

The State of Democratic Oversight

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1. INTRODUCTION

South Africa is faced with yet another crisis: Crime. Almost every news bulletin carries a clip on this scourge. Crime has now afflicted all spheres of life and is at once affecting all levels of communities. The statistics on the levels of crime are frightening: one hijacking every eighteen minutes, a woman is raped every thirty seconds.

With this alarming crime rate, the level of fear for crime across all sectors of our society has also increased. People who live behind high walled mansions in up- market suburbs can be victimised as often as those who occupy the cardboard houses in the squalid informal settlements. The rich and poor, young and old, black and white are equally affected. No one is spared and no one is safe, crime is affecting everyone equally so.

Recently there has been startling reports on incidents which indicate the extent of the problem. An ATM machine was stolen at the police headquarters. The President's house and ministerial residences have been broken into and goods stolen from them. The wife of an MP was raped while on tour at the Robben Island. These are just but a few of incidents indicative of the horrifying crime wave.

Much as crime is in the media spotlight, and of course a primary concern to citizens, so is policing. The attention is now equally focused on those who are expected to shield communities from crime. Very often there are reports in the media on police corruption, inefficiency or brutality. Figures on police complicity, inefficiency and involvement in crime syndicates are startling. At the moment about eleven hundred police officers are on suspension having been accused of various crimes.

Nonetheless, there are initiatives by various sectors of community to assist the police authorities to turn the tide. Business has pledged financial and material support for crime prevention programmes. Communities have vowed to assist police in their investigations by providing information.

This monograph intends to document the views of various role players involved in the field of Safety and Security. Participants commented on the structures that exist or should exist to assist the police in their work. Thoughts were put forward on how communities should organise themselves so as to improve the work of the police. These are some of the issues that we raised with and sought answers for from the participants.

This project would not have been possible without the corporation of the participants. We owe gratitude to them and all those who assisted us.

2. A NOTE ON METHODOLOGY

2.1 Researching policing

In general, conducting research into any aspect of policing is not without difficulty. Firstly, because the culture of silence, and closing rank within the police makes it extremely difficult to gather facts for research. Secondly, because police have been revered by some and feared by many as a result of many years of intimidation, torture and state violence.

Some people profess to, still, be afraid to talk about the police. Those who speak, often do so with anger and frustration. On the other extreme, there are people who regard the police as above reproach fearing that further criticism might reduce morale.

At least as important as these factors is another. Because of the very nature of police work, public knowledge of the systems, structures, objectives, strategies and constraints on policing is usually quite thin. Police services around the world reinforce the mystique of the profession - in part because a police service which is not entirely understood may well appear more powerful, omnipresent and effective. This tendency is especially acute in SA where for political reasons policing has, historically, been projected as extremely effective and the police forces were shielded from close public scrutiny.

The upshot, of course, is that conversations and research into policing often stumbles into the preconceptions of both researcher and interviewee.

2.2 Aims and objectives

The aims and objectives of the project were as follows:

- 1) We wanted to understand the historical functioning of civilian oversight of policing in South Africa.
- 2) We sought to determine the views of policy makers as well as practitioners in the field of Safety and Security on the proper role of the Secretariat in monitoring the police.
- 3) We aimed to analyse the system of civilian oversight in all its dimensions.

We hoped that this would help us to create a theoretical framework within which the functions of different roles players can be distinguished; the possibility of forging

partnerships explored, and the assessing of how the nature of civilian oversight be conceptualised.

Before proceeding, it is worth recognising that these objectives were not fully met. Difficulties relating to the focus of interviews as well as the accuracy of information were encountered. Rather than allow the valuable information and analysis that was obtained to be lost, however, we thought it appropriate to record the views of participants in the process.

2.3 Narrative enquiry

We used narrative enquiry as our primary method to collect data. This allowed respondents to sway the interview in a direction with which they were comfortable. The interviewees had a wide range of experiences that were gained at the different times and places. Some spoke about their experiences in parliament, others about their daily encounters with the police. The experiences and thoughts were like a jigsaw puzzle and we attempted to construct as rich and varied a picture of their views as possible.

The method of collecting data in this way is widely used in similar cases where the participants are not comfortable with the topic, or if the topic is of a sensitive nature, and where research participants' encounters are at different times. In our case, some participants had had unpleasant experiences with, or views of, the police and many of their scars were still very fresh. To get people to talk about their experiences and the role the Secretariat could play in improving policing, we had to let participants lead the process. Further, the fact that many participants had strong views on policing, meant that guiding the discussion was often quite difficult.

2.4 Research participants

We interviewed academics, NGOs, policy makers, elected representatives, CBO's, statutory bodies and political parties (Annexure 1). The interviews had three focal points. Firstly, we asked the interviewees to define the concepts of police accountability and civilian oversight. Secondly, we asked them to assess the desirability and importance of such concepts, and how could these be implemented. We also asked them about their activities and what areas of safety and security they are involved in. Finally, we asked for their views on key issues in policing (Annexure 2).

We also sent out questionnaires to the participants and others whom we could identify wherein we asked the respondents to furnish us with information on their organisations, structure, role, etc (Annexure 3). This information will be used to set up a database of organisations and individuals that are active in the field of policing. This, we hope, will facilitate information sharing, as well as exchanging expertise in the field.

We should note, however, that response to the questionnaire was poor.

We are satisfied that the participants we interviewed frankly and openly shared with us their perceptions of, thoughts on, and experiences, with the police. Some answers were astonishingly similar and others remarkably different.

We are aware that we have not spoken to everyone that matters in this area. Space and time were our constraints. The little we have done will contribute in a small way to the body of literature that is available. Furthermore, we hope that the project will greatly assist us in understanding civilian oversight.

3. CIVILIAN OVERSIGHT

3.1 A historical perspective

The history of our country is that of strife and bloodshed. For many years black people in this country were deprived of basic human rights and a decent life. They were forced to live under sub-human conditions as successive white minority governments imposed an unbearably oppressive system upon them.

Given the legislative nature of apartheid, the police force was a visible element of the system of oppression. The police force was also used to crush any form of opposition by force. In the views of many of our respondents, the main role of the police throughout the tumultuous years of a bitter struggle for justice was that of containment and oppression. Naturally such a role resulted in strategies, actions and events which have shaped the perception of, and attitude towards, policing in many sectors of our community.

Undoubtedly, the history of the police in this country cannot be separated from that of the struggle for justice and democracy. From the date that the South African Police was established in 1913 until the new government was elected in April 1994, the primary role of the force was to maintain the repressive, segregationist systems of various white minority governments. Often this could only be done through the use of brute force.

Further, as many officers now acknowledge, the only route to high office in the SAP was through experience in the secretive and insulated domain of internal security. The effect was to create a policing culture, the tone of which was set by members whose primary experience was in the policing of political resistance. This meant that progress and status were correlated to police work that brought the individual officer into direct opposition with the community. Obviously, this had severe consequences on the development of oversight.

This culture was carried into the police force and was chiseled as their mission to protect the interest of the volk against African resistance. From that early stage in its history, the police were consumed largely with the responsibility of enforcing discriminatory laws

which virtually turned black people into criminals. This is borne out by the fact that by 1947 about forty percent of all prosecutions of African people were as a result of transgressions of oppressive racial laws. The SAP had no intention to police the black communities in a protective and cooperative manner. They were trained to protect the ruling minority from the oppressed majority. They saw this as their function and they acted accordingly.

The government and the police were in an alliance with the sole purpose of crushing all opposition to government policies. With the implementation of 'hot pursuit' and the 'total onslaught' strategies, in the 1970s, the police were involved in the liberation wars in the Southern African states.

3.2 A law unto themselves

The South African Police was in the forefront of repression and was an keystone in the repressive state machinery. As a result, the police were perceived by all to be the arch-villains in the struggle against apartheid. This perception was confirmed by an interviewee from an NGO who reported that, 'The police and the government were primary partners in apartheid.'

This "partnership" of government and police was not confined to the executive. Both the other arms of the apartheid state - legislative and judicial - allowed their oversight functions to be undermined. Indeed, in some instances, they actively empowered police to use their discretion without subjecting it to review. Judgements during the states of emergence confirmed this trend.

Whereas, the police and the state resisted any form of public accountability, the white electorate, too, increasingly kept quiet, thus allowing the police to be law unto themselves.

The government further silenced the public by passing a wide range of laws that were intended to curb public enquiry into state activities. Transparency and accountability were, as such, anathema to the repressive system.

The evolution of policing in South Africa is, therefore, that of a struggle between 'large contingents of police faced by large collectivities of blacks' (Van der Spuy in Hansson). One word that is most appropriate to describe memories of policing in the apartheid South Africa is, brutality. Many innocent people died in the hands of the police and a lot more were maimed or tortured. Others disappeared without trace. Still more were witnesses to police actions and their consequences.

No one was willing at that time to assume responsibility for police actions. No one dared to question what the police were doing nor called them to account for their actions. The might of the police was enthralling. The police were a law unto themselves. One of the

research participants noted that in the past the Ministry responsible for the police was constituted by the police themselves. Thus, the police were accountable to themselves, and to a white electorate that did not want to know. In effect, the civilian oversight that dis exist was used to reduce the scope for ensuring police compliance with universal principles of democratic policing. This is, of course, hardly surprising in an undemocratic state.

3.3 The post-1994

As soon as the new Minister for Safety and Security was appointed after the election in 1994, the ministry dwelt on a process of transforming the police force. Some time later, the Ministry for Safety and Security released a green paper which articulated a new vision and mission of the police services. The SA Police Services Act was also passed.

During the first few months after his appointment the Minister was advised by, Independent Advisory Team, which was constituted mainly by civilians, many with a history of human right activism. This was the genesis for civilian participation in police matters.

As the first step towards transforming the police, a process of amalgamation of the former Bantustan police forces and the SAP was set in motion. Shortly, thereafter a civilian Secretariat and an Independent Complaints Directorate were established at national level.

The constitution also made provision for the establishment of Provincial Secretariats. As a further move to strengthen oversight over the police, parliament and provincial legislatures set up Portfolio Committees for Safety and Security.

Furthermore, the constitution provides for the establishment of state institutions supporting democracy including the Auditor General, Public Protector and SA Human Rights Commission. These institutions will play an oversight role over all state agencies, including the police. Thus, the government generally, and police in particular, will for the first time have someone looking over their shoulder.

3.4 Why civilian oversight?

When we asked participants to propose a rationale for the need for civilian oversight, there were two patterns of responses. The first view was the police should not be left to operate on their own as they have a history of human rights abuse and political interferences. Someone has to check that they do not repeat the horrible patterns, practices and mistakes committed in the past. This view was largely held by NGO's and respondents with a history of political activism.

The second view was that, by virtue of the very nature of their work, police were more vulnerable to abuse human rights and as such had to be monitored. 'The fact that they have a legitimate right to use force, warrants a close scrutiny of their activities' said one participant.

The need for oversight, argued one interviewee, is premised on the fact that the police culture is essentially militaristic, and this in itself necessitates a 'high levels of civilian oversight.'

An interviewee in the Western Cape argued that since the police have the right to use force and to infringe on peoples' rights, this warrants someone to ensure that the police do not abuse the enormous power that they wield. Never again are we going to let police do things on their own, asserted a member of a civilian secretariat. He said that, 'For as long as the police have the legitimate right to use force we [Secretariat] will always exist.'

Thus we see two categories of response, both of which are valid and persuasive. The first category asserts that the nature of the Police Service in SA is such that it requires heightened levels of oversight. The second asserts that it is the nature of policing in general that entails oversight. It is precisely because the police are given powers which impact on the rights of citizens that they need to be overseen.

It is interesting to note further that within the latter argument, some commentators assert that the monitoring of policing is not just intended to prevent abuse (or to punish abuse), but also plays an important legitimization function - a function crucial to the development of a society which consents to the manner of its own policing.

3.5 What is civilian oversight?

Civilian oversight is defined by most of the research participants as monitoring what the police do. The basis of civilian oversight, argued an academic, is monitoring.

At the same time, both the ordinary meaning of the word, and the content of the interviews suggested that many participants saw oversight as, at least partly, about managing and orientating policing. The fact that so many participants insisted that the various structures of oversight need to take forward various programmes (see section 5) suggests that they saw oversight as not merely *post hoc* assessment of the activities of the Service in general, and members in particular.

3.5.1 Monitoring policy

Although participants generally agreed that monitoring is the pillar of oversight there were diverse interpretations of what should constitute monitoring. One view, shared by most of the academics we interviewed, argued that monitoring should be limited to 'substantive' issues. Day to day activities of the police should be left to police management. This, it was argued, would be a recognition of the need to create a professional service that would be insulated from the whims of politicians.

The research participants did not elaborate further on to what monitoring policy entails. Suffice is to say that they suggested that the secretariat should be able to 'sift policy from politics.' Among other things, oversight must ensure that police service is not politicized. On the other hand, some participants were of the view that the Secretariat should be consulted on, and even manage, the police budget. Further, the Secretariat should also influence, and even lead, the drafting of legislation on safety and security matters.

3.5.2 Monitoring police activities

Despite the differences of view articulated in relation to the monitoring of policy, this category does not cover the full spectrum of views on monitoring.

To some of the Provincial Secretariats and NGO's, oversight is worthless without monitoring what police do in the line of duty. A member of a non-governmental police monitoring group argued that the police cannot be monitored effectively if there is no oversight of their investigations. The monitoring group argued that bigger processes are difficult to monitor, that is why they see it as an imperative to actively monitor individual cases.

This monitoring group reported that they 'take statements from the victims and forward these to the investigating units, and report back to the communities.' They claimed that direct intervention pushes police to conduct investigations into cases they would not normally want to investigate.

In some rural areas, noted several NGOs, there are individuals like farmers and chiefs who have a level of impunity. A member of a provincial legislature also noted that in these areas the police are not willing to investigate crimes committed by such individuals. If there is any investigation at all, cases probably would not reach the prosecution stage as the investigation itself is often bungled - sometimes deliberately. There is therefore a need, it was argued, for civilians to actively intervene in such investigations to ensure that the law takes its own course.

Ironically, this view amounts to the reverse of some of the views articulated above: Here it is the civilians who are said to ensure the impartiality and non-discriminatory nature of policing.

It was further asserted that such oversight could improve the quality of policing even where partiality was not, necessarily, an issue. It was argued that when police work with civilians a positive dynamic is created. This interviewee believed that civilians should be involved in the investigation right up to the stage of prosecution. This unconventional method, it was argued, had yielded much more positive results from investigations into violence in KwaZulu-Natal than would have been the case if there had been no oversight. The participant further observed that this method did not side-line the police.

A CBO concerned with Safety and Security reported that they intervene and monitor police activities as they believe that some officers in certain stations still use torture on suspects. 'Some of the police still operate like in the past,' argued one participant. The group claimed that they set up lay-visitors schemes to check on the conditions in police cells. This measure has, however, been received badly by some police officers.

The group argued that torture and excessive use of force against detainees is unacceptable and an abhorrent behaviour that needs to be guarded against. This should be the role of the civilian oversight structures, both statutory and non-statutory.

Some of the provincial secretariats we interviewed also shared this view. They argued that monitoring, among other things, entails physically looking into the dockets, cells and complaints. Some of these Secretariats reported that they were instrumental in setting up several operations including giving instruction to the police to set roadblocks in problem areas.

Members of one Provincial Secretariat claimed that they played a key role in setting up a unit to investigate taxi violence in their province. Similarly, in the Northern Province the Secretariat claims to have pushed an investigation of the scourge of witchcraft killings in that province.

3.6 Political oversight

A constant theme from a number of respondents was the danger that oversight could result in the undue politicisation of policing. This, it was argued, was at the root cause of the use and abuse of the SAP in the defence of apartheid. At the same time, government, as numerous respondents from statutory oversight mechanisms argued, must assert its policy and vision over the Police Service. It is inappropriate, they argued, to allow a Police Service to be wholly insulated from the will of a democratically elected government.

The Minister should assume total responsibility of the activities of the police, argued a member of parliament. 'He needs to be constantly briefed about what is happening,' the MP asserted. It was further argued by some that MEC's for Safety and Security should give guidance to provincial police with regards to priorities for the provinces. They should have more power to hold the police accountable, argued a provincial MEC. The

Provincial Commissioners should account to the MEC's as this would facilitate better coordination of crime prevention strategies at the provincial level.

It is the potential contradiction between these two imperatives - impartiality and political oversight - that is the key to understanding the debate over the powers of elected officials in relation to the Police Service.

It was also this contradiction that led to the distinction between the Ministers' powers to "direct" the National and Provincial Commissioners, and the National Commissioner's "executive command" over the Service in the Interim Constitution; as well as the subsequent debate about provincial powers during the debates (and legal proceedings) over the new Constitution.

It is, we believe, impossible to wholly and completely resolve this debate, and that, in fact, the tension between a professional distance between the police and the electorate, on the one hand, and political accountability, on the other, can be positive and constructive. If well managed, it can facilitate, for instance, the enhancement of professionalism as well as providing political and social support for such professionalisation.

At the same time, as was often stressed by respondents, police impartiality will only be accepted, and political interference condemned, by the community if and when the police earn the requisite respect for their competence and effectiveness. There is likely to be limited political fall-out over accusations of political interference unless and until such interference is perceived to be hampering policing and reducing safety and security.

4. ACCOUNTABILITY

4.1 Introduction

During the interviews we asked participants about their views on police accountability. Generally, the participants believed that the police have built a culture of secrecy which exists to this day. 'They do not accept that they have to account' claimed one participant. Respondents also expressed the view that police will always resist having to subject themselves to accounting to anyone. This tendency is reflected in recent reports that police officers in a Murder and Robbery unit deliberately bungled a case because they were offended by 'lay-visitors' who came looking for torture equipment. Whether accurate or not, community and political perceptions that such responses occur can be damaging.

'There is definitely zero will [from the police] to be accountable,' claimed a member of provincial Portfolio Committee on Safety and Security. A peace monitor claimed that, 'The police hate to be monitored.' That said, the participants' views on accountability can be classified in terms of three levels of accountability: legal, social and political.

4.2 Accountability to the law

There is a tendency in western democracies for police to insist that they are accountable only to the law, noted one academic. A member of a provincial secretariat also noted that very often the police are unsettled by the suggestion that they should account to a civilian structure, including reporting to elected officials.

Although the South African Police can often (rightly) claim to have been accountable to the law of the country, they have been frequently accused of transgressing the very law within which they were supposed to be operating.

Testimony before the TRC reflects the view of members of the previous government that illegal acts did occur and that they occurred outside the frameworks of law and policy. Others argue, however that the culture within the police force, as well as the institutional arrangements adopted, encouraged the SAP to go beyond strictly legal approaches to enforcing law and order. These systems, it is argued, also protected them from the consequences of using violence, thus giving them absolute impunity for breaking the very laws they were meant to enforce.

Since the inception of the new democratically elected government under the Interim Constitution, the police are obliged to account to the law of the land. They have to uphold and protect human rights as enshrined in the Bill of rights.

That said, the mechanisms for ensuring that the members of the SAPS act strictly within the confines of the law are neither wholly strong, nor are they wholly popular. Indeed, some members of the SAPS have claimed that the Bill of rights make it impossible for them to perform their duties. This is reflected, *inter alia*, in a recent campaign by a police union for members of the SAPS to hand in their official firearms in symbolic protest against regulations which, they claim, make it impossible to use these on duty.

4.3 Social accountability

As a first step to address police accountability the new government embraced a philosophy of community policing wherein the police, communities and organs of civil society would co-operate in improving policing and in improving police-community relations. Later an interdepartmental approach to crime was developed and adopted as government policy which was captured in the National Crime Prevention Strategy document.

In accentuating the community policing philosophy, the Police Services Act makes provision for the establishment of Community Police Forums with a view to improving

transparency in the service and accountability of the service to the community, amongst other things.

The participants expressed the view that the police should account to the communities they serve. Indeed, this was the most frequently articulated view expressed by respondents. The notion of social accountability envisages that the police should inform the public about what they want to do and what they do, in fact, do. Special mention was frequently made on the need for consultation on the distribution of resources.

Some of the participants alluded to the reluctance of the police to interact with the communities and to the militaristic culture within the police. The participants argued that the 'cop culture' dictates that instructions and directives on policing issues is regarded as a matter for the police alone. Thus, no one other than the senior officials or colleagues is regarded as having a legitimate say in police business.

Another aspect to social accountability is that the police should consult with communities or their representatives during the process of strategic planning. In other words, the view was expressed that, communities need to have a say about where, how and when police resources should be deployed.

One other mechanism to foster social accountability, insisted a participant, is to demand feedback on reported cases. There is wide spread view among the members of the public, as well as victims of crime, that the failure of the police to report on the progress of the investigations is a major problem. As one interviewee put it, 'People who are affected by violence should be informed about their cases.' This view was also articulated with regard to the progress of the investigation of complaints against the police themselves.

4.4 Community Police Forums

Generally, Community Police Forums are hailed as the ultimate form of accountability by the police to the communities they are, or ought to be, serving. They are viewed as mechanism that could cultivate social accountability. This view was not universally endorsed, however.

'The Community Police Forums are abject flops' said one high ranking member of a political party at national parliament. However, he suggested that the local council should make provision for a safety and security portfolio and that a councillor designated to this post should takeover the responsibility for CPF's in her area. This, he argued, would give adequate back-up on material and other resources to the forums.

An NGO which was involved in the establishment of CPF's in several provinces reported that most of the CPFs they have helped to establish have since gone under. They link the flop to a lack of funding, inadequate resources and the distrust between police and the communities.

One other shortfall with the CPFs is that they are as much subject to manipulation by police officials as they are to local politicians and interest groups, noted a member of a political party in one provincial legislature. One NGO reported that the police expect CPF members to be police reservists.

A member of a peace committee observed that in his province the CPF's are only functioning properly in formerly white areas. He reported that in the rural areas they are virtually non-existent. Funds that have been set aside for the establishment of the CPFs in some areas have not been used.

4.5 Political Accountability

South Africa went through a bitter struggle in which the police, along with other state security forces, played a major role in orchestrating repressive strategies against political opposition to apartheid. What is disturbing, however, is that very senior state officials at that time are denying any knowledge of atrocities committed by functionaries in departments for which they were responsible.

It is against this background that research participants expressed the view that the politicians need to be informed of what the police are doing. This is a historical imperative. Because of our history, argued one interviewee, there is a need to develop political structures to whom the police must account.

One of the participants, a member of provincial legislature, put forward the view that the national ministry needs to have civilians deployed in it. Previously the only civilian in the Ministry of Law and Order was the Minister himself. 'The Minister [responsible for the police] was merely a figurehead,' observed another participant. That is why previous Ministers can now claim that they did not know what was happening in the police force with regards to the third force activities.

Noting the lack of the Minister's capacity, the Secretariat should therefore give support to the Minister. This view, from an academic, has been articulated in the Police Act. This academic believed that the Secretariat should be able to adjudicate on policy matters. Continuous reports to the executive can help the government to be conversant with police issues. Here the interviewees suggested that the police need to account to the executive just like all other civil servants.

5. KEY ISSUES IN POLICING

5.1 Introduction

Although this report is not an enquiry into the concerns of the role-players about policing, such was the extent of comment that it is appropriate to reflect the views expressed. Everyone that we interviewed had an extensive list of what has to be done to improve policing in South Africa with the ultimate aim of eradicating the crime and criminality that is ravaging our society. The problems that have been identified by research participants are just too many to enumerate. In addition, in the view of the researchers, some are genuine, others not.

5.2 Transformation

More than one participant observed that the management of the Police Service is still lilly white. Indeed, it is true that the Service is far from representative at high echelons, and that there are only three black Provincial Commissioners and no black Divisional Commissioners. Affirmative action policy is perceived either not to exist, or to be ineffective. The whole transformation processes of SAPS is believed by many to be at a stand still.

A police monitoring group asserted that the only thing that has changed within SAPS is the uniform. The police, reported one politician, are failing to take forward the transformation process on their own. He suggested that somebody else, preferably the Secretariat, must lead the Service in this regard.

5.3 Demoralisation and complicity

Several interviewees noted that members of the Service are demoralised - sometimes extremely so. They are frustrated because of, among other things, the enormous criticisms from all quarters in the society. They work long, arduous hours for little pay and with limited appreciation for the job that they do.

Other participants had contrary views. Some, including a community-based organisation dealing with crime - argued that the police simply lack the will to combat crime. This tendency was sometimes ascribed to a lack of commitment to the new Constitutional regime. On the other hand, one parliamentarian argued that with the demilitarisation process, discipline had also been eroded. Further, higher posts are being advertised and these are eventually given to incompetent and inexperienced officers, he claimed.

5.4 Cultural diversity

Some NGO's raised a concern that the police do not take into cognisance cultural differences within and between communities. The answer, according to a member of a

political party was that 'Sothos should police Sothos, and Afrikaners should police Afrikaners.'

An anti-crime group reported that the police remain very racist. Resource distribution reflected this fact with predominantly African and so-called "coloured" areas being virtually neglected, and lacking proper policing. They argued that this will further legitimise and lead to the upspringing of more radical vigilante groups.

5.5 Training

Some argued that the present members of the Police Service have not been properly trained to conduct thorough investigations. They are used to old methods of coercing information from suspects through torture.

Most police officers, in the view of some, find it difficult to adapt to the new order and, as such, become inefficient in the performance of their duties. The solution, it was claimed was that members of the Service have to be trained so as meet the demands of the present political order. This view was strongly articulated almost all respondents.

5.6 Human rights culture

The new constitution enshrines the Bill of Rights which safe-guards the citizen against unjust, arbitrary and unfair treatment by the state. Naturally, this impacts directly on the conduct of the police in terms of the manner in which they can and should conduct their investigations. The treatment of suspects and detainees is also affected. Respondents tended to believe that these provisions and others, unsettle police officials. This view was articulated by many respondents from across the political spectrum. Solutions, on the other hand, tended to vary between respondents from different political traditions with some arguing that the Bill of Rights should be reconsidered and other asserting the primacy of the Bill of Rights over practices based on police who are used to trampling on the rights of citizens.

The latter view entailed that the police should be trained in human rights in such a way that they should not see rights as an impediment to the successful application of police authority and power. Indeed, some claimed that rights could be viewed as a tool that the Service could use to render a more effective service to the communities.

5.7 Community participation

During our interviews the research participants reported that the legacy of apartheid still lingers in the police service. As reflected above, this view was confirmed by the fact that management is still predominantly white and there are no signs that the *status quo* will be changed in the near future.

The gist of the concern raised by the interviewees is that there is a dire for transformation in the South African Police Service, and this can only be achieved through a close working relationship between the police and the communities. 'It is the communities who know what the problems, and they understand them better,' asserted a member of a CBO.

Station managers needed to consult with the communities to determine policing priorities in their areas. Communities could also be helpful in resolving crimes by providing information to police. This, however, can only happen once the communities have gained confidence in the police. This would require transformation, however.

6.CONCLUDING REMARKS

South Africa, as everyone knows, is in the midst of a profound transformation. Literally centuries of colonial and racist rule have left deep scars on the fabric of our society. Today, after the inauguration of a constitutional democracy founded on the principle of liberty and equality, South Africa is moving towards becoming a society of free citizens, living in peace with itself and its neighbours and made up of citizens who manifest, and enjoy, mutual respect for, and from, their fellow citizens.

But this vision is highly dependent on the ability of state, government and citizenry to cast off the inheritance of apartheid. This is true for all social institutions - public and private. But, above all, it demands that the institutions of policing and justice can come to terms with the new demands of a new age.

In this, the transformation of South African society is, perhaps, one of the most profound and difficult social mutations in history. We are no, after all, talking about adopting a new and fashionable policy. The principles of governance which underpinned apartheid are so profoundly and fundamentally different from those of the new order that change is neither easy nor immediate. Some of the choices we make today can, and will, effect the very basis of our social order. these choices must be made carefully and wisely. Above all, however, they must be made boldly.

The choice of policing regime falls within the ambit of the founding decisions of our new society. No transformation of policing will occur spontaneously. It follows that the role that oversight will play in the development of justice in general, and policing in particular, will be central to the course that is charted.

That said, the nature of the problems, and the character of the choices that need to be made, does not lend itself to simple and final solution. The balance between the creation

of a professional independence for the police and the exercise of political oversight will neither be uncontroversial nor, one suspects, invariant over time. Similarly, the modalities of community oversight are likely to evolve and change as the Police Service and the communities it serves learn about each other, and learn to trust each other.

It is hoped that this report, in seeking to clarify the views and expectations of practitioners, policy-makers and various role-players will assist in building a greater understanding of the role, importance and development of civilian oversight. The report itself is neither definitive nor prescriptive. However, it is hoped that it does make a positive contribution to what is, and will always be, a controversial matter.