

Update on Municipal Policing (mid-2001)

by

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This report provides a brief update on the state of municipal policing in South Africa as at June 2001.

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Detail about the establishment of a Municipal Police Service 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 SA Police Service and are funded by (and accountable to) local or city governments.

The Act says that any municipality may apply to establish a Municipal Police Service, (this applies to all municipalities, urban and rural, large and small) and that the Provincial Minister of Safety and Security (the Member of Provincial Executive Council – MEC) may approve the application (after consultation with the National Commissioner of the SAPS and the MEC's for local government, finance, transport and traffic) if:

- The application submitted by the municipality must comply 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
- Traffic policing will not be negatively affected by the establishment of a MPS
- 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, we use the acronym MPS – or MPD for police department.

The statutory functions of a municipal police service are:

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

While the first two of these 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, who

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 patrol.

The MPS will not conduct criminal investigations and, immediately after arresting any person on suspicion of having committed a criminal offence, will bring such arrested persons 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 councillors and other people selected by the council. This committee will:

- Advise the council and 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 MPS, these committees are made up largely of elected councillors, with some invited representatives of groups such as Business Against Crime. Alleged abuses of power by the MPS, and deaths in MPS custody will be investigated by the [Independent Complaints Directorate](#) (ICD).

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 organisation

The process of establishing a Municipal police service is complex and the very first stage of preparing the business plan can take many months, even as long as a year. Councils 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 need 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 local municipalities.

A full costing of the proposed Municipal Police Service is required as part of the business plan. In this costing, it must be demonstrated 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 Act¹ 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".

Despite President Mbeki's assurance² that "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", 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.³

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.⁴

The municipal police services will have employees in a range of different categories:

- "Members" of the MPS – 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" of the MPS – who are authorised to enforce by-laws only.
- "Employees" – 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 24 hour-service will require human resource management systems which can provide the necessary support to employees of the MPS, and 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 the municipalities, to a new position which has a new job description. The municipalities will need to navigate these with care.

Law enforcement by 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 whilst 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 local council (similar to 'ordinances' in the US). The by-laws in South African cities are in some disarray for two reasons; firstly, the new municipalities have new boundaries and jurisdictions and the old 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, by-laws around housing and squatting might contradict the rights to shelter contained in the bill of rights. The 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.⁵ Any legislation which gives powers to peace officers therefore needs to be 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."⁶ 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 Act sets out which legislation is applicable to Municipal Police Service,⁷ 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 Tear Gas Act No. 16 of 1964
- Section 14(2)⁸ and section 70(1) of the Mental Health Act No. 18 of 1973
- Sections 21, 22, 26, 27, 37 and 72⁹ of the Criminal Procedure Act No. 51 of 1977
- Section 53 of the Sea Fisheries Act No. 12 of 1988
- Section 11¹⁰ of the Drugs and Drug Trafficking Act No. 140 of 1992
- Section 13¹¹ of the South African Police Services Act No. 68 of 1995

The regulations state that a member of a police service is any member of any police service established by-law. References in all statutes to "member of the police" would therefore include a member of a municipal police service. Statutes such as the Child Care Act would therefore have to be enforced by the Municipal Police Services, as would the Mental Health Act and firearms legislation.

Crime prevention by the municipal police services

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 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 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 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 which dispute this effect. However, 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 patrol work is often the first to be abandoned when other crises arise.
- 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, which simply moves 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 the Councils) in order to deploy patrol officers and vehicles in a cost-effective manner.

The Durban Metropolitan Police Service

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 Metro Council and its Local Councils, in which the Local Councils ceded their competency in the areas of fire, disaster management, traffic and security to the Metro administration. The agreement prepared the way for the establishment of a metro-wide Police Service. In January 2000, the Durban Metro 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. It 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 Metro Area.

At present, the DMPS is made up of approximately 1000 personnel, of whom about 765 are uniformed members. It 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 Metro Police Service – the training is ongoing at the moment.

The Chief of the Durban Metro Police Service is Lungisa Manzi, a former SAPS officer. The DMPS has six rank levels.

There are currently no municipal courts in Durban, but there is a need for such courts and the DMPS is trying to solicit funds to establish such courts.

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 – will probably be completed by the end of 2001.

The DMPS has defined its 'priority areas' of operation in accordance with the SAPS's 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
- Amamzimtoti and the informal settlements nearby

The City of Durban has budgetted approximately R216M for Protection and Emergency services (including the DMPS) this year, no significant increase on the R203M allocated last year – because the costs of the DMPS are not different from the costs of the former City Police and Traffic components.

The Johannesburg Metropolitan Police Department

Johannesburg's new Metro Police Department (JMPD) was launched in March 2001. It has approximately 2500 personnel (uniformed and civilian), drawn from the traffic departments, crime prevention and by-law enforcement agencies of the former Johannesburg Metro, its four Local Councils and the former Midrand Local Council. (By comparison, the strength of the SAPS in the Greater Johannesburg Metro 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 (at the rank of 'Director') 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 – 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 has 4 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 the end of 2001.

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 budgetted approximately R258M for its Protection Services component (which includes the JMPD as well as various other departments such as Emergency Services) this year, an increase on the R151M 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, in terms of operating expenses, but one of the least most expensive in terms of capital expenditure – this means that the main costs of the JMPD are salaries, rather than equipment.

Developments in Tshwane (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 Metropolitan Police Service (MPS) 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 Metro Police Service as important to the future prosperity of the city. This is reinforced by the growing displacement of serious and violent crime from Johannesburg to Pretoria, and the possibility of the relocation of Parliament to Pretoria.

The Tshwane Council is considering the establishment of its Metro Police Service by the end of this year or by June 2002, and a senior officer from the JMPD has been seconded to assist with the establishment of the Pretoria Service. They have not yet submitted an application to the Province. Tshwane has budgetted approximately R 220M for its 'Protection Services' component in this financial year (starting July 2001), an increase on the R132M allocated last year. Part of this amount (R40M) is dedicated to the start-up costs for metro policing.

Developments in Cape Town

The administration of Cape Town is still composed of 'interim structures'. In its Protection Services division, there are four components:

- Metro Police (being created)
- Fire Services (being restructured)
- Ambulance Services (becoming a Provincial government function)
- District Health Services (taking provincial services down to city)

The structure of proposed MPS and Protection Services Departments of the City are not yet

finalised. It is likely that there will be both Traffic and Law Enforcement components, somewhat separate to the MPS (in the medium term at least). This will accommodate those of the 1500 current traffic and Law Enforcement staff who do not wish to join the MPS to retain their jobs. It will also enable the MPS to focus on crime. The heads of Traffic and Law Enforcement will probably report to the head of the MPS.

Everyone who joins the Cape Town MPS will have to undergo the 24 week training (ie they are not going to do the 'conversion' of traffic officers to MPS officers like Johannesburg did). There is a strong emphasis on Cape Town creating a new service, not re-structuring /amalgamating any of the existing structures. Of the first 500 trainees (who begin training in July), most are new recruits, 100-200 will be existing council staff. 50 Community Patrol Officers (also known as the city's 'rent-a-cops' are included in the new recruits.

The City has budgeted an additional R32M on this year's budget for MPS, and this will grow over the next 4 years. By contrast, the Safer Cities Program (for social crime prevention) has R7 M this year.

Cape Town will divided the city into 8 zones/areas for MPS (there are different sub-divisions for each municipal function). The key issue in deciding these zones was to ensure good co-operation with SAPS.

Cape Town's preliminary MPS model will create a force of 3000 people. 400-500 will be trained every six months, and they will create one of the zone commands each time a group of trainees graduates. The political decision about where to launch with the first batch has not yet been made, but the pilot site is likely to be the Cape Flats.

The Cape Town MPS will have 7 ranks. The leadership will be the City Commissioner (Chief), with some Deputies, then the Zone/Area Chiefs, then the Precinct/Station Chiefs. They have not yet resolved the issues of pay or how the Chief's salary will fit in to the City grades or relate to SAPS salary grades.

The target date for the launch of the Cape Town MPS is 15 December 2001.

Starting a second Municipal Court this month in Ct to focus ONLY on by-laws. Will then roll out to other parts of the city. Have R8M on this years budget for courts. Each court costs about R1M per year to run, which includes all salaries and provision of facilities.

The City is busy drafting new a 'order maintenance' by-law, to address issues like parking attendants, hawking, soliciting, vagrants etc.

Cape Town's safety strategy will focus on the four hotspot/ urban renewal areas:

- Manenberg
- Mitchells Plein
- Elsies River
- Khayalitsha

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: firstly, for standardisation, to ensure high levels of training throughout the province; and, secondly, because local governments don't have the funds to provide training and province has a mandate to 'support local government' and this is one way that they can do so. The Province pays direct costs (R9000 per recruit for the course which covers the training uniforms, materials, board and lodging). The Provincial government is developing a training base at Phillippi. The training staff will be employed by the Provincial Department of Community Safety.

Cape Town is expected to submit their business plan/application to establish the MPS to the Provincial government in the next month.

Developments in other municipalities

Other municipalities, that we know of, which are considering establishing MPS are:

- 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
- Secunda (Highveld Ridge) 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. They want to launch with 700 members – made up of former traffic officers from the various municipalities making up the new unicity.

Key challenges

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 in relation to its 'crime prevention' function and its relationship to the SAPS in the city. Co-ordination with SAPS and other enforcement agencies will require the MPS to carve out their area of jurisdiction, agree on joint and separate priorities, share resources and minimise turf conflicts. Building an effective working relationship with the SAPS is one of the most critical challenges facing MPS leaders at this stage.
- Balancing enforcement and crime prevention activities, both of which are equally weighted in the legislative mandate to Metro Police Services. If the national government policy of requiring city governments to co-ordinate 'social crime prevention' remains intact, the MPS will have to embrace social forms of prevention which have not been their traditional preserve. To date, the existing MPS's are focussing almost entirely on traffic enforcement and traditional law enforcement/policing methods of combatting crime.

- Determining the extent to which MPS officers will act as 'peace officers', ie the range of legislation which they will have to enforce, and ensuring that they are sufficiently skilled to perform all these functions. Training in crime prevention and enforcement of 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 have benefited from years of training on community policing and multi-agency partnerships, but the MPS do not have the same background. The MPS will face a steep learning curve in building effective partnerships with local NGO's, CBO's and provincial government agencies working in the municipal area.
- Financing a MPS will require cities to find increased resources for public safety provision, without direct financial assistance from the national fiscus. In some municipalities, additional levies have been proposed, and it remains to be seen whether local ratepayers will be willing to pay more in order to improve their safety and security.
- Defining the conditions of service of Municipal Police Officers will require cities to provide pay parity within their MPS (whereas previously, health inspectors, for instance, earned less than traffic inspectors) and come to agreements with labour unions. Issues concerning disciplinary procedures have already come under the spotlight in Johannesburg, and Cape Town is facing union unhappiness with various aspects of their process to establish the metropolitan police there.
- Harmonisation & integration of by-laws: Municipalities will each require one consolidated, modernised set of local by-laws, which are politically and constitutionally appropriate. There are likely to be some legal challenges to the by-laws in the initial period.
- Meeting public expectations: Politicians (MEC's, 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 reducing crime. Given that most of the existing MPS are focussing only on traffic enforcement, or only on certain parts of the cities, the resultant expectations are unlikely to be met, at least in the short term.
- Maintaining standards: there is likely to be a great deal of scrutiny of municipal/metro 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, or dealt with in a forceful manner. The 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.

Notes:

¹ SAPS Amendment Act No 83 of 1998, 3 (6)

² Mbeki State of the Nation address Feb 2001

³ correspondence with the author

⁴ 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.

⁵ Section 64F(3)

⁶ 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.

⁷ R710 (11 June 1999) Government Gazette GG No. 20142

⁸ Provided that a member of a municipal police service will hand such a person over to a member of the police service.

⁹ The powers contained in this section for the purposes of section 55

¹⁰ Only those powers referred to in subsections 1(a), (b), (d), (g) and 2(a)

¹¹ 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.