

## CHAPTER 6

# Policing and the Way Forward

### A. STATE OF THE SOUTH AFRICAN POLICE

#### Background

Law enforcement is a formidable problem in South Africa today. In any society undergoing massive political change, the agencies of law enforcement come under pressure, but in South Africa the problem is compounded:

- The main role of the police and army has hitherto been to enforce apartheid laws. In the segregated black areas, the emphasis was largely on the suppression of political dissent.
- Black South Africans, in consequence, came to see the police not as their protectors, but as an alien force to be feared.
- The police, particularly black police in black areas, are isolated (by social distrust and often by tribal and language differences) from the community. Many police have been killed.
- The South African law enforcement agencies have been isolated from international advances in the techniques of community policing.
- During the apartheid era, sectors of the law enforcement agencies were involved in the military operations and covert destabilisation of neighbouring countries. There is a popular perception that many of those involved are still in uniform, some in discrete units, others as senior officers. Involvement in domestic political intimidation by a section of the police has been exposed by the Goldstone Commission. Such exposures have strengthened fears of a secret 'Third Force' endeavouring to derail the negotiations towards democratic government.
- There is a proliferation of agencies with often overlapping duties. This causes confusion among the population and fuels suspicions of evasion of responsibility.
- Crime has increased enormously.

As a result of all these factors, morale, especially in the police, is very low.

None the less, COMSA found, among police leaders, and often also in the field, a commendable determination to protect potential victims of violence, and also to change the structure and culture of the services to enable them to serve a future democratic South Africa.

COMSA was particularly strong on policing, including among its membership five policemen, including a former police commissioner, a deputy commissioner, an assistant commissioner and a chief superintendant concerned with community policing. COMSA also included several lawyers with extensive police-related experience, and a criminologist.

COMSA teams, therefore, made contact with the appropriate police authorities immediately after arrival in both the Johannesburg and Durban areas. These authorities made them most welcome. Invitations to lecture and to participate in activities were often issued to COMSA members who were invited to come back on many occasions. The group endeavoured to give technical assistance where requested, and to offer what advice and support it could to those officers most concerned with reform of police structures.

COMSA had originally hoped to follow particular investigations closely to determine how they were approached. But an application made by another observer mission to the Ministry of Law and Order that the policemen on its team be allowed to follow particular cases met with a negative response from the Minister, who advised COMSA accordingly.

Apart from the SAP, the various 'homelands' maintain their own police forces, such as the KwaZulu Police Force (KZP). These forces receive technical assistance from the SAP. In some cases, territorial jurisdictions of homeland and SAP forces are not distinctly drawn or seem to overlap. This can lead to popular confusion and the shifting of responsibility. COMSA was not able, because of time constraints, to study the homeland police forces closely, or to explore the relationship between them and other agencies.

COMSA did not study the SADF, except insofar as it acts as a support organisation for the police. It also did not study the military wings of the political parties or the private protection units of the communities.

### **The South African Police**

The SAP today is, for the size of the nation it serves, a relatively small force of some 85,000 police personnel, plus 11,000 police assistants. This force performs all police duties, including the investigation of crime and the enforcement of law and order.

For the purpose of crowd control at demonstrations, marches, rallies, etc., the SAP is supported by the Internal Stability Unit (part of the SAP and successor to the Riot Squad) and South African Defence Force (SADF). Homelands police forces such as the KwaZulu Police (KZP or popularly ZP) are also involved in control of violence. In addition, the ANC, PAC and AWB have military wings purportedly engaged in protecting their communities, and

armed private security agencies work in white middle-class areas.

The SAP uses military rankings and the ISU wears camouflage uniforms similar to those of the army when on public order duties. As a result, given the small size of the SAP and its frequent appearance in the company of the ISU and SADF, there is sometimes confusion about ultimate responsibility.

It is the general view of COMSA that South Africa is under-policed. An indication of this is the proliferation of armed security companies dealing with attacks and burglaries. In many cities, the traffic police, who do not serve with the SAP, are the most visible sign of law enforcement.

The Minister for Law and Order, Hernus Kriel, at his meeting with COMSA, admitted that South Africa had fewer policemen for the size of its population than most countries. But he expressed satisfaction that increased budgets over the last three years were enabling the force to be enlarged; he felt that the first concern should now be improvement in its quality.

COMSA police experts in Natal found the police to be under heavy pressure. They encountered detectives carrying as many as 50 open murder dockets and were told of instances where an investigator had 150 open investigations of all categories. The police had a vast volume of work to deal with; led stressful lives; often had to act under provocative circumstances; operated within a culture with a long tradition of violence, and officers on the front line were frequently young men deployed immediately after training who felt threatened and sometimes afraid.

However, the performance of the SAP in Natal, while commended in several quarters – particularly when contrasted with that of the KZP – has also come under criticism. As the first phase of COMSA ended, international observers drew to the attention of Mr Kriel allegations of serious police misconduct in the handling of an outbreak of violence between the ANC and IFP in Mooi River, Natal. At the time of writing, a response from the Minister was awaited.

### **Perceptions of the Police**

The vast majority of black South Africans continue to have little confidence in the police. Their perception of the SAP is that it is incompetent, unfair, hostile and a force which secures convictions, whenever it is so inclined, through forced confessions.

The SAP are also accused of inefficiency in investigating crime, with the result that few prosecutions lead to convictions.

In the case of the KZP, the police themselves have been cited as a cause of the breakdown of law and order. In Natal/KwaZulu, where the KZP is regarded by ANC supporters as the private army of their rival, the IFP, some ANC supporters view the KZP as an undisciplined and partisan force suppressing civil and political freedoms.

COMSA observers were often told by members of the black community,

notably the refugees, that they would never report any criminal incident to the police. If they did, they believed they would not get justice but merely become involved in a police exercise which could expose them to reprisals.

This is clearly judgmental: however, it comes not from the observers, but from communities which the SAP has a duty to serve. It would be difficult to find any significant section of the black population of South Africa today which regards the police as an impartial force labouring under considerable difficulties in the proper discharge of its duties. Black South Africans fail to understand how a police force once so efficient in maintaining apartheid laws now appears so helpless in securing convictions in cases involving blacks.

The remainder of this chapter is cast in the light of this need and desire for change within the South African police.

## **B. POLICING AND THE WAY FORWARD: POLICE/COMMUNITY RELATIONS**

### **Background**

President F W de Klerk, addressing international observers on 11 November 1992, said:

The Government is aware of the perception of the lack of confidence in the South African Police at grassroots and regional levels.

We appreciate the need for confidence-building at the regional level and are pleased to see the advances made in many areas, fully cognisant that there is still some way to go ...

The role foreseen by the United Nations for the observers and accepted by the EC, OAU and Commonwealth, namely to promote existing peace structures and to advance communication between the police and the local communities, will be of the greatest service to South Africa.

The police, after years of enforcing unpopular laws, have found it difficult to accept that the enforcement of the law is secondary to public peace and well-being. The absence of a tradition of community-oriented policing and policing by consent poses a considerable challenge to those seeking to reform the present arrangements.

Community perceptions of the police as a hostile, oppressive, partial and unfair institution will only be altered by a clear willingness on the part of the police to change. The onus is on the police to ensure fair treatment in their relationship with members of South Africa's diverse communities. However, the concept of discretion to ensure that policing is sensitive and in tune with the wishes of the public involves a change of culture which is difficult for many officers to accept.

In a later conversation with COMSA observers, President de Klerk said:

I have addressed the 400 highest ranking police officers. I told them that they are no longer a political police – they are out of the political arena and that in future building good police community relations was to be a priority.

As indicated earlier, COMSA detected a willingness to accept this change in some senior police officers. This change was exemplified by the appointment of a Lieutenant-General, supported by two black Major-Generals, to lead a Community Relations Department as from 1 December 1992.

Training of Community Relations Officers for each police district is now under way. COMSA members gave lectures at two courses on international trends in community-police relations and were also invited to address four more courses early in 1993, as well as address the Police Academy Graaff Reinet (Senior Management Development Course).

This first step, the creation of a Community Relations Department on 1 December 1992, is to be commended. However, community relations must be seen as central to the duty of all officers – not as a marginal specialisation of a few. The concept of community-oriented policing has to permeate the entire police organisation.

### **Community/Police Consultation**

Public trust, confidence and support in policing has to be earned. Public involvement in the police decision-making process is vital to building rapport. There is no substitute for dialogue through a recognised consultative process.

Consultation is not necessarily about agreement. Operational control will remain with the police, but consultation is a way of obtaining the best information on which to base decisions. It is also essential to providing a high quality of service to communities.

Resources are finite and in order to ensure their most effective use, the police must allocate resources according to public needs and expectations. Unless there is ongoing consultation, the police will not be able to provide value for money and will be inefficient in delivering service.

Currently, the police frequently present their communities with final decisions, leaving no opportunity for comment or discussion. Often, these decisions are of great importance to a community. A case in point is the imposition or removal by the police of a night curfew without community consultation or the opportunity for public opinion to be heard or alternative options to be considered. Such an incident occurred at an ICC meeting in Alexandra, attended by COMSA, at which security forces announced the immediate lifting of unrest regulations, including a night curfew, to the surprise of all those present as they had neither been informed nor consulted.

This state of affairs is surprising as RDRCs and LDRCs exist in most areas and the Peace Accord states that:

3.2.3 The police shall be guided by a belief that they are accountable to society in rendering their policing services and shall therefore conduct themselves so as to secure and retain the respect and approval of the public.

3.2.3.1 In order to facilitate a better communication with the community, the police shall, in each locality where a LDRC exists:

- (i) Consult regularly with:
  - (a) the LDRC, or in its absence, community leaders, including representatives of signatories to this Accord, and
  - (b) community leaders, on the efficient functioning of the police in that community and shall regularly communicate with such committee representatives or leaders on the issues raised by them with the police.

Community trust is reduced when decisions are imposed without prior discussion. Perceived police duplicity and partiality reinforces the mistrust. A common complaint from LDRCs is that agreements are reached and then broken. This can occur when, for example, the senior officer is changed, or the ISU is on duty, not the local police, and the ISU denies knowledge of local agreements or allegedly does not consider itself bound by such agreements.

In order to ensure a more co-ordinated and enduring approach, one RDRC, that for Wits/Vaal, has established a Community Relations Subcommittee which has begun to prepare a proposal for consideration by the Regional Commissioner of Police that a system of formal consultation be established to consider any future declaration of Unrest Areas. COMSA has been involved in supporting the proposal, and if accepted, one of the first Community/Police Consultative Committees in South Africa will be established. In time, the remit of such a committee could be extended to include all police decisions of concern to the community.

It is encouraging that COMSA members in Durban observed a quite well-developed community-based policing programme in several communities. These included a regular monthly meeting in Durban, convened and chaired by the District Commissioner, at which representatives of the community discussed with the police problems in the area, such issues as crime trends and community concerns. Discussions at these meetings were quite frank. Such meetings could usefully be replicated elsewhere.

### **Police and Courts**

A problem often cited by the police is the practice of granting bail to accused persons, frequently in even the most serious of cases, including multiple murder charges. It was said that this practice often led to the complete disintegration of cases due to the intimidation, or elimination, of witnesses, fear in the community and a general feeling that the justice system was incapable of protecting the rights of victims of crime.

The practice of routine granting of bail has been explained on the basis of relieving pressure on the backlog of cases before the courts and the overcrowded prisons. But the effect has been seriously to undermine the South African criminal justice system, as explored in greater detail in Chapter 5.

### **Persons in Custody**

There is a tendency for the police to rely on confessions as the primary source of evidence for prosecution. This approach leads to the abuse of suspects in

custody. The lack of trust in police handling of prosecutions and the widespread belief that persons arrested are ill-treated has led to the refusal of sections of the public to be party to the prosecution of offenders.

Even when there may be community agreement that punishment for crimes is warranted, witnesses seldom come forward for fear of reprisals from the defendant's supporters. This has made it difficult to secure convictions without admissions of guilt. In turn, police reliance on confessions increases public suspicion that torture is used.

Press reports fuel public suspicions of cover-ups and police brutality. An example is the allegations in 1992 of Dr Jonathan Gluckman, a pathologist, that large numbers of prisoners had been unlawfully killed whilst in police custody. Police officers appointed by the Government to inquire into these allegations subsequently stated that most of Dr Gluckman's allegations were unfounded. However, the public is likely to have little confidence in an investigation of police by police, however fair or impartial such an investigative body may be.

To ensure that regulations concerning the correct treatment of prisoners are properly applied, a system of magisterial visits by recently retired magistrates to police stations has been introduced. This reform is valuable but may not be regarded as sufficiently independent. The reports are confidential and whilst such visits may affect the police, the community is unaware of the visits or the findings. Thus, the opportunity to improve public confidence in the police is lost.

COMSA observers have discussed with senior Community Relations Officers the concept of lay visits by members of local communities to police stations. This has been introduced very successfully in Britain and elsewhere where visitors must be given unimpeded access to all those held in police detention. In Britain, they arrive unannounced and play a valuable role in shedding light on areas of the police working-environment previously hidden from public scrutiny.

Such visits, with public reporting of the visitors' findings, would do much to allay fears of ill-treatment and, if improper conduct did occur, to curb it. This is a straightforward solution to a serious question of public mistrust and one that is not resource-intensive.

### **Communication with the Public**

The SAP has frequently been criticised for the apparent inability of its officers to communicate with the public. An example is the lack of communication between marshals and senior officers during the policing of demonstrations. On occasion, no attempt is made to discuss the day's event or resolve difficulties. The militaristic appearance of the police at political events has also come under criticism. Units of the different organisations, armed with automatic weapons, remain well apart from the people in their heavy armoured vehicles.

The effect of such law enforcement formations, however peaceful, is to give the impression of a formidable, fearsome and remote power.

Another dimension is the apparent reluctance of police on occasion to use their discretion in potentially explosive situations. COMSA observed many instances when the police applied the law under circumstances which seemed to make little sense. In some cases, by taking action to enforce a law during a public rally they actually fuelled violence.

A case in point is a recent incident in Ratanda, in which the COMSA team, working closely with the LDRC, was called on to help mediate between the police and an angry crowd following an attempt by the police to arrest a 'wanted' community member who had been spotted from a helicopter during an emotionally charged funeral. The atmosphere became even more heated when the police arrested a community leader who got into a fight with one of the police officers. The two COMSA observers present were able to persuade the police that it would be in their interests to release the community leader in exchange for co-operation by the community in finding the wanted person who – during the fracas – had got away.

As stated earlier, it would be unfair for COMSA observers to be judgmental. The SAP must be assessed taking account of the violent environment in which they operate. As mentioned earlier, many policemen have been killed, and concern for personal safety is natural. This in part explains the heavily armed, almost military style of law enforcement of police in patrolling townships. If better relations are to be achieved between the police and the black population, such an approach has to change.

This raises questions about the functions of policing and whether the focus should be on force or service. If the police are to be responsive to local needs and expectations, there is no doubt that the service model has most to commend it. It demands, however, a fundamental shift in policing style. The military model of policing which predominates at present can only exacerbate the tensions and escalate violence. Its emphasis on technical efficiency and the use of the police as a reactive force to suppress dissent do not fit comfortably with the visions of the new South Africa – where the emphasis is on peaceful co-existence and conflict management through dialogue.

The service model supports the new emphasis by attention to the overall effectiveness of policing. This leads to a consideration of qualitative measures derived through working together with local people and demonstrating care, concern and fairness in police–public interactions.

In this approach, it is the way in which police relate to individuals and local communities that is valued. The police are not simply a remote oppressive force to be called in times of crisis; they become an integral part of the identification of problems and the quest for solutions. Given the history of police/community relations, a shift to the service model will be a long-term process, and one that will not happen of its own accord. All parties need to work together in a constructive partnership to make it happen.

## **The Police Board**

A Police Board was established under Paragraph 3.3 of the Peace Accord which provides that:

### **3.3 Police Board**

3.3.1 A Police Board shall be established whose composition shall comprise of both members of the public and representatives of the police in equal numbers. The chairperson is to be appointed by the Minister of Law and Order from one of the members representing the public.

3.3.2 The members of the public shall be appointed by the Minister of Law and Order to the Police Board from names put forward by unanimous decision by the National Peace Committee. The Minister for Law and Order shall have the discretion to appoint further members from parties who are not represented on the National Peace Committee.

3.3.3 The function of the Police Board shall be to consider and to make recommendations to the Minister of Law and Order in regard to the policy relating to the training and efficient functioning of the police, with a view to reconcile the interests of the community with that of the police.

COMSA observers were invited to address a full meeting of the Police Board on 25 November 1992. Issues discussed included community policing, quality of service and instruments of control. The discussions lasted for three hours, and the Board showed great interest in the concept of police providing a 'service' and policing by consent.

The Board is still seeking a 'role' and COMSA's input in the area of strategic planning was welcomed by the Board in considering ways to focus its activities. In order to create a service culture it will be necessary to consider the training and communications implications. There is little doubt that external support and advice drawing on good practice from elsewhere will continue to be necessary in the immediate future.

## **Recruitment**

At present the SAP does not enjoy a high standard of pay and benefits, or social standing in the society it serves. Recruits do not originate from the better educated or more enlightened sectors of black or white populations. Most senior appointments are made from within police ranks and the police 'culture' is narrowed accordingly. Some cross-fertilisation, with recruitment from a cross-section of racial and social groups, including from universities, is essential for forward-thinking. To be attractive to this wider group, police work would have to be better rewarded.

## **Training**

A service-oriented model of policing places a high value on the following attributes:

- service not force
- people-centred, caring and compassionate
- showing professional and ethical behaviour
- fair and non-discriminatory services

- support for victims
- willingness to admit mistakes and learn from them
- minimal use of force
- open to change, participative and consultative
- visible reassuring presence
- proactive, providing reasonably prompt, polite service
- accountable

The agenda for police training will require, *inter alia*, a focus on community relations, interpersonal skills including counselling, equal opportunities, ethics, civil liberties, conflict management and problem solving. COMSA has already made a contribution to this process. What is required is a fundamental reorientation to equip the police to serve the people of South Africa during the 1990s and beyond.

## Conclusions

On 17 November 1992, the Goldstone Commission published a report of its findings on a series of murders at Thokoza. Its observations strongly endorse two of the recommendations in this Report:

The legitimising of the security forces is a matter that has always been high on the Commission's agenda. Until South Africa has a police force and a defence force that have the confidence and support of the vast majority of our people, violence will continue to be difficult, if not impossible, to curb.

The Commission considers it doubtful whether the security forces can achieve the aforesaid goal without outside assistance. Meaningful steps in the right direction have already been taken by the SAP. What further steps should be taken and whether the Commission should be involved in this regard is a matter that the Commission will consider early next year.

Because of its lengthy isolation, South Africa has been secluded from international trends and developments in policing. COMSA submits that without the help of the international community in training and facilitating dialogue, the SAP will not be able to move from a force dedicated to law enforcement to a police providing the full range of services demanded by the community in a new South Africa. COMSA has already made a considerable impact in this regard, and should stand ready to be of further assistance.