By-law Enforcement in South African Cities

by

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Introduction and Background

This paper will attempt to sketch the developments in by-law enforcement in the four major cities in South Africa, and in doing so, shall firstly examine the rationale behind by-law enforcement with specific reference to enabling legislation for such enforcement to take place. Secondly, the above examination will be carried out with reference to renewed attempts aimed at reviving metropolitan centers in South Africa. Finally, the importance of the relationship between effective by-law enforcement (aimed at making cities clean and habitable) for safety and security will be spelt out.

A by-law is legislation that is passed and enacted by a Municipal Council. Cities have by-laws to deal with issues such as: parking meters, street trading, littering, nuisance, noise, parks and swimming pools, informal trading, parks, etc. An emphasis on delegation and the subordinate nature of a by-law are central to its definition as it reflects South Africa's hierarchical intergovernmental system, which ensures that local government is subject to national and provincial control. However simply defining a by-law as 'subordinate delegated legislation' doesn't enable us to deal with the complex web of constitutional, legislative, administrative and other frameworks that inform and define the content and function of a by-law. To this end I am therefore going to try and locate the analysis of 'what a by-law is' under the following headings: The legislative power of local government, the procedure for making a by-law, and the enforceability of a by-law.

The Legislative Power of Local Government - The power to enact by-laws

Three distinct, but interrelated, spheres of government are created by the constitution at the national, provincial and local levels. Section 154 of the final constitution provides for a system of co-operative government which means that the functions of government are not only exercised at the national level, but are also decentralized to levels closer to the people. Government in the local sphere consists of Municipal Councils. The functions and powers of Municipal Council are always prescribed by a higher legislature, in the case of South Africa, the prevailing constitutional dispensation and the Local Government Transition Act 209 of 1993 are points of departure. The powers of a Municipal Council are prescribed in section 156(1) of the final constitution. Apart from the Municipal Council's power to make by-laws which prescribe rules and orders for its internal arrangements; its business proceedings; and the establishment, composition, procedure, powers, and functions of its
committees. It also has the power to make another set of by-laws which are for the effective administration of the matters which it has the right to administer. The range of the matters listed and those which local government may administer indicates the importance and breadth of local government's role in relation to social stability. Schedule 5 Part B of the final constitution sets out these, they are:

- Beaches and amusement facilities
- Billboards and the display of advertisements in public spaces
- Cemeteries, funeral parlours and crematoria
- Cleansing
- Control of public nuisances
- Control of undertakings that sell liquor to the public
- Facilities of the accommodation, care and burial of animals
- Fencing and fences
- Licensing of dogs
- Licensing and control of undertakings that sell food to the public
- Local amenities and public spaces
- Local sport facilities
- Markets
- Municipal abattoirs
- Municipal parks and recreation
- Municipal roads
- Noise pollution
- Street trading and lighting
- Traffic and Parking
- Pounds
- Refuse removal, refuse dumps and solid waste disposal

Local government cannot function without being able to legislate on the safety and comfort of the inhabitants of a municipal area, to ensure that certain kinds of anti-social behaviour are prohibited and punished if the prohibitions are not observed.

**The Procedure for Making a By-law**

With reference to the final constitution and the Local Government Transition Act of 1993, the following constitutes the steps for making a by-law:

- Drafting and legal examination: This step involves deciding what danger or bad or wrong condition is to be cured and in what manner. The draft must be examined to ensure that a proposed is valid and consonant with the constitution.

- The council must formally adopt the proposed by-law by resolution.

- The proposed by-law must be published in the newspaper circulating in the municipal area, and must indicate the general purpose of the by-law, advising the public where and when the proposed law may be inspected, and advising the time by when and to whom written objections must be submitted.
• The municipal council may receive objections, it is generally submitted the council may amend, modify, or confirm the proposed by-law.

• In the final stage, section 160(3)(b) of the final constitution kicks in and states that; 'when it comes to the passing of a by-law, a decision must be taken by a municipal council with a supporting vote of a majority of its members, and all other questions before a municipal council must be decided by a majority of the votes casts'.

• Section 162(1) states that a municipal by-law may be enforced only after it has been published in the official Gazette of the relevant province. Section 162(1) goes on to say that a provincial official Gazette must publish a municipal by-law upon request by a municipal council. Contrary to the past, where an administrator promulgated a by-law, now provinces promulgate by-laws, so that they do not conflict with provincial and national legislation. Upon promulgation the by-law has legal effect within the municipal area.

The Legal Enforceability of a By-law

As stated above, a by-law exists to ensure that certain kinds of behaviour or/and acts are prohibited and punished if the prohibitions are not observed. The Criminal Procedure Act defines an offence as 'an act or omission punishable by-law'. Burchell and Milton (1970) provide a more comprehensive definition of an offence or crime as 'conduct which common or statute law prohibits and expressly or impliedly subjects to a punishment which is remissible by the state alone and which the offender cannot avoid by his own act once he has been convicted'. In a similar fashion, a by-law also declares certain acts to be local crimes. As the by-laws passed by a municipal council have the same force of law as national legislation and provincial ordinances, the significance of the legislative authority of the municipal councils must be emphasised. By-laws can be enforced by courts of law and transgressors can be punished. However Donges and Van Winsen (1953) put it that 'the power of municipal legislation (by-law) is strictly circumscribed by the express or implied terms of the enabling statute, and the courts, including a magistrate's court, can enquire into the validity of by-laws'. The mere fact that a by-law provides for criminal prosecution for an infringement does not prevent a municipality from obtaining an interdict to prevent an infringement. In this sense by-laws have a preventative potential which may be used in a broader crime prevention framework.

The court in which municipal councils are likely to have most experience is the Magistrate's Court. Magistrate's Courts are for regions or districts, and geographical area and type of case are two determinants of which of the courts can hear a matter, and consequently where a certain by-law can be enforced. A by-law can be enforced in either of the courts depending on where the accused is arrested or resides, and the nature of the charge/ type of case. A magistrates court can, therefore, hear a case where a by-law has been enforced provided the by-law does not impose a sentence of imprisonment of more than one year or a fine of R20 000. It is highly improbable that a contravention of a by-law would result in a penalty exceeding these criteria.
The Rationale for By-law Enforcement

As noted above, the rationale for by-law enforcement emanates from the need to control people's behavior. Lots of literature attests to law in general as a form of social contract between those governed and their governors. And with the rise of the nation state leading to complex organisational processes and rapid urbanization it became increasingly necessary to devolve the powers of the state to the city level. Hence the need for such delegated subordinate legislation was more emphasised. Essentially by-laws are a product of social conventions that inform people's interactions with the city through explicit regulatory mechanisms.

Sanctions for By-law Infringements

A contravention of a by-law results in the imposition of sanctions, an infringement would result in the following sets of actions against the offender:

- A notice- giving notice of the infringement
- A notice results in the issue of a fine
- Failure to pay the fine would result in summons being served
- Failure to respond to summons requesting the offender to appear before court would result in the issues of a warrant of arrest by the Magistrates Court.

A notice can be dispensed with by the offender through payment of a fine within 1 to 3 months – this amounts to an admission of guilt.

As shall be shown below, there are different remedies for the myriad of by-laws which council enforces.\(^2\) It is expected that the establishment of the Metropolitan Police Service for all the cities will see a consolidation of all the enforcement units and result in uniform legal procedures across each city.

The Current State of By-law Enforcement in the Four Cities

Durban

Prior to the establishment of the MPS in Durban, by-laws were enforced through municipal local council/ metropolitan council structures and the Durban City Police (DCP). The DCP, was a unique municipal police agency which had been active in policing since 1854. It primarily enforced the Road Traffic Act and by-laws such as:

- Parking meter by-laws
- Road Traffic by-laws
- Sea shore by-laws
- Parks and Swimming pools by-laws
- By-laws regarding informal trading

The introduction of the MPS in July 2000\(^8\) saw Durban becoming the first city in South Africa to have a Metropolitan Police Service.\(^9\) The prior existence of a city police in Durban laid a firm foundation for Durban to establish a metro police service. The transition
to an MPS was a relatively smooth one, except for labour relations issues.  

A critical factor which counted in the MPS's favour was a large pool of resources and capacity they inherited from the DCP. From the operational side of things, the MPS got into the shoes of a police force that had established effective liaison with business and government at a metropolitan level. And more importantly the DCP had an established visibility and presence in the city by the time it was replaced by the MPS.

In addition to the advantages listed above is also the fact that legislatively the new structure (MPS) allows for the policing of municipal by-laws across the metropolitan structure, whereas the DCP only operated in the former city of Durban jurisdiction.

Durban is already finalizing the process of standardizing by-laws across the metropolitan area. One aspect of the creation of the Durban MPS has been the expansion of the MPS's mandate to include enforcement of a wider range of by-laws than the previous DCP was required to enforce, without any attempt to address the resultant need for more capacity. The accompanying organisational problems of amalgamation have also been left unattended in many respects.

In spite of the distinction between the MPS, metro and local council enforcement functions, there are overlaps, which sometimes confuse by-law enforcement officials. Add to this, a lack of clear guidelines and official agreements or a framework defining and regulating the working relationship between the various council enforcement entities. In Durban the collaboration between the Metro Police service and other departments happens on an ad hoc basis. This has resulted in occasional problems particularly when dealing with by-laws which for their effective enforcement depend on others. It is therefore crucial that a co-ordinated approach is adopted in this regard.

Pretoria

By-law enforcement in Pretoria does not seem to be a number one priority. The Greater Pretoria Metropolitan Council (GPMC) is reportedly reluctant to even endorse the recommendations provided by Booz Allen and Hamilton based on a feasibility exercise into the establishment of the MPS for Pretoria. So, pending GPMC's approval of the framework for the establishment of a Metropolitan Police Service in Pretoria, by-law enforcement will still takes place largely at a local level. Responses to the application for the development of an MPS in Pretoria have been mixed. For example, low levels of crime and by-law infringement in the greater Pretoria area have often been sited as explanations for the reluctance to consider the establishment of a MPS in Pretoria. Rather attempts at strengthening the present security and traffic divisions have found greater favour. However, the feasibility of the development of a MPS in Pretoria is being considered. Regardless of whether a MPS is established in the Metro or not, there is a need for Pretoria to emphasise a co-ordinated approach to by-law enforcement in order to sustain their present impact. This is particularly important given that even the traditionally metro-wide by-law enforcement functions such as fire services, disaster management and emergency services are also located at a municipal local level point to a strong 'decentralization' focus which is in contrast to a MPS's emphasis on uniformity and centralization.
If Pretoria considers the establishment of the MPS, the process must be accelerated and provision must be made for issues of decentralization to be addressed too.

**Johannesburg**

Johannesburg's decision to establish a Metro Police Service came at a time (towards the end of 2000) when the metro council was experiencing major problems with the enforcement of by-laws. This lack of effective by-law enforcement has been attributed to a number of reasons. The currently 16 (approximately) law enforcement agencies/units operating in the Metro and Local Councils in Greater Johannesburg mean that there is no co-ordinated by-law enforcement in the Greater Johannesburg area. The Greater Johannesburg Metropolitan Council (GJMC) and the former MLC’s each had their own by-laws which were enforced to a greater or lesser extent by their own law enforcement agencies in the areas of electricity, inspectors, fire, health, housing, inner city, licensing, parks, planning, roads and storm water, security, street trading, traffic, transport, treasury, water and waste. As a result personnel and resources were not spread on a metro wide basis. Enforcement actions therefore became uncoordinated between the clusters/ sub clusters and notices served for by-law infringements were processed separately.

Despite the abovementioned problems, certain by-law enforcement initiatives inside and outside of council show Johannesburg’s preparedness to be part of a centralized and uniform system such as the MPS.

*The Johannesburg Inner City's Enforcement Strategy*

The rapid decline of the inner city during the early 1990's prompted council, provincial and national government to undertake a major campaign of rejuvenating the inner city. As a result the 'Mayivuke' programme was launched - the precursor of the present Johannesburg inner city enforcement strategy.

The significance of inner city rejuvenation was further underscored by the Transformation Lekgotla's classification of the inner city as 'a priority intervention zone' in 1999. The Johannesburg inner city enforcement strategy formally started during this period with its main thrust – being the creation of pockets of excellence in the inner city through by-law enforcement. It is carried out in partnership with a range of role players including: various council departments, Gauteng Housing department, the SAPS and the Central Johannesburg Partnership (CJP). The strategy is divided into two groups or phases. The first group is called the 'streets group' and comprises of Traffic, Waste Management, Street Trading, Gauteng Housing department and SAPS. They focus on creating cleaner, safer streets in two areas in the inner city namely; Joubert Park and the area around Kotze street. This first group deal with violations pertaining to moving violations, parking violations, abandoned vehicles, littering, illegal dumping, illegal advertising, illegal street trading, searching of people and so on.

The second group is called the 'Buildings' group and carries out inspection on buildings which have been designated as problematic either because they are in a bad state, overcrowded or fail to comply with building regulations. This group consists of fire, health, building control, land use enforcement, Gauteng housing department and SAPS. There are basically three anticipated outcomes to this exercise, namely- to ensure that the owner/
occupant/ agent complies with the notice and restore the building; failure to comply would result in the building being attached or made available for redevelopment, lastly if the building is in a very bad state then council will demolish it.

City Improvement Districts (CID's)

Running parallel to the abovementioned strategy are a range of other initiatives which target by-law violations and attempt to create clean and public spaces in the city. Most of these projects are carried out by the Central Johannesburg Partnership project (CJP). The Central Johannesburg Partnership was formed in 1992 with the main purpose of revitalizing the inner city. The CJP has since become the main initiator of City Improvement Districts (CID's) based on the North American Business Improvement Districts. These are now provided for in Gauteng legislation. The CJP worked closely with council in the inner city strategy and intends to expand its improvement districts to new suburban city business districts such as Rosebank.

Whilst the above mentioned represent concerted attempts at ensuring that by-law infringements are prevented, their future depends largely on the establishment of the MPS. In their present form they depend on inter departmental relations and partnering with other role players and are largely dependant upon generosity rather than protocol. Johannesburg is at an advanced stage in its preparation for the MPS. The establishment of the MPS is going to have far reaching implications for the future of by-law enforcement in Johannesburg. It is expected that through the MPS most by-law agencies will be centralized and be run under one single structure. With it, clear lines of accountability, improved operational efficiency and focused delivery of safety and security services particularly in relation to by-law enforcement is excepted.

Operation Sekwanele - Scrap Yard Operation

This operation was started in 1999 and is jointly undertaken by the council's Town Planning Control Unit, council enforcement agencies, SAPS and SANDF in conjunction with their own specialized units. The operation was split into two phases as a result of a large area which the unit sought to cover. The Town Planning and Control unit's primary responsibilities are the enforcement of town planning control by-laws and regulations whose enforcement invariably incorporates other enforcement agencies. The Town Planning Control Unit's primary responsibilities are the enforcement of the provisions of the various town planning schemes throughout the greater Johannesburg metropolitan area. Their by-laws are applicable to each and every property that is zoned. The concept of zoning is critical to the management and control of urban areas because it allocates and defines certain rights of use to the property or area concerned. Action against scrap yards and chop shops in Soweto through the enforcement of Town and Planning Control by-laws and regulations invariably evokes other law enforcement agents for a number of reasons. Firstly- there is a need for an integrated approach as the problems in scrap yards are not purely town planning related but also link with other criminal activities taking place in these vicinities. Secondly, because the problems are myriad, this creates an opportunity for other enforcement agencies to access scrap yards and pursue their investigations. It becomes very important for SAPS in particular who otherwise would have to follow long and tedious legal process before accessing these zones to work in conjunction with council departments who use 'compliance with by-law and regulations' as an access point for other
policing agencies. Town Planning and Control's immediate aim in the operation is the closing down of the business due to non-compliance with zoning legislation. A notice will be served in this regard and failure to comply within 30 days will result in the involvement of SAPS and other enforcement units which then carry out their on investigations on site. SANDF assist with the physical removal of scrap metal one the site has been closed down.

Already, 40 illegal scrap yards have been closed down in Soweto and the impact of the operation is felt. The Town Planning Unit reports that since the inception of the operation there is an 80% drop in car hijacking and car theft in the Greater Soweto area.

Cape Town

Cape Town bears certain similarities with Johannesburg particularly in relation to current by-law enforcement both within and outside of council which have the potential of laying a sound basis for the establishment of the MPS in Cape Town. Save to say that there are pockets of fragmentation as evidenced by the existence of approximately 3 000 law enforcement personnel in the Cape Metro area falling under different local authorities.

*Civic Patrol in the former Cape Town City Council (CTCC)*

Cape Town also has an enforcement strategy similar to Johannesburg's in terms of wider council involvement, though only confined to one MLC - the Cape Town City Council. There is a lot which other cities can learn from Cape Town's strategy particularly because of its formal, co-ordinated and structured by-law enforcement model. Work around by-law enforcement does not emanate from a permanent by-law enforcement structure but is carried out on an adhoc basis.

In Cape Town, the formation of the "Civic Patrol" unit by the City of Cape Town is an example of the integration of enforcement personnel from a variety of backgrounds (such as cleaning, parks and forests, security, VIP protection and the former beach constables) into a new law enforcement unit comprising of over 150 officers to deal with by-law enforcement in the city.

*The Community Patrol Officers Scheme*

The Community Patrol Officer's Scheme is a joint local government, private sector, and SAPS venture- established in 1995 as Section 21 Company which seeks to enhance visible policing in the Cape Town CBD. The three partners contribute differently towards the running of the scheme. The local authority currently contributes the salaries of about 300 CPO's. In addition, the province contributes R20 million to cover indemnity insurance for the CPOs and has paid R2,3 million for routine training courses.

The CPO's have succeeded in maintaining a visible presence and fulfilling a crime prevention role in the Cape Town CBD. In spite of having succeeded in this regard, it has been pointed out that the integration into the MPS will have serious cost implications for local government. And the recent move by National Commissioner of Police- Jackie Selebi to halt them is hardly surprising. But the inappropriateness of the decision lies in a number of factors - chief amongst them being that the CPO's are not purely a SAPS creation. In the CPO board sits- local government, the private sector and the SAPS in terms of which they
contribute to the resource and financial base of the scheme. There have however been concerns about the huge share which SAPS is currently contributing and an attempt at addressing this has been hinted by the MEC for safety and Security in Cape Town.

The operational and functional requirements of SAPS are also not compromised through its involvement in the scheme, as there are currently no SAPS members on the beat in the CBD side by side the CPO's. It is against this background that the value of the CPO's not only in visible policing and crime prevention but also in effecting arrests in the CBD needs to be acknowledged and rather attempts should be made at sourcing funds from the private sector and other stakeholders to ensure its continuance.

The CPO together with the Civic Patrol Unit are accredited major reductions in crime in the centre of the city and by-law compliance in the Cape Town city council area. With plans currently to introduce 'advanced law enforcement' officers course to deal with more complex issues around by-law enforcement, the likelihood for a safe and habitable environment being sustained is great.

Through the Civic Patrol Unit and CPO, Cape Town can boast of excellent by-law enforcement and local policing in the CBD and city of Cape Town without having an MPS. However it is worth noting that unlike Johannesburg, in Cape Town the debate about metro policing and metro crime reduction initiatives is not focused per-se only on the establishment of a Municipal Police Service, but rather on the continuation of the above mentioned initiatives and the strengthening municipal local council's current capacity as a strategic priority within the city government.

The Cape Town Unicity with the help of consultants, is currently embarking on a project to develop a comprehensive safety and security strategy for the Cape Metro area. This will probably include a recommendation for a feasibility study to be conducted into the possibility of establishing an MPS for Cape Town.

**Cape Town's Municipal Court**

Municipal and Traffic courts in the Cape Town City Council jurisdiction (courts dealing specifically with the prosecution of municipal by-law violations) were introduced through the legislative framework provided for by the National Prosecutorial Act. The National Prosecutorial Act provides for the National Director of Public Prosecutions (NDPP) to delegate authority to any official, or to any employee the power to prosecute. After a series of negotiations between the NDPP, the Department of Justice and the Cape Town City Council, by-law violation offences were categorized, and the Director of Public Prosecutions gave council officials authority to prosecute on municipal by-law matters. This enabled the City of Cape Town to initiate the process of setting up its own Municipal Courts.

These courts are an example of an innovative partnership between the local government and the national Justice and Prosecuting agencies. The National Department of Justice provides the magistrates and trains the Clerks of these Courts, and the City of Cape Town provides for all the other functions (e.g. the prosecutors, venues and administration) of these courts. Together, the traffic and municipal court have an operating budget of R600
000 from the Cape Town City Council. The courts are managed by a management team made up of City Council, the Department of Justice, and the NDPP. (The Department of Justice plays a supervisory role, as directed by national legislation). There are regular monthly meetings to review progress and developments in these local courts.

Whilst the project is described as a success and an example to be followed by other major cities in South Africa, the absence of mechanisms to evaluate its impact on by-law compliance is still a problem.

Relationship Between by-law Enforcement and Crime Prevention

Because crime is caused by a range of factors, it will be impossible for any one agency or strategy to effect a major difference on its own. For example, a by-law enforcement strategy aimed at controlling undertakings that sell liquor to the public is doomed to failure if does not confront the corollary question of community education and the provision of alternative opportunities in the city to countenance alcohol abuse.

Experience has also shown that by-law enforcement alone has failed to reduce crime. Similarly, an approach that focuses exclusively on crime prevention is unlikely to be effective because it ignores the immediate threats to the city's safety. If local authorities are to solve the problems of crime, this must be based on clear understanding of the causes of crime as well. In cities, criminal activity often takes place as a result of the victim's vulnerability and the fact that the victim is in a crime prone place. Interventions in this regard must involve different agencies and local government departments because criminal activity here is located in more than one category. A concerted and integrated approach will therefore ensure that the two elements of crime prevention and enforcement are used together to further the impact on crime.

The importance of an integrated approach is further underscored by the advent of the MPS in South African cities. In Johannesburg by-law enforcement practices are presently fragmented and carried out exclusively by by-law enforcement agencies. Similarly, the character of by-law enforcement in Cape Town and Pretoria is that it is purely enforcement driven and only combined to the extent of involving by-law enforcement agencies from the various council departments. Durban on the other hand has an MPS which allows for the policing of traffic and municipal by-laws across the metropolitan structure and a Safer City programme, which has over the past two years successfully aligned all interested role players in the field local safety and security strategies. The programme has completed drafting a Safer City strategy for Durban which will serve as a blue print for crime prevention interventions to be initiated by the Durban Metropolitan Council. The programme, in monitoring the strategy is also expected to work hand in hand with the MPS in fulfilling its legislative mandate of crime prevention. There are arguments which hold that in Durban the fact that the Safer City Programme will be located outside of the MPS will render it ineffective and compromise its influence. Others have argued that, the MPS by its nature is enforcement driven and the inclusion of the programme within the MPS might compromise its crime prevention focus.

In Johannesburg, there seems to be growing support for the location of the Safer City programme within the MPS for logistic, financial reasons and political reasons. In the
final analysis, whether the Safer City programme lies in or outside of the MPS depends on the commitment and resolve form the officials and the various council departments which are crucial in ensuring that the right balance is made between the two approaches.

But again, other by-law enforcement agencies and crime prevention initiatives outside of the MPS will still have to be given the necessary support.²⁸

**Bibliography**


**Notes:**

¹ Section 151(3) of the final constitution states that 'a municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the constitution'.

² Voters in a particular area elect members of Municipal Councils through the holding of local government elections. The election of members of Municipal Council is in accordance with a system of proportional representation based on the municipality's segment of the national common voter's roll, and provides for the election of members from lists of party candidates.

³ In fact, some writers such as Van Schaik (1993) have gone to an extent of saying that 'a municipal council exists to make by-laws, or to take decisions which are in the form of directives to the officials who have to carry out functions of the municipal authority as prescribed by higher legislation. The plausibility of this assertion is that it does not take into account present challenges faced by local government – the fact that Municipalities are
increasingly broadening their scope of operation to encompass service delivery functions is worth-noting.

4 A municipality has the right local government matters in Part B of Schedule 4 and Part B of Schedule 5 and any other matter assigned to it by provincial and national legislation – for our purposes the SAPS ACT for instance provides for the establishment of a municipal police service by the municipal council. Further, section 156(4) states that national and provincial government must assign to a municipal council any matter falling under provincial and national government's competence as long as the matter would most effectively be administered locally and the municipality has the capacity to administer it. This means that 'police' as a matter listed under the provincial and national government's competence may be administered locally as well.

5 The difference between the two courts lies in their jurisdiction. Each province is divided into regional divisions which again are subdivided into magisterial districts. A regional court has jurisdiction within a particular regional division and a district court within a particular magisterial district. In practice, regional courts only try criminal cases, while district courts try criminal and civil cases. A regional court can try any criminal offence such as murder and rape, but not high treason. It cannot however impose imprisonment of more than ten years, nor a fine of more than R200 000. If the case presents possibilities of a sentence that might exceed the jurisdiction of the regional court, the high court is used as court of first instance. District courts on the other hand can hear both criminal and civil matters. The criminal jurisdiction of a district court is restricted. Unlike the regional court, it cannot try offences such as murder, rape and of course high treason. It tries less serious offences, such as theft, drunken driving and assault. It may not impose a sentence of imprisonment for more than one year or a fine of more than R20 000. The civil jurisdiction of a district court is also restricted in the sense that it can only hear cases where the amount of the claim is less than R100 000. It has no jurisdiction in matters pertaining to wills or status and divorce cases.

6 It does happen sometimes, for instance in the area of pollution control where a by-law imposes a fine of more than R20 000 or more than a year imprisonment in which case the regional court will hear the case. Private companies are usually the targets in such cases).

7 For example the health regulations, cleansing by-laws and town planning by-laws require different legal mechanisms

8 Following the submission of Durban's proposal to Kwa Zulu Natal's Member of the Executive Committee (MEC) for Safety and Security, on the 12th of January 2000 the application for the establishment of the MPS in Durban was approved by Provincial Cabinet and the MEC for safety and security. The Durban MPS was then established as a legal entity with effect from July 2000.

9 The traditional functions of the DCP were retained in the MPS, including duties such as the protection of council staff and property.

10 The grouping of personnel and functions that are going to be located within the MPS.
One such example is the Old Fort Building which is currently utilised as the MPS head quarters which is already equipped with the necessary communication and detection systems. Most importantly the MPS has readily available personnel to make use of these.

Apart from the fact that the MPS has a wider legislative mandate than the DCP of enforcing municipal by-laws, poling traffic by-laws and crime prevention.


The GPMC established a technical committee to assess the feasibility of a Municipal Police Service for the Greater Pretoria. The technical committee comprises mainly of senior traffic and security personnel and a group of consultants (Booz Allen and Hamilton) who have conducted a feasibility study on the introduction of Metro policing in Pretoria. The Technical Committee has so far come up with a framework for the establishment of a Municipal Police Service, which still has to be approved by the council. One reason for the delay may be the election of the new Tshwane council.

Whilst the metro council only enforces standard financial by-laws.

Except in special operations.

The Gauteng Provincial Government City Improvement District Act no. 12 of 1997

Such as the vehicle theft unit, public order policing, and from the SANDF side, the wing unit is usually on board in the operations.

The establishment of CPO's was approved by the Minister of Finance giving powers to the CPO Board to oversee its operation. It was established on the condition that if an MPS is established, the MPS will be absorbed under it.

The current agreement between CPO Board, the Provincial and National Department of Safety and Security limits the Board to not more than 770 patrol officers at any one time.

Estimated at R30 million.

Mostly for petty crimes.

The Cape Metro is making use of the services of consultants 'Resolve Crime and Security Solutions'.

Where opportunities for crime are great.

For example the inner city enforcement strategy works in partnership with SAPS in Central Johannesburg, various council departments such as Fire, Building Control, Land Use Enforcement, Environmental health, Traffic and Street Trading; the Gauteng
departments of housing and transport enforcement units and SAPS. The same applies to the project on scrap yards and chop shops in Soweto which involves the Town and Regional Planning enforcement unit an SAPS. provincial units such as the Gauteng Housing department.

26 Situated outside of the MPS structure. The Safer Cities Office is a crime prevention project started in 1999, following a collaborative agreement between the United Nations Centre for Human Settlement (Habitat UNCHS), and the Durban Metropolitan Council. The project co-ordinates crime prevention initiatives at metro level within the framework of the National Crime Prevention Strategy (NCPS).

27 The Safer City programme close proximity to the MPs might influence it to take crime prevention seriously.

28 For example the Central Johannesburg partnership.