

# THE ROLE OF THE SOUTH AFRICAN NATIONAL DEFENCE FORCE IN POLICING

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## Abstract

The subjects of law enforcement, the protection of society and more specifically criminal justice practices have sparked lively debate in both public and legal spheres. Over the past decade, human right scholars/activists as well as civil society organisations in South Africa have advocated for the creation of new laws, policies and practices in relation to the fight against crime. Reflecting on over a decade of law enforcement, this article attempts to highlight some of South Africa's unique experiences in the fight against crime as well as the specific discursive challenges faced by reformers in developing an appropriate contextual approach. This article reflects specifically on the often-overlooked role, which the South African National Defence Force (SANDF) can play in precipitating and sustaining law enforcement in civil society. It also further reflects on the legislative decisions made in this regard. The article also examines the general overview of shifts in policing policies and practices with regard to policing and law enforcement in the South African context.

## Introduction

High levels of crime pose a serious threat to the emerging South African democracy. Violent crime often leads to the tragic loss of life or injury, and the loss of possessions and livelihood due to crime is incalculable. Crime results in the deprivation of the rights and dignity of citizens, and poses a threat to peaceful resolution of differences and rightful participation of all in the democratic process. Crime casts fear into the hearts of South Africans from all walks of life and prevents them from taking their rightful place in the development and growth of our country. It inhibits our citizens from communicating with one another freely and from engaging in economic activity, and prevents entrepreneurs and investors from taking advantage of the opportunities, which our country offers. The rights and freedoms, which the Constitution entrenches, are threatened

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every time a citizen becomes a victim of crime. For these reasons, government regards the prevention of crime as a national priority. This applies not only to the Cabinet and to the departments concerned with security and justice, but also to all other national departments, which are able to make a contribution to a reduction in crime levels. Although the Constitution<sup>1</sup> makes provision for the South African Police Service (SAPS) to be the institution responsible to fight crime, in the same breath, the Constitution does not place the whole burden to fight crime on the police. The authors accept that some of the causes of crime are deep-rooted and related to the history and socioeconomic realities of our society. For this reason, a comprehensive approach must go beyond providing only effective policing. It must also provide for mobilisation and participation of civil society and other stakeholders in assisting to address crime. To reduce crime effectively, it is necessary for the state to utilise all state security institutions effectively. We therefore need to weave a new social fabric, robust enough to withstand the stresses of rapid change in a new-born society. To expect this to happen too quickly is to sabotage proper planning and solid construction of new criminal justice machinery.

## Background

As part of the post-1994 transformation of the military and the police, the decision was taken by government to demilitarise South African society. The traditional functions of the South African military at that stage were reviewed, and a White Paper on National Defence for the Republic of South Africa of 1996<sup>2</sup> and Defence Review of 1998<sup>3</sup> were published giving expression to this new vision. These change imperatives were driven by the desire to transform both the police and the military for the needs of a democratic country, in terms of the priorities and the socio-political context of the time.

According to the White Paper on National Defence for the Republic of South Africa,<sup>4</sup> the key decisions that emerged from that period in South Africa's history were:

- The demilitarisation of South Africa;
- The withdrawal of the military from internal activities;
- The transfer of military responsibilities from the South African Police Service to the South African National Defence Force (SANDF);
- Transfer of policing responsibilities from the SANDF to the SAPS; and
- The closure of the commando units.

While there is a desire and a need to change the role and functions of the military and the police in the new democratic dispensation, it is necessary to pay careful attention to planning and implementation.

### **The Defence Review and the South African Police Services**

Reading the 1998 Defence Review,<sup>5</sup> it was clearly assumed, without any analysis having been conducted to support this conclusion, that the SAPS would be capable of adequately combating crime and driving down the high levels of violence in the country. The Defence Review<sup>6</sup> conceded that the SANDF could play a role, however limited, in supporting the SAPS in the execution of non-military tasks while allowing for the possibility that the SANDF could assist the SAPS in –

- tackling crimes constituting a threat to the constitutional order;
- crime combating in accordance with international practice, for example, border protection and preventing illegal immigration and drug smuggling; and
- addressing serious crime, for example, attacks on farms, stock theft, trafficking in drugs, trafficking in arms and ammunition, car hijackings and taxi violence.

A little over a decade later, it is clear that the SAPS is not coping adequately even with its core functions and that it has not substantially reduced the levels of violent crime in the country. If anything, the citizenry grows more despondent every year regarding the crime situation in South Africa. What is even more apparent is the manifest inability of the SAPS to maintain the territorial integrity of our national borders and to perform adequate rural and border policing functions. A recent report by the auditor-general (AG)<sup>7</sup> on the state of our borders found that there are many critical problems with the state of borderline security. In response to this query, the SANDF have now been redeployed back to borderline duties. This means that these problems need to be addressed as a matter of urgency.

### **The levels of crime in South Africa**

Crime in South Africa has spiralled uncontrollably. Thousands of innocent people are murdered, hijacked, robbed annually, while others are exposed to all sorts of crimes every day. As a result, life in the country has become a nightmare for most law-abiding citizens. Yet some argue that, overall, crime is on the decline. While some sources may attempt to prove that the crime rate has recently gone down, in

reality it may have increased, quite substantially. It is a known fact, however, that most crimes go unreported.<sup>8</sup> Moreover, since statistics are based on actual, reported cases, all crimes must be much higher than the reported figures released to the public.

Table 1: Rise in selected crimes.<sup>9</sup>

Financial year	Murder	Rape	Car jacking	Cash-in-transit robbery	Bank robbery	Vehicle theft
1994/1995	19 824	44 751	917	305	354	88 144
1995/1996	21 405	49 813	993	375	340	93 133
1996/1997	21 553	49 679	12 912	359	347	96 859
1997/1998	21 758	51 435	13 052	367	356	97 332
1998/1999	22 604	51 959	15 773	389	463	98 669
1999/2000	24 486	52 872	15 177	393	450	100 030
2000/2001	25 127	52 891	15 930	396	456	102 571
2001/2002	25 470	52 733	15 846	395	461	103 041
2002/2003	25 965	52 425	16 691	398	493	105 867
2004/2005	26 877	54 293	16 791	397	499	107 448
2005/2006	26 078	54 507	42 955	403	453	108 232
2006/2007	27 507	54 887	45 038	407	459	108 464
2007/2008	28 887	54 925	45 900	409	455	108 869
2008/2009	29 078	54 997	47 661	436	496	108 931

Table 1 indicates the high levels of six selected crimes, which have been increasing since 1994. From this table it is clear that the SAPS is losing the battle against crime; hence, there is a need to co-opt other agencies such as the SANDF and to review the current crime prevention approaches. The crime statistics are in line with what the National Crime Prevention Strategy identified as major problems.<sup>10</sup> According to this strategy, the crime categories of particular concern were as follows:

- Crimes involving fire-arms, which have significantly increased the level of violence associated with crime, thereby increasing physical and psychological costs of crime to society.
- Organised crime, including the organised smuggling of illegal immigrants and narcotics, and gangsterism, serves to generate higher levels of criminality and violence. Since the advent of democracy and the re-integration of South Africa into the international community, we have seen a rapid growth in this form of crime.
- White-collar crime places a burden on the economy and contributes to the prevailing sense of lawlessness.
- Gender violence and crimes against children are not only highly prevalent but also have a profoundly negative impact on the rights and future well-being of women and children.
- Violence associated with inter-group conflict, such as political conflicts, taxi violence and land disputes is unacceptably common in South Africa and poses a threat to democratic tolerance and orderly co-existence.
- Vehicle theft and hijacking have increased substantially and are contributing to increased levels of fear and insecurity.
- Corruption within the criminal justice system contributes to a general climate of lawlessness and serves to undermine the legitimacy and effectiveness of the criminal justice system.

So far, these crimes have not been addressed fully. Therefore, for all of these categories of crime, immediate prioritisation of other departmental resources is needed.

#### South Africa's police population ratio

According to Statistics South Africa,<sup>11</sup> the geographic area of South Africa is about 1,2 million sq. km (470 462 sq. miles) and has a population of about 49 849 800 million. Table 2 illustrates the police population ratio per province.<sup>12</sup>

Although South Africa is bigger than South Korea, we share a similar population size, but their police population ratio is better than that of South Africa. This is a clear indication that there is something wrong with our police resource allocation in South Africa; hence, there is a need to supplement it with the SANDF personnel when necessary.

Table 2: The police population ratio per province.<sup>13</sup>

<b>Total number of police officers (excluding civilians): As at April 2010: 151 271</b>	
<b>Ratio of police officers</b>	
Nationally	1 : 329 (1 police official for every 329 citizens)
Eastern Cape	1 : 404 (1 police official for every 404 citizens)
Free State	1 : 319 (1 police official for every 319 citizens)
Gauteng	1 : 304 (1 police official for every 304 citizens)
KwaZulu-Natal	1 : 464 (1 police official for every 464 citizens)
Limpopo	1 : 509 (1 police official for every 509 citizens)
Mpumalanga	1 : 406 (1 police official for every 406 citizens)
Northern Cape	1 : 195 (1 police official for every 195 citizens)
North West	1 : 409 (1 police official for every 409 citizens)
Western Cape	1 : 273 (1 police official for every 273 citizens)

The need to revise the role of the SANDF

The 1998 Defence Review<sup>14</sup> makes it clear that it conceived an active role for the SANDF in internal deployment. This role was limited, as it was held that the SAPS would be ultimately responsible for delivery of crime-combating and prevention services. According to Mortimer,<sup>15</sup> we face a different global, regional and local context today, where the dividing line between national security and crime is becoming increasingly blurred. The threats that all countries face are the same at global, regional and local level.

Such threats include poverty, mercenarism, terrorism and arms proliferation.<sup>16</sup> There is a recognised overlap between terrorism and organised crime, both of which present a serious threat to the stability of South Africa. The inadequacy of the SAPS's efforts to deal effectively with violent crime renders the downsizing of the SANDF's engagement with law enforcement support activities even more ironic. The Defence Update<sup>17</sup> states,

National security policy and priorities thus imply that government will require the SANDF to participate in and contribute to the combating of a range of non-military threats to security. These may include crime, terrorism and the effects of natural disasters.

This is a clear indication that the current demarcation of functions between the SANDF and the SAPS needs to be reviewed. Such a review needs to analyse and scrutinise the role of the SANDF in policing and crime prevention. Before we can provide arguments on whether there is a need to deploy the SANDF in policing duties or not, it is important to look at what the SANDF used to do in the past so that it can inform us regarding our proposals.

### **The role of the SANDF in the new dispensation**

#### The domestic context

According to the White Paper on National Defence for the Republic of South Africa,<sup>18</sup> from a security perspective there are three prominent trends at domestic level. Firstly, as noted in Chapter 2 of the White Paper, there is an overwhelming need for socio-economic development and reconstruction in order to address the root causes of much personal insecurity and social instability. This is both a moral obligation and a strategic imperative. Secondly, South Africa is characterised by endemic crime and criminal violence, which affects all sectors of society and which is exacerbated by the proliferation of small arms in private hands. Government is tackling this problem through efforts to strengthen the criminal justice system, community policing and crime prevention strategies.

A long-term solution lies in upgrading the conditions of impoverished communities through the Reconstruction and Development Programme (RDP).<sup>19</sup> Thirdly, there has been a considerable reduction in the level of public and political violence since the elections in April 1994. Nevertheless, violence in certain parts of the country remains unacceptably high and poses a serious threat to public order and

the security of citizens. Public order policing is primarily the responsibility of the South African Police Service (SAPS). However, given the relative shortage of police personnel, large numbers of troops are currently deployed to assist them.

#### Constitutional provisions

In terms of section 200 (2) of the Constitution, "... the primary object of the defence force is to defend and protect the Republic, its territorial integrity and its people in accordance with the constitution and principles of international law regulating the use of force". However, whenever a need arises, sections 18–20 of the Defence Act<sup>20</sup> provides that the SANDF may be deployed with the SAPS in the following functions:

- for service in the defence of the Republic, for the protection of its sovereignty and territorial integrity;
- for service in compliance with the international obligations of the Republic with regard to international bodies and other states;
- for service in the preservation of life, health or property;
- for service in the provision or maintenance of essential services;
- for service in the upholding of law and order in the Republic in cooperation with the South African Police Service under circumstances set out in law where the Police Service is unable to maintain law and order on its own; and
- for service in support of any department of state for the purpose of socio-economic upliftment.

It is the policy of government that the above functions do not carry equal weight. The primary function of the SANDF is to defend South Africa against external military aggression.<sup>21</sup> The other functions are secondary. However, it is important to highlight that, whenever a need arises, the SANDF is expected to render services to the communities of South Africa. Therefore, from the crime statistics, it is clear that there is a need for the deployment of troops in policing duties.

#### The primary/secondary role debate

According to the South African Constitution, "... the primary object of the defence force is to defend and protect the Republic, its territorial integrity and its people in accordance with the Constitution and the principles of international law

regulating the use of force". The Constitution does not name any secondary objects or functions of the Defence Force, but through Schedule 6 (Transitional Arrangements), Section 24 (1) provides for the retention of Section 227 (1) of the Interim Constitution Act, No. 200 of 1993, which makes provision that the Defence Force may be employed –

- for service in the defence of the Republic, for the protection of its sovereignty and territorial integrity;
- for service in compliance with the international obligations of the Republic with regard to international bodies and other states;
- for service in the preservation of life, health or property;
- for service in the provision or maintenance of essential services;
- for service in upholding of law and order in the Republic in co-operation with the South African Police Service under circumstances set out in law where the Police Service is unable to maintain law and order on its own; and
- for service in support of any department of state for the purpose of socio-economic upliftment.

The provision that the Defence Force “may be employed for” does not imply that the Defence Force “must be designed for” or “exists for the reason to” but rather that because the Defence Force exists and has certain inherent capabilities it may be employed for other tasks over and above its “primary object”. In later policy development, it was therefore concluded that the SANDF should be designed for its primary object and that it must provide other services through its collateral utility.<sup>22</sup> This statement, if true, requires a closer examination of the “primary objective” of the SANDF.

Whilst most dictionaries describe the two words “defend” and “protect” as synonymous, the fact that both are included in the constitutional description of the primary object of the SANDF indicates a clear distinction in the intent of their use. To defend the Republic, its territorial integrity and its people would imply defence against some form of external belligerent/military threat to these entities.

To protect the same would seem to have a wider meaning, which includes protection from abnormal eventualities such as natural disasters, crime and violence beyond the control of the Police, other non-state violence and internal threats to the constitutional order, amongst others.<sup>23</sup> The protection function of government is, however, not restricted to the SANDF. The Constitution also provides that “The

objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law”.<sup>24</sup>

Chapter 3 of the Constitution states, “All spheres of government and all organs of state within each sphere must secure the well-being of the people of the Republic”. It is clear that for many of the functions mentioned above, the primary responsibility rests with governmental structures other than the Department of Defence. It is for this reason that the words “co-operation with the SAPS” and “support of any department of state” are used. In fact, all of the secondary functions of the SANDF are supportive of other government departments and/or civil society organisations. How then does the SANDF defend and protect the Republic, its territorial integrity and its people? This is well argued and described in the White Paper on Defence. The White Paper on National Defence for the Republic of South Africa<sup>25</sup> clearly spells out South Africa’s strategy for the protection of the state and its people through the hierarchy of:

- political, economic and military co-operation with other states;
- the prevention, management and resolution of conflict through non-violent means; and
- the use or threat of force as a measure of last resort.

The White Paper argues that government's preferred and primary course of action is to prevent conflict and war. South Africa will therefore only turn to military means when deterrence and non-violent strategies have failed. It is the authors’ assertion that crime has gone out of hand – hence there is a need to deploy the SANDF in policing duties. Deterrence requires defence capabilities that are sufficiently credible to inhibit potential aggressors. The hierarchy for the defence of South Africa is thus clearly:

- political, economic and military co-operation with other states;
- the prevention, management and resolution of conflict through non-violent means; and
- the use or threat of force as a measure of last resort.<sup>26</sup>

Despite the above, the White Paper goes on to define the primary function of the SANDF as “to defend South Africa against external military aggression” and determines that the SANDF should be designed mainly around the demands of its primary function. It determines, incorrectly and in contrast to its own defence

strategy logic, that peace support operations is a “secondary task” and that it should ideally be executed largely by means of the collateral utility inherent in the design for the primary function, defence against external military aggression. The overemphasis on the primary function of the SANDF as the defence of South Africa against external military aggression and the primacy of designing the SANDF for this function only came about for two reasons.<sup>27</sup> Firstly, the new ruling party was painfully aware of the results of allowing the apartheid SADF to become involved in political and internal stability matters (White Paper on National Defence for the Republic of South Africa).<sup>28</sup> The ANC accepted the need for a defence force but wanted one that would be truly non-partisan and professional; therefore, one that was restricted to purely conventional military tasks.

At the same time, the military command structure of the new SANDF (overwhelmingly officers from the old SADF) was concerned about the aging of conventional military equipment and the loss of capabilities and saw the strong focus on the primary function as an opportunity to motivate for the re-equipping of the SANDF.<sup>29</sup> This was in fact a marriage of convenience between two unlikely parties.

Secondly, the utopia of the ending of apartheid brought an unrealistic vision of the end of conflict in Africa and a dream of continental peace, stability and development.<sup>30</sup> There was therefore not much thought about the role that the SANDF might have to play in shaping the conditions of peace and stability on the continent for the realisation of the African Renaissance. The current demand for the SANDF in African peace missions was simply not envisaged. This boiled down to the following scenario. If we accepted the need for a defence force due to the uncertainties of the future but wanted this defence force to remain disengaged from internal stability matters and did not foresee a significant role for it on the continent, we could only build a defence force based on the logic of defence against external aggression. This was a remote possibility; so, we needed to build a defence force on the concept of “a small conventional core force with the ability for rapid expansion based on a sufficiently large reserve component”. Such a force would be able to execute any secondary functions by making use of the collateral utility available in its primary design.

### **Crime prevention**

Crime prevention has become an increasingly important component of many national strategies on public safety and security. The concept of prevention is

grounded in the notion that crime and victimisation are driven by many causal or underlying factors.<sup>31</sup> These factors are the result of a wide range of factors and circumstances that influence the lives of individuals and families as they grow up, and of local environments, and the situations and opportunities that facilitate victimisation and offending. Determining which factors are associated with different types of crime can lead to the development of a set of strategies and programmes to change those factors, and to prevent or reduce the incidence of those crimes.<sup>32</sup>

These underlying or causal factors are often termed “risk factors”. They include global changes and trends that affect the social and economic conditions of regions and countries, factors affecting individual countries and local environments and communities, factors relating to the family and close relationships, and factors that affect individuals. Knowledge about the factors that put populations, communities and individuals at risk enables prevention programmes to be targeted to areas and neighbourhoods at high risk, or to groups of individuals who are already involved in offending or at risk.<sup>33</sup>

At national level, this assists governments in prioritising crime problems, and in targeting programmes to the regions, cities or sectors that seem most vulnerable. Such targeting of programmes and funds to tackle the greatest needs has been shown to be an effective and economical way of reducing levels of crime and victimisation. The major fields of crime prevention include a range of responses developed over many years, including developmental, environmental, situational, social and community-based crime prevention, and interventions may be classified into a number of groups. According to the *Handbook on the crime prevention guidelines*,<sup>34</sup> various prevention approaches and programmes are grouped into four main categories, as discussed below.

#### Crime prevention through social development

This approach includes a range of social, educational, health and training programmes, such as those that target at-risk children or families when the children are very young, to provide them with support and child-rearing skills.<sup>35</sup> Some early intervention programmes are also referred to as developmental crime prevention, since they try to intervene to develop resilience and social skills among children and their families. Programmes may also target groups of children in areas where children and young people are at particular risk, such as street children or children living in informal settlements or disadvantaged areas.<sup>36</sup> Other examples include education projects in schools, or recreation and skills training projects for children

and young people in the community, also in an attempt to increase awareness and resilience as they grow up and develop.

#### Community or locally based crime prevention

Instead of targeting individuals, this approach targets areas where the risks of becoming involved in crime or being victimised are high. This includes areas with high levels of deprivation, both in terms of infrastructure, services and wealth, or where there is a lack of community cohesion.<sup>37</sup> This can include slums and informal settlements, or inner-city or suburban housing projects, often areas with a concentration of economic and social problems. Such programmes work to increase the sense of safety and security of the residents of particular communities, to respond to community concerns and crime problems affecting the population and to increase the services and social capital or social cohesion in the community. “Social capital” generally refers to the network of social relationships, trust and shared values, community involvement or a sense of civic identity that exists in a neighbourhood.<sup>38</sup> Community crime prevention often involves the active participation of local residents and organisations in those communities and neighbourhoods. They may be involved in identifying local priorities as well as implementing responses. The term “community” can refer to small neighbourhoods, areas within a city, or small villages or towns, or in some cases, to groups of citizens with particular concerns.

#### Situational crime prevention

The aim of this approach is to reduce the opportunities for people to commit crimes, to increase the risks and costs of being caught and to minimise the benefits.<sup>39</sup> Situational techniques are designed to be directed at highly specific forms of crime, and assume that would-be offenders make rational decisions about the potential risks and rewards of breaking the law.<sup>40</sup> Such techniques involve the management, design or manipulation of the immediate environment in a systematic and permanent way, and could, for example, include designing public spaces or housing to make it more difficult for people to break equipment or to enter buildings without permission, or marking products so that they can be identified if they are stolen. Other examples include the use of closed-circuit television to protect car parks, or the development of pedestrian pavements, gardens and seats in public areas to encourage greater public use, with increased surveillance of that public space.<sup>41</sup>

Situational crime prevention is closely associated with environmental crime prevention and crime prevention through environmental design, which is more specifically concerned with changes to the built environment or landscape.

### Reintegration programmes

Crime prevention through reintegration refers to all programmes that work with children, young people or adults already involved in the criminal justice system, including those in custody and returning to the community. According to Emsley,<sup>42</sup> it is important to “Prevent recidivism by assisting in the social reintegration of offenders and other preventive mechanisms.” Those convicted of offences run a great risk of re-offending, given that they have already broken the law, have few opportunities and skills to pursue legitimate non-criminal lifestyles, and may have strong links with other offenders and offending lifestyles. Providing them with life and job skills, training, education, alternative lifestyles and role models and good support and housing in the community are all ways to assist with their reintegration.<sup>43</sup>

Programmes in prison may help to prepare these people for release by providing them with new work skills, for example, or by increasing their educational levels and social skills, including the ability to mediate conflict situations, and through the use of other restorative approaches.<sup>44</sup> Programmes may take place in the community or in halfway houses or sheltered homes that provide safe accommodation and in-house support and advice, and may include apprenticeship programmes, job-creation schemes, life-skills training, microcredit facilities and long-term support. Programmes that teach conflict resolution skills or use restorative justice approaches, such as victim-offender mediation or family or community group conferencing, are other examples of ways in which offenders can be assisted in returning to civil society.<sup>45</sup> These are all examples of crime prevention focusing on re-integration, with the overall aim of preventing re-offending. In view of these aspects, it is clear that crime prevention is not the sole responsibility of the police.

### Combining crime prevention approaches

No single approach (or underlying theory of intervention) is inherently better than any other. All of them have advantages and disadvantages. Some social development approaches can be long-term and require commitment and investment continuing over a number of years. Community or locally based approaches can require considerable patience with the difficulties of engaging citizens in positive

ways, or maintaining the momentum of projects. They are more difficult to evaluate, so clear and rapid results from interventions may be hard to identify.<sup>46</sup> Situational prevention has often been criticised for focusing too much on opportunistic crime and target-hardening techniques or surveillance (because it can displace crime and disorder to other areas), for encouraging unequal access to security (for example, with the development of private space and gated communities), and for failing to tackle the social or economic causes of crime problems.<sup>47</sup> Some of the recent developments in situational prevention have focused on better use of regulations, such as municipal and local by-laws and their enforcement, and this is seen as a valuable tool to encourage businesses or local residents to change and regulate their own behaviours. No specific crime prevention approach should be considered superior to others. Rather, any approach selected should form part of a strategic and balanced plan, and the advantages and disadvantages of each approach in a particular context should be considered.<sup>48</sup> Thus, a project in a city neighbourhood, for example, could combine a range of initiatives such as changes to traffic layout, better lighting, employing and training young people to act as guardians and local mediators, providing support to low-income families and providing better recreation facilities and opportunities in disadvantaged residential areas.<sup>49</sup>

Overall, these four broad categories are all aspects of the overall practice of crime prevention, and they provide a menu of approaches from which to select when developing an overall strategy. They offer a range of short- and longer-term responses to crime problems. All of them offer valuable options, and have different advantages and disadvantages. In the South African context, these approaches are contained in the National Crime Prevention Strategy of 1996 as well as the White Paper on Safety and Security of 1999–2004. However, Burger<sup>50</sup> argues that these approaches have not achieved the desired goals; hence, the authors believe that these approaches need to be augmented by the SANDF.

## **Recommendations**

In terms of section 12 (1) of the Constitution, everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources. This fundamental right places a responsibility on the state to provide security to its citizens. Therefore, it is up to the state to deploy its resources in order to protect its citizens. Furthermore, section 198 (a) of the Constitution states, “National security must reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life.” In view of the

high levels of crime in South Africa, the state is required to provide security to the citizens, even if this requires the deployment of the SANDF personnel in policing duties. As a result, certain recommendations are made.

#### Deployment in co-operation with the SAPS

Currently the SANDF troops are employed on a widespread basis in support of the SAPS, and such employment is likely to persist for some time because of ongoing public violence and the relative shortage of police personnel. According to Boshoff,<sup>51</sup> in order to ensure effective deployment and maximum co-operation, the following steps should be taken before the SANDF is deployed alongside the SAPS:

- The creation of a formal liaison committee incorporating the relevant structures;
- Analysis and determination of the role definition, method of deployment and responsibilities of the SANDF;
- The establishment of a clear chain of command and control, a code of conduct and appropriate rules of engagement;
- Agreement on the duration of the SANDF deployment; and
- A thorough review of the deployment if the objective of the mission is not achieved within the agreed time-scale.

#### Border policing

The 1998 Defence Review made it clear that it conceived an active role for the SANDF in internal deployment. This role was limited, as it was held that the SAPS would be ultimately responsible for delivery of crime-combating and prevention services.<sup>52</sup> Today, we face a different global, regional and local context, where the dividing line between national security and crime is becoming increasingly blurred.

All countries face threats at global, regional and local level. Such threats include poverty, mercenarism, terrorism and arms proliferation. The authors would like to add crime to the growing list of internal threats our country faces. There is a recognised overlap between terrorism and organised crime, both of which present a serious threat to the stability of South Africa. The inadequacy of the SAPS's efforts to deal effectively with violent crime renders the downsizing of the SANDF's engagement with law enforcement support activities even more ironic. Although this

function has recently been given back to the SANDF, the authors believe that this should be strengthened.

#### Broken-windows policing approach

The notion exists that disorder and fear of crime are strongly linked and that, if attention is not given to disordered and neglected areas, community controls will break down and those neighbourhoods will be vulnerable to crime. In this case, the SANDF's role will be to help maintain order and reinforce informal controls. According to Lu, Miethe and Liang,<sup>53</sup> this approach of having soldiers assisting with community controls has been used successfully in countries such as China, El Salvador and the Philippines.

#### Hotspot policing

This is a form of policing that focuses on identifying places where crime is concentrated and developing problem-solving responses.<sup>54</sup> In this instance, crime information systems such as global positioning systems (GIS) are used to identify areas that contain dense clusters of events (hotspots). These high concentration areas usually demand special police attention. For example, GIS allows an analyst to identify all the areas in a police station area where at least five robberies have occurred within a 1-km radius.<sup>55</sup> These areas are then outlined on a map. Using GIS to identify hotspots provides a consistent method to measure concentrations of criminal events over time. Hotspots of violent crime, robbery, residential burglary, commercial burglary, vehicle theft and cash-in-transit robbery can be calculated every month for each police station area. By doing so, the police will be able to enforce the law. The SANDF in conjunction with the SAPS can perform these duties effectively. This approach can also be used in deploying SANDF personnel at places such as shopping malls, taxi ranks and townships where there are high levels of violent crimes.

#### Pulling-levers policing

Pulling-levers policing is related to problem-oriented policing. This approach emerged from the Boston gun project in the United States, which aimed to reduce youth gang violence.<sup>56</sup> It involves pulling together all criminal justice agencies as well as all security agencies to work together in a concerted way to enforce compliance, also matching this with strong community-based involvement, interventions and direct services.

## Visible policing

Comparative evidence suggests that where visible policing programmes are vigorously implemented and offenders arrested, crime and fear of crime decrease.<sup>57</sup> For visible policing to be effective, law enforcement agencies on the beat need to perform their policing functions in an assertive way. This entails communicating with various stakeholders in the community and engaging in street-level law enforcement. In this regard, the authors believe that the SANDF can play a major role in preventive patrols, directed patrols as well as high-density policing. According to Lu, Miethe and Liang,<sup>58</sup> this approach has been applied successfully in countries such as Cambodia, Nigeria, Swaziland and Brazil.

## Intelligence-led policing

This is a model of policing developed in England and Wales, which aims to provide an effective strategy to respond to all enforcement needs such as organised and violent crimes.<sup>59</sup> It uses problem solving based on good information and cooperation with other agencies and bodies. Intelligence collection is the gathering of data/information on specific individuals or groups in order to understand their activities. This type of activity is used by government and the private sector to protect their interests and to acquire secrets of a rival organisation or individuals. The collected data/information is then analysed in order to be usable as an intelligence product. Intelligence products are used to predict future events and give warnings to decision-makers.

Although this approach is currently used via the National Intelligence Coordinating Committee (NICOC), it is recommended that the SANDF can play a much more active role in crime prevention than just sharing intelligence. According to Rauch,<sup>60</sup> intelligence-driven policing was emphasised during 2000, when the focus was on organised crime syndicates as well as on disrupting syndicate activities by arresting syndicate leaders and “runners”, and by closing down the flow of goods and markets for these goods. This is why the authors believe that this approach needs to be re-enforced by using the SANDF.

## Public order policing

In terms of section 16 of the South African Police Service Act, No. 68 of 1995, public order policing is primarily the responsibility of the SAPS. Given the relative shortage of police personnel, the authors believe that a large number of troops can be deployed to assist them in the maintenance of law and order, especially during service delivery marches and strikes.

## Combating of serious crime

The SANDF can contribute to combating serious crimes such as attacks on farms, stock theft by armed groups, illegal trafficking in drugs, arms and ammunition, car hijackings and taxi violence. Such SANDF activities may include monitoring and surveillance, providing air transport support to the SAPS, providing logistic and personnel support to police engaged in roadblocks, cordons and vehicle and foot patrols. The SANDF may also provide reaction force backup to the police where this is required.

## Crime combating in accordance with international practice

According to the 1998 South African Defence Review, it is acceptable internationally to deploy armed forces to counter certain types of crime, which have serious socio-economic, security and/or environmental implications. The SA Army can be deployed, in co-operation with the SAPS and other state departments, in border protection. This is intended to prevent illegal immigration and the smuggling of drugs and weapons across landward borders. This function has been moved back and forth from the SANDF to SAPS, and recently back to the SANDF. This is an indication that border security is a major concern for South Africa. Smuggling, illegal entry, plunder of marine resources and other crimes occur along the coast of the Republic. The Navy is normally deployed in co-operation with the SAPS and the Departments of Environmental Affairs, Home Affairs and Revenue Services in patrolling the coast to prevent such activities. However, the authors believe that these functions need to be strengthened, especially taking into account the rise in piracy and maritime terrorism.<sup>61</sup> The Air Force has air space surveillance and control capabilities, which may assist in the protection of the country's air space against smuggling and illegal entry. The SA Military Health Service provides medical support to the SANDF and SAPS during crime prevention operations.

## Opposition against the use of the army in policing duties

Despite calls for greater military involvement in combating crime, there is a general view that this tendency is undesirable. The history of South Africa and many other countries indicates that it is inappropriate to utilise armed forces in a policing role on a permanent or semi-permanent basis. In terms of the South African Defence Review, this perspective is based on the following:

- Armed forces are not trained, orientated or equipped for deployment against civilians. They are typically geared to employ maximum force against an external military aggressor.
- On-going employment in a law and order function may lead to the defence force becoming politicised and increasingly involved in non-military activities.
- Such employment may also undermine the image and legitimacy of the defence force amongst sections of the population.
- Internal deployment places a substantial burden on the defence budget. It also has a disruptive effect on the economy when large numbers of part-time soldiers are called up.

Armed forces are created and meant to fight an external enemy. They are trained to kill, decimate and destroy. Militaries are not appropriate for handling internal threats and many of the non-conventional threats to national security. Success in countering these threats can be ensured either through effective policing or coupled with the support of Armed Forces. Excessive involvement of the military in civil strife can exhaust the armed forces and blunt their efficacy. Their engagement for extended periods, as in Jammu and Kashmir and in the North Eastern region of India, can tire them out and reduce their efficiency.<sup>62</sup> Thus, the effectiveness of the armed forces in fighting an external enemy is seriously diminished in the process. Heavy reliance on armed forces also potentially weakens civilian authority.

The frequent use of armed forces enhances their power and influence in the polity. This enhanced power can become a threat to democracy as we have seen in the cases of Pakistan, Bangladesh and other countries, which have suffered military coups. The extent of democratic control is inversely proportionate to the democratic government's dependence on the armed forces. The situation gets compounded when armed forces are used for purposes they are not meant for, like internal disturbance or settling political disputes.<sup>63</sup> The military is the ultimate resort of the

state and it should be called in to act only when no other state agency can be deployed effectively. However, the authors believe that, with the killing of police officials increasing by the day, there is a need to involve the military in policing functions.

In view of the above, it is recommended that the SANDF be deployed in most exceptional circumstances beyond the capacity of the SAPS. The current state of affairs warrants such deployment. In order to achieve this goal, financial resources for maintaining internal stability should be allocated to enhance the capacity of the SAPS. Further, and as a matter of urgency, the Departments of Defence and Police need to establish a working group to devise strategies for the deployment and withdrawal of SANDF members from policing duties. The internal employment of the military will be subject to parliamentary control and the constitutional provisions on fundamental rights, and will be regulated by legislation.

## **Conclusion**

Crime prevention, as reflected in the National Crime Prevention Strategy (NCPS) and the White Paper on Safety and Security, relies on some key partners, including the police, the military, intelligence services and the private sector. Countries vary considerably in terms of the characteristics of their policing, the number and types of police forces they have, their history and orientation, and distribution of responsibilities. In post-conflict settings, they may be highly centralised and militaristic in their style and training, and in many countries, there may be a lack of trust in the police on the part of the public. Nevertheless, the police have an important but not exclusive role in strategic prevention of crime at various levels. It is not uncommon for the police to be seen as having the main responsibility for crime prevention and as the natural lead institution in all questions of safety, rather than as a partner with other institutional sectors.

In South Africa, violent crimes have increased dramatically. As a result, there is a need to supplement police resources with military personnel. For these suggestions to succeed, they require the support of all South Africans who no longer wish to be victims or to live in fear. The suggestions are based on the view that we need to build a new society, rather than simply normalise something which was never normal. The magnitude of the challenge should not be under-estimated. It requires commitment, clarity of vision and leadership from within all affected government institutions, and participation by civil society.

## Endnotes

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