

SHADOW LEGACY REPORT
2004–2009



The Parliamentary Portfolio Committee
on Police



OPEN SOCIETY FOUNDATION FOR SOUTH AFRICA

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Cover: ©Garth Stead/iAfrika Photos

Published by the Open Society Foundation for South Africa
2nd Floor, B2, Park Lane, Corner of Park and Alexandra Roads,
Pinelands 7407, South Africa

www.osf.org.za

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First published 2010

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ISBN 978-1-920355-54-8

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Abbreviations and acronyms

ATDs	Awaiting Trial Detainees
CJS	Criminal Justice System
Committee	Portfolio Committee on Police from 2004 to 2009 (previously Safety and Security, also referred to as 'the previous Committee')
CPFs	Community Police Forums
Directorate	Directorate for Priority Crimes Investigation
DVA	Domestic Violence Act
Fourth Parliament	Parliament from 2009 to 2014
ICD	Independent Complaints Directorate
ICT	Information and Communication Technology
NCCS	National Crime Combating Strategy
NCPS	National Crime Prevention Strategy
New Committee	Portfolio Committee on Police from 2009 to 2014
PMG	Parliamentary Monitoring Group
PSIRA	Private Security Industry Regulatory Authority
SAPS	South African Police Service
SAPU	South African Police Union
SCOPA	Standing Committee on Public Accounts
Secretariat	Police Secretariat
SITA	State Information Technology Agency
SIU	Special Investigations Unit
SONA	State of the Nation Address
Third Parliament	Parliament from 2004 to 2009
VEP	Victim Empowerment Programme
Victims Charter	Service Charter for Victims of Crime in South Africa

1 The role and mandate of Portfolio Committees

Both houses of South Africa's Parliament, the National Assembly and the National Council of Provinces, do much of their work through committees made up of members from all parties. The committee system enables work to be done efficiently, allows greater time for debate, increases participation of Members of Parliament and provides a forum for direct presentation of public views.

The role and mandate of Portfolio Committees are to:

- Facilitate public participation.
- Promote cooperative government.
- Exercise oversight on the Executive, state departments and bodies they are responsible for, and on international relations.
- Pass legislation.

2 The aim of this report

This report briefly highlights issues discussed in 117 meetings by the Portfolio Committee on Police (previously Safety and Security – the Committee) during the Third Parliament (from 2004 to 2009). These issues can be tracked from the Committee's Five Year Legacy (Handover) Report and Five Year Review¹, prepared by Parliamentary staff.

This report includes recommendations the Committee made for follow-through by its successor, the Fourth Parliament's Portfolio Committee on Police (the new Committee from 2009 to 2014). Sometimes we will refer to the Committee as 'the previous Committee' to distinguish it from the new Committee.

This shadow legacy report is an independent report on the work of this Committee. The issues and concerns highlighted in this report were extracted from extensive research into the full reports of Committee meetings prepared by the Parliamentary Monitoring Group (PMG),² and reports of the Committee from 2004 to 2009.

This report gratefully acknowledges the assistance of the PMG, including full access to its resources, during the research and preparation of this report. The Parliamentary Committee staff and Members of Parliament also provided answers to queries.

Note:

- This report aims to reflect action taken by the previous Committee and to highlight relevant outstanding or ongoing issues for action by the new Committee.
- The recommendations at the end of each item in this report are recommendations from the previous Committee.

3 Police priorities

The South African Police Service (SAPS) forms part of the Justice, Crime Prevention and Security Cluster, and therefore its policies and work were guided throughout by the sector priorities described below.

The State of the Nation Address (SONA) each year³ outlined the Government's priorities, emphasised safety and security, and urged SAPS to prioritise addressing crimes involving drugs (2004–2006), firearms (2004–2006), substance abuse (2005), crimes against women and children (2004, 2007, 2009), organised crime (2005, 2007, 2009), cyber crime (2009) and general crime trends (2007). The Service Charter for Victims of Crime in South Africa (Victims Charter), approved in 2007,⁴ was a SONA priority for 2004, 2005 and 2008 to be implemented across the Justice, Crime Prevention and Security Cluster.

The White Paper on Safety and Security, approved in 1998,⁵ aimed to create and implement a multi-faceted approach to crime, and support the effective transformation of policing. It emphasised law enforcement and social crime prevention interventions.

In 2003/04, the Cabinet proposed a complete review of the Criminal Justice System (CJS). In November 2007, the Cabinet approved a 7-point plan for the CJS Review that was outlined in the SONA of 2008. The plan aimed to achieve better service delivery and systems through coordinating management structures and integrating databases across the CJS, including professionalising and improving the capacity of detective services, and the modernising and speeding up of forensic services.

The SAPS is where an accused or victim first comes into contact with the CJS. In February 2009,⁶ a Joint Committees' Report on public hearings about the CJS Review identified that some SAPS officials were corrupt, brutal or inefficient, leading to long delays in investigations and finalising trials. In line with sector priorities, the SAPS formulated policies and strategies emphasising Batho Pele principles.⁷ Its priorities in carrying out its dual role of law enforcement and social crime prevention included:

- Combating organised crime, with an emphasis on drugs and firearms, vehicle crime, commercial crime and corruption.
- Combating serious and violent crime by adopting firearms control strategies.
- Improving safety and security in high-risk areas.
- Combating crime against women and children.

Recommendations to the new Committee

- Continue to be guided by sector priorities.
- Ensure it received reports on the participation of the SAPS in all forums.
- Participate with other committees in receiving regular reports on the CJS Review.

4 Mandate: Portfolio Committee on Police

The Committee held meetings, took briefings on and conducted oversight visits to monitor the work of the SAPS, the Independent Complaints Directorate (ICD), the Police Secretariat, the State Information Technology Agency and the Private Security Industry Regulatory Authority, and carried out study tours.⁸ The Committee's press statements, oversight reports and legislation reports contributed to good institutional knowledge and better public understanding.⁹

In fulfilling these functions, the Committee highlighted many areas of concern that will be relevant to the new Committee. These are detailed in parts 5 to 10 below.

Recommendations to the new Committee

- Review the previous Committee's recommendations on the study tour to Australia (report of November 2008)¹⁰ and use these to inform the CJS Review and proposed legislation on human trafficking.
- Use and further develop the Police Station Questionnaire for consistent reporting and follow-up by committees or members during all visits to police stations.
- Receive briefings from the SAPS or other bodies in the security sector on international cooperation.
- Make both announced and unannounced oversight visits.
- Take briefings from the Metropolitan Police Service.

5 Concerns: SAPS strategies, programmes and targets

5.1 National crime strategies

The 1995 National Crime Prevention Strategy (NCPS) aimed to establish a comprehensive policy framework for government and civil society to address crime in a proactive, coordinated and focused way. The NCPS covered research, gathering reliable data for effective use of resources, restructuring the criminal justice system and reducing crime through improving community values and education.

The 2000 National Crime Combating Strategy (NCCS) became a priority strategy of the SAPS, including strategies such as stop and search, roadblocks and patrols. The NCCS tried to address short-term issues to stabilise the spiraling crime rate and deliver a more immediate and visible impact.

The SAPS also introduced Sector Policing, drawing on both the NCPS and NCCS:

- Areas were divided into more manageable sectors headed by station commanders.
- Sector policing focused on 169 high-contact crime stations.
- In the 2007/08 financial year,¹¹ only 78% of the identified stations achieved full sector policing on a 24-hour basis, due to lack of capacity and resources.

Recommendations to the new Committee

- Reconsider the NCPS and NCCS and their implementation as part of the CJS Review.
- Monitor the formulation of guidelines and policies to support all SAPS strategies in the short- and long-term, including sector policing.
- Ask the SAPS for reasons for failing to complete implementation of sector policing.
- Request the SAPS to evaluate sector policing, in particular whether it has led to reducing crime.

5.2 Social crime prevention

Social Crime Prevention studies factors that contribute to crime and violence, and implements programmes to deal with violence against women and children. For example, Social Crime Prevention combats rape, domestic violence and child abuse by enforcing the Victim Empowerment Act and the Domestic Violence Act, and by supporting rural development and urban renewal programmes.

The development of Social Crime Prevention programmes was included as a SONA priority for 2004, 2006 and 2007. The Committee was informed that the SAPS had various social crime prevention and social development programmes in place, such as training of street children and literacy programmes.

Recommendation to the new Committee

- Monitor the implementation of Social Crime Prevention programmes and services to victims.

5.3 Visible policing

The Visible Policing programme aims to combat crime through anti-crime operations, active policing activities and deployment to ensure prompt and appropriate services to the public. Its sub-programmes include crime prevention, border security, specialised operations and sector policing.

Visible Policing received the highest overall budget allocations until 2008, because it had the largest numbers of employees. The Committee repeatedly expressed concerns that Visible Policing seemed to be used as a “catch-all” for other projects, with funds being diverted from it for these other projects. For example, in August 2007, the SAPS briefed the Committee on police deployment to the West Indies. The Committee questioned the budget for this and discovered that funding was being appropriated from Visible Policing.

Although Visible Policing was mentioned as a priority in the Medium Term Strategic Framework, it received only a 4.9% increase in the budget for 2009/10, compared to a previous average increase of 8.3%.

Recommendations to the new Committee

- Monitor whether funds continue to be diverted from the Visible Policing programme, particularly for new initiatives introduced during the financial year.
- Assess whether future allocations to this programme are sufficient.

5.4 Targets: Reducing crime and increasing convictions

The SONA for 2004, 2005, 2007 and 2009 listed reducing crime and increasing the numbers of convictions as priorities for the SAPS. The SAPS reported to the Committee annually on achieving targets. The Committee asked if these are accurate indicators and made these observations:

- Conviction rates could be compared to the number of cases reported, the number of cases that were opened, the number that reached the courts or the number concluded through the court processes.¹²

- Some categories of crime, such as rape, attempted murder and robbery were under-reported.
- A drop in statistics could show non-reporting due to lower confidence in the system.
- Statistics were confusing, as different indicators were used by the Department of Justice and Constitutional Development, and by the SAPS.¹³

The SAPS had a general target for reducing crime annually by between 7% and 10% from 2005 to 2010. Although there were reductions in some crime categories over the period, this target, generally, was not met.¹⁴

Recommendations to the new Committee

- As part of the CJS Review, consider how targets can be indicated and achievements compared more uniformly across the sector.
- Assess and monitor that the targets set by the SAPS are realistic.
- Follow through on the proposal that all planning, including targets, should be linked to the SONA priorities.¹⁵
- Monitor to ensure that the SAPS provides information on arrests and convictions.
- Check that the SAPS indicates whether targets have been met in all future reports.

5.5 Firearms strategy

The Firearms Strategy was mentioned in the long-term Strategic Plan of the SAPS. In 2005, the Committee passed an amendment to the Firearms Control Act aiming to improve and streamline processes.

In a briefing given by the SAPS in November 2007, the Committee was concerned that, although firearm control processes had cost R172 million, the SAPS was in some cases taking as long as a year to process firearm applications, while huge backlogs were hindering the finalising of appeals. During oversight visits, the Committee noted problems with maintaining firearm registers at some police stations.

Recommendations to the new Committee:

- Receive regular reports on the current firearm licensing process, the numbers of certificates and the reasons for any delays.
- Request reports on whether firearms-related crimes had been reduced by introducing controls.
- Monitor the processing of applications during oversight visits to stations.
- Check if SAPS members are receiving sufficient training on implementing the Firearms Control Act.

5.6 Border control

The need to improve borderline security after it was handed over from the South African National Defence Force to the SAPS, was mentioned as a SONA priority for 2005, 2007, 2008 and 2009. Border control is now a sub-programme of Visible Policing. Although many resources were allocated to border control from 2005 onwards, the SAPS did not meet its own targets for improving border control.

The Auditor-General's investigation into border control listed problems, including lack of intelligence gathering, training and human resources at ports of entry.¹⁶ The Committee asked the SAPS to address the numbers of inexperienced constables placed at border stations and warned that rail-crossings should also be monitored. The SAPS responded that its draft strategy would be finalised only when it assumed full responsibility for borders.

In media reports in May 2009, the new Minister of Police questioned whether border control should continue to be an SAPS responsibility. Yet in 2009, border policing received a budget increase of 2% in spite of persisting backlogs and problems.

Recommendations to the new Committee:

- Monitor if the SAPS will remain responsible for border control.
- If responsibility does remain with the SAPS, assess whether the budget allocations are sufficient to address the problems reported by the Auditor-General, and whether the SAPS improves its performance on border control.

5.7 Victim empowerment

The Department of Justice and Constitutional Development introduced the Service Charter for Victims of Crime in South Africa (Victims Charter). Adopted in 2007, it links with:

- The SAPS NCPS and the concept of restorative justice.
- The SAPS Victim Empowerment Programme (VEP) to integrate inter-departmental or inter-sectoral programmes and policies for the support, protection and empowerment of victims of crime and violence.

SAPS initiatives under the VEP include establishing victim-friendly facilities at police stations and training of its members in victim empowerment. The SAPS's 2005/06 Annual Report noted that 108 victim-friendly facilities were established and that training had taken place.

While the SAPS supports all the principles of the Victims Charter, the Committee's oversight highlighted many stations with no separate facilities to take statements, while many victims (particularly victims of sexual violence) were not being given assistance under the guidelines.

Recommendation to the new Committee:

Monitor services to victims, including:

- Training of SAPS members.
- Whether victim support rooms are being created at all possible stations and are meeting all victim-friendly facility requirements.
- Whether proper victim support is actually being given.
- Progress on a manual the SAPS says it is developing on victim support to improve skills and create a guideline for all stations.

5.8 Crimes against women and children

The SONA of 2004, 2007 and 2009 named reducing crimes against women and children as a priority. For example, during 2005, the SAPS set up a Family Violence, Child Protection and Sexual Offences Unit in Gauteng. This aimed to take over child-related cases from Child Protection Units in larger centres, while specialist police would police crimes against children in smaller centres. Yet over the following years, some specialist units were shut down and Child Protection Units were restructured in December 2008. Civil society organisations claimed not to have been consulted on this decision.

Specific SAPS programmes on women and children included:

- SAPS training on the implementation of the Domestic Violence Act (DVA), the Children's Act, the Child Justice Act and the Criminal Law (Sexual Offences and Related Matters) Act.
- SAPS training on the anti-rape strategy, victim empowerment, youth crime prevention and capacity building, and prevention of violence.
- Training of traditional authorities on the constitutional implications of traditional practices such as ukuthwala (forced marriages) and initiation.

The Committee questioned whether there was sufficiently good policing in remoter and rural areas. They noted repeated complaints that women and children had been turned away from some stations, and that lack of awareness by untrained officers hampered child abuse investigations. There was significant non-compliance by the SAPS with the requirements of the DVA between 2004 and 2009 (see for example in 6.3).

Recommendations to the new Committee:

- Follow through on requests to the SAPS for reports on Child Protection Units and debate a possible reintroduction of some specialist units.
- Together with the cluster and the SAPS, consider public education campaigns on domestic violence.
- Monitor the policing of violence against women and children in all areas.
- Request and receive SAPS briefings on statistics for offences against women and children.
- Receive annual SAPS briefings on its strategies to address violence against women and children, including its implementation of the Children's Act, the Criminal Law (Sexual Offences) Act and the DVA.
- Get feedback and follow up on the relevant results of the October 2009 public hearings on the DVA held by the Portfolio Committee on Women, Youth, Children and Persons with Disabilities.

5.9 Community Police Forums

Community Police Forums (CPFs) were a focus area of the NCPS and were mentioned in the SONA from 2007 to 2009. CPFs are likely to receive more attention with the increased emphasis on public involvement in the fight against crime. They are established under Section 19(1) of the SAPS Act, No 68 of 1995. The SAPS directs station commanders to ensure that CPFs are set up in the areas under their command.

Members of the public involved in the CPFs frequently complained to the Committee about under-funding of the CPFs, interference by the SAPS and poor administration.

Recommendations to the new Committee:

- Monitor policy changes on the possible transformation of Community Police Forums to Community Safety Forums.
- Use oversight visits to check whether CPFs are being set up and how effectively they are functioning at stations.
- Ensure that the SAPS is including the establishment of CPFs in the specific performance indicators for station managers.

5.10 Vehicle location and television monitoring

The installation of Automated Vehicle Location Systems is aimed at monitoring deployed vehicles to ensure better responsiveness by SAPS to crimes and complaints. This has the added advantage of enabling the monitoring of whether the vehicles are being correctly used, for example, after hours. The Committee did not receive any specific reports from the SAPS on the success of this initiative.

Closed Circuit Television Cameras have been installed in major metropolitan centres with the aim of assisting the combating of crime. No reports on the courts' acceptance of footage as admissible evidence were given to the Committee.

Recommendation to the new Committee:

- Request and receive reports on the progress of installation, functioning, challenges experienced, and the impact of Automated Vehicle Location Systems and Closed Circuit Television Cameras.

6 Concerns: SAPS administration, planning, logistics and human resources

6.1 Strategic Plan, Annual Report and auditing

SAPS's real budget increase from 2004 to 2009, after adjustments for inflation, averaged 10.69% each year.¹⁷ The work of the Committee included:

- Examining whether allocations to programmes in the yearly SAPS Strategic Plan were appropriate to allow their work to be properly performed.
- Assessing Annual Reports to check the percentage, quality of and value received from spending in response to the Strategic Plan and problems identified by the Auditor-General.¹⁸
- Expressing a concern that the SAPS tended to raise new issues in its Strategic Plans instead of detailing issues outstanding from previous years.
- Questioning whether targets set by the SAPS were realistic.

SAPS achieved unqualified audits from 2004 to 2007/08, but the Auditor-General queried the lack of monitoring of human and physical resources, including use of vehicles. The Committee and the Standing Committee on Public Accounts (SCOPA) examined these issues further and were addressed by the SAPS.¹⁹ The Committee commented on inaccuracies in the 2005/06 Annual Report, including lack of indicators for targets. From 2005/06 onwards, the Committee called for quarterly reports on capital expenditure.

Recommendations to the new Committee:

- Monitor the submission of SAPS quarterly reports on capital expenditure.
- Consider the SAPS 2007/08 and 2008/09 Annual Reports.
- Check if the SAPS meets the previous Committee's requests for closer links between strategic plans and the SONA, and between strategic plans and annual reports.
- Monitor plans for and effects of restructuring, including specialist units at station level, and the impact this has on preventing and investigating crime.
- Ensure that reporting on the new Directorate for Priority Crimes Investigation is included in all future SAPS annual reports.
- Check whether allocations to programmes were sufficient to address backlogs in the Forensic Laboratories and Criminal Record Centre, and the CJS restructuring.

6.2 Planning and logistics

SAPS Forensic Laboratories and Criminal Record Centre

The SAPS Forensic Laboratories were established in May 2006. From 2006 to 2009, the functioning of the Forensic Laboratories and the Criminal Record Centre were hampered by lack of personnel, lack of information, and difficulties assessing samples that were not properly taken by SAPS or metropolitan police members, due to inadequate training. In 2006, further funds were allocated to address maintenance, but targets were not met.

Committee responses included:

- In 2007, the Committee noted low spending on capital assets and poor performance of laboratories, leading to major backlogs. They stressed the need to cost restructuring programmes separately and to set targets for completing projects.
- The Committee expressed concerns that not addressing challenges with sufficient allocations was hindering initiatives to improve the functioning of the CJS. The Independent Complaints Directorate (ICD) said delays in some of its investigations were due to long waits for results from forensic laboratories. By 2009, the backlogs were at 10,000 samples. Examples of other challenges were inability to fill vacancies, high costs of training staff coupled with high staff turnover, with a reluctance to accept low salaries and lack of promotion prospects.

The proposed Criminal Law (Forensic Procedures) Amendment Bill aimed to address some of the problems. Yet the first draft of this Bill was withdrawn in March 2009, with the ad hoc Committee reporting that further investigations must be done on whether SAPS Forensic Laboratories and Criminal Record Centre had the capacity to implement the proposals if the Bill was re-tabled.²⁰

Recommendations to the new Committee:

- Request regular SAPS reports on strategies to address the backlogs.
- Ensure that sufficient budget is allocated to improve the infrastructure and human resource capacity at the Forensic Laboratory and Criminal Record Centre.
- Receive SAPS reports on its recruitment, retention and training strategies so that sufficient staff is in place to meet the SAPS mandate of forensic investigations.
- Reconsider the Criminal Law (Forensic Procedures) Amendment Bill if SAPS laboratory capacity improves.

Planning and establishing new police stations

The Committee stressed following up on building new police stations. Only 7 of the planned 28 new police stations were completed between 2004 and 2006. The SAPS said the backlog in construction was due to delays by the Department of Public Works, but said it would have better controls over the processes in future. The Committee then tracked progress and called for reports on setting up specific stations from 2007 to 2009.

The 2007 budget indicated a shortage of manpower, but prioritised the restructuring of 169 high-contact crime stations and consulting Community Police Forums. Although established, these stations were not being ideally staffed. The Five Year Legacy Report²¹ noted that in some areas there were clearly inadequate numbers of police stations to serve large populations.

Recommendation to the new Committee:

- Continue to receive reports on the plans for and progress in establishing new stations, including their proper staffing.

Allocations to and use of resources across all stations

The SAPS Annual Report 2005/06 reflected that although new police stations had been built, vehicles and other physical resources were not always allocated to them. Although SAPS had a Resource Allocation Guide, resources did not always reach stations.²²

Responses of the Committee included:

- Identifying shortcomings, such as lack of internet access, no or insufficient telephones, cellphones and radios, lack of vehicle allocations, or provision of vehicles not suited to their purpose, and misuse of vehicles.
- Concern about the provision and proper use of gun safes at all police stations, and the availability of secure filing systems to safeguard police documents.
- Consistently raising the issue of bullet-proof vests. In 2005, the SAPS noted that R80 million had been set aside to purchase body armour for women. In 2006, the Committee found the statistics given for buying more vests for men and women unsatisfactory. In November 2007, the SAPS reported there were 144,249 bullet-proof vests, while another 9,373 for women and 18,000 for men were on order.

Recommendations to the new Committee:

- Monitor the allocation of resources, particularly those identified previously as problematic, to all stations, such as bullet-proof vests.
- Follow up whether the resources issued, including police vehicles, are being properly used, as this may also have disciplinary implications.

6.3 Human resources***Staff gender targets, vacancies, recruitment and retention***

The 1999–2004 Committee commented that in 2004 the SAPS staff profile was still dominated by white males and must be transformed. The 2004–2009 Committee continued to question gender profiles, for example, asking:

- How many women (numbers and relative percentages) were attending training courses?
- How many women were trained as trainers?
- How many women were approved for promotion?

When giving input on SAPS budgets, the South African Police Union (SAPU) and Prisons and Police Civil Rights Union noted that several restructuring initiatives over the years had caused instability and led to some SAPS members missing promotions, and still had not addressed the top-heavy structure that led to duplication of tasks. Despite a drive to appoint more SAPS members, the Committee expressed concern at continuing high vacancy levels and a high level of losing staff. They noted particular shortages among detective and forensic staff.

Recommendations to the new Committee:

- Monitor the achieving of gender targets in SAPS transformation.
- Call for reports on vacancy levels, the impact of vacancies on the work of the SAPS, and the impact and value of filling posts.
- Investigate what was done with the money allocated for salary increases and the Occupation Specific Dispensation, and call for implementation reports on the Occupation Specific Dispensation.
- Assess whether scarce skills, such as detective and forensic posts, are being filled.
- Consider whether there is a need for restructuring at local station level.

Police reservists

The May 2006 Revised SAPS Strategy noted that introducing police reservists should assist the SAPS to source greater capacity for visible policing patrols, to gain the upper hand on crime, and to encourage communities to make a contribution by volunteering on an unpaid basis for reserve service.

Developments on implementing this strategy included:

- Recruitment of police reservists started from 1 April 2006 aiming to reach 100,000 reservists.
- By 2008, the reserve force had around 55,000 members, but had a high turnover and expectations of recruitment into permanent employment from reservists.²³
- A revised strategy later allowed for compensation of reservists. The Minister said that conditions of reservists would be renegotiated.
- An SAPS review of the reservist policy should be completed by the end of August 2009.

Recommendations to the new Committee:

- Receive briefings on the revised reservist policy and follow-up systems.
- Examine the turnover and costs of continuing expansion, weighed against the benefits to the SAPS.

Training

The SAPS, the ICD and the Committee consistently noted the need to train SAPS staff. Apart from one short briefing given to the Committee by the Safety and Security Sector Education and Training Authority,²⁴ no other presentations were given focusing on specific training being offered. Although training figures were set out in SAPS annual reports, there was no evaluation of training and no indication if those trained stayed with the SAPS.

Examples of developments on problem areas:

- The Committee commented that the impact of training was not being felt in several areas, such as implementing guidelines and policies, forensic samples and custody guidelines. Training on the Domestic Violence Act (DVA) continued to be poorly handled at station level between 2004 and 2009.
- The SAPS told the Committee that when the DVA commenced in 1998, they trained 1,771 commanders and trainers, and all new recruits since 1998 were also trained to implement the DVA sensitively and efficiently.²⁵

- The Committee and the ICD found that these training aims were not achieved. For example, an oversight visit in June 2008 found that only 2 stations in Gauteng had complied with DVA legislation, and that officers at the Pretoria Training College were unaware of the requirements of the DVA.

Recommendations to the new Committee:

- Examine the scope and quality of SAPS training, including quality of DVA training and the commitment of station commissioners to this training.
- Consider the ICD's proposal to be more actively involved in curriculum design and hands-on training of SAPS members.
- Check if the SAPS has followed up on the ICD's suggestion that radio control personnel should also be trained on the DVA.
- Consider whether any legislative amendments to the SAPS Act No 68 of 1995 or the DVA can improve SAPS training.

Performance management

From 2004/05 onwards, SAPS members had to sign contracts and undergo performance management. Yet by October 2005 many contracts had still not been signed, the system showed poor organisation and lack of resources, and many managers were overloaded. In 2007/08, the Department introduced a customised performance assessment framework for station commissioners, holding them accountable on levels of crime, detection rates, escapes from police custody, and the performance of their station staff.

In spite of these initiatives, the Committee found that many stations were not implementing new policies or recommendations, and some showed no improvement in performance and service delivery from one oversight visit to the next.

Recommendations to the new Committee:

- Check whether information on signature of performance management agreements has been included in the SAPS 2008/09 Annual Report.
- Receive reports from the SAPS on performance assessments carried out and their impact.
- Assess how performance indicators, outcomes and targets are set and measured by the SAPS.

Disciplinary issues

All members of the SAPS are subject to the official Code of Conduct of the SAPS, introduced in 1997. The SAPS conducts ethics and anti-corruption programmes for its members. The SAPS annual reports should have details of the number of and reasons for disciplinary actions against staff.

The Committee focused on disciplinary breaches around non-compliance with the DVA, investigated by the ICD. The ICD informed the Committee that it does not attend many SAPS disciplinary hearings, as there is no legislation forcing the SAPS to inform the ICD that hearings are to be held.²⁶

Another serious disciplinary issue was the loss or theft of weapons, or members not handing in their weapons when they left the SAPS. This was first raised in 2004, and the Committee regularly examined the figures for loss and theft.

Other complaints against SAPS members were raised, for example:

- Parole boards complained that some SAPS members did not attend meetings and produce the required documents for parole boards.²⁷
- SCOPA examined the issue of SAPS staff not disclosing financial interests, although the SCOPA report was not available at the date of writing this report.²⁸

In April 2005, SAPU and the Police and Prisons Civil Rights Union admitted that they were not doing enough to ensure discipline amongst their members. In June 2009, SAPU asked the new Committee to look at the entire disciplinary system of the SAPS, to ensure its effectiveness, fairness and equitability.

The Committee's Five Year Report²⁹ notes that allegations of torture by SAPS members have increased.

Recommendations to the new Committee:

- Call for reports on and assess the SAPS disciplinary system.
- Continue to examine disciplinary issues and ensure that they are properly reported in the SAPS 2008/09 and future Annual Reports.
- Request a specific report on alleged torture by SAPS members from the ICD.
- Call for information whether issues reported to other parliamentary committees have been reported to and investigated by the SAPS.

Deaths in police custody

ICD Class 1 investigations cover deaths in police custody or as a result of police action. A national or provincial commissioner must report to the ICD on investigations relating to these deaths.

In 2004/05, the Committee was concerned that these deaths had risen by 35.2%, including suicides from using belts or shoelaces that should have been removed before lock-up. They commented that this pointed to the need for better training. Deaths in custody increased up to 2008, although some were noted as due to 'natural causes'.

Recommendation to the new Committee:

- Continue to receive specific reports from the ICD and the SAPS on the numbers of deaths, both natural and unnatural, of people held in custody, and whether disciplinary action was taken after unnatural deaths.

7
Concerns:
Independent
Complaints
Directorate

The Independent Complaints Directorate (ICD) operates under Section 206(6) of the Constitution and Section 53 of the SAPS Act to:

- Promote proper police conduct.
- Ensure transformation in the police services.
- Investigate misconduct.
- Receive reports on SAPS implementation of the Domestic Violence Act (DVA) and recommend appropriate action where non-compliance is found.
- Investigate criminal offences and domestic violence committed by members of the SAPS and the Metropolitan Police Service.
- Investigate deaths in police custody or as a result of police actions.
- Exercise oversight on and investigate complaints against members of the Directorate for Priority Crime Investigation (from 2008 onwards).

The Committee was concerned with the overall performance of the ICD, including the ongoing challenges affecting the ICD's monitoring of DVA complaints.

7.1 Budget, strategic plan and annual reporting

The ICD budget rose by an average of 18.9% every year from 2003 to 2009. The ICD consistently complained of under-funding, and claimed that this was the reason why it could not appoint staff to finalise complaints. The budget increases were meant to increase the ICD's staff so that it could be a fully effective investigative body.

Responses of the Committee and other monitoring structures included:

- The Committee and National Treasury were not happy with ICD spending of its allocations. For example, in 2005, the ICD underspent and had to return funds to National Treasury, while in 2007 it spent allocations for staff on head office capital items.
- The Committee maintained that since ICD had not managed its current allocations properly, it could not justify its claim for increased budgets to address its problems. Thus the ICD budget allocation was cut in 2009.
- The Committee commented that it was not possible to determine measurable objectives in ICD strategic plans, that plans and annual reports were not aligned,

that ICD was failing to meet operational targets, particularly in its core investigative function, and that there was no planning or budget for marketing.

- The Committee made detailed recommendations to the ICD on its budget and strategic plan.³⁰ No strategic plans were presented with the budget in 2008.
- The ICD received an audit disclaimer for 2005/06. The Committee asked the Auditor-General to undertake a separate investigation on human resource issues in the ICD. Qualified audits were given for 2006 and 2007, for example, financial information was not properly presented, and there was inadequate asset management, monitoring and control.
- The ICD was asked to appear before SCOPA on 17 June 2008.³¹
- The ICD 2007/08 Annual Report was not presented to the Committee.

Recommendations to the new Committee:

- Consider the ICD's 2007/08 and 2008/09 Annual Reports.
- Assess and monitor ICD performance, especially ICD's Programme 2.
- Ask the ICD to explain any audit qualifications and to report on how it has addressed the recommendations of SCOPA.
- Receive ICD reports on implementing recommendations of the previous Committee on strategic plans, annual reports and the fraud hotline.
- Continue to monitor if budget allocations are allowing ICD to act in line with its mandate, address core functions and meet its strategic plans.
- Receive an ICD update on implementing the Service Commitment Charter and Service Delivery Plan raised in 2006/07.

7.2 Structure

During 2004/05, the ICD established an Anti-Corruption Command, anticipating that increased funding would allow the broadening of its investigative arm. The Committee did not support this move, and questioned whether investigation of service-related complaints would not duplicate the work of the Police Secretariat. By mid-2005, only 3 staff had been appointed to the Anti-Corruption Command.

In 2005, the ICD established provincial offices, with some satellite offices being set up in 2007/08. The ICD felt that more satellite offices would address the Committee's concerns about high travelling costs, lack of visibility and access. The Committee was not convinced of the viability of new offices, as existing offices were already understaffed. The 2009 budget cuts have resulted in a further rollout of satellite offices being put on hold.

The structural and functional problems of ICD were aggravated by the fact that the ICD had no permanent head until February 2009. There were also poor relationships between national and provincial offices, with provincial heads complaining about the centralised decision-making structure, lack of marketing and poor communications.

Recommendations to the new Committee:

- Receive an ICD briefing on whether the top-heavy structure of ICD and the problems with provincial offices have been resolved.
- Consider and monitor the previous Committee's suggestion of restructuring the ICD.
- Request an ICD report on the viability of satellite offices and their staffing.

7.3 Human resources

Lack of capacity was a major ICD challenge between 2004 and 2009. The ICD's total staff number was assessed to be 535 posts. Some posts, including investigative posts, had been established but not filled since 1998. The ICD plans indicated that 287 (out of 505) posts would be funded in 2008/09, and 322 would be funded posts by 2010/11. There was low recruitment to the funded posts and poor staff retention figures every year. The ICD said this was because of factors such as low salaries, limited career advancement opportunities and very high entrance requirements for investigators.

Responses to the ICD human resource challenges included:

- The Committee called for a skills audit in March 2006.
- National Treasury asked the ICD and the Department of Public Service and Administration to fix better policies for career pathing.

- The Committee felt that the ICD should be doing more to attract and retain staff, and questioned why allocations had been moved away from human resources from 2006 onwards and why funded posts for investigators were not being filled.
- The Committee commented that lack of staff prevented the ICD from inspecting all 1,100 police stations properly, especially in rural areas.
- Shortages of investigators are directly linked to backlogs in dealing with complaints. In August 2005, the ICD reported that its backlogs dated back to 1997, preventing it from meeting its current case targets. Backlogs continued in spite of National Treasury help in developing a case-flow management and monitoring tool in 2006, and the Committee's requests in 2007 for an action plan on the backlogs.

Recommendations to the new Committee:

- Monitor the funding and filling of ICD posts, including financial staff and investigators.
- Assess whether the numbers of new appointments are proportional to the increasing numbers of SAPS members.
- Monitor if appointments are strengthening the ICD's capacity to perform, especially its financial reporting and investigative work.
- Request specific ICD reports on:
 - Exact numbers of cases submitted each year.
 - Backlogs brought forward from previous years.
 - Case management tools used to address the backlogs.
 - Targets for dealing with backlogs and finalising current cases, and the numbers and status of backlogs and current cases.

7.4 Domestic violence

Current wording of the Domestic Violence Act (DVA)

In its oversight of the ICD, the Committee focused on ICD monitoring of compliance with the DVA – the bulk of complaints submitted to the ICD. ICD noted in 2007 that about 87% of serious violent cases were rooted in domestic violence and that the complaints received were probably a small fraction of the actual problems on the ground.³²

Following instructions under Section 18(3) of the DVA, the SAPS must keep records of all domestic violence complaints and these records must be made available to the ICD. The ICD has a duty to investigate compliance with the DVA and make recommendations to SAPS on any disciplinary steps against SAPS members who have not complied with the Act. This is problematic because:

- As the ICD gets its mandate from the SAPS Act, this can affect its independence.
- The SAPS Act does not place any duty on the SAPS to accept or implement ICD recommendations, and the SAPS does not have to give reasons for its decisions.

The SAPS sanctioned some members who contravened the DVA Act, following ICD investigations. Punishments included corrective counseling, verbal or written warnings, disciplinary hearings and dismissals. A total of 573 recommendations were made by the ICD to the SAPS in 2008, but only 333 (58.1%) were enforced by the SAPS.

The ICD asked the Committee to consider amending the SAPS Act to separate the ICD from the SAPS and to deal with SAPS responses to ICD recommendations. The Committee asked the ICD to suggest a model. In the meantime, a Private Member's Legislative Proposal was submitted to amend the SAPS Act to give greater power to the ICD, although the relevant Standing Committee had not considered it by the time of writing this report.

Recommendations to the new Committee:

- Hear suggestions from the ICD and propose new or amended legislation to deal with the mandate, credibility, independence and capacity of the ICD.
- Consider new ways of formalising or enforcing greater cooperation between the SAPS and the ICD.
- Monitor developments and give input to the Standing Committee on the Private Member's Legislative Proposal to amend the SAPS Act.

ICD reports to the Portfolio Committee

Between 2004 and 2009, the Committee was dissatisfied with the ICD's written and verbal reports on internal issues and specifically on the ICD's DVA compliance investigations:³³

- Reports on DVA compliance in 2003 and 2004 should have been made to the Committee in 2005 – these had still not been produced by November 2008.
- The Committee insisted on quarterly reports, but the ICD submitted a late report with outdated statistics. The Committee refused to consider this in September 2008.
- When the ICD did not deliver its November 2008 report, the Committee called for a full written report of all recommendations adopted by the SAPS, the progress and status of all cases, and on capacity issues.
- The Committee believed that the ICD's reporting problems were due to poor management and the "shocking"³⁴ quality of its reports.

Recommendations to the new Committee:

- Monitor the submission, quality and accuracy of ICD reporting on the DVA every 3 months.
- Assess whether problems reported by the previous Committee continue, and, if necessary, take appropriate corrective action.

8 Concerns: Police Secretariat

The mandate of the Police Secretariat (the Secretariat)

Section 208 of the 1996 Constitution, read with Section 21(1)(a) of the SAPS Act, provides for establishing a civilian secretariat for the police, independent of the police service, for civilian policy management. The Secretariat's 2004 to 2009 Strategic Objectives³⁵ included:

- Monitoring and evaluating the implementation of policy.
- Encouraging responsible community participation and crime prevention.
- Providing strategic and operational support.
- Giving legal advice and support to the Minister on legislation.

In 2004, the Committee noted doubts on whether the Secretariat was effective in fulfilling its mandate:

- As the SAPS determined the Secretariat's budget, it hampered the Secretariat's ability to play an effective monitoring and oversight role on the SAPS.
- The Secretariat's function of giving legal advice to the Minister had effectively been taken over by SAPS management.
- There was a blurring of functions between the Secretariat and the ICD. In 2006, the Committee asked the Secretariat to handle service delivery issues.
- Although the Minister announced in November 2005 that the Secretariat would be restructured, this had not happened by 2009.

Budget, strategic plan and performance issues

In 2005/06 a smaller budget than requested was allocated to the Secretariat, but the Secretariat consistently underspent its allocation. The 2009 budget was reduced, probably because of underspending.

Between 2005 and 2007, the Committee commented on the lack of performance indicators in strategic plans and poor financial reporting, and called on the Secretariat to perform its policy advice function effectively. In 2008, the Committee noted that there was no strategic plan to support the budget, and questioned problems such as large allocations to administration and outsourcing. The Secretariat had no permanent Director until mid-2009 and there was a lack of capacity to coordinate the functions of provincial secretariats.

The Committee could not determine performance from annual reports, and asked for quarterly reports from 2007 onwards. Committee requests to the Secretariat in 2006 were not satisfactorily followed up on, such as a call to commission research evaluating SAPS training and to propose an amendment to the SAPS Act to regulate the positions of the ICD and the Secretariat.

Recommendations to the new Committee:

- Consider information on the Secretariat in the SAPS 2008/09 Annual Report.
- Receive specific reports on the progress of the work that the previous Committee requested the Secretariat to address.
- Evaluate the Secretariat's role, and then create separate legislation and a revised structure to enable it to carry out civilian oversight.

9
Concerns:
State
Information
Technology
Agency

The State Information Technology Agency (SITA) reports mainly to the Portfolio Committee on Public Service and Administration. SITA also reported to the Committee, as the SAPS was its biggest client, with around 25% of SITA's business. SITA is effectively an outsourcing arm for the SAPS, holding the mainframe and dealing with all information and communication technology issues.

In 2005, the SAPS claimed that SITA was not providing a good enough service and should not be making a profit from the SAPS. SITA said the service delivery problems were due to over-rapid expansion of SAPS staff without linking this to ICT expansion. SITA's other projects up to 2009 included improving SAPS infrastructure, introducing Automated Vehicle Location tracking, and initiating electronic docketing (not fully achieved due to problems obtaining sufficient bandwidth).

In 2006, the Committee requested SITA to send quarterly expenditure records to the Committee and National Treasury. In 2006 and 2007, the Committee also asked SITA to give a report on its service providers, including black economic empowerment companies.

Recommendations to the new Committee:

- Monitor SITA expenditure reports and the SITA report on service providers.
- Check on the progress of other issues raised with SITA, such as uneven distribution of IT equipment across stations and equipment backlogs in rural areas.

10
Concerns:
Private
Security
Regulatory
Industry
Authority

The Private Security Regulatory Industry (PSIRA) is a statutory, semi-autonomous and self-funding body, created by the Private Security Industry Regulatory Authority Act. Its mandate includes promoting a legitimate private security industry, enforcing minimum standards, and advancing ownership of security businesses by historically disadvantaged individuals. Its Council members, who must be independent and have no financial interest in private security companies, were appointed by the Minister of Safety and Security.

The 2007 and 2009 SONAs listed improving the security industry as a priority. The Committee took a briefing from PSIRA, questioned the responsibility of PSIRA to exercise oversight on illegal companies, and expressed concern about PSIRA's lack of visibility.³⁶

Recommendations to the new Committee:

- Check whether there was a need to restructure PSIRA and consider the streamlining of administration of the security industry.
- Monitor compliance by the security industry with the Firearms Control Act.
- Monitor how the security industry screens security guards.
- Receive reports on PSIRA's partnerships with the SAPS.

11

Legislation
and
recommendations**Recommendations to the new Committee:**

- Monitor the general impact and enforcement of new legislation.
- Be briefed on the role of the police and any problems in implementing the Protection of Constitutional Democracy against Terrorist and Related Activities Act, No. 33 of 2004.
- Exercise oversight on the new Directorate for Priority Crimes Investigation (the Directorate) and take reports from the ICD on complaints against it (under the SAPS Amendment Act, No. 57 of 2008).
- Consider any policy guidelines developed by the Ministerial Committee under the SAPS Amendment Act.
- Consider the Minister of Police's report, within 3 years, on whether legislative amendments are needed to the SAPS Act to improve the Directorate's functioning.
- Monitor the Minister's progress on other changes needed to the SAPS Act, such as on the roles of the ICD and the Police Secretariat.
- Follow up on the SAPS suggestion to consider amendments to Section 49 of the Criminal Procedure Act, No 51 of 1977.
- Monitor the implementation of the Second Hand Goods Act, No 6 of 2009.
- Monitor relevant duties for the SAPS under the Criminal Law (Sexual and Related Matters) Act, No 32 of 2007; the Child Justice Act, No 75 of 2008; and the Children's Act, No 38 of 2005.
- Monitor that the SAPS is engaging properly with inter-sectoral bodies.
- Receive SAPS reports on training, especially under the Child Justice Act.
- Monitor other Bills with implications for the SAPS, for example:
 - The Safety at Sport and Recreational Events Bill [B7-2009], being considered by the Committee on Sport and Recreation.
 - The Prevention and Combating of Trafficking in Persons Bill, as recommended by the Committee on Justice and Constitutional Development.
 - The Criminal Law (Forensic Procedures) Amendment Bill [B2-2009], as reported on by an ad hoc Committee, with concerns about SAPS capacity.³⁷

12

General
recommendations**Recommendations to the new Committee:**

- Links between substance abuse and crime were highlighted in reports by the Human Sciences Research Council and were discussed by the Committee on Health when considering the Prevention of and Treatment for Substance Abuse Bill. No briefings were given to the previous Committee, and the new Committee may wish to receive a report.
- As part of implementing strategic planning, prioritise outstanding issues, especially on the CJS Review.
- Follow through on the previous Committee identifying an urgent need to enhance the capacity of SAPS to implement the Integrated Justice System programme, through better investigation, case management and training.
- Receive reports on and monitor SAPS preparations for and performance at the 2010 Soccer World Cup.
- Monitor the requirements in the 2009 SONA that, from July 2009, Cabinet Ministers will be accountable through performance instruments, using established targets and output measures, and that all vision statements must be translated into programmes of effective implementation.

Endnotes

- ¹ These were tabled at a meeting on 7 July 2009 see <http://www.pmg.org.za/minutes/23>
- ² <http://www.pmg.org.za/minutes>
- ³ <http://www.info.gov.za/speeches/son/index.html>
- ⁴ <http://www.npa.gov.za/files/Victims%20charter.pdf>
- ⁵ <http://www.info.gov.za/whitepapers/1998/safety.htm>
- ⁶ <http://www.pmg.org.za/docs/2009/comreports/090302pcjusticereport5.htm>
- ⁷ <http://www.dpsa.gov.za/batho-pele/index.asp>
- ⁸ These are listed in the report referred to in note 2, and the reports tabled may be found at www.pmg.org.za/com-reports – listed by year
- ⁹ See note 9 and the report mentioned in note 15
- ¹⁰ <http://www.pmg.org.za/docs/2007/comreports/070522pcsafety2.htm>
- ¹¹ http://www.saps.gov.za/saps_profile/strategic_framework/annual_report/index.htm
- ¹² Committee meeting report of 20 October 2004
- ¹³ Committee meeting report of 14 March 2008
- ¹⁴ Committee meeting report 26 May 2006, and SAPS Annual Reports for the 2005 to 2008 financial years
- ¹⁵ Committee meeting reports of, and since, 23 June 2009
- ¹⁶ Committee meeting report of 28 May 2008
- ¹⁷ Figures in Parliamentary Research Unit's report: <http://www.pmg.org.za/files/docs/090707review.doc>
- ¹⁸ The strategic plans and annual reports can be found at http://www.saps.gov.za/saps_profile/strategic_framework/strategic_plan/strategic_plans.htm and http://www.saps.gov.za/saps_profile/strategic_framework/annual_report/index
- ¹⁹ SAPS introduced a risk management strategy in 2007/08 and the resolutions of SCOPA were implemented
- ²⁰ <http://www.pmg.org.za/docs/2009/comreports/090323pcjusticereport.htm>
- ²¹ See note 1
- ²² Committee meeting report of 29 March 2006
- ²³ As reported in the SAPS 2007/08 Annual Report
- ²⁴ Committee meeting report of 16 September 2004
- ²⁵ Committee meeting report of 24 August 2006
- ²⁶ Committee meeting report of 27 May 2008
- ²⁷ Reported to the Portfolio Committee on Correctional Services on 8 and 9 September 2009
- ²⁸ SCOPA Committee meeting reports of 1 July and 7 August 2009
- ²⁹ See note 1
- ³⁰ Committee Report tabled on 26 May 2006 <http://www.pmg.org.za/docs/2006/060526vote22.pdf>
- ³¹ <http://www.pmg.org.za/docs/2008/comreports/081111scopareport.htm>
- ³² Committee meeting report of 12 September 2007
- ³³ For instance, reports on traveling expenses and staff matters, requested respectively in January and November 2008
- ³⁴ Committee meeting report of 26 March 2007, with further criticisms expressed in Committee meeting report of 27 May 2008
- ³⁵ http://www.saps.gov.za/saps_profile/strategic_framework/strategic_plan/2005_2010/strategic_plan_2005_2010.pdf
- ³⁶ Committee meeting of 20 June 2007
- ³⁷ See note 12

This shadow legacy report is an independent reflection on the work of the Parliamentary Portfolio Committee on Police during the Third Parliament (2004–2009). The report highlights some of the key issues discussed and recommendations made by the Committee for follow-through by its successors in the Fourth Parliament.

The views expressed in this document are the result of extensive analysis of the minutes of Committee meetings prepared by the Parliamentary Monitoring Group (PMG), and the reports of the Committee for the period under discussion.



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