



# Municipal Policing in South Africa: Development and Challenges

by

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### **Executive Summary**

This monograph traces the origins and development of municipal policing in South Africa from the infamous 'municipal police' in apartheid South Africa's townships, to the respected Durban City Police – a self-styled British constabulary that operated in the city from 1854 to 2000 when it was replaced by the Durban Metropolitan Police Service, established under the [South African Police Service Amendment Act No 83 of 1998](#) which allows any municipality to apply for the establishment of a municipal police service.

Following the example of the Durban Metro Council, most of the other metros in South Africa are in various stages of establishing their own police service. Politicians have generated extensive media coverage and public interest in municipal policing and some have made extravagant promises about the contribution that municipal policing will make to reduce crime. Given that most existing municipal police services are focusing largely on traffic enforcement or on work in only certain parts of the city, those expectations are unlikely to be met in the short term.

This monograph aims to clarify the functions of a municipal police service and the challenges they are likely to face in fulfilling these. The monograph is based on research carried out independently by the authors over a period of several years. It provides an up-to-date picture of developments in Durban, Johannesburg, Pretoria and Cape Town, as well as the complex, lengthy and costly process required for establishing a municipal police service.

The statutory functions of a municipal police service (MPS) are traffic policing, policing of municipal by-laws and regulations and preventing crime. The MPS will not conduct criminal investigations. After arresting any person on suspicion of having committed a criminal offence, the arrested person will be taken to a SAPS police station as soon as possible. This interface between the MPS and the SAPS will be critical.

Some of the key challenges facing South African cities in the establishment of metropolitan

police services are:

- Clarifying the role and mandate of the MPS particularly as it relates to crime prevention and co-ordination with the SAPS.
- Balancing enforcement and crime prevention activities. Both of these activities are equally weighted in the legislative mandate to metropolitan police services. Existing MPS's are focussing almost entirely on traffic enforcement and traditional law enforcement methods of combating crime, with little attention given to prevention.
- Determining the extent to which MPS officers will act as 'peace officers' and enforce by-laws and legislation. This will involve determining the range of legislation which municipal police officers will have to enforce, and ensuring that they are sufficiently skilled to perform all these functions. Training in crime prevention and enforcement of by-laws and legislation (other than traffic legislation) should be prioritised.
- Transforming the organisational culture from specialist enforcement (such as traffic or planning enforcement) to more generalist community policing approaches. The MPS will face a steep learning curve in building effective community partnerships for safety.
- Financing a MPS. Municipalities wishing to establish Metro Police Services will need to find increased resources for public safety provision, without direct financial assistance from the national fiscus. In some municipalities, additional levies have been proposed. It remains to be seen whether local ratepayers will be willing to pay more in order to have a local police service.
- Dealing with demands to include former combatants. Many municipalities are facing political pressure to incorporate former members of the liberation armies in their new police services. This issue has already been faced by the SAPS, without much success.
- Ensuring political independence of local police services. The SAPS has undergone a painful process of transformation over the past decade, central to which has been the idea of de-politicising the police function in South Africa. Elected councillors and executive mayors will need to learn the same lessons about reducing political interference in operational policing as have their counterparts in the national and provincial legislatures.
- The effective enforcement of by-laws. By-law enforcement could be used to address the 'broken window' syndrome of urban disorder and fear. However, this will require Metro Police Officers to enforce a wide range of by-laws, and municipal courts which are able to impose strict penalties for by-law infringements.
- Meeting public expectations. Given that existing MPS are focussing on traffic enforcement, expectations about crime reductions are unlikely to be met in the short term. The provision of visible policing, whether or not it impacts upon crime, is a

central challenge facing municipal police managers. Only by being on the street, and being seen to act professionally, will the MPS make an impact on public perceptions of fear and safety.

- Maintaining standards. There is likely to be a great deal of scrutiny of municipal police agencies in this early phase. This places pressure on managers to ensure that problems like bribery, corruption, excessive use of force, inappropriate treatment of victims of crime, and racism are minimised, and dealt with in a decisive manner.

## Chapter 1

### Origins of Municipal Policing

The term 'municipal police' still has negative connotations for many South Africans, given that it was first used to describe the poorly trained and often violent 'policemen' deployed by the apartheid government in townships in the 1980s. Other than their name however, these police have nothing in common with today's municipal police. The origins of the current municipal police are more appropriately traced back to the traffic departments established at local government level in the 1930s and the unique 146 year-old Durban City Police.

#### *Apartheid's 'municipal police'*

During the 1980s one of the South African Police's (SAP) responses to the growing political resistance within the country was to hastily train groups of men who were deployed in the townships as guards and 'policemen'. They were termed 'municipal police' given that they replaced the so-called 'blackjack' police forces run by local administration boards and controlled by local government. The new 'municipal police' however had greater powers and unlike their predecessors were often armed.<sup>1</sup> Accountable control over these institutions was only nominal and they fell under the command of the SAP.

Municipal policemen, of whom there were 14 000 by the late 1980s, were used primarily to guard government installations in townships although they were often used for other more violent purposes. Thus they gained a reputation for "high levels of excessive and inappropriate use of violence, often arising out of drunken behaviour, ill-discipline and personal vendettas".<sup>2</sup> The municipal police themselves often created more problems than they solved for the SAP who had to intervene to police riots and at least on one occasion a mutiny. Between August 1987 and April 1988, 349 municipal police were charged with serious crimes including murder, robbery, assault, theft and rape.<sup>3</sup>

Given this history, a comparison with municipal policing in post-apartheid South Africa is disingenuous as no one contemplated building on this old system of apartheid control. That did not however stop some South African Police Service (SAPS) managers from making the comparisons and warning that 'reintroducing' municipal police would lead to a "second class police agency". Ironically the apartheid inspired municipal police members were incorporated into the SAP in 1989.

The comparison stuck however and at least for a period those at local government level

who were lobbying for greater policing powers used the more political neutral terms 'metropolitan police' or 'city police' rather than 'municipal police' with its negative past connotations.<sup>4</sup>

### *Traffic Policing at Municipal Level*

Apart from apartheid's so-called municipal police (who were not funded by or accountable to local government), there had already been some precedent for the establishment of local government law enforcement structures in the country.<sup>5</sup> In the 1930s traffic control duties were delegated to municipal government and traffic departments were established across the country.

Traffic officers in South Africa have fewer powers than SAPS officers, although they can search vehicles and effect arrests and are often armed. Indeed, in most cities traffic police are much more visible than their national police counterparts.

Little is however known about the extent of the traffic police's involvement in criminal law enforcement and their relations with the police in South Africa. While a number of individual cases have been documented, there is no systematic assessment of the number of allegations of racism or human rights abuses. The issuing of spot fines for traffic violations has almost certainly encouraged corruption.

The status of the traffic police is of particular importance given that they will inevitably make up the core of the various municipal police agencies. It seems clear also that by the late 1980s most traffic departments were actively involved in crime prevention initiatives as the SAP increasingly concentrated on political protest.<sup>6</sup> This shift in functions prompted the first attempts to lobby government about the conversion of the traffic police to more clearly defined local police agencies. The push was never strong given the uncertain climate of the country at the time and the reluctance of the then government to pursue the issue.

The growth in crime prevention and control responsibilities at local government level resulted in some larger municipalities also establishing their own security departments. These were funded directly by the local governments concerned. Municipal security departments were for the most part paramilitary structures with some members carrying firearms. Security departments in large cities like Johannesburg even had their own armoured cars and were equipped to handle riot situations. More ominously, the Johannesburg security department developed close links with military intelligence and took it upon itself to spy upon anti-apartheid activists.<sup>7</sup>

Paradoxically, one positive result of the establishment of municipal security departments was that it largely isolated traffic police from becoming more paramilitary. While paramilitary type uniforms (combat boots and military style pants) became more common in the late 1980s among traffic police, this was paralleled by an attempt in some cities, at least by the early 1990s, to ensure uniforms that were more consistent with ordinary policing duties. While traffic police officers did not entirely avoid the trend toward paramilitarism characteristic of almost all security formations in the last decade of white rule, the impact has not been irreversible.

For the most part, elements of the traffic police retained old traditions and did not become overly militarised. Many traffic departments were characterised by a core group of professional managers who believed that their key task was to regulate traffic flows and make the roads safer. In some cases, traffic officials expressed contempt for their security department counterparts. Later when the legislation around municipal policing was being discussed a strong lobby group of traffic managers opposed it on the basis that it would undercut resources required to ensure road safety. This does not mean that traffic police have entirely avoided controversy and allegations of racism and corruption have been reported.

### ***The Durban City Police: 1854-2000***

In one city in South Africa the history of local government policing took a different trajectory. This has had important implications for the debate around municipal policing. The city of Durban implemented its own police force, the Durban City Police (DCP), in 1854. The DCP was a self-styled British constabulary and the wording of the municipal ordinances which established it are almost identical to the 1835 act of the British parliament which established borough and county police.

Clashes between the Durban authorities and central government are a marked feature of the history of the DCP. Attempts to incorporate the DCP into the South African Police during the 1920s and 1930s were rebuffed, although for all intents and purposes the growing strength of the SAP ensured that the DCP played a relatively limited role in respect of crime prevention. However the DCP retained key traditions such as ensuring 'bobbies on the beat' in the city centre. The rank structure also – the DCP was headed by a Chief Constable – more closely resembled a British police force than a South African traffic department.<sup>8</sup>

The DCP's role in crime prevention was officially recognised in 1992 at a time when crime levels across the country were increasing. At this time the Durban City Council added an amendment to the resolution detailing the DCP's functions formally recognising the centrality of preventing crime. The Council also agreed to double the DCP's strength over a three-year period and give the force a higher profile in policing crime.

The immediate effect was that the DCP became more visible on the beachfront, and a concerted attempt was made to increase foot and vehicle patrols in the city centre. This resulted in the force being divided into functions which included a rapid response capability, crime prevention, and street child units. Besides motorised patrols, the DCP had a 220 member special patrol group whose primary function was to maintain a visible presence in the city centre and on the beachfront.<sup>9</sup>

The DCP's success in reducing crime in Durban is difficult to measure, but the force's own statistics reflected its role and ethos. Given its presence on the streets, most arrests occurred during or after offences had been committed. A large number of suspects (about 75% in a two-month sample period in 1994) were released with a warning, suggesting that the force used arrest and subsequent warning to police less serious crimes and appeared less inclined to process offenders through the legal system.

The DCP used a fair measure of discretion in policing lesser offences and attempted to

enhance relations with the public and avoid unnecessary prosecution of minor offences. In this way the DCP policed less serious matters that the SAPS was hard-pressed to attend to. This is the inevitable consequence of high visibility policing and DCP statistics for 1994 showed a high number of service-related responses and policing of municipal by-laws.

Compared to patterns of policing in the SAPS, the DCP was more involved in maintaining a high presence in the city centre, on the beachfront and in central shopping areas. The force was also more likely to police less serious incidents on the streets, provide general assistance to the public and perform a crime prevention role than was the SAPS.

The DCP generally had a good public image. Its members were well trained and well paid and the force maintained a high level of uniform presence in selected areas. The metropolitan council also built police stations operated by the DCP in a number of outlying townships as well as in selected high tourist localities such as the beachfront. It was clear from accompanying patrols in 1995 and 1996 that the organisation directly engaged in crime fighting activities and styled itself as a police agency (although it also engaged in traffic policing) and not as a traffic department in the style of other cities.<sup>10</sup>

The importance of an already existing municipal police agency in Durban is that it provided a precedent to other cities, particularly with regard to the working relationship between the SAPS and the Durban City Police.

## **Chapter 2**

### **Legislative and Policy Developments**

The planning for city policing agencies was a contested process which resulted in a messy compromise. Debates about the degree to which police in post-apartheid South Africa should be decentralised have been far from politically neutral, relying more on arguments of political control than on what would constitute good crime prevention policy.

The negotiations that shaped the nature of newly democratic South Africa determined that there would be one police service, combining the country's then eleven police agencies established during the course of apartheid. Although some space was left for other municipal police agencies at local level, it was clear from the beginning that these agencies would have strictly limited powers and functions.

During the discussions that resulted in the decision to establish a single police agency, there was some unlikely meeting of minds between African National Congress (ANC) negotiators and representatives of the then South African Police. Both, although for different reasons, wanted to ensure a single national police agency.<sup>11</sup> Given this it is not surprising that the concept of municipal policing has not always had political support.

### **Foundations: the constitution and SAPS Act of 1995**

The interim constitution, concluded in 1993 before the first democratic elections, allowed for the establishment of municipal police services but limited their functions to crime prevention and the policing of local government by-laws.<sup>12</sup> Some senior ANC negotiators

(at least in the 1993 negotiations) supported the idea of local policing because it implied a higher level of local accountability. Nevertheless, the concept of municipal policing was never included in any of the party's documentation of the time.<sup>13</sup>

No doubt there were bigger issues to negotiate than local policing and by including it in the interim constitution the issue was effectively deferred until enabling legislation could be tabled providing a framework for the establishment of local police agencies. Little progress was made in respect of this legislation in the period between the conclusion of the 1993 interim constitution and the passing of the country's final constitution in 1996.

Interestingly, the issue of municipal policing was nearly left out of the final constitution and inserted at the last minute on the apparent insistence of the Democratic Party. Again, given the time pressure that was a feature of the negotiations the issue was not debated in any detail and was not opposed. Although the country's final constitution indicates that the security services of the country would only include "a single police service", thus by definition excluding others, a later clause states:<sup>14</sup> "National legislation must provide a framework for the establishment, powers, functions and control of municipal police services".<sup>15</sup>

After 1994, the new government's priority in terms of policing was to establish and clarify the nature of the country's national police service. Thus the South African Police Service Act of 1995 provided for the establishment of a single police service, the SAPS. In Chapter 12 however it made provision for the establishment of municipal and metropolitan police services. These provisions lacked detail stating simply that the Minister of Safety and Security could prescribe which components of the SAPS Act would apply to municipal police services and could make regulations regarding their establishment.<sup>16</sup> The Act also provided for members of municipal police services to participate in community police forums in the areas in which they operated.<sup>17</sup>

Despite the inclusion of these provisions in the SAPS Act there had been little debate as to the structure and function of municipal police services. Even though municipal policing was provided for in both the constitution and the SAPS Act there continued to be opposition to the establishment of municipal police services. The concern was that new police agencies would undercut the functions of, and cause conflict with, the SAPS and that all available resources should be directed at the national police.

Apart from the lack of legislative clarity, two other inter-connected and important factors ensured that the debate did not move forward in the first two years of the new democracy:

- No local government consistently pushed the issue. While some officials and councillors lobbied for the establishment of municipal police services, these were never concerted campaigns driven by public opinion. Within local government, officials were more concerned with the restructuring of municipal authorities and the immediate challenges of providing services to many who had been excluded under apartheid. At national level, the focus was on restructuring and transforming the police and not on encouraging centres of potential opposition and competition to the SAPS's often troubled efforts on the ground.

- Some of the early opposition stemmed from the fact that municipal policing had come to be closely associated with the Democratic Party which had included it in the party's anti-crime policy. This raised the suspicion that municipal policing was only for the wealthy. This view changed over time, particularly after the country's first local government elections reflected the degree to which crime was a point of political pressure at local level. Also important was the redesign of local government boundaries ensuring cross-subsidisation between rich and poor areas undercutting fears that municipal police would only be available to those who could afford to pay for their services. These developments provided some space for the framework legislation to be debated in detail. The result however was a compromise limiting the powers of the municipal police and even more critically ensuring that only local (and by definition more restricted) resources could be used to fund their establishment.

#### *Gauteng province takes the initiative: the 1996 Green Paper*

The continued public outcry around crime and jostling between the political parties ensured that the debate on municipal policing assumed greater prominence from early 1996 onwards, almost two years after the country's first democratic elections. In order to seize the initiative from the Democratic Party, the ANC led provincial government in Gauteng published a discussion document on municipal and metropolitan policing. Despite later policy documents, the document was important in shaping the debate.

The provincial government had taken on the issue before the passing of the final 1996 constitution (although after the promulgation of the SAPS Act) basing its role on the provisions of the 1993 interim constitution which stipulated that municipal police services could only be established with the consent of the provincial Member of the Executive Committee (MEC) responsible for safety and security. According to the interim constitution the MEC was also responsible for determining the powers and functions of municipal policing for their province. The initial intention in Gauteng was to publish legislation in the provincial parliament on the matter.

The Green Paper on Metropolitan and Municipal Policing was published by the Gauteng Provincial Ministry of Safety and Security in March 1996.<sup>18</sup> At the time its provisions were controversial but gradually became accepted as the norm. The approach followed closely resembled the interim constitution's provisions including the limiting of municipal policing powers to crime prevention and the enforcement of municipal by-laws. The green paper however put forward proposals on issues that had yet to be debated in detail, including:

- The powers of municipal police officers should be that of 'peace officers'.<sup>19</sup> This would give them similar powers to traffic officers, including the powers of search, seizure and arrest.<sup>20</sup>
- The core personnel of municipal policing departments should be drawn from the traffic policing agencies. This assertion was the subject of much controversy opposed by both traffic officials, who believed a focus on crime would dilute their core traffic duties, and by municipal security officers, who believed that their departments should form the core of any new local government police services.<sup>21</sup>

- A provincial inspectorate should be established to ensure that the prospective municipal police would provide acceptable standards and levels of service.<sup>22</sup>
- A process of accreditation whereby a series of requirements would have to be met before the MEC could certify any local government policing body as having met the standards of being a municipal police service.<sup>23</sup>
- There would be no money forthcoming from provincial or central government to fund local government police services. It did however suggest that "the province is open to all creative funding proposals as long as these do not contravene national or provincial laws on, for example, the regulation of gambling or lotteries."<sup>24</sup>

The policy process was taken further in Gauteng by the publication of a report on municipal policing by the Standing Committee on Safety and Security in the Gauteng legislature.<sup>25</sup> Partly the committee was a product of political wrangling between the ANC and DP over who should take credit for the concept of municipal policing. The committee was formed and chaired by the head of the DP in Gauteng, Peter Leon.

The report of the committee was more detailed than the Gauteng green paper, particularly in regard to an assessment of current capabilities in the various local governments of Gauteng. Importantly in this regard, the report concluded: "As most traffic departments have become drawn into policing actions outside of the enforcement of traffic laws, so they have, over time, structured and equipped themselves accordingly".<sup>26</sup> Despite its more comprehensive investigation into the state of traffic policing, the report did not make substantially new suggestions that had not already been covered in the green paper.

It was clear from the policy process in Gauteng that resolving how to take the municipal policing debate forward was a complex process, not least of which because of the large number of roleplayers involved.<sup>27</sup> Apart from this factor however one reason why the debate could not move forward in Gauteng was the lack of clarity at national level on whether or not municipal policing should be encouraged (despite the constitutional provisions). Briefings by Gauteng officials to senior members of the Ministry of Safety and Security also suggested that there was not wholehearted support for the concept, particularly among senior managers of the SAPS.

#### *National government provides enabling legislation*

Whatever the process which led to the inclusion of municipal policing in the 1996 constitution, it had one important outcome: it shifted the debate from the provinces to national level, given that the latter was now responsible for any enabling legislation. The result was the appointment of a task team at national level to investigate not only municipal policing, but also the devolution of police authority more generally.

The task team contained a strong police presence. While accepting many of the principles in the Gauteng document and recognising the constitutional imperative to draft appropriate legislation, the police representatives hinted at the complexities of establishing municipal police services and the likelihood that unhealthy competition with the SAPS would result. This issue was of key concern to the task team which proposed a strict system of co-

operation between municipal police services and the SAPS.

With at least some form of approval from the SAPS, the process of drafting legislation could now move forward. This task was given to a joint team of local and central government officials. The result was a compromise around most key issues. When the draft legislation was tabled in parliament, it was clear that concerns remained. The chairperson of the National Assembly's Safety and Security Portfolio Committee was quoted in the press as saying that before the legislation could be approved "there would have to be clarity about the allegiance of municipal police to the [central] government".<sup>28</sup>

The resulting legislation rests heavily on legislative provisions to control and oversee the activities of the municipal police (see the section below on the process of establishing a municipal police service). To some extent this reflected the uncertainties of the ANC about local policing. This, together with strong opposition from the SAPS who feared their own budget might be cut to accommodate the new local police, also meant that there was little chance of securing national government funding for local government policing.

#### ***Municipal policing catches on: popular and political support***

Two factors provided the momentum for several metropolitan and local governments to begin the process of establishing municipal police services: the finalisation of enabling legislation, and the growing concern about crime levels together with a frustration about the effectiveness of the SAPS.

These concerns helped to undercut earlier fears among ANC politicians about establishing separate police agencies outside of the control of the central government. No political party wanted to be seen as standing in the way of legitimate public demands for protection. By 2000 all the major parties in the local government elections made the establishment of local government policing a key campaign issue.

At local government level also, the concept of municipal policing has grown in popularity due to:

- Increasing pressure to respond to what has become the number one need ('better safety') expressed by constituencies across the country.
- The inability of local government to influence priorities, resourcing and activities of the SAPS in their areas, which limits its ability to deliver on the safety issue.
- The lack of ideas (and experience) about how local government can respond to crime problems other than through policing and law enforcement. Since local government cannot make any direct impact on the activities of the SAPS, municipal policing has become an attractive law enforcement alternative.

Compared to concerns about crime and policing, the recent enthusiasm for municipal policing has had much less to do with support from central government or from the Department of Safety and Security.

There are however signs that this is changing. The clearest are the recent references to municipal policing by President Mbeki. In his state of the nation address to parliament at the beginning of 2001, Mbeki stated (to the surprise of police managers), that "In addition to other measures aimed at increasing the numbers of police personnel, the South African Police Service will give all required assistance to the Metropolitan Councils to enable them to establish their municipal police services where these do not exist".<sup>29</sup> More recently, in an hour-long interview on national television, the president also referred to municipal policing as part of government's effort to increase the numbers of police officers in the country's cities.<sup>30</sup>

This level of political support is significant because municipal policing is rarely mentioned by the Department of Safety and Security – a central player in the formation, functioning and likely success of any municipal police service.

The need for municipal policing was articulated in the Department of Safety and Security's 1998 White Paper on Safety and Security that provided policy direction for the following five years. The White Paper explicitly recognised the role of local government in crime prevention and the value of decentralised policing as a means of ensuring that the SAPS would be more responsive to local safety needs. Municipal policing is mentioned as a core element of this strategy. The White Paper repeated the role of functions of municipal policing as laid down in the legislation and urged stronger co-operation between local government officials, councillors and the SAPS.<sup>31</sup>

The extent to which the 1998 White Paper has reflected the Department of Safety and Security's priorities and operations since 1999 is however questionable. Apart from efforts to restructure the specialised investigation units, set up sector policing and improve service delivery to the public (some of the strategies mentioned in the policy document) little else has been taken up, particularly in the area of institutional reform within the department.<sup>32</sup>

Moreover, the White Paper is mentioned once only (in respect of improving the detective service) in the department's budget vote report. The issue of municipal policing was not mentioned at all by the Minister of Safety and Security in his recent address to parliament on the department's budget vote, nor in the accompanying documentation.<sup>33</sup>

In this environment, President Mbeki's support for municipal policing has important political consequences in that it signalled that central government supported the concept of local government policing where in the past it had been ambivalent. That support however is not clearly reflected in the framework legislation, which remains a compromise, leaving municipal police agencies weak and under-resourced for the challenges they face.

### **Chapter 3**

#### **Structure and Functioning of a Municipal Police Service**

The South African Police Service Amendment Act No 83 of 1998 outlines the complex and lengthy process required for establishing a municipal police service. The Department of Safety and Security and the SAPS play a central part in this process, not least in terms of approving applications from local governments and co-ordinating operations with new

municipal police agencies.

### ***Outline of legislation governing municipal policing***

Detail about the establishment of a municipal police service (MPS) is contained in the South African Police Service Amendment Act No 83 of 1998 (hereafter referred to as 'the Act'). Municipal police services exist entirely independently of the SAPS and are funded by, and accountable to, local or city governments.

The Act says that any municipality (urban, rural, large or small) may apply to establish a municipal police service. The provincial Minister of Safety and Security may approve the application after consultation with the National Commissioner of the SAPS and the MECs for local government, finance, transport and traffic if:

- The application submitted by the municipality complies with the requirements laid down in the Act.
- The municipality has the resources at its disposal to provide for a MPS which complies with national policing standards on a 24-hour basis.
- The establishment of a MPS will not negatively affect traffic policing.
- Provision has been made for civilian supervision of the MPS.
- The MPS will contribute to effective policing in that part of the province.

In the large South African cities, the municipalities are often referred to as 'metropolitan councils', hence in these cities, we refer to 'metro police'. Whether referring to municipal or metro police services, the acronym MPS is used – or MPD for a police department.

The statutory functions of a municipal police service are:

- Traffic policing
- Policing of municipal by-laws and regulations
- Preventing crime.

While the first two functions are fairly clear, there is some debate over the meaning here of 'crime prevention'. Some have taken it to mean that the MPS should engage in (or be responsible for) all types of crime prevention, which could include:

- Primary prevention with potential perpetrators and victims
- Secondary prevention with those who are already victims or perpetrators
- Tertiary prevention with the general public.

This view would see the council's crime prevention functions centralised in the MPS, which would play a role in a variety of crime prevention activities, such as environmental design and victim support. Others believe that the MPS will only engage in traditional *police-type crime prevention*, which is based on the idea that the mere presence of uniformed police officers will deter crime, and hence emphasises visible policing strategies such as foot or vehicle patrols.

The MPS will not conduct criminal investigations. After arresting any person on suspicion of having committed a criminal offence, the arrested person will be taken to a SAPS police

station as soon as possible. This interface between the MPS and the SAPS will be critical.

The MPS will be overseen by a civilian committee made up of elected councillors and other people selected by the council. This committee will:

- Advise the municipality's CEO on matters relating to the MPS
- Promote accountability and transparency of the MPS
- Monitor the implementation of council policy by the MPS
- Evaluate the functioning of the MPS.

In the cities which already have a MPS, these committees are made up largely of elected councillors, with some invited representatives of groups such as Business Against Crime.

The Provincial Commissioner of the SAPS must establish various structures to ensure co-ordination between the activities of the SAPS and those of the MPS operating in his province. The MPS will be obliged to participate in such a committee. In some cases, additional means of co-operation and co-ordination between the MPS and the SAPS are being implemented – this will vary between the provinces.

#### *The process of establishing a municipal police service*

The process of establishing a municipal police service is complex. The first stage of preparing the business plan can take many months – even as long as a year. Municipalities need to ensure that the capacity is in place to develop the municipal policing business plan – either by devoting dedicated staff to the task or by hiring consultants.

The provincial government needs to prepare to receive and scrutinise business plans from the municipalities. Provinces can therefore be expected to take some time to put in place the procedures for consideration and approval of such applications. Delays in the approval process at provincial government level could also impact on the timelines envisaged by municipalities.

A full costing of the proposed municipal police service is required as part of the business plan. This costing must demonstrate that all the costs of establishing and operating the MPS can be borne by the municipality in perpetuity. No funds will be made available from national government to assist local governments to establish MPS. The Act states clearly that "all expenditure incurred by or in connection with the establishment, functioning and maintenance of a municipal police service shall be for the account of the municipality in question".<sup>34</sup>

Assistance to municipalities from the national government (the SAPS and the Department of Safety and Security) "will be in the form of guidance and advice in setting up municipal/metropolitan police services. No financial assistance is involved", according to Deputy National Commissioner of the SAPS, Louis Eloff.

One of the most challenging requirements of the legislation, which must be demonstrated in the business plan, is that the MPS will operate on a 24-hour basis. This requires the development of a human resource plan and shift system. If three eight-hour shifts per 24

hours are utilised (as is most common) then the MPS must employ approximately three times as many officers as it wishes to have on duty at any one time.<sup>35</sup>

A municipal police service will probably have employees in a range of different categories:

- Full "members" who have training in both traffic enforcement and municipal policing, and are registered as traffic officers in terms of the traffic legislation. They will be able to enforce traffic laws and other by-laws.
- "Authorised officers" or "law enforcement officers" who are authorised to enforce by-laws only.
- All other "employees" such as civilian support staff, traffic wardens etc.

The shift system will need to be designed to provide the required numbers of each category of staff at all times. The provision of a 24 hour-service will require human resource management systems which can provide the necessary support to employees of the MPS, as well as procedures for resolution of labour disputes. In particular, clarity will be needed on the job descriptions, competencies, and remuneration of the three categories of MPS employees listed above.

There are complex labour relations issues involved in transferring an official from his or her former post in a municipality to a new position with has a new job description. Municipalities will need to navigate these with care.

#### *Framework of policing in South Africa and role of municipal police*

The SAPS is a national police service, with every police official reporting to the National Commissioner in Pretoria. The budget of the service is derived entirely from the national budget. Although there are provincial MECs for Safety and Security, political accountability for the SAPS rests largely with the national Minister of Safety and Security.

The SAPS is organised into a head office with a number of national divisions, nine provincial commands, 42 area command structures and 1121 police stations. Each police station is headed by a Station Commissioner who reports to the Area Commissioner, who in turn reports to the Provincial Commissioner. The police station area is generally the smallest organising unit in the SAPS, although some stations have further divided their areas into smaller 'sectors'.

The provincial governments all have civilian departments of Safety and Security (although the formal name of the department varies). These civilian departments have some say in the appointment of the Provincial Commissioner of the SAPS although Provincial Commissioners are appointed by, and report to, the National Commissioner.

If a key challenge facing municipal policing is co-operation between municipal forces and the SAPS, this is made more difficult by the fact that the jurisdictions of the two agencies follow different geographic boundaries. The MPS operate in the municipal area as defined under local government legislation. The national police service operates in the 'area' and

'station' zones defined by the SAPS. Neither of these jurisdictions are necessarily congruent with the boundaries of the magisterial districts used by the Department of Justice and the courts.

Within each municipal area, the municipality can define 'regions' or 'zones'. The MPS may be structured according to these, or may be organised to enable response to high-crime areas. Municipal areas in South Africa (even in the large cities) may include densely populated urban areas and more rural areas, which pose very different policing challenges.

#### *Law enforcement by the municipal police*

The SAPS Amendment Act refers to two key law enforcement roles of the MPS:

- Enforcement of traffic laws and regulations

The main instruments are the Road Traffic Management Corporation Act (RTMC) and the Administrative Adjudication of Road Traffic Offences Act (AARTO). The RTMC mainly regulates management and human resource practices in the road traffic service while AARTO is concerned with the actual enforcement and adjudication of road traffic rules and the adjudication thereof.

- Enforcement of local municipal by-laws

By-laws are made by the municipality. The by-laws in South African cities are in disarray, for two reasons. Firstly, the new municipalities have new boundaries and jurisdictions and the old (pre local elections held in 2000) by-laws do not apply across the new municipal areas. Secondly, many of the old by-laws are politically and legally inappropriate to new democratic South Africa and subject to challenge in terms of the constitution.

For instance, old by-laws against loitering might be discriminatory in terms of the race classifications used, and by-laws around housing and squatting might contradict the rights to shelter contained in the bill of rights. The role of enforcing by-laws will require the MPS to deal with a wide range of local problems, such as:

- street trading
- the keeping of dogs and other animals
- control, supervision and inspection of commercial businesses
- the licensing of vehicles, public vehicles, public buses and taxis
- conduct at public resorts, public places, camping sites, swimming pools and recreation grounds
- the keeping of bees
- cemeteries and crematoriums
- noise control
- municipal libraries
- streets and buildings
- control over outdoor advertising (such as billboards, posters and signs)
- licensing of plumbers and sewage constructors
- the use of non-approved structures for dwelling and business purposes
- health standards in cafés and restaurants

- prohibition of smoking in theatres, cinemas, municipal buses and lifts
- health standards in childcare facilities
- food handling
- procedures at fresh produce markets
- fire services and fire safety
- sewage and cleansing
- the municipality's financial procedures.

A third enforcement area for the MPS is the enforcement of other legislation. Every member of a municipal police service is a peace officer and may exercise the powers conferred on peace officers.<sup>36</sup> Any legislation which gives powers to peace officers is therefore included in defining the powers of members of a municipal police service. A peace officer is defined in the Criminal Procedure Act 51 of 1977 to include:

any magistrate, justice, police official, correctional official, as defined in section 1 of the Correctional Services Act, 1959 (Act 8 of 1959), and, in relation to any area, offence, class of offence or power referred to in a notice issued under section 334 (1), any person who is a peace officer under that section.

In terms of section 334 of the Criminal Procedure Act, the Minister – by notice in the Gazette – can declare that "any person who, by virtue of his office, falls within any category defined in the notice, shall, within an area specified in the notice, be a peace officer for the purpose of exercising, with reference to any provision of this Act or any offence or any class of offences likewise specified, the powers defined in the notice."<sup>37</sup> The provisions of section 64F(3)(a) of the South African Police Service Amendment Act have achieved this by enabling municipal police officers to be peace officers.

Annexure 6 of the Police Service Amendment Act sets out which legislation is applicable to a municipal police service,<sup>38</sup> and this includes:

- Section 8(3), section 8(7) and section 9 of the Stock Theft Act No. 57 of 1959
- Section 4 of the Teargas Act No. 16 of 1964
- Section 14(2)<sup>39</sup> and section 70(1) of the Mental Health Act No. 18 of 1973
- Sections 21, 22, 26, 27, 37 and 72<sup>40</sup> of the Criminal Procedure Act No. 51 of 1977
- Section 53 of the Sea Fisheries Act No. 12 of 1988
- Section 11<sup>41</sup> of the Drugs and Drug Trafficking Act No. 140 of 1992
- Section 13<sup>42</sup> of the South African Police Services Act No. 68 of 1995.

Newer statutes such as the Domestic Violence Act and the draft Firearms Control Act will also have to be enforced by the Municipal Police Services.

#### ***Crime prevention by the municipal police***

It remains unclear exactly how the 'crime prevention' role of the MPS will be interpreted – whether it will include social crime prevention as envisaged in the 1998 White Paper on Safety and Security, or whether the crime prevention role of the MPS will be derived from

the general deterrent effect which ordinary police work and patrol is taken to have.

There is a great deal which municipalities can do to contribute to crime prevention. The White Paper on Safety and Security says that social crime prevention aims to "reduce the social, economic and environmental factors conducive to particular types of crime". It suggests that cities can engage in the following types of activities:

- designing out crime
- education
- promoting social cohesion
- supporting youth, families and groups at risk
- breaking cycles of violence
- promoting individual responsibility
- socio-economic interventions to undercut the causes of crime.

None of the cities discussed here appear to have a coherent plan for implementing these kinds of social prevention strategies. It seems, therefore, that the main approach to crime prevention will be police patrol. Increased deployment of uniformed municipal police in a particular area can increase general police visibility in that area. This is believed to have a deterrent effect on people who are considering committing offences. However, there is some research evidence that disputes this effect.

Nevertheless, increased visibility can contribute positively to the local community's sense of safety because it can be taken to mean that the local government is taking their fears and concerns seriously. There are two key problems with the preventive patrol approach:

- It can be costly and hard to sustain in the long-term. Officers can do routine patrol work while there are no other, more pressing matters to deal with. But when other crises arise, patrol work is often the first to be abandoned.
- Decision-making about where to do patrolling requires sound information about crime and disorder problems and regular evaluation of impact. Saturation patrolling can displace crime out of one area to another which is not being patrolled, thus simply moving the crime problem, rather than reducing it. Municipal police commanders need to access good crime information systems (those owned by the SAPS as well as those owned by local government) in order to deploy patrol officers and vehicles in a cost-effective manner.

## **Chapter 4**

### **Municipal Police Services in South Africa**

#### ***Durban***

Durban was the first city in South Africa to establish a metropolitan police service under the new legislation. Its predecessor, the Durban City Police, was the only city-based police agency in South Africa, and was widely regarded as a model for the legislation.

In May 1999, an agreement was signed between the Durban Metropolitan Council and its

local councils in which the latter ceded their competency in the areas of fire, disaster management, traffic and security to the metro administration. That agreement prepared the way for the establishment of a metro-wide police service.

In January 2000, the Durban Metropolitan Council applied to the KwaZulu Natal provincial government to establish a metro police service and, six months later, the Durban Metropolitan Police Service (DMPS) was launched. The Chief of the Durban Metropolitan Police Service is Lungisa Manzi, a former SAPS officer. The DMPS is based on the amalgamation of the old City Police with traffic departments and some by-law enforcement components of the other local councils in the Durban metropolitan area.

At present, the DMPS is made up of approximately 1 000 personnel of whom about 765 are uniformed members. The DMPS has six rank levels and is largely built on the institutional structures of the old City Police, with some of the members being drawn from the traffic departments of municipalities which were included in the Durban Metro when the new demarcations came into effect at the end of 2000. The former traffic officers are undergoing the 'conversion training' which enables them to become metro police officers. According to the legislation, all the traffic officers must have completed this training within three years or they will lose their positions in the MPS. The training is ongoing at the moment.

There are currently no municipal courts in Durban. There is a need for such courts and the DMPS is trying to solicit funds for their establishment.

The City of Durban has not completed the 'purification' of its by-laws, and this process – which will result in one new set of by-laws for the metro area – is planned for completion by the end of 2001.

The DMPS has defined its 'priority areas' of operation in accordance with the SAPS' priority station areas in greater Durban – those police stations with particularly high levels of reported crime. They include:

- Northern areas like KwaMashu, Inanda and Phoenix
- Durban Central, Green Park and the northern parts of the CBD
- Southern parts of the CBD and the southern industrial basin, Maydon Wharf, Cato Manor and Pinetown
- Umlazi and areas south of Durban
- Amanzimtoti and the informal settlements nearby.

The City of Durban has budgeted approximately R216 million this year for Protection and Emergency services (including the DMPS). This is not a significant increase on the R203 million allocated last year because the costs of the DMPS are not that different from the costs of the former City Police and traffic components.

The Durban MPS has some significant advantages over the other cities, as it has an already-established source of funding from within the city's fiscus, as well as the inherited organisation of a local government police service. Even for Durban though, there have been significant transformational challenges; including the formal appointment of new managers and the absorption and reorganisation of various surrounding traffic and security

departments to fit in with the newly established local government boundaries.

More than any other city, however, Durban has a tradition of putting police on the beat, with the result that little change of culture or training are required to ensure a smooth transition to a visible municipal police service which focuses on the prevention of crime. Significantly also, local policing in Durban has long experience of working with the SAPS, which largely accepts the municipality's role in contributing towards policing the city.

One danger for Durban, as in the case of all the cities attempting to establish municipal police services, is that political pressure for a police presence may stretch resources too thinly. Already, municipal police stations have been built in outlying areas, and patrols extended to cover a wider geographic area, including townships and housing settlements formally excluded from the ambit of the former Durban City Police. While such an expansion of duties is understandable given the poor policing service that many citizens receive in these areas (and hence their pressure on local government for better delivery) there may also be drawbacks to spreading resources too thinly.

Municipal police services should concentrate initially on a highly visible and effective presence in built-up or areas (such as city and town centres) used by all South Africans. One of the drawbacks of spreading resources over a larger area, although this may in fact apply less to Durban than to cities like Johannesburg, is the shift from foot to car patrols to cover the greater distances. This would be unfortunate, given the low visibility of police personnel in built-up areas, and the desire to build a tradition of 'bobbies on the beat' that has been absent in South Africa.

### ***Johannesburg***

Johannesburg's new Metro Police Department (JMPD) was launched in March 2001. It has approximately 2 500 personnel (uniformed and civilian) drawn from the traffic departments, crime prevention and by-law enforcement agencies of the former Johannesburg Metropolitan Council, its four local councils and the former Midrand Local Council. (By comparison, the strength of the SAPS in the greater Johannesburg metropolitan area is approximately 10 000 personnel).

The Chief of the JMPD is Chris Ngcobo, a long-time city official who does not have a background in law enforcement. The next level of appointees reporting to him are the eleven heads of the various regional commands, the head of the training academy, legal processing, corporate services etc. There are seven rank levels in the JMPD, from the Chief down to the 'officer'.

The JMPD is made up almost entirely of former city employees – largely the former traffic officers – with a small number of new recruits having completed six months of training at the metro police academy in Johannesburg.

The JMPD is organised into eleven regional commands, one in each of the city's eleven sub-regions. Within each region, the JMPD will perform all three of its functions. In other words, the personnel are not organised separately into traffic, law enforcement or crime prevention functions.

Johannesburg inherited one functioning municipal court in the Midrand region north of the city, and four traffic courts. The JMPD is working on establishing more municipal courts. The traffic by-laws for the whole city have been revised and consolidated into one new by-law. The same process is under way for all the other by-laws, and the city's legal advisors are expected to have completed the process by April 2002.

The JMPD has prioritised the following parts of the city:

- Inner city (region 8)
- Alexandra (region 7) on the east of the city
- Ennerdale/Orange Farm (region 11) in the far south
- Diepsloot (region 1) in the far north of the city.

Johannesburg has budgeted approximately R258 million this year for its Protection Services component (which includes the JMPD as well as various other departments such as Emergency Services). This is a substantial increase on the R151 million allocated in last year's budget. This reflects, in part, some new costs related to the establishment of the JMPD since the last budget was published. The Metro Police Department is the fifth most expensive function for the city government in terms of operating expenses, but one of the least expensive in terms of capital expenditure – this means that the main costs of the JMPD are salaries, rather than equipment.

The Johannesburg metro, which has been promising its residents since 1996 that it would establish a local police service, faces several challenges in its establishment of an MPS. The council has suffered from severe financial problems for a number of years.<sup>43</sup> In the city that is widely regarded as the country's crime capital, expectations have been created about the impact of municipal policing which will be difficult to meet. Some controversy surrounded the launch of the Johannesburg metropolitan police when sources within the council suggested that the hype around the unveiling masked the fact that the new metropolitan police were nothing more than the old traffic and security departments in new uniforms.<sup>44</sup>

The issue of meeting expectations remains a key challenge. Public surveys suggest that one of the key demands of ordinary citizens is for a more visible police presence. Municipal police, given that they are not responsible for investigating crime, will probably be judged in respect of one key criterion: their visibility, particularly in areas where the public feels unsafe. They also face a problem of converting public views of the old traffic departments into positive perceptions of a police service. Traffic officials, largely because of their capacity to levy fines and a reputation in some areas for corruption, were not always well regarded.

The challenge of reversing public perceptions on the expanded role of the MPS is well-illustrated by two recent incidents in Johannesburg. In the first case two new municipal police officers were assaulted while trying to search a suspect who claimed that he did not know that they were law enforcement officers. On the same day another suspect also resisted the actions of a municipal police officer: "Since when can a mere traffic officer search me?"<sup>45</sup> While traffic officers always, in fact, had the powers to search suspects, it will take time for the role and functions of the municipal police officers to be clearly established and accepted by the public.

## **Pretoria**

Prior to the creation of the new unicity at the end of 2000, the Greater Pretoria Metropolitan Council (GPMC) commissioned consultants to investigate the feasibility of establishing a metro police service in the country's capital. Although the existing traffic and by-law enforcement capacity in Pretoria is limited, city officials view the establishment of a MPS as important for the future prosperity of the city for two reasons: rising crime levels which have been partly attributed to the displacement of serious and violent crime from Johannesburg to Pretoria, and the possibility that Parliament will relocate to Pretoria.

The Tshwane Council (Pretoria unicity's new name) is considering the establishment of its Metro Police Service by the end of this year or at least by June 2002. Former SAPS Provincial Commissioner Sharma Maharaj has been appointed to head up the Tshwane Metro Police initiative.

Tshwane has budgeted approximately R220 million for its Protection Services component in this financial year (starting July 2001) – an increase on the R132 million allocated last year. Part of this amount (R40 million) will be dedicated to the development metro policing.

Tshwane is the only city (to date) which is considering including a 'social crime prevention unit' in its Metro Police organisation.

## ***Cape Town***

The Western Cape MEC for Community Safety, Hennie Bester, this month approved the establishment of the Cape Town City Police from 1 December 2001.

The preliminary MPS model proposed a force of 3 000 people structured according to seven ranks. The City Commissioner (Chief) will lead the MPS with assistance from some Deputies, Zone/Area Chiefs, and Precinct/Station Chiefs. The members are to be deployed in the eight zones/areas that have been created for the MPS across the metro (there are different sub-divisions for each municipal function). The key issue in deciding these deployment zones was to ensure good co-operation with the SAPS.

The deployment of the MPS will probably be aligned with the four crime 'hotspot' and urban renewal areas in Cape Town:

- Manenberg
- Mitchells Plein
- Elsies River
- Khayelitsha.

All those who join the Cape Town MPS will have to undergo the 24 week training course (i.e. they will not do the 'conversion' of traffic officers to MPS officers like Johannesburg did). There is a strong emphasis on creating a new service rather than re-structuring or amalgamating any of the existing structures. Of the first 500 trainees (who began training in July), most are new recruits – between 100 and 200 will be existing council staff. Fifty Community Patrol Officers (also known as the city's 'rent-a-cops') are among the new

recruits. The provincial government is committing significant resources to municipal police training, and has established a training academy for this purpose. Its aim is to train 400-500 municipal police members every six months.

In terms of its by-laws, the city is in the process of drafting a new 'order maintenance' by-law to address issues like parking attendants, hawking, soliciting, vagrants, etc. A second municipal court was planned for earlier this year, which would focus only on the prosecution of by-laws. Similar courts will then be formed in other parts of the city. The metro has budgeted R8 million this year for these courts. (Each court costs about R1 million per year to run, including all salaries and provision of facilities.)

The city government has planned for an additional R32 million on this year's budget for the MPS. This will grow over the next four years. (The metro council's Safer Cities Program, which focuses on social crime prevention, has a budget of R7 million this year.)

One distinguishing feature of Cape Town's approach is that the Western Cape provincial government is providing the training facility for the MPS. This has been done for two reasons:

- For standardisation – to ensure uniform and high levels of training to municipal police officers throughout the province, and
- Out of recognition that local governments do not have the funds to provide training. Provincial government has a mandate to 'support local government' and provision of training has been seen as a means of fulfilling this mandate.

The provincial government will cover the direct costs associated with training the Cape Town Metro Police recruits (R9 000 per recruit for the course).

Two key and inter-related factors advantage the Cape Town metro in its process of establishing a MPS. First, the strong political drive by the Democratic Alliance (DA) in the province to establish such a service. Given that the DA has little control over the actions of the national police, the building of a strong and efficient local police service is seen as a priority for reducing crime in the city.

Like Durban, Cape Town has a direct interest in the visible presence of police officers in tourist areas. Second, its funding for the establishment (including training) of the municipal police service is being drawn from both the local and provincial level, and the project will be a flagship of the municipality as well as of the province. One of the consequences of the investment in the Cape Town MPS by the provincial government will be a strong political requirement for effective service delivery.

#### ***Other cities and towns***

The authors know of several other municipalities that are considering establishing MPS:

- Drakenstein/Paarl in the Western Cape
- Swartland/Malmesbury/Moreesburg in the Western Cape
- George/Mosselbay/Riversdal in the Western Cape
- Oudtshoorn in the Western Cape

- Highveld East Municipality in Mpumalanga
- Ekurhuleni (Greater East Rand Metro) submitted an application to the Gauteng Provincial Government early this year. That application was assessed and some issues (especially of sustainability and financing) were identified as needing further work. Ekurhuleni hopes to launch its MPS with 700 members – made up of former traffic officers from the various municipalities that constitute the new unicity.
- Nelson Mandela Metro (formerly Port Elizabeth) intends establishing a Metro Police Service but does not have sufficient financial resources at present. Interim stages of developing a new law enforcement capacity are being considered.

## Chapter 5

### Key Challenges for Establishing Municipal Policing

The debate about the establishment of local government policing in South Africa has taken second place to more important questions about restructuring and reorienting the national police service. Ironically, initial suspicions about possible threats that local police agencies could pose, have now been overtaken by high expectations as to what can be achieved.

Enacting a legislative framework for municipal policing was only a small part of the battle, and, with little experience from which to learn locally, the process of establishing successful municipal police agencies is likely to be slow and iterative. Many municipalities (particularly those outside the country's six major metropolitan areas) lack the resources and the skills to ensure that such police agencies are an outright success.

Some of the key challenges facing South African cities in the establishment of metropolitan police services are:

#### *Clarifying the role and mandate of the MPS particularly as it relates to crime prevention and co-ordination with the SAPS*

Co-ordination with SAPS and other enforcement agencies will require the MPS to carve out its area of jurisdiction, agree on joint and separate priorities, share resources and minimise turf conflicts with the SAPS. As we have pointed out earlier, one of the obstacles to co-ordination between the police agencies is the different geographic jurisdictions in which they operate. Building an effective working relationship with the SAPS is one of the most critical challenges facing MPS leaders at this stage. This may be complicated by the fact that both organisations share the legal mandate for 'crime prevention' and there is no shared understanding of that mandate.

Another issue which may cause difficulties in the relationship between the SAPS and municipal police services is the idea of 'burden-sharing' as introduced in the 1998 White Paper on Safety and Security, and the need for some SAPS funds to be linked to the re-allocation of certain function from the SAPS to the Metro Police Services.

#### *Balancing enforcement and crime prevention activities*

Both of these activities are equally weighted in the legislative mandate to metropolitan police services. If the national government policy of requiring city governments to co-

ordinate 'social crime prevention' remains intact, the MPS may have to embrace social forms of prevention which have not been their traditional preserve (or the social crime prevention function will have to be accommodated elsewhere in the municipality). Existing MPS's are focussing almost entirely on traffic enforcement and traditional law enforcement methods of combating crime, with little attention given to prevention.

***Determining the extent to which MPS officers will act as 'peace officers' and enforce by-laws and legislation***

This will involve determining the range of legislation which municipal police officers will have to enforce, and ensuring that they are sufficiently skilled to perform all these functions. Training in crime prevention and enforcement of by-laws and legislation (other than traffic legislation) should be prioritised.

***Transforming the organisational culture from specialist enforcement (such as traffic or planning enforcement) to more generalist community policing approaches***

The SAPS has benefited from years of training on community policing and multi-agency partnerships, and has moved some way to implementing a community policing approach, but the MPS do not have the same background. The MPS will face a steep learning curve in building effective community partnerships for safety. They will need to move from being an agency which has traditionally only focussed on traffic enforcement, to one which is a 'police service' in the true sense of the word. Former traffic officials in the new Metro Police Services are one of the few categories of public servants whose job descriptions and working lives have changed profoundly in the past couple of years.

***Financing a MPS***

Municipalities wishing to establish Metro Police Services will need to find increased resources for public safety provision, without direct financial assistance from the national fiscus. In some municipalities, additional levies have been proposed. It remains to be seen whether local ratepayers will be willing to pay more in order to have a local police service.

***Defining the conditions of service of municipal police officers***

This will require cities to provide pay parity for members of the MPS who do the same work and hold the same rank (at present, the inherited labour relations arrangements in many municipalities mean that officials can be earning very different packages for doing the same work) and come to workable agreements with labour unions around conditions of service. Issues concerning disciplinary procedures have already come under the spotlight in Johannesburg, and Cape Town was facing union unhappiness with various aspects of their process to establish the metropolitan police.

***Dealing with demands to include former combatants***

Many municipalities are facing political pressure to incorporate former members of the liberation armies in their new police services. This issue has already been faced by the SAPS, without much success. It raises problems around entry requirements for municipal police services, as well as questions around the political neutrality required for professional policing.

### *Ensuring political independence of local police services*

The national police service (SAPS) has undergone a painful process of transformation over the past decade, central to which has been the idea of de-politicising the police function in South Africa. Elected councillors and executive mayors will need to learn the same lessons about reducing political interference in operational policing as have their counterparts in the national and provincial legislatures. The memory of politically-aligned policing is still fresh in the minds of citizens, and municipal police forces will need to guard against becoming pawns in future election campaigns.

### *The harmonisation and integration of by-laws*

Municipalities will each require one consolidated, modernised set of local by-laws which are politically and constitutionally appropriate. The drafting of these by-laws is a massive task. Even when it is complete, there are likely to be some legal (eg constitutional) challenges to the by-laws in the initial period.

### *The effective enforcement of by-laws*

By-law enforcement could be used to address the 'broken window' syndrome of urban disorder and fear. However, this will require Metro Police Officers who are confident and competent to enforce a wide range of by-laws, and municipal courts which are able to impose strict penalties for by-law infringements.

### *Meeting public expectations*

Politicians (MECs, mayors and councillors) have generated an enormous amount of media coverage and public interest in municipal policing, and have, in some cases, made extravagant promises about the contribution that the MPS will make to reduce crime. Given that most of the existing municipal police agencies are focussing largely on traffic enforcement or on work in only certain parts of the cities, those expectations are unlikely to be met, at least in the short term. The provision of visible policing, whether or not it impacts upon crime, is a central challenge facing the new generation of municipal police managers. Only by being on the street, and being seen to act professionally, will the MPS make an impact on public perceptions of fear and safety.

### *Maintaining standards*

There is likely to be a great deal of scrutiny of municipal/metropolitan police agencies in this early phase. This places pressure on managers to ensure that problems like bribery, corruption, excessive use of force, inappropriate treatment of victims of crime, and racism are minimised, and dealt with in a decisive manner. The councils, provincial governments and the SAPS are formally charged with monitoring the MPS, but human rights bodies, advocacy groups and unions will also be watching closely for any problems.

### **Conclusion**

The success of local policing in the major cities is critical to ensuring that the concepts of locally controlled, efficient and professional police become a standard feature of the law

enforcement environment in South Africa. Should they fail to do so, the hand of those who argued that local policing was a dangerous experiment which should not have been encouraged at the expense of the national police service will be strengthened. Should municipal police, however, be seen as providing high levels of service, the argument for a further devolution of policing power may be strengthened, and the SAPS will be challenged to improve their standards of service delivery to comparable levels.

**Notes:**

<sup>1</sup> Gavin Cawthra, *Policing South Africa: The SAP and the Transition from Apartheid*, London: Zed, 1993, p. 62.

<sup>2</sup> *Truth and Reconciliation Commission, Truth and Reconciliation Commission of South Africa Report*, Volume 2, Cape Town, October 1998, p. 184.

<sup>3</sup> *Ibid.*, p. 183.

<sup>4</sup> Legislation passed by parliament reverts to the term 'municipal police' that is thus also largely used in this article. Police agencies in the major cities however continue to use the term 'metropolitan police'.

<sup>5</sup> Although trained and paid by the SAP, the municipal police were attached to the Black Local Authorities (BLAs), initially falling under the Department of Constitutional Development.

<sup>6</sup> Interviews conducted by Mark Shaw with traffic police officers in early 1995 suggested that about a quarter of their duties related to criminal law enforcement. Accompanying traffic officers on patrol confirm this estimate. However, it should be noted that these are not systematic estimates and the level of involvement in criminal law enforcement would depend heavily on the individual, the area where he or she works as well as their assigned task.

<sup>7</sup> See Jacques Pauw, *In the Heart of the Whore*, Johannesburg, Southern Book Publishers, 1991.

<sup>8</sup> See Jack Jewell, *A History of the Durban City Police*, Durban, Durban City Council, 1989.

<sup>9</sup> M Shaw, 'Metropolitan and municipal policing', in M Shaw and L Camerer, *Policing the transformation: new issues in South Africa's crime debate*, ISS Monograph No 3, April 1996.

<sup>10</sup> For some data as to the extent of the involvement of the DCP in combating crime see Mark Shaw, *'Partners in Crime'? Crime, political transition and changing forms of policing control*, Centre for Policy Studies, Research Report 39, June 1995, pp. 92-94.

<sup>11</sup> For the ANC it reflected a desire to ensure that South Africa remained a unitary state

with strong instruments of central government. This combined with a belief that a fragmented system of policing would allow some regional parties (notably the Inkatha Freedom Party (IFP) in KwaZulu-Natal) to control a police agency of their own. A centralised police agency would result in a more uniform approach to issues of transformation. For senior police management, a single police agency ensured better control and provided a policing context with which they were comfortable; policing in South Africa had historically been centralised, despite the proliferation of bantustan police agencies the SAP remained the largest and most dominant force.

<sup>12</sup> *Interim Constitution of the Republic of South Africa*, Act 200 of 1993, Section 221 (3).

<sup>13</sup> No mention for example is made of municipal police in the ANC's key statement of its policies in the run up to negotiations. See *Ready to Govern: ANC Guidelines for a Democratic South Africa*, 1992.

<sup>14</sup> Constitution of the Republic of South Africa, Act 108 of 1996, Section 199 (1).

<sup>15</sup> *Ibid.*, Section 206 (7).

<sup>16</sup> South African Police Service Act 68 of 1995, Section 64 (2) (3).

<sup>17</sup> *Ibid.*, Section 64 (6).

<sup>18</sup> Published as 'Metropolitan and Municipal Policing, Ministry of Safety and Security, Gauteng Province, March 1996', in Mark Shaw, *Towards Safer Cities: The South African Debate on Options for Urban Safety*, Institute for Security Studies, Monograph No 11, April 1997.

<sup>19</sup> The powers of 'peace officers' are prescribed by the Criminal Procedure Act, No 51 of 1977. Traffic officers were designated as peace officers giving them the powers of search, seizure and arrest.

<sup>20</sup> 'Metropolitan and Municipal Policing, Ministry of Safety and Security, Gauteng Province, March 1996', *op. cit.*, p. 8.

<sup>21</sup> In fact, given their history local government security departments, the paper argued, should not engage in public policing activities and only be absorbed into new municipal police structures should their members meet the required training standards.

<sup>22</sup> 'Metropolitan and Municipal Policing, Ministry of Safety and Security, Gauteng Province, March 1996', *op. Cit.*, pp. 12-14.

<sup>23</sup> *Ibid.*, p. 14.

<sup>24</sup> *Ibid.*, p. 15.

<sup>25</sup> 'The Case for City Policing Service in Gauteng, Standing Committee on Safety and Security, Gauteng Legislature, June 1996', published in Shaw, *Towards Safer Cities*, op. cit.

<sup>26</sup> *Ibid.*, p. 23.

<sup>27</sup> Among others these included: Departments of Safety and Security at national and provincial level, Departments of Transport at national and provincial level, Departments of Local Governments at national and provincial level, Department of Finance at national and provincial level, various metropolitan governments, their traffic and security departments, as well as the SAPS, including community police forum representatives.

<sup>28</sup> Clive Sawyer, 'Speed wobble for new law on municipal police forces', *Cape Argus, Cape Town*, 11 June 1998.

<sup>29</sup> The State of the Nation Address of the President of South Africa, Thabo Mbeki, at the National Assembly Chamber, Cape Town, 9 February 2001, p. 14.

<sup>30</sup> SABC3 live interview by John Perlman and Tim Modise, 18h00-19h00, 22 June 2001.

<sup>31</sup> *In Service of Safety: White Paper on Safety and Security*, September 1998.

<sup>32</sup> Two possible reasons for this are that the White Paper was drawn up during Sydney Mufamadi's term as minister of safety and security. Steve Tshwete replaced Mufamadi in 1999. At the same time a new national commissioner of the SAPS (Jackie Selebi) was appointed. There has been little mention among the new police leadership of the White Paper and since 1999 the department has focused on a tough law enforcement approach dominated by the high density, three year crime combating strategy 'Operation Crackdown'.

<sup>33</sup> Vote 32, Safety and Security, June 2001; Address by Minister Tshwete on the safety and security and the Independent Complaints Directorate Appropriation Bill budget votes, at the National Assembly Chamber, Cape Town, 7 June 2001.

<sup>34</sup> SAPS Amendment Act No 83 of 1998, 3 (6).

<sup>35</sup> This is approximate because personnel will not be distributed evenly across all times – depending on the type of crime prevention and traffic duties being prioritised.

<sup>36</sup> Section 64F(3).

<sup>37</sup> It is of interest to note that in terms of section 334(4) of the Criminal Procedure Act, the employer of any person who becomes a peace officer under the provisions of this section would be liable for damages arising out of any act or omission by such person in the discharge of any power conferred upon him under this section. The State shall not be liable for such damages unless the State is the employer.

<sup>38</sup> R710 (11 June 1999) Government Gazette GG No. 20142

<sup>39</sup> Provided that a member of a municipal police service will hand such a person over to a member of the police service.

<sup>40</sup> The powers contained in this section for the purposes of section 55

<sup>41</sup> Only those powers referred to in subsections 1(a), (b), (d), (g) and 2(a)

<sup>42</sup> Only the powers referred to in subsections (4), (7)(c), (8) and (11). The reference to National or Provincial Commissioner is to be interpreted as a reference to the Executive Head of the municipal police service.

<sup>43</sup> See Anna Cox, 'Cash needed to fund Jo'burg Metro police', <http://archive.iol.co.za/Archives/1998/9811/6/metro.html>

<sup>44</sup> Peta Krost and Baldwin Ndaba, 'No added manpower in new metro police', *Saturday Star*, Johannesburg, 30 March 2001.

<sup>45</sup> Zanele Mngadi, 'Stormy start for some metro police members', *The Star*, Johannesburg, 1 April 2001.