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Policing of an urban periphery: The case of Khayelitsha*

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1 Introduction

A pervasive sense of crisis had long beset the policing of the Apartheid colony. The transition to democracy, it was thought, would finally put that crisis to bed.³ The early post-1994 period of reconstruction envisaged that far-reaching policy reforms and institutional changes⁴ would replace the old system, with a community-orientated, democratic model of policing emphasising accountability and efficiency.⁵ Over the past twenty-odd years much effort has gone into the dismantling of the structures, operational strategies and cultural mind-sets associated with the Apartheid model of paramilitary policing. A bold emphasis on collaborative partnerships between communities and police was intended to replace the spirit of adversarialism which often defined community-police interactions under Apartheid.⁶

The process of reform has been uneven.⁷ Many factors conspired to make it so. The institutional machine of the police proved resistant to the revolution in policy.⁸ Contextual realities interfered with the proposed liberal reforms. For example, high rates of violent crime after 1995 fuelled disquiet among both rich and poor. Tighter restrictions

* Thanks to Jeff Lever, Julie Berg and two anonymous reviewers for their comments on earlier drafts. We would like to thank Bill Dixon for reminding us of Bowling's paper on 'good enough' policing: B Bowling 'Fair and Effective Policing Methods: Towards "Good Enough" Policing' (2007) 8 *Journal of Scandinavian Studies in Criminology and Crime Prevention* at 17-32.

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³ J Rauch 'Police Reform and South Africa's Transition' (2000) Paper presented at the *South African Institute for International Affairs* conference.

⁴ A Faull 'Towards a "New Professionalism" for the South African Police Service' (2013) 44 *South African Review of Sociology* 2 at 18-35.

⁵ AR Gordon 'Democratic Consolidation and Community Policing: Conflicting Imperative in South Africa' (2001) 11 *Policing and Society* (2) at 121-150.

⁶ M Marks 'Shifting gears or slamming on the brakes? An assessment of police transformation in a South African paramilitary police unit' (2003) 13 *Policing and Society: An International Journal of Research and Policy* (3) at 235-258.

⁷ Rauch op cit (n3).

⁸ J Steinberg 'Policing, State Power and the Transition from Apartheid to Democracy: A New Perspective' (2014) 113 *African Affairs* 451 at 173-191.

on the granting of bail came in 1998. The state's promise in 2000 to make 'war on crime' tipped the scale against the early idealistic crime prevention strategies in favour of a tougher rhetoric regarding the role of the police. Rapid expansion of the police organisation after 2001 led to lower standards of police recruitment and training. A range of other fateful decisions around specialist units in particular such as the disbandment of organised crime and anti-corruption structures and the reorganisation of public order policing, further destabilised systems and sapped morale. As the rot came to penetrate upper echelons, rumours about nepotism regarding senior appointments gained momentum. Before long the initial clarity in policy direction gave way to fragmentation and contradiction.⁹

Those familiar with South African policing literature since 1994 have been alerted to the many fault lines affecting the organisational, operational and strategic nature of the institution. For example, research has drawn our attention to the challenges confronting recruitment; selection and training in the context of a rapid growth in the size of the police organisation;¹⁰ the damaging effects of the rapid replacement of white personnel for the sake of 'equity' on overall levels of competency;¹¹ the persistence of ill-discipline and abuse of police power despite elaborate systems of external oversight and internal monitoring;¹² a slow meltdown in command and control;¹³ the way in which new performance management systems created perverse incentives to 'cook the books';¹⁴ the loss in investigative capacity among detectives¹⁵ and the decline of public order policing competency;¹⁶ the uneven state of police-community relations across the country; and the

⁹ S Jensen 'Conflicting Logics of Exceptionality: New Beginnings and the Problem of Police Violence in Post-Apartheid South Africa' (2014) 45 *Development and Change* (3) at 458-478; J Steinberg op cit (n8).

¹⁰ D Bruce 'New Blood – implications of en masse recruitment for the South Africa Police Service' (2013) 43 *SA Crime Quarterly* at 17-28.

¹¹ D Bruce 'New wine from an old cask? The South African Police Service and the process of transformation', Paper presented at the John Jay College of Criminal Justice, 9 May 2002, available at <http://www.csvr.org.za/docs/policing/newwinefromold.pdf>, accessed on 20 August 2014.

¹² S Jensen op cit (n9).

¹³ J Hornberger 'We need a complicit police! Policing then and now' (2014) 48 *SA Crime Quarterly* at 17-24.

¹⁴ D Bruce 'Measuring Outputs, Neglecting Outcomes' (2011) 38 *SA Crime Quarterly* at 3-13.

¹⁵ A Altbeker *Solving Crime: The State of the SAPS Detective Service* (1998) Institute for Security Studies. Monograph 13.

¹⁶ S Tait and M Marks 'You strike a Gathering, You strike a Rock: Current Debates in the Policing of Public Order in South Africa' (2011) 38 *SA Crime Quarterly* at 15-22.

persisting public perceptions¹⁷ of widespread corruption and low levels of integrity.¹⁸

More recently, the events which unfolded at the Marikana platinum mine outside Rustenburg, where police shot 34 strikers, put the lack of police professionalism squarely in the public domain. Shortly after the shootings, the President appointed a body – the Farlam Commission – to examine the roles of the mining company, the labour unions, the workers and the security forces and how events led to the escalation of a labour conflict and to the police use of lethal force. From those hearings has emerged the image of a police organisation which is under stress and in considerable disarray. A similar impression has been created by yet another Commission of Inquiry, the O'Regan/Pikoli Commission, which has been investigating everyday policing in Khayelitsha, Cape Town. The simultaneous existence of two Commissions of Inquiry into critical aspects of policing in one national jurisdiction is unprecedented.

The deliberations of both Commissions have yielded an extraordinary amount of data. The material comprises large volumes of primary documents, *in situ* inspection reports, specialised research reports, written submissions by a large number of constituencies, oral testimonies, hearing transcripts, expert evidence through to video footage and media reports on the deliberations. Both Commissions open up the organisational and cultural logic of the police institution *and* the wider social milieu within which it operates.

This discussion focuses on the proceedings of the Khayelitsha Commission of Inquiry. Three questions guide the analysis: What light does the Commission throw on the challenges confronting the policing of urban peripheries consisting of large congested townships in post-Apartheid South Africa? How do protagonists in the urban drama – the community and the police – articulate those challenges? And what insights can we draw for what the police could and should be doing in urban spaces where crime is high, resources constrained and social capital low?

Here we make an attempt to analyse and interpret the evidence and compare notes within the frame provided by previous South African policing studies. In the first instance we briefly describe the circumstances which led to the establishment of the Commission and its terms of reference. Second, we outline key features of Khayelitsha as a social space with high crime rates. The third section describes two competing narratives which emerged from the Commission – a

¹⁷ J Burger 'To Serve and Protect – restoring public confidence in the SAPS' (2011) 36 *SA Crime Quarterly* at 13-22.

¹⁸ A Faull 'When I see them I feel like beating them – Corruption and the South African Police Service' (2011) 34 *SA Crime Quarterly* at 33-40.

community narrative and a police narrative. Each narrative constructs urban (dis)order and order maintenance in a particular way. We contrast these constructions before turning to a more detailed consideration of some key features of the police narrative.

Finally, by way of conclusion we consider the kinds of insights which the Khayelitsha Commission of Inquiry provides into a key question: what kind of policing is possible in a peripheral space such as Khayelitsha? By way of conclusion the article suggests that more attention be paid to the concept of 'good enough policing' suited to the reality of what Bowling calls an 'imperfect world'.¹⁹ More substantive a consideration of the concept is a challenge we leave to others.

2 Commissions of Inquiry into aspects of policing

Commissions of Inquiry are useful mechanisms worldwide by which current policing deficiencies can be highlighted, and feasible solutions canvassed.²⁰ From a comparative point of view Commissions vary in the scope and quality of their investigations. The terms of reference of Commissions vary from the bold and ambitious to the narrow and restrained. Commissions can be backward looking or future orientated. They may conduct their business in an investigatory or inquisitorial manner.

Commissions of inquiry, as Ashforth argues, are in themselves worthy objects of scholarly enquiry.²¹ Sociological enquiry into public inquiries into aspects of policing for example has much to contribute to our understanding of: the political and administrative contexts within which such inquiries are established and the way in which they evolve organisationally speaking. Many factors impact on the trajectories of these forms of public inquiry and on their capacity to influence institutional policy and practices. Commissions are of symbolic importance. They provide social spaces for dialogue about issues of public concern. Commissions construct problems and conceptualise the solutions to those problems in particular ways. Closer scrutiny of such 'framings' tells us something about the political squabbles and ideological contestations of the day.

Modern South Africa has yielded its share of inquiries into various aspects of criminal justice, prisons and policing. A comparative

¹⁹ B Bowling 'Fair and Effective Policing Methods: Toward "Good Enough" Policing' (2007) 8 *Journal of Scandinavian Studies in Criminology and Crime Prevention* 17-32.

²⁰ Scott Prasser 'A Royal Commissions in Australia: When Should Governments Appoint Them?' (2006) 65 *Australian Journal of Public Administration* 5(3) at 28-47.

²¹ A Ashforth 'Reckoning schemes of Legitimation: On Commissions of Inquiry as Power/Knowledge Forms' (1990) *Journal of Historical Sociology* 3 (1) at 1-22.

assessment of the context, mandates and outcomes of such inquiries into police and policing however is still to be undertaken.

3 The Khayelitsha Commission of Inquiry

Frequent complaints have been made about poor service delivery in urban townships. In Khayelitsha long-standing complaints about the inadequacy of police services have become a key focus of community-based social mobilisation. Over the past eight years or so, the Social Justice Coalition (SJC) played a critical role in channeling complaints about safety, security and police services in the area to various authorities. Failure on the part of provincial and national police and the Ministry itself to engage with the complaints eventually led to a direct approach to the office of the Premier in the Province.

The Khayelitsha Commission of Inquiry into allegations of police inefficiency in Khayelitsha and a breakdown in relations between the community and the police was established by the Premier of the Western Cape Government by Proclamation on 24 August 2012. Conceived as an independent Commission of Inquiry, it takes its legal mandate from s 206(5) of the Constitution of South Africa 1996 and s 66(2)(a) of the Constitution of the Western Cape. The object of the inquiry, as the Chairperson, Judge O'Regan, was careful to stress throughout the deliberations, was not to assign liability, guilt or blame to any person, particularly the SAPS, but rather to investigate the complaints and provide recommendations for addressing concerns raised by the public. The Commission consisted of a very small team and operated within a relatively short agreed-upon time line.²²

The Commission's task was to investigate complaints about police inefficiency and a breakdown of police and community relations in three police stations in the wider Khayelitsha area. Excluded from its mandate was an examination of social or developmental issues that affect residents of Khayelitsha as well as any broader investigation into other components of the criminal justice system. Furthermore, law enforcement agencies other than the South African Police Service (such as the Metro Police) were also excluded from its remit. In the initial phase, this exclusion led to some concern that the SAPS was being set up as a convenient 'scapegoat' for wider ills. In the event such concerns made way for a much more cooperative spirit of engagement between the SAPS and the Commission than the original political animosities suggested would be the case.

²² The five members of the Commission: Commissioners: Justice Catherine O'Regan (Chairperson); Advocate Vusumzi Pikoli. Evidence Leaders: Advocate Nazreen Bawa, Advocate Thembalihle Sidaki. Secretary: Amanda Dissel.

Using inspection visits and a number of audit reports as a point of departure, the Commission first orientated itself to the structure and provision of policing nationally, provincially, and within the greater Khayelitsha area. The tone of the debate was very much set by the Task Team Report (known colloquially as the Tshabalala Report)²³ and the Schooling and Leamy Report.²⁴ A cadre of senior police officers drawn from Head office in Pretoria through to Provincial management, as well as commanding officers attached to special units, clusters and stations made submissions and were cross-examined. From the submissions, public testimonies and cross-examinations, emerged the finer details of administrative systems in operation, and of the routine nature of operational policing in this urban locality. The discussions engaged with the external and internal exigencies which impact on the business of policing and the kind of compromises forged in the face of difficulties. Above all the hearings yielded information as to how senior occupational incumbents envisage their job and go about doing it in this kind of environment.

4 The final report

On 25 August 2014 the Khayelitsha Commission of Inquiry presented its report of 580 pages to the relevant authorities.²⁵ The concluding chapter of the report contains the recommendations organised under twenty headings. The introduction to this section reaffirms the constitutional principles upon which the political contract between the democratic South African state and its people are based. From this contract flows the imperative for improving policing services provided by the state so as to improve access to justice and security amongst the urban poor. The environmental difficulties notwithstanding informal settlements, the report reiterates, *have* to be policed. At present the police system itself exhibits serious deficiencies. The report outlines many reasons for the inefficiencies and a significant level of distrust and a breakdown of relations. However, the breakdown of relations however is not described as 'irretrievable or irreparable'. Some of the key recommendations include: the adoption of a new partnership informed by a social contract between the police and the community;

²³ L Tshabalala 'Task Team Report on the Complaint Regarding Alleged Inefficiency and a Breakdown in Police-Community Relations in Khayelitsha, Cape Town' evidence submitted to the Khayelitsha Commission *Bundle 1(3) AL87*.

²⁴ G Schooling & M Leamy 'Report Prepared by G Schooling and M Leamy', no date, evidence submitted to the Khayelitsha Commission *Report 1 Bundle 9 (1.1)*.

²⁵ Khayelitsha Commission 'Towards a Safer Khayelitsha' the *Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community in Khayelitsha*, August 2014.

the adoption of a 'procedural justice model of policing' and a review of two critical management tools: the human resource allocations guide and the performance management chart so as to engage with the inequities in resources as a matter of urgency. Furthermore various task teams are proposed to address the state of the detective service and systems of oversight and discipline in particular. Various practical recommendations are formulated to attend to specific crime challenges relating to youth gangs, domestic violence, and vengeance killings. Concerted effort is required, so reiterates the Commission, if the many obstacles which confront the police and the community of Khayelitsha are to be negotiated. Upon that negotiation depends the realisation of the constitutional vision of equitable access to safety of all South African citizens – including the poor.

5 Khayelitsha as a social space and crime locality

In the sprawling township of Khayelitsha east of Cape Town, population density, socio-economic underdevelopment, and high rates of unemployment affect a youthful population. Population estimates for the area vary considerably but even at the lower end of the estimates, some 370 000 to 426 000 people are squashed into an area of six square kilometers.²⁶ The level of social exclusion from public services is a contested issue. Over the past decade or two the reach of the state into the townships has improved considerably. Township residents have increasing access to all kinds of public services such as schooling, running water, electricity and refuse collection. Access to housing has improved with two thirds of the population of Khayelitsha in formal housing. Popular images of Khayelitsha often fail to take account of developmental improvements spearheaded by the state. But notwithstanding such improvements life in Khayelitsha remains 'wretched'.²⁷

Submissions from complainant organisations and research experts emphasised that residents of Khayelitsha are exposed to high levels of interpersonal violence. Crime data indicate that Khayelitsha constitutes a crime 'hotspot' with high rates of murder, assault, robbery and sexual assault. Recently youth gangs have been operative in the area. Violence against foreigners has been a recurring issue. Vengeance violence – sporadic, dramatic, and hot – has taken a large toll. Generally the police have not been able to develop effective strategies to anticipate where these areas of criminal violence will be most acute. When the three police precincts, Khayelitsha Site B (usually referred to simply

²⁶ C Simkins, 'A Socio-Economic Profile of Khayelitsha' (2014) Report for the Commission of Inquiry into Allegations of Police Inefficiency in Khayelitsha and a Breakdown in Relations between the Community and the Police in Khayelitsha at 10.

²⁷ C Simkins op cit (n 26) at 11.

as 'Khayelitsha'), Harare and Lingelethu-West are considered together, greater Khayelitsha features as a top-five nationally for all of the major violent interpersonal crimes. The problems in Khayelitsha around liquor outlets and access to drugs and firearms exacerbate an already difficult crime situation. High rates of inter-personal and criminal violence mean that the youth of Khayelitsha, as Kaminer puts it, are 'incubated in violence' from which stem 'very particular psychological impacts'.²⁸ The fear of crime is pervasive in Khayelitsha as crime data tabled at the Commission illustrated.

High levels of fear combined with low levels of trust in the police are confirmed by a number of crime victim surveys. The daily experience of unsafe streets was forcefully illustrated in the words of a community witness, Sifiso Zitwana, is his testimony:

'When I'm saying that another person of another race will not understand our pain of someone living in a shack, even living in a shack, just living in a shack is not safe...without living there they will not know what it feels like. Living in an informal settlement area, a place without lights, which is dark at night where sometimes you have to go and relieve yourself in the bushes. Sometimes you have to go and get water from a different street which is not your street. That is also not safe. Also, growing up in my community seeing people die or people getting assaulted until they die while you are young, those are the issues I'm talking about.'²⁹

6 Two competing narratives: community versus police

Two narratives run through the thousands of pages of evidence collated by the Commission – a community narrative and a police narrative. Some dexterity is required to dissect these narratives. Each camp makes submissions according to a pre-conceived political logic. It is the job of the complainant organisations to state the case for community residents. It is the task of those representing the police to turn the mirror the other way. On both sides the tendency is to dramatise the case. Looking beyond the surface level of presentations there is more ambiguity to be found than a stark juxtaposition of the cases would suggest. For the sake of an initial scan, we capture defining features of the two competing narratives before turning to a consideration of some key elements of the police's narrative.

²⁸ D Kaminer 'Oral Submission to the Khayelitsha Commission' 30 January 2014 at 801.

²⁹ S Zitwana 'Oral Submission to the Khayelitsha Commission' 7 February 2014 at 2034.

6.1 The community narrative

The complainant organisations paint a gloomy picture of willful state neglect, and the daily drudging experiences of the poor – caught in the trap of economic and social exclusion from jobs and everyday physical insecurity, and exposed frequently to intra-communal violence. The evidence submitted to the Premier of the Western Cape, and to the Commission, is built around individual cases of brutal criminal victimisation and state neglect. These are hyper-personal stories of injury and trauma. These narratives confront the reader in emotive and chilling terms.

The individual cases of Lorna Mlofana, Nandipha Mkeke and Zoliswa Nkonyana and five others, constitute crucial parts of the NGO complainants' case against the police. All of these are discussed in detail in Zackie Achmat's oral testimony to the Commission. Each case contains similar elements: There is a brutal and tragic crime which produces a victim. The effects of primary victimisation inflicted by the criminal act are magnified by forms of secondary victimisation, ie state neglect. Police ineptitude, inefficiency or outright refusal to provide services combined with endless delays in court proceedings and court sentencing make for state neglect. From these testimonies emerged the cauldron of an unsocial space, where violent crime impinges with regularity on inhabitants and their relatives. The police are described as incompetent, neglectful and abusive. Only in passing – rather *sotto voce* – is it acknowledged that pockets of good police do exist and that the environment is a harsh one for police too.

The complaints are framed around 'justice' and 'access to justice' as articulated in the South African constitution. The NGO narrative draws on a constitutional rhetoric, the bill of human rights and 'justice for all'. There is a fundamental disrespect evidenced by the City and by the SAPS when people are victimised and their cases are not followed up.

Throughout, the nature of the community is described in rather flat and homogeneous terms. There is little attempt to engage with the inter-personal nature of violent crime, ie the fact that it is residents of Khayelitsha who do violence to one-another. Vigilantism is often framed as the logical next step, once it is accepted that residents of Khayelitsha are unhappy with the level of policing that they are receiving.

'I haven't reported any incidents of crime because people I know have opened a case and nothing has happened. The police do not investigate cases and when they do arrest someone they release them without pursuing cases against them. I see mobs beating people approximately twice a month. I think they should be beaten because they deserve it. I feel this way because

there is no other way that criminals are punished for their wrongdoing in Khayelitsha.³⁰

The lack of service delivery amongst the police is seen at times in the wider context. There is acknowledgement that poor policing is a variation on a much wider theme of state neglect and urban underdevelopment. But despite this wider grasp of the neglect of the poor in the urban periphery it is the police who are blamed for the experience of humiliation, crime and helplessness that the community experiences. Considered inept and disinterested, rude and abusive in its routine interaction with citizens and victims of crime, the police are lambasted for their failure to deliver procedural justice and by implication social justice.

6.2 The police narrative

The police organisation in turn embellishes *its* case. The text is shaped by an occupational logic which emphasises external exigencies and internal resource constraints while underplaying neglect on the part of the police organisation. Individual submissions from station and cluster commanders, heads of various specialist divisions, provincial management and head office, follow an organisational logic.

This narrative tilts the mirror in another way. It reveals a community characterised by endemic disorder and a physical terrain difficult to negotiate. It has an 'impossible' mandate.³¹ In the locality of the urban ghetto life is hard, brutish and often very short. The population is a transient one. There is in-migration from the rural hinterland and out-migration amongst those in search of more hospitable spaces. Spatial transience makes for looseness of networks, and thinness in sociality. Large volumes of intra-community violence and predatory forms of criminality nibble away bit by bit at sociality. This volatile social space spews out the daily staple of social problems and criminal incidents.

It is the police who confront the community's frustrations – with poverty, joblessness and a lack of safety and security. It is *they* who bear the brunt of that frustration. In a place of dire need they are the thin blue line, the 'vanguard' of an otherwise distant state.³²

³⁰ Ndifuna Ukwazi 'Our Evidence for the Commission' January 2014 at 8.

³¹ A concept used in the South African Police Service Opening Statement, 23 January 2014 point 4.

³² In his submissions to the Commission Jeremy Seekings took issue with this projection on the part of the police, portraying themselves as the vanguard of the largely absent state. J Seekings 'Economy, society and municipal services in Khayelitsha' (2013), Report Prepared for the *Commission of Inquiry into Allegations of Police Inefficiency in Khayelitsha and a Breakdown in Relations between the Community and the Police in Khayelitsha*.

They are often expected to be omnipotent. They feel that they are considered the all-purpose mopping-up agency accessible around the clock. The community service centres, they report, field all kinds of calls from people in need. They are not only cops, but also expected to be 'priests, counsellors and social workers'.³³ But equally so their presence in other spaces is resented and resisted. The police narrative emphasises that the community is fickle in its attitude to the police. The police are blamed for things for which they are not responsible – for granting bail and/or parole, for lenient sentences, for the slowness at which the wheels of justice turn. The community's relationship to the police is contradictory – people both rely on the police and resist often the interventions made by the police.

According to the constitutional script the police are responsible for order maintenance, the detection, investigation and prevention of crime. Even in the most affluent and peaceful of spaces this mandate is a daunting one. Much more so in an urban locality characterised by want and despair. But in this imperfect world they cannot be expected to be perfect, so the argument goes. How could they be? They too are human – like all of us. An error is a human thing. The police narrative concedes that there are *some* gaps, *some* limitations *some* of the time in how policing services are provided. Efficiency is a relative kind of thing. Police-community relations are not static. They vary across time, space and issues involved. But despite such debilitating circumstances and internal shortcomings, on the whole, much of the time, committed personnel are trying their level best to respond to difficult situations. So argue the police through various police personae on a stage overseen by the Commissioners.

7 Thematic areas emerging from police narratives

Beyond the surface appearance of a coherent singular narrative there lies more diversity and at times more incoherence. It is a diversity which is constitutive of a division between national and provincial officials, the managerial elite and those closer to the streets, of key components and pockets of specialisation within the organisation. In the discussion below we go in search of that complexity, contradictory as it may be. We choose to focus on seven themes: Context is all important; Systemic not *police* failures; The resource curse and inequities; We are aware of the problems; Administrative versus operational policing; The police are scared too; It's lonely out there.

³³ N Arendse 'Opening statement on Behalf of SAPS' read out at the *Khayelitsha Commission* 23 January 2014 at 45.

7.1 Context-specific realities: a rough environment and an impossible mandate

One key feature of the police narrative relates to an emphatic appeal to contextual realities operative in Khayelitsha. Time and again there was reference to the fact that local realities place limitations on the performance of the police. The operational terrain is described as rough and at times impenetrable. There is the sheer volume of cases of violent crime, domestic disputes and petty crime. Streets have no names, houses have no numbers, and in the absence of proper streets motorised patrols are often not feasible. In this kind of terrain conventional policing is difficult. This insistence on locality, or context, both physical and social, is captured as follows:

‘The police terrain is characterised by homelessness, lack of proper housing, underhousing, overcrowded informal settlement, lack of recreational facilities, very serious high levels of unemployment and hopelessness generally. Patrols on foot are difficult – dangerous – potentially the police are policing a community that is angry about poor service delivery including poor sanitation, the absence of decent living conditions. So when we judge the competence we need to take into account this particular terrain.’³⁴

Consider the description of Brigadier Zithulele Dladla, the person responsible for the three police stations in Khayelitsha, when he reflected on the qualitative and quantitative differences between policing the relatively affluent suburb of Wynberg and Khayelitsha:

‘Ay, when I arrived at Khayelitsha, I was shocked. Because yes, I had worked at the stations which are like Mfuleni, Kraaifontein – but I didn’t expect what I saw.... In Wynberg we had 3 murders a year. In Khayelitsha by Friday morning 12.30 we already had one murder and by the end of the weekend three more. I said Ay. But the members said, no Brigadier, it is much better now.’³⁵

The idiosyncrasies of local context to which police allude include not only the physical terrain they confront but also the social spaces they have to negotiate. Many of those who testified in front of the Commission spoke about the police having to confront hostile collectivities of people who converge in space. Groups confront the police as they attempt to close illegal liquor outlets; respond to mob attacks on alleged wrongdoers or secure crime scenes. Such contexts are volatile and not suited to ‘conventional’ or ‘normal’ policing methods.

Routine operations aimed at closing illegal shebeens have to contend with large number of irate and inebriated customers. Roaming unruly

³⁴ N Arendse op cit (n33) at 44.

³⁵ Z Dladla ‘Oral Testimony to the Khayelitsha Commission’ 17 February 2014 at 3337.

'mobs' resulted in crime scenes that are often not secured. In his testimony Brigadier Dladla was adamant: the spectacle of crime draws crowds to the scene. Outnumbered and outwitted the police find it difficult to exert control over the physical environment in which the crime occurred. And in such contexts it is the double edged role of the police – perceived as an instrument of coercion in the very act of trying to intervene in pursuit of order maintenance – of which we are reminded here.

'Conducting policing in a sea of poverty and hopelessness is most difficult. SAPS ... deals with service delivery crimes which has the effect of creating a platform for resentment of the police. People who live in the squalid conditions of Khayelitsha see the police as an instrument of repression when they are arrested for social delivery related crimes.'³⁶

Regarding the difficulties of raiding illegal shebeens Dladla had the following to say:

'On a Saturday night if you go to a shebeen that has about 60 to 100 people, you can't do it with a vehicle and two members, you have to have enough people to be able to close that shebeen....with four members, they're going to walk all over you, the people there. So it's better to have numbers so that you prevent injuries to people. People, when they realise that there's few police officials, they say, we can take a chance here, and we end up using live ammunition which is not necessary.'³⁷

Major General David Molo, the head of detectives for Khayelitsha, elaborated in his testimony on the difficulty of crime scene management in informal neighbourhoods:

'The only problem Commissioner that we have is the number of onlookers at the scene, people that are coming to the scene they want to come close and that is why it also affects our deployment because people come in numbers to the scene and you will need three or four vans to have at least eight people to try and move people away from the scene. There are people who are drunk who will just run into the scene like you see maybe in a cricket match.'³⁸

7.2 It's a system-wide failure not a police failure

Throughout the Commission's deliberations much was made of the failure of the police as the gatekeeper to the wider criminal justice system to fulfil its responsibilities relating to the detection and the investigation of crime so that access to justice could follow. Sloppiness in investigation, the faulty maintenance of dockets and lack of

³⁶ Z Dladla Statement to the Commission of Inquiry at 27 point 83.

³⁷ Z Dladla op cit (n35) at 3518.

³⁸ D Molo 'Oral Testimony to the Khayelitsha Commission' 27 March 2014.

coordination with the courts, it was argued, sabotaged any prospects for justice to be delivered. Ms Harmse, the Senior Public Prosecutor at the Khayelitsha Magistrate Court, listed the woes besetting police handling of dockets, the summoning of witnesses and the presentation of evidence. The police in their response turned the tables – by placing the blame at the door of the court system. Backlogs beset the National Prosecution Service. It too, in the face of resource constraints, case overload, staff demoralisation, and uneven legal skills, resorts to a quota system which prioritise some cases over others. Police testimony spoke about efforts on their part to put mechanisms in place to ensure better quality dockets, enhance docket flow and improve communication between the police and the courts. The blame for the postponement of cases could not simply be laid at the door of the police. As Brigadier Aaron Mlenga put it:

‘The police have no control over courts where prosecutions are low, accused are released (on bail) and sentences are lenient.’³⁹

7.3 The resource curse: ‘Robbing Peter to pay Paul’

A key concern of the police narrative involved the issue of resources. This issue was often deliberated through the lens of case overload within the detective service. At times it appeared as if the discussion exclusively focused on the quantity of resources and the logic of its distribution across space and time. It soon became clear that the legacy of long standing inequities in the distribution of public resources across a racialised South Africa has not disappeared despite concerted efforts to redistribute resources in a more equitable way. It is in this context that the concept of a *‘strafstasie’* (punishment station) reared its head and then disappeared from view. Under Apartheid and amongst police, stations in black townships were often regarded as punishment stations. These were places characterised by bad infrastructure, high workloads and low levels of resources, places – like Khayelitsha – which are situated at the bottom of a police system where recalcitrant members of the organisation served time.

As Mr Schooling explained:

‘... in early dates (i.e. before 1994) when they wanted to deal with you and not deal with your departmentally you would be sent to one of the stations that is not so nice to work at so it is a culture that has come for a very, very, very long time in the police ...’⁴⁰

³⁹ A Mlenga ‘Statement to the Khayelitsha Commission’ at 5 point 12.

⁴⁰ G Schooling ‘Oral Testimony to the Khayelitsha Commission’ 10 February 2014 at 2350.

The conversation on resources also recognised that the problem was not so much the quantity of resources but rather the quality of and management by commanding officers. What this meant was a shift in the conversation away from a simple lament about the fact that there are not enough police officers in Khayelitsha to effectively police Khayelitsha to an acknowledgement that resources are not distributed appropriately, to where they are needed most:

'We are quick to say our detectives are not working, our detectives are working but they are over loaded. You know in the movies...you see a team ascending to a crime scene, attending to a docket but here you have a team of dockets ascending on a detective.'⁴¹

The Commission engaged at length with resource allocation. Brigadier Rabie – a senior officer attached to the Human Resource Division at Head Quarters – described in fine detail the regulatory framework within which resources are allocated. Much of his testimony focussed on a discussion of the Theoretical Human Resource Requirement (THRR) and the Resource Allocation Guide (RAG) in terms of which the number of posts and other resources at station levels are determined in line with budgetary allocations and the medium-term expenditure framework. The RAG was held up as key to the application of a 'uniform approach' to the distribution of human and other resources across nine provinces and 1 137 stations. Rabie reiterated that the RAG and the THRR were *theoretical* templates which incorporated a large number of variables (population size, infrastructural development, crime rates and many more) relevant to the calculation of police resources. The data utilised in the calculation are fed upwards by station commanders. Given the tendency to inflate needs at station level the integrity of the data has to be monitored by Organisational Development practitioners. Built into the calculation was some 'contingency allowance' to allow for police to attend a workshop or take a lunch break and so on. After all SAPS 'was not a factory' which 'produces jam' on a mechanised conveyer belt. On the contrary, as a complex organisation made up of thousands of people who fulfil a range of tasks in very diverse settings, SAPS required 'flexible management'.

Current resource constraints however meant that only two thirds of the theoretically allocated posts were funded. Within this context, the room for manoeuvre to divert resources to needy stations is limited. There is some space for discretion, to be exercised by the Provincial Commissioner for a redeployment of admittedly limited resources. But as Brigadier Rabie pointed out, exercising this discretion would amount to 'rob(bing) Peter to pay Paul'. Backlog of cases, it transpired, was not a factor considered in the allocation of resources. One could

⁴¹ Z Dladla op cit (n 35) at 3506.

not, said Brigadier Rabie, create a permanent capacity to deal with backlogs. The best one could do was to assemble a 'cold case squad' which would focus its attention on old cases but this again was only feasible in the short term unless one was prepared to keep on robbing Peter to pay Paul over an extended period.

All of this effort – stretched over almost a decade – to develop formulae was aimed at developing *uniform standards* which could be applied in a non-partisan way across the police estate. Brigadier Rabie stated: 'It took us 10 to 15 years to get where we are now'.⁴² The object of this exercise, as Rabie emphasised, was to live up to the constitutional principle that policing is equally provided across South Africa. But an examination of allocations across stations however, suggested otherwise. In Claremont the ratio of police to population was 1 to 130, in Lingeletu West it was 1 to 275. This discrepancy had to be explained. Either the data utilised were faulty, or the theoretical model itself was misguided. If for Brigadier Rabie the RAG was a major administrative accomplishment, the Commission had its doubts.

Described by Commissioner O'Regan as an extremely sophisticated system she continued to raise questions relating to the integrity of the data utilised in the formula as well as the weighting of variables (crime rates in particular) in the equation. Another important question to which there was no clear answer focused on the allocation of resources between components of the police (visible policing versus detective service). As Commissioner O'Regan put it:

'It seems to me that an enormous amount of thought and care is put into the system that you have described this morning but it seems entirely unconnected or disconnected to what the experience is on the ground in Khayelitsha...'⁴³

Commissioner O'Regan also stated:

'You see, this is a management tool that you're working with, if the management tool is so far detached from the experiences on the ground I kind of wonder how much use it is as a management tool.'⁴⁴

The impact of resources on police effectiveness became a critical focus of the woes confronting the detective service. Twenty years of reform – owing to a variety of unfortunate decisions – have seen a dramatic decline in the capacity of the detective division. Police researchers such as Antony Albeker have long bemoaned the impact of the declining ability of the detective division to make headway against

⁴² L Rabie 'Oral Testimony to the Khayelitsha Commission' 25 March 2014 at 5380.

⁴³ K O'Regan 'Questions put to Brigadier Leon Rabie during his Testimony to the Khayelitsha Commission' 25 March 2014 at 5345.

⁴⁴ K O'Regan op cit (n43) at 5348.

serious crime.⁴⁵ Official recognition of the extent of the problem had only been forthcoming in the last few years.

Recently some efforts have been forthcoming to offset the damages and re-invest in training and resourcing anew. 2013, for example, was earmarked as the Year of the Detective. Khayelitsha presents a worst case scenario of the conditions under which detectives have to operate. Case overload (on a really huge scale) has combined with considerable skill deficits and resource constraints in a toxic way. Under such conditions detectives are forced to develop coping strategies. Overall the situation saps morale and exposes detectives to high levels of occupational stress. In this kind of situation, as a coping strategy, they pick their battles, prioritise certain cases over others and seek opportunities to close files.

Lt Col Swart, Detective Commander of Lingeletu West acknowledged that the detective component confronted a wide range of challenges. Perhaps in an attempt to be pragmatic he warned that 'ideal detectives you only get in movies'.⁴⁶ Later on still he acknowledged that he had no knowledge of computers but that this did not mean that he could not do his job. After all 'detectives' – and not computers – 'solve crime cases'.⁴⁷

Finally, the issue of quality rather than the quantity of human resources was broached in many of the conversations on resources. The decline in the quality of recruits was particularly central in Mulder Van Eyk's damning report on the state of basic training⁴⁸ it became more than clear that SAPS have not been able to recruit nor train the kind of staff required to operate in a challenging policing environment. Recruits, he reported, apply to the police as a last rather than first resort. Recruits have low levels of literacy and numeracy and social problems abound amongst a cadre which had families to care for. Trainers he reported are ill suited to their jobs. The emphasis of training is not on the development of skills.⁴⁹ Standards of assessment are problematic and field training is not properly supervised. It is against this kind of background that the decision to deploy young recruits just out of training as detectives in Khayelitsha needs to be appreciated.⁵⁰

⁴⁵ A Altbeker op cit (n15).

⁴⁶ B Swart 'Oral Testimony to the Khayelitsha Commission' 17 February 2014 at 3444.

⁴⁷ B Swart op cit (n46) at 3435.

⁴⁸ M Van Eyk 'Affidavit submitted to the Khayelitsha Commission' 16 February 2014.

⁴⁹ M Van Eyk op cit (n 48).

⁵⁰ M Van Eyk 'Oral Submission to the Khayelitsha Commission' 16 February 2014.

7.4 We are aware of the problems, we have been working toward solutions

Issues of resource constraints and wider resource inequalities loomed large in the Commission. Cross-examination of the theoretical resource requirements, the range of factors which are considered to decide staffing allocations were all aimed at getting to grips with why the 'Apartheid style' inequities were still with us. What the Commission's discussions revealed were the many efforts which have been made to channel resources into needy areas. These special projects have all aimed at optimising resource allocation and resource utilisation – the very stuff which the Commission of Inquiry was taking stock of. We turn to a brief summary of such efforts which have been pursued over the last ten years.

There have been various Special Projects which have been adopted and implemented by the Police Service, both at the Provincial and National levels. The three police stations in Khayelitsha have featured in many of them. In 2001 Khayelitsha Site B was a station identified by then President Thabo Mbeki as a priority station to which resources had to be channeled.⁵¹ Evidence suggests that there was little follow-up on the designation of Presidential Stations. According to a report submitted to the Presidency in 2002, in 11 of the 16 Presidential Stations, the conditions had worsened since being designated, and that resourcing was worse 2 years later.⁵²

Projects 23, 31 and 6, the three provincially-implemented projects, all focus on resource allocation and addressing violent crime in the Western Cape. Stations identified for each subsequent project were chosen based on their contribution to crime within the Province. In 2012, 23 police stations were identified as worst performers, based on their contribution to the provincial crime statistics. These were the target of Project 23. In 2013 an additional 8 stations were added and Project 23 became Project 31.

In 2014 Project 31 was changed to Project 6. Project 6 continued in the same manner; however it involved senior provincial officers providing management and operational input into the running of stations. As

⁵¹ Thabo Mbeki, then President, identified 16 police stations from across the country. These 16 were designated Presidential Stations and were to receive priority in terms of resourcing and support. President Mbeki stated that 'presidential police stations that would, as a priority, receive adequate resources and substantial improvements'. SAPA 'DA: SAPS Allowed to Haemorrhage' *News 24*, 11 November 2002, available at <http://www.news24.com/SouthAfrica/Politics/DA-SAPS-allowed-to-haemorrhage-20021111>, accessed on 20 August 2014.

⁵² H W Hartley 'South Africa: Deterioration of Police Stations Designated by Mbeki being Probed' *Business Day*, 12 November 2002, available at: <http://allafrica.com/stories/200211120099.html>, accessed on 20 August 2014.

part of Project 6, R3 Million was authorised as an additional budget for overtime for detectives at six stations, the intention being to create additional resources to address the backlog of cases.

The People Orientated Sustainable Strategy (POSS) was an initiative which dated back to 2003. A key part of the POSS strategy was making 100% human material resources available at Priority Stations (of which Khayelitsha was one). Under POSS, overtime budgets and training budgets were also used to make additional resources available at Priority Stations, and to increase the skill of members available in those areas. The POSS strategy was revised in 2011/2012, and became the Optimal Performance Utilisation Strategy (OPUS).

From General Arno Lamoer's testimony it was clear that each of the project initiatives were accompanied by management input of senior officers into the operational concerns of the stations:

[We] look at the human resource capacity, look at the skills levels of the people there, look at the backlogs of investigations; each and every component [of the station comes] under the guidance of the deputy provincial commissioners ... For example, under General Burger, the head of HR management, will come and look at leave audit, look at absenteeism, look at EHW and so forth, employment health and wellness. Under finance, the component head there will come and look at the spending of the budget, what the budget look like, is there sufficient budget and so on...So we believe that by addressing all these things the services [to the community] can be improved.⁵³

The THRR and RAG are nationally contrived processes that even the Provincial Commissioner is unable to change. General Lamoer stated in his testimony that he agreed that 'the RAG is fundamentally irrational'.⁵⁴ Despite a bit of room to shift resources around at the provincial level as someone else commented the Provincial Commissioner was 'gagged by the RAG'.⁵⁵ The special projects constitute Provincial efforts to redress inaccuracies created and handed down from the National Office. These various special projects can be understood as attempts, further downstream and in limited ways, to ameliorate the ineffective and inaccurate resource allocation processes driven centrally by the National SAPS office in Pretoria. But the impact of such efforts has been uncertain.

⁵³ A Lamoer 'Oral Testimony to the Khayelitsha Commission' 1 April 2014 at 6544.

⁵⁴ A Lamoer op cit (n53) at 6605.

⁵⁵ Z Dladla op cit (n35) at 3508.

7.5 'Inspected to death'? Administrative versus operational policing

Part and parcel of the transition towards a democratic model of policing has been an emphasis on accountability and oversight. The elaborate architecture of accountability and oversight adopted in South Africa has been held up as an enviable example to other police institutions on the continent. From the mid-2000s onwards however it has become evident that this elaborate system has not been functioning anywhere near to optimal effect.⁵⁶

A large portion of the Commission's deliberations focused on issues of command and control more broadly and the functionality of internal audit systems more specifically. These conversations were informed by the Schooling and Leamy Report⁵⁷ and the Tshabalala Task Team Report.⁵⁸ Both documented many instances of inadequate record keeping at station levels and the fact that the investigation of complaints against the police left much to be desired.

Issues of command and control and the establishment of compliance with standing orders and other procedural rules featured in many of the cross-examinations. A pivotal piece of evidence in this regard was that by Sharon Jephta, Deputy Provincial Commissioner in charge of Operations, and former Head of the Provincial Inspectorate.⁵⁹ Some broad observations which emerge from the discussion include the following: the sheer weight of laws, policies, standing orders, instructions, directives and procedures which define police work; the elaborate and labour intensive system of internal inspections currently in existence; the amount of effort which has been invested in the design of templates which seek to record compliance at station level; the regularity with which inspections are conducted across regions, clusters and police stations and the extent to which many deficiencies are recorded. Despite the effort invested in inspection it also became clear that the system struggles to respond to deficiencies in a way which makes for more compliance.

Throughout this conversation one was reminded of the extent to which recording and record keeping define the job of policing in modern bureaucracies. There are standing orders, instructions and procedures to be adhered to. There is a paper maze involved in

⁵⁶ D Bruce 'Unfinished Business – The Architecture of Police Accountability in South Africa' (2011) *APCOF 2 Policy Brief* at 1-16, available at <http://www.apcof.org/files/APCOF%20Brief%20%20Unfinished%20Business%20WEB.pdf>, accessed on 20 August 2014.

⁵⁷ G Schooling & M Leamy op cit (n24).

⁵⁸ L Tshabalala op cit (n 23).

⁵⁹ S Jephta 'Oral Testimony to the Khayelitsha Commission' 31 March 2014.

recording actions taken at every step. There are records to complete at regular intervals of the day, week and month.

The Commission evidence gave widespread recognition of the degree to which standing orders and operational guidelines fine-tune the job of policing in any specific locality. Audits and inspections form part of an elaborate approach to administration. Through her testimony General Jephtha allowed us to appreciate the modernist and administrative logic at work at national head office.⁶⁰ The system of surveillance is designed to steer a large and complex police machine according to a set of common rules which in itself is driven by some central purpose. She outlined a complex set of oversight and management practices that are used to manage officers and resources and assess performance.⁶¹ With predictable regularity inspection teams are dispatched to stations, clusters and regions across the province. Focusing on 'frontline services' the inspection teams dutifully register non-compliance. For this purpose it utilises elaborate checklists. Inspection reports are fed upwards and then sideways to line managers who bear the responsibility for intervening.

As General Sharon Jephtha put it:

'The purpose of the Inspection is to look at compliance, Commissioner. The purpose of the Inspectorate is not to look at efficiency; it looks at compliance.⁶² The inspectorate's responsibility is to inspect and to then hand over the report to the line managers who then need to ensure that there are interventions.'⁶³

Within the broader surveillance machine, line managers carry a huge administrative burden. The burden of paperwork is described as follows by a senior official in the province:

'I mean, in the Community Service Centre (i.e. police stations/charge desk) we – essentially there's 22 registers in the CSC that we have to...(attend to)... and duty bound to implement it. So it takes on average – and it does – it is an issue, it takes on average for the shift commander, you would have seen on your visits, his head is down. He looks down... initially for the first part of his shift and then the last part of his shift. He looks down because

⁶⁰ The Inspectorate is mandated to coordinate and manage the investigations of complaints regarding service delivery.

⁶¹ The Commission also investigated the way in which the Performance Management Chart operates in the SAPS – an issue which will not be discussed in this paper. See in this regard the persuasive analysis of the strength and weaknesses provided by A Faull 'Performance Management in Police Agencies'. A report written for the Commission of Inquiry into allegations of police inefficiency in Khayelitsha, 10 May 2014.

⁶² S Jephtha op cit (n59) at 6283.

⁶³ S Jephtha op cit (n59) at 6284.

he is completing registers. Then before he leaves he has to hand over the register.⁶⁴

Record keeping looms large and cumbersome over the heads of all, and coping strategies often try to circumvent the paper obligations. Elaborate systems of inspection however do not make for compliance in policing. In fact what the Commission engaged with was exactly this issue – namely that the areas of non-compliance are well known but that the system does not seem capable of changing practices or addressing gaps. On this point General Jephta introduced a critical issue – how best to align policing on the ground to the rules of policing in books in a context where caseloads overwhelm the police.

Discipline turned out to be a delicate matter in a context of case overload and low staff morale. As Colonel Johan Marais put it:

‘I just want you to take into perspective if I have an individual that carries 150 murder dockets and he slips up with one or two dockets and now I have to discipline him in such a manner that through the disciplining he might be losing his next promotion that is around the corner then I am going to lose the detective registers.’⁶⁵

Record-keeping line managers in turn find that the room for improvement is extremely limited particularly if non-compliance itself is a function of systemic challenges rather than human shortcomings. As General Peter Jacobs put it, ‘the officers, they feel sometimes they are being inspected to death.’⁶⁶

A number of senior police were of the opinion that the failure to record and complete administrative forms constituted a technical failure but not necessarily an operational one. For Brigadier Dladla the insistence on technical administrative compliance was no guarantee for effectiveness at an operational level. General Jephta too drew a distinction between administrative and operational command and control. The reports of Leamy and Schooling, she argued, focused on administrative command and not on operational command and could therefore not come to the conclusion that policing on the ground was inept. Colonel Reitz, the station commander at Lingeletu West, conceded that ‘on the administrative side things were not right’ but that policing took place, ‘the operational side of policing, service to the community, making arrests, doing what must be done and those things, there was nothing wrong with it.’⁶⁷

Finally the conversation about the lack of fit between technical rules and administrative regulations and actual operations on the ground

⁶⁴ P Jacobs ‘Oral Testimony to the Khayelitsha Commission’ 28 February 2014 at 6072.

⁶⁵ J Marais ‘Oral Testimony to the Khayelitsha Commission’ 19 February 2014 at 3881.

⁶⁶ Jacobs op cit (n64) at 6105.

⁶⁷ M Reitz ‘Oral Testimony to the Khayelitsha Commission’ 14 February 2014 at 3188.

was important for understanding the consequences of a gap between theory and practice. A gap between technical rules designed in the air-conditioned office of Head Quarters and the messy operational practices in the congested milieu of a high crime informal settlement would breed cynicism. The gap may depress staff morale. The gap may render well-designed systems of monitoring ineffective in that it substitutes ends for means. It runs the risk of the rules on the books belonging to a bureaucratic world order which presents an almost 'impossible' mandate.

7.6 We are human beings and often victims too

In the narrative of the complainant organisations ineptitude on the part of the police inflicts secondary victimisation on victims of crime. A double jeopardy is thus perpetrated. Not long into the police submissions however it became evident that the police too stake claims to being victims of state neglect, criminal predation and/or community hostility. In doing so they challenge the one-sided depiction of police personnel as perpetrators, pure and simple, of neglect and human rights abuse of Khayelitsha's citizens. Realities on the ground, they argue, are more complicated. Simplistic depictions have to make way for a more nuanced understanding of the intractable role of the police. In laying claim to a degree of victimhood they point to a workplace within which they are overworked, underpaid, and often under-appreciated. In their interactions with members of the community they are often scapegoats for community frustrations which are related to governmental ineptitude in other areas: housing, infrastructure and so on. In their frontline position they have to take the blame for wider systemic woes besetting the criminal justice system. Brigadier Dladla articulated the point as follows:

'But unfortunately we chose the wrong job. We are only the whipping boys as the SAPS. We were isolated as SAPS.'⁶⁸

Police witnesses emphasised that the locality was a dangerous one – not only for members of the community but for police too. They were subject to every day danger. Injury and death come their way. They too are targets of criminal activity. On the streets they are often 'scared'. The dynamics of the place affect them adversely. As fellow human beings, as members of communities, they not only have responsibilities but also rights.

This portrayal of a dangerous job in an unruly place and of police as victims of criminal action found articulation at the funeral of two

⁶⁸ Z Dladla op cit (n35) at 3685.

policemen which took place in Nyanga in June 2014 which the writers attended. Speaker upon speaker at the memorial service – an event steeped in police subcultural dynamics – lamented the fact that so many police die in the line of duty. The ceremony provided an opportunity to reaffirm their status as fellow compatriots, as members of families and of communities, as citizens of a constitutional democracy. In the words of the Provincial Commission, Arno Lamoer:

‘These are my members and I am responsible for them, to see their bodies on a crime scene shocks and angers me. It makes me ask if anyone is safe in this country, if people don’t even respect the police.’⁶⁹

In an interesting way it is in the context of police deaths that the police fraternity invokes the very notion of ‘respect’ and ‘dignity’ which featured so strongly in community testimonies. The subtext here seems to be that in this constitutional democracy police not only have responsibilities. They too could lay claim to rights. They too needed to be afforded respect and dignity.

In the testimony of Col Sonja Harri, Provincial Co-ordinator of the Family Violence, Child Protection and Sexual Offences Unit (FCS Unit), the emotional toll for police working with gendered based violence became evident.⁷⁰ FCS Units were disbanded in the mid-2000s and then reintroduced at cluster level in 2010. The performance of this specialist unit in Khayelitsha had been poor. It was in fact described as ‘the worst performing unit’ in the province. Again a range of factors were considered in the quest for understanding this state of affairs: the absence of a commanding officer, the exodus of skilled staff, an inability to attract new staff to the unit, case overload and a huge backlog. Inspections have found the unit to be dysfunctional with poor docket management and poor investigations at the order of the day.

Colonel Harri admitted to a wide range of problems besetting the specialist unit and then broke down in front of the Commission.⁷¹ Once she regained composure she spoke of the emotional stress in doing this kind of work. Of how an attitude of negativity pervades her colleagues and how desensitised they become in the course of their duties. Given the harrowing nature of the work, finding officers willing to work at the Unit has become extremely difficult. Within the context of a hazardous occupation, the human beings inside those

⁶⁹ A Lamoer quoted in S Fisher ‘5 cops killed in 5 days’ *Eyewitness News*, 1 July 2014, available at: <http://ewn.co.za/2014/07/01/5-cops-dead-in-5-days>, accessed on 20 August 2014.

⁷⁰ S Harri ‘Oral Testimony to the Khayelitsha Commission’ 27 March 2014.

⁷¹ Harri op cit (n70)

uniforms suffer post-traumatic stress on a scale not appreciated by either outsiders or management.

7.7 It is lonely out there

There is widespread agreement that while public institutions such as the police have a particularly important role when it comes to the maintenance of order they cannot take responsibility for safety on their own. The critical role of the informal sector in social ordering has long been recognised in townships. For example, Tshehla's investigation into social ordering in Khayelitsha in the early 2000s captured the diversity in organisations involved in safety, security and dispute resolution.⁷² He concluded his review by stating that the spheres of ordering had 'become both a competitive terrain and increasingly uncertain' and at the time he advocated that some form of state regulation was desirable.⁷³

The quest for cooperative alliances and for a regulatory framework between formal and informal agencies of social ordering has been part of policy debates over the past two decades. The deliberations of the Commission provided proof of a widespread consensus about the desirability of collaboration and cooperation between the public police, the private sector and community-based structures. In poor neighbourhoods unlike their more affluent counterparts however, the onus falls on the state and neighbourhood structures to combine their energies and resources.

What became clear from the discussions however, is just how various factors conspire to undermine collaborative networks. Police testimonies emphasised the wide range of challenges *they* confront in their attempts at cooperating with 'force multipliers' such as informers, reservists, neighbourhood watches and community volunteers. The discussions served as a reminder of the fluidity of pact agreements and how difficult they are to sustain over time.

In many of the conversations there were reflections on the decline in police reservists and other volunteers associated with neighbourhood watches. Changes in the rules of employment of police reservists with much more stringent controls of selection and training clearly had a detrimental impact. So too the discontinuation of a stipend resulted in a rapid decline in volunteers organised under the neighbourhood watch scheme. Furthermore shifts in party-political governance in the province were identified as another complicating factor which drained

⁷² B Tshehla 'Non-state Justice in the Post-Apartheid South Africa' (2002) 6 *African Sociological Review* 2 at 47-70.

⁷³ B Tshehla op cit (n72).

the spirit of voluntarism. As in the case of recruiting informers, a long tradition of political stigmatisation of those who collaborate with the police still casts its shadow over the prospect of alliances. The difficulties associated with activating force multipliers and sustaining networks over time meant that the prospect for policing as everyone's business – within an agreed upon regulatory framework – was not realised. On contrary, the police found themselves very much alone 'out there'. Alone in a territory perceived and experienced as needy, hostile and dangerous.

8 Policing the urban periphery: a case of 'good enough' policing?

The South African Police organisation constitutes a large and cumbersome machine. Spread across nine provinces it has a total complement of about 200 000 personnel. Over two decades it has been guided by state-of-the-art policy frameworks (community policing, sector policing, intelligence-led policing, victim orientated policing). The bureaucratic infrastructure is well developed by African standards. The architecture of this large and rational bureaucratic machine is superimposed on a police system on the ground which struggles to make headway against high volumes of crime, endemic case overload, uneven levels of skills and pockets of corruption and considerable demoralisation.

From the deliberations of the Commission, the Janus-faced nature of the police institution and the society within which it operates becomes clear: the contradictory impulses of an institution that is both modern and primitive, and a social locality that is at once orderly and anarchic. We have described key features of an organisation which perceives itself to be under siege, and of a community which bears the imprint of deep inequalities and social disorganisation. Assessed from the vantage point of external environmental challenges and internal institutional limitations, what indeed could and should police focus their energies on in urban localities such as Khayelitsha? For inspiration and perhaps consolation we turn to the notion of 'good enough' policing as developed by Ben Bowling in an article published in 2007.⁷⁴

In a spirit of realism Bowling advises that we should abandon the pursuit of 'unachievable maxima' ie of 'perfect policing' characterised by both fairness and effectiveness. In developing his argument the author draws on observations from a developed part of the world the United Kingdom. In developing contexts characterised by much

⁷⁴ B Bowling op cit (n19).

deeper forms of social inequality the tension between fairness and effectiveness would be much more pronounced. Bowling warns 'equality of outcome in policing however desirable, is likely to be unattainable'.⁷⁵ Instead it may be much more realistic to settle for 'good enough' policing, recognising that at any particular point in time there are difficult choices to be made about the roles of the police which need to be prioritised.

'We ask a lot of the police, and this fact underlines the folly in the pursuit of maximal effectiveness and maximal fairness. We need to be thinking about what is "effective enough" and "fair enough", recognizing that this may differ from community to community... Policing never has and never will be perfect. The task ahead is to ensure that it is good enough.'⁷⁶

Bowling's advice to opt for 'good enough policing' is apt given the state of affairs which define urban townships as peripheral spaces crippled by a lag in development and various social ailments including high rates of predatory crime. In such contexts the demand for security is insatiable and the police's role in responding to that demand is always limited.

The deliberations of the Khayelitsha Commission of Inquiry yield considerable detail and nuance relevant to any strategic assessment of how best limited resources can be deployed to enhance the safety of the poor. Strategic assessments of this nature will have to consider the particular roles the police could (or should) be prioritising in any given locality and at any particular point in time.⁷⁷

However, even the more realistic vision of 'good enough' policing will be sabotaged if police stations in informal settlements continue to be administered as second class stations – a modern version so to speak of the earlier punishment stations. The police narratives about the place (Khayelitsha), the institution (the SAPS), and the job (of policing) – which the Khayelitsha Commission succeeded in making public – deserve to be understood if the quest for more safety in urban peripheries is to be realised.

⁷⁵ B Bowling op cit (n19) at 29.

⁷⁶ B Bowling op cit (n19) at 30.

⁷⁷ Jonny Steinberg's recent engagement with political developments in post-Apartheid state formation and the usurpation of police power for political ends makes for compelling reading. J Steinberg 'Policing, State Power and the Transition from Apartheid to Democracy: A new perspective', (2014) 113 *African Affairs* (451), at 173-191.