

**THE PRIVATISATION OF SECURITY IN SOUTH AFRICA:  
SELECTED CASE STUDIES**

**BY**

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## LIST OF ABBREVIATIONS

<b>ACCC</b>	Anti-Corruption Coordinating Committee
<b>AHI</b>	Afrikaanse Handelsinstituut
<b>ANC</b>	African National Congress
<b>AgriSA</b>	Agricultural Union South Africa
<b>AU</b>	African Union
<b>AWB</b>	Afrikaner Weerstand Beweging
<b>BAC</b>	Business Against Crime
<b>BACSA</b>	Business Against Crime South Africa
<b>BLSA</b>	Business Leadership South Africa
<b>BUSA</b>	Business Unity South Africa
<b>CBM</b>	Consultative Business Movement
<b>CCTV</b>	Closed Circuit Television
<b>CEDAW</b>	Convention on the Elimination of Discrimination against Women
<b>CIAC</b>	Crime Information Analysis Centre
<b>COSAB</b>	Council of Southern African Bankers
<b>CSIR</b>	Council for Scientific and Industrial Research
<b>DPCI</b>	Directorate Priority Crime Investigations
<b>DSO</b>	Directorate of Special Operations
<b>EPAU</b>	Eastern Province Agricultural Union
<b>GDP</b>	Gross Domestic Product
<b>HSRC</b>	Human Sciences Research Council
<b>ICD</b>	Independent Complaints Directorate

<b>ICT</b>	Information Communication Technology
<b>ISCOR</b>	South African Iron and Steel Corporation
<b>IP</b>	Internet Protocol
<b>ISS</b>	Institute for Security Studies
<b>IT</b>	Information Technology
<b>JCPS Cluster</b>	Justice, Crime Prevention and Security Cluster
<b>JOINTS</b>	Joint Operational and Intelligence Structure
<b>KZN</b>	Kwazulu-Natal
<b>MITT</b>	Ministerial Intervention Task Team
<b>NACF</b>	National Anti-Corruption Forum
<b>NAFCOC</b>	National African Chamber of Commerce
<b>NAFU</b>	National Farmers Union
<b>NCPS</b>	National Crime Prevention Strategy
<b>NEDLAC</b>	National Education, Development and Labour Council
<b>NKP</b>	National Key Point
<b>NIA</b>	National Intelligence Agency
<b>NPA</b>	National Prosecuting Authority
<b>OAU</b>	Organisation of African Unity
<b>OFSAU</b>	Free State Agricultural Union
<b>PAGAD</b>	People Against Gangsterism and Drugs
<b>PMC</b>	Private Military Company
<b>PSC</b>	Private Security Company
<b>PSI</b>	Private Security Industry
<b>PSIRA</b>	Private Security Industry Regulatory Authority

<b>RPP</b>	Rural Protection Plan
<b>SAAU</b>	South African Agricultural Union
<b>SABRIC</b>	South Africa Banking Risk Information Centre
<b>SACP</b>	South African Communist Party
<b>SACOB</b>	South African Chamber of Business
<b>SANDF</b>	South African National Defence Force
<b>SANSEA</b>	The South African National Employer`s Association
<b>SAP</b>	South African Police
<b>SAPS</b>	South African Police Service
<b>SASA</b>	The Security Association of South Africa
<b>SASFED</b>	The South African Security Federation
<b>SIU</b>	Special Investigating Unit
<b>SDU</b>	Self Defence Unit
<b>SOB</b>	Security Officers` Board
<b>SOIB</b>	Security Officer` Interim Board
<b>TAU</b>	Transvaal Agricultural Union
<b>UDF</b>	United Democratic Front
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>US</b>	United States of America

# CHAPTER 1

## INTRODUCTION

### 1. IDENTIFICATION OF THE RESEARCH THEME

Traditionally, security was seen as the security of, and therefore the main function of the state, which meant that the state was obliged to protect its territory and its citizens against external military threats with the military power available to the threatened state itself.<sup>1)</sup> The use by the state of private entities to provide its citizens with security is however not a new phenomenon, and existed long before the *Peace Treaty of Westphalia* (1648).<sup>2)</sup> Any state must pass through a phase during which a social contract comes in being, under which the state provides protection in exchange for taxes, revenue and labour on a *quid pro quo* basis. Therefore a bond or contract between state and citizens is a prerequisite before the state can claim the monopoly of the legitimate use of force.<sup>3)</sup> The use of private armies (and therefore the legitimate privatised use of force), in theory, became outdated with the rise of the modern Weberian nation-state.<sup>4)</sup> This modern state was the generally accepted model of a nation-state in the global state system from Westphalia until the fall of the Berlin wall and the advent of a new world order, which has, *inter alia*, led to changed perceptions of responsibility for the provision of security.

The end of the Cold War changed the bipolar global power system and created a major rethink of the basic underlying assumptions of security and Security Studies. With globalization came challenges to the state-centric view of international relations of the realist school.<sup>5)</sup> The changes in the bipolar security system led, however, to an array of new threats relating to security. This brought about the development of various new theories on how a stable order could be achieved, the most significant development being the broadening of the concept of security to include not only the military dimension, but also political, economic, social and environmental aspects.<sup>6)</sup> Two important developments occurred in this regard: firstly, threat perception shifted from external, predominantly military, threats to include also internal and non-military threats, and secondly, the concept of state security was increasingly supplemented

by a focus on individual security. This meant that the state now had an important role to play in protecting not only the sovereignty of the geographical area of the state and its institutions, but also the security of its citizens.<sup>7)</sup> For the first time, clear emphasis was therefore now placed on individual security.

Snyder refers to literature from the traditional school, and points out how the realist concept of security was broadened to include non-military threats such as threats related to the environment, human rights, and the movement of people across national borders.<sup>8)</sup> Buzan revisits security as a concept, elaborating on the dimensions of security, insecurity and threats.<sup>9)</sup> He points out that the individual represents the irreducible basic unit to which the concept of security can be applied; that the relevance of individual security lies in the connection and contradiction between personal security and the security of the state; and that the latter represents “a major source of both threats to and security for individuals.”<sup>10)</sup> Security for the individual cannot be defined as easily as security for the state, mainly because the factors involved (life, health, status, wealth, freedom) are far more complicated, abstract and amorphous than those involved in defining security for the state. Individual threats emanate from the human environment and from societal, economic and political pressures. Threats can be physical (pain, injury), economic (destruction of property), or directed at a person’s rights (imprisonment) or status (demotion).<sup>11)</sup>

The question of whether an individual can be threatened in a psychological sense thus arises. Freedman (*et al*) discuss the problem of how the environment, and specifically high crime rates, affect people.<sup>12)</sup> They refer to the *Gestalt* theory, and posit that people are not simply passive agents in their environments, but that they organise their perceptions and beliefs into meaningful forms, thus imposing order on the chaos in which they live.<sup>13)</sup> A further question that arises is the question of whether the stress created by the individual’s perception of the danger and possibility of becoming a victim of crime, can be compared to post-traumatic war stress, and whether this can be seen as another dimension of individual threats. In this regard, it is also important to take cognizance of Maslow’s theory and hierarchy of needs, which states that security is the second most important of all human needs. “When all physiological needs are satisfied ... the needs for security can become active. Adults have little awareness of their security needs except in times of emergency or

periods of disorganisation in the social structure...Children often display the signs of insecurity and the need to be safe.”<sup>14)</sup> Irrespective of the way this question is looked at, the fact is that as a result of the anarchical relationship with others of his or her kind, the individual will find his/her individual freedom increased only at the expense of individual security.<sup>15)</sup>

The foundation for the concept of Third World security was laid by Buzan in the distinction between ‘strong’ and ‘weak’ states, in their various manifestations. For weak states, the security dilemma revolves around domestic rather than external threats, and could even include citizens seeking protection from their own state.<sup>16)</sup> National security means different things to different countries, and various definitions of it (including traditional, post-Cold War and Third World views) have been developed.<sup>17)</sup> Mathur, referring to India as a Third World country, postulates that organised crime, in its international and transnational modality, poses a serious threat to the security of the country.<sup>18)</sup>

Job re-assesses the concept of security in Third World countries after the Cold War, and comes to the conclusion that, in many instances, the biggest threat to the security of civilians in these countries is the state itself.<sup>19)</sup> With reference to Sub-Saharan Africa, Imobighe states that corruption and resource mismanagement are largely responsible for the inability of nations to create appropriate internal conditions for the promotion of national aspirations and the satisfaction of the needs of the people. He argues that “[d]espite ... relatively rich resource endowments ... Sub-Saharan Africa has been greatly retarded and its peoples have remained impoverished essentially due to corruption, mismanagement and poor leadership qualities.”<sup>20)</sup> Small argues that Africa is plagued by an array of threats and intra-state instabilities. These amongst others include criminality, civil wars and factional fighting, ethnic clashes, *coups d'état*, armed insurgencies, military disloyalty and ideational conflicts, which can mainly be attributed to the fact that African states have not followed the European and Weberian pattern of state development, formation and consolidation. African countries were created by the practise of colonialism, under which the continent was arbitrarily divided into demarcated geographical areas, ruled and influenced by foreign powers, uniting diverse and incompatible groups of people, labelling these as states.<sup>21)</sup> Therefore, the African state is, by its

very nature, unstable, contested and fragile, as no properly developed citizen-state affiliation exists as it did during the formation of states in Europe.

States that have failed in their classic function of protecting citizens are common on the African continent<sup>22)</sup>, and this neglect by states of their primary duty has increasingly led to the privatisation of security. Considering what was discussed above, the privatisation of security can be defined as the gradual takeover of the primary protection role, and the responsibility of the state to provide security for its inhabitants inside its geographical area, by private security service providers. This privatisation also implies actions and initiatives taken by citizens, private service providers and/or organised groups with the objective of protecting the community, when such actions and initiatives *de facto* replace, or are supplied on a collateral basis and alongside, government services that are deemed ineffective or non-existent. These private services and/or actions take place on various levels, and can be legal or illegal (for example certain vigilante groups), and organised or unorganised.

The privatisation of security also takes place in developed countries in the form of the growth of Private Security Companies (PSCs). This however is not so much a result of state failure, but also of providing services which public policing agencies normally do not provide, for example, the transport of cash and high value assets such as gold and nuclear material.<sup>23)</sup> It is important to again refer to the broadening of the concept of security and to take cognizance of the fact that the privatisation of security has a military dimension (mainly external in the form of mercenarism and Private Military Company`s or PMCs) as well as an internal dimension of self-protection against crime and other threats such as the threat from government itself. Some right wing groups for example claim that they need to protect themselves from the inability of the state to provide protection to citizens and some of these groups even provide semi - military training regarded as legal.<sup>24)</sup>

South Africa, as a developing country, experienced significant changes and new security-related challenges with the end of the Cold War and the globalization of the world economy.<sup>25)</sup> With changes in its political dispensation, it began to experience a gradual rise in crime levels and a decline in the effectiveness of the criminal justice

system, with accompanying responses from civil society and business. The reason for the existence of a criminal justice system is social control, which entails the maintenance of a balance between consent and law enactment, and between individual freedom and collective safety.<sup>26)</sup> The criminal justice system in South Africa was, however, put under severe pressure due to the abovementioned changes. While the South African Police Service (SAPS) was constitutionally entrusted with the task of preventing crime, and regarded itself in the early nineties as the primary vehicle to “prevent crime”<sup>27)</sup>, the realisation that the police cannot prevent crime (which stems largely from socio-economic factors) has resulted in the emphasis gradually shifting to more “effective policing”, and to an “effective justice system”. By 2002, the Minister of Safety and Security stated that the police should play only a limited role in the combating of crime, and acknowledged the socio-economic causes of crime and their impact on crime prevention.<sup>28)</sup>

The failure of the criminal justice system to take “social control” was evident in the late nineties. “Violence in the criminal justice system of post-apartheid South Africa is seen to include not only abuse but also neglect, which can be defined as the failure to take charge. The state, through its criminal justice system, has failed in this care-taking role.”<sup>29)</sup> Violence in this context must be interpreted as human rights violations by law enforcement agencies. Furthermore, corruption throughout the system creates a serious dilemma, as “any large crackdown on corruption is bound to undermine the already flagging public confidence in the criminal justice system.”<sup>30)</sup> The problem has been admitted by government, which, in July 2008, announced a recovery program for the criminal justice sector based, *inter alia*, on strengthening the investigative services and improving court processes. The strengthening of partnerships with business and the community; the increasing of the capacity of correctional facilities; and the securing of South Africa’s borders, were also announced as medium-term priorities.<sup>31)</sup>

While the *Constitution of the Republic of South Africa* guarantees human dignity, the right to life and the right to freedom and security<sup>32)</sup>, the state has failed in its responsibility to properly protect its citizens. Serious crime levels (especially violent crime), can be regarded as a threat to the security of the nation<sup>33)</sup>, as a disaster and as a public emergency. The growth of the security industry is attributed to high crime

levels; to ex-policemen entering the market as a result of political change; and to government's inability to protect its subjects.<sup>34)</sup> Crime, and the problems within the South African criminal justice system, have led to a significant privatisation of security, as well as significant growth in the private security industry in South Africa in response to the inadequacies of the state since 1994 as discussed above.<sup>35)</sup>

## **2. STUDY OBJECTIVES**

The main objective of this study is to identify and analyse the most important trends in the privatisation of security in South Africa through the use of selected case studies. In order to achieve this objective, it was necessary to examine the involvement of civil society, business, and the private security industry in the privatisation of security in South Africa. Following from the main objective, the sub-objectives were as follows:

- To discuss and analyse current trends in crime in South Africa, focusing especially on violent and organised crime and corruption;
- to determine and assess the main reasons for these crime trends in South Africa, and how, from a threat perspective, these trends impact on business and civil society; and
- to analyse official and legal responses, and the responses of business and civil society, through the privatisation of security to these crime trends.

This study only focuses on the domestic manifestation of the privatisation of security in South Africa. Therefore, although reference is made to the growth and activities of PMCs and to the involvement of South African mercenaries in activities outside the borders of South Africa, a focus on such companies and activities fall beyond the scope of this study.

## **3. LITERATURE REVIEW**

Before the end of the Cold War, the referent object of analysis for scholars in the field of Strategic Studies was mainly war and its causes, but this changed with the advent

of a new multi-polar world order.<sup>36)</sup> Literature on security in the broader and international context has developed substantially since the early 1980s, and it has gradually started to reflect the view that war and conflict should not be the main focus of Strategic Studies. In addition, a British or English school developed alongside the United States (US)-dominated Strategic Studies. This group, led by Buzan, focused on a wider range of issues under the classification of Security Studies. It came to the fore in the 1980s and early 1990s, as a response to the militaristic focus of Strategic Studies. Snyder posits, in this respect, that a reappraisal of Strategic Studies was necessary; hence his work, combining North American, British and Australasian views on contemporary security.<sup>37)</sup>

On the broadening and widening of the concept of security, research by Buzan<sup>38)</sup>, Collins<sup>39)</sup>, Snyder<sup>40)</sup> and Weaver<sup>41)</sup> has provided insight into the post-Cold War security environment. Books and monographs on the concept and theory of the privatisation of security have been written by authors such as Mandel<sup>42)</sup>, Shaw<sup>43)</sup>, Cilliers (*et al*)<sup>44)</sup> and Gumedze<sup>45)</sup>, with articles by Lilly<sup>46)</sup>, Spearin<sup>47)</sup>, and the Geneva Centre for the Democratic Control of Armed Forces<sup>48)</sup>. Gumedze elaborates on the disturbing trend of the recruitment of former military personnel and ex-policemen by PSCs and PMCs, which means that the police and military in Africa are literally training for the private/military sector. Lilly focuses on the emergence of private security and military groups following the end of the Cold War and the debate on whether these groups must be seen as a menace and hindrance, or whether they must be seen as a force for good. Lilly also concentrates on the typology of private security groups, the users of these groups and critical issues emerging from the use of these private security groups. Spearin expands upon, and critically evaluates the private commercial security option and the dilemmas this poses for humanitarianism in the future.

The United Nations (UN) has also produced various documents on security and transnational crime which impact directly and indirectly on the privatisation of security.<sup>49)</sup> Of relevance to this study is, amongst others, the 2004 Report of the Secretary-General's High-Level Panel on Threats, Challenges and Change (*A more secure world: Our shared responsibility*). This report (considering the contents and goals of the UN Charter), examines changes in global security since 1945; collective

security; various types of contemporary threats (including, among others, transnational organised crime); and the use of force.<sup>50)</sup>

Further literature on security and its privatisation includes publications by the Institute for Strategic Studies at the University of Pretoria from 1993 to 2009; the aforementioned books and articles by Shaw, and works by, amongst others, Gumedze<sup>51)</sup>, Manby<sup>52)</sup> and Mills & Stremlau (eds).<sup>53)</sup> The focus of Gumedze, Manby and Mills & Stremlau's works is on private security and mercenarism in Africa, rural protection, and the privatisation of security in Africa respectively.

Research on private security development in South Africa only seriously began in the mid-nineties, with the rise in crime and concomitant growth in PSCs. Until the mid-nineties violent crime was not perceived as a major security threat, and therefore did not receive much attention in government policy documents. The rise in crime levels and the subsequent rapid growth in PSCs, accompanied by vehement civil response, changed the situation. Various authors began to acknowledge crime as a security threat and even a national security threat.<sup>54)</sup> Official documents also, as a result of changes in perception, gradually began to refer to crime as a "threat to security".<sup>55)</sup>

Taljaard, in a study on private and public security, identifies the collapse of Zimbabwe, and violent crime which is organised in nature, as prominent security threats to South Africa.<sup>56)</sup> She elaborates on the exceptional growth of the security industry in South Africa, and attributes this growth to the transformation process in the South African National Defence Force (SANDF), which has resulted in some soldiers entering the private security industry, together with the rise in crime levels in the same period.<sup>57)</sup> Minnaar attributes the growth of the security industry to large-scale resignations from the SAPS between 1995 and 2002 and to the subsequent entry of a large number of ex-policemen into the private security market.<sup>58)</sup>

The gradual privatisation of security in South Africa has taken on many dimensions, such as a higher than normal growth in the private security industry, and vigilante action against crime. There is a distinction between official perceptions of security privatisation (generally seen as the utilisation of PSCs and PMCs), and the ways in which security privatisation is manifested in the broader sense such as the

establishment of gated communities and erection of boom gates, and responses and actions of organised business, agriculture and civil rights groups to crime. Obviously, vigilante action, unauthorised boom gates, and some actions and initiatives by agricultural communities, are officially viewed as illegal acts.

Existing literature on the privatisation of security in South Africa tends to focus mainly on mercenaries, PMCs, and PSCs, and does not sufficiently examine other manifestations of the privatisation of security, such as civil society initiatives by business (such as Business Against Crime South Africa - BACSA); agriculture (for example initiatives of the Transvaal Agricultural Union (TAU))<sup>59</sup>; and civil rights groups such as Solidarity. The responses of South African society, whether these are regarded as legal or illegal, have not been sufficiently researched in an integrated manner. Vigilantism in the form of the killing of drug lords in response to a lack of action by the SAPS, also falls within the ambit of the privatisation of security, and needs to be included and integrated in a study of security in South Africa.<sup>60</sup>

Although various facets of the privatisation of security have therefore been researched to a greater or lesser extent previously, there was a need for a holistic study covering the main domestic manifestations of the privatisation of security in South Africa, and the underlying causes of this. This study therefore aims to provide a systematic and integrated analysis of the privatisation of security in South Africa, focusing on the respective roles of the private security industry, and business and civil society in this regard. It also attempts to include a broader range of initiatives representing societal involvement in response to perceived insecurity and failure by the state to provide the classical nation-state security.

#### **4. FORMULATION AND DEMARCATION OF THE RESEARCH PROBLEM**

The main research problem of this study concerns an answer to the following primary question, namely what are the main reasons for, and manifestations of, the privatisation of security in South Africa after 1994? The answer to this question determines to what extent there is an increase in the privatisation of security in South Africa; whether this is a response to rising crime or police inefficiency or both; and if

and to what extent, the state has failed in its quintessential obligation to the people of South Africa - that of providing a level of security at which society will feel safe.

A number of secondary research questions flow from the main research problem formulated above.

- What are the underlying causes of the increase in crime in South Africa, and to what extent do the authorities seem to be able to prevent and reduce crime? The reason for this question is that if crime has escalated beyond the current or potential future capabilities of the criminal justice system, the privatisation of security will exponentially increase.
- To what extent do the authorities encourage or support certain civil society initiatives to prevent crime? This reflects the extent to which the police interact with civil society with regard to crime prevention. The question is whether this does not also point to a dereliction of duty by the police?
- What are the advantages and disadvantages of the privatisation of security in South Africa? This relates to issues such as usurping the role of the criminal justice system and profit motives underlying private security *versus* official service delivery obligations.

Following from the research questions, this study is based on the following assumptions:

- One of the underlying causes of the significant increase in violent and organised crime is the failure of the state to provide sufficient security for civil society. The privatisation of security in South Africa will continue despite attempts to improve official policing.
- Although it is normal practise to encourage citizens to become involved in cooperating with the police to combat crime and to take certain initiatives in this regard, this tends to detract from the fact that the primary duty to combat crime still lies with the police.

- The increasing privatisation of security has had a positive effect on security in South Africa, but can never replace the role of the state as protector and supplier of security in the nation-state sense.

The changes in South African politics, the accompanying rise in crime levels, and especially the threat of violent and organised crime to South African citizens since 1994, serves as the points of departure of this study. The period that is covered in the study is from the commencement of majority rule in South Africa in 1994, up to the end of 2010.

## 5. METHODOLOGY

Both description and analysis are used in this study. A brief comparison is drawn between the privatisation of security in South Africa, and global trends in the privatisation of security. Description is used to determine the extent of the privatisation of security in South Africa since the end of the Cold War, and also to determine the impact of the privatisation of security on crime and perceptions of insecurity held by the South African public. This study uses analysis to examine the nature of the various manifestations of the privatisation of security, as well as the initiatives – legal and illegal, organised and unorganised – of civil society to reduce crime, in order to determine their effect on security in South Africa.

The study uses a three-tier framework. The conceptual framework firstly focuses on the broadening of the concept of security following the end of the Cold War, with the emphasis on non-military threats and the concept of individual security. Secondly, a conceptual framework relating to the role of the state in providing security is provided, and thirdly, the concept of the privatisation of security is defined and described, in order to place the privatisation of security in South Africa in context.

The development and growth of private security in South Africa has opened discussion mainly on accountability and oversight issues.<sup>61)</sup> Prior to 1994, not much research was done on the role of PSCs and civil society in national security, as the National Party government did not experience the same problems with crime,

perceptions of crime and threats as does the current government.<sup>62)</sup> The oversight role of government regarding the private security industry by amongst others the Private Security Industry Regulatory Authority (PSIRA), and private security companies (PSCs) and private military companies (PMCs) via certain state departments and the National Conventional Arms Control Committee (NCACC), is especially important. Oversight and control is mandated by legislation in this regard.<sup>63)</sup>

Primary sources used for purposes of this study include official South African government policy documents such as the *White Paper on Intelligence (1994)*; the *Green Paper on Safety and Security (1994)*; the *White Paper on Safety and Security (1998)*; *SAPS Annual Reports*; the *Constitution of the Republic of South Africa (1996)*; *The South African Police Service Act (1995)*; the *National Strategic Intelligence Act (1994)*; the *White Paper on National Defence for the Republic of South Africa (1996)*, the *Private Security Industry Regulatory Authority Act (2001)*; annual PSIRA reports, and TAU, Solidarity and BACSA policy documents on crime.

Secondary sources relating to South Africa include *The State's Response to Crime and Public Security in South Africa*, by Burger and Boshoff (December 2008)<sup>64)</sup>; *After the Commandos: The Future of Rural Policing in South Africa*, by Steinberg (2005)<sup>65)</sup>; *Violence in South Africa: A Variety of Perspectives*, by Bornman (et al) (1998)<sup>66)</sup>; and *Crime and Policing in Post-Apartheid South Africa: Transforming Under Fire*, by Shaw (2002).<sup>67)</sup>

As far as the conceptual framework is concerned, secondary sources relevant to the broadening of the concept of security include *People, States and Fear, an Agenda for International Security Studies*, by Buzan (1991)<sup>68)</sup>, *The Insecurity Dilemma: National Security of Third World States*, edited by Job (1992)<sup>69)</sup>; *Contemporary Security and Strategy*, edited by Snyder (2008)<sup>70)</sup>; *Security: A New Framework For Analysis*, by Buzan (et al) (1998)<sup>71)</sup>; and *Contemporary Security Studies*, edited by Collins (2010)<sup>72)</sup>.

## 6. STRUCTURE OF THE RESEARCH

This chapter serves as an introduction, outlines the objectives and parameters of the study, the research problems to be addressed, and the methodology and assumptions of the study.

Chapter 2 provides a conceptual framework. To begin with, it provides an overview of the broadening of the concept of security since the end of the Cold War, with specific reference to the concepts of non-military threats and individual and societal security. Following this, the concept of the privatisation of security and some global trends in this regard, are discussed. The role of the state as legitimate provider of security, its *raison d'être*, is analysed not only in terms of security from external threats to the territory of the state and state institutions, but also of security from internal threats such as domestic crime. A discussion of the variations and modalities of companies rendering variations of security services, to distinguish between PSCs, PMCs and mercenary activities, was necessary. PMCs, and mercenaries that operate outside the borders of South Africa, fell outside the scope of this study and were only referred to as and when relevant to this study.

Although chapter 3 focuses on trends in, and official responses to crime in the period from 1994 to 2010, a brief overview of crime and tendencies in crime in South Africa during the period 1912 to 1994 was required to place post-1994 developments in perspective. The year 1912 was selected as the basis as this was the year in which the South African Police (SAP) was officially instituted. This chapter then continues to discuss trends in crime after 1994, the main causes for these trends, and the responses of the state and the SAPS in particular to these trends.

Following this, chapter 4 commences with a brief history of the private security industry in South Africa in the period before 1994. The factors that initiated and contributed to the growth of the industry since 1994; legislation that has been promulgated since then to control the industry; the structure of the industry; and its role in law enforcement, are discussed.

Chapter 5 focuses on community and crime combating initiatives in South Africa. The rise in crime levels, and especially levels of violent and organised crime and corruption, have led to various responses by and various initiatives from the South African community in attempts to secure itself and to show discontentment with the inability or failure of the state to provide acceptable levels of security for its citizens. While some such initiatives are legal, such as initiatives of Solidarity and various residents' associations, some initiatives and actions can be seen as unorthodox, and their legality questionable. This chapter therefore focuses on the main community actions and initiatives, elaborating on insecurity and on perceptions of, and responses and resistance to, high crime levels.

The role of organised business and agriculture in security in South Africa is discussed in chapter 6. Organised business and agriculture have been the most active role players in not only voicing community concern in response to the deteriorating crime situation in South Africa, but also by initiating action in response to unacceptable crime levels. In this regard, BACSA, Solidarity, Afriforum, AGRI SA and TAU SA are the leading role players voicing the South African community's concern with the crime situation and lack of effective government action. TAU and Solidarity have been prominent in negotiations with government regarding farm attacks and crime in rural areas. TAU SA for example initiated a new rural defence strategy in 2004 and has also initiated self-defence and survival courses which include the use of weapons.<sup>73)</sup> BACSA has also been involved in initiatives and talks with government, and particularly the SAPS, with regard to attacks on shopping malls and small businesses. The Industry Alignment Forum Aggravated Initiative (consisting of eight business groupings) founded to combat and exchange information on armed business robberies, was primarily a BACSA initiative.<sup>74)</sup> This chapter therefore mainly focuses on these and other relevant initiatives taken by business and agriculture to combat crime.

Chapter 7 serves as an evaluation of the study. This final chapter summarises the study, and assesses the assumptions formulated in Chapter 1 against the findings of the study. This chapter also analyses claims of a history of uncoordinated initiatives by *inter alia* the South African business sector, organised agriculture and human rights groups to combat crime, and to provide the level of security that is regarded as

the responsibility of the state. It also investigates the extent to which cooperation regarding the combating of crime (and therefore the provision of acceptable levels of security) exists between government and private role players, as well as the extent to which the public-private partnership endorsed by the authorities has been established. The interaction of the SAPS and BACSA, and the roles of the Justice, Crime Prevention and Security Cluster and Community Policing Forums (CPFs) are also discussed. Conclusions are drawn regarding the positive and negative effects of closer cooperation between the police and civil society in the combating of crime.

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## **CHAPTER 2**

### **SECURITY AND THE PRIVATISATION OF SECURITY: A CONCEPTUAL FRAMEWORK**

#### **1. INTRODUCTION**

Security as phenomenon and in the sense of protection against various kinds of threats is as old as mankind itself, and can even be traced back to the *Neanderthal*-era.<sup>1)</sup> Threats and security, whether of an individual, national or international nature, rank prominently among the problems facing the human. Historically, the security of states have been always been threatened by other states, although the nature and intensity of insecurity have varied rather significantly over time. These fluctuations on a security-insecurity continuum and similar related problems, are still present in the 21<sup>st</sup> century, with all the concomitant fears and uncertainties associated with it.<sup>2)</sup>

The modern day security dilemma is applicable from the lowest or individual level to the highest or international level. A thorough understanding of the concept is essential in order to understand the modern day security problem. 'Security' was traditionally seen as the main function of the state and at the same time associated with military threats. This view however changed significantly with the end of the Cold War. The bi-polar international system that existed since 1945, ended in 1989 with the fall of the Berlin Wall and the effective disintegration of the Soviet Union. These changes in the international security situation changed the way governments and relevant role players viewed 'security'.

Warfare has throughout centuries been associated with state security and external threats to the territory of the state. Kaldor distinguishes between wars from an earlier period and a new type of violence on an organised scale in the current globalised era.<sup>3)</sup> Globalisation has led to increased movement of people and therefore increased interconnectedness after the end of the Cold War, which led to changes in the character of political authority, erosion of the autonomy of legitimate organised

violence, and eventually to a power vacuum.<sup>4)</sup> It is also argued that while the monopoly of organised violence is eroded from below by privatization, the new type of wars is part of a process which is in effect a reversal of the processes through which modern states evolved.<sup>5)</sup>

Before the eighteenth century, no distinction existed between “police forces” and “war-making forces”<sup>6)</sup>, and therefore, what was regarded as “war”, “low level violence” or “protection”, included coercion of civilians by various role players, legal and/or illegal. Kaldor argues that actual warfare never exactly fitted the stylised description of war which was predominantly European. “There were always rebellions, colonial wars or guerrilla wars, both in Europe and elsewhere, which were sometimes given the description of ‘irregular warfare’ or else not called wars at all...Nevertheless, it is the stylized notion of war [the security of the state] that still profoundly affects...the way policy-makers conceive of security.”<sup>7)</sup>

For the purposes of this study, analogies and comparisons are drawn from theory on war and defence, and applied to create a similar theoretical framework regarding private protection and the privatisation of security. This is done in order to demonstrate the close relationship between defence and the protection against external and internal threats (the military, police and state component of security), and private security (the domestic, mainly internal and commercialised component of security). In order to analyse the privatisation of security since the end of the Cold War; the phenomenon of modern day security; and the concept in the way that it is used in the 21<sup>st</sup> century, it is necessary to briefly discuss the history and development of security not only as concept, but also as a phenomenon. This will be followed by a discussion of the broadening of the concept of security with reference to the military and non-military dimension of threats, as well as an overview of Third World security with specific reference to Africa.

## **2. THE HISTORY AND DEVELOPMENT OF THE CONCEPT OF SECURITY**

Security as a concept in the modern sense of protection operations and methods in one form or another, has existed since the dawn of history, and has developed through various phases before reaching the modern day dimension of the 21<sup>st</sup>

century. It is therefore important to take cognizance of the pre-modern dimension of security, and the *Peace Treaty of Westphalia* which led to the rise of the Weberian nation state.

## 2.1 Pre-modern security

Security as a phenomenon, in the Middle Ages, later developed to such an extent that ancient governments were forced to provide security measures such as walled cities, defensive armament against intruders and some form of internal order maintenance. “What amounted to private armies have existed and thrived down through the ages. Frequently, security was an individual or family matter, or concern of an extended family - a tribe or a clan. Knights of Old provided security for their lords and ladies, as, in a later time, private security was entrusted to the hired guardians of merchant princes.”<sup>8)</sup> Internal order maintenance gradually developed in the mode of governmental agents and agencies, which were mandated with the responsibility for bringing before courts those who contravened rules and laws of government and society.<sup>9)</sup>

With development and modernisation, much of the responsibilities for dealing with crime later shifted from individuals or groups, to what can be termed ‘governmental jurisdiction’. The public, now represented by the state, rather than the individual or group, became the legally wronged entity and public agencies assumed responsibility for the investigation, apprehension, preventive and protective functions. For many years the provision of security remained at the heart of the state and its core defining characteristic.<sup>10)</sup>

The use of private armies by states is not a new phenomenon. Private security has occurred in various forms over the years, despite the fact that state was the primary provider of security.<sup>11)</sup> In the period from the Middle Ages to the end of the Cold War, the world has witnessed many forms of interaction in terms of government and state-like protection. In contrasting times and places throughout world history, these interactions have brought about various societies ruled by different forms of government.

Historically, the development of a global international society has mainly been the result of Western expansionist policies. The 15<sup>th</sup> century first saw the rise and fall of European power with the construction of four rather self-controlled ‘civilised’ areas in Europe, the Middle East, South Asia and East Asia. By the end of the nineteenth century nearly the whole of the international system was either a reflection of the governing models of Europe, the Americas and Australia, or a colony of a European sovereign. In other instances some regions were attempting to catch up with Europe as was the case with Japan or Russia.<sup>12)</sup> The late nineteenth century therefore epitomised a European international society, and not a real globalised international society.

In addition to the fact that the use of private security is not a new occurrence, it is also a means of protection which states have hitherto utilised regularly. Private security in the past occurred in three main forms: the ‘freelance mercenary’, or ‘individual soldier for hire’ type; the mercenary ‘free company’ also known as the *condottiere*; and finally mercantile companies. The mercantile company represented the most pervasive structure of not only private security, but also private enterprise.<sup>13)</sup> There is no reason from a political-history perspective to presuppose that it is best for the state and its inhabitants when national governments have a monopoly over the instruments of force. While privatised security has been a feature for at least three thousand years, the international commercial sector was exclusively responsible for its own security long before the emergence of the modern nation-state.<sup>14)</sup>

The ability to provide in its own security was a constant and prominent feature of the merchant company, very similar to modern companies hiring PSCs and PMCs for the provision of security. Vast economic power enabled them to raise armies, to declare war and also to negotiate and secure trading rights on behalf of their home states, *de facto* operating as semi-sovereign entities.<sup>15)</sup> The hiring of private armies or foreign soldiers became known as ‘mercenarism’ and can be defined as “the practice of professional soldiers freelancing their labour and skills to a party in foreign conflicts for fees higher and above those of [soldiers of the state in conflict].”<sup>16)</sup>

Private or contract security was attractive to sovereigns over the centuries as it was cost effective and saved money. In this regard Mandel argues that it was also beneficial as it afforded sovereigns the “responsibility-avoiding escape route of plausible deniability...a concept first mentioned explicitly in the seventeenth century.”<sup>17)</sup> Tilly claims that states developed as a type of security scheme where merchants and others were protected by the state in return for revenues and other services, thus providing a framework for the organisation of commerce, production, exchange, and accumulation.<sup>18)</sup> Such a process in the domestic and international sense, would however according to Mandel, only last as long as favourable conditions make it possible and effective. Viewing state-sponsored security from this perspective, has the effect that the natural notion of legitimacy and integrity cease to exist.<sup>19)</sup>

Ancient empires from Egypt to Victorian England contracted forces that in some form or the other that resemble modern-day PMCs or PSCs.<sup>20)</sup> More recent examples of the use of private armies or private military contractors to wage war as an agent, include wars of independence in Vietnam, Afghanistan, Kashmir and Nicaragua.<sup>21)</sup> The use of contract forces has mainly occurred during periods of a “breakdown of internal order, systemic upheaval or change, grand territorial expansion projects, and/or continental wars.”<sup>22)</sup> These contract forces were akin to modern day PSCs and PMCs, with the accent on some form of monetary advantage. In addition to an escalation in the use of these forces, there were also increases in the number of these forces, which mainly happened in unsettled times.<sup>23)</sup>

The question now arises as to why such a great controversy surrounds the modern-day use of PSCs and PMCs if states have for centuries made use of its predecessors in some form of contract security? The answer to this question is found in the factors and events that led to the *Peace Treaty of Westphalia (1648)*, and the subsequent rise of the Weberian nation state.

## **2.2 The Peace Treaty of Westphalia and the rise of the Weberian nation-state**

As previously mentioned, security was traditionally seen as the security of, and therefore the main function of the state, which meant that the state was obliged to

protect its territory and its citizens against external military threats.<sup>24)</sup> The use by the state of private entities to provide its citizens with security is as previously stated not a new phenomenon, and existed long before the *Peace Treaty of Westphalia* (1648). The domination over the valid and reasonable use of force by the state can therefore be considered as a rather contemporary occurrence. The classical state-claimed dominance over force is the exception rather than the rule, while the state in its modern shape is viewed as a relatively new form of governance.<sup>25)</sup>

The rise of the modern nation state is generally attributed to the Thirty Years War (1618-1648) and the subsequent signing of the *Peace Treaty of Westphalia*,<sup>26)</sup> the latter regarded as the key event ushering in the contemporary international system.<sup>27)</sup> The *Treaty of Westphalia* is a collective name given to the two treaties concluded on the 24<sup>th</sup> of October 1648 by the Holy Roman Empire with France at Munster, and with Sweden and the Protestant estates of the Empire at Osnabruck, by which the Thirty Years` War was brought to an end.<sup>28)</sup> From 1648-1776 an international society developed, shaped and built on events of the previous two centuries. Some states such as the Ottoman Empire slowly became smaller while others such as Britain and Russia rose. Although hundreds of micro-states still existed, the course of events was determined by the interaction among no more than ten key players.<sup>29)</sup> This can be regarded as the commencement of a process which eventually resulted in the bi-polar international system of the 20<sup>th</sup> century.

### **2.3 The 20<sup>th</sup> century security phenomenon**

From the *Treaty of Westphalia* in 1648 onwards, states have been regarded as by far the most powerful actors in the international system. They have been 'the universal standard of political legitimacy' with no higher authority to regulate their relations with each other. Security has therefore been seen as the priority obligation of state governments which have taken the view that there is no alternative but to seek their own protection in what has been described as a self-help world.<sup>30)</sup> With this obligation of protection, states automatically claimed the monopoly over the legitimate use of force.

The founding of the international state system of the 20<sup>th</sup> century was not innate or immediate, but evolved and was gradually consolidated over a few centuries. The modern day system represents a set of persistent and interconnected rules prescribing behaviour roles, constraining activity, and shaping expectations. The state has come to acquire internal as well as external characteristics which comprise of administrative, legal, extractive and coercive facets.<sup>31)</sup> As previously mentioned, any state must pass through a phase during which a social contract is solidified between state and citizen on a *quid pro quo* basis. The use of private armies (and therefore the legitimate privatised use of force), in theory, became outdated with the rise of the modern Weberian nation-state.<sup>32)</sup>

The First World War abruptly ended the Concert of Europe, and new powers (the US and Japan) had appeared while at the same time, there were increasing demands for national liberation in India and other parts of the European empires. The end of the Second World War and the fact that the UN would hardly ever play the leading role anticipated for it in the post-war international society, effectively resulted in the world being divided into two competing hegemonial international societies, this phenomenon being termed the Cold War.<sup>33)</sup> The Cold War effectively ended with the disintegration of the Soviet Union on 8 December 1991 and the resignation of Michael Gorbachev as President on 25 December 1991.<sup>34)</sup> This event brought about a significant change in the way security was viewed by states and non-state international role players.

### **3. THE CONCEPT OF SECURITY**

Security is an ambiguous topic and the concept of security does not lend itself to the possibility of neat, clinical and precise formulation. It deals with a plethora of risks of which the probabilities are little known about, while the nature of its contingencies can only be dimly perceived.<sup>35)</sup> Despite this problem, a number of attempts have been made to define the concept. As there are different views as to what the concept security entails, some held by academics and some by practitioners, some pertaining to the Cold War era and some more recent, it is necessary to analyse the concept, starting with the traditional meaning of security as applied during the Cold War era, the broadening of the concept, and the application of the concept to the Third World.

### 3.1 Traditional meaning of security – The Cold War era

Although security is a contested concept, there is a consensus that it implies freedom from threats to core values, for both individuals and groups. There however exists major disagreement about whether the main focus of inquiry should be on ‘individual’, ‘national’, or ‘international’ security. For much of the Cold War period, most research on the subject was dominated by the idea of national security, which was largely defined in militarized terms.<sup>36)</sup> According to Buzan, it cannot be denied “that security, whether individual, national, or international, ranks prominently among the problems facing humanity. National security is particularly central because states dominate many of the conditions that determine security at the other two levels.”<sup>37)</sup>

Cold-War literature analysed security predominantly in terms of “power” and “peace”. The Idealist school emphasised the aspiring of peace as approach towards security while the Realist school put the emphasis on the acquisition of power (in military terms) in order to achieve security.<sup>38)</sup> Security as Cold-War concept however needs to be analysed by considering the roles of both peace and power in any definition. Buzan, instead of attempting to define the concept, is of the opinion that a more complete developed concept of security lies somewhere on the continuum of security and peace.<sup>39)</sup> Considering Buzan’s view, it is necessary to briefly discuss traditional Cold War views on the concept.

Collins posits that security has to do with threats to survival. “Traditionally the state has been the thing to be secured, what is known as the **referent object** [emphasis in original], and it has sought security through military might.”<sup>40)</sup> Knorr uses the term “National Security” as a synonym for, and abbreviation of the term “National Military Security”, and points out that that the above denotes a field of study primarily concerned with “the generation of national military power and its employment in interstate relationships.”<sup>41)</sup> He analyses national security within a national and international framework with strong emphasis on military capacity, and is of the opinion that a state’s security can be determined by using this framework in relation to military potential and related factors.<sup>42)</sup> He further argues that the term “International Security” should rather be used and suggests that the field of ‘National

Security' should be extended in order to also include problems of domestic security.<sup>43)</sup>

Smoke`s description of national security includes internal as well as external threats. He defines national security as the “preservation of the reigning political structure against any change, save change through channels which that structure has previously defined as legitimate”.<sup>44)</sup>

Louw defines national security as a condition where a nation-state enjoys freedom from external physical threats. Although moral and ideological threats should be included, emphasis is placed on physical threats. It can only be assumed that in this context physical threats will be a reference to military threats. Relative security may be the result of the absence of an external threat, an international system of collective security or the state`s own (military) capability.<sup>45)</sup> Trager and Simonie state that the phrase “national security” refers to both a political process carried on by the governments of nation-states, as well as to the academic study of that process. They continue and describe national security as that part of government policy having as its aim “the creation of national and international political conditions suitable to the protection or extension of vital national values against existing and potential adversaries.”<sup>46)</sup> The central components of government policy are security (the main function of central government), and vital national values, described as the most fundamental principles on which the social, political and physical existence of the state is based.<sup>47)</sup>

On the international/global level, security is characterised by the absence of overarching government, which means that the system is in effect in a state of political anarchy. This was the case during the Cold-War, and the *status quo* remains. The principal defining features of states therefore is its sovereignty, or alternatively, states` refusal to acknowledge any political authority higher than themselves.<sup>48)</sup> If states are viewed as the main form of human political organisation, the inevitable systemic consequence therefore must be anarchy. The only alternative to anarchy can thus only be no system at all, or a unitary system of some sort, the possibility of the latter being very remote, given the pessimistic realist view.<sup>49)</sup>

From the above it is clear that the Cold-War view of security had a military and external threat emphasis. This has however started to change with the demise of the Cold-War bi-polar system, and the next section therefore will explore the broadening of the concept of security that can be associated with these changes in the international balance of power.

### **3.2 The broadened view of security**

The end of the Cold War also led to changed perceptions of responsibility for the provision of security, and transformed views as far as security is concerned. The most significant feature of the broadening of such views the increased emphasis on, and the inclusion of not only the military dimension of threats, but also political, economic and social aspects.<sup>50)</sup> The broadening of the concept of security also meant that the focus has shifted away from the state as the predominant referent object.<sup>51)</sup> This trend has three important features namely, emphasis is now also increasingly being placed on non-military threats; it has further evolved to take into account threats of domestic modality (internal threats); and individuals and society are also now included as referent objects in analysis.<sup>52)</sup>

Post-Cold War security thinking also brought about a shift in emphasis and the questioning of three broad issues namely security as a goal; the means of pursuing security; and the relation of security and domestic affairs.<sup>53)</sup> The focus of security has since the early 1990s been shifting away from the state as main object of focus as it was difficult for strategic studies to address domestic threats to security. Emphasis was now also placed on smaller referent units such as individuals or sub-state groups. This shift in emphasis also implies that research could focus on how smaller units such as individuals or groups can threaten the state or ruling regime, but also how the state can threaten the security of individuals or sub-state units, mainly under the disguise of preserving the regime in power or maintaining national security.<sup>54)</sup> Although war has not been rendered obsolete, new concepts had to be developed to take into consideration other sources of threats.<sup>55)</sup> Security can be described as a state of affairs marked by the absence of threats. In addition to the absence of threats, such a state of security is also characterised by the liberation of people from

restrictions preventing them from carrying out activities as they might choose. Booth also argues that not control, authority, or order, but freedom provides real security.<sup>56)</sup>

### 3.2.1 Threats to security

National security is “a complex term capable of both wide and narrow definition, but whatever its meaning, no state can ever achieve absolute security. Relative security is the best that a state can hope for and for all states this is a major policy goal.”<sup>57)</sup> A distinction is necessary between national security as simply the bare physical survival of the state and citizens, and national security in a broader sense (also to include non-military threats), defined in terms of the protection of core values such as independence, freedom, prosperity and development.<sup>58)</sup> Non-military threats to security emanate from different sources and manifest on different levels. The sources of threats as well as the levels will further be discussed.

#### 3.2.1.1 Sources of threats

Threats to referent objects such as human groups, mainly come from from five broad categories of sources namely from the military, political, economic, societal and environmental spheres, while human rights issues and the movement of people across international borders must also be taken note of, and can be viewed as separate categories of threats.<sup>59)</sup> Buzan argues that it is the combination of threats and vulnerabilities that results in insecurity, and that the two cannot be separated in a meaningful way.<sup>60)</sup> Security as a concept, therefore cannot be confined to the military sector alone, hence the need to construct a conceptualisation of security that means much more than just any threat or problem.

The organisational stability of the state is usually the target of political threats. Its purpose can vary from attempts to put pressure on the government regarding a particular policy, the overthrowing of the government, secessionism, and also the disruption of the political fibre of the state with the intent to weaken its political base prior to military attack. Political threats might be a concern even when a state is both strong and powerful.<sup>61)</sup> Societal threats are difficult to distinguish from political threats. “In relations between states, significant external threats on the social level

amount to attacks on national identity, and thus easily fall within the political realm... [and] are often part of a larger package of military and political threats...The main difficulty with societal threats... is that most of them occur within states.”<sup>62)</sup>

In the military sector the referent object is usually the state, while in the political sector threats are defined in terms of sovereignty and sometimes the ideology of the state. In the economic and market sector the referent objects are difficult to identify, but can be concretised as firms or businesses, intergovernmental organisations founded through treaties or agreements, and permanent organisations such as the World Bank or the European Union. It can also be of an abstract nature such as the liberal international economic order; in the societal sector collective entities such as nations and religions; while in the environmental sector it can range from relatively concrete matters such as the survival of individual species (whales, tigers, humankind) or habitat (rain forests), to larger-scale issues such as maintenance of the planetary climate and biosphere.<sup>63)</sup>

Subrahmanyam identifies amongst others the following non-military threats to security: intra-state conflicts, sectarian conflicts and religion, secularism, narco- , international, and political terrorism, coercive diplomacy, mass migration, ecological factors and poverty, and environmental destruction and degradation.<sup>64)</sup> He identifies intra-state conflicts arising out of factors underlying the nation-state building process, as the biggest threat to security universally faced by a number of industrialized, and a majority of developing countries.<sup>65)</sup>

In terms of the broadening of the concept and the more recent emphasis on non-military domestic and internal threats, the national security of a state can be threatened without affecting international or global security. The concept of non-military threats to security is not a novelty but the post-Cold War perception of what constitutes a threat to security, as well as the prominence of certain threats, have resulted in a much greater focus on non-military threats. Some of the non-military threats have been described as ‘new’ threats, either because they were not perceived as real or serious threats to security previously, or because they have acquired changed forms and characteristics.<sup>66)</sup>

### 3.2.1.2 Levels of threats

Burgess states that two distinct features characterise modern day threats to security. Threats can reach beyond the borders of the modern nation-state, while their incidence hinges on universality and interdependence.<sup>67)</sup> In a new international order, security is no longer dependent on, and limited to foreign policy and military supremacy as before the Cold War, but is also now quantified in terms of, and by considering social, economic, environmental, moral and cultural matters.<sup>68)</sup>

Thomas identifies four types or levels of security namely international security, transnational security, regional security and internal security.<sup>69)</sup> Ecological damage and destruction, the spread of diseases; human and women`s rights violations; the illegal international narcotics trade; cyber security; large scale resettlements and illegal immigrants, are for instance cited as non-military transborder threats to the stability of advanced industrialised states.<sup>70)</sup> Therefore, the term “transnational security” covers the protection of people from a variety of destructive forces that surpasses state boundaries, and theoretically, also regional security in Third World countries. Internal security of these states is mainly concerned with threats emanating from within state boundaries.<sup>71)</sup>

The national level of security as referred to by Burgess traditionally placed the focus on state security in terms of territory; sovereignty; and state institutions, but human security is also now emphasised. The security of the individual and society is linked to the population of the state as well as the territory in which the individual and society have to live in.

The terms “human security” and “individual security” are both used in literature on the topic, and it is important to take cognizance of the fact that both refer to exactly the same thing. According to Buzan, the human being or individual is the smallest identifiable and basic unit to which security as concept can be applied.<sup>72)</sup> Mutimer suggests that the security of the inhabitants of the state has become just as important, that the state can be a threat to its citizens, and that by treating security only as the security of the state, the insecurity of citizens who are under threat from the state is in effect ignored.<sup>73)</sup>

The security of the individual and that of the society cannot be separated. Similarly, the security of the individual and that of the state is inseparable, and actions by either one can adversely affect the security of the other. State institutions - the executive, administrative, legislative and judicial machinery of the state - are more corporeal and inclined to attack than the notion of the state. In this regard, it is argued that ideas of the state are closely connected to state institutions which binds the state into an abstract entity. Consequently, even without any popular general support, the state can sustain and support itself through coercion and its governmental machinery where the population is indifferent and to a certain extent defiant towards the state. This then has the effect that governance becomes acceptable in general.<sup>74)</sup>

### 3.2.1.3 Securitization and the UN's view on non-military threats and globalism

Mutimer discusses the broadening of the concept of security by referring to the Copenhagen School's 'securitization model'. This school places the emphasis on society as the referent object when explaining the broadening of the concept of security. While state security was prior to the end of the Cold War used as the referent object for security, the 'securitization model' of the Copenhagen School uses societal security as the referent object.<sup>75)</sup>

Weaver states that security is the manifestation of security as something transcending the established and normal rules of politics. Security then manifests as "a special kind of politics or as above politics. Securitization can thus be seen as a more extreme version of politicisation."<sup>76)</sup> Public matters and concerns can be positioned on a 'securitization spectrum' which arranges such issues from non-politicised, through the level of politicised, to securitized. On this spectrum, non-politicised issues are not made issues of public debate, do not require government intervention, and are not regarded as serious. Politicised issues are made part of public policy, requires government intervention, or to a lesser extent, some form of communal governance, while an issue is securitized when it is "presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure."<sup>77)</sup>

Similarly, Emmers describes a non-politicised issue as a matter not requiring state action or public debate, while a politicised issue requires government intervention, is part of public debate and is regarded as part of public policy. “[A]n issue is plotted on the securitized end of the spectrum when it requires emergency actions beyond the state`s standard political procedures.”<sup>78)</sup>

As far as securitization is concerned, governments and other role players began to emphasise the threat of transnational crime, which has been made increasingly easy as a result of globalisation since the end of the Cold War. The traditional definition of transnational crime denotes to criminal activities extending into and violating the laws of two or more countries.<sup>79)</sup> The UN has taken the lead in this regard and defines organised crime committed by an organised criminal group as “criminal acts committed by any structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses...in order to obtain, directly, or indirectly, a financial or other material benefit.”<sup>80)</sup> Therefore, when governments and international organisations refer to transnational crime in terms of threat perception, they most often mean transnational organised crime. In his *Foreword* to this document, the then Secretary-General Kofi Annan, referring to the *Millennium Declaration* adopted by heads of states in Italy in 2000, describes the seriousness of the threat of transnational organised crime to human rights and to modern civil society.<sup>81)</sup>

The broadening of the concept of security and the threat of transnational organised crime is probably best emphasised and summarised by the UN with the publication of the *Report of the Secretary-General`s High-level Panel on Threats, Challenges and Change – A More secure world: Our shared responsibility*, in 2004.<sup>82)</sup> It is pointed out that the world in the 21<sup>st</sup> century differs significantly from the world that had to be secured in 1945, and also that threats have changed considerably since then.<sup>83)</sup> While earlier theorists like Machiavelli, Clausewitz, Jomini and Liddel-Hart concentrated on, and viewed war as the violent form of politics, and while the military dimension was until the demise of the Cold War considered as the point of departure when analysing threats<sup>84)</sup>, it is now evident that socio-economic factors are equally important and need to be considered as well. The broadening and deepening of the

concept has evolved to the point where domestic threats to security are considered just as serious as external and military threats.

Globalisation has led to greater social and political interaction among organisations and individuals across the world. This growing interconnectivity among people has led to the realisation that all nations are part of a world-wide community.<sup>85)</sup> Poku uses the phrase “human security” as defined in the UN Development Programme (UNDP) report in the discussion on security on the global level, namely freedom from want and freedom from fear which embraces the whole range of civil, political, economic, social and cultural rights.<sup>86)</sup> Acharya also prefers to use the term “human security” as defined in the 1994 UNDP report. This report defines human security to include the following seven aspects:

- Economic security in the sense of assured basic income for people;
- Food security described as physical and economic access to food;
- Health Security which is seen as minimum protection from diseases and unhealthy lifestyles;
- Environmental security seen as protection from man-made threats and deterioration of nature;
- Personal security which is protection from physical violence, whether from state or external threats, from violent individuals and sub-state factors and from domestic abuse;
- Community security described as protection from the loss of traditional relationships and values, and from sectarian and ethnic violence; and
- Political security guaranteeing people that they can live in a society that honours basic human rights, that will ensure the freedom of individuals and groups from government attempts to exercise control over ideas and information.<sup>87)</sup>

#### **4. THIRD WORLD SECURITY**

Contradictions between individual security and national security issues referred to earlier, have not only given rise to human rights issues internationally,<sup>88)</sup> but have also focused attention on the nature of security in Third World countries.

#### 4.1 Nature of Third World security

Third World security must be understood in the context of these countries' pre Cold-War relationships with the two former power-blocks and former colonial powers. As far as Third World views are concerned, these states regard classical *Westphalian* values as the biggest normative and ideological trench against foreign and domestic threats.<sup>89)</sup> Ayooob argues that most Third World states view power not exclusively as an end in itself, but rather as an instrument to ease their security predicament. Élites` in these countries are concerned with security at the level of both state structures and governing regimes,<sup>90)</sup> while the sense of insecurity they experience, usually emanates from within their boundaries than from outside.<sup>91)</sup> The Third World Cold-War security dilemma is still valid today, but there are concerted attempts by these states to promote themselves to the centre of the international political and economic system.<sup>92)</sup> This will have an impact on the Third World security dilemma in the sense of an enhanced perception of insecurity by some of these states *vis-a-vis* the rest of the Third World and the international community.

Job posits that the demise of the Cold War has not improved the security dilemma in the Third World. Security in these countries underwent substantial change in the 1980`s, in part due to increased attention that was paid to the wide range of wars, civil violence and destruction in Africa, Asia, the Middle East and Latin America. It was also realised that the Third World has become the main arena of conflict in the post-Cold War system.<sup>93)</sup> Security in Third World terms must be seen in the historical context of the 2<sup>nd</sup> World War and changes internationally that have led to the end of the Cold War.<sup>94)</sup> When analysing the security circumstances of Third World states, the Western view of security does not apply and the traditional Cold War security principle is violated in the following areas: the geographical area of the state is often not occupied and controlled by a single nation; the ruling regime most of the time lacks support of the most important and significant component of the population and usually represents only a small political or military élite that holds control; the state lacks efficient and effective institutional qualities and capacities to provide peace and order; and lastly, prevailing threats are mostly internal in character, and not only threatens the regime in power but the regime itself becomes a threat to the population.<sup>95)</sup> The threat therefore is internal in nature, and a challenge to the regime

and weak institutions. It is also emphasised that the weak state is the crux of the security problem in the Third World.<sup>96)</sup> Ayooob also links domestic security problems in Third World countries to state structures, governing regimes and contesting authorities, and points out that threats to institutions and governing regimes mainly originate from local sources and internal feuds and hostilities.<sup>97)</sup>

National security means different things to different countries, and various definitions of this concept (including traditional, post-Cold War and Third World views) have been developed.<sup>98)</sup> The end of the Cold War, according to Buzan, had no or little effect on threats and security in Third World countries, while it is difficult to distinguish between military and political, or political and economic undercurrents.<sup>99)</sup> Insecurity in the Third World can be categorised in two broad types namely those where issues of a domestic origin result in armed conflicts within states, and secondly, a power struggle or military competition amongst states, or groups in a state.<sup>100)</sup>

Thomas argues that various transnational issues, such as narco-terrorism and illegal migration, are part of the Third World security situation, while subjective demarcations of these regions are mostly based on common political perceptions and popular usage.<sup>101)</sup> Therefore, Third World security would involve measures to prevent or mitigate the various military and non-military threats to Third World states.

Third World security must be understood against the background of the colonial legacy and the process of state building. Linked to the domestic predominance of Third World national security, is the concept of weak and strong states which will be discussed briefly.

## **4.2 Weak and strong states**

The foundation for the concept of Third World security was laid by Buzan in his distinction between 'strong' and 'weak' states, in their various manifestations. For weak states, the security dilemma revolves around local rather than external threats, and could even include citizens seeking protection from their own state.<sup>102)</sup> Buzan explains the difference between weak and strong states by using the degree to which

the idea of institutions is cemented amongst the population as a yardstick. When both the idea of, and institutions of a state are weak, then that state is in a very real sense less of a state than one in which the idea and institutions are strong. Buzan further differentiates between weak and strong states and weak and strong powers. He distinguishes between weak and strong states by using the degree of political cohesion to determine how strong or weak a state is. A high degree of political cohesion will result in a state being regarded as strong and *vice versa*. As far as weak and strong powers are concerned, the distinction among states in respect of their military and economic capability in relation to each other as used as benchmark.<sup>103)</sup>

As far as the effects of the end of the Cold War on Third World countries are concerned, the immediate military impact on Africa was relatively small compared to other Third World states. Many of the region's states are weak and internally unstable and insecure. Security problems are further more of a domestic than inter-state nature, and spill overs from internal conflicts are more noteworthy than international wars.<sup>104)</sup> Buzan further argues that numerous weak states to be found in the Third World will remain, and that they will continue to exhibit the characteristic patterns of insecurity that have marked them since independence.<sup>105)</sup> Considering that this statement by Buzan was made in 1994, and that the *status quo* has not changed much since then, the conclusion can be drawn that the security dilemma in these countries can only be solved with foreign assistance, and with the intervention of organisations such as the UN and African Union (AU).

With reference to vulnerability, security-insecurity is defined by Ayoob as “vulnerabilities – *both internal and external* [emphasis in original] – that threaten or have the potential to bring down or weaken state structures, both territorial and institutional, and governing regimes.”<sup>106)</sup> In terms of this definition, the more a state or regime – and often it is difficult to disentangle issues of state security from those of regime security in the Third World – leans toward the invulnerable end of the vulnerable-invulnerable continuum, the more secure it will be.

Many African states are plagued on a near-continual basis by a host of intra-state instabilities. Criminality, civil wars, ethnic clashes, *coups d'état*, armed insurgencies,

factional fighting, military disloyalty and ideational conflicts are common, and can mainly be attributed to the fact that African states have not followed the evolutionary European and Weberian pattern of state formation and consolidation.<sup>107)</sup> As mentioned already, African states are the product of colonialism, where the continent was arbitrarily divided into zones of foreign power influence, uniting in some instances diverse and incompatible groupings under the rubric of state. It can therefore be expected that the African state by its very nature would be fragile, unstable and contested, as no citizen-state affiliation exists as it did in the formation of states in Europe.<sup>108)</sup> It is primarily this fragility that leads to insecurity and the concomitant demand for PMCs and PSCs, or at times even to mercenaries. “Africa`s special attractiveness as a market for mercenaries is no mystery. Mass violence has become endemic, typically arising from reactions to authoritarian rule, exclusion of minority or majority groups from governance, socio-economic deprivation and inequity, and the inability of weak states to manage political and social conflict.”<sup>109)</sup>

Historically the role of the state was that of an entity legally empowered to protect the individual from all sources of threats. It is however now generally accepted that the state can also be a major threat to the individual, while the individual can inversely also be a threat to the state. The next section will briefly explore the state`s role as protector and provider of national and individual security and how this is linked to the broadening of the concept of security.

## **5. THE ROLE OF THE STATE IN PROVIDING SECURITY**

Post-Cold War views of security have also focused on the relationship between state and citizen and the traditional role of the state as protector of its citizens. It is also now generally acknowledged that the state can be a major threat to the individual.

### **5.1 The role of the state as protector and provider of security**

The link between individual security and the security of the state needs to be probed as the function of the state has changed significantly since the *Peace Treaty of Westphalia*, and as the state has more recently increasingly been seen as a major

source of both threats to, and security for individuals.<sup>110)</sup> It is therefore important to take note of international instruments created for the protection of human rights.

International Instruments and institutions such as the *Universal Declaration of Human Rights* (UDHR), the *Geneva Convention* and the International Criminal Court, were adopted and created to set international norms, and to deal with threats to human rights` and relevant abuses.<sup>111)</sup> In addition to these, the following were also adopted, which is a clear indicator of how serious human rights` abuses are viewed internationally and by member states of the UN;

- The Convention on the Prevention and Punishment of the Crime of Genocide (1948);
- The European Convention for the Protection of Human Rights and Fundamental Freedoms (1950);
- The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (1966);
- The American Convention on Human Rights (1979);
- The International Convention on the Elimination of Discrimination against Women (CEDAW) (1979);
- The African Charter on Human and Peoples` Rights (Banjul Charter) (1981);
- The Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (1984);
- The Convention on the Rights of the Child (1984);
- The Vienna Declaration and Action Programme (1993).<sup>112)</sup>

The UDHR refers in its *Preamble* to the contents of the UN Charter in this regard and states that human rights should be protected by the rule of law. It further reaffirms the faith of all member states` in "...fundamental human rights, in the dignity and worth of the human person and the equal rights of men and women...to promote social progress and better standards of life in larger freedom..."<sup>113)</sup> The rights to life, liberty and security of person (Article 3), not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5), equality before the law (Article 7) and the rights not be subjected to arbitrary arrest, detention or exile (Article 9) clearly set the international norm and the intention of the declaration.<sup>114)</sup>

Articles 21 and 22 are of special importance and cognizance must be taken of their contents:

**“Article 21**

- (1) Everyone has the right to take part in the government of his country...
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government...

**Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”<sup>115)</sup>

More recently, in a report by the Secretary-General of the UN, the organisation re-emphasises that it is the function of the state to protect the individual and related human rights: “The present report...takes stock of discussions on human security, its various definitions and its relationship to State sovereignty and the responsibility to protect...Human security is based on a fundamental understanding that Governments retain the primary role for ensuring the survival, livelihood and dignity of their citizens.”<sup>116)</sup>

Contrasting notions exist on the role and functions of the state, and on the balance between the rights of the state and civil society. These differences emanate from the perspective from which a particular state is studied, as well as the level of development of that particular state.<sup>117)</sup> The role and functions of a minimal, developmental, social-democratic, collectivised or totalitarian state, therefore would differ when applied by communists, socialists, democrats or dictators. Minimal states would merely lay down the conditions for orderly existence; developmental states would attempt to promote growth and economic development and collectivised states would exert control over the entirety of economic life. Social-democratic states aim to rectify imbalances and injustices of a market economy while totalitarian states bring about an all-encompassing politicisation, and in effect destruction, of civil society.<sup>118)</sup>

Bearing in mind the abovementioned role and functions of the state, it is logical that globalisation has brought about a new environment for states such as interdependence and the emergence of new international bodies.<sup>119)</sup> The gradual process of globalisation and states willingly becoming part of the process of interdependence, also have a serious impact on the security of individuals - economic and otherwise - as multi-national corporations (MNCs) are prepared to pay more and recruit workers of various other nationalities that can increase profitability<sup>120)</sup>, thus rendering the local workforce in countries vulnerable.

The irony is that people create states to protect and secure them from threats, but this very mechanism by which people seek to achieve security, then becomes the biggest threat to their security.<sup>121)</sup> The paradox is that as state power grows, the state also becomes a source of threat to the individual, and the stability of the state derives not only from its centralizing power, but also from the understanding by its citizens that it is the lesser of the two evils. Buzan argues that it must however be noted that whatever threats come from the state, will usually be of a lesser extent or of a lower order of magnitude than those which would arise in its absence.<sup>122)</sup> It is the role and function of the state that flows from sovereignty, and the contradiction between state security and that of the individual, that lies at the centre of the debate on the broadening of the concept of security.

Acharya, referring to the widening of the concept of national security to include individual security and definitions of human security, avers that the concept can be seen as too broad to be analytically meaningful or useful as a tool of policymaking. It is argued that it might cause more harm than good, and that it neglects the role of the state as a provider of security.<sup>123)</sup> Buzan on this point argues that the existence of states is a necessary condition for individual security, because without the state it is not clear what other agency is to act on behalf of individuals.<sup>124)</sup> It therefore seems that even if the state is not the sole provider of security, its existence is still vital to individual security as it provides a basic system of order in an otherwise anarchic system.

Internal conflict and ethnic war, more likely to be found in the developing world, most often threatens states to collapse which leads to the use of excessive force against

citizens or sub-state groups. In this sense, reference is again made to Mutimer who argues that the state can be a threat to its citizens, and that by treating security only as the security of the state, the insecurity of those people who are under threat from the state are ignored.<sup>125)</sup> Threats emanating from the state can be grouped into four broad categories namely from the processes of domestic law enforcement (inadequate or excessive policing and prosecution practises); a more direct political threat to individuals targeted by institutions of the state; the threat of political disorder; and the clash between state policy and individual security as a result of state foreign policy.<sup>126)</sup> Contradictions between individual security and state security issues also give rise to human rights issues internationally<sup>127)</sup>, which are especially relevant considering human rights abuses in Third World countries.

In addition to threats that are more physical in character such as death and assault, threats can also assume a psychological dimension. The next section will briefly analyse the psychological effects of threats - whether real or perceived - on the individual as such.

## **5.2 The psychological effects of the individual's perception of insecurity**

It has long been accepted that the protection of the community and sovereignty have a fundamental psychological component that must be considered by the state in the execution of government functions, and that the public's perception of protection often differs from the reality of its protection and from the government's intention in providing protection.<sup>128)</sup>

Freedmen (*et al*) discuss the problem of how the environment, and specifically high crime rates, affect people.<sup>129)</sup> With reference to the *Gestalt* theory, they argue that people are not simply passive agents in their environments, but that they organise their perceptions and beliefs into meaningful forms, thus imposing order on the chaos in which they live.<sup>130)</sup> The question arises whether the stress created by the individual's perception of the danger and possibility of becoming a victim of crime, can be compared to post-traumatic war stress, and whether this can be seen as another dimension of threats to the individual. In this regard, it is also important to take cognizance of Maslow's theory and hierarchy of needs, which states that

security is the second most important of all human needs. “When all physiological needs are satisfied ... the needs for security can become active. Adults have little awareness of their security needs except in times of emergency or periods of disorganisation in the social structure...Children often display the signs of insecurity and the need to be safe.”<sup>131)</sup> Irrespective of how this question is viewed, as a result of the anarchical relationship with others of his or her kind, the individual will find individual freedom increased only at the expense of individual security.<sup>132)</sup>

With specific reference to the psychological effect of crime on the individual, it is argued that crime victimisation leaves victims, families, and friends – even the communities around them – in a state of turmoil and trauma, often with significant financial loss and physical injury connected with victimisation. The most devastating part for most victims however, is the emotional pain caused by the criminal act itself and its aftermath.<sup>133)</sup> The reactions are disbelief, anger or rage and frustration. Fear drives anger, particularly in adults, and this anger may be directed at the assailant(s), family members, the criminal justice system, and even oneself.

Anger arises out of the sense of disbelief and helplessness and most people will experience anger, if not immediately, at some time in the aftermath of crime. Anger may be expressed as revenge and the desire for vengeance which is also a normal human response.<sup>134)</sup> Anger and the desire for revenge may furthermore lead to frustration setting in as a result of the feeling of helplessness and powerlessness.<sup>135)</sup>

The neglect of some obligations by the state has led to certain trends internationally as far as security is concerned, of which the privatisation of security is the most notable. The next section will explore these trends.

## **6. THE PRIVATISATION OF SECURITY – GLOBAL TRENDS**

The word “private” is described as “not holding public office or official position; kept or removed from public knowledge or observation; not open to the public; [and] ...privately, in private company or life...”<sup>136)</sup> Privatisation in the general sense can be described as the transfer of government-owned or government-run companies to the

private sector, usually by selling them,<sup>137)</sup> and also as the process of divesting the government stake both in terms of money and control from public companies.<sup>138)</sup>

It is more specifically, also referring to services, described as the transfer of “government services or assets to the private sector. State-owned assets may be sold...or statutory restrictions on competition between privately and publicly owned enterprises may be lifted. Services formerly provided may be contracted out. The objective is often to increase government efficiency...”<sup>139)</sup>

In many cases the objective is also to reduce the state`s role as service provider and to obtain or gain some financial benefit.<sup>140)</sup> This can take on many forms on a continuum between partial or total privatisation, and can also display variations between what can be termed legal and illegal privatisation. This can furthermore be the result of dereliction of duty by the state, or can be the result of the interaction of economic forces.

## **6.1 Privatisation of security**

Private security as a concept poses a myriad of definitional challenges.<sup>141)</sup> The concept of private security is associated with the concept of human security<sup>142)</sup>, which in turn embraces the two basic components as mentioned earlier, namely freedom from want and freedom from fear.<sup>143)</sup> Although no consensus exists as far as a universally accepted definition is concerned, it seems that the two abovementioned components are generally recognised.<sup>144)</sup>

Threats to human security are not automatically threats to national security, but certain crimes for instance, can be regarded as a serious threat to both individual and national security, while the countering of all threats to individual security lies beyond the capacity of the state. Although the state cannot escape its responsibilities in terms of certain state functions and especially as far as security is concerned, it is an undisputed fact that those who can afford it have increasingly been making use of private security.<sup>145)</sup> For the purpose of this study, private security can be described as “those efforts by individuals and organisations to protect their assets from loss, harm or reduction in value, due to criminality”<sup>146)</sup>, and also as “the sum total of all

those preventative and protective efforts provided by entities other than government.”<sup>147)</sup>

The privatisation of security has resulted in a strong emphasis on PMCs and mercenaries, with some focus on PSCs. The privatisation of security is described by Lilly as a “phenomenon affecting war-torn societies in many diverse ways. It involves a variety of actors including mercenaries, volunteers, and private security and military companies.”<sup>148)</sup> It is further described as the elimination of non-core activities from the activities of many armed forces, which have increasingly been filled through various forms of alternative service delivery, in particular being outsourced to PMCs and PSCs.<sup>149)</sup> Liropoulos describes the privatisation of security as a shift in the monopoly of power pertaining to security, from the state to the private sector.<sup>150)</sup>

Spitzer & Scull state that the involvement of private enterprise in the public services sector, and especially the burgeoning of the “private police” or private security industry, has expanded at an unprecedented pace. Services and responsibilities such as crime prevention which once were the sole responsibility of, and monopolised by the state, have been taken over in varying degrees by private sector profit-making agencies and organisations.<sup>151)</sup> Spearin describes ‘private security’ as companies that conduct business of a distinct nature. “These companies` range of services, their clientele, and their ability to operate internationally, vary from firm to firm. Although they form a booming industry both domestically and internationally, they are but a few of many players in a much larger trend towards privatisation of social and economic activity in states.”<sup>152)</sup>

With the above in mind and without focusing on the military dimension alone, the privatisation of security can therefore broadly be described as the gradual takeover (total or partially), or the supplementing of the primary protection role, and the responsibility of the state to provide security for its inhabitants inside its territory. This privatisation is largely commercial in character but also implies actions and initiatives taken by citizens, and organised groups such as business to protect the community. These private services and/or actions – the privatisation process – take place on various levels, and can be legal or illegal (for example certain vigilante groups), and organised or unorganised. It is important to keep in mind that the privatisation of

security cannot only be ascribed to dereliction of duty by the state, but also to the increase in crime levels globally.

The transition from “modern societies” to “high modern”, “post-modern” or “late modern” societies brought about a new approach. This firstly entails a shared approach by public and private sector organisations on what can be called “New Public Management” (NPM), which amongst others relates to the sub-contracting by government of some services to the private sector. Secondly, this new approach aims to produce a pluralistic, fragmented and diversified socio-cultural system. At government level, the aim of privatisation policies is to introduce market-based forms of service delivery into the government sector, or alternatively, to introduce and subject public sector organisations to the effects of quasi-markets.<sup>153)</sup>

It is a *fait accompli* that security is no longer limited to the conventional policy and military tools of the nation-state. In this regard, it is argued by Burgess that in the 21<sup>st</sup> century, geopolitics and military strength are not the only factors determining security. Since the demise of the Cold War, social, economic, environmental, moral and cultural issues became just as, or even more important.<sup>154)</sup> New views of the economy of security have formed which transcend conventional and traditional security views. New theories identify and analyse threats very differently than before, proposing new ways of dealing with newly identified threats.<sup>155)</sup> The point to be made is that security has become increasingly commercialised.

The increase in the commercialisation of security has been closely associated with the current process of neoliberal globalisation which gathered unprecedented momentum since the early 1990s. Indicative of this process is a continuous restructuring of global governance in such a way that the state is no longer the only, or most important role player in the quest for development. A key characteristic of this restructuring, is the increasing privatisation of services which were usually the responsibility of government, by a plethora of non-state actors.<sup>156)</sup> Responsibilities for services such as education, health care, welfare, and crime control, have been increasingly transferred through a variety of arrangements, to agencies and organisations in the private sector.<sup>157)</sup>

## 6.2 The private security industry

Explanations for the growth of commercial security include high levels and increased rates of reported crime; increased public fear of crime; increased threats from demonstrations; bombings and highjackings; the growth of the electronics industry and the associated development of manufacturers specializing in alarms and other security devices; greater demands for property protection and increased capacity to pay for it; and last but not least, a developing perception that overburdened police forces, unable to stem the rising tide of crime, should be supplemented by private security provision.<sup>158)</sup> According to Johnston, there are mainly three reasons for increased privatisation of security. These are an increased awareness of crime by the public, real or perceived; a growth of crime in the workplace; and thirdly an increased awareness and use of self-help protective measures, especially those involving commercial security products and services.<sup>159)</sup>

Lilly also argues that private businesses and individuals have become more reliant on the services of private security firms for their protection in the absence of state provision of security, and that the justification for privatisation has been to enhance efficiency and to bring about a reduction in the costs of public services, which is to a large extent inadequate, and delivered ineffectively.<sup>160)</sup> The growth of the private security industry worldwide is of such an extent, that in many countries, the manpower of private security firms exceeds that of public policing agencies by far.<sup>161)</sup> In many developed countries, the numbers of private security personnel/officers comfortably exceeded the numbers of public police, such as in the case of the US for example, by a ratio of 3:1.<sup>162)</sup> With this trend, the public police's relative monopoly over security is thus gradually eroded, while this monopoly is undermined by the global expansion of commercial security.<sup>163)</sup> The general trend in developed countries is a growth in PSCs, and not so much as a result of state failure, but more as a result of financial benefits for "security entrepreneurs" implementing new operational approaches.<sup>164)</sup>

It is important to take account of the fact that private security has a military dimension (mainly external in the form of mercenarism and PMCs), as well as an internal dimension of self-protection or the buying of protection against crime (in the form of

PSCs). No clear distinction can be drawn between PSCs and PMCs and some writers use the terms interchangeably, or use the term PSC to also refer to private security companies rendering military or para-military security services or *vice versa*. In the developing world there is more than just a general tendency towards the use of both PSCs and PMCs. The reason for this can be traced back to the Cold War. For Third World countries the transition process to the post-Cold War era has had profound implications as far as security is concerned, and it can be argued that Third World security has fallen victim to the uncertainties of contemporary international relations. The Cold War has been followed by substantial arms reductions (mainly by the two superpowers), a move to much lower levels of military readiness, and an intense, but rather short-lived period of euphoria and hope for a more peaceful and orderly world.<sup>165)</sup>

The ending of the Cold War changed both the power and ideological structures among the great powers to which the Third World had to relate to, and demoted the Third World into periphery status. The collapse of superpower competition has led to a withdrawal by the Soviet Union and a partial withdrawal from Third World conflicts by the US.<sup>166)</sup> This had two potentially contradictory effects on military security in the Third World. Firstly, it meant a cutback in the level of military, financial and ideological support from the two groups of super powers to support Third World conflicts, and secondly, it meant that there was room for local security undercurrents to operate more freely without intervention and constraints from outside. This freedom for local security dynamics has commercially opened the way for PSCs and PMCs in especially the Third World.<sup>167)</sup>

In developed countries the privatisation of security mainly assumes the form of PSCs. This however is not so much as a result of state failure, but to provide services which public policing agencies normally do not provide for, for example the transport of cash and high value assets such as gold, nuclear material etc.<sup>168)</sup> Singer also states that in developed countries, private security contractors have been employed for housing, management, transport and logistics, as well as protecting personnel, infrastructure and aid deliveries.<sup>169)</sup>

A clear distinction between PMCs and PSCs is not easy or even possible in some developing countries, mainly due to a grey area in the type of services they render. PSCs mainly offer a variety of services to the local market in the country in which it is established and operating from. Some companies regarded as PSCs, local or international in nature and ownership, provide a variety of security services across borders.<sup>170)</sup> A third category comprises companies offering private security in some or the other form as PMCs.<sup>171)</sup> This category usually refers to companies that offer support services to the armed forces of either their own or that of a foreign country.<sup>172)</sup>

Gumedze argues that some definitions of mercenaries also cover the activities of PMCs if the latter are defined in terms of being involved in a foreign conflict motivated by financial gain. A PMC is defined as “an entity that does nothing but assist in endeavours at addressing security concerns through a variety of security engagements.”<sup>173)</sup> Some of the the services rendered by PMCs also include risk advisory services, training of local forces, armed security, transportation of cash, workplace and building security, intelligence services and close protection, which cannot be viewed as mercenary activities.<sup>174)</sup>

It is not always possible to determine whether the assistance provided by such private security groups (PMCs or PSCs) is legal or not. This problem arises from the various definitions of PMCs, PSCs and mercenaries and especially the grey area that exists between the services rendered by these groups. This problem of legality also entails issues relating to the regulation of such security providers. Some actions such as the overthrow of a legitimate government; assassination; human rights abuses; illegal diamond smuggling and the supply of weapons to rebel groups, are clearly contrary to established international norms. Furthermore, problems arise as to when a contracting entity is legal or illegal (a minority governing regime *versus* majority opposition or rebel groups), and if foreign assistance aids the overthrow of a government for instance, whether this assistance can be regarded as legal commercial business.<sup>175)</sup>

Mercenaries are involved in actual combat and military operations, which are generally outlawed in international humanitarian law. In the past, legal issues

pertaining to corporate role-players in armed encounters focused on the question of mercenaries, but the reason for more recent interest in the participation of these corporate actors in armed conflict, can amongst others be ascribed to the role of PMCs as contractors in Iraq and elsewhere.<sup>176)</sup> Considering the broad range of security services rendered by corporate actors in the 21<sup>st</sup> century, compatibility with and requirements to be met within the stringent and precise framework of international humanitarian law, becomes of utmost importance.<sup>177)</sup>

The UN and the Organisation of African Unity (OAU) - now known as the African Union (AU) - adopted international humanitarian law instruments to deal specifically with mercenaries.<sup>178)</sup> It needs to be pointed out that both the UN and AU definitions are vague, with the AU convention specifically pointing to mercenary activity intended to overthrow governments, while the organisation at the same time recognises liberation movements. It is important to note that PMCs and PSCs are not covered in these conventions.<sup>179)</sup>

Linked to the developments in the security industry are the initiatives taken by communities and businesses to improve their security or alternatively reduce the security risks associated with daily business and general survival. The following section will analyse these initiatives.

### **6.3 Business and community initiatives as global trend in the privatisation of security**

In addition to the rapid growth in the numbers of PMCs and PSCs, commercialisation, industrialisation, and the development of technology in the private security industry, other trends in the privatisation of security can also be identified which mainly relate to business and civilian responses to new and perceived threats. While some of these actions are regarded as legal responses, others are clearly illegal, unorthodox and opportunistic. The clouding and existence of a grey area between legal and illegal activities, and the wide discretion of law enforcement agencies regarding the valid use of force in especially new democracies is problematic, and has in some cases resulted in police agencies with close relationships and associations with criminal groups.<sup>180)</sup>

Police reform is a universal and continuous process in order to improve effectiveness and to secure and maintain support from the public. For this process to succeed, external support is needed from the private and corporate sectors.<sup>181)</sup> The following discussion will briefly focus on legal, organised business and broader community initiatives relating to the privatisation of security; legal individual and local community initiatives; as well as illegal and vigilante activities.

### 6.3.1 Organised business and broader community involvement in the privatisation of security

Far beyond the scope of the traditional activities of security, new activities and actions can be identified that can be regarded as the product of globalisation. These activities and actions display certain trends;

- Security is becoming increasingly commercialised;
- Security service providers (public or private), increasingly have recourse to technical solutions;
- The use of advanced technology for security solutions, has led to more advanced stages of industrialisation of security;
- Security has become globalised;
- The collective effect of these progressive transformations as far as the notion of security is concerned, is the creation of more insecurity.<sup>182)</sup>

While the main trend in the privatisation of security certainly is the proliferation of mercenary activities, PMCs and PSCs, in reality it incorporates a wide variety of divergent yet interrelated patterns.<sup>183)</sup> The search for more efficient and effective methods of crime prevention (and in effect greater security), has led to investigation into, and a tendency of investment in “partnerships” and “coalitions”.<sup>184)</sup> The notion of a new model of security governance operating as an all inclusive network in which various security actors work together has taken shape, but this common goal has yet to be applied in many societies, as parts of societies are caught up between the state and the market.

Globally, partnerships between governments (national, regional or local level) and business and community organisations are not new and success depends on the

level of involvement of especially business and community leaders.<sup>185)</sup> The role of public-private partnerships in terms of policing and security is internationally regarded as important. In this regard, The Ford Foundation and the Vera Institute of Justice in 2003 gathered a group of senior police and business representatives from the United Kingdom (UK), the US, Latin America, Asia and Africa to discuss the dangers and benefits of partnerships in order to obtain maximal mutual benefits from such partnerships.<sup>186)</sup> Probably the oldest known example of a 'modern community initiative' in response to high crime levels is the Chicago Crime Commission, a civic organisation created in 1919 by businessmen, bankers, and lawyers, with the purpose of adjusting the criminal justice system to combat the then new forms of organised crime. This was also in response to total ineffective and corrupt law enforcement and the perceived threat of organised crime to the safety of society.<sup>187)</sup>

Various modern examples are available across the globe where international organisations, businesses, banks, civic organisations and communities become involved with safety and security initiatives. This might not necessarily take on the modality of a partnership, but might be spontaneous responses by organisations or individuals. This normally manifests in the form of donating funds<sup>188)</sup> or equipment<sup>189)</sup> for safety and security (the prevention or investigation of crime); the founding of bodies to cooperate or liaise with law enforcement agencies<sup>190)</sup>; or business councils that create and manage safety coalitions by involving various role players such as law enforcement agencies and community organisations.<sup>191)</sup> Business initiatives have also included the involvement of toll free crime reporting telephone lines<sup>192)</sup>, and radio and television stations to assist law enforcement agencies with leads from the community.<sup>193)</sup>

### 6.3.2 Legal individual and local community initiatives

Individual and community initiatives that are regarded as legal manifest in mainly two categories, namely some variation of walled and gated communities, and direct neighbourhood or community action with or without the involvement of the police.

### 6.3.2.1 Gated communities

Walled fortifications and gated cities are as old as human city and town communities, but became outmoded through the centuries with the development of military technology. One current reaction to a breakdown in law enforcement by individual private property owners that has also taken on a worldwide dimension, is the phenomenon of the return to gated and walled communities, especially in developing countries.<sup>194)</sup> Gated communities are a relatively new trend as architecture is concerned. The idea of a structure exclusively for security purposes, includes enclosed neighbourhoods that have mostly electronic controlled access through gates or booms, and specially designed security complexes or villages with facilities such as schools, offices, shops and golf courses. As already mentioned, gated communities have become a global phenomenon that can *inter alia* be found in the US, the UK, Europe, Latin American countries, the Middle East and countries such as India.<sup>195)</sup>

Currently it seems that there is no consensus on a general definition on what are regarded as 'gated communities', or 'fortified enclaves', 'security parks', 'security villages' or 'enclosed neighbourhoods' as these are referred to. Further, it must be mentioned that there are also marked differences in the construction and architecture in different countries mainly due to the availability of land and demand for certain styles of construction, although the main goal with the construction – individual and community security - remains the same.<sup>196)</sup> This privatisation trend has also spilled over to Africa where concrete perimeter fencing and sophisticated closed circuit TV cameras are becoming standard requirements of the élite.<sup>197)</sup> This trend is also quite visible in South Africa, where residents also in addition to gated and walled communities, make use of 24-hour security guards for purposes of access control.<sup>198)</sup> Security is further enhanced and augmented with technology such as video monitoring and electronic alarm systems.<sup>199)</sup>

### 6.3.2.2 Neighbourhood involvement and Community Police Forums

A second civil initiative that has been implemented globally, linked to the business initiatives already mentioned, is the mobilising of residents (whether by residents

themselves, or by law enforcement agencies), in neighbourhoods with high levels of crime to assist law enforcement in identifying and removing offenders. Rosenbaum states that success depends *inter alia* on a pre-existing network of community organisations and community leaders and a stable, less transient neighbourhood population.<sup>200)</sup> Mobilisation of neighbourhood residents manifests in mainly two types namely citizen based neighbourhood watches<sup>201)</sup>, and the combined citizen/police CPFs.<sup>202)</sup>

Citizen involvement in crime prevention and in effect private provision of security, emanates from the concept of community policing that was developed in the 1970s in the UK<sup>203)</sup> and the US<sup>204)</sup> that has evolved and led to the creation of CPFs. CPFs have become a worldwide trend and examples can also now be found in Europe<sup>205)</sup>, Africa<sup>206)</sup> and even countries in Asia such as Sri Lanka<sup>207)</sup> and Indonesia.<sup>208)</sup> The gradual privatisation process and the reduction of public policing over the last thirty years in Europe, the UK and the US, are complicated by the fact that governments have encouraged citizen-based policing initiatives such as 'responsible' forms of neighbourhood watches.<sup>209)</sup> This complication has brought about and can be found in what Johnston calls the 'greying of policing', which is the blurring or clouding between the responsibilities of the public police and that of citizen-based police.<sup>210)</sup>

There is also a global trend towards the institution of municipal policing, which according to Johnston is regarded as a private initiative.<sup>211)</sup> Although this is also a local government role that requires official funding and authorisation, municipal policing is a product of the public's preparedness to accept diversity. Different types of municipal police services with different levels of power and authority can be found. This can range from the public paying for local municipal patrols (local taxes) or self-policing initiatives in cooperation with local government as in the UK and the Netherlands.<sup>212)</sup> Isima argues that all non-state actors (such as neighbourhood watches) should be included in an all-inclusive model where public and private partners are working towards a common goal of enhanced security.<sup>213)</sup>

### 6.3.3 Vigilantism

Johnston argues that vigilante activities undoubtedly constitute a form of private policing, although it is clear that some forms of vigilantism involve pathological actions, including vicious acts of punishment against perceived offenders.<sup>214)</sup> The problem is to distinguish between legal and real crime prevention, and crime prevention mutating into vicious criminal punishment squads. Vigilantism as phenomenon appears when the established order is perceived to be under threat by the community, leading to reactions by the community in response to this real or perceived transgressions. Two forms of vigilantism are identified, namely one type with a focus on crime control and another form concerned with social control and the maintenance of specific communal, ethnic or sectarian values.<sup>215)</sup> The main characteristic of vigilantism is that it is more than just a sporadic act. Amongst others, it involves planning; it is steered by private citizens acting on a voluntary basis; it involves force or the threat of force; and it operates under the premise that the security or certain values of the person or the community are under threat.<sup>216)</sup>

Referring to societies in transition and to countries in Africa, Latin America, and Eastern and Central Europe, Shaw points out that public dissatisfaction with ineffective policing and high crime levels is generally widespread. This dissatisfaction most often results in community responses to ensure local safety which takes on the form of vigilante groups in various guises.<sup>217)</sup> According to him, this dissatisfaction normally results in a significant growth of the private security industry and the emergence of vigilantism as in Eastern and Central Europe, the former Soviet Union and Africa and Latin America.<sup>218)</sup> Globally, transnational societies have seen a significant growth in vigilante activity as non-state form of private policing. It must be accepted that vigilantism is a permanent feature of 'private policing' in these societies with a high potential for conflict with public law enforcement.<sup>219)</sup> Vigilante type activities often assume a political guise which removes the opportunity of them becoming objective referees of law. The relationship between this vigilante type of private policing, structured PSCs and state or public policing has not been resolved, and conflict is sure to be part of the future relationship.<sup>220)</sup>

Vigilantes and civil militias have thus far in most cases been excluded from structured government networks such as CPFs and similar agencies, and if they have any links with the state, such links have only developed as an emergency government élite response to crises. Isima argues that it is the failure to integrate these mechanisms traditionally left out by the state into security governance, that has permitted their criminalisation or metamorphosis into agents of violence.<sup>221)</sup> Attempts to regulate private security will continue and also attempts of co-opting or stamping out vigilante groups. The outcome of these processes will determine the future policing of transitional societies<sup>222)</sup>, and especially continued privatisation of policing.

## 7. CONCLUSION

Security in the sense of protection against various kinds of threats and as phenomenon has existed since the dawn of history. Security has traditionally been seen as the main function of the state and at the same time associated with military threats. The end of the Cold war however, brought about a broadened view of security where the priority of non-military threats to security, domestic and individual security, were elevated to a much higher level in the 21<sup>st</sup> century.

In order to understand the privatisation of security since the end of the Cold War; the phenomenon of modern day security; and the way it is used in the 21<sup>st</sup> century, it is necessary to take cognizance of the history and development of security. Security as concept in the modern state, has gone through various stages of development, from a pre-modern state, through the traditional military orientated Cold War view, to a post-Cold War view with emphasis on non-military threats. The advent of a new world order has led to changed perceptions of responsibility for the provision of security. The role of the state and the balance between the rights of the state on the one hand, and that of civil society on the other, leads to contrasting notions of security. Individual security is inseparable from that of the state, and some states represent a major source of both threats to and security for individuals. The paradox is that as state power increases, the state at times becomes a greater threat to the individual.

Globalisation has led to privatisation trends including security, where businesses, communities and individuals have taken initiatives to enhance security. In various cases businesses and other non-state actors have taken steps such as donation of funds or equipment, and the launching of projects to create a safer environment and/or to assist law enforcement with the task. Further, individuals and communities have also on a lower level privatised security. In this regard gated communities; 'private policing'/private security; technical security such as closed circuit television and alarm systems; and community organisations such as anti-crime forums and CPFs, are examples of legal, private actions and initiatives on local community level. Vigilantism is regarded as a form of private policing, but it is mostly associated with illegal and violent actions contrary to civilised norms.

Globalisation has also led to clearly identifiable trends in the Third World as far as security is concerned. Private security is but one dimension of the privatisation of security. In developed countries PSCs are utilised to a great extent for private protection, while Third World countries make use of private security providers with a more military character. In Africa, the privatisation of security has taken on an additional dimension where PMCs become a "business partner" to the contracting regime. As African clients are constrained in financial terms, they have found a way to hire substantial private force capabilities in return for special access to the country's mineral and other resources. Although most of the assistance to contracting regimes may be regarded as legal, there are some actions that are clearly illegal and contrary to international norms.

Lastly, there has been a significant proliferation of PSCs and PMCs since the demise of the bi-polar power system in developed as well as less developed countries. Although there are similarities between the trends in the privatisation of security in developed and developing countries, certain major differences can be detected. In developed countries the privatisation of security mainly takes place in the form of growth of PSCs, and not necessarily as a result of state failure. In developing countries the trend is more towards PMCs, although a clear distinction between PMCs and PSCs is not always possible.

In order to place security in South Africa in perspective, the following chapter will focus on trends in, and official responses to crime in the period from 1994 to 2010. A brief overview of crime and tendencies in crime in South Africa during the period from 1958 to 1994 will first be provided to place developments in this period in perspective. This will then be followed by a discussion of trends in crime after 1994, the main causes of these trends, and the responses of the state and the South African Police Service (SAPS) in particular to these trends.

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## **CHAPTER 3**

### **AN OVERVIEW OF TRENDS IN AND OFFICIAL RESPONSES TO CRIME IN SOUTH AFRICA FROM 1912 TO 2010**

#### **1. INTRODUCTION**

South Africa, as a developing country, experienced substantial transformation and new security related challenges at the end of the Cold War and the globalization of the world economy.<sup>1)</sup> With a change in its political dispensation in the early nineties, the country started to experience a gradual rise in crime levels with accompanying responses by civil society and business. These changes in politics and government in South Africa, also had an effect on a smooth transformation of the SAP<sup>2)</sup>, while the new SAPS management was simultaneously confronted with a crime explosion.<sup>3)</sup> High levels of crime and related problems are, however, not new in South Africa. Ample examples of high crime levels, with associated policing, racial, political, and related problems can be found in the colonial history of South Africa.

Although this chapter mainly focuses on trends in and official responses to crime in the period from 1994 to 2010, it is necessary to briefly discuss the founding and history of the SAP since 1912 in order to understand and analyse these trends.

#### **2. CRIME TRENDS IN THE PERIOD 1912-1958: A MILITARISED POLICE**

This section will briefly look at events preceding the promulgation of the *Police Act* of 1958, and secondly at crime trends in the period 1958 to 1994. Many of the current problems concerning crime and security is part of the inheritance from South Africa's colonial past; decades of war, rebellion and civil conflict and a subsequent quasi-military style of policing stemming from British colonial rule.<sup>4)</sup> As this quasi-military policing had a major impact on crime trends from the beginning, and on the privatisation of security in South Africa in the years that followed, it is important to incorporate this part of history into a study of this nature.

## 2.1. Crime trends in the period 1912 to 1947: The urbanisation of crime

The Union of South Africa originated in 1910 with the *Act of Union* that brought together the colonies of the Orange Free State, Transvaal, Natal and the Cape after the Anglo-Boer War.<sup>5)</sup> The *Police Act* which created the first official national police force after the Anglo Boer-War, was adopted in 1912 and the SAP was established in 1913<sup>6)</sup>.

It is argued that from the establishment of the SAP, the emphasis was on control of the populace as a method to maintain government authority, rather than crime-fighting and service to the community.<sup>7)</sup> Most of the forces that preceded the SAP were essentially military units such as the *Cape and Natal Mounted Rifles*, while police units in the Boer republics (Orange Free State and Transvaal) were extensions of military commandos.<sup>8)</sup> Since its inception, militarism was the unique feature of South African policing.

South Africa experienced a significant rise in crime levels in the period 1914-1926. This trend is amongst others, attributed to the large number of foreign criminals that fought on the British side during the Anglo-Boer War; post-war economic depression and unemployment; and the expansion of mineral and gold diggings that attracted criminal elements. Crime, therefore, was largely linked to both urbanisation and industrialisation.<sup>9)</sup> The increase in the number of serious crimes (stock theft, burglary, motor and cycle theft, assault with intent, fraud, sexual attacks, gold theft and public violence)<sup>10)</sup>, rose by 66,3 percent between 1921 and 1926.<sup>11)</sup>

The period from 1926 brought continued urbanisation that forced the SAP to adapt. In rural areas the SAP was dealing with crimes such as stock theft and theft of produce from farms, while new types of crime emerged in urban areas.<sup>12)</sup> In the Annual Report of the Commissioner of the SAP for the year 1929, the incidence of “new crimes” such as motor theft and motor accidents were mentioned.<sup>13)</sup> In the period 1926-1946, crime took on an urban character with infringements of by-laws of town councils being the most frequently committed crimes. In this 20-year period, there was a rise of 91,8 per cent in the nine most reported crimes which amongst others included offences such as pass law offences, drunkenness, native hut-tax

offences, and native labour law offences. With the exception of petty theft and petty assault which also fell under this category of the nine most reported crimes, the rest were all statutory offences aimed to control, and constrain the free movement of Black South-Africans.<sup>14)</sup> An important trend in this period is the emergence in 1934 of what was termed “native juvenile vagrants”. Black youths were drawn into gangs as a result of socio-economic problems of this era. This led to crimes such as gambling, prostitution, pick-pocketing, bag-snatching and robbing migrant workers of their pay. Crime was mostly black-on-black, although in larger cities there was a trend of robberies and attacks on whites.<sup>15)</sup>

In 1936 a Commission of Enquiry (The Lansdown Commission), was appointed to look into the conduct of the Police with respect to the investigation of crime and offences as well as relations between the Police and the public.<sup>16)</sup> The Commission amongst others criticised the nature of Police relationships with whites and Blacks respectively, as well as the trend of arrests for the plethora of restrictive regulations which were only applicable to blacks.<sup>17)</sup> This trend, however, continued, and by 1947, annual prosecutions under racially linked legislation had risen to nearly half a million, which amounted to more than 40 per cent of the total number of prosecutions.<sup>18)</sup> In the early 1940`s, law abiding Africans complained of being under-policed which led to the formation of citizen patrols and tribal vigilante groups, which became known as the *Magothla*.<sup>19)</sup>

## **2.2. Crime trends and related events in the period 1948-1950: Increased regulation of the movement of black people**

The SAP that the National Party (NP) inherited in 1948 was quasi-military in character and racially segregated. The NP introduced new laws to entrench segregation, notably pass laws and the *Group Areas Act*, Act 41 of 1950.<sup>20)</sup> By further regulating movement and certain aspects of the lifestyle of mainly the black population, more control was needed, hence the increase in manpower of the SAP by 50 percent between 1952 and 1958.<sup>21)</sup> A comparison and analysis of crime statistics in the period 1912-1953 shows that the number of prosecutions per 1000 of the population rose from 46 in 1912, to 105 in 1953. If 1912 is used as the basis year

- with 100 as the basis figure, it means that prosecutions rose by 513 percent while the population grew by 220 percent and police manpower by 260 percent.<sup>22)</sup>

Freed posits that non-serious crime represented 94,2 percent of all reported crime in South Africa in the late 1940s and early 1950s. The sub-classes of non-serious crime (road, vehicle and traffic regulations and regulations pertaining to the control and supervision of blacks), represented 36,5 and 53,1 percent of the total figure of non-serious crime respectively. These two categories represented 32,8 percent of all prosecutions. Serious crime (crimes relating to property, the person, welfare and public health, state and public administration, indecency and immorality, and the mining industry), only represented 5,8 percent of all crime in South Africa.<sup>23)</sup> If Freed's calculation is taken one step further and the two non-serious categories are taken out of the equation, it means that the percentage of serious crime in actual fact represented 11,59 percent of the total figure. Serious crime was, therefore, much higher than the official figure as disclosed by the government at the time.

From the above, it is therefore ascertained that both crime and the prosecution ratio per thousand of the population increased significantly after 1948.<sup>24)</sup> Freed is correct when he argues that if crime control was purely a police matter, it (crime control) was not possible in the period under discussion, and that other sociological factors over and above police capacity were responsible for the rise in crime.<sup>25)</sup> The official crime figures indicate a rise of 55,14 percent in reported cases from 1948 to 1949, which shows the impact of racially oriented statutory offences on the SAP.<sup>26)</sup> The sharp increase in crime was later attributed to a revised code list of crimes to include crimes such as treason.<sup>27)</sup>

### **2.3. Crime trends, public and police responses to crime in the period 1950 to 1957: Resistance against influx-control and political unrest**

In the 1950's the media and anti-apartheid organisations voiced their concerns about the crime situation, with some arguing that pass laws and influx-control were indirectly contributing to high crime statistics.<sup>28)</sup> The Black Sash's Doreen Rankin stated that apartheid and the SAP were creating crime rather than preventing disorder, crime and instability. She argued that influx-control was responsible for

vagrancy and serious crime, and the solution was to abolish influx-control and the enforcement of pass laws.<sup>29)</sup>

Another important trend of this period and probably also an early trend in the privatisation of security, was the emergence of self protection or vigilante groups, of which some were established along conservative and tribal lines (such as the *Makgotla* referred to earlier) which were located in some townships. The *Makgotla* which was supported by some whites, quickly developed a reputation for brutality, floggings, assaults and kangaroo courts. In 1952 government prohibited the establishment of any organisation purporting to function as a civic or civilian guard for protection purposes, unless approval was given in the Government Gazette.<sup>30)</sup>

In the 1950`s, the SAP`s Detective Branch increasingly turned its attention to the black trade union movement and the South African Communist Party (SACP), as these organisations were viewed as a serious threat to the state. The Police Special Branch (later to become the Security Branch) was set up in Pretoria to counter this threat.<sup>31)</sup> Crime in townships was not the main priority and various forms of political activity were criminalised. Following a series of revolts and strikes on the Rand, the *Suppression of Communism Act*, Act 44 of 1950, was promulgated to curb political unrest.<sup>32)</sup> Brewer is therefore correct when he argues that the main reason why crime in the townships received little attention was because authorities thought it could be addressed by suppression of political activity.<sup>33)</sup>

By the middle of the 1950`s black political opposition grew exponentially, crime escalated, and black gangs which came to be known as *tsotsi`s*, were terrorising the black townships and becoming increasingly involved in violent armed robberies on the Rand.<sup>34)</sup> Whites had exclusively been responsible for serious crimes such as murder, armed robbery and serious assault in traditional white business areas prior to 1957. During 1957 this trend changed and armed robberies were carried out mainly by blacks who did not hesitate to shoot to kill. This crime wave led to the establishment of the "Murder and Robbery Squad" at Marshall Square Police Station on 1 November 1957.<sup>35)</sup>

The traditional and symbolic colonial ties with Britain came to an end with the promulgation of the *Police Act, Act 7 of 1958*.<sup>36)</sup> An important feature of this act was that the liability of policemen for military service was retained, emphasising the continuation of the strong military character of the SAP. A major change however was the clear demarcation of Police activities in the Act.<sup>37)</sup> The duties of the SAP were stipulated as the preservation of internal security; the maintenance of law and order; the investigation of any offence or alleged offence; and the prevention of crime.<sup>38)</sup> The following section will discuss the promulgation of the *Police Act* of 1958; its implementation; and crime trends in the period following its promulgation up to 1994.

### **3. THE POLICE ACT OF 1958 AND CRIME TRENDS IN THE PERIOD 1958-1994**

This section will be divided into two sub-sections namely from 1958 to 1980, and from 1981 to 1994 which was the year in which the first democratic elections were held in South Africa. The year 1958 is the year in which the *Police Act* of 1958 came into effect, while the year 1980 is used to sub-divide the analysis for the period 1958-1994, as the *Police Commissioner's Annual Report* for the period 1 July 1979 to 30 June 1980 contains important trends in terms of a decrease in political and unrest related offences, while non-political crime increased during the same period.

#### **3.1. Crime trends in the period 1958-1980: Emphasis on threats of subversion**

The SAP regarded the preservation of the internal security of the Republic of South Africa as the main priority in the period 1958-1980. This is reflected in official documents with emphasis on the threats posed by subversion, rather than on ordinary and non-political crime. From 1958-1968/9 there was a significant increase (75 percent from 1952 which the Commissioner of Police used as the base year) in all prosecutions in the category of what was regarded as "Offences".<sup>39)</sup> The majority of these prosecutions were for influx-control offences such as contraventions of the *Native (Urban Areas) Consolidation Act*.<sup>40)</sup> This sharp increase in crime figures includes a rise of 328,6 percent for failure to register for or produce passes, and 685,5 percent in offences under the *Native Urban Areas Act*.<sup>41)</sup>

The government adopted the discourse of ‘total onslaught’ in this period, which influenced the SAP management in its perception of policing priorities and threat perception. The threat was perceived as largely external and of military origin, emanating from outside South Africa’s borders. Ordinary crime, although rife, was low on the priority list and was dealt with as if it was an extension of guerrilla insurgency.<sup>42)</sup> Crime in the category “Serious Crime” rose from 138 272 reported cases in 1949, to 238 839 in 1958, representing an increase of 72,73 percent.<sup>43)</sup> From 1958 crime in this category rose further to a number of 297 111 reported cases in 1961, an increase of 24,39 percent over three years.<sup>44)</sup> The category “Serious crime” included “Crimes of violence”, “Sexual offences”, “Crime against the Person”, “Crime against Property”, and “Stock theft”.

While no reasons for the increase in crime figures are given in the Commissioner’s reports, it can mainly be attributed to urbanisation at the time. This presumption is confirmed by the fact that there was a significant increase in serious crime especially in the Witwatersrand in the period from 1961 to 1962.<sup>45)</sup> While the overall prosecution rate was 100 per thousand of the population in 1961, it had risen to 417 in 1972. Although the prosecution rate was high, it reflected not only a high crime rate at the time, but also the number of statutory offences which specifically black South Africans could transgress. All types of crime were much higher in black areas. This trend is confirmed by the fact that only 86 of every 417 people per thousand of the population prosecuted at the time were whites.<sup>46)</sup>

The year 1960 was momentous from both a political and security perspective. After a decade of defiance, strikes, civil disobedience, resistance campaigns, and political mobilisation, violence erupted on 21 March that left 69 dead in Sharpeville. The violence quickly spread to other parts of the country.<sup>47)</sup> Violence also erupted in Langa on the Cape Flats where two protesters were killed.<sup>48)</sup> These incidents resulted in the promulgation of the *Unlawful Organisations Act*, Act 34 of 1960, in terms of which both the African National Congress (ANC) and Pan Africanist Congress (PAC) were declared unlawful.<sup>49)</sup> South Africa became a Republic on 31 May 1961 and the government immediately issued a number of curtailment orders in terms of the Suppression of Communism Act.<sup>50)</sup> This forced Black political opposition

to militarise, and to go underground and abroad. Conversely, this forced the SAP to focus on external rather than internal threats; to develop counter-insurgency skills; and to rapidly expand its manpower and resources.<sup>51)</sup>

The SAP changed the categorisation of crime and its reporting of crime in 1963. With the introduction of the revised code list of offences on 1 January 1963, only two broad categories of crime were to be used namely: “A” for offences and “B” for law infringements. It was also stated that the expression “serious crime” would not be used anymore. In order to put these categories in perspective, “offences” referred to normal common law and statutory crime while “infringements” pertained to statutory offences that could mostly only be committed by persons of colour at the time.<sup>52)</sup>

The Deputy Minister of Police stated during the Police budget vote in 1968 that crime was under control and that during the preceding four years 90 percent of all reported crimes, and 77 percent of serious crimes were solved, despite the fact that only 10 percent of the SAP`s manpower was engaged in active crime investigation.<sup>53)</sup> It is not mentioned exactly how the remaining 90 percent of the manpower was deployed, but it can be assumed that a large percentage was involved with the investigation and collection of information on banned organisations, and the protection of South Africa`s borders against infiltration. The mid- and late 1960`s also saw the SAP becoming involved in counter-insurgency operations inside and outside South Africa`s borders.<sup>54)</sup> The South African government justified the deployment of police outside the country`s borders by stating that it was not at war, but that it was dealing with small groups of nefarious and criminal terrorists.<sup>55)</sup> The SAP embarked on a strategy of mass arrests on the Rand in 1965/6 in an effort to deal with ordinary crime, but mostly ended up with prosecutions for administrative offences. Other efforts to deal with crime included the establishing of a special unit to deal with vehicle thefts on the Rand in 1961 and a Murder and Robbery Unit in Soweto in 1968.<sup>56)</sup> While these can be regarded as clear efforts to solve the crime scourge, the biggest problem remained the enforcement of racially oriented laws and regulations.

By 1970 the SAP identified the increase of drug abuse as a new crime trend. While offences related to cannabis were the biggest problem in this category of crime until

1969, the abuse of sophisticated drugs and habit-forming substances such as opium, pethidine and LSD suddenly emerged in the early 1970`s. The occurrence was mainly concentrated in Cape Town, Durban and Johannesburg. Police management, however, realised that in order to deal with the increasing crime problem, decisive action was necessary. A specialised branch - the South African Narcotics Bureau (SANAB) - to investigate and deal with all drug-related offences was instituted in 1971.<sup>57)</sup> The SAP`s Forensic Laboratory was also established to assist investigators with the scientific aspects of investigations.<sup>58)</sup>

The early and mid-1970`s also saw an increase in unrest in South Africa which continued into the late 1970`s, placing an increased burden on the SAP`s already strained manpower.<sup>59)</sup> Normal crime (offences) increased by 7,42 percent in the period from 1976-1980 from 1 052 697 to 1 130 815 reported cases, while infringements (mostly related to state security, political and internal unrest related offences), decreased by 37,30 percent from 1 085 640 to 680 614 reported cases.<sup>60)</sup> It must be kept in mind that the internal unrest situation initially worsened from the mid-1970`s.<sup>61)</sup> The abovementioned decrease of 37,30 percent can be attributed to increased police activity concentrating on resistance and pressure groups at the time, as well as the seizure of large quantities of firearms, ammunition, explosives, and home-made devices.<sup>62)</sup> The increase in offences on the other hand, was likely to be linked to the increase in numbers of policemen deployed in unrest areas, leaving fewer policemen to concentrate on ordinary non-political crime.

### **3.2. Crime trends in the period 1980-1989: Increased unrest and sabotage**

The early 1980`s saw continued riots and unrest, while the SAP also had to deal with border protection which strained police manpower. Over and above these duties, the police also had to contend with normal policing duties.<sup>63)</sup> There was a further significant increase in offences related to drugs and habit forming substances into the early 1980`s. Moral decay and sex-related offences were also highlighted in the Commissioner`s reports for 1983/4 and 1984/5. Another worrying trend was the increase in attacks on elderly people, and the fact that such attacks were also on the increase in rural areas. This was still regarded as a problem in 1987.<sup>64)</sup> Crime figures for the first four months of 1979, 1980 and 1981 indicated an overall decrease in

crime. The official explanation for this decrease was the appointment of Crime Prevention Officers in each police division and the launch of a crime combating programme.<sup>65)</sup>

As a result of changing crime trends, more specialised investigation units (Murder and Robbery, Stock Theft, SANAB and Motor Vehicle Theft Units) were established by 1981, while a special unit to investigate sexual offences and “child abuse” cases (Unit for Child Abuse) followed in 1986.<sup>66)</sup> By 1986 ‘fraud’ and ‘white collar’ crime were also on the increase and, in addition to the existence of a Commercial Crime Unit established in 1969<sup>67)</sup>, a special fraud unit was established to investigate fraud where stolen cheques were involved.<sup>68)</sup> The SAP was extremely concerned about the sharp increase in motor theft, especially luxury vehicles, trucks and light delivery vans. Official statistics indicate an increase of 21,6 percent from 36 558 reported cases in 1980/1, to 44 483 cases the following year.<sup>69)</sup>

Reported crime (the category of ‘offences’ as explained earlier) rose by 3,74 percent and infringements by 21,72 percent respectively over the period 1981/2 to 1982/3, while drug abuse, related cases and motor vehicle theft’ remained a serious problem.<sup>70)</sup> Internal security remained the highest priority, especially following various acts of sabotage in 1983.<sup>71)</sup> While the police had to deal with an increase in ordinary crime, a total number of 10 018 unrest related incidents were reported in the period July 1984 to 30 June 1985, which included petrol bomb incidents, arson, hand grenade attacks and looting that resulted in 160 deaths. The damage in monetary terms was estimated to be in excess of R59 million.<sup>72)</sup> New trends that the police had to contend with in the mid-1980`s were attacks on the homes of policemen; terror attacks using limpet mines in shopping complexes; and landmine attacks in the rural areas of Northern and Eastern Transvaal that claimed many lives. South Africa also experienced car bomb attacks in 1983 and 1987, claiming the lives of many innocent people, including four policemen.<sup>73)</sup>

The revolutionary climate intensified in 1986, leading to a national state of emergency declared on 12 June 1986.<sup>74)</sup> The situation deteriorated further in April 1987 when a number of trains were set alight and 18 000 railway workers went on strike. Violence also erupted in Natal as a result of a power struggle between

supporters of the United Democratic Front (UDF) and the Inkatha Freedom Party (IFP), and the Police were forced to send more unrest units to Natal in an attempt to combat the unrest.<sup>75)</sup>

The revolutionary climate and the state of emergency rendered normal policing and crime investigation virtually impossible. By 1987, the SAP admitted that crime was on the increase with a concomitant rise in the workload of the Detective Branch. The Minister of Police responded to claims by the public that crime was getting out of hand by stating that the SAP's most important task was the protection of the internal security of South Africa; followed by the maintenance of law and order; and the investigation of, and the prevention of crime.<sup>76)</sup>

Operations to limit and control township unrest between 1983 and 1990, left little time for the policing of ordinary crime and the violence provided cover for criminals. An analysis of figures from the Commissioner's *Annual Reports*, between 1981/2 and 1988 show an overall increase of 2,2 percent in 'offences' and 17,4 percent in 'law infringements' over twice the rate of population growth. According to Brewer the difference in the respective increases between these two types of crime is an indication of the SAP's emphasis on more serious offences in this period.<sup>77)</sup> It appears as if Brewer's argument is correct. This is illustrated when comparing figures for 1984 and 1986 when township unrest was at its height and 'offences' rose by 7 percent, while 'law infringements' fell by 34,4 percent.

The 1988 *Annual Report of the Commissioner of the SAP* provided a racial breakdown for certain crimes. From this it became evident that only 4,4 percent of rape victims, and only 2,9 percent of murder victims were white. The race of the perpetrator was not mentioned in the report. Further, 48,6 percent of burglaries were of white residential properties compared to 24,1 percent of black residential properties, which shows the trend that crimes of violence against the person tended to affect blacks, while property crimes reflected patterns of wealth in society and were thus directed at whites.

Table 1 reflects the number of serious offences reported between 1981-2 and 1988. Not only was crime on the increase, but serious crime was also escalating progressively.

**TABLE 1: Number (in thousands) of cases of selected crimes reported for the years 1981/1982 – 1988**

Crime Categories	1981/2	1982/3	1983/4	1984/5	1985/6	1987	1988	% rise
Murder	8	8.5	9.4	8.9	9.6	9.8	10.6	31.5
Robbery	38.6	38.2	37.7	39.3	45.9	46.2	45.8	18.6
Rape	15.5	15.3	15.7	16	14.9	18.1	19.3	24.6
Burglary	139.2	148.7	153.4	166.8	197.4	194.2	182.7	31.2
Assault	119.8	121.7	125.1	123.1	110.3	120.7	125.5	4.7
Car theft	44.4	44.7	44.3	48.5	59.4	59.9	57.8	30

Source: South Africa, Official statistics from *Annual reports of the Commissioner of the South African Police* for the years 1981-1988.

These high crime levels contributed to a general low opinion of the SAP, which increased pressure on the government to reform the police.<sup>78)</sup> Crime and crime trends in the late 1980`s and early 1990`s, reflected an increase in serious crime and a continuous manpower shortage in the SAP. Crime statistics for 1989 compared to 1990, reflect an increase of 8,53 percent in offences, and a decrease of 13,14 per cent in reported infringements. It was acknowledged by the SAP that the increase in offences was the largest increase since 1980.<sup>79)</sup> The large increase in reported murder cases was ascribed to political unrest and fighting among black groups<sup>80)</sup>, while an increase in property crimes can be attributed to a greater influx of people from the former homelands, and a police force that was not prepared for the political changes announced early in 1990.

Crime in the period 1990 to 1994 was greatly influenced by the unbanning of the ANC, SACP and other political organisations. Trends in this period must therefore be seen against this background, which will be discussed in the next section.

### **3.3. Crime trends in the period 1990-1994: The advent of transformation**

The unbanning of the ANC, the release of Nelson Mandela from prison and the negotiations for a new constitutional dispensation for South Africa, played a major role with regard to crime trends in this period. Of great importance was the suspension by the ANC of the 29 year old armed struggle, the phased release of political prisoners and the lifting of the state of emergency by the Government in 1990/1991, as well as the subsequent signing of the *National Peace Accord* in September 1991.

The immediate effect was a sudden increase in the movement of people (including criminal elements), between the former homelands and the then South African territory, making it increasingly difficult for the SAP to control crime. Secondly, criminal elements took advantage of the euphoria of freedom which also contributed to increased crime levels. These developments not only affected the SAP, but the whole of the law enforcement system, which became an important discussion point during the subsequent constitutional negotiation process.<sup>81)</sup>

The role and functions of the police; the organisation`s relationship with the police forces of the self-governing territories, as well as a code of conduct during the negotiation and transition phase, were fully discussed and described in the *National Peace Accord* of 14 September 1991.<sup>82)</sup>

In 1991, the Minister of Police also announced that serious crime had only increased by 0,18 percent, despite a serious shortage of manpower that in some areas of Johannesburg were as high as 51 percent.<sup>83)</sup> Crime trends in the period 1990-1994 are reflected in Table 2.

**TABLE 2:- Trends in reported cases of crime in South Africa for the financial years 1990-1993**

Crime Categories	1989/ 1990	1990/ 1991	1991/ 1992	1992/ 1993	Change in number of reported cases from 1990 to 1993	% Change in reported cases from 1990 to 1993
<b>Violent Crimes</b>						
Murder	15 109	14 693	16 078	17 467	+2358	+15, 60%
Rape	20 321	22 765	24 360	27 056	+6735	+33, 14%
Attempted murder	-	-	-	-	-	-
Assault GBH (serious)	124 030	129 626	136 322	144 662	+20 632	+14, 26%
Common assault	-	-	-	-	-	-
Robbery with aggravating circumstances	38 835	45 103	54 194	60 089	+21 254	+35, 37%
Other robbery	22 297	23 833	24 483	27 027	+ 4730	+ 21, 21
<b>Property Crimes</b>						
Arson	7 171	23 920	6 389	68 55	-316	- 4, 6%
Malicious damage to property	91 378	92 676	96 138	103 415	+12 037	+ 13, 17%
Housebreaking - residential	159 403	185 912	181 659	185 502	+ 26 099	+ 16,37%
Housebreaking - non- residential	65 755	74 749	73 282	74 379	+ 8624	+ 13, 11%
Theft - motor vehicles	68 649	71 120	71 532	77 875	+9226	+13, 44%
Theft - out of/from vehicles	149 606	160 179	154 247	166 310	+ 16 704	+ 11, 17%
Stock theft	21 798	24 116	26 921	26 633	+ 4835	+ 22, 18%
Other types of theft	-	-	-	-	-	-
Commercial crime (Includes Insolvency Act offences)	50 071	55 683	59 008	56 342	+ 6271	+ 12, 52%
Shoplifting	48 935	51 658	58 371	62194	+ 13 259	+ 27, 10%

Source: South Africa, *Annual Reports of the Commissioner of the South African Police*, 1990-1993.

All violent crimes increased substantially in this period with rape and robbery with aggravating circumstances showing an increase of 33,1 and 35,3 percent respectively. Murder increased by 15,6 percent and common robbery by 21,21 percent. All other property crimes increased in excess of 11 percent with burglary at residential premises increasing by 16,3 percent and stock theft by 22,1 percent. Important issues that were specifically referred to in the *Police Commissioners' Annual Report* for the period 1990/1, include neighbourhood watch systems, senior citizens, business watch, tourist protection and Municipal Police Units.<sup>84)</sup> The year 1991 was also marked by numerous sensational allegations of large scale corruption by senior government officials, high profile business persons, and other serious economic offences.<sup>85)</sup>

The neighbourhood watch concept took root in South Africa in the mid-1980's. The SAP declared in 1991 that "it has been proven that a remarkable decline in crime statistics, especially housebreaking, is experienced in areas in which the neighbourhood watch groups occur."<sup>86)</sup> It is noticeable that specific concern about the safety of senior citizens was expressed, while the importance of the role of neighbourhood watch systems in the protection of the elderly was emphasised.<sup>87)</sup>

A business watch system already existed in 1991 as part of pro-active partnership policing action and was described as "a concerted effort of the South African Police and the business sector to prevent crime in the business environment."<sup>88)</sup> This concept was aimed at enhanced visibility by deploying policemen on foot patrol in the business environment, thereby reducing reaction time. In the period covered by the *Annual Report of the Commissioner of the South African Police* for 1991, a total of 62 business watch systems were active with 15 890 businesses linked to the system. Only 383 members of the SAP were, however, detached for this operation.<sup>89)</sup> A total of 256 Municipal Police Units with a combined manpower of 9696 Municipal Law Enforcement Officers (MLEO's) existed in 1991, and their main function was described as "the protection and guarding of councillors, officials and the property of the local black authorities for whom all of the units were established."<sup>90)</sup>

While the 1991 *Annual Report of the Police Commissioner* briefly mentioned that rising crime is a world-wide problem and the crime situation in South Africa is

therefore not unique<sup>91)</sup>, the *Annual Report of the Commissioner* for 1992 expressed grave concern over the increased criminality in South Africa in the preceding five years.<sup>92)</sup>

The 1992 report of the Commissioner of Police summarised the political realities at the time by stating that the “problematic nature of transition in the Republic of South Africa, is concerned, among other things, with the redistribution of power, economic and political restructuring and the lobbying for support in which political actors on the one hand, criminals on the other hand and unrealistic expectations have become intertwined. Political crimes (crimes which have a political motive or point of departure) and criminality in general can for this reason...not easily be separated...In the light of the change in the occurrence of violence and the de-politicising of the Force, it has been decided that the actions of people will be judged from the point of view of crime and, no longer, as frequently was the case in the past, from a political-ideological point of view.”<sup>93)</sup> This statement represents a major change from the approach to policing adopted in 1912 and the political-ideological approach of the SAP since the late 1940`s.

The 1993 *Annual Report of the Commissioner* addressed crime as a security risk and declared that tolerance of violence and unrest was something of the past. Criminality under the guise of political violence and unrest was the real problem. It was stated that “[I]f crime, in general, and unrest and violence, in particular, are not combated effectively, the situation will progressively deteriorate to such an extent that South Africa will eventually be faced with anarchy.”<sup>94)</sup> This statement illustrates the problems faced by the SAP at the time, namely policing of a highly politicised community, extremely high crime levels, and dealing with high levels of violence and unrest, which is typical of a country in transformation.

The ANC and NP, after a series of meetings that resulted in the drafting of the *National Peace Accord* on 14 September 1991, agreed on a negotiated political settlement and a period of transition ensued.<sup>95)</sup> This process resulted in the promulgation of an *Interim Constitution* which was assented to on 25 January 1994.<sup>96)</sup> This also started a process of transition within the SAP that had a significant

effect on policing, security, crime and the community in South Africa from 1994 onwards.

In order to understand the rationale behind official policy documents and official and public responses to crime, it is necessary to analyse crime trends in the period 1994-2010. The next section will focus on serious crime trends after 1994; the reasons for these trends; and official government responses to these trends.

#### **4. THE TRANSFORMATION OF THE SAP AND CRIME TRENDS SINCE 1994**

This section is divided into three subsections, namely the periods 1994-2000, 2001-2005, and 2006-2010. In each section crime trends and official responses (statements and actions) by politicians, the SAPS and high ranking government officials will be analysed as this reflects government's official view pertaining to crime at the time.

These periods also broadly coincide with the terms of the first Commissioner of the SAPS and the term of the first President of democratic South Africa<sup>97)</sup>; with the first and second terms of Thabo Mbeki as President of SA (1999-2008)<sup>98)</sup>, and Jackie Selebi (2000-2009) as Commissioner of the SAPS respectively.<sup>99)</sup> These periods were specifically selected to determine whether and to what extent crime trends were affected by government policy and political leadership in these respective periods.

##### **4.1. Crime trends and official responses in the period 1994-2000: The period of police transformation**

The SAPS was established in terms of the *Interim Constitution of the Republic of South Africa*, Act No 200 of 1993, *The South African Police Service Act*, Act No 68 of 1995, and the *South African Police Service Rationalisation Proclamation*, Proclamation 5 of 1995.<sup>100)</sup> This legislation provided for the amalgamation of all eleven police forces that existed in South Africa in 1994. The *Interim Constitution of the Republic of South Africa* was replaced in 1996 by *The Constitution of the Republic of South Africa*, 1996, which makes provision for the establishment of a national police service.<sup>101)</sup> While the SAP, the police forces of the former Transkei,

Bophutatswana, Venda, Ciskei (TBVC states), and the six self-governing areas continued with policing in their respective areas, the South African Police Service (SAPS) was established on national level.

The SAP was gradually phased out by the appointment of its members into the SAPS, thereby leaving a vacuum as far as the combating of crime was concerned.<sup>102)</sup> During the amalgamation process, a certain degree of uncertainty existed nationally (including the former homelands) as far as leadership, discipline and disciplinary codes, statutes to be enforced, and policing methods were concerned.

At the same time, Municipal Police Units and Traffic Police also continued in an uncoordinated fashion, while vigilante groups took advantage of the uncertainty amongst the various policing agencies pertaining to leadership and statutory enforcement that existed at the time.<sup>103)</sup> The privatisation of security and crime trends in South Africa must be seen against the background of this vacuum in policing in the mid-1990`s.

#### 4.1.1. Crime trends in the period 1994-2000: Increases in crime levels

Crime statistics for the period 1994-2000 indicate that South Africa experienced high levels of serious and violent crime when considering the crime ratio per 100 000 of the population as presented by the SAPS.<sup>104)</sup> Cognizance must be taken of the fact that the concept of community policing was officially introduced in this period. It was further emphasised that the public`s cooperation and partnership in crime control and prevention is essential<sup>105)</sup>, while the problem of corruption in the police was also acknowledged.<sup>106)</sup>

Most serious crimes increased in this period, with the exception of murder, theft out of motor vehicles, stock theft, and housebreaking (non-residential properties). It is interesting to note a 21,52 percent decrease in reported murder cases for this period which cannot be explained in the context of a significant rise in other serious crimes.

For purposes of comparison and analysis, crime figures for selected categories of crime for this period are reflected in Table 3.

**TABLE 3: Crime ratios (number of crimes per 100 000 of the population) in South Africa for the financial years 1994/1995-2000**

<b>Crime Categories</b>	<b>1994/ 1995</b>	<b>1995/ 1996</b>	<b>1996/ 1997</b>	<b>1997/ 1998</b>	<b>1998/ 1999</b>	<b>1999/ 2000</b>
<b>Violent Crimes</b>						
<b>Murder</b>	66,9	67,9	62,8	59,9	59,8	52,5
<b>Rape</b>	115,3	125,9	126,7	126,2	118,3	122,8
<b>Attempted murder</b>	69,1	67,9	70,4	68,4	70,4	65,4
<b>Assault serious (GBH)</b>	555,8	563,7	570,4	570,4	566,3	608,1
<b>Common assault</b>	516,0	520,5	500,3	489,0	485,0	538,9
<b>Robbery - aggravating</b>	218,5	195,0	163,0	177,5	220,6	229,5
<b>Other robbery</b>	84,2	115,4	124,9	133,34	154,7	173,5
<b>Property Crimes</b>						
<b>Arson</b>	28,2	24,3	24,9	24,0	23,9	22,3
<b>Malicious damage to property</b>	317,8	327,7	319,8	307,4	307,6	312,0
<b>Housebreaking residential</b>	596,2	628,9	602,9	611,1	652,7	673,4
<b>Housebreaking non residential</b>	225,7	220,8	214,7	219,3	224,5	216,2
<b>Theft - motor vehicles</b>	272,8	249,3	239,8	249,2	255,9	239,3
<b>Theft – out or from vehicles</b>	472,5	484,7	430,4	435,3	452,5	453,9
<b>Stock theft</b>	121,9	109,7	103,5	101,0	98,8	96,2
<b>Other types of theft</b>	995,5	979,4	924,5	969,3	1051,4	1152,8
<b>Commercial crime</b>	162,5	154,0	153,2	153,7	150,9	157,7
<b>Shoplifting</b>	170,9	160,0	152,2	154,3	153,8	153,4

Source: South Africa, *Annual reports of the Commissioner of the South African Police*, 1994-2000.

Rape increased by 6,5 percent; assault to inflict grievous bodily harm by 9,4 percent; robbery with aggravating circumstances by 5,2 percent; other robberies by 106,0 percent, and housebreaking of residential properties by 12,9 percent. The main reasons for the increase in crime in this period can, as already stated above, be

attributed to the abovementioned vacuum in authority; the euphoria of freedom experienced by a large majority of the population after the elections in 1994 which was subsequently also exploited by criminal elements; the influx of large numbers of work seekers from rural areas; and a general attitude of apathy towards crime by a part of the population. Border control was not a priority, and regarded as less important by the government immediately after assuming power. The SANDF commando system was gradually phased out and influx-control legislation was scrapped which led to a sharp rise in crime with an accompanying increase of attacks on farmers and the rural community.<sup>107)</sup>

#### 4.1.2. Official responses to crime in the period 1994-2000: Acknowledgement of high crime levels and the announcement of the National Crime Prevention Strategy

Official responses to high crime levels manifested mainly in a gradual change in government views regarding threat perception since the early 1990`s; statements by high ranking government officials; gradual changes in official policy regarding serious and violent crime; and responses pertaining to rural safety (farm attacks) and corruption. The implementation of community policing in this period was initially more aimed at changing the police than changing policing as such. The anticipated reduction in crime and the support from the police to the community by implementation of the concept of community policing, did not materialise in this period, which might also explain the continued rise in crime levels.<sup>108)</sup> Community policing also failed to impact on crime levels as the concept itself did not (and perhaps could not) address the socio-economic causes and conditions conducive to crime in this period.<sup>109)</sup>

Since 1994, the government has changed and broadened its perception on what constitutes a threat to national security, and this now also includes non-military threats such as organised crime.<sup>110)</sup> Government has also adjusted its view on the strategy to be followed in the combating of crime.<sup>111)</sup> Government responses to crime, and especially the gradual change in policy must be seen against the abovementioned vacuum that existed in terms of the combating and addressing of crime since the early 1990`s, as well as the gradual deterioration of the criminal justice system at the time.

The reason for the existence of a criminal justice system is to maintain social control over the population which in effect entails a balance between consent and law enactment, and between the freedom of the individual and collective safety.<sup>112)</sup> The entire criminal justice system in South Africa was put under severe pressure due to political changes, especially the transformation of the police. While the SAPS was constitutionally entrusted with the task and regarded itself in the early nineties as the primary vehicle to “prevent crime”<sup>113)</sup>, the realisation that the police cannot prevent crime (which stems largely from socio-economic factors) has resulted in the emphasis gradually shifting to more “effective policing”, and an “effective justice system”.

Shortly after the 1994 elections the Minister of Safety and Security introduced the first official draft policy document on policing crime and change, also referred to as the so called *Green Paper*.<sup>114)</sup> This document acknowledged and emphasised the fact that South Africa was plagued by high levels of violence and crime, which in turn could largely be blamed on socio-economic conditions at the time. The importance of the role of the community was emphasised in order to solve crime and prevent disorder. To the same extent, the role of local government was emphasised as far as it pertains to the management of relationships between government and the community as far as safety and security is concerned.<sup>115)</sup>

A more direct response to the high levels of crime was the launch of the *National Crime Prevention Strategy* (NCPS) in May 1996. This was a direct result of the government’s expressed concern over the extremely high crime levels at the time which “results in the deprivation of the rights and dignity of citizens, and poses a threat to peaceful resolution of differences and rightful participation of all in the democratic process.”<sup>116)</sup> This strategy document was prepared by an inter-departmental strategy team comprising of the Departments of Correctional Services, Defence, Intelligence, Justice, Safety and Security and Welfare, which was an indication of acceptance that the crime problem needed a multidisciplinary approach.<sup>117)</sup> It was stated that this comprehensive strategy had to go beyond the sole provision of effective policing. It also had to provide for mobilisation and participation of civil society in assisting to address crime.<sup>118)</sup> It was further mentioned that Business Against Crime (BAC) and NGO’s have made substantial contributions

to this crime prevention strategy, which can be regarded as a manifestation of government's realisation that the SAPS alone would indeed not be able to bring crime levels under control and that active participation from the private sector was essential.<sup>119)</sup>

The following structures were created to implement and manage the NCPS, which is also indicative of governments' realisation of the seriousness of the threat of crime in 1996:

- The NCPS Inter-Ministerial Committee, chaired by the Minister of Safety and Security, mainly to provide policy direction;
- the NCPS Directors-General Committee (DG's Committee) chaired by the Commissioner of the SAPS, to implement the NCPS on DG level;
- the Joint Security Staff (JSS) – Although not created by the NCPS, was often tasked to implement particular programmes (This structure was later replaced by the Joint Operational and Intelligence Structure or JOINTS);
- the NCPS Coordinating Mechanism which was originally established in 1996 as a secretariat for the NCPS DG's Committee; and
- NCPS Programme Teams which formed part of the NCPS Coordinating Mechanism and also consisted of representatives from various relevant government departments and sectors of civil society.<sup>120)</sup>

In 1998 the Department of Safety and Security published the *White Paper on Safety and Security - In Service of Safety 1998-2003*.<sup>121)</sup> This document is described as the most pertinent trend indicator since 1994 as far as police policy is concerned.<sup>122)</sup> Important aspects contained in this document include governments' concern regarding the reliability of crime statistics, the acknowledgement of unacceptable high crime levels and the socio-economic dimension of crime, underdevelopment and poverty, and the decay of moral value systems.<sup>123)</sup> Regarding law enforcement, three focus areas were identified to meet safety requirements namely improved criminal investigations, active visible policing, and service to victims. Emphasis was placed on the role of civil society and it is clear that it was decided by government that the responsibility for crime prevention should be delegated to local level where

local government, municipal police services, and the community *via* the CPFs, must create relationships in order to address the scourge of crime.<sup>124)</sup>

The failure of the state to fulfill its care-taking role, and also of the criminal justice system to take “social control” was evident in the late 1990`s.<sup>125)</sup> Furthermore, corruption throughout the criminal justice system created a serious dilemma, as “any large crackdown on corruption is bound to undermine the already flagging public confidence in the criminal justice system.”<sup>126)</sup> The system was viewed as fragmented with visible examples of deficiencies in the communication process between the SAPS, the Department of Justice and the Department of Correctional Services.<sup>127)</sup>

During 1999-2000 the South African government realised that limited success was achieved with the NCPS. To rectify the problem, government announced the cluster or sector approach, by which six “clusters” were established at both Cabinet and Director-General level.<sup>128)</sup> The following clusters were established: Social Sector, Economic Sector, Investment and Employment Sector, Governance and Administration Sector, International Relations, Peace and Security Sector (IRPS), and the Justice, Crime Prevention and Security Sector.<sup>129)</sup> The JCPS cluster was entrusted with safety and security, the aim being the successful implementation and management of the NCPS by the coordination of action between government departments. “At provincial and national level members of the executive are appointed to take responsibility for safety and policing and also form part of the government clusters responsible for Justice, Crime Prevention and Security. The JCPS clusters at national and provincial level include departments [entrusted] with the responsibilities for crime prevention...to ensure an integrated approach to crime prevention.”<sup>130)</sup>

The ANC was opposed to the continuation of the commando system, which can mainly be attributed to the role that the commandos played during the apartheid era.<sup>131)</sup> Commandos formed part of what was described as territorial units, “which are usually tasked to secure their local or home areas...[and which]...are ...cost effective. They are lightly armed and do not use expensive equipment.”<sup>132)</sup> It was stated and acknowledged that the main function of commandos or area protection units as it was termed, was the “protection of landward borders and interior assets against

enemy mobile, airborne and special forces...[and]...during peace-time they form the backbone of SANDF participation in border protection and the maintenance of law and order tasks.”<sup>133)</sup>

In May 1996, it was stated in the *White Paper on National Defence* that national security is no longer viewed as a predominantly military and police problem in the new South Africa. Most important was the official view that at “national level the objectives of national security policy encompass the consolidation of democracy...and a substantial reduction in the level of crime, violence and political instability.”<sup>134)</sup> The SANDF was at the time deployed for border protection (which to a major extent included rural protection in certain areas) in cooperation with the police, a function that was previously also performed by commandos. It was stated that those activities which relate to combating crime and controlling the flow of illegal arms and immigrants into South Africa are more properly the responsibility of the SAPS and that this specific matter would accordingly be reviewed by the Departments of Defence and Safety and Security.<sup>135)</sup>

The *South African Defence Review* of 1996 makes mention of part-time components of the SANDF, and specifically the “Territorial Units” mentioned above, which are responsible for the protection of local or home areas. It is mentioned that these units may be tasked to perform a secondary role in cooperation with the local community, local authorities, and the SAPS.<sup>136)</sup> It is clear that reference is made to units similar to the former SADF commandos, and also that these units can be tasked with rural and border protection.

Schönteich & Steinberg posit that the Rural Protection Plan (RPP) was implemented in 1997 in reaction to demands by the South African Agricultural Union (SAAU) that tough action was required to address the concerning increases in violent crime on farms and smallholdings’.<sup>137)</sup> The RPP had, as its main objective the integration and synchronisation of the activities of all role-players to effectuate proper cooperation in joint planning, action and the combating of crime in rural areas.<sup>138)</sup> Agri SA stated in 2001 that farm attacks had decreased due to increased and pro-active action by the police and army, and probably also as a result of increased vigilance by farmers and their greater involvement in combating crime.<sup>139)</sup>

South Africa also started to experience high levels of corruption in the period discussed above. This was regarded as of such a serious nature that an anti-corruption framework was established in 1994. This consisted of the SAPS's Commercial Branch; the Office for Serious Economic Offences (OSEO)<sup>140</sup>; the National Prosecuting Authority (NPA), the Special Investigating Unit (SIU); the Public Protector; the South African Revenue Service (SARS); the Auditor-General (AG); and the Standing Committee on Public Accounts (SCOPA).<sup>141</sup>

Corruption within the police was identified as a serious problem. This resulted in the formation of a unit for Special Investigations in late 1993 to investigate sensitive matters that could not adequately be dealt with by the then existing SAPS structures. The name was changed to the National Anti-Corruption Unit in September 1994 and was structurally removed from the Detective Services Division and placed under National Management Services.<sup>142</sup> The Heath Special Investigating Unit was established in 1996 by former President Nelson Mandela, with the mandate to investigate "fraud, corruption and maladministration within government departments."<sup>143</sup> Another official response to corruption was the launch of the "Scorpions" or the Directorate of Special Operations (DSO) on 1 September 1999. This body was a direct result of government's commitment to establishing an effective body to prioritise, investigate and prosecute serious and organised crime "that threatens the South African democracy and economy...[which] includes complex financial crime, syndicated organised crime and high-level corruption affecting business integrity and state administration."<sup>144</sup>

Government pursued its anti-corruption objectives by the promulgation of various pieces of legislation such as the *Prevention of Organised Crime Act*, No. 121 of 1998, the *International Co-operation in Criminal Matters Act*, No. 75 of 1996, and the *Extradition Amendment Act*, No. 77 of 1996.<sup>145</sup> Another important piece of legislation that was introduced was the *Prevention and Combating of Corrupt Activities Act*, No. 12 of 2004. This Act defines corruption and offences relating to corrupt activities; introduces measures to prevent and combat corruption; and codifies certain offences with the goal to make it easier for courts to prosecute offenders.<sup>146</sup>

A further response by government was the convening of a National Anti-Corruption Summit in 1999. This summit in which government played the leading role, involved government leaders, organised business, religious bodies, NGO`s, donor countries, the media, organised labour, academic and professional bodies and the public sector.<sup>147)</sup> The 1999 Summit later led to the establishment of a National Anti-Corruption Forum (NACF) in 2001, with civil society, business and government being the leading role players.<sup>148)</sup>

#### **4.2. Crime trends and official responses in the period 2001-2005: Decreases in violent crime and the emergence of new crime trends**

The period 2001-2005 displayed sudden decreases in certain types of crime while new crime trends emerged. New types of robbery that emerged were categorised, while corruption in especially the public sector became prominent.

##### **4.2.1. Crime trends in the period 2001-2005: Decreases in overall crime levels**

The most important feature regarding serious and violent crime, is a general overall decrease with the exception of malicious damage to property that showed an increase of 1,4 percent, or 4,5 crimes per 100 000 of the population. Sharp decreases in the so-called 'social fabric' crimes namely murder (19,07 percent), assault with the intent to inflict grievous bodily harm (15,05 percent) and rape (2,23 percent) were reported in this period. Although the SAPS would prefer to attribute these decreases to improved policing methods, it is generally accepted that the police could do little to influence social fabric crimes.<sup>149)</sup>

Other serious and violent crimes also decreased in this period which included robbery with aggravating circumstances (4,57 percent), other robbery (5,56 percent), arson (14,14 percent), burglary residential properties (14,5 percent), burglary non-residential properties (42,52 percent), theft of motor vehicles (21,39 percent), theft out of motor vehicles (30,5 percent), and stock theft (15,77 percent). It cannot be denied that police visibility and a pro-active approach do have an impact on crimes such as robbery, housebreaking, and theft of/out of motor vehicles, but it is not clear

whether this was actually the case in this reporting period. Table 4 provides an overview of crime trends in this period.

**TABLE 4: Crime ratios (number of crimes per 100 000 of the population) in South Africa for the financial years 2001 – 2005**

Crime Categories	2000/ 2001	2001/ 2002	2002/ 2003	2003/ 2004	2004/ 2005
<b>Violent Crimes</b>					
<b>Murder</b>	49,8	47,8	47,4	42,7	40,3
<b>Rape</b>	121,0	121,1	115,3	113,7	118,3
<b>Attempted murder</b>	64,4	69,8	78,9	64,8	52,6
<b>Assault serious (GBH)</b>	630,2	589,1	585,9	560,7	535,3
<b>Common assault</b>	569,7	584,3	621,6	605,7	575,0
<b>Robbery aggravating</b>	260,3	260,5	279,2	288,1	272,2
<b>Other robbery</b>	206,5	201,3	223,4	206,0	195,0
<b>Property Crimes</b>					
<b>Arson</b>	20,5	19,5	20,2	19,0	17,6
<b>Malicious damage to property</b>	319,2	324,5	345,6	341,2	323,7
<b>Housebreaking residential</b> -	694,0	675,3	704,0	645,2	592,8
<b>Housebreaking non residential</b> -	209,3	194,4	162,8	139,3	120,3
<b>Theft - motor vehicles</b>	229,0	216,1	204,9	190,0	180,0
<b>Theft – out or from vehicles</b>	459,0	444,6	431,0	370,8	318,8
<b>Stock theft</b>	95,1	92,9	102,7	89,0	70,1
<b>Other types of theft</b>	1281,1	1286,7	1364,6	1307,4	1151,1
<b>Commercial crime</b>	152,4	130,4	123,7	120,4	115,8
<b>Shoplifting</b>	154,9	152,6	151,8	155,0	142,8

Source: South Africa, *Annual reports of the Commissioner of the South African Police, 2001-2005*.

Another noticeable trend in this period is the claim of an increase in attacks against the farming community (“farm attacks”). Much publicity was, and is still given by the

media to incidents of violence in rural areas.<sup>150)</sup> It has proven to be very difficult to obtain statistics on farm attacks *per se*, but the South African Agricultural Union (now known as Agri SA) started collecting statistics on farm attacks in 1991.<sup>151)</sup>

As a result of the increase in farm attacks, the SAPS` s Crime Information Analysis Centre (CIAC) began collecting statistics in 1997.<sup>152)</sup> Farm attacks are defined as attacks “on farms and smallholdings...aimed at the person or residents, workers and visitors to farms and smallholdings, whether with the intent to murder, rape, rob or inflict bodily harm. In addition, all actions aimed at disrupting farming activities as a commercial concern, whether for motives related to ideology, labour disputes, land issues, revenge, grievances, racist concerns or intimidation, should be included.”<sup>153)</sup> This type of crime increased, according to available statistics from 327 incidents in 1991 to 1011 in 2001, representing an increase of 209,17 percent.<sup>154)</sup>

The number of attacks however decreased by 40,59 percent from 1069 incidents in 2001/2 to 636 in 2005/6. The number of murders associated with “farm attacks” decreased by 37,14 percent from 140 in 2001/2 to 88 in 2005/6.<sup>155)</sup> It has been stated that there are disturbing similarities between the incidence of house robberies and farm attacks.<sup>156)</sup> The Committee of Inquiry into Farm Attacks reported in 2003 that it found robbery to be the motive in 89,3 percent of the attacks on farms and smallholdings.<sup>157)</sup>

A combination of three factors could have led to the decrease in certain categories of crime figures as reflected in Table 4. Firstly, the SAPS adopted a pro-active strategy and the *White Paper on Safety and Security* of 1998 outlines the strategy decided upon to deal with high crime levels. It was acknowledged that as far as safety and security is concerned, the government`s policy agenda immediately after 1994 was “firstly to rehabilitate the police...; and secondly to mobilise our people to participate in the provision of safety and security.”<sup>158)</sup>

As far as law enforcement is concerned, three focus areas were addressed in the abovementioned *White Paper* by the Department of Safety and Security namely: improving criminal investigations, active visible policing, and service to victims.<sup>159)</sup> With regard to crime prevention, the initiation, coordination and evaluation of social

crime prevention at all levels of government, and coordination for integrated justice system were identified as the focus areas.<sup>160)</sup> Although, as mentioned earlier, it is not clear whether the police attributed the decrease in certain crime categories to increased police visibility, it would most probably be the case. It was already stated in 1999 that the police needed to become more visible, efficient and effective, especially with regard to the detection and apprehension of criminals.<sup>161)</sup> These proposed actions would have taken a while to take effect and could have had an impact on crime from 2000/1 onwards.

Secondly, there was a significant increase in the number of registered private security businesses since 1997, which indicates that the private sector was starting to take responsibility for its own security.<sup>162)</sup> The impact of the private security sector on crime will be discussed more comprehensively in a later chapter.

Thirdly, as a result of the high incidence of crime in the mid- and late 1990`s, the private sector started to take a more activist approach towards crime. Organised business such as the South African Chamber of Business (SACOB) and agriculture joined forces to combat crime, while political parties such as the Conservative Party suggested patrols, curfews and access controls on farms to curb the emerging trend of farm attacks.<sup>163)</sup> These private sector responses to crime and the impact of private initiatives on crime will also be discussed in detail in a later chapter.

#### 4.2.2. Official responses to crime in the period 2001-2005: A Multi-disciplinary approach in combating crime

By 2002 the Minister of Safety and Security stated that the police should only play a limited role in the combating of crime, and acknowledged the socio-economic causes of crime and the concomitant impact on crime prevention.<sup>164)</sup> In March 2004 the Minister for Safety and Security stated that the JCPS Cluster would:

- Improve the effectiveness of the integrated justice system, consolidate the notion of a single judiciary, improving efficiency in courts, and reduce the backlog of cases pending trial;
- continue to reduce the level of crime, particularly contact crimes;

- deal with organised crime;
- reduce illegal firearms;
- deal with overcrowding in prisons.<sup>165)</sup>

Rural safety was still a controversial issue in 2001. The Commissioner of Police mentioned the existence of a Rural Safety Programme in his 2001/2002 *Annual Report*. It was stated that this “programme focuses on rural areas that are removed from commercial farms [while] a Priority Committee on Rural Safety drives interventions aimed at reducing farm attacks.”<sup>166)</sup> In 2003, although there was an apparent decrease in the number of farm attacks, the SAPS announced *National Guidelines for the Protection of Farms and Smallholdings*, which also addressed the role of the commando system and the proposed reservist system for Rural Safety Protection. The aim was to link this system to the local CPF and the farming community was encouraged to join the South African Reserve Police Service (SARPS) in order to enhance the safety and security of their own communities.<sup>167)</sup>

This was clearly the first phase of replacing the commando system with a rural reservist system. Although farm attacks were on the decrease at the time, the SAPS considered the mere occurrence of these attacks as a threat to rural safety.<sup>168)</sup> On 14 February 2003, the phasing out of the commando system was announced. Agri SA stated that the farming community was concerned that a security vacuum would develop as a result of the closing of the commandos. It was stated by both the Ministers of Safety and Security and Defence that an exit strategy was in place to gradually phase out the commandos and replace it with police units.<sup>169)</sup>

The police further also became involved with public-private partnership projects such as “eBlockWatch”. A pilot project involving 150 police stations was launched in Sandton in November 2001.<sup>170)</sup> Community policing obtained a new meaning with the implementation of “sector policing” as envisaged by the Commissioner of Police. This manifested in the active involvement of the community by means of CPFs and even some radio stations.<sup>171)</sup>

Following the National Anti-Corruption summit in 1999, two more summits were convened with government as the leading role player in 2005 and 2008.<sup>172)</sup> The 1999

summit also, as mentioned earlier, led to the establishment of a National Anti-Corruption Forum (NACF) in 2001, with civil society, business and government being the leading role players.<sup>173)</sup> The main function of the NCAF was to combat and prevent corruption, build integrity and raise awareness.<sup>174)</sup>

In 2001 the SIU was established as an independent statutory body to conduct investigations at the request of the President into allegations of fraud and corruption, mainly in government structures.<sup>175)</sup> The SIU replaced the Heath Investigating Unit, following the resignation of Judge Heath in 2001 as a result of a Constitutional Court ruling that a judge cannot head an investigating unit.<sup>176)</sup> In 2002 Cabinet approved and implemented the Public Service Anti-Corruption Strategy, which contained nine inter-related and supportive considerations deemed essential in the fight against corruption.<sup>177)</sup>

An Anti-Corruption Coordinating Committee was established by Cabinet in 2003 to coordinate anti-corruption activities in the public services.<sup>178)</sup> The Scorpions, founded in 1999, was later replaced by the Directorate Priority Crime Investigations (DPCI), as a result of a Public Service Anti-Corruption Strategy approved by Cabinet in 2002.<sup>179)</sup> The *Prevention and Combating of Corrupt Activities Act*, No. 12 of 2004 came into operation in April 2004, repealing the *Corruption Act*, No. 94 of 1992.<sup>180)</sup> One of the most important provisions of this Act, is that it places an obligation on persons in positions of authority, to report offences committed under certain circumstances as prescribed in the Act.<sup>181)</sup>

Crime started showing a downward trend since 2001 that continued after 2005. Crime trends from 2006-2010 will be discussed in the next section, analysing and providing explanations for these downward trends.

#### **4.3. Crime trends and official responses in the period 2006-2010: High visible policing and continued decreases in levels of some crime categories**

The abovementioned downward trends in some crime categories can, amongst others, be attributed to high police visibility in the preparations for, and during various sport and other events hosted by South Africa in this period.

#### 4.3.1. Crime trends in the period 2006-2010: Increased prominence of corruption

During the period 2006-2010, most serious crime categories continued the downward trend that started in 2000/1. Cognizance must be taken of the fact that the format of annual reports changed significantly over the years and especially since the early 1990`s. The accuracy of crime statistics has also been questioned on several occasions and this must also be kept in mind when discussing crime trends and in the quest for explanations for such trends.<sup>182)</sup> New types of crimes, which occurred previously but were not listed separately, were also now reflected separately in SAPS statistics. These include house robberies and the highjacking of motor vehicles, while the SAPS also started to group all sexual offences together for statistical purposes since 2007.

The *Annual Report of the Commissioner of Police* for 2008/2009 shows that five of the seven categories of contact crime had decreased in the period covered by the report. The only two categories reflecting increases during this period are robbery with aggravating circumstances and the new category covering all sexual offences.<sup>183)</sup>

Contact crimes are crimes in the following categories namely; murder, attempted murder, sexual offences, assault to inflict grievous bodily harm, common assault, robbery with aggravating circumstances and common robbery.<sup>184)</sup> Contact crimes also consist of the so-called 'social fabric' crimes which include murder, assault, sexual offences and domestic violence. SAPS analysts refer to this category as 'social fabric' crimes as these crimes usually occur in private places and between people who know each other, and are therefore seen as to be caused by social and interpersonal factors.<sup>185)</sup>

The abovementioned definition of contact crimes developed by the Crime Information Analysis Centre (CIAC) - now known as the Crime Research and Statistics component of Crime Intelligence - of the SAPS, must be qualified and understood in context. Especially in the cases of murder and assault, these crimes do not always take place in private places, and the victims and offenders are not always known to each other. Murder continued to decrease in the period 2006-2010, except for 2006-

2007, when there was a slight increase from the previous year. It decreased further by 8,9 percent from 18 487 cases in 2007/8 to 16834 in 2010. Trends in the various types of crime in this period under discussion are evident from, and depicted in Table 5.

**TABLE 5: Crime ratios (incidence of crime per 100 000 of the population) in South Africa for the financial years 2006 – 2010**

Crime Categories	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010
<b>Violent Crimes</b>					
<b>Murder</b>	39,5	40,5	38,6	37,3	34,1
<b>Total sexual offences</b>	145,2	137,6	133,4	144,8	138,5
<b>Attempted murder</b>	43,9	42,5	39,3	37,6	35,3
<b>Assault serious (GBH)</b>	484,0	460,1	439,1	418,5	416,2
<b>Common assault</b>	485,3	443,2	413,9	396,1	400,0
<b>Robbery aggravating</b>	255,3	267,1	247,3	249,3	230,6
<b>Common robbery</b>	159,4	150,1	135,8	121,7	116,7
<b>Property Crimes</b>					
<b>Arson</b>	16,3	16,6	15,5	14,1	13,6
<b>Malicious damage to property</b>	307,7	302,5	286,2	275,8	267,9
<b>Burglary- residential</b>	559,9	526,8	497,1	506,5	520,2
<b>Burglary - non-residential</b>	116,0	123,3	131,7	143,8	145,5
<b>Theft - motor vehicles/cycles</b>	183,3	182,1	167,7	156,0	145,5
<b>Theft - out or from vehicles</b>	296,6	261,7	233,4	225,0	245,1
<b>Stock theft</b>	61,3	60,8	60,1	61,7	65,7
<b>Other types of theft</b>	922,7	876,0	826,1	809,5	745,0
<b>Commercial crime</b>	115,6	130,2	136,4	159,1	172,0
<b>Shoplifting</b>	137,9	138,2	140,0	165,9	179,7

Source: South Africa, *Annual reports of the Commissioner of the South African Police*, 2006-2010.

Aggravated robbery comprises seven sub-categories, namely street robbery, car highjacking, truck hijacking, cash-in-transit robbery, bank robbery, house robbery and business robbery. This type of crime remains a threat to all sectors in South Africa,

has a major impact on perceptions of safety, and is mainly responsible for the general perception that crime is out of control. Although the total figure for aggravated robbery decreased by 6,3 percent in the report period of 2008/9-2009/10, it has remained high for most of the previous ten years.<sup>186)</sup> Table 5 reflects increases during the periods 2005/6 to 2006/7, and 2007/8 to 2008/9 respectively, but an overall decrease per 100 000 of the population, from 159,4 in 2005/6 to 116,7 in 2009/10.

Whilst residential and business burglaries started to decrease from 2002/3 up to 2005/6, this started to increase again from 2007/8. Unemployment remained high during this period, resulting in increases in certain crimes. The worldwide economic downturn in 2009/2010, which also affected South Africa, was a further contributing factor to the increase in these crimes. The same explanation can be given for the rise of thefts out of/from motor vehicles.

Crime in rural areas started to increase again from 2006 while the phase-out process of the commandos was in progress. In 2006 the Minister of Agriculture and Land Affairs met with all the farmers' unions - Agri SA, National Farmers Union (NAFU), and the Transvaal Agricultural Union (TAU) - in February 2007 to discuss issues of increasing rural crime. This was indicative of the fact that government realised that the incidence of violent and serious crime in rural areas was becoming a serious threat to national security.<sup>187)</sup>

The taking over of the role of the SANDF commandos and the progress with the process, was also explained in the 2006/2007 *Annual Report* of the Commissioner.<sup>188)</sup> In this report the SAPS admitted that incidents of violence against the farming community had increased by 24,8 percent from the previous year. In response to this increase, the SAPS recruited 18 954 reservists to be deployed in rural areas and to take over the protection role of the SANDF commandos.<sup>189)</sup> The process of closing down the commandos was expedited and the last commando of a total of 186, closed down in March 2008.<sup>190)</sup> It was further announced that the SAPS would take over borderline security from the SANDF by 2009, and that the SAPS would by this time solely be responsible for rural safety with the planned recruitment of 35 000 reservists.<sup>191)</sup>

Commercial crime, while decreasing on a year to year basis since 2000, started to increase in 2005/6 (the 2006 report year) from 137,9 to 179,7 per thousand of the population, representing a 30,3 percent increase. This increase can especially be attributed to tender fraud and corruption in the build up to the FIFA World Cup. Thousands of tenders were requested since the award of this event to South Africa and procurement controls were at times ignored or not properly followed. Corruption in this respect also started to involve well known and high profile politicians as well as high level government employees, although employees on all levels of government were involved.<sup>192)</sup>

It became clear that corruption was escalating to such levels, that it could be regarded as out of control, especially after repeated allegations of corruption were levelled at some Members of Parliament pertaining to the “Arms Deal” and “Travelgate” scandals.<sup>193)</sup> In his State of the Nation address in 2009, the South African President elaborated on the scourge of corruption and stated that “[w]e will pay particular attention to combating corruption and fraud in procurement and tender processes...and theft of police case docket.”<sup>194)</sup> Corruption and fraud concerning tender and procurement processes received special attention in the President’s 2010 State of the Nation address. He stated that government would continue its efforts to eradicate corruption and fraud in procurement and tender processes among others, and that an Inter-Ministerial Committee on Corruption was looking at ways to decisively defeat corruption.<sup>195)</sup>

The crime situation in South Africa as in 2010 was reflected in the *Police Commissioner’s Annual Report* for 2009/2010. The Commissioner announced that three key categories of contact crime (crimes against the person) decreased, namely murder, attempted murder, and robbery with aggravated circumstances. It is stated that for the first time since the establishment of the SAPS in 1995, the reported figure for murder dropped below 17 000 cases, from 26 877 in 1995/6, to 16 834. The decreases of 8,6 percent and 6,1 percent in the occurrence of murder and attempted murder respectively calculated per 100 000 of the population, are amongst others attributed to reductions of 10,4 percent in street/public robbery and 6,8 percent in carjacking. It was also stated that residential and business robberies stabilised nationally.<sup>196)</sup>

During the reporting period 1 April 2009-31 March 2010 a total number of 2 121 887 serious cases were reported in South Africa. Of this figure, 31,9 percent were contact crimes, 26,1 percent were property-related crimes, 25,5 percent other serious crimes, and 10 percent and 6,5 percent were crimes detected as a result of police action and contact-related crimes respectively.<sup>197)</sup> A comparison of crime figures for the 2008/9 and 2009/10 reporting years as indicated in Table 5, and in the Police Commissioner`s 2009/10 report, reflect a decrease in most crime categories since April 2008. The following categories however reflected an increase: serious assault (increase of 0,7 percent); common assault (increase of 2,3 percent); burglary at non-residential and residential premises (4 percent and 2,5 percent respectively); theft out/from motor vehicle (10,3 percent); stock theft (7,8 percent); illegal possession of firearms and ammunition (3,5 percent); drug related crime (15,1 percent); driving under the influence of alcohol or drugs (12,1 percent); commercial crime (9,5 percent); robbery at residential premises (1,9 percent); and robbery at business premises (4,4 percent).<sup>198)</sup> The SAPS attributes this decrease in crime to “[e]xtremely high levels of police visibility...as a result of events such as the 2009 elections, the inauguration of President Zuma, international cricket matches and the Confederation Cup Football tournament.”<sup>199)</sup> The high visibility continued through 2009 into 2010 in preparation for the soccer World Cup which have certainly impacted positively on crime levels.

There was a relatively small increase of 23 658 reported cases in total crime levels, from a total of 2 098 229 in 2008/2009 to 2 121 887 reported cases in 2009/2010, as reflected in the Annual Reports of the Commissioner for this period.<sup>200)</sup> This represents an overall increase in total crime levels of only 1,12 percent. Taking cognizance of the increase in the population (11,4 percent)<sup>201)</sup> over this period, this meant that there was in actual fact a decrease in overall crime levels if population growth is brought into the equation.

Burger (*et al*) state that 97 percent of the increase in the abovementioned total crime levels since April 2008 was mainly driven by increases in the following five property-related crime categories; shoplifting, commercial crime, residential burglary, theft out of motor vehicle, and non-residential burglaries.<sup>202)</sup> It is suggested that the economic downturn since 2007 can be blamed for the overall increase, and especially the

increase in the abovementioned property-related crime categories, although this trend is not mirrored in other countries.<sup>203)</sup>

It is further argued that although aggravated robbery decreased overall by 6,3 percent since April 2008, it has remained at a high level for most of the past decade. The total figure for the aggravated robbery trend “conceals the trends in the sub-categories that are of particular concern to many South Africans. This is particularly the case with the trends in so called ‘trio-crimes’: house robbery, business robbery and car highjackings”.<sup>204)</sup> The reasons for the stabilizing of these types of crimes (although at high levels), are attributed to amongst others technology to reduce vehicle theft and highjackings; the improved ability of the SAPS to address vehicle theft syndicates; improved intelligence; and improved investigation methods.<sup>205)</sup>

#### 4.3.2. Official responses to crime in the period 2006-2010: Internal management and discipline problems and the implementation of a recovery programme

As a result of limited success with previous action plans, government announced a recovery program for the criminal justice sector in 2008.<sup>206)</sup> On 16 February 2007, the Minister of Safety and Security announced the redeployment of “experienced officers” to station level, following an evaluation which *inter alia* revealed that:

- Many of the station commissioners were, at one level, excellent police officers but, on the other, poor managers;
- it was decided to redeploy some experienced police officers from the senior levels to local police stations;
- it became clear that the area office level that was formed, was a superfluous arrangement and not necessary for policing;
- senior and experienced personnel, as well as specialised skills, were concentrated at provincial and area level, and that there was a duplication of functions between the area and station levels.<sup>207)</sup>

It however seems more likely that these changes were made due to the realisation by the SAPS, that many police stations were managed ineffectively and lacked capacity in respect of management skills. This was officially admitted by the SAPS in

2010.<sup>208)</sup> The assumption therefore can be made that the senior management structure is too big in relation to the size of the non-commissioned officer structure and that many posts were created erroneously and/or due to nepotism. This disproportionate ratio of officers to non-commissioned officers has resulted in a shortage of management skills and manpower on the ground.

In 2007, it was stated by the Commissioner of Police that the transformation of the judiciary would be accelerated, guided by the need to institute accountability and to improve the overall functioning of the criminal justice system, particularly with respect to case cycle times and conviction rates.<sup>209)</sup> As far as crime prevention is concerned, it was acknowledged that visibility is the best strategy, but that visible policing was more evident in some areas than in others due to “weak management”, and that the process was being rectified.<sup>210)</sup>

Border control and protection remained a problem and a partnership between the departments of Public Works, National Treasury, Safety and Security, Defence, Home Affairs and Intelligence had been strengthened to deal with the issue. This was deemed a necessary step as a co-ordinated response to the threat of globalised crime.<sup>211)</sup> Continued acts of violence and murders against rural and farming communities “required the police to formulate a comprehensive and holistic strategy to ensure rural safety.”<sup>212)</sup> This rural safety strategy was developed from April 2009 in conjunction with the SANDF, Agricultural Unions, and the Department of Agriculture and Land Affairs. This strategy was formulated along the principles of sector policing and based on the following four pillars:

- improved and enhanced service delivery at local level;
- enhanced cooperation and coordination among all role players;
- improved community safety awareness in rural areas; and
- rural development.<sup>213)</sup>

As far as the combating of corruption is concerned, two more National Anti-Corruption Summits were convened in 2005 and 2008.<sup>214)</sup> In 2008 the Directorate for Priority Crime Investigation, also known as the “Hawks”, succeeded the Directorate

of Special Operations (DSO, or also referred to as the Scorpions). The Hawks were tasked with the investigation of serious categories of crime that were previously the responsibility of the Scorpions. The Directorate for Priority Crime Investigation differs from its predecessor in the sense that it became a division of the SAPS whilst the Scorpions were a division of the National Prosecuting Authority (NPA).<sup>215)</sup> This division focuses on serious organised crime, serious corruption and serious commercial crime.<sup>216)</sup>

In 2010 the SAPS announced that various anti-crime and -corruption priorities were articulated in Government's 2009-2014 medium term strategic framework. More specifically, it was stated that "in 2009/2010 the SAPS focused on setting up partnerships [in order to assist in] ...upholding and enforcing the law through intelligence-driven police operations; [and] preventing, detecting and investigating corruption..."<sup>217)</sup> Special reference was also made to the *Prevention and Combating of Corrupt Activities Act*, No. 12 of 2004.<sup>218)</sup> Increased and intensified action against corruption was also announced in 2009 with the introduction of the Government's *Programme of Action 2009*.<sup>219)</sup>

By 2010, the impact of tender fraud and corruption had taken on such proportions that government decided to appoint a single multi-disciplinary agency and special task team to investigate the extent of fraud and corruption.<sup>220)</sup> It was announced in Parliament that government was already investigating fraud relating to tenders amounting to R25 billion.<sup>221)</sup> On 23 July 2010 President Zuma announced the creation of an Anti-Corruption Task Team to coordinate the work of various units combating corruption. It was announced that the JCPS cluster had been mandated to create an anti-corruption task team to fast-track the investigation and prosecution of cases of corruption.<sup>222)</sup>

Manpower, the nature of and style of policing, as well as discipline do have an influence on crime levels, and therefore its impact on crime will briefly be discussed.

## 5. CRIME, DISCIPLINARY AND MANAGEMENT PROBLEMS IN THE SAPS

An analysis of the SAPS's profile of senior management in 2002 reveals that since 1968, it has increased to a total of more than 70 commissioners/generals (all levels). The 2002 *Annual Report of the Commissioner* does not provide figures in all ranks as was done in later years, but from an analysis of top management posts in the profile, the calculation will be close to correct.<sup>223)</sup> Based on the figure of a total of 134 857 police members (all divisions) in 2003/4, the ratio of commissioner (changed to generals in 2010) per member was more or less 1:2000. This number has increased to a total of 151 generals in 2010 while the total number of police members has increased to 190 199, thus representing a ratio of one general for every 1258 members. If the 500 brigadiers regarded as part of senior management are added to the calculation, the ratio changes to one general for every 291 members.<sup>224)</sup>

The above analysis of the SAPS's profile of senior management further reveals that besides the fact that this number has increased significantly since 2002/2003, it apparently happened without an improvement in discipline. The numbers of generals/commissioners have therefore increased more than tenfold or 1166 percent by 2002/3, and more than twentyfold or 2416 percent by 2010, from a number of only six generals in 1968. At the same time, by 2010, the numbers of non-commissioned officers had since 1968 increased only fivefold from a number of 31 753 to 190 199 members, representing an increase of 533 percent.<sup>225)</sup> This high senior officer to non-commissioned officer ratio can definitely be linked to disciplinary problems in the SAPS since the early years of this century. Junior officers and senior non-commissioned officers are directly responsible for enforcing discipline in the lower ranks. At the end of 2010, although the military rank system had been re-instituted, no appointments had been made in the ranks of lieutenant and major.<sup>226)</sup>

Internal problems related to the policy and management style in the police contributed to escalating and unacceptable high crime levels. Despite a significant growth in the manpower of the SAPS since 2003/2004, and also a concomitant and significant increase in the SAPS's budget, a corresponding output as far as the combating of crime is concerned, was not achieved. The so called 'trio-crimes' which

are serious contact crimes, increased by 75,8 percent from 2003 to 2010. The population has on the other hand grown by a much smaller margin (11,4 percent)<sup>227)</sup> than police manpower (49,3 percent) in the period 2003-2010, while the crime situation has deteriorated to unacceptable levels. A comparison of police manpower, the police budget, and trends in the trio-crimes is shown in Table 6.<sup>228)</sup>

**TABLE 6: Comparison: Police Manpower, Budget, and Crime Figures for Trio-Crimes for the years 2003/4 – 2010/11**

Year	Police Manpower	Police Budget	Total crime figures for Trio-crimes
2003/4	134 857 (* %)	R 22,7 Bn (*%)	26 821 (Basis)
2004/5	149 060 (10.5%)	R 25,4 Bn (11,9%)	25 145 (-6,2%)
2005/6	156 060 (4.7%)	R 29,3 Bn (15,4%)	27 285 (+8,5%)
2006/7	163 060 (4.3%)	R 32,5 Bn (10,9%)	33 049 (+21,1%)
2007/8	173 000 (6.1%)	R 36,4 Bn (12,0%)	38 544 (+16,6%)
2008/9	182 754 (5.6%)	R 41,5 Bn (14,0%)	47 273 (+22,6%)
2009/10	193 240 (5.7%)	R 47,6 Bn (15,7%)	47 142 (-0,27%)
2010/11	201 300 (4.2%) (Increase of 49,3% from 2003 to 2009/10)	R 52,6 Bn (10,5% ) (Increase of 131% from 2003 to 2009/10)	42 183 (-10,4%) (Increase of 75,8% from 2003 to 2009/10)

Source: South Africa, *Annual reports of the Commissioner of the South African Police Service* for the years 2003/4 - 2009/10. Figures for percentage increase or decrease are indicated in brackets. (\* Taken as base figure for calculation.)

A report by the SAPS's National Inspectorate in early 2010 contained evidence regarding the dismal state of discipline in the police<sup>229)</sup>, and in May 2010 the Minister of Safety and Security admitted the problem pertaining to discipline in the organisation. Changes to legislation were announced in order to enhance the powers of the Independent Complaints Directorate (ICD) to prosecute corrupt policemen, and also to improve office discipline.<sup>230)</sup>

In 2009 the name of the Ministry was also changed from the “Ministry of Safety and Security” to the “Ministry of Police” in order to emphasise the fact that government had identified the need for “real operational energy” in police work. This phrase can be interpreted as an acknowledgement of a general trend of laziness, ill discipline and service delivery of inferior quality. It was stated that this strategic change “will contribute to the reduction of serious and violent crimes by the set target of 7 per cent to 10 per cent per annum.”<sup>231)</sup>

On 11 March 2010, the Police Ministry announced that a new military rank system was to be introduced on 1 April 2010. The rationale behind this strategy was mainly to enforce and improve discipline. It was stated that the intention was to improve the quality of the police, while it was acknowledged that a mere change in ranks would not automatically lead to a dramatic decline in crime.<sup>232)</sup>

It was acknowledged that change would not come about immediately, and that the basic premise was to enforce the highest form of discipline within the police. The emphasis was on retraining, re-skilling and policing based on respect for peers, commanders and society in general.<sup>233)</sup>

## **6. CONCLUSION**

In order to place the nature of crime in South Africa in perspective, it was necessary to briefly analyse crime trends since the inception of the SAP to its transformation into the SAPS. Crime trends in the period 1912-1994 must firstly be seen against the background of South Africa`s colonial legacy, and secondly, against the political change in 1948 when the NP was voted into power. Since the inception of the SAP in 1912 policing was military oriented and mainly aimed at controlling the movement of the Black population in South Africa. Ordinary crime was not the main priority. The result of this policing policy is clearly reflected in crime trends and statistics in this era. The NP further increased social control over the majority of the Black section of the population when assuming power in 1948. The emphasis on controlling the movement of the majority of the Black population resulted in increasing unrest, and resistance against this type of legislation and related style of policing.

The 1960`s saw increased unrest and the police increasingly concentrated on unrest and threats of subversion. From the mid-1970`s onward, violence in townships became endemic and a large part of police manpower was used to deal with political violence and unrest. The SAP`s focus on township violence and the protection of SA`s borders against infiltration, resulted in a further increase in what was seen as normal and non-political common law crime. New trends were the increase in drug related offences, vehicle theft and commercial crime. The period prior to political change in 1994 which can be described as the advent of transformation, saw a further and unacceptable rise in total crime figures and also a significant growth in the private security industry.

The period 1994-2000 can be described as the period of transformation. Directly after assuming power in 1994, the ANC government was more concerned with the transformation of the police than with the combating of crime. This resulted in a security vacuum and a rapid increase in most types of crime. New crime trends such as farm attacks, highjacking of motor vehicles, house robberies and cash-in transit robberies emerged. The closing down of the commando system; increases in violent attacks in rural areas; and increased crime in borderline and adjacent areas, forced government to announce various plans and strategies to cope with unacceptable high crime levels.

Corruption became more evident in the late 1990`s. This type of crime received special attention since 1994 and led to the establishing of the Heath Investigation Unit and the Directorate of Special Operations in the late 1990`s, and the Special Investigation Unit and later the Directorate for Priority Crime Investigation since the turn of the century. Corruption, especially pertaining to procurement processes, had escalated to such levels that government announced the creation of a special multi-disciplinary task team in 2010 to curb corruption.

The main trends since 1994-2010 can therefore be summarised as follows:

- A vacuum as far as the combating of crime is concerned immediately after 1994 up to 2000 with an increase in overall crime levels, and specifically robbery with aggravating circumstances. (This category includes the crimes generally termed house robbery and farm attacks which are not listed

separately by the SAPS in crime statistics). This period was also marked by a process of “changing the police” rather than “changing the method of policing”. A direct response to the high levels of crime was the launch of the NCPS in May 1996.

- The period 2001-2005 was marked by decreases in overall crime levels, and especially certain types of serious crime. Some new crime trends such as farm attacks and house robbery mentioned above, received more attention as sub-categories of the category “robbery with aggravating circumstances”, although statistics revealed a decrease in these categories. Decreases in certain types of crime can be attributed to a growth in the private security sector, public initiatives, the implementation of the NCPS, and intensified attempts by the police to combat crime. Corruption also started to receive more attention.
- Since 2006 the levels of the majority of listed crime types of overall crime continued to decrease. This is attributed to intensified police action and visibility during the various international sport events hosted in South Africa in this period, as well as increased public involvement and initiatives in the combating of crime. Corruption also received much more attention due to the exposure of increased corruption in the public sector.
- Large increases in the police budget did not result in similar increases in manpower. This, as well as disciplinary problems linked to a civilian rank structure are also seen as factors that contributed to high levels of crime in the period that was analysed.

The following chapter will briefly discuss the history of the Private Security Industry (PSI) in South Africa in the period before 1994; the factors that contributed to the growth of the industry since 1994; legislation that has been promulgated since then to control the industry, as well as the structure of the industry. Lastly, the industry’s role in law enforcement and the combating of crime will also be discussed.

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## **CHAPTER 4**

# **THE ROLE OF THE PRIVATE SECURITY INDUSTRY IN SOUTH AFRICA**

### **1. INTRODUCTION**

The private security industry in South Africa started to grow at an increasing pace since the mid-1980s, with various factors contributing to this. These factors include political volatility and instability from the 1960s to the early 1990s; the increase in crime; perceptions regarding the efficient functioning of the SAPS and the lack of sufficient security provided by government since the early 1990s; and financial and business considerations and opportunities.

This chapter will analyse the role of the private security industry in South Africa with the emphasis on developments after 1994. It will commence with a brief discussion of the concept of private security, followed by an overview of the origins, regulation and structure, and role and functioning of the industry. This will be done according to three specifically selected periods namely: from 1958 to 1986; from 1987 to 2000; and from 2001-2010. In the period from 1958 to 1986 the perception of a communist threat, and later that of a 'total onslaught' discussed in the previous chapter, contributed to the growth of the private security industry in South Africa at the time. The most important feature of this period was the absence of regulation. The second and third periods of analysis coincide with, and discuss developments following the commencement dates of important legislative instruments, which were intended to improve regulation of the industry.

The development of the private security industry in South Africa is regarded as part of the global trend of privatisation of security in general, in the sense that it gradually started to fill the void left by the inability of government to sufficiently protect the public. In this regard reference is specifically made to the inability of the police to reduce especially violent crime. The political changes in South Africa in the early 1990s had a significant impact on the private security industry. Apart from legislation

promulgated to regulate the industry, factors that contributed to the growth of the industry since 1994; the structure of the industry; and its role in countering crime will be discussed. Cognizance must be taken of the fact that private security officers do not have any special powers similar to that of police officers, and powers they can exercise are equivalent to those of an ordinary citizen.

In order to place the origin, regulation, and role and functioning of the security industry in South Africa in perspective, the concept of “private security”, and the difference between PSCs, PMCs and mercenaries was explained and discussed in an earlier chapter. In view of the categories of, and what is generally considered as private security, the next section will discuss the origin and development of the private security industry in South Africa in the period 1958 – 1986.

## **2. THE PRIVATE SECURITY INDUSTRY IN SOUTH AFRICA IN THE PERIOD 1958 – 1986: ABSENCE OF GOVERNMENT REGULATION**

The origin of the private security industry in South Africa cannot be separated from the country’s political past. Reasons for the establishment of a private security industry in South Africa, as well as its subsequent growth, however go beyond politics. The following sections will analyse the origin and development of the private security industry in the period 1958-1986, as well as its regulation and role.

### **2.1 The origin of the South African private security industry**

Private security in the 1960s, 1970s and early and mid-1980s mainly manifested against the background of a revolutionary climate and a communist threat that was perceived to have existed in this period.<sup>1)</sup> Profit and commercial motives however also played a role in the establishing and development of the industry.

It has been stated by Irish that the private security industry in South Africa differs from that of the rest of the world in the sense that the policy of the NP was conducive to, and contributed to its growth. “The government...assisted the industry by providing mechanisms with which the industry could link up formally and informally with the state security apparatus.<sup>2)</sup> This statement is only partially correct, but must

be interpreted against the background and nature of the security industry since the late 1950s and early 1960s.<sup>3)</sup>

The period 1958-1986 can be regarded as the period in which the private security industry to a certain extent also represented an 'unofficial extension' of the security forces' war against what was then considered a 'total onslaught'. Government utilised the private sector for security purposes in a number of ways to compensate for its lack of manpower. The establishment of the so-called 'home guard' as a security mechanism in the 1960's was for example initiated and supported by government. The SAP also started to train employees of some private in-house security components in the use of firearms in 1961. Security guards employed by the South African Iron and Steel Industrial Corporation (ISCOR) for example received musketry training from SAP instructors.<sup>4)</sup>

Fidelity Guards was one of the first security companies established in South Africa. Founded in 1957, Fidelity Guards in addition to conventional guarding services also offered services such as cash-in-transit and commercial guarding.<sup>5)</sup> The services rendered by Fidelity Guards in the late 1950s and 1960s, are therefore an early indication that the private security sector in South Africa was also established and driven by a profit and commercial motive.

The Security Association of South Africa (SASA) was established in 1965 following a demand from the private security industry for information and advice on industrial and commercial security services.<sup>6)</sup> SASA was registered as a non-profit organisation with the objective to promote the interests of the industry in general, and not of employers as such. It appears as if SASA was the first attempt to regulate the private security industry from within.<sup>7)</sup>

Growth in the private security sector in South Africa continued into the 1970s. It is estimated that the industry was already worth approximately R 141 million in 1978, which is indicative of the fact that profit and commercial motives were some of the important factors contributing to the establishment and growth of the industry in South Africa in this period.<sup>8)</sup> Low salaries and working conditions resulted in high

numbers of members leaving the SAP in the mid-and late 1970s, which led to a period of more than normal growth in the private security industry.<sup>9)</sup>

The inclusion of the private security sector in government's crime combating initiatives was clearly indicated by the then Minister of Police in 1986 at a SASA conference in Johannesburg. The Minister referred to the private security industry as part of the bigger security community and stated that "through preventative measures, such as proper securing of property by private security institutions, a large percentage of crimes is no doubt being prevented. This is a factor to the benefit of the manpower of the police."<sup>10)</sup>

Chubb Holdings' main business in the early 1980s was the provision, installation, monitoring of, and response to alarm systems. Chubb established a sophisticated control room in early 1983 which monitored services to clients with a special category of risks. It was designed to reduce the rate of false alarms and speed up reaction time.<sup>11)</sup> It is estimated that the private security industry was worth approximately R 350 million by 1983, and R 600 million by 1986, an average growth of 18 percent per annum.<sup>12)</sup>

Fidelity Guards at the end of 1986 had the ability, in addition to conventional guarding services; cash-in-transit; and commercial guarding, to also supply a wide range of other services such as national key-point guarding, as well as 24-hour armed patrols and electronic security *via* an affiliate company Rennie's Electronics Security (RES).<sup>13)</sup> Electronic security services included the provision and installation of perimeter protection and alarm systems; fire and intruder detection systems; and communications, radar and radio control services supported by armed reaction services, as well as the maintenance, servicing and monitoring of these systems. Other services at the time included consultancy services, honesty checks (polygraphs), and computer and payroll management services. In 1987 Fidelity Guards had a guard force in excess of 4000, a total workforce of 8500, and a turnover in excess of R 100 million.<sup>14)</sup>

While the extent of crime seemed to have been the main driving force behind the creation of private security companies in South Africa at the time, the growth in the

industry was aided by the revolutionary climate; the emphasis on urban terrorism; the use of the private security industry by government to indirectly increase manpower to counter insurgency; and indirect government support pertaining to training as mentioned earlier.<sup>15)</sup>

Public perceptions as far as the nature of the ANC's armed struggle against the South African government and the South African economy was concerned, certainly played an important role in the growth of the industry. The private security industry was left to fill the void when the SAP started to withdraw partially from conventional policing duties in the late 1970s to counter the emerging revolutionary situation. The SAP was forced to allocate more manpower to counter political violence domestically, as well as to combat the influx of insurgents on South Africa's northern borders. This left the SAP with a lack of manpower to attend to, and address the general crime situation domestically.<sup>16)</sup>

It was to be expected that government would implement additional measures to enhance the levels of security in the country. The promulgation of *The National Key-points Act*, No. 102 of 1980, enabled the private security industry to protect national key-points. This Act, and amendments thereto in the mid-1980s, had broader implications for the security industry as a whole and serves as an example of the role government played in the growth of the private security industry.<sup>17)</sup>

Regarding the lack of manpower experienced by the SAP and the promulgation of *The National Key-points Act*, of 1980, it must be noted that many key-points such as local authorities and other bodies of national importance made use of their own internal security complements known as in-house security.<sup>18)</sup>

Estimates based upon calculations by leading role-players in the industry, placed the total number of private security officers at 300 000 in 1986/7, approximately five times higher than the manpower of the SAP at the time.<sup>19)</sup> Schärf puts the figure at closer to 450 000, based on the opinions of role players in the security industry.<sup>20)</sup> Most of the mining companies and larger multinational companies had their own in-house security components in this period. If this number is added to the estimated number of contract officers, Schärf's estimate of a total of 450 000 security officers at

the time could be close to correct. The mining industry took responsibility for safeguarding its own assets in the 1970s and 1980s, and established formidable in-house security components by the mid-1980s.<sup>21)</sup>

## **2.2 Regulation and structure of the South African private security industry in the period 1958-1986**

The entry of large numbers of private security service providers into the industry led to numerous calls for regulation by various role players. There were different attempts, some more successful than others, to regulate the private security industry in South Africa. The earliest attempt dates back to 1965, with the founding of SASA and other similar bodies.

### **2.2.1 The Security Association of South Africa**

SASA was as mentioned, established in 1965 following a demand from the private security industry for information and advice on industrial and commercial security services.<sup>22)</sup> It appears as if this was the first attempt at self regulation<sup>23)</sup> and SASA had been advocating legislative control of the industry since the 1970s. This was due to a large number of less professional or unprofessional business entities that entered and hampered the industry, mainly as a result of a lack of regulation at the time.<sup>24)</sup>

The majority of members employed in the security industry at the time of the founding of SASA were former members of the various colonial police forces, and SASA therefore began as something of a club of senior security personnel of large companies.<sup>25)</sup> The establishment of SASA is viewed as similar to the attempts by the British Security Industry Association to regulate the British security industry at the time.<sup>26)</sup>

SASA's objectives are spelt out in its constitution as "ensuring the protection of industrial and commercial facilities and assets against 'criminal, subversive and hostile elements'; encouraging the sharing of data, information, experience, ideas and techniques between members; the establishment and maintenance of

professional standards in the industry; the compilation of registers and records of members; keeping the public informed of security matters; and the promotion of improvements in the law relating to the industry.”<sup>27)</sup> SASA made a submission to the then Minister of Law and Order in 1983, requesting regulation by compulsory registration and licensing for private security officers by means of legislation, while at the same time also suggesting wider powers for these officers.<sup>28)</sup>

In 1986 it was announced by the then Minister of Law and Order that legislation had been prepared with the intention to provide for the establishment of a board of security officers tasked with the responsibility to govern and administer the activities, training and conduct of security officers; to maintain, promote and protect the integrity of security officers; and also to ensure the proper performance of their duties in accordance with the law.<sup>29)</sup>

The Minister emphasised the role of the SAP as the “main law enforcing establishment in the Republic...with various powers in terms of legislation. The security industry, on the other hand, has no such powers... [but] render [a] service to the public on request in accordance with the rights which a citizen has under the criminal procedure act [sic].”<sup>30)</sup> The statement by the Minister of Law and Order eventually led to the founding of the South African Security Federation (SASFED).<sup>31)</sup>

## 2.2.2 The South African Security Federation

SASFED was founded in 1986 to establish one principal body to represent the host of associations that existed in the industry at the time.<sup>32)</sup> While SASA was seen as an elite club of senior security personnel of large companies<sup>33)</sup>, SASFED represented various security and security related organisations which included major groupings such as the Chamber of Mines; the Council of Southern African Bankers (COSAB, which was renamed SABRIC in later years); the Local Authority Security Association of South Africa, the South African Intruder Detection Services (SAIDSA); and SASA.<sup>34)</sup> The Chamber of Mines` involvement pertains to the large in-house security complements of the mines in his period. SASFED`s goal was to provide a single national focus for commercial and industrial security to liaise with Government and other relevant parties as and when necessary. The intention was that each

organisation that joined SAFED would be allowed to maintain its independence insofar as decision making was concerned, while SAFED's decisions were regarded as of an advisory nature only, and not binding on members.<sup>35)</sup>

### 2.2.3 The South African National Employer's Association

The South African National Employer's Association (SANSEA) is the result of an amalgamation in 1982 of two security organisations previously located in Kwazulu-Natal and Gauteng. This organisation regarded itself at the time as the voice of employers in the security industry.<sup>36)</sup> Siebrits questions the need for the establishment of a Security Officers' Board (SOB) as was envisaged in the *Security Officers Act* of 1987, as SASA, SAFED and SANSEA were already *de facto* regulators, or rather attempting to regulate the industry.<sup>37)</sup>

### 2.2.4 The South African Council of Civil Investigators

There were various businesses or individuals in this period that offered and rendered private investigative services. Private investigators were however also not regulated, and the South African Council of Civil Investigators was established in 1966 in an attempt to regulate their services. Membership was however voluntarily, and members included "civilian investigators and detectives; tracing and enquiry agents; and some specialised consultants who conduct purely technical investigations such as forensic examination."<sup>38)</sup>

The role and functions of the South African private security industry in the period under discussion need to be analysed in order to obtain a more comprehensive understanding of the status of the industry.

## **2.3 Role and functions of the private security industry in the period 1958-1986**

The private security industry played a supporting role to government in instances where the SAP was not able to provide security to the public, and also to the extent that the SAP was not able to more effectively counter crime in this period.

The promulgation of *The National Key-points Act*, of 1980, which enabled the private security industry to protect premises declared as national key-points, serves as an example of the role government played in the growth of the private security industry.<sup>39)</sup> Protection of national key-points by the in-house security components of different sectors (local authorities, fuel companies and bodies of national importance)<sup>40)</sup>, further supports this view.

An important implication of the Act, and the enforcing and application thereof, is that it created a specialised field of national key-point (NKP) guards which has led to noticeable growth in the private security industry. The promulgation of this Act must also be seen against the background of the insurgency in South Africa in the late 1970s and early 1980s, and the increase in attacks against, amongst others, on national key-points.<sup>41)</sup>

Security risks, and mainly the lack of official security force manpower, therefore necessitated the use of private security at key-points, and also the control and regulation of the private sector security complement protecting these key-points. The amendments to the Act in 1984 significantly extended the powers of the Minister of Defence and also enhanced and expedited the growth of national key-point guarding. This step demonstrates government's support of the industry. In this regard the then Minister of Defence General Magnus Malan stated in Parliament that as long "as efforts are made to in this country to overthrow our structure of Government by violence, we shall have to employ security guards; we shall have to spend money on security and we shall have to create security awareness on the part of the public at large."<sup>42)</sup> The Act was amended a second time in 1985 to enable the Minister of Defence to intervene with and control the appointment of security guards deployed at national key-points.<sup>43)</sup>

As mentioned earlier when discussing the origin of the private security industry in South Africa, the primary services of the private security industry in the early 1980s focused on the provision, installation, monitoring of, and response to alarm systems, while it is also claimed that sophisticated control rooms were established specifically designed to reduce the rate of false alarms and speed up reaction time.<sup>44)</sup> In addition to conventional guarding services; cash-in-transit services; commercial guarding; and

national key-point guarding; services such as 24-hour armed patrols and electronic security were also available in the early 1980s.<sup>45)</sup> A new addition to the existing range of services was electronic security services, which included the provision, installation and maintenance of perimeter protection and alarm systems; fire and intruder detection systems; and communications; radar; and radio control services.<sup>46)</sup>

The main characteristic of this period is the absence of regulation by government of the private security industry, except for the minor regulatory role contained in the *National Key-points Act* of 1980, as amended. Although government played an important role as far as the growth of the industry is concerned, financial motives appear to be the main driving force. Government initiatives and commercial incentives created a new role with more functions to be assumed by the industry.

The period 1987-2000 was a turbulent era in the history of the private security industry. Legislation since 1987 and political changes in the 1990s impacted significantly on the growth, role and contribution of the private security industry. These factors will be discussed in the following section.

### **3. THE PRIVATE SECURITY INDUSTRY IN SOUTH AFRICA IN THE PERIOD 1987 - 2000: POLITICAL CHANGES, TRANSFORMATION AND GROWTH**

The private security industry grew extensively and at an increased rate, especially since the early 1990s. Growth in the private security industry in this period can especially be attributed to political volatility and the unrest situation in South Africa in the late 1980s, and as a response to increasing crime levels. The end of the Cold War, the end of apartheid in South Africa, and the subsequent transformation of both the SAP and the SADF, saw thousands of trained soldiers and policemen entering the private security sector. This was also fuelled by the inability of the SAPS to make an effective contribution to decrease crime levels, and it was realised that the growth in the private security industry required some form of regulation.

The next section will focus on these aspects, discussing the regulation and the structure of the private security industry in South Africa in the period 1987-2000,

followed by an analysis of the role and functions of the private security industry in this period.

### 3.1 Regulation of the private security industry in South Africa

Prior to 1987, there was no legislation specifically regulating the private security industry and very little direct government involvement as far as regulation was concerned. The private security industry was however still subjected to the criminal laws of South Africa and legislation such as the *National Key-points Act* of 1980. The *Security Officers Act*, No 92 of 1987, which introduced the Security Officers` Board (SOB), was adopted in parliament in October 1987, but only promulgated in April 1989. The board members were however only appointed in September 1989.<sup>47)</sup> This was the first legal mechanism introduced by government to regulate the industry, albeit with minimal government intervention.<sup>48)</sup>

#### 3.1.1. The Security Officers Act, Act No. 92 of 1987

The promulgation of *The Security Officers Act* of 1987 was the first specific step towards regulation of the private security industry.<sup>49)</sup> The Act`s goal was “to provide for the establishment of a board, to be known as the Security Officers` Board, to deal with and to exercise control over the occupation of security officer, and for matters incidental thereto.”<sup>50)</sup> Criticism was however expressed over the fact that the Act did not address in-house security, which meant that this section of the industry remained unregulated.<sup>51)</sup> In addition to the fact that the category of in-house security was excluded from regulation, it was argued that the Board lacked the power and capacity to enforce the regulations at the time.<sup>52)</sup>

Although the *Security Officers` Act* was adopted in 1987, it was as stated only promulgated in April 1989, and only fully implemented in the early 1990s.<sup>53)</sup> The SOB, established in late 1989<sup>54)</sup>, was also regarded as totally ineffective and encountered resistance from the security industry since its inception. The Board was criticised from both within and outside the industry which varied from charges of corruption<sup>55)</sup> to third-force activities and incompetency.<sup>56)</sup> The call in the late 1980s for the establishment of a single body to represent the multitude of associations that

existed in the industry at the time, led to the establishment of SASFED as already mentioned. In 1989, SASFED represented 15 individual associations, including SASA and SAIS.<sup>57)</sup> In 1994 it represented 20 national security or security related organisations, including major groupings such as the Chamber of Mines; the South Africa Banking Risk Information Centre (SABRIC); the Local Authority Security Association of South Africa; the South African Intruder Detection Services; and SASA.<sup>58)</sup>

The late 1990s saw further changes in legislation aimed at regulating the private security industry, continued growth, and further resistance to the regulatory body. This followed the recommendations of three task groups established in 1994, mandated to investigate the possibilities of transformation of the industry.<sup>59)</sup> The following section will discuss further legislation aimed at regulation, as well as the impact of the political changes in South Africa on the industry in the late 1990s.

### 3.1.2 The Security Officers Amendment Act, Act No. 104 of 1997

The SOB that was established by the *Security Officers Act* of 1987 was replaced by the Security Officers` Interim Board (SOIB) in February 1999. In accordance with the *Security Officers` Amendment Act*, No 104 of 1997<sup>60)</sup>, the regulatory objectives of the SOIB were as follows:

- To exercise control over the occupation of the security officer;
- to maintain, promote and protect the status of the occupation;
- to ensure that the industry acts in the public interest; and
- to submit reports from time to time to the Minister [of Safety and Security] on the regulation of the security officer industry.<sup>61)</sup>

It must be noted that the objectives of this Act are much wider than the objectives set out in the *Security Officers Act* of 1987. The latter did not mention or ensure the public interest as far as the quality of service is concerned, and neither did it oblige the submitting of reports to the Minister.<sup>62)</sup> In this regard, the *Security Officers Amendment Act* of 1997 therefore represents a major improvement from a period of non-regulation prior to 1987, and from the partial regulation through the *Security*

*Officers Act* of 1987. The SOIB however encountered various problems which limited its effectiveness.

The *Security Officers Amendment Act* of 1997 described a security service as a service rendered by a person to another person for reward by:

- (a) making himself or a person in his employ available for the protection or safeguarding of people or property in accordance with an arrangement concluded with such other person; or
- (b) advising such person in connection with the protection or safeguarding of people or property in any manner whatsoever, but does not include such a service rendered by an employee on behalf of his employer.<sup>63)</sup>

Private investigators were not regulated by the SOB or the SOIB, and there were attempts to set standards for private investigators from within their own ranks. The South African Council of Civil Investigators established in 1966 as already mentioned, changed its name to the South African Council of Investigators in 1987.<sup>64)</sup> At the same time the South African Bureau of Investigators was formed, also with the aim of acting as a watchdog over the private investigating industry.<sup>65)</sup> A third organisation with the aim to regulate private investigators was established in 1999. The aim of this organisation, The Association of Certified Fraud Examiners - South African Chapter, is to regulate a group of investigators with special skills which regard themselves as “forensic investigators” or “fraud examiners”.<sup>66)</sup>

### 3.1.3 The Criminal Law Second Amendment Act, Act No. 126 of 1992 and the Judicial Matters Amendment Act, No. 34 of 1998

The *Criminal Law Second Amendment Act* of 1992 dealt specifically with offences in respect of ‘organisations with a military or similar character’, and prohibited certain organisations to train, equip, or arm supporters of such organisations. It was stated in Section 13 that:

No person shall –

- (a) take part in the control, administration or management of any organization;
- (b) organize, train, equip or arm the members or supporters of any organisation;
- (c) undergo training in any organization, if members or supporters of that organization are organized, trained, equipped or armed in order to usurp some or all of the functions –
  - (i) of the South African Police as contemplated in section 5 of the Police Act, 1958 (Act No. 7 of 1958);
  - (ii) for which the South African Defence Force may be employed as contemplated in section 3(2) of the Defence Act, 1957 (Act No. 44 of 1957), for themselves or such organization.<sup>67)</sup>

As the government did not perceive the security industry as a threat to national security in the early 1990s, the deduction can be made that this legislation was not enacted to regulate the security industry *per se*, but rather to regulate organisations on the extreme left and right of the political spectrum, which posed a threat to safety and security. The deduction can also be made that it was enacted to prohibit the creation of alternative or parallel law enforcement structures by undisciplined members of liberation movements who were against the disbandment of self defence units (SDU's) or similar structures.

This Act was amended in 1998 by the *Judicial Matters Amendment Act*, No. 34 of 1998. Section 16A dealt with acts pertaining to military, paramilitary or similar operations and weapons, ammunition, explosives or other explosive devices. Section 16A (1) states that:

No person shall –

- (a) In any manner train any other person or undergo any training–
  - (i) in the conducting of any military, paramilitary or similar operation; or

- (ii) in any tactical or other procedure applicable to, or required in, the preparation for any such operation or the execution thereof;
- (b) instruct or train any other person or undergo any instruction or training in the construction, manufacture or use of any weapon, ammunition, explosive or other explosive device –
  - (i) for the purpose of endangering life or causing serious damage to property;
  - (ii) for the purpose of promoting any political objective; or
  - (iii) for military, paramilitary or similar purposes;
- (c) assist in any instruction or training contemplated in this subsection, or equip any other person who is so instructed or trained or intended to be so instructed or trained with any such weapon, ammunition, explosive or explosive device or organise or employ two or more such other persons, whether they are so equipped by him or not –
  - (i) for the purpose of endangering life or causing serious damage to property;
  - (ii) for the purpose of promoting any political objective; or
  - (iii) for military, paramilitary or similar purposes.<sup>68)</sup>

It is further stated that the provisions of this act are not applicable to members of the SANDF, the SAPS, the Department of Correctional Services, and a traffic officer or traffic warden acting in accordance with the legislation enacted to establish the organisations or departments by which they are appointed. It is also not applicable to employees of the Armaments Development and Production Corporation of South Africa Limited (ARMSCOR), Denel (Pty) Limited, or employees of any factory manufacturing armaments or arms in accordance with a permit legally issued in terms of related and relevant legislation.<sup>69)</sup>

In respect of any act relating to weapons or ammunition, persons registered as security officers are also excluded from the provisions of this act who:

- (i) in the case of an employer, acts in good faith in rendering a security service for the protection or safeguarding of persons or property or, in the case of an employee, acts in the course and within the scope of his or her employment as such an officer and with a view to the protection or safeguarding of persons or property; or
- (ii) undergoes training in terms of the said Act or any regulation made under the said Act.<sup>70)</sup>

Considering the government's concerns specifically pertaining to the large number of highly trained former SADF, SAP and National Intelligence Agency (NIA) intelligence operators that entered the private security industry, it can be deduced that the enactment of the 1998 *Judicial Matters Amendment Act* was aimed at regulating the private security industry, and therefore indirectly also the actions of the members of the former security agencies. This will be discussed in more detail later in this chapter.

#### 3.1.4 *The Firearms Control Act, Act No. 60 of 2000*

*The Firearms Control Act* of 2000 also serves as a control and regulatory mechanism in the security industry, especially to prevent abuses by security officers who are issued with, and have access to firearms issued for business and protection purposes. This Act in Chapter 1, refers to legislation regulating the private security industry, and also defines a 'security officer' and a 'security service provider'. The content of Section 2 of *The Firearms Control Act* of 2000 which describes the purpose of the Act is of specific importance:

The purpose of this Act is to –

- (a) enhance the constitutional rights to life and bodily integrity;
- (b) prevent the proliferation of illegally possessed firearms and, by providing for the removal of those firearms from society and by improving control over legally possessed firearms, to prevent crime involving the use of firearms;
- (c) enable the State to remove illegally possessed firearms from society, to control the supply, possession, safe storage, transfer and

use of firearms and to detect and punish the negligent or criminal use of firearms;

(d) establish a comprehensive and effective system of firearm control and management; and

(e) ensure the efficient monitoring and enforcement of legislation pertaining to the control of firearms.<sup>71)</sup>

A security officer must further be competent to use and handle a weapon issued to him/her for business purposes. The *Firearms Control Act* of 2000 further prohibits any person from possessing a firearm unless that person holds a licence, permit or authorisation issued in terms of this Act.<sup>72)</sup> A competency certificate must be obtained as prescribed in Section 6 before a person can possess, or handle a firearm. A licence can be issued to a security service provider for business purposes under this act, and such a licence must specify the purpose of the business in respect of which it is issued.<sup>73)</sup> It is further clearly stipulated that the firearm in respect of which a licence is issued, may only be used as specified by that licence. The control that this Act exercises over the security industry is further demonstrated by a prohibition namely that “a security service provider which holds a licence to possess a firearm for business use may only provide the firearm to a security officer in its service who holds a competency certificate.”<sup>74)</sup>

The growth in the industry led to increased realisation that the private security industry was gradually taking over some functions of the police. This new role was due to the increase in the demand for security services following the realisation that the SAP was no longer able to serve all the basic security needs of the public. The changed role and functions of the private security industry in the period 1987 – 2000, and the extent to which it has assumed certain police functions, will be discussed in the next section.

### **3.2 Role and extent of the private security industry**

The role played by, and the extent of the private security industry in the period under discussion, is indicative of the importance of the industry in the broader sense of security on a national level. As far as the role and extent of the private security

industry is concerned, it is necessary to briefly discuss how it's role was perceived specifically relating to crime combating in this period. It is also important to provide an overview of the services provided by the industry, as this is to a large extent a reflection of the type of services that were in demand at the time. It is also an indicator of how clients perceived the role of the industry. Clients include both the government and the private sector.

The role that the private security industry played in this period is firstly a consequence of the development and restructuring of the industry resulting from the revolutionary climate that especially existed from 1987 to 1990, and the role that it was unofficially allowed and requested to play by government. It is secondly also the product of the subsequent demand for security services and market forces created by these circumstances.

The essence of private security in business, commerce and industry is the protection of assets and life. It "plays a role in the protection of private individuals and their property on a client basis. The above functions are performed by managing the potential or actual losses incurred by, or resulting from crime."<sup>75)</sup> The role and functions of the private security industry in the period 1987-2000 have changed in some respects to include services that were prior to 1987, generally regarded as police functions.

The SOIB in 2000 identified six categories of services deemed necessary to be regulated in the private security industry:

- persons such as employers, employees, managers and directors;
- activities and practises to include the type of service and the manner in which it is rendered;
- occupations such as security guard, electronic security technician or private investigator;
- divisions/sectors in the security industry such as contract security, in-house security, guarding, armed security, unarmed security and other types of security to be identified in terms of other criteria;
- relationships such as employer-employee and principal-contractor relationships; and

- objects or equipment used in the provision of a certain type of security service.<sup>76)</sup>

This is very similar to the distinctions between services for regulatory purposes later made by the Private Security Industry Regulatory Authority (PSIRA), which identified 16 different types of security businesses or services. Products and services associated with the pre-1990 period became obsolete and were gradually phased out since the mid-1990s, while new products and services were developed to satisfy a new demand. This demand was partially generated by the industry itself as a result of the development of products marketed to increase security, especially in the context of the violent nature of crime since the early 1990s.<sup>77)</sup>

The industry experienced considerable growth in this period, both in terms of manpower and the number of businesses. The growth in the number of security officers and security businesses was mainly a result of interaction between the changes in the political situation, increasing crime levels, and market forces. There were also a number of mergers that resulted in much bigger private security companies than those that existed prior to 1987. The combined manpower of the private security industry by far outnumbered that of the police.<sup>78)</sup> The industry added much needed manpower which aided the police in the combating of, and prevention of crime, with one company alone for instance adding manpower in excess of 20 000 people to the industry.<sup>79)</sup> The in-house security components on mines were in addition to loss control and crime prevention functions, also responsible for crowd and riot control, and the investigation of crime by mine detectives.<sup>80)</sup> In 1997, the figures for registered private security companies and security officers were 4437 and 115 331 respectively.<sup>81)</sup>

The range of services offered by private security companies in this period illustrates the impact of the private security industry on crime combating and prevention in South Africa. In the 1990s the private security sector was capable of rendering services such as armed banking services (now known as cash-in-transit services); commercial guarding (established in 1970); key-point guarding; general patrols in neighbourhoods; armed response services; and alarm monitoring and installations.<sup>82)</sup>

In this period the private security industry was emerging as an alternative provider of some police (and Defence Force) functions. Key-point guarding was originally the responsibility of the SAP and the Defence Force, depending on the kind of facility, while patrols in residential areas, alarm monitoring and armed response services were mainly the responsibility of the police. The cash-in-transit section of the private security industry, although not a traditional police function, grew rapidly in response to spiralling crime. In January 1997 there were approximately 679 commercial armoured cash-in-transit vehicles operating in South Africa on a daily basis.<sup>83)</sup>

The private security industry also contributed to crime prevention and the combating of crime through the use of technology. The security products sector and specifically closed circuit television (CCTV), was the fastest growing sector in the industry by 1990, mainly due to the realisation by institutions such as hospitals, banks, hotels and shopping malls that there was an increased need for this type of technical assistance to conventional guarding.<sup>84)</sup> This period however also saw the rapid expansion of the armed response sector.<sup>85)</sup> Alarms could be linked to the local police stations prior to 1992 and the SAP responded to alarm signals. This however became a problem due to the high rate of false alarm signals and wastage of police man hours, and the SAP terminated the connection of alarm systems to police buildings in 1992.<sup>86)</sup>

Although some of the abovementioned services may not be traditional police functions, and although the private security industry does not wield the special powers of the police, growth in the abovementioned sectors of the private security industry illustrates its impact on the countering and the prevention of crime. The range of services offered by private security companies, and the capability of rendering certain police functions as mentioned above, is an indication of the importance of the role and extent of the industry. This is emphasised even more by the fact that services such as cash-in-transit which require specialised para-military training, armoured vehicles, and military equipment, are not rendered by either the police or the SANDF.

The role of the private security industry in this period must also be considered against the historical background of local government security, which was seen as

bridging the gap between public and private security. This category of security evolved from the early 1980s to a semi-public security contingent<sup>87)</sup>, and was later to a large extent privatised as a result of changes in politics, market forces and legislation which made the continued use of in-house security difficult and less viable for municipalities.<sup>88)</sup> The use of private security firms by government, tertiary institutions, mines, and all national key-points (such as airports) are quite evident today.

### **3.3 An assessment of the role and functions of the private security industry in combating crime**

Some of the reasons why the services of private security companies in the period under discussion were increasingly used are as follows:

- A private company is driven by a profit motive, and therefore responds sooner than the police, not only to calls, but also to consumer requirements.
- Private security firms are pro-active whilst the police tend to be re-active.
- Private security turned out to be more visible than the police, mainly as a result of larger numbers of paying clients demanding visibility. Police visibility has decreased significantly since the early 1990s.
- The private security sector is the manufacturer and supplier of access control and CCTV systems, a field in which the police cannot compete.
- Insurance companies are increasingly demanding additional security measures such as alarm systems and armed response services linked to these alarms before insurance is provided. The police cannot provide the same service.<sup>89)</sup>

There were however also some arguments against utilising private security companies namely the cost attached to private security services; the fact that security officers did not and still do wield special powers similar to those of the police; private security companies have a responsibility towards, and must answer to their clients, and will usually not become involved or react to incidents where crimes are committed on the premises of, or against entities who are not clients; arrests (in which the police play a major role) have the primary result of a reduction in crime, while private security officers` high visibility have a deterrent effect with the main

objective being the prevention of losses; and lastly the argument that the creation of “enclaves” or “protected areas” which are guarded by the private security sector, only leads to relocating crime and not the reduction of crime as such.<sup>90)</sup>

Other problems identified in the period 1987-2000 were inadequate training; inability to deal with violent crime; unregistered guards; underpaying or non-paying of guards; illegal behaviour and criminality by security officers; and the unfavourable percentages of clients per security officer. Criminality and incompetency are however also not uncommon in the police service.<sup>91)</sup>

The exceptional growth of the security industry in South Africa in the 1990s is attributed to the transformation processes in the SAP and SANDF as a result of political changes in South Africa<sup>92)</sup>; increases in crime levels; the entry of a large number of former soldiers and police officers into the private security market since 1995<sup>93)</sup>; and market forces. Services and products were marketed in a period where crime was perceived to be out of control and the SAPS seen as unable to more effectively control the crime situation.<sup>94)</sup>

This trend continued after 2000, and more stringent regulation of the industry followed. This, as well as related legislation and the role and functions of the industry from 2001 onwards, will be discussed in the next section. It will conclude with an assessment of the current state of the private security industry, specifically also discussing the role of the industry in combating crime.

#### **4. THE PRIVATE SECURITY INDUSTRY IN SOUTH AFRICA IN THE PERIOD 2001-2010: INCREASED GOVERNMENT CONTROL AND REGULATION**

In January 2002, the *Private Security Industry Regulation Act*, Act No. 56 of 2001 was assented to, which led to the establishment of the Private Security Industry Regulatory Authority (PSIRA). It is generally accepted that prior to the entering into force of the PSIR Act, there was limited government involvement as far as regulation of the private security industry was concerned. With the introduction of the PSIR Act, the South African government for the first time in the history of the industry, assumed more regulatory control of this sector. Government was concerned about the large

numbers of skilled former police and military personnel that entered the private sector (and therefore by implication the private security industry)<sup>95</sup>); activities by certain companies such as the recruitment, deployment, supply and training of mercenaries; involvement of private security firms in organised transnational criminal activities inside South Africa and beyond its borders<sup>96</sup>); and the increase in the numbers of private intelligence companies, masquerading as PMCs or risk management and mitigation consultants.<sup>97</sup>

#### **4.1 The regulation of the South African private security industry**

Government realised that the private security industry had acquired capabilities and had undertaken operations which were considered to have infringed or might in future infringe on the public's constitutional rights, and regulation of these practises was therefore deemed necessary.<sup>98</sup>) Government's concern in this regard centred on the investigative and intelligence gathering skills that were acquired by previous members of the SAP and SANDF. There were therefore two important areas of concern, namely the intelligence gathering capability of these individuals, and secondly alleged involvement in activities of a mercenary nature with related involvement in the smuggling of contraband, ivory, precious metals, drug trafficking and other anti-constitutional and criminal activities.<sup>99</sup>)

With the coming into force of the *PSIR Act* of 2001, government assumed more control over the private security sector in South Africa. The regulation of in-house security which refers to security departments or protection services within the organisational structure of large organisations as explained earlier<sup>100</sup>), was also included in the *PSIR Act*. This sub-section will analyse the impact of this and related legislation on the regulation of the private security industry and will also briefly discuss the issue of the regulation of private investigators and private intelligence companies.

Linda Mti, the former South African Coordinator for Intelligence expressed concern about the growth of private security companies and stated that “[d]ue to the complexity of identifying and legislating against these private intelligence companies, it was decided to deal with private armed organisations, which were outlawed except

where established within the ambit of national legislation...The mushrooming of private security companies was driven mainly by former members of the security services.”<sup>101)</sup> The inference can be drawn that the abovementioned concerns pertained to both PMCs and PSCs, although they are interchangeably referred to in various sources as “private intelligence companies”, “private armed organisations” and “private security companies”. The absence of a clear distinction between PSCs, PMCs and mercenary type activities as discussed earlier, remains a problem.<sup>102)</sup>

The main reasons underlying the increased role of the government in the regulation of the private security industry, are set out in a draft policy document of the Department of Safety and Security in 2000. In this document the Department stated that the protection of the national interest must also be considered in respect of potential threats to the state pertaining to ‘third-force’ activities; the possibility of conflict between the activities of private security companies operating outside the borders of South Africa, and South African foreign policy and the possible destabilisation of foreign countries by such companies; and the possibility of conflict between the activities of state security services and private security companies operating within the borders of South Africa.<sup>103)</sup>

#### 4.1.1 The Private Security Industry Regulation Act, Act No. 56 of 2001

The PSIR Act had the main purpose of regulating the entire private security industry. The aim of the Act is described as “[t]o provide for the regulation of the private security industry: for the purpose to establish a regulatory authority; and to provide for matters connected therewith.”<sup>104)</sup> The PSIR Act also incorporates provisions for the drafting of *Improper Conduct Regulations* meant to put in place sufficient procedures and rules of evidence for its enforcement. This was to be binding on all security service providers, irrespective of the fact whether they were registered with PSIRA or not.<sup>105)</sup>

PSIRA is controlled by a council established in terms of the Act. The term board was replaced by a council from the previous 1987 and 1997 Acts. The council consists of a chairperson, a vice-chairperson and three additional councillors appointed by the Minister of Safety and Security.<sup>106)</sup> Section 7 (b) represents a major change from the

boards of the SOB and the SOIB in the sense that persons with a direct or indirect interest in the industry are disqualified to serve as councillors. It is stated that a person may not be appointed as a councillor if such a person:

- (i) has a direct or indirect financial or personal interest in the private security industry; or
- (ii) represents or is a member of a body representing the interests of employers or employees in the private security industry or security officers or any security business<sup>107)</sup>

The functions and accountability of the council and chairperson are described in the Act, as well as the council's responsibility to the Minister of Police as far as its performance is concerned. The Minister of Police's supervisory functions pertaining to PSIRA is also contained in the Act.<sup>108)</sup> The council is further authorised to appoint committees from various sectors, disciplines or interests in the private security industry to advise the council regarding the regulation of the industry.<sup>109)</sup> The council is obliged to appoint a board of directors which must establish administrative structures necessary for the day to day operations of the authority as prescribed in the Act. The directors are responsible to, and must report to the council.<sup>110)</sup>

The industry and PSIRA were at loggerheads from PSIRA's inception. The PSIRA council and some of its directors were amongst others accused of corruption, general and financial mismanagement, promulgating draconian regulations, and a lack of communication.<sup>111)</sup> Advisory committees supposed to have been set up by PSIRA, also did not materialise, and at the end of 2003, PSIRA was openly accused of failure.<sup>112)</sup> A commission was established in December 2003 to review the regulation of the private security industry and also to conduct an investigation into the efficacy of PSIRA.<sup>113)</sup> SASA also made a submission to the Commission on behalf of the industry in which it addressed the issues investigated by the Commission such as foreign intelligence involvement and pseudo companies; private security companies and PSIRA; private intelligence and military companies; and business/competitive intelligence companies.<sup>114)</sup>

Internal problems in PSIRA were however ever present and of such a serious nature that the Minister for Safety and Security in 2008, in terms of Section 11 of the PSIR Act, took over the functions of the council. The Minister appointed a Ministerial Intervention Task Team (MITT) to conduct an in-depth enquiry into the functioning of PSIRA and factors that impeded on its structural effectiveness.<sup>115)</sup> The Task Team uncovered high levels of mismanagement and revealed that the organisation “is in a critical financial position and in dire need of re-alignment in order to conform to the PSIR Act of 2001. The high level of internal mismanagement within the Authority has meant that the new council’s first task will be to stabilise the organisation before it can effectively regulate the industry.”<sup>116)</sup> A new council was appointed in January 2010.<sup>117)</sup>

The PSIR Act provides definitions of ‘security industry’, ‘security service’, ‘security service provider’, and ‘private investigator’. The ‘security industry’ is described as the industry conducted by security service providers, while a ‘security service’ is defined as:

[O]ne or more of the following services or activities:

- (a) protecting or safeguarding a person or property in any manner;
- (b) giving advice on the protection or safeguarding of a person or property, on any other type of security service as defined in this section, or on the use of security equipment;
- (c) providing a reactive or response service in connection with the safeguarding of a person or property in any manner;
- (d) providing a service aimed at ensuring order and safety on the premises used for sporting, recreational, entertainment or similar purposes;
- (e) manufacturing, importing, distributing or advertising of monitoring devices contemplated in section 1 of the *Interception and Monitoring Prohibition Act, 1992, Act No. 127 of 1992*);
- (f) performing the functions of a private investigator;
- (g) providing security training or instruction to a security service provider or prospective security service provider;
- (h) installing, servicing or repairing security equipment;

- (i) monitoring signals or transmissions from electronic security equipment;
- (j) performing the functions of a locksmith;
- (k) making a person or the services of a person available, whether directly or indirectly, for the rendering of any service referred to in paragraphs (a) to (j) and (l), to another person;
- (l) managing, controlling or supervising the rendering of any of the services referred to in paragraphs (a) to (j);
- (m) creating the impression, in any manner, that one or more of the services in paragraphs (a) to (j) are rendered.<sup>118)</sup>

A 'security service provider' is described as "a person who renders a security service to another for remuneration, reward, fee or benefit and includes such a person who is not registered as required in terms of this Act."<sup>119)</sup> The definitions of a 'security service' and a 'security service provider' are very wide and include all services currently rendered in the industry and regulated by PSIRA.<sup>120)</sup>

The Act also deals with the requirements for, and disqualification of security service providers. It deals with the requirements to which a natural person as service provider must be compliant with before he/she can be registered with the authority as a service provider, as well as the disqualification of certain categories of persons.<sup>121)</sup> The Act disqualifies any person permanently employed by the Police Service, the DSO or Scorpions, the National Intelligence Agency (NIA), the South African Secret Service (SASS), the SANDF, or the Department of Correctional Services to register as a security officer while so employed. It therefore attempts to prevent corruption by members of the abovementioned services.<sup>122)</sup> Consideration however needs to be given to implement more stringent measures in order to prevent all SAPS members from rendering private security services, also on an indirect basis. Allegations of corruption, abuse of power, police equipment and vehicles by SAPS members who operate in the security industry, are common.

#### 4.1.2 The regulation of private investigators and intelligence operators

Controversy existed and still exists, regarding the regulation of private investigators; private intelligence companies; private military companies; and business/competitive intelligence companies.<sup>123)</sup> This controversy emanated from the mid-1990`s when large numbers of SAP and SANDF members entered the private security industry following transformation in these forces. In June 2003 the Minister of Intelligence Services expressed specific concern in this regard:

We are particularly concerned about the proliferation of private intelligence companies, which have tended to pose as private security companies or risk management consultants. We have discovered...that these companies have had unlimited access, paid for, to banking details, health details and personal details held at the Department of Home Affairs, a blatant infringement of the constitutional rights of the citizens of this country.

We have concluded that that there is a need to tighten our laws around this, in a clear and very precise manner.

Let me first indicate that former members of the Intelligence Services are restricted by the Intelligence Services Act of 2002 from engaging in private intelligence work within three years of termination of service.<sup>124)</sup>

Private security companies that are involved in intelligence activities such as private investigations; and the manufacturing, possession and selling of interception devices, are obliged to register with PSIRA which falls under the political supervision of the Minister of Police. The *Regulation of Interception of Communications and Provision of Communication-Related Information Act*, No. 70 of 2002, further prohibited the manufacturing, possession, selling and use of interception devices.<sup>125)</sup> Only law enforcement agencies and private entities registered with PSIRA are allowed to manufacture, possess or sell these devices. It is also stated that "intelligence is a secret state activity to understand any threat to national security and thereafter to

advise policy makers on steps to counteract such threat. It is an activity performed by officers of the State for state purposes.”<sup>126)</sup>

As mentioned earlier, a Commission under the auspices of the Ministry of Intelligence Services was established in December 2003 to review the regulation of the private security industry. The main focus of this commission was to review existing statutory oversight of intelligence structures at the time and specifically with regard to private security companies; private intelligence companies; private military companies; business/competitive intelligence companies, and private investigators.<sup>127)</sup> The mandate of this Commission was also extended to investigate the efficacy of PSIRA in general, which has had a major impact on the regulation of private security companies.<sup>128)</sup>

A private investigator is defined in the PSIR Act as a person who, “in a private capacity and for the benefit of another person, investigates the identity, actions, character, background or property of another person, without the consent of such a person...”<sup>129)</sup> The definition excludes auditors, accountants, attorneys, advocates or forensic scientists conducting investigations in the normal and reasonable course and scope of their professional functions and certain categories of internal investigators conducting normal and reasonable investigations into employee misconduct and investigations which a business may undertake in the course and scope of its normal and reasonable endeavours to safeguard its security, strategic, operational or business interests. It is important to take note that the definition stipulates that no person is excluded from the definition of a private investigator if he or she conducts any investigation which falls within the exclusive function of the state.<sup>130)</sup>

Private intelligence companies are regarded by government as “private security companies that are involved with intelligence activities [such as] private investigation, manufacturing, possession and selling of interception devices...”<sup>131)</sup> The Commission found that the activities of private intelligence companies were a threat to national security if such companies act as a front for foreign interests with the intention to cause harm to the South African State; if they engage in unlawful covert collection of information; and if a disclosure of such information poses a threat to national security. These activities can further be broken down in two categories namely activities where

individuals access information and distribute such information to individuals whose intention it is to either undermine the state or give undue advantage to a foreign state; or activities where individuals supply false information such as that contained in the Meiring Report or the “Browse Mole” document with the intention of sowing dissent.<sup>132)</sup>

The importance of the regulation of private investigators and private intelligence operators must be seen in the context of section 1(e) of the PSIR Act which refers to devices contemplated in section 1 of the *Interception and Monitoring Prohibition Act*, No. 127 of 1992; and section (f) of the PSIR Act referring to persons performing the functions of private investigators.<sup>133)</sup> The Commission’s Report resulted in another Report to the Minister of Intelligence<sup>134)</sup> in 2006, and eventually in 2008 in the drafting of the *Intelligence Services Amendment Bill* (B37-2008), the *National Strategic Intelligence Amendment Bill* (B38-2008), and the *Protection of Information Bill* (B28-2008). These Bills were withdrawn in October 2008 by the Parliamentary Portfolio Committee after an impasse on the proposed treatment of private intelligence companies. The *Intelligence Services Amendment Bill* (B37-2008) as well as the *National Strategic Intelligence Amendment Bill* (B38-2008) were eventually incorporated in the *General Intelligence Laws Amendment Act*, No. 11 of 2013, assented to on 19 July 2013. The (revised) *Protection of Personal Information Bill* (POPI - B28-2008) was assented to and signed into law by the President on 19 November 2013.<sup>135)</sup>

The Commission’s findings have also resulted in the drafting of the *Private Security Industry Regulation Amendment Bill* in 2012 (B 27—2012).<sup>136)</sup> The most important feature of this Bill is the controversial changes proposed to the ownership of security companies, ostensibly to address an increased threat to national security. It has been adopted by Parliament and referred to the President for assenting. If signed into law, foreign ownership of a security service provider operating in South Africa will legally be restricted to a maximum of 49 per cent. By March 2015 this Bill had still not been signed into law.<sup>137)</sup>

Other legislative instruments also contributed to, and enhanced indirect regulation of, and control over the private security industry in the period under discussion.

#### 4.1.3 The Private Security Industry Regulations of 2002 and related legislation

Certain sections of *The Private Security Industry Regulations of 2002*; *The Firearms Control Act of 2000* referred to earlier; the *Criminal Procedure Act, Act No. 51 of 1977*, as well as the *Firearms Control Regulations of 2003* play a role in the regulation of the private security industry in South Africa. *The Firearms Control Act, Act No. 60 of 2000* together with the 2003 *Firearms Control Regulations* as already mentioned, serves as an indirect control and regulatory mechanism in the security industry in order to prevent abuses by security officers who are issued with and have access to firearms. In-house and contract security firms` controls over firearms have been lax and the situation was abused over the years as far as the issuing, storage and use of weapons are concerned. With the implementation of the *Firearms Control Act* and its Regulations on 1 July 2004, “a number of stricter control measures were placed on security companies and security officers. A first general restriction was the upping of the age limit to 21 years...Secondly, a security company having licenses for firearms for business use may only provide such licensed firearm to a security officer in its service who holds a competency certificate.”<sup>138)</sup>

The *PSIR Act* further also incorporated provisions for the drafting of a new “Code of Conduct” for the industry, meant to complement the *Improper Conduct Enquiries Regulations* referred to earlier.<sup>139)</sup> The *Code of Conduct for Security Service Providers of 2003* must also be read in conjunction with the contents of the Regulations of 2002 issued in accordance with the *PSIR Act*. The *Private Security Industry Regulations of 2002* stipulate that a security business which renders a security service “requiring the possession or use of a firearm, must lawfully provide a suitable firearm for that purpose and may not require or permit a security officer employed by the security business to obtain or provide a firearm for that purpose.”<sup>140)</sup> A security officer may for official purposes only use and possess a firearm legally provided by the employer, which rules out the use of private weapons.<sup>141)</sup> Certain offences specifically pertaining to the control of business weapons are created by the regulations. Section 49 of the *Criminal Procedure Act of 1977* further only permits the use of firearms under certain circumstances.<sup>142)</sup>

#### 4.1.4 The establishment of the Government Security Sector Council

The *National Key Points Act* of 1980 as amended, played (and still plays) an important role not only by contributing to the growth of the private security industry, but indirectly also served as a regulatory tool in the period 2002-2010. This Act led to the establishment of a Government Security Regulator in 2004, which had significant regulatory value.

In 2004, government identified certain shortcomings as far as security related to government and government functions were concerned. These shortcomings specifically pertain to the coordination of initiatives to reduce crime; the management of security; and anti-corruption measures. It was found that the protection and security function in the national government departments was largely un-coordinated, and certain recommendations were made in this regard. It was decided that a Government Security Regulator be established to assume responsibility for coordination of such initiatives, which eventually culminated in what is known as the Government Sector Security Council. The responsibility for the enforcing of and the administration of the *National Key Points Act* was as a result transferred from the Department of Defence to the Department of Safety and Security in February 2004.<sup>143)</sup>

It was recommended that functions related to government security specifically be located in the SAPS; that certain standards be provided for security provisioning and physical security; that a security regulatory service be provided to all identified strategic installations, including national key-points; that the *National Key Points Act* be administered by the SAPS; and that responsibilities in this regard also be transferred to the SAPS. The Government Security Regulator, the GSSC was subsequently established as a component of the SAPS's Division: Protection and Security Services.<sup>144)</sup>

This was strategically a prudent decision considering that for purposes of oversight and control, PSIRA is in any event obliged to report to the Ministry of Police (prior to 2009 the Ministry of Safety and Security), in terms of the PSIR Act. The purpose of the Government Sector Security Council is described as the "provision of security

standards for physical security, training and compliance to standards and legislation in the Government sphere, Strategic Installations and National Key-points”.<sup>145)</sup> This meant that the quality of all national key-point guards now became the joint responsibility of the SAPS and PSIRA.

In 2007 the draft *National Key-point and Strategic Installations Bill* was made available for comment. The Bill was “to provide for the declaration of national key-points, including Strategic Installations and Places of Importance...to regulate the measures and standards for safeguarding thereof; repeal of laws; and for matters connected therewith.”<sup>146)</sup> The concept “security” is described in the Bill as follows:

**security** means, but is not limited to-

- (a) information security, including document security;
- (b) physical security measures for the protection of the National Key-point, Strategic Installation and Place of Importance;
- (c) information and communication technology security;
- (d) personnel security;
- (e) contingency planning; and
- (f) administration, provisioning and organisation of the security function of a National Key-point, Strategic Installation or Place of Importance.<sup>147)</sup>

Subsection (b) has direct bearing on the private security industry and specifically guards, namely provision of the protection of national key-points by private security companies. In this regard, the objects of the Bill are stated as the ensuring of efficient and effective control over; and optimum security at national key-points, Strategic Installations and Places of Importance, after being declared as such by the Minister of Safety and Security (now Minister of Police). The Minister would acquire powers very similar to those given to the Minister of Defence by the *National Key-points Amendment Act*, No 47 of 1985.<sup>148)</sup> The Police Ministry announced in May 2013 that the *National Key-points Act* was being reviewed, but by November 2014, no new amendments materialised.<sup>149)</sup>

#### 4.1.5 Growth of the private security industry in the period 2001-2010

It is argued by Bodnar that “effective disarmament, demobilization and reintegration programs...[of the police]...led to more people turning to private security companies for employment.”<sup>150)</sup> The impact of this restructuring became more evident since the late 1990s and early 21<sup>st</sup> century.<sup>151)</sup> Exceptionally high crime figures, real or perceived, as well as increases in the prevalence of violent crime in South Africa since 2001 contributed to the growth in the private security industry.

South Africa experienced the same trends in the private security industry that manifested worldwide, and also for much of the same reasons. In 2002 the Minister of Safety and Security acknowledged the socio-economic causes of crime and its impact on crime prevention.<sup>152)</sup> Global changes, socio-economic disparities between certain sections of the population, and spiralling crime, played an important role in the growth and the further development of the private security industry. Growth led to increased differentiation of and specialisation of services, which in turn led to changes in the structure of the industry.

The private security industry in South Africa followed international trends as far as growth and the reduction in the monopoly of state policing are concerned. Johnston argues that there are various reasons for this growth, and why public police forces should be supplemented by private security. Reasons for the increase in private security services that can be applied universally are the encouragement of citizen-based policing initiatives by the state and high levels of reported crime; increases in the public's fear of crime; increases in the number of demonstrations, bombings and hijackings; increased property ownership with a concomitant capacity to pay for the protection of property; and lastly, a developing perception that understaffed and overburdened police forces are unable to stem a rising tide of crime.<sup>153)</sup>

In South Africa, private military and security companies also followed international trends with the distinct feature of clear corporate structures. Security product suppliers also emerged in South Africa, which is seen as a logical development from the privatisation of military goods production (armaments industry) as in Europe and

the US. In South Africa, in addition to transformation of the SAPS and SANDF, market forces and perceptions of high crime levels also played a role.<sup>154)</sup>

The growth in the private security industry in South Africa has however outstripped other countries by far, and according to the SAPS, the South African private security industry is now perceived to be the largest in the world when measured as a percentage of the Gross Domestic Product (GDP). In 2000, the private security sector in South Africa for example contributed approximately 1,25 per cent of the GDP compared to only 0,3 per cent in the US and some European countries.<sup>155)</sup>

The following reasons for the growth in the private security industry applicable to South Africa are mentioned: increased property ownership (including shopping malls and entertainment centres) and the capacity to pay for security; the perception that the police are unable to protect the public; insurance companies that are increasingly insisting on private security measures as a requirement for insurance; government outsourcing to private security businesses; and the adage of “security breeds security”. This means that businesses and home owners will follow trends set by other businesses and home owners.<sup>156)</sup>

In South Africa, the biggest growth since the 1990s has been in the guarding sector.<sup>157)</sup> The number of active security officers increased from an estimated 115 331 in 1997 as already mentioned, to 210 000 in 2002.<sup>158)</sup> In 2005 the number of security officers registered increased to 283 359, an increase of 145 percent since 1997.<sup>159)</sup> In March 2007 PSIRA`s database indicated that a number of approximately 900 000 security officers were registered with the the body. Of these, 301 584 were depicted as ‘active security officers’, with 51 percent of them registered in Gauteng.<sup>160)</sup>

The industry was valued at approximately R 14 billion in 2004<sup>161)</sup>, while PSIRA put the value at R 30 billion in 2007.<sup>162)</sup> A large part of in-house security has been outsourced and replaced by contract security groups since the late 1990s.<sup>163)</sup> This is especially evident at national key-points, banks and mining houses.<sup>164)</sup> Minnaar however posits that in 2007 it appeared as if the largest number of guards were deployed in the in-house sector (municipalities, large mining houses, oil companies

and banks), followed by contract guarding services and the alarm response sector.<sup>165)</sup> This implies a significant change from the late 1990s as far as the ratio of contract to in-house security is concerned. The South African Institute for Race Relations (SAIRR) estimated the value of the industry to be approximately R 50 billion at the end of 2010.<sup>166)</sup>

## **4.2 The role of the private security industry**

This section analyses the current role of the South African private security industry with reference to specific services available, as well as the gradual assumption of certain police functions by the private security industry. The section will commence by discussing the growth and categories of services available from the industry according to PSIRA`s classification of services.

### **4.2.1 Categories of security services available in South Africa**

The South African private security industry has undergone major growth since the late 1990s. According to Minnaar, this growth was not only reflected in terms of numbers of officers and businesses, but also in terms of a proliferation and expansion of different areas of specialisation. Service providers specialise in various types of security services, although guarding and protection services seem to remain the core functions.<sup>167)</sup> PSIRA broadly divides services in the industry into sixteen broad categories for purposes of registration and regulation.<sup>168)</sup> These are:

- Guarding and/or patrolling services;
- safeguarding of assets in transit;
- provision of close personal protection or body guarding;
- provision of advice on the protection of persons or property, any other security service or the use of security equipment;
- reaction or response services;
- ensuring safety and order on premises and events;
- manufacturing, importing, distribution or advertising of monitoring devices;
- private investigations;

- provision of security training or instruction;
- installation, servicing or repairing of security equipment;
- providing the services of a locksmith;
- the monitoring of signals from electronic security equipment and operating a security control room;
- making persons or their services available for rendering security services;
- provision of security at special events;
- car watch or related activities; and
- other. (This category makes provision for all other activities not categorised under the headings above).

Guarding and/or patrolling services include commercial, industrial and residential services, irrespective whether the guard is armed or not. This is the first component of the private security industry that normally expands significantly.<sup>169)</sup> Following several mergers and acquisitions since the late 1990s, Bidvest Protea Coin, Fidelity and G4S are currently the biggest service providers in South Africa.<sup>170)</sup> This category has grown from a number of 3410 registered businesses in 2005, to a number of 6324 in 2010.<sup>171)</sup> Cognizance must further be taken of the fact that this number excludes businesses in the categories of cash-in-transit and armed response which were prior to the inception of PSIRA, not listed separately.

Safeguarding of assets in transit also includes the provision of secure transport. The provision of security services relating to cash-in-transit and assets-in-transit has grown into a specialist field in South Africa.<sup>172)</sup> This service has developed following the increase in robberies of vehicles transporting large amounts of cash and other valuables since the mid- and late 1990s. This type of business grew from 856 registered businesses to 2300 in 2010.<sup>173)</sup>

The provision of close personal protection of high profile persons traditionally used to be the function of the police. This function has also gradually been supplemented by private body guards. A total number of 2776 Close Protection Businesses (CPO) was registered in 2010.<sup>174)</sup> The provision of advice or consultancy work in the security industry is a new development in the industry. Regulation of advisors in this category

was deemed necessary in order to prevent criminal elements being furnished with information and/or advice that can be used to commit crimes or acts of terrorism. A total of 2572 consultants or consultancy firms were registered in 2010.<sup>175)</sup>

Car watch or related activities developed since early 2000 into a distinct category. It is suggested in reports to the SOIB in 2000 that the crime rate had decreased where car guards were deployed.<sup>176)</sup> It was however proposed that activities performed by these persons be regulated in order to protect the public against certain criminal elements with a propensity to act as car guards.<sup>177)</sup> This category has grown significantly from totally unregulated at the inception of PSIRA in 2002, to more than 2000 registered Car Watch businesses in 2010.<sup>178)</sup> The category “other” makes provision for all other activities not falling into other categories discussed above. A number of 446 businesses were registered under this category in 2010.<sup>179)</sup> The services available from the private security industry are of a diverse nature, and various specialised fields of service have developed, emphasising the importance of the role the industry insofar as the combating of crime is concerned.

#### 4.2.2. Gradual assumption of police functions by the private security industry

Reduced personnel numbers and a lack of resources which detrimentally affected the quality and level of police service, led to the perception that the SAPS was not able to deal adequately with crime in the country, and that they therefore needed the assistance of the private security industry. “Today, the debate is no longer about whether the private security industry should perform functions traditionally within the preserve of the public police, but where the authority of the private security industry ends and responsibility of the public police begins.”<sup>180)</sup> This process has seen the industry increasingly beginning to perform functions regarded to be the sole preserve of the police.<sup>181)</sup>

Private security companies have not only assumed security services related to information technology (IT), but also the guarding of government property such as government buildings and vehicle pounds. Private security companies have therefore become much more visible in public areas.<sup>182)</sup> Minnaar posits that the overall prominence and presence of private security officers in spaces open to the public

such as shopping malls, car parks, and access points at gated neighbourhoods and security estates, is much more notable than that of the police. This is in sharp contrast to the relative absence of uniformed public police, both SAPS and metro officers.<sup>183)</sup>

Consultants and experts in various fields are also hired by clients to provide a variety of services.<sup>184)</sup> Such contract security services can include:

- heading a client`s risk management operations;
- human resources services;
- advice on matters such as security policies and procedures;
- assessing, and identifying weaknesses in the client`s security system;
- assessing, and providing advice on the client`s security systems and technology such as surveillance and access control systems;
- investigating incidents of crime;
- the deployment of undercover agents into the client`s workforce; and
- liaising between the client and state law enforcement.<sup>185)</sup>

Commercial crime and related investigations have been outsourced by government departments to private investigators for more than a decade now. Schönreich postulates that forensic accounting firms have employed large numbers of former commercial crime detectives, thereby in effect privatising the SAPS`s commercial investigation capacity.<sup>186)</sup>

The security industry transformed and adapted quickly to changing opportunities and market conditions. Mergers and acquisitions created large companies in the security sector, the extent of which has not been seen in South Africa previously.<sup>187)</sup> This restructuring in the industry created firms capable of delivering a variety of services which should constitutionally and in terms of the *Police Act* of 1995, be the responsibility of the SAPS.<sup>188)</sup> Although the police still to an extent perform a number of these services, services such as armed response; security at public events; patrolling of residential areas; and the investigation of certain types of crime, are now to a large extent being performed by private security companies.

An analysis of the websites of large companies such as Bidvest Protea Coin, Fidelity, G4S, ADT and Omega Risk Solutions, reveal that these groups have the capacity to render services in areas that were traditionally seen as the domain of the police.<sup>189)</sup> Except for cash-in transit services (which is exclusively a private security industry initiative), guarding (including commercial, industrial and residential guarding services, irrespective whether the guard is armed or not); patrolling and armed response services; events security or crowd control at sport, entertainment and other large entertainment events; and private investigations, are all available from private security firms.<sup>190)</sup> The provision of security at large public and sport events which was the sole preserve of the police until the late 1990`s, has now to a large extent been contracted to private security groups.<sup>191)</sup>

Reaction or response services are in effect a duplication of the SAPS`s response service or ‘Flying Squad’, and crime prevention responsibilities. This is in fact constitutionally still the primary function of the police. This function has however, also to a large extent been assumed by private security companies. The monitoring of alarms and armed response has as mentioned previously, developed mainly as a result of human resource and financial constraints in the SAPS, with false alarms further increasing the burden.<sup>192)</sup>

The armed response sector has also seen the largest increase in the number of vehicles, estimated at approximately 70 000 in 2007.<sup>193)</sup> The number of reaction businesses grew from 743 in 2005 to 2836 in 2010.<sup>194)</sup> The SAPS now officially admits that the private security industry has diversified its range of services to cut across many categories, not only resulting in blurring the divide between private security, private intelligence and private military services, but also in the private security industry performing functions that used to be the sole preserve of the police.<sup>195)</sup>

#### **4.3 An assessment of the role of the private security industry in South Africa in the combating of crime**

South Africa has the advantage of a well-developed and regulated private security sector which is capable, and has the expertise and capacity to fulfil certain functions

that have traditionally been the responsibility of the police, such as responding to alarm signals; patrolling of residential areas; responding to incidents regarded as threatening; guarding of certain government buildings and national key-points; and the investigation of certain types of crime. The trend towards the increased use of private security services by the South African public, is to a large extent based on perceptions pertaining to safety, which include the prevalence of crime and perceived police incompetence. This will subsequently be discussed.

#### 4.3.1 Public perceptions of private security

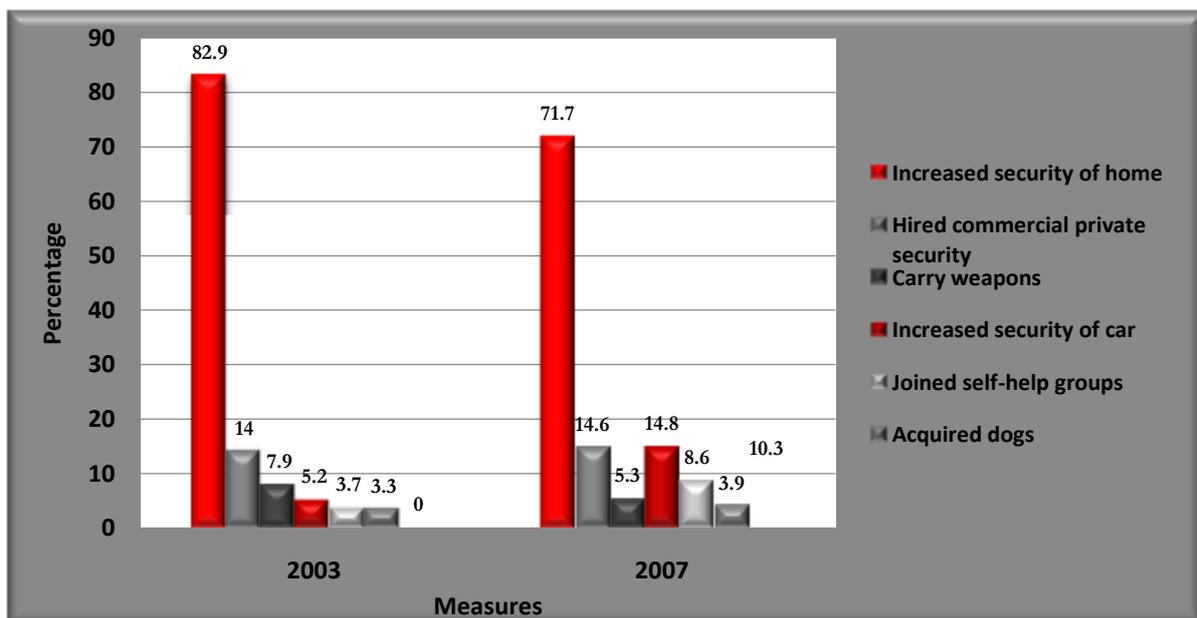
The private security industry in South Africa is regarded as the largest in the world if measured in terms of contribution to the country's GDP.<sup>196)</sup> The size of the industry is to a large extent as mentioned above, the result of public perceptions about the police, safety, security and crime levels; the performance and ability of the police to manage high crime levels; and the public's perception on the role of the private security industry in contributing to safety and security. Surveys conducted in this regard can be used as a barometer to determine the general perception of the public as far as the private security industry is concerned. Negative perceptions pertaining to crime, safety and service delivery by the police, may, and normally do have, a converse effect on the private security industry in terms of an increased demand for private security services. Members of the public are since early 2000 more likely to come into contact with a private security officer than with a member of the police. This has added to the perception that the "SAPS is unable to deal adequately with crime in the country and that the SAPS needs to look at the private security industry for assistance."<sup>197)</sup>

Survey results released by the Institute for Security Studies in 2008, reveal that despite an overall decline in the crime rate since the turn of the century, 57 per cent of people interviewed in 2007, felt that crime levels had increased. This contradiction between crime figures and public perceptions regarding safety, is indicative of the public's feelings on the inadequacy of the government's response to the extent of crime, and whether enough is being done to address these concerns. In this regard it was stated that "(w)idespread pessimism regarding the government's handling of crime is strongly suggested by the finding that South Africans continue to perceive

crime levels to be worse than is suggested by the victimisation data; and that more respondents said they believed that the crime situation is worsening.”<sup>198)</sup>

The abovementioned survey also showed that feelings of safety had declined in general since 1998, and that respondents had increasingly taken measures to protect themselves or their households from crime as indicated in Figure 1.

**FIGURE 1: Measures taken by South African citizens to protect themselves from crime in 2003 and 2007**



Source: ISS, *Victims of Crime Survey*, December 2008

In 2007, 46 per cent of South Africans have reported taking protection measures of some kind. This includes measures to increase the security of their home (72 per cent); hiring security guards (15 per cent); and increasing the security of vehicles (15 per cent).<sup>199)</sup> The survey shows that there was a decrease in measures to improve the security of their homes and the carrying of weapons, but increases in the hiring of private security companies, security for vehicles, the joining of self-help groups and other measures.

Other measures, although not mentioned in the survey, might include measures such as establishing gated communities or enclosures. It is also not clear whether the category 'private security' includes armed response services, and whether 'self-help groups' include neighbourhood watch groups. While the actual crime figures are according to some institutions not reliable, the way crime is perceived and the way the public reacts, are more important than the actual data. It is this perception that leads the South African public "to turn to private security for protection out of the belief that the police were not carrying out this task adequately."<sup>200)</sup>

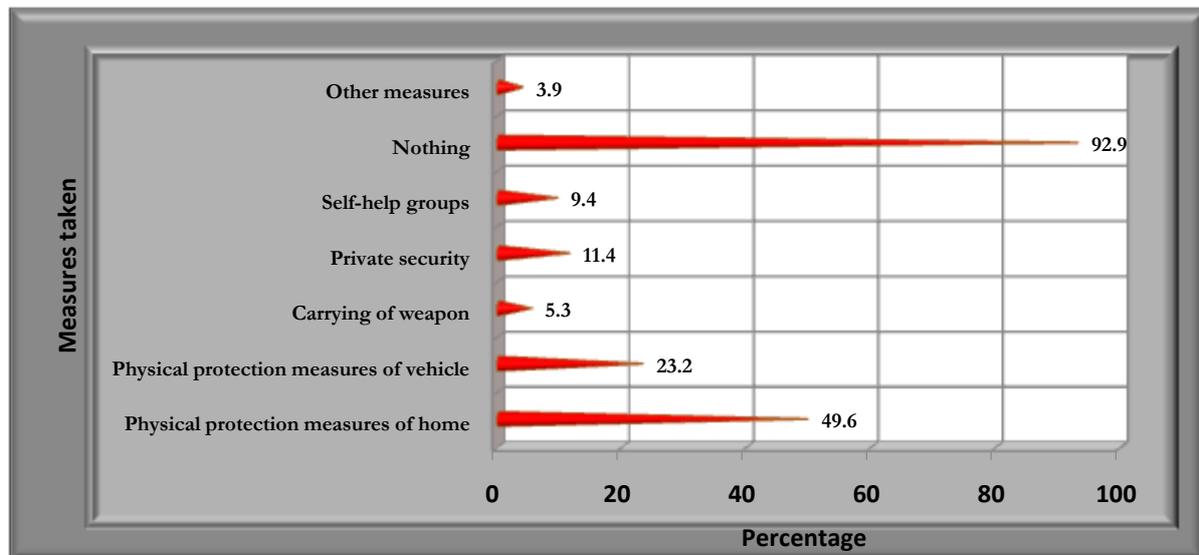
Figures released by Statistics South Africa in 2011 confirms the public's negative perception pertaining to safety and that it has resulted in numerous measures taken by members of the public to protect themselves from crime. The findings of this survey by Statistics South Africa is very similar to that of the Institute for Security Studies in 2008. In addition to other measures, a large percentage of the public took physical protection measures to increase the safety and security of their homes, while 11,4 per cent hired private security guards and 9,4 per cent organised themselves into what the report termed "self-help groups".<sup>201)</sup> The latter will amongst others, be discussed in more detail in the next chapter.

According to research conducted by the Criminology Department of the University of South Africa, the public regards the private security industry as more efficient in crime control than the SAPS. The efficiency of security guards was considered as 'very good' by 28 per cent of participants, by 43 per cent as 'fairly good', while 80,7 per cent of respondents believed that private security was a 'good thing'. It also emanated from the research that the public perceives the private security industry to be increasingly assuming certain policing and public protection functions.<sup>202)</sup>

The public in general and the business sector therefore perceived private security as a generally positive contribution. While government credited private security for its contribution and role played at national key-points and a number of public buildings, it was however also perceived as a threat to national security in certain respects.<sup>203)</sup>

Figure 2 depicts the 2011 findings of Statistics South Africa pertaining to the percentage of households, as well as measures taken to protect themselves from crime.

**FIGURE 2: Percentage of households and measures taken by respondents to protect themselves from crime in South Africa in 2010**



Source: Statistics South Africa, *Victims of Crime Survey*, 24 November 2011

#### 4.3.2 Official views on the private security industry in South Africa

Although the importance of the private security industry is recognised in respect of the role it played at a number of public buildings, airports and other key-points following the privatisation of security, the South African authorities have tended to harbour some reservations about private security since 1994.<sup>204)</sup> As mentioned earlier, the greatest concerns revolved around their access to weapons; their traditional links with the former government's security apparatus; anti-government elements which are involved with, and using the private security industry infrastructure for *mala fide* and suspect reasons; links between some of the actors in the private security industry with foreign intelligence services; and their role in foreign affairs, and specifically pertaining to those activities that fall within the description of mercenary-type activities.<sup>205)</sup>

The South African government refers to the UN and governments internationally that place greater emphasis on effective oversight of the private security industry, as well as its relationship and interaction with the criminal justice system. The contribution that can be made in the prevention of crime is recognised and it is admitted that private security officers are becoming more involved in the work of 'traditional' policing. It is however emphasised that civilian private security services are not public entities; that PSIRA's role; the regulatory framework for the private security industry; and the structure of relations between the police and private security service providers, needs to be reviewed.<sup>206)</sup>

While the NCPS called for partnerships between the police and the private security industry, only sporadic and unofficial cooperation between the police and private security providers have been established since the 1990s. Little documentation is available to assess these partnerships, its benefits and pitfalls. "What is required is the development of clear guidelines, based on research conducted that will guide relations between the police and private security service providers. This will ensure that such relations are not left to individual relations that may exist between certain police official(s) and security providers."<sup>207)</sup>

These concerns by government, as well as the realisation that large companies are mostly foreign owned<sup>208)</sup>, resulted in the *Private Security Industry Regulation Amendment Bill* [B - 2012] referred to earlier, which addresses these issues.<sup>209)</sup> Government's concerns relating to foreign ownership of private security companies in South Africa are more complex than initially thought. Ownership of businesses in South Africa also involves South Africa's obligations under international trade treaties, and the most controversial provision in the Bill which limits foreign ownership to less than 50 per cent, has already been withdrawn because of more research needed into the issue.<sup>210)</sup>

Government's view on the private security industry is summarised by the Civilian Secretariat for Police which stated that "both [their] approach to regulation and to relations between the police and private security service providers must be integrated into a coherent system of policing with the objective of enhancing overall policing and safety."<sup>211)</sup>

#### 4.3.3 Current and potential role of the private security industry in combating crime

Goodenough posits that the private security industry can play a proactive role in combating crime and admits the deterring impact of the visibility of private security officers. Referring to guarding services provided by the private security industry at government institutions, it is argued that this allows the SAPS to attend to policing, while there are also arguments against this trend.<sup>212)</sup>

Section 205 (3) of the *Constitution* is specific about the objectives of the SAPS namely “to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.”<sup>213)</sup> Referring to the services available from the private security industry discussed earlier, a single private security company generally does not have all the services available in one entity, but these services are all available and can be sourced from companies in the industry as a whole.

As mentioned earlier, private security is not intended to replace official policing as the SAPS can never abrogate its constitutional duties. The current role of the private security industry has certain advantages and disadvantages attached to it. These have not changed much since the late 1990s. Certain advantages of making use of private security were already mentioned when discussing its role in the period prior to 2000.

The private security industry is ideally positioned to play a constructive role in the South African society as the industry is a source of direct foreign investment and a major employer, which makes the industry a major economic role player. Important advantages pointed out recently are the industry’s flexibility to adapt to new situations, and the fact that it is accountable to its clients, while at the same time, government is repeatedly criticized for its lack of accountability. It is argued that the industry has the expertise and infrastructure to create a safer society.<sup>214)</sup>

Private security officers are much more visible than the police as mentioned earlier.<sup>215)</sup> This is not only as a result of the fact that the private security industry outnumbered the police at ratios of 4:1 in 1999<sup>216)</sup> and 2,6:1 in 2007<sup>217)</sup>, but also as a

result of the private security industry's profit driven and service oriented approach. If compared to the SAPS, the private security sector's response time to incidents is much quicker than that of the SAPS; is more visible; and has a pro-active approach *versus* the reactive policing style practised by SAPS.

Furthermore, as in the late 1990s, the private security industry has a monopoly as far as the provision of industrial, commercial and residential security; physical access control; and various types of security and access control systems are concerned. It must be granted however, that this is not the SAPS's core business. Insurance companies increasingly insist on some of these additional measures such as the linking of residential and business alarm systems to armed response companies. This has also created a further demand for private security.<sup>218)</sup>

The possibility of the extension of the powers of a security officer has been debated in the past. Submissions were made to Government to, amongst others, grant security officers peace officer status, which would have given them the powers to arrest, search and seize.<sup>219)</sup> This issue has however not yet been addressed, as security officers still only have the powers of a private citizen as described in the *Criminal Procedure Act* of 1977.<sup>220)</sup> This is a huge disadvantage and impacts on the potential contribution of the industry to combat crime, especially for those firms specialising in forensic investigations.

A number of potential services that have been identified and suggested for the private security industry include certain types of forensic services at crime scenes; the expansion of criminal investigative services; the transporting of prisoners; guarding of state-owned premises (insofar as it is not done yet); increased responsibility for security at recreational events; certain aspects of police officer training; and court orderly duties.<sup>221)</sup> In addition to the potential services mentioned above, Schönreich also singles out administrative services, the serving of summonses and training, as functions that can be outsourced to the private security industry.<sup>222)</sup> Although outsourcing is a worldwide trend and the outsourcing of a number of functions which are regarded as the core functions of the police have taken place, the police will not and cannot relinquish control over its traditional domain.<sup>223)</sup>

While there are obvious opportunities for the private security industry to play a role in the combating of crime, there are disadvantages and problematic issues that need to be noted. These are as follows:

- The cost associated with private security will remain an issue. Tax payers will continue to argue that they are entitled to better policing, and that leaving the public with little option but to make use of private security is tantamount to dereliction of government responsibilities.<sup>224)</sup>
- By extending the powers of security officers, only those who can afford such services will have the privilege of and access to private services. This has a constitutional implication, and also opens up the possibility for abuse of such powers, fraud and unauthorised activities.<sup>225)</sup>
- Thirdly, the police are accountable to various levels of government and the electorate, while private security firms are accountable to their clients and owners, and in the case of some of the larger companies in South Africa, to foreign owners and shareholders.<sup>226)</sup>
- Fourthly, the deterrence of crime is enhanced by the arrest and punishment of offenders. The police play a major role in this regard. Although visible private security has a deterrent effect, it has as its main objective the reduction of the risk of crime and losses to the client.<sup>227)</sup>
- Criminal behaviour by security officers remains a problem, and there are ample examples since the 1990s of security officers that were involved in activities such as cash-in-transit robberies, assault, housebreaking and even murder.<sup>228)</sup>
- The use of unregistered security officers is also a major reason for concern, as this contributes to criminality in the industry.<sup>229)</sup>
- The use of unregistered security officers contributes, and is to a large extent responsible for criminality in the security industry. There is an increasing trend by especially smaller security companies to employ illegal immigrants mainly from Zimbabwe, Mozambique and the Democratic Republic of the Congo (DRC) as security officers. The argument is that chances are remote that they will lay charges against their employers when underpaid. Illegal immigrants obtain the identity documents of registered South African security officers (either by buying or stealing the documents), replace the photographs in the documents with their own, and apply for posts under those South African

names. This has the further and more serious implication that there is no official record of these illegal security officers when they are involved in crimes.<sup>230)</sup>

- Security companies are increasingly being accused of involvement in organised crime. A trend of gangsterism and extortion (sometimes as protection money) by some security companies which have been infiltrated by Moroccan, Chinese, Nigerian, Russian and Italian syndicates, started to emerge since 2003.<sup>231)</sup>
- Violence during strikes by security guards is becoming a serious problem, and difficult to manage by law enforcement agencies.<sup>232)</sup>
- It is also argued that the increased establishment of 'enclaves' which are also known as 'security estates' or 'gated communities' protected by private security companies, can be regarded as 'cosmetic crime prevention', and that it merely leads to the relocation of crime to other areas.<sup>233)</sup> There are however arguments against and in favour of this concept. While crime might shift to other areas, it still proves the point that the availability and visibility of private security is a crime deterrent and therefore has an impact on the prevalence of crime in that area.<sup>234)</sup>

The question arises whether the private security industry is able to cope with the recent trend of increasingly violent crime. Criminal acts such as cash-in-transit robberies; ATM bombings; and robberies of shopping malls are well-planned and coordinated.<sup>235)</sup> The ratio of customers per armed reaction vehicle further appears to be uneven in a negative sense for the customer, and in terms of value for money this is a factor that must be considered as customers are paying for a reaction service sometimes needed in life-threatening situations.<sup>236)</sup> This must however also be seen against the problem of acquiring automatic weapons by security service providers, as well as the impact of the problems with the implementation of the *Firearms Control Act* on the security industry. This Act which was implemented on 1 July 2004 had a particularly severe impact on private security in South Africa. Weapons could not be licensed in time to commence with services where firearms are a prerequisite. The implementation of the *Firearms Control Act* still impacts on the industry and certain services and contracts are still jeopardised. This is mainly due to the strict requirements, and huge backlogs that developed at the police's Central Firearms

Register (CFR) and accredited training facilities as a result of the unforeseen large number of applications for firearm licenses.<sup>237)</sup>

New services by, and noticeable trends in the private security industry, can be summarised as follows and include: surveillance in central business districts by closed circuit television (CCTV); private investigations; vehicle tracking and recovery; close protection services (VIP); and intelligence gathering.<sup>238)</sup> The increase in some of these services, points to greater involvement in crime prevention and crime combating by the private sector.

#### 4.3.4 Cooperation between the SAPS and the private security industry

Cooperation between the police and the private security industry always was, and remains, problematic. The South African *White Paper on Safety and Security*<sup>239)</sup> stresses the role and involvement of other actors in crime prevention programmes, but does not elaborate on how this should be implemented. It however refers to areas of intervention that would ensure community crime prevention in neighbourhoods. “Such interventions involve localised programs, which mobilise a range of interest groups to address crime prevention on a town or city basis. Projects could include improving surveillance through schemes such as car guards or community marshalls...”<sup>240)</sup> This creates an opportunity for the private security industry to engage in projects pertaining to crime combating and prevention on local and community level.

Although the private security industry has increasingly assumed certain police functions, and while the NCPS<sup>241)</sup> also provides for partnerships with the private sector, there is still no national official memorandum of understanding between the SAPS and the private security industry.<sup>242)</sup> The NCPS mentions that effective crime prevention requires active community involvement in all aspects of crime prevention, and states that “(g)overnmental partnerships with civil society interest groups, non-governmental organisations and the business community must therefore be prioritised and creatively enhanced.”<sup>243)</sup> It continues by stating that the “private sector in particular has demonstrated its eagerness to play a role and its concern about the impact of crime on development and the economy. This relationship must be

explored and developed.”<sup>244)</sup> Government admits that not much progress was made with official cooperation between the SAPS and the private security sector since the publication of the NCPS.<sup>245)</sup>

There were subsequent official statements specifically addressing the issue of cooperation between the private security sector and law enforcement agencies. Former president Thabo Mbeki mentioned in his 2007 *State of the Nation* address that it was the aim of the police to cooperate with the private security industry in creating an environment in which the public’s security expectations can be met. Erstwhile Safety and Security Minister Charles Nqakula took this a step further when stating in 2007 that talks between the government and the private security industry on the sharing of information were progressing well.<sup>246)</sup>

The PSIRA Chairman in 2007, from a regulatory perspective, emphasised the role that the private security industry can play in combating crime. He stated that proper regulation and cooperation would create partnerships where the private security industry would become and remain a valuable partner to the SAPS. As an example of creative thinking pertaining to cooperation and the relationship between the SAPS and the private security industry, reference can be made to the assistance provided to the police by 11 private security firms in Durban’s business district and beachfront in December 2006. It is claimed by SASA that this initiative was a huge success and that the prevalence of crime was minimal during this operation compared to previous years.<sup>247)</sup>

Although no legal or regulated framework for such initiatives have been established<sup>248)</sup>, a number of joint partnership initiatives have been launched between certain private security firms or individuals, other role players such as for instance BAC, Chambers of Commerce and police stations at local level.<sup>249)</sup> Although these initiatives and cooperation with the police may be viewed as being ‘cosmetic crime prevention’, it is claimed to be successful in Cape Town when measured against the decrease in crime and increase in public approval.<sup>250)</sup>

One of the more important objectives of the Government Sector Security Regulator is to “(f)acilitate proper and effective protection of government sector buildings and co-

operation between members of the public and private [security] sector.”<sup>251)</sup> As government property and buildings are mainly protected by private security companies, this means that information sharing and cooperation pertains to the private security sector as well.

The private security industry since the 1990s submitted a number of proposals to the police to formalise an official partnership between the police and the industry. In addition to potential services already mentioned, other suggestions that were included in these proposals, were permission for the security industry to purchase fully automatic weapons; peace officer powers be extended to private security officers; the appointment of security officers as police reservists; patrolling of neighbourhoods to be undertaken in conjunction with the SAPS; security companies be allowed to transport suspects arrested by their security officers to the nearest police station; police officers should be allowed to work with security personnel and utilise security company vehicles; SAPS liability cover should be extended to include private security officers assisting the police in the execution of their duties; payment should be made for the provision of information by security officers leading to an arrest or conviction; a centralised computer network consisting of a security information database should be set up to assist in crime prevention; and security company vehicles be classified as emergency service vehicles.<sup>252)</sup>

Some of the proposals do however have serious legal implications that need to be considered. The SAPS is of the opinion that it cannot allow unrestricted access to crime information as much of it is of a sensitive nature.<sup>253)</sup> This will create opportunities for corrupt security officers. As both the SAPS and the private security industry obtain operational information on a daily basis, a way should however be found to utilise the information to the maximum benefit of both the police and the security industry. As far as outsourcing of certain functions to the private sector is concerned, it must however be mentioned that there is significant resistance from especially from the SAPS` s middle management against outsourcing. Schönreich posits that an unsubstantiated fear exists amongst a large number of officers that outsourcing will affect work security and promotions, which is but one of the reasons for resistance against outsourcing.<sup>254)</sup>

## 5. CONCLUSION

The private security industry in South Africa in the period 1958-1986 was marked by the absence of government regulation. This chapter therefore commenced with a discussion of the early years of the private security industry in South Africa, attempts at self-regulation, and the use of the private security industry by government to assist in the combating of crime. Reference was made to The *National Key Points Act* of 1980, and it was mentioned that although this Act was not promulgated to regulate the industry, it had an indirect regulatory effect. The considerable growth of the industry in this period was also fuelled by increasing crime levels and market forces. The industry responded to this demand for security services.

An attempt at self-regulation by SASA which was established in the mid-1960s was made, leading to a subsequent submission by the organisation in 1983 requesting official regulation of the industry. This later led to a call by the then Minister of Law and Order for regulation which eventually led to the founding of SAFED in 1986, and legislation aimed at regulating the industry in the late 1980s. SAFED represented various security organisations at the time which amongst others, included the Chamber of Mines; SABRIC; the Local Authorities Association of South Africa, and other organisations representing various security service providers.

Government played an important role in the growth of the private security industry; the industry played a supporting role to the police at the time; and profit and demand for services also played a role as far as growth of the industry is concerned. Apart from conventional guarding services, cash-in-transit services, commercial guarding, and national key-point guarding, services such as the provision, installation, monitoring of and response to alarm systems; 24-hour armed patrols; and electronic security services, also became available.

The security industry became partially regulated in 1987 with the coming into effect of *The Security Officers Act* of 1987, later to be followed by the *Security Officers Amendment Act* of 1997. The 1987 SOB Act (which only came into effect in 1989), created the SOB and to a certain extent self-regulation of the industry. This Act prescribed the exercising of control over the occupation of security officers. The SOB

board only became functional in 1990, and was beset by problems from the beginning, ranging from allegations of incompetency, corruption and involvement with third-force activities, and that it also lacked the capacity to enforce the regulations at the time.

The SOB was replaced by the SOIB in 1997 with the promulgation of the 1997 *Security Officers Amendment Act*. The objectives of this Act were much wider than the 1987 Act as it also made provision for the submission of reports to the Minister of Safety and Security. The SOIB was also accused of corruption and mismanagement while other shortcomings such as the non-regulation of various activities in the industry were identified. The regulation of the industry was further augmented and supported by The *Firearms Control Act* of 2000, and the *Criminal Law Second Amendment Act* of 1992, as amended by the 1998 *Judicial Matters Amendment Act*. The *Criminal Law Second Amendment Act* of 1992 dealt specifically with offences in respect of “organisations with a military or similar character”, and prohibited certain organisations to train, equip, or arm supporters of such organisations.

An assessment of the role of the private security industry in the combating of crime revealed a phenomenal growth in the 1990s, which was mainly due to transformation of the security forces since 1994; increases in crime levels; and market forces such as supply and demand. Transformation of the SANDF and SAP led to a large number of security force members entering the private security industry, the most important implication of this trend being uneasiness by government pertaining to the large number of intelligence operators and members from the former security agencies that entered the industry. The fact that the industry was only regulated to a lesser extent in the early and mid-1990s, resulted in the possibility of a security threat and serious concerns expressed by government in this regard.

A variety of new security related services and products were developed by service providers in the industry from the mid-1990s onwards. This had the implication of further growth in the industry, and reasons why the services of the private security industry are utilised, as well as arguments against the utilising of the industry's services, were presented. Another key feature of this period was the volatility of the private security industry, and various mergers and take-overs. As much of the

expertise needed in certain areas that used to be the sole preserve of the police was established in the private sector by the late 1990s, the government had also started to outsource some of its security and related functions to the private sector.

The changes in the private security industry and the impact thereof in the period 2001-2010 can be summarised as follows: further regulation of the industry through the *Private Security Industry Regulation Act* of 2001 (the PSIR Act); growth in the private security following international trends; the private security industry in South Africa that expanded by 145 percent between 1997 and 2005; and the value of the industry that was estimated to have been in excess of R 50 billion in 2010. PSIRA now differentiates between, and regulates sixteen broad categories of services. Services such as car guards, events security, private investigations, armed response services, and alarm monitoring are all new, and have developed since the mid-1990s.

Government's concerns in respect of the private security industry and private intelligence businesses led to the drafting of various Bills that were published for comments in 2008. This was aimed at increased regulation of the security and private intelligence industry, as well as the control of information that could have negative security implications for the state. The result was the promulgation of the *General Intelligence Laws Amendment Act* of 2013, and the (revised) *Protection of Personal Information Bill* (POPI - B28-2008) being signed into law on 19 November 2013. The concerns of government pertaining to the private security industry and the possibility of security threats to national security associated with the industry, also led to the eventual gazetting of the *Private Security Industry Regulation Amendment Bill* in 2012 (B 27—2012). The most important feature of this Bill is the proposed changes to the ownership of security companies, ostensibly to address an increased threat to national security. It was pointed out that if signed into law, in addition to the possibility of serious economic implications, this will legally restrict foreign ownership of a security service provider operating in South Africa to a maximum share of 49 per cent.

The gradual assumption of certain police functions by the private security industry also became more evident since 2001. The private security industry is positioned to

play a certain role in the prevention of crime, but that there are certain advantages and disadvantages in this regard, and it must be realised that the private security is not a total substitution for the police.

The rise in especially levels of violent and organised crime and corruption, has led to various responses by, and initiatives from South African communities such as neighbourhood watches, in an attempt to secure themselves. These responses and initiatives are amongst others a demonstration of dissatisfaction with the inability of the state to provide acceptable levels of security. The following chapter will focus on the main community actions and initiatives in this regard.

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## **CHAPTER 5**

# **COMMUNITY CRIME COMBATING INITIATIVES IN SOUTH AFRICA**

### **1. INTRODUCTION**

The initiatives by the South African community to improve their security following the increases in crime levels since 1994, is partially a result of perceptions that public policing is inadequate. Such initiatives appear to be a general characteristic during processes and periods of transformation.<sup>1)</sup> Perceptions, irrespective whether they can be substantiated or not, play an important role in the kind of responses and actions taken by civil society. Some of these initiatives are considered as legal and acceptable by government and the public, while others are regarded as unorthodox and even illegal.

Although the emphasis of this chapter will be on civil society security initiatives after 1994, a brief historical overview of legal and unorthodox/illegal initiatives in the pre-1994 period is required in order to contextualise the post-1994 situation. Legal initiatives and structures such as neighbourhood/community watch structures; security villages and enclosed/gated communities; farm and rural protection organisations and structures; and various measures used to improve residential and personal security will be discussed as examples of what are regarded as legal initiatives.

Variants of vigilantism and illegal structures such as self defence units (SDUs); *Makgotla*; People Against Gangsterism and Drugs (PAGAD); *Mapogo a Mathamaga*; and the prevalence of 'mob justice', 'popular justice' or 'community justice' will also be analysed.

## **2. HISTORICAL OVERVIEW OF LEGAL AND ILLEGAL COMMUNITY CRIME COMBATING INITIATIVES IN SOUTH AFRICA PRIOR TO 1994**

Security, as well as associated crime combating initiatives in South Africa, are to an major extent linked to the country`s political past.<sup>2)</sup> Security and the crime situation were perceived and viewed differently by the various population groups, which subsequently resulted in different responses, some regarded as legal, and others illegal, or of questionable legality. The policy of apartheid and the racial divide in the South African community resulted in two different unofficial non-state driven approaches to ‘self-protection’ or ‘community policing’ by Whites on the one hand, and the Black population on the other hand. These two approaches mainly manifested as neighbourhood watch systems in urban areas in the case of the white sector of the population, and self-defence structures such as Self-defence Units (SDUs) or similar structures in the case of the Indian, Coloured and Black sections of the population in townships.<sup>3)</sup> The neighbourhood watch concept, although of civilian origin, was to a certain extent initiated, used and supported by the police.<sup>4)</sup>

### **2.1 Defining ‘legal’ and ‘illegal’ civil society crime combating initiatives**

In order to understand civil society security initiatives prior to 1994, it is necessary to describe what is meant by the concepts ‘legal’ and ‘illegal community crime combating initiatives’. Legal initiatives can be described as those clearly within the ambit of the law, while illegal initiatives are viewed as those committed outside the parameters of the law, and viewed as such by the state and by the majority of the community.

In the early 1980s, the general view was that responsibility for security on all levels of government, centred on the state.<sup>5)</sup> Effective policing however requires the assistance, or at least the moral support of the majority of the population which was not the case prior to 1994. This resulted, in addition to the role of the police, in the creation of alternative ordering structures, and civil society crime combating initiatives in this period. Prior to 1994 various sections of the South African population also responded differently to crime and perceptions of insecurity, by implementing certain measures in order to protect themselves against crime and

perceived threats. Initiatives and responses by whites differed from those by the Black section of the community, although for different reasons.

People of colour reverted to civil society initiatives prior to 1994 out of protest as they regarded the government at the time as not representative of the total population, but also to protect themselves against crime in townships and rural areas which were not well policed at the time.<sup>6)</sup> Prior to 1994, such initiatives amongst the white section of the population (which included acts of right wing vigilantism), were the result of rising crime levels, as well as the threat of terrorism and communism.<sup>7)</sup>

In rural areas, in the case of the white population, civilian farm protection units were established, while self-defence or similar structures as mentioned above, were created in the case of the Indian, Coloured and Black sections of the population.<sup>8)</sup> In South African communities, two clear and distinct categories of alternative ordering structures could be found. The first category can be termed state-initiated and/or state-condoned structures that performed crime combating and social control functions. The second category “either claims partial autonomy because of the state`s ineffectiveness at policing their areas or which consciously rejects the state`s monopoly over the right to order and police South African society.”<sup>9)</sup>

The first state-initiated and/or state-condoned category included according to Schärf, “private police forces, neighbourhood watches..., state tolerated right-wing vigilante groups, co-opted ordering/policing structures in African townships such as ‘street committees...and makgotla (*sic*)...as well as the use by the state of street gangs to achieve a particular type of order in townships.”<sup>10)</sup>

The second category also comprised groups in African townships aligned with liberation movements at the time. The number of these groups increased significantly after September 1984, being part of “an initiative to set up organs of people`s power to pre-figure a part of the post-apartheid infrastructure of ordering and adjudication.”<sup>11)</sup>

The combating of terrorism by South African security forces prior to 1994, and the impact it had on crime and civil society crime combating initiatives, are also important

factors. This amongst others led to the emergence of vigilante groups and gangs in areas that were insufficiently policed, and especially so during periods when police had to focus on political violence. This vacuum was then in some instances exploited by criminal elements, leading to the phenomena of gangsterism, vigilante action and mob violence.<sup>12)</sup>

Private initiatives therefore include initiatives ranging from legal to illegal, or initiatives of which the legality is questionable and methods unorthodox.<sup>13)</sup> Questionable initiatives, including those condoned by the police, will be regarded as illegal. Therefore, all initiatives will be discussed under two broad categories, and classified as either legal or illegal.

## **2.2 Legal crime combating initiatives**

It has been stated that the ‘civic guard’ tradition that had existed in South Africa since the First World War, is the forerunner to the modern day neighbourhood watch, and that many white protection groups were already established in the late 1950s and early 1960s.<sup>14)</sup> The establishment of the so-called ‘home guard’ in the 1960`s which evolved from the ‘civic guard’, is an early example of the trend by the public to provide its own security provision by activating community involvement<sup>15)</sup>, and an early version of modern day community patrols, neighbourhood or community watch systems. The term ‘civil defence’ must not be confused with the term ‘civic guard’, which was a type of private security guard force in the traditional sense. The main objective of civil defence units was to save lives, protect property, and to maintain essential services during, or directly after disasters such as floods, fires and explosions.<sup>16)</sup>

Private security initiatives are to a large extent influenced by public perceptions regarding the state of security in communities, which will be discussed next.

### **2.2.1. Public perceptions of security**

Government played an indirect role in making the public aware of crime prevention and personal security initiatives.<sup>17)</sup> The SAP stated in 1976 that the “most efficient

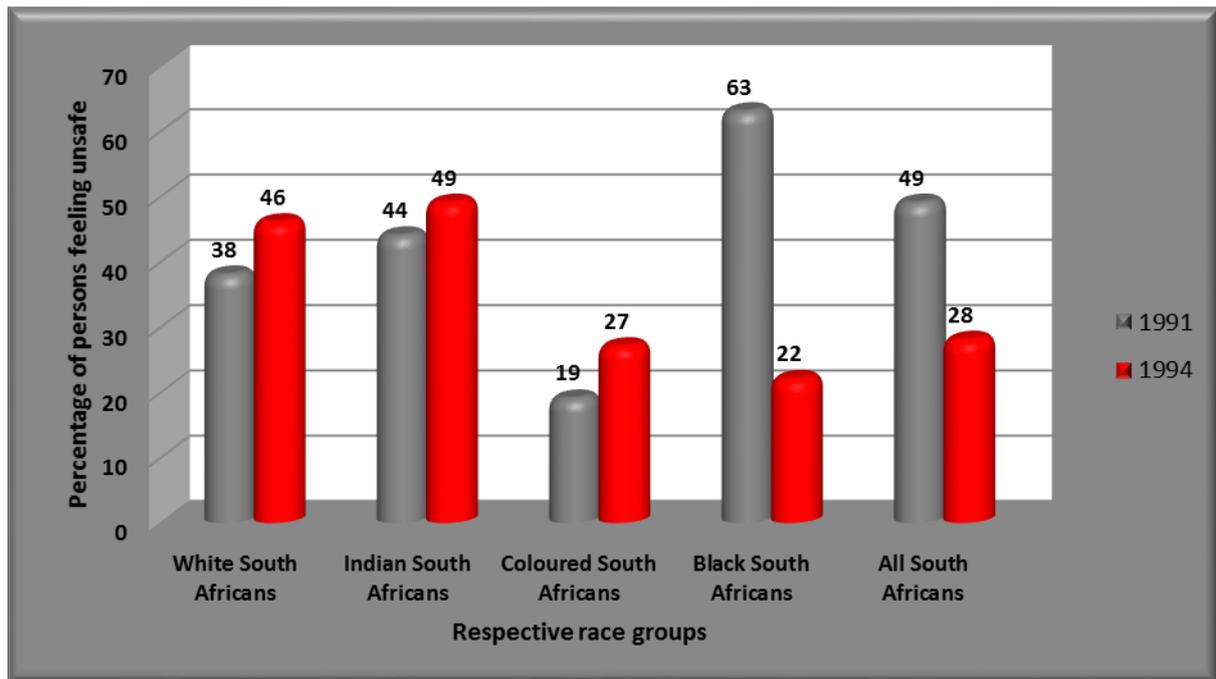
way of preventing crime is to make the general public more crime conscious. Efforts are being made to get the public to realise that the fight against crime is the responsibility of every individual in the community.”<sup>18)</sup> The media was further used extensively, leading for example to the launching of the programme *Police File* in February 1981. The idea was that the public would act as the eyes and ears of the SAP, therefore in effect a force multiplier.<sup>19)</sup>

The Police Commissioner`s 1982 report also emphasised the importance of the role of the community in crime prevention<sup>20)</sup>, while in 1985 the SAP`s newly established Public Relations Division reported that the public contributed to the arrest of a large number of offenders in that reporting period.<sup>21)</sup> Unrest and political violence required much of the police`s time and manpower, preventing them from assigning sufficient attention to the prevention of crime. It is against this background that the SAP endorsed the activities of neighbourhood watch systems and similar structures in the mid-1980s.<sup>22)</sup>

Although these initiatives were community-driven, official perceptions of a revolutionary onslaught; compulsory military service resulting in a military oriented generation and subculture in population groups; as well as the real prevalence and increase of common crime, played a significant role in establishing perceptions regarding the nature of security in the country at the time. Public perceptions pertaining to safety and security changed, and the fear of crime increased significantly in the early 1990s. There is general concurrence that crime levels in South Africa, especially in relation to violent crimes such as murder and rape, have increased in most parts of the country from the mid-1980s to 1994. This trend continued into the early years of the 21<sup>st</sup> century.<sup>23)</sup>

An analysis of data on feelings of safety conducted by the Human Sciences Research Council (HSRC) in 1991 and 1994, indicated that there was less concern over personal safety in the run-up to the 1994 elections.<sup>24)</sup> The increases and decreases in the feeling of safe/unsafe for the respective race groups are depicted in Figure 3.

**FIGURE 3: Feeling of safe/unsafe by the respective race groups in South Africa**



Source: *South African Social Attitudes: 2<sup>nd</sup> Report – Reflections on the Age of Hope*, Human Sciences Research Council, Cape Town, 2010.

The overall result from respondents was that they felt safer just prior to the election in 1994, compared to 1991. If this is however divided into the results obtained from the different race groups, only Black South Africans felt safer in 1994 compared to 1991. The reason for this can be found in the fact that a large number of the Black middle and upper class moved out of townships into residential areas previously mainly occupied by Whites. This was seen by Black South Africans as a major improvement to what they were used to in respect of personal safety and security.<sup>25)</sup> The number of respondents that were feeling unsafe in South Africa, decreased from 49 per cent in 1991 to approximately 28 per cent in 1994, just prior to the general elections.<sup>26)</sup>

By 1993 government realised that the high incidence of crime and violence, and the poor image of the SAP among certain communities, required a different policing approach, which resulted in the Crime Stop project. This was viewed and marketed as a community, rather than a police initiative. A call centre was established where members of the public could anonymously report crime and related information. This

project was promoted by the police as primarily a community project, driven by the community, for the benefit of the community. It was also stated that its success would eventually be determined by the extent of the involvement of the community.<sup>27)</sup>

### 2.2.2. Neighbourhood watch systems in urban areas

Neighbourhood watch systems (which originated abroad), commenced in South Africa when the number of house burglaries spiralled in 1995/6.<sup>28)</sup> The concept in essence “embodies the principles of good neighbourliness. Those concerned concentrate on identifying criminal elements in their own neighbourhoods and reporting this to the Police. The system also includes keeping an eye on one`s neighbours` properties, especially during their absence. The interests of senior citizens are also looked after by means of regular visits.”<sup>29)</sup>

Technology used as an additional security measure became more prominent in the early 1980s. With the ordinary South African securing his/her immediate environment in mind, it was stated in 1984 that “(t)he introduction of electronics has brought significant advantages, most important of which is that...(it)...has enabled manufacturers to put so much more into their equipment... making security equipment more reliable and eliminating many areas of human error. Electronic equipment, by and large, is maintenance-free, easy to install and easy to operate.”<sup>30)</sup>

Five types of technology can be highlighted that that were increasingly used by the public for enhancing security, namely closed circuit television (CCTV); access control systems; electronic locks and keys; alarm systems and perimeter protection; and safes.<sup>31)</sup> Insurance companies started to demand the installation of vehicle alarm systems as a prerequisite before insuring a vehicle in the late 1980s, with a concomitant increase in the demand for such installations by vehicle owners.<sup>32)</sup>

By 1989 the electronics industry was thriving in South Africa, partially as a result of sanctions imposed on South Africa, but also due to South Africans becoming more crime conscious. The demand for especially CCTV, access control and intruder detection systems increased significantly.<sup>33)</sup> The armed response sector was

“mushrooming” in 1989 as a result of the increasing demand for intrusion detection systems by home-owners.<sup>34)</sup>

By 1991, a number of 2424 neighbourhood watch systems were active in South Africa and it was claimed by the SAP at the time that a remarkable decline in burglaries were experienced where neighbourhood watch systems were active.<sup>35)</sup> The SAP hailed the neighbourhood watch system as one of the more effective crime prevention actions and pledged to find ways and means not only to keep it going, but also to expand it as far as possible.<sup>36)</sup> It is however a problem to ensure the public’s continued interest in the concept.<sup>37)</sup>

The neighbourhood watch system although also established in a few Coloured areas, was mainly restricted to White suburbs.<sup>38)</sup> It was also used to enhance the safety of senior citizens in combination with radio and television, and the SAP stated that it “undertakes to initiate and organize programmes to protect senior citizens and to do everything possible in order to enable them to live with dignity, safely and to be cared for in the community.”<sup>39)</sup> In 1992 the SAP regarded the “prevention and combating of crime (as) ... an art and a science which demands ... [and]... enjoy the wide acceptance and co-operation of the public.”<sup>40)</sup>

In addition to the neighbourhood watch system, the commando system and similar initiatives mentioned above, a phenomenon referred to as ‘gated developments’ also started to appear in the 1980s.

### 2.2.3. Gated communities, enclosures and similar security measures

Gated communities, fortresses and walled cities are almost as old as human urban settlement. Medieval fortified towns and castles are regarded as the precursors of modern security complexes.<sup>41)</sup> However, following the development of nation states, public police forces and air power, these fortified structures became superfluous. Gated communities (in the form of secure estates or secure town house complexes), however experienced remarkable universal growth since the early 1990s. In South Africa gated communities also became part of the response to high levels of crime and the fear of crime.<sup>42)</sup>

Gated communities refer to restricted access to neighbourhoods and in some instances, having the enclosed area patrolled by either members of the community, or by a private security company. It must however be noted that there is a difference between security villages and enclosed neighbourhoods, with the latter also known as gated communities.<sup>43)</sup>

The first modern gated development in South Africa was constructed in Johannesburg in 1987, which according to Spocster, consisted of 2.4m-high walled perimeters with electric fencing, which protected a number of 913 plots.<sup>44)</sup> Landman (*et al*) postulate that “gated communities have [since the early 1990s] experienced phenomenal growth in South Africa, especially in the metropolitan areas of Gauteng. In South Africa gate communities have become popular primarily as a response to high levels of crime and the fear of crime.”<sup>45)</sup>

#### 2.2.4. The *Makgotla*

Community and civic structures in townships went through various phases of development prior to 1994. It is postulated that informal structures for dispute settling; instilling discipline and order; and protection and policing, originated more or less at the same time that townships were established. Informal “community policing” structures and initiatives in Indian and Coloured suburbs and townships, mainly manifested as private police forces in the form of the *Makgotla*, peace keepers, street patrols and street committees<sup>46)</sup>, as well as self-defence units (SDUs) or structures and vigilantes.<sup>47)</sup> Self-defence structures in the township context is regarded as unorthodox and illegal and will be discussed later. In order not to contradict the statement above that unorthodox and questionable initiatives are regarded as illegal methods, the *Makgotla* is discussed here under the heading of legal methods, as its goals and modus operandi was in general regarded by the broader community as noble and legal.<sup>48)</sup>

In the early 1940`s law abiding Africans complained of being under-policed. As a response, this later led to the formation of citizen patrols and tribal groups to become known as the *Makgotla*. The *Makgotla* initially played a crucial role in the 1970s in instilling discipline among the youth and in maintaining order in townships.<sup>49)</sup>

Although not initially sanctioned by the state apparatus, *Makgotla* members were given free rein to enforce law and order in townships. This can be regarded as what is described by Schärf as 'blind-eye policing'. Although the *Makgotla* was launched with good intentions, it was later accused of criminality and/or unorthodox tactics and branded as a vigilante group.<sup>50)</sup>

The *Makgotla* became more unpopular in townships as it was realised that it was abused by certain elements, including the police, to further illegal or unconstitutional interests.<sup>51)</sup> In the early 1980s police barred them from patrolling the streets of Soweto<sup>52)</sup>, and community councils were given the power to establish their own form of community policing namely Municipal Law Enforcement Officers, which was only instituted in 1984.<sup>53)</sup> The *Makgotla* are generally regarded as the precursor to the African township Municipal Law Enforcement Officers that had to deal with Black on Black crime. The implementation of the planned township policing was a slow and drawn out process, consequently resulting in the flourishing of the *Makgotla* and other vigilantes in townships until the deployment of municipal law enforcement Officers in townships in 1984.<sup>54)</sup>

#### 2.2.5. Rural areas and private protection initiatives

The functions of the commandos in rural areas were similar to those of the neighbourhood watch in suburban areas. In rural areas where farms were mainly owned by Whites, crime combating initiatives were mainly driven by the now disbanded commando system. The commando system represented civilian community action and initiatives against crime in rural areas since the days of colonial rule in South Africa.<sup>55)</sup>

It originated in the days of the Dutch East India Company, when the company sent out soldiers and civilians to recover stolen cattle.<sup>56)</sup> The main reason for the establishing of commandos in the early days was the protection of livestock and equipment against marauders.<sup>57)</sup> The commandos were reshaped in the 1960s to in addition to a rear area defence role during war, also perform a peacetime function.<sup>58)</sup> While the commandos in rural areas are described and seen as to have been part of

government forces, they were technically private forces, to an extent equipped and controlled by government.

The commandos were also allocated the functions of assisting state departments in time of crises; civil disorder; and in the event of the outbreak of an epidemic. In the late 1990s and early 21<sup>st</sup> century, the primary function of the Commandos was still seen as the protection of farmers, their livestock and equipment.<sup>59)</sup> This changed in 1994 with the new government taking a different stand on the domestic role of the newly formed SANDF and its components.<sup>60)</sup>

Following the 1994 elections, the new government's view was that the SANDF and therefore the commandos role in law and order and specifically crime combating, was "undesirable...and ...as a matter of urgency...plans are formulated to allow for the withdrawal of the SANDF from a policing role...Further, and as a matter of urgency, the Department of Defence and Safety and Security will establish a work group to devise strategies for the withdrawal of the SANDF from an on-going policing role."<sup>61)</sup> It was foreseen that the SANDF's role be scaled down to cooperation and support to the SAPS where the latter is unable to maintain law and order on its own.<sup>62)</sup>

In rural areas occupied by Black people, civilian self-protection initiatives also manifested mainly in the forms of the *Makgotla* and types of self-defence structures similar to those in townships. As mentioned earlier, the revolts in the 1970s and 1980s, resulted in the break-up of the social order in Black communities, and led to crime in addition to political instability. The vacuum created by a lack of leadership was exploited by gangs, with a result similar to what happened in townships. Initially, the *Makgotla* was responsible for order in the society, but this role was later taken over by vigilante groups.<sup>63)</sup>

There were however also initiatives regarded as illegal, unorthodox, or at least of questionable legality. Some of these initiatives started off as *bona fide* and legal, but later became illegal and can be regarded as vigilante type initiatives. This will be discussed next.

## 2.3. Illegal crime combating initiatives

The drawn-out administrative process to establish and legalise disciplinary courts and community guards in the townships, left a vacuum in these areas as far as security, protection against crime, and policing in the townships are concerned. Although high crime rates coupled with a weak police force is indeed an important factor which can account for the lack of trust in the police and for the frustration with the criminal justice system more generally, these cannot fully explain the emergence of vigilantism as an inevitable result of this. In order to do so, it is important to provide an overview of the complex dynamics that facilitated and prompted the emergence and growth of structures that were illegal as well as unorthodox.

### 2.3.1. Self Defence Units and alternative structures

The lack of confidence in the police and the criminal justice system as a whole resulted in township residents creating informal local structures to deal with crime and protection issues. These structures were common in the 1970s and 1980s.<sup>64)</sup> With the founding of the United Democratic Front (UDF), in the mid-1980s, some of these structures such as street committees, self-defence units (SDUs) and vigilantes<sup>65)</sup>, were linked to the UDF in certain areas. These structures were seemingly more active in Black and Coloured areas.<sup>66)</sup>

In the 1980s, communities in townships also established ‘people’s courts’, as alternative structures to the official judicial system. The trend of establishing these courts as alternative structures by mainly the Black and Coloured community in the 1980s, manifested in both townships and in rural areas. This was also part of the ANC’s insurgent strategy. The main purpose of these parallel structures was to execute “vital state functions of ordering, adjudication and policing in the township by patrolling the township, and mediating in disputes among members of the community.”<sup>67)</sup>

What is generally referred to as ‘mob justice’ became part of the political violence in the 1980s. Political violence occurs between individuals or groups “where the dominant motivation is based on political difference or the competing desire for

political power...”.<sup>68)</sup> Such violence, due to the nature of politics and social processes, although emanating directly from a political gathering or similar situation, may develop a dynamic and momentum of its own, sometimes resulting in ‘mob justice’. Simpson (*et al*), referring to volatility in South Africa in the late 1980s and early 1990s, posit that “political violence may become entwined with motivations of personal or collective revenge and retribution in which, over time, politics, become largely symbolic, resulting in shifting boundaries of political violence.”<sup>69)</sup>

Especially from the mid-1980s, most of these alternative structures were taken over or infiltrated by radical political elements, turning them into violent organs of people`s power. Councillors who were regarded as ‘collaborators’ cooperating with apartheid structures, were also dealt with by the alternative structures. UDF aligned organisations initiated rent and service charge boycotts against Black Local Authorities in 1984. Militarised youth mobs took the initiative away from the UDF and started to enforce boycotts themselves, initially aimed at White- and Indian-owned business. These mobs later expanded their target area to include black business people and those regarded as ‘collaborators’, supporting apartheid structures.<sup>70)</sup>

Many deaths were reported and the death penalty by the ‘necklace method’ became the norm when collaborators were sentenced. Many councillors and policemen regarded as collaborators were killed, and in 1986 a total of 532 lives were lost (including 33 security force members), of which 286 had been executed by using the “necklace” method. This led to a national state of emergency to be declared on 12 June 1986.<sup>71)</sup>

The role of people`s courts established by the ANC/UDF as alternative ordering structures discussed earlier, and the manner in which the control of these structures were wrenched from these leading organisations, appears to have been similar in rural areas across South Africa. In its early stages the youth movement was aligned to the political struggle, the ANC/UDF and affiliated organisations, but soon thereafter changed into a vigilante movement with its own momentum and ideas, accused of various acts of criminality, including a large number of murders. This trend is described in a similar fashion by Von Schnitzler (*et al*), Rakgoadi, and Buur,

and the main features of youth involvement in SDUs and alternative structures in the 1980s that stand out are:

- a militant youth which took control of alternative ordering structures, conflict with the older section of the communities and attempts to enforce their own rules and views upon society<sup>72</sup>);
- a youth component that came in conflict with the older section of communities as their own social order which was not acceptable for most of the older members of the community<sup>73</sup>); and
- mobilisation against apartheid structures which include the use of people`s courts to further their own interests and ideas, the targets mainly being Black businessmen in these areas which they regarded as beneficiaries of the apartheid system. <sup>74</sup>)

As mentioned above, in most parts of the country, the functioning of the people`s courts were taken over by the youth, resulting in the demise of these structures originally established to safeguard communities who lost trust in apartheid structures. The main reason for the loss of confidence in these structures can be traced to tradition and culture of Blacks forbidding the youth to take decisions which may impact on family members, and the excessive use of force by these youth groups. In addition to the loss in confidence, youth groups were also weakened due to the arrest and detention of their leadership; leaders operating underground; or leaders leaving the country to join liberation movements opposing apartheid.<sup>75</sup>)

The ANC established SDUs in 1991 following the unbanning of the organisation and the start of a negotiation process with the then NP government. It appears as if these structures were different from those established by the ANC during its liberation struggle, as the emphasis of the 1991 structures differed from earlier structures who were created purely for purposes of the struggle. The goals of these ‘new’ SDUs were to perform a defence or protection function to communities; to police communities; and to ensure that law and order prevailed. It was allegedly a *bona fide* safety and security initiative. Unlike earlier structures, it is alleged that the SDUs were well organised, disciplined para-military structures led by political leadership accountable to their communities.<sup>76</sup>)

It must be emphasised that although these alternative structures were formed for the purposes of law enforcement and community protection, political motives were the primary driving force. Most of the vigilante violence in townships at the time was of a political nature, hence claims of hearings and sentences by alternative structures such as people's courts.

A trend also started to develop where gangs were formed alongside SDUs, seemingly as a result of more stringent discipline being enforced on the youth in SDUs. Gangs that were formed outside SDUs, appeared to be more attractive than other groups.<sup>77)</sup> The phenomenon of vigilantism, gangsterism, and related activities will be discussed in the next subsection.

### 2.3.2. Vigilantism, mob justice and gangsterism

Political violence in the name of democracy is a global phenomenon. When civil society loses faith in the ability of the criminal justice system, it does not always respond to crime in constructive ways, and sometimes resorts to illegal self-help methods and vigilante-type of activities.<sup>78)</sup> When the public loses faith in government's ability to offer protection, it can have destructive consequences for the functioning of the criminal justice system.<sup>79)</sup> The prevalence of vigilantism and gangsterism in South Africa in the post-1994 period must be seen against the general understanding of the concepts of 'vigilantism' and 'gangsterism'.

The term 'vigilantism' is widely used to describe unorthodox community actions in response to a lack of police action and the absence of a proper functional criminal justice system.<sup>80)</sup> Actions, initiatives or activities are regarded as unorthodox when they are against 'correct or currently accepted opinions', 'not generally accepted as right', or not in 'harmony with what is authoritatively established or approved'.<sup>81)</sup> Vigilante activities and related initiatives, are typically and by their nature unorthodox, constituted outside the parameters of the official legal system, and therefore regarded as illegal. These actions however, are not necessarily 'anti-government', or 'non-state'.<sup>82)</sup> This is especially of importance when considering the relationship between state agencies, political orders and the vigilante groups and gangs.

Buur posits that groups and organisations have been called vigilantes in South Africa for well over 100 years, while members of such groups have identified themselves with the concept. “Even though ascription to and identification with the concept have changed over time, the types of relationships that have evolved have been remarkably stable.”<sup>83)</sup> Vigilantism is a process which develops from community initiatives which are legal and comply with popular forms of justice, and the political and legal dispensation. This process however may then later develop into a phase where these community actions violate the law, and is then viewed as vigilante activities. It was mentioned earlier that unorthodox activities will be regarded as illegal. The question then must be asked, if the existence of a dysfunctional justice system is sufficient reason to justify any illegal or unorthodox actions by a community. The question also arises if ‘mob justice’, ‘popular justice’, ‘community justice’ or any self-help measures by a community, can to any extent be classified and justified as ‘good’ or ‘bad’ in the absence of constitutional justice.<sup>84)</sup>

Vigilante groups were common prior to 1994, both in townships and in rural areas. During the 1970s, forced removals of the coloured population and the subsequent breakdown of family and community support and control, increasingly led to street gangs being formed. The fear imposed on the community by these gangs led to the formation of peace-keeping structures in many of the affected townships in the late 1970s. This involved township patrols at night by peace-keepers carrying torches, clubs and quirts. Their focus was on members of the youth which were regularly confronted and searched for dangerous weapons, stolen goods and drugs. They were infrequently accused of assault and it was alleged that their structures were also infiltrated by gang members. The peace-keepers` popularity weakened when some of them were prosecuted for assault. Some peace keepers were also used by gang members to perform activities outside the accepted parameters of peace-keeping activities.<sup>85)</sup>

A criminal gang is defined to include “any formal or informal ongoing organisation, association, or group of three or more persons, which has as one of its activities the commission of one or more criminal offences, which has an identifiable name or identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.”<sup>86)</sup>

Gangsterism as a phenomenon poses a serious problem for policing globally, and also in Africa.<sup>87)</sup> It started to pose a serious problem for the police and mainly the Black South African community in the 1980s. In Black townships and rural areas various types of street gangs and quasi-political and military organisations were established. As with the *Makgotla*, some of them were established with good intentions with the goal to create order and discipline in townships, and to protect the community in the absence of proper policing. Township turbulence in the mid-1980s was conducive to opportunism, particularly by elements in townships not imbued with a sense of accountability.<sup>88)</sup> In South Africa special task teams had to be formed to address this problem in the late 1980s<sup>89)</sup>, followed by legislation promulgated in the late 1990s to address the problem.<sup>90)</sup>

The reason for the prevalence of gang related activities in South Africa are twofold. The first reason is the large number of youths that joined criminal gangs during periods where proper policing is not possible in certain areas such as during the first state of emergency. This lack of policing is then exploited by criminal elements which assume effective social control in their communities. The second reason for the prevalence of gangs can be found in the affected communities, having lost faith in the criminal justice system, establishing groups to deal with the gang and crime problem themselves, such as for instance in the Western Cape in the mid-1990s.<sup>91)</sup>

Mob violence as a related form of gangsterism and/or vigilantism as phenomenon is known in Africa for well over a century, and mob activities appears to occur spontaneously while gangsterism and vigilantism are executed in a more organised manner.<sup>92)</sup> Mob justice have been portrayed by the South African media over the years as groups of people who are out of control, who have flogged criminals, kangaroo courts that have 'necklaced' and set people alight for perceived transgressions not acceptable to a certain section of the community, or groups of people who have stoned suspected criminals to death. A 'mob' therefore appears to be a group of unorganised vigilantes or gangsters acting at the spur of the moment in pursue of their own interests, or what they perceive as to be justice.<sup>93)</sup>

Hooliganism, organised crime and similar activities were not new to Cape Town's Coloured townships, but street gangs became more common in the Black townships

from mid-1986.<sup>94)</sup> Especially in Cape Town, large numbers of youths started to join street gangs in black and coloured townships. This trend commenced with the declaration of the State of Emergency in 1986.<sup>95)</sup> Some gangs were used and exploited by the SAP in this period as 'sub-contractors' where the police would leave ordering duties to gangs in certain areas to enforce some order in the area. The crimes committed by gangs however escalated to such an extent, that the police had to establish special gang-busting units in 1989 to address crime-related problems associated with these gangs.<sup>96)</sup>

### 2.3.3 White right-wing vigilantism

White right wing groups were present in South Africa from as early as the 1970s, but usually maintained a low profile. These groups were and still are also to a large extent associated with the conservative white farming and working class. The danger of white right-wing groups is that they are fragmented and remain largely anonymous while planning acts of terror. They were mostly established to further religious<sup>97)</sup>, cultural and political beliefs<sup>98)</sup>, although some initiated in the late 1980s and early 1990s, did have the combating of crime<sup>99)</sup> and self-protection as a goal.<sup>100)</sup> Self-protection in this sense meant the physical protection of White people, their property, work security, religion and culture from a perceived threat from mainly Black South Africans.<sup>101)</sup>

Right-wing groups were not involved in incidents of large-scale violence prior to 1980, but the situation however changed since the 1980s and some white right wing groups became involved in various forms of violent political protest during the 1990s.<sup>102)</sup> Some acts amounted to terrorism, and in some instances people were killed.

*The Jackals*, a group founded in the late 1980s or early 1990s had the aim to carry out vigilante action to protect Whites. Threats were made to assassinate SACP leaders such as Joe Slovo and Chris Hani.<sup>103)</sup> Hani was indeed assassinated in front of his Boksburg home on April 10, 1993.<sup>104)</sup> Two far right-wing activists, both members of the Afrikaner Weerstand Beweging (AWB), were convicted for his assassination.<sup>105)</sup> The second group that needs to be mentioned - Magsaksie

Afrikaner-Nationalisme - or Power Action African Nationalism, apparently established in 1990, announced in June 1990 that they would set up vigilante style commandos “to combat crime and vagrancy”.<sup>106)</sup> A few months later however, this group was integrated into the AWB.<sup>107)</sup>

After 2 February 1990, white right-wing violence became much more organised and orchestrated, and mass right-wing confrontations started to become a common phenomenon. In Ventersdorp a NP meeting was violently disrupted in 1991 leading to the death of three people while more than fifty others were injured. The World Trade Centre in Kempton Park where negotiations were taking place between the NP and the ANC, was invaded and occupied by members of the right-wing, mainly AWB members in 1993. AWB members also invaded Bophuthatswana in support of the homeland administration in 1994 leading to the controversial execution of a number of AWB members. A right-wing pre-election election bombing campaign prior to the 1994 elections eventually led to the arrest and prosecution of approximately 30 AWB members who were jailed for organising and executing this campaign.<sup>108)</sup> A total of 21 people were killed and 176 injured during this AWB bombing campaign.<sup>109)</sup>

The Human Rights Commission (HRC) reported that there were at least forty-five right-wing attacks country-wide in the second half of 1990, resulting in the deaths of twenty-six people and the injury of 138. Although in excess of 33 per cent of these attacks occurred in the Pretoria/Witwatersrand/Vereeniging area, the largest number of fatalities occurred in the Orange Free State and Natal.<sup>110)</sup>

#### **2.4. Coordination of crime combating initiatives prior to 1994**

From the above, it is clear that community initiatives to combat crime in the period prior to 1994 were not officially coordinated, of a diverse nature, and attempts at coordination or managing such initiatives, were at a low level, and on an *ad hoc* basis. The demand for partnerships by the police was identified as early as 1976, when it was stated by the police that it was the responsibility of every individual in the community to assist in crime prevention.<sup>111)</sup> The importance of the role of the public in assisting the police to combat crime was again emphasised in 1982<sup>112)</sup>, but no official steps were taken to put in place an official structure to facilitate, coordinate

and manage such cooperation between the SAP, and private structures such as neighbourhood watches and the public.

The fact that there was no coordination of crime combating initiatives prior to 1994 is confirmed by an inter-departmental strategy team in the 1996 *Crime Prevention Strategy*:

No organised or systematic approach to the prevention of crime has existed in South Africa. No single agency or level of government has had responsibility for crime prevention in its broadest sense and there is no special structure to plan, manage and co-ordinate crime prevention policy and activities. Previous crime prevention initiatives were developed without adequate analysis of the root causes of high crime rates and have been narrowly focused on only one or a few aspects of the crime problem...The traditional responses to crime by the police, the judiciary, the government, the private sector and the non-governmental community have not been co-ordinated.<sup>113)</sup>

In rural areas where commandos were responsible for protection of the farming community, coordination existed between the commandos, the farming fraternity and the SADF, but only to the extent that the SADF was responsible for members of the commandos as former conscripts, and the commandos being part of the SADF as territorial units.<sup>114)</sup> Cognizance must be taken of the fact that white South Africans experienced high levels of crime, but that white residential areas were officially better policed than the Black, Indian and Coloured sections of the population. In white residential areas, neighbourhood watch structures were established which were supported by the SAP, although managed by members of the public.<sup>115)</sup>

Black areas were neglected by the police, and only had low-level policing. This forced the Black section of the community to implement initiatives to enhance their personal security, leading to the establishing of a traditional type of ordering and policing structure in black areas such as the *Makgotla*, a structure initially supported by the police.<sup>116)</sup> In the Coloured areas of the Western Cape, communities established peace-keeping structures and street committees.<sup>117)</sup> The lack of proper

policing in Black areas however also left a security vacuum that was exploited by criminal elements. Citizens in these areas amongst others, also resorted to self-defence structures and vigilante type law enforcement, leading to mob violence and gang activities. In some instances, especially in coloured townships in the Western Cape, these gangs were exploited by the police to create order in some areas<sup>118)</sup>, but no official coordination of crime combating activities took place. Politics therefore led to different approaches to security by the white, and black sections of the South African community prior to 1994.

The phenomenon of gated communities, mainly found in white suburbs prior to 1994, is one characteristic of initiatives by Whites that stands out in this period. As far as coordination is concerned, cognizance must be taken of the fact that prior to 1994, there was no official policy on gated communities or similar structures other than standard building regulations, and local authorities were left with the responsibility of regulating such structures. It was also argued that enclosures were illegal.<sup>119)</sup> Gated communities, or rather certain types such as “road closures”, although controversial, were allowed and areas were closed off, and the right to restrict access motivated for security reasons. Gated communities are stand-alone separated units within cities and towns, and while residents in these areas - ‘gated community’, ‘security village’ or ‘enclosure’ - were coordinating crime combating initiatives in that area, no coordination existed amongst these units. According to Landman & Schönreich, this trend resulted in separation instead, rather than cohesion and coordination.<sup>120)</sup>

It is possible that some gated communities in close proximity were making use of the same security service provider who would then have coordinated operations *via* radio and phone links. Unofficial and *ad hoc* cooperation between the residents’ representative body, the security service provider and the police were taking place in some instances, but in general the initiatives and responses between the police, the private sector and the community have not been coordinated.<sup>121)</sup>

As the perception was, and still is, that gated communities and enclosures reduces crime, the assumption can be made that it was unofficially supported by the police, despite some arguments that it was illegal. In addition to the fact that it was seen as

an effective crime combating measure, unfamiliarity with the law at the time cannot be excluded, as this was a new development in South Africa.

The various private and community initiatives and/or structures that were created and applied to prevent and combat crime, and to protect communities from perceived threats prior to 1994, can therefore broadly be summarised and categorised as follows:

- Competing structures performing a policing or quasi-policing role;
- community activities fostered by the police to achieve a measure of de-politicization of formal policing; or
- community initiatives aiming to order and control the population with varying degrees of cooperation from the police.<sup>122)</sup>

As for the period prior to 1994, a distinction can be made between legal and illegal methods in the post-1994 period. Legal crime combating initiatives by the civilian community in the period from 1994-2010 will be discussed in the following section.

### **3. LEGAL COMMUNITY CRIME COMBATING INITIATIVES IN THE PERIOD 1994-2010**

Given the constraints on the post-1994 South African government as well as a lack of proper policing, South Africa citizens were forced to seek alternative forms of protection. In this regard, perceptions regarding the levels of crime and safety, as well as responses to these perceptions and to crime, differ among the various population groups.<sup>123)</sup>

Civil society has organised itself in various ways since the mid-1990s in finding community-driven solutions to reduce crime. The challenge however is to expand the involvement of the community in these initiatives.<sup>124)</sup> In 1998, the Department of Safety and Security identified 'Community crime prevention' as a key focus area for purposes of action against crime. This involves "communities taking responsibility for crime prevention in their own neighbourhoods. Such interventions involve localised programmes which mobilise a range of interest groups to address crime prevention on a town or city basis."<sup>125)</sup>

In South Africa in the post-1994 period, communities have engaged in various activities that constitute safety initiatives, many of which are a continuation or expansion of similar initiatives in the pre-1994 period. These include neighbourhood watches; block watches; community patrols; street committees; enclosed neighbourhoods (also referred to as gated communities or enclosures); closed circuit television monitoring systems (CCTV); and combinations of the various initiatives.<sup>126)</sup>

### **3.1 Neighbourhood watch, patrols and similar systems**

A distinction is made between “neighbourhood watch” and “block watch” systems, although the terms are used interchangeably. A neighbourhood watch is described as a “community initiative to increase security in a neighbourhood through passive measures such as marking of property and increased community awareness...while a block watch on the other hand, involves more active measures such as voluntary patrols through the community.”<sup>127)</sup>

As mentioned earlier, neighbourhood watch systems were implemented in South Africa in the middle of the 1980s.<sup>128)</sup> The successes of this concept and community involvement in the 1980s pertaining to crime prevention, was re-emphasised when crime levels started to rise in the middle and late 1990s. The viability of the neighbourhood watch system was also identified and emphasised by the private sector in the mid-1990s. A report on the impact of crime and violence on investment in 1996, highlighted the importance of neighbourhood watch or block watch systems in the prevention of crime and suggested a “crime prevention marketing drive...aimed at encouraging residents to take greater responsibility for their own personal safety and the protection of their properties.”<sup>129)</sup>

Reference must be made to the remarks in the NCPS regarding the absence of any systematic approach to the prevention of crime in South Africa, as well as the importance of the community’s in combating crime.<sup>130)</sup> Similarly, the SAPS admitted and emphasised the importance of civil society in the combating of crime in 1998<sup>131)</sup> and 2013.<sup>132)</sup> The Western Cape legislature has taken this one step further by formulating a *Provincial Constitution and Code of Conduct for Neighbourhood Watch Structures* in 1999.<sup>133)</sup>

Community and private sector involvement were increasingly advocated since early 2000. It is postulated by Berg & Shearing that private patrols in neighbourhoods have developed as a supplement to the public police. This trend however is not preventative in nature, but can rather be seen as enhancing and reinforcing a comprehensive law enforcement approach.<sup>134)</sup> As far as patrols are concerned, the trend is to use volunteers from the community, although in some instances paid guards are used, while patrols are executed on foot, on bicycles or with vehicles. Patrols are deemed to be a pro-active measure, while it is generally accepted that visibility deters criminals.<sup>135)</sup>

By 2005, although it was claimed that there were decreases in certain crime categories, crime levels overall remained high, and various suggestions were made by the public and business regarding initiatives to increase community safety.<sup>136)</sup> Some included the use of the neighbourhood watch concept; community patrols; gated communities; the use of private security; the development of concepts such as 'eBlockwatch' and 'Travel Buddies; private investigations; and even privately managed community centres.<sup>137)</sup>

After releasing crime statistics in 2010, the Minister of Police stated that "crime statistics were released for the purposes of crime prevention and planning by the police and the community."<sup>138)</sup> He pointed out that the concept of self-policing by the community is not something new and stated that:

In my view community policing is an old phenomenon practised in both rural and peri-urban areas a long time ago. In rural areas, when someone committed a crime such as house-breaking or theft, the victim summoned help from the neighbourhood by sounding a unique call – yandeyeye – please help...In some townships these days people blow vuvuzelas to warn others of crime. The offender was taken to the local headman (traditional leader), unharmed for trial and punishment. There were specific formalities followed...before a suitable sentence was metered out...In the case of crimes like murder or rape, the headman would call the police...to take over the matter. In townships, the responsibility to try offenders rested with the makgotla (sic). It is

important to note that even then, individuals were not allowed to take the law into their own hands by resorting to self-help – assaulting culprits or even killing them.<sup>139)</sup>

The Minister emphasised the importance of the role of neighbourhood watches, and reference was made to the powers of private persons in terms of the *Criminal Procedure Act*, Act No. 51 of 1977. It was stressed that communities need to change their behaviour in relation to their neighbours in order for neighbourhood watches to succeed. In this regard, neighbours should know each other, be able to realise when there are strangers in the neighbourhood and alert each other when strangers are seen on each other`s properties.<sup>140)</sup>

In 2010 the use of street committees also gained momentum as part of the neighbourhood watch concept when it was for example extended to more regions in Kwazulu-Natal (KZN). The KZN Premier at the time stated that communities should be pro-active and act against crime in order to create prosperity, and should not only rely on the police to create a safe environment.<sup>141)</sup> It was stated by one of the founders of a neighbourhood watch structure in KZN that the committees combat crime by collecting information, identifying suspects and by assisting the police and cooperating with public prosecutors. It is also claimed that the number of reported cases of rape, sexual harassment, and women and child abuse, housebreaking, robberies and highjackings decreases significantly in areas where these committees are active. It is claimed that street committees also assist in resolving domestic violence and social welfare issues, issues pertaining to orphans, disabled persons, and the elderly, as well as youth and women empowerment.<sup>142)</sup>

### **3.2 Viability and successes of neighbourhood watch and other initiatives in urban areas**

Following a wave of criminality and the murder of a Vryburg businesswomen in October 2012, a neighbourhood watch was formed, citizens of the town were mobilised and concerned residents took it upon themselves to patrol the streets. The human rights organisation Afriforum also became involved. Special attention was

given to visibility, and by December 2012 it was claimed by residents that burglaries were reduced by up to 42 per cent.<sup>143)</sup>

The existence and activities of neighbourhood watches and similar structures seem to have a positive impact on property values in such areas. It is admitted by some estate agents that crime in residential suburbs of South Africa has become a major reason for the slow recovery in the prices of residential properties. Prospective buyers enquire about crime in the area as well as the activities of neighbourhood watches or similar structures. With reference to estate agents' experience of community watch structures, it is stated by an international estate agency that some important facts must be considered by watch organisers and the police namely:

- The longer members can be on duty, the more effective they are likely to be;
- criminals are highly aware of which homes are inhabited by elderly or vulnerable people and tend to target these;
- criminals appear to be aware of which homes have valuable and easily portable goods such as jewellery;
- neighbourhood watches are the most effective in the first two to three years after their founding, but then members tend to lose enthusiasm; and
- increases in community participation lead to similar decreases in crime in residential areas.<sup>144)</sup>

It was stated by Property 24 that experience "in the suburbs of South London and in Sydney, Australia, has shown that when the women and elder people of the community take on daylight activities, the whole population becomes alert to possible incidents...Constant surveillance of this kind by communities has transformed certain precincts as radically as City Improvement Districts (CIDs) in some urban areas."<sup>145)</sup>

There are certain advantages of private initiatives such as the neighbourhood watch and similar legal initiatives, namely reports are made in anonymity; reprisals are avoided; community spirit and cohesion is increased; and it is a pro-active measure which decreases crime. The disadvantages are on the other hand that it is primarily reliant on sustained community enthusiasm and commitment; volunteers lose interest when crime decreases; and volunteers may be injured when they confront suspicious

persons.<sup>146)</sup> This will also have a serious implication in terms of insurance and liability if not properly managed.

### 3.3 Rural protection initiatives

Rural protection has become a sensitive topic since 1994, and even more so since the disbanding of the commandos that commenced in 2004.<sup>147)</sup> The *Rural Protection Plan* (RPP) was implemented by the SAPS in 1997 following claims by AgriSA that levels of violent crime on farms and smallholdings was unacceptably high. In October 1998 a rural safety summit was convened, aimed at strengthening the rural protection plan of 1997, and also to achieve consensus around a process to deal with the issue of attacks against farms and smallholdings. The rural protection plan's main objective was to encourage all role players concerned with rural safety to work together in a coordinated manner to combat crime in the country's rural areas.<sup>148)</sup>

In 1999, a research project was undertaken to evaluate the RPP's effectiveness. The study showed that the RPP's effectiveness to combat violent crime and attacks on farms and smallholdings varied from area to area. In South Africa's rural areas, where farms are far removed from the nearest police station, the plan's success depends primarily on strong civilian participation.

In the event of a farm attack, it is usually only the victim's neighbours who can respond rapidly enough to apprehend the culprits. By the time the security forces arrive at the scene of a farm attack the culprits have usually fled. Given that the police and the army do not have a rapid response capability in the country's rural areas, it is crucial that farmers and smallholders themselves — through the organised structure of the South African National Defence Force's commando system or the police's reservist system — take greater responsibility for their safety and the welfare of their community.<sup>149)</sup>

Manby postulates that “the protection of the state security forces and the use of state violence to ensure white control of the land has been exchanged for a government committed to land redistribution and laws protecting white farm residents...”<sup>150)</sup> A

SANDF exit strategy, and a SAPS entry strategy was decided upon with the closing down of the commandos. With the closing down of the commandos, it was foreseen that a new category of police reservists in rural areas would fill the security vacuum.<sup>151)</sup> This strategy and the RPP have however not been successful<sup>152)</sup>, resulting in some private crime combating initiatives in rural areas.

Controversy still surrounds the issue of rural protection<sup>153)</sup>, and it must also be kept in mind that all former members of the commandos are not farmers, and all farmers were not members of the commandos.<sup>154)</sup> Police protection is still regarded as inadequate, resulting in self-help and private initiatives enhancing rural safety. Some measures include the hiring of private security firms and implementation of 'farmwatch systems', 'security cell structures', and night patrols. In some instances protection groups consisting of amongst others former members of the now disbanded Koevoet and SADF 32 Battalion were formed.<sup>155)</sup>

In addition, and to enhance these farmwatch systems, farmers have started to train women and children in the use of various types of weapons, and training camps over weekends have become common in rural areas.<sup>156)</sup> In some cases members of the rural community have taken the law into their own hands, and various assault cases have been reported. Referring to a high number of civilian arrests in rural areas, it is of concern that a very small number of cases are successfully prosecuted.<sup>157)</sup>

### **3.4 Gated communities (enclosed neighbourhoods) and private security villages**

Another method used to reduce crime in certain areas is to restrict access to neighbourhoods, and to have the enclosed area patrolled by either members of the community, or by a private security company. As already mentioned, there is a difference between security villages and enclosed neighbourhoods or gated communities.<sup>158)</sup> Since the early 1990s, gated communities (in the form of secure estates or fortified town house complexes)<sup>159)</sup>, have experienced rapid growth in South Africa as a means of securing the safety of residents, especially in Gauteng.

It is stated by Landman (*et al*) that in South Africa “gated communities have become popular as a response to high levels of crime and the fear of crime.”<sup>160)</sup> The concept of ‘enclosed neighbourhoods’, ‘walled enclaves’, or ‘gated communities’ is however controversial, mainly as a result of the issue of legality when individuals are prevented from free access to public space. Road closures are further not allowed by all local municipalities.<sup>161)</sup>

In a survey conducted by the Council for Scientific and Industrial Research (CSIR) in 2002, which included data received from 117 municipalities, it was found that only 23 applications received from a number of 37 neighbourhoods were approved. Most road closures occurred in the metropolitan areas of Johannesburg, Pretoria and Cape Town.<sup>162)</sup> In 2002 there were in excess of 300 road closures in Johannesburg’s residential areas, while only 79 neighbourhoods had submitted applications. After the Gauteng Provincial Government in 2003 has resolved to remove all unauthorised road closures, an estimated 300 applications were received within a week. The absence of national policy guidelines further complicates the issue.<sup>163)</sup> The Gauteng Province has produced a policy document in this regard, mainly relating to legality, human rights, and inconvenience.<sup>164)</sup>

In a comparison of crime, security villages and gated communities in South Africa and Brazil, Landman & Schönreich posit that for many South Africans “security measures in and around their homes is (sic) not enough. They want to live in a more secure environment in terms of the larger area surrounding their homes. In this way the idea of ‘total security’ is becoming increasingly popular. This has led to the increase of security villages and enclosed neighbourhoods in urban areas.”<sup>165)</sup>

It is argued that gated communities create social and economic exclusion and polarisation. This ‘spatial segregation’ exclude other urban residents from, casual passers-by and people from surrounding neighbourhoods, “creating a barrier to interaction among people of different races, cultures and classes, thereby inhibiting the construction of social networks that form the basis of social and economic activities.”<sup>166)</sup>

Spocter argues that gated developments are seen as a bastion against chaotic urban environments, and that they provide security and privacy from 'undesirables'. "The notion that public disorder was increasing has been fuelled by the perception that the police forces could not control crime and social disobedience and that gates and walls offered a private security solution without dependence on a public police force."<sup>167)</sup> In addition to the abovementioned arguments, it is also argued that there are other effects such as restricted access to public facilities and communal spaces such as parks, libraries, schools and recreational facilities. It further impacts on traffic and movement patterns due to limited and restricted entry and access routes.<sup>168)</sup>

It is also argued that there is no evidence that gated communities reduce crime, but that it is rather seen as cosmetic crime prevention as crime merely moves to other areas that are more accessible.<sup>169)</sup> There are however recent claims that it does in fact reduce crime.<sup>170)</sup> While there might be some merit in this argument, the fact of the matter is that it proves that easy accessibility, and the absence of, or no visible security officers or control point, contributes to crime as such premises are seen as easy or soft targets. High walls, gates, cameras and security officers therefore have a deterrent effect.

### **3.5 Closed circuit television cameras and other technology**

In the *Green Paper on Policing*, it is stated that the "rapid growth of globalisation and constant developments in Information Communication Technology (ICT) means that violent crime is no longer the single biggest threat to development. Increased exposure and access to the internet and our ability to download large volumes of data at high speed has heightened people's exposure to other crimes like cyber-crime. Smart phone technology and increased interaction through a range of social media platforms further exacerbates the problem. This has created opportunities for organised criminal syndicates to reach large numbers with great ease."<sup>171)</sup>

Technology plays a vital role in combating crime in South Africa.<sup>172)</sup> It is increasingly being used as a measure to increase security and as a tool in crime prevention. It further seems to be making a difference in the fight against crime as members of the public use cell phones to share information with each other and the police, and also

to show their support for anti-crime initiatives. A brief discussion of the use of CCTV, technology, and/or a combination of other initiatives in combating crime in addition to measures already discussed, is therefore necessary.

### 3.5.1 Closed circuit television cameras

The use of CCTV for surveillance purposes to assist in crime prevention, was initially a private initiative that gained momentum in the mid-1990s. This must however also be considered together with the 'City Improvement District or CID' concept introduced in South Africa since late 1999. This concept is based on models in the UK and the US, with emphasis on service delivery, law enforcement, and eradicating 'crime and grime'. A large part of the CID concept depends on CCTV.<sup>173)</sup> CCTV as a prevention and detection measure is however not new in South Africa, and it was initially used extensively in the mining (gold and diamonds), gambling<sup>174)</sup>, and banking industry.<sup>175)</sup> Its potential for a wider application was realised and it was also used as a surveillance measure in the commercial and retail industry, and later in residential areas. The initiative to use CCTV for surveillance and as a crime combating tool in Central Business Districts (CBDs) in South Africa, was started by Business Against Crime (BAC) in 1996, but only started to gain momentum in the late 1990s.<sup>176)</sup> Business initiatives will be discussed in the next chapter, and therefore only the application of CCTV insofar as it pertains to its use by the community and non-business entities or individuals, will be discussed here.

In the early and mid-1990s CCTV was used extensively in shopping malls, car parks and the industries as mentioned above. Prior to 1994, the use of CCTV at private homes, security villages and gated communities was the exception rather than the rule. If used at all, it was largely limited to "single camera placements at an entrance gate merely to assist in identifying people/vehicles wanting to come in. However, with the continued high level of crimes (such as burglaries, house robberies and vehicle hijackings) occurring even inside these walled estates areas has seen...the placement and sitting of CCTV cameras, not only on perimeter walls or only at entrance gates but along the streets (i.e. outside of homes) inside these secure areas."<sup>177)</sup> In neighbourhoods in particularly Johannesburg and Pretoria, the use of CCTV was taken a step further when residents got together and formed vehicles

such as neighbourhood watches and CPFs to manage and fund the installation of CCTV in their neighbourhoods for crime detection and prevention purposes.<sup>178)</sup>

The installation and implementation of privately funded CCTV camera systems in residential areas is a very recent phenomenon, although based on the implementation of similar systems in the major CBDs in South Africa in the late 1990s and in early 2000.<sup>179)</sup> The CID concept was introduced in Cape Town in 1999, and a large number of CCTV cameras were installed by the private sector in the Cape Town CBD by 1999/2000. Control of these cameras was however in November 2000 assumed by the Cape Town City Police.<sup>180)</sup> By January 2003 it was predicted that the 'technical option', where end-users make more use of technology than of physical measures, would gradually become more attractive.<sup>181)</sup> This trend was confirmed by various initiatives making use of CCTV only, or in combination with other technology.<sup>182)</sup>

CCTV, initially developed as a security measure for banks, is now well established as a tool to enhance residential security, mainly due to it being simple and inexpensive enough to be used in home security systems.<sup>183)</sup> There is also a shift away from conventional analogue to Internet Protocol (IP) - based digital systems.<sup>184)</sup> A typical system for a residential property today would use a combination of technological solutions to include the following namely: an electronic based electric perimeter fence; an alarm (early warning) system; an access control system; and a CCTV system to enhance perimeter protection and monitor movement on the property.<sup>185)</sup>

The huge increase in demand for CCTV since the mid-1990s<sup>186)</sup> is a clear indication of the value of CCTV as a crime combating instrument. The estimated value of the access control and detection devices market (electronic gates, card access, early warning, alarms and CCTV), grew from R 460 million in 1993, to an estimated R 740 million in 1997<sup>187)</sup>, and to more than R 1 billion in 2005.<sup>188)</sup>

CCTV surveillance cameras that were installed in Pretoria's CBD and Hatfield in Pretoria in 2004/2005, yielded success according to the Hatfield City Improvement District. It was however stated that although the installation of the cameras was a private initiative, the project's success was enhanced by the fact that the Tshwane

Metro Police sponsored a dedicated vehicle to respond to emergencies and incidents.<sup>189)</sup> CCTV cameras as part of community initiatives were also installed in other parts of the country such as in Laudium in 2010, to assist the police in crime combating.<sup>190)</sup>

### 3.5.2 eBlockwatch

While it is a fact that technological development facilitates certain crimes, technology can also be applied in combating crime. The Association of Certified Fraud Examiners (ACFE) - an organisation with members all over the globe involved with the investigation of fraud - has recently reported on a new wave of identity theft and the proliferation of crimes committed with mobile devices such as smartphones, tablet PCs and e-readers. "Cyber criminals go where the money is, and they've reacted quickly to exploit the spread of the mobile banking arena as a profit center. The mobility of laptops led to an exploitation of personal data through loss and theft, but the movement to smaller portable devices represents a much larger opportunity for cyber criminals to exploit data."<sup>191)</sup>

As far as the application of technology in the combating of crime is concerned, reference can be made to eBlockwatch where cell phone technology is applied for this purpose. The eBlockwatch system founded in 2001, originated from a company that specialised in social networking, sending bulk short messages (SMSs), collecting a range of numbers and sending out a greeting message to each. In return, the founder also received a large number of telephone calls and "realised (that this) communication tool was powerful (and)...invasive."<sup>192)</sup>

Technology, social media and networking, were combined with the neighbourhood watch concept in combating crime. The eBlockWatch system sends crime alerts *via* SMS to signed-up members' cellphones. These crime alerts can include everything from attempted hijackings to burglaries. Its founder stated that the intention was to use the system as a "crime fighting" tool.<sup>193)</sup> This project enables people to interact and provide information on its website, which is then shared with the SAPS and community members.<sup>194)</sup>

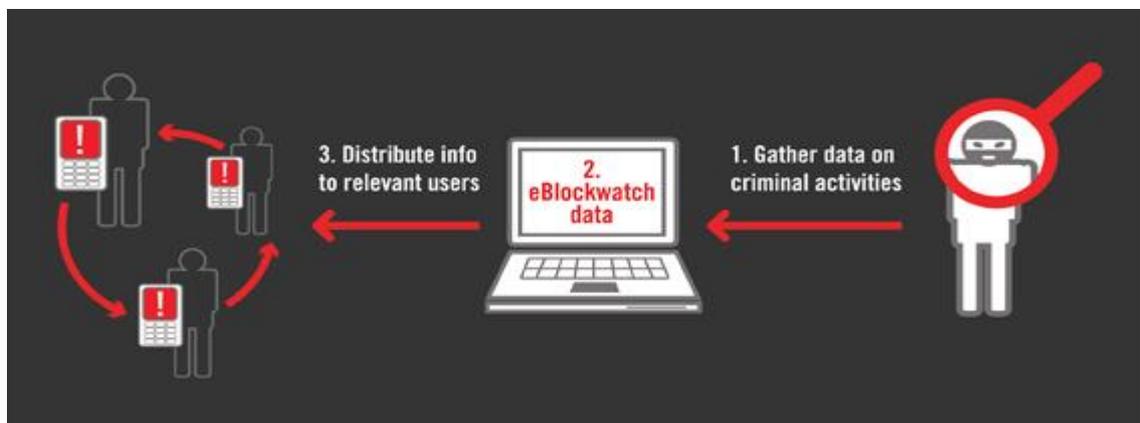
The goal of the eBlockwatch concept is twofold, namely to collect and disseminate information about crime, and to assist community members in emergencies. Information is collected on criminal activity and turned into intelligent data which is then disseminated to relevant members. Members can for example report and receive information by sms or email pertaining to crime in their particular suburb.<sup>195)</sup>

Upon registration, the cell phone numbers of friends and/or family members are logged on the eBlockwatch system. A key on the member`s cell phone is used as a panic button and when pressed, the call for assistance is immediately sent to a network in the community such as friends, neighbours, the neighbourhood watch, security companies and the police. Large numbers of arrests are claimed by portals such as eBlockwatch.

“Technology seems to be making a difference in the fight against crime as people use cellphones to share information with each other and the police, and show their support for anti-crime initiatives...eBlockwatch enables people to interact and provide information on its website, which is then shared with the SAPS and community members”<sup>196)</sup>

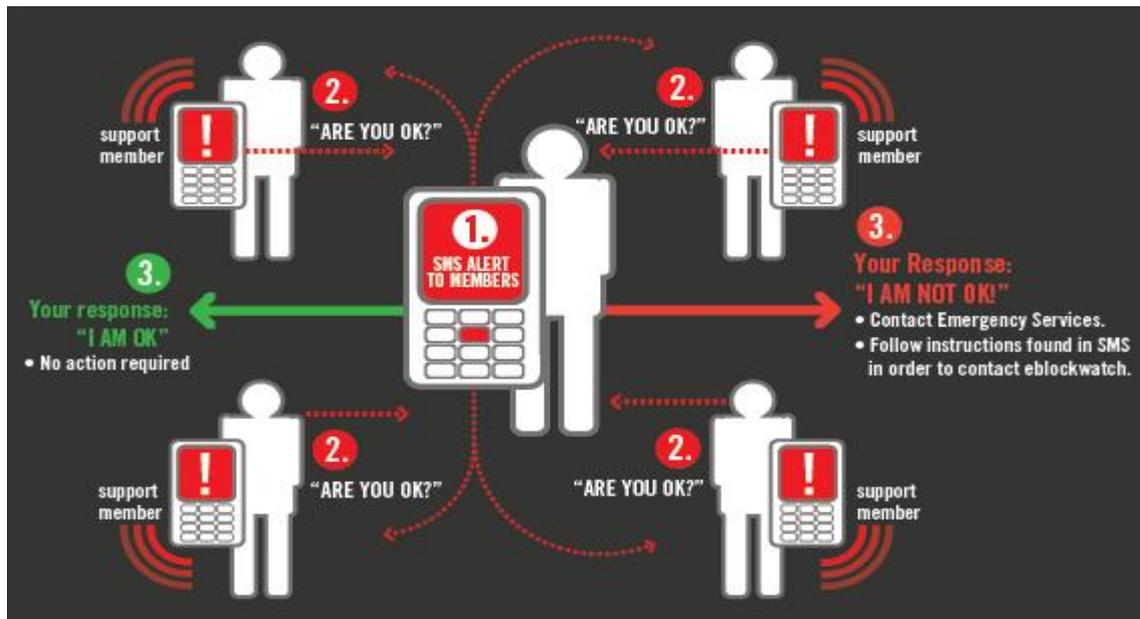
The eblockwatch process of collection and dissemination of information pertaining to crime is illustrated in Diagram 1, while Diagram 2 illustrates the “Community button’ concept.

**Diagram 1: Collection and dissemination of information of crime**



Source: Fight crime using technology, eBlockwatch, 23/9/2013.

**Diagram 2: Assisting members by the use of the ‘Community button’**



Source: Fight crime using technology, eBlockwatch, 23/9/2013.

It must however be emphasised that eBlockwatch is not a security or reaction company, but a vehicle – a network of networks - for disseminating information and mobilising communities and organisations in the process of crime combating.<sup>197)</sup>

### 3.5.3 Crime Line

Another initiative using technology was the launching of a 24-hour call centre in 2007 by Primedia, where information on crime can be made available to operators anonymously. SMSs can also be sent to a website and a designated SMS line. The site receives SMSs from the public, and then forwards the information to the SAPS.<sup>198)</sup> This initiative by Primedia, which is a member of a global umbrella organisation Crime Stoppers International, is also endorsed by the SAPS. In April 2010, Yusuf Abramjee who headed Crime Line, claimed 910 arrests due to the anonymous tip-off service. In June 2010, it was further claimed that in the three years of its existence, this initiative had already resulted in goods to the value of R34 million seized, which included items that had been stolen.<sup>199)</sup>

Abramjee claimed at the time that South Africa was one of the first countries in the world to use an SMS alert system; that other countries were following suit; and further that the local organisation had aided other countries in implementing a similar model. The main stumbling block behind this anonymous tip-off model was that people feared that they could be tracked down if they phone in information or alerts to the SAPS. Crime Line entered into an agreement with the cellular operators to remove the original cell phone number from the SMS when it is routed to Crime Line, which ensures the anonymity of the caller.<sup>200)</sup>

According to the SAPS, the Crime Line initiative and the cooperation from the public yield excellent results. In August 2007, merely 10 weeks after its founding, it was reported by Crime Line that the initiative already resulted in 107 arrests; the recovery of 13 stolen vehicles, electronic equipment, cash, weapons and ammunition; and the seizure of drugs which included heroin, cocaine, ecstasy, mandrax and tik. A number of arrests were also made for crimes such as aggravated robbery, child rape and house breaking after information was conveyed to the SAPS.<sup>201)</sup> By July 2008 it was claimed that the number of arrests as a result of this initiative increased to close to 500, while goods to the value of R 19,8 million were recovered or seized by the SAPS.<sup>202)</sup>

#### 3.5.4 Coordination of initiatives, perceptions and civil society security

In addition to the abovementioned initiatives, South Africans have also taken various other measures to increase their personal safety. Additional measures such as preventing theft of vehicles; carrying of weapons; acquiring dogs; joining self-help groups; and increasing the security of homes, are examples of this.<sup>203)</sup> These were already referred to and discussed in the previous chapter.

Regarding the role of the private sector, the *White Paper on Safety and Security* states that communities should act, intervene and take “responsibility for crime prevention in their own neighbourhoods. These interventions involve localised programmes, which mobilise a range of interest groups to address crime prevention on a town or city basis.”<sup>204)</sup> It continues to state that there are many “important partners in the fight against crime. These include, among others, organisations of

civil society, particularly business and community organisations, citizens who volunteer for service as Police Reservists as well as the private security industry”.<sup>205)</sup>

The role of CPFs is important in this regard. The SAPS and some communities cooperate through non-profit organisations established by some sections of the community for this purpose. The CPFs also serve as an important coordination mechanism<sup>206)</sup>, and to an extent unofficially as a regulatory mechanism. On local community level, sub-CPF forums are established to coordinate anti-crime initiatives. Minnaar posits that some of these forums in fact adopt formal constitutions, outlining missions, goals, functions, activities and procedures<sup>207)</sup>, which creates the possibility that this could be considered as a future basis for establishing a controlling and coordinating body on national level. The role of CPFs as coordinator will be discussed in more detail in the next chapter.

As recently as in 2013, private initiatives were, and still are not coordinated, as was already stated in the NCPS of 1996. The absence of any systematic approach to the prevention of crime in South Africa is emphasised and it also confirms the absence of the responsibility to a single agency or level of government for crime prevention.<sup>208)</sup> In a government medium to long term planning document, *National Development Plan: Vision 2030*, it is acknowledged that the active involvement and participation of civil society is needed to create safe, crime free and stable communities.<sup>209)</sup> The *Green Paper on Policing* of 2013 also confirms the shortcomings linked to the coordination of crime prevention. Calls are also made for increased community involvement and formal partnerships, especially against the background of increased globalisation.<sup>210)</sup>

Both Schönsteich<sup>211)</sup> and Minnaar<sup>212)</sup> call for increased private sector involvement in the combating of crime, although they focus on, and emphasise the role of the private security industry. It must however be kept in mind that a significant part of the private security industry`s guarding, intruder detection (alarms and CCTV), and armed response services, are utilised and/or hired by home-owners and gated communities. They are therefore part of private initiatives which contribute to the growth of the private security industry.

The above form one of the reasons why efforts to combat crime are currently not coordinated, as it is impossible to be aware of, regulate, coordinate and control the actions of millions of private persons, and hundreds if not thousands of community structures across the country. Communities, realising that the SAPS cannot provide security on a 24-hour basis, increasingly take the initiative to protect themselves, one option being the hiring of the services of a private security company. The calls for increased private sector involvement<sup>213)</sup> therefore by implication also include initiatives by private persons and communities.

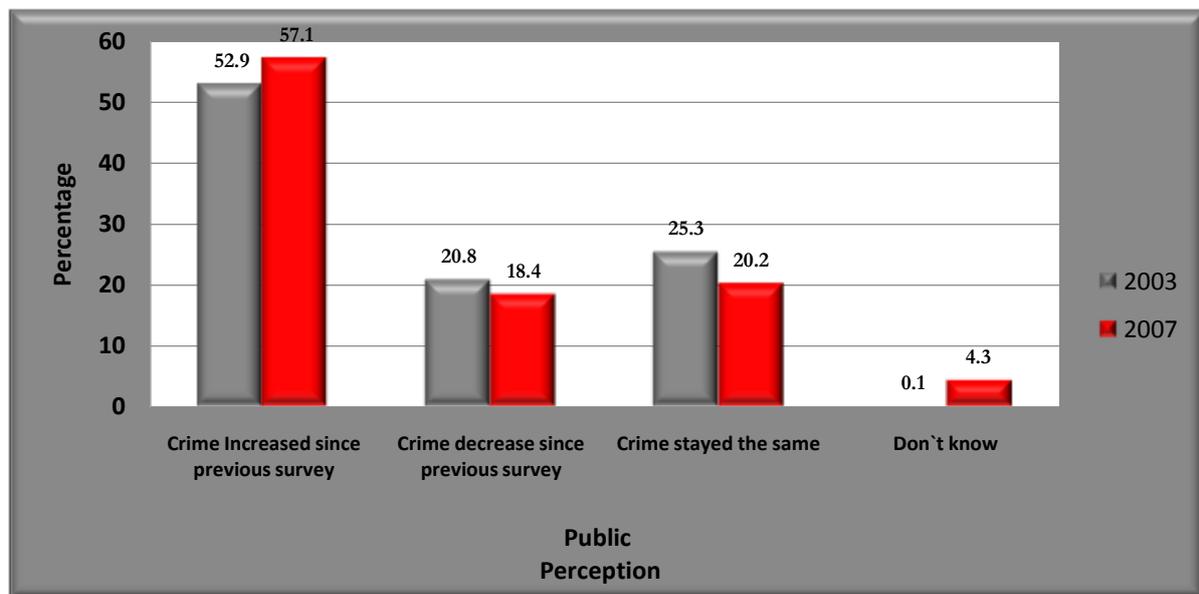
The question is asked as to why it is important to focus on people`s personal safety, concerns and related anxieties instead of only on statistics relating to changing levels of violent and property crime. The answer is found in the “complex and detrimental effects that fear of criminal violence impacts on quality of life at individual, community and societal levels. These include...constraints on people`s mobility and ability to socialise, a hastening retreat from public space and the proliferation of gated communities, high walls and fences and an array of private security measures (the so-called ‘architecture of fear’).”<sup>214)</sup>

Public perceptions about the efficiency of the criminal justice system; safety, security and crime levels; the performance and inability of the police to manage high crime levels; and the public`s perception of its own ability and responsibility in contributing to safety and security, determines the nature and extent of private crime combating initiatives. It will also determine the extent to which the public is prepared to allow government involvement in the execution of these initiatives, and whether these initiatives will be coordinated with the police and other relevant role-players. The impact of perceptions is important for government in order to plan and to strategize, as negative perceptions pertaining to crime, safety and security, and protection by the state, normally does have a converse effect in terms of public response, not all of which are legal.<sup>215)</sup>

Surveys conducted pertaining to the above serves as a barometer to determine not only the perception of the public as far as crime and security is concerned, but also explain certain reactions, responses and initiatives. From a survey conducted in 2008, 46 per cent (39 per cent in 2003) of respondents indicated that they have

taken some personal measures to protect themselves from crime and violence. This represents an increase of 7 per cent from the previous survey conducted in 2003.<sup>216)</sup> While the actual crime figures are according to some institutions not reliable, the way crime is perceived and the way the public reacts, are more important than the actual data. It is this perception that leads the South African “public to turn to private security for protection out of the belief that the police were not carrying out this task adequately.”<sup>217)</sup> The public’s perception of the general performance of the police changed since the late 1990s. The findings of the survey show that the public’s trust in the competence and capabilities of the police have declined since 1998, and by 2007, the majority of the population was of the opinion that the police was not performing well at all, as illustrated in Figure 4.

**FIGURE 4: Public perception of changes in crime levels in South Africa in 2003 and 2007**

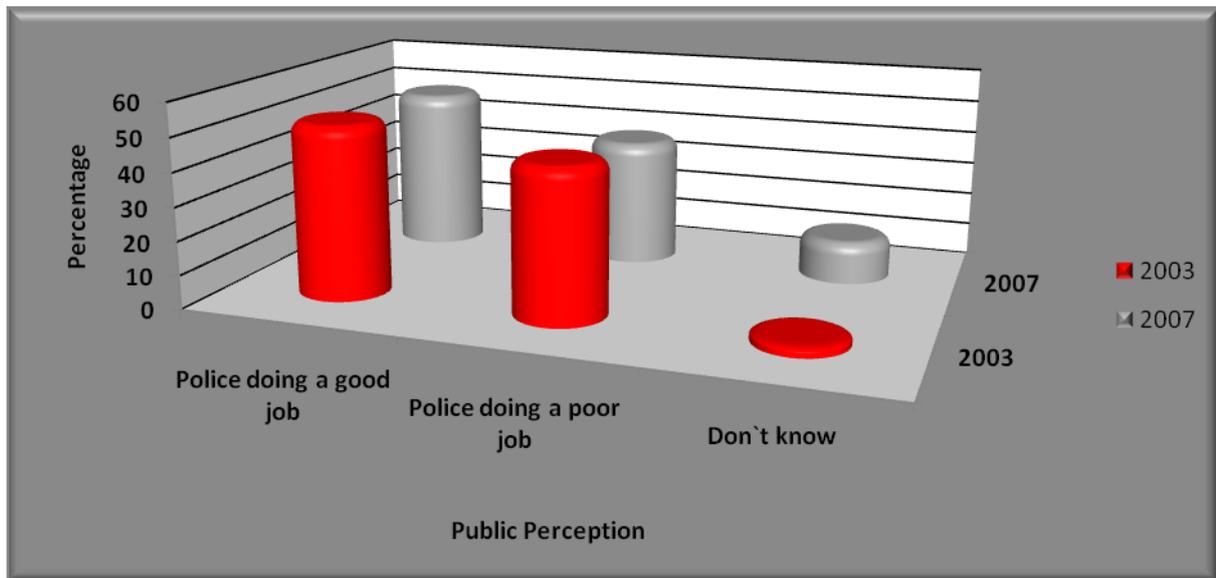


Source: ISS, *National Victims of Crime Survey*, December 2008

Perceptions on police performance, as well as perceived changes in crime levels, are the main contributors to private initiatives and the growth in the private security industry. Figure 4 above shows how the public perceived changes in the levels of crime in 2003 and 2007 respectively, from the previous survey in 1998. The greater majority of the public (77,3 per cent) perceived crime to have increased or to have

remained on the same levels in 2007, despite the SAPS's statistics showing a gradual decrease in the levels of most of the categories of crime since 2005. Changes in these perceptions from 1998, compared to the findings of surveys in 2003 and 2007 respectively, are illustrated in Figure 5.

**FIGURE 5: Public perception of police performance in South Africa in 2003 and 2007**



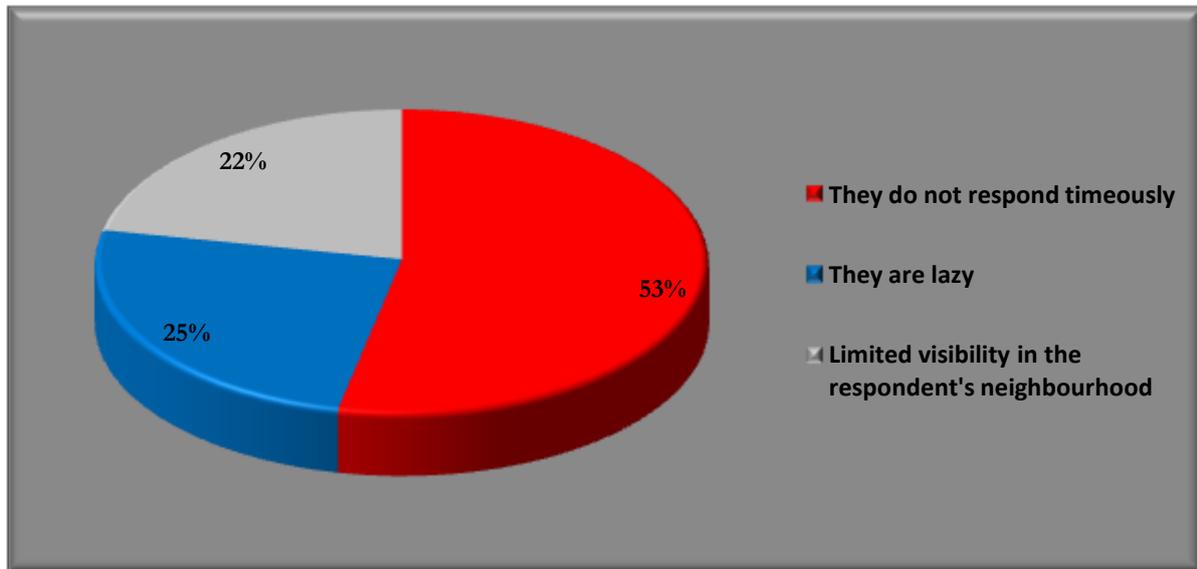
Source: ISS, *National Victims of Crime Survey*, December 2008

The public has become increasingly dissatisfied with the performance of the police for mainly three reasons, namely they do not respond timeously; they are lazy; and are not visible in the respondent's neighbourhoods.<sup>218)</sup>

In addition to the dissatisfaction of certain sections of the community with the performance of the police, it is also argued by some CPF members and researchers that the police expect too much of the public. It is stated that there is a lack of communication between the police and CPFs, which then also by implication means a lack of coordination of crime combating initiatives. Although the public is responsible for its own safety and security, it cannot for instance combat organised crime as special training is required. Therefore, this remains the responsibility of the

police.<sup>219)</sup> The reasons and levels of dissatisfaction are illustrated by category in Figure 6.

**FIGURE 6: Reasons for dissatisfaction of public on police performance in South Africa**



Source: ISS, *National Victims of Crime Survey*, December 2008

Communities do not only use legal measures to protect themselves from crime. Illegal measures used by the community in response to threats or perceived threats to their safety and security must also be considered.

#### **4. ILLEGAL COMMUNITY CRIME COMBATING INITIATIVES IN THE POST-1994 PERIOD**

Illegal community responses to crime have not changed much since the late 1980s and the early 1990s. After 1994, the reasons for these actions however changed significantly. In 2001 for instance, it was stated that the rise of vigilantism was often attributed to a lack of, or inefficient policing. In some cases inefficient policing has led to the vigilante killing of suspected criminals.<sup>220)</sup> Government is obliged to protect South African citizens and cannot neglect its responsibility in this regard. However, as stated by Von Schnitzler (*et al*), to solely focus on the “current shortcomings of

policing and the criminal justice system more generally obscures the complexity of the issue and, in some cases, even lends moral legitimacy to vigilantism”.<sup>221)</sup> More recently, violent protests across South Africa have also shown that issues such as corruption, crime, incompetency and service delivery, also need to be considered.<sup>222)</sup>

#### **4.1. Mob justice**

While the inefficiency of the criminal justice system is felt across the country, it is more visible in the poor rural areas. Here, police numbers and visibility are low and resources particularly scarce. The luxury of resorting to private security companies, is not an option for the majority of the population, and they are therefore solely dependent on the public police for their safety.<sup>223)</sup> This is conducive to creating vigilantism, in many instances resulting in mob justice and related violence. In 2003, the Transvaal Agricultural Union (TAU) for example attributed the growth of vigilante groups, and organisations such as *Mapogo*, to the failure of government to protect South African citizens.<sup>224)</sup>

Mob violence however, manifests in two broad categories namely in the sense of “self-help” where the community imposes sanctions on criminals in the perceived absence of effective law enforcement, and the perpetrated violence by gang members and mobs of hooligans. Mob justice in the sense of “self-help” has become a general phenomenon since late the late 1990s with communities not having confidence in the criminal justice system.<sup>225)</sup>

Numerous examples are available where communities threatened to take the law in their own hands<sup>226)</sup>, and actually took the law into their own hands by punishing suspects,<sup>227)</sup> or killing suspected criminals.<sup>228)</sup> Examples also exist where communities apprehended criminals within the parameters of the law, and hand over arrested persons to the police.<sup>229)</sup> The problem is however that formal processes that follow after the arrest, may see criminals back on the street within hours, leading to much frustration within, and sometimes to vigilante type action by the affected communities. In the Western Cape a Commission of Inquiry was appointed in 2012 by the Western Cape provincial government to investigate police inefficiency and

vigilante justice in Khayelitsha after the prevalence of mob-justice increased to unacceptable levels, and what was regarded as a crisis.<sup>230)</sup>

## 4.2. Vigilante groups

A survey conducted in 2003 found that vigilante groups are more prevalent in predominantly black areas in the form of a protection group, while it appears as if it is most common in Mpumalanga and Kwazulu-Natal.<sup>231)</sup> Gang activities have found to be more common in the Witwatersrand and the Cape Flats, as well as the Northern Cape.<sup>232)</sup> It was concluded that at least 25 per cent of the groups included in the survey appeared to be vigilante groups, as some type of punishment was administered to suspects. It was further revealed that although a minority of South Africans had direct experience with vigilantism, a quarter of those that participated in the survey did not have confidence in the criminal justice system.<sup>233)</sup>

Gangs assume control of an area, mainly as a result of fear that they impose on a community, or sections of the community, and gangsterism can to a certain extent be regarded as a sub-category of vigilantism. Vigilantism can however also be distinguished from gangsterism. Vigilantism or vigilante type action although regarded by the majority of the community as illegal, is usually to an extent justified by role players and leaders involved, while gangs are generally regarded as organised criminal groups. The difference will be illustrated in the next subsections.

### 4.2.1 Gangsterism and fear in communities

Gangs and criminal groups with similar structures as, and related and linked to political organisations as referred to earlier, or in some instances community organisations, assume territorial control in the area where a political or other organisation is dominant, usually by imposing fear upon community members.

Once they have assumed control of an area, gangs or criminal groups then rule by terrorising the inhabitants of their communities, demand fees for protecting businesses, and restrict political mobilisation, recreation, and religious activities. It is alleged that some of these gangs are operated by former policemen and murder and

robbery informants. Instilling “law and order” in the community is therefore in essence denying other gangs access to their market area.<sup>234)</sup> This is regarded as ‘public order’ dominated by fear. As their illegal means of survival make them vulnerable to the police, they are willing to cooperate with the police, and trade information and services in order to be allowed to continue their operations. In some townships, the police have allowed gangs to become the most important instrument to order and rule civic life.<sup>235)</sup>

Gangsterism is also the result of disillusionment on the part of the youth who experience the lack of employment, which leads to frustration, anger, and alienation, and eventually to violence as a result of a feeling to “extract revenge on the society they believe has caused them so much hardship and pain.”<sup>236)</sup> As the feeling of “not belonging, and of not being wanted (marginalisation)” grows, a large majority of the youth become frustrated, alienated, and angry, and eventually some of them end up by joining gangs, and thus, a life of crime. Gangs, similar to political organisations provide a support structure, direction, and security in the absence of employment, and a feeling of belonging somewhere. This explains the trend of increases in gang activity during periods of political unrest and during long periods of high unemployment.<sup>237)</sup>

Some communities choose not to contact the police with information, which is either based on fear, or a sign of a general feeling of distrust in the police.<sup>238)</sup> Gang members can move around safely in these areas, and transition from political to criminal activity happens nearly unnoticed and easy. The distinction between political violence, post-1994 type vigilantism and criminal activity becomes blurred, most often also resulting in mob violence. Many examples are available where SDU members have crossed the line, and have subsequently been stigmatised by communities as killers and criminals.<sup>239)</sup>

Lambrechts, with specific reference to gangs on the Cape Flats, argues that organised criminal groups are established in communities as rival organisations where the state has lost social control.<sup>240)</sup> In its analysis of vigilante activities, a 2003 survey attempted to distinguish between vigilante activities and other anti-crime activities. Respondents who stated that a vigilante group exists in their area,

indicated that 61 per cent of these groups comprises of volunteers and that in excess of 34 per cent were paid a fee for their service.<sup>241)</sup> *Mapogo A Mathamaga* was one of the groups included in the survey, and although registered as a private security company, due to many allegations of assault and murder, it was regarded and treated as a vigilante group. This organisation will be discussed as an example of the difficulty of distinguishing between legal and illegal crime combating activities, as well as distinguishing between gangsterism and vigilante activity.

Gangs are found in townships and prisons, but they function on a small scale compared to those in the Western Cape. Gangs in South Africa have metamorphosed from groups of youths in the streets into sophisticated criminal empires. While this was a problem mainly confined to the Western Cape prior to 1994, it also spread to Gauteng and certain areas in the Northern Cape by 2003. Where the police have allowed certain gangs – as an unorthodox policing method - to continue their operations in exchange for information and assistance with creating order in some communities, this problem seems to have spiralled out of control, and it has now led to serious crime on an organised scale.<sup>242)</sup>

#### 4.2.2 Mapogo A Mathamaga Business Shield

It is important to firstly understand the historical role of the youth as a political force in order to grasp the full meaning and connotations of *Mapogo A Mathamaga* Business Shield's (*Mapogo*) growth. Secondly, inefficient policing as was mentioned earlier, is also used to explain the organisation's growth. A dysfunctional justice system, corruption, policing, whether it be the lack or quality thereof, are important factors leading to acts of vigilantism, and can to an extent explain the growth of vigilante groups such as *Mapogo A Mathamaga*.<sup>243)</sup>

Established in 1996, *Mapogo* as an anti-crime group initially operated mainly in the Sekhukhune region of the Limpopo Province. It was originally founded by a group of businessmen in the Limpopo Province in response to the high incidence of murders and robberies in the province. *Mapogo* draws its name from a Sotho proverb meaning "If you [the criminal] conduct yourself like a leopard, remember the victim can change into a tiger".<sup>244)</sup>

*Mapogo* has adopted a firm anti-youth stance, and it is argued with reference to the Limpopo Province, that many of the dynamics of youth rebellion seen in the 1980s were still prevalent in 2001. It is against this background that *Mapogo*'s vigilantism and strong anti-youth stance must be understood. Similar to the 1980s, the youth is continuously aiming to wrench control from the elders. As mentioned already, the youth is regarded by many as the main source of social and criminal unrest, and *Mapogo*'s members usually refer to young people as the main culprits. This claim has been substantiated by studies on the relationship between crime and age.<sup>245)</sup>

Since 1996 *Mapogo* has opened branches in Mpumalanga, the Free State and Gauteng.<sup>246)</sup> The group soon became known for illegal and strong-arm tactics when dealing with suspects, and began being referred to as vigilantes.<sup>247)</sup> The organisation's website for instance advertises the following services: investigations; armed response; polygraphs; installation of alarms and electric fencing; undercover operations; and "vagrant removal". It is stated that "Vagrant removal is done in the normal African manner", and that "Criminal cases are investigated and dealt with by our agents the real African way. People who are found in possession of our customer's goods do not have the luxury of long-lasting court cases and being found innocent on a technical point. They will immediately be dealt with in a traditional way to an extent that they will become exemplary citizens serving an integral part in our community".<sup>248)</sup>

As far as crime combating and the use of technology is concerned, *Mapogo*'s website displays a similar diagram to that of eBlockwatch. The use of cell phones; fixed and remote panic buttons; radio signals; and computer and IP technology are combined to alert their control rooms in order to respond to possible emergencies. It appears as if *Mapogo* focuses on shopping malls, retirement villages and gated communities, while it claimed that this system is also suited for agricultural holdings and rural areas. *Mapogo*'s website also depicts a heading that describes its "Method of operation". Under this heading it is stated that the organisation will "Hand out suitable discipline where required".<sup>249)</sup> Considering a large number of assault and murder cases that are being investigated against the organisation, these actions may not be within the ambit of the law.

Allegations of murder and assault resulted in investigations against at least 600 *Mapogo* members, implicated in at least 300 cases by the end of 2000. By 2001 *Mapogo* registered as a security firm which had in excess of 40 000 members, a number of 90 branch offices, and initially continued to grow, while the criminal justice system was struggling to deal with the organisation`s illegal actions.<sup>250)</sup>

The organisation`s “Life President” John Magolego, in 2010 claimed that *Mapogo* had 70 000, members, which included 10 000 farmers. *Mapogo*`s stance in 2010<sup>251)</sup> was that criminals infringe on law-abiding citizen`s rights, and that the organisation by punishing suspects “corrects” the criminal and the government`s flawed rights, and fills a gap in the state`s security apparatus. The support for the organisation seems to have dwindled somewhat since then.<sup>252)</sup>

Some groups or movements that are established in reaction to improper policing, are more militant in their approach to crime combating than others. People Against Gangsterism and Drugs (PAGAD), an organisation which was established in the Western Cape in response to a lack of proper policing, will be discussed next.

#### 4.2.3 People Against Gangsterism and Drugs

The inability or unwillingness of the police to address drug and gang related issues in the Western Cape, led to the founding of PAGAD in 1995. The establishment of PAGAD as a response to the State`s apparent inability to respond to repeated demands for action against drug dealers, crime and gangsters, serves as an example of communities taking the law into their own hands.<sup>253)</sup> PAGAD`s activities eventually led to the execution of a well-known Cape Town drug lord.<sup>254)</sup> Subsequently, four key PAGAD leaders were arrested and charged for the murder of a gang leader, Rashaad Staggie. In 2002 they were however acquitted on murder charges, but were found guilty of public violence.<sup>255)</sup>

PAGAD established a military wing called the G-Force which functioned as small groups and cells. It is generally believed that this group was responsible for various acts of sabotage in the Western Cape in the late 1990s, and especially a series of explosions in 2000.<sup>256)</sup> These explosions and other acts of violence were regarded as

urban terrorism the then South African Safety and Security Minister Steve Tshwete categorically stated in parliament that “we [the SAPS and Scorpions] know who carries out the acts of urban terror. I am absolutely convinced it is PAGAD.”<sup>257)</sup>

The SAPS responded and utilised the *Prevention of Organised Crime Act*, No. 121 of 1998 (which makes certain gang related activities punishable), to charge PAGAD members involved in the acts of violence. The SAPS launched a number of operations to combat urban terrorism, criminal gangs and violent crime in the Western Cape<sup>258)</sup>, and by January 2000, Operation Good Hope was structured to focus on “urban terror in tandem with the Scorpions.”<sup>259)</sup> PAGAD was in 1999 listed by the US State Department's Office of the Coordinator for Counter-terrorism in a report on active terrorist groups around the world.<sup>260)</sup>

PAGAD subsequently went underground, but again increased its activities on the Cape Flats in September 2013 with its leader released on parole. In a show of strength, PAGAD members were seen driving around in the areas close to the residences of known drug dealers. Incidents of arson, petrol and pipe-bomb attacks since July 2013 were reported. Although PAGAD currently cannot be linked to these incidents, at least three explosions coincided with the presence of PAGAD motorcades in the area where the explosions took place.<sup>261)</sup>

#### 4.2.4 Right wing vigilantism and the combating of crime

The combating of crime by right-wing movements can only be fully understood in the wider historical context of their associated ideologies, South African politics, and in particular white Afrikaner politics. In politics, the term “right wing” is used as a blanket political term which covers a wide range of individuals, organisations, beliefs and attitudes with different policies and strategies.<sup>262)</sup> The extreme right-wing in South Africa is usually associated with the AWB. The new political dispensation established in South Africa in 1994, resulted in right wing groups resorting to various tactics including the formation of overarching (white) trade unions joining forces with right-wing political parties; demonstrations and strikes, which at times became violent; and some acts of sabotage.<sup>263)</sup> However, it must be emphasised that not all right wing groups resort to vigilantism.

Most, if not all right-wing activities are linked to religion and culture<sup>264</sup>), and some of these activities are ostensibly to protect the white section of the population against crime. Comments by an AWB member prior to the 1994 elections is indicative of this concern about crime when it was stated that “blacks must prove that they can practise democracy. They must stop plundering, raping and killing.”<sup>265</sup>) The combating of crime, in addition to the preservation of white culture and religion, is therefore one of the aims of some right-wing groups.<sup>266</sup>) Violent attacks on other race groups under the guise of “combating of crime”, were in some instances justified by right-wing organisations as a means to preserve white culture and religion.<sup>267</sup>) Whatever the reasons mooted by right-wing organisations to justify such acts, these acts cannot be regarded as crime combating, as they also do not satisfy the definition of crime combating and prevention as is generally understood.

## **5. CONCLUSION**

Initiatives and responses by South African citizens to enhance personal and civil society security after 1994, differed from the pre-1994 period, although some similarities exist. Therefore, it was necessary to commence with a brief history of community crime combating initiatives in South Africa in the period prior to 1994.

Crime levels, prior to 1994 were generally lower than those after 1994. They were also generally perceived to be lower in the early and mid-1980s, especially by the White section of the population. Public perceptions changed and the fear of crime increased amongst all population groups since the early 1990s. This led to various responses and initiatives by the South African community in attempts to improve security. These responses were also a sign of discontent with the inability or failure of the state to provide acceptable levels of security. Initiatives in this period must be seen against the background of the revolutionary climate; the public’s perception of a dysfunctional criminal justice system; and a government not willing and/or able in fulfilling its duty by sufficiently protecting the inhabitants of the country against high levels of crime.

Prior to 1994, the white section of the South African community was to a large extent dependent on the government for the provision of security, while to a lesser extent

making use of legal crime prevention instruments such as neighbourhood watch systems, gated communities, commandos and technology. Right-wing vigilantism was however also prevalent, albeit to a minor extent. The Black section of the community made use of alternative structure such as SDUs, street committees and similar structures, while vigilantism was common in this period. Vigilante activities and mob justice were justified as alternative law enforcement structures, with the majority of the Black community not accepting the SAP as representative of the population at the time. During these extended periods of political violence, criminal elements abused the vacuum that existed in the absence of proper policing to further their own (in the majority of cases) criminal interests. This opened the way for gangs to flourish on the Cape flats and in Black townships, and mob justice and crime followed, ostensibly justified as part of the political struggle. It was pointed out that civil society crime combating initiatives were mainly un-coordinated.

After 1994, the salient features of legal responses are increases in the number of neighbourhood watch systems; significant increases in the number of gated communities; the development of and increase in the use of CCTV; increased use of technology especially information technology and cell phones; and a more vigilant community in general. A combination of neighbourhood watch systems and technology has been used in attempts to prevent crime, and respond to crime since 1994.

As far as illegal crime combating initiatives are concerned, the post-1994 situation differs from the period prior to 1994, and vigilantism manifested in different ways. Increases in vigilante type activity, mob justice and gang related activity can be expected in the absence of proper policing and other factors leading to crime, which was the case since 1994. Gang related activities also appear to be on the increase, in some instances under the guise of combating crime. Increased urbanisation after 1994 resulted in high unemployment with resultant frustration; aggression; subsequent gang related activities; and a vacuum with regard to policing. Increases in gang related activities can also be expected in the short to medium term with no specialised units in the SAPS with experience to combat these activities; no coordination on any level in the criminal justice system to monitor (crime intelligence)

and counter such activities; and with a dysfunctional criminal justice system not being able to cope with the current crime situation.

The following chapter will focus on crime combating initiatives by organised business and agriculture in South Africa, and their views on security.

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## **CHAPTER 6**

# **THE ROLE OF ORGANISED BUSINESS AND AGRICULTURE IN SECURITY IN SOUTH AFRICA**

### **1. INTRODUCTION**

As with private and civil society initiatives by the South African community to improve their security as discussed in the previous chapter, increases in crime levels since 1994 resulted in similar initiatives and responses by organised business and agriculture. These initiatives are also the result of perceptions by both the business and organised agriculture sectors that policing is inadequate. As far as initiatives in the agricultural sector are concerned, the traditional link with, and its interaction with the now disbanded commando system will also be discussed. Such initiatives are as mentioned before, not uncommon during periods of transformation.<sup>1)</sup>

Crime and security were to a certain extent perceived and viewed similarly by agriculture and business. In some instances however, there were differences, not only between agriculture and business, but even between organisations within the agricultural and business sectors, which sometimes resulted in different responses and approaches on to how to address problems. The impact of certain of these initiatives on crime and security will be analysed by illustrating the outcomes of some of these initiatives.

The emphasis in this chapter will be on security initiatives by organised business and agriculture after 1994, but a brief historical overview of the nature of initiatives in the pre-1994 (1948-1994) period is required in order to contextualise the post-1994 situation.

The year 1948 is used as the starting point of the historical overview as this was when the NP assumed power in South Africa. The NP, when coming into power in 1948, inherited a crisis in all sectors of the South African economy; mass

mobilisation against legislation regarded as racist at the time; and significant unionisation in the mining, commerce and industrial sectors. In addition to this, it also inherited crime trends which seriously impacted on the business and farming community.<sup>2)</sup> The policies implemented by the NP had a significant impact on crime and human security, and also impacted on crime combating initiatives by the business and agricultural sectors in South Africa.

## **2. HISTORICAL OVERVIEW OF CRIME COMBATING INITIATIVES IN SOUTH AFRICA BY THE BUSINESS AND AGRICULTURAL SECTORS UP TO THE BEGINNING OF 1994**

The discovery of gold and diamonds in South Africa in the late 1800s led to large increases in the population in the mining fields, and also to inevitable increases in crime which continued after Unionisation in 1910. Crime was linked to urbanisation, economic difficulties and unemployment at the time,<sup>3)</sup> and crimes such as theft of gold<sup>4)</sup> and illicit diamond buying grew into a major industry.<sup>5)</sup> Early crime combating initiatives by the business and agricultural sectors must therefore be seen against these mining activities, and the policies of the NP from 1948 onwards.

It is necessary to note the fact that a 'business' is not a homogeneous entity, and that farming activities can, and must also be categorised as business.<sup>6)</sup> For the purpose of this study however, commercial business and farming activities will be discussed separately. Prior to discussing crime combating initiatives by business and agriculture in the pre-1994 period, brief reference will be made to organisations that represent and further the interests of business and agricultural communities respectively.

### **2.1 Business and agricultural organisations**

Some of the most important organisations that currently play a role in crime combating initiatives are the Afrikaanse Handelsinstituut (AHI), the Chamber of Mines, SABRIC, and BAC. BAC has interchangeably also been referred to as Business Against Crime South Africa (BACSA). Prior to 1994, as far as the business community is concerned, SACOB, the Chamber of Mines, the AHI, the South Africa

Foundation (later renamed Business Leadership South Africa or BLSA), and the National African Chamber of Commerce (NAFCOC) were prominent role players pertaining to the protection of the interests of the business community.

Organised labour and human rights organisations are often linked to organised business and agriculture due to similar objectives, and also usually further the interests of, and cooperate with organised business and agriculture. Therefore, the role of human rights and labour related organisations such as Afriforum, Solidarity, and the National Education, Development and Labour Council (NEDLAC) will also be discussed where relevant.

With regard to organised agriculture, the most important role players in the pre-1994 period that will be referred to, are NAFCOC, TAU, the South African Agricultural Union (SAAU), and NAFU. In terms of initiatives by organised agriculture after 1994, the focus will also be on the role of TAU, which later changed its name to TAU SA, as well as NAFU, and SAAU, which later changed its name to AGRI SA. The SAAU, the TAU, NAFCOC and later NAFU were the most active organisations voicing the South African agricultural community's concerns relating to this sector's safety and security.

## **2.2 Organised agriculture in the period 1948-1994: Crime combating views and initiatives**

The discovery of gold and diamonds in South Africa transformed a largely agrarian society into a considerable industrial society. The possibilities of a better living offered by mining activities attracted large numbers of persons from rural areas to the Witwatersrand and Kimberley. This led to large numbers of farmers leaving their farms for mining fields in a quest for a better life.<sup>7)</sup> In rural areas, stock theft; theft of farming products; and theft of the proceeds of farming activities, increased significantly. This crime trend specifically affected business and agricultural activities, and continued into the late 1940s.<sup>8)</sup> Literature on crime and the history of mining, industrial and agricultural activities reveal no organised or large scale initiatives to combat crime in this period.

The period 1948 to 1994 was characterised by a business and agricultural sector that was largely dependent on government not only for security, but also for assistance in terms of development following the dire economic situation after World War 2. Political turmoil in South Africa in the 1970s and 1980s, also impacted on business and agriculture.<sup>9)</sup>

In the late 1950s and 1960s the business and agricultural community held the view that the responsibility for safety and security was largely a government function, following from Section 5 of the *Police Act*, No 7 of 1958, which obliged the SAP to take responsibility for the internal security of the Republic of South Africa; the maintenance of law and order; the investigation of crime; and the prevention of crime.<sup>10)</sup> Government and the SAP however were more focused on political crimes and related violence and border control in preventing insurgents from entering the country. By 1968 only 10 per cent of the SAP's manpower was utilised for the investigation of crime.<sup>11)</sup>

In the agricultural sector, the TAU was still the only organisation that represented the interests of commercial farmers. Throughout the 1950s to the late 1980s, crime was not regarded as a material problem in the agricultural sector, and several initiatives were launched by the TAU to further the general interest of the farming community on matters viewed as important which include the establishment of the Department of Agriculture, the Land Bank, SA Studbook, and the SAAU which later became Agri SA.<sup>12)</sup> TAU SA's main aim is still to further the interests of the farmer and the broader farming community.<sup>13)</sup>

Rural safety was not a concern between 1948 and the late 1980s, as the SAP<sup>14)</sup> and SADF were jointly responsible for rural safety and border control. As far as the SADF is concerned, the commandos played an important role in this regard.<sup>15)</sup> The commando system that was later terminated, was formed in the 1960s after the establishing of the SADF, and was given the primary function of rear defence, as well as secondary peacetime functions such as assisting government departments in times of crises such as civil disorder, epidemics, and floods.<sup>16)</sup>

A large number of commando members were farmers or from rural areas, resulting in the TAU as a farmers' organisation having close ties with the commandos. The role of the commandos changed when increasing emphasis was placed on their capacity to gather intelligence. This was seen as a result of the fact that the country was "facing a domestic insurgency, [and] the eyes and ears of civilians on the ground was a vital source of information. The commandos were thus encouraged to draw close to their constituencies – rural white families – and to lubricate channels of communication...between civilians and soldiers."<sup>17)</sup>

There was however a significant increase since the early 1990s in what is now generally referred to as "farm attacks".<sup>18)</sup> Farm attacks can broadly be defined as attacks on farms and smallholdings aimed at owners, residents, and workers with the intent to murder, rape, rob, or to inflict bodily harm.<sup>19)</sup> As was previously mentioned, the extent of farm attacks prior to 1991 is difficult to determine, as no organisation, including the SAP kept statistics on the occurrence of this type of crime. The SAAU started to collect statistics on farm attacks in 1991. A number of 327 farm attacks and 66 murders were reported in 1991.<sup>20)</sup> In June 1991 a SAAU delegation met with the Minister of Defence and the Minister of Law and Order to discuss what was described as the "disquieting security situation" in rural areas. Illegal squatting and resultant crime, lawlessness, and the escalation in violent attacks, murder, and intimidation were amongst the issues that were discussed.<sup>21)</sup>

The SAAU at its national congress in October 1991 stated that close to 200 persons had been killed on South African farms in that year while livestock to the value of R 30 million had been stolen. It was further revealed that veld fires had increased by 500 per cent on farms in some areas from the previous year, leading the farming community to believe that this was mainly due to arson.<sup>22)</sup> It was emphasised that farmers are not in the fortunate position where they can readily lock up assets such as livestock and farming implements, and that farming families are especially vulnerable to attacks.<sup>23)</sup>

The TAU criticised the criminal justice system, and blamed early parole, easy bail, lenient sentences, escaped criminals, low numbers of police, a shortage of equipment and lack of logistical support to police in rural areas, for the increased

crime. It was stated that the police should only be responsible for maintaining law and order, and that the commando system should be expanded and utilised to provide “umbrella cover” in rural areas.<sup>24)</sup> It was further stated that in addition to rural areas being under policed, the increasing and uncontrolled flow of illegal trespassers and squatters to farms could lead to confrontation between the squatters, farmers, the police and the army. A motion was then introduced that the agricultural sector cooperate closely with government, the SAP and SADF. The proposed *Basic Conditions of Employment Bill*, and the extension of labour relations legislation to the agricultural sector was also rejected and seen as disruptive of the “sound labour relations” that existed on farms at the time.<sup>25)</sup>

By January 1992, the Free State Agricultural Union (OFSAU), which is affiliated to the SAAU, also reported an increase in violent attacks and crime on farms in the province. The SAAU and the TAU again engaged in talks with the former Ministers of Defence, and Law and Order. The TAU implemented the forming of security committees in rural areas in order to create a mechanism to liaise with security forces on grassroots level. The organisation called for its members to continue their relationship with the commando system and not to resign as commando members.<sup>26)</sup>

In the former Transvaal, the feeling amongst some TAU members were that they should begin to ensure their own safety in cooperation with the security forces, and take the law into their own hands. The TAU stated that where safety committees were established, it proved to be a success and was seen as a solution for the future.<sup>27)</sup> The SAAU stated in December 1992 that despite the fact that farmers were openly targeted, the farming community remains committed to cooperate with the security forces, and that there still existed a good relationship between the security forces and the farming community at the time. This followed various threats by right-wing organisations and farmer communities to take the law into their own hands in the event of continuous failure by government to protect them.<sup>28)</sup>

By May 1993, the SAAU and the TAU`s continued talks with government, resulted in the approval of R 51 million to subsidise security on farms. There were however, serious differences between the SAAU and the OFSAU on how the money should be allocated. The OFSAU Chairman of Security stated that after militant statements by

some ANC leaders such as “kill a farmer, kill a Boer”, there were no “red”, “green” and “yellow areas”, but that all farmers were “in a red area”.<sup>29)</sup> In October 1993, the SAAU called for the immediate arrest and detention of the former ANC youth leader Peter Mokaba who was responsible for the slogan “kill a farmer, kill a Boer”. It also called for the lifting of the moratorium on the death penalty in cases where criminals are convicted for murder on a member of the farming community.<sup>30)</sup>

At the 1993 Annual Congress of the SAAU, the increasing threat to rural safety and related problems were highlighted. It was alleged that some Black and Coloured policemen were guilty of mutiny by intentionally not giving attention to crime on farms. It was stated that some farmers were of the opinion that Black and Coloured policemen were negatively influenced by the Police and Prisons Civil Rights Union (POPCRU), and that they would not allow Black policemen on their farms.<sup>31)</sup>

The role and involvement of the commandos pertaining to rural safety was also discussed at this conference. It was stated that farmers were joining their local commandos in order to enhance rural safety by self-protection, but that they were not issued with weapons and ammunition. Despite a budget being available for supplying this to new members, the bureaucratic and lengthy processes created so many delays that this aid was in effect non-existent at the time.<sup>32)</sup>

No organisation existed in South Africa prior to 1991 that represented the interests of Black farmers at national level. Between 1979 and 1991, NAFCOOC attempted to address the needs of Black farmers at national level, and in 1991 facilitated the formation of the National African Farmers` Union (NAFU).<sup>33)</sup> NAFU could not play a significant role in the period 1991 to 1994, and has faced many challenges, the most important being “the lack of financial support especially in its formative years and limited capacity to forge ahead to re-dress past inequality...deep-rooted in the history of the nation.”<sup>34)</sup> The main aim of NAFU with its establishment in 1991 was to create a home for the large numbers of black farmers who were “previously...excluded from the mainstream of agriculture.”<sup>35)</sup>

### **2.3. The views of organised business regarding safety and security in the period 1948 to 1994**

As mentioned earlier, the business and agricultural sectors in the 1950s and 1960s were of the view that the responsibility for safety and security was a largely a government function, with the SAP primarily responsible for internal security. The focus of government on political crimes resulted in a gradual increase in non-political crime, which also changed the views of the business and agricultural communities pertaining to crime and safety. These changes in approaches by the respective communities in the period 1948 to 1994 will be discussed next.

#### **2.3.1 Crime trends and business responses**

As was mentioned earlier, the NP not only inherited a crisis in all sectors of the South African economy when coming into power in 1948, but also crime trends which seriously impacted on the business and farming community.<sup>36)</sup> Some of the problems related to mass mobilisation aimed at the NP`s racial legislation, as well as to significant unionisation in the mining, commerce and industrial sectors.

From the 1960s onwards, government`s focus on the liberation movements, gradually started to impact on the business and agricultural community in respect of their views pertaining to crime and security. Businesses were increasingly made aware of the revolutionary situation that prevailed at the time and the SAP even assisted some sections of the business sector with security related training such as musketry, aimed at improving the business sector`s capability to assist government in combating the threat.<sup>37)</sup> By the late 1970s and 1980s the SAP had withdrawn a large part of its manpower from normal policing and focused on stabilising the revolutionary situation in the country. The government encouraged the private sector, and specifically the private security industry, to fill the void left by the police`s partial withdrawal from what is regarded as normal policing.<sup>38)</sup>

The impact of new crime trends and the unstable political climate from the late-1970s onwards, led the organised farming and business communities to re-asses their position and approach regarding crime, and safety and security. By the early 1980s,

with developments in technology; the increased use of new devices for payment such as electronic cash registers; credit card and auto-bank facilities; and electronic funds transfer (EFT) as method of payment, businesses and the banking sector were increasingly targeted by criminals.<sup>39)</sup> Cyber fraud and credit card fraud were new threats to the business sector in South Africa, and it responded by establishing the South African Chapter of the International Association of Credit Card Investigators.<sup>40)</sup>

In 1986 criminal gangs started to attack restaurants, regarding them as soft targets. The business community was not expecting, nor prepared for this new trend.<sup>41)</sup> In addition to increasing crime on university campuses and at similar institutions, political unrest emanating from activism and propaganda by liberation movements, intensified significantly from the early 1980s. As campuses are private property, the response by tertiary institutions led to a growth in the business of campus control in South Africa which “has possibly been more rapid than the security field.”<sup>42)</sup> By 1987, shopping malls became a new target for insurgent attacks. With the high incidence of crime and political violence, shop owners became more conscious of security, and especially the possibility of bombings.<sup>43)</sup> Municipalities were also targeted as they were seen as extensions of state authority. Increased theft, violent crime and terrorism therefore resulted in municipal security being regarded as an important concept at the time.<sup>44)</sup>

Bank robberies also increased from the mid-1980s, which led to the increased use of alarms, closed circuit television, ‘bandit cameras’, defensive weapons, access control, security guards and protective screens to reduce the risk.<sup>45)</sup> The increase in motor vehicle theft from the mid-1980s, led to insurance companies requiring the installation of acceptable anti-theft devices before considering insurance cover. This also led to the founding of the Vehicle Security Association of South Africa in 1987, which regulated the quality of anti-theft products in the industry.<sup>46)</sup> Business Watch, a national organisation dedicated to crime prevention within the central business districts across South Africa, was established by 1989. It was initially established as an association between the SAP and the Chamber of Commerce within the business sector, with the SAP providing dedicated manpower and by “encouraging businessmen to be aware of not only their own security but of those businesses

around them.”<sup>47)</sup> It is claimed that Business Watch has been responsible for bringing crime down by up to 80 per cent in some areas.<sup>48)</sup>

The mining sector responded to both the revolutionary climate and threat of crime at the time, by significant in-house capacity building. The Anglo American Corporation claimed to have had a security guard to worker ratio of 2,2 : 100 by the mid-1980s, while the Goldfields mining Group claimed that it had a security guard force in excess of 6000. Mines had highly trained security staff; were equipped to deal with riots and crowd control; do their own investigations pertaining to crime on their premises; and had the same array of equipment as the police such as dogs, teargas, horses, water cannons, shotguns, armoured vehicles and helicopters.<sup>49)</sup>

Anglo American further, following numerous mining accidents in 1987 resulting in the death of at least 604 workers, started to use guard monitoring systems at its mines as an information management tool. The system was used as a life-saving link in addition to monitor private guards on patrols in shafts and for early detection of fires underground.<sup>50)</sup> This is indicative of the extent to which the mining industry as part of organised business, assessed the security situation and started to provide in its own security requirements, not only in respect of a crime and revolutionary threats, but also in terms of beginning to secure its human resources. The safety and security of workers needed to be considered in order to maintain productivity and profitability from a business management perspective.

An important factor to consider when analysing the extent to which organised business has taken responsibility for its own security in the 1980s, is the difference between in-house and contract security. A lack of data is attributed to the fact that there was no regulation of the security industry prior to 1987<sup>51)</sup>, but the general view at the time was that the biggest number of security officers were employed as in-house security officers by large businesses.<sup>52)</sup>

### 2.3.2 Government appeals to business for assistance in combating crime

By 1988, increasing crime worldwide; a declining economy; and the revolutionary climate in South Africa, led the Minister of Law and Order to call on the commercial

and industrial sector to start to provide in their own security and safeguard their own assets.<sup>53)</sup> The impact of crime on organised business in South Africa was also the topic of a seminar presented by SASA in Johannesburg in 1988. The breaking down of business loyalty and the divergence between the corporate sector and labour was identified as the major contributing factors that led to the increase in crime. Capitalism and large businesses were perceived by black people as prejudicing them while big business was viewed as to be colluding with the apartheid system. Business leaders and employee representatives were invited to discuss and find solutions to these problems.<sup>54)</sup>

In 1989 the Consultative Business Movement (CBM) was formed after discussion with a wide spectrum of stakeholders to serve as a conduit for, and to mediate on issues relating to commercial and business interests in order to ensure a steady and effective political-economic solution in the transformation process to a democratic South Africa. The CBM, led by a group of forty senior business leaders, would later play an indirect, but important role in combating crime.<sup>55)</sup>

The Minister of Law and Order again emphasised in 1989 that citizens cannot rely solely on the police for security, and that they must take responsibility to safeguard themselves against crime. Referring to successes by the private security industry and the neighbourhood watch system, a call was made for active cooperation and increased involvement of the South African community in combating crime.<sup>56)</sup> This was clearly a strategy of the SAP to prepare, and to activate the business sector to take responsibility for its own security, albeit in an organised and coordinated way. This is indicative of the fact that it was realised by government, business, and related sectors that the various components of the commercial and industrial sector were operating independently and in an uncoordinated fashion. It is also indicative of the changes in the approach to crime combating and security in general by the business sector.

A degree of cooperation between the SAPS and the business sector existed in the early 1990s in the form of the Business Watch concept. This organisation was established as a public-private partnership vehicle between the then SAP and the Chamber of Commerce, aiming to prevent crime in central business districts around

South Africa. It was described as “a pro-active relationship between the police and businessmen, with sound relationships and mutual trust being established in this manner.”<sup>57)</sup>

By 1992, organised business and organised labour called for an economic forum, to be facilitated by the CBM. This later led to the launch of the National Economic Forum (NEF) in October 1992, which later became part of NEDLAC in 1995.<sup>58)</sup> The CBM in 1993 played an important role in the business environment and called on its members to contribute in four specific areas which amongst others, included valid and appropriate business practises, liaison and the creation of apposite and viable relationships between business and the community.<sup>59)</sup>

The role of organised business and crime as far as security and crime combating initiatives from 1994 onwards will be discussed next.

### **3. CRIME COMBATING INITIATIVES BY ORGANISED BUSINESS AND AGRICULTURE IN SOUTH AFRICA IN THE PERIOD 1994 TO 2010**

The responses and initiatives by organised business and agriculture pertaining to crime, and to enhance the safety of the respective communities, increased significantly since 1994. The reasons for this can mainly be attributed to the fact that it was realised that the SAPS was not capable of combating crime on its own. Perceptions, irrespective whether they could be substantiated or not, also played an important role in the kind of responses and actions taken by civil society.

#### **3.1 Crime combating initiatives by organised business**

Crime trends affecting the organised business sector will be discussed in two parts, namely the period from 1994 to 2000, and 2001 to 2010. The first period starts in mid-1994 when the ANC became the first democratically elected government, and coincides with legislation that augmented regulation of the private security industry such as the *Security Officers Amendment Act of 1997*, and the *Firearms Control Act of 2000*. This period also includes the announcement of the NCPS in 1996 and the *White Paper on Safety and Security* in 1998. The period of analysis ends in 2000

with the expiry of the first National Police Commissioner George Fivaz's term. The second period covers 2001 to 2010, which also corresponds with increased regulation of the private security industry by the promulgation of the *Private Security Industry Regulation Act* of 2001, as well as the terms of office of Fivaz's successors.

### 3.1.1 Crime combating initiatives by organised business: 1994-2000

Business South Africa (BSA) was founded in April 1994 with the aim to represent the interests of members through the development of business in South Africa. It is generally regarded as the political component of business such as SACOB and the AHI.<sup>60)</sup> Business leaders and government realised in 1995 that escalating crime levels needed serious attention and intervention, and BSA arranged an anti-crime summit which took place in July 1995. This summit was arranged in conjunction with the COSAB. COSAB was, as mentioned earlier, replaced by SABRIC in 2002. The summit was attended by business, industry and civic leaders from Southern Africa, the main aim being to discuss the spiralling crime rate and increasing corruption.<sup>61)</sup>

In November 1996 when opening the NEDLAC Conference on crime and violence, former president Mandela stated that the "unacceptable levels of crime and violence are amongst the principle challenges facing us as we transform our society. A climate of safety, security and stability is not only the right of every citizen. We need it to maximise the economic growth that will create more jobs and produce more resources for building a better life for all."<sup>62)</sup>

By mid-1995 the extent of crime was of such a concern to the business community, that Nedcor mandated and sponsored research on crime and violence, and the impact on investment.<sup>63)</sup> Cash-in transit heists<sup>64)</sup>, vehicle highjackings<sup>65)</sup>, and violent attacks on residents in their own homes<sup>66)</sup> started to increase in the mid-1990s, and in June 1996 the findings of a survey conducted by Nedcor indicated that in the first eight months of 1995, approximately 18 percent of South African dwellings experienced some sort of crime or violence.<sup>67)</sup> It was stated in Nedcor's report that the perception is that government is not taking a firm enough stand in respect of crime which might impact negatively on South Africa in the sense that investors might regard crime, instability and corruption as risk for investments. In addition to

the above, it was mentioned that South Africa is suffering significant losses in monetary terms due to the activities of organised international crime syndicates.<sup>68)</sup>

Nedcor stated that its *Project on Crime, Violence and Investment* was the organisation's response to the serious crime situation at the time, and "within the framework of the roles and responsibilities of business in respect of crime and violence".<sup>69)</sup> Large-scale initiatives by business were identified as one way of combating crime. It was further stated that these initiatives would definitely make an impact on the cycle of crime in South Africa and that it would also be different from the limited and local interventions undertaken at the time.<sup>70)</sup>

Organised business, through business based organisations, contributed to the socio-economic and developmental stability of a new South Africa by the formation of BACSA which was established in 1996, following a call by President Mandela to organised business, urging them to become more involved in crime combating initiatives.<sup>71)</sup> BSA (the mandated umbrella body of business organisations in SA), and the National Business Initiative co-founded BACSA following extensive dialogue. It was stated that BACSA's primary goal was to initiate, facilitate and manage initiatives to address and deal with crime, which was seen as a major threat to safety and security in the new democracy. BACSA therefore was set up as the instrument to provide support to the various industry-specific responses to crime, which included for instance those by the banking, tourism, computer and motor industries.<sup>72)</sup>

Although the then Minister of Safety and Security claimed in 1997 that there was a decline in serious crime since 1996<sup>73)</sup>, this is in contrast with the reasons for the establishing of BACSA. Speaking at NAFCOC's 32<sup>nd</sup> Conference in Durban in September 1996 and referring to the criminal justice system, the then Minister of Safety and Security Sydney Mufamadi, urged black business to become more involved in combating crime, and called for increased participation and partnerships in this regard. Mufamadi stated that government "intends to make it more difficult for people who are involved in syndicated crimes to get bail or light sentences. Some steps should include amendments to existing legislation with regard to bail and sentencing of criminals."<sup>74)</sup>

The importance of cooperation and partnerships was emphasised in October 1999 by the BACSA leadership. In 1999, the BACSA Chairperson for the Western Cape emphasised the need for the greater community, and not only business involvement in the combating of crime in the Cape Flats. “Dealing with the various categories of gender, gang, drug, alcohol and abuse-related crime and violence against women as well as vexing issues such as illegal parking attendants and street children needs a collective approach. Co-operation starts with the individual at home and in business. Individual commitment and responsibility is a foundation stone in the crime-fighting partnership.”<sup>75)</sup>

Crime statistics for the period 1997 to 1999 indicated a sharp increase in especially robbery with aggravating circumstances. Robberies continued to rise to the level of 288,1 per 100 000 of the population in the reporting period 2003/2004.<sup>76)</sup> These included cash-in transit robberies, and robberies at residential premises and on farms and smallholdings, as the SAPS only began to list these crimes separately from 2004.<sup>77)</sup>

The *White Paper on Safety and Security* published in 1998 emphasised the need for CPFs. Regarding CPFs, the *White Paper* describes the policy as follows:

In fulfilling crime prevention functions...local government should work in conjunction with Community Police Forums (CPFes). Indeed, local government and CPFes are uniquely placed to complement each other...CPFes... have a key role to play in, among other areas, the determination of and participation in crime prevention programmes...

One of the positive developments in the creation of CPFes has been the innovative and supportive partnerships with organisations of civil society and the SAPS...<sup>78)</sup>

It however seems that the CPF concept was not implemented with great success in the 1990s.<sup>79)</sup>

### 3.1.2 Crime combating initiatives by organised business: 2001-2010

By October 2001, BACSA focused amongst others, on organised and vehicle related crime. It claimed huge successes with its crime combating initiatives which “approached crime in a holistic manner, tackling all aspects, from the court systems to conflict resolution in schools”.<sup>80)</sup> The organisation claimed that it started 88 special delivery-improvement programmes in partnership with the SAPS in five provinces, as well as 98 community-based volunteer centres at police stations in three provinces offering services to victims of crime.<sup>81)</sup> A spate of attacks on businesses took place in KZN in November 2002, where 12 businesses within a 100 metre radius were robbed in two months. A spokesperson for these businesses stated that businessmen were disheartened by the absence of a coordinated effort by authorities. Again, a call was made to the police to liaise with affected businesses and BACSA in order to plan properly and exchange information.<sup>82)</sup>

In 2003, the then BACSA CEO announced that he intended to transform the organisation by bringing in more black businesses into BACSA. In addition to transformation, he also envisaged “a significant impact on crime with the anticipated involvement of the black business sector.”<sup>83)</sup> In 2005 BACSA announced that cash-in-transit heists increased by 12 percent from the previous year, and that this type of crime required the involvement of everyone in the cash management cycle to cooperate in order to persistently improve systems and procedures used by the industry, thereby minimising the opportunity for robbers. It was further stated that BACSA was already working closely with the SAPS, SABRIC, and the Consumer Goods Council of South Africa to put together viable and appropriate measures to thwart and reduce robberies.<sup>84)</sup>

A further increase in especially cash-in-transit heists, and robberies at banks and shopping centres in the country in early 2006, led to the signing of an agreement by BACSA and eight industry associations in June 2006. It was described as a “special forum to increase co-operation between business groupings and the SA Police Service to combat cash-in-transit heists and robberies at banks and shopping centres...”<sup>85)</sup> BACSA claims to have been involved in initiatives and talks with government, and particularly the SAPS, with regard to attacks on shopping malls and

small businesses for some time, leading to the formation of The Industry Alignment Forum Aggravated Robberies Initiative.<sup>86)</sup>

This forum, consisting of BACSA; the Cash-In-Transit-Forum; the Casinos Association of South Africa; the Consumer Goods Council of SA; the Security Industry Alliance (SIA); SABRIC; the SA Council of Shopping Centres; the SA Property Owners Association (SAPOA); and the SA Reserve Bank, was primarily a BACSA initiative. The objective of this initiative which was implemented in conjunction with SAPS, was to coordinate, combat and exchange information on armed business robberies, and to implement steps to reduce the incidence of aggravated robberies, which are often accompanied by excessive violence.<sup>87)</sup>

In July 2006 BACSA claimed that research by the organisation indicated that many CPFs established as part of a new policing style and approach had not been as successful as anticipated. The SAPS response was that the police's function was not to assist in development and alleviate poverty which are generally regarded as contributing to high levels of crime, but in essence limited to crime reduction.<sup>88)</sup> In August 2006 BACSA's Kenny Fihla claimed correctly so, that the biggest factors that have contributed to the increase in violent crime are amongst others the collapse of border control and the subsequent and near uncontrolled influx of people into South Africa from bordering countries. This resulted in an increase of aggravated robberies while the restructuring of the police which had not been properly managed and communicated, resulted in a demoralised police service.<sup>89)</sup>

Former President Thabo Mbeki discussed a new BACSA campaign with a Presidential Big Business Working Group on 25 August 2006 after the plan had been approved by cabinet.<sup>90)</sup> It was acknowledged by government that the crime situation was so serious that it required what was termed a "step change" in the way "the Criminal Justice System addressed crime – a totally new level of political will, commitment and prioritisation. In this regard, it was noted that the role of leadership of the Justice Crime Prevention and Security (JCPS) Cluster and the individual Departments, both political and officials, would be critical."<sup>91)</sup>

Despite the above initiatives, the high prevalence of violent crime at shopping centres continued, which led to another initiative by the business sector in October 2007. BACSA announced that this initiative was to focus exclusively on security standards at shopping centres. The objective was to reduce the vulnerability of shoppers and to eliminate opportunities for crime at shopping centres while “cash management practises and more effective crime prevention and detection measures have been tackled as part of an overall plan to reduce violent crime.”<sup>92)</sup> More than 400 shopping malls were robbed in the period June 2008 to March 2009, with between 40 and 55 violent attacks every month.<sup>93)</sup>

The failure of the CPFs in this period must be noted as these bodies should play an important role in bringing civil society and the SAPS together in the coordination of crime combating campaigns. The failure of the CPFs became even more visible by 2008, and it was stated by various CPF members that CPF meetings became a platform where the SAPS were criticised about issues over which the police had no, or very little control. It was openly stated by community members involved in CPF activities that the success of the CPF concept requires “buy-in from the community, as well as the South African Police Service, Metro Police, and other government departments such as Social Welfare, Justice, Home Affairs and Correctional Services.”<sup>94)</sup>

Solidarity’s predecessor was the Transvaal Miners Association established in 1902. Its name was changed to the South African Mineworkers Union (MWU) in 1913, and it was transformed from a union into which is described by the organisation’s website as a labour movement in 2001, while it was also renamed to ‘Solidarity’.<sup>95)</sup> Solidarity from the beginning advocated and announced a strong anti-crime sentiment.<sup>96)</sup> Solidarity, SABRIC, and the AHI play an important role as far as crime combating initiatives are concerned, and their organisations’ respective contributions in this regard need to be discussed briefly.

Solidarity created a civil rights movement Afriforum which launched various initiatives against crime from 2006 onwards, with one of its goals to mobilise the public against violent crime.<sup>97)</sup> Some initiatives were launched separately from the main body, while others were launched together. Solidarity also sought the regular release of crime

statistics<sup>98)</sup>, while Afriforum brought a court application in 2007 to force the government “to fulfil its constitutional duty to ensure the safety of all South Africans.”<sup>99)</sup> Solidarity announced its own anti-crime plan in 2007 which consisted of increasing public pressure on government to protect its citizens. A self-protection campaign and associated actions were also announced.<sup>100)</sup>

SABRIC, a Section 21 non-profit company established and funded by four major banks to combat organised crime, claimed significant successes pertaining to crime in the banking industry in 2007. It further stated that although it’s key clients are the banks, its mandate does not stop at banking crime. It was also stated that SABRIC contributed to the national campaign against crime through well-established public private partnerships, and that the banking industry was not only serious about combating crime in its own industry, but was committed to combat crime at national level in the interests of society as a whole.<sup>101)</sup>

The AHI in 2010, as a member of Business Unity South Africa (BUSA) and NEDLAC, and also as part of the Local Economic Development (LED) network, joined businesses in the combating of crime when stating that some of its aims and strategic priorities are amongst others the combating of crime and corruption.<sup>102)</sup> In April 2010, the AHI in a joint media release with the ANC, expressed concern about crime and corruption in South Africa, indirectly also pointing out the involvement and role of government officials in corruption.<sup>103)</sup>

By late 2010, the business community accepted that it was forced to increasingly provide for its own security if it wanted to successfully continue to conduct business in South Africa. Speaking at the launch of a joint crime combating project between businesses and the community at Kempton Park in August 2010, a senior police general stated in no uncertain terms that the SAPS needed such community initiatives.<sup>104)</sup>

The approach to combat crime in the business sector appears to be two-pronged. Crime combating on local level (focusing on crime trends peculiar to that area), manifests in partnerships between businesses, the police and other relevant role players in the business community. Terms such as Community Service Centres

(CMS), Community Watch Centres, Business Watch Centres or similar names are used, which may or may not include the involvement of the local police. The concept however remains the same in that a central point is used for the communication of crime related information.<sup>105)</sup> There is also the national and holistic approach driven by organisations such as BACSA<sup>106)</sup>, the AHI<sup>107)</sup>, the Consumer Goods Council<sup>108)</sup>, and SACCI<sup>109)</sup>, which includes the involvement of the security forces.

Crime and safety in rural areas, and especially violent attacks on farm owners and workers has become more than just an emotional issue since the mid-1990s, not only as a result of the history and origin of agriculture in South Africa, but also of the issue of food security.<sup>110)</sup> Crime combating initiatives by organised agriculture and so called 'farm attacks', will be discussed next.

### **3.2 Crime combating initiatives by organised agriculture**

As with organised business, crime trends affecting the farming community will also be discussed in two parts namely the period from 1994 to 2000, and 2001 to 2010. As with the previous section on organised business, the first period starts in 1994 with the elections and the ANC becoming the first democratically elected government. In addition to the publishing of the NCPS in 1996 and the *White Paper on Safety and Security* in 1998, the *Rural Protection Plan* that was announced in 1997 also played an important role in this period. The period of analysis also ends in 2000 with the expiry of the first National Police Commissioner George Fivaz's term. The second period covers 2001 to 2010. In this period the *Private Security Industry Regulation Act* of 2001 came into effect which augmented regulation of the private security industry. This period also covers the terms of office of Fivaz's successors, as policing in this period equally impacted on urban and rural crime.

#### **3.2.1 Crime combating initiatives by organised agriculture: 1994-2000**

The discussion of crime combating initiatives by organised agriculture in the above period will commence with 1994 as the basis year when the ANC came into power. Reference will also be made to the relevance of the *Rural Protection Plan* of 1997 as an important strategy document in addressing rural crime.

The SAAU and NAFU continued discussions with government regarding crime and safety in rural areas. The issue of rural safety, partnerships and cooperation was already addressed by former President Mandela shortly after the 1994 elections, when he stated at the 1994 Congress of the SAAU that government “takes the security concerns of ... [SAAU] seriously. The issues that you raised with our Ministers are being looked into. They all need to be addressed within the context of the human rights culture... We need also to look at judicial penalties that will serve as an effective deterrent against crime, and more effective policing.”<sup>111)</sup> Criminals getting bail too easily was a concern, and both NAFU and the SAAU welcomed the guidelines set on bail conditions by the South African Law Commission in January 1995.<sup>112)</sup>

The continued wave of robberies and murders on farms and smallholdings, and the apparent unconcerned attitude of the government, led the SAAU in 1996 to threaten with the withholding of taxes by the farming community if government did not act forcefully against the ongoing violent crime in rural areas.<sup>113)</sup> The SAAU argued at the time that the farming community would be compelled to withhold taxes in order to be able to provide in its own security in the absence of action by government.<sup>114)</sup>

In January 1997 the SAAU stated that the high levels of crime necessitates that the community join forces in order to turn the dire situation around. It was further stated that the point had been reached where citizens are revolting and increasingly taking the law into their own hands out of frustration with the inefficiency of the SAPS and a dysfunctional justice system.<sup>115)</sup>

The SAAU and BACSA, held what was referred to as an “intersectoral anti-crime conference” in April 1997. At this conference, a call was made on government to demonstrate a clear political will to deal with the high levels of crime as a matter of urgency, while police inefficiency and a ‘soft approach on criminals’ was blamed for the high levels of crime in the country. It was resolved to submit certain recommendations to government aimed at reducing crime. Some of these recommendations included the reinstatement of the death penalty; that existing community policing forums make use of reservists to combat crime at local levels;

and that the moratorium on the recruitment of both operational and civilian policing staff be lifted.<sup>116)</sup>

Speaking at this conference, former Police Commissioner George Fivaz responded by saying that it was a misconception that crime was on the increase in South Africa. The then Deputy Safety and Security Minister Joe Matthews however conceded that government could do more in the sense of making available more equipment and resources to protect farmers. He stated that food production “is a strategic activity...[and that]...farmers should be assisted to focus on this goal instead of having to spend time and money on security.”<sup>117)</sup>

The Eastern Province Agricultural Union (EPAU) at its 1997 conference in August 1997 revealed that R 12 million worth of stock was stolen in the province in 1996, while the figure for the first six months of 1997 stood close to R 16 million. It was further revealed that since 1994, there had been a number of 173 attacks on farms, and 42 murders in the province.<sup>118)</sup> The Northern Province, also experiencing new crime trends, was becoming a conduit for drug- and weapon smugglers. The Pietersburg District Agricultural Union revealed that AK47 assault rifles could be purchased for as little as R 300,00 at the time.<sup>119)</sup> The SAAU reported in September 1997 that attacks on farmers have increased by 53 per cent in the first three months of that year from 468 incidents in the first three months of 1996. The SAAU stated that the prevalence of murder on farmers were four times higher compared to murders of the rest of the South African society, and demanded a commission of enquiry into the unacceptable high murder rate of farmers.<sup>120)</sup>

Crime was again highlighted at the SAAU’s October 1997 congress in Pretoria as a major challenge for the farming community. Former President Mandela immediately attended to this by meeting a delegation of the agricultural sector to discuss the problem. Various measures aimed at enhancing security on farms and smallholdings were announced shortly thereafter.<sup>121)</sup> Three more attacks on farms within three days in October 1997 again led to a call for the reinstatement of the death penalty. The SAAU then stated that after a period of three and a half years during which attacks on farms continued unabated, it must be accepted that government had lost control over security in the country.

Responding to the SAAU`s statement, a SAPS Divisional Commissioner stated that a *Rural Protection Plan* had been developed and implemented in some areas.<sup>122)</sup> The *Rural Protection Plan* was therefore the government`s response to relentless and continued pressure by the SAAU. The SAPS was of the opinion that the *Rural Protection Plan* would demonstrate to the farming community that the SAPS was committed in turning the tide on farm attacks.<sup>123)</sup>

It was common cause at the time that the safety and security situation in rural areas was not improving. After various institutions, organisations and individuals offered to contribute financially to the safety of the farming community, the SAAU established a fund in December 1997 to be used to enhance safety in rural areas. It was decided that the fund would be administered by a board of trustees consisting of the SAAU President and leaders of the respective provincial agricultural structures.<sup>124)</sup> NAFU which was not very outspoken on the issue of farm attacks until then, added its voice to that of the SAAU and other provincial agricultural organisations. It stated that black farmers were affected by safety and security in rural areas to the same extent as whites.<sup>125)</sup>

The SAAU in May 1998 again accused the government of lacking the political will to bring crime in the country under control. The view held by organised agriculture was that government had done very little to address the crime problem. The SAAU announced a two-phased plan to the farming community, the first phase being the communication of a message to its members that they were on their own in combating the increasing number of murders. It stated that the second phase of action would be civil disobedience and withholding of taxes, followed by the forging of partnerships outside the country to force government to address the crime issue.<sup>126)</sup> The possibility of sanctions was also discussed at the conference of the International Federation of Agricultural Producers in the Philippines during June 1998.<sup>127)</sup> The SAAU succeeded in securing the support of the federation`s President Graham Blight in Manila, who stated that there “is no excuse for non-action by government authorities when violent intrusion into rural communities disturbs social life and productive culture.”<sup>128)</sup>

During August 1998 the anti-crime initiative was taken to a higher level when SACOB and the SAAU joined forces in the campaign against crime and established a permanent joint working group on crime. SACOB which had already established a Safety and Security Committee at the time, promised responsible and lawful strategies and action. Business leaders and farmers met on the rural safety issue on 12 August, while the then Freedom Front leader General Constand Viljoen met with the SAAU on 13 August 1998.<sup>129)</sup>

In September 1998 the SAAU held talks with two former defence force chiefs to discuss the forming of a “rural security service”. General Constand Viljoen stated at the time that this farm security service was not politically motivated, nor a private army, and that it is committed to cooperate with the police and local commandos. He continued by stating that the “SANDF and SAPS have failed to stop the killing of farmers. We`re now going to protect them by creating an organisation that will be planned, trained and paid for by farmers.”<sup>130)</sup>

The SAAU announced the implementation of a new computer reporting system which was developed by the SAAU and Sentrasure in October 1998. The system was developed to collect data on crime in rural areas that could assist in enhancing rural safety. It was decided by the SAAU and the SAPS that this system would be operated from the joint operational centre of the National Operational Coordinating Committee (NOCOC). Information on attacks in rural areas and suspects and suspect activities was sent to police and commando offices on a daily basis by e-mail or fax.<sup>131)</sup>

The Agricultural Input Industries Discussion Forum also started to participate in these summits and meetings. This forum among others represented the Fertiliser Society; the South African National Seed Organisation; the Crop Protection and Animal Feed Manufacturers` Association; and the SA Agricultural Machinery Association.<sup>132)</sup> By October 1998 all role players in organised agriculture as well as government on national and provincial levels, agreed to mobilise resources in order to improve rural safety. The SAAU also launched its Agri Securitas rural safety project in 1998, which was aimed at generating funds for the protection of rural communities. The SAAU encouraged major businesses to contribute to this initiative.<sup>133)</sup>

The high number of attacks on farmers in 1998 led to the release of a document referred to as a 'farmers remedy' in January 1999. This document was drafted by the SAAU, and commando and police reserve members. It contained safety and security tips, and advocated vigilance and involvement with local commandos and police reservists.<sup>134)</sup> The SAAU Agri Securitas trust fund sponsored by SANLAM, was also established in early 1999.<sup>135)</sup>

Technology was again utilised as a measure to protect farmers and specifically to enable rural communities to send emergency messages in order to reduce the number of farm attacks. A South African company, EMS Industries and the SAAU<sup>136)</sup>, installed an experimental satellite communication system known as S@TGuard with a number of test links throughout the country.<sup>137)</sup>

The government announced a turnaround strategy to deal with rural crime in June 1999. This was welcomed by the SAAU which again emphasised that organised agriculture should work closely with the security forces, by amongst others disseminating information.<sup>138)</sup> A senior government delegation comprising of the ministers of Safety and Security, Land and Agriculture, Labour, Trade and Industry, and Minerals and Energy Affairs met with Agri SA and NAFU representatives in Pretoria on 22 February 2000 to amongst others, discuss rural safety following the killing of nine more people on farms across the country the previous week. At this meeting it was resolved that a "security task team which was formed after then president Mandela`s security meeting in 1998 would be reactivated and resourced."<sup>139)</sup> The original working group or task team that was formed in 1999, later developed into what was termed a Priority Committee on Rural Safety. The Priority Committee consisted of TAU SA, Agri SA, NAFU and Action Stop Farm Attacks, as well as the SAPS, the SANDF, and the Departments of Justice, Land Affairs and Agriculture. According to Burger, the latter two departments seemed to have lost interest over time, indicating their attitude and lack of concern in respect of rural safety.<sup>140)</sup>

The role of agricultural organisations as well as Solidarity and Afriforum in the combating of crime, will be discussed in the next section.

### 3.2.2 Crime combating initiatives by organised agriculture: 2001 - 2010

By mid-2001 attacks on farms and smallholdings started to increase again. Agri SA released statistics to the media in July 2001 which indicated that from January to end June 2001, 67 murders and 461 attacks for the first six months of that year occurred. This was compared to 119 murders and 804 attacks in 2000, and 813 attacks and 144 murders in 1999, while 1092 members of the farming community were murdered in the ten years since 1991 in a total of 5877 attacks on farms and smallholdings.<sup>141)</sup> Agri SA in January 2001 claimed the following results as part of its implementation of the *Rural Protection Plan* in the campaign against farm attacks:

- The Agri Securitas-Trust fund which will assist children left as orphans when parents are murdered during farm attacks;
- the trust fund was already financing the security committees of organised agriculture on national and provincial level;
- Technikon SA started compiling profiles of farm attackers in order to determine reasons for the high level of violence during such attacks;
- the Institute for Security Studies (ISS) was tasked to investigate deficiencies in the judicial system, and also to analyse trends and demographic information in order to be in a position to predict possible future hotspots and act proactively; and
- safety brochures were compiled for rural communities.<sup>142)</sup>

Agri SA warned that the phasing out of the commando system would have a negative impact on rural safety and that the plan to recruit reservists to take over the role of the commandos over a period of six to ten years was discussed with the organisation in 2001, but “very little came of [a SAPS] recruitment drive. Now they are once again talking about a new system to replace commandos. The end-result will only be a bigger safety vacuum in rural areas. The problem of farm killings and attacks will just remain with us”<sup>143)</sup>

Following two more attempted attacks in 2002 on farmers that were thwarted due to information from the community, NAFU’s John Gondo stated that black and white citizens must stand together against rural crime, that more and more black farmers

are becoming victims of farm attacks, and that communities must come forward with information about criminals living amongst them in rural areas.<sup>144)</sup> The SANDF joint operations chief at the time confirmed that attacks on black farmers had doubled from 2000, and that “black farmers now are 80 percent more likely to be the victim of an attack than white farmers.”<sup>145)</sup> Cooperation amongst the farming community, vigilance of farm workers and the response of the local commando saved the life of a Limpopo farmer in November 2002, where workers endangered their own lives to warn their employer that five armed men were approaching his isolated farm house in the early hours of the morning. One worker alerted the local commando who arrived before the police arresting two members of the gang.<sup>146)</sup>

During TAU SA`s 2003 congress concerns about agricultural safety were once again highlighted, and similarities between what happened in Zimbabwe and what was happening in South Africa were pointed out. It was decided that TAU SA should start to present security courses on district level; that the logistic issues pertaining to these courses be finalised within six weeks; and that a secondary reaction capability be established on all levels.<sup>147)</sup>

TAU SA in May 2003 reacted to a statement by then Police Commissioner Jackie Selebi regarding whites who utilised the services of the vigilante group *Mapogo a Mathamaga*, TAU SA responded by stating that “vigilante groups do not ...exist in countries where law and order is upheld. Vigilantism has grown in direct proportion to the decrease in police capabilities to curb crime.”<sup>148)</sup> TAU SA also initiated a new rural defence strategy in 2004 where farmers were organised into support groups capable of rallying to each other`s defence, and has also initiated self-defence and survival courses which include the use of weapons.<sup>149)</sup>

In addition to its other anti-crime campaigns and initiatives, Solidarity in August 2006 also called for farm attacks to be prioritised, as well as for the regular release of crime statistics.<sup>150)</sup> Government continued with the closing down of the commandos and the last one was closed down at the end of May 2008.<sup>151)</sup> In September 2009, Solidarity was assisted by well-known persons and celebrities to read out the names of 1650 victims, and brief detail of some of the farm attacks over its own radio station, Solidarity Radio.<sup>152)</sup> In April 2010 Solidarity and Afriforum demanded that

president Zuma distance himself and the ANC from hate songs such as *Dubulu ibhunu* which if translated means “shoot the farmer”. This followed the murder of the AWB leader Eugene Terre`Blanche on his farm in the North-west Province. Solidarity and its civil rights movement Afriforum stated that it was going to approach the United Nations` Genocide Watch to monitor the levels of violence and human rights violations in South Africa.<sup>153)</sup>

As with the period from 1994 to 2000, the period from 2001 onwards was also characterised by numerous attempts by organised business and organised agriculture to cooperate with government in the combating of crime. These attempts at combating crime were, and still are largely uncoordinated, and if coordinated, this occurs only to a minor extent at local level. In addition to attempts to coordinate crime combating initiatives amongst the various role-players, and as with initiatives in the period 1994-2000, both organised business and agriculture increasingly started to take responsibility for their own security.

#### **4. CONCLUSION**

Crime combating initiatives by organised business and agriculture must be considered against South Africa`s colonial background, and from as early as the days of Dutch colonialism in the 1600s. South Africa`s colonial history had a significant impact on urbanisation, and the development of organised business and agricultural in the country, while it also played an important role in the development of organised labour as part of the business sector. Crime, although present in the late 1800s and early 1900s, was less important than the development of the mining and commercial farming sectors.

The distinctive features of the period 1948 to the beginning of 1994 as far as crime combating by business and agriculture is concerned, can be summarised as follows:

- A conventional and traditional dependence by the business and agricultural sectors on government for security;
- increased focus by government on the revolutionary threat from liberation movements and downscaling of normal policing;

- assistance to the private sector by, and involvement of government with certain private security initiatives;
- awareness campaigns and calls by government on the private sector to take responsibility for its own safety and security; and
- realisation by the private sector from the late 1980s onwards that government cannot provide total security as expected, and resultant initiatives by the business and agricultural sectors.

The most prominent characteristics pertaining to crime combating by business and agriculture in the period 1994-2010, can be summarised as follows:

- A new approach by the business and agricultural sectors whereby they began to take more responsibility for their own security;
- an increased focus by the ANC government on transformation of the security forces, the announcement of the NCPS in 1996, the *Rural Protection Plan* in 1997, and the *White Paper on Safety and Security* in 1998;
- the termination of the commando system leading to a proliferation in initiatives by the farming community to combat rural crime;
- increases in crime combating initiatives and awareness campaigns by organisations in the business sector such as BACSA, AHI, NEDLAC and SACCI; and
- increases in calls by organisations in both the business and agricultural sectors for the coordination of crime combating initiatives by government.

There were some attempts to coordinate crime combating initiatives amongst organisations in the business and agricultural sectors, as well as attempts to coordinate some of these initiatives with the police. Such attempts were however restricted only to certain areas, initiated by a small number of organisations and only on an *ad hoc* basis. Despite random attempts to coordinate such initiatives aimed at combating crime, there is still no functioning overarching structure that exists to initiate, coordinate, and facilitate crime prevention programmes as is referred to in the *White Paper on Safety and Security*.

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## **CHAPTER 7**

### **EVALUATION**

#### **1. SUMMARY**

Chapter 1 of this study discussed the objectives of the study; provided a critical literature overview; and indicated the methodology used in the study. The main objective of the study was to identify and analyse the most important trends in the privatisation of security in South Africa through the use of selected case studies. In order to achieve this objective, it was necessary to examine the involvement of civil society, business, and the private security industry in the privatisation of security in South Africa.

Following from the main objective, the following sub-objectives were identified:

- To discuss and analyse current trends in crime in South Africa, focusing especially on violent and organised crime and corruption;
- to determine and assess the main reasons for these crime trends in South Africa, and how, from a threat perspective, these trends impact on business and civil society; and
- to analyse official and legal responses, and the responses of business and civil society, through the privatisation of security, to these crime trends.

The main research problem of this study therefore concerned the finding of an answer to the primary question, namely what are the main reasons for and manifestations of, the privatisation of security in South Africa after 1994? Three secondary research questions flowed from the main research problem formulated above namely:

- What are the underlying causes of the increase in crime in South Africa, and to what extent do the authorities seem to be able to prevent and reduce crime?

- To what extent do the authorities encourage or support certain civil society initiatives to prevent crime?
- What are the advantages and disadvantages of the privatisation of security in South Africa?

Chapter 2 formed a conceptual framework for the study with a brief overview of the history of, and the development of the 'concept of security', followed by an analysis of the broadening of the concept since the end of the Cold War. It was pointed out that 'security' as concept in the modern state, has gone through various stages of development, from a pre-modern state, through the traditional military orientated Cold War view, to a post-Cold War view with emphasis on non-military threats. A new world order has, amongst others, led to changed perceptions regarding responsibility for the provision of security. The role of the state and the balance between the rights of the state on the one hand, and that of civil society on the other were discussed, and it was pointed out that the state also represents a source of both threats to, and security for individuals. Globalisation has led to certain privatisation trends including security, where businesses, communities and individuals have taken initiatives to enhance security. The proliferation of PMCs as manifestation of the privatisation of security was briefly referred to, followed by a discussion of the the differences between PSCs, PMCs and mercenaries. It was pointed out that this study did not include any detailed case studies of PMCs or mercenaries. Since the demise of the bi-polar power system in the late 1980s, there has been a significant proliferation of PSCs and PMCs in developed as well as less developed countries. It was highlighted that although there are similarities between the trends in the privatisation of security in developed and developing countries, certain major differences can however be detected.

Chapter 3 analysed crime trends and official responses to crime in South Africa in the period 1912 to 2010, and it was pointed out that crime trends in the period 1912-1994 must be seen against the background of South Africa`s colonial legacy, and in terms of the political change in 1948. The NP when assuming power in 1948 increased social control over the majority of the Black section of the population through legislation, resulting in increasing unrest and resistance. Violence in townships became endemic from the mid- 1970s onward, resulting in a large part of

police manpower being used to deal with political violence and unrest. The period prior to political change in 1994 therefore saw an unacceptable rise in crime and also a significant growth in the private security industry. The ANC when becoming the new government in 1994, was more concerned with the transformation of the police than with the combating of crime, which resulted in a security vacuum; a concomitant and rapid increase in most types of crime; and the emergence of new crime trends. It was pointed out that increases in violent crime and increases in crime in borderline and adjacent areas, forced government to announce various plans and strategies such as the NCPS and *White Paper on Safety and Security*, in attempts to cope with the problem.

Chapter 4 discussed the role of the private security industry in South Africa, and commenced with a discussion highlighting the absence of government regulation in the period 1958-1986. The considerable growth of the industry in this period was fuelled by increasing crime levels, and a growing demand for security services and market forces. It was pointed out that government indirectly played an important role in the growth of the private security industry while the industry played a supporting role to the police at the time. The private security industry became partially regulated in 1987 with the coming into effect of *The Security Officers Act* of 1987, later to be followed by the *Security Officers Amendment Act* of 1997. The level of regulation of the industry was further increased by the promulgation of the *Private Security Industry Regulation Act* of 2001 (the *PSIR Act*).

The existence of private intelligence companies remains a concern for the South African government. The gradual assumption of certain police functions by the private security industry also became more evident. Government has certain concerns pertaining to the security industry, of which the following can be singled out: the intelligence capacity of the private security industry; the large numbers of weapons in the possession of private security service providers; and the extent of foreign ownership of South African security companies. It was highlighted that the private security sector can play an important role in assisting the police in combating crime, but can never be a substitute for the police. Greater coordination of private security sector initiatives and cooperation with the police would however benefit both.

Chapter 5 analysed community and civil society crime combating initiatives in South Africa, and commenced with a brief history of community crime combating initiatives in the period prior to 1994. Initiatives prior to 1994 must be seen against the background of the revolutionary climate; the public's perception of a dysfunctional criminal justice system; and a government not willing and/or able to fulfill its duty by sufficiently protecting the inhabitants of the country against high levels of crime. Crime levels, prior to 1994 were generally lower than those after 1994, and therefore initiatives and responses by citizens to enhance their security after 1994, differed from those in the pre-1994 period. After 1994, legal responses by the community in response to crime were marked by neighbourhood watch systems; significant increases in the number of gated communities; the development of, and increase in the use of CCTV; increased use of technology especially information technology and cell phones; and a more vigilant community in general. The post-1994 situation also differed from the period prior to 1994 as far as illegal crime combating initiatives are concerned. It was pointed out that increases in vigilante type activity, mob justice and gang related activity, can be expected in the absence of proper policing and other factors leading to crime.

In Chapter 6 the focus was on crime combating initiatives by organised business and agriculture. It was emphasised that South Africa's colonial history had an significant impact on urbanisation, and the development of organised business and agricultural in the country, while it also played an important role in the development of organised labour as part of the business sector. The main features of crime combating initiatives by organised business and agriculture in the period prior to 1994 (as with community and civil society initiatives discussed in Chapter 5), were a traditional dependence by the business and agricultural sectors on government for security; increased focus by government on countering insurgency and downscaling of normal policing; and assistance to the private sector by government regarding certain security initiatives. Responses and initiatives by organised business and agriculture increased significantly since 1994 due to perceptions of, and real increases in crime. Due to an increase in crime affecting the business and agricultural sectors, and the realisation that the SAPS was not capable of successfully combating crime, businesses and the farming community increasingly started to provide for their own

security. The largely uncoordinated fashion of crime combating initiatives in general, and some attempts at coordination, were briefly referred to.

## 2. ASSESSMENT OF ASSUMPTIONS

The assumptions based on the research questions formulated in the introductory chapter are assessed below. In each case it is indicated whether a specific assumption can be verified, cannot be verified, or only partially verified.

**Assumption: One of the underlying causes of the significant increase in violent and organised crime is the failure of the state to provide sufficient security for civil society. The privatisation of security in South Africa will continue despite attempts to improve official policing.**

Prior to 1994, and especially since 1948, the South African government was utilising most of its security resources in controlling the movement of the Black section of the population<sup>1)</sup>, and combating the infiltration of insurgents from the northern borders of the country. The focus on political crimes resulted in lesser attention to other crimes, resulting in significant increases in overall crime figures since the mid-1980s<sup>2)</sup> and the early 1990s.

The focus of government on the transformation of the security forces since 1994, led to large scale resignations from the SAP (and SAPS which was established in 1995), the SADF and the intelligence community. This resulted in a significant loss of expertise to the private sector, and a concomitant and unacceptable rise in crime levels.<sup>3)</sup> Huge increases in the SAPS` s budget also did not result in more manpower in lower ranks. It was pointed out that there is a total disproportionate ratio of NCOs to officers. The reason for this can be attributed to nepotism and the promotion policy that was applied in the SAPS since 1994. The numbers of especially senior officers increased significantly, which meant that a large part of the budget was spent on increasing the numbers of senior management that did not have any significant impact on visible policing. The change to a civilian rank system in the police further contributed to a gradual decline in discipline, and the military rank structure was re-introduced in 2010.<sup>4)</sup>

By 1998, it was realised by the government and the SAPS management that something had to be done about the rising crime. Various plans to combat crime were announced by the SAPS to bring crime under control, but by 2000, it was clear that these plans did not have the desired effect.<sup>5)</sup> The NCPS however as was mentioned in earlier chapters, was drafted by an Inter-Departmental Strategy Team consisting of representatives from the Departments of Correctional Services, Defence, Intelligence, Justice, Safety and Security, and Welfare. The gradual reduction of the portion of the SANDF budget allocated for the commando structure and the eventual disbanding of the commando system in 2004, also had an impact on border control, and large numbers of illegal immigrants entered the country since 1994.<sup>6)</sup> Some illegal immigrants have been found to be responsible for serious crimes in urban and rural areas. The lack of sufficient manpower for border control and security in rural areas, is probably one of the most important reasons for the high level of violent crime in rural areas.<sup>7)</sup> It was pointed out that socio-economic conditions such as unemployment also contribute to high crime levels. This will require addressing the root causes of inequalities and corruption.

Private initiatives to combat crime are the result of public perceptions about the competency of the police, safety, security and high crime levels; and the public's perception of their own responsibility to contribute to safety and security.<sup>8)</sup> Public perceptions pertaining to safety and security changed, and the fear of crime increased significantly in the early 1990s. Crime levels in South Africa, especially violent crimes such as murder and rape, increased in most parts of the country from the mid-1980s to 1994. This trend continued into the early part of the 21<sup>st</sup> century.<sup>9)</sup> While some crimes have stabilised, the levels of the so called "contact crimes" remained high.<sup>10)</sup>

The possibility of vigilante activities will increase in the event of continued failure by government to show its commitment to act against crime. The assumption of inadequate state protection against crime; and the continuation of the privatisation of security, can therefore be verified. Considering the record of the government to fulfil its obligations in respect of the provision of acceptable security to the South African community, the privatisation of security will continue, irrespective of a real

improvement in official policing. The underlying causes of crime will also continue to play a role in high crime levels.

**Assumption: Although it is normal practise to encourage citizens to become involved in cooperating with the police to combat crime and to take certain initiatives in this regard, this tends to detract from the fact that the primary duty to combat crime still lies with the police.**

The primary duty of the state is the protection of its citizens. According to the *Constitution of the Republic of South Africa, 1996*, domestic safety and security is entrusted to the SAPS. The main functions of the SAPS as described in Section 205 (3), are to “prevent and combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold the law.”<sup>11)</sup>

It is, and should be normal practise that the police encourage citizens to cooperate with them as it also discourages vigilantism. The SAPS since its establishment in 1995 has consistently called on South Africans to cooperate with the police and not to resort to self-help methods and vigilante type activities. In addition to various calls for cooperation by representatives of the SAPS in the media, calls for cooperation with the police have been included in amongst others the NCPS<sup>12)</sup>, the *White Paper on Safety and Security*<sup>13)</sup>, and the *Green Paper on Policing*<sup>14)</sup>.

With reference to community crime combating initiatives, it was indicated that the SAP had already stated in 1976 that the public must realise that the fight against crime is the responsibility of every individual in the community. The Police established a Public Relations Division in 1982, and emphasised the importance of the role of the community in crime prevention. This was done while the SAP focused largely on political crimes.<sup>15)</sup>

In the *White Paper on Safety and Security* it is stated that the responsibilities for crime prevention be delegated to local level where local government, municipal police, and the community through CPFs must create partnerships to address crime.<sup>16)</sup> While community involvement is needed to prevent and combat certain

types of crime such as assault, family violence and drug abuse on local level, serious and violent crime such as business and house robberies and car and truck highjackings, cannot be addressed on local level. Crime intelligence gathering on regional, provincial or even national is needed to prevent and address these crimes, and chances are very remote that a local police precinct will have the capability to for instance glean intelligence on a gang responsible for robbing shopping malls across provincial borders.

Some CPF members and researchers have argued that the police expect too much of the public. In addition to the lack of communication between the police and CPFs, which also implies a lack of coordination of crime combating initiatives, it is stated that although the public is responsible for its own safety and security, it cannot combat organised crime as special training is required. The public cannot be expected to protect themselves against organised crime and syndicates.<sup>17)</sup> There is therefore in certain cases an over reliance by government on the public to assist the SAPS in combating crime. The primary function to prevent crime still resides with government.

Civil society initiated various ways to combat crime and to enhance personal security. Organised business responded to a call by former President Mandela which led to the formation of BACSA, while organised agriculture also responded through continuous talks with government and especially the police, regarding the crime situation in South Africa and ways to address the problem. In 2010 after releasing crime statistics for the period 2009/2010, the Minister of Police stated that statistics were released for purposes of crime prevention and planning by the police and the community.<sup>18)</sup>

It is normal practise that the public will become involved in crime combating initiatives where it is felt that police duties are being neglected. This however can lead to activities that are regarded as criminal and outside the parameters of the law. It appears as if gang related activities are on the increase, in some instances under the guise of combating crime. The prevalence of various incidents of vigilante action were highlighted and it was pointed out that this was the response to little or no confidence in police capabilities. In some instances courts are also starting to show

sympathy towards vigilantes and self-help activities in the absence of proper policing.<sup>19)</sup> Calls by government and especially the police on the community to become actively involved in crime combating initiatives, tend to detract from the fact that it is primarily the police's function to protect the community against crime, and especially violent crime.

Private security initiatives and the private security industry are not the primary role players in the combating of crime. It primarily remains a police function and the SAPS can never abrogate its duties in this regard. The assumption in this regard can therefore also be verified.

**Assumption: The increasing privatisation of security has had a positive effect on security in South Africa, but can never replace the role of the state as protector and supplier of security in the nation-state sense.**

The increasing privatisation of security in South Africa which includes the growth of the private security industry in South Africa; various legal and illegal private security initiatives, and initiatives by organised business and agriculture, have had a positive effect on curbing and reducing crime. Claims of successes by representatives of some organisations responsible for certain initiatives such as Crime Line and eBlochwatch were referred to.<sup>20)</sup> Neighbourhood watch systems<sup>21)</sup>, gated communities<sup>22)</sup>, and farm watch systems<sup>23)</sup> also claimed to be successful in combating crime, not only in terms of arrests, but also in terms of deterrence.

The dissatisfaction with the crime situation in South Africa by amongst others the agricultural sector was highlighted. The government which is primarily responsible for combating crime, has been accused of lacking the political will to bring crime in the country under control. The SAAU for example announced a plan to combat crime where the second phase of action would be civil disobedience and withholding of taxes, followed by the forging of partnerships outside the country to force government to address the crime issue.<sup>24)</sup>

Increases in the privatisation of security in all the manifestations as mentioned above, do have a positive impact on the reduction of, or at least the stabilising of

crime. The privatisation of security has also led to development of, and the increased use of technology in combating crime.<sup>25)</sup> The use of CCTV as a crime combating instrument gained momentum since the late 1990s and is being used in Central Business Districts all over South Africa today.<sup>26)</sup> The exception to the positive impact of the privatisation of security, is where vigilante activities lead to crime and the furthering of the security interests of the community is no longer a priority. Some type of vigilante activities however do instil order in some communities, while in other instances they develop into gangs that assume control in some communities to further criminal interests.<sup>27)</sup>

The SAPS, due to a lack of resources needs the private security industry not only as a force multiplier, but also for equipment that is usually not available to the police. The security industry has diversified its range of services, which is blurring the divide between private security and private military services in that in some cases it is difficult to determine whether a company renders purely private security services, or services that are of a military nature and that can even be regarded as mercenary activities. It was pointed out that the question no longer is whether the private security industry should perform functions traditionally within the preserve of the public police, but where the authority of the private security industry ends and responsibility of the public police begins.

The limitations of private security and the private security sector however mean that this can never replace the role of the state as the provider of security in the nation-state sense. A lack of power in terms of powers of arrest and prosecution, and also search and seize operations, are some of the limitations facing the private security sector when compared to official policing. It must be realised that policing is a public service funded by the tax payer, while private security businesses are funded by clients.<sup>28)</sup> When current and future roles for the private security industry were assessed, it was indicated that the private security industry is increasingly, especially since the turn of the century, performing some of the core functions of the police, although with payment for services. Security businesses are therefore driven by a profit and not primarily a service motive. The assumption that the increasing privatisation of security has had a positive effect on security in South Africa was therefore proven to be partially correct.

### 3. CONCLUSION

While there are some examples of coordination in combating crime within civil society and between for instance organised business and the police, closer cooperation can have positive and negative effects. Some obstacles in the way of cooperation also exist.

Some of the positive effects of closer cooperation include:

- Broadening of the basis from which intelligence in respect of crime is being sourced. The mere fact that the private security industry has developed an effective intelligence sourcing capability of its own since the 1990s, will immediately improve the combined intelligence capability of the SAPS and the private security industry.
- Larger visibility due to coordinated efforts. If patrols are to some extent coordinated, vehicles and manpower can be more efficiently deployed, resulting in greater visibility which has proven to be an effective deterrent to some types of crime.
- State of the art technology more readily becoming available to the police. Some private sector firms have access to equipment and technology that are not available to the police.
- Expertise in respect of investigations and forensic services which is currently in the private sector could be made more available to the SAPS. It is acknowledged that expertise in respect of the investigation of fraud, corruption and white collar crime now lies with the large audit firms. This expertise is sold to the state at nearly unaffordable prices. Cooperation could see a reduction in costs and the more readily availability of expertise to the SAPS.

There are however also some negative effects as far as closer cooperation between the SAPS and the private sector is concerned. Some of these include:

- The SAPS can become too reliant on the private sector which may result in a great dereliction of its duties.

- Closer cooperation in respect of intelligence sharing may result in criminal elements in both the SAPS and private sector gaining access to operational information which might result in the use of this information to the detriment of justice in general.
- Closer cooperation and sharing of equipment between the private sector and the SAPS might result in abuse of equipment for personal use and may also result in even greater reliance on the private sector for the supply of this equipment.
- Certain SAPS members might regard the private sector as their subordinates and may gradually start to give orders instead of cooperating with the private sector.

There are however also a number of obstacles in respect of joint crime combating cooperation between the SAPS and the private sector that must be considered:

- The SAPS are confined to certain precincts, while private sector security firms serve specific clients and some initiatives are aimed at improving the safety of specific communities. A fine balance will have to be found to overcome this problem.
- The SAPS as government department is allocated a specific budget to combat and investigate crime, while the private sector is paid by clients to deliver a service. The sharing of capabilities in this regard will have the consequence that paying private sector clients will terminate contracts if there is a decline in the service they are used to, and which they are paying for.
- Competition between private security sector firms and the fact that they only render services against payment, is a problem in the sense that they will not render a service to a non-paying client or place their market share at risk. They will therefore also not easily respond to a call by a complainant in need if he/she is a paying client of an opposition private security firm.
- There is a general resistance from within the police middle management structure to the privatisation of certain services. This has been one of the biggest problems in respect of outsourcing.
- The resistance from the police to share intelligence with the private sector and *vice versa*, is a major stumbling block. It is argued that there are too many

criminal elements within the private security sector that might use this information to their benefit. The same argument can however be applied to the SAPS.

- Vetting of police officers and new entrants into the private security sector remains a concern. In 2013, 1448 members of the police were found to have criminal records, while 8846 had criminal cases pending against them.<sup>29)</sup> Statistics for security officers in this regard are not readily available as it is not compulsory to report offences to PSIRA.<sup>30)</sup> Numerous unsuccessful calls were made in the past for an oversight body or register to be kept where offenders and offences can be listed, and where security officers are blacklisted and prevented from being employed in the industry. Minnaar states in this regard that while the South African private security industry is reasonably well regulated by means of the *Private Security Industry Regulation Act* of 2001, “this legislation does not specify setting up an oversight monitoring body-only an inspectorate and a complaints line which deal more with working conditions (labour issues) and service complaints from clients than actual private policing actions. There is no formal body to serve the South African private security industry such as the Independent Complaints Directorate (ICD) that monitors the behaviour and sanctions misconduct by the South African Police Service...”<sup>31)</sup>

Certain opportunities do exist to improve coordination of private sector crime combating initiatives on the one hand, and cooperation between the private security sector and the SAPS and other law enforcement agencies, on the other hand. However, it must be emphasised that cooperation will be voluntary. Regulation will only be possible to the extent that legislation provides for this, for example regulation of the private security industry by PSIRA and overseen by the Ministry of Police.

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## **SUMMARY**

**TITLE:** The Privatisation of Security in South Africa: Selected Case Studies  
by  
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**DEGREE:** Doctor Philosophiae (Political Science)

The focus of this study is firstly on the broadening of the concept of security after the Cold War, and the concomitant realisation of the existence of an array of new threats that can threaten a stable world order. Secondly, the study focuses on South Africa, the prevalence of high crime levels, the growth of the private security industry, and responses and initiatives from the general public and the private sector in reaction to the high levels of crime. With a new dispensation in 1994, it was realised that government was not able to render sufficient protection to all citizens. The responses by civil society, the private security industry, the organised business and agricultural sectors, and other relevant role players such as certain labour organisations to crime, are analysed and discussed. An analysis of various anti-crime initiatives shows that these are largely launched and driven independently from each other. The lack of cooperation in South Africa amongst the private sector groups and organisations on the one hand, and law enforcement agencies on the other hand insofar as the combating of crime is concerned, does affect the more efficient combating of crime, but certain obstacles to closer cooperation do exist.

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**Key Terms:** Combating of crime, coordination, cooperation, dereliction of responsibility, duty to protect, organised business, organised agriculture, private security, private security initiatives, responsibility for security.

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## 2.8. INTERVIEWS

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