

Local Level Civilian Oversight of the Metropolitan Police Departments in South Africa

by

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Executive Summary

The primary aim of this report is to contribute towards the strengthening of civilian oversight of Metropolitan Police Departments (MPDs) at local level. As part of this aim the report also explores the nature and functioning of the key local level structures in each of the metropolitan areas responsible for civilian oversight of the MPDs.

Metropolitan or municipal police agencies are a relatively new feature in South Africa and have a mandate that includes crime prevention, traffic and by-law enforcement. These agencies have been created with the intention of promoting safety and security in the local areas where they are established. However, as much as police agencies can assist and protect the public, this will not be without its problems. The extent to which the police can have a significant impact on crime in a large city is not that straightforward. Media reports of misconduct, brutality and corruption on the part of MPD officials serve to highlight the kinds of challenges that can accompany the activity of policing. If these challenges are not addressed they will undermine the extent to which citizens trust and cooperate with the police agency in addressing crime and safety problems.

The challenge facing the new MPDs and the city councils that oversee manage and resource them, is to ensure that the policing powers are not abused or used inadequately. Citizens expect that the police work effectively and that they treat people with respect. They need to be held primarily accountable for their performance and their conduct.

This report focuses on the five areas (Johannesburg, Tshwane, Ekurhuleni, eThekweni (Durban) and Cape Town) where Metropolitan Police Departments have been established to date and explores the nature and functioning of the key local level structures in each of these metropolitan areas responsible for civilian oversight of the MPDs.

The first section provides the case for civilian oversight before presenting an argument on how oversight structures best hold police agencies accountable. Civilian oversight of the police has been a key feature of democracies around the world for decades and this section draws largely from international literature on the topic.

The report presents a number of models and approaches to civilian oversight that has emerged internationally. In a democracy police are held accountable to multiple structures at different levels. The report presents a framework that distinguishes between internal police mechanisms (that focus on the performance and discipline of police officials), state mechanisms (that primarily focus on budgets and policies), and social mechanisms (that are primarily concerned with police misconduct and abuse). It is argued that for the police to be held effectively accountable there needs to be coordination between mechanisms at all three levels.

The report then briefly explains the accountability framework within which the MPDs operate. There are various structures at national and provincial level that have some role to play towards ensuring MPD accountability. However, the most direct oversight role is performed at city level. Each of the Metropolitan Councils exercises civilian oversight through committees. The primary committee in this regard is the 'Public Safety' committee consisting solely of elected local councillors from the various political parties represented in the council. A second committee called a 'Civilian Oversight Committee' is provided for in the legislation enabling the establishment of MPDs. The report presents a brief description of each of these committees in all five metropolitan councils based on in-depth interviews with the chairpersons of each committee.

An analysis of the key issues to have emerged from the research into the nature and functioning of each of the committees is presented. With 'Public Safety' committees, it was found that they play a role in overseeing all public safety structures and not only the MPDs. The amount of time spent considering issues to do with the MPDs varies from council to council. The primary focus of these committees is on issues related to the budget expenditure, policies, structures and resources of the MPD. These committees generally do not track key performance indicators of the MPD over time and tend not to focus systems for receiving and handling public complaints against the police.

The Civilian Oversight Committees are in most instances very new structures. As a result most of them are in the process of attempting to define their role. However, because of their very broad legal mandate and public apathy, this has so far proven a difficult task. Consequently, issues relating to the size, membership and resources of these committees have yet to be clarified and resolved. In a couple of councils, earlier versions of these committees were established but ceased to exist after a period of time, for the reasons mentioned above.

Flowing from the section on the international experiences of civilian oversight of police and an analysis of the research findings, the report presents five key recommendations to

city councils for strengthening civilian oversight of MPDs at local level. These include:

- Developing training and other resources to enhance the understanding and practice of civilian oversight of police agencies at local level;
- Ensuring that independent evaluations are conducted on key aspects of MPD performance and conduct;
- Ensuring that local level oversight committees include a focus on the policies, procedures and systems of MPDs to receive and deal with public complaints of police misconduct;
- Inviting feedback from various stakeholders as to their perceptions and experiences of the MPDs;
- Assisting in clarifying the role of the Civilian Oversight Committees and then capacitating them to play this role.

Introduction

During 2003, the Criminal Justice Initiative of the Open Society Foundation in South Africa embarked on a programme aimed at strengthening civilian oversight of policing in South Africa. A number of research-based projects were identified to inquire into how this could best be achieved through supporting civilian structures tasked with overseeing police agencies.

This report represents the work undertaken for one of the projects that explored the role and function of the primary local level civilian oversight structures of the Metropolitan or Municipal Police Departments (MPDs).¹ The primary aims of this report are:

- To contextualise civilian oversight of policing internationally, and to present a conceptual framework relevant for guiding police oversight;
- To present a broad descriptive and analytical overview of the primary civilian oversight structures of MPDs; and
- To develop recommendations as to how to strengthen the oversight capacity of these civilian oversight structures.

Since the birth of the new millennium, South Africa has seen the establishment of at least six MPDs. While local level police agencies had been provided for in the 1993 Interim Constitution, the South African Police Service Act of 1995 and the final Constitution passed in 1996, it was only in 2000 that the establishment of local government policing became a key issue. Up to that point there had been much uncertainty about the desirability or viability of such agencies. However, it has been argued that at that time the following factors gave particular impetus to the establishment of MPDs:²

- The finalisation of enabling legislation for such local police agencies;³
- Growing public concern and resulting political pressure on local authorities to deal with the problem of crime;
- The lack of knowledge and experience of local authorities to respond to crime other than through a policing and law enforcement approach; and
- The inability of local authorities to directly influence the SAPS with regards to service delivery contributing to a desire for cities to establish their own police

agencies.

Since 2000 South Africa has seen five metropolitan councils and one municipality establish local police agencies. The first MPD to be formally established under the new legislation was the Durban City Police in July of 2000. Next in line was the Johannesburg Metropolitan Police Department that was launched in April of 2001. In December of that year the Cape Town City Police Department was launched. In February of 2002 both the Tshwane and Ekurhuleni Metropolitan Police Departments were established. The only municipality to have such a police agency has been the Swartlands Municipality, which approved the establishment of their MPD in October of 2002.

Given South Africa's history of abusive policing, the Constitution emphasises the need for mechanisms to ensure transparency and accountability of its police agencies. Indeed, the legislation allowing for the establishment of MPDs specifically calls for particular 'Civilian Oversight Committees' to be created for this purpose.⁴ However, these committees are not the only civilian structures at local level to play an oversight role. Local authorities are made up of elected councillors who oversee the administration of its various functions through a committee system. Each metropolitan council therefore has a particular 'portfolio committee' that is tasked with overseeing its 'public safety' structures of which the MPDs are part.

Local level oversight committees are but one element of a much broader police accountability framework that exists in South Africa. National and provincial government executive and legislative structures all have a particular oversight role to play. Furthermore, the [Independent Complaints Directorate](#) (ICD) has the power to investigate deaths that occur as a result of any police action or that occur in police custody, as well as other allegations of police criminality. Moreover, state institutions established under Chapter 9 of the Constitution (e.g. the Public Protector and the Human Rights Commission) may also enquire into allegations of a range of human rights-related abuses.

Nevertheless, it is the oversight structures at local level, which act as the first line of accountability for MPDs. As local policing agencies are totally funded by local authorities, it is at this level that scrutiny of the MPDs is the most intensive and contemporaneous. Furthermore, as MPDs operate in specific local jurisdictions from which some of the members of local level oversight structures are elected or at least reside, these structures represent the concerns of the communities served by the local policing agencies. However, given the relatively recent establishment of MPDs, little is known about the nature or functioning of local level civilian oversight structures.

The research focuses on the primary civilian oversight structures of the MPDs in five metropolitan areas, as mentioned above. Given the exploratory nature of the project, the primary research methodology used consisted of in-depth semi-structured qualitative interviews with the chairperson of each the various Civilian Oversight Committees. Interviews were also conducted with a few senior officials of particular MPDs. In all, detailed interviews were conducted with twelve people as part of the research for this report.⁵ Where available, committee minutes or other primary documents were studied for further insight. Once the interviews were written up, they were sent to the participants of the study to ensure accuracy of the content.

The Structure of the Report

The first section (chapter 2) presents the key findings from a review of some of the international literature on the oversight of policing agencies? This section presents the case for civilian oversight and then puts forward a conceptual framework for guiding the focus of civilian oversight structures to enhance police accountability. Broad approaches to civilian oversight along with a few particular models are also briefly presented so as to provide insight into the types of work that such structures typically engage in.

The research findings are presented next (chapter 3). Greater detail is provided as to the legislation that allows for the establishment of local level police oversight structures. Subsequently, detail is given on each of the primary civilian-staffed committees that are tasked with holding the MPDs accountable in each of the five metropolitan areas.

The third section of the (chapter 4) presents the overall key findings that emerged from the research. This section highlights the common challenges confronting the primary civilian oversight structures at local level.

The last section of the report (chapter 5) sets out five key recommendations that emerge from the research and also indicates potential areas that a donor agency could fund to strengthen the role and capacity of local level structures tasked with overseeing MPDs.

Key Issues in Civilian Oversight of Police

Enhancing police accountability through civilian oversight is a complex and wide-ranging topic. A substantial literature relating to the topic is available. While there are many detailed accounts of particular examples of civilian oversight structures and initiatives, the review of the literature for this report aimed at extracting key lessons from the wealth of knowledge available. Consequently, the literature sources drawn on here primarily consider civilian oversight of police in a comparative manner. The primary aim of this section is to raise a number of important issues relating to civilian oversight of the police that have emerged from years of international experience. The issues contained in this section will be useful for any civilian oversight structure to consider in its attempts to define a role and an approach towards improving its capacity for holding the police accountable.

The Case for Civilian Oversight

Civilian oversight of the police is a complex endeavour in any country. As has been internationally recognised, 'police leadership and professional management are as important as effective oversight.'⁶ Indeed, external structures will never be able to replace police management for ensuring that a police agency operates in an effective and efficient manner. Nevertheless, democracies worldwide are increasingly recognising the importance of civilian oversight of policing so as to promote public support for and cooperation with police agencies. While there will always be limitations to what an external civilian oversight body can achieve, it is important to recognise the range of potential benefits that can be realised for different stakeholders.⁷

Police managers have recognised that civilian oversight can:⁸

- Improve the image of the police and its relationship with the public;
- Improve the public's understanding of the nature of police work;
- Promote community policing;
- Improve the quality of a police agency's internal investigations;
- Reassure the public that the police agency investigates complaints thoroughly and fairly;
- Discourage misconduct amongst police officers, and;
- Improve a police agency's policies and procedures.

Elected officials have indicated that civilian oversight:⁹

- Demonstrates their concern to their constituencies about police conduct; and
- Can assist in reducing civil claims against a police agency.

Members of the public have reported that civilian oversight has:¹⁰

- Satisfied them that the police agency can be held accountable;
- Helped reassure them that appropriate discipline is being implemented for police misconduct;
- Discouraged police misconduct and;
- Improved their understanding of police work.

The extent to which any of the above benefits (or others for that matter) may be realised depends on the defined role of the civilian oversight structure and its capacity to achieve its role. Nevertheless, irrespective of how effective an oversight structure may be in promoting demonstrable change in a police agency, it is possible that it will be accepted primarily because people feel that - at the very least - it provides a forum through which their voices can be heard.¹¹

Importantly, it has been recognised that 'the effectiveness of citizen oversight depends enormously on who the principal parties are.'¹² An attitude and working relationship of mutual respect and cooperation between police management and independent oversight structures is considered one of the ideal situations with regards to civilian oversight of the police.¹³

Some of the key lessons of the role of civilian oversight in police accountability have been summed up by renowned expert Samuel Walker in his book 'Police Accountability: The Role of Citizen Oversight.'¹⁴ After ten years of work on the topic Walker came to the following six conclusions:

1. 'In a democratic society citizen oversight of the police is in principle a legitimate and necessary aspect of police accountability.
2. Properly designed and implemented, citizen oversight can make a positive contribution to enhancing police accountability.
3. The effectiveness of an oversight agency depends heavily on the role it takes with respect to the police department; the monitoring role offers the greatest possibilities for achieving success. Many oversight agencies are not effective because of

structural weakness or a lack of vision about what they might do.

4. The monitoring role is particularly important because it focuses on changing the police organisation, and not just punishing individual officers.
5. There is relatively little empirical evidence regarding the impact of oversight agencies on the quality of day-to-day police work, and much research remains to be done on that subject.
6. While it can make a positive contribution, citizen oversight is not a panacea and can be effective only as one element of a mixed system of accountability.'

The Focus on Police Performance and Conduct

Given the complexities of police work and the management of police agencies, oversight bodies can easily get 'bogged down' in a wide variety of issues. For this reason it is important for them to be clear about the reasons they do the work they do and where their focus should be. While very specific terms of reference might be provided in legislation,¹⁵ these terms can also be very broad and cause oversight committees to spend considerable time discussing what they should be doing rather than actually practising oversight. This section of the report, therefore, provides a conceptual framework for guiding the work of police oversight structures where the terms of reference are particularly broad. Certain issues that are inherent to the occupation of policing will be highlighted to better indicate why the framework is important.

Decades of research and policy development have been undertaken throughout the world to ensure that the police carry out their functions effectively and within the law. These issues lie at the heart of police oversight and accountability. While conceptual clarity on these issues has improved over time, there are no simple answers that can be applied in all situations. Essentially, each country or jurisdiction has to work out how best to ensure that its police operate effectively and appropriately given their particular legal and political circumstances.

As democracies grow and develop, public expectations of the police are likely to shift. In South Africa, a key focus of government shortly after the first democratic elections was to shift public attitudes towards accepting the general credibility and legitimacy of the national police service.¹⁶ Ultimately however, the credibility of the police will depend on the extent to which people believe they are able to deal effectively with crime and disorder. This does not mean that the police can 'do whatever it takes' to achieve these objectives. People will also be concerned with how the police behave while they attempt to achieve these objectives. If the police are incompetent, brutal or corrupt, the general public will lose respect for them and the extent to which the police can control crime (or achieve any other objectives) will be severely compromised. It is as important for ordinary people that the police do their jobs professionally, within the law, and with respect for those they interact with.

For oversight structures then, the primary concern is that police should be held accountable for both their performance and their conduct.¹⁷

- Performance

Police performance refers to the activities that the police undertake to achieve their Constitutional and legislative mandate. Police departments should be able to record information about what they are doing and the resources involved, and should then be able to demonstrate the impact that this has on crime and police service delivery. Oversight bodies should focus on ensuring that the policies and management systems (e.g. performance measurement systems) are in place to provide police commanders with accurate information about police performance. Oversight structures should be able to clearly and objectively establish whether or not a police agency is responding appropriately and adequately to concerns relating to crime and disorder.

- Conduct

Police conduct refers to how police officials behave while carrying out their duties. Police work takes many lower ranking officers out of sight of their commanders. As a result police managers will have to largely rely on complaints from members of the public to receive information about the types of misconduct and abuses of power that some of their officers are involved in. Police management should also be able to clearly demonstrate that they have the will power and capacity to deal with misconduct and corruption (even where public complaints have not been received). The oversight focus on police conduct should therefore include ensuring that appropriate policies and management systems (e.g. the disciplinary system) are in place. Police management should be able to demonstrate to the oversight structure that their police agency has easily accessible systems to receive complaints against police officials from the general public. Furthermore, police management should also be able to demonstrate that all cases received are thoroughly investigated and that appropriate action is taken timeously where it is found that police officials are acting outside of the regulations and law.

These two components of police accountability in democracies have been termed the 'double demand', as 'Citizens demand that police protect them but do so only legally and respectfully'.¹⁸ This 'double demand' presents democracies with a number of particular challenges in relation to oversight of their police.¹⁹ These challenges arise partly out of the nature of police work and partly out of the organisational culture of most police agencies. The key challenges can be summarised as follows:

- The link between police activities and crime prevention is not always clear or straightforward. Following an assessment of scientific evaluations of various policing crime prevention strategies and tactics in the USA, it was found that crime will generally not be prevented through the use of a range of common policing tactics (including, for example, reducing police response times to calls for assistance or random patrols).²⁰ It is therefore important that police agencies are able to collect data on their activities (key performance indicators) and demonstrate as much as possible the link to their core objectives (key impact indicators).
- Many police officials do not believe that ordinary people really care about how they act while they are doing the job of policing.²¹ Often their personal experience will be that many victims of crime and even some of their supervisors are quite comfortable that they break a few regulations in the course of showing a criminal

suspect (or anybody who challenges them for that matter) 'who's boss'. As long as this type of behaviour is not confronted it will become part of the culture of the way the police do their work. Research into police sub-culture demonstrates that members of police agencies will develop their own norms and standards that are not necessarily constrained by the formal rules and regulations.²² Without an external structure to mediate police sub-culture, very problematic abuses of police power can emerge, such as those experienced during apartheid and which, in one form or another, have continued into our new democracy (e.g. police corruption).

- Policing professionally, within the law and regulations is more difficult than policing without such constraints.²³ This does not mean that policing outside of the law is more effective because of the better results that are achieved. Rather, policing outside of the law may mean that certain results are achieved more quickly. Simply put, it may be easier for a police official to use or threaten violence to get people to respond to police demands rather than enter into a discussion with them. Similarly, it may be easier to locate a criminal suspect through torturing a close friend of his as opposed to organising a stakeout of his home. However, over the course of time policing outside of the law causes problems that undermine the effectiveness of the police. For example, ordinary people may start to fear or mistrust the police as much or even more so than they do criminals and will therefore be less likely to cooperate with the police to tackle crime.
- It is difficult for most people and government officials to know much about how police officials are doing their work.²⁴ Police members usually work in small groups and out of sight of their senior commanders. It is therefore easy for many police officials to give poor service or become involved in corruption, as they are unlikely to be held immediately or directly accountable. The nature of police work as described above also makes it easy for commanders to 'turn a blind eye' to problems that occur, or to state that they 'didn't know what was going on', or that it was an aberration as a result of 'bad apples' if problems suddenly come into the public eye.

It is the role of external oversight bodies, wherever they are placed, is to 'face up to these challenges' and ensure that the negative consequences of inadequate performance, poor service delivery, and abuses of police power are kept to a minimum. Given the large number of complex issues that police agencies are involved in, it would serve oversight structures well if they could focus their sights on police performance and conduct. As these issues lie at the heart of why police agencies exist, anything to emerge for consideration by oversight structures should be viewed against the conceptual framework of how the issue relates to the performance and/or the conduct of the police.

It also has to be recognised that there are different levels at which oversight of the police occurs. While national parliament committees will be more concerned with issues of broad policy and funding, lower level structures may be more concerned with specific policies and police response to particular local crime and disorder concerns.

Models of Civilian Oversight

When one looks at the literature on civilian oversight of police it quickly becomes apparent that there is no single or generally acceptable model to follow. Rather, it has been

recognised that in all democracies the police are held accountable to multiple mechanisms for accountability, and that these can be grouped into 'three key levels of control.'²⁵ These include the following:

Internal or Departmental Control

This refers to the management and disciplinary systems that are found within police departments. These are often seen as the most effective forms of control if properly established and resourced as they have the most direct and immediate impact on the police agency.

State Control

This refers to the role that legislative, judicial and executive agencies of the state have to play with regard to holding the police accountable.

Social Control This refers to the mechanisms within civil society that contribute to ongoing oversight and accountability. These include the media, advocacy and research organisations, and community-based organisations.

It has been pointed out that no one level or mechanism is better than another, but rather that 'Control at every level must be strong, and the mechanisms that hold the police accountable for public safety must be coordinated with those that hold the police accountable for corruption and abuse.'²⁶

Accordingly, when considering how to improve police accountability, the above framework will assist with identifying levels and mechanisms that are in need of strengthening or reform. It is important to note that two of the three levels are predominantly forms of 'civilian oversight.' However, it is better to think about the 'roles' that oversight agencies play that are linked to the 'approaches' that they take as opposed to a specific model for civilian oversight. For instance, at the level of 'state control', executive and legislative structures may be primarily concerned with the budget of the police department and its performance in relation to public safety and crime reduction. At the level of 'social control' however, the various structures may be more concerned with police behaviour and abuse of power. Coordination between the three levels of control is therefore seen as the key challenge facing democracies to ensure effective police accountability.

With regards to civilian oversight of the police, all democracies will have executive, legislative and judicial structures that have direct and clear powers over the police department. This will take on different forms in different democracies. However, the shortcomings inherent within this level of control have led to increased attention being paid to the level of 'social control.' Samuel Walker points out that elected officials are often removed from, or sometimes the source of, key police problems such as those relating to police abuse of power²⁷ and typically lack knowledge of the complexities confronting policing and police administration.²⁸ Similarly, while the judiciary has an important role to play in setting limits on key policing issues such as the use of deadly force, many critical issues such as 'routine abuse and complaint procedures for responding to such incidents fall below the threshold of constitutional law'.²⁹

As a consequence of the failures of the above mechanisms to ensure effective police accountability there has been a rise in the focus of 'civilian oversight' that occurs at the level of 'social control'. This refers to the establishment of independent civilian-controlled

structures that focus specifically on the challenges of police misconduct, abuse, and corruption. Walker refers to this as 'citizen oversight' and defines it as 'a procedure for providing input into the complaints process by individuals who are not sworn officers'.³⁰ Given the shortcomings of the mechanisms highlighted above, this approach has grown dramatically since its emergence 40 years ago so that it is now, 'an international phenomenon'.³¹

Nevertheless, even within this relatively focused area for police accountability there is no one model or approach that is seen as 'the best way to go.' Rather, differentiation has been made between two broad approaches, which can be termed respectively 'reactive' and 'proactive'.³²

The Reactive Approach

This approach to civilian oversight has been termed 'reactive' in that it reveals a 'deterrence based approach to police misconduct'.³³ In other words, it is assumed that alleged misconduct amongst police officers will be prevented because of the way oversight structures react to such allegations. The following four models show how oversight agencies have typically undertaken this role:³⁴

Model 1 – Independent Investigations The civilian oversight structure independently investigates any aspect of police activity to determine if police misconduct exists where serious allegations have been made or there is significant public interest in a matter. Usually the majority of complaints will be left to the police agency to investigate and respond to. Upon completion of the investigation, the oversight structure will arrive at findings and present recommendations to the Chief of Police.

Model 2 – Reviews Investigations The civilian oversight structure does not investigate allegations but rather reviews investigations conducted by the police agency. Following its review it will either recommend that the police chief accepts or rejects the findings of the internal investigations. It may make other recommendations relating to the investigation process.

Model 3 – Appeals Structure The civilian oversight structure may receive appeals from people who have laid complaints against the police and are still not satisfied with the findings of investigations. After hearing the appeal, the oversight structure makes its own recommendations to the Chief of Police.

Model 4 – Process Audit The oversight structure investigates or audits the process by which a police agency accepts and investigates complaints from the public. It makes findings on the fairness and thoroughness of the process and may present recommendations as to how it can be improved if necessary.

These models represent four primary methods that many oversight agencies use to tackle the issue of public complaints about police misconduct. Nevertheless, it is useful to note that most oversight structures do not fall neatly into any single model but may represent a hybrid approach. Typically, final discipline decisions are left to the Chief of Police. It is the engagement between independent oversight structures and police commanders on public

complaints and disciplinary management that promotes transparency and accountability within the police agency. Indeed, it has been stated that 'The basic goal of citizen oversight is to open up the historically closed complaints process, to break down the self-protective isolation of the police, and to provide an independent, citizen perspective on complaints'.³⁵

The Proactive Approach

In particular, some oversight bodies have adopted a more 'proactive' approach, which entails 'identifying and resolving underlying systemic problems within police organisations'.³⁶ So while such agencies will also generally focus on police misconduct, they are more concerned with patterns and trends of problems – rather than with individual officers - and what these patterns reveal about shortcomings in police policies, supervision and training.

Apart from the focus on specific complaints of police misconduct, many oversight structures take on other important roles. These roles can also be seen to fall into the proactive category, as they tend to focus on policies, patterns and trends. Examples of the kinds of roles that such oversight structures play include:³⁷

- Recommending changes to policies, procedures and training, viewed as one of the most important oversight responsibilities as it can lead to service delivery improvements throughout the entire police agency;³⁸
- Arranging mediation to deal with complainants; and
- Assisting police agencies to establish or maintain early warning systems designed to identify police officers who may require supervisory counselling or retraining.

The following table highlights the key differences between the reactive and proactive approaches.

Reactive and proactive approaches to police misconduct³⁹

Reactive Approach	Proactive Approach
Responds to individual complaints	Explores problems proactively (e.g. investigations with a focus on the collection and analysis of data)
Emphasises legalistic rules	Identifies underlying problems and causes
Makes use of adversarial & administrative processes	Focuses on the organisation as a whole
Imposes sanctions on individual officers	Concerns itself with the reduction and prevention of misconduct
Relies on deterrence	Develops recommendations for organisational change

As can be seen from the table, these two approaches are not mutually exclusive. It is possible that elements of both approaches can be adopted within any of the models presented above. What this table aims to do is to highlight the key thematic differences between the two approaches.

Establishing and Sustaining Civilian Oversight

Regardless of the role or approach that is taken by a civilian oversight structure, studies have shown that establishing and sustaining such structures is a difficult process that may be continuously challenged by organisational and political dynamics and developments.⁴⁰ Nevertheless, a number of key factors that appear to influence all civilian oversight initiatives have been identified as follows:⁴¹

- **Political Support:** This is critical if oversight agencies are to be properly resourced, given powers and be effective.
- **Police Cooperation:** This has been cited as, 'probably one of the most significant factors that helps explain the failures and underperformance that have afflicted civilian oversight agencies'.⁴²
- **Activist Support:** Human and civil rights organisations can have significant positive or negative impact depending on whether they understand and support civilian oversight structures or not.
- **Resources:** It is not uncommon to find oversight structures that do not have the necessary resources to adequately fulfil their mandates. This may be due to deliberate political reasons to limit the powers of such structures or simply because of scarcity. Either way, inadequate resourcing will always undermine the effectiveness and therefore legitimacy of oversight agencies.
- **Management and Leadership:** As with resources, effective leadership is critical to inspire confidence amongst politicians, the police and the public. Moreover, the initiatives, process and procedures of the structure also need to be managed effectively and efficiently.
- **Public Attitudes:** While big public scandals about police abuses can lead to public support for oversight structures, in countries facing high crime rates there may be a higher level of public tolerance for 'aggressive policing' and the abuses that are often associated with it. Oversight structures may then be seen by the public as hindering the police and it will be important that such structures clearly communicate their role.

The above issues are useful for any civilian oversight structure to consider particular strengths and weaknesses as part of a strategic planning process.

Civilian Oversight of Metropolitan Police Departments

This section will present the findings of the research that was conducted on the civilian oversight structures that exist in the five metropolitan areas of Johannesburg, Tshwane, Ekurhuleni, eThekweni (Durban) and Cape Town. Before the findings are presented it must be briefly highlighted that there are a number of government structures that have powers to oversee MPDs. The National Commissioner of the SAPS has the authority to establish the policing standards to be adhered to by local police agencies and has the powers to monitor these standards and intervene if they are not being upheld.⁴³ The SAPS may also investigate criminal cases against any member of an MPD. Similarly, the Independent Complaints Directorate (ICD) has the authority to investigate or monitor investigations into allegations made against MPD officials. Where a person dies as a result of action or while in the custody of a MPD official, the ICD is compelled to investigate the incident.

At provincial level the MEC for Safety and Security has a duty to ensure that the application procedures for the establishment of these local government agencies are adhered to, and also typically monitors the progress and operations of these agencies through receiving quarterly reports. Apart from these structures, a range of so-called 'Chapter Nine institutions'⁴⁴ (i.e. the Public Protector, the South African Human Rights Commission, and the Gender Commission) may, as part of their broader mandates, receive, investigate or refer for investigation any complaints they receive against MPD officials.

While all these above structures ensure that there is a significant accountability framework over the MPDs, it is at local level where the most intensive and meaningful oversight of these agencies is exercised. This is because local authorities have to provide the resources for their MPDs and have the most to benefit from or lose if these agencies are effective or not.

The first part of this section presents the legal framework within which local authorities have established the committees that are responsible for civilian oversight of MPDs. In the second, greater descriptive detail of each of the committees for all of the local authorities included in this study is provided.

Overview of Civilian Oversight Structures at Local Level

The role and functions of local government are delineated by the Constitution and then described in substantial detail in two lengthy Acts; namely the Local Government Structures Act of 1998 and the Municipal Systems Act of 2000. This legislation sets out the framework within which local government authorities must operate and stipulates that local government structures must strive to identify and respond to the needs of the local communities they serve.⁴⁵ In particular, the Municipal Systems Act of 2000 stipulates that the administration of a municipality must facilitate a culture of public service and accountability amongst its staff members.⁴⁶ A number of municipal structures have been provided for in the legislation to assist local government authorities to achieve this objective. Municipal councils have to be established and may delegate their powers to ensure 'maximum administrative and operational efficiency and provide for adequate checks and balances'.⁴⁷ If it is considered necessary, municipal councils may establish committees and provide adequate financial and administrative resources to support them.⁴⁸

Local government bodies are structured in such way that they perform both executive and parliamentary type functions. Executive committees may be established for certain types of municipalities (metropolitan councils are one such municipality).⁴⁹ Similarly, certain municipalities may elect an executive mayor who would have the same powers as an executive committee.⁵⁰ Executive mayors may appoint a mayoral committee and delegate certain powers to members of this committee to assist the mayor in fulfilling his or her functions. In a sense, the mayoral or executive committee members are like cabinet ministers and represent the political heads of particular executive portfolios and functions. These executive structures are seen as the primary vehicle for ensuring the efficient, economical and effective functioning of the municipality.⁵¹

In relation to parliamentary-type oversight functions, municipal councils may further

establish two broad types of committees to assist them in their duties. These are often referred to as 'Section 79' or 'Section 80' committees as they are provided for in the corresponding sections of the Local Government Municipal Structures Act of 1998. These committees consist of multi-party representation and will typically make recommendations relating to their portfolio areas of concern to the executive structures or the council as a whole.

Section 79 of the Act states that:⁵²

'A municipal council may

- (a) establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
- (b) appoint the members of such a committee from among its members; and
- (c) dissolve a committee at any time.'

Moreover, the municipal council:

- '(a) must determine the functions of a committee:
- (b) may delegate duties and powers to it in terms of section 32:
- (c) must appoint the chairperson:
- (d) may authorise a committee to co-opt advisory members who are not members of the council within the limits determined by the council;
- (j) may remove a member of a committee at any time: and
- (f) may determine a committees procedure.'

Section 80 of the same Act states that:⁵³

'If a municipal council has an executive committee or executive mayor, it may appoint in terms of section 79, committees of councillors to assist the executive committee or executive mayor.' In particular, 'the executive committee or executive mayor:

- (a) appoints a chairperson for each committee from the executive committee or mayoral committee;
- (b) may delegate any powers and duties of the executive committee or executive mayor to the committee:
- (c) is not divested of the responsibility concerning the exercise of the power or the performance of the duty: and
- (d) may vary or revoke any decision taken by a committee subject to any vested rights.'

Furthermore, 'Such a committee must report to the executive committee or executive mayor in accordance with the directions of the executive committee or executive mayor.'⁵⁴

The primary differences between the two committees relate to membership and the candidates for chairpersonship. In terms of membership, Section 79 committees may have members who are *not members of council* whereas Section 80 committees may consist only of *members of council*. As far as the chairperson is concerned, Section 79 committees may have any of its members as the chairperson while Section 80 committees may only have a *member of the executive or mayoral committee* as chairperson.

As members of the executive or mayoral committee chair Section 80 committees, they may

be considered to have more status in council than Section 79 committees. Typically, Section 79 committees are primarily seen as advisory committees whereas Section 80 committees are more likely to have the right to make certain decisions dependent on the powers delegated to it.

Section 80 Public Safety Committees

Local government authorities have particular responsibilities for certain competencies related to public safety (e.g. fire departments, ambulance services). The local authorities that were the focus of this study all have executive or mayoral committees and had appointed certain of their members to oversee what was termed a 'Public Safety Portfolio'. To assist these committee members with their portfolio, Section 80 committees had been established. Once Metropolitan Police Departments had been created, they were allocated to the portfolio of the 'Section 80, Public Safety Committees.'

While further details of each of the Section 80, Public Safety Committees are given below, some of their general characteristics are highlighted here. Amongst the local authorities in this study there were slight variations between the Section 80 committees. While all of these committees consist of members from all political parties represented at the municipal council, some of the committees had limited powers delegated to them while others had no powers. Typically they will meet on a regular basis, either once or twice a month. In most cases these committees consider matters related to public safety agencies other than the MPD (as mentioned above). However, in eThekweni (Durban) a specific committee has been established to consider matters only pertaining to their MPD. For the committees in the other local authorities, the amount of time that they dedicated to matters concerning the MPDs varied in the findings (for example, from approximately 66% in Johannesburg compared to approximately 25% in Cape Town).

Generally, all of the Public Safety Committees appear to function in a similar manner. The chairperson, being a member of the executive or mayoral committee, plays a greater, more hands-on, role in overseeing the MPD than most members of the committee. He or she would also be responsible for formulating and driving the agenda of the committee. The agenda and related documents are forwarded to committee members at least seven days before the meeting to give them time to familiarise themselves with the contents. During the committee meeting the agenda items are discussed and decisions arrived at. Typically, the chairperson works towards achieving consensus around the decisions reached. These decisions are then forwarded for ratification to the executive or mayoral committee or, if necessary, the council.

Civilian Oversight Committees

The SAPS Amendment Act of 1998 (section 64 J) specifically states that Civilian Oversight Committees should be established for each MPD. The Act does not stipulate who should be on these committees or how they should function but provides that they should:

- (a) 'at the request of the municipal council in question, advise the council on matters relating to the MPS;
- (b) advise the CEO with regard to the performance of his or her functions in respect of the MPS;

- (c) perform such functions as the MEC, the municipal council or the CEO may consider necessary or expedient to ensure civilian oversight;
- (d) promote transparency and accountability in the MPS;
- (e) monitor implementation of policy directives issues by the CEO and report to the council thereon;
- (f) perform such functions as may from time to time be assigned to the committee by the municipal council or CEO;
- (g) evaluate the functioning of the MPS and report to the municipal council or CEO thereon.'

Given the 'advisory' nature of the legal mandate of this committee, most of the local authorities have established this committee within the framework provided by section 79 of the Local Government Municipal Structures Act. Generally, except for Johannesburg (which established its committee in 2001), these committees are very new and have been in existence for less than a year. Further details as to their structure and functioning will be presented in the next section.

The Johannesburg Metropolitan Police Department

The Johannesburg Metropolitan Police (JMPD) was launched in March 2001 and is therefore the second oldest of the five Metropolitan Police Departments. It was built largely from existing staff from traffic department, administration, by-law enforcement and security personnel.

The JMPD has 2 827 personnel of whom 1 350 are classified as 'operational staff.'⁵⁵ It has a fleet of 610 vehicles with which to police a population of 2.8 million people living in an area of 1 644 km².⁵⁶ Its annual budget is R192 million.⁵⁷ To give an indication of the perception of the public as to the role of the JMPD, it is worthwhile to glance at the nature of the calls for assistance that are received by the agency. The 2002/2003 Johannesburg Council Annual Report reveals that the agency's call centre received 42 363 calls, of which 76% related to motor vehicle accidents, 9.7% to other road traffic matters, 4.3% to crime and 10% to general matters.⁵⁸

The Section 80 Public Safety Committee⁵⁹

This committee comprises a total of 24 members, with the ANC represented by 15 councillors, the DA represented by five, the IFP represented by two, while AZAPO and the NNP each have one representative. According to the chairperson, Councillor Sizakele Nkosi, the committee is where the 'serious debates' take place as a diverse range of views exists between parties. Nevertheless, committee decisions are typically reached through consensus once everybody has had a chance to make an input. In most cases the recommendations forwarded by the Public Safety Committee are accepted by the mayoral committee.

The Public Safety committee not only oversees the JMPD but also plays a role in overseeing other structures related to public safety, such as emergency services⁶⁰ and the newly established municipal courts. However, given the profile and role of the JMPD, it focuses most of its attention (approximately two out of every three hours of committee

time) on this agency. The primary roles of the Public Safety Committee in relation to the JMPD are to monitor the police agency's budget and implementation of policy.

After the establishment of the JMPD, the committee spent about six months on clarifying the agency's terms of reference, policies, procurement and recruitment procedures. A particular interest of the committee continues to be crime reduction and this was established as one of the key performance indicators of the JMPD. However, as the South African Police Services (SAPS) operates in the same jurisdiction as all of the MPDs including the JMPD it is impossible to tell which agency is most responsible for any changes in the crime statistics.⁶¹ Nevertheless, the Chief of the JMPD has referred to a range of innovative indicators of the JMPD's success (e.g. a reduction in the number of gunshot wounds being attended to by Johannesburg hospitals.) 'Visible policing' has also emerged as a key indicator of success and has been measured through public perception surveys.⁶² Generally, the committee will receive a substantial amount of detail on the activities of the MPD through the quarterly report to the MEC.⁶³ Furthermore, the committee will 'indicate its preferences' with regards to what types of activities it expects to see more of and will then receive feedback on progress from the Chief of the JMPD.

More recently, the committee has been focusing on 'special projects' being run by the JMPD. These include the establishment and operations of special units such as the anti-hijacking unit, and other covert units deployed to crime 'hot-spots'. Some of these initiatives have emerged out of suggestions by committee members following concerns raised by their constituents. Members of the committee will inform the JMPD about complaints they have received of particular crime 'hot spots'. A covert JMPD unit will be sent to the 'hot spot' and the results of its operations will be reported back to the committee.

Another key focus area of the committee is the MPD's internal affairs unit. This unit submits a monthly report on the numbers of complaints or incidents of misconduct that it has received and the status of investigations. Most of the cases reported by the unit are criminal in nature and are referred to the SAPS for investigation. The remaining cases usually consist of complaints of bribery, which are largely reported to be taking place in the licensing department.

The relationship between the chief of the JMPD, Chris Ngcobo and the committee was described generally as one of 'a partnership'. The chief attends each meeting so as to be available to respond to questions and issues raised by the committee. This 'partnership' approach sees the committee considering how it can best provide assistance to the JMPD. This includes the committee advocating to council that the JMPD receive further resources to keep up with the demand for its services.

Although the relationship between the committee and the JMPD is largely characterised by partnership, the committee also undertakes a 'watchdog role' over the agency. It does this by carefully scrutinising reports submitted by the JMPD and raising challenges to claims made in the reports relating to performance. If answers are not satisfactory or information is not forthcoming, then the chief can expect to be 'rapped over the knuckles'. This could entail critical comments being made by the chairperson.

The committee has adopted an interesting approach towards its oversight role. The

committee has divided itself into specialised focus areas. Two committee members each take responsibility for focusing on a specific component. These include:

- Visible policing
- Licensing
- Hi-jacking squad
- Special patrol units
- Internal affairs.

During the month, committee members will undertake visits to these components, interview personnel to obtain further information and then report back to the committee. This approach helps spread the work of the committee and allows for a more in-depth focus and committee understanding on the workings of the JMPD.

While the chairperson is generally satisfied with the work of the committee, the following suggestions were made as to how the committee could improve:

- Councillors could be trained on how to interrogate reports more critically;
- Writing skills could be improved so that the reports submitted by the councillors are better drafted; and
- There is a need to improve research capacity of the committee and the councillors to better acquire and analyse information.

*The Civilian Oversight Committee*⁶⁴

The Civilian Oversight Committee was established during 2001 following the launch of the JMPD. There was much debate in the public safety and mayoral committees as to how to best establish this committee. Initially the committee consisted of six people, including three councillors and a representative each from organised business, organised labour, the SAPS Community Policing Forum Johannesburg Area Board, and a representative from civil society.

Later, the Public Safety Committee decided to expand the size of the Civilian Oversight Committee to ensure that it was more representative. This resulted in further invitations to different stakeholders to nominate representatives to serve on the committee. By 2002 the committee had agreed to approximately 20 people serving on it. The chairperson of the Civilian Oversight Committee has consistently also been the chairperson of the Public Safety Committee.

The next key challenge facing the committee was to narrow down its terms of reference. This proved a difficult task with little clarity or agreement being reached on the precise role of the committee. This has contributed to a high attrition rate so that usually less than half of the official 20 members generally attend meetings. While certain agreements were reached during the first half of 2003 relating to information that would be presented to committee members, capacity problems due to a heavy workload facing the MPD led to the committee only meeting twice more that year (therefore it only met a total of three times during the year) without the required information being presented.

During its first meeting of 2004 the previous agreement relating to receiving information was re-iterated and it was further suggested that the committee restrict its focus to these four issues:

- Interrogating the quarterly report to the MEC;
- Monitoring the budget and expenditure of the JMPD;
- The Internal Affairs reports; and
- Special projects or issues as they emerge.

There are still a number of key challenges confronting the committee. One of those considered most important is resources and support. Administrative support for the committee has been provided by the JMPD through the Office of the Chief. There is some feeling that this should not be the role of the JMPD if the committee is to be perceived as truly independent. Moreover, the chairperson of the Section 80 committee has also served as the chairperson of this committee since its inception. While this has not yet led to any problems or tensions within the committee, the chairperson herself has indicated that this issue needs to be considered more carefully.

In spite of the challenges facing the committee it continues to exist and has played an oversight role to a limited degree. Senior ranking JMPD officials have attended most meetings and answered questions posed by the committee. A number of presentations have been made by the JMPD to the committee relating to its plans and operations. JMPD reports have been made available to committee members and suggestions made by the committee are formally minuted. Some of the committee members have reported back to their constituencies and attended further meetings with the JMPD to focus on specific issues (i.e. the inner-city CCTV programme).

The Tshwane Metropolitan Police Department

The Tshwane Metropolitan Police Department (TMPD) was established in February 2002. It is headed by Police Chief Mpho Mmutle, who was the former head of the SAPS VIP Protection Unit. The TMPD consists of 787 officers and 450 vehicles to police a population of 1.8 million in a jurisdictional area of 2 292km². Its annual budget is R347 million.⁶⁵

The Tshwane MPD Monthly Activity Report for June 2002 (a sample month of data provided to the researchers) reveals that during that month, TMPD activities were primarily focused on traffic enforcement. A total of 20 786 hours were worked for the month of June, with roughly 43% of those hours related to traffic enforcement, 23% related to crime prevention (and responding to complaints) and 2% related to by-law enforcement activities. The remaining hours were spent on activities such as administration, court duties, training, vehicle inspections etc.⁶⁶

The Section 80 Public Safety Committee⁶⁷

The Tshwane Council's Public Safety Committee is chaired by a member of the mayoral committee, Councillor Ditshoke. The committee consists of 14 members of whom eight represent the ANC, four represent the DA, while the NNP and the PAC are each represented by one member. Included within the portfolio of the committee are emergency services

(made up of disaster management services, the fire department and the ambulance service) and the Tshwane Metropolitan Police Department. The committee meets every month for approximately four hours and, given the high profile of the TMPD, the committee spends a substantial amount of its time considering matters related to the agency.

According to the chairperson, this committee sees its role as monitoring the TMPD in terms of its 'effectiveness and efficiency in achieving the objectives as set out in the business plan'.⁶⁸ The chairperson plays a significant role in establishing the committee's agenda and ensuring oversight of the TMPD. Every week the chairperson will meet with the Chief of Police and his three deputies to review the activities and operations of the agency. He will receive a detailed briefing on crime statistics and the incidents dealt with by the TMPD. He will also receive detailed information relating to policy issues and budget expenditure of the agency. From these weekly briefings, the chairperson will select what he considers are the relevant policy issues that need to be considered by the committee. These issues will make up the committee agenda for the month.

Policy issues that have been forwarded to the committee for consideration include such things as establishing protocols with neighbouring municipal areas as to when TMPD officers may enter into their jurisdictions (i.e. during the hot pursuit of a criminal suspect) and the legal accountability of TMPD officers while outside of their own metropolitan area. Other policy issues relate to procurement and tendering decisions about resources (e.g. types of motor vehicles and firearms to be used by the TMPD). Financial expenditure reports will also go to this committee for scrutiny. Part of the committee's role is to make recommendations relating to how increases in the budget of the TMPD will result in the agency being better able to meet its targets.

These issues will be placed on the agenda throughout the month and will be circulated with accompanying documentation to all the committee members at least seven days prior to the monthly committee meeting. There are some standing items such as accident reports (which will be used to assess whether or not the TMPD is able to reduce the number of accidents occurring at certain places.) Councillors are able to add specific items to the agenda if they so wish and opposition parties are able to suggest amendments to recommendations arrived at by the committee. Committee members are also at liberty to meet with TMPD officials at any time, and will inform the chairperson of their intention to do so beforehand. Committee members also take note of TMPD officials that have been injured while on duty and visit these officials in hospital.

According to the chairperson, the committee strives to achieve consensus as to its recommendations forwarded to the mayoral committee (of which the chairperson is a member). While the relationship between the committee and the Chief of Police was described as 'good', members of the committee are encouraged to thoroughly question him to ensure that he is able to defend his reports. The chairperson sees this as important as he has to take political responsibility for what is presented by the TMPD. A general council meeting takes place every three months during which the political parties will caucus so as to identify the various issues that they want to raise. The chairperson of the committee must be able to respond to the issues raised in this forum.

Some of the challenges or goals of the committee relate to:

- Receiving timely information from internal systems in the MPD;
- Developing a better understanding as to how the MPD can work with the SAPS to reduce serious crimes; and
- Being able to forge a common approach with other metropolitan Public Safety Committees towards oversight of MPDs.

The Civilian Oversight Committee⁶⁹

The TMPD initially established its Civilian Oversight Committee in 2002. This committee was relatively small, consisting of only six members: two councillors (the chair of the Public Safety Committee and one other), one expert in policing and crime matters (in this case a criminologist from UNISA), a representative from the CPF Area Board, one financial expert, and a representative from the Mayoral Advisory Committee on safety matters. This size of committee was chosen as it was expected that a small committee would be more able to reach informed recommendations quickly given its expertise and size.

The committee ceased to function for some time before changes in the Tshwane Metro in the middle of 2003 led to Councillor Dau being appointed as the new chairperson and given the task of re-establishing the committee. One of the initial challenges was to ensure that the committee was more representative than the previous committee. It was recommended that there should be representatives from each of the eight regions that make up the Tshwane Metro area. Each of the regional structures was asked to nominate and elect a representative to sit on the committee. Furthermore, the chairperson sent letters to a range of civil society institutions operating throughout Tshwane (Universities, NGOs, etc.) asking them to nominate people to sit on the committee. Eventually a committee of 13 people was established.

The next key challenge confronting the committee was to clearly determine what its role and function should be. The chairperson decided to hold a workshop with various role-players during which these matters would be discussed. The workshop was held in December of 2003 and was funded by the mayor's office. Participants to the workshop included the members from the TMPD, the SAPS, the ICD and the council. The roles of the various structures were explained and a number of questions were raised. These included:

- How should the committee deal with civilian complaints against TMPD officials?
- How should the committee generate reports?
- Which reports on the TMPD should be sent to the Civilian Oversight Committee?

As there was not enough time to consider all issues facing the committee, the workshop was seen as a starting point where issues could be identified and solutions arrived at during further committee meetings. During the first part of 2004 the committee held two meetings during which further issues were considered and raised. After receiving a confidential briefing on the investigation into the misuse of vehicles by senior commanders of the TMPD, the committee raised further issues that needed resolution. These included:

- what the quorum of the committees should be;
- where administrative support and resources should come from;
- what the other council structures to support the work of the committee could be;

- how the committee would network and build relationships with other oversight structures; and
- how the committee would market itself to the broader community?

The committee is still in its early stage of formation and has a number of key issues to resolve. The chairperson therefore thought that any information or training on how oversight committees could work would be welcome. It was also suggested that a national workshop be held at which all such committees that exist in other metropolitan areas could meet to share ideas and 'best practices'.

The Ekurhuleni Metropolitan Police Service

The Ekurhuleni Metropolitan Police Department (EMPD) was established in 16 February 2002, which makes it the youngest of the five agencies under consideration. A new Chief of Police, Robert McBride, has a military background with Umkhonto we Sizwe and was previously with the Department of Foreign Affairs, was appointed towards the end of 2003. The EMPD is tasked with policing a population of 2.4 million people in an area of 8 200km². The EMPD has 719 police officers and a budget of R262 million.⁷⁰ Between January and December 2003 the EMPD issued 300 729 traffic fines, logged 539 831 speeding violations, and effected 3 880 arrests.⁷¹ The EMPD has established an Integrity and Standards Unit that is tasked with investigating allegations of misconduct against its officers.

The Section 80 – Public Safety Committee⁷²

This committee has been chaired by Councillor Mapekula since November 2001. It consists of 19 councillors, representing the various political parties as follows: nine ANC members, five DA members, while the IFP, UDM, ACDP, PAC and TACRA (a Thembisa Residents Association) have one member each representing them on the committee.

The committee usually meets every two weeks for a minimum of two hours unless there is a need for a special sitting. Along with the EMPD, it is responsible for overseeing the emergency services, licensing, and disaster management components of the metropolitan area. However, the committee dedicates most of its time (about 60%) to matters concerning the EMPD.

The role of the committee with regards to the EMPD is described as ensuring that it is 'properly resourced' in terms of the business plan and budget of the agency. The committee 'scrutinises all the programmes of the EMPD to establish if benefit is being derived from the council money that has been invested (in the agency)'. The key focus of the committee is therefore on the budget of the EMPD. In particular the committee sees its role as 'identifying areas that need intervention and then advising the Chief of Police as to what is needed'. The relationship between the Chief of Police and the committee was described as 'very good'. The chief attends all meetings and is available at any time to members of the committee. The chairperson sees his role as one of mediation between committee members and the Chief of Police if ever tensions arise.

The agenda for the meeting is determined by the chairperson, who meets regularly with the

Chief of Police and the Executive Director of Public Safety. There are no regular standing items on the agenda and issues are included as they emerge. However, 70% of the focus of the committee is related to what has been termed 'departmental' issues. These relate to the internal policies and structures of the EMPD (e.g. a recent discussion has been going on about whether or not the EMPD should establish an equestrian unit). The remainder of the committee meeting is dedicated to specific issues raised by councillors on behalf of their constituents (e.g. crime 'hot-spots', incidents of corruption or failure to deliver service by EMPD officials, etc.) Any councillor can approach the chairperson or the executive director to place such issues on the agenda. The committee therefore provides a platform for individual councillors to raise concerns related to the EMPD.

When issues or concerns are raised, the committee will task the Chief of Police with investigating and submitting a report. However, the committee also has the authority to interview any police official or request any documentation held by the EMPD. On occasion committee members will visit officers in the field and ask questions about their work and working conditions. Similarly committee members may 'probe' issues by engaging with members of the community.

The mayor has delegated certain powers to the committee. These include the powers to approve the appointment of certain personnel posts in the EMPD (from grade eight and above), and expenditure by the EMPD up to an amount of R240 000. For other decisions the committee will forward these as recommendations to the mayoral executive committee, which will then make a final decision.

The committee has also recognised the importance of cooperation between the EMPD and other agencies and has had meetings with the ICD and the SAPS towards this end. The chairperson described the committee as a 'learning organisation' and emphasised that it was always open to suggestions as to how it could improve on its work.

One of the key challenges identified as facing the committee is the need to improve the research and analytical capacity of the committee. A particular challenge in this regard was the ability of the committee to interrogate the statistics presented by the EMPD and the SAPS. Apparently the EMPD keeps its own statistics and there is a need to establish how these relate to those presented by the SAPS. The second challenge relates to the fact that most of the councillors on the committee are ordinary civilians, and the need exists to improve their understanding of and insight into the practice of policing and the role of police oversight. It was mentioned that training for councillors on this committee could be of significant benefit.

The Civilian Oversight Committee⁷³

In July of 2003 the council passed a motion that the Chief of Police be authorised to establish an 'interim' Civilian Oversight Committee. The first meeting of this committee was on 9 March 2004. As a result, this is a very new committee that still has to find its feet.

One of the first challenges to emerge in establishing this committee surrounded the question of its membership. The names of prominent people were put forward by councillors and an interim committee of six people was established. However, it was quickly decided that the committee was 'not representative enough' as there were no women

members and all the remaining members came from only one of the three regions of the metropolitan area. Nevertheless, at the time of writing a woman had recently been appointed to the committee, with the effect of improving its gender representivity.

There was also uncertainty about the exact size of the committee and how further representatives should be appointed. One of the options under consideration was to place advertisements in the local newspapers asking for nominees. Another option was that councillors could forward further names of people to serve on the committee. However, concerns have been raised that this may lead to political agendas coming into play if councillors nominated committee members.

Deliberations were ongoing as to who should be appointed as the chairperson of the committee. Concerns had been raised that the chair should not be overly aggressive or hostile towards the EMPD. However, with regards to the process of appointing a chairperson, it was agreed that the chair would be elected by the mayor from a list of candidates forwarded by the members of the committee.

There was also a lack of clarity as to what the precise terms of reference and role of the committee should be. Deliberations have been focused on whether such a committee should involve itself in investigating specific complaints from the public or whether it should primarily focus on management systems. There is an expectation that the Integrity and Standards Unit, an internal investigative unit, will present the committee with a quarterly report on incidents of misconduct that have been reported and the outcomes of investigations into these incidents.

There was a feeling that the committee could also play a supportive role for the EMPD through lobbying the council for more resources. However, the exact role of the committee and the nature of its work is still to be determined.

Another key issue to have emerged relates to the logistical support for the committee. In particular, there is concern as to where funding should come from for administrative support and travel expenses of committee members. While the Chief of Police has been tasked with establishing and sustaining the committee, there is concern that this could affect public perceptions of the independence and objectivity of the committee. There is a strong feeling that this committee should be located and supported from elsewhere in the council such as the mayor's office. Related to the issue of funding, concerns were also expressed as to how the committee will be profiled amongst the various communities within Ekurhuleni so that they are aware of its existence and are able to direct concerns to it.

The Durban Metropolitan Police Service

The history of the Durban Metropolitan Police Service (DMPS) can be traced to as far back as 1854, when a City Police agency was created under a municipal ordinance of that year. The Durban Metropolitan Police Service was launched on 5 July 2000, making it the first of such agencies to be launched following the promulgation of the SAPS Amendment Act of 1998. The current Chief of Police, Eugene Zama, has a military background with Umkhonto we Sizwe and was an officer in the South African National Defence Force before being appointed to the position during 2002. The DMPS has a budget of R194 million and consists of 1 240 uniformed police officers to police 2.8 million people who

live in a jurisdiction that covers 2 500 km².⁷⁴ The DMPS has indicated that it spends about 63% of its time on crime prevention activities, 28% on traffic control and about 9% on by-law enforcement.⁷⁵ While there is no internal investigation unit, an office of the Ombudsperson has recently been established to investigate public complaints against any officials working for the eThekweni Metropolitan Council structures, including the police.

The Section 80 Public Safety Committee⁷⁶

This committee is called the 'sub-committee on the Metropolitan Police' and is currently chaired by Councillor Nyanisa. This committee has a membership of 15 councillors: eight ANC councillors, three IFP councillors, and one councillor representing each of the DA, NNP and the Minority Front. As a rule the committee is expected to sit at least once a month but will meet sometimes twice or more depending on whether the Executive Committee (EXCO) decides that certain issues need to be considered. Meetings take anywhere between two to four hours, depending on the nature of the issues being discussed.

This committee does not consider or make recommendations on matters relating to other structures. However, as a sub-committee of the Emergency and Security Services Committee, it does on occasion work in partnership with structures that are part of the broader integrated crime prevention strategy of the eThekweni Metro Council.

The main role of the committee was described as discussing and making proposals to the EXCO on by-laws before they are passed. Part of the committee's role is to consider public education and outreach relating to awareness of by-laws (particularly with regards to street trading and begging). However the committee does not monitor the implementation or impact of these laws as this is seen as the role of the EXCO and City Manager. The other key area of involvement of the committee is the budget and resource allocation to the City Police, particularly with regards to the impact that this has on the functioning of the agency. The City Police may make requests to the committee that will be considered in relation to the costs involved. The committee does not monitor indicators of performance or conduct on the part of the City Police as these issues are seen as internal responsibilities for police commanders to take care of.

Beyond these main areas of focus, the committee tends to play a number of other roles. These are typically driven by public representations or complaints that reach the committee through councillors or other metro structures relating to policing and public safety. For example, if complaints about the lack of visibility of the City Police are received, the committee will direct this to the attention of the Chief of Police. This was explained as part of the committee's role to ensure that the City Police provide services equitably throughout the metro. The committee also sees itself as having the role of marketing city safety programmes and the image of the City Police.

The Chief of Police attends most meetings and always sends a representative if he cannot. The relationship between the Chief of Police and the committee was described as cordial. The chairperson described her role as a driver of the committee and its processes and ensuring that she is well informed as to the functioning of the City Police and its procedures. She has also taken on the responsibility of ensuring positive relations between the committee and the City Police and has managed to avoid an 'us' and 'them' situation

from developing. This has been achieved by lobbying on behalf of the City Police before both the EXCO and communities if necessary.

As the chairperson of the committee, she has a good relationship with the Chief of Police and has regular contact apart from committee meetings. The committee has unqualified access to any information, building or site of operation of the City Police. If the committee requires information relating to an issue, it will make a request to the Chief of Police who will then give a presentation or a report to the committee. The agenda for a committee meeting is usually derived from issues raised by EXCO or ongoing issues that the committee is in the process of dealing with. The chairperson will also consult with other members of the committee to establish if there are any issues that they would like to add to the agenda before a meeting. On occasion, issues that have been raised by provincial or national level may also be placed on the agenda for discussion.

The EXCO minutes from 11 September 2004 demonstrate the types of issues that this committee considers.⁷⁷ The minutes reveal that the following resolutions were reached:

- An endorsement of the integrated crime prevention strategy;
- Processes to coordinate the health, emergency and safer cities sub-committee and metropolitan police sub-committee around the integrated crime prevention strategy;
- That the Chief of Police be granted authority to develop and implement a firearm competency assessment policy; and
- That a certain consultancy service be contracted to assist with the development of the policy to a certain amount.

Other issues that were noted include:

- A report on the collection of traffic fines by the police;
- A report on the CCTV/ Traffic Surveillance System;
- A report on the Durban Metropolitan Police Crime Mapping Project;
- The 2003/2004 Budget presentation;
- A motion regarding the car-guarding industry;
- A request to take cognisance of a dangerous intersection;
- A notice of an 'Inspection in Loco' at all Metropolitan Police Stations throughout the unicity.

The chairperson considered some of the successes of the committee as being related to:

- Greater equitable delivery of City Police services through ensuring that various satellite and other police stations were established in areas where there had been none previously (i.e. KwaMashu and Ntuzuma);
- Successes in improving public awareness about the committee. An indication of this was that community representatives were approaching the committee directly to ensure matters were taken up with the City Police;
- Assisting with service delivery through ensuring that signboards, speed humps and scholar patrol services were being made available where necessary.

The Civilian Oversight Committee

At the time of writing there was no such committee in existence in eThekweni. Nevertheless, there had been an earlier attempt to establish one, but this ceased to exist after a while.⁷⁸ To establish such a committee the relevant public safety person on the council had written to a number of civil society organisations asking for nominations. Names had been forwarded and a committee was established, consisting of seven people including representatives from Business Against Crime (BAC), unions and councillors. It met only twice before the chairperson fell ill and the committee ceased to exist. During this time the committee had struggled with defining its particular role in relation to what was then the Section 80 Safer City Committee.

During a second attempt to establish a committee a list was compiled of proposed members – primarily professors from the University of Natal and the University of Durban Westville.⁷⁹ However, the process was never followed through and these individuals were not contacted.⁸⁰ At the time of writing it did not appear as if there were current plans to establish such a committee.

The Cape Town City Police Department

The Cape Town City Police Department (CTCP) was established on 1 December 2001. The Chief of Police is Mark Sangster, who has a long history as a city official, is responsible for 880 officers that make up the agency.⁸¹ The CTCP is responsible for policing approximately 3.5 million people in an area of 2 470 square kilometres. The initial annual budget allocated to the City Police for 2001/2002 was R84 million; however this has apparently has been reduced to R47 million and may be reduced further.⁸²

Unlike the other Metro Police Departments, only about 8.3% of current City Police officials belonged to the previous traffic departments. Nevertheless, indications were that most of the work undertaken by the City Police continued to be related to traffic law enforcement (60%), with 30% related to crime prevention, and 10% to by-law enforcement.⁸³

The Section 80 Public Safety Committee⁸⁴

As a member of the 11-person mayoral executive committee, Councillor David Erleigh is the chairperson of the Public Safety Committee. He is ultimately responsible for overseeing the public safety portfolio of the Cape Town Metropolitan Council and has to report to the mayoral committee on such. He will make policy recommendations to the mayoral committee, which can only adopt them through consensus. Each member of the mayoral executive committee has the right to veto a recommendation so that if consensus is not achieved then the matter will get 'shelved'.

The role of the Public Safety Committee is primarily to advise the chairperson on policy formulation and implementation. The portfolio of the committee includes various public safety structures including disaster management and emergency services. The Cape Town City Police (CTCP) is but one of the council structures that the committee focuses on, spending about 25% of its time considering matters to do with it.

The committee meets once every two months on average or when there are particular items that need to be considered. With regards to the City Police the committee examines policies, quarterly reports from the Chief of Police, motions from committee members and any other issues to emerge. Most of the information presented to the committee is in the form of written reports, with verbal presentations being made on occasion.

The quarterly reports on the performance of the City Police are primarily for the member of the mayoral committee. However, he sees it appropriate for the committee to receive this information and will therefore circulate this report to the committee. The reports provide detailed statistics on 18 different indicators (e.g. numbers of arrests, including a breakdown per offence). The chairperson will present issues to the Public Safety Committee on the principle that it is good to receive feedback from the opposition.

Members of the public can make submissions to the committee, provided requests in writing are received by the chairperson. While such requests are allowed at the discretion of the chairperson, these are rarely turned down. An example of such a request occurred when it was brought to the attention of the committee that drug dealers were operating at a popular corner in Sea Point. The committee relayed this information to the police, who then intervened in the situation.

As an advisory structure the committee has no powers. Nevertheless, if important matters are raised or good policy recommendations are forthcoming then the chairperson will forward these to the mayoral committee for consideration. While the chairperson has the power to summons police officials to answer questions, the committee does not have such powers. Nevertheless, all documents held by the City Police are available to committee members, and although 'technically' they may make unannounced visits to the department, this is not common practice.

When it comes to dealing with 'negative incidents' relating to misconduct on the part of members of the City Police, matters are referred to an independent structure to investigate (i.e. the Independent Complaints Directorate). If issues of corruption are reported then these will be referred to the 'Audit Committee'.

The chairperson explains his role as one of 'contemporaneous' oversight of the police in that it is an ongoing function. It can relate to retrospective, current or prospective issues related to the City Police. The chairperson therefore has regular contact with the Chief of Police through weekly meetings and telephonic contact. The relationship between the chairperson and the Chief of Police was described as 'very good'. The Chief of Police always attends committee meetings with one or two of his deputies.

The chairperson drafts the agenda of the committee on the basis of issues that emerge. There are certain standing items such as the quarterly reports from the Chief of Police. Typically there are no confidential issues relating to the work of the committee and members of the public are allowed to observe meetings. However, from time to time there will be a 'green paper' issue that signals that the matter will be discussed in a closed session. Such matters will typically involve a particular staff member and confidentiality will be ensured to protect the particular individual.

The chairperson has seen the committee playing a useful role with regards to making policy suggestions. In the course of the interview the chairperson did not readily identify any key challenges confronting the committee in carrying out its mandate.

The Civilian Oversight Committee⁸⁵

The Civilian Oversight Committee of the Cape Town City Police was established towards the end of 2003. It took about 18 months to establish because of political changes that occurred in the Cape Town Council. The Public Safety Committee was tasked with establishing the committee and started the process by placing an advert in local newspapers calling for nominations of people to participate on the committee. However, the response was very poor, with insufficient nominations being forwarded to establish the minimum size for a five-person committee. The Public Safety Committee then identified people who could be approached to serve on the committee. Before the committee could be formally established, there was a change in government, with the ANC replacing the NNP. The ANC was not satisfied with the composition of the committee and considered it insufficiently representative. Only people from the City Bowl region of the metropolitan area had applied for committee membership. No black or coloured representation existed and, primarily, only people directly involved in security issues had expressed an interest on serving on the committee.

Consequently, a second newspaper advert was released, which again failed to elicit an adequate response. Nevertheless, council members nominated a few more people and two years and eight months after the establishment of the Cape Town City Police, the Civilian Oversight Committee was formed. The committee consists of 14 people of whom seven are political party representatives - two from the ANC, two from the NNP, one from the DA, one from the ACDP and one from the UDM.⁸⁶ The non-political party civilian participants on the committee include community activists from particular areas (e.g. Mitchells Plain) and representatives from the Security Community Improvement District and the Community Patrol Board.

One of the initial challenges confronting the committee had to do with the appointment of the chairperson. There were those that felt that the chairperson should be a non-party political person. However, this view did not hold sway and ANC Councillor David Sasman was appointed as chairperson. However, he is perceived as non-partisan and has allowed the committee to take a critical view of issues.

The committee is supposed to meet once a month for two to three hours; however, in reality it meets less often than this. The committee has had a number of challenges in defining its role. The legal terms of reference were perceived as being very broad and so the committee started to see itself as a monitoring body to ensure that the Cape Town City Police fulfils its stated mandate in terms of the annual policing plan without 'political interference'. However, at the time of writing, concerns existed that the mayoral committee had established the Civilian Oversight Committee primarily to meet legislative requirements and perceived it as little more than an ad hoc advisory body as opposed to an oversight body.

It was stated that a 'disproportionate' focus of the committee has been its design and its

attempt to define what its terms of reference should be and what role it should play. Other than this the committee has focused on the information contained in the quarterly reports, reports from precinct or area commanders, and special issues that spill over from the Public Safety Committee. As yet the committee is not sure what it is supposed to do once it has discussed a matter except give broad advice to the Chief of Police. This has led to some committee members feeling they have not been achieving much. Nevertheless, the Civilian Oversight Committee sees itself as having a 'very good' relationship with the Chief of Police, who has attended most meetings. On the occasions that he has been unable to attend meetings his deputies have been sent to represent the City Police.

Tensions have started to emerge between the Civilian Oversight Committee and the chairperson of the Public Safety Committee. In particular, the committee is of the view that the resource allocation to the City Police is far from adequate for the achievement of its mandate. Concern has been raised that the City Police is approximately 'one third the size' that it should be and that there is insufficient administrative support, which renders the City Police unable to provide the necessary services to all areas within its jurisdiction in line with its annual plans. It was claimed that there had been interference from the mayoral committee, which had removed an item off of the agenda of the Civilian Oversight Committee that aimed to consider the resource shortage facing the City Police.⁸⁷ Furthermore, there were concerns as to the way information was being presented to the committee from the Public Safety Committee. At the time of writing, the committee was about to hold an 'emergency' meeting in an attempt to address these concerns.

Apart from the above-mentioned challenges facing the committee, the statement was made that it was battling to clearly grasp the 'mechanics of the police', understand why things are problematic, and what the role of the committee is to improve the situation.

The Cape Town Metropolitan Council's website is the only one where reference is made to the existence of a Civilian Oversight Committee and presents the names of people involved and a contact telephone number. The website can be found at <http://www.capetown.gov.za>.

An Overview of the Key Findings from the Research

This section of the report presents a number of key findings related to civilian oversight of policing that emerged during the research. The findings will be structured under the following headings: the Metropolitan Police Departments, the Section 80 Public Safety Committees, and the Civilian Oversight Committees.

The Metropolitan Police Departments

When the challenges facing the oversight structures of a police agency are considered, it is also important to consider the challenges facing the police agencies themselves. The extent to which oversight structures will be able to engage with police agencies will largely be related to the management capacity of the agency concerned. As has been recognised internationally in this field, 'police leadership and professional management are as important as effective oversight.'⁸⁸ External structures will never be able to replace the police management structures for ensuring that a police agency operates effectively and accountably.

If police commanders and systems and procedures for performance management and discipline are underdeveloped or inadequate, the quality of the information given to the oversight structures may be less than adequate and so too will the ability of the command structure of the police agency to adequately respond to recommendations made by the oversight body. There was no indication during the interviews that any of the Chiefs of Police are lacking leadership skills or are not dedicated to their tasks. However, reference was occasionally made towards the need for general improvements amongst the management structures and systems within the MPDs.

Metropolitan policing is still a relatively new concept in South Africa. Apart from the Durban City Police, which has a long history, each of the other Metropolitan Police Departments is between two and three years old. As these policing agencies had to be established in line with new legislation the process through which they came into being was complex.⁸⁹ Apart from the Durban City Police, each of the other agencies had to be established from scratch. The legislation also required certain minimum standards⁹⁰ and stipulated three key mandates against which these agencies had to operate.⁹¹

The legislative requirements are quite onerous for metropolitan councils that have had no experience in establishing and sustaining this kind of structure. It was highlighted early on in the process of establishing MPDs that they would be confronting a large number of substantial challenges including:⁹²

- Clarifying the role and mandate of the MPS particularly as it relates to crime prevention and coordination with the SAPS;
- Balancing enforcement and crime prevention duties;
- Determining the extent to which MPS officers will act as 'peace officers' and enforce by-laws and legislation;
- Transforming the organisational culture from specialist enforcement (such as traffic or planning enforcement) to more generalist community policing approaches;
- Financing the MPS;
- Defining the conditions of service of MPS officers;
- Dealing with demands to include former combatants;
- Ensuring political independence of the MPS;
- The harmonisation and integration of by-laws;
- The effective enforcement of by-laws;
- Meeting public expectations; and
- Maintaining professional standards.

While substantial progress has been made in the relatively short time that the MPDs have been in existence, a number of these challenges are still being faced today. Some of these relate to the fact that most of the MPDs would be staffed by former traffic officials who had a very specific mandate and specific skills. Adding on new mandates such as by-law enforcement and crime prevention would require much training and experience before effectiveness could reasonably be expected.

More recently, chapter 6 of the Local Government Municipal Systems Act of 2000 stipulates that local authorities need to ensure that performance management systems are in place so that local departments can be assessed against agreed upon indicators. Moreover,

local authorities are required to provide communities with information relating to the performance indicators and targets that have been set.⁹³

While all MPDs are collecting information on various indicators related to their activities, it was clear that by the end of 2002, the MPDs were still in the process of establishing systems to clearly determine their effectiveness and impact. This relates partly to some of the challenges that had to be faced but was also a consequence of developing and implementing the structure and management systems of these agencies.⁹⁴ While early on systems had started to be implemented for tracking the activities of MPD officers, these tend to produce a substantial and unwieldy amount of data. This meant that it was not always clear exactly what the data was revealing about police performance. Even then, the link between the data gathered on policing activities and the impact of these activities on crime (or the public adherence to traffic and by-laws for that matter) is not always straightforward.

The Public Safety Committees

It is clear that there is a certain amount of police oversight and accountability being exercised through the Section 80 Public Safety committees. As the metropolitan authorities have to provide the budgets and resources for their MPDs, they have been taking great interest in the development and performance of these agencies. In particular the chairpersons of these committees are generally playing a significant role in ensuring that they maintain close relationships with the Chief of Police so as to develop an understanding of what is happening in these agencies and the challenges that they face.

That the committees represent a number of different parties means that there is space for rigorous questioning on occasion. However, the chairpersons are also generally concerned with ensuring that a constructive relationship is maintained between the committee and the MPDs. An attitude and working relationship of mutual respect and cooperation between police management and independent oversight structures is considered one of the ideal situations with regards to civilian oversight of the police.⁹⁵

Role and Function

From the interviews it became clear that these committees are not perceived by the chairpersons or members as having a 'well defined' police oversight role. They were established to play a broad and often budgetary oversight role of various municipal departments (e.g. licensing departments, fire departments, ambulance services). When MPDs were established they were included in these committees' broad 'public safety' portfolio. Committees then tracked the development of these police agencies in a context of high public expectations that they would assist in bringing crime down. Consequently, the approach of the committees to MPDs was more one of support and assistance than one of oversight to prevent police abuse. None of the metropolitan councils would like to see their new police agencies fail and have to be closed down.

As committee members were not necessarily experts on policing strategies, their assessment of performance and accountability had to rely largely on their common sense and faith in the senior MPD management. This is not to say that this is necessarily a

problematic situation. Rather, it highlights the tensions that can come into play when oversight structures face competing demands in relation to their role of ensuring police accountability. It also serves to explain the broad nature of their engagement with the MPDs, which is reflected in the types of issues that they consider.

Particular focus areas are typically related to the budget, general policy issues, procurement, appointments of staff at certain levels, by-law development, distribution of policing resources and, on occasion, specific complaints or matters of public concern. Consequently, on a range of issues the committees manage to ensure a certain amount of transparency and accountability.

Nevertheless, one of the roles that these committees sometimes play is promoting acceptance of the MPDs to various communities. The question then arises as to the extent to which rigorous oversight for the sake of accountability can be exercised if members of the committee want to present the police agency in a positive light. It may be tempting to ignore certain shortcomings rather than addressing them in the fear that if these become public it will damage the public image of the police agency.

Operational Independence

From time to time committee members will make recommendations that will impact on MPD operations (e.g. directing MPD resources to specific areas, or requiring the MPD to tackle specific issues). On one hand this can ensure that the MPD is responsive to the needs of the community through its elected representatives. On the other hand, this arrangement can lead to questions regarding the 'operational independence' of the MPDs in relation to what could be termed 'political interference'. This occurs particularly where there is a disjuncture between what a professional police commander knows is a realistic level of service that can be provided within current resource constraints and the pressure coming from politicians to extend services and so appease their particular constituencies. 'Political interference' can be said to occur when operational policing decisions are taken primarily on the basis of political pressures that have the effect of compromising professional policing standards.

Misuse of the police is a common reality in dictatorial regimes (such as South Africa under apartheid), where the police are used to promote political party (or regime) specific objectives as opposed to providing equitable services to all communities. But such misuse by elected officials can also easily occur in democracies. For much of the nineteenth and twentieth centuries this was a huge problem in the United States of America.⁹⁶

Performance Indicators

A number of the interviewees indicated that it would be useful for the committees if they could better conceptualise the manner in which they held the MPDs accountable. Whereas committees receive quarterly reports detailing certain performance indicators, there is not always a clear understanding as to what the information reveals about the effectiveness or impact of the MPD (except of course for obvious statistics such as the monetary value of the fines being issued and collected). These committees would not be alone in this regard, as the issue of performance indicators for policing is a complex and difficult one that few police agencies around the world have managed to resolve adequately.

Nevertheless, far from relying only on the words of police commanders to state that 'changes are happening' or 'things are improving', empirical indicators are needed against which objective assessments of fact can be made. Therefore, if police management were to report that improvements in service delivery, police discipline or community-police relations have taken place, objective empirical data should be presented to back up such assertions.

Without objective data, it is impossible for oversight committees to determine whether policies are being effectively implemented and if so whether they are achieving the desired results. Moreover, it also becomes impossible to tell whether or not the budget and resources allocated to the police are being effectively and efficiently utilised and what the precise impact of an increase or decrease in the budget will or should be.

Police Misconduct

A noticeable gap in the focus areas of most of these committees has to do with a focus on police conduct and the structures and systems for receiving and handling complaints against MPD officials. Most of the committees consider incidents of misconduct and discipline as 'internal matters' that are best left to the police to resolve. With ongoing media reports of alleged abuses of powers being perpetrated by MPD officials, the need for such a focus is likely to increase in importance, especially as it is these kinds of incidents that tend to most damage the trust of ordinary citizens in their policing agencies.

If small issues of discipline are overlooked in police agencies, more serious misconduct and corruption are likely to follow.⁹⁷ International experience and research on preventing police corruption and criminality indicate that strong, independent and well resourced police internal investigation units are critical to ensure that the more serious cases of abuse are quickly and thoroughly dealt with.

External oversight bodies such as the Independent Complaints Directorate (ICD) can never be responsible for handling all complaints against the police. Not only would they require far greater capacity but, also, if an outside agency takes all the responsibility, the danger exists that the police agency ceases to take responsibility. Nevertheless, external investigative bodies have an important role to play in ensuring that the public can be confident that internal investigations against the police are carried out thoroughly and competently. However, it has been argued that external structures can never be as effective as internal systems because, 'no external body could possibly fully understand and penetrate the entrails of the [police] organisation'.⁹⁸ Indeed, many experts believe that 'the [police] departmental administrative structure has by far the greatest potential for effective action to prevent, investigate, to adjudicate or to punish police misconduct'.⁹⁹

While the above position is by no means uncontroversial,¹⁰⁰ it is generally agreed that an important role for any oversight structure is to engage with and monitor the systems in place to identify, investigate and deal with misconduct and other ill-disciplined behaviour. To this end, oversight committees should receive briefings from agencies such as the ICD when officials of the MPDs are investigated. Oversight structures should also make it their business to ensure that internal police investigative and disciplinary structures are well resourced and capacitated to take the necessary action against problematic police officials.

The Civilian Oversight Committees

In all of the metropolitan areas the establishment and maintenance of an effective Civilian Oversight Committee as envisaged by the legislation has remained an elusive goal. However, this is certainly not as a result of a lack of trying. At least one city council has tried more than once to establish such a committee. Certainly, the interviewees demonstrated a sincere commitment towards establishing these committees and ensuring that they are able to play a constructive role in holding the MPDs accountable.

Nevertheless, it was stated in a few interviews that the establishment of the Civilian Oversight Committees was probably due to a need by councils for legislative compliance rather than a clear sense of what the purpose and nature of the committee would be. Indeed, the establishment of the committees is not being driven by any particular problem that has been identified by the council with MPDs. Certainly it has taken a substantial amount of time for these committees to be set up. It would probably be the case that such committees would not exist if it were not for the legislation that stipulated that such committees 'shall' be established.

In some of the interviews, it emerged that some reservations had been expressed both within the council and by MPD managers about the approach that the committee might take towards the police agency. These reservations took the form of a concern that the committee should not become antagonistic to the MPD, as this could be destructive to the image and work of the agency. However, this did not emerge as a priority concern but rather as a recognition by the relevant interviewees that sensitivity was required if the committees were to play a constructive role.

Role and Function

An important reason, in addition to those mentioned above, for why the Civilian Oversight Committees have been slow to be established or to play an active role is structure. In particular, the terms of reference found in the legislation are very broad. While providing the committee with the potential scope to enquire into almost any aspect of an MPD to ensure 'transparency and accountability', the legislation is silent on the size of the committee, criteria for membership, from where it should receive resources, or any particular powers to be granted.

It must be recognised, however, that the reason for the absence of such prescriptions was by design.¹⁰¹ The drafters of the legislation anticipated that these committees would have to be responsive to the particular issues that would emerge in relation to their specific MPDs. As a result it was decided that the legislation would deliberately provide broad terms of reference so as to allow the committees to develop as their local circumstances required. However, the committees were intended to be advisory bodies that would drive accountability and transparency in the MPDs through advising and reporting to the MEC, Council and City Manager on policy matters, either on request or through proactive monitoring.

The objective would be to 'prevent problems from arising' through ensuring that appropriate policies were in place.¹⁰² Indeed, it has been argued that: 'Many experts regard the policy

review function as an extremely important aspect of civilian oversight. Policy review is designed to serve a preventative function by identifying problems and recommending corrective action that will improve policing and reduce citizens' complaints in future.¹⁰³ Once again, however, the policy review approach should include a focus on the internal policies and systems for receiving and investigating public complaints against police officials.¹⁰⁴

A clear gap that was noted during the research was the lack of a working relationship between the committees and other governance structures (i.e. the MEC, City Manager, or Council). While the minutes of Civilian Oversight Committees go to Council or - at the very least - the Chair of the Public Safety Committees, they had not received any specific requests for advice from the structures mentioned in the legislation. Nor have the Civilian Oversight Committees taken it upon themselves to draft any reports making recommendations to Council. Little, if any, guidance has been forthcoming from the Council as to the role the committees should play. Given that these committees were envisaged to play an advisory role to Council (and its executive structures), the latter needs to give greater consideration to the role that it would like the Civilian Oversight Committees to play.¹⁰⁴

Membership

A key challenge facing all the committees relates to their membership. Essentially, the composition of the committee should be determined by *inter alia* its terms of reference, criteria for membership, and the members' terms of office.¹⁰⁵ Given the lack of clarity on committee composition, the issue of membership has been a difficult one to resolve.

Most committees have tried to focus on ensuring that they were 'representative' of the communities being served by the particular MPD, by including a wide range of people as members. However, most councils had difficulty recruiting members. Open invitations for nominations published in newspapers generally elicited very little response. What then followed was a strategy of sending requests for nominations to various structures and organisations (e.g. universities, Business Against Crime, Community Police Forums and Boards). Another strategy was for councillors to nominate particular people to be approached to sit on the committee. Generally, there has been an attempt to select people who represent certain stakeholders and can give feedback to their structures or organisations. However, in a few cases there has been an attempt to draw people with particular expertise relating to policing or security onto the committee.

Debate emerged in some councils as to whether or not councillors should serve on this committee and if so whether they could belong to the 'Public Safety Committee'. While there is nothing in the legislation excluding councillors, questions did emerge about political dynamics potentially interfering with this committee's work. Some interviewees mentioned that the point had been raised that for these committees to consider issues from a totally objective point of view, their members should be totally separate from the Public Safety Committees. Indeed, experience in other countries has demonstrated that when members of civilian oversight structures are appointed by the mayor or council members, they may feel that, 'they represent a special interest and see themselves as champions for that group'.¹⁰⁶ However, in all metropolitan councils some of the 'Public Safety' members

are also members of the Civilian Oversight Committees.

Essentially, however, experts generally agree that the participation of 'talented and fair' members will be the biggest determinant of the relative success or otherwise of these committees.¹⁰⁷ Of particular concern is that 'politics can seriously hamper the oversight system's effectiveness', particularly if there is conflict amongst local government officials or if committee members are people with pro-police or anti-police agendas or biases.¹⁰⁸

Size

Essentially, two choices have emerged relating to the size of these committees. Committees could be relatively small and consist of civilians with particular expertise related to the fields of policing or crime prevention. Alternatively, they could be larger structures with as many stakeholder representatives as deemed manageable. Small committees have the advantage of reaching decisions more quickly and effectively. However, the committee may then not be seen as representative enough of the communities served by the MPD and there may be a problem of achieving a quorum if two or three members are absent. While larger committees can claim to be more representative, they can take longer to reach decisions and make recommendations.

Given the newness of the committees in South Africa it is not possible at the current time to compare the performance of large and small committees. One of the larger committees has over 20 people while the smallest has six. Research in the USA has found that there 'appears to be no correlation between [the civilian oversight] board size and the population of the communities that they serve. Most boards have between seven and nine members.'¹⁰⁹

Resources

One of the key shortcomings identified during the research was the very limited resources. The task of establishing committees has, on at least three occasions, fallen to the police agency itself. Typically, a senior official in the office of the Chief of Police has been tasked with the responsibility of contacting potential members, providing a venue for meetings, tea and coffee, having the minutes typed and distributed, and the copying and distribution of other documents to be considered by the committee. This situation appears to be the result of the establishment of these committees part of the general enabling legislation for MPDs. Therefore, in most cases, the only source of administrative support and resources comes from the MPD.

This is an issue that emerged as potentially problematic if the committees are to be seen as independent and objective by the public. It was also perceived as a problem by the MPDs as the provision of administrative support added to their workload and office costs. Generally it was mentioned that there is a need to ensure the independence of the committees and to ensure that they have adequate resources to play a constructive role. Certainly, without resources they will be unable to play any meaningful oversight role. This will require the city councils to agree to specific administrative support and funding for their Civilian Oversight Committee once the role and function of these structures has been clarified.

Recommendations

This section presents five key recommendations for strengthening civilian oversight at local level. These recommendations take into consideration the current situation regarding civilian oversight, and some of them were discussed generally with the participants of this study. Ultimately, it will be up to the executive or mayoral committees to ensure that their oversight structures are properly staffed and have the appropriate resources to play an effective oversight role. The recommendations set out below are designed to assist these committees achieve this.

Enhancing Understanding of Civilian Oversight of Police

Policing as an occupation faces unique challenges that many other public service occupations do not. Tackling crime and enforcing laws is a difficult and sometimes dangerous job. Moreover, police officials are often the most visible of government employees as they wear uniforms, carry guns and spend a large amount of their time out in the public domain where they have powers beyond those of ordinary citizens. Moreover, police officials usually work out of sight of their supervisors and have a substantial amount of discretion as to when and how they exercise their powers.

To be effective, members of oversight structures have to be aware of the nature of policing as an occupation and its intrinsic challenges. Furthermore, they need to be aware of the different approaches and mechanisms that are most suited to ensuring their ability to identify and deal with the most important of the many complex issues that emerge in the policing of society.

Clearly, the elected councillors who represent a broad spectrum of society are generally not going to have this type of insight and knowledge. While they may begin to get insight into some policing issues as a result of presentations and inputs from the Police Chief or other senior police officials that appear before the committee, for obvious reasons these perspectives will reflect a police bias. Committee members also need information from other sources that will allow them to consider information provided by the police in a more holistic manner. To be able to achieve this it is important that there is:

- A training programme on civilian oversight and police accountability; and
- Access to resources (i.e. at least a guide book) that will assist the members of oversight structures in understanding the most important issues relating to policing and police oversight.

The benefits of the above type of initiatives will be that members of Civilian Oversight Committees are better able to engage in a meaningful manner with the information provided to them by or about the police agency. Moreover, as the members of these committees are likely to change over time following local government elections or through natural attrition, new members could be brought up to speed relatively quickly about the role they should play.

Although it would be relatively inexpensive to develop a short training programme and training manual or guidebook, metropolitan councils could save costs if they all contributed to such an initiative. A body such as the South African Local Government Association

(SALGA) that has substantial experience in working with and training local governments could be requested to assist with developing a training programme and other resources.

Independent Evaluations of Police Performance

Good quality independent research and analysis can substantially enhance the ability of oversight structures to carry out their functions. It can also ensure that the feedback provided by the oversight structure is based on sound analysis and can also, in this way, contribute to oversight being practised in a constructive manner. In the United Kingdom, for example, the Home Office regularly commissions independent research on particular crime types, policing strategies, tactics, policies and procedures with a view to improving police practices. The research reports are published on the Home Office website and are available for all police agencies and other interested parties to learn from.

Oversight practices (such as monitoring the impact of police policies) that are not based on hard information and insightful analysis can lead to ineffectual or misguided direction from the oversight structure. They can also result in resistance from the side of the police, who may feel that the oversight structure does not appreciate the difficulty of their work and the challenges that they face. Research that is able to contextualise the challenges and provide useful recommendations can be of benefit, not only to the oversight structure but to the police agency as well.

One option is for the council to commission independent research on issues relating to police performance (e.g. evaluate the impact of a particular policy or police operation) or conduct (e.g. whether there are user-friendly systems in place for complaints against the police and how these complaints are dealt with). Alternatively, the council could also call for an independent analysis on data that is already held by the police. Even if the evaluation focused on a specific issue in a particular police agency, the lessons learned would be of great benefit to all MPDs and their oversight structures. Public Safety Committees from the various councils could meet and plan a programme of evaluations of different issues in each agency over a particular time period. Each council could jointly contribute to the costs of such evaluations and all would share the benefits of the lessons learned.

Focusing on the Internal Policies and Systems for Dealing with Public Complaints against MPD Officials

A review of international literature highlights how a focus on police conduct is a critical aspect of police oversight and accountability. However, this appears to be a particular shortcoming with regards to the civilian oversight of MPDs. There is often the mistaken belief that this area of concern is an internal matter best left to the police. However, the system of policies and procedures for receiving and dealing with complaints of misconduct against police officials is one of the most important elements for ensuring police accountability. While it is not necessary for oversight committees to handle complaints themselves, at the very least it is important for them to be able to assess the accessibility and effectiveness (or otherwise) of the systems in place to receive and address public complaints against police officials. From time to time, they may want to review the investigations and decisions taken regarding specific complaints and make recommendations in this regard.

Currently, some of the oversight structures may from time to time receive statistics relating to the number of complaints from the public, broad categorisations of complaints received, numbers of disciplinary hearings held and their outcomes. However, these figures tell the committees very little about the accessibility and effectiveness of the procedures and systems in place. The lack of detail in the statistics also makes it difficult to identify and understand specific trends or patterns that may signal shortcomings in relation to training, policies or attitudes and behaviours of police officials.

It is recommended that Public Safety Committees consider increasing their focus on the procedures for receiving and dealing with complaints from the public. The models and approaches to have emerged internationally for the civilian oversight of police conduct were presented in this report. The committees could choose the approach they would like to adopt and then explore the practical requirements for its implementation. Depending on the model or approach chosen, it does not have to require much in the way of resources and such a task could easily be handed to the Civilian Oversight Committees.

Inviting Feedback from more Stakeholders

It was found that most of the information about the metropolitan policing that came before the committees was provided by the MPDs. While this is to be expected as it is the MPD that is the subject of oversight, in the absence of independent evaluations, oversight structures are likely to receive a very particular point of view as to what the police agency is achieving. Irrespective of whether oversight structures are able to fund independent evaluations, there are other important sources of information relating to police performance and conduct that could be accessed.

As was highlighted in the comparative section of this report, there are a number of structures and stakeholders in society that have a role to play in holding the police accountable. Oversight structures could identify these stakeholders and explore ways of receiving information from them about their experience and perceptions of MPDs. The three 'levels of control'¹¹⁰ provide a useful framework for identifying other stakeholders who could contribute towards enhancing the accountability of the police. Clearly, the local level oversight committees already fall within the level of 'State Control'. As has been argued, the key to effective police oversight is to coordinate the activities of the stakeholders that fall within each level. A focus on the internal police systems of complaints management (as mentioned above) would already go some way to achieving this as it falls within the level of 'Internal or Departmental Control'.

Similarly, the Independent Complaints Directorate (ICD) is also responsible for receiving and investigating complaints against MPDs. Council oversight committees could, on a regular basis, invite ICD officials to give them presentations on the numbers and the nature of complaints they receive relating to MPD officials. Oversight committees could also ask the ICD for its general recommendations towards improving police accountability, and specific recommendations that it has made to the MPDs following its investigations. The oversight committees could then follow up with the Chief of the MPD to establish the extent to which ICD recommendations were followed and, if they were not, why this was the case.

It is at the level of 'Social Control' that further information and feedback should be sought

so as to provide the local level oversight structures with greater insight into the performance and conduct of MPDs. The type of institutions and structures that form part of the level of 'Social Control' include the media, advocacy and research organisations and community-based organisations. With regards to the media, oversight committee members could task specific council research or administrative structures to regularly scan the local press for stories relating to the MPD and place them in a monthly file. Copies could be circulated to all committee members who would then have an alternative source of information about the perceptions and activities of the MPD as presented by the media.

Council oversight committees could also identify and request inputs from universities, or other research organisations and NGOs that may have undertaken work in relation to municipal policing. Similarly, the committee could also request inputs about the perceptions of those in society who are most affected by MPD activities. This could be done through providing space for inputs from particular associations (e.g. Hawker or Taxi Associations) or from community-based organisations that work with such communities or groups (e.g. organisations working with foreign refugees or street children.)

Capacitating and Utilising the Civilian Oversight Committee

It was highlighted that the Civilian Oversight Committees were generally not receiving specific direction or requests for recommendations from the Public Safety Committees or other council authorities. However, it is clear from the legislation that establishes the Civilian Oversight Committees that they are meant to play a largely advisory role to the Council, Chief Executive Officer or the MEC in relation to the MPD. The committee is also able to monitor policy directives and evaluate the functioning of the MPD.

It is recommended that the Public Safety Committee identify the types of issues, directives or aspects of the functioning of the MPD that they would like to receive recommendations about (bearing in mind the above recommendation relating to public complaints and police conduct). The above recommendations provide a number of practical activities that Civilian Oversight Committees could undertake to assist with strengthening police accountability. Furthermore, the models and approaches presented in the first part of this report could be used as a basis for discussing the various options.

Once agreement has been reached within the Public Safety Committee as to the particular assistance that could be provided by the Civilian Oversight Committee, it would then be possible to establish the necessary size, membership, and resource needs of this structure. The Public Safety Committee could then make requests to the council in relation to the aforementioned issues, which would solve many of the challenges currently being experienced by the Civilian Oversight Committees.

Notes:

¹ While the enabling legislation uses the words 'Municipal Police Service', the local police agencies established in metropolitan areas are commonly referred to as 'Metropolitan Police Departments.' This name will be used for the purposes of this report as each of the geographical localities focused on is a metropolitan area.

² See Rauch, J., Shaw, M. and Louw, A. (2001) *Municipal Policing in South Africa: Development and Challenges*. ISS Monograph Series. Institute for Security Studies. No 67, November 2001, p. 20.

³ This legislation is the South African Police Service Amendment Act No 83 of 1998.

⁴ Section 64J of the African Police Service Amendment Act No 83 of 1998.

⁵ See the list of interviews under 'References' at the end of the report.

⁶ Stone, C (2004), *The Double Demand on Police and the Role of Police Oversight in Democratic Societies: An International Perspective*. Address to the Conference for Policing Oversight in Africa: Accountability and Transformation, Johannesburg, South Africa, 26–29 January 2004, p. 2.

⁷ Finn, P. (2001) *Citizen Review of Police. Approaches and Implementation*. US Department of Justice. Office of Justice Programme. National Institute of Justice: Washington D.C, pp. 6–12.

⁸ Ibid. pp. 8–10.

⁹ Ibid. pp. 10–12.

¹⁰ Ibid. p. 12.

¹¹ Gissiner, M.A (2001) *An Overview of the Various Police Complaints Systems of the world*. A presentation delivered at the Independent Police Complaints Council Secretariat Seminar entitled 'The Police, The People, The IPPC'. Held on 8 March 2001 in Hong Kong. <http://www.info.gov.hk/ipcc>.

¹² Ibid. p. 13.

¹³ Walker, S. (2001) *Police Accountability: The Role of Civilian Oversight*. Wadsworth: USA. p. 151.

¹⁴ Ibid. pp. 179–180.

¹⁵ For example, as is the case for the Independent Complaints Directorate (ICD).

¹⁶ Rauch, J. (2000) *Police Reform and South Africa's Transition*. Centre for the Study of Violence and Reconciliation: Braamfontein.

¹⁷ Experts such as David H. Bayley, author of (1994) *Police for the Future*. Oxford University press: New York, state simply that police need to be held accountable for 'what they do and how they do it.'

¹⁸ Stone, (2004) op cit. p. 1.

¹⁹ Ibid. While Stone focuses on three key dilemmas I have added one more about the link between police activities and crime prevention.

²⁰ Sherman, L.W. (1998) 'Policing for Crime Prevention' in [*Preventing Crime: What Works, What Doesn't, What's Promising*](#). A Report to the United States Congress. The National Institute of Justice.

²¹ Stone, (2004) op cit. p. 2.

²² Reiner, R. (1985) *The Politics of the Police*. Wheatsheaf Books Ltd: Sussex.

²³ Stone, (2004) op cit. p. 2.

²⁴ Ibid.

²⁵ Stone, C.E. and Ward, H.H (2000) 'Democratic Policing: A Framework for Action.' *Policing and Society*. Volume 10, Number 1, 2000, p. 16.

²⁶ Ibid. p. 43.

²⁷ This may be as a result of political rhetoric relating to a 'zero tolerance' against crime. Thus politicians may create a climate for police abuses of power to occur in the guise of getting 'tough on crime'.

²⁸ Walker (2001) op cit. p. 9.

²⁹ Ibid. p. 10.

³⁰ Ibid. p. 5.

³¹ Ibid. p. 6.

³² Miller, J. (2002) *Civilian Oversight of Policing. Lessons from the literature*. A paper delivered at the Global Meeting on Civilian Oversight of Police, hosted by the Vera Institute of Justice in Los Angeles, May 5 to 8 2002, pp. 8-9.

³³ Ibid.

³⁴ See Finn (2001) op cit. p. 6; and Gissiner (2001) op cit. pp. 2-4;

³⁵ Walker, S. (2001) op cit. p. 5.

³⁶ Miller (2002) op cit. p. 9.

³⁷ See Finn (2001) op cit. pp. 69–81.

³⁸ Ibid.

³⁹ Miller (2002) op cit. p. 9.

⁴⁰ Ibid. p. 14.

⁴¹ Ibid.

⁴² Ibid. p. 16.

⁴³ SAPS Amendment Act of 1998.

⁴⁴ So called as they are provided for in Chapter 9 of the Constitution.

⁴⁵ See section 19 (2) of the Local Government Municipal Structures Act number 117 of 1998 and section 4 (2) of the Local Government Municipal Systems Act number 32 of 2000.

⁴⁶ Section 6 (2) (b) of the Local Government Municipal Systems Act number 32 of 2000.

⁴⁷ Ibid. section 32.

⁴⁸ Ibid. section 33.

⁴⁹ Ibid. section 44.

⁵⁰ Ibid. section 56.

⁵¹ Ibid. section 44 (3) (1) (c).

⁵² Ibid. section 79.

⁵³ Ibid. section 80.

⁵⁴ Ibid.

⁵⁵ Nzapheza, V. (2004) 'Rating the Police' in the Sunday Times. 4 April, 2004, p. 6.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ See <http://www.joburg.gov.za>.

⁵⁹ Information on this committee comes from the chairperson, Councillor Sizakele Nkosi conducted on 17 March 2004 and an interview with the Head of the Office of the Chief of the JMPD, Director E. Pelsler conducted on 31 March 2004.

⁶⁰ Emergency Services consists of agencies such as the Fire Department.

⁶¹ As the SAPS have far more officers on the streets they would be in a stronger position to argue that they should take most of the credit for reductions in crime.

⁶² 'Visible policing' refers to the objective of increasing the visibility of the police to the public. The thinking driving this approach is that the more visible the police are, the more of a disruptive affect they will have on crime. While international studies have found no such correlation, a high visibility does appear to have a positive impact on the public's general perception of the police.

⁶³ The report largely contains statistics reflecting areas of the JMPD work. For example numbers of traffic fines issued and paid, numbers of arrests for various categories of offence, numbers of illegal posters removed, etc.

⁶⁴ Information on this committee comes from an interview with the Head of the office of the Chief of the JMPD, Director E. Pelsler conducted on 31 March 2004 and from the author having attended a number of committee meetings.

⁶⁵ Nzapheza, V. (2004) op cit.

⁶⁶ Newham et al. op cit.

⁶⁷ Information on this committee comes from an interview with the chairperson, Councillor Ditsheko conducted on 18 April 2004.

⁶⁸ As part of the process for establishing MPDs, detailed business plans describing the agency and the cost had to be drafted and submitted to the Provincial MEC for Safety and Liaison for approval.

⁶⁹ Information on this committee comes from an interview with its chairperson, Councillor Dau conducted on 7 April 2004.

⁷⁰ Nzaphezam V.K. (2004) op cit.

⁷¹ Ibid.

⁷² Information on this committee comes from an interview with the chairperson, Councillor Mapekula conducted on 19 May 2004.

⁷³ Information on this committee comes from an interview conducted with the chief of the EMPD, R. McBride, and senior EMPD official, Mr. B. van Rooyen, conducted on 5 May 2004.

⁷⁴ Newham et al, (2002) op cit. p. 5.

⁷⁵ Ibid. p. 19.

⁷⁶ Information on this committee came from an interview with the chairperson, Councillor Nyanisa, conducted on 25 May 2004.

⁷⁷ These minutes can be found at <http://www.durban.gov.za>.

⁷⁸ This information emerged from a National Workshop on Civilian Oversight and Police Accountability that was hosted by the Centre for the Study of Violence and Reconciliation on 10 December 2002.

⁷⁹ Interview with the Durban Deputy City Manager, Mrs. Sayo Skweyiya, conducted on 15 March 2004.

⁸⁰ Ibid.

⁸¹ Sangster, M. (2003) *Cape Town City Police, Annual Police Plan, 1 July 2003 to 30 June 2004*. City of Cape Town. <http://www.capetown.gov.za>.

⁸² Interview with Councillor J.P. Smith, 24 May 2004.

⁸³ Newham et al. (2002) Ibid. p. 20.

⁸⁴ The information on this committee comes from an interview with the chairperson, Councillor D. Erleigh, conducted on 21 May 2004.

⁸⁵ The information on this committee comes from an interview with Councillor J.P. Smith conducted on 24 May 2004.

⁸⁶ See the Civilian Oversight Committee link from the City Police page on <http://www.capetown.gov.za>.

⁸⁷ The item was a report detailing the effect that the resource shortage was having on the ability of the City Police to fulfill its mandate.

⁸⁸ Stone, C (2004) op cit. p. 2.

⁸⁹ See Rauch, Shaw and Louw, (2001) [Municipal Policing in South Africa: Developments and Challenges](#). ISS Monograph No. 67, Institute for Security Studies, p. 25.

⁹⁰ For example, MPDs have to operate on a 24-hour basis.

⁹¹ As has been mentioned before, they are mandated to ensure traffic law enforcement, by-law enforcement and crime prevention.

⁹² Ibid. pp. 39–42.

⁹³ Section 41 (e); section 42; section 44.

⁹⁴ Newham et al (2002) *ibid*.

⁹⁵ Walker (2001) *op cit*. p. 151.

⁹⁶ Walker, (2001) *op cit*. p. 9.

⁹⁷ At the symposium on combating police corruption at the 10th International Anti-Corruption Conference held in Prague during 2002, it was agreed that improving police discipline generally was the most effective way to prevent endemic levels of police corruption. See <http://www.10iacc.org>.

⁹⁸ Punch, M. (1983) *Control in the Police Organization*. Cambridge: MIT Press, p. 249.

⁹⁹ Kerstetter, Wayne A. (1985). 'Who Disciplines the Police? Who Should? In William A. Geller (ed.) *Police Leadership in America: Crisis and Opportunity*. New York: Praeger, p. 178.

¹⁰⁰ See Prenzler, T. and Ronken, C. (2001) *Models of Police Oversight: A critique.* *Policing and Society*, Vol. 151, pp. 151-180. They argue that the only effective form of civilian oversight is the 'genuinely independent investigation of complaints ... of police misconduct' by agencies such as our ICD.

¹⁰¹ This emerged from a meeting with the Head of SAPS Legal Services at National level, Dr T. Geldenhuys on 9 June 2004. Dr. Geldenhuys was the chairperson of the task team that drafted the legislation that provided for the establishment of the MPDs and the Civilian Oversight Committee.

¹⁰² *Ibid*.

¹⁰³ Finn (2001) *op cit*. p. 69.

¹⁰⁴ This approach has previously been argued by Bruce, D. (2003) *Civilian Review: A proposed approach for civilian oversight committees in promoting accountability in municipal police departments*. A research paper produced by the Centre for the Study of Violence and Reconciliation.

¹⁰⁵ *Ibid*. p. 83.

¹⁰⁶ Ibid. p. 105.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid. p. 94.

¹⁰⁹ Ibid. p. 84.

¹¹⁰ As explained on page 12 of this report.

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