defence. Since such defence is not restricted to the 'self' only, it can be used to protect others as well. Self-defence forms part of common law and is not contained in legislation.

Therefore, he said, the provisions of section 49 need to include information on the right to self-defence. Furthermore, Maj. Gen. Geldenhuys stated that because one does not normally have the time to make a decision, it is important that the principles are simple so that a person is able to act automatically after receiving training.

Section 49 provides for the use of non-deadly as well as deadly force. In order to effect the arrest of a fleeing person, the person doing the arresting may use such force as may be reasonably necessary and proportional in the circumstances to overcome resistance or to prevent the suspect from fleeing.

The current wording of section 49 was introduced into the legislation in 1998, but came into force only in 2003. In the meantime, the previous version of section 49(2) had been declared unconstitutional in the Govender and Walters cases, and certain principles governing the use of force had been established. These permit the police to shoot a fleeing person when trying to effect an arrest where the suspect threatens the arrestor or others with violence, or is suspected on reasonable grounds of having committed a crime that involves his or her having inflicted or threatened to inflict serious bodily harm, and there is no other reasonable means of carrying out the arrest, whether at that time or later. This does not remove the right to arrest or kill a suspect in self-defence or in defence of any other person.

Maj. Gen. Geldenhuys reported that the SAPS had adopted a policy decision to the effect that future death or imminent grievous bodily harm could be inferred if a person was reasonably suspected of being a serial killer or serial rapist. He said that this inference could not be applied to people who had previously committed robberies, because there was no specific basis for saying that a person would commit another robbery in the future. Maj. Gen. Geldenhuys further stated that this situation was unacceptable to the SAPS, and experience had shown that it led to uncertainty for officials on duty.

Maj. Gen. Geldenhuys then spoke about what constitutes deadly force. He said that the SAPS had accepted that discharging a firearm at a person constituted deadly force, regardless of whether the shot was aimed at the legs or upper torso. 'Deadly force' could also include the use of any weapon other than a firearm that is likely to cause death or grievous bodily harm. The SAPS have developed guidelines on the use of certain weapons and whether or not they constitute a deadly force.

Reviewing the consequences of the existing section 49, Maj. Gen. Geldenhuys reported that regrettably sometimes a police officer hesitated too long, with fatal results for him- or herself. In addition, criminals often got away. The SAPS had conducted extensive research on the use of force in other comparable democracies and had found that some countries follow the approach of allowing people to rely only on self-defence. However, he said that the danger of this approach was that it had the unintended consequences of some police officers carrying additional weapons that they could plant on a person to legitimise shooting him or her. It was important that legislation be careful not to encourage police to perform underhand actions to protect themselves.

In conclusion, Maj. Gen. Geldenhuys reported that a new section 49 had been drafted and was on its way to Parliament to be considered late in 2010 or early the following year. His final words to the conference participants were to consider the police officials and the instructions they receive when making any comments on the draft legislation.

From a service to a force – is the SAPS militarising?

Understanding the dynamics of police discipline and rank

PROFESSOR ANTHONY MINNAAR

School of Criminal Justice, University of South Africa

Prof. Minnaar said that the militarisation of the police force is that social phenomenon where the police assume attributes that are characteristic of the armed forces. Many police forces had adopted a militarised organisational structure in the early 20th century. These structures were highly centralised and enabled skills training in aspects such as weapons handling and physical fitness to be better organised. Furthermore, they were characterised by a hierarchical chain of command and the use of military-style rank structures, top-down authoritative leadership, uniform outward appearance and internal control through strong internal discipline.

The influence of the military arises from a need for organised safety and security, and it is the military and the police who are the two state institutions authorised to use physical force, including weapons, to provide this safety and security. Whereas the military usually direct their force against outside enemies, usually other armed groups, the police use force primarily against internal ones, usually civilians. However, these two institutions often cooperate on various terrains so that military principles and patterns are often applied to police work.

Militarisation refers to the use of military-style weapons, tactics, training, uniforms and equipment by civilian police departments. This is cause for concern given the different roles of the two institutions and the danger of confusing the two distinct roles and joining them together.

Military-style policing differs from the concept of democratic policing, which is orientated towards upholding human rights and implementing community policing. In contrast, the implementation of military-style police actions is troubling, as these actions are often used in

volatile situations and can be excessively violent and confrontational. Both militarisation and military-style policing tend to be characterised by lines of accountability, command and control, and the use of force.

In the 1960s, concerns were raised internationally that the increased militarisation of the police would not reduce crime, but that it created conflict with the community it was intended to serve. As a result community members became less willing to report crime and to work with the police. By the 1980s, police throughout the world began to move away from a military model of policing to a less military, but more sophisticated kind of professionalism.

Prof. Minnaar reflected that the new approach of community policing allowed for the realignment and broadening of police roles, and provided a wider mandate for interaction with citizens, particularly in pursuit of greater legitimacy, transparency and engaging the trust of the community. However, this has been accompanied by the increasing need for the specialised high-risk police work, such as dealing with drug running, guns, and bank robberies resulting in militarisation within policing agencies.

In South Africa the discussions ahead of the democratic transition in 1994 inevitably centred around the kind of policing that would be appropriate for the country. The constitution, early policy documents and the South African Police Service Act adopted the community policing approach. The human rights-oriented and democratic approach favoured the adoption of civilian-style titles and rank structure. However, as had been experienced throughout the world, the real obstacle to change was the so-called police organisational culture. The military style of thinking and principles of work prevalent in this culture resulted in many police officers finding it difficult to adapt to civilian modes of operation.

Prof. Minnaar argued that minimal change had, in fact, occurred since 1994 and, in particular, pointed to the half-hearted implementation of community policing. The recent change to military-style names and ranks may be seen as an attempt to counter perceptions that community policing was ‘soft’ on crime. In support of the proposed change, the police had argued that a reintroduction of military ranks would encourage stricter discipline and help them once more to ‘fight fire with fire’ in the ‘war against violent criminals’. However, the exponential growth and sophistication of crime syndicates and organised crime suggests that more than strong talk and military-style crime fighting is needed.

A particular shortcoming of this recent change was inadequate consultation, which meant that the country’s earlier history and the associations with the military rank structures under apartheid were ignored. Another problem is the high level of force used by the police at present. Prof. Minnaar stated that militarisation is not a solution to current problems because it does not address the lack of effectiveness in current policing methods, and does not give attention to other community safety initiatives.

South African academics have called for a more holistic approach to combating crime through a coordinated, multi-governance safety and security approach. This means finding a balance between militarisation and community policing, where each draws on the best practices of the other. Finally, Prof. Minnaar suggested that the form of rank names or titles is irrelevant. For effective policing to occur, he argued that a balance between the two approaches is needed in a far greater cooperative and coordinated manner.

MR LBOGANG PHEPHENG

Deputy Secretary General, Police and Prisons
Civil Rights Union (POPCRU)

Mr Phepheng noted in his introduction that POPCRU embraces the concept of moving from a service to a force. He said that the conference presented an opportunity to reflect on the human capital of the police, and commended the police for receiving the Star of Stars Award during the hosting of the FIFA 2010 World Cup.

However, Mr Phepheng expressed his concern that the reintroduction of military ranks in the police was a return to ‘rule by threat’ disguised as instilling discipline. He

said that it was important to reflect on where the country had come from, noting that the police had been central to the maintenance of apartheid, and had been implicated in torture, hit squads and the harassment of apartheid opponents. He said the biggest challenge to the police since the advent of democracy had been to change their image, particularly among the black population, and to learn new methods of policing.

It was important to remember the 1994 ANC policy document on policing in the transition period. This set out the following principles: an impartial, well-trained and competent professional service; non-racial and non-sexist practice; respect for human dignity and the upholding of human rights; transparent decision making; the fair distribution of policing resources; subjecting the police to an independent complaints body, and ensuring the police are accountable to the people they serve. Key to the transformation of the police had been the demilitarisation of police structures, rankings, uniform and equipment to signal change and create conditions necessary for community policing. He said that it was on the basis of these policies that POPCRU opposed the remilitarisation of the police service.

Mr Phepheng pointed out that the SAPS strategic policy for 2010–2014 did not mention the remilitarisation of the police. He referred to the ‘growth path’ launched by COSATU in September 2010, which stressed that it was essential for peace and stability to increase the resources of the police service and improve training in the criminal justice system in terms of culture, methodology and content. He said that the police needed to move away from militaristic and authoritarian behaviour towards a more socially oriented approach, as that would ease their burden, improve their working conditions and make it possible for communities to participate actively in crime prevention initiatives.

Mr Phepheng then referred to the recent ruling of the Safety and Security Sectoral Bargaining Council (SSSBC) on 5 September 2010. It held that the recent change in the SAPS’ ranks was a matter of mutual concern for both management and labour, and therefore should have been referred to arbitration. Finally, Mr Phepheng recalled that a learner in the Free State had recently been shot dead by the police during protest actions, and asked whether this was what the SAPS aimed to achieve through its move towards militarisation.

Session IV

Policing the FIFA World Cup

What lessons can be learned for policing in the future?

LIEUTENANT GENERAL ANDRÉ PRUIS
SAPS Deputy National Commissioner

Lieut. Gen. Pruis spoke about the policing lessons that could be learned from policing during the World Cup. In opening his presentation, he stated that the successful policing of the World Cup primarily lay in the organisational strategy. This had involved timeous and detailed planning. He reported that the first presentation to FIFA on the policing strategy had taken place in 2005. It was important to bear in mind that while there had been talk of principles and operational concepts, there also had to be detailed operational plans for the implementation of each of these.

The strategy involved integrating national security issues, law enforcement issues, and specific safety plans based on FIFA safety guidelines. There were detailed strategic, operational and tactical plans, for instance, for every port of entry into the country, the mapping of all possible routes that could be taken, and identifying the venues where role players were to be accommodated. The operational theatres related to the World Cup necessitated international cooperation with different countries. In this regard, working with the South African Regional Police Chiefs Cooperation Organisation (SARPCCO) had been very successful and there had been a number of national joint operations. Ultimately, he said, it had boiled down to security at the venues where the principle of concentric circles of security was used around all the key venues. This is the principle adopted by the United Nations for security at all their major events.

In terms of force preparation, the SAPS had needed firstly to develop a plan and then to train people to implement it. The training had been specifically related to implementing the strategy. In accordance with the strategic plan and intelligence gathered, the SAPS had used

focused deployments, and in terms of using intelligence and information, the SAPS had adopted a geographic approach. Lieut. Gen. Pruis said that the World Cup had taught the police that there are no static borders. They had conducted a threat analysis to determine where people would be present. This helped them create a feeling of police omnipresence as the police were deployed where the people were and where the crime might occur. State-of-the-art technology, which was among the best in the world, was used. This enabled the police to track every movement of key people and teams. With this technology, he said, one can make South Africa a very small country and use it in the fight against crime.

Intra-departmental, interdepartmental, inter-agency and inter-country cooperation was also important. This created a close-knit team of people working together at the National Joint Operation Centre (NATJOC). This team was able to share ideas and solve problems and to produce results. Lieut. Gen. Pruis suggested that the answer to South Africa's problems may be to put people from different disciplines in a room, throw problems at them and ask them to come up with solutions. He said that there was a lot of information available, and that if people started working together they would find solutions.

Command and control structures were also very important. Participating role players included the SAPS, the South African National Defence Force (SANDF), the metro police, provincial traffic police, the intelligence community, the Department of Cooperative Governance and Traditional Affairs (COGTA), as well as the local organising committees, the hotel industry and the transport sector, weather bureau, and many other departments.

He also recounted the role of the intelligence services, which operated from the Intelligence Cooperation Centre

(ICC). In the planning for the World Cup, the operational personnel told the intelligence community what kind of intelligence they wanted, so it was not for the intelligence community to decide what type of intelligence they wanted to provide to the operational staff. Every day they gave the SAPS risk profiles on a range of issues. Throughout the entire period, South Africa's risk rating did not move from minor, except on two occasions where it reached a high-risk rating, one of these being during the Eskom strike.

The intelligence community also provided tactical intelligence. Following the arrest of an international terror suspect, Interpol furnished the South African police with information that enabled them to issue specific instructions to search bags. Cooperation with foreign police services in the International Police Cooperation Centre (IPCC) as well as other intelligence agencies not only enabled the SAPS to identify undesirable persons, such as the Argentinean soccer hooligans known as the 'Bara Bravas', but also to implement further action including the deportation of 15 of their cohorts.

With regard to border security, the SAPS profiled the entire border and identified all the points where vehicles and people could cross into the country illegally. In certain identified areas, such as on the border of Botswana, the SAPS did satellite imaging and this formed the basis for various operations. The security authorities divided the country's borders into zones, and created border sectors in which various operations were conducted. Joint operations took place with neighbouring countries using a variety of vehicles and vessels. Regional cooperation resulted in the uncovering of various suspect or illegal activities, hence vehicles and vessels were searched. A border air surveillance approach was adopted, which included restrictions on air zones and the use of particular aircraft.

Lieut. Gen. Pruis noted that from 1 June to 14 July 2010 a total of 4 193 725 movements through 34 different ports of entry were identified and prioritised. This was a huge increase on the movements of the previous year. By using new technology, the authorities were able to identify 53 000 cases of lost and stolen passports that were being used by undesirable persons trying to enter the country. At the country's airports, immigration officials used the Interpol system to identify any unwanted persons. Using this approach also resulted in the successful confiscation of counterfeit articles at land ports.

The strategic plan also included 'very, very important person' (VVIP) protection. The SAPS was responsible for the protection of heads of state and the FIFA VIPs. A separate office was established to coordinate the movements of VIPs, and this was linked to NATJOC and their families.

One of the major successes of the 2010 World Cup was the deployment of the high-risk forces. In each city there was a high-risk force, comprising a number of different law enforcement agencies. The main role of this force was to implement the contingency plans. In addition, there were three regional reserve forces in the country that could be deployed if necessary. They were responsible for protecting the teams. The crime intelligence services appointed one of its members to be a close protection officer to give tactical intelligence to the forces deployed with the teams. The Organised Crime Unit (OCU) was responsible for scouting.

Every unit or force under the command and control structure hosted its own rapid reaction force, which the Provincial Joint Operation Centre (PROVJOC) could deploy to any one of its joint operation centres (JOCs), and there was a regional reaction force under the NATJOC that could be deployed under a mobile JOC to assist that force if necessary. Lieut. Gen. Pruis noted that one of the most successful aspects with regard to transport security was that there was no incident involving long-distance rail during the whole of the tournament. Steps had been taken together with the airlines to ensure absolute security.

Lieut. Gen. Pruis also spoke about the strategies that had been used to ensure the security of the road and rail routes in the cities and to the stadiums, and for security at the Fan Fest parks. As a result of these initiatives only 76 incidents had been reported at the Fan parks. He also told of establishing special investigation teams and special courts to ensure that criminal charges brought during the World Cup would be dealt with effectively and efficiently. For example, he recounted that within two days of a robbery being reported the offender was sentenced to 15 years' imprisonment. Furthermore, in cooperation with Interpol and SARPCCO, the SAPS had a contingency plan in place.

In terms of media relations, he congratulated the SAPS on having an excellent crisis communication plan in place. The police had responded to numerous media enquiries and had conducted a daily analysis of the media. With regard to training, he reported that there had been mission-readiness training and that the police had also received crowd management training.

The SAPS had spent R665 million on equipment, which included equipment for the public order policing members, and this had worked as a deterrent. Large numbers of police had been deployed during the World Cup. On the first day 30 173 members had been deployed, and on the last day 34 446. Members of the police service had been required to work on their rest days, and had worked on a shift basis. They were paid for the extra days they had worked.

According to Lieut. Gen. Pruis, one of the best practices had been developing a budget for policing, based on all the various functions. The police had received R640 million for staff deployment and had spent R642 million. This figure included the unanticipated cost of providing security after the Stallion Security company withdrew its services.

With reference to command and control, Lieut. Gen. Pruis reported that the SAPS had compiled a document of standard operating procedures covering 159 procedures, which he described as 'legendary'. He also elaborated on the 'war room', in which there had been a big screen on which he could see exactly where his members were deployed at any one time. The cameras streamed various bits of information and he could watch an incident as it was occurring. He said that these are the 'war rooms' that the SAPS is currently putting in place. He maintained that if the police had 'war rooms' like these, fighting crime would not be so difficult. In his view, the major legacy of the World Cup was the command and control structures that were established during the 2010 World Cup.

Looking at the way forward, Lieut. Gen. Pruis said that key to success was the development of a plan. He proposed planning in clear phases, and delivering accordingly. With regard to the operational aspect, he advocated that a geographical approach be used whereby the nature of a geographical area determines planning and resource deployment. However, for him the most important issue is to develop a high morale among members of the SAPS and to have dedicated commanders and dedicated members. Furthermore, he pointed out that the partnership with the unions and their support had been very important for the success of the World Cup. He also advocated that training be suited to the mission, and suggested that the police learn from their World Cup experience how to manage their budget.

Referring to command and control, he proposed that not only should the SAPS deal with policing in this manner, but that all the country's challenges should be approached in this way. He suggested that all relevant government departments be represented in one JOC at which delegates consider their various challenges and start managing them using an integrated approach.

Lieut. Gen. Pruis ended his presentation by paying tribute to his colleagues who died in a helicopter crash shortly after the World Cup while they were on their way to respond to an armed robbery.

DR CHRIS BOTHA

(Major General, retired), consultant on police training

Dr Botha began his presentation by highlighting that the challenge for South Africa was to take the success of policing the World Cup into the future. He stated that

a STEP (social, technological, economic and political) analysis provided useful insights into why policing had been successful during the World Cup and what was required thereafter.

In terms of the social dimension, the event had raised the expectations of South Africans. It became an issue of national pride to demonstrate that South Africa could host such an event successfully, and by hosting 'Africa's World Cup' could uplift the continent. Sporting codes have already demonstrated their ability to build bridges between people, and in this way hosting the World Cup opened up the possibility of ongoing national healing.

Technologically, the event demonstrated that the police were able to communicate and link systems that supported the gathering and evaluation of intelligence worldwide, including developing a database of known offenders. This enabled the police to prevent 'risk-described' people from entering the country or the stadiums. South Africa spent R665 million on acquiring new equipment, which ensured the country was in a good position to police the event.

On the economic level, in addition to the budget for equipment, the SAPS made a further R640 million available for human resources purposes. This contributed to 44 000 police officials and an additional 10 000 metro police officials being dedicated to the event. The ratio of police to people in the country during the World Cup was estimated at 3:1 000. The country established dedicated courts, made fighter aircraft and cruise ships available, and established joint operational centres with neighbouring countries. Therefore, South Africa was economically prepared to provide security for the World Cup. There was also a strong political will to host the event.

Taking these lessons forward, Dr Botha argued that South Africa would be successful in the fight against crime if the police operated in partnership with the people; if technology was used to advantage; resources were well managed and commensurate with the threat of crime; and political will was exhibited.

Dr Botha then explored how traditional policing concepts were deployed during the World Cup. These included:

- **Police visibility:** the police were highly visible, which may have influenced offenders' choices about whether or not to commit crime. However, visibility is not sufficient on its own.
- **Deterrence:** this is based on the notion of certainty that a person will be apprehended and punished, which is determined by the swiftness of a response and severity of punishment. To increase deterrence, dedicated investigators were deployed and specialised courts established during the World Cup.

Dr Botha argued that visibility and deterrence had a very big influence on the success of the SAPS, although he conceded that useful, independent deductions could only be made after the release of the crime statistics in September 2011.

Dr Botha argued that the authorities need to look beyond traditional policing if the country is to deal effectively with entrepreneurial criminality. Open, innovative, creative and bold policing, such as demonstrated at the World Cup, must be applied against organised crime. The police also need to develop local and global partnerships to deal with organised crime in the global markets, since it crosses borders and represents international crime. An analysis of the success of policing the World Cup demonstrates that it is necessary to move beyond crime statistics and victim surveys to understand the crime challenge. Rather, there is a need

for the triangulation of different sources and forms of information.

In terms of crime intelligence, it is the gathering of information about a particular place that gives it the special quality of 'intelligence'. It is questionable whether the dedicated focus on intelligence during the World Cup rubbed off on operational police and would become typical of all crime operations in the future. Ensuring the sustainability of lessons learned during the event would be challenge. The World Cup is a once-off event, which is unique and exciting, but the focus needs to be sustained for a more lasting impact.

In conclusion, Dr Botha argued that in order to deal with crime, the authorities must look beyond policing to social crime prevention, and look at preventive work with mothers and fathers, structures of education, and must advance the idea of voluntary obedience to the law.

Police strategy beyond 2010 and lessons from the past

COLONEL JOHAN SCHNETLER

Head of Research, SAPS Strategic Management

Col. Schnetler began his presentation by outlining the mandate of the SAPS. He said this is contained in section 205 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996). The objectives of policing are to prevent, combat and investigate crime; to maintain public order; to protect and secure the inhabitants of South Africa and their property; and to uphold and enforce the law. Therefore, the SAPS is responsible for the administration of a number of legislative acts, including the South African Police Service Act of 1995 and other acts related to terrorism, firearms control, explosives, dangerous weapons, access to public premises, national key points, intimidation, and the regulation of private security. He also outlined the various acts that spell out the powers and functions of the SAPS.

Policing policy mandates emanate from the medium-term expenditure framework (MTEF), the justice, crime prevention and security (JCPS) cluster priorities, and SAPS strategic priorities. Other sources for the SAPS strategic priorities for 2010–2014 stem from the President's State of the Nation address, deliberations from the National Commissioner's strategic planning session in September 2009, critical analysis provided by deputy national commissioners, provincial and divisional commissioners, JCPS cluster priorities, conversations with the President, and contributions from various organisations. The strategic priorities provide a broad direction for four years to the police, and they are implemented through specific key actions.

The SAPS operational strategic priorities and key actions for 2010–2014 are as follows:

Crime prevention

- A working group has been established by the presidency to develop measures to reduce crime and assess 'feelings of safety'. Key areas include reducing contact crime and 'trio crime'. He noted that there had been a drop in trio crimes owing to policing operations, and the use of technology and deployment of resources focusing on these crime types (i.e. vehicle hijacking, residential and business robbery). However, there had been an increase in housebreaking (a non-violent property-related crime), which was ascribed to the current economic recession. The re-establishment of family violence, child protection and sexual offences (FCS) units will help to reduce crimes against women and children.
- The visibility of SAPS members will be increased to ensure the implementation of an intelligence-driven, integrated and comprehensive crime prevention strategy. This involves crime pattern analysis and placing resources at points that will prevent suspects from escaping. Other focus areas include reducing the number of illegal firearms and engaging with other government departments.
- Crime perceptions will be managed by mobilising the community in the fight against crime and building a positive image of the SAPS. Victims are to be empowered through the envisaged expansion of victim-friendly facilities that are to be established at all new police stations. The SAPS also plans to undertake an annual national victimisation survey.
- For the effective and integrated management of the country's borders, the SAPS plans to improve regional cooperation and this will contribute to establishing a border management agency.

- To police public disorder or incidents that threaten public security, the SAPS must possess a rapid response capability to intervene in dangerous and potentially dangerous situations.
- The SAPS will address corruption in the service by preventing, detecting and investigating occurrences of corruption in the SAPS, managing the perceived and actual levels of corruption, and engaging in coordinated anti-corruption operations across the JCPS cluster departments. The SAPS will also comply with legislative obligations, such as the Prevention and Combating of Corrupt Activities Act of 2004.
- The SAPS has set a medium-term target of reducing the levels of all serious crime by between four and seven per cent per annum, which should result in reducing all contact crime by 34 per cent, and trio crimes by 31 per cent by 2014.

Investigation of crime

- The SAPS strategic plan emphasises the effective investigation of reported crime and establishing a co-ordinated focus on apprehending and charging known perpetrators across provincial boundaries.
- The Directorate of Priority Crimes Investigation (DPCI) needs to be further capacitated, especially with regard to dealing with crimes such as identity theft, and national priority crimes such as organised crime, commercial crime, drugs, people smuggling, human trafficking, cyber crime and corruption. In this regard, a cyber crime policy has been developed.
- The criminal justice system needs to be improved, especially the arrest and investigation process, the utilisation of intelligence, and the coordination of quality and professional services. The quality and professionalism of detectives also need to be improved. The SAPS has set a medium-term target to increase the detection rate of contact crimes to 57,5 per cent, and that of trio crimes to 31 per cent.
- The SAPS will aid the investigation of crime by improving forensic services and fingerprint collection and analysis, as well as the procedures for updating records of criminals. The SAPS also plans to expand the capacity of the Criminal Record and Forensic Science Services Division.

Crime intelligence

- The SAPS strategic plan provides for the police to collect actionable intelligence on crime priorities in order to improve the chances of prosecution. The SAPS will focus on intelligence operations against syndicates

involved in drug and people smuggling and human trafficking.

- The SAPS also aims to enhance its analysis capacity to improve the quality of its assessments and to improve coordination between crime intelligence and operational divisions ultimately to enhance operational activities.

Human capital development

- The SAPS strategic plan addresses developing and retaining skills. Both the SAPS budget and number of SAPS personnel have increased. However, the SAPS has noted a risk of increased absenteeism, and of members being inadequately monitored, hence the challenge is to instil command and control among members.
- The SAPS views retaining skills as a challenge as it takes time and resources to train specialised police service members, who are often lost when they leave for better salaries.
- The SAPS also plans to be focused in its recruitment of personnel, to ensure the health and wellness of employees, and to transform in terms of racial discrimination, employment and gender equity.

Budget and resource management

- This section of the strategic plan focuses on improving the SAPS' infrastructure, including building new police stations and establishing victim-friendly facilities.
- The SAPS also plans to improve its information systems (IS) and information communications technology (ICT). It will develop a system to ensure that the records and data on crimes involving corruption as well as of victims are collected across the entire criminal justice system.
- The SAPS will follow an integrated systems approach to combating cyber crime.
- The SAPS will also focus on enhancing its asset management, including the management of critical items such as vehicles, firearms and bulletproof vests.

In terms of implementing the various strategies, the SAPS will use the service delivery improvement programme (SDIP), with the aim of improving basic service delivery by ensuring the implementation of the Batho Pele principles within the service.

Besides the SAPS strategic plan, its firearms strategy aims to eradicate the proliferation of firearms available for criminal use in crime and violence in South Africa. The crimes against women and children strategy, on the other

hand, aims to reduce crimes against women and children, as well as the impact of these crimes on women and children. This includes the reactive measures taken by the investigating officer and preventive measures undertaken by the SAPS together with other departments, NGOs and the community. The SAPS has also developed a national instruction to ensure the effective implementation of its responsibilities in respect of the Child Justice Act 75 of 2008.

The corruption and fraud prevention strategy aims to prevent fraud and corruption in the SAPS, through detection, effective investigation and implementing restorative actions to deal with potential shortcomings that may contribute to corruption and fraud. The SAPS' risk management strategy involves finalising the revision of the enterprise risk management framework and includes the risk management national instruction. It also deals with procuring a risk management information system and establishing risk assurance.

Col. Schnetler said that, while the strategic plan addresses a range of new measures and strategies, it is important to assess the implementation of these strategies, an aspect not included in the strategic plan specifically but contained in other documents. He called on participants to help to develop a set of performance measurements. Although targets had been set in some areas, nevertheless it was difficult to measure achievement. For instance, he said that the police had found that convictions were not a good measure of the effectiveness of detectives because of the important role played by the prosecutors. Furthermore, there are major challenges related to measuring police visibility and crime prevention.

DR JOHAN BURGER

Crime and Justice Programme, Institute for Security Studies

Dr Burger's presentation covered the research he and his colleague, Bilkis Omar, conducted into the SAPS restructuring initiative that occurred between 2002 and 2009. One of the outcomes of this restructuring initiative was the closure of a large number of specialised units. Dr Burger introduced his presentation by saying that the research had been undertaken to assess the extent to which the restructuring initiative had achieved its objectives. The presentation was intended in the spirit of constructive criticism. It was now acknowledged that mistakes had been made in the past and some of the units that had been closed were now being reinstated. His presentation looked at the impact of the closure of the units.

The reasons given by the SAPS for the restructuring was that the area administration level was not in line with section 205 of the Constitution, which mentioned only three tiers of government, namely national, provincial and local. It had been argued that the area level

created a duplication of functions and acted simply as a 'post office'. To strengthen capacity at station level, where most crimes are reported and investigated, it was felt that senior and experienced members who were concentrated at provincial and area levels should be moved to the police stations.

Prior to the restructuring, however, concern was expressed that specialisation in the SAPS would be weakened and organisational experience lost if specialised units (that were typically based at area and provincial level) were closed and their members moved to police stations. It was feared that members would be overwhelmed by other investigative demands and that many experienced police officers would leave the SAPS once the restructuring had taken place. This would result in a loss of esprit de corps and would have a negative impact on morale.

The research project aimed to determine the impact of the restructuring initiatives of the SAPS; to see what impact these had on police effectiveness; and to identify what lessons could be learned from the SAPS' approach to restructuring for future policy initiatives. The researchers had intended to conduct interviews with serving SAPS members, but initially approval was denied. Much later, once the research process had been complete, approval was granted. Consequently, the researchers had had to rely on interviews with former members of the specialised units in the SAPS. These were typically people who had left the organisation and were able to speak freely about their experiences. Interviews had been conducted with former members of the Anti-Corruption Unit (ACU), the South African Narcotics and Alcohol Bureau (SANAB), the Serious and Violence Crimes Unit (SVC Unit) and other senior officers. The researchers visited four provinces and studied previous research reports dealing with restructuring. In addition, they had consulted SAPS documents and reports on the restructuring process.

The South African Narcotics Bureau (SANAB) had been phased out between 2000 and 2004, and the Organised Crime Unit (OCU) and station task teams had taken over its functions until 2006. The SAPS' official reasons for closing this bureau were to enhance detective capability to fight organised crime and to improve service delivery at station level. According to the ex-police members who were interviewed, however, the bureau had been closed because of corruption within SANAB as well as a lack of racial transformation. The former SANAB members argued that, following the closure of the bureau, the street-level drug trade had been neglected and there was an increase in drugs such as cocaine and ecstasy. Crime statistics show that drug-related crime increased by 170 per cent from 2000/01 to 2009/10, though this may not all be attributable to the unit closure.

The Anti-Corruption Unit (ACU) was established in 1996 and closed in 2003. The Organised Crime Unit (OCU) and detectives at police stations also assumed its functions. Officially the SAPS argued that addressing corruption was an organised crime function and that police corruption was decreasing. However, former ACU members said that their investigations had identified suspects linked to senior national-level police officials and that this was primarily why the unit had been closed. Police members reported that after the closure of the ACU, the anti-corruption function essentially ceased. Police corruption was investigated haphazardly by various structures and agencies, such as the Directorate of Priority Crimes Investigation (DPCI or Hawks), the Independent Complaints Directorate (ICD), the public protector, the National Intelligence Agency (NIA), the South African Revenue Service (SARS) and the Asset Forfeiture Unit. Information on corruption was no longer collected centrally and there was no longer a single source of information on which to assess the scale of corruption. The restructuring led to the loss of expertise in a unique and complicated area of investigation, and consequently, corruption still remains a substantial problem for the SAPS.

The Serious and Violent Crimes Unit (SVC) was established in 2002 by integrating smaller units such as the Murder and Robbery Unit. Restructuring and reorganising had been an ongoing process that had affected members personally as many had had to move their places of work. In 2006, this ongoing restructuring led to the decentralisation of SVC units to 169 priority stations, with the result that approximately two specialised members were deployed per station. The official reasons for this move were to decentralise expertise on organised crime investigation to station level and improve service delivery. However, the research found that police members experienced the impact of ongoing restructuring as a demonstration of uncertain police management and there was a loss of morale in the organisation. SVC detectives at some stations were overburdened with general investigation, and the specialised detective function was diluted. The SAPS ability to produce new specialists and experts weakened, and while the police were meant to train new members, this very seldom happened. Many SVC unit members left the SAPS or were relocated.

The Family Violence, Child Protection and Sexual Offences Unit (FCS) had been established in 1996. By the start of the last round of restructuring in 2006, there were 49 FCS units and 17 child protection units. Their function was decentralised to accounting stations, which resulted in approximately six FCS investigators being deployed per station. The authorities had intended also to decentralise this type of expertise to the stations. However,

according to a study conducted by Resources aimed at the Prevention of Child Abuse and Neglect (RAPCAN) in 2009, the policy objective to prioritise crimes against women and children could not be realised under the new structure. This was because the national restructuring strategy had been undertaken without specialised management, oversight, dedicated budgets and resources. The restructuring also resulted in confusion and uncertainty among police members and victims.⁵ RAPCAN found that staff who were deployed to work in the FCS units were not suitably trained or experienced, had not undergone special screening or selection and did not necessarily want to work on FCS cases. Some did not have the basic requirements for the job, for example a driver's licence.

The Crime Combating Units (CCUs), also known as the Public Order Police Units (POPs), had been established in the mid-1990s for crowd control management. Initially they underwent restructuring in 2001 and again in 2006. In 2001 their mandate had been adapted to crime combating, with crowd control as a secondary function. The reason given for this was that crime was increasing and public protests were decreasing. They were renamed Area Crime Combating Units and in 2006, following the closure of the area offices, their name was changed to Crime Combating Units. During this period, the number of violent crowd management incidents increased by 47,4 per cent, and peaceful incidents increased by 26,8 per cent. As a result of the restructuring, 50 per cent of the personnel were redeployed to stations and other units. Twenty of the 43 units were closed down. The restructuring affected the CCUs negatively so that they were not able to manage the outbreak of xenophobic violence in May 2008 and had to be assisted by the military. Restructuring had resulted in work overload, longer travelling distances for police members to get to crowd control areas, and poor team spirit. Many of the experienced members resigned as a result of frustration with the process. Former members of the CCUs were then recalled, and the SAPS was forced to rebuild these units.

The SAPS Inspectorate played an important internal oversight and inspection function. It too was restructured. Previously, area commissioners, who were responsible for between 20 to 30 police stations, had performed this function. In 2006, following the closure of the area levels, this role was taken on by accounting stations, but largely became defunct. Presently, this oversight and inspection function is the responsibility of cluster commanders, although it is not clear to what extent it occurs and whether the officers responsible for this function have the capacity to do so. The SAPS needs very experienced police officers to conduct these inspections, to report on findings and to monitor the implementation of recommendations made. A Police Policy Advisory Council (PPAC) report

of 2008 found that ‘at some stations proper inspections have not been conducted for years’. Where there have been provincial inspections, they are mainly limited to administration and support functions. The inspections conducted by the SAPS National Inspectorate in 2009 found a poor standard of criminal investigations in all provinces, mostly on account of a lack of training and skills. The inspectorate also found weaknesses directly linked to poor command and control at station level and the absence of regular inspections.

The researchers drew the following four primary conclusions from their study on the SAPS restructuring initiative and its impact on the organisation:

- Although the SAPS authorities’ intentions may have been good, they undertook the restructuring without adequate research, a clear strategy or meaningful external and internal consultation.
- Any problems identified in a unit should be addressed without necessarily closing the unit down.
- Ongoing and seemingly random changes as a result of the restructuring led to despondency, dissatisfaction, low morale and loss of efficiency and effectiveness throughout the organisation.

- Despite the structures in place, qualified senior members must conduct regular inspections at police stations and of police units to guide the less experienced, hold those who neglect their duties accountable, and continuously address weaknesses.

In conclusion, Dr Burger listed the following recommendations for the SAPS as a result of the study:

- The SAPS should develop a clear strategy to guide police reform over a three to five year period. This could also be part of a White Paper policy process.
- Teams of highly experienced police officials and civilians with proven experience in effective change management should develop this strategy.
- The strategy should be informed by best policing practices both locally and internationally.
- An independent agency should assess the implementation of the strategy and report its findings to the Minister of Police and Parliament.

Day Two

Friday 1 October 2010

Session VI: Tackling police corruption in South Africa: challenges and opportunities

- Mr Andrew Faull, Crime and Justice Programme, Institute for Security Studies
- Major General Pete Arendse, SAPS Directorate for Priority Crime Investigations (the Hawks)
- Colonel Craig Mitchell, SAPS Strategic Management

Session VII: The future of police civilian oversight agencies in South Africa

- Ms Jenni Irish-Qhobosheane, National Secretary, Civilian Secretariat for Police

- Mr Francois Beukman, Executive Director, Independent Complaints Directorate (ICD)

Session VIII: Community policing and policing partnerships in South Africa: current challenges and viable alternatives?

- Ms Julie Berg, Centre for Criminology, University of Cape Town
- Dr Julia Hornberger, Forced Migration Studies Project, University of the Witwatersrand

Tackling police corruption in South Africa

Challenges and opportunities

MR ANDREW FAULL

Crime and Justice Programme, Institute for Security Studies

Mr Faull introduced his presentation by reflecting on his research on police corruption over the years. He said that he had made a similar presentation on this topic three years before and in preparing this presentation he had wondered whether anything would have changed. However, after having listened to the presentations of the Minister of Police and Provincial Commissioner Petros, he concluded that there had been progress. He said that the Minister and the Provincial Commissioner had spoken of a vision of the SAPS free of corruption. While it is important that police leadership provide such a vision, it has to be supported by practical steps to ensure that this message filters down to the ground where it is needed.

Mr Faull cited various studies that had been conducted on levels of trust and corruption in the police. A Human Sciences Research Council (HSRC) social attitudes survey in 2007 had found that only 39 per cent of respondents 'trust' or 'strongly trust' the police. This means that over half of those interviewed did not trust the police. An Afrobarometer study in 2008 had found that 46 per cent of respondents believed 'all' or 'most' police to be corrupt, and 54 per cent trusted police 'just a little' or 'not at all'. The Institute for Security Studies (ISS) Victims of Crime survey in 2007 found that 'traffic fines' and 'policing' were the government-related activities where citizens most often experienced bribery. Focus group surveys conducted by the ISS in 2010 among respondents from various communities in three cities found that there were very low levels of trust in the SAPS and significant experiences of police crime or corruption. Most of the perceptions about the police came from public discourse, such as media-generated discourse and social conversations. The ISS study demonstrated that the perceptions of the police do

improve when civilians come into contact with police who act in a professional way.

Mr Faull then cited various studies that illustrated the police's perceptions of corruption in the SAPS. A Centre for the Study of Violence and Reconciliation (CSVR) study conducted in 2002 had found that 55 per cent of police agreed with the statement, 'Police corruption is a problem at my station', and 32 per cent had said they knew of a police officer involved in corrupt activities. Later research by CSVR in 2004 at 21 Johannesburg stations found 92 per cent of police believed corruption to be a serious challenge facing the SAPS. An interview-based study conducted at three Gauteng police stations by the ISS in 2009 showed that 85 per cent of police believed corruption to be a major problem in the SAPS, and very few knew of any anti-corruption initiatives or structures in the SAPS.

Mr Faull reported that a common refrain he had heard from police officers was that the SAPS had become a job creation factory, and that the right people were no longer recruited for the job. While he did not believe this was necessarily true, he said that he had come across allegations of corruption during the recruitment phase. He had also encountered nostalgia among many police officials for the 'old days' when the organisation had not been seen as corrupt, which, he said, had not come only from white people.

Mr Faull then turned to police leadership, which often frames the discourse about corruption in terms of the rotten apple that spoils the barrel, or which talks about the police as a ship that is designed to leak. The latter perception of corruption is that rather than it being a problem of a few deviant individuals or 'rotten apples', it is more of an occupational hazard or by-product of policing. He said that individuals in the police are given huge

amounts of power and they work in a largely unsupervised manner, yet society expects them to remain honest and upright and to be leaders of the country's democracy.

An illustration of the problem could be found in the report of the Mollen Commission of Inquiry into police corruption in New York City in 1994:

What we found is that 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 a 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.

The SAPS management often talks of corruption as a problem of a few 'rotten apples' and promises to rid the organisation of them. However, he said corruption was a product of failed systems and police cultural practices that develop throughout stations, units, and the organisation more generally. He said that the presentations at the conference had given him hope that the police recognised that corruption was not about 'bad apples' but about the system. He said that the Minister and the Provincial Commissioner seemed to have been talking about gaps in the system of command and control, and to have acknowledged that there were rogue elements in the police that could exploit these.

Mr Faull then explored what is known about the systemic nature of police corruption in South Africa. He referred to research conducted by Julia Hornberger from the Centre for Forced Migration Studies at the University of the Witwatersrand. Researchers had spent much time doing participant observation with the police while they went about their work in Johannesburg. After a while the police officers had stopped trying to maintain a good facade in front of researchers and had acted as they usually did. The researchers could then observe the informal exchanges that took place between the police and community members. According to this study, people often gave the police goods or money, not out of pure friendliness, but because they expected to get something in return.

Mr Faull also referred to the case studies that he had conducted with police officials in Gauteng police stations. When he had asked officers to give reasons for corruption, many had said that poor salaries were the cause, but others felt that poor salaries were not the major problem. Rather they said that the personnel needed to be motivated and there was a need for communication. They also talked about a need for leadership and training. Police

members had complained that if they were not taught how to do their jobs, they had to make up their own work methods, which may involve illicit activities. He said this response spoke of a need to fix the systems in the police rather than the individuals.

The Police Policy Advisory Council report for 2006/07 had noted that station-level discipline in the SAPS was poor, that the codes of conduct and ethics were not being adhered to, and that disciplinary issues were not being dealt with timeously or effectively. It had also noted that corruption was a 'serious concern'.

In light of all of this, it should be acknowledged that the SAPS had made an attempt to deal with corruption since 1994.

- In 1996 the national crime prevention strategy identified police corruption as a national priority. In response to this the SAPS had established a national Anti-Corruption Unit (ACU). Over the five-year lifespan of this unit there had been a consistent increase in the arrests and convictions of police officials until 2002 when the unit had been closed by the previous Police Commissioner. In 2002 the ACU was disbanded and its mandate taken over by the Organised Crime Unit.
- Following the closure of the ACU, the SAPS developed various anti-corruption strategies between 2002 and 2009. This included a service integrity strategy, followed by a corruption and fraud prevention strategy, and later the corruption and fraud prevention plan (CFPP). Mr Faull said that the Police Policy Advisory Council had noted that while many of these strategies existed on paper, there had been little implementation on the ground. He said that there was little or no evidence that any changes had occurred as a result of these policies. His perception was that these strategies had been developed to fill the vacuum left by the closure of the ACU, but had had little impact.
- In 2009 the Directorate of Priority Crime Investigation (DPCI, or the Hawks) had been established to replace the National Prosecuting Authority's Scorpions. He said it had been reported that the Hawks would take over the anti-corruption mandate from the police, but he was cautious about the likely impact of this as the Hawks seemed merely to be a merger of the detectives from the Organised Crime Unit and those dealing with commercial crime.
- In 2010 there had been quite a few positive developments with the emergence of a vision to improve the organisation holistically. The SAPS reverted to military ranks as part of the attempt to improve discipline. The former National Commissioner had been convicted for corruption, and this gave the SAPS a bad

image and cast doubt among members on the ground of the ability of senior management to deal with corruption. However, there had been increasing anti-corruption rhetoric from the Minister and National Commissioner, which was a positive move since they could be held accountable to their public statements. On the negative side, he referred to the accusations in the media against the current National Commissioner concerning tender irregularities.

- A recent development was that the corruption and fraud prevention plan has now been called the anti-corruption strategy, and there were signs that this was starting to be implemented. Mr Faull had been invited to a corruption sensitivity awareness course, where he had found that members did engage with these issues. Part of the course had involved shaming police who had been apprehended. However, according to him, this course needs to be one of many activities aimed at creating a professional police organisation. He also noted that there is an anti-corruption newsletter aimed at advising police officials on how to report corruption.

Mr Faull reported that the current SAPS anti-corruption strategy stipulates the following:

- Provincial commissioners must sensitise their members and community police forums to the strategy
- Annual risk assessments must be conducted to identify corruption-prone areas
- Annual action plans are to be made to address corruption
- There must be communication regarding the convictions of police for corruption in each province every quarter
- Pre-employment screenings are to be improved
- Media releases advertising provincial action against corruption are to be undertaken every quarter
- Crime intelligence, the inspectorate and internal audits are to target corruption-prone areas
- After a corruption conviction, internal controls must be reviewed to prevent repeat offending. Systems that allow or fail to prevent corruption must be changed
- Internal disciplinary procedures must follow criminal charges. However, Mr. Faull pointed out that the most recent SAPS annual report, that of 2009/2010, discloses that only 360 members were charged with corruption, and that all of them were charged internally with disciplinary infringements. Unfortunately, most of them remain on duty

Mr Faull stated that an important development had occurred in June 2010 when the Hawks had established an

anti-corruption unit to investigate corruption and fraud committed by DPCI members and all officers from the rank of colonel upwards. Investigations into corruption by other SAPS members are to be conducted by the DPCI's Organised Crime Unit. Station-level corruption must be investigated by detectives from neighbouring stations with feedback going to the provincial and national head office. Depending on the seriousness of the corruption, it is to be investigated by the national head office, the province, or by a task team. While this may seem to be a relatively sound approach, Mr Faull pointed out that it is inadequate in two important respects: it does not allow for the development of a dedicated and specialised anti-corruption capacity to investigate corruption throughout the SAPS, nor does it provide for any form of widespread proactive deterrent such as regular integrity testing.

Mr Faull cited Julie Berg when pointing out that there were generally two models that could be taken when trying to address corruption. Most commonly used is the deterrence model, which focuses on the individual or offender, takes a case-by-case approach, and is punishment oriented. It is reactive in that action only gets taken once breaches of the law have been discovered. Consequently, this model has little success in effectively reducing police corruption as most instances go unreported and therefore action is not taken against the offenders.

The opportunity-focused model, on the other hand, focuses on the offence rather than on the offender. It seeks to understand the conditions that allow corruption to flourish and is compliance orientated. It is proactive in that it seeks to control opportunities for breaches of professional conduct or of the law before they occur. He said that this approach is also reflective and requires networking with other agencies that can assist the police to improve their systems for internal control. He recommended that the SAPS strategy combine these two approaches if it is to reduce corruption effectively.

He made additional recommendations for reducing corruption in the SAPS:

- Firstly, there was a need for a holistic approach to corruption that viewed it as one of many symptoms of an unhealthy organisation and organisational culture. There appeared to be a shift towards this way of thinking in the SAPS and is reflected in their strategy.
- Secondly, the basics needed to be addressed, including issues such as discipline, promotions, member well-being, and training. Many of these issues were already on the SAPS' agenda.
- Thirdly, the anti-corruption strategy needed to be implemented and championed by the National Commissioner and the entire senior leadership of the SAPS.

- Fourthly, there was a need for both proactive and reactive specialised investigation of police corruption, as well as integrity-testing initiatives.
- Fifthly, a public awareness campaign should be undertaken to encourage community members to recognise good professional policing and report illegal and unprofessional conduct. This initiative should be supported by effective systems for capturing and responding to these reports.
- Finally, the unions should support these initiatives and not defend blatantly guilty members. The unions should strive to achieve professionalism in the police, which would contribute to better and more rewarding working conditions.

MAJOR GENERAL PETE ARENDSE

SAPS Directorate for Priority Crime Investigations

Maj. Gen. Arendse began his presentation by stating that the police need visionary leadership. He said that leadership is about knowing where one is going. According to him, however, in South Africa there is a tendency to develop strategy based on the current reality, whereas strategy should be informed by a vision of where the organisation intends to go.

The mandate of the Directorate of Priority Crimes Investigation (DPCI), or 'the Hawks' as it is popularly known, is to establish a national policing model in order to prevent, combat and investigate national priority crimes. This is a new unit and combines different disciplines. In terms of the South African Police Service Act of 1995, the DPCI must follow a multidisciplinary and integrated approach, and must also undertake the security screening of its personnel and ensure measures are taken to promote the integrity of its members.

Dealing with priority crimes requires specialised knowledge and skills so as to understand crime as a business. The DPCI's approach, which is based on using intelligence, is that crime is committed in an organised manner according to a systems approach. The DPCI will thus target the business system of crime. To this end, this unit has developed a crime activity model to help it understand the systemic flow of crime better and to appreciate the roles and motivations of all the actors. The model tries to take account of the role of the offender, the criminal process, the opportunity, the target and the tools of the trade. It also follows a geographical approach, and looks at how the different elements of the crime are connected to one another.

Maj. Gen. Arendse said that it was important to acknowledge the various phenomena related to corrupt practices. These include:

- The bad design of organisational systems, processes and procedures
- Organisational vulnerabilities resulting from incompetence and non-compliance
- Employees exploiting their position for self-enrichment
- Organisation vulnerabilities resulting from employees being exploited by organised crime and those seeking to corrupt them
- The criminality of police officers

He said that one of the priority focus areas of the DPCI was to detect policing vulnerabilities that may be exploited by organised crime, especially where corruption forms a critical link in the criminal value chain. An example may be criminals who need to corrupt a police official in order to register a stolen vehicle on the NATIS system or to allow vehicles to cross undetected at a port entry or exit point. Since the police are not immune to corruption, the authorities must put systems in place to prevent this from occurring. He reported that this process had been implemented in the DCPI and all its members were subject to random integrity tests.

He went on to say that any approach to dealing with priority crime necessitates looking at three aspects of governance: leadership, policy management and accountability. With regard to assessing the vulnerabilities and impact of the policing system, one must look at the integrity of the system, regulatory compliance, resource protection, organisational functions and services, and organisational objectives. A crime-fighting perspective demands that one investigate criminal business systems and crime-combating strategies by using a multidisciplinary approach and coordinating individual cases. This process will enable the police to develop solution-based strategies, which should focus on preventing, combating and investigating corruption. While corrective and punitive measures include criminal charges and disciplinary investigations, enhancing service integrity should also be borne in mind.

Maj. Gen. Arendse stated that as part of the SAPS the DPCI intended to use this symbiotic relationship together with basic policing service delivery to deal with incidents of crime. He reiterated that the business of crime comprised the elements of criminal benefits, a business system and criminal practice. However, one should also consider the victims or targets, that is, the affected groups. He said that the DPCI would focus on solutions and that key characteristics of its focus would be to seek, find, strike and succeed. The DCPI was also concerned with risk and threat management.

In closing, Maj. Gen. Arendse said that the DCPI needed to become a credible threat in order to deal with the business system of crime.

COLONEL CRAIG MITCHELL

SAPS Strategic Management

Col. Mitchell started his presentation with an outline of the development of the anti-corruption strategy (ACS) 2010–2014. He said that the initial corruption and fraud prevention plan (CFPP) had been developed during 2007/8 and had contained guidelines for its implementation, which had focused on divisions and provinces. In 2009 the CFPP had been revised and renamed the anti-corruption strategy (ACS). This strategy outlined the specific responsibilities of divisions, provinces and stations, and was distributed to the provinces and divisions for implementation in February 2009.

Various factors had contributed to the establishment of the ACS. These included:

- Audits conducted on the implementation of the CFPP in two provinces in 2008
- A critical analysis of the CFPP undertaken by the Institute of Security Studies (ISS) in 2009
- A minimum anti-corruption capacity (MACC) requirement audit by the Department of Public Service and Administration (DPSA) in 2009

Cabinet had approved the MACC audit for implementation, and the DPSA had then coordinated its being conducted in all provincial and national departments at the end of 2009 to see to what extent they complied with the MACC requirements. The audit had found that overall the SAPS had a 69 per cent compliance rate, which was above the national average of 62 per cent, but that both the National Prosecuting Authority (NPA) and Department of Correctional Services had better rates of compliance.

The MACC audit focused on measuring the following factors:

- **Enabling factors:** whether the leadership was the custodian of the strategy, whether risk assessments were undertaken, and whether there was an anti-corruption strategy in place and the extent to which it was being implemented
- **Prevention:** the extent of training and awareness; the management of conflicts of interests; the existence of a code of conduct; the promotion of administrative justice and access to information; and personnel suitability checks
- **Detection:** the state of whistle-blowing and information management systems
- **Investigation:** the investigation of corruption involving SAPS personnel members
- **Resolution:** the implementation of disciplinary procedures; reporting to external agencies; reviews of international controls and recovery

- **Review and reporting:** review of the strategy and reporting to stakeholders

The MACC audit had found that on paper the SAPS met the requirements in the areas of strategy and planning, investigation and resolution. Moreover, the SAPS had a robust system to prevent the loss of police property, although concern was expressed about whether all the required strategies were in place. Unfortunately, however, the MACC audit did not investigate the implementation of the strategy sufficiently. Had it done so, the findings with regard to the SAPS might have looked very different to the positive picture that was contained in the report.

Col. Mitchell reported that the deficiencies and difficulties identified in the analysis of the CFPP included the following:

- There was a lack of buy-in by the SAPS top and senior management at that time
- There was a lack of accountability on the part of some stations or station managers, which resulted in their failure to respond to national instructions with documentation requesting information
- The implementation of the strategy was inadequately monitored
- Implementation could not be measured properly because some strategy objectives lacked measurable indicators
- It had been an oversight not to link the performance reviews of the SAPS top and senior management to the implementation of the strategy
- The CFPP was not user-friendly and it was cumbersome at some 30–40 pages long
- The CFPP was not based on a corruption risk assessment and therefore was not specific regarding what needed to be addressed
- When conducting the assessment, the DPSA did not give sufficient guidance and support

A particular difficulty was the approach of the previous National Commissioner, which was referred to as the ‘Selebi factor’. This had a negative impact on the credibility of the SAPS top leadership and, by extension, on the implementation of the CFPP. There was no pressure from top management to implement the CFPP or to develop supporting policies, for example the whistle-blowing policy. The size of the SAPS also made implementation difficult. The departments that scored higher than the SAPS average on the MACC audit did not have the large staff complement of some of the other departments. Furthermore, the capacity of the national strategic management section, which was responsible for developing

and driving the strategy, was inadequate. However, this has subsequently been addressed.

A number of actions preceded the development of the Anti-Corruption Strategy for 2010–2014, including assessing the risk of corruption and developing an implementation plan for the strategy. In May 2010 there was a national workshop for senior management from all divisions and provinces where the proposed strategy was analysed in detail and the actions required for implementation were defined and added to the plan. In June, a SAPS working committee compiled the anti-corruption strategy implementation plan and the National Commissioner subsequently approved it. The implementation of the required actions was set for 31 December 2010. Since June 2010, the Strategic Management component has submitted two quarterly progress reports to the SAPS National Risk Committee (NRC) and the Audit Committee (AC). In the first quarter of the 2010 financial year, 39.3 per cent of the 135 actions set out in the ACS had been achieved.

Col. Mitchell told the conference that the ACS starts with an overview of general information, including a foreword by the Minister of Police, an outline of how the ACS works and an explanation of its four 'pillars'. It also provides an overview of the anti-corruption mechanisms of the United Nations (UN), South African Regional Police Chiefs Cooperation Organisation (SARPCCO) and the Southern African Development Community (SADC). Its four pillars with key actions include the following:

- **Prevention of corruption:** this aims to ensure that the SAPS complies with the prevention of corruption policy framework, and includes an integrity model for the police, as well as a conflict and declaration of interests policy and procedure, a gifts policy and procedure; and a review of the SAPS' discipline management policy and procedure. It also includes developing an assessment checklist for implementing the ACS and establishing an ethics management capacity within the SAPS, as well as risk assessments and anti-corruption training. Furthermore, it addresses communication and awareness, and discusses the development plan for the ACS and the roles and responsibilities of all managerial staff. It states that partnerships must be established and managed with external agencies and leading government departments. Most of these activities are still being undertaken.
- **Detection of corruption:** this focuses on developing an integrated approach for detecting corruption within the SAPS, developing a whistle-blowing policy and an incentive scheme for reporting corruption, as well as developing a centralised information management system for reports of corruption.

- **Investigation of corruption:** this focuses on finalising the SAPS organisational structure for the investigation of corruption. It also aims to develop policy, procedure and standards for investigation, and protocols for cooperation with other government departments.
- **Resolution of corruption:** this deals with policy and procedures for rectifying the SAPS' procedures and systems compromised by corruption; the integration of the loss management policy and procedure into the SAPS' enterprise risk management framework and ACS, and finalising the discipline management policy and procedure.

Col. Mitchell reported that the implementation of the ACS enjoys the direct support of the SAPS Chief Operations Officer (COO), Lieutenant General Mgwenya. Implementation will be driven by the SAPS national Strategic Management component, which is responsible for high-level implementation, stakeholder management and reporting on the implementation. All levels of SAPS management will be expected to drive the anti-corruption strategy action plan. He reported that these action plans are linked to performance and will be reviewed annually.

DISCUSSION

After these presentations, conference participants put a few questions to the presenters. Mr Faull responded to a caution from Maj. Gen. Arendse that he should not be too pessimistic about the challenge of corruption in the SAPS. Mr Faull stated that, in fact, he was optimistic after the presentations made by the Minister and SAPS Provincial Commissioner on the first day of the conference, but that he remained concerned about the implementation of the vision that they had presented. While he had always campaigned for transformation in the SAPS, he had sometimes felt that he had been misunderstood and as a result the incorrect people had been appointed to key positions. In response, Maj. Gen. Arendse said that he supported Mr Faull's view and that it was necessary to put a holistic transformation plan in place that dealt with all the issues. This transformation plan should follow a clear vision. He also said there was a need for the SAPS to become a reflective organisation.

In response to a question about whether the measures he had spoken of in his presentation applied to the whole of the SAPS, Maj. Gen. Arendse said that the Directorate of Priority Crimes Investigation (DPCI) was developing a charter that addresses collaboration between itself, the National Prosecuting Authority (NPA), the Asset Forfeiture Unit (AFU) and other units. He said that steps were being taken to concretise collaboration between the different departments. The DCPI was developing a

policing model for itself that should inform the same for the rest of the SAPS. The DPCI was also developing a strategy for dealing with drug-related crime and investigating why the current strategy was not effective in dealing with this type of crime as an industry. The reason seemed to be that the current strategy focused on the individual in the street rather than on the organisers of the industry. He added that one also had to look at the role of pharmaceutical companies and other industries that benefit from the drug trade. The DCPI was starting its pilot investigations in the Western Cape, KwaZulu-Natal and Gauteng and he appealed for the support of the community and research organisations.

A participant commented that police salaries were insufficient, particularly when compared with salaries in the open market, and that this could contribute to corruption. He also suggested that all police should get performance bonuses. Mr Faull responded that SAPS members often complained that the same few members earned performance bonuses each year. However, he said this could be because those members were doing their duties superbly. With regard to salaries, he felt that, on the whole, the police were earning relatively good salaries compared with other public servants. If police officials became more professional, perhaps their salaries could also then be increased.

In a response to a question regarding what the police were doing about corrupt members, Maj. Gen. Moorcroft commented from the floor that the SAPS charges such officials criminally and also disciplines them. He said that the disciplinary action aims to remove these officers from the SAPS. He said that even where a police official is acquitted in the courts, the SAPS approach would still be to dismiss that official if he or she had been found guilty in the disciplinary process.

Another participant commented that there had been an extraordinary amount of information and seeming contradictions between some presentations. For instance, one speaker had said that corruption was not so much a matter of 'pathology', but of normality or an occupational by-product of policing. The participant felt that this was a radical statement with radical implications for how the SAPS could go about 'taming the monster'. Another two presentations had focused on the extraordinary efforts that had been made to fine-tune anti-corruption mechanisms aimed at addressing 'problematic behaviour'. The participant wondered how one could combine the two views of corruption. Perhaps there was a need for some serious critical reflection to understand the structural context of corruption, such as the developing economy, the transitional dynamics, and social systems of the country.

Session VII

The future of police civilian oversight agencies in South Africa

MS JENNI IRISH-QHOBOSHEANE
National Secretary, Civilian Secretariat for Police

Ms Irish-Qhobosheane gave a presentation on the changes taking place in the recently renamed Civilian Secretariat for Police. She said that these changes included both institutional reform and reorganisation of the structure of the secretariat, based on firm policy positions of the government and the Minister of Police. The changes drew on some of the lessons that the secretariat has learned over the years, and some of the problems it had encountered. In the past few years the role and functions of the secretariat and that of the SAPS had become blurred, and this had contributed to the secretariat becoming dysfunctional.

Ms Irish-Qhobosheane reminded delegates that the Minister of Police had emphasised the need for the SAPS to take a tough stance on crime, but had also emphasised that this needed to be balanced by strengthened civilian oversight. This was in line with the policy White Paper on Safety and Security of 1998, which calls for the reform of the system in which policy, planning and monitoring all occur within the SAPS.

The mandate for the civilian secretariat is derived from section 208 of the constitution, which requires the Minister to establish a civilian secretariat for the police service to function under his direction. Further direction for the roles and functions of the secretariat is given in the South African Police Service Act of 1995. Provincial executives may also establish provincial secretariats of police. The secretariat receives its budget from the SAPS with the National Commissioner allocating the amount. However, the secretariat reports directly to the Minister. Nevertheless, these structural arrangements raise questions regarding the secretariat's independence from the SAPS.

Ms Irish-Qhobosheane informed the conference that the White Paper referred to international experience that a conflict of interests between the policy, monitoring and implementation functions had a negative impact on the government's ability to direct delivery to priority areas. She pointed out that the Minister was responsible for developing policy and monitoring its implementation. Therefore his role, which is supported by the secretariat, is to set policy objectives and measure the effectiveness and efficiency of the SAPS in meeting these targets. She stated that there must be clear demarcation between political decision making and operational command.

With this in mind, the different roles and responsibilities of the secretariat for police had now been clearly defined. These include:

- Strategic and indicative planning, research and formulating of policy proposals, which, when approved by the Minister, will guide the activities of the SAPS
- Monitoring of the SAPS to ensure alignment with the policies approved by the minister
- Providing support to the Minister
- Implementing strategies aimed at informing and mobilising role players, stakeholders and partners outside the Department of Police

The secretariat must account to the Minister and through the Minister to Parliament, while the SAPS's role should be to focus on its core business, which is to prevent, combat and investigate crime, maintain public order and manage all operational functions. The SAPS must account to the National Commissioner, who, in turn, accounts to the Minister and to parliament.

Ms Irish-Qhobosheane said that although these roles were spelled out in the White Paper, to date they had

not been properly implemented. Rather, the secretariat had become marginalised from 1999 onwards, and the position of the national secretary of police and other positions in the secretariat had been downgraded. As a result of a lack of capacity the secretariat had been unable to produce high-quality policy recommendations for the Minister. Furthermore, many of the responsibilities that should have been fulfilled by the secretariat had been shifted to the Independent Complaints Directorate (ICD), such as monitoring the implementation of the Domestic Violence Act.

However, she reported that the secretariat had initiated the separate legislation for the civilian secretariat to enable it to become more effective in its oversight role. It had also initiated its own restructuring and reorganisation to meet its legislative and constitutional obligations. In the process, its relationship with the ICD had been better defined, providing for greater cooperation between the two agencies. The legislation also sought to align the provincial departments of safety and liaison with the national secretariat. This meant that members of the provincial executive councils (MECs) were now obliged to establish provincial secretariats of police.

Ms Irish-Qhobosheane reported that the legislation had gone before parliament, had been passed by the National Assembly, and was currently before the National Council of Provinces. It was anticipated that the process would be finalised by the end of 2010. The secretariat had also established core units and was in the process of capacitating them. These included a policy and research unit; a monitoring and evaluation unit; and partnerships units. Posts within the secretariat had been upgraded and legislation would establish the secretariat as a designated department, which would be fully functional by 2012 or 2013.

In closing, Ms Irish-Qhobosheane stated that the secretariat was beginning to have a positive impact on the way that civilian oversight was managed. She said it had become easier to engage with members of the SAPS as the respective roles of the secretariat and SAPS were now better defined.

MR FRANCOIS BEUKMAN

Executive Director, Independent Complaints Directorate (ICD)

Mr Beukman focused his presentation on the new legislation aimed at creating the Independent Police Investigative Directorate (IPID), which will replace the existing Independent Complaints Directorate (ICD). He highlighted some of the developments that had paved the way for the legislation, citing parliamentary reports and those of academics that recommended separate legislation for the ICD. The election of the new political administration had also given this process momentum.

Further support for this process had come from a recent report of the UN Special Rapporteur on extrajudicial, arbitrary and summary executions, Phillip Alton, which deals with the role of oversight mechanisms for the police. The report advocates that such mechanisms be authorised by dedicated legislation and that the police be required by law to report all deaths in custody or resulting from police action, and that there should be penalties for delays or failure to report. The rapporteur's report also outlines the specific powers that an oversight mechanism should have, including full investigative powers similar to those of the police, the power to refer cases for prosecution, and the ability to enforce compliance with proposed disciplinary measures. The report also makes recommendations for the resourcing of this mechanism.

Mr Beukman said that the main objective of the new bill was to establish the IPID to ensure effective independent oversight of the SAPS and municipal police services. The rationale behind the name change was to rebrand the directorate as an agency focused on investigation rather than being merely a recipient of complaints. The IPID would become an investigation-driven organisation, focusing on systemic problems within the police service. Its aim would be to ensure that the police service operates within the norms and standards of the constitution and with an ethos that promotes proper police conduct. He explained that the bill would regulate the functions of the directorate; provide for establishing a management committee and consultative forum; and outline the appointment and powers of investigators. It would also stipulate reporting obligations and advocate cooperation by the SAPS and metro police.

Mr Beukman continued by stating that the bill also gave effect to the provision of section 206(6) of the Constitution, which establishes and assigns the directorate's national and provincial-level functions and aligns provincial strategic objectives with those of the national office, thus enhancing the functioning of the directorate. The new legislation provides for independent and impartial investigation of identified criminal offences allegedly committed by police members, and enables the IPID to make disciplinary recommendations resulting from its investigations. The bill aims to enhance the accountability and transparency of the SAPS and municipal police services, and provides for close cooperation between the directorate and the secretariat.

According to Mr Beukman, the IPID will function independently of the SAPS. The bill requires every organ of state to assist the directorate to maintain its independence and impartiality, and perform its functions effectively. The Executive Director may serve one five-year term in office, which is renewable only once. The Minister of Police must appoint the Executive Director and may remove him or

her only on grounds of misconduct, ill-health or inability to perform his or her duties effectively.

Some other key aspects include the following:

- The Executive Director must refer criminal offences uncovered as a result of investigation to the National Prosecuting Authority (NPA) for criminal prosecution, and the NPA must notify the Executive Director of its intention to prosecute. The Executive Director must notify the Minister and provide a copy of the notification to the secretary.
- The Executive Director must ensure that complaints regarding disciplinary matters are referred to the National Commissioner and, where appropriate, the relevant provincial commissioner. The national or provincial commissioner must initiate disciplinary proceedings in terms of the recommendations within 30 days. Every quarter the relevant commissioner must submit a written report to the Minister on the progress of these disciplinary matters and provide the Executive Director and secretary with a copy. The Commissioner must also notify the Minister of the outcome of the disciplinary matters.
- All recommendations that are not of a criminal or disciplinary nature must also be referred to the minister and a copy must be provided to the secretary.

Mr Beukman sketched the focus of the IPID mandate:

- It *may* investigate any offence allegedly committed by any member on receipt of a complaint, and may refer the complaint to the SAPS for further investigation
- It *may* investigate matters relating to systemic corruption involving the police
- The directorate *must* investigate:
 - All deaths in police custody
 - All deaths resulting from police actions
 - Any complaint relating to the discharge of an official firearm by any police officer
 - Rape by a police officer, whether the police officer is on or off duty
 - Rape of any person while that person is in police custody
 - Any complaint of torture or assault against a police officer in the execution of his or her duties
 - Allegations of corruption within the police initiated by the Executive Director on his or her own, or after receipt of a complaint from a member of

the public, or referred to the directorate by the Minister, a member of the provincial executive (MEC) or the secretary, as the case may be

- Any other matter referred to it as a result of a decision by the Executive Director, or, if so requested, by the Minister, an MEC or the secretary, as the case may be

The bill further provides that the conditions of service of IPID investigators, including salary and allowances, must be on a par with police members appointed as detectives in terms of the South African Police Service Act. Investigators are entitled to the powers as set out in the Criminal Procedure Act, which are those also bestowed on peace officers or police officials. Investigators may also direct any person to submit an affidavit or sworn declaration, appear before them to give evidence, or produce any documentation with bearing on an investigation. Furthermore, investigators may request an explanation from any person whom they reasonably suspect of having information that has a bearing on a matter being or to be investigated.

The bill also provides for penalties applicable to any police official who fails to comply with his or her obligation to report a matter to the IPID. Furthermore, it removes from the ICD the function of monitoring the implementation of the Domestic Violence Act and provides for detailed regulations to be drafted to ensure transparency.

In closing Mr Beukman reflected on the factors that had played a role in the success of drafting the bill. He said the executive and the Minister of Police had strongly supported strengthening police oversight. The Parliamentary Portfolio Committee on Police and the National Council of Provinces (NCOP) had played an interventionist role in its drafting and it had been part of their strategic plan to put this legislation in place. Civil society and academia had also shown strong support, and many organisations commented during the drafting process and parliamentary hearings. He pointed out that there had been ongoing discussions with the public on the performance of the SAPS and on putting in place measures to ensure the protection of the rights of the public. Furthermore, the government had realised that the existing ICD could not continue with 'business as usual'. It needed to refine its mandate to strengthen police oversight and to contribute to good governance practices within the SAPS.

Community policing and policing partnerships in South Africa

Current challenges and viable alternatives?

MS JULIE BERG

Centre for Criminology, University of Cape Town

Ms Berg said that her presentation was based on research that she had been conducting at the Centre for Criminology for a number of years. She challenged the term ‘partnership policing’, which, she said, was too narrowly defined in terms of what was happening on the ground. She stated that partnership policing took a number of different forms: partnership policing; plural policing; networked policing; collaborative governance; polycentric security governance (a variety of centres or nodes); and multi-nodal security governance (such as the police service, private security, community organisations).

She described the features of policing partnerships:

- Some are proactive, taking care to promote security in a particular area, while others are reactive and respond to incidents that have happened. Some are ad hoc, while others are sustained and continue for many years. Some are simple, while others can be complex.
- Some partnerships may focus on a particular task, and may be established around a particular operation, such as a roadblock. Or there may be joint operations.
- Some may have a particular or special focus, such as neighbourhood watches and city improvement districts that are concerned only with a particular area.
- Some might have a crime-specific focus, such as those formed by vehicle-tracking companies, which engage with the SAPS in connection with hijacking and vehicle theft.
- A primary purpose of some partnerships may be communication, for example, the community policing forums where people meet to communicate with the police.

- Partnerships may also be more complicated and involve all of the above features. The policing of the World Cup was an example of a variety of organisations that came together in different ways for a specific purpose.
- It is not necessary that the SAPS always provide direction. Often it may happen that the community comes together and tells the police what its needs are and the police then respond to these.
- Discussions may take place at a variety of forums and platforms, for example crime management meetings for discussing crime statistics; ‘bambananis’ for safety issues, and operational meetings for deciding which operations to undertake.
- Multi-nodal and extensively networked partnerships tend to produce differing approaches or thinking about policing. Some may have converging, others diverging, approaches. For example, the SAPS is law enforcement-orientated compared with a private security company, which focuses primarily on reducing risk for its clients. These two organisations may also have different strengths and resources, they may use different technologies and have different knowledge bases.

Ms Berg pointed out that there were also various influences on partnership policing. In general, there had been a rise of new governance systems, such as city improvement districts (CIDs). This had had a profound impact on the nature of partnership policing in private spaces. The trend towards gated communities had also had an impact on partnerships, sometimes promoting or sometimes destroying partnerships. She said that the thinking in relation to private/public space protection – linked to city improvement districts and new government systems

– was changing. The policing of these spaces was now being approached in different ways. Public spaces were becoming more private and private spaces were becoming more public, hence there was a blurring of activities in these spaces.

She said that a primary influence had been the neo-liberal discourse and ‘responsibilisation of citizenry’ as reflected in the national crime prevention strategy of 1996 and the White Paper on Safety and Security of 1999–2004. Here she referred to the outsourcing, contracting out and privatisation of services. Furthermore, she said, the state had withdrawn, either by default or by plan, which had allowed other nodes to enter those spaces that had previously been the domain of the state.

Another influence had been the community context. Here the histories of the communities, their needs, resources and geographies had played a role. For example, very wealthy communities might be able to hire their own private security company. The changing nature of criminality and violence in South Africa had made a contribution as well. For example, as a result of the increase in the incidence of hijacking, private industry had come on board and played a role, particularly in the tracking of vehicles.

She said there were three main challenges related to partnership policing:

- Perceptual challenges raise questions like, if there is a perception that there is non-state policing, does it mean it is vigilantism? It is important to recognise and confront the challenges that non-state policing may present, as well as recognise the diversity and potential of the non-state actors in policing functions.
- Empirical challenges refer to the day-to-day activities and logistics of partnerships. Each partnership has different needs, priorities, thinking and technologies. A different approach may lead to conflict. There is also the possibility that the weakest link in the partnership can change over time. A further challenge is that of sustaining the partnership. Sometimes partnerships form around a particular operation, but disappear again once the need has passed. Partnerships may also be driven by particular personalities, or may be destroyed by them. Partnerships also have to deal with power issues, which may be legal or symbolic. The SAPS, for instance, may have legal powers, but communities may own symbolic power in private spaces. Furthermore, partnerships have to deal with physical boundaries. For example, the SAPS may have priorities with regard to sector policing, whereas communities may be more interested in particular buildings or roads.
- Conceptual challenges are most important for developing tools to deal with complex relationships and

partnerships. There is often a lack of conceptual tools for resolving governance, regulatory and accountability dilemmas that arise when people try to draw in fluid or perhaps ad hoc, complex, fragmented and even hybrid systems. This has implications for the governance of partnerships.

Ms Berg stated that there had been many innovations and much experimentation related to partnership policing in South Africa, especially with regard to alternative or hybrid models such as the city improvement districts. However, there needed to be greater focus on what works, especially if one looked at best principles, rather than at best practices. For example, policing during the World Cup had cost a lot of money and would cost a lot to reproduce in terms of best practices. Nevertheless, one could look at it in terms of understanding the best principles and how lessons could be implemented in communities where resources were constrained. The authorities also needed to engage in partnerships that went beyond contracting out or enrolling others into specific agendas. They should adopt a ‘whole-of-society’ approach to partnerships by engaging meaningfully with all the nodes that can contribute to safety. Policing must be seen as functional not just institutional; it is a function that can be taken up by others not only the state. However, the biggest challenge for the future is to address accountability or regulatory systems by applying the lessons from different sectors, for example by applying market accountability or participatory accountability in trying to address complex policing arrangements.

DR JULIA HORNBERGER

Forced Migration Studies Project, University of the Witwatersrand

Dr Hornberger began her presentation by commenting on the conference programme, which had started with strategic comments from high-ranking officials and had moved to the experiences of operational policing. She said that her presentation would focus on the bottom of the policing hierarchy, at the level of the street where everyday policing took place. This was where the policing encounters with society occurred and they illustrated some of the most complex aspects of policing. She said that people needed to understand the type of policing society demanded and this could be done by examining its engagement with the police officials.

She had based her presentation on the findings of a participant observation research project conducted together with her colleague Darshan Vigneswaran at various police stations in Gauteng. Participant observation provides access to everyday policing where informal and formal policing behaviour intersect, and the aim of the project had been to provide a language for talking

about the informal practices in a narrative form. The research had been informed by the idea that police practice was not so much guided by whether police actions were legal or not, but that they are more likely to be guided by pragmatism. The researchers had spent a lot of time with police officers, which had enabled them to witness and record everyday policing practices often hidden from outsiders.

She said that her research had been based on an assumption that police culture, rather than legal rules, determines police behaviour. Police culture is formed through institutional realities and constraints that police officials face, and their relationships with the community. In addition, police officials are part of society and not merely state officials who blindly follow rules and regulations. It was the institutional environment, the background of the officers and their social interactions that the research had sought to explore.

Almost every day, very ordinary incidents of corruption occur at the interface between the community and the police. Ms Hornberger gave various examples of how this was identified in the research. Some examples illustrated the use of authority, rather than the application of legal rules as the key factor in the way police officials interacted with civilians. She reminded the conference that all policing is based on the exercise of discretion, and this is exercised in accordance with police culture and the nature of the police's relationship with the community.

Community policing is based on the idea that the police should be closer to the community to gain the community's trust. It is then assumed that if the community trusts the police, they will provide information to police officials and consent to being policed. However, the manner in which this trust and relationship is built can encourage commercial exchanges. Ms Hornberger cited an example of how a police officer buying food for children can be used to build interpersonal relationships. Another example illustrated the obverse: how a member of the community bought food for a police officer so that he would ignore the food donor's illegal selling of alcohol. Some members of the community build particular relationships with the police because they might later need some favour in return. This is dangerous because it promotes a culture in which the public's relationship with the police becomes very personal and may benefit only those who are able to afford gifts.

Community members are not passive participants in the daily occurrences of police corruption, but often actively pursue relationships with police officials. This kind of relationship building need not be problematic, but tends to become so in communities that are internally divided, as the relationship does not extend to everybody, but only to particular groups or people.

Dr Hornberger said that it was important to understand the history of policing in South Africa. She said there had never been a public police service that had served all the people equally. As a result, informal relationships with the police took root over time as people learned that the only way they could access the police was by building personal relationships. This was a more realistic view of the police service than assuming that the police have been equally accessible to everyone. However, this approach leads to an unhealthy situation.

Furthermore, police legitimacy does not equal legality, as is illustrated by the response of the police to the xenophobic attacks in 2008. When community members wanted to get rid of foreigners, they perceived the police to be acting against their will by allowing the foreigners to shelter in the police stations. Through this action the police lost the trust of the community and the legitimacy they had earned among community members over the years. However, the police had acted in a legally correct manner.

On the other hand, the community's demand for justice could push the police in the direction of violence and illegality. Where people have no faith in the justice system, they do not want the police to operate through the official channels. They rather want immediate and tangible justice. There is a pull by the community to a form of popular justice, and this is very difficult for the police to negotiate if they want to maintain relationships with the community while upholding the law. An example may be community support for the police to use torture to extract a confession from a criminal suspect.

Dr Hornberger then considered what an alternative may be if community policing is so complicated. She said there were two possible directions the police could follow. Firstly, where the police did not have the trust of the community, they could build a network of informers to tell them about criminal activity. There is a long history of this in South Africa, but the danger is that it could result in a more accentuated form of private policing. She cited the example of a police officer who had a network of female informers. He had had a personal relationship with most of them and deducted a commission from their informer fee each time they gave him information that led to the arrest of a suspect. This system of informers may enable a police officer to be very successful and make arrests, but it also gives him great powers of discretion that cannot easily be checked.

Dr Hornberger also addressed the manner in which some officials avoid the challenge of working with the community by 'stealing time', or by finding ways of not leaving the comfort of the charge office to engage in street-level policing. She said this form of 'hiding' in the

police was also a form of corruption, as taxpayers' money was not being used in the interest of the public.

In closing her presentation, Dr Hornberger posed the question of what kind of police service society wanted. She said that policy and strategy did not capture the complexity of policing. Each situation that the police encountered was new and they needed to be able to use their

discretion in order to negotiate their way through it. She pointed out that one could never really control a police officer on the street. One needed to recognise that the police are an independent but not autonomous authority. Therefore, she said, the authorities need to involve police officials and their experiences more directly in the policy-making process.

Notes

- 1 *Govender v Minister of Safety and Security* 2001 (4) SA 273 (SCA).
- 2 *Ex parte: The Minister of Safety and Security and Others: In re the State v Walters and Another (Walters)*. (2002(2) SACR 105 (CC).
- 3 Adapted from the Police Assessment Resource Centre 2003 recommendation to Portland Police Bureau.
- 4 Adapted from the Police Assessment Resource Centre 2003 recommendation to Portland Police Bureau.
- 5 RAPCAN report, *Raising the Bar: A Review of the SAPS Family Violence, Child Protection and Sexual Offences Units*.



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