

THE SOCIOLOGY OF POLICE CRIMINALITY AND ILL-DISCIPLINE IN BUFFALO
CITY METROPOLITAN MUNICIPALITY, SOUTH AFRICA

BY

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DEDICATION

I would like to dedicate this thesis to my late dad, Raymond Long, who was with me at the beginning of this journey, but who I unfortunately lost along the way, and who was unable to see me complete my studies and achieve this most prestigious qualification. You will continue to serve as an inspiration for everything I achieve in my life.

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ABSTRACT

Policing as a global concept, involves an exchange of trust between the public and a given police service, with the underlying basis of this exchange being an understanding that the police exist to protect citizens and their property, and to ensure that order is maintained in societies. The police services, by virtue of the nature of their role in society, can therefore be regarded as 'protectors'. The South African Police Service are guided by the same philosophies as policing services globally. Recently in South Africa though, there has been an increase in reports accusing policemen of becoming involved in criminal activities themselves. With a focus on the Buffalo City Metropolitan Municipality policing district, this study presents and analyses incidences of undocumented police crimes; the causes thereof; and the role of disciplinary procedures (both internally and legally) in preventing such incidences of crime. This study utilised a qualitative methodology to gather and analyse data. A total of 60 serving police officers and 10 key informants were selected using purposive and snowball sampling. In-depth semi-structured interviews conducted with these police officers and key informants, reveal that police men and women are involved in violent and economic crimes in the Buffalo City Metropolitan Municipality policing district. Most violent crimes include assault, and torture; whilst economic crimes include corruption and theft. Underlying reasons for such crimes include inadequate remuneration, frustration in respect of the efficacy of the criminal justice system, vigilantism within the policing services, and socially learned violence. Internal (within SAPS and IPID) and legal disciplinary measures (through the criminal and civil justice system) were established to be ineffective in managing and eradicating incidences of both violent and economic crimes. The consequences of incidences of police criminality are reduced legitimacy of the policing services to deliver on its mandate to protect and serve the people of the Republic of South Africa.

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ACRONYMS AND ABBREVIATIONS

| | |
|------|----------------------------------------------|
| BCMM | Buffalo City Metropolitan Municipality |
| CSC | Community Service Centre |
| IPID | Independent Police Investigative Directorate |
| SAPS | South African Police Service |



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CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction

Fundamental to policing is adherence to the legislative precepts of a given country, and maintenance of the safety and security of civilians. The police are designated with such responsibilities, such that they are viewed as protectors and social service providers in the communities within which they operate. As Junior and Muniz (2006: 234) note

policing as a social phenomenon comprises, and must comprise, any and all activities that aim at imposing conformity to collective standards. The police function describes a given division of labour that supports the continuity of certain collectively established, or at least collectively acceptable, patterns of behaviour

The police as an organisation or social unit, are tasked with maintaining the collective standards and expected behaviours of a given society or community in order to ensure that the human rights of each individual residing or visiting such a country are not transgressed. The protection of the right to life, and the right to freedom from harm are fundamental to the mandate imposed on policing services globally. Further to this, policing services are tasked with ensuring adherence to the laws of the country, in all aspects. The designation of this responsibility to one group in particular, is important for the uniformity of enforcement and oversight of these laws and rights.

Policing does not solely aim to ensure law and order though. Police services operate in relation to the communities in which they operate, to provide an array of support and emergency services, when civilians are in times of personal or physical need. Such interaction with, and such operations within communities, means that policing services are not only subject to the laws of the country in which they operate, but they are also subject to public approval and cooperation, as a central function of the realisation of their mandate to protect and to serve. The relationship between the police and the communities within which they operate, determines the behaviour of both the police and community members. According to Tyler (2004: 84):

one way to approach the relationship between the police and the public is to consider how the public impacts on the effectiveness of the police in their efforts to combat crime and maintain social order. Traditional discussions of the effective exercise of legal authority have focused on the ability of legal authorities to shape the behaviour of the people within the communities they police. The ability of the police to secure compliance with their directives and with the law more generally-the ability to be authoritative-is widely identified as one key indicator of their viability as authorities

Compliance in respect of community support is therefore vital to the fulfilment of an effective policing service. Cooperation from communities, with policing services, highlights the role of the police as the forefront of social control and authority. Social order and peace depend greatly therefore on the acceptance by individuals and communities, of police legitimacy and power, as custodians of the law of a country. The police therefore have a duty to ensure that all dealings with the public are conducted in a professional and impartial manner.

In line with the trust vested to the police by virtue of applicable legislation and their designation in societies, police officers are afforded a significant amount of discretion in the administration of their duties. This discretion includes the manner in which they exercise the physical force, as well as the use of weapons, allocated to them, as a key function of their roles. Whilst this discretion is necessary, the practices of individual officers become problematic to monitor, and the discretion needed to ensure the safety of societies, leaves such communities vulnerable to abuses by police officers, with internal ethics incongruent to the values of the profession. Skogan and Meares (2004: 66) note the following in this regard

Although the authority of the state granted to police to enforce the laws is circumscribed by various types of laws, it is also the case that the exercise of police power takes place largely at the discretion of individual officers. The decision to make a traffic stop or issue a ticket, to make an arrest or issue a stern warning, or to use force to accomplish any of these things is in the hands of officers on the street. Everything about policing makes this exercise of discretion hard to monitor and control

In as much as monitoring and control of the civilian population is important, so too should such provisions be made to ensure that police officers demonstrate the values and principles of the profession, in all aspects of their daily encounters with civilians, in order to maintain the integrity of the legal system of a country.

The role of the police force in South Africa is of central importance to the overall maintenance of peace and order in the country, given South Africa's historically violent period during apartheid, which was categorised by the abuse of the police force as a control agent in the oppression of certain racial groups. Since the democratisation of South Africa in the early

1990's, the police's role has therefore been to repair and manage the result of this oppression, in so much as apartheid created broad socio-economic racial disparities, as related to incidences of crime in the general population. As Marks (2000: 558) explains

the police are 'major actors' in changing societies. They are involved in crucial activities such as the combating of crime, the protection of citizens and change agents, and the curtailing of threats to the functioning of society. Indeed, it could be argued that neither formal nor substantive democratization has been accomplished unless and until internal security bodies themselves have been democratized, brought under civilian control, and have a concern for citizens' human rights

To this end the need for a properly governed and carefully monitored police force, in the form of special laws drafted and implemented specifically to monitor the conduct and range of responsibilities of the police is essential in building trust between citizens and ruling governmental agencies, in addition to building trust between citizens themselves.

The South African Police Services (hereinafter the SAPS) are regulated by a number of legislative pieces, which outline the duties and functions of the SAPS. The primary legal mechanism governing the behaviour of the SAPS is the Constitution of South Africa, which expresses the variety of rights which South Africans can enjoy in the new South Africa. Such rights can be found in Chapter 2, Section 12 of the Constitution and include “the right to freedom and security of persons; and the right to bodily and psychological integrity”. The Constitution also designates the roles and responsibilities of the SAPS in respect of the realisation and maintenance of these rights. The police are therefore tasked with ensuring that the safety and security, as well as bodily integrity of citizens is achieved, whether through their

behaviour, or through the management of the social order of South African society at large. In order to effectively execute such duties, the SAPS are designated the discretion to use the minimum force required, to ensure compliance and cooperation, by members of the public. The scope of this force is, by its very nature, subject to the interpretation of each individual officer, with the understanding that such an officer will exercise professional restraint wherever possible. The purpose of this force is therefore to quell any potential threats, or to ensure the freedom from harm towards civilians, where such threats exist.

Despite this crucial role as change and peace agent, there is evidence that police officers are involved in violent and economic crimes in South Africa. In order to combat incidences of violent and economic crimes, and per international regulations, the SAPS are required to ensure, where such incidences occur, that independent and impartial investigation and recommendations for disciplinary procedures are enacted. Where complaints against the SAPS are made by members of the public, or where there have been crimes of a serious nature committed, the Independent Police Investigative Directorate (hereinafter IPID), are required to carry out such investigations. The purpose of such investigations is to establish the circumstances surrounding incidences of crime committed by the police, in the commission of their duties, in order to establish whether further prosecution should be fitting. Statistics obtained from the IPID 2017/2018 Annual Report indicate that 5651 criminal cases were opened against SAPS officers during this period, thereby highlighting the magnitude of the problem of crime in the SAPS, as committed by SAPS officers. Incidences of death in police custody, or death as a result of police action, are problematic by virtue of the designation to police officers in respect of the use of force, which can be deadly in nature, where officers judge fit.

Given the unique role of the police to use force, and exercise their discretion in their daily activities, coupled with the responsibilities and authority designated to them as a social control agent, it is plausible that incidences of violent and economic crimes can and do occur, during the exercising of officer's duties. This study examines the extent to which the police in Buffalo City Metropolitan Municipality (hereinafter BCMM) are involved in criminal activities. Incidences of violent and economic crimes, as committed by police officers in the BCMM area, are explored. In order to understand the rationale behind these crimes, an investigation into the unique lived experiences of police officers was essential. This study therefore analyses factors which precipitate the commission of both violent and economic crimes, in the BCMM area. In order to comply with the Constitutional and international precepts surrounding the monitoring of policing activities, incidences of police crimes are to be investigated both internally and externally. This study analyses the enforcement and deterrent capacity of disciplinary measures which are used to censure policemen who engage in criminal activities, in the BCMM area.



1.2 Statement of the Research Problem

Crime in South Africa is a social, economic and human security problem which affects all citizens. This problem is exacerbated when police officers, who are supposed to be law custodians and enforcers, are accused and even convicted of committing crimes. The extent to which police officers in South Africa commit crimes is still widely unknown though. As Alang et al (2017: 662) note, “little is known about the prevalence of nonlethal police violence that results in injury or disability”. Whilst there are official reports which document reported cases of police instituted violent and economic crimes, studies interrogating cases of police violence, from the perspective of police officers themselves, remain scant. For example, Hasselink and Haefele (2015), examine incidences of police violence, from a victimological perspective;

whilst Ukpere and Zondi (2014) draw conclusions from secondary sources such as the media, and data collected from the public, to surmise that police brutality is a common phenomenon in South Africa. Research conducted by Martin (2012) from the perspective of informal communities, asserts the presence of police instituted violence, whilst Faull (2011) asserts corruption in the SAPS, through an examination of public perceptions regarding such. Dereymaeker (2015) analyses the role of civil claims against the SAPS as an indicator of the presence of violations of the rights of civilians, whilst Steinberg (2012) holds that community policing by proxy, exposes communities to violence in policing services. An analysis of official police crime statistics in South Africa, as presented by Burger et al (2010) asserts an increase in police instituted violence, whilst a study conducted by Dean and Gottschalk (2010), points to the prevalence of police criminality, through an examination of court cases involving police officers. What is omitted from the above studies are first-hand admissions of criminality, as proffered by police officers themselves. Secondary sources point either to victimisation at the hands of the police, or perceptions of violence, without evidence to the nature and specific occurrences thereof. This study thus provides first-hand accounts of violent and economic crimes, as reported by police officers themselves, thereby adding unique anecdotes pertaining to the phenomenon of police instituted crime, with a specific focus on undocumented cases, of which the prevalence and nature of such is widely unknown.

Reasons for knowledge gaps in the field of police crime studies are generally rooted in the preference given to those affected by police crimes, and the consequences for communities, when incidences of police crime occur. The focus is therefore less on the police as individual actors, and more on the macro sociological impact of such a phenomenon. Problematisation of police crimes also stem from the discretionary activities of police officers, and the ability of police services to justify acts which can be regarded as a maladministration of the 'use of force'

policies and laws operational in the South African Police Service. Where the use of force is used, legal instruments, such as the Constitution of South Africa Act, No 108 of 1996; The South African Police Service Act, No 68 of 1995; and The Criminal Procedure Act, No 51 of 1977, which mandate such action, can be manipulated in the furtherance of the justifications purported by police officers, in respect of violent crimes, such as assault. Such rationalisations make understanding police violent crime, in the context of official mandates for the use of physicality in policing, academically challenging, where police officers themselves have not been consulted. Obasogie and Newman (2017) note the inherent problems associated with policies in respect of the use of force, as facilitative measures to police instituted violence, from a content-analysis perspective. Their study omits to consider the interpretations of statutes, as occurring in the individual engagement police officers have with such legal instruments, and the unique lived experiences of police officers in South Africa.

The prevalence of incidences of police crime continues to raise a number of unanswered questions, some of which are: Why do police officers commit crime in the first place? Studies examining this phenomenon largely focus on psychological motivators, as opposed to sociological. For example, Pienaar and Rothmann (2006) examine the role of stress in creating frustration amongst SAPS members, whilst Young et al (2012) examine the role of trauma in the policing profession, as a cause for instability and unpredictability in the behaviour of police officers. Further, studies such as those conducted by Hornberger (2013) postulate the role of the state in encouraging the rhetoric around a more violent approach to policing, whilst Long et al (2013) assert the presence of a code of silence as being a primary determinant in continued incidences of violent and economic crimes. What is lacking in these studies, are the views of police officers regarding their own behaviours, and the motivations therein. In respect of understanding corruption, De Graaf (2007: 76) asserts that while studies examining individual

cases of corruption are not sufficient in number or context, “a primary conclusion was that there are not many studies on actual, individual corruption cases. It seems therefore that we need more contextual corruption research”. This study thus addresses this research gap as it provides the much-needed accounts and rationales therefore, for both violent and economic crimes, as perpetrated by police officers in South Africa. In the context of the efficacy of remedial measures which act as deterrents to such occurrences, this study analyses the role of the internal SAPS and external IPID disciplinary systems when dealing with police offenders. Understanding the circumstances of police officers which drive them towards criminality, in order to address these stressors, has the possibility to facilitate positive change for police officers, for the policing profession, and for the overall social functioning of South African society.

1.3 Research questions



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The following research questions will guide this study:

1. To what extent is police criminality prevalent within Buffalo City Metropolitan Municipality?
2. What sociological factors explain police criminality?
3. To what extent are the South African Police Services' (SAPS) internal disciplinary measures and policies effective mechanisms for deterring police criminality?

1.4 Aim and Objectives

This aim of this study is to examine the prevalence of police criminality, the sociological factors which explain such, and the efficacy of disciplinary measures in preventing the phenomenon, within Buffalo City Metropolitan Municipality policing district. The specific objectives of the study are:

1. To examine the prevalence of police criminality within Buffalo City Metropolitan Municipality.
2. To explore the sociological factors which explain police criminality.
3. To assess the effectiveness of SAPS internal disciplinary measures and policies in deterring police criminality.



1.5 Justification of the study

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Police men and women are tasked with ensuring the safe living and working conditions of individuals in a country. They are also tasked with ensuring that where citizens are in distress or where there has been an emergency, such individuals are assisted until additional emergency personnel can attend the scene. In order to effect their duties, police officers are given discretionary powers to exercise their authority over such citizens, in the manner they see fit, given the circumstances. With such provisions, come opportunities for abuses of such powers, as Stinson et al. (2011: 2) notes

Crimes committed by police officers are, by their nature, special and deserving of scholarly attention, because the law affords police unique rights and responsibilities,

including the legal authority to use coercive force, specialised training and access to weapons not available to ordinary citizens. The position also provides unique opportunities for misconduct and crime, including the use of excessive force against suspects and other citizens, the provision of false courtroom testimony, opportunistic thefts and ‘shakedowns’ of vice criminals and racketeers

Where such incidences occur, these are in contravention of the variety of rights that members of society are afforded, by virtue of their citizenry. Excessive use of force and the abuse of authority which occurs as a result of violent and economic crimes, violate the fundamental rights, and the fundamental integrity of the policing services as a whole, as well as the criminal justice system as a mechanism for ensuring social control.

Such violations serve to diminish the integrity of the criminal justice system as a whole, as reports of police violent and economic crimes can contribute to reduced faith in the ability of the police service to truly fulfil its mandate to protect members of society. Incidences of police crime also place the criminal justice system, and individual police officers and units, under increased pressure, as members of a police force, become objects of investigations. Valuable resources are therefore not used to investigate crimes committed by civilians, which already occur in a country such as South Africa, at high rates. Vulnerable members of society are left increasingly underserved and susceptible to violent and economic crimes in communities with limited security measures in place, such as is the case in informal areas. The provision of adequate and trustworthy police services can and should be regarded as an essential right for all citizens of a country, failure to provide such is a failure to fulfil the most basic of human rights for such individuals and communities.

Occurrences of crimes as perpetrated by police officers should therefore be treated with equal, if not increased, severity, in countries where such incidences occur. The impact of such incidences is far reaching for both the domestic and international status of the country and have increased levels of political influence. Ensuring legitimacy in policing is a primary function of police agencies globally. Legitimacy is achieved when citizens believe the police will ensure procedural justice, and fairness in their approach to the execution of their duties. As Antrobus et al (2015: 152) explain

in the procedural justice literature, police legitimacy has often been defined as “trust” in police and the “obligation to obey” police (Tyler, 2006, p. 28), with Jackson et al. (2012) adding that legitimacy is the “right to rule and the recognition by the ruled of that right” (p. 1051). Police legitimacy and procedural justice have been linked to public cooperation and compliance with the police and the law. This relationship is important because procedural justice and legitimacy are easier and less costly to achieve compared with deterrence methods

When policing officers are involved in economic and violent crimes, procedural justice and the legitimacy of the entire policing service is jeopardized, and the result of such is decreased levels of community participation, which in turn create an environment which becomes more challenging to police. There is therefore a reciprocal relationship between these elements, of which such is largely determined by the polices decision to behave in certain ways towards civilians. For those police officers who are passionate about their positions and act in ways pursuant to the service of their country, and community, incidences of police crime serve to create a hostile environment internally for them. They are labelled as criminals due to the defunct actions of their fellow officers and are forced to police communities who have reduced

levels of respect and appreciation for their role in maintaining the safety they are entitled by law, to enjoy.

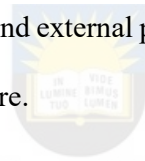
Similar to the notion of procedural justice and fairness, reports of police crimes serve to destroy levels of trust between policing and citizens. Tankebe (2010: 297) asserts the following in this respect

It is commonly asserted that experiences of police corruption undermine public perceptions of police trustworthiness, procedural justice and effectiveness. Bayley (1995: 92), for instance, posits that 'nothing is more destructive of the standing of the police than corruption'. In the British context, Reiner (2000: 64) notes that corruption in the Metropolitan Police during the 1970s and 1980s 'fatally damaged the image of the police as impersonal and disciplined law enforcers'

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The generalisations that occur from personally experienced incidences of police crime, as well as those publicised in the media, can destroy the credibility of an entire policing institution, if such occurrences or reports of such occurrences occur frequently. The trust needed for effective policing permeates all spheres of a given society. When communities don't trust the police, they are less likely to report offenses, less likely to cooperate during routine policing activities, such as roadblocks, and less likely to promote a positive rhetoric about policing in such an area. Such incidences further serve to create an environment of increased difficulty for policing officials, and this can lead to strain, or eventually disinterest and lack of commitment by those police members who are dedicated to the profession.

In a country such as South Africa, which has experienced human rights violations at the hands of the apartheid police, the role of the police is crucial to the maintenance of the equality and safety and security such a society should enjoy. Incidences of crimes perpetrated by police officers serve to further reduce trust and faith in policing, and create turmoil in communities, which oftentimes are on the brink of abject poverty, and extreme socio-economic strain. A study which examines the occurrences of police crimes, and the rationales for such is thus pertinent in order to contextualise incidences of violent and economic crimes, as committed by police officers. As custodians of the law, police officers must be regarded as experiencing conditions which are unique to the profession, and which generally place them at greater risk of offending, where support services and deterrent functions are not in place or are not exercised and implemented correctly. Such a study can unpack these stressors, in order to better craft measures which can act as internal and external protective mechanisms to mitigate against such widespread occurrences, in the future.



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Following the abolition of the apartheid regime, a plethora of new laws were introduced to the country. Such laws aimed to ensure the equal and fair treatment of all citizens of the country, and to designate specific roles and responsibilities of the policing services. The need to monitor the police, in order to ensure transparency and ethical practice, was a central element of these newly introduced legislative measures. The efficacy of such legal instruments in ensuring compliance and responsible practice in the SAPS remains unknown. Incidences of police crimes, as reported in numerous official reports, highlight the readiness of police officers to commit violent and economic crimes, and as such the law and internal policies which deal with such incidences cannot be regarded as being respected by police officers. A study which examines the role of legislation in preventing incidences of police crimes, would be able to definitively conclude whether such legal prescripts are sufficient, and whether the problems

surrounding the efficacy thereof, lie in the implementation of such laws, or the legal directives themselves. Such a study would therefore be able to contribute to policy formation or improvement, in order to strengthen the disciplinary measures currently exercised in/by the SAPS, and the independent investigative body, namely IPID, as a whole.

1.6 Significance of the study

This study contributes new sociological knowledge on police criminality in South Africa. There is little research into the lived experiences of South African Police Service members and officers, particularly in the Eastern Cape. Whilst much is known about police crime statistics, for crimes which have been reported to the Independent Police Investigative Directorate (IPID), little is known about those crimes which have been committed by police members, and not reported, or not investigated in some manner. Thus, this study investigates the prevalence of crimes committed by active police members, which have not been reported, and which have not followed any formal disciplinary procedure. Similarly, little is known about the crimes SAPS members have witnessed other members and officers committing, thereby creating a gap in knowledge surrounding incidences of police instituted crimes. This study explores this phenomenon, and analyses sociological evidence surrounding the issue of police crimes, and lack of reporting of such, where members have been witness to occurrences of crime by fellow members. The study contributes new knowledge to theoretical discourse in the social learning and social control theoretical spheres. Little is known of the role of socially learned behaviours, in respect of the impact of such behaviours on the propensity of police officers, in particular, to commit violent and economic crimes. Similarly, little is known of the efficacy of disciplinary measures, as control mechanisms, in the behaviour determination of police officers.

Studies contextualising those factors which contribute towards police officers committing crimes remain scarce. This study contributes new knowledge which explain the socio-economic factors which place police members at risk to commit not only economic crimes, but violent crimes. Such insights can be translated into policy and practice aimed at alleviating the pressures police members feel, and instituting support mechanisms which can be incorporated into policing practice, in order to reduce incidences of police instituted crime. This study also has significance for police related disciplinary measures enforced by both the Independent Police Investigative Directorate and internal policies operational within the South African Police Service. The efficacy of disciplinary measures in deterring police officers from committing crimes has not been well documented in the South African context. This study thus provides key insights into this important field of enquiry.

1.7 Organisation of the study



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Chapter One: Introduction and Background to the study

Chapter one introduces key themes within this study. The chapter is structured to provide an overview of policing as a concept, in order to contextualise the severity of the impact of crimes committed by police men and women. This chapter presents the research questions, research aim and objectives, statement of the research problem, and a justification and significance of the study.

Chapter Two: Literature review

Chapter two focuses on analysing secondary resources in the field of policing, particularly pertaining to police crime. An overview of the relevant legislation which governs the SAPS,

as well as information from official reports regarding the statistics of incidences of police crime are discussed. Precipitating factors are presented in order to contextualise the phenomenon.

Chapter Three: Theoretical Framework

Chapter three discusses the theoretical underpinnings of this study. The chosen theories for this study are that of social learning theory, and social control theory. Social learning theory asserts that crime is learned through the process of observation and imitation, whilst social control theory proposes that individuals will avoid committing crimes when the bonds they have to control mechanisms in society are stronger than those drivers to commit crimes.

Chapter Four: Research Methodology

Chapter four provides an overview of the research methodology and methods incorporated into this study. The chapter presents an overview of a qualitative methodology for data collection and analysis, of which such a methodology is used in this study. Information regarding the demographics of the sample population as well as the sampling rationale and data analysis protocol are discussed. The ethical considerations which guide this study are presented and discussed in this chapter.

Chapter Five: Incidences of Police Criminality in Buffalo City Metropolitan Municipality

Chapter five explores those incidences of violent and economic crimes, as reported by participants in this study. The chapter discusses the prevalence of violent crimes such as assault and torture, and economic crimes such as theft and corruption, as occurring in the Buffalo City Metropolitan Municipality policing district. The chapter presents findings in relation to vigilantism as a phenomenon occurring in the South African Police Service.

Chapter Six: The Sociology of Police Criminality

Chapter six presents a discussion on the rationales for the commission of violent and economic crimes by police men and women. These reasons are presented as being either economically or sociologically motivated.

Chapter Seven: Disciplining Police Rogues and Criminals

Chapter seven discusses the efficacy of disciplinary measures, both internal to the SAPS and externally, in the form of legal sanctions, as a deterrent to police propensity to commit crimes. Sanctions referred to here include suspension, dismissal, arrest and conviction. The enforcement of such measures are the responsibility of the SAPS and IPID.

Chapter Eight: Conclusions and Recommendations

Chapter eight presents the conclusions which are drawn from the variety of arguments and data sources presented throughout the thesis, in order to clarify the findings of the study, relating to police criminality in South Africa. The chapter also provides recommendations for the policing services, in order to mitigate incidences of police crimes.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

Policing is a global practice, primarily aimed at ensuring the maintenance of order and safety in societies. This profession faces a number of stressors, which can, in extreme situations, cause police officers to commit violent or economic crimes. This chapter provides an overview of policing as a discipline, in order to contextualise the practice globally. The relevant legislation which governs the South African Police Service (hereinafter the SAPS) in South Africa includes Acts aimed at regulating the behaviour of members, as well as the sanctioning of internal and legal disciplinary measures. Incidences of police crime occur as a daily vice in the policing profession, both locally and globally. Information pertaining to the prevalence of incidences of police criminality globally, as occurring in countries such as the United States and Nigeria is provided in order to contextualise the phenomenon. An overview of incidences of crimes committed by police officers, and the discipline in respect of such crimes, in South Africa, is explored. Findings from literature reveal that precipitating factors to occurrences of police crime in South Africa include apartheid; high rates of violence in South Africa; poor leadership; financial reward, and psychological strain.

2.2 Policing in practice

Policing, and police organisations, exist to serve a variety of functions in modern society. Police officers are designated with roles and responsibilities which place them in a position as custodians of the law of a given country. As Broadhurst and Davies (2009: 1) explain

For the most part policing is “routine peace-keeping” (Avery, 1981:3) involving the “reproduction of order” (Ericson, 1982: 7) on a spectrum of community order being at one end and individual safety at the other

Police officers are assumed to possess a level of morality and bravery which exceeds that possessed by ordinary civilians. Members of policing services are differentiated from the public by virtue of the training they receive, as well as the inherent personality characteristics they are assumed to possess. In this way, police are designated with a level of trust and their presence in any situation should be deemed positive and reassuring. The police serve a variety of functions, which include the protection of human rights, the natural environment, and society in general. They are also required to assist in times of emergency and have a fundamental goal to ensure justice throughout their practice. The intersection of these roles means police officers are purported to assist civilians in times of need, in order to ensure the safety and security of individuals and communities alike. The combination of these duties place police officers in positions of power and authority and afford them great responsibility.

The protection of the human rights of civilians is a key function of the police. The right to life is recognised as a fundamental human right, globally. The role of policing services is therefore to ensure that this right, as being so fundamental to humanity, is protected. Legislation governing the protection of this right, is generally found in Bills of Rights, or Constitutions. Where countries have experienced historic human rights violations, these Constitutions become ever more important in ensuring protection for all citizens of a country. New Constitutions with new Bills of Rights have been enacted in many countries around the world, particularly where the right to life for some groups of individuals were previously impinged upon. Examples of such countries, in an African context, include South Africa, Democratic

Republic of Congo, and Mozambique. Countries such as these experienced racially motivated human rights violations, following colonisation, such that democratisation and independence in these countries, meant an immediate call for revised human rights legislation. Of this process, Fombad (2011: 1009-1010) notes

The drafting of new constitutions and the revising of old constitutions by most African countries in the 1990s was a clear recognition of the need for radical changes to the status quo ante. The 1990 reforms were expected to provide a new constitutional framework to deal with perennial ills such as political instability, dictatorship, repression, human rights violations, and poverty, all of which had stymied progress on the continent since independence

The role of these Constitutions is to ensure that provision is made for the protection of the most fundamental human rights in a given country, in order to ensure peace, safety and equality in governance and policing. A central element to the maintenance of the realisation of these rights is a police services which has a clear scope of practice, directed toward the preservation of all human life. Policing services aim to ensure that civilians, and policing officers act in accordance with the provisions of such supreme legal mandates. Marks (2000: 558) expresses the following in respect of the role of policing services in the realisation of democracy

The need for change in policing bodies in societies that are in the process of transforming from authoritarian to democratic governance (such as South Africa) is essential. Internal security systems, the police in particular, are necessary elements in any democratization process. Indeed, it could be argued that neither formal nor substantive democratization has been accomplished unless and until internal security

bodies themselves have been democratized, brought under civilian control, and have a concern for citizens' human rights

The police therefore play as much of a role in the realisation of the rights of citizens of a country, as the legislation of such a country. Legal instruments cannot therefore be effective if they are not implemented correctly. It is essential that policing services not only maintain the legislation they are employed to enforce, but that they hold internal values which are congruent with such legislation, in order to ensure that all civilians, are treated with the requisite respect for their fundamental right to life, as denoted in the Constitution of a country.

In protecting society, policing services should ensure that they not only enforce the law, but that they act as custodians of such, and that their behaviour sets the tone for the behaviours which will be regarded as acceptable and unacceptable in a country. The United Nations Virtual Knowledge Centre to end Violence Against Women and Girls (2012: 6) postulates the following in respect of the role of policing in maintaining order in societies

A quality police and justice response is crucial in ensuring that relevant laws against violence meet international standards: are enforced; keep women and girls safe from violence, including from the re-occurrence of further violence; hold perpetrators accountable; and provide for effective reparations for victims and survivors. Justice systems, and all actors within the system, must be accountable for ensuring that they deliver on their obligations

The role of policing services to protect the most vulnerable members of society, is central to the multifaceted approach taken in distinguishing the functions of the police. Through the

enforcement of the laws of a country, as well as the maintenance of social order, policing services are able to ensure that the constitutional tenets bestowed upon them are maintained.

Police presence and intervention are required at most scenes which involve trauma of some nature, in order to ensure the area is protected, and to provide first-response assistance, where possible. The Illinois Department of Public Health (2013: 1) notes the following globally generalisable functions of the police in respect of accidents or scenes of an emergency nature

First responders, also known as first interveners, include a variety of public officials who deal with emergency situations on a day-to-day basis. This group includes, but is not limited to firefighters, police officers, EMTs, paramedics and emergency department personnel. First responders uphold a duty to shield those in their community from harm



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Of particular interest to the policing profession, in respect of emergencies, is the need for policing services to shield the public from harm. This harm is not only physical in nature, but also psychological. The expectation of police officers is to ensure that the public are protected from exposure to traumatic scenes which might cause individuals psychological trauma.

The police function as a key role player of the broader criminal justice system too. The scope of responsibility for the realisation of the punishment of suspects or criminals remains a duty of the courts or the justice system itself though. Manning (2014: 4515) states the following in respect of the cohesive role of the police in relation to other divisions of the criminal justice system

The public police as an institution arise as a result of the development of law, differentiation, and functional specialization in a society. It is an institution that cannot survive without the consistent support of other institutions that complement its aims and practices. The supporting institutions must complement the rationality, fairness, and procedural commitment of policing

The criminal justice system includes the judicial legislature, as well as corrections/justice department, wherein police services are responsible for the investigation and handling of suspects, whilst the judicial legislature is responsible for the prosecution of such individuals, in order to ensure their subsequent rehabilitation, correction or punishment.

Where the police are required to interact with citizens who have transgressed the legal boundaries of a given country, such interactions are regulated, in order to ensure the rights of citizens to freedom from harm during the process of detention, or arrest. As Daly (2003: 4) explains

Many dispute the phrase criminal justice system, saying we should call it the criminal injustice system. Some are criticising practices by the police, prosecutors, or courts that suggest a too harsh enforcement of laws. Members of this group would say that the police more often target certain groups for arrest, and the selective use of police discretion leads incrementally to disproportionate imprisonment. Others are criticising practices that suggest a too lax enforcement of laws

Criminal justice systems and policing services alike face a dilemma of the nature referred to above, in that the concept of justice is never clearly available in a definitive form, as whenever

a crime has been committed, the loss associated with the violation means that those involved can never return to the state they were in prior to the commission of such a crime, and any further actions are therefore remedial. Policing services are therefore caught between appeasing the communities they serve by ensuring that suspects and criminals are delivered to the criminal justice system, and that all evidences are gathered according to the relevant legislation which governs such, and the criminal justice system which acts as a separate entity to the wants and needs of the public, but with the understanding that the maintenance of the public's interests are paramount. Policing services serve a role which is complicated by the depth of those actions which are outside the bounds of their control, particularly as they are required to act as the interface between the formal justice system and the communities within which they operate.

Policing services are intrinsically linked to the government of a given country, in respect of their mandate to serve. In countries where democratic leadership and politics are exercised, policing services should ensure that the message relayed to all stakeholders, through the actions of the policing services, is not one of a political entity, but one of an organisation which operates for the people of the country, in isolation of any undue influence. The nature and scope of the democracy the police aim to ensure, is outlined by Sklansky (2005: 1701) below

We sometimes talk as though there were a simple trade-off between "democratic values" on the one hand and, on the other hand, security, order, and law enforcement - the objectives of the police. Sometimes, democratic policing seems identified with procedural irregularity and the "rule of law"; At other times democracy appears tied to respect for certain substantive rights - rights, for example, against unreasonable search and seizure and compelled self-incrimination. Sometimes democracy seems tied to popular participation in policing, either through some form of civilian oversight or

through police practices that involve partnering with or "delegation" to the "community". Democratic values are sometimes invoked in support of giving police officers themselves a degree of control over the nature of their work

Democracy in policing therefore refers to the ability of the police to ensure that through their daily practices they are able to ensure that the rights of all citizens are maintained, and that no one is discriminated against in terms of their treatment.

The allocation of discretionary powers in respect of their functions and duties, means that many policing services in many countries sacrifice democratic values, in order to effect their duties where they feel necessary. The delegation of these responsibilities and powers, creates an environment which becomes highly interpretive. Of the powers designated to the policing services, by the state, Butler (2018: 2) argues

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The police are one of the most important branches of the executive government. Entrusted with extraordinary powers, they serve to secure our nation and protect our rights. With such great power, however, comes a heightened risk of abuse. Consequently, there is a heightened need for the exercise of these powers to be rigorously monitored, to ensure that they are lawfully deployed and that those who abuse them are held to account

Policing services should therefore be monitored as stringently, if not more stringently, as other state departments or organisations, particularly as police officers are required, by law, to be armed, and are given powers conducive to the use of physical force, in some instances force which can be fatal in nature. The onus should therefore be on the government concerned to

implement the proper procedures and designate the requisite authority to the relevant independent departments of state to monitor the exercising of the duties of policing services, on a regular basis, and without political influence, or bias.

In order to ensure that threats to the security of persons and their property are diminished, the use of force is a necessary element of policing. This delegation of authority by state bodies, to policing services, is necessary, but is subsequently open to the discretion of the police officer or unit, who exact this kind of force in a variety of circumstances. Sherman (1980: 2) states the following in respect of the use of force as a mechanism for policing

The essence of government is a monopoly on the non-punishable use of force, and modern governments delegate that monopoly to police officers. The police hold a subcontract under which we authorize and license them to kill, hurt, and capture nonpolice officers who would cause such harm to others

The use of force is necessary, but the nature and purpose of this force creates tension in societies, when such force is perceived to be unjust. The purpose of the use of force is to ensure the safety and security of civilians and society alike. Issues pertaining to this force are rooted in the discretion and the interpretation of the threat posed by the suspect, and the individual readiness of the police officer concerned, to use such force. Of this discretion to use force, Harmon (2012: 762) notes the following

Police officers are granted immense authority by the state to impose harm. They walk into houses and take property. They stop and detain individuals on the street. They arrest. And they kill. They do all these things in order to reduce fear, promote civil

order, and pursue criminal justice. The legal problem presented by policing is how to regulate police officers and departments to protect individual liberty and minimize the social costs the police impose while promoting these ends

The legal issues arising from the police's use of force include those deaths which happen as a result of police action, where the force used was excessive and not warranted. A major issue stemming from the mandated use of force in the policing services, is the opportunities for police officers to institute violence whilst executing their duties. Criminal justice systems globally seem to understand the need for physicality as a means to control society, and thus would rather have this use of force and violence designated to a select group of individuals who are supposedly of higher personal character and have been trained in the proper use of the deadly weapons they are armed with. Westmarland (2001: 526) provides a distinction between the use of force and violence in the policing services, below

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In his definition of the difference between force and violence, for example, Macfarlane suggests that force involves a threat if not the actuality of violence, whilst 'violence is necessary from time to time to give credibility to its threatened use' (1974: 43). Accordingly, once a suspect submits to police authority, either physical or spoken, then all further force should cease. Describing police powers in such instances, Jason-Lloyd explains that 'any force used by the police must be reasonable in the circumstances' and an assault may 'take many forms and need not involve serious injury or injury at all' (1997: 64)

The use of force in policing should thus only occur where suspects pose an immediate threat to citizens or police officers' safety or security. The use of deadly force is thus only advocated

for in extreme situations. The purpose of such force should align to the overall purpose of the policing services; that being to protect the people and property of a given community or country, and to ensure social order and peace. Where the use of force is perpetrated in circumstances which are not conducive to the realisation of the mandate of the police services, such use of force is regarded as a breach of official and legal sanctions in policing, and such police officers can, and should be, investigated for the commission of violent crimes.

2.3 Policing in South Africa – Legislative scope of practice

Following the abolition of apartheid in the 1990's a new policing services was introduced in South Africa, in order to re-establish social order in a country plagued by historic human rights violations, partly at the hands of the South African Police. The purpose of such changes were to ensure the equal treatment of all citizens in the country, and to ensure that the human rights violations experienced by the majority of the population, would not occur again. Steps were taken to formulate a police investigative unit to oversee the functions and execution of policing in the country, and to ensure the accountability of police members and officers. The South African Police Service is governed by a number of legislative frameworks which not only determine their scope of duties, but also impose on this public service the obligations necessary for the successful practice of the profession. Each legislative piece deals with specific elements of the policing sector in order to ensure that the public and the nation as a whole, is protected from those who wish to do harm, defraud or bring into disrepute fellow citizens of the Republic. The legislation which will be discussed is not an exhaustive list of the Acts which regulate the SAPS, but rather attempts to provide a contextual grounding for the behaviours of police officers, which are regulated by legislation, in South Africa.

The Constitution of South Africa Act, No 108 of 1996, was promulgated in 1996 following the democratisation of South Africa in the early 1990's. The Constitution of South Africa was entrenched formally as law, following the human rights atrocities that occurred during, and as a result of apartheid. The primary role of the Constitution is to ensure that any citizen, or any individual acting on behalf of the government of South Africa, ensures that the human rights and dignities of fellow citizens of the republic are maintained at all times. Chapter 2, Section 12 of The Constitution states the following with regards to the rights of the individual

(1) Everyone has the right to freedom and security of the person, which includes the right – (a) not to be deprived of freedom arbitrarily or without just cause; (b) not to be detained without trial; (c) to be free from all forms of violence from either public or private sources; (d) not to be tortured in any way; and (e) not to be treated or punished in a cruel, inhuman, or degrading way

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This section of the Constitution is of particular relevance to the policing services in South Africa. Police members are required to ensure that in all encounters with the public, the Constitutional and human rights of individuals are maintained. Police members are to ensure that when detaining civilians, or securing suspects, that such individuals are not subjected to violence which serves to negatively impact the realisation of their right to life, or right to freedom from harm.

The Constitution also seeks to outline, in line with these basic human rights, the role of the policing services as a whole. The variety of tenets aimed at both the designation of the functions of the police services, and the oversight of such an organisation are specified in Section 205 (3), which states the following

(3) 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 enhance and uphold the law

In order to ensure that the behaviour of police members is effected in line with the constitutional tenets as prescribed to the police services, Section 206 (3) of the Constitution, designates that the services shall be monitored in such a way as to ensure that human rights violations do not occur as a result of police behaviour, and that the SAPS is fulfilling its mandate to ensure the effective safety and security of the community within which it operates, as seen below

(3) Each province is entitled (a) to monitor police conduct; (b) to oversee the effectiveness and efficiency of the police service; (c) to promote good relations between the police and the community; and (d) to assess the effectiveness of visible policing

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From the above sections of legislation it is clear that the Constitution aims to ensure that the police services in South Africa deliver on their role as protectors and enforcers of the law, such that the commission of their duties do not infringe on the fundamental rights of citizens to be free from physical or psychological harm. The Constitution has an overarching aim to ensure that in any dealings with the law, citizens in the country are not disadvantaged based on any grounds, and that the procedures espoused in legislation are adhered to by all members of the criminal justice system.

The South African Police Service Act, No 68 of 1995 outlines the responsibilities in respect of the policing services, primarily with regards to reporting the operations and activities of the SAPS, the provision of the duties and responsibilities entrusted to members of the SAPS, as

well as the procedures for the discipline of members and officers, who are in contravention of the Act. Chapter 5 of the Act designates the powers, duties and functions of the SAPS, with the regulated, mandated use of force being of central interest to the maintenance of the human rights of citizens of the Republic. Where citizens are suspected or accused of having committed a crime, police members are tasked with the arrest and detainment of such individuals. The South African Police Service Act, No 68 of 1995, Chapter 5, Section 13 provides one general instruction in respect of the use of force “(3)(b) where a member who performs an official duty is authorised by law to use force, he or she may only use the minimum force which is reasonable in the circumstances”. This instruction designates the responsibility to determine the boundaries of the ‘minimum’ force needed, as members see fit, in any given situation. Where the use of extraneous force is necessary and justifiable, such use of force will have to be proven to be justifiable in an internal enquiry, or a court of law, depending on the severity of the use of force imposed, as is the case where fatalities have occurred as a result of police actions.

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Issues that emerge from a general provision for the physical handling of suspects, is the likelihood of human error or emotions, being integrated into encounters with suspects. The use of force therefore can be manipulated for the commission of violence by police members. As Stinson et al (2011: 5) argues

The authority to use force is an important part of police work. According to Sherman (1980), police use of physical force is synonymous with police violence, defining police violence as ‘behaviour by any police officer – acting pursuant to their authority and/or power as a sworn law-enforcement officer – that includes any use of physical force (including, but not limited to, the application of deadly force), whether justified or unjustified, against any person’

The propensity to use violence in encounters pertaining to the apprehension and detainment of suspects is a pertinent issue in the execution of policing duties in South Africa. Whilst there needs to be a provision for the use of force in order to effect the duties bestowed upon police members, the vague interpretation thereof does not allow for the protection of civilians from officers who have a propensity towards violence. This also creates an environment where violence is advocated for by the law, under the auspices of ensuring compliance with authority. Where there is resistance to arrest, police members are therefore designated, by law, to ensure that such resistance is minimised, even if this requires a subjective amount of physicality.

The Criminal Procedure Act, No 51 of 1977 aims to regulate the procedural elements associated with criminal prosecutions. This Act covers those elements involved in the reporting, investigation, prosecution, trial and detention of individuals accused and convicted of committing offenses. Of importance to the policing services are the procedural elements of evidence gathering and the use of force, when individuals of the public are required to enter the formal criminal justice system, as suspects to crimes. The use of force in respect of the provisions of the Act, designate the treatment of individuals suspected of criminal offences, and the requisite handling of individuals who resist arrest in these circumstances. Chapter 2, Section 27 notes the following in respect of resistance against entry or search

(1) A police official who may lawfully search any person or any premises or who may enter any premises under section 26, may use such force as may be reasonably necessary to overcome any resistance against such search or against entry of the premises

The reasonable and necessary aspects of this section of the Act are open to interpretation by police officers. This section also does not discriminate between resistance encountered by suspects or civilians. There may thus be a need to use force to gain entry into a premises, which is perpetrated against members of the public who are not charged with a crime, but who resist the advances of police members to enter their property. The authority vested to police members can cause conflict between members of the police services, and members of the public, if not managed correctly, or exercised appropriately when resistance may not pose a threat to the safety and security of the police member or the public, but where such resistance impacts the police's ability to execute their duties. It is thus essential that the use of force not be exercised as a right bestowed upon the police, but rather as a last resort, determined on a needs only basis.

The most important element of the Act in respect of the use of force can be found in Chapter 5, Section 39 and 49. These sections stipulate the manner in which an arrest must be effected, as well as the use of force which may be sanctioned as being legally acceptable when effecting an arrest. Section 39 below, outlines the procedural elements which are to be maintained when effecting an arrest

- (1) An arrest shall be effected with or without a warrant and, unless the person to be arrested submits to custody, by actually touching his body or, if the circumstances so require, by forcibly confining his body;
- (2) The person effecting an arrest shall, at the time of effecting the arrest or immediately after effecting the arrest, inform the arrested person of the cause of the arrest or, in the case of an arrest effected by virtue of a warrant, upon demand of the person arrested, hand him a copy of the warrant

It is clear therefore that there is not only legislated mandatory physicality involved in policing, in respect of the physical touching of the suspects body, but there is a need to ensure that authority is maintained in this encounter, and where necessary, that this is achieved through the physical subduing of suspects. Through the process of ensuring that suspects are unable to escape custody or that they no longer pose a physical threat to the police or the public, the police and the criminal justice system begin to reinforce that the committing of crimes can, and should, result in the lowered ability of individuals to enjoy the personal and physical freedoms they are afforded, per the Constitution of South Africa. The physicality involved in making the arrest is important for reinforcing in police members minds too that they are in a position of authority, and the decisions they make have an impact over the physical safety and security of persons in their custody.

Section 49 defines and outlines the specific circumstances in which force can be used when effecting an arrest, and the conditions which must be present for force to be considered as a means to ensure the successful arrest of an individual

(2) If any arrestor attempts to arrest a suspect and the suspect resists the attempt, or flees, or resists the attempt and flees, when it is clear that an attempt to arrest him or her is being made, and the suspect cannot be arrested without the use of force, the arrestor may, in order to effect the arrest, use such force as may be reasonably necessary and proportional in the circumstances to overcome the resistance or to prevent the suspect from fleeing, but, in addition to the requirement that the force must be reasonably necessary and proportional in the circumstances, the arrestor may use deadly force only if-

- (a) the suspect poses a threat of serious violence to the arrestor or any other person; or
- (b) the suspect is suspected on reasonable grounds of having committed a crime involving the infliction or threatened infliction of serious bodily harm and there are no other reasonable means of effecting the arrest, whether at that time or later

The circumstances surrounding the use of deadly force ultimately impinge on a suspect's constitutional right to life. It is within this framework that police members are expected to make decisions which reflect a dualistic approach towards the right to life, and the right to the preservation of the safety and security of the citizens of the Republic. The State mandate the ending of life if other lives are in danger, but do not mandate for the ending of life once life has been taken by such a person. Police members are expected to navigate this contradictory approach to the worth of life (as an inherent quality of humanity), whilst also ensuring that they, and the public are protected from harm, as well as being protected from the consequences of the actions they deem fit (per their discretion), which may lead to a fatality. The issue of human error can result in the unjustified ending of life, where the circumstances may be subjective in respect of the necessity to use deadly force, as well as the jeopardization of the realisation of the rights of such individuals to life. The strain this can place on police officers, who are equipped with weapons which can inflict deadly force, and who are placed in a variety of life-threatening situations, cannot be overlooked.

Standing orders in the SAPS are numerous and can be regarded as the formal instructions which aim to outline the roles and functions of various departments and units in the SAPS, with an aim to ensure that members and officers fulfil their duties in such a way as to be uniform in their approach, as well as uniform in the reporting thereof. Standing orders also function as the guidelines for the acceptable and unacceptable conduct of police members in a variety of

circumstances. The use of force is not explicitly outlined in standing orders in the SAPS. Rather Standing Order (General) 350 – Use of Restraining Measures, outlines the circumstances in which restraining measures can be used, and the scope of practice for such. Section 3 (1) and (2) stipulate the circumstances in which restraining measures may be used, both in the field and once an individual has been taken into custody and is being held in a police station. Police members are required to ensure that restraining measures serve the purpose of preventing a suspect from harming a member, or from escaping police custody. Whilst the use of restraining measures is necessary, the discretion afforded to police officers creates an environment which is open for interpretation and in some cases abuse. In order to mitigate against this, Standing Order (General) 350, further outlines the principles for the use of restraining measures, as can be seen below

(5) Basic principles when using restraining measures

(1) A member must ensure that the handcuffs or leg irons are not so tightly secured that the blood circulation of the person is impeded;

(2) When handcuffs or leg-irons are placed on a person in custody, it must be frequently inspected to ensure that it remains securely fastened and does not impede blood circulation

Of paramount importance in the commission of the use of restraining measures is the protection of police members, the public and the suspect. Where physical harm is inflicted on suspects after an arrest, and during the course of detention following an appearance in court, such circumstances would be regarded as a violation of such an individual's right to freedom from harm.

The Prevention and Combating of Torture of Persons Act, No 13 of 2013 is included as an overview of the stance of legislative bodies in South Africa towards the elimination of torture of any individual in the Republic. As is clear in the tenets of the Constitution of South Africa, all citizens of the country have a fundamental right to be protected from physical and psychological harm. The ratification of the Prevention and Combating of Torture of Persons Act reinforces the issue as a standalone phenomenon which needs special attention, both legislatively and in practice. The Preamble to the Act is of particular importance, when discussing the role of policing services in ensuring the maintenance of the safety and security of citizens of the Republic, as is provided below

SINCE section 12(1)(d) of the Constitution of the Republic of South Africa, 1996, provides that everyone has the right to freedom and security of the person, which includes the right not to be tortured in any way;

AND MINDFUL that the Republic of South Africa—

* has a shameful history of gross human rights abuses, including the torture of persons and other cruel, inhuman or degrading treatment or punishment of many of its citizens and inhabitants;

* has, since 1994, become an integral and accepted member of the community of nations;

* is committed to the preventing and combating of torture of persons, among others, by bringing persons who carry out acts of torture to justice as required by international law

The acknowledgement in the Preamble to this Act that human rights violations through the use of torture have been historically committed by persons charged with the maintenance of justice in the Republic, is a reminder that torture, as a mechanism in the fight against crime and the

maintenance of social order, needs to be eradicated from policing practices. It is also aimed at ensuring that no conduct committed by police members may be construed as torture, as such behaviour would be a violation of the constitutional rights of citizens.

Provisions are made in South African legislation to effectively monitor and discipline police members who are charged and subsequently found guilty of offences. This process involves an internal, as well as a formal investigation, depending on the nature and severity of the crimes committed. The South African Police Service Act, No 68 of 1995 provides specific provisions for the allocation of regulations to be ratified by the Minister of the policing services, regarding every element of the policing profession. Chapter 8, Section 24 (1) specifically states that the Minister should stipulate regulations which relate to:

- (f) labour relations, including matters regarding suspension, dismissal and grievances;
- (g)(i) the institution and conduct of disciplinary proceedings or inquiries; (ii) conduct by members that will constitute misconduct; (h) the issue of a code of conduct for the Service and the upholding thereof

The SAPS Disciplinary Regulations can thus be regarded as a provision of the SAPS Act, with the aim to govern the discipline of members who have transgressed internal codes of conduct, standing orders and criminal laws.

The SAPS Disciplinary Regulations encompass a broad range of instructions for action by commanders and members, following misconduct. The fundamental principles of the disciplinary code are to ensure that the police services act within the boundaries of the law, and where transgressions take place, appropriate action, which is remedial in nature (where

possible), is instituted. Section 8 of the Act refers to the instituting of disciplinary proceedings as follows

8 (1) (a) A commander, who reasonably suspects that an employee under his or her command has committed a misconduct which, in the opinion of the commander, is not serious, shall immediately take steps to ensure that he or she personally, or any other employee, interviews the employee concerned with a view to ascertaining and addressing the cause of such misconduct, and to determine, where appropriate, to implement counselling, corrective and/or remedial measures to return the employee to the required standard of conduct

This provision highlights the desire within the SAPS to ensure that where members have committed incidences of misconduct, which are deemed to be rectifiable, such action is taken in respect of correcting the members behaviour, in order to retain such an individual in the policing services. Section 8 goes on to list those actions deemed necessary in the event of a serious offence

8 (2) (a) A commander, who reasonably suspects that an employee under his or her command has committed a misconduct, which, in the opinion of the commander is serious, shall immediately invoke the procedure contemplated in sub regulation (5)

Sub regulation (5) stipulates that in cases of misconduct which is deemed serious, a disciplinary officer must be appointed by the National Commissioner, in writing. This sub regulation can be regarded as an extension of the powers vested to the Independent Police Investigative Directorate (hereinafter IPID) as the independent unit for the investigation of incidences of

police misconduct, which have been reported by either a commander, or a civilian. The exact action which should be taken against police officers is highly subjective and case specific.

IPID are tasked with ensuring accountability in the policing services, and the provision of a service to members of the public who wish to lay charges against police members or officers. Chapter 1, Section 2 of the Act, outlines the responsibilities and objectives of the directorate and the Act itself, as follows

The objects of this Act are –

(b) to ensure independent oversight of the South African Police Service and Municipal Police Services;

(d) to provide for independent and impartial investigation of identified criminal offences allegedly committed by members of the South African Police Service and Municipal Police Service;

(e) to make disciplinary recommendations in respect of members of the South African Police Service and Municipal Police Services resulting from investigations conducted by the Directorate;

(f) to enhance accountability and transparency by the South African Police Service and Municipal Police Services in accordance with the principles of the Constitution

IPID are, per international legislation, an independent policing reporting service, which aims to ensure transparency in policing in South Africa, such that incidences of misconduct and police crime are treated with the severity they deserve. IPID are tasked with investigating the following matters, per Section 28 (1) of the Act

- (a) any deaths in police custody;
- (b) deaths as a result of police actions;
- (c) any complaint relating to the discharge of an official firearm by any police officer;
- (d) rape by a police officer, whether the police officer is on or off duty;
- (e) rape of any person while that person is in police custody;
- (f) any complaint of torture or assault against a police officer in the execution of his or her duties;
- (g) corruption matters within the police; and
- (h) any other matter referred to it as a result of a decision by the Executive Director

The scope of practice in respect of IPID's duties are therefore broad, however the function of this directorate remains to ensure that where police members have been, or are suspected of having been involved in crime, such matters are attended to, and recommendations in respect of discipline are provided. IPID can and does charge police officers for crimes with the assistance of the National Prosecuting Authority (NPA). In all circumstances involving criminal charges, the decision to prosecute ultimately rests with representatives of the NPA, commonly referred to as prosecutors.

A variety of standing orders regulate the behaviour as well as discipline of members of the SAPS. Of particular importance are the tenets espoused in Standing Order (General) 101 – The Management of Complaints against the South African Police Service. Sections (1) and (3) make particular provision for the authorisation of criminal investigations against police members and officers, and the manner in which such investigations should be conducted. Standing Orders thus serve to ensure that the prosecution of police officers and members is treated with the severity it deserves, and that all processes are followed to ensure that

appropriate disciplinary sanctions are enforced, in order to ensure the integrity of the policing services.

2.4 Police criminality – A Global perspective

Criminal activities by police officers remains a global threat to the legitimacy of policing services. Crime as perpetrated by police officers, are sometimes blatant – in the case of corruption and theft, and other times are less definitive, due to the scope and nature of the inherent requirements of their duties, as is the case with the use of force. Doherty (2018: 1267) notes the following in respect of police perpetrated crime

Police officers themselves, tasked with investigating and preventing criminal activity, perpetrate crimes at a higher rate than one would think given their status as community protectors. Criminal activity is defined as actions that can lead to a criminal conviction. Sex-related, drug-and-alcohol related, violence-related, and profit-related crimes are included in this category, as are forms of criminal corruption and perjury

As police officers are employees and members of the State, and criminal justice systems, violations of the rights they swore to protect, is a violation to the state and society in which such crimes occur. As Levine (2016: 1199) expands below

Although police crimes are far from a new phenomenon, our focus has never been more attuned to how often those entrusted with our security are violating it. Along with this increasing awareness of police criminality, there has been a round criticism of the way police suspects are investigated (or not), charged (or not), convicted (or not), and

punished (or not). Critics charge that police often appear to be above the laws they are tasked with upholding. As a result, commentators and scholars have begun to call for eliminating the advantages police suspects enjoy; they want more criminal accountability for police

Accountability in policing is essential due to the scope and nature of the duties police officers are tasked with performing. How can any society have faith that the human rights and social liberties we are promised to enjoy due to the democratic nature of the societies we live in are valuable and will be maintained, if the custodians of such are not invested in the protection thereof, and where they have transgressed such liberties, are not held accountable.

Crimes perpetrated by police officers vary in nature but can be grouped loosely as either violent or economic. According to Gottschalk (2012: 502), The United Nations Office on Drugs and Crime (2006) categorise the following crimes as being generalisable to policing services globally “(a) Physical abuse; (b) Prisoner mistreatment; (c) Evidence manipulation; (d) Corruption; (e) Unauthorized disclosure of information; (f) Extortion; (g) Sexual misconduct”. Physical crimes differ from economic crimes in that such crimes are based on control and the establishment of guilt is oftentimes more problematic, as such crimes are generally perpetrated during the execution of the official duties of police officers, for example during the course of arrest, or search and seizure. Whilst economic crimes serve to ensure personal or financial gain for officers and suspects simultaneously, these crimes are also difficult to detect as such crimes are often committed in the furtherance of a mutually beneficial arrangement and are crimes against the morality and transparency of state and private entities and individuals. In order to demonstrate the nature and scope of the phenomenon of police crime, case studies of the United States of America, Nigeria, and finally South Africa are discussed.

The United States of America (hereinafter the USA) has suffered similar political and societal injustices to that of South Africa, in respect of the segregation and unequal treatment of individuals from various racial groups, with a specific focus towards the ill-treatment of individuals of African American descent. Corruption and violence have plagued policing services in the USA since the 1970's, as can be seen in a discussion presented by Stinson et al (2015: 80) below

Police crime occurs in small and large law enforcement agencies located in every state throughout the USA, both on- and off-duty (Stinson et al., 2012). Early studies of police crime revealed some officers commit on-duty criminal activity, including the acceptance of bribes and petty theft.

The mandated use of force, and the increased justification by government institutions in the USA towards the use of force, with fatalities as the end result, is concerning for both citizens of the USA, and countries who have an interest in the stability of the USA as one of the world's economic superpowers. Amnesty International (2015: 9) elaborate on this issue below

No-one knows exactly how many individuals are killed by police in the United States; however, estimates range from 458 to over a thousand individuals killed each year. For years, the monitoring of lethal force by police has been hampered by the failure of the Department of Justice to collect accurate, national data on police use of force, including the number of people killed by police. Four hundred and sixty-one (461) "justifiable homicides" were documented by the Federal Bureau of Investigation (FBI) in 2013, 458 of which were following the use of a firearm

Where police officers enact such fatal use of force, such force is primarily directed at individuals of African American descent. The clear mistreatment of this minority group has resulted in increased monitoring of the polices activities, by citizens. As Carter (2017: 523-524) explains

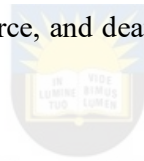
In recent years, with the assistance of individuals recording officers as they engage in violence against Black citizens, social media has become the venue in which the world has begun to see the human rights violations against Blacks. According to recent data, in February 2016, a Black person was killed every thirty-two hours by law enforcement. More than 100 unarmed Black persons were killed by officers in 2015, and less than 10% of those deaths have resulted in criminal charges against the officers involved

The situation in the USA calls into question the maintenance of the human rights laws operational in America today. For a country with a violent history of racially motivated human rights violations, such statistics of violence against specific groups of citizens, with reduced accountability, calls into question the role of the judiciary in the USA, in respect of the maintenance of social order, and public safety and security, in respect of controlling the behaviours of police officers.

Nigeria is regarded as a country with a vast history of violent rule, both under colonial powers, and following its independence, where civil war and military rule saw violence being instituted as a daily function of society. This history of political instability has resulted in a country which turns to violence as a mechanism for social change, as Karimu and Foluke (2012: 251) argue “the history of Police in Nigeria is “a legacy of arbitrariness, ruthlessness, brutality, vandalism, incivility, low accountability to the public, and corruption” (Alemika, 1988: 161)”. Lack of

accountability and widespread tacit acceptance of the state of police-civilian relations, has resulted in gross human rights violations going unpunished. Of such occurrences, Babatunde (2017: 173) notes the following

Research conducted by Amnesty International in 2014, 15 years after the end of military rule, revealed that police brutality remains a regular occurrence in the operations of NPF. Joint research conducted by the Nigerian Human Rights Commission and the Centre for Law Enforcement Education (CLEEN) revealed that about 80 percent of inmates in police detention had either been beaten or threatened with weapons. This abuse is so commonplace and widespread that police interrogation rooms have been nicknamed 'torture rooms'. Extrajudicial executions, killing of suspected criminals, excessive and arbitrary use of force, and deaths in custody are all too common in the operations of the Nigerian police



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The use of sexual violence and torture can be regarded as mechanisms of politically motivated oppression and control. Through the use of such practices, fair policing, as well as social and political stability in Nigeria, remains uncertain. Policing in post-independent countries remains an issue globally, as newly elected governments attempt to forge their own policing services, which rest on the maintenance of social control, whilst being subject to the newly constructed Constitutions of such countries. Similar to Nigeria, South African policing services have not been able to ensure that violence in policing does not occur.

Whilst the regulatory bodies and the legislation which govern the SAPS attempt to curb occurrences of violent and economic crimes as perpetrated by the SAPS, such incidences are still widespread. Information from official reports by both IPID, as well as the SAPS, provide

an overview of the phenomenon at present. Figure 2.1 below pertains to those cases investigated by IPID (2018: 38) in the 2017/2018 reporting period.

Figure 2.1: IPID Cases opened for investigation during the 2017/2018 reporting period

| Table 1(a): Annual intake for the period under review | Incident(s) |
|--------------------------------------------------------------------|--------------|
| Section 28(1)(a)-deaths in police custody | 201 |
| Section 28(1)(b)-deaths as a result of police action | 436 |
| Section 28(1)(c)-complaints of discharge of an official firearm(s) | 677 |
| Section 28(1)(d)-rape by a police officer | 105 |
| Section 28(1)(e)-rape in police custody | 9 |
| Section 28(1)(f)-torture | 217 |
| Section 28(1)(f)-assault | 3 661 |
| Section 28(1)(g)-corruption | 124 |
| Section 28(1)(h)-other criminal matter and misconduct | 148 |
| Section 28(2)-systemic corruption | 4 |
| Non-compliance with Section 29 of the IPID Act | 69 |
| Total | 5651* |

Source: IPID 2017/2018 Annual Report

Noteworthy in the above table are the high incidences of violent, sexual and economic crimes. The incidences listed above reflect a police services with a propensity towards violence, and a diminished value for life. Rape by police officers and in police custody, along with torture, impinge on many of the human rights alluded to earlier. As this study is based in the Eastern Cape, it is noteworthy to include an overview of the occurrences of crimes of the above nature in the province, as can be seen in figure 2.2 below, per the IPID (2018: 40) 2017/2018 report.

Figure 2.2: Provincial incidences of IPID investigations for the 2017/2018 reporting period

| Table 2: Annual Intake per province and per category- (Apr 2017 – March 2018) | | | | | | | | | | | | |
|-------------------------------------------------------------------------------|--------------------------|-------------------------------------|----------------------------------|--------------------------|------------------------|---------|---------|------------|------------------------------------|---------------------|------------------------------|-------|
| Province | Deaths in police Custody | Deaths as a result of police action | Discharge of official firearm(s) | Rape by police officials | Rape in police custody | Torture | Assault | Corruption | Other criminal matters/ misconduct | Systemic corruption | Non-compliance with IPID Act | Total |
| Eastern Cape | 28 | 55 | 124 | 15 | 0 | 8 | 450 | 18 | 4 | 1 | 3 | 706 |

Source: IPID 2017/2018 Annual Report

High rates of assault, and discharge of official firearm, remain the primary incidences for investigation in the province. In addition to the IPID Annual Report, the SAPS Strategic Report (2017: 264) for the 2016/2017 year noted the following amongst many other internal investigations for corruption and fraud, as presented in figure 2.3 below.

Figure 2.3: Internal investigations for Corruption and Fraud – SAPS 2016/2017 reporting period

| Corruption and Fraud Categories - April 2016 to March 2017 | |
|------------------------------------------------------------|------------|
| Corruption | 115 |
| Fraud | 28 |
| Aiding an escapee | 152 |
| Defeating the ends of justice | 35 |
| Extortion | 10 |
| Bribery | 5 |
| Total | 345 |

Source: SAPS 2016/2017 Strategic Report



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From the above statistics it is clear that the issue of police crime in the SAPS is a prevalent phenomenon which requires urgent attention. The need to ensure that the policing services deliver on their mandate to protect citizens of the Republic and ensure social order, should not occur at the expense of the most basic human rights of the citizens of the country. The role of legislation in clearly specifying the acceptable behaviours of police members and officers is clearly not being translated into practice.

2.5 Precipitating factors to police criminality in South Africa

Scholars note a variety of factors which contribute towards police officer's involvement in the commission of crimes, all of which can be applied to police crime in South Africa. Such factors

include apartheid; high rates of violence in South Africa; unofficial police culture of violence; code of silence; financial strain/reward; psychological disorders/strain; and poor leadership/role models. Whether these factors are present in isolation or in relation to one another, each factor places police officers at greater risk of becoming involved in violent or economic crimes.

2.5.1 Apartheid and high rates of violence in South Africa

The impact of the historic, widespread, lengthy and purposively racially motivated violence perpetrated during the apartheid regime, has left large socio-economic gaps between various groups of individuals in South Africa. It is not just these inequalities that can be regarded as a contributor to current police propensities towards violence, but also the violence ingrained in policing historically and the general high rates of violent crime perpetrated by civilians in South Africa. Kynoch (2016: 71-72) notes the following in respect of post-apartheid policing in South Africa

Despite noteworthy changes, the dominant story of post-apartheid policing has been the SAPS' inability to overcome its predecessor's status as a thoroughly discredited institution. Grievances over a lack of policing are matched by dissatisfaction with the quality of policing that people experience and witness. Twenty years after the end of apartheid, an avalanche of corruption and brutality charges, combined with the failure to effectively extend civil policing into poorer, primarily black, areas, have outweighed progressive reforms

The aftermath of a violent end to the apartheid regime has left many of the same police officers in the SAPS, and for new recruits, the new challenges faced in post-apartheid policing create environments where violence by police is experienced. Policing services working in informal areas face many challenges when conducting themselves, as well as when attempting to exercise their authority in areas where lawlessness is prevalent. As Marks (2000: 560) explains

The oppressive policing that has sustained apartheid, much of it carried out by black officers, has been accomplished partly through the ample legal and physical ability to kill, to maim, to torture and to terrorize. Accountability of the SAP to the law, to the courts, and to the society it has served, has been characterized by rules that permit—indeed, encourage—rather than constrain, police violence

Current legislation aimed to ensure the human rights of all citizens, neglects the role of social inequalities in causing current levels of violence throughout the country, and the focus on the political race to fix the country, has led by in large to the neglect of police accountability and effective monitoring and reporting. Rather police officers are required to enter violent communities with the understanding that the use of force is mandated, and in some cases the use of fatal force is acceptable. In areas where high rates of violence occur amongst the civilian population, it is not unreasonable to assert that police officers may exhibit an increased readiness to administer force, where there may be circumstances in which civilians have the potentiality to commit violence towards the police, or where violence has already been administered to other civilians, in a specific area.

According to Crime Stats SA (2019) South Africa experienced 20 306 murders and 49 991 sexual offenses in 2018. This equates to 55 murders, and 136 sexual offenses, per day. There

is no denying therefore that South Africa is experiencing a crisis in respect of contact crimes with a violent nature. Police men and women are expected to set the example for exemplary behaviour, in communities where the value of life and the rights of others, are of little importance. The result of such a violent society is increased propensity by policemen to use violence themselves. For some scholars, the notion of police instituted crime is almost a necessity to manage the communities in which such high incidences of violence and corruption occur. As Chan (1996: 112) postulates

Some have argued that police misconduct could not exist without the tacit approval of the community: 'for the police force to be willing to do the job of "shovelling shit," they had to be allowed to sleep on the job, be rude, harass defendants, and extort bribes' (Sparrow et al., 1990: 133-4)



When evaluating issues surrounding police instituted crime, other scholars assert that violence by the police is increasingly becoming viewed as a necessity, and thereby has the approval of a variety of stakeholders. Manning (1980: 137) further expands on the issue of mandated violence in policing below

That the police use violence is of no concern to citizens, and on the other hand, it is a central concern. That is, the central question is not whether the police should be violent, because indeed everyone, including the police, seems unwilling to even conceive of the alternative. The question is to whom, when, and to what degree, they should be violent

In the context of the various legislative instruments which guide the policing profession in South Africa, it is clear that minimum force should be used at all times, and that deadly force

should only be used in situations where such force will result in the protection of life. However, based on an examination of the statistics of crimes perpetrated by police officers in South Africa, it is clear that this is not always the case. Apart from the violence instituted in the alleged furtherance of the duties of the profession, there is still no explanation for the high levels of sexual offenses and corruption committed by police officers. A pervasive attitude towards the use of violence as a mechanism to reinforce authority can be regarded as being present in policing in South Africa. As postulated by Faull (2013: 9):

SAPS officials, particularly men, should be viewed as members of communities and families where violence, particularly violence by men, against men, has been normalised as a tool for earning respect. It is therefore unsurprising that many members of the SAPS embrace the view that violence builds respect

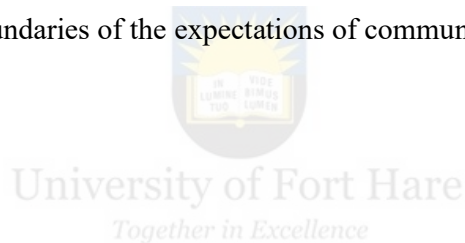
Violence as a mechanism to assert authority is not isolated to a South African analysis, but in the context of an already violent country, with high levels of interpersonal crime, it is plausible that an overarching mindset and police culture which reinforces the need for violence as an authoritative mechanism should be considered a serious contributor to levels of violence in the policing services. As Faull (2010: 20) further postulates

Informal rule bending has for decades been noted as a trend in police cultures, developing as a means to realise a mandate within a restrictive environment. Take for example the much-touted rhetoric that became prominent in the second half of 2009, perhaps oversimplified by the media as 'shoot to kill'. While a clear call to the police to act illegally, in that the law prohibits the intentional murder of any person, it signified that a causal link was drawn between police use of force and police effectiveness. The

national commissioner, minister and deputy minister of police, among others, repeatedly spoke of the need for police not to deliberate over, or fear using lethal force against armed suspects

This historic tendency for politicians and police commanders alike to advocate for the use of violence in policing is troubling, as such instructions are in direct contravention of the rights afforded to civilians, in the Constitution of South Africa. Within the framework of rampant community violence, and a media and country critical of police ineffectiveness, coupled with a historic tendency for leaders in the policing services to encourage the use of violence, it can be no surprise that South Africa's policing service struggles with incidences of violent crimes. Members of the SAPS are required to engage with communities within the boundaries of the law, but also within the boundaries of the expectations of communities, and one another.

2.5.2 Code of silence




Police officers face danger and the threat of violence, as a daily part of their jobs. It is therefore essential that members working in this field, work with colleagues who can be trusted to have their safety as a central concern in the daily execution of their duties. The bonds that form between members of a policing unit, can however obstruct the realisation of justice, and can serve to further perpetuate incidences of violent and economic crimes, as members of units become reluctant or unwilling to report or testify to the crimes they witness fellow members committing. Ivkovic (2003: 598) elaborates on this issue as follows

Police officers, bound by the nature of their occupation and the paramilitary structure of the police, turn a blind eye on misconduct by fellow police officers, which in turn

enables them to rely on their assistance when they need it, and to earn their trust and support. Regardless of how severe and extensive the actual consequences of the violation of the code of silence are, and what is actually covered by the code in an agency, the code seems to be shared by police officers, and its presence has a serious impact on the police officers' willingness to report misconduct by fellow police officers

The code of silence which operates, in some cases, as an unwritten rule, allows for police officers to evade accountability and responsibility for the harm they inflict on members of the public, in the execution of their duties. This is further reinforced in countries where high level accountability in the police is low, and where violent crimes in communities are high. According to Weitzer (2005: 22) this phenomenon is common to policing professionals



Because police deal mostly with "problem" citizens, not the general population, they develop an "us versus them" mentality toward the public. Officers see themselves as a "thin blue line" between order and chaos and develop an elevated sense of mission that may lead to abuses of power. These are key ingredients in the police subculture – a distinct set of values and beliefs. This subculture insulates the police fraternity and fosters a "code of silence" that shields cops from scrutiny

The scrutiny alluded to above, refers primarily to the scrutiny of police members by one another. The public and legal institutions operational in South Africa, in particular, are premised with the intention of monitoring and reporting misconduct, however this is not always possible if members are not willing to provide evidence to the misconduct, they have witnessed fellow members commit.

2.5.3 Financial strain or reward

Perhaps the most obvious reason for crimes of an economic nature, is that of financial strain or conversely financial reward. Corruption, however, is a multifaceted issue, with a variety of underlying causes, most prevalent of which is financial gain. Such gain however occurs within an environment of strain, and is likely more a mindset than an actual lived experience of financial strain alone. Budhram (2015: 49) notes the following in respect of corruption in South Africa

Corruption has wide-ranging corrosive effects, from undermining democracy and the rule of law, to providing the fertile ground in which organised crime and terrorism flourish. It takes many forms, from bribery to extortion, cronyism to nepotism, and patronage to embezzlement. Most South Africans interpret corruption more broadly to include abuse of resources, maladministration, theft and fraud.

The biggest threat to the reduction of incidences of corruption is less the financial aspect involved in the transactions, and more the value or worth that police members feel they receive as a result of their salaries. In an analysis provided by Sisk (1982: 395) one can see how the access to bribes and money from the public, can be abused to fulfil the esteem needs of police officers who feel undervalued

The input police supply is simply the right to operate in a given police jurisdiction, and the payment police receive may be formally prearranged with criminals. That such payments are labelled "bribes" and that police who collect bribes are labelled "corrupt" should not be allowed to obscure the analysis of the activity

Where societies or policing units provide tacit approval, through the ineffective use of disciplinary measures to curtail such incidences, bribery and corruption become a substitution to the perceived poor salaries or lack of benefits in the policing services, and such circumstances place police members in positions where they become vulnerable to becoming trapped by larger criminal syndicates.

2.5.4 Psychological disorders or strain

The policing profession is regarded as a profession which requires an inherent mental strength and resilience which many individuals are not able to sustain over long periods of time, without the assistance of requisite psychological services. Police officers are exposed to a variety of traumas, both at the hands of criminals and police, but also through the witnessing of car accidents and suicides. Police members are required to attend to calls of any nature where there has been an injury to an individual, and where such injury is not as a result of a natural disease. This places police members and police services, as a whole, under greater threat of psychological strain, of which such strain, if unattended, can result in police members increased propensity towards violence. Stinson et al (2011: 6) explain the result of such strain below

Research highlights the importance of psychological factors in explaining the use of excessive force and police violence. Policing has been described as a particularly stressful occupation because the work inherently involves dangerous situations, disturbing crime scenes and stress-inducing bureaucratic rules (Brandl and Stroschine, 2003). Police scholars have long recognised the link between occupational stress and a host of negative outcomes and attitudes including job burnout, poor health,

absenteeism, alcoholism and more favourable officer attitudes toward the use of violence against citizens

Whilst all emergency employees experience such strain, due to the nature of their daily practices, police members are at particular risk due to the overexposure they experience, and the highly stressful nature of the responsibilities and duties they are required to perform. The interpersonal nature of policing in a country like South Africa, with high rates of murder and interpersonal violence, means that police members must always be psychologically prepared for conflict or brutality of some nature, when clocking on duty. For some officers, counselling services are utilised, and traumas are dealt with, however this does not always take place, and the result can leave many police members with long-term psychological disorders. As Marchand et al (2015: 212) explain



Due to the nature of their work, police officers encounter frequent exposure to unpredictable incidents that pose a threat to their life or their physical integrity (e.g., road accidents, gunfire, suicides, and homicides). These potentially traumatic events can generate major repercussions on their psychosocial and occupational functioning. They can even lead to the development of acute stress disorder (ASD) or posttraumatic stress disorder (PTSD)

Of concern is the unknown prevalence of such disorders in the SAPS, and the continued allocation of deadly weapons to members of the SAPS, in order for such individuals to execute their duty to protect a given community. This coupled with legislation which designates for the discretionary use of force, sometimes fatal in nature, places police officers and members of society at risk for unwarranted injury or death.

2.5.5 Poor leadership


Leadership in policing in South Africa has been plagued by suspensions, dismissals and convictions against the most senior members of the services. The post of police commissioner has been filled repeatedly, with each new candidate seeming to follow the political appointment of the presidency of the country. The perceived lack of impartiality in these appointments has, and continues to, create a perception that policing is strongly linked to politics in South Africa. Newham (2015: 41) provides a historic overview of the situation below

In 2000, then-president Thabo Mbeki appointed Jackie Selebi to the post of SAPS national commissioner. He was perceived to be personally loyal to Mbeki, who reportedly went to extraordinary lengths to prevent him from being arrested and prosecuted on corruption charges, for which he was ultimately convicted and sentenced to 15 years' imprisonment in 2010. When Jacob Zuma became president, he appointed a powerful provincial ANC politician, Bheki Cele, to the post of SAPS national commissioner. Cele was eventually fired by the president on the recommendation of a board of inquiry into his fitness to hold office, following a public outcry over his involvement in tender irregularities involving R1.7 billion. Zuma then appointed Riah Phiyega to the post of SAPS national commissioner. It was the findings of the Marikana Commission of Inquiry, that first raised official concerns about Phiyega's fitness to hold office

Phiyega was suspended following the findings into the circumstances surrounding the Marikana killings, which led to 34 striking miners being killed by the police. From the above it is clear that police leadership in South Africa is inconsistent and highly politicised. With

allegations of corruption and politically motivated violence being the primary reasons for the constant changes in the position. Subordinates and foot soldiers, in the most junior of positions, are expected to internalise the prescriptions of the various Acts which aim to regulate the behaviour of police members, even though their most senior officers are unable to ensure freedom from criminality in their own practices.

Poor leadership also has an impact on accountability and integrity in the policing services. Misconduct at a senior level has implications for morale at lower levels. Mummolo (2017: 1) notes the lack of integrity at senior levels in the police, as a contributing factor to subordinate disobedience to instructions, and the increased difficulty that occurs in respect of the management of police behaviours



Scholars of organizations and public bureaucracies have long understood management issues in public institutions as principal-agent problems and have debated the degree to which monitoring coupled with the credible threat of sanctions causes workers to comply with managerial directives. While these approaches have proved promising in a number of settings (e.g., Olken 2010), police scholars have long expressed doubts about the ability of rules and supervision to shape officer behaviour

Poor leadership at top levels of the SAPS can therefore be postulated to have negative effects in respect of the authority and management of lower ranking members in the SAPS. Such incidences also undermine the integrity of the policing services as a whole, and do not provide the much-needed example of exemplary leadership to a strained policing service.

2.6 Conclusion

Police services exist to ensure the implementation of the law, such that peace and social order are maintained; and assistance in times of emergency, for example in times of accidents or suicide, are provided by a consolidated service. Whilst these are the aims of the police as an organisation of society, policing services globally are currently plagued with incidences of lawlessness and crime. Cases of police crime, as occurring in the USA, Nigeria and South Africa, highlight the global extent of the problem. In each of these countries incidences of police crime occur as a result of macroeconomic and socio-historic injustices and inequalities. As such, police crime is perpetrated as a result of failures in the greater political or sociological circumstances of each country. In response to the democratisation of the policing services in South Africa, legislative amendments were enacted to ensure the protection of the human rights of civilians, to ensure consistency in the behaviours of policing professionals when executing their duties, and to maintain consistent, impartial and effective monitoring and reporting of police actions, particularly where such actions have transgressed the criminal laws of South Africa. Findings from official reports reveal however, that police officers in South Africa commit violent and economic crimes despite these reforms in legislation. Reasons for police members becoming involved in crimes in South Africa are postulated to include the legacy of apartheid and the violent nature of South African society currently; the code of silence operational in the policing profession, which reduces the efficacy of internal and criminal disciplinary processes; financial strain or reward; unresolved psychological strain; as well as poor leadership in the top echelons of the SAPS.

CHAPTER THREE

THEORETICAL FRAMEWORK

3.1 Introduction

Occurrences of criminal behaviour transpire within a myriad of complex social and socio-economic settings. This phenomenon is further complicated when such behaviours are perpetrated by individuals who are formally employed in a sector whose primary aim is to prevent the occurrences of criminal behaviours amongst the larger population, in order to ensure the safety and security of such a population. This study explores the rationales for the occurrences of police instituted crimes, in order to provide a generalisable theoretical underpinning for such behaviour. This chapter discusses social learning theory, as postulated by Sutherland's differential association theory, and Akers social learning theory. In order to understand the phenomenon of police instituted crime, it is important to consider the efficacy of control measures in respect of their deterrent capability. Social control theory provides insight into the extent to which measures such as disciplinary policies and sanctions act as control mechanisms in preventing police officers from committing crimes.

3.2 Social Learning Theory

Social learning theory as a whole, attempts to explain those circumstances and factors which are likely to influence individuals to commit crimes, in relation to the exposure such individuals have to groups or social settings where such behaviours are viewed with approval. Of the importance this socialisation has on the individual, in respect of crime, Sheider and Florence (2000: 246) note the following

Some theories...attempt to explain criminal and deviant behaviour that is undertaken by persons who do not believe in the wrongfulness of certain acts. Such individuals are largely committed to deviant norms and embrace the values undergirding them. Thus, through learning or participating in a subculture, persons may come to accept norms and more general values, that contrast with those of the majority of society

Social learning theory represents this process and highlights the symbolism which occurs during the process of normalisation and internalisation of socially accepted behaviours amongst individuals, in a group context. Two subsets of social learning theory will be included in this analysis, that of Sutherlands differential association, and that of Akers social learning theory. The rationale for the inclusion of both subsets of the broader theory is to expand the various concepts encompassed in both. Where differential association focuses on the influence of the definitions of crimes, and the internalisation of learned behaviours on criminal acts, Akers expands social learning to include imitation and differential reinforcement, as well as differential association. Differential association is identified as a key approach to social learning, and Sutherland's interpretation thereof is therefore included for discussion, due to the sole focus on the role of associations in learning, when compared to Akers more general concepts of the learning process, with the inclusion of rewards and punishments as determinants of behaviour. Such theories are pertinent when analysing the motivations and causations of crime amongst any group of individuals, and with reference to this study, police officers in particular. Criminological theories such as Strain theory and Labelling theory are useful to a study aimed at understanding the rationale for the commission of crimes amongst youth but have limited applicability to a study concerned with adults offenders, particularly where such offenders are police officers, or custodians of the law. The incorporation of sociological theories is therefore pertinent to a study of this nature.

3.2.1 Sutherland's Differential Association

Differential association emerged from Sutherland's observations of the role that exposure to crime and the definitions therein have on an individual's likelihood to commit criminal acts. The underlying rationality for such behaviour lies in the acceptance, as either tacit or explicit, towards crimes of a certain nature. As Tittle et al. (2001: 405) explain

Sutherland (1942) observed that many modern societies exhibit normative conflict reflected in cultural patterns favouring criminal behaviour existing alongside patterns unfavourable to crime. As a result of more intimate, longer, more frequent, and more intense association with cultural "definitions" favourable to criminal behaviour relative to those unfavourable (an "excess"), individuals were said to learn criminal behaviour, including techniques, attitudes, drives and rationalisations

Sutherland maintained that an excess of exposure to environments and social interactions wherein criminal behaviours and acts are deemed favourable and attractive, would create within an individual the propensity towards committing crime. The central tenets of the theory include the exposure to the definitions, techniques, drives and rationalisations which are favourable to crime.

Differential association is regarded as a social learning theory which postulates that the more individuals are exposed to crime the more likely they will be to commit crimes themselves. A central theme in the theory is that of definitions which are favourable to crime. Definitions, in this context, are regarded as those elements of crimes which are viewed as being acceptable. Of definitions, Armstrong and Matusitz (2013: 475) argue the following

For Sutherland (1942), in order for crimes to be committed, the ratio of favourable definitions must outweigh the unfavourable ones. This led to Sutherland's realization that not all definitions are equal, and do vary in frequency, duration, priority, and intensity

Whilst there may be legal definitions of crimes and the elements that must be present in order for a crime to have been committed, the role of interpretation in the mind of the individual or social group, by which the crime is being committed, is paramount. For example, an individual may not view taking property from the workplace home as a crime; however, this would be legally defined as theft. Similarly, a group may not view a particular act as being criminal because the norms present in the group do not define the act as being criminal. In some circumstances a group of individuals may view definitions of crimes as being linked to intent, or the intent to cause harm, to further a particular self-involved agenda. Where the intent has no agenda for self-fulfilment, but rather acts as a means to an end, such a group of individuals are less likely to regard such behaviour as being criminal in nature. Definitions are thus an integral part of the process of assimilation for the individual, and the group, in respect of criminal behaviours.

The second element of differential association is that of techniques of crimes. Techniques in this context refers to the behavioural aspects of the crimes, not just the definitions which rationalise the commission of certain crimes. With a particular focus on police officers it is plausible to assert that by virtue of their position and the requirements of their daily duties and responsibilities, that such individuals are and will be exposed to disproportionate amounts of crime, when compared to civilians. Such exposure will include not only the definitions or

rationales purported for the commission of such crimes, but also the specific behaviours, or techniques, needed to commit such crimes. As Adams (2009: 494) explains

Sutherland adopted a similar view of human nature—that criminal tendencies are not inborn—and his theory suggested that both the motivation and the techniques used to commit crime were transmitted to the “good” individual by the “bad” society

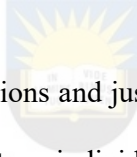
Techniques therefore refer to the exact behaviours needed in order to successfully commit crime. Police officers are therefore exposed to techniques both internally in the profession, whilst in interaction with the criminal justice system, and externally in the greater community within which they police.

The learning of such techniques takes place through a process of communication, a process which is central to the integration of both behaviours and norms favourable to the commission of crime, within the individual and/or the group. Armstrong and Matusitz (2013: 480) further explain this process as follows

For differential association to be understood and accepted, one must know that the key process being performed is communication. Without the essential communication between current members and the potential new recruits, there would be no effective strategy for group learning. In that manner of communication, the criminal patterns and behaviours of the group are learned and understood and, in that moment, one will decide to stay or leave

Communication is the mechanism through which learning thus takes place, and whilst learning can take place between individuals who are isolated to groups, it can also take place in interactions between various groups who have dissimilar interests, but for whom criminal behaviour will be deemed to be inviting. The group dynamic is therefore of less importance to the learning process, than is the propensity of the individual concerned towards the internalisation of the behaviours they are exposed to.

Similar to the commission of any criminal act, the presence of attitudes, drives and rationalisations are needed. What differentiates differential association from other theories of crime, is the rationalisation that certain criminal acts are justified, and therefore are not regarded as being inherently negative. As Opp (1989: 409) explicates



According to Sutherland, motivations and justifications are acquired when interaction processes occur. This means that an individual's preferences, and probably internal costs, change in the course of the interaction. Contacts with deviant behaviour patterns will often lead to a weakening of internalised norms that forbid crime. If this holds true, contacts with criminal behaviour patterns promote crime

From the above it can be postulated therefore that when one comes into frequent contact with crime and criminal elements, a process of integration occurs between individuals and groups in terms of their attitudes towards crime, such that the rationalisations for the commission thereof become stronger than the internalised norms which serve to prevent individuals from enacting criminal behaviours. Attitudes, drives and rationalisations with regards to criminal behaviour, are thus more powerful in the determination of propensities towards crime, than the

other theoretical components of differential association, as singular determinants of criminal behaviour.

The notion of motivation and rationalisation are central to the differential notion of criminal behaviour in that it is posited that individuals will provide reasons for their actions (specifically criminal) which serve to excuse such actions, and that these excuses serve as motivation for such behaviour to continue. Cressey (1954: 33) outlines this process as follows

The key linguistic constructs which a person applies to his own conduct in a certain set of circumstances are motives; the complete process by which such verbalizations are used is motivation. The great difference between this conception of motivation and the notion that motives are biological or are deeply hidden in the "unconscious" may be observed in the use of the concept "rationalization" in the two systems. The rationalization is his motive. When such rationalizations or verbalizations are extensively developed and systematized the person using them has a sense of conforming

Conformity to the group norm is noted as a feature of the differential theory of crime, as conformity occurs not just in the behaviour of the participant to criminal acts, but in the mindset associated with such behaviour, that such behaviour is socially acceptable and thereby justifiable. According to the theory when one comes into contact with criminals or criminal elements, one will slowly start to accept the way of thinking that excuses the acts themselves, and may even lead to skewed thought patterns wherein criminal acts are deemed acceptable or are deemed to be goal-oriented, such that members of the group (or those who come into

contact with the group) will aspire to enact such behaviours, for the associated goals encompassed therein.


Sutherland's differential association theory does not solely focus on the role of intimate groups on the individual, in enhancing and creating a criminal orientation within individuals. There is also a keen focus on the role of social structures in creating environments which cause criminal tendencies. As Matsueda and Heimer (1987: 827) explain

According to Sutherland's (1947) theory of differential association, delinquency is rooted in normative conflict. Modern industrial societies contain conflicting structures of norms, behaviour patterns, and definitions of appropriate behaviour that give rise to high rates of crime. At the group level of explanation, Sutherland posited that normative conflict is translated into group rates of delinquency through differential social organization: the extent to which a group is organized for or against delinquency determines its rate of law violation

Crime is a deviation from the status quo, however where the status quo is not internalised by all members of a given society, and where such members do not accept tenets of law which prescribe behaviours, such groups of individuals will remain on the periphery of society, and will be regarded as deviant. The structure of modern societies has therefore created an environment in which some individuals or groups are on the periphery, where criminal behaviour is central to the functionality of the social order in such an environment and is therefore accepted by such a group. These periphery groups, being rejected from society, in turn continue to commit criminal acts, and the structures which exist in society as a whole, reinforce the notion that these groups are criminal. Due to the complicated nature of the

environments in which such criminal behaviours occur, it is impossible for formal law makers to allocate grounds in which criminal behaviours can be deemed acceptable for some, and not for others. The risk of losing control of the social order which forms the basis of law increases in such circumstances, particularly where criminal behaviour is justified due to the inequality experienced as a result of the social structures operational in such a society.

From the above one can see that there are a variety of elements which comprise the theory of differential association. The order in which the individual is exposed to these various elements, wherein the internalisation of the norms associated with criminal behaviour, and the associated social learning occurs, are numerous. A variety of social settings can thus place individuals or groups of individuals at risk to become deviant. Tittle et al. (2001: 406) provide a broad explanation of the various ways in which such learning can take place, as outlined below




At least five “limited” causal models representing direct translations or implications of Sutherland’s ideas can be found in literature. Model (1) interprets the theory as postulating a two-step process. The individual associates excessively with criminal definitions and as a result develops a criminal perspective which then causes criminal behaviour. Model (2) proposes that excess association directly causes criminal behaviour without producing intervening constructs such as attitudes or rationalisations. Model (3) merges Model (1) and (2), proposing that associations affect criminal behaviour directly and indirectly through criminal perspectives

Criminal perspectives, as referred to above, include but are not limited to attitudes, norms and rationalisations, which serve to benefit individuals through crime, whether psychologically or physically. Of importance to the theory of differential association, is the overarching appeal of

crime, and the justifications for criminal behaviours. Each of the models referred to by Tittle et al (2001), will be expanded below.

Model one postulates that an individual's associate excessively with criminal definitions. Association in the context of Sutherland's theory is affected by four things, namely: frequency; priority; duration; and intensity. Where an excess of exposure in respect of the association an individual has with definitions which are favourable to crime occurs, such an individual is more likely to become vulnerable to committing crimes. Criminal definitions in this context can include any characterization of criminal behaviours, and these are regarded as being inherent in an individual and subsequently brought to the fore depending on the environment the individual finds themselves in. As Gongaware and Dotter (2005: 385) note



What is more important is that this behaviour is not isolated from the individual's sense of self but is intimately tied to the self a person develops. It is not simply the behaviour that is learned and developed, but the very self which is expressed in the behaviour. Thus, the object of study in differential association, though labelled as criminal behaviour by Sutherland, is fundamentally the development of the criminal self

A criminal self is regarded as those elements of an individual's personality which provide justifications towards criminal behaviour, and which make it easier for such an individual to reoffend. Not every individual who is exposed to crimes and criminals will become a criminal themselves, rather such an individual must have predispositions in respect of their attitudes towards the resultant justifications, which will help them regulate the emotions associated with the commission of crimes. Gongaware and Dotter (2005: 386) further explain such concepts as follows

It is our grasp of what things mean, including criminal conceptualizations, that are fundamental to self-development. So, while our unit of analysis in differential association can be conceived as the self, it is the interactions of individuals which must be our units of observation if we are to understand the meanings that a criminal self (re)creates. Connected to a self, we can better understand their significance as we examine the specific content of a criminal self

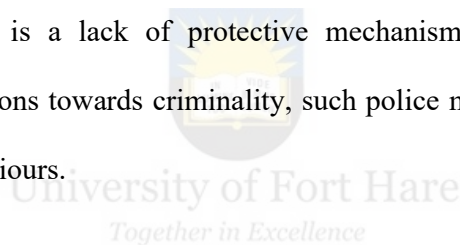
Each individual or circumstance which holds similarities for groups of individuals, therefore becomes a unit of analysis within the broader spectrum of society as a whole, due to the unique qualities they possess which make them likely to commit or internalise criminal definitions as acceptable.



Model two of the theory of differential association postulates that direct excessive exposure to criminal definitions, and criminals, is enough to constitute criminal propensities in individuals and groups. Of this process, Dalal and Sharma (2007: 39) postulate the following

Normative conflict at the individual level is translated into individual acts of delinquency through differential association learnt through communication usually in intimate groups. In other words, peer pressure and peer attitudes influence behaviour. Contact with persons who have favourable definitions towards crime, leads an individual to learn similar definitions. The theory does not indicate that the group of association has to be one of criminals; rather the group should express favourable attitudes toward crime

According to this model, it is enough for individuals to be exposed to favourable definitions of crime to constitute an assimilation of the behaviours associated with crime. An individual therefore does not necessarily need to be exposed to criminals all the time or be part of a criminal element to consider crime favourable; they must be exposed to an environment in which such definitions are not considered negative, but rather positive, and therefore normal. The context of such a perspective towards criminality for individuals employed in the criminal justice system, or for police officers themselves, can be noted in the interactions such officers have with both criminals and communities. Where police officers are in constant interaction with criminals, they will be exposed to the specific ways in which crimes can be committed. In addition, police officers are also exposed to the ways in which prosecution for such crimes can be avoided. They can therefore be role players in either crime prevention, or crime perpetration. Where there is a lack of protective mechanisms in place to prevent the assimilation of rationalisations towards criminality, such police members are more at risk of perpetrating criminal behaviours.



To conclude it is worth differentiating between Merton's differential opportunity theory and Sutherland's differential association theory. Differential opportunity theory, as discussed by Murphy and Robinson (2008) denotes the propensity towards the commission of crimes as a result of limited access to legitimate opportunities for income generation, and in some cases wealth. The presence of a pervasive attitude towards the acceptance of cultural pressures or norms which create strain in individuals or groups towards the attainment of wealth or consumerism, leads to crime. The central tenets of differential opportunity theory are regarded as conformity, innovation, ritualism, retreatism and rebellion. Contrary to this theory, Sutherland asserts that it is not the access to opportunities to commit crimes that fuels the

phenomenon, but rather the propensity of groups of individuals to influence one another towards the desirable attributes of crime, that results in such occurrences thereof.

3.2.2 Aker's Social Learning Theory

Aker's social learning theory is regarded as a later, expanded version of the initial constructs postulated by Sutherland. Of the broader theory of social learning, Paat and Hope (2015: 230) note the following


Akers' social learning theory is based on four components: (1) differential association, (2) definitions, (3) differential reinforcement, and (4) imitation. Differential association provides the context in which learning takes place. Definitions are conceptualized as the values that are upheld given the behaviours of others. Further, through differential reinforcement, an individual receives social cues about the appropriate way to react in a social situation. Following reinforcement, one may imitate those they look up to

Aker's version of social learning differs from Sutherlands on a number of fronts. This form of social learning is posited to occur in a sequence, in as much as one phase of learning is followed by another, with each new phase exposing the individual involved to greater risk of propensities towards the commission of criminal behaviour. Similar to Sutherland though, symbolism in the process of the exposure to criminal attitudes and elements, forms the basis for the transmission and learning of concepts, which lead to the internalisation and normalisation of criminal behaviours.

Differential association, which has been outlined above in Sutherland's social learning theory, refers to the influence of attitudes which create an environment and mindset which is

favourable to the commission of crimes. The second element of Aker's theory is that of definitions, which can be regarded as the information which is provided to an individual in respect of crime, as being either favourable or not. As Sheider and Florence (2000: 257) assert

The probability that persons will engage in criminal and deviant behaviour is increased and the probability of their conforming to the norm is decreased when they differentially associate with others who commit criminal behaviour and espouse definitions favourable to it, are relatively more exposed in-person or symbolically to salient criminal/deviant models, define it as desirable or justified in a situation discriminative for the behaviour, and have received in the past and anticipate in the current future situation relatively greater reward than punishment



Elements of reward and punishment is present in this version of social learning theory, thereby giving reference to some kind of reinforcement in the behavioural choices of individuals. Observing of rewards and punishments in Aker's social learning can be regarded as the rewards observed in respect of the social approval that is garnered following the commission of criminal behaviours, which are deemed acceptable by the influential social group. This group need not necessarily be a peer group but can include any group which has an influence on the mentality and behaviours of any individual, in respect of their willingness to engage in criminal acts.

The reward to punishment continuum is considered an element of differential reinforcement, which is unique to Aker's social learning theory. Payne and Salotti (2007: 555) explain the concept of differential reinforcement as follows

Differential reinforcement is based on the principle of operant conditioning and is the balance of anticipated and/or actual rewards and/or punishments that follow a particular behaviour. This balance affects a person's definitions, such that an individual who is rewarded for a particular deviant behaviour is more likely to develop definitions favourable toward that behaviour, and is therefore more likely to engage in that behaviour again

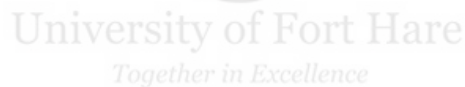
Rewards take the form of either financial or esteem rewards. Police officers operating in highly stressful environments, in constant contact with criminals, might derive either reward from committing crimes, where such crimes serve to further a preconceived agenda. Such rewards may not be offered by the formal justice system when convictions are made, and thus such contextual circumstances reinforce the notion that crime may be more desirable to the profession than adherence to the law, and the enforcement thereof.

Reward in terms of financial gain can be derived from the incentives police officers obtain from criminal elements themselves, through the commission of economic crimes. Such monetary gains afford police officers with a lifestyle they might not be otherwise able to achieve, should they follow regulations stipulating those behaviours which are in line with the profession or the law of the country. Such monetary rewards allow police officers to provide for their families in ways they weren't able to before, and this reinforces the notion that crime is not only attractive, but for some police officers, necessary. Of differential reinforcement, Tittle et al (2012: 865) notes the following

Past differential reinforcement appears to be crucial because it can influence misbehaviour independently as well as in combination with other social learning

variables (Akers 2000). First, past differential reinforcement may affect an individual's chances of misconduct directly, bypassing other social learning elements, most likely through the formation of habitual behavioural patterns as a result of prior conditioning (Akers 1998). In addition, it may have indirect consequences through its influence on the formation of various cognitive elements such as attitudes, beliefs and anticipated rewards and punishments that, in turn, have an effect on individual involvement in misbehaviour (Akers 1998)

Rewards can be either real or perceived, what matters is the allocation of importance to these rewards individuals assign in respect of these rewards in determining their behaviour. Where rewards are perceived to be of intangible value, as is the case with esteem needs fulfilled by the commission of crimes, such rewards can hold greater value for police officers, than the esteem they may feel by obeying the law, and ensuring ethical conduct in all circumstances in their policing practice.



The final element of Aker's social learning theory is that of imitation. Imitation takes place through the observed behaviours, internalisation of such behaviours, and re-enactment of such behaviours, which have a criminal element. According to Cochran and Sellers (2011: 794) imitation refers to "the extent to which one emulates the behaviour of role models. These role models are significant others whom one admires, whom one has a perceived personal relationship with, and whom one has directly observed behaving". The intimate other here, or role model, can be regarded as the criminals which police members come into contact with. The idealisation of the rewards associated with criminal behaviours may overwhelm the internalised norms within police officers, to adhere to formal legal regulations in their operations. Where police imitate the behaviours of criminals, such behaviours need not require

an intimate relationship with criminal elements, rather such a relationship should exist between the rationalisations supplied by criminals, such that police officers identify and internalise new norms congruent to the commission of crimes. Police officers operating in environments of low socio-economic status, where crime is rampant, and where their own efforts to achieve law and order are perceived as futile, are likely to be exposed to the attractive elements of criminal behaviour, and be reinforced in this way, when compared to those police officers who operate in affluent areas, where crime occurs sporadically. Tittle et al. (2012: 866) further note the following in this regard

Social learning is the main process that connects socio-cultural environments to individuals' behaviours. General cultural beliefs and norms, as well as various societal structural arrangements, are said to provide crucial contexts for social interactions within which the learning process takes place (Akers 1998). For example, individuals who reside in anomic and socially disorganized environments have higher chances of being exposed to a reward structure endorsing illegitimate means of goal achievement, face a weaker conventional moral climate, experience greater social acceptability and practice of criminality, and can anticipate less effective social controls for non-conformity (Akers 1998). As a result, they are more likely to be reinforced for crime and develop crime-favourable definitions, and in turn, may have higher levels of criminal involvement

Due to the fact that police officers are generally the only representatives of the criminal justice system operating in low socio-economic areas, and are fairly disempowered in their daily operations in this regard, it is probable that such officers lose the much needed connection and

reinforcement needed to ensure they maintain the code of conduct they swore to protect, when operating in environments with low social control mechanisms.

To conclude, it is worth differentiating between Bandura's social learning theory, and Aker's social learning theory. According to Beeming and Johnson (2009: 204)

The social learning theory (Bandura, 1977) suggests that observational learning can have a powerful effect, and that the effect is enhanced when the observers believe that the person demonstrating the behaviour is similar to themselves; a "similar other."

Essentially, Bandura's social learning theory rests on the role of observation and role-modelling in respect of significant others, as a strong influencer in the learning process. The observer relates to the position of those around them who represent a set of values or principles and learns that these are acceptable for their own circumstances. In respect of propensity to commit crime, the exposure to criminal behaviours, which significant others deem acceptable, is more powerful than the internal moral compass of the observer. The pervasive process in the learning is therefore observation, and an inherent connection to the other, which then validates the behaviours enacted by the observer. Aker's social learning theory differs in that such a theory does not presuppose a bond between the observer and the other, which is positive. Such a bond can be negative, as can be the case between police officers and criminals, but can still serve as an environment for socially learned criminal behaviours to occur. The central tenets of Aker's social learning theory are therefore broader in application to the context of policing, where the role of the significant other can be either positive or negative in nature.

3.2.3 Limitations of Social Learning Theory

Theoretical approaches to human behaviour are not without limitations. Whilst social learning theory can be used to explain the processes involved in respect of learned behaviour, there is limited exploration or account of the psychological differences which are present and have an influence over individual actors' likelihood to commit criminal acts. Differential association particularly, does not differentiate between cultural influencers over behaviour determination in individuals, but rather groups behaviours for all individuals, regardless of cultural or other differences, this is further explained by Heimer (1997: 805) below

differential association theory itself does not identify the precise content of definitions, which leads to the following two gaps: (1) it does not show how cultural schemas or definitions favourable to particular forms of delinquency relate to broader cultural norms, beliefs, and rationalisations in our society; and (2) it does not explain how the content of definitions favourable to specific types of delinquency – like violence – may be structured by resource distributions, such as socioeconomic stratification

The individual psychological stressors which can cause some members of the same family to become deviant, whilst others remain law-abiding, are not accounted for in this theory. Psychological disorders are therefore underestimated, where their role can be regarded as important when considering individual decision-making processes in respect of deviant behaviour. Rather the emphasis on generalised attributes which occur as a result of socialisation with criminal elements is credited for occurrences of crimes. Social learning theory also does not account for genetic predispositions which cause psychological propensities through physiological differences, towards risk taking or deviance. Social learning theory rather notes

that individual behaviour is deterministic in nature as individuals who are exposed to crime are at higher risk of deviance and are therefore less responsible for the choices they make in respect of criminal behaviour. Rational choice is relatively largely ignored, in favour of socialisation, which is postulated to drive individuals to act in certain ways. There is also no reference to factors which create compulsions or circumstances wherein the avoidance of committing crime is favourable, such as those present in social control theory.

3.3 Social Control Theory

Social Control theory postulates that when examining behaviour, what is important is not the motivations for people's propensity towards certain behaviours, in this case, criminal behaviours, but rather those drivers which prevent them from committing crime. Differential association differs in that it is an explanatory theory of crime, with the primary focus being on the learning element of socialisation, whilst social control theory is a preventative criminological theory. Social Control theory was first formulated by Travis Hirschi in 1969 to explain juvenile delinquency and was later expanded to account for the role of preventative measures, such as formal and informal control mechanisms, in the avoidance of criminal behaviours. Of this theory, May (2003: 10) provides an overview below

Hirschi explains adolescent delinquency by positing that we are all capable of committing criminal acts. It is only those individuals who have a strong social bond and attachment to society and social institutions (such as the school and the family) that refrain from delinquent acts. Hirschi (1969) argues that a strong commitment to the rules of society and a strong attachment between the adolescent and society reduces the likelihood that the juvenile will become delinquent. He further suggests that adolescents

who believe in the conventions and behaviour restrictions placed upon them by the larger society will be less likely to commit delinquent acts, as will those youth involved in conventional activities (e.g. jobs, extracurricular activities at school)

Whilst this theory was originally formulated to explain the reasons why juveniles do not become involved in delinquent acts, it can be generalised to individuals in society at large. The rationale for this generalisation can be found in the fact that all individuals are privy to the same societal forces, regardless of age, which may influence their propensity towards committing crimes. The premises encompassed in this theory can therefore be regarded as being in direct opposition to the notions posited by social learning theory.

It is worth exploring the tenets of social control theory in relation to explanations of general crime and deviance, in the context of those factors which prevent police officers from becoming involved in crimes. Of these control mechanisms, Kobayashi and Kerbo (2012: 42) explain these concepts as follows

Travis Hirschi (1969) had argued effectively that asking why people violate rules is the wrong question. Instead, theory should be directed to the question of why they do not, assuming that humans are by nature inclined to commit acts of force and fraud in pursuit of their self-interests. Humans are inclined to commit crime because it affords the easiest way to meet one's needs. The motivation for crime is assumed to be universal and constant. What varies is the constraints that individuals experience which more or less prevent them from acting on this universal motivation

Social control theory primarily focuses thus on the factors which are present in society and which act as control mechanisms to influence individuals to not commit crime, and therefore act as stronger forces than those which conversely motivate individuals to commit crime. Such factors can be either direct or indirect, internal or external to the individual, and formal or informal in nature. Where the fulfilment of criminal behaviours is said to enjoy an element of satisfaction through reward, so too does the adherence to the social conventions which regulate behaviour in societies, provide individuals with a sense of reward or esteem, through their conformity.

Those forces which are present in society which create the motivation for individuals to not commit crime, are converse to those forces which act as facilitative mechanisms which cause individuals to commit crimes. Whilst both assign esteem rewards, the drivers behind the factors in such opposite spectrums of the propensity towards the commission of criminal acts, differ though greatly. As Matsueda and Heimer (1987: 828) explain

Control theory posits a single conventional moral order in society and assumes that the motivation for delinquency is invariant across persons. The question is not, "Why do some people violate the law?" since we are all equally motivated to do so, but rather "Why do most people refrain from law violation?" Hirschi's answer is that they are dissuaded by strong bonds to conventional society: attachment, commitment, involvement, and belief

Bond formation occurs in the process of socialisation between the individual and the family, society and workplace. In turn the individual is exposed to a variety of values and moral presuppositions. The individual will be either be conditioned to internalise these values, or they

will reject them. Central to the theory of social control are the notions of attachment, commitment, involvement and belief, which occur in the process of socialisation and internalisation of the values of society and/or a given environment.

Attachment to social norms and mores can be regarded as a strong motivating factor in terms of an individual's propensity to not commit crime. Attachment in this regard refers to the extent to which an individual has internalised the values of the society they live or work in, and the behaviours they enact as a result. Of this process, Jennings and Gunther (2000: 77) note the following

Control theorists argue that it is a person's ties—or a person's links, attachments, binds, or bonds—to conventional social institutions, such as family and school, that inhibit him or her acting on criminal motivations. In sum, social control theorists put a great deal of emphasis on the influence of social associations as a factor leading toward delinquency and the primary social agents influencing delinquents

Attachment to significant others in society can be either to family, friends, peers, or society as a whole. If an individual has strong ties with individuals who would find criminal behaviour unacceptable, the chances of that individual becoming a criminal or becoming involved in criminal activity, is, according to social control theory, greatly reduced. Similarly, if an individual lives in a society where criminal acts are viewed with severity and punished in respect of either physical or moral sanctions, an individual is postulated to be less likely to commit crime.

Commitment and belief are key concepts to social control theory. Commitment in this context refers to the extent to which an individual is committed to the relationships they have established with significant others in society, in addition to the extent to which they are committed to their values and norms, and in turn their lifestyle (as crime would ordinarily require a change in one or more of these areas). Matsueda and Heimer (1987: 828) further explain commitment as follows

Commitment to conventional lines of action reflects an investment of time and energy in procuring an education, developing a business, or building a virtuous reputation. The greater the investment, the less likely the person will be to jeopardize it by violating the law. Belief in the moral order directly taps an individual's internalization of conventional morality. Here, Hirschi reconceptualises Sutherland's definitions of delinquency to conform to the assumptions of control theory: since there is only one moral order, beliefs concerning delinquency are all conventional, and the greater the belief the less likely the deviation

In terms of commitment and belief, one can see that emphasis is placed on commitment and belief in the moral order are the norm to which individuals should be, and are, socialised into believing, such as legal or social conventions regarding the rejection of criminal behaviours, and the associated punishments thereof. Criminal behaviour would therefore imply a strong risk of exclusion from the groups or significant others, such individuals hold as vital to their social functioning. Individuals who have strong attachments and commitments to the social other, will not deem any possible rewards which can be procured from criminal acts, as more desirable than the social acceptance they hold through the social ties they have with significant others.

Involvement and commitment to socially acceptable activities is said to limit the exposure of the individual to criminal inclinations and criminal individuals. Of involvement and commitment, Kobayashi and Kerbo (2012: 42) argue the following

In Hirschi's (1969) control theory, those constraints are one's bonds to conventional society—attachment to conforming others, commitment to conventional goals, involvement in conventional activities, and beliefs in the law as legitimately binding one's own behaviour. Individuals having such bonds comply because they have much to lose if they do not. Individuals lacking such bonds, on the other hand, are free to deviate from the norms and laws

Involvement in conventional activities is said to therefore preoccupy individuals and can serve to reinforce the individual's commitment to the attachments and beliefs they have with significant others in society, and the social norms and mores which exist in a given society. For police officers, their role as representatives of law and order, and the attachments they have to the profession, the society in which they operate, or their moral/ethical internal code, will be of more value to them than the esteem or financial rewards which can be accumulated through deviant behaviour. The power of formal control mechanisms, such as the law, can also be regarded as a strong determinant in individuals' propensity to commit criminal acts. Where individuals hold a fear or respect for the law, they will be less likely to break it. This is especially true of police officers who are employed in the criminal justice system.

The final element of control theory which has an influence on individual behaviour, is that of belief. Belief in this context refers to the internalisation of the values and principles of a society,

which guide individuals towards conforming behaviour. As Payne and Salotti (2007: 555) outline below

Belief is the extent to which an individual recognizes the legitimacy of societal norms and laws. If a person believes in the norms of society, she is more likely to behave in accordance with those norms. Therefore, an individual with strong belief will be less likely to engage in criminal behaviour (Hirschi 1969)

In order for individuals to believe in the ethics and laws of a given society, they need to have been socialised into understanding the need for such control mechanisms, and the consequences not only for themselves, but for society as a whole, when such norms are violated. Where an individual has constant exposure to the positive aspects of conformity, in environments which prioritise the maintenance of conforming behaviours, such an individual will be less likely to engage in criminal behaviours. This can be applied to individuals formally employed as police officers, where the central function of their position is to ensure adherence to socially and legally desired behaviours, in order to maintain social order. If police officers do not understand or appreciate the need to set an example to the communities within which they operate, by virtue of the lack of internalisation of these norms, and based on their exposure to deviance, they will be less likely to refrain from criminal behaviours.

3.3.1 Limitations of Social Control Theory

Social control theory contains a number of theoretical gaps, in respect of the applicability of such a theory, to a broad understanding of behaviour determination, particularly where such behaviour is of a criminal nature. The theory is primarily criticized for the lack of consideration

for the innate desires of individuals in respect of their choice to become involved in crime, and the psychological factors which may be present which contribute to their avoidance, or involvement in, crime. As Kelley (1996: 326) explains

Psychology of Mind challenges the fundamental premise of control theory - the innate motivation in human beings to commit criminal and delinquent acts. According to POM, every physically healthy youngster begins life with a natural, inborn capacity for healthy psychological functioning. That is, at birth, youth do not have mind-sets which point them toward delinquency, drug use, or other forms of deviant behaviour. Contrary to control theory, POM proposes that it is only in lower moods when youth feel insecure and begin to think reactively more of the time, that their natural healthy functioning becomes compromised and the probability of deviant behaviour increases

From the above it is clear that there are extraneous factors, such as psychological mindset, and external stressors, which can influence individuals to avoid committing crimes. The assertion therefore that social bonds have a primary role in the decision of individuals to avoid becoming involved in crime, negates many other factors which can be present, and which can therefore influence decision-making. Whilst the role of the other in the determination of behaviour is important, the emphasis placed on control mechanisms as a way to prevent individuals from engaging in crime, does not address the totality of factors which influence individuals from all ages, cultures, and socioeconomic settings, from avoiding criminal behaviours.

3.4 Conclusion

Social learning theory, and social control theory are theories which attempt to explain individual's propensity towards deviance and criminality. Both theories focus on the role of the other in relation to the individual, and both place emphasis on varying factors which can be regarded as essential to an examination of criminal behaviour. Both theories provide for a strong environmental influence on the behaviours and sustained attitudes of individuals towards criminal behaviours. Social learning and social control theories contrast in that social learning notes the lack of control individuals have over their behaviour due to the exposure they have to criminal definitions, elements and organisations, whilst social control notes that in the absence of control mechanisms such as the law and significant others, people will inherently be deviant and thus are in need of control in order to remain uninfluenced by external criminal elements. Social control aims to restrain inherent tendencies towards crime, whilst social learning posits that individuals are strongly influenced by the other, and that in environments of overexposure to criminal elements, individuals are more likely to internalise the norms of deviant groups, such that those behaviours become the new norms and standards for individuals or groups of individuals.

Police officers find themselves in unique positions of being both representatives of the formal criminal justice system, as well as being individuals who are prone to the same social influencers as all individuals in society. The notion that police officers have an inherently stronger moral compass towards the avoidance of crime is refuted by social learning theory, who notes that overexposure, regardless of the profession, or innate moral compass, can leave individuals vulnerable to the commission of criminal acts and behaviours. Conversely, social control theory emphasises the importance of social attachments to others, in guiding the

behaviours of police officers, regardless of the exposure such individuals may face as a result of their position as law enforcement officers. The bond and belief police officers hold to conformity and to social norms, needs to be strong enough therefore to combat the influencers and rewards they are exposed to in the environments in which they police, for police officers to avoid committing criminal acts. Whilst the theories included in this study examine the role of learning and control mechanisms in the determination of the behaviour of police officers, a multiplicity of factors are to be considered and understood when analysing the determinants of any human behaviour, particularly when such behaviour is criminal in nature, and is therefore a deviation from acceptable social norms and mores.



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CHAPTER FOUR

RESEARCH METHODOLOGY

4.1 Introduction

The study answers three research questions, namely; to what extent is police criminality prevalent within Buffalo City Metropolitan Municipality? what sociological factors explain police criminality? to what extent are the South African Police Services' (SAPS) internal disciplinary measures and policies effective mechanisms for deterring police criminality? In order to best gather data rich enough to answer these three questions, a qualitative research methodology was utilized. An exploration of the central tenets of a qualitative approach to social science research, as well as the strengths and weaknesses of such a methodology is provided in this chapter. An overview of the demographic information of the research population, including information regarding the rationale for the inclusion of respondents with specific demographic characteristics is discussed. An overview of the sampling techniques and research instruments used, with an overview of the strengths and weaknesses of each sampling technique and research instrument is also provided. Throughout this study, due regard was placed on the importance of ethics during the data collection and analysis processes. An overview of the various ethical considerations adhered to throughout the data collection and analysis is provided.

4.2 A Qualitative Approach

This study uses a qualitative approach. A qualitative approach is regarded as being central to an interpretivist paradigm. Qualitative research is primarily aimed at understanding

experiences, and the values that individuals attribute to these experiences. As Denzin and Lincoln (2003: 4-5) note

Qualitative research involves an interpretive, naturalistic approach to the world. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or to interpret, phenomena in terms of the meanings people bring to them

As such any qualitative research methodology should be intended to give a full account of the subjective ways in which individuals interpret the social world. Such information is best gathered and understood by allowing participants to the research process the freedom to express themselves in whichever manner they see fit, such that their personal reality is reflected in the responses they are able to provide. A key feature of the qualitative approach is therefore an appreciation for the subjective ways in which individuals live their lives, and experience various phenomenon. Strauss and Corbin (1998: 11) consider qualitative research to be

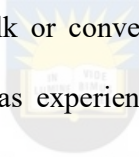
Research about persons lives, lived experiences, behaviours, emotions, and feelings. Qualitative methods can be used to explore substantive areas about which little is known or about which much is known to gain novel understandings. In addition, qualitative methods can be used to obtain the intricate details about phenomena such as feelings, thought processes, and emotions that are difficult to extract or learn about through more conventional research methods.

Qualitative studies allow the researcher to become a facilitator rather than a determinant in the reflective process of information gathering, such that individuals are guided through the

research process, not exposed to a closed set of responses, as evident in the quantitative paradigm.

Another important feature of the qualitative methodology is its limited emphasis on numbers and statistics. This is essential to any research which is aimed at understanding the reasoning and rationale behind the decisions that govern certain individual and group actions. Such understanding is essential to individualise the person behind the responses, and to give a full account of the experiences associated with the phenomena under investigation. Of the qualitative paradigm, Grosseohme (2014: 109) notes the following

Qualitative research is, “the systematic collection, organization, and interpretation of textual material derived from talk or conversation. It is used in the exploration of meanings of social phenomena as experienced by individuals themselves, in their natural context


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A qualitative research methodology allows for the unrestricted investigation of the rationale behind the decision-making process of research participants regarding specific phenomena. Where such an investigation takes place in the natural setting in which participants experience such phenomena, the investigation is more likely to yield information which is congruent to the everyday lived experiences of the participants, as opposed to such research taking place in an artificial environment, which can be the case with quantitative experiments.

Whilst a qualitative approach is most suited to an investigation into the lived experiences of police men and women, regarding criminality, and the associated rationales for the occurrences thereof, such an approach does have limitations. Qualitative research is limited in its ability to

quantify information, in that each transcript documented from respondents is personal and different. As Haq (2014: 5) argues

There are three areas for which qualitative research is criticized. First, small samples lead to no or poor generalization or replication; second, researcher bias guiding to interpretation of raw data based on the researchers' own predispositions (Stenbacka, 2001; Morse et al., 2008; Mays and Pope, 1995); and third, in extreme cases qualitative research can lead to idiosyncratic theory building, i.e., one theory relates to one issue or one case or one individual only

Despite these limitations, a qualitative approach is most suited to this study in that such an approach allows for the interpretation of the verbatim information gathered from participants, in such a way as to inform the field of research surrounding criminality in policing.



4.3 Demographic information of sample population

This study aimed to provide a sociological analysis of police crimes in the Buffalo City Metropolitan Municipality policing area. Preliminary information regarding the phenomenon was gathered prior to the commencement of the study. This process revealed a dearth of research in the area, and as a result information from both police members themselves, as well as key informants was included. Key informants, in this context, can be regarded as subject matter experts, or individuals with information which is unique and offers a unique perspective on the issue of police crime, as a result of their many years of experience at senior levels in the SAPS. The proceeding sections will provide an overview of information such as station, rank, gender, age, and race of police members included in this study. An overview of the key

informants will also be provided, however no information which can lead to the positive identification of any participants or key informants will be supplied, as such information would be in breach of the ethical principles of confidentiality and anonymity, which this study upheld throughout the data collection and analysis stages of the research process.

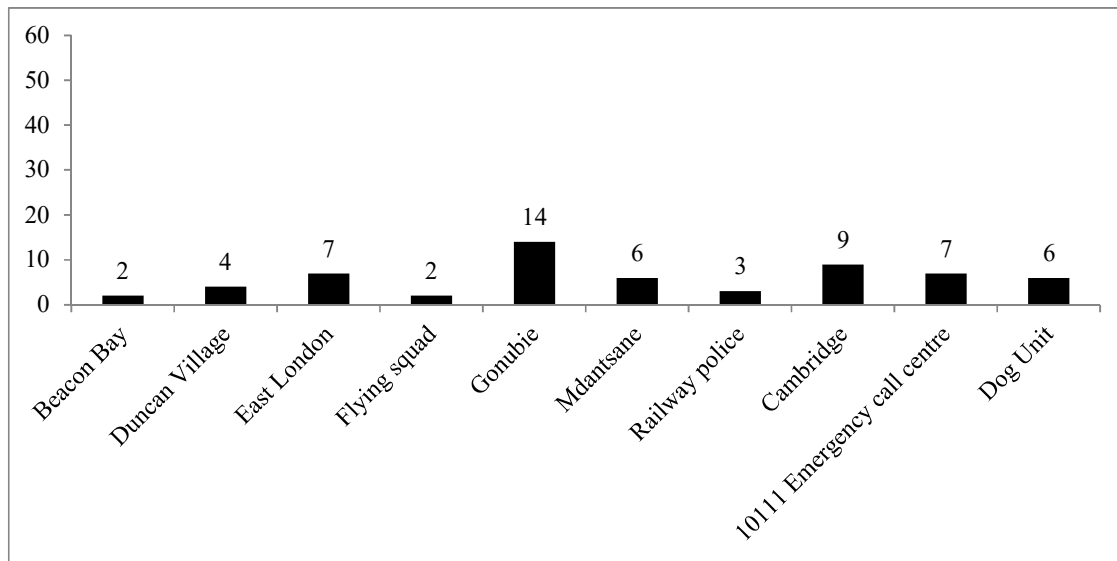
4.3.1 South African Police Service members

The research topic and subsequent questions were conceptualised with an aim to understand the sociological problem experienced at a national and regional level. Due to the researcher residing in the Buffalo City Metropolitan Municipality, and thereby having regular access to police members in this municipality, it was best to base the research, in terms of the data collection and sample population origination, in this policing district. This study was therefore conducted in the Buffalo City Metropolitan Municipality (BCMM) policing area and all participants included in this study are employed in this policing area. According to OSS Africa (2019) there are currently nine South African Police Service Community Service Centres, or CSC's in the BCMM policing area. Information regarding the number of sub-departments in each of these CSC's was not readily available and is as such is not included in this section. Police members (or participants) from six of the nine CSC's, as well as members from specialised departments, which do not operate as community service centres, but rather as units operating to service many CSC's around the BCMM area, were included. Participants, or police members (as they are referred to in the SAPS), originated from the following stations (or CSC's): Beacon Bay; East London (or Fleet Street); Cambridge; Gonubie; Mdantsane; Duncan Village and Railway police. Police members from the following specialised units were also included in this study: 10111 Emergency Call Centre; The K9 Unit (or Dog Unit); and the Flying Squad unit.

Police members from these specialised units have specialised roles, which fall outside of the bounds of CSC members. Flying squad members are generally not required to certify documents and process general complaints, but rather respond to emergency calls as a first response unit (as lamented by participants from the unit). 10111 Emergency services workers are stationed at the same location, physically, as the Flying Squad unit, and serve to respond to emergency calls, as received from the public on the emergency telephone number 10111. According to participants, police members are more suitable for this kind of position as they have generally spent time in the field and are aware of the severity of the nature of incidents as reported by members of the public. Emergency call centre police members are also generally members who are not physically able to work in the field, or who prefer to be away from the frontline, but remain a part of the police services, where they can still make a contribution to their community. Members in the Dog Unit are generally required to attend scenes where suspects have fled on foot, or where there is an immediate threat of physical danger, which a dog would be able to subdue upon arrival/entry to the scene. Members working with dogs are also required to attend scenes where there are suspected drugs, as the dogs serve a dual purpose – to subdue suspects as well as track and locate drugs.

A total of 60 participants were selected (through purposive and snowball sampling) for inclusion in this study. A sample size of 60 participants was determined as the prospective point at which saturation in the data findings would be established. Table 4.1 below indicates the distribution of participants according to station/unit:

Table 4.1: Participants according to station/unit within the SAPS



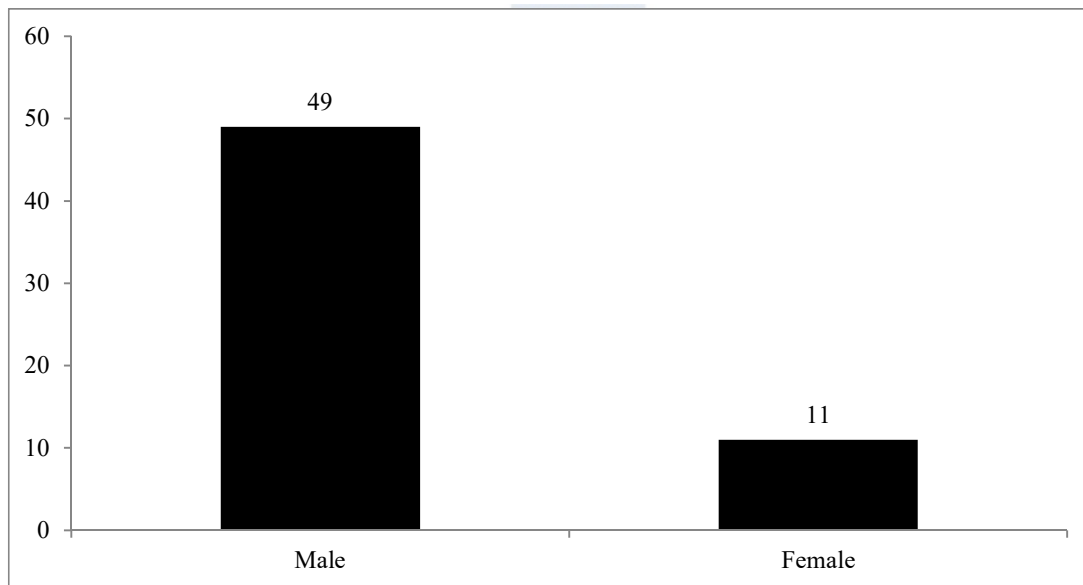
Source: Fieldwork data

As can be seen from the above, the bulk of participants were stationed at the Gonubie station, followed by Cambridge, the 10111 Emergency call centre, and East London (Fleet Street) stations. A fairly even spread of participants included for interviews was achieved across the various departments and stations in the BCMM area. The high prevalence of respondents originating from the Gonubie policing station is due to the openness and willingness of the members stationed there, to participate in the research process. As with any research undertaking involving human respondents in a largely qualitative setting, resistance to the researcher's presence and requests to participate were encountered at all the stations listed above. The most resistance, and in some cases suspicion, was encountered from the following policing stations: Mdantsane (located in a semi-urban suburb with a high rate of crime in the suburb in general), and Beacon Bay. The researcher was able to interview the station commander at Beacon Bay prior to any members at the station, and notes this as a possible cause for suspicion amongst members as to the purpose of the research at the station, and the level of confidentiality of the interviews. Throughout the research process all participants

involved in the study were assured of the confidentiality of the research process, and all participants did so on a voluntary basis.

Traditionally policing professions see a higher rate of male members than females. According to the South African Police Services (2019), women comprise 10.5% of sworn members in the SAPS. This study experienced a higher participation rate from male members than female members, primarily as there were fewer female members available to interview. More resistance to the interview process was experienced from female police members than males. The distribution of participants according to gender can be seen in table 4.2 below:

Table 4.2: Gender distribution of participants



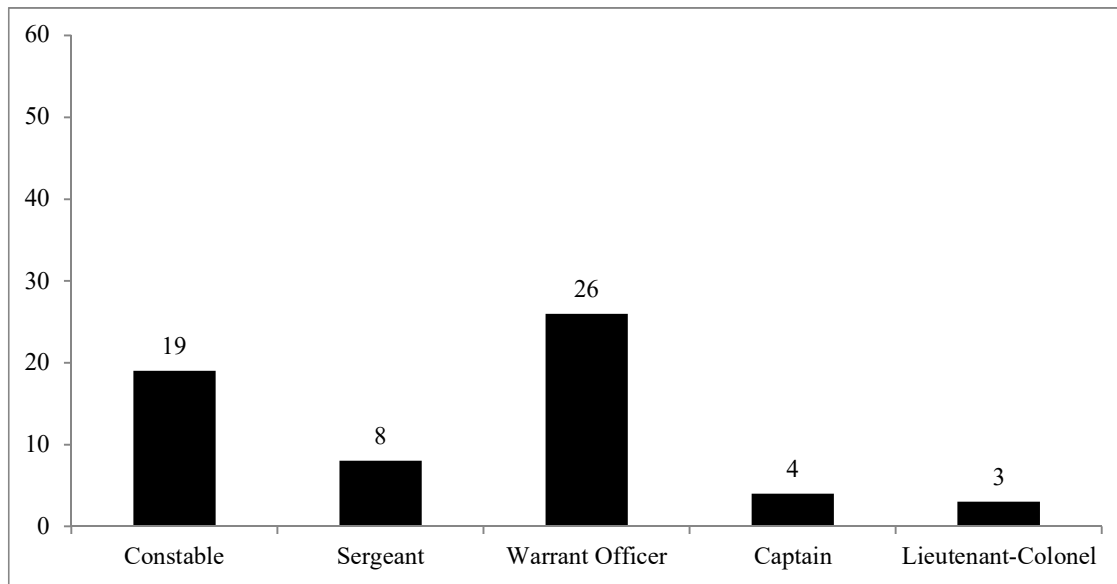
Source: Fieldwork data

Both men and women included in this study experience similar working environments and similar stressors. For the purposes of the analysis which takes place in the empirical chapters,

no distinction between any of the demographic characteristics of participants has been provided.

Rank of participants was important for a study of this nature, when examining the influence of seniority, and the effect of the promotions policy, on criminality in the SAPS. Members included in this study were all active in the SAPS, even though some individuals did have pending disciplinary cases. Members are regarded as police men or women who comprise of the following ranks (provided here in order of seniority, from lowest to highest ranks): Constable, Sergeant, or Warrant Officer. Police officers refer to individuals of the following ranks (provided in order of seniority, from lowest to highest ranks): Captain, Lieutenant Colonel, or Colonel rank. Officers were included in this study primarily as key informants, however some officers were included as participants where more senior officers had already been interviewed as key informants at a particular station. The information provided by more senior ranking individuals of the SAPS is as rich as information provided by junior Constables. The researcher found similar stressors and similar accounts provided from a variety of ranks of members. The officers interviewed as participants were all operational at CSC's, and are primarily involved in task teams, or visible policing initiatives, some acting as shift commanders (as opposed to station commanders), in those stations which service a physically larger area, and which have a higher compliment of members on duty at any given time. Table 4.3 below provides an overview of the various ranks of participants.

Table 4.3: Rank of participants



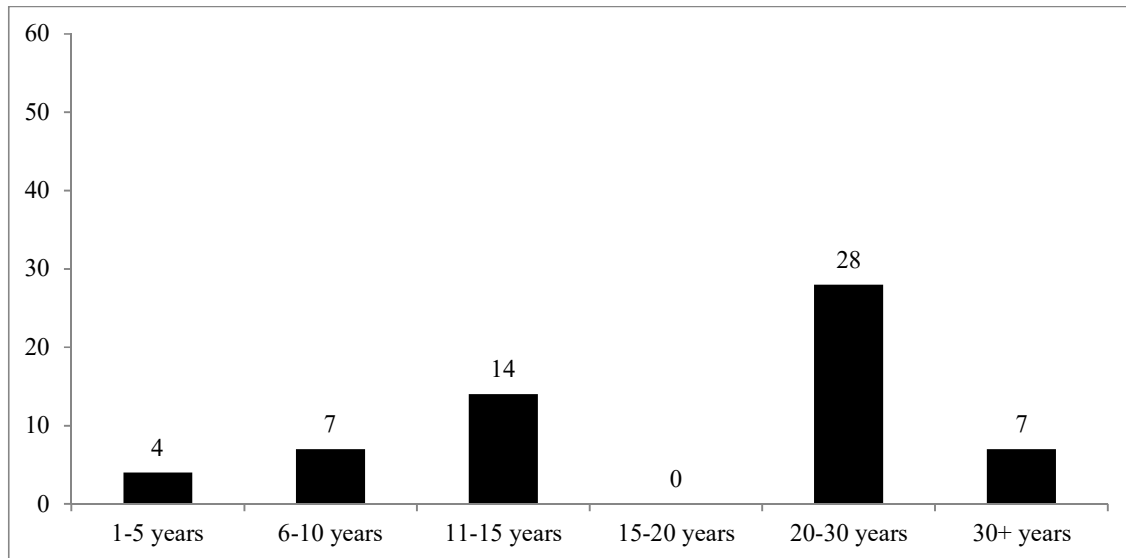
Source: Fieldwork data

The bulk of the participants comprised of police members (Constable, Sergeant and Warrant Officer), with a small percentage being commissioned officers. This study aimed to achieve an even distribution of member participants between the various ranks, with the inclusion of some officers as more higher-ranking participants, who would either corroborate or differ from sentiments expressed by more junior ranking members. Findings have not been analysed according to rank in chapters five, six and seven, however it is noteworthy that the large majority of participants comprised of either low ranking members, or high-ranking members (32% of Constable rank, and 43% of Warrant Officer rank).

Years of service was included as an area of analysis to better understand whether long standing police members hold perspectives and enact behaviours which differ drastically from those of members who have only been in the service for a short period of time. The number of years served in the SAPS is important to establish a timeline of exposure to both the ethics of the

SAPS and to the field of policing in terms of the stressors and strains experienced. Table 4.4 below indicates the years of service of the sample population.

Table 4.4: Years of service



Source: Fieldwork data



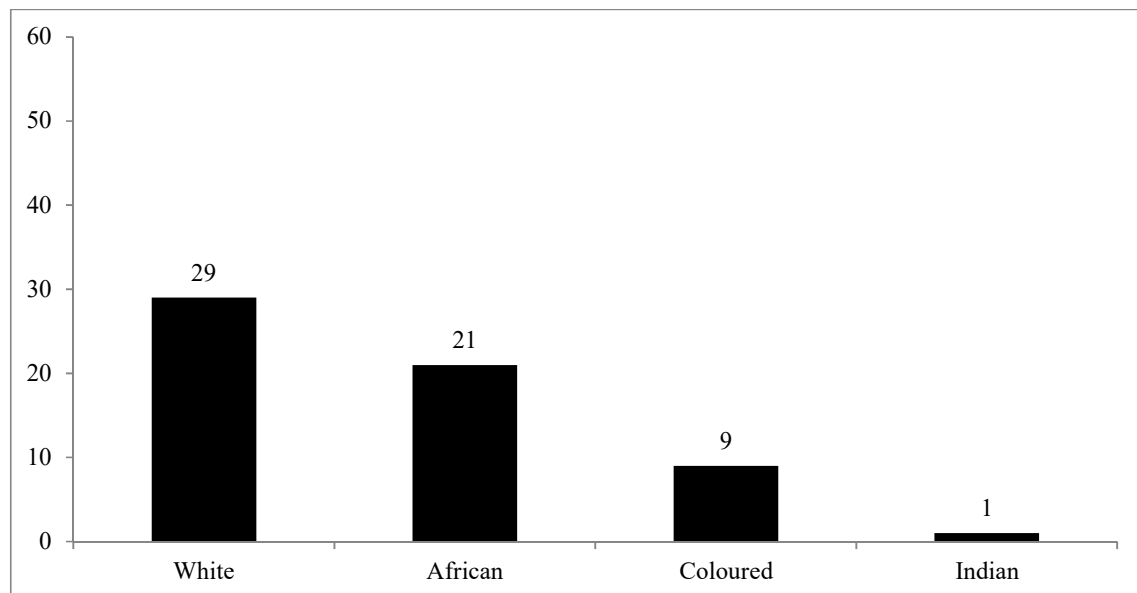
From the above it is clear that the majority of participants have been in the SAPS for extended periods of time, and as the retirement age in the SAPS is 60 years old, some have been in the police service for more than half of their lives, with one respondent having been in the services for 42 years (commencing employment at the age of 17). Years of service are divided into the above categories as these categories correlate to the general years of service required for promotion from one rank to another. Promotions in the SAPS are not automatic however, and many respondents noted having been in the same rank for 25+ years. Generally, respondents who have been employed for 1-5 years are junior members of Constable rank. Members can however wait in this rank for 10 to 11 years before promotion. Similarly, Sergeant rank tends to comprise of members who have served 8 or more years of service, with Warrant Officer being in the region of 15 years and above, and generally stagnating in such ranks, depending

on the individual circumstances of the member, for the remainder of their time in the policing services.

Race was included as a demographic characteristic in this study due to the relevance of past and present policies and laws in South Africa which have been centred around race, and the differential treatment of individuals depending on their race. The apartheid regime saw the mass segregation of African, Coloured and Indian individuals from White individuals and communities, and as a result these segregated groups were excluded from enjoying equal opportunities to employment, education and basic services. Following the democratisation of South Africa, the government of South Africa enacted the Employment Equity and Affirmative Action Act to redress these past atrocities, and historical imbalances. The result of this act has been an increase in the recruitment of African, Coloured and Indian police members. The racial distribution of the sample population is indicated in table 4.5 below.



Table 4.5: Racial distribution of participants



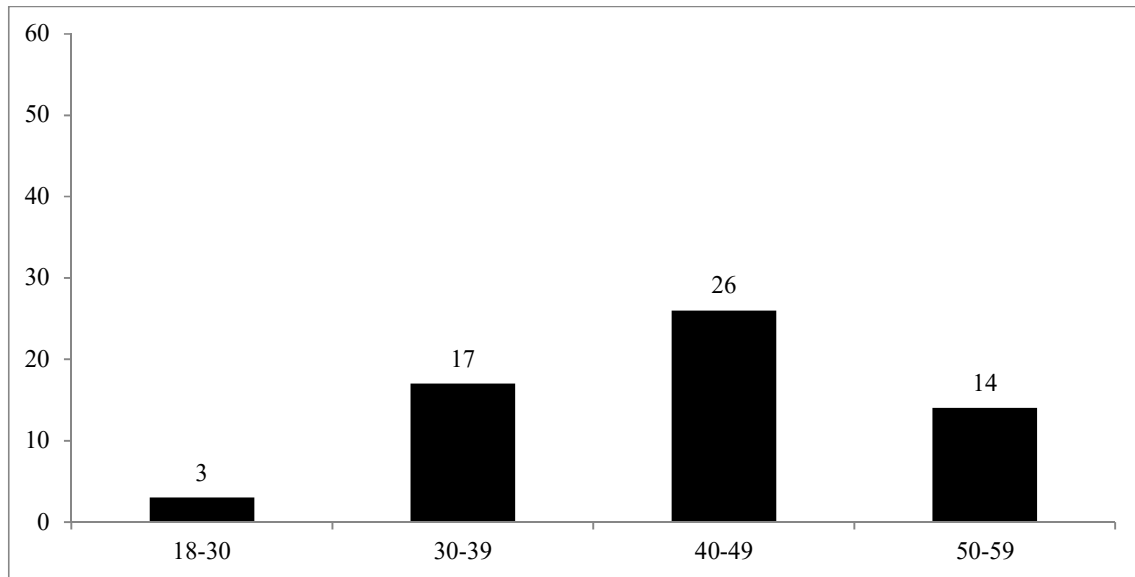
Source: Fieldwork data

The prevalence of White and African participants in this study is largely attributed to the demographic distribution of these racial groups in the province in which the study was conducted. According to Statistics South Africa's 2018 Quarterly Labour Force Survey, Quarter 1 (2018) Black and Coloured individuals comprise the two majority economically active populations in the Eastern Cape, with White individuals being third most prevalent. The high prevalence of the white population in respect of the sample population in this study can be attributed to a number of factors. White members tended to comprise of higher ranking members, therefore indicating that these individuals were recruiting either during the apartheid regime, or a short period after the democratisation of South Africa. These members have therefore been in the services for many years, and as a result felt more comfortable participating in a study of this nature. African members were the second highest demographic group in terms of participation, but this does not reflect the number of African police members who were approached and refused to participate. The resistance to participation may be due to the lack of comfort with the level of English that may be required of them, as for many African members English is not a first language, and the interview schedule was requested by many participants before consenting to be interviewed. The low participation rates of Coloured and Indian police members are due to the low representation of these racial groups in the police stations included in this study.

Table 4.6 below indicates the age distribution of the sample population. Age was of importance as there was found to be a correlation between age, years of service and frustration surrounding promotions in the sample population. Older participants in this study were generally of Warrant Officer rank, and had been in this rank for many years, or in some cases, decades. For those participants who were older and in lower ranks, frustration was felt increasingly as the burdens associated with beginning a new career and working one's way up the ranks at a later age in

life, whilst managing the responsibilities associated with such an age, such as children and more urgent retirement planning, were at play.

Table 4.6: Age distribution



Source: Fieldwork data



The primary age groups of the sample population consist of individuals between the ages of 30 and 59. It was also found that age did not affect individual officers' propensity to commit crimes, with all age groups of participants being vulnerable to becoming involved in criminal behaviours.

4.3.2 Key Informants

This study aimed to interview 11 key informants, however was only able to interview 10. Each key informant was included due to the specific subject matter knowledge or experience they possess in the area of policing and police crime. In order to gauge the prevalence of incidences

of police crime at a station level, a determination was made that the richest data regarding the phenomenon of police crime could be gathered from station or division commanders. Seven station or division commanders, from various areas in the BCMM policing district were therefore included for interview in this study. These key informants comprised generally of Lieutenant Colonel or full Colonel ranking commanders, each with an excess of 20 years of experience working in the policing services. In addition to these key informants, interviews with a Regional Court Prosecutor, a Senior Researcher from the Institute of Security Studies and a qualified Psychologist with a PhD in Criminology were conducted. The regional court prosecutor was able to provide information pertaining to the legal procedures for the arrest or prosecution of police members when charged with crimes, as well as information relating to the role of the National Prosecuting Authority, in respect of charging and sentencing members involved in crimes. This key informant also provided valuable information on the detention of suspects (civilians) and the necessary procedures to be following in respect of the questioning of suspects. The senior researcher from the Institute of Security Studies, was able to provide valuable insights in respect of the statistics of crimes committed by police members. This senior researcher focuses on the role of senior management in the SAPS in terms of the management and disciplinary procedures when members are accused or convicted of having committed crimes. The psychologist/criminologist provided crucial information relating to the role of trauma and trauma debriefing, as well as counselling, in terms of police members propensity to commit acts of violence. The researcher intended to interview a Detective from the Independent Police Investigative Directorate (IPID), however after numerous attempts over the space of a year access to the highly private functions of the independent police investigation agency was not obtained. The lack of inclusion of information from the perspective of IPID does not however cause omissions to the data analysis such that the thesis, and the contents thereof are affected negatively, or are any less relevant or generalisable, as important

information regarding IPID was obtained from the other key informants. In addition, many IPID annual reports were analysed and included in the data analysis chapters, and the role and responsibility of IPID was explored, despite the lack of first-hand evidence to this end, from the organisation itself.

4.4 Sampling procedures

Purposive and snowball sampling were used to sample and identify the 60 members for participation in this study. These sampling procedures were selected as they were the most applicable and effective methods of identifying respondents who would assist in obtaining the desired data to effectively and comprehensively answer the research questions. According to Nicholas (2008: 33) purposive sampling refers to

a sampling method by which the participants of the sample are chosen on purpose. This is often the case when research is conducted that addresses specific groups or people with specific characteristics

25 of the 60 (42%) participants included in this study, were purposively identified. The rationale behind the use of purposive sampling is linked to the research aims in addition to the research methodology. As the aim of the study was to understand the factors influencing the decisions of police members to commit crimes, it made sense to interview police members themselves in order to obtain first-hand accounts regarding the factors influencing these decisions. Purposively identified members, who are in active duty in the field, or who attend to complaints through the emergency call centre, were sampled, as these members provide first

hand accounts of the daily functions of the SAPS, and the crimes they have been involved in or have witnessed being committed by other members.

Snowball sampling was used in conjunction with purposive sampling. Of the 60 participants included in this study, 35 (58%) were recruited through the use of snowball sampling procedures. Purposively identified respondents used their knowledge and social networks to refer other potential respondents within their station or policing unit. This procedure proved to be a valuable instrument in locating desired participants for the study. Of these sampling procedures, Babbie and Mouton (2001: 167) explain the following

Snowball sampling is appropriate when the members of a special population are difficult to locate...This procedure is implemented by collecting data on the few members of the target population you can locate, and then asking those individuals to provide the information needed to locate other members of that population whom they happen to know. Snowball sampling is thus the process of accumulation as each located subject suggests other subjects

This form of sampling was useful as members of the police force are difficult to approach in their professional roles. The process of recruiting participants began by placing calls to friends and family who in turn have family or friends in the policing services. Following these contacts, more and more referrals were obtained. Once these contacts had been exhausted, the researcher chose to cold call stations and explain to members on duty the purpose of the study and the ethics behind the interview process. The majority of the interview respondents were secured using this form of sampling, and once participants trusted the researcher, the process of obtaining more participants became a lot easier.

Key Informants were primarily approached using snowball sampling and referrals from more senior member participants. Of the 10 key informants included in this study, 6 (60%) were recruited through snowball sampling, and 4 (40%) through purposive sampling. Through the process of gaining trust with respondents, commanders were willing to participate and discuss highly sensitive information. The key informant from the Institute of Security Studies was recruited through purposive sampling via email and telephone. The key informant was noted as being quoted in a media article involving police involvement in a riot in the Western Cape. Contact information for this key informant was obtained from the ISS website, and a request for inclusion in the study was sent to the key informant who agreed to be interviewed, via telephone, as the key informant is based in Johannesburg. The regional court prosecutor contact information was provided by one of the station commanders. Once contact was made, the regional court prosecutor was interviewed at the East London Court building.

Snowball and purposive sampling were advantageous to this study as these techniques allowed for a wide population of participants to be reached without having to readily build trust with all respondents upfront. The snowball sampling technique also allowed for the completion all 60 interviews between the period July 2018 and October 2018. Purposive sampling allowed for purposively identified members, who demonstrated the desired demographic qualities, to be interviewed timeously and with accuracy. A sample population of 60 participants was established as the estimated number of participants necessary to reach saturation in responses regarding the phenomena under investigation.

4.5 Research instruments

4.5.1 Individual In-depth Semi-Structured Interviews

In order to gather reliable and valid data that accurately reflects participants' views, individual in-depth semi-structured interviews were the primary data collection tool utilised in this study. The rationale behind the adoption of this interview instrument for data collection is motivated by the nature of the research questions. In order for the research questions to be sufficiently answered, an interview guide, which listed specific themes or topics to be discussed with respondents was constructed. Copies of the various interview schedules used for police member participants, can be seen as Annexures to this thesis (Appendix 1-4). In respect of this interview methodology, Yates (2004: 165) notes the following

Most in-depth interviews are a form of semi-structured interview. They take advantage of the following features of a semi-structured interview: flexibility – good way of exploring participant's subjective meanings; can tailor questions to the on-going concerns and questions of the participant; can talk about things you might not have thought of yourself at the outset of the project; allows exploration of complexity, ambiguity, contradictions and process; can consider subtlety of social situations – impossible within a restricted structured interview; can explore and negotiate potential meanings of questions and answers as you explore the perspective of the respondent.

Semi-structured interviews were advantageous as such allowed participants the freedom to lament on issues affecting their daily lives, and their lived experiences, within the confines of the themes under investigation. This process resulted in a less rigid interview process, as participants felt comfortable to speak around any issues, they deemed fit, pertaining to the areas raised in the interview schedule. The thematically structured interview schedules also allowed for an analysis of the data in a thematic way, which saved time and allowed for a more cohesive data analysis.

Semi-structured interviews have limitations generally, and for this study in particular. This form of interview relies on the respondents' ability to understand and conceptualise the questions which are posed. Babbie and Mouton (2001: 111) argue that "conceptualisation is the process through which we specify what we mean when we use particular terms". In the event that a respondent does not understand the question which has been asked, the interviewer is required to explain the question, in such a manner as to avoid leading the respondent. In this way, the semi-structured interview relies on the interviewer to guide the respondents through the interview process, without influencing the responses of the participants. Participants in this study were generally conversant in English and were able to understand all the questions in the interview schedule. There were some instances though where the wrong tense or the wrong context was used by respondents when trying to explain a situation or emotion. This has been accounted for during the data analysis, without altering the verbatim responses provided by participants. The semi-structured interview technique relies on a compromise between standardization and flexibility with regard to the questions posed, and this can be viewed as a possible limitation. The ordering of the questions within the interview needs to be structured in such a way as to not influence the answers given by the participant. If the questions are posed in such a way as to lead the participant to the next theme and thus influence their interpretation of the area of research being questioned, this can be viewed as a manipulation on the part of the researcher. The questionnaire was structured in such a way so as to avoid the threat of leading of participants or assuming information prior to participants expressing their own perspectives on issues being queried.

Another specific limitation which can be linked to the nature of the interview questions could possibly have been encountered through the data collection phase of this study. Due to the nature of the research – investigating incidences of police involvement in crime and the

motivators thereof – it was possible that respondents were not forthcoming during the interview process as they may not have wanted to divulge delicate and confidential information pertaining to themselves and their colleagues. Ivkovic (2003: 603) asserts the following in respect of research conducted in the policing sector

Surveys that ask police officers to report their own involvement in corruption or that of their fellow officers are rare because it is not only very difficult to gain access to police agencies, secure their participation, and earn the trust of the police officers, but it is evident that the validity of the data obtained in such a way is doubtful at best. Police officers have no incentives to report their own corrupt activities and thus risk losing their job and/or facing prosecution in criminal courts. Moreover, since they are accepted members of the police subculture and are likely to share and support the code of silence, they have no motive to report misconduct by their fellow officers either, even if guaranteed confidentiality or anonymity by the researchers

The research process mitigated against this by ensuring voluntary participation and assuring participants of the confidentiality of information provided. Information provided by the participants in this study was validated/corroborated by other respondents, and can therefore be regarded as factual, and representative of the lived experiences of participants. Throughout the data collection phase and throughout the contact made with police members, of those who spoke frankly and honestly about the crimes they have committed and witnessed, they seemed to exude either pride when explaining the rationales behind their behaviour, or appreciation at having someone listen to their point of view. Generally, where police members appeared uncomfortable reassurances were provided to these participants that all information provided was solely for the purpose of research and no single response would be linked to any single

member. This acted as a building block for rapport, and in stations or units where there are high incidences of criminality amongst police members, most members jokingly encouraged one another to participate in the research process, to 'tell her what you have done'.

4.5.2 Key Informant Interview Guide

This study utilized key informant interview guides as a secondary source for data collection, in order to enhance the findings surrounding the area of research. Key informants are regarded as subject matter experts, who have a unique perspective regarding the phenomenon under investigation. Of key informant interviews, Luloff (2006: 54) note the following

Key informant interviews are designed to provide in-depth information from people, usually those identified as knowledgeable about a particular subject. Because these interviews are conducted in a face-to-face setting, they tend not to terminate early and tend to allow participant contemplation, which provides for more complete thought and answers to open-ended questions

The in-depth semi-structured key informant interviews were structured and conducted in such a way as to allow these experts to express their views on the issues surrounding police crime in the SAPS without leading or assuming information prior to such being discussed by these experts. The combination of the many years of experience and research such individuals have into the incidences and causes of police crime, added rich data to the analysis of the phenomenon. With the majority of the key informants being stations commanders, they were also able to shed light onto the disciplinary aspects of the profession, in terms of the procedures, and outcomes of cases. Such information was not obtainable from police members, as such

individuals are not usually privy to disciplinary proceedings, unless they are personally involved in a disciplinary case. Limitations in respect of this data collection methodology primarily centred around the willingness of such individuals to divulge the full extent of the issue of police crime in the SAPS, as many key informants are employed as station commanders, and such information can reflect negatively on their leadership capabilities. This was mitigated against through the inclusion of a number of station commanders (as key informants) who provided a broad range of information over the various thematic areas, which therefore informed the data analysis sufficiently, when coupled with information provided by police members themselves.

4.6 Data Analysis

Thematic analysis was used to analyse data collected from the interviews. Data was coded according to the area of investigation of each question included in the interview schedule. Verbatim quotes were retrieved from the transcribed interviews for reference throughout the empirical chapters. This process was done with the utmost accuracy, and where there were errors in the language of respondents, these quotes were not altered. Respondent's answers were grouped according to the research questions in order to thematically analyse the responses in a more accurate manner. This analysis was done in the context of current debates surrounding police criminality both globally and in South Africa specifically, with new findings in the discipline, emerging as a result of the data collected, and the subsequent analytics process which the data was subjected to. All ethical protocols were observed throughout the analysis and presentation of data collected from the qualitative interviews.

4.7 Ethical Considerations

This study adhered to all standard ethical practices which are observed institutionally, nationally and internationally in social science research. Guidelines of the University of Fort Hare Research Ethics Code were followed stringently, and prior to the commencement of the data collection process, ethical clearance was obtained from the institutions ethics committee, namely the University of Fort Hare's Research Ethics Committee (UFHREC). A copy of the ethical clearance certificate as issued by the institution can be found as Annexure 7 to this study. Those ethical issues which are likely to be encountered during a study analysing occurrences and rationales for criminal behaviours include confidentiality, voluntary participation, anonymity, informed consent, and finally, ensuring that no harm is incurred either directly or indirectly as a result of individuals participation in the study.

The first ethical consideration which was maintained at all times throughout the data collection process was that of informed consent. Informed consent was sought from both member participants, as well as key informants. Babbie and Mouton (2001: 522) note that informed consent involves "prospective subjects being presented with a discussion of the experiment and all the possible risks to themselves". Individuals were briefed about the nature and purpose of the study, as well as the nature and purpose of the data collected, prior to participating. Participants were given the opportunity to read through the interview schedule (if they so wished) prior to being interviewed. Similarly, it was imperative that all participants did so on a voluntary basis. In this way all participants were involved as a result of their free will. Participants were informed at the beginning of each interview that they were free to leave at any stage during the interview and were under no obligation to answer any questions they did not feel comfortable with. During the interview process two participants declined to answer

questions regarding their involvement in crimes as they did not feel comfortable to discuss such information. In such circumstances their wishes were respected, and the interviews continued to the next set of questions per the interview schedule. In respect of voluntary participation, Babbie and Mouton (2001: 521) further confer that “a major tenet of medical research ethics is that experimental participation must be voluntary. The same norm applies to social research. No one should be forced to participate.” Where resistance by members to being interviewed was shown, no further attempts to involve such individuals was pursued. Only members and key informants who were comfortable with the interview process, aims and objectives of the study, and the researcher herself, were invited to participate.

Confidentiality was observed throughout the research process. Confidentiality within social science research is said to refer to the lack of revealing of information discussed during the data collection process, such that this information cannot be readily linked to any one person. Babbie and Mouton (2001: 523) argue that “in a confidential survey, the researcher can identify a given person’s responses but essentially promises not to do so publicly”. During the research and interview process participants were assured that the interview would have to be recorded so that this information could be transcribed from the audio format to text, for analysis and inclusion in the study. Participants were all made aware of the necessity to include demographic information about themselves, but were assured that information such as name, surname and home address were not necessary. Where participants made reference to other members by surname or to commanders by name or surname, this information was omitted from the transcribed interviews. The interview process was always conducted on a one-on-one basis with participants, at either a station where the participants work, or within an environment which was agreed to prior to the commencement of the interviews. The interview transcripts and recordings have been and continue to be kept in the utmost safety, free from public access.

Anonymity was maintained throughout the data collection and analysis processes, in line with confidentiality. According to Hennick et al. (2011: 71), anonymity refers to the researcher's assurance to participants that "all identifiable information is removed from the interview transcript or quotations used from it, so that no individual participant can be identified from these documents". Anonymity is a key ethical consideration within social science research, particularly within qualitative studies, as the information which is shared is often of a sensitive nature, and is shared in such a way as to give extensive insights into individual participant's subjective experiences or thoughts regarding the topic of study. It is thus essential that such information not be associated with any single participant. Finally, the research process is confident that participants were not harmed as a direct or indirect result of their participation in the study, either physically or psychologically.

4.8 Conclusion



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This study used a qualitative research paradigm to gather and analyse information retrieved from the sample population. Such a paradigm allowed for the interpretation of responses from participants regarding the phenomenon under investigation. Verbatim information was obtained from participants, as a result of this methodological approach. Information pertaining to the demographic information of participants has been provided throughout this chapter. Conclusions regarding the relevance of each characteristic of information gathered regarding participants and key informants was presented and justified. The data collection tools used in this study included an individual in-depth semi-structured qualitative interview, as well as key informant interviews. An interview schedule was incorporated into the interview process, which assisted in the gathering of information which could be thematised for analysis. Ethical clearance was obtained from the institution prior to the commencement of the data collection.

The ethical considerations of informed consent, voluntary participation, confidentiality, and anonymity were maintained at all times.



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CHAPTER FIVE

POLICE CRIMINALITY IN BUFFALO CITY METROPOLITAN MUNICIPALITY

5.1 Introduction

This chapter addresses the first research question in this study which is - to what extent is police criminality prevalent within Buffalo City Metropolitan Municipality? This question aimed to explore the extent to which police men/women in the Buffalo City Metropolitan Municipality policing area are involved in crimes. The primary rationale for an investigation of this nature was to establish the documented, as well as undocumented cases, of police crimes, and explore ways in which such phenomena can be reduced. Within this context, this chapter begins by outlining the legislative definitions of unacceptable, unethical and illegal behaviours of police men/women. The chapter then explores the extent to which such phenomenon occurs in the Buffalo City Metropolitan Municipality policing district. In analysing this information, an overview of the official statistics of such incidences, as documented by IPID annual reports will be presented, as well as data obtained through field research. The chapter includes a discussion of the role of identity formation of police men/women, and the policing profession, as well as the role of vigilantism in the police services. Occurrences of vigilantism are discussed as being unique to this study, particularly where such vigilantism is enacted by police officers. Such occurrences serve to undermine the authority and legitimacy of the policing system in South Africa, and are strongly enacted as a result of social learning.

5.2 Unethical Behaviour and Conduct

The South African Police Services are governed by numerous legislations and policies. These laws and policies outline the expected behaviours of police members, and primarily govern the administrative and procedural aspects of the policing profession. Applicable legislation, as well as various standing orders, outline those behaviours deemed to be acceptable, ethical and legal. It is therefore the absence of these standards and procedures that deem behaviours of police members as unacceptable and unethical. In the case of illegal behaviours, these behaviours would include any actions which correspond to the definitions of specific crimes, outlined in relevant legislation. The subsections which follow will outline the acceptable, ethical and legal requirements in respect of the behaviour of police members and discuss the definitions of each of these elements of the policing profession. Unacceptable behaviours can best be understood by referencing acceptable behaviours. Police members are required by law, to perform their duties in line with the Constitution of the Republic of South Africa, No 108 of 1996; the South African Police Services Act, No 68 of 1995, as well as various standing orders espoused by law. The standing orders governing police members primarily designate the procedural elements of the day-to-day professional outputs of police members, whilst legislative procedures govern the profession as a whole. For the purposes of this study, there was interest in establishing those behaviours police members maintain as being unacceptable, in order to better understand the day-to-day elements of the profession which members feel could be improved upon, or for which members should be held accountable for.

Standing orders 101, 307, and 252 (Government of South Africa, 2012), designate the procedural elements for the management of complaints by the public against members of the South African Police Service; the documenting of the daily duties of police members; and the

processing and registering of suspects and detainees in respect of court appearances and detentions, respectively. Standing orders aim to ensure that in all respects of policing practice, civilians and suspects are treated with respect of their person, and respect for their rights. Standing order 350 (Government of South Africa, 2012), specifically designates the manner in which restraining measures can be used, so as to ensure that suspects or arrested persons are not injured during the course of their detainment. Standing orders are applicable to all police members and officers in the profession, however the enforcement and monitoring thereof, is subject to each station commander. Breaches in respect of standing orders are generally therefore handled as internal disciplinary infractions, and not legal infractions, unless such a breach constitutes a criminal offense.

The South African Police Services Act, No 68 of 1995, prescribes the role and duties of police officers in terms of community engagement and service. The SAPS Act further designates the circumstances where force may be used in order to execute an arrest, or to ensure compliance from a suspect. The use of force may further be applied where an individual poses a threat to the safety of him/herself and the individuals in such an environment where the threat may occur. If any of the procedural or operational duties of police members are breached, this would be regarded as an offense against the profession, or state (depending on the severity of the breach). Such an offense would be charged either internally or formally through the criminal justice system, and in conjunction with the Independent Police Investigative Directorate (IPID).

Bearing in mind the South African Police Services Act, No 68 of 1995 and Standing Orders 101, 307, 252 and 350 (Government of South Africa, 2012), participants were asked to give examples of what they regard as being unacceptable behaviour. The majority of participants (n=46, 77%) stated that not helping the public in line with the duties prescribed to them, in

relation to their position, constituted unacceptable behaviours. For example, participant 6 (2018) stated “to me it’s unacceptable to speak to someone how you wouldn’t want to be spoken to, with disrespect”. Participant 21 (2018) noted unacceptable behaviour as being “drunk on duty and excessive use of force, using your position in a way not becoming to a policeman”, while participant 23 (2018) proffered that unacceptable behavior “is to come late to duty, to be under the influence of liquor. Unacceptable to behave like a wild animal, we have our standing orders and our ranks and people must respect them”. It can therefore be stated from the responses provided by the participants, that unacceptable behaviours are those behaviours which either bring their reputation as policemen into disrepute, or which shed a bad light on the police services altogether. In keeping with the standing orders and the legislative requirements of the profession, it is expected that police members will treat the public with respect and will execute their duties to the best of their ability. If police members arrive to work drunk on duty, such behaviour will not only be in contravention of standing orders, it will also be against the law, as driving drunk is a criminal offense. Where police members arrive to work drunk, they pose a risk to themselves, their colleagues and the general public, in that they are armed whilst on duty, and being intoxicated can have a negative effect on their ability to make informed decisions and judgement calls. As police members are in positions of power and hold the safety and security of the general public, as a core feature of their role, any behaviour which cannot benefit the public, or serve to further ensure the safety of the public, will be unacceptable in nature.

The next area of enquiry was surrounding the categorization of unethical behavior. The South African Police Service is guided by a Code of Ethics, which outlines five general tenets for police members, in the exercising of their duties. These five tenets are: integrity; respect for diversity; obedience of the law; service excellence; public approval (SAPS Code of Ethics,

2014). The categorization of unethical behaviours was of interest, as the policing profession exists to maintain law and order in a given country, and police members should therefore be held to a high level of ethics. Participants stated a variety of behaviours as being unethical in nature. For example, participant 37 (2018) regarded unethical behavior as “conducting yourself in an unprofessional manner out on duty”, whilst participant 11 stated that ethics is strongly linked to “discipline, if we as SAPS don’t have discipline then SAPS will go down the drain” (2018). Of unethical behaviour, Key Informant 3, stated the following

To manhandle a suspect in any way or to insult them. Sometimes people become angry and arrogant, you don’t follow their attitude, you stay calm as a police officer, because you must act professional at all times, even if he is violent, you try to use means to try and calm him and put him under control and handcuff him and put him into a van, but you don’t ill-treat a person when you arrest him. You can’t deny his rights if he has been rude, for us as police, it is a normal thing for people to be rude to you when they are being arrested, because they perceive you as a person taking a side, but that is not the case (Key Informant 3, 2018)

The majority of participants (n=54, 90%) stated that unethical behaviours are similar to those behaviours which are regarded as illegal, and similar to those behaviours which are regarded as unacceptable. In respect of unethical and illegal behaviours, Key Informant 2, of Colonel rank, stated

It’s a little bit difficult to differentiate between unethical and illegal, because they borderline on each other. Unethical is, for me, coming to a crime scene, there’s ten leather jackets that have been recovered, you only book one of them into the CSC, and you take the other nine and you dish them out to your friends (Key Informant 2, 2018)

The maintenance of ethical standards by members of the police services is imperative in the daily administration of their duties, in order to accurately and fairly administer and enforce the law. Police members should serve as an example to individuals in their broader communities and should thus be held to the code of ethics prescribed by the South African Police Services. The code of ethics is closely linked to those standing orders and legislation which govern the

SAPS, as the police are a service which is given to communities who need assistance in times of crisis, if police members do not adhere to the ethics espoused in the various regulatory documents, the ability of such a unit or individual to serve their community effectively is diminished. Such behaviour has far reaching consequences for key role players such as the community, the policing service, and most pertinently, the most vulnerable members of society, those in immediate danger, physical peril, or those who have been victimized by others as a result of crime. As the individuals the police are tasked with protecting have or will be traumatized by the ordeals they have faced, it is even more important for the police to maintain professionalism, and compassion in their dealings with the public, so as to avoid/minimize the exposure of such individuals to secondary victimization, at the hands of the criminal justice system.

According to a variety of legislation, for example the Criminal Procedure Act, No 51 of 1977; Criminal Law (Sexual Offences and Related Matters) Amendment Act, No 32 of 2007; Drug and Drug Trafficking Act, No 140 of 1992; and the Prevention and Combating of Torture of Persons Act, No 7 of 2013, definitions of crimes can be espoused and translated to evaluate whether a specific crime has occurred. In order for a crime to have occurred therefore, there are prerequisite behaviours and actions that need to have been fulfilled. There was an interest therefore in establishing from police members and officers, what they would regard as illegal behaviours. For example, participant 43 stated that illegal behavior includes “detaining people without proper cause” (2018), whilst participant 40 maintained that such behaviour includes, “accepting a bribe, tampering with evidence, taking a side in political matters, we must always be neutral” (2018). The examples provided by participants point to the need for due process to be followed in policing, as well as to the essential element of impartiality, in all spheres of policing. Police members may not therefore be associated to any political party, or promote

any particular political agenda, whilst on duty. Police should also never assume the guilt of suspects, prior to a guilty verdict, as determined by the criminal justice system, as the ultimate legal authority of the country. It is also essential for police officers and members to ensure that suspects are afforded an opportunity to consult with an attorney, once they have requested such. Any action taken against a suspect following this request will be regarded as illegal in nature, per the Criminal Procedure Act, No 51 of 1977. Where police officers tamper with evidence, or obstruct the realization of justice, by virtue of proper channels for the trial and conviction of suspects, such obstructions will be deemed illegal, as well as being a breach of professional conduct.

The above prescriptions are congruent with those tenets espoused by the Northern Ireland Policing Board (2017: 2), when the Board are tasked with conducting investigations into complaints raised against police officers. The same principles can be applied to interactions with the public, in respect of the below:

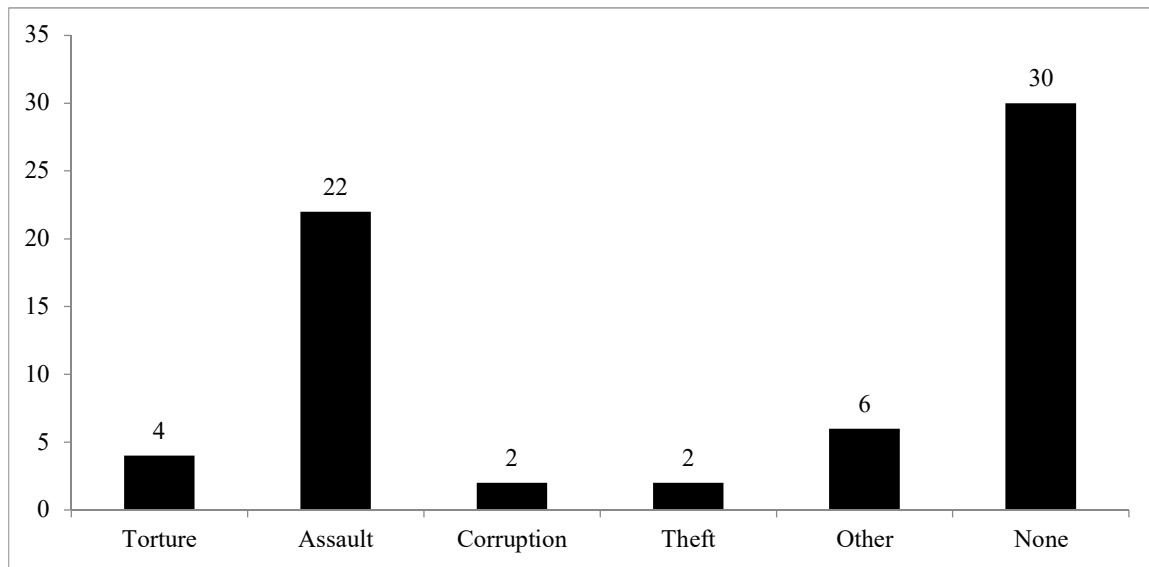
The actions or behaviour of individuals who are angry, demanding, or persistent, may result in unreasonable demands on the Board, or unacceptable behaviour towards Board staff... Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused. Examples of actions or behaviours which fall under this heading include threats; physical violence; personal verbal abuse; derogatory remarks; and rudeness.

Where police officers enact such behaviours, such actions would be considered as a violation of the policies encompassed within various legislative and policy prescripts, in Northern Ireland, and universally in policing practice.

5.3 Involvement in unacceptable, unethical and illegal behaviour

Participants were requested to elaborate on circumstances which, in their opinion, have resulted in them behaving in either an unacceptable, unethical or illegal manner. As previously stated, these differentiations can overlap at times, with the most serious offences being illegal. Table 5.1 below outlines the offenses participants admitted to during the course of interview. These offences have been grouped according to the version of each incident provided by each participant, taking into consideration their classification of the crime, as well as the legal definition of each crime, as outlined by various legislation, for example the Criminal Procedure Act, No 51 of 1977; Criminal Law (Sexual Offences and Related Matters) Amendment Act, No 32 of 2007; Drug and Drug Trafficking Act, No 140 of 1992; and the Prevention and Combating of Torture of Persons Act, No 7 of 2013.

Table 5.1: Prevalence of involvement in crimes, as stated by police members



Source: Fieldwork data

5.3.1 Assault and torture

Assault and torture were found to be the most prevalent crimes which police members admitted to being involved in. Of importance when exploring this issue, is the legality surrounding the handling of suspects, as well as the use of force. Police members who are involved in the execution of arrests are regulated by Section 39 of the Criminal Procedure Act, No 51 of 1977, to ensure the following procedural requirements be fulfilled

- (1) An arrest shall be effected with or without a warrant and, unless the person to be arrested submits to custody, by actually touching his body or, if the circumstances so require, by forcibly confining his body

From the above excerpt it is clear that there is a designated legal provision for the physical handling of suspects. It was of interest to explore the levels of awareness of this provision

amongst police men/women. Below are two excerpts obtained from participants, which are consistent with the legal requirements

You have to ask permission to search them and you have to tell them that they are allowed to deny you permission. Then there is also a police act that states that if you believe beyond reasonable doubt that the person has something illegal, you can search him (Participant 2, 2018)

If you tell me, “that is the criminal”, I will say to him, “Mr X , I am arresting you for house breaking, the case docket has been opened against you, I put my hand on him and read him his rights and hand cuff him and take him to the police station. But you have to search him first (Participant 27, 2018)

The procedures which need to be followed when effecting an arrest were confirmed by Key Informant 6, as seen below

When we are effecting an arrest, we obviously will inform the person of his rights while we are arresting them and that he has the right to legal aid. It has to be male on male or female on female if you do a search; if it's on a female it will be done in a private environment. When you read him his rights you do touch him physically, and if necessary, we use minimum force (Key Informant 6, 2018)

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From the above it is clear that there is a legal provision for the discretion of each police member to use the force they deem necessary, depending on the situation. The necessity of this legal provision can result in the undue use of force on suspects though. The circumstances surrounding the arrest of an individual will already place the suspect in a lessor position of power, whilst the mandate to protect and uphold the law will conversely place police members in a higher position of power in a given circumstance. The legal provision thus does not make provision for a credible situation in which a suspect will be able to rightfully claim that they have been assaulted, as they are suspected of breaking the law, so the chances of such an individual being able to successfully defend themselves in court in an assault claim, lessens.

Of the 60 participants interviewed, 22 (36%) admitted to having assaulted at least one suspect, whilst 4 (7%) admitted to having tortured suspects. Reported assaults were primarily effected towards suspects, and not ordinary members of the public. Violence is therefore generally aimed towards individuals of the public whom police members suspect of having committed crimes. For example, participant 31 stated the following with regards to the excessive use of force

I've been hard on suspects, with my dog. One night myself and a warrant officer saw three people moving in the dark, it was two guys and a lady. As we drove past them slowly, I could see the lady signalled to us with her hands. I said to the warrant, something is wrong here. As soon as the police vehicle stopped, they ran. She approached me and told me they raped her several times through the night. We chased the guys and we managed to get one, the other got away. While we were patrolling, I said to warrant, there's the guy and I saw him run into the bush. I took my dog and went to search the bush and I put my dog on him. So, I would say I did cross the line (Participant 31, 2018)

The police member involved in this incident explained that he was aware of the injuries the suspect would sustain, but he set the dog on the suspect all the same. This shows his intention and desire to physically harm the suspect, during the course of arrest. The normal methodology of arresting and processing suspects is thus not always followed, as can be seen from the above. In these situations, it will be difficult for a suspect to prove that excessive force was used, as he is accused of committing a violent crime himself, a crime which no police members admitted to being involved in, primarily due to the severity of the nature of the crime, and the shame that is associated with such a crime.

A strong trend in the findings from this study was that many police officers did not feel ashamed when admitting to having assaulted or tortured suspects, and tried, during the course of interview, to ensure that the perception that they had committed some other kind of offense, was not given. This could be due to the shame associated with economic crimes, and the

perception that such crimes are perpetrated from a place of deprivation, and therefore have no purpose other than self-fulfillment. This can be seen in the response from participant 21, below

With the assaults, I've never taken bribes, never been drunk on duty, defeating the ends of justice is a grey thin line that you could step over, not intentionally but if you are trying to assist someone (Participant 21, 2018)

Participant 21 went on to explain how he has assaulted suspects to the point of broken bones, including jaws, and that such incidences are explained away as occurring during the course of arrest. The above excerpt highlights the ability of police men and women to manipulate the criminal justice system to further advance their own desires to inflict physical harm on suspects. As they are employed by the criminal justice system, their ability to distort versions of arrests and detainment, is heightened as they are aware of the procedures and policies which need to be followed when reporting on such activities. Their ability to distort reality is further increased by their position of power, and the powers bestowed upon them, coupled with the broad discretion they are afforded in respect of the physical handling of suspects. The combination of these factors leaves suspects vulnerable to abuse of powers, and position, and subject to physical harm through the actions of representatives of the criminal justice system.

Information proffered by respondents included assaults as occurring in conjunction with other crimes. The same trend of violence being inflicted on individuals who are belligerent, or who are suspected of having committed crimes, was found in an account provided by participant 58, as stated below

Assault mostly. I once hit a suspect with a baseball bat all over his head until the blood came out of his head like a fountain. I took him to hospital, and he got medical attention, then I took him home and then went back to the hospital and got hold of his medical file and I destroyed it. He was never charged with a crime thereafter (Participant 58, 2018)

The general willingness of participants to discuss intimate details of crimes involving the physical injury of suspects shows a tendency towards vigilantism in the police services. In this study, vigilantism refers to “1) social movements that give rise to premeditated acts of force and corporal punishment or the threat to use violence or corporal punishment; 2) activities that arise as a reaction to transgressions of relatively well established, sometimes institutionalized, norms” (Burr and Jensen, 2004: 141). The severity of this phenomenon can best be understood by examining the role of vigilantism in South Africa, in general, and how this could be seen as being as much of a viable option in the fight against crime by communities, as it would be by the policing services. Given that there is no mandated or legal basis for the assaults that were perpetuated by these police members, it can be said that such members have acted outside the bounds of the law and have thus become vigilantes. The police men and women who admitted to using violence as a means to deter suspects from committing crimes in the future, or as a means of corporal punishment, do so in order to maintain social norms, such as abiding by the law, and not victimizing others. However, through the use of vigilantism, such police men and women, are guilty of committing crimes themselves, and thereby creating victims, not only of their behavior, but of the criminal justice system as a whole, as the representatives of the law, have not been able to demonstrate why such laws are so important, and why a respect for the law is vital to the conformity needed to reduce crime in a developing country such as South Africa. There is also no evidence that such vigilantism impacts positively on recidivism rates amongst the suspect population subjected to the assaults and torture techniques described in this study. Such behavior is therefore not aimed at the furtherance of peace and social order, but rather the fulfilment of individual needs for justice through violence.

Policing services in South Africa operate in violent societies and are often in close proximity to violence as a core function of their daily duties. The readiness to answer violence with

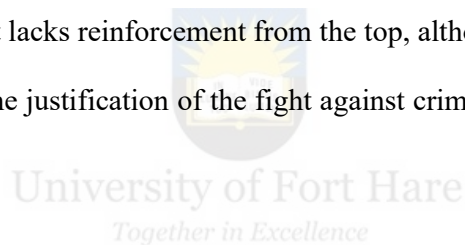
violence cannot however be accepted by any legal authority, where such violence is not regulated or in service of a function, such as mandated corporal punishment, or the death penalty, as is operational in a few countries globally. The circumstances surrounding this violence is further complicated when the knowledge of such practices is known to other role players in the criminal justice system. This study established that a regional court prosecutor is even aware of such practices, as can be seen below

In cases where there is something to be recovered, a gun, drugs, or property from a house break-in, to get to it, usually the police beat those people, sometimes they use the handcuffs and make it tight so that it's painful. I'm not aware of those things like putting a plastic bag over a suspect's head to suffocate him and those other forms of hanging. I just know that it is happening. I would be crossing over a line to investigate this. That is not the role of a prosecutor (Key Informant 8, 2018)

The dialogue above indicates that although this prosecutor is personally aware of many cases of assault and torture upon suspects, he/she does not, in his/her power as prosecutor, and executor of justice, feel the need to intervene, or prosecute the police members involved. The moral relativism the state representative for the criminal justice system seemed to exude during the course of interview, calls into question the true role of this individual as a representative of the National Prosecuting Authority, in terms of his/her ability to administer justice, and in terms of his/her willingness to turn a blind eye to the use of torture and assault as a method to solving crimes. It was of interest that the prosecutor was able to cite torture techniques congruent with those cited by police members as being utilized for information gathering. It would appear therefore that this prosecutor in particular was not honest about the full nature of his/her exposure to such crimes. The efficacy of such a representative of the criminal justice system, who is aware of violations of human rights in police custody, can therefore not be considered as being a reliable source of justice in the solving of crimes committed by suspects, outside of police custody, as such an individual does not reflect a respect for the law which he/she is employed to protect and uphold.

The use of torture by police members was also explored. The use of torture by members, appeared to have similar modus operandi throughout a variety of police stations. Torture transcends those incidences of assault (in terms of the severity of the violation), due to the nature of the interactions involved between police members and suspects, and the increased systematic, methodical nature of the violence inflicted on what can be essentially considered members of the public. Van Reenen (2003: 54) notes the following with regards to torture in the policing profession

Most of the time, routine police torture is not ordered, it is merely allowed within the police—if allowed at all. There is no official legitimacy. It is an informal arrangement; often a conspiracy, strong but kept as secret as the torture itself. Justification of torture is weaker because it lacks reinforcement from the top, although on the individual level in some countries the justification of the fight against crime and criminals can be very strong



The Prevention and Combating of Torture of Persons Bill, 2012, Section 3, states the following with regards to the definition of torture in South Africa

For the purposes of this Act, “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person – (a) for such purposes as to – (i) obtain information or a confession from him or her or any other person; (ii) punish him or her for an act he or she or any other person has committed, is suspected of having committed or is planning to commit; (iii) intimidate or coerce him or her or any other person to do, or to refrain from doing anything; or (b) for any reason based

on discrimination of any kind, but does not include pain and suffering arising from, inherent in, or incidental to lawful sanctions

In light of these conceptualisations of torture which are applied both locally and internationally, occurrences of systematic torture were recorded from four separate police members at four separate police stations. For example, participant 13, stated the below pertaining to his involvement in the use of torture on suspects

People know me as helpful to the public...In my opinion they deserved it. I was in and out of court because of assault charges...Suspects will never tell the truth unless they get a hiding. For example: there was a house breaking, the person working at the garage saw this person loading stuff into a taxi. Vehicle was parked next to the garage. He took the registration number. The following day, the complainant came and opened a case and said that he was away in the Transkei and his house got broken into. That person gave the information to the complainant; complainant gave the information to us to say, "Here is the registration of the vehicle". We followed that vehicle for two days, we looked for it, and then we found it. We took the driver and asked him, "what happened Saturday night?" he denied everything, so we hung him. Asked him where the goods were, who were the goods for etc. He said, "No please policemen, I will tell the truth. I only know the one guy who called me to say I must go load the stuff". We went to fetch him. The one we handcuffed was sitting there; we hung the other guy to ask where the stuff is. After we hung him, he took us back and recovered all the belongings of that house. Went back to the station, phoned the owner to come and identify, took a statement. Monday morning, he said thanks to us. If it wasn't for that exercise, we would not have recovered the goods. R4000 was stolen from that house, groceries were stolen, and everything was upside down. We took the stuff back to him. They never opened a case against us because they knew they were guilty. Others know that we not supposed to hang them, so they report us. In court, we deny everything (Participant 13, 2018)

The particular issues emanating from the statements made by the above police member, not only fulfil the definition of the crime of torture, but also highlight the need for retribution through violence. The need to solve crimes through the use of torture, and the blatant disregard and disrespect for the criminal justice system, a system which police members are employed to act as support services to, also highlight the tendency towards vigilantism in the policing services in South Africa. Participant 13 elucidated to the satisfaction of solving the case, and of helping a member of the public, through the use of torture as an interrogation technique. This need to ensure justice seems to override the ethics and legality in the processes of

obtaining such justice. Police members seem to be able to dissociate their violence as a means to obtain justice, from the violence they encounter in the communities in which they police, as they feel that suspects deserve to be treated in such a manner, and that this treatment is acceptable as it acts as a means to an end. Torture in this context thus serves a dual purpose for police members – they are able to solve crimes, and they are able to satiate their desire to fulfil the roles they were employed into. Without the use of torture for information gathering purposes, police members involved in this study would feel increasingly powerless in respect of their crime solving ability. They would also feel as if the powers bestowed on them are futile, as they are not able to achieve justice, and suspects will not be punished for the wrongs they have committed. The need for retribution and the pride police members feel as a result of solving crimes, outweigh any sense of guilt they would feel as a result of inflicting physical pain on individuals who have not formally been charged with a crime.

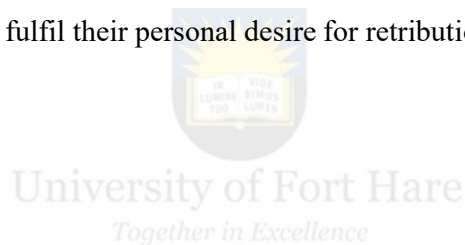
Another example of torture techniques, described by participant 30, include suffocation and assault, for the purposes of gathering information

Assaults, torture, by physically forcing information out of someone who is withholding it at all the stations in East London. It starts off with slapping, the hand cuffs are tightened, this can be very painful in itself so that can cause people to start talking, as well as kicking and punching, I've seen one incident where a plastic bag was pulled over someone's head and he was suffocated, I've seen a form of hanging with a broomstick (Participant 30, 2018)

As with the information obtained from participant 13, participant 30's involvement in torture, points to vigilantism in the policing services. Of particular concern in these incidences of torture is the lack of value attributed to the maintenance of the physical and psychological integrity of suspects, who until proven guilty in a court of law, should be regarded as ordinary civilians, in favour of the approval of other civilians (or victims of crimes), and their property. To assert that the value of financial or physical possessions is worth more than the maintenance

of the most basic of human rights, such as the freedom from harm and the right to life, shows a skewed perception by police men and women regarding the value of the work they do. The recovery of stolen property and the esteem needs which are fulfilled as a result of a closed case, cannot be worth more than a human life. It is also troubling that the police perceive their role to be punishers of perceived criminals, as opposed to custodians of the full measures of law, measures which include the right to a free and fair trial, prior to the institution of any punitive measures. Noteworthy too is the disconnect police officers exhibit in respect of the role of the criminal justice system in preventing and reducing crime. The department of corrections aims to reduce recidivism through correctional behaviours and counselling services, not through physical punishment, humiliation and torture. Police men and women who maintain then that the violence they institute has a deterrent capability are misguided and cannot be posited to act in any other function but to fulfil their personal desire for retribution.

5.3.2 Corruption



Of the 60 participants interviewed in this study only 2 (3%) admitted to having taken a bribe or to having been involved in a corrupt activity. Unlike assault and torture which have a retributive element, economic crimes are regarded as unacceptable, and imply that members are somehow struggling financially. A number of police members did indicate that salaries are lower than what they feel they should be, but generally, bribery and corruption are regarded by members as dirty crimes and they are therefore hesitant to associate themselves with such. For example, participant 7, was even hesitant to call what transpired in his case a bribe, as he feels that even though it was not necessarily the right thing to do, he did not do anything criminal, as can be seen below

In my case I wouldn't call it a bribe, I would call it a favour. I assisted a person who had money and I got a big thank you. As policemen we are not allowed to take money or anything from the public, but I took it... Drunk driving is not allowed in South Africa, but we as policemen we understand. Sometimes instead of arresting someone, you assist them to get home safely. That is what happened in my case (Participant 7, 2018)

According to the definitions of each crime (outlined in the legislation referred to earlier in this chapter), this officer's behaviour is regarded as corruption, regardless of the officer's view. Such incidences can occur frequently and can remain undetected as police members are able to negotiate bribes based on the understanding that the suspect of a crime will not be prosecuted and will not report the bribe, as they will then be admitting to a crime themselves, and will face punishment for both crimes (drunk driving and bribery), as a result. There is therefore no way of knowing the extent to which undocumented incidences (such as the above), occur. It is worth noting IPID's statistics for both the investigation and prosecution of such crimes, in the Eastern Cape, and in South Africa as a whole. IPID's 2017/2018 Annual Report (2018: 38) noted that in the 2016/2017 period there were 160 cases of corruption opened against police officers, whilst in the 2017/2018 period there were 124 (nationally). In the Eastern Cape, there were 18 cases of corruption reported in the 2017/2018 period, constituting 15% of all corruption cases opened nationally.

Whilst IPID Annual Reporting statistics regarding crimes being investigated by IPID point to a decrease in incidences of police corruption, such information does not provide a full picture of such incidences, as many incidences are not reported by either party. Corruption occurs in a variety of ways, and is generally more organised than interpersonal physical crimes, which means these incidents largely remain undetected. Crimes involving an economic or financial element are also harder to trace as many crimes of corruption are perpetuated by members of the public in conjunction with police members, in order to assist a member of the public to avoid prosecution for another crime. As IPID report on cases opened against police members

by either the public, or internally in the police, it is unlikely that statistics relating to corruption are reliable as an indicator of the prevalence of the phenomenon. Many police members, such as participant 7 above, may also regard the financial incentives they receive, or outright take, as being owed to them by virtue of their duty to the state and to the public. Many police officers also regard corruption as a victimless crime, as generally they are taking bribes from people who are not involved in crimes against persons, but rather crimes against society (such as drunk driving, possession of drugs, or being involved in prostitution). Corruption is of concern as it is a crime against the ethics of the policing profession as a whole, and the integrity of the police function. Crimes of this nature therefore serve to tarnish the reputation and trustworthiness of the policing profession as a whole.

5.3.3 Theft and Other



Participants in this study were asked to provide examples of any time in which they believe they have crossed the line on any measures. Whilst some gave descriptions of incidences which could be categorised as crimes, others were a lot more vague. For this reason, the category 'other' is used to describe the nature of those incidences to which police members themselves believe they have behaved in an illegal manner. Two participants in this study admitted to having stolen items at one point, however only one policeman was charged. An example of such is provided by participant 34 below, who maintains that he knew he wasn't supposed to take the items in question, but did so anyway

I was charged and suspended for 11 months. A member of the public gave me grapes that were involved in an accident. There was a truck that was carrying the grapes and it overturned, then a member of the public that was there when it overturned gave us the grapes and we took the grapes. We loaded it into the van and we returned back to my station. When I arrived, my commander said he hears from a member of the public that something happened, and then a

case of theft was opened against me. From there, I was arrested. At that time, I know I was not supposed to accept the grapes (Participant 34, 2018)

This police member was interviewed at a police station which has had previous incidences of police members being investigated, charged, dismissed and imprisoned for assisting in the sale and distribution of drugs, as well as for having members involved in numerous cases of theft, assault and murder. The account provided by the policeman calls into question his level of honesty and forthrightness as this account does not appear to be a true reflection of the incident. Important to the excerpt provided above is the notion that the police member interviewed was found guilty of a crime, and sentenced as a result, but is still in active duty, despite being a convicted criminal. Such incidences call into question the integrity of a policing service who employs convicted criminals but punishes suspected criminals with violence and torture. The lack of congruence in the practices of police men and women in respect of their true stance towards crime is clear. Members of the unit this member is employed in admitted to assaulting suspects for information, as well as torturing some suspects with hangings. The role of this torture cannot then be to ensure a conviction, and to ensure that such suspects are punished for their crimes, as some members are comfortable to work in teams with other members who have committed crimes too, without being punished with a beating or a hanging. So, the nature and purpose of this violence is then to satiate a personal desire for justice, or an innate propensity towards violence, which can be instituted as part of a profession where such violence is very rarely questioned.

The nature of this violence also points to the lack of respect police men and women have for the criminal justice system they are employed to protect. Police men and women would therefore rather brandish their own form of justice, than allow the criminal justice system to run its course, and for the suspects to be convicted and sentenced, according to the evidence at

hand. In respect of the case above involving a convicted thief, and the willingness of other police members to continue to work with such an individual, it is clear that the punishment awarded to the police member, by the internal disciplinary system was sufficient for such police members, as a form of punishment instituted against such an individual. The violence inflicted then, acts as a rebellion against the formal justice system, as police members do not respect such a system, or have faith that such a system is able to deter future incidences of crimes by such individuals, or punish criminals in a manner that is fitting to the crime perpetrated. The concern then cannot solely be about vigilantism, or the regard for the value of property as corporal objects, as the above officer clearly violated the rights of the owner of such property, by stealing such. Rather for this team of police men and women, the violence is spurred by a personal need for retribution, as well as a blatant disrespect for the formal criminal justice system.



Two other police officers gave accounts of incidences which are not characterized as specific crimes as such, but which can be regarded as being unethical in nature, one example is provided by participant 33, as seen below

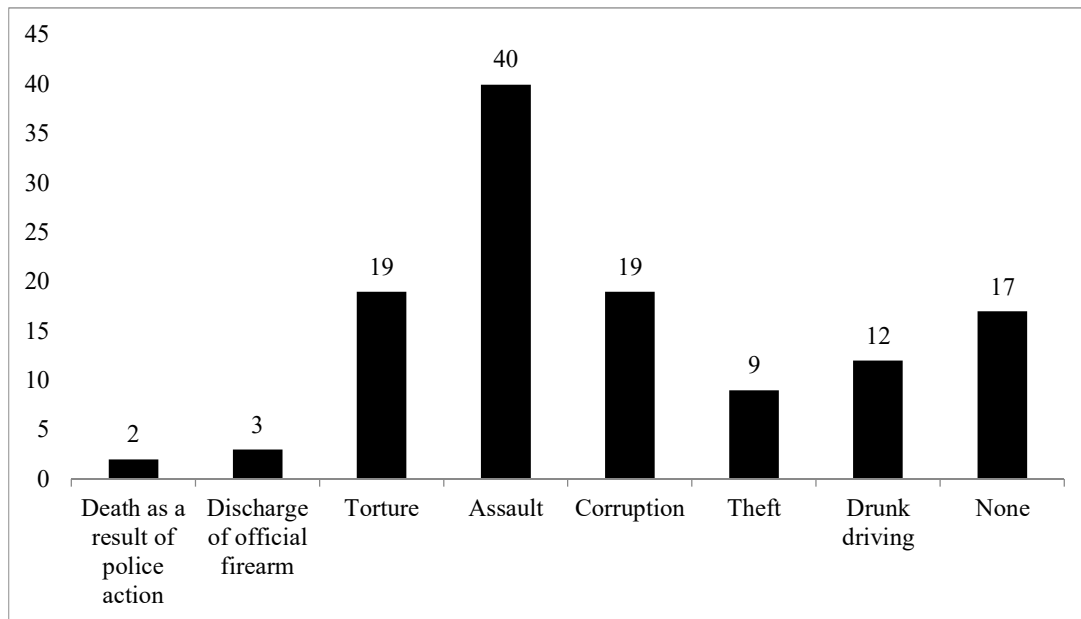
There has been the odd occasion where I've got some friends that like to smoke a bit of pot. I tell them listen, not in front of me, go around the corner and go do that there (Participant 33, 2018)

Failure to act upon witnessing a crime, particularly when the witness is a police officer, can, and should be regarded as a serious offense. Crimes witnessed by policemen should be acted on, regardless of the circumstances, as ignoring such crimes puts the reputation and efficacy of the police force, as a whole, into disrepute. The crime of defeating the ends of justice is discussed later in this chapter, as an applicatory crime to the above.

5.4 Witnessing of unacceptable, unethical and illegal behaviour

The witnessing of colleagues committing offenses was found to be an important finding in this study and has implications for the honesty and integrity of the South African Police Services. Of concern in analysing the prevalence of police members witnessing other police members committing crimes, is that they then become criminals themselves, as failing to act upon receiving information regarding a crime, witnessing a crime, or deliberately preventing a crime from being investigated, is regarded as defeating the ends of justice. According to the South African Police Services definitions of Common Law Offenses (2014), defeating the ends of justice can be regarded as “unlawfully and intentionally engaging in conduct which defeats or obstructs the course or administration of justice”. By virtue, then of witnessing assault, torture, theft and other practices, such police men and women admit to advocating for such crimes, whether actively or tacitly, and can be regarded as secondary criminals themselves. Of interest was the candid nature of the interviews, and how much more willing policemen were to provide information regarding what they have witnessed their colleagues doing to suspects, and members of the public, when compared to what they themselves have been involved in. It was clear that these police members do not regard their lack of action as being a breach of their ethical or legal duties as police members. Instead many police men/women took the stance of witness/victim (a victim of their circumstances) and gave the impression that they were powerless to act. By virtue of their role as witness, and by virtue of their position as law enforcer, every police member involved in the witnessing of crimes and not reporting such, can be regarded as a criminal themselves. Table 5.3 below provides a summary of the most prevalent crimes police members stated as having witnessed.

Table 5.2: Prevalence of crimes witnessed by police members



Source: Fieldwork data

The South African Police Services are, within the bounds of their duties, able to exact arrests, as well as disarm suspects, in pursuit of the protection of the property or physical safety of the public, with the minimum use of force as the objective of every arrest. Death as a result of police action therefore in this context refers to those fatal incidences which were not warranted, as reported by respondents in this study. According to the Independent Police Investigative Act, No 1 of 2011, there are a number of procedural requirements which must be followed concerning the death of a civilian as a result of police action, or in police custody. The primary determination which will need to be made pertains to the arrest of the police member involved, as there will need to be a determination, on a balance of evidences, as to whether the death was wrongful in nature. As police members are tasked with carrying firearms on their person whenever they are on duty, there is a higher chance of police members being ready to use such weapons, when compared to civilians. This readiness to act by virtue of their positions as law

enforcers is a central consideration when analysing incidences of death involving police members.

Of the 60 participants interviewed, one police member admitted to having witnessed the wrongful death of at least one suspect as a result of police action, as provided in the excerpt below, from participant 58

A colleague shot a suspect without his life being in danger. And then I saw a couple of guys that were shot and killed for no specific reason. The one, we went to his house, he was suspected of a cash-in-transit heist, we found him, and when he came out of his house, with nothing in his hands, the other guys just shot him (Participant 58, 2018)

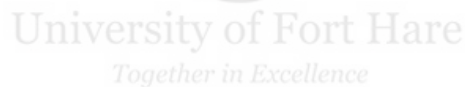
The extent of death as a result of police action, or in police custody is, according to the 2017/2018 IPID Annual Report, becoming an increased issue in the SAPS. Deaths in police custody dropped from 302 in the 2016/2017 reporting period, to 201 in the 2017/2018 reporting period (IPID Annual Report, 2018: 38), however, deaths as a result of police action increased from 396 in the 2016/2017 reporting period, to 436, in the 2017/2018 reporting period. The lowered levels of deaths in police custody is encouraging, however 201 incidences still highlight the lack of due care for suspects once arrested. Such incidences include suicides or death as a result of injury, and given that many of the assaults and tortures which were admitted to in this study, occurred on police premises or in police cells, these statistics do not provide a full account of the post arrest procedures which should be instituted to protect suspects from such harm.

In relation to fatalities in the policing services, a point of interest, which was corroborated by two key informants and numerous participants, surrounds the employment status of a police member following a fatality whilst on duty, as a direct result of a particular policemen's actions.

Regarding the death of any individual at the hands of a policeman (particularly as a result of a shooting), Key Informant 8, for example, stated the following

What happens is that either they will open an inquest, of which from the word go it is clear that there are no prospects that there will be somebody who will be held liable, or they will open a murder docket, but with uncertainty as to whether we can really prosecute a person. At that point they will forward the case to us, and then we go through the evidence, and guide the investigations. If we feel at the end of the day there is something substantial there, we will prosecute (Key Informant 8, 2018)

During the course of the interviews, three participants admitted to having fatally wounded at least one suspect, but as they have been cleared of these charges, these incidences were not included for the purposes of this analysis. What is concerning though is that a murder trial can take anywhere between a few months and a few years to finalise, depending on the nature of the incident, and the evidence. This therefore means that there could be a substantial number of police members performing their daily duties, equipped with weapons, who have open murder cases against them.



Of further interest was the extent to which participants in this study described their line of work as being dangerous and extreme to the point of having to use violence in order to effect arrests and solve crimes. The systematic execution of suspects in the field or in holding cells, however, can never be excused. The ideology associated with such behaviour, may be the biggest obstacle to overcome, when analysing rationales for the commission of violence against suspects. As Pemberton (2008: 238) explains

State talk describes the discursive processes whereby state servants within the criminal justice system, misrepresent the dangers their jobs present to legitimate their often-coercive interventions in civil society. In the context of deaths in police custody, the presentation of certain identities within state talk – the ‘brave and besieged’ frontline

police officer alongside the ‘violent’, ‘dangerous’, or ‘feckless’ victim – have arguably served to obfuscate the reality of the victim’s vulnerability and the levels of police violence and neglect

The rhetoric surrounding the working conditions of police members in this study mirror that of the above. There were numerous references to the ‘danger’ which police members face when patrolling and executing their duties. Whilst this is very true of many police members, participants seemed to reference such working conditions as a factor influencing the level of violence required of them as police men and women, in order to effectively execute their duties. The level of vigilantism is therefore so strongly embedded in many police members, that they excuse the fatal use of force against suspects in their everyday work. One member admitted to having fatally wounded seven suspects but stated that more could have been killed as a result of having been shot and having escaped. The member discussed such incidences in a casual way, and explained that every incident was warranted, and that his actions were justified. The nonchalant approach to the ending of life as a part of this members profession is concerning. This calls into question the level at which police members value the lives of civilians and suspects, and whether their need for justice outweighs their need for empathy and compassion, particularly when considering the ending of a human life.

Assault and torture were the most prevalent forms of illegal behaviours police members witnessed other members committing. The nature of the brutality inflicted during interrogations, was found to be unnecessary and primarily for the attainment of information. A variety of conversations with policemen were engaged in, wherein details were provided of gruesome torture techniques, as well as assaults. There is a strong link between torture techniques being used for information gathering, and power. Power in this context refers to the

inherent status associated with the policing profession, and the need to control. As Scriven (2015: 120) states

One of the chief points of defense New York State offered in the choking death of Eric Garner was that he was “resisting arrest” by not kneeling and putting his hands behind his head in submissive surrender to unbridled police power. The rationale was that no matter how unjustifiable or excessive the force, the State and its agents are to be revered and obeyed because of their authority

The relationship between the practical need to solve crimes, the need to gain the affections of the community, and to be seen as a hero for solving crimes, in addition to the inherent esteem needs associated with the powerful positions police members hold, all factor into the use of violence alluded to throughout this study. The use of physical violence is no doubt intended to be used as a method for crime prevention too, as suspects who have been assaulted or tortured by police, are perceived by police members as being less likely to commit crimes of a similar nature again. For example, participant 21 stated the following pertaining to the witnessing of torture as an interrogation technique

We will hang them [at the station] and swing them, tube them. You take a tube and put it around their face to the back of their head and put your foot on the back of their heads and pull the tube into their face so that they can't breathe (Participant 21, 2018)

The high incidences of police members witnessing of violence committed by fellow members, and the assumed acceptance thereof points to the vigilantism, prevalent in the SAPS. With reference to the specific excerpt provided above, the police officer earlier admitted to assaulting suspects, but did not want to admit to torturing them for information. However, when asked what the police member has witnessed, he/she was ready and willing to communicate distinct examples of torture methods, and even used the term of reference ‘we’, when referring to such torture techniques. This excerpt indicates the lack of willingness some police members exhibit in respect of taking responsibility for the harm they cause members of the public. Rather,

members will seek to excuse their behaviour, or provide the perception of being a victim and having to witness atrocious violence being committed, which is out of their control. Similarly, police members will excuse the vigilantism they inflict on suspects, as a means to cope with the high crime rates they are faced with, the inefficient criminal justice system, and the need to teach suspects a lesson. Without acknowledging that they too, as representatives of the criminal justice system, hamper their own investigations through the use of violence, as victims of such violence are less likely to be processed formally, through the courts system, and as such the criminal justice system will never have an opportunity to demonstrate its efficacy in improving recidivism rates. The vigilante actions of police members are thus self-sabotaging to the profession and the services as a whole.

The comfort and ease with which members of the research population delivered information regarding heinous acts, was a cause for concern, in terms of their normalisation of such violence. Members seem to be increasingly accepting of the violations of the rights they serve to uphold, in order to uphold them. The juxtaposition between these two approaches does not cause members internal conflict as the need for retribution dominates the motivations for their actions, or lack thereof, upon witnessing crimes being committed, by other members. Through their lack of action, they therefore reinforce the acceptance of vigilante behaviours with a violent element.

The link between the identity formation of police members and their use of force is of importance when analysing the role that vigilante behaviour plays in reinforcing the power exhibited by police members in their daily duties. There is a clear disconnect between the perception that this form of violence is wrong (not wrong enough to stop however), when compared to what there is to gain. Police members therefore weigh up the cost of the shame

they would face if they are unable to solve certain crimes, against the risks involved in meting out a violent interrogation with suspects. As participant 23 stated

I was given this position as relief commander because they see my behavior. Yes. I've got members here who assault the people coming here, with an open hand, punishing. You won't see it here when we are punishing someone, we hang them and then they tell us the truth. Yes. It is illegal, but we are doing it to get information (Participant 23, 2018)

The response provided by participant 23, in that he is a relief commander who routinely witnesses interrogations with a violent element, yet refuses to intervene, and largely regards himself as innocent of having ever committed any wrongdoings, is of concern for society as a whole, and the policing profession as an institution of justice. This commander is also aware that what is happening is illegal but justifies these acts in the face of the illegality he and other police members face from suspects of crimes. As a relief commander he is assumed to be in a position of both power and authority. Such a position seems futile though when such an individual fails to act. A cause for concern is that such a member should set the tone and should be an example to new members of the station and services. With the pervasive attitude being that violence is acceptable and acting outside of the rule of law is a just way to manage suspects, one cannot be surprised when the new generation of police members become implicated in incidences of this nature. Similarly, to participant 21, participant 23 notes that he is a relief commander due to his sterling police record, and that he exudes ethical behaviour. However, he too associated himself, albeit indirectly, with the systematic use of torture to retrieve information. His ethics and the perception of his self-less behaviour is therefore not a true reflection of his character, particularly with regards to his respect for the criminal justice system, and his regard for the value of the constitutional rights, he swore to protect, as a member of the SAPS.

Breaking the law in order to enforce the law, was a pervasive trend in the responses from participants, as participants maintain that such violence serves to solve the problem of having criminals on the street, therefore if one is required to hang a suspect to get information about the whereabouts of stolen property, you are serving the public. For example, participant 38 stated the following regarding the use of force for information gathering

[I have seen] A guy kicked unconscious, that at some point he had to be woken up with water, [kicked] all over the body and not by one person. For information regarding firearms and drugs. The person claimed he knew nothing, but the information given to the group is that he is the main guy behind firearms being brought into the area, being leased out to suspects, and drugs being brought into the area and him delivering drugs. I was still in training and pissing my pants because I didn't know what was going to happen in this situation (Participant 38, 2018)

Participants seem to exhibit a lack of congruence between their criminal behaviours in the pursuit of justice, and those criminal behaviours which have led to their dealings with criminals. In this way, they are unable to recognise or associate the flaws in their actions, as they see themselves as doing their job, or as facilitating justice. This feeling of having upheld justice can be regarded as being a central tenet to the identity of police members. If they were not able to service the community and solve crimes, they would be regarded as useless, and inefficient. They therefore place a large import on the opinion of the community they service, and thus feel a strong need to do all they possibly can to solve these crimes. This sense of identity, coupled with the need to maintain power, and the inherent vigilantism exhibited in their behaviours, results in the consistent disregard for the human and legal rights of suspects.

Of the participants interviewed in this study, 19 admitted to having witnessed corruption on some level. The primary form of corruption witnessed by police officers is that of bribery, however there were incidences where money is exchanged for services, where there should be no fee payable. Of this form of corruption, Key Informant 1 provided the following account

We did have a police official, I had just started here in 2007, where I caught one of our members selling a case docket for a drunken driving case. Basically, what he did was, he opened the office, after hours. Unfortunately for him, I came to visit the station, and when I walked in he came walking through with the docket. I asked him what he was doing with the docket and he said he was just going to let the accused read his statement. Then the gentleman said, 'but I've just given him R1000' and when I searched him, he had the R1000 in his pocket. Subsequently, I charged him, he was dismissed, he lost his job, lost his family, his wife, his home, everything. He was also in prison for four and a half years (Key Informant 1, 2018)

Economic crimes, as previously discussed, carry with them an extreme amount of shame in the SAPS. Of the 60 participants interviewed, 40 admitted to having witnessed violence against suspects, whilst only 19 admitted to witnessing corruption, with only 2 participants admitting to having been involved in some form of corruption themselves. Corruption, and the associated negative connotations, such as poverty and lack of social status, may be attributable for the low levels of confidential reporting of economic crimes. Economic crimes do not hold the same justifications that violent crimes do, in the policing profession. Violent crimes serve a purpose of either inflicting justice, obtaining information, enforcing power or achieving retribution; whilst economic crimes are committed out of desperation or greed, neither of which carries with it any sense of pride or fulfilment in respect of the profession. There was a pervasive attitude demonstrated by participants that individuals who are involved with economic crimes should be ashamed and should leave the force, as they place the reputation of hard-working police officers and members into disrepute.

For those participants who did discuss economic crimes, the general trend maintained for such crimes, similar to those of violent crimes, was that they have the right to take money from suspects, as the money is likely to have been procured illegally, for instance when searching suspected drug dealers, or when allowing suspects to remain free in exchange for money, as is the case for allowing drunk drivers to return home, in exchange for a cash settlement. For police members, they are less likely to associate their actions as being criminal, as they are exposed to physical threats and risks, and therefore are entitled to additional income outside of their

salaries, income which can be derived from criminals, such that the actions of the police officers are not harmful to society as a whole, as they are effectively 'Robin Hoods' of the policing profession, except that the money procured is retained by police officers, and is not shared with the community as a whole. The justifications for such crimes therefore remain unacceptable. For instance, as participant 2 noted

I was working one shift and we were busy stopping and searching in the CBD area, and then we found a small bit of dagga on a person, and then three of my colleagues received money and let the guy go (Participant 2, 2018)

It is important to note the lack of reporting of any of the 19 incidences of witnessed cases of bribery by police members in this study. Similar to violent crimes, it appears that policemen are not willing to report one another for crimes they have witnessed, as they may be ostracised as a result. The fact that some policemen feel that they are unable to report the criminality of fellow police members, points to the strong ideology that when police members commit certain crimes, they are exempt from punishment, as they must have their reasons for committing such crimes, reasons other officers relate to, and thus the cycle of violence and corruption continues.

Theft by police officers primarily occurs during the course of collecting evidence during investigations at crime scenes, or once evidence has been collected from a crime scene. This form of theft is difficult to manage as the reporting of fellow police members for such crimes is already low, and where there is a shortage of police officers at crime scenes, such incidences will not likely be noticed. Of those police members who have witnessed such crimes taking place, there has been a lack of support from senior police officers in terms of charging such crimes. As participant 14 indicated below

I was here for about five months, new from college, I booked the vehicle out, I was the driver. There was a sergeant as my passenger; he had taxis on the side. We met five of his mates on a gravel road; he then told me he's going to siphon fuel out of my van. I said, "You can't do that." He said, "I'm the sergeant, I'm telling you we are doing this." I said, "Do what you have to do." Went straight to the station commander, told him what took place, he then said that I must open a case against that man. I said, "How? How do I as a student open a case against a sergeant?" He said, "Well either you charge him, or I charge both of you. You were an accomplice, you drove the vehicle". Departmental trial came, he was found guilty, R500 fine (Participant 14, 2018)

As seen from the above, disciplinary action in respect of offenses committed by police members appears to be an issue in the SAPS. The above also reflects the lack of support many police members feel they have, when they want to report crimes committed by other police members. The excerpt also reinforces the notion of power and entitlement which seems to be prevalent in the policing services. Rank and years of service appear to be used as a means to justify criminal activities, as police members feel they have served their time, and now they are entitled to benefit from their position. There also appears to be a sense of power by virtue of their position, similar to the stance on violent crimes, which creates an environment in which police members cannot be accused of wrongdoing and are able to commit crimes as they please.

5.5 Conclusion

The policing profession is currently experiencing a crisis of ethics and discipline. Police members routinely participate and witness the torture and assault of suspects, and the disregard for the human rights of members of the communities in which they police and fail to act when police members are involved in or are guilty of perpetrating such crimes themselves. The exposition of the lack of evidence pointing to the guilt of individuals, as well as the lack of the following of formal legal procedures during the arrest, detention and interrogation of suspects, leaves suspects vulnerable to gross violations, and victimisation, at the hands of the criminal justice system. This points to signs of the presence of vigilantism in the South African Police

Services. Police members find pleasure in the meting out of physical harm to suspects, who until proven guilty in a court of law, should be regarded as civilians with equal rights to individuals who are not suspected of committing crimes. Such acts are routinely regarded as both acceptable and necessary by members of the SAPS, as a means to fulfil the need for justice and retribution, which drives so many police members. The result of such behaviours going unchecked are that police members become increasingly ready to resort to violence as a first means of interaction with members of the public. Vigilantism can have no place in a society which is recovering from a history of human rights violations, as these behaviours are executed outside the bounds of the law and serve to further undermine the rule and role of the justice system in South Africa.

Some police members, senior police commanders, and even a public prosecutor, in the Eastern Cape policing region are aware of the extent of this problem and are taking a distanced approach to the management thereof. The esteem needs associated with the power and prestige of the profession, as well as the fulfilment of the identity needs associated with the internal drivers of individuals to become police members, act as triggers for the incidences of violent crimes committed by police members. Assault and torture serve as methods utilised to fulfil their need for power, in a society which is increasingly rendering them powerless, through the inefficacy of the justice system, an inefficiency they further perpetuate through the use of vigilantism to circumvent the formal prosecutions process. The presence of entitlement to the physical and economic rights of suspects results in police members violating the values encompassed in the policing profession, and ultimately leads to corruption and theft being perpetrated by police members themselves. Crimes such as bribery and corruption featured less prevalently in this study, as there are negative connotations associated with the rationale for the committing of such crimes. Associations for such crimes include poverty and greed. Police

members in this study prefer to focus on the strength and bravery that they possess which leads them to a state of readiness to commit violence in the pursuit of justice.



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CHAPTER SIX

THE SOCIOLOGY OF POLICE CRIMINALITY

6.1 Introduction

This chapter addresses the second research question in this study, which is, what sociological factors explain police criminality? This question aimed to explore the socio-cultural, economic and other existential factors that partly contribute towards police members committing crimes. The primary rationale for this was to understand the rationale for the behaviours exhibited by police members which are outside, the realm of their duties and ethics. This chapter begins by presenting the prevalent factors which were established, as being contributory to police members committing crimes. These include the role of remuneration, lack of adequate operational resources, lack of support from superiors and the community, as well as the inefficacy of the criminal justice system in terms of police criminal behaviour. The role of vigilantism, and comradery as causes for police criminal behaviour will also be discussed. In presenting this information, an analysis of the role of social learning as a determinant for police criminal behaviour will be presented.

6.2 Sociological explanations of police criminality: Police Voices

The policing profession presents its own set of unique lived and working experiences which cause police members stress and internal strain. Within the Buffalo City Metropolitan Municipality, the most prevalent factors which were found to contribute to police members becoming involved in crime can be categorised as economically motivated, as well as sociologically driven. These crimes which are perpetuated as a result of these motivators are

divided into socio-economic and violent crimes. The distinction is made due to the nature of such crimes and the impact of such crimes on their victims. The interrelatedness of these factors is of importance in respect of their influence over crimes committed, and the internal strain such factors cause police members. Police members are susceptible to the same societal and psychological pressures as civilians but are exposed to numerous environmental factors which exacerbate these pressures.

6.2.1 Remuneration

Remuneration refers to salary as well as allowances and benefits received by members of the police services. Prospects of promotions within the SAPS was included as a contributing factor to levels of frustration and dissatisfaction of police members in terms of their career prospects. Such dissatisfaction has a direct correlation with sentiments of dedication to the profession and impacts negatively on police members inclinations to uphold the oaths they swore to protect. Of the 60 participants interviewed in this study, 39 (65%) maintained that they are not satisfied with their remuneration. It is clear that remuneration is a way for police members to gauge their relative worth to the SAPS, as well as to the community they serve. For example, participant 24 stated the following in respect of the value of the work he/she does when compared to his/her remuneration

No, I don't feel that we are at all [fairly remunerated], for the amount of work we do. There is an accident on the road, we must be there and record that; people are fighting, we must be there; domestic violence, we must be called; a person is dead, or was killed, we must be there; you want employment, we must verify your prints. Everything must go through us, and the conditions we work in are strenuous, it also affects us (Participant 24, 2018)

From the above excerpt it can be seen that police men and women do not feel that the broad spectrum of the duties they are required to perform is commensurate to the salaries they receive.

Police members are expected to attend any scene where there has been a fatality, accident, suicide or crime committed. In exchange for this, police members receive salaries with benefits, but are required to wait lengthy periods for promotions. In environments where financial strain, a long with strenuous working conditions, and general unhappiness regarding salaries and promotions are present, there is an increased chance of police members becoming involved in the commission of economic crimes, such as corruption. As many of these crimes are committed with individuals of the public who are suspected of committing crimes themselves, there is an increased chance of police members avoiding prosecution for such crimes, and economic crimes become an easy way to make extra money.

According to the SAPS 2017/2018 Annual Report (2018: 269), police members are entitled to “salary, overtime, homeowners’ allowance and medical assistance”, with the average starting salary for a constable being in the region of R10 000-R12 000 per month. The suitability of such a benefits package in terms of the perceived value attributed to police members, given the nature of the duties they are required to perform, and the role such a package has in respect of contributing to economically motivated crimes, is important when considering economically motivated crimes. The satisfaction, or lack thereof, with salary and benefits lies with the individual police member, but remuneration was cited as a substantial driver of unhappiness within the policing services. The complicated nature of remuneration in respect of this essential service was described by participant 38, who stated the following

Not at all. For the amount of work we do, the risks we are involved in, the victimization, the situations we get put in where we have to make split second decisions to either take a person’s life or to run away from the situation. If you run away you are denting the image of the state, you cannot do that. What is the next option? Draw your firearm, maybe to serve as a deterrent, the people are facing straight forward to you, there is two things that’s going to happen, you either going to die or be disarmed, so you shoot to diffuse the situation. You go back, you explain the situation, to your superiors, a case gets opened, investigation gets done. Now you ask yourself at the end of the day, is it worth it that I go out and do my work 100% or do I just sit at the back and ride the gravy train; if I get an arrest I will make it, if I don’t, I’m not going

to bother myself about it. We have to be social workers; we have to be medics or know of medics that must be on call if a person is injured; we have to be traffic officers; we have to do drunk driving campaigns; we have to be a shoulder to cry on and give people advice; and the majority of police officers are not trained to deal with those things, we get trained to deal with high risk situations. I'm not married, now I have to give advice to a couple that's married that's going through a crisis, how do you do that? Where is my salary scale to do that? (Participant 38, 2018)

As the above participant states, the daily requirements of each police officer, in relation to their remuneration, does not appear to align. Members exhibited frustration, and some laughed off the question, simply stating that it is not, and will never be enough for what is required of them on a daily basis. As participant 38 above noted, the added pressures placed on police officers to ensure that the decisions they make in respect of the use of force cause extra strain for them, and particularly in respect of their remuneration, many (65%) believe that the toll such stress takes on them, is not compensated for by the SAPS. Where such individuals feel undervalued and underappreciated, they are more likely to show decreased levels of dedication and ethics in their practice, as such individuals have not internalised the norms of the profession, but rather see their positions as jobs or employment, for which they are underpaid. It can be argued therefore that such feelings of dissatisfaction may create an environment where some police men and women are willing to take bribes, as they have lost the care and passion they once had for the profession, and now use their positions, and the easy access they have to potential criminals, to leverage additional incomes from such individuals.

Promotion prospects were found to be a major issue in the policing services, when analysing the role of remuneration as an influence on police criminality. Members (ranking between Constable and Warrant Officer) are required to attend the same call outs, and perform the same duties, but yet are remunerated at different ends of the salary scale. Whilst this is not an unfair labour practice, the implications thereof for members who have been stuck in ranks for decades must be considered. For example, Key Informant 2, of Lieutenant Colonel rank stated

We have good benefits, housing, medical aid, it's not bad. I think it comes with greed, debt that they put themselves in, and the high standards they put themselves to. So, for a Constable, even though the benefits are there, it's not a good salary. Every member knows when they join the force, what you expect to get, and between Constable and Sergeant you have to wait 10 or 11 years, so you have to sit on that scale for 10 years (Key Informant 2, 2018)

Whilst members may have an understanding of the lengthy promotions policy, such a policy does not curb the frustrations individuals feel in this respect. Such frustrations lead to decreased levels of commitment, and interest in respect of the administration of members duties. Promotions from Constable to Sergeant, Sergeant to Warrant Officer, and of particular interest the lack of promotions for members from Warrant Officer upwards, added to feelings of lack of worth and general unhappiness amongst those members interviewed. For example, participant 21 expressed the following in respect of the promotions policy

I've been in this rank for 18 years. That's why I say, for the rank I was in 18 years ago, it's a decent salary, but 18 years later we are going nowhere. They will offer white people posts but it will be in Lusikisiki, and a guy my age isn't going to uproot their wife and kids to there for x amount more (Participant 21, 2018)

Promotions from Sergeant to Warrant Officer, and from Warrant Officer up, generally only occur when there is a vacancy for such a rank, at a specific station. Therefore, if a police member is unwilling or unable to relocate, there is a good possibility that they will remain in the same rank for the duration of their professional career, once they have reached Warrant Officer rank. Of the Warrant Officers interviewed, many had served in such positions in excess of 15 years. These individuals were generally white males and displayed extreme amounts of unhappiness and frustration at promotion policies which they considered to be too legislatively oriented (in terms of employment equity compliance), without due consideration for the track record or employment history of each individual member.

Relatively low remuneration can and does therefore serve as a financial element to crimes with an economic motive. However, there are deeper implications for police motivation and dedication when members feel that they are undervalued and underappreciated. With regards to his perceived value to the SAPS, participant 34 stated the following

In 1992, the danger allowance in the SAPS was R400, today as we speak, it's still R400. That means when I book on duty, my life is worth R400. Actually, R400 a month, so when I book on duty you divide that R400 by the 14 days you work a month, that's what my life is worth (Participant 34, 2018)

This same participant admitted to having received 'tokens of appreciation' from the public and was previously charged with theft for an incident involving property taken from a crime scene, a charge he maintained as being unfair and untrue. The maintenance of such strong views on the unfair financial circumstances of his employment, whilst having been involved in a financially motivated disciplinary and criminal investigation, reveals a correlation between feelings of unhappiness with remuneration and propensity to commit economically motivated crimes.

Lack of acknowledgement of long service through the promotions policies of the police services causes despondence and contributes to lack of commitment, with an effect on even the more senior participants in this study, as expressed by Key Informant 4, who voiced her discontent with the promotions policy as a senior police officer, both personally and for the members she supervises, below

Because there are not as many positions available, people are vying for positions. It does demoralize the positive hard-working cops when they get looked over and somebody else gets promoted because of his clan or his surname or because of who he is friends with; that becomes a problem. I have no problem with a constable being a Constable for 12 years, I have a problem with a Warrant Officer being a Warrant Officer for 25 years, there I have a problem. I've been a full Colonel for 17 years. It [a promotion] should have happened, probably 10 years ago, but

because of certain things, it's just not happening, and I've come to accept it (Key Informant 4, 2018)

As can be seen from the above, accusations of nepotism in the promotion's practices of the SAPS, are held by even a senior police officer. Such practices serve to damage the integrity of the promotions practice and can create additional causes for frustrations amongst police officers and members. Where the process is not transparent, and where junior members are expected to wait in the same rank for 12 years, frustrations fester, and create anger and reduced commitment. Constant exposure to criminal elements wherein there is quick money to be made, with little to no consequences, were found to be a factor in the involvement of economic crimes amongst police members. Another senior ranking police officer, Key Informant 6, expanded on the role of remuneration, and the exposure to criminal elements, in respect of members propensity to commit economic crimes



I would say [remuneration] is probably the biggest contributor, because nobody is going to go do something purely because they enjoy it, they want something for that, and that's to get money. Not only because the lower ranks are not earning as much, they are the foot soldiers, they are working outside, exposed to temptations so much more than the other officials (Key Informant 6, 2018)

Temptation, as referred to above, can be regarded as the easy access to quick money. Members of lower ranks, who are in constant contact with criminal elements in the community, and who receive lower salaries than their more senior counterparts, and who are told they will have to wait in excess of 10 years for a promotion, are the most vulnerable individuals, in respect of propensity to become involved in crime. The participants who admitted to having committed economic crimes (as discussed in chapter five), were both of constable rank when such crimes were committed. One of the members was subsequently promoted, whilst the other remains in constable rank.

Where there are circumstances and environments which are favourable to committing crime, it will be difficult for a police member, who is operating from a place of financial constraint, unhappiness with their current remuneration package, as well as lowered prospects of promotion, or extremely lengthy waiting periods for promotion, to be deterred from becoming involved with crimes such as bribery and corruption. The result of the overexposure to criminal elements in respect of economic crimes, is a social learning process related to the easy access to money. For example, Key Informant 4 expands on the susceptibility of police men and women in respect of this, below

Everything nowadays is about money, greed and fitting into society. I recently heard of a guy in Pretoria that was selling guns, we could prove that he got paid R7million for firearms that he sold back to gangs in the Western Cape. 200 people died from those guns that he sold back, that we have confiscated. We found R187 000 in cash in his house, so what happens is, he probably needed to pay school fees, and he thought of how he could do it, so he sold a gun and he got R2000. Then he needed to pay varsity fees, so he sold 10 guns and got R20 000. And then he thought he needs a new car, and no-one is noticing what he's doing, so he sells 40 guns. And then it's a new house. You lose control, greed steps in and you cannot help yourself, and you get further and further into the web until you get caught (Key Informant 4, 2018)

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Members learn through the process of being in constant interaction with criminals, that economic crimes are easier to avoid detection from, and are easier to enact. Economic crimes also generally take place between police members, and members of the public who are at risk of being charged with a crime themselves, have been charged with a crime and require that such a charge 'disappear', or are criminals involved in organised crimes. Members who feel frustrated with their lack of remuneration and promotion prospects, who are in constant contact with criminals or criminal elements, and who are aware of the procedural elements involved in terms of the evidence needed for a charge of corruption to go to trial, are more susceptible to committing these types of crimes. These members are able to learn through the process of exploiting their positions within the police services, the information needed to not only cover

up such crimes but create connections with criminals who are enterprising enough to lure in members who might be regarded as being vulnerable.

Low remuneration becomes something members hide behind to excuse or explain their desire for material objects, as well as their desire to fulfil needs which they regard as being more important than those obtained from adhering to the laws and ethics of their profession. Ethical conduct does not seem to be a factor for those police members who actively become involved in crimes with a financial incentive, as they are able to prioritize their immediate needs or wants, above those of a state organ and community which do not provide them with the perceived means they need to maintain the lifestyle they either want, or feel that they deserve. Such findings correlate to a study conducted by Igun (2008), who found a positive correlation between positive police officer work attitude, and increased remuneration or salary package. Members are also required to provide a variety of versions of themselves depending on the circumstances they find themselves in, in the field. They do not receive any additional compensation for such roles, and very rarely are they afforded the support they need to dissociate themselves from the violent, corrupt societies in which they operate. Constant exposure to criminal elements and the easy money operating in those circles, create a type of social learning wherein police members idealise the lifestyles of criminals.

6.2.2 Lack of adequate operational resources

Resource allocation in the SAPS can be regarded as a multifaceted issue which has an impact on the overall working environment and internal capacity of police members. With regards to working environments, the lack of equipment and manpower provided to police members to safely and effectively perform their duties is found to compound issues pertaining to violent

crimes. Of the 60 police members interviewed, 47 (78%) stated that they believe that they do not have sufficient resources to successfully perform their duties. For example, participant 1 stated the following pertaining to the physical equipment provided to him on a daily basis

Equipment, it's not substantial. In the past a police vehicle, after 160 000 km's, would be withdrawn and boarded, and it would be replaced within two or three months with a new vehicle. Now you ride a thing until the wheels fall off and the engine falls out and it can't go anymore. If you have no vehicles, or lack of equipment, it hampers service delivery, which is a big thing when it comes to us (Participant 1, 2018)

Vehicles were referenced by participants as being the primary shortfall in terms of equipment needs in the SAPS, across the various stations included in this study. The implications of vehicles which are either not in good working order, or where there is a shortage of vehicles is, as participant 1 alluded to, hampered service delivery. Members are either being expected to enter dangerous situations with no safe mode of escape or are required to wait at police stations until vehicles are returned from the field, in order to attend to complaints. This creates an environment where motivation and commitment to the profession diminishes, as members on the ground, who are the faces of the profession to the wider community, are blamed for lack of service delivery, and are essentially stunted in their efforts to perform their duties. Members place great importance on the delivery of their function to the community, as their role as a service provider is paramount to their identity as police members. When they are unable to fulfil a role, they regard as being central to their purpose in the profession, frustration, anger, and feelings of disappointment and fear of disappointing communities who rely on them for the delivery of these services, manifest. Such feelings lead to anger and frustration, and where police men and women are met with hostility in the communities in which they service, there is an increased propensity to enact such frustrations on suspects they interact with.

Other forms of equipment which members regarded as being either insufficient or inadequate included policing apparatus, clothing and firearms. A number of issues emanate from the insufficient provision of equipment to police men and women, as participant 4 explained below

You have situations where you get old ammunition being issued to members, you get bulletproofs that don't fit properly, boots that are not deemed fit for the duties we do. Tasers in South Africa are a joke. The forensic equipment is not even funny. The news will tell you how many times high priority cases were thrown out of court because of tampering of the evidence, but it happens because we don't have the right equipment to enter crime scenes properly (Participant 4, 2018)

From the above it can be postulated that lack of provision of sufficient resources impacts the attitudes and levels of respect police men and women have towards the profession. Where police members do not respect their own employers, they are less likely to respect the rules and regulations enforced by their employers. Rather, given the limited availability of resources allocated to them, such individuals will take matters of the law into their own hands, in order to deal with the criminal or situation they are faced with at the time, and be less concerned with following the necessary procedures needed for such an individual to enter into the formal criminal justice system. Such feelings and perspectives towards the policing services as a whole serve to reinforce the justifications held for the vigilante behaviours exhibited by police members. This lack of respect for the policing services influences their view towards formal law too, in that they do not respect nor fear the law, and as a result brandish their own form of law, and act as summary judges in the field and at the various stations where suspects are held for questioning.

The lack of resources, or the provision of resources which are inadequate for members to successfully perform their duties, has a massive impact not only on service delivery, but on the alleged incidences of crimes being committed by police members. There are also circumstances

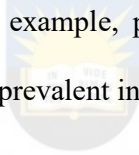
which result in members directly being charged with crimes as a result of poor planning and resource allocation. For example, participant 14 explains such circumstances below

One guy I worked with shot a guy in self-defense, here in the charge office, I had taken my handcuffs off the suspect when I was booking off duty (he was arrested for armed robbery) and I told the guys to handcuff him again and put him in the back room, as we don't have a holding cell here. They left the door open to where I just booked in my firearm, and this suspect went to grab the gun and the member shot him, dead. They charged him for murder. But it was self-defense. He was found not guilty the beginning of the year. But he is a full-blown alcoholic, from the stress (Participant 14, 2018)

The incident above refers to the lack of a designated, safe, holding cell for suspects at one of the SAPS stations in the BCMM policing area. Suspects are kept in a back room, off the charge office, where there is no lock on the gate, and just a chair in the room. This does not constitute (according to members of the station), a safe holding facility for suspects. The incident above was largely attributed to the lack of equipment needed to process the suspect, and the result was the fatal injury of the suspect, and a police member being charged with murder, and subsequently developing an alcohol abuse problem as a result. The general feeling from the members colleagues is that of acceptance of this condition as they do not feel that the member was treated fairly throughout the investigation, and his illness is now not his fault. Similarly, members are willing to forgive the assault, torture and robbery of suspects, when they feel that such suspects deserve what is coming to them. Of importance is the general justification members provide for the ill-treatment of suspects due to a lack of equipment. Members excuse mob justice in times when they are unable to attend to scenes due to a lack of vehicles, or members, available, to assist communities who are in desperate need of help. In these situations, they are powerless to stop the community from enacting their own form of criminal justice and feel that these incidences are therefore not their responsibility. Members advocacy for this form of vigilantism is prevalent in times when they are unable to stop such incidences from occurring, due to a lack of provision of resources to service such communities. For

members, this mob justice provides them with the solution to an epidemic they are not able to control, as the killing of criminals by community members results in less criminals for them to have to police.

The far-reaching consequences of lack of resources in all areas of the policing profession, means that commitment to the profession is questionable, as members become frustrated with their inability to effectively perform their duties. Many members are also not willing to put their lives on the line for a State organ that does not provide them with the necessary equipment to perform their duties, or to protect them. In all instances of the administration of the law, the lives of the members of law enforcement, and members of society in general should be protected, and this will not be possible if police members are not provided with the necessary tools to eradicate and fight crime. For example, participant 30 elucidated to the lack of resources and the element of vigilantism prevalent in the policing services, below

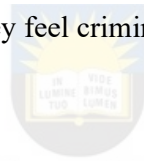


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There was an armed robbery in Amalinda, policeman off duty accidentally came across what happened and chased the guys into the bush, shots were fired at him, so we responded to assist him. You could physically see where the footpath starts and then into the wet grass where they ran. So, my partner and I split up, he went after two and I went after two, the dog followed the spoor. About one kilometer later the two suspects were waiting for me and I was shot there. Now, picture for yourself, you've got your dog with a leash, and your firearm, now how do you see at night? You need a torch. Now you are holding your torch with your leash trying to do that and you got your dog all around and you've got your firearm. You can't let go of your firearm, so what do you do? I killed the one, but I didn't realize that I had killed him. The second suspect got away for about 3/400ms. I got myself to the road, and an off-duty cop heard the shots, came to see if he could help, and got me to where my partner was. My partner used a dog to get the guy that got away. That dog bit that guy for quite a while and I would say it wasn't necessary, but I felt that at that stage, because of what happened to me, that was necessary (Participant 30, 2018)

This incident resulted in him and a fellow member severely assaulting a suspect, and justifying this violent behaviour, as they were not properly equipped to deal with the incident, due to the lack of adequate provision of resources to their team. Incidences of this nature were reported by numerous members. Police members are required to attend to complaints and act in terms

of immobilising suspects without sufficient regard for their safety, in terms of having been supplied with appropriate equipment to manage these situations effectively. The result of this is that many police members are not willing to take call outs or act on tips when they are not sure that their safety will not be compromised. The other effect, such as in the example above, pertains to their frustration at the situation and their inability to act within the bounds of the law. They also use the opportunity to justify taking advantage of their need for retribution towards criminals in the communities in which they operate. This results in unnecessary assaults, such as the excessive use of force of a police dog in order to punish suspects or inflict pain on them. Where members are able to apprehend suspects legally, if they have suffered injury in the process, or have been humiliated somehow, the power they possess in respect of the arrest procedure, and the isolation in which arrests oftentimes happen, allows such members the space to mete out the punishment they feel criminals deserve, in the form of vigilante acts of violence.



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Lack of man power resources was cited repeatedly by participants and key informants throughout this study. Such citations pertained to the lack of suitably skilled and dedicated members, rather than the lack of members as a whole. Similarly, respondents maintained that where equipment and resources are allocated, they are not well cared for, and soon become unusable, as participant 19 stated

I don't think we have a lack of resources, the only reason why we have a lack of resources is that they are not taken care of, they are abused, or stolen, or they are simply not used properly. So generally, the resources are not being maintained and well looked after, it's not that we don't have it (Participant 19, 2018)

The above excerpt points to the continued theme amongst the SAPS of the lack of respect held by members of the profession, not only towards the laws and policies which govern their

behaviour, but also towards the resources they themselves need to use in order to administer their service. Similar to the way in which their vigilante behaviour self-sabotages their ability to eradicate criminals, through the formal criminal justice system, so too does their lack of care and respect for their own equipment, hamper their own ability to administer support services to the communities within which they work. As members are not aware or willing to take responsibility for their role in creating a more difficult policing environment through violence, and through the lack of care shown for their own equipment, blame is shifted to the criminal justice system and the SAPS as a whole, in order to justify their actions. Such sentiments were mirrored by Key Informant 2, who stated

I think it's a misuse of these resources. I know the youngsters always say we don't have vehicles, but if you see what they are doing with the vehicles, or everything, you must see the property my team recovers (I'm talking about bullet-proofs, equipment, police firearms (that are lost), I'm not talking about vehicles (Key Informant 2, 2018)

Whilst there may be circumstances in which the proper, updated materials needed for the provision of their duties may be an issue from the perspective of police members, largely the problems experienced in this regard emanate from a lack of dedication and care for the resources provided to them. Such findings correlate to research conducted by Heyer et al. (2008), which analysed the determinants of police operational resource allocation in New Zealand, and the influencers thereof. The study found that resources are generally allocated to areas wherein crime is elevated, thereby under-resourcing alternative areas as a result.

6.2.3 Lack of psychological support services

The lack of inclusion of psychological support services as a resource which is lacking, was not considered noteworthy by members, but is essential when analysing the rationales for violence

in a profession which is stressful, and involves the threat of danger and physical harm, as well as an above average exposure to scenes of a traumatic nature, such as suicides, motor vehicle accidents, murders, and in some cases the aftermath of rape and child abuse. When considering resources in this context, members were inclined towards equipment and man power, but omitted to include psychological and professional support services as an essential resource which might be lacking. Such a service, however, has a key role to play in the successful deterrence of members towards committing violent crimes. Members who were questioned about the provision of counselling and debriefing services, generally reported having not received psychological counselling or trauma debriefing from the SAPS, following incidences of fatalities or the attendance at gruesome crime scenes. For example, participant 7 explained this as he lamented on an incident which still visibly upset him, and which left him psychologically traumatised



I still remember in 2009, I attended a scene, and it still haunts me today. There was this lesbian lady, she was dating another lady, in the Kwazakele area. The lady reported the day before that she was being attacked, but the person that attended to the complaint did not do a proper follow up. That lady was killed during the night. There are these guys that are totally against this lesbian thing, when I got to the scene the next day it was very bad. She was raped in the park in between two shacks in the location, she was also stabbed and left there. She crawled in between the houses, you could see the blood and fat trail from where she had dragged herself. She must have been sitting against a fence with her legs in the road then, and whilst she was sitting there dying, a taxi drove over her legs. The blood and fat that had come out of her body was all over the floor. The fat was shining in the sun in the morning. She had crawled more with her cut legs and cut stomach and she then died in a garden. But before she died, she had a garden pole inserted into her. Someone had put that in there. I think I was at that scene the whole day, and when I went back to work the only thing I was hoping to get was someone to speak to. Management know they have to organise someone for you to speak to if you have attended something like that, a debriefing or something, but since that day until today there has been nothing. They only sent me home to sit there on my own and think. So, sometimes I feel like management don't understand their role and the kind of work we do, and what we see every day. So, I ended up going to see a private psychologist, and I had to pay for this from my own funds, from my own medical aid, and that's not fair (Participant 7, 2018)

This same participant admitted to having been involved in taking bribes, as well as having been involved in and having witnessed numerous incidences of interrogations with a torture element.

This internal strain and lack of psychological support can, and does, result in the normalisation

of violence and injury for many police members. The level of violence and brutality witnessed on such frequent occasions is likely to create psychological disorders or personality disorders which originate as coping mechanisms, but which are left unattended to, in respect of professional intervention, and then remain as permanent changes to police men and women's personalities, and contribute to the manifestation of violent behaviours towards suspects. As Subramaney, Libhaber, Pitts and Vorster (2012: 176) explain

Similar to other disaster workers, policemen are expected to be at increased risk of acute stress disorder, depression and posttraumatic stress disorder (PTSD). According to Fullerton et al. disaster workers are seeking care for emotional problems at an increased rate...Personality characteristics, including rigidity, increased personal restriction and cynicism, may develop in police officers as a 'survival personality'. Personality styles that are considered particularly vulnerable to the stresses of police work have been defined as: 'somatising, paranoid, histrionic, passive aggressive, and obsessive-compulsive'

The lack of support services provided to police members is an indication that such a resource is very much needed, and that the lack thereof may create an environment in which normalisation of crimes is experienced, or the psychological trauma may be so great that members are unable to control their emotions as a result of previous trauma witnessed and the stress disorders that occur from these incidents. This is further proposed by Key Informant 10, below

I would say that that is a safe assumption to make in that we know of studies being done with people in the military and the difficulties they have in terms of post traumatic stress and the manifestation thereof, definitely yes. More especially if those issues are unresolved. I know that it [counselling services] are available to them, but I've come to understand that it is a very

difficult choice for them to make for various reasons. There is still a stigma attached to counselling, they are very afraid that the information will come out or be added to their file, they would have to take time off work in cases where the services are not offered after hours, and all of those circumstances make it difficult for them to choose to go to counselling, and I think it is a massive pity that it is not more accessible to them, that you still have to work through certain channels. Usually by the time policemen go for counselling it is because of a disciplinary hearing, over and above what has happened, and then you are dealing with complicated trauma that is avoidable. If counselling was easier to access, then I think we could intervene faster (Key Informant 10, 2019)

From the above, it can be stated that the willingness and urgency at which the State, and police men and women, approach the psychological support and internal protection from the daily traumas police members are exposed to, is not sufficient. Where such services are made available, whether as a result of fact or perception, such services are not free from stigma, or internal conflict as to the need for such, and as a result, police men and women avoid seeking counselling.

The situation is further exacerbated when police members use private medical aid funds to seek counselling, as such occurrences add to feelings of resentment and anger towards the services for not providing them with the help they need. For example, Key Informant 9 noted the following

The exception seems to be debriefing members before and after a shift, but generally the feeling is that members should just continue with their shifts as per usual. The support is therefore definitely not adequate. Appropriate resources are not being made available to members when they need them most, and the result is that many cops are having to go to private counsellors and professionals, as the police as a whole do not provide them with the necessary counselling services following the exposure to trauma. There is also a culture that perceives, particularly males, to be weak, if they cannot handle the situations they face. As a result, other officers might want to avoid working with them, therefore isolating vulnerable members even more (Key Informant 9, 2018)

This psychological protection should be regarded as a priority by both the State and individual commanders. Members working in environments with high levels of violence and trauma can be regarded as being prone to learning behaviours, of a violent nature, as being the way to

address and solve issues both within their policing duties, and within their personal lives, as a result, in part, from the lack of psychological support they receive within the profession. Without debriefing services, police members risk internalising the violence they have been exposed to, as a mechanism to solve problems they have, with perceived aggressors. One such example of the readiness to violence and the tragic result of unresolved psychological traumas was detailed by Key Informant 6, who stated the following

I once had to intervene in a case in Port Elizabeth. A station commander was investigating a Constable for being late and for repeat absenteeism and the Constable persisted to be late and absent. So, the Station Commander implemented disciplinary action against him, and obviously the Constable didn't like this so him and two friends came to the station one day, and they held up the officers at the front, took their weapons, and called the Station Commander to the front. The Constable who was being investigated, told the Station Commander to get down on his knees and apologize to him for what he had done and for investigating him. The Station Commander said no because he was just doing his job and then the Constable shot him in the head; executed him in front of the other policemen and tried to shoot the others but they managed to hide and then they fled. After this at that station, they were petrified of doing anything, because they were fearful of each other (Key Informant 6, 2018)

The result of the high stress, extremely violent working environments that many police members are subjected to, with little to no trauma debriefing creates personalities which are prone to violence. Where police members do not become violent as a result of unresolved stress and trauma, other psychosomatic ailments can begin to be exhibited, such as alcoholism and absenteeism. Such conditions cause increased pressure for fellow police men and women or are forced to compensate for the lack of work ethic exhibited by such individuals. Members are required to work more overtime and be increasingly exposed to those pressured environments where violent crimes occur, thereby reinforcing their propensity to internalise such behaviours as their own, as well as exposing such police members to increased levels of trauma.

Where members enact violence on suspects, as a result of unresolved psychological trauma, they victimise colleagues or members in their teams, and therefore subject these members to further violence and trauma. Being a member who is not inclined towards violence but is being forced to witness violent interrogations and torture techniques, places such individuals at risk for their own mental health issues, such as post-traumatic stress disorder, and other psychosomatic conditions. The safe haven of the police station and the police unit is compromised, and members feel trapped in environments of constant violence and trauma. Of all the support services lacking in the SAPS, this was found to be the most important, but yet the most undervalued, by both members and station commanders, included as key informants.

6.2.4 Lack of support from superiors

According to the SAPS Rank Structure (2018), non-commissioned officers comprise of the following ranks: Constable, Sargent, and Warrant Officer. Following this are commissioned officers which range in ranks from Lieutenant, Captain, Major, Lieutenant-Colonel, and Colonel. Of interest was the impact of a perceived lack of support from superiors, in terms of the committing of criminal acts, as well as the propensity of colleagues to report one another, when witnessing criminal acts being committed by fellow members. Lack of support from superiors was listed by 32 (53%) of participants as a cause of strain for members in the SAPS. Support in this context refers to a lack of support and assistance for: administrative queries, equipment, motivation for the recruitment of more members; and motivation for promotions. Respondents not only maintained that supervisors seem unable or unwilling to provide them with support, but many made reference to the laziness and incompetence of their supervisors. For example, participant 8 stated the following pertaining to his supervisor

They've got people in positions that have no clue what they are doing. If you take a problem to them, they will ask you what the solution is. They can't make decisions. If they make a decision, they backtrack on the decision (Participant 8, 2018)

The reference to superiors as being incompetent or as laying the responsibility for decision-making in the hands of members, highlights the lack of respect members have towards management and superiors in the SAPS. Where members feel that they are in a position to decide the fate of suspects, they already consider guilty, they will be less likely to bother processing such individuals through the criminal justice system, as they believe the system to be flawed, and their brand of crime control to be effective (although there was and is no proof of the impact of torture and assault as a method to reduce recidivism rates). Participant 8 was not the only respondent to express a perceived lack of respect and admiration for their supervisor. Participants expressed extreme frustration at the self-involved management styles adopted by many individuals in management roles. A general feeling of 'looking out for oneself' was the pervasive perception towards supervisors, and feelings of isolation and having to fend for oneself in both the field and in the daily administration of duties was clear, as participant 25 explained

Unfortunately, the good ones [supervisors] and the ones that knew how to police, have all left, whether by choice or pension. My immediate superiors have gotten to the stage where they are looking for their next promotion, so they try and make everyone happy, which doesn't work in my organization. You are going to make bad friends, because we are working under extreme conditions that most people don't dream of. Most people see one robbery in their life from a distance and it affects them for the rest of their life; we see it on a daily basis (Participant 25, 2018)

Of interest in the above excerpt is the lack of congruence between the statements made by the participant, and the behaviour exhibited by such an individual. The notion that superiors are self-interested, whilst police members aren't, highlights the disconnect between the perceived motivations for violent and economic crimes, and the actual motivations inherent in such behaviour. Since police members do not respect, trust or believe in the formal criminal justice

system they are employed to protect, it is plausible that superiors of such individuals or units, would act in a similar manner.

Lack of consistent discipline was noted as factor which contributes to feelings of anger, resentment and lack of respect towards superiors. Members felt that not only do they not have the support of their superiors, but in some instances, superiors seem to exercise favouritism in practice and discipline, as participant 21 stated

You can do thirty good things, and you will not get a thank you or a bit of motivation, nothing. You do one bad thing, you get phoned on your days off to rectify. It happened now last night I didn't sign a form and I get queried, but last week I recovered two stolen cars and arrested three suspects all on my own and I don't get a thank you or nothing (Participant 21, 2018)

A strong feature of the above excerpt is the lack of management of the esteem needs of police members. When police men and women are able to provide a form of justice to the communities they serve, they are rewarded with recognition. In an environment where promotions occur sporadically and only after a waiting period of ten plus years, where resources are not sufficiently allocated so that members can attend to queries timeously and safely, and where little to no psychological support is provided, violent and economic crimes can fill the spaces where such recognition and fulfilment is not maintained. Such circumstances are compounded by their exposure to environments wherein behaviours are exhibited as being favourable to nonchalance, lack of interest and lack of accountability, which produces in police members the same feelings, and where there is a lack of firm leadership to not only monitor the psychological readiness of members to execute their duties in the field, as well as make provision for their needs, such members are likely to exhibit rogue crime prevention management tools, or in opposite cases, apathy to towards the profession, or the struggles of the communities within which they police.

6.2.5 Poor leadership and role models

The role of poor leadership and poor role modelling can be regarded as a social learning motivator/contributor to the prevalence of violent and economic crimes amongst police members. South Africa's police commissioner oversees the policing profession, as a most senior ranking officer. In recent years the country has been burdened by police commissioners who have themselves been charged with crimes and have been replaced many times. The impact of this is that some foot soldiers and new recruits may develop a skewed perception regarding the role of the profession in terms of delivering on its mandate to protect and serve, as well as increases in reduced commitment. New and old members alike are continuously exposed to crime in their communities, as well as in their management structures. The poor manner in which such corrupt officers of the SAPS are disciplined or charged, acts as an example to lower ranking members of the inefficacy of the SAPS to remain a pillar of the law, as well as the justice system to remain objective and charge any citizen for crimes committed, regardless of position. Of this, Key Informant 9, explained the following:

Senior officials from National, Provincial and Station levels are criminals themselves, are involved in criminal enterprises, and are concerned primarily with keeping themselves in their own positions and covering up their own crimes. They don't care to investigate Constables for coming to work late, for assaulting suspects, or for being drunk on duty. There is no accountability at a senior level, and the result is that junior ranks view this lack of discipline as being normal, and realise that there is minimal accountability, so they know they can pretty much do whatever they want. Until the upper echelons of the police services are held accountable for their actions, there will continue to be criminality in the lower ranks of the police services too. There are still far too many senior officials who are being paid for positions they do not fulfil properly and continue to take millions of Rands of the public's money, and until this is resolved, the entire police force will continue to be compromised, and the issue of corruption and violence in the police will not improve. What is happening at a grassroots level is just a symptom of the problem (Key Informant 9, 2018)

The hampered state of the South African Police Services executive and senior management branches affects members everyday activities. Members reported having little to no faith or

respect for their immediate supervisors, and their executive managers even more so. The impact of poor leadership and poor discipline therein, results in reduced faith and respect for the criminal justice system as a whole, and increased likelihood of violent and economic crimes, which are either self-servicing or remedial in nature. For example, participant 49 stated

We never have a national commissioner for long, they are either being suspended or dismissed. The old adage, a new broom sweeps clean, so they come in, and at that level there is politics between them so “I only work with these Generals and not those Generals”, so then those Generals get pushed into places where they don’t want to be and this affects us (Participant 49, 2018)

The discontent, corruption and lack of accountability or disciplinary consequences for wrongdoings filter down to grassroots levels where some members perceive that the profession is rife with criminality and begin to internalise behaviours congruent with those witnessed from other senior officers (either directly or as a result of the suspension or prosecution process). Members will be privy to information regarding the corrupt activities executive members are involved in and this will create an environment of not only disrespect towards senior police members (and the profession as a whole), but also acts as a social learning mechanism by which members learn that the higher you rise in the ranks of the police, the more likely you are to become involved in crime, and that this is acceptable. In respect of incidences of criminality by senior police officers, participant 1 noted the following:

I know of a police officer. She committed theft, she was involved with corruption, she was involved with armed robberies, theft of firearms from a unit where she was commander. Her house and furniture were bought with money from corruption (Participant 1, 2018)

Commanders and senior members being involved in crime has an impact on the perception of the efficacy and role of the police services in South Africa in general, from the perspective of police members involved in the daily fight against crime. Dedication wanes and members begin to regard the profession as an entity that is a law unto itself, wherein they can behave in any

way they see fit. It should be the focus of any state entity to ensure that employees are invested in their roles and in the vision and mission of the entity as a whole. Lowered levels of dedication create environments of doubt in members and units as to the purpose of their positions, and the result leads to increased levels of violent and economic crimes. Police members feel that they are alone in their struggles to maintain law and order, as senior members in their own organisation have not prioritised such actions, so why should they. They then enter communities wherein violence and opportunities for corruption are rampant and begin to assimilate such behaviour into their daily operations, as such behaviours have become normalised within the profession. The role of discipline and the legitimisation of authority from within the SAPS is further discussed in chapter seven.

6.2.6 Comradery



Individuals in the criminal justice sector are in constant contact with one another, and therefore form bonds which can serve to hinder the administration of justice when a member of the criminal justice system is accused of a crime, or bond individuals who believe in the tenets of the policing profession further. Comradery here refers to the bonds which form between members of units or departments in the policing profession. MacCoun and Hix (2010: 144) note the following in terms of social cohesion and the influence of such on the ability of a soldier to effectively execute the duties required of him in battle

When the individual's immediate group, and its supporting formations, met his basic organic needs, offered him affection and esteem from both officers and comrades, supplied him with a sense of power and adequately regulated his relations with authority, the element of self-concern in battle, which would lead to disruption of the effective functioning of his primary group, was minimized

In respect of this, the ability of police members to face the perils of crime management in South Africa, is postulated to be reduced, where such members have close relationships with their immediate partners or colleagues. Comradery therefore acts as both a motivator to the commission of crimes by members, and a deterrent.

Of the members who admitted to having witnessed fellow members committing crimes, only two members admitted to actually reporting these incidences for further investigation. One reason stated was comradery, or the feeling that members of a team would be betraying one another for reporting such. For example, participant 37, noted the following

It's one of the most difficult things, because you work with these guys and build relationships and it's not easy to do that. I don't think it will feel right, especially if you have been working with them for a long time, building a relationship and trust (Participant 37, 2018)

The contradiction between what police members believe they would do, versus what they actually do when in such scenarios in reality reveals the lack of congruence amongst members towards the severity of crime. Some members work together in teams for decades and build strong relationships and bonds with one another. These relationships become more important when the future economic and professional prospects of members become jeopardized by the reporting of crimes committed. Members stated being scared of being ousted from their team or labelled as a 'rat', they fear being left in the team with members they have reported for disciplinary or criminal infractions, and therefore placing their own safety in jeopardy, and they fear reporting colleagues with no guarantee of disciplinary action. Given that members work in environments of financial strain, with little support from superiors, a defective criminal justice system, in communities with high rates of crime and violence, it comes as no surprise that members are not willing to risk the already fragile working environments and conditions

they exist in, to report a colleague, and face the backlash of such, with no assurances that such a report will yield an outcome in respect of discipline or prosecution.

The primary reason provided by police members to not report one another, is that they would feel that they are responsible for the disciplinary or legal action which would follow such a report, and many of them are not psychologically or physically prepared to shoulder such a burden, with such guilt attached, as participant 22 explained

It's not an easy thing to do, the person has a family, but you can try to talk to them, but if they continuously do that thing then you have to report it because at the end of the day it will come back to you because you are working with them. The person has a family so it's not easy to get a job in South Africa, but you must talk to the person and then it depends on them (Participant 22, 2018)

Many police members are required to enter into oftentimes dangerous communities with little assurances that they will be safe whilst in such environments. For these police members it is easier to have someone working on their side fighting crime, than working against them in an environment of mistrust and suspicion. For these police members the reward is not calculated as being sufficient when compared to the risk they face for reporting a colleague. For example, participant 29 stated the following in respect of the reporting of a colleague

It doesn't help you to report a colleague because nothing gets done. It's not that I wouldn't do it. I've reported people before but then I've turned out to be the bad apple. Nobody wants to work with you. They make up stories behind your back. You hope that the person gets seen by the cameras and that something gets done. Sometimes the guys just get away with things and you can't go act against them. Lots of guys will tell you, when you are at home sleeping at your house, what's going to happen to you. They throw a stun grenade into your yard, it goes off and breaks a window by your house and your daughter is at the receiving end of it. What now? Everyone will say nobody knows who did what (Participant 29, 2018)

For many policemen the impact of reporting colleagues for disciplinary or criminal incidences comes with repercussions. This fear of repercussions acts as a driver to reduce reporting

amongst police members. The stress that comes with the extreme working conditions of policing, act as not only a bonding mechanism between members, but a warning too. Members witness other members perpetuating violence towards suspects who are not personally known to them, and who pose no direct threat to their livelihoods or professions, and this serves as a deterrent for members to report one another. Of this, participant 2 expressed the following

It's difficult because, you're working in dangerous situations, your life depends on each other, so for you to destroy someone's life it's not an easy decision or very pleasant at all, and it could have repercussions for you. It's difficult because you know this guy is doing it because he is struggling. I don't know how to go about trying to assist him, because some of these people, if you want to confront them or talk about it, it's not going to turn out well (Participant 2, 2018)

A common reference was made to the destroying of members lives over the reporting of criminal behaviours. Such a view further reinforces the strong trend amongst police members for not wanting to take responsibility and accountability for their own actions, a long with the tacit approval therefore, towards such behaviours. Where police members do not report the indiscretions of their fellow members, such members commit crimes themselves, and should be viewed as a large part of the consistent problem experienced when addressing issues of police criminality. Fear for personal safety and fear of being alone as a member in a team were found to be strong contributing factors to police members lessor levels of reporting of other members. Members feel that evidence (which members are essentially in control of), and due legal procedures (which are hampered and oftentimes ineffective) should determine the guilt or innocence of police members. The result is that many police members feel apathetic towards the crimes of their colleagues and rationalize that talking to their colleagues is enough of an intervention to satisfy their own morality. Such findings correlate to those from a study conducted by Rajakuruna et al. (2015) who found that police officers are more willing and likely to report one another when such a report can be confidential and anonymous, as such an avenue protects them from repercussions within the teams or units they patrol or work with.

6.2.7 Limited community cooperation and support

Policing services are required to operate in urban and rural, formal and informal areas in the BCMM district. Informal settlements historically and generally experience higher levels of violent crimes, due to the impoverished socioeconomic status of such areas. Members noted, when explaining decreased levels of support and increased levels of vigilantism, that such is experienced more in informal communities, as a result of weakened service delivery in preventing crimes, and the poor efficacy of the criminal justice system in these communities. The impact of communities not cooperating with, and in particular not supporting, the SAPS results in increased levels of anger and lawlessness in such communities, which results in further lack of cooperation with police members. Such findings are congruent with those postulated by Meares (2017), who found that communities are more likely to cooperate with the police where the police exhibit behaviours which maintain procedural fairness, and thereby reinforce their legitimised authority. Participants felt that by and large community members (from both rural and urban, informal and formal communities) do not support them in the execution or administration of their duties, and generally do not respect the police either, where 40 (67%) respondents maintained that they do not feel that they have the support of the community. For many police members these communities' negative perceptions towards them are not as result of their personal lack of service delivery or criminality but is rather a consequence of factors such as the criminal justice system, and media reports on incidences of criminality by police members, which then tarnish all police members reputations. The result of the community not cooperating with the police or assisting them in the administration of their duties is that justice is hampered. Policing services are put under pressure to make arrests, but these arrests are oftentimes perpetrated without due course and without substantive

evidence, but rather as a mechanism to appease volatile communities, and protect community members, as well as suspects.

The situation involving communities and the police is complicated further by the expectation's community members convey towards police members. Members reported that communities expect policing services to enforce an element of physicality and when this does not happen, they perceive the policing services to be ineffective and too protective of suspects (or criminals, to community members). For example, participant 37 explained as follows

People think the police are getting soft. In the old days' police were respected, now they don't respect us anymore. So, people see us as weak, because in doing our duties we can't use force, we have to try talk to the people, and it's difficult, especially with cameras on phones etc. (Participant 37, 2018)

Of interest in the above excerpt is the reference to the role social media and technology have on the ability of police members to enact any kind of physicality towards suspects whilst present in communities. The assaults and torture alluded to during the course of interview primarily took place at police stations in the BCMM area. The rationale for this can be closely linked to the above, whereby police stations are treated as places where violence can be exacted without witnesses, and without the community being aware that such acts have occurred. The problem arising from the secretive nature of this vigilantism, is that communities who seek retribution through violence, are not able to satiate their needs as criminals are handled out of the public eye. Such communities then feel that police members are too soft on suspects, and the lack of cooperation by communities is further exacerbated. The issue therefore is not that the violence is occurring, but rather that the violence occurs outside of the view of communities. Police members therefore have to rely on one another to fulfil the esteem needs

perpetuated by such violence, and this serves to further isolate the profession from the communities within which they operate.

Police members are in fact both passive and active advocates of vigilantism. Police members enact their own style of vigilantism in many instances when dealing with suspects and are therefore less likely to intervene in cases of community or mob justice. Where police do intervene and remove suspects from violent communities, there is usually police instituted vigilantism which occurs at policing stations. This way the police are able to control a) the level of violence inflicted on suspects, b) the amount of information relating to this violence that becomes public knowledge, and c) the amount of information pertaining to the alleged crime committed by the suspect, in order to then intervene to solve the crime, and receive credit for the maintenance of the law, both internally with their station commanders, and externally with the community, as crimes can be solved following interrogations with a violent element. Police members expressed strong tendencies towards the pursuit of justice through violence, and many cited that appeasing the community, and assisting them through this method of policing makes them feel proud and happy, as they have served their communities, which to many members is of higher importance than serving the law.

Police members admitted to having administered or witnessed violence (by other police members) generally in the form of torture or assault. These behaviours have an element of duty in which police officers are able to serve their communities through the administration of violence to obtain justice. For example, participant 38 provided an overview of an assault committed in a rage, but which he felt upon reflection was justified as righting a wrong, not only for the victim but for the community, as seen below

There was once a case where a rape took place of a small child, and I was the first responder on the scene and when I saw the state in which the child was (we get told in our training not to get personally involved in our work, to try block it out mentally), it got to me because I thought of my daughter who was the same age at the time, what if this guy did this to my daughter, and I lost it. I hammered the guy, I knocked him lights out. Only afterwards, it came back to me that I'm starting to pick up on a trend, wondering if everything I've witnessed has rubbed off on me or was it just out of anger. For a week or two it was very confusing, but I arrested the guy and he got convicted for raping this little girl, it was very sad. I got very emotional about it. For a week or two it was sitting in my mind, was it the right thing I did, am I justifying it consciously inside that I did it because I was angry, am I convincing myself I was angry because it's just one of those things that used to happen that rubbed off on me. It had to be a choice where I had to take control, tell myself I'm a police officer, and yes, my job is strenuous. It was a crime, but it was also a social thing that happened in the community and I felt that I did what was right by letting that man get what he deserved, and by letting the community know that I achieved justice for them, even if I crossed the line (Participant 38, 2018)

As can be seen from the above excerpt police members feel that the use of violence is a justifiable means to an end – the administration of justice. It is also used as a mechanism to appease volatile and crime ridden communities, who are plagued with violence from various criminal elements. Where police men and women enact violence towards suspects in front of communities, such violence can serve to increase the bond between such communities and the police services which operate therein. The pervasive theme then remains, that the more violence is enacted on suspects, the more justice has been achieved. The high rates of violence in the country in general, and in impoverished communities in particular, contribute to increased levels of violence amongst police members, according to Key Informant 9

We are living in a violent country, police members are therefore exposed to a lot of violence and come into contact with a lot of violence. There is a definite sense in the country that we use violence as a way of dealing with problems, many men believe its ok to hit their wives or girlfriends, and as they are exposed to intimate forms of violence so often, they are getting to a point where they believe they have to be more violent than the criminals. It's becoming part of our culture as South Africans, and particularly in police practice (Key Informant 9, 2018)

The issue of police violence occurring in already violent communities is compounded by the lack of willingness of the community, and in some cases, police members themselves, to allow the criminal justice system to run its course, and the criminal justice system to intervene in known incidences of police interrogation, torture and assault. An interview conducted with Key

Informant 8 (2018) revealed that a representative of the justice system is not only aware of incidences of this nature but is uninterested in intervening in such occurrences. When questioned about the incidences of violence and torture administered towards suspects, the Key Informant stated “yes, we know about these things but what can you do?” (2018). The response obtained from a representative of the courts indicates that issues of violence towards suspects, are known by the justice system, and are in fact advocated for, through her failure to act.

6.2.8 Social learning: From theory to practice

Social learning theory posits that the learning process happens via observation, imitation and modelling. Police members are exposed to many definitions of acceptable and unacceptable behaviours during the provision of their duties. The constant observation of these behaviours leads to a learning that can either influence members towards positive or negative behaviour. The hampered executive structure of the SAPS and the criminal activities and corruption that take place at this level of operation cause members who are on the ground to internalise these behaviours, and this approach to policing as a profession, as normal. Similarly, executive branches of the SAPS observe in the form of reports, and in the constant interaction between themselves and the NPA and IPID, the high rates of crime and corruption occurring within the lower ranks of the SAPS. This coupled with the general attitude in South Africa that corruption is to be expected, and the high level at which these individuals operate, reinforces the lack of consideration for the laws which all SAPS members and officers are tasked with enforcing. The social learning that occurs between executive and lower level branches of the SAPS, creates an environment of minimal accountability and general levels of acceptance towards economic crimes. As more cases are opened against police members, so the awareness of the prevalence of the issue is brought to light. The publicization of incidences of corruption

amongst members, serves to reinforce the pervasive attitude amongst members, that such behaviour is acceptable in the SAPS, as members rationalise the variety of reasons for which they are entitled to additional financial incentives.

Vigilantism has been explored as a reason for police members to commit or become involved in crimes. The role of vigilantism by community members has also been explored in terms of the impact of such on police members morale, as well as exposure to violence. The interrelatedness of these two aspects of crime prevention or management is reciprocal in nature, with an emphasis being on the police members susceptibility to influence by the communities in which they operate. Whilst exposure to violence and criminality is an issue which does affect police members, the manifestation of this occurs not only in a negative and psychologically damaging way but is rather exhibited by police members as a learnt behaviour, due to the constant definitions which support this approach to the management of crime, and the ensuring of justice through violence. This is consistent with a social learning approach to the explanation of behaviour. The occurrences of violent crimes in informal or impoverished areas, serve to victimise individuals who are already victims of their circumstances, and creates anger and frustration amongst groups of individuals, who band together in times of stress or threat, to form a community. For example, participant 31 stated the following regarding the use of his dog as a weapon to exercise vigilante style behaviour towards a suspect

I've been hard on suspects, with my dog. One night myself and a warrant officer saw three people moving in the dark, it was two guys and a lady. As we drove past them slowly, I could see the lady signalled to us with her hands. I said to the warrant, something is wrong here. As soon as the police vehicle stopped, they ran. She approached me and told me they raped her several times through the night. We chased the guys and we managed to get one, the other got away. While we were patrolling, I said to warrant, there's the guy and I saw him run into the bush. I took my dog and went to search the bush and I put my dog on him. So, I would say I did cross the line (Participant 31, 2018)

Police members are susceptible to the same angers and frustrations, and many police members live in the communities in which they police. These members are therefore not just police members, but are members of their communities, and share in the frustrations felt by the community. Police members therefore are subject to pressures in respect of their working and living circumstances. However, being in a position of power, members are tasked by the community to assist them to solve these social ills, or be branded as an outsider, who has no true commitment to the communities in which they operate.

Where police members witness the vigilantism perpetrated by community members, with minimal or non-existent outcomes for individuals involved in meting out violent punishments on suspects, they learn that this is both an acceptable and effective approach to the management of crime. Members, however, have the advantage of the ability to hide or disguise their vigilantism behind the walls of the stations in which they operate, or behind their badges or positions as police members in the field, when apprehending suspects. Similar to the inability of the justice system to apprehend and prosecute an entire community for violence, so too is the justice system unable to prosecute members for crimes they are not made aware of or are misled about the nature of. Community members in turn learn from police members, that violence is an acceptable way of managing crime in their communities, and the cycle continues to be perpetuated. The social learning is therefore reciprocal as both groups of individuals learn from one another and establish their own rationales and reasons for continuing to perpetuate this violence.

Police members expressed that being able to solve crimes through the use of violence, affords them a sense of pride, for solving a wrong in communities where residents are vulnerable and desperate to solve crime. This is seen in the below excerpt provided by participant 13

People know me as helpful to the public...In my opinion they deserved it. I was in and out of court because of assault charges...Suspects will never tell the truth unless they get a hiding.

The participant went on to lament on an incident in which the use of vigilantism torture techniques and led to the recovery of stolen property, and how the owner of such property had been grateful for the polices assistance. This emotive element to the use of violence as being inherently positive, creates an environment whereby police are expected to rid communities of crime. When members do not fulfil their obligations to communities by adequately physically damaging suspects, communities lose faith in the police, guilt the police, and blame the police for crime in their communities. Police members are therefore caught between trying to appease communities, or maintain their legitimacy as custodians of the law, with either approach not resulting in all parties being satisfied. Members are left feeling guilty if criminals are released back into communities, and angry and frustrated that these crimes occur in the first place. These emotions are then channelled into violence aimed at suspects, in order to satisfy the various needs of members, in relation to their profession and their communities. For these members the process of going back into impoverished areas having solved crimes using the only justice they know, is not wrong or unacceptable, but is rather a true representation of their calling as police members – they serve their communities the only way they know how, and to them this brings them more reward, than any feeling of shame or fear of repercussions could.

South African society can therefore be said to be constantly grooming police members to answer violence with violence, to not back down and be weak, and to treat criminals as they treat others. Criminals are not seen to be deserving of the same rights as citizens of the country, and the police serve to reinforce this perspective in the ways they treat them. Through the internalisation of the vigilantism they witness, and the associated treatment of any individual who seeks to relegate on the status quo, police legitimise violence towards suspects. This eye

for an eye attitude results in continued incidences of unchecked violence, which are further advocated for by the criminal justice system itself, as when incidences of this nature are known to representatives of the system, they are treated with nonchalance and in some cases, tacit approval. Police members entrench their value and identity in the abhorrence of crimes, but not when committed by them, in the name of justice or retribution, as this violence serves a purpose, unlike the violence perpetuated by criminals or suspects. Retribution, masquerades as crime prevention or management, amongst police members, who feel the pressure of satisfying the communities in which they operate and, in some cases, live. This retribution through violence and corruption satisfies police members, as they are able to face these same conditions on a daily basis, knowing that they will have the relative freedom in the safety of their station, amongst members who share similar sentiments to them, to mete out their own form of justice. They are then able to return criminals to communities with the assurance that such an individual has been 'dealt with' and are then able to enjoy the approval of the community, as well as satisfy their own need for fulfilment in their profession, regardless of what measures are to be taken to achieve this feeling. Community members view towards violence and corruption is further entrenched through these practices, as the custodians of the law become more and more comfortable and open about their need/desire to break the law in order to maintain it.

The criminal justice system, of which police members are a part of, creates an environment of learning, where the learning which takes place is inherently negative and crime oriented. For example, participant 34 asserted

You get a police officer that has a glimpse into an understanding of the law and the loop holes he or she can use; he thinks if he does what the criminals are doing, he might also get away with it. So yes, the criminal justice system is encouraging the police to want to commit crimes (Participant 34, 2018)

Through the interaction between police members, suspects, and the criminal justice system, a social learning takes place relating to crime. Police members who view criminals being released the same day as arrested, learn that the justice system is weak, and the procedures put in place are not a deterrent for criminals. Police members infer that they can continue to risk their lives by apprehending and detaining suspects according to the designated procedures espoused in law, or they can administer their own form of justice in order to prevent such criminals from repeating such behaviours. Police members also learn the techniques needed to avoid prosecution themselves. They are privy to law of evidences and to criminal procedures and have access to almost every element of the justice system, including prosecutors.

The justice system partly contributes towards criminality through the sending of the message that crime and criminal behaviour will not be punished, and that violence is therefore an acceptable way to deal with members of society. Where the use of violence or crime is not punished effectively by the justice system, the onus to adhere to the rule of law falls on each individual member. In a profession where crime and violence are everyday occurrences, where salaries are admittedly insufficient, where there are reduced levels of support from superiors, where senior and executive members are charged with crimes themselves, it is surprising that a justice system would leave the discretion of adherence to the law as a duty of police officers, with little to no remedial action when members of this system break these laws. Intimate relationships are formed not only between police members themselves, but also between members, prosecutors and members of the correctional services. These relationships can either serve the system or act as a barrier to justice, and further encourage criminality amongst police members.

6.3 Conclusion

From the above, it is clear that there are not only social and economic reasons for the commission of crimes, but that the entire policing system as a whole, and the way it is operationalised in South Africa is infiltrated by criminals. Police members feel that they are undervalued, and that their lives are not worth the remuneration they receive as they face the dangers of an increasingly dangerous society every day. Promotions can take in excess of 18 years, and in many cases, members do not end up being promoted. Support services and resource allocation was found to be a serious issue in the police services which results in many members being forced into dangerous situations without appropriate equipment or defence. Support in the form of trauma debriefing is scarcely provided to members, and where this is, members face the backlash of being labelled as weak or unable to cope with the pressures of the position. These opinions serve to isolate already psychologically damaged police members, and as such vulnerable, armed individuals are forced to face dangerous and highly stressed working conditions every day, with very little peer or supervisory support. The levels of violence experienced in the daily lives of South Africans, together with a fragmented criminal justice system leads many communities to acts of vigilantism. These acts are glorified and adopted by police members as a form of social learning, in their treatment of suspects, and their use of force to obtain information. The need to protect members as a kind of brotherhood (comradery) leads many members to avoid reporting the corrupt or violent behaviours of their fellow members, and the cycle of violence and corruption continues unaddressed.

CHAPTER SEVEN

DISCIPLINING POLICE ROGUES AND CRIMINALS

7.1 Introduction

This chapter addresses the third research question in this study, which is, to what extent are the South African Police Services' (SAPS) internal disciplinary measures and policies effective mechanisms for deterring police criminality? The primary rationale for an investigation of this nature was to assess whether internal disciplinary policies as well as those laws governing the policing profession, are effective mechanisms for deterring police members from committing crimes. This chapter begins by presenting levels of knowledge police men and women have regarding the laws and policies which govern their daily policing behaviours and interactions with the public. Incidences of suspensions, dismissals, arrests and convictions, as either having been witnessed, or instituted as legal action against participants themselves are also explored. It was found that disciplinary measures lack legitimacy and do not act as deterrents for criminal behaviour, for a number of reasons, chief among them is that the organisations in place to monitor and enforce disciplinary measures, namely the SAPS and IPID, are fragmented, inconsistent in their application of disciplinary measures, and in many cases, ineffective in terms of delivering on their mandates. Power and powerlessness play a role in advocating for the vigilantism internalised and practiced by police members, which legitimises violence as an unofficial crime prevention and management strategy; whilst comradery and the fear of repercussions of reporting ones colleagues, hamper investigations and reporting, where crimes are witnessed by police members.

7.2 Knowledge of legislation and policies

The South African Police Services are governed by a number of laws and policies. Similar to most employment environments in South Africa, the South African Police Services are governed by both the Labour Relations Act, No. 66 of 1995, as well as the South African Police Services Act, No. 68 of 1995. The Labour Relations Act stipulates the working conditions of police members in respect of industrial action, whilst the SAPS Act stipulates, with an aim to be generalisable, the conditions which shall follow the suspension or dismissal of a member. The standing orders which govern the daily duties of the SAPS are a more detailed resource for the designated accepted behaviours of police members. It is important to assess whether members are cognitive of the various laws which govern their behaviour, and the importance they place on this knowledge, in order to ascertain whether they believe they are transgressing the formal rules and legislative boundaries of the profession.

Of the 60 participants interviewed in this study, 44 (73%) stated knowing the internal policies and laws, whilst the other 16 (27%) stated only knowing some of the internal policies and laws. The impact of the lack of knowledge pertaining to the disciplinary procedures that govern the profession, is both a diminished ability to be held accountable, as well as diminished interest in the daily duties which need to be executed by them, as members. In respect of knowledge surrounding legislative aspects of the policing profession, participant 25 explained

I used to [know the policies and laws], but I lost interest in it. It became heart-breaking, because we used to try do everything to 200%, and then when the State started to forget about you, you did the same thing, it became a job. So, the legislation, I have it available, but I don't go through it anymore, I just concentrate on what I have to do, and do it to the best of my ability (Participant 25, 2018)

Keeping abreast with legislative amendments not only allows for police members to be better able to execute their duties, it is also vital for their interactions with the public, whether in the process of effecting arrests, or in dialogue with community members who may be unhappy about the outcome of an arrest or charge. If members aren't able to carry out the correct procedures when administering their duties, they also risk jeopardizing the cases in which they are involved. As can be seen in the above excerpt a lack of interest in amendments to laws governing their daily duties, impacts service delivery, and emanates from a perceived lack of interest on the part of the SAPS in the welfare of police members. This approach to policing is problematic, as this can lead to self-sabotaging behaviours, wherein members make mistakes due to lack of current or relevant information, and thereby reinforce the inefficiency in the justice system they complain hampers their ability to administer their policing function.

Internal policies in the SAPS are regarded as being primarily regulated by standing orders which traverse stations and provinces and are blanket in their approach to the presentation and interactions of members with the public, with one another, and with the justice system. These internal policies aim to provide uniformity in these approaches, as well as to allow for internal disciplinary sanctions where members have shown insubordination, disrespect to the public or the profession, as well as to regulate the disciplinary process, to ensure consistency in approach. Per the Labour Relations Act, No. 66 of 1995, where members are not aware of the internal disciplinary policies, the onus will be on the SAPS to prove that the member was not aware of the policies, and that they can therefore not be held accountable for their indiscretions, unless such indiscretions are of a criminal nature. This study found that this information is not always disseminated timeously though. For example, participant 38 stated the following in respect of knowledge regarding internal disciplinary policies

No one has actually come forward and sat us down and explained to us how the internal disciplinary policies work. We get a slap in the face when the paper gets thrown in front of you that you have to go for a hearing and get told to bring your representative (Participant 38, 2018)

Of concern with reference to the above excerpt is the lack of willingness of the member to take responsibility for equipping himself with the necessary information needed to administer his function. It should generally be regarded as a responsibility of police members themselves to familiarise themselves with these policies, as they are custodians of the law. Attempting to assert that they have never been explicitly told the ways in which to behave in every sphere of their position is both unacceptable and irresponsible of these members. Lack of explicit knowledge of the law is not grounds to excuse criminal behaviour, and the same can be asserted for police members. Where police members are not aware of the laws for which they are employed to uphold and enforce, such individuals pose a risk to the reputation of the criminal justice system, and the integrity of the laws of South Africa.



7.3 Disciplinary action against police members

The rationale for including an area of investigation with an aim to explore the incidences of disciplinary action, either as witness to such action, or as recipients of disciplinary measures, was to assess the prevalence and nature of the disciplinary action for which members were either suspended, dismissed, arrested or convicted for, as well as to gauge the approach taken by the SAPS, IPID and the NPA in respect of transgressions of either a disciplinary or criminal nature. Whilst there might be an overlap between these categories, for certain categories of crimes or unauthorised behaviour (depending on the individual circumstances of each incident), the distinction allowed for generalisations to be made regarding disciplinary sanctions, based on the information gathered from police members. In respect of the procedural elements of the disciplinary process, Key Informant 1 stated the following

If it's been exposed, the first thing we do is report it, and we have to interview the member that committed the corruption or misconduct. Once it's determined to have taken place, whether he admits it or not is the deciding factor for the next step in the process. If he admits having done that, there is a disciplinary process that is followed. It starts off with a verbal warning, written warning and a final written warning. But in the case of corruption, which is regarded as a serious offence, we refer that to our provincial office, where they appoint a trial officer. At times, they can even suspend the member in the meantime, without salary, pending the outcome of the disciplinary hearing, because of the severity of corruption (Key Informant 1, 2018)

As alluded to by the key informant, some charges are treated more seriously than others, where evidence in this respect is present. Of concern though is the reference to corruption provided above as a serious offence. Whilst such a crime is serious, such a crime is economic in nature, and can be regarded as a crime which purports to shed a bad light on the SAPS. There was no mention by this key informant of the procedures which should be followed pending an investigation of assault or torture. The categorisation of economic crimes can therefore be regarded by this key informant as being more serious in nature than violent crimes, due to the omission of such when discussing disciplinary sanctions. For the purposes of this analysis, incidences of suspensions, dismissals, arrests and convictions, as reported by participants, have been separated in order to differentiate the commonality of occurrences of each type of disciplinary measure, to the corresponding offense committed. This distinction allows not only for an analysis of the prevalence of incidences but provides an overview of expected disciplinary outcomes for crimes and infractions of various natures.

Suspensions refer to reports from participants where there have been known incidences of members being suspended from duty, with or without pay. Section 43 (1-4) of the South African Police Services Act, No. 68 of 1995, refers to very specific grounds for suspension from the service, as follows

(1) Subject to section 36 [discharge on account of sentence imposed], a member who is in detention or is serving a term of imprisonment shall be deemed suspended from the

Service for the period during which he or she is so detained or is serving such a term of imprisonment

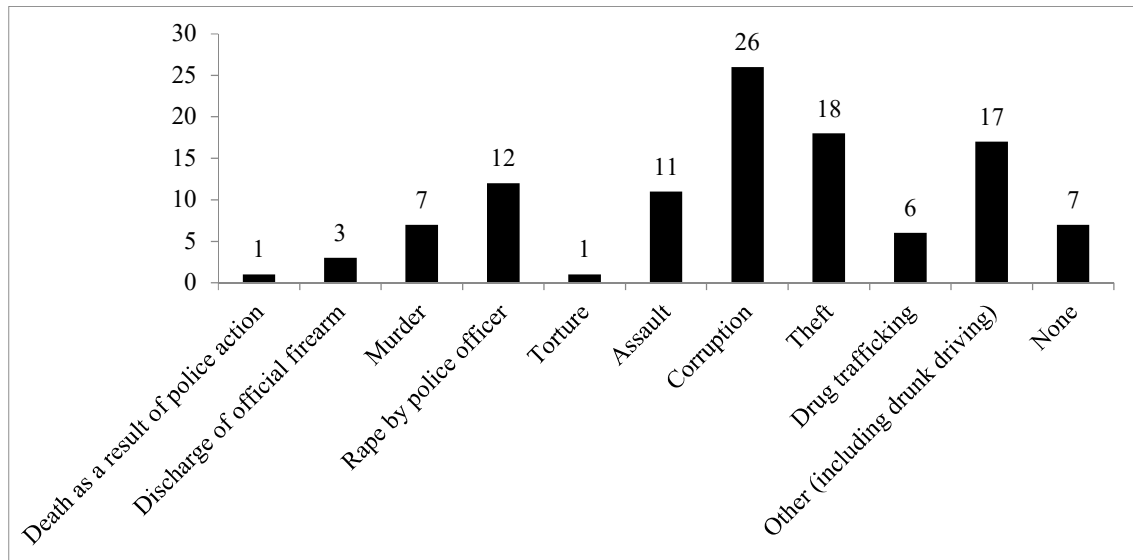
Whilst there are a variety of infractions members can be suspended for, legislation governs the basis for suspensions where crimes in particular have been committed. The SAPS Disciplinary regulations further inform the process for the suspension and dismissal of SAPS members, as a sub regulation of the SAPS Act. Such grounds for suspension are congruent with those maintained by The Annapolis Police Department (2017: 1-2) in the United States, who state the following grounds for suspension

Commanding officers and supervisors shall suspend from duty members of the department whose actions or alleged actions are of such a serious nature so as to necessitate the suspension of duty of the member: a. Where a member is charged with the commission of a crime that amounts to a felony or a crime of moral turpitude; b. Use of intoxicants and/or CDS while on duty, or reporting for duty while under the influence of intoxicants or CDS. General Order G. 3 (continued); c. Assault on a member of the department; d. Intentional filing of a false report; e. Insubordination and refusal to follow a direct order, either oral or written, which undermines the good order and discipline of the agency; f. Deliberate destruction or misuse of departmental equipment.

Of the 60 participants interviewed, 53 (88%) professed to knowing a fellow member who has been suspended. Table 7.1 below outlines the relevant infractions members reported knowing other members being suspended for or having been suspended for themselves. The table below

does not make a distinction between these two areas of suspensions, as both refer to suspensions of members of the SAPS.

Table 7.1: Reasons for suspensions



Source: Fieldwork data



The high rate of suspensions presented above indicates that the SAPS as an organisation, are focused on disciplining members when they have committed a transgression, and where the SAPS have become aware of such a transgression. The long-term effect of this discipline, as a measure to adapt members behaviour, is what is lacking substance in terms of efficacy. Where suspensions are finalised without further action, members are reinstated in the service, and can endure nothing more than a disciplinary record.

Police members in this study were asked to provide information relating to incidences of suspensions they have encountered personally, or have witnessed other members encounter, in order to contextualise the use of suspension as a disciplinary tool in the SAPS. Suspensions in this regard, refer to those incidences where members have been temporarily forced to leave the

employment of the SAPS. The nature of the infractions reported by participants in regard of suspensions range from assault, to attempted murder. For example, participant 6 noted the following in respect of suspensions he was aware of

One was suspended for assault, and that to me, the commander should have sorted out in the first place. Because he went to the commander because this guy kept on just swearing and swearing at him. You know, as a human being you can only take so much. Even if I wasn't a policeman and a guy did that to me, I would hit him. There have been a couple more. One guy in our unit but on a different shift tried to shoot his girlfriend a little while ago. So, they had an argument and he took his gun out and fired a shot at her, and he missed her, but they suspended him. She withdrew her statement, and then departmentally they decided not to charge him (Participant 6, 2018)

This means that known cases of violence perpetrated by members towards individuals of the public, are not treated with the appropriate level of severity, by the SAPS, as seen from the above. For a known incident of violence to be withdrawn from internal disciplinary processing highlights the lack of willingness of management, in this case, to enforce the necessary measures to either afford the member in question psychological help, or to ensure that he is supervised with his firearm for a period of time. To be reinstated into the force following a domestic violence incident, simply because the witness/complainant has withdrawn her statement/charge reveals the lack of urgency to deal with issues involving members who display unstable or threatening behaviour. It is also concerning that the participant is aware of a violent incident, which the participant notes as having occurred, despite a guilty verdict, being met with zero consequences. The message such lack of repercussions sends to other members, is that behaving irresponsibly with a firearm, and being violent to civilians is accepted. It cannot be acceptable for custodians of the law, who are employed to protect and serve their communities and families, to behave in threatening and violent ways towards individuals they are intimately involved with. If such behaviour is displayed towards intimate others with no

ramifications, how then would such members behave towards individuals who are accused of committing heinous crimes.

Similar to incidences of violent crime, participants in this study reported cases of economically motivated crimes being the reason for temporary suspensions of members from the services. Of concern is the perception exhibited by members towards the commission of such crimes, and the lack of severity of certain behaviours. For example, participant 9 noted the following in respect of the suspensions he is aware of

Bribery, taking a bit of extra bucks. It was just small amounts. We not talking about huge drug bust money type of thing. We are talking about small amounts that's not really worth the time and effort to look into it. With such small police man power that we have, the time spent on something that trivial is not worth the time. We need the guys on the street (Participant 9, 2018)

The response from participant 9 resonates with the information provided by participant 6. Both members rationalise that the suspensions were unwarranted and that such disciplinary action is/was unnecessary as the members didn't really do anything wrong. Participant 9 further notes that a police services which is short staffed should in fact look past incidences of corruption, where such incidences are minor, as members have more value to the services than the harm caused by the infractions committed. This approach can and does create an environment within the SAPS wherein members are allowed to do as they please, as they are valued members to society, and the occasional slip is acceptable in light of all the good work they do. Such a philosophy towards policing jeopardizes not only the reputation of the services but undermines the entire justice system which these members are employed to protect.

Dismissals in the context of this analysis, refer to reports from participants where there have been known incidences of members being dismissed from the police services, without the

possibility of return. Section 35, 36 and 37 of the South African Police Services Act, No. 68 of 1995, refers to the specific grounds for discharge of commissioned officers as well as members, from the service, which include the following

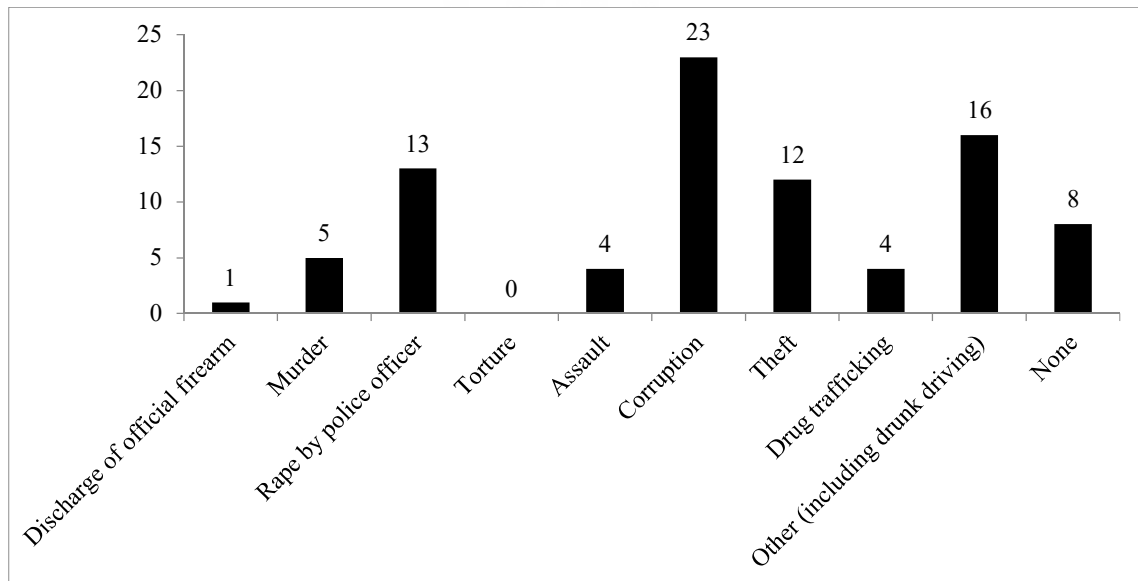
(35) Discharge of members on account of redundancy, interest of Service or appointment to public office;

(36) Discharge on account of sentence imposed;

(37) Discharge of members failing to complete basic training

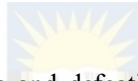
Of the 60 participants interviewed, 53 (88%) professed to knowing a fellow member who has been dismissed/discharged from the police services. Table 7.2 below outlines the relevant crimes members reported knowing other members being dismissed for.

Table 7.2: Reasons for dismissal/discharge



Source: Fieldwork data

Similar to the information supplied pertaining to suspensions, the bulk of dismissals, or discharge of members from the services is due to corruption and as a single second most prevalent indicator, rape. The lack of correlation between suspensions for theft and assault, and discharge for theft and assault, indicates that the follow through in terms of discipline from suspension to discharge is not consistent. Whilst there may be circumstances in which evidence leads to the reinstating of members, there is a strong possibility that such charges are not treated with the appropriate severity for the crimes committed. One instance of reported discharge was of interest as it highlighted the inconsistencies that exist in both the discipline of members, and the sentencing imposed for crimes. The account provided by participant 4 below indicates the circumstances surrounding the discharge and further disciplinary action taken against a member



There was one for gross negligence and defeating the ends of justice. This member had a disagreement with somebody. He was busy having an affair with this guy's wife, a civilian, and when her husband confronted him about it, he took his firearm out and threatened him with it. It was actually seen by another member of the unit. They paraded him and the station commander said that he should be arrested, and he was arrested. He went to court, he was found guilty in court and then he was dismissed. There was no suspension considered. He was sentenced to 5-12 years for intimidation and pointing a firearm, because even though he was on duty, the act of him pointing the firearm was not in the commission of his duties (Participant 4, 2018)

Whilst the incident above is of a very serious nature, this incident is not dissimilar to the incident reported earlier by participant 6. The treatment of the members in the two given scenarios is vastly different though. Whilst one was allowed to return to work with little more than a disciplinary record, the other member was charged with a crime, and sentenced to many years' imprisonment. The account provided by participant 4 highlights the inconsistencies in the disciplinary process from one station to another. This account also highlights the ways in which commanders are able to use their powers as commissioned officers to institute disciplinary proceedings against some individuals and motivate for the lessening of such

against others. The ability of members to navigate their way through such an inconsistent disciplinary environment can be seen to create confusion, tension and anger, where some members may perceive themselves or others to be persecuted by commanders for personal differences, and where the use of formalised discipline is exploited by such commanders, to further a personal agenda.

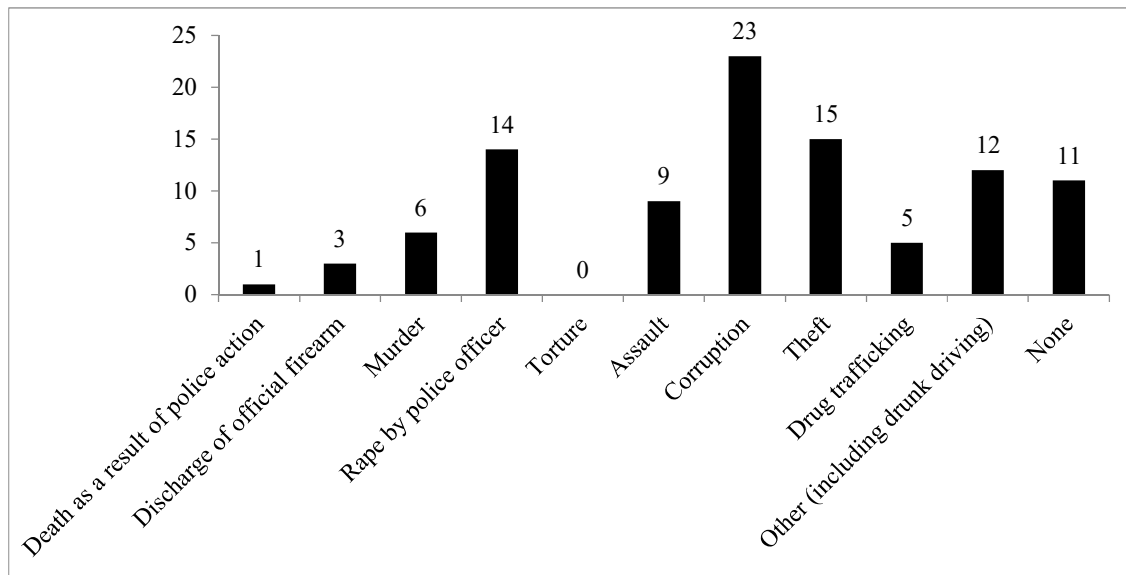
It is also noteworthy that incidences of violent crimes such as assault and torture oftentimes do not result in the discharge of members, but the threat of violence can and does. This is not to say that threatening the use of violence or misusing one's position as a police member is acceptable, rather there is a pervasive ideology that violence is somewhat accepted in the services, where such violence serves a purpose. The incidences referred to above reveal that where there is no justification for the use of violence, or threatened use of violence, the SAPS and the NPA can and do treat such incidences with severity, but where assault and torture are used against suspects, almost no formal disciplinary action is instituted. This highlights the lack of congruence between the ethics of the profession and the behaviour of members. These incidences also highlight the relative acceptance of assault and theft in the SAPS. As previously discussed, there is a tendency in the SAPS to excuse the use of violence when members assault individuals of the public, if such assault is in the furtherance of information gathering or crime management, if such assault yields the result of solving a crime. Assault in the SAPS therefore serves a function, and a suspension serves to masquerade as a disciplinary initiative instituted by officers and station commanders, to show that such behaviour will not be tolerated on paper, but in reality, is deemed acceptable, depending on the circumstances, and who the member is that committed such an infraction. If incidences of assault and torture were treated with the severity they deserve, guilty parties to such incidences should not be allowed to return to the services; a sentence that dismissal alone will achieve.

Arrests in the context of this analysis, refer to reports from participants where there have been known incidences of members being detained, pending their appearance in court for charges lodged against them through the formalised criminal justice system. Chapter five of the Criminal Procedure Act, No. 51 of 1977, refers to those circumstances in which arrests may take place, and the purpose of arresting individuals. Section 39 (1-3) espouses the procedures for the arrest of individuals, as provided below

- (1) An arrest shall be effected with or without a warrant and, unless the person to be arrested submits to custody, by actually touching his body, or, if the circumstances so require, by forcibly confining his body;
- (2) The person effecting an arrest shall, at the time of effecting the arrest or immediately after effecting the arrest, inform the arrested person of the cause of the arrest, or, in the case of an arrest effected by virtue of a warrant, upon demand of the person arrested hand him a copy of the warrant;
- (3) The effect of an arrest shall be that the person arrested shall be in lawful custody and that he shall be detained in custody until he is lawfully discharged or released from custody

Of the 60 participants interviewed, 49 (82%) professed to knowing a fellow member who has been arrested. Table 7.3 below outlines the relevant crimes members reported knowing other members being arrested for.

Table 7.3: Reasons for arrests



Source: Fieldwork data

Arrests differ from suspensions and dismissals as such disciplinary action forms part of the institutionalised criminal justice system and are therefore mandated by laws and procedures stipulated in various legislation. This form of discipline also only occurs following the opening of a warrant of arrest against a member, where such a member is charged with a crime. In such circumstances, unit and station commanders, as well as IPID are required to become involved in the internal as well as legal disciplinary processes associated with these charges. In respect of this process, Key Informant 8 noted the following

Whenever there is a crime that involves a police officer, procedurally, the police officers that have jurisdiction in that area will be the first to be there, and then they will phone the commanding officer of the suspect (the police officer involved), from there they need to inform IPID so that they can come to the scene, or the station. The responsibility to report the crime to IPID lies with the station commander. They will then take the suspect into custody following the preliminary investigation, and where there is sufficient evidence, a docket will be opened against the police member (Key Informant 8, 2018)

The role of IPID, as highlighted in the above excerpt is therefore subject to the actions taken by station commanders. Where station commanders are aware of assault and torture being used against suspects, and where there is condonation of such, incidences of such a nature will remain undetected by the independent investigation agency. The statistics provided by IPID regarding crimes committed by police members does not therefore provide a full picture of the prevalence of such incidences. Where SAPS and IPID have failed to act where there have been known incidences of criminal behaviour, the repercussions of such are diminished faith in the legitimacy of both organisations, and the policies and legislation which govern such, amongst police members and the public. Testimony provided by participant 7 in respect of a known incident of violent crime, highlights how both organisations are jeopardizing the realisation of the rights of civilians to freedom from harm

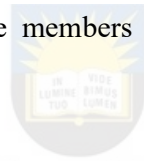


I know of a case whereby this man was guarding the cells, and during the night once he had a good time with one of the females in the cells [in jail]. He made her promises that he would get her out the next morning if she would have sex with him. So, the next morning he didn't come back after his shift ended so she complained and explained that she had sex with him the whole night and then she opened a case of rape against him. I don't know what ended up happening, but I know that guy is still working. He is a Sergeant. This was in 2010 and to date I know he is still working (Participant 7, 2018)

The particulars of the above case are of less importance than the associations members will make in circumstances such as the above. Where such accusations or incidences are not treated with the severity they deserve, members will learn that the internal and criminal disciplinary systems are flawed in their approach to the disciplining of members for serious crimes. Participant 7 in particular admitted to being involved with both economic and violent crimes, and this may in part be due to his lack of consideration for the consequences of such behaviour, as he might consider that members who of higher rank than him can and do get away with more serious crimes (a crime the participant is sure the other member committed), so the fear of repercussions for his actions becomes diminished. For a member to abuse their position,

allegedly rape a detainee, and still be in active duty, sends the message that such behaviour is acceptable, or at least that such behaviour is not that serious. Whether the member in question is guilty or innocent of committing this offense by law, does not change the perceived report provided by the participant, that such behaviour did occur, and that such behaviour resulted in a nil conviction.

The second account reported by Participant 6, pertains to the pervasive committing of multiple crimes, with no evidence that such behaviour resulted in a conviction. The severity of the implications of such information dissemination to large groups of members who are vulnerable to becoming involved in crimes, serves to reinforce the negative associations members have with the criminal justice system they operate in, and the inefficacy of such a system to not only deal with civilian criminals, but police members who commit crimes too. The example provided by participant 6 is stated below



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There was one member, she had a fraudulent matric certificate to get into the police, then she was promoted to Captain, but she had 17 fraud cases against her. She would go to cemeteries and take out people's date of births and open insurance policies, claiming that the person died, produce the death certificate and claim the insurance on them. But she was promoted to Captain, knowing she had all these theft and fraud cases against her. Then they demoted her to Warrant Officer, then when the next round of promotions came along, she was promoted back to Captain. Because one of her uncles was a big shot in the police and he looked after her. She was actually involved in stock theft, in the police van. We also had a media officer here, he was a Captain as well, and what he would do is he would drop his guys off to go and rob a shop, and he would come afterwards when they run out and go "check" the video footage and see where they jumped over the counter and he would go with his book, and wipe off the fingerprints etc. (Participant 6, 2018)

The above participant's account of the events two commissioned officers were known to be involved in further reinforces the inefficacy of disciplinary and legal measures which have been lodged against members, and in this situation, senior officers, in respect of their overall career prospects, and in respect of acting as deterrents for such behaviours. One would assume that the higher one goes in a profession, particularly one which is aimed at the maintenance of the

law, and ensuring the community are protected against crime, the more integrated the values and principles of such a profession would become in the individual concerned. Instead it appears in these instances that the higher the seniority, the easier it can become to engage in criminal enterprises, as one has increased access to a variety of systems and evidences, given the higher rank of such an individual, which can then be used to conceal crimes.

Convictions in the context of this analysis, refer to reports from participants where there have been known incidences of members being sentenced to terms of imprisonment, as a result of a guilty verdict, in a court of law. Chapters 12-28 of the Criminal Procedure Act, No. 51 of 1977, refer to the various procedures which take place throughout the course of trial and eventual conviction, including the sentencing of the guilty party. Whilst Section 43 of the South African Police Services Act, No. 68 of 1995, states explicitly that any SAPS member or commissioned officer may not return to the SAPS following a conviction for a crime, Section 36 of the South African Police Services Act, No. 68 of 1995 provides for specific conditions under which an individual who has been employed in the service may return, following a period of incarceration. One of these conditions is referenced as follows

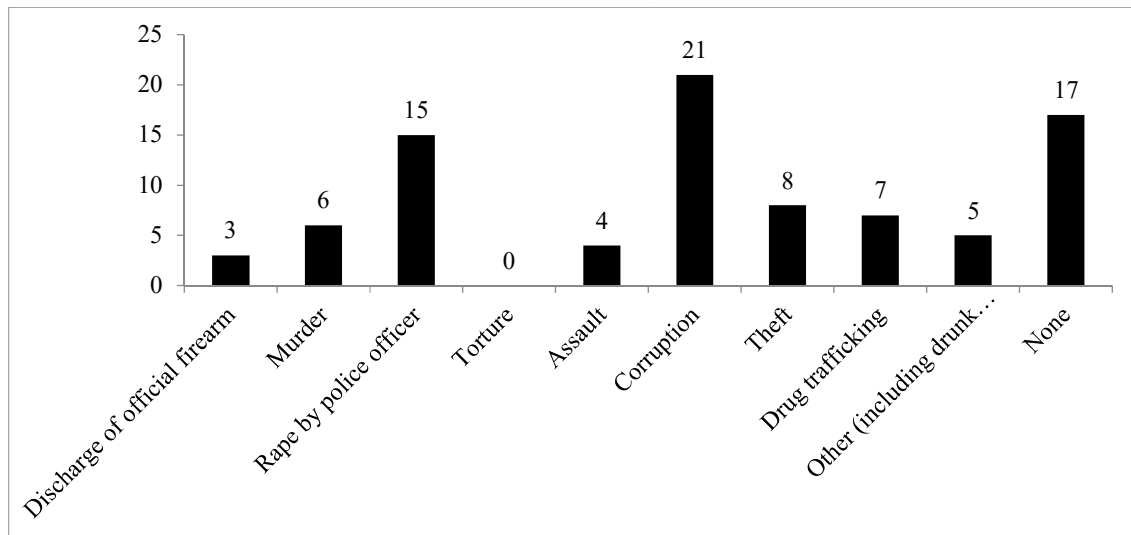
- (1) A member who is convicted of an offence and is sentenced to a term of imprisonment without the option of a fine, shall be deemed to have been discharged from the Service with effect from the date following the date of such sentence; Provided that, if such term of imprisonment is wholly suspended, the member concerned shall not be deemed to have been so discharged

Section 36 of the Act proceeds to outline the specific conditions in which members can be reinstated into the services, following an appeal, which is approved by the National

Commissioner, or following the setting aside of a conviction. Of concern is the fact that a member can still be employed in the policing services, even if such a member has been convicted of a crime, but a term of imprisonment has been suspended. Such conditions mean that the individual has still been found guilty by a court of law for breaking the law but yet such an individual may still enjoy employment in an organisation which aims to enforce and protect the law. The provision for the return of convicted criminals into the police services speaks to the integrity of the services, particularly in respect of their approach towards members who transgress the law.

Of the 60 participants interviewed, 43 (72%) professed to knowing a fellow member who has been convicted of a crime which resulted in a period of imprisonment. Table 7.4 below outlines the relevant crimes members reported knowing other members being convicted for.

Table 7.4: Reasons for convictions



Source: Fieldwork data

From table 7.4 above it is clear that the primary convictions obtained against police members are for rape and corruption. Whilst corruption is a serious economic crime, the lack of convictions for interpersonal crimes of a violent nature are concerning, as these crimes featured most prominently in this study, and it is evident that violent behaviours associated with such crimes are not being handled by the relevant judicial authority, and members are not being held responsible, to the full extent of the law, for such incidences. Participants in this study elaborated on a few instances of convictions they were aware of, with the most important feature of these references being the sentences imposed for such crimes. For example, participant 49 noted the following in respect of the arrest and conviction of members

I had one that used to work with us at the old unit I was at, we didn't even know until we found out later on when we were sent to arrest him. He had a stolen car in his possession, he got his brother out of prison and his brother was a known criminal, eventually we arrested him and his brother, and he got 15 years for that. I've also had one that was given a life sentence because he murdered his family. He took out his wife and his two kids (Participant 49, 2018)

The nature of the crimes committed by police officers highlights their readiness to commit violence in all aspects of their lives, not just in respect of information gathering. Of interest too was the nonchalant demeanour of participants when discussing such information. The level of desensitization towards incidences of violence by fellow colleagues highlights the severity of the problem, as such incidences occur so regularly, in a profession where one's colleagues are supposed to be honourable and upstanding members of society. In respect of sentences imposed, participant 7 noted the following sentencing for drug related crimes

Others were involved in keeping the drugs and not handing them into the police station, and then afterwards, selling them. They had guys selling for them. They are supposed to take you and the tablets to the police station, but instead they were just taking the Mandrax, and they got caught like that. One is doing 10 years; one is doing 12 years and the other one is doing 15 years (Participant 7, 2018)

Of interest in the above cases are the correlative lengthy services given for drugs as well as other non-violent offenses, such as corruption. Such lengthy services were not reported for violent crimes such as assault, assault GBH (grievous bodily harm) or attempted murder, crimes which were reported, during the course of interview in this study, to occur in many policing stations in the BCMM area. The lack of congruence between prosecutions and sentencing for violent crimes versus non-violent crimes, and in some cases economic crimes, points to the lack of prioritisation towards prosecuting and sentencing violent crimes.

7.4 Reasons for the inefficacy of disciplinary measures

This study has established that disciplinary measures in the SAPS are not effective in reducing police criminality. Reasons for this include a lack of fairness and consistency in the administration and application of these measures; the inefficiency of the Independent Police Investigative Directorate (IPID) as a police ‘watchdog’; power associated with the profession, and the role this power has in relation to the disciplinary measures operational in the policing services; and a lack of willingness, or fear of repercussions, amongst members to report the indiscretions of their colleagues, which contributes to lack of evidence in trials and further lack of convictions, thereby reinforcing the ideology that violent and economic crimes are justifiable and acceptable.

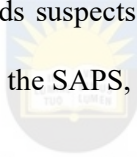
7.4.1 Lack of efficacy and fairness of laws and internal measures

The perception police members have towards the efficacy and fairness of the laws and procedures of the profession, are an indication of their potential to commit unethical or illegal behaviours. Of the 60 participants interviewed in this study, 41 (68%) felt that the laws and

internal policies do not prevent or deter police members from committing crimes, whilst 100% of the Key Informants interviewed maintained the same sentiments. For example, participant 39 noted the following in respect of this

Disciplinary wise, it's good for the members to know there are rules in place but I don't think it stops a person, because if a person gets to that point where he is going to transgress, whether it's criminal or disciplinary, they will do that, without thinking about the laws or policies, it all depends on the person's state of mind (Participant 39, 2018)

Of importance in this excerpt is the reference to the state of mind of many police members. The role of lack of trauma debriefing and the effect of recurrent exposure to violence and trauma in altering both the personality and behaviour of police members, can supersede the fear of repercussions associated with disciplinary and legal measures for crimes committed. Violence perpetrated by members towards suspects serves to further reinforce the damaged psychological states of many members in the SAPS, as Key Informant 10 stated



If the issues are unresolved and they don't work through the trauma, there's something that happens that normalizes that kind of behavior, so the coping mechanisms and the defense mechanisms that would have been in place can become challenged, in that they then internalize that violence and then act it out (Key Informant 10, 2019)

The mindsets of many police members create a normalisation towards crime, almost in the execution of one's duties. Legal and disciplinary measures pale in comparison to the reinforcement members are exposed to in terms of such mindsets. Disciplinary measures therefore do not act as a deterrent in these circumstances.

Another area which impacts the efficacy of disciplinary measures in the SAPS pertains to the failures that exist in terms of the consistency with which such policies and legislation are practiced. The inconsistencies that exist in terms of sentencing, and the opportunities for favouritism in the processing of internal disciplinary measures, creates an environment in

which the legitimacy of such measures, in respect of the views held by police members, is questionable. For example, Key Informant 4 stated the following

I think more the failure to prosecute, so the cops are thinking, “I can get away with this, because what is really going to happen to me in court?” My take on this whole thing is, when I started studying, we studied that in order for there to be a crime, there has to be a punishment as well. And the punishment of the crime is the deterrent for other people not to commit that crime. That part of the criminal justice system is failing. The sentence doesn’t fit the crime and it doesn’t become a deterrent, and irrespective of whether it’s a policeman that’s going to do the crime, or a member of the community, there are no consequences. I’ve just been in Botswana for training by the Americans. In Botswana, if you kill someone, they hang you. And that is a deterrent for the Botswanan people not to commit murder (Key Informant 4, 2018)

The criminal justice system in South Africa, and the correctional services system in particular, regard the purpose of incarceration as rehabilitative in nature, not as a punishment. Where disciplinary measures are not implemented with an aim to rehabilitate the individual, through a considered approach to the length of time such rehabilitation can occur, the efficacy of such a system will be compromised. Findings reveal that these measures are not fairly and consistently applied in the SAPS, both according to the testimonies provided by participants relating to sentencing, and internal measures where disciplinary action is required. Of the 60 participants interviewed, 37 (62%) maintained that they did not feel that discipline is fairly and consistently applied throughout the SAPS. Whether this be in respect of rank, race, or station, participants generally did not feel that the process is transparent or effective, due to the inconsistencies which arise throughout the disciplinary process. For example, participant 1 stated the following

Not always, because you will find friends turning a blind eye, Commanders turning a blind eye, they will know their members are doing XYZ, and they’ll turn a blind eye because they are either friends or they don’t want to cause any disruptions or that type of thing. And it can lead to a lot of unsavoury conduct (Participant 1, 2018)

Consistency in management and consistency in discipline are the only ways to effectively create an environment of respect for authority and the positions these members have. Without effective mechanisms in place to ensure that police understand their role, and are all treated the same when transgressions occur, there will be no way to ensure consistency in policing in the field, and this will create further confusion amongst communities as to how to interact with the police, and what the police's role actually is.

Where not fairly and consistently implemented, police management and the policies and laws themselves, lose legitimacy and respect. Members will know which shifts they are likely to be able to avoid prosecution for certain transgressions, as different shift commanders will treat them differently. Where there are inconsistencies in the application of such, it becomes more difficult for commanders to institute discipline, if other members are aware of these inconsistencies, and no longer respect either. For example, participant 54 explained this as follows

I think if you get caught when your commander is in a bad mood you might get a case registered, but if today they are feeling good then you might get a tap on the hand and a “don’t do it again”, so there is no consistency. If today you commit that you will get a warning, or a verbal or written warning, in my opinion it’s the feeling on the day and who the officer is. If I’m buddy-buddy with this officer, which we are because we have come up all these years together, then he is just going to call me aside and tell me not to do it again. But then someone that doesn’t like you or has something against you, will give you a verbal warning, but then his buddy doesn’t get one (Participant 54, 2018)

Such inconsistencies can have a detrimental effect on the motivation of hardworking members, where they feel they are being treated differently to others. These inconsistencies also cause problems for officers and commanders who have differing disciplinary styles and approaches, as they will feel that some members are allowed to get away with certain infractions, whilst others are persecuted too harshly, thereby undermining their authority. The issue of inconsistencies in the administration of both legal and internal discipline also creates problems

for the reputation of the police services as a whole, as the public will see members committing offences, whilst being allowed to continue to patrol or administer their services in their communities, with no repercussions.

7.4.2 The Independent Police Investigative Directorate (IPID)

The Independent Police Investigative Directorate (hereinafter referred to as IPID) is an independent government funded organisation which aims to ensure transparency in the policing services in terms of holding police officers and members alike, accountable for the transgressions they commit, as follows “The mandate of the IPID is to conduct independent and impartial investigations of specified criminality committed by members of the South African Police Service (SAPS) and Municipal Police Services (MPS)” (IPID 2019). IPID are regulated by the IPID Act, No. 1 of 2011, which designates, in Chapter 6, Section 28, the types of matters to be investigated as follows

Together in Excellence

- 1) The Directorate may investigate –
 - any deaths in police custody;
 - deaths as a result of police actions;
 - any complaint relating to the discharge of an official firearm by any police officer;
 - rape by a police officer, whether the police officer is on or off duty;
 - rape of any person while that person is in police custody;
 - any complaint of torture or assault against a police officer in the execution of his or her duties;

- corruption matters within the police initiated by the Executive Director on his or her own, or after the receipt of a complaint from a member of the public, or referred to the Directorate by the Minister, an MEC or the Secretary of Police, as the case may be
- 2) The Directorate may investigate matters relating to systemic corruption involving the police

From the above it is clear that IPID exist to ensure that the police are held accountable for any of the above transgressions. The application of this mandate is what appears to be an issue in respect of the efficacy of the disciplinary and legal procedures espoused in the IPID Act, No. 1 of 2011. The efficacy of the investigations IPID institute is questionable when analysing the lack of criminal convictions such an organisation is able to achieve, as presented in the organisation's annual reports. According to IPID's 2017/2018 Annual Report, disciplinary convictions outweighed criminal convictions for a number of serious offenses in the Eastern Cape during this period. Disciplinary convictions in this respect refer to internal disciplinary measures, whilst criminal convictions refer to cases of legal convictions where members have been sentenced to a period of imprisonment. Figure 7.1 and Figure 7.2 below provide an indication of the severity of the issue at hand

Figure 7.1: IPID Disciplinary convictions

| Table 28: Disciplinary convictions | | | | | | | | | | | | |
|------------------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|------------------------|---------|---------|------------|-----------------------|------------------------------|---------------------------------------|-------|
| Provinces | Deaths in police custody | Deaths as a result of police action | Discharge of an official firearm(s) | Rape by a police officer | Rape in police custody | Torture | Assault | Corruption | Systematic Corruption | Non-compliance with IPID Act | Other criminal offence and misconduct | Total |
| Eastern Cape | 2 | 6 | 7 | 4 | - | - | 30 | 5 | - | 4 | 3 | 61 |

Source: IPID 2017/2018 Annual Report

Figure 7.2: IPID Criminal convictions

| Table 30: Criminal convictions ⁶ | | | | | | | | | | | | |
|---------------------------------------------|--------------------------|-------------------------------------|--------------------------------------------------|--------------------------|------------------------|---------|---------|------------|-----------------------|------------------------------|------------------------|-------|
| Provinces | Deaths in police custody | Deaths as a result of police action | Complaint of discharge of an official firearm(s) | Rape by a police officer | Rape in police custody | Torture | Assault | Corruption | Systematic Corruption | Non-compliance with IPID Act | Other criminal offence | Total |
| Eastern Cape | - | 2 | 5 | - | - | - | - | 1 | - | - | 1 | 9 |

Source: IPID 2017/2018 Annual Report

For the purposes of this analysis one can infer that for each disciplinary case there was substantial evidence to warrant some form of internal discipline, whether this be in the form of a verbal or written warning, disciplinary hearing, suspension or dismissal, however such evidence was not substantial enough to warrant a sentence of imprisonment. From the above it is clear that there are concerns in the processing of disciplinary cases into criminal cases, which may result in members who have committed serious offenses, avoiding the full extent of the necessary sanctioned punishment/correctional measures. Of particular concern is the nature of the offences which did not result in criminal convictions, such as death in police custody, and rape by a police officer. Data from IPID reports point to the extent of the problem, where rape

has occurred such that a disciplinary conviction has been obtained, there are questions surrounding the extent of the evidences necessary to escalate such a case to a criminal case. The lack of congruence between the two systems responsible for disciplinary measures is a cause for concern not only for the SAPS but for the community at large, as civilians are likely to have SAPS internally disciplined rapists, living and working in their communities. Such individuals may still be employed in the services, and may still be allowed to patrol vulnerable communities, whilst armed.

The specific role of IPID in relation to the SAPS and NPA was found to be unclear. While their mandate and the legislation governing the organisation is clear, the application thereof, as reported in this study, allows for discretion and this can lead to instances where the correct disciplinary measures have not been instituted. For example, Key Informant 6 noted the following in respect of the role of IPID



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They are basically watch dogs. Let's say there has been a shooting incident, a policeman chased after a vehicle, and they fired shots at the vehicle and one of the suspects is wounded. The first thing they do, is open a case against the police official if it's not justified self-defence, and that is investigated to see if he did not exceed his boundary as a police official. IPID then views and peruses the docket and if they have the opinion that the police official should be charged, they make a recommendation to the SAPS, not the NPA, at that time. They make a recommendation to us because they are more focused on our internal policies and discipline. The criminal case will continue at a later time. Unless it was a major offence where they feel that the criminal case should be instituted, they once again will advise us as the SAPS, 'listen this is a serious case, you haven't opened a criminal case, we suggest that you open one'. They make suggestions and whether we adhere or comply with it is a different story. There are some commanders who dispute the recommendation and oppose it. 9 times out of 10 we have got to comply with it because they are making the recommendation to us as our watch dog. I had a member that chased after suspects and he fired a warning shot and the round ricocheted off the tar and hit the person in the buttocks and he later passed on. Now that is culpable homicide, it's the negligent causation of death, so the criminal case was opened and they were saying that they should have also had departmental steps taken against him, for negligence, that he should have foreseen that the round would have ricocheted off the tar etc. So, they then make the recommendations and we implement the negative discipline. In terms of the criminal case he was found not guilty and in terms of the negative discipline he was suspended for three months at the time, pending the outcome. So, he already served some of the time during the trial and then was given a final written warning on that (Key Informant 6, 2018)

Information provided by the key informant above highlights the flawed prosecutions and discipline processes currently being perpetuated by both IPID and the SAPS. Per their mandate, they are required to investigate incidences of death as a result of police action, an incident of which occurred in the station in question. However, as can be seen from the above, the extent of this investigation was minimal and almost no internal or criminal conviction was established. This lack of discipline where a civilian has been killed must be regarded as unacceptable. If such an incident had been perpetrated by a member of the public where a licensed firearm was shot recklessly and a police member had subsequently died, one has to wonder if the outcome would have been different. From the above excerpt it is also clear that IPID as an organisation aim to make recommendations, in order for the SAPS and the NPA to then determine whether there is merit for a case against a police officer, thereby allotting the onus for disciplinary sanction to the SAPS.



Internal cases of corruption in the SAPS and internal procedures which hamper the efficacy of this institution were reported in this study. For example, participant 30 noted the following in respect of an IPID case which was opened against him following a fatal shooting

They haven't charged me criminally. There's a criminal case at IPID. They still investigating but they can't finalize the cases because things have disappeared. One of the cases was for a guy I shot in Turnbull Park, fought with him, a massive Nigerian guy, he had lots of drugs and we had a squabble and a fight. Managed to handcuff one arm and he hit me with his elbow, and I was bit disorientated and he tried going for my firearm. My firearm was in my hand, and obviously with his size he was much stronger, and we were fighting, and he had my firearm, and I just pulled the trigger and shot him through the leg twice. I opened a case against him for being in possession of drugs and assaulting a police official. That docket has disappeared. Now IPID opened a case against me because I shot someone. Now, it's two different cases. The case I opened against the criminal and the case IPID are forced to open against me for attempted murder. Its routine, but the case that I opened against him disappeared. The Nigerians have lots of money and influence, and people are very susceptible to things at the stations. Things disappear, evidence and dockets. That docket was a 2014 case, so they asked me to give a new statement to IPID recently and I told them everything is in the docket that they need to know. I'm not refusing to give it, but they said they need a new statement. I wanted to refresh my memory or even make a copy and the docket was gone (Participant 30, 2018)

In addition to the highlighted issues surrounding corruption and defeating the ends of justice which appear to be evident within some police stations in the BCMM area, this excerpt also highlights the lack of clear function of IPID. A previous account provided by key informant 6 noted that they serve to make recommendations, however participant 30 explained that cases against him have been instituted by IPID, and remain the responsibility of IPID, as opposed to the SAPS, or NPA. Of the role of IPID in respect of investigation and prosecution, Key Informant 8 expressed the following

The moment it has been identified that the police officer is the suspect or may stand as the accused then IPID must come on board. Once this has happened the docket must be handed to IPID for further investigation. Quite often they will then bring a docket that is fully investigated, or almost fully investigated to court. At that point the prosecutor still has the mandate to decide to prosecute or not to prosecute. If the prosecutor decides the docket is not going to court, he will then close it and give all the reasons at the front of the docket. In the 13 years of experience that I have, all the IPID officials I have dealt with have been ex police officers themselves, which can complicate investigations (Key Informant 8, 2018)

The investigations opened by this organisation relate specifically to the conduct of police members, one needs to question then if IPID, consisting predominantly of former police members, are best equipped from an objectivity and impartiality perspective, to conduct such investigations. If investigators from IPID originate from policing stations in the BCMM area, the chances of such investigators being known to many of the active police members they may be required to investigate is also high. The level of impartiality of such an organisation, and the willingness of members in such an organisation to prosecute individuals who can be regarded as having been formerly their own colleagues at some stage, creates an environment which is open to abuse and corruption.

7.4.3 Power

Power is an inherent element of the policing profession. Police men and women are sworn into their positions, through an oath to serve and protect, and through this oath they are vested powers to serve their community and protect the people and property of a given country. Of power and policing, Bradford and Johnson (2015: 3) note the following

Police are able to use a huge range of tactics to address the problems they encounter, yet the low visibility and high discretion granted to street-level officers ensures that only relatively rarely will these solutions be ‘second-guessed’ by supervisors or, more pertinently, external review processes. This is arguably a characteristic of all police, but these issues pose particular problems in liberal democratic states where the power of the state over citizens is, at least from an ideological perspective, constrained. In such contexts, police indeed remain something of an exceptional power – one that poses a significant threat to liberties many would consider both well-established and inviolable

The discretion and visibility alluded to above is of key concern when analysing the role of discipline on police behaviours. The issue of power in this context is therefore multifaceted. Firstly, members in the SAPS are guided by various legislation and policies, which detail the appropriate and inappropriate actions which must be taken in given situations. However, police still have discretionary power to decide in a given situation how to exercise the tenets of such legislation. Where civilians are accused of committing crimes, the power relations shift to the police members, as they are the face and street level representatives of the law. This power to decide the fate of an individual in the community, coupled with the relative discretion afforded to them by virtue of their positions in the profession, lead to many members abusing such

power in furtherance of their personal agendas. These agendas are not necessarily aligned to economic gain but can be found in the esteem needs they feel by virtue of their position as a police officer. Many participants referenced suspects not reporting the incidences of violence and torture they endured at the hands of the police, and this could be a sign of the inherent power and authority vested in the profession and the police.

The incidences of violence perpetrated by police members can also be regarded as a reaction to the general powerlessness they feel as a member of the justice system, who is unable to achieve justice through the formalised justice system. Police are effectively treated as the bottom, not first, line of the justice system, and this creates feelings of anger and powerlessness. The balance of power between being an authority on the street and just an investigating officer to the court, creates a conflict in many members which drives them to acts of violence as a solution to the frustrations they feel from the many stressors they encounter in the administration of their duties. Of the relationship between power and policing, Key Informant 10 explained the following

I would like to think that they remain conflicted about the violence, that a number of factors need to be added to these situations. One could say that they want the power associated with the violence, and then become violent (Key Informant 10, 2019)

The psychology of the violence perpetrated by police members stems from a variety of sources, ultimately this violence serves a purpose, whether it be for the community or for the police members themselves. Members blame the formal criminal justice system for the lack of administration of justice, and use the opportunities which present themselves, to enact vigilantism for the community, and for themselves. They need to feel that they have power and control over a job many members regard as a calling, and that they are making a difference, otherwise they are risking their lives for nothing.

The issue of power traverses the individual level of each member, to a broader community setting as well. The vigilantism enacted by police members provides power to members and communities alike, and this inherent power can be said to hold more value to members, than the laws they were employed and sworn to protect. This happens partly as a result of the strain members witness communities enduring as a result of an ineffective criminal justice system. Police officers are required to arrest rapists in front of their victims, and watch as such individuals taunt their victims, victims who are usually the most vulnerable members of society. They are also required to endure case after case being thrown out of court, and watch as these criminals re-enter desperate communities, where they continue to victimise individuals who are trapped in their circumstances. This coupled with the constant daily traumas they face, create such intense powerlessness, that members either leave the force, stop attending call outs with the same urgency, or participate in vigilantism themselves, once they have such individuals in custody. This well known, and unabated practice sees the tacit approval of superiors and an officer of the court, alike. It appears that this vigilantism holds power for all role players involved, and the satisfaction gained from achieving justice on their own terms, leaves all individuals privy to such practices, with a feeling of power, which is unlikely to match the feeling gained from the adherence to the formal justice system, a system they are supposed to uphold and protect.

7.4.4 Comradery and the fear or reporting

Whilst comradery is encouraged in the police services, it can act as a boundary to the effective administration of internal and legal disciplinary measures. As discussed in chapter six, comradery acts as a mechanism to bond police officers to one another, in an environment of extremely strenuous working conditions. Police officers in this study were generally unwilling

to report one another for indiscretions or crimes witnessed. This serves to seriously undermine the entire disciplinary process, as members do not apply the rules they enforce in communities, to themselves as police members. In respect of the role of comradery in the administration of the law, Key Informant 8 maintained the following

It is always a huge challenge. I can tell you from my experience, the only time you get a police officer willing to testify against his colleagues is if they are enemies. It's very rare to get a good witness to testify against his colleague in the police service. Sometimes it's to shield that someone must get away with murder, sometimes they have been doing crimes together and if one spills the beans against another, its likely to affect the other one too (Key Informant 8, 2018)

Comradery can be seen to serve a variety of interests in respect of discipline then. Either members are unwilling to testify to indiscretions as they are then exposing themselves, or members do not want to be isolated from a team and labelled as a traitor. This study found that generally, police members are unwilling to report one another for crimes committed, as such individuals do not believe the actions of their colleagues to be a violation of an internal policy or a formal law. The continuous justification of violence towards suspects can be seen from the below dialogue with Key Informant 5

I think the members are frustrated. You work with criminals every day; I found one member was assaulted the other day by the community while he was arresting a criminal. He was assaulted by the suspect and community members; eventually he did arrest the suspect, brought him to the police station and you can think for yourself, if you getting assaulted by a suspect and the community assist the suspect, if you get to the police station, you are going to assault that person. I don't think a case was opened. I heard it from the cells because we close to the cell block (Key Informant 5, 2018)

As can be seen from the above, a division commander is aware of the assault of a suspect, and excuses this behaviour, and doesn't care to investigate such a situation. If a commander can take this stance, and justify the use of violence in this situation, foot soldiers, who have nothing to gain by reporting their colleagues are less likely to feel compelled to testify against one

another and risk being ostracized from their units. Of the reporting of a colleague, participant 15 noted the following

I used to be the station commander at X, and we arrested guys, there was a big problem with theft of motor vehicles in the area. This one guy from the Flying Squad, was trying to get this guy to talk and when they were finished with that guy...I must be honest, I also said that out of the five that we arrested, that one would be the weakest link. They had a pick handle and when they were finished with that guy his head looked like a pumpkin. I was young and stupid. I was saving my own arse, because I had heard him screaming and I didn't do anything, I didn't intervene, because I wanted the conviction (Participant 15, 2018)

The lack of ownership in terms of the individual responsibilities each member has to the police services and the communities within which they operate, to report one another for serious infractions, reinforces the lack of legitimacy of the entire disciplinary process. Participants have been able to convince themselves that their rationales have been so sound, that they have almost never been in situations which require the reporting of a colleague. This reveals the level at which the lack of adherence to the law is so deeply ingrained in so many police members. The approval of this violence from superiors is also concerning, as superiors lose their authority in the process of justifying such actions, so that when they do feel members are taking matters too far, they are unable to intervene as they have already provided tacit consent to the use of violence in policing.

It was found that a further contributor to the lack of efficacy of disciplinary measures is the fear of reporting fellow members, and the requisite lack of trust that exists between members of a station or even at times a unit/team. This issue affects members ability to come forward when they are aware of transgressions, as they are already employed in dangerous environments and communities and reporting of one another creates more risk for members personally. Of the 60 participants interviewed in this study, 36 (60%) admitted to feeling as

though they cannot, and do not trust their fellow police members. For example, participant 4 noted the following in respect of an incident where a member had reported another member

It became difficult to work in the situation, but when other members actually saw further down the line, the reasoning behind it, it did soften the impact slightly. The old code of “band together of brothers”, it should be how it is. It’s not as tight as what it should be because everyone is trying to oversee one another (Participant 4, 2018)

Where members admitted to having reported fellow members, such individuals reported being met with anger and distrust from fellow colleagues, so that the norm is then to not report colleagues for criminal behaviours. The efficacy of a policing service that does not see the value in criminals being held accountable for their actions is less likely to be able to effectively administer the law in their daily practices. Members would be required to attend dangerous incidents with partners or colleagues they do not trust, and this can have a negative impact on service delivery and can elevate feelings of frustration and anger. Of the impact of reporting on levels of trust, participant 25 noted the following

Coming back from the riot group that I worked with, we were brothers, we did house penetrations, we went after hardcore terrorists that were going to shoot us, that did shoot at us and the person you working with you trusted him without thinking twice about it. So yes, I certainly did trust people at my work. There are others that’s actions lead to them being untrustworthy, so you tend to be careful. And being a policeman, you are more sensitive to it than civilians, we are more paranoid. I trust the people closest to me who I know. But there are also people that I don’t know so I can’t trust them. And when people walk around with a firearm that you don’t know, you can’t really trust them. But I’ve never really come into contact with people that have threatened me, except when they were caught with their hands in the cookie jar and I got threats out of anger (Participant 25, 2018)

Of interest from the above excerpt is the reference to members not trusting other members, by virtue of these individuals being armed. Yet as a community we are expected to trust the police, as they are custodians of the law, and we should respect and admire that in them, even though they walk the streets of our neighbourhoods and shops armed and ready for conflict, should such arise. Where police members admit to having reduced levels of trust in one another,

communities who are vulnerable to crime already, face the burden of being policed by both a fragmented unit, as well as dishonest police members. When members are found to have committed transgressions, they also tend to use their power to intimidate one another, how so can the public feel safe in reporting police members for infractions, if such members are not willing to be held accountable by their own members.

7.5 Conclusion

Internal and legal disciplinary measures in the SAPS are currently in a state of crisis. Internal procedures are hampered by bureaucracy, and legal provisions are not enforced fairly and consistently, both towards civilians, and towards police members who transgress. Incidences of suspensions outweigh incidences of dismissals in the SAPS, even for crimes of a severe nature, usually with a violent component. Similarly, incidences of arrests outweigh incidences of convictions. Where convictions are obtained, sentencing of such offenders is flawed, and is generally not aligned to the minimum required sentences for a variety of oftentimes violent offenses. The various internal and criminal disciplinary measures are implemented for a purpose, which is often not aligned to the rehabilitation of such an offender, and the reduction of recidivism in the SAPS. Suspensions, where police members are temporarily required to leave the services, are treated as a means to ensure that a member is reprimanded for behaviour which is not acceptable, as opposed to being disciplined with an intent to ensure that the member is aware that such behaviour is wrong, and why such behaviour will not be accepted. Dismissals, where a police member is permanently discharged from the services, are also usually only effected when a criminal case has been opened against a member, and there is a good possibility such a member will receive a conviction as a result of the offence committed. Arrests, where a member is detained pending a court appearance, serve the purpose for some

commanders, of making an example of members who think they are free to behave in any manner they choose, or to address a personal issue between a commander and a particular member. Convictions, where members are imprisoned or enter the formal correctional services system, are the exception to incidences of police criminality, not the norm, and this serves to undermine the entire criminal justice system. Where convictions are achieved, they usually involve sentences which are not adequate to ensure that rehabilitation occurs, so that such individuals can be released from the correctional services system, having been able to realign their life goals, in order to avoid further criminality.

Inconsistencies in practice and perception are a major issue when it comes to the realisation of the lowering of incidences of police crimes. Members, supervisors and representatives of the justice system alike, maintain through their tacit approval of one another's violent behaviours that such acts are justifiable, and serve to ensure that justice is achieved, where the formal systems in place are not able to deliver on their mandates. Power and the role of powerlessness has been shown to be a key contributor to the recurrent incidences of vigilantism amongst members. The frustration and strain experienced in these circumstances drives members to exercise their discretionary powers to enact the only kind of justice they know, a justice obtained primarily through the use of unmonitored violence. Police members show a general lack of willingness to report one another for crimes witnessed, and where they do, such members face the fear of betrayal by their colleagues as a repercussion for their honesty or live and work with colleagues they no longer trust. This environment creates additional strain to individuals who have the interests of the profession, and the integrity to remain devoted to solving crimes legally and without the use of violence as a measure of success in the attainment of justice, feeling isolated and further abandoned by the system they are employed to protect and serve.

CHAPTER EIGHT
SUMMARY OF FINDINGS, DISCUSSIONS, CONCLUSIONS AND
RECOMMENDATIONS

8.1 Introduction

This study sought to establish the extent to which police officers in the BCMM policing area are involved in criminality. A further aim of the study was to establish the reasons for such transgressions, and the efficacy of disciplinary measures in respect of their preventive strength, in curbing incidences of police criminality. Social learning theory and social control theory were used in this study in order to establish the role of learning in police crimes, as well as the role laws and policies, as control mechanisms, play in determining police behaviour. This chapter thus reflects on the main findings of this study in respect of the criminal behaviours executed by police officers of the South African Police Services.

8.2 Discussion of findings

It will be recalled that this study set out to answer three research questions. The first of the three research questions is the following: *'To what extent is police criminality prevalent within Buffalo City Metropolitan Municipality?'*. It was found that police members of the Buffalo City Metropolitan Municipality are involved in both violent and economic crimes. Violent crimes in this context refer to assaults and torture, whilst economically motivated crimes refer to corruption and theft. Of the 60 participants interviewed 22 (36%) admitted to having assaulted suspects, whilst 4 (7%) admitted to having tortured suspects. Assaults included slapping, kicking, hanging, and general beatings as the primary forms of physical violence. Whilst torture

included hangings, suffocations, and beatings. Where assaults were inflicted towards suspects, such incidences were largely purported to punish suspects for committing crimes of any nature, and as attempts to deter such individuals from reoffending, through the use of punishment as a mechanism for such. There was no evidence provided by police members in this study, to support assertions that such assaults have a positive impact on recidivism rates. Where torture was inflicted on suspects, the primary rationale for such was to gather information from such individuals, which can then be used to solve the crimes committed by such individuals. Both forms of violent crimes were thus established to be rooted in vigilantism. Of the 60 participants interviewed, 2 (3%) admitted to being involved in economic crimes which included corruption in the form of bribery. Where police members committed such crimes, the victims were always suspected of crimes themselves. Police officers also admitted to being involved in crimes such as theft and defeating the ends of justice. Such crimes involved the taking of property from crime scenes, as well as drunk driving. Defeating the ends of justice was found to take place in all occurrences where police officers have witnessed crimes being committed by other officers and have failed to act in terms of reporting such incidences. It was found that senior police officers as well as a representative of the court are aware of incidences of violent crimes being committed by police officers, both in the field, and whilst suspects are in police custody, with neither party being willing to intervene in such cases.

The second question which this study set out to answer is: '*What sociological factors explain police criminality?*'. This question aimed to explore the socio-cultural, economic and other existential factors that partly contribute towards police members committing crimes. The primary rationale for this was to understand the rationale for the behaviours exhibited by police members which are outside the realm of their duties and ethics. This study established that unhappiness in respect of remuneration and promotions prospects act as a contributor to

incidences of economic crimes, as well as crimes such as theft. Crimes of an economic nature were primarily found to be executed by police members of lower ranks. Police members stated reasons such as reduced perceived worth to the SAPS as a whole, and the communities within which they operate, as contributors to incidences of economic crimes. Lack of adequate operational resources was found to be a contributor to the commission of both violent and economic crimes by police members. Such resources include the lack of adequate physical resources to protect police members from threats, whilst administering their function in oftentimes violent neighbourhoods. The associated frustration in this respect was found to act as a driver to the meting out of punishments on suspects. The lack of adequate provision for counselling services and trauma debriefing to police officers who have witnessed violence or gruesome scenes at suicides, murders, rapes, or accidents, was found to be a contributor to propensities towards violence amongst members who have unresolved psychological traumas as a result of such exposure. In this regard overexposure to such incidences can result in personality changes congruent with violence as a result of post-traumatic stress disorder, amongst other psychological problems. Such findings are congruent with those Phillips (2015) who found that a multiplicity of factors influence police attitudes towards the use of unnecessary force in the United States.

Lack of support from superiors and the community were found to be a contributor to increased levels of frustration felt by police members in the SAPS. Where police members are required to work in dangerous conditions without provision being made for their safety, whether this be in the form of advocacy for additional equipment or manpower, such officers were found to be at increased risk of violent behaviour. Where members noted attempts to report the deviant behaviour of colleagues, such reports were not treated with the severity they deserve by senior ranking officers, and many police members reported feeling isolated from any form of support

in the execution of their duties. Where lack of community support was reported, such incidences were found to increase police officers likelihood of enacted violence towards suspects once in custody, as an outlet for the frustration felt in terms of the lack of cooperation from communities, when police members attempt to effect arrests towards individuals communities do not believe to be guilty. The hampered state of executive levels of management in the SAPS contribute to incidences of violent and economic crimes through a social learning process. Police members reported reduced lack of respect for management, and the pervasive perception towards higher ranking officers remained that of being corrupt and untrustworthy. Reduced faith in the ability of the SAPS to ensure transparency in executive branches contributes to reduced accountability at grassroots levels, and increased incidences of rogue behaviour as perpetuated by police members.

Further to this, comradery was found to be a strong factor in the prevention of reporting of offences witnessed by police members in units or stations. Reasons provided for the lack of reporting included guilt or fear of being ostracized, and the fear of betraying colleagues who, in most instances, police members do not believe to have transgressed any formal law or policy in the execution of their duties, despite having witnessed in many cases, repeated occurrences of violence and torture administered to suspects. Police members also reported fear of repercussions of having to work with individuals they have reported for crimes, who are violent, or have violent tendencies, as such individuals were not purported to be trusted. The influence of social learning in the various spheres of the policing profession was presented as a factor for incidences of violent and economic crimes. The learning that takes place in this context is regarded as being largely influenced by the communities within which police operate, in so far as the readiness to answer violence with violence, and the perception that such violence has an impact on recidivism, increases occurrences of this nature. Constant

exposure to criminal elements also provides for an environment of learning in terms of the techniques and methods which can be utilized to conceal crimes, as well as reinforce the justification for the use of violent and economic crimes in the execution of police members daily duties.

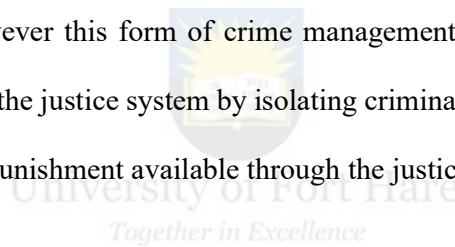
The third question this study sought to answer is: *'To what extent are the South African Police Services' (SAPS) internal disciplinary measures and policies effective mechanisms for deterring police criminality?'*. Police members in this study noted relative knowledge regarding the policies and laws which govern the policing profession. Those members who claimed to know less than others, provided reasons such as a lack of interest or dedication to the profession, as they largely feel that the profession has let them down in a variety of aspects. Police members provided cases and information pertaining to suspensions, dismissals, arrests and convictions of fellow police officers. The prevalent finding amongst all these types of disciplinary methods was in respect of the action taken for particular crimes, when compared to others. Corruption ranked as the most prevalent crime which police officers knew of others being disciplined for, with rape as the second. Of interest was the relatively non-existent arrest or conviction of members for crimes such as assault and torture, crimes which featured most prominently as occurring in this study. This study established that disciplinary and legal polices and laws are not effective in preventing police members from committing crimes. Reasons provided for this include the lack of efficacy and fairness in the implementation of legal and internal disciplinary measures, where police members perceive such measures to be enacted with favouritism, or without a view to truly rehabilitate offenders, even when such offenders are police officers.

Further reasons included the lack of efficacy of the Independent Police Investigative Directorate (IPID), and comradery and the associated fear or repercussions for reporting fellow members. Within the scope of their mandate IPID were found to enforce internal disciplinary measures where police members have transgressed formal rules, however the transferral of many violent and economic crimes into criminal cases, which have convictions as the outcome, remains problematic. There is also a large amount of discretion afforded to the SAPS in terms of the decision to prosecute further where IPID recommend internal or criminal sanctions. In cases where favouritism and corruption are present, opportunities to effectively discipline police criminals are lost. This was found to have a negative impact on the perception held by police members towards IPID and the SAPS as a whole, when evaluating the efficacy of disciplinary measures. Finally, power and the associated powerlessness police members feel in respect of their ability to truly prevent crime and keep communities safe, overrides their considerations for the consequences of their actions, when instituting violent crimes in particular. The use of violence in policing therefore provides more fulfilment for police men and women than the adherence to the laws and policies of the profession.

8.3 Contributions of the study

This study established that vigilantism is a systemic practice operational in the SAPS. This vigilantism is unique in that it is not exercised by members of communities who are desperate and disempowered. This vigilantism is calculated, secretive and enacted by individuals who are formally employed in the criminal justice system, with an aim to uphold and respect the rule of law. The vigilantism exercised by police members also traverses stations and units in terms of uniformity in the modus operandi of such actions, highlighting that not only is the practice well known, it is organised in such a manner as to ensure perpetrators of such acts will

remain undetected. Incidences of vigilante style violence were found to be primarily executed against individuals of the public, who are accused or suspected of having committed crimes themselves. The reduced levels of respect or care shown towards individuals who are suspected of committing crimes highlights the difficulty police members have in separating their personal and professional personas, as many incidences of violence committed towards suspects are executed in moments of anger or frustration. Such anger stems from the injustices such suspects of crimes are perceived to have inflicted on innocent individuals of society, such as woman and children. Violence then acts as a mechanism to punish such individuals, where there is a perception that the formal criminal justice system will not be able to do so. Police members also excuse such acts of violence as a mechanism to reduce incidences of crime amongst the suspect population. Such rationalisations encourage the use of violence as a crime prevention and management tool, however this form of crime management serves as a self-sabotaging practice which undermines the justice system by isolating criminals from a fair trial, as well as the full extent of the legal punishment available through the justice system.



Where violent vigilantism is inflicted on suspects such occurrences are regarded by many police members as just, or righteous, as they have achieved justice for the victims of crimes. These practices leave suspects as victims of the criminal justice system, as opposed to reformed criminals, and place police officers at odds both internally and with the communities which they service. Violent vigilante style practices are often conducted outside of the full view of the community, and therefore remain a closed secret within the policing services. Community members do not therefore enjoy the realisation of the perceived achievement of justice that policing members do, as they are not privy to such practices. The secret nature of such violence serves to reinforce the practice, as this study established that of those members who witnessed such violence being perpetrated towards suspects, none were willing to report on another,

therefore providing tacit approval of such practices, and further reinforcing the commission of such. Where economic crimes of vigilantism are enacted, such crimes also had a retributive element, in that gain is sought from individuals who have transgressed the laws themselves, and who are therefore regarded as having reduced agency in their transactions with law enforcement. Police members use such opportunities to punish offenders financially, by abusing their position of power for personal gain, whilst maintaining the ideology that such behaviour is justified, as it is the aim of the criminal justice system to punish offenders, and the police are therefore informally acting on the justice system's behalf.

Social learning theory posits that the learning process happens via observation, imitation and modelling. Police members are exposed to a variety of these elements in a variety of environments which place them at greater risk for the learning of violent and economic criminal behaviours. Observation in this context takes the form of the observed occurrences of such crimes as perpetrated by criminals themselves. Police members are able to learn the ways in which to evade arrest or conviction for crimes committed. Observation is also made of the criminal justice systems approach to the prosecution of crimes as committed by civilians. Where police members feel that sentences have been too light, such individuals will hold views that the criminal justice system is flawed and does not deal with criminals in an effective way, Such perspectives serve to perpetuate crimes, as the possibilities for detection or discipline remain low, according to police members. Further to this, observations are made of the ways in which vigilantism provides communities who are desperate for justice the opportunity to achieve such, whilst simultaneously punishing individuals who are purported to have committed crimes. Constant exposure to violence, and the ways in which violence is used by community members in their own forms of vigilante style behaviours, serves as a social learning mechanism, and as many police members live in the communities in which they

police, such behaviours aim to further serve their communities. Whilst such vigilantism does not solve the socio-economic problems of these communities, the sense of justice achieved, and the ability to control a situation where so much powerlessness is felt, can be seen to resonate with many police officers, and an overexposure to such can produce in such individuals a propensity to use violence as a mechanism to establish both control and rudimentary justice.

Imitation in this social learning framework refers to the ways in which lower ranking police officers have begun to imitate the behaviours and actions of senior officers, particularly in respect of the lawlessness displayed through the execution of violent and economic crimes. Where there is reduced accountability for such actions, lower ranking members learn that behaviours enacted by a police officer can be justified and can avoid prosecution, if the rationale and the forethought which goes into such action is enacted correctly. Members, however, have the advantage of the ability to hide or disguise their violence behind the walls of the stations in which they operate, or behind their badges or positions as police members in the field, when apprehending suspects. Similar to the inability of the justice system to apprehend and prosecute an entire community for violence, so too is the justice system unable to prosecute members for crimes they are not made aware of or are misled about the nature of.

Modelling in the context of social learning refers to the transference of the behaviours, attitudes and rationales for the various approaches to circumstances surrounding violent and economic crimes. Police members expressed that being able to solve crimes through the use of violence, affords them a sense of pride, for solving a wrong in communities where residents are vulnerable and desperate. This study found that in some ways the police services are vulnerable and desperate too, as they attempt to police communities plagued by abject poverty, lack of

education, and rampant violence. In these circumstances the level of empathy police officers feel for such communities, resonates with the frustrations and anger they feel towards their own profession. Violence acts as an escape from such feelings and provides the release from such frustrations, whilst servicing the esteem needs of police members in respect of having achieved justice. This emotive element to the use of violence as being inherently positive, creates an environment whereby police are expected to rid communities of crime, whilst being trapped within the bounds of the law. Where communities are able to eradicate criminal elements permanently through violence, so too will police officers learn that such an approach is effective, and the justifications for such incidences will follow. South African society can therefore be said to be constantly grooming police members to answer violence with violence, to not back down and be weak, and to treat criminals as they treat others.

8.4 Recommendations



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Based on the above, it is clear that further action needs to be taken in a variety of areas, when considering the problem of police instituted violence and crime. In order to truly understand the areas which would be most effective for police officers, it was important to consult with them to identify their needs, both legislatively and professionally. Two key themes emerged through this line of enquiry, harsher sentences for criminals, and lighter sentences and disciplinary measures for police members. Police members who felt that sentences need to be harsher for criminals generally referenced this in respect of the efficacy of the legal system as a whole. Discontent lies largely with the sentencing of offenders who are oftentimes, according to participants, released from imprisonment too early, and return to communities in which their original crimes are committed, only to continue to terrorise such neighbourhoods again. Such occurrences produce feelings of frustration and anger within the policing stations included in

this study and create an environment of diminished respect for the rule of law by police officers when administering their duties. Police members suggested that where repeat offenders are admitted to the criminal justice system, punishment, as opposed to rehabilitation should be considered. Such punishment included suggestions such as cutting off the hands of thieves, even where such crimes are petty in nature. Of interest was the references made by participants to use violence as a means to improve the law. Further suggestions in this regard included the death penalty as a measure against rape and murder. Such sentiments highlight the indoctrination within the policing services towards the use of violence as a method to improve and solve crimes. There also seems to be a pervasive perception that in order to do your job as a police man you have to act in such a way that is outside the bounds of the law, thereby reinforcing the perception that crime in the police services is accepted and excused, in some cases.



Whilst harsher sentences for violent crimes amongst the civilian population need to be treated as a matter of urgency, so too the approach to discipline in the SAPS needs to be reviewed to regain some of its legitimacy as both a services in pursuance of justice, but also an organisation which will not tolerate crime, and which will stand vehemently against any individual who attempts to undermine the rule of law in South Africa, particularly where such an individual is a representative of the law, and the justice system as a whole. Current approaches see the internal discipline of police members being favoured in exchange for the escalation of violent crimes to criminal courts. Until this approach to the discipline of the custodians of the law is amended, advances in the fight to rid vulnerable communities of crime and criminal elements will not be successful. Amendments in the trials and sentencing of police criminals therefore needs to be harsher, in order to be rehabilitative. It is essential for the justice system, and the SAPS, to create a social learning of its own, which is determined by positive interactions with

the public, and a caring philosophy towards the troubles of the poorest and the most destitute. Relationships between policing units and communities can only be rebuilt and trust can only be re-established once the SAPS demonstrate through practice, the code of conduct and ethics that is purported to guide the organisation. Accountability for wrongdoings at all levels and ranks in the SAPS needs to be treated as a matter of urgency, such that senior officers become mentors for ethical conduct, not examples of criminals to the profession and society at large.

Contrary to this violent and final approach to crime prevention and reduction, when referring to ways in which the laws can change for the better for members themselves, the stance became a lot more tolerant and understanding, with an emphasis on the provision of counselling and extremely lengthy disciplinary procedures being the preferred approach, with suggestions including the use of family counselling prior to the commencement of disciplinary measures, such as a first warning or a disciplinary hearing. This approach, albeit extreme, is sadly not afforded to individuals of the public, by members when approaching suspects in order to gather information, or better understand the rationale for the commission of crimes. The general perception that members are either different or exempt from the same disciplinary and legal processes appears to be an issue in terms of the lack of empathy that members exhibit towards suspects, as well as the seemingly special treatment they feel they deserve. The standard appears to be to allow them to have more chances to improve their behaviour before taking action against them, as opposed to expecting police members, who are custodians of the law to internalise the very principles they risk their lives to enforce.

Whilst it is necessary for the disciplinary processes to be followed with an aim of ensuring police members are aware that their behaviours have transgressed a formal law, with an aim to further ensure that such actions are not committed again, the provision of mandatory

counselling services should be a core focus of the policing services, when approaching corrective measures. Police members in this study exhibited extreme amounts of post-traumatic stress when discussing violence and crime scenes they have been witness to. Such police members also noted the relative lack of provision for a service which is so essential to a profession which is dangerous, high risk, and where the employees are armed with weapons which can be used to cause fatal injury at a moment's notice. Where counselling services are not provided, such individuals become a risk not only to themselves, but to those around them, and the decisions they are forced to make in respect of the life or death of civilians can oftentimes be ill informed or skewed by a damaged psyche. It is therefore the responsibility of the police services to ensure that where there has been exposure to scenes of a violent or traumatic nature, state facilitated mandatory trauma debriefing and counselling be provided. The provision of such an essential service can only have a positive effect on a police service which is tasked with so much yet provided with so few resources. A psychologically stable police service will be better equipped to provide essential services to those in need, in a country with so many socio-economic challenges.

REFERENCES

- Adams, M. 2009. "A Delinquent Discipline: The Rise and Fall of Criminology" in *Academic Questions*, vol. 22, no. 4, pp. 491-503.
- Alang, S. McAlpine, D. McCreedy, E. Hardeman, R. 2017. "Police Brutality and Black Health: Setting the Agenda for Public Health Scholars" in *American Journal of Public Health*, vol. 107, no. 5, pp. 645-808.
- Amnesty International. 2015. *Deadly Force: Police Use of Lethal Force in the United States*. Amnesty International USA: New York.
- Annapolis Police Department. 2017. *Annapolis Police Department General Order G.3: Suspension from Duty/Suspension of Police Powers*. Annapolis Police Department: Annapolis
- Antrobus, E. Bradford, B. Murphy, K. & Sargeant, E. 2015. "Community Norms, Procedural Justice, and the Public's Perceptions of Police Legitimacy" in *Journal of Contemporary Criminal Justice*, vol. 31, no. 2, pp. 151-170.
- Armstrong, T. & Matusitz, J. 2013. "Hezbollah as a Group Phenomenon: Differential Association Theory" in *Journal of Human Behaviour in the Social Environment*, vol. 23, no. 4, pp. 475-484.
- Babatunde, E. 2017. "Torture by the Nigerian Police Force: International Obligations, National Responses and the Way Forward" in *Strathmore Law Review*, vol. 2, no. 1, pp. 169-187.
- Babbie, E. Mouton, J. 2001. *The Practice of Social Research: South African Edition*. Oxford University Press: Cape Town.

- Bradford, B. & Jackson, J. 2015. "Enabling and Constraining Police Power: On the Moral Regulation of Policing" in *LSE Law, Society and Economy Working Papers 23/2015*. London School of Economics and Political Science: London.
- Broadhurst, R. & Davies, S. 2009. "Introduction: police work in context" in Broadhurst, R & Davies, S (eds.) *Australian Policing in Context*. OUP: Melbourne.
- Brown, E. Catalano, R. Fleming, C. Haggerty, K. Abbott, R. Cortes, R. & Park, J. 2005. "Mediator Effects in the Social Development Model: An Examination of Constituent Theories" in *Criminal Behavior and Mental Health*, vol. 15, no. 4, pp. 221-235.
- Budhram, T. 2015. "Intelligence-led Policing: A Proactive Approach to Combating Corruption" in *SA Crime Quarterly*, no. 52, pp. 49-55.
- Burger, J. Gould, C. & Newham, G. 2010. "The State of Crime in South Africa: An Analysis of the SAPS crime statistics for 2009/2010" in *SA Crime Quarterly*, no. 34, pp. 3-12.
- Burr, L. & Jensen, S. 2014, "Introduction: Vigilantism and the Policing of everyday life in South Africa" in *African Studies*, vol. 63, no. 2, pp. 139-152.
- Butler, S. 2018. "Policing the Police: Independent Investigations for Victoria" in *University of New South Wales Law Journal*, vol. 41, no. 3, pp. 1-44.
- Carter, C. 2017. "Police Brutality, the Law & Today's Social Justice Movement: How the Lack of Police Accountability has Fueled #Hashtag Activism" in *The City University of New York Law Review*, vol. 20, no. 2, pp. 521-557.
- Chan, J. 1996. "Changing Police Culture" in *The British Journal of Criminology*, vol. 36, no. 1, pp. 109-134.
- Chappell, A. & Piquero, A. 2004. "Applying Social Learning Theory to Police Misconduct" in *Deviant Behaviour*, vol. 25, no. 2, pp. 89-108.

- Cochran, J. & Sellers, C. 2011. "Repetitive Intimate Partner Victimization: An Exploratory Application of Social Learning Theory" in *Deviant Behaviour*, vol. 32, no. 8, pp. 790-817.
- Cressey, D. 1954. "The Differential Association Theory and Compulsive Crimes" in *The Journal of Criminal Law*, vol. 45, no. 1, pp. 29-40.
- Crime Stats SA. 2019. *Crime Statistics Simplified*. <https://www.crimestatssa.com/national.php>. Accessed 24/03/2019.
- Dalal, A. & Sharma, R. 2007. "Peeping into a Hacker's Mind: Can Criminological Theories Explain Hacking?" in *Journal of Cyber Law*, vol. 6, no. 4, pp. 34-47.
- Daly, K. 2012. "Aims of the Criminal Justice System" in Marmo, M. de Lint, W. & Palmer, D. (eds.) *Crime and Justice: A Guide to Criminology (4th edition)*. Lawbook Co: Sydney.
- Davis, D. 2006. "Undermining the Rule of Law: Democratization and the Dark Side of Police Reform in Mexico" in *Latin American Politics and Society*, vol. 48, no. 1, pp. 55-86.
- Deeming, P. & Johnson, L. 2009. "An Application of Bandura's Social Learning Theory: A New Approach to Deafblind Support Groups" in *Journal of the American Deafness & Rehabilitation Association (Conference Issue Supplement)*, pp. 203-209.
- De Graaf, G. 2007. "Causes of Corruption: Towards a Contextual Theory of Corruption" in *Public Administration Quarterly*, vol. 31, no. 1/2, pp. 39-86.
- Dean, G. & Gottschalk, P. 2011. "Continuum of Police Crime: An Empirical study of Court Cases" in *International Journal of Police Science & Management*, vol. 13, no. 1, pp. 16-28.
- Denzin, N. & Lincoln, Y. 2003. *Strategies of Qualitative Inquiry: Second Edition*. Sage Publications, Inc: United States of America.
- Dereymaeker, G. 2015. "Making Sense of the Numbers: Civil claims against the SAPS" in *SA Crime Quarterly*, no. 54, pp. 29-41.

- Doherty, O. 2018. "A Reform to Police Department Hiring: Preventing the Tragedy of Police Misconduct" in *Case Western Reserve Law Review*, vol. 68, no. 4, pp. 1259-1301.
- Faull, A. 2010. "Missing the Target: When Measuring Performance undermines Police Effectiveness" in *SA Crime Quarterly*, no. 31, pp. 19-25.
- Faull, A. 2011. "Corruption in the South African Police Service: Civilian perceptions and experiences" in *Institute of Security Studies Paper 226*, pp. 1-21.
- Faull, A. 2013. "Fighting for Respect: Violence, Masculinity and Legitimacy in the SAPS" in *SA Crime Quarterly*, no. 44, pp. 5-14.
- Fombad, C. 2011. "Constitutional Reforms and Constitutionalism in Africa: Reflections on Some Current Challenges and Future Prospects" in *Buffalo Law Review*, vol. 59, no. 4, pp. 1007-1107.
- Gongaware, T. & Dotter, D. 2005. "Developing the Criminal Self: Mead's Social Psychology and Sutherland's Differential Association" in *Sociological Spectrum*, vol. 25, no. 4, pp. 379-402.
- Gottschalk, P. 2012. "Police Criminality and Neutralization: An Empirical Study of Court Cases" in *Police Practice and Research*, vol. 13, no. 6, pp. 501-512.
- Government of South Africa. 1995. *The South African Police Service Act, No 68 of 1995*. Government of South Africa: Pretoria.
- Government of South Africa. 1996. *Constitution of the Republic of South Africa Act, No 108 of 1996*. Government of South Africa: Pretoria.
- Government of South Africa 1997. *Criminal Procedure Act, No 51 of 1977*. Government of South Africa: Pretoria.
- Government of South Africa. 2011. *Independent Police Investigative Directorate Act, No 1 of 2011*. Government of South Africa: Pretoria.

- Government of South Africa 2013. *The Prevention and Combating of Torture of Persons Act, No 7 of 2013*. Government of South Africa: Pretoria.
- Government of South Africa. 2018. *Statistics South Africa Quarterly Labour Force Survey*. Government of South Africa: Pretoria.
- Grossoehme, D. 2014. "Overview of Qualitative Research" in *Journal of Health Care Chaplaincy*, vol. 20, no. 3, pp. 109-122.
- Haq, M. 2014. *A Comparative Analysis of Qualitative and Quantitative Research Methods and a Justification for Adopting Mixed Methods in Social Research*. Annual PhD Conference, University of Bradford Business School of Management. June 2014.
- Harmon, R. 2012. "The Problem of Policing" in *Michigan Law Review*, vol. 110, no. 5, pp. 761-817.
- Hasselink, A. & Haeefe, B. 2015. "A Criminological Assessment of Police Brutality and Criminality against Women in custody in South Africa" in *Police Practice and Research*, vol. 16, no. 4, pp. 316-327.
- Heimer, K. 1997. "Socioeconomic Status, Subcultural Definitions, and Violent Delinquency" in *Social Forces*, vol. 75, no. 3, pp. 799-833.
- Hennick, M., Hutter, I. & Bailey, A. 2011. *Qualitative Research Methods*. Sage Publications, Inc: London.
- Heyer, G., Mitchell, M., Ganesh, S. & Devery, C. 2007. "An Econometric method of allocating police resources" in *International Journal of Police Science & Management*, vol. 10, no. 2, pp. 192-213.
- Hornberger, J. 2013. "From General to Commissioner to General – On the Popular State of Policing in South Africa" in *Law & Social Inquiry*, vol. 38, no. 3, pp. 598-614.
- Igun, S. 2008. "Extrinsic motivation as Correlates of Work Attitude of the Nigerian Police For: Implications for Counselling" in *Education*, vol. 129, no. 2, pp. 274-281.

- Illinois Department of Public Health. 2013. *Illinois Department of Public Health Suicide Prevention: Suicide and First Responders' Role*. Illinois Department of Public Health: Springfield.
- Independent Police Investigative Directorate. 2018. *Independent Police Investigative Directorate Annual Report 2017/2018 Financial Year*. Government of South Africa: Pretoria.
- Ivkovic, S. 2003. "To Serve and Collect: Measuring Police Corruption" in *The Journal of Criminal Law and Criminology*, vol. 93, no. 2, pp. 593-650.
- Jennings, M. & Gunther, J. 2000. "Juvenile Delinquency in Search of a Practice Model: Family Health, Differential Association, and Social Control" in *Journal of Family Social Work*, vol. 5, no. 1, pp. 75-89.
- Junior, D. & Muniz, J. 2006. "'STOP OR I'LL CALL THE POLICE!' The Idea of Police, or the Effects of Police Encounters Over Time" in *The British Journal of Criminology*, vol. 46, no. 2, pp. 234-257.
- Karimu, O. & Foluke, O. 2012. "A Comparative Analysis of Police Accountability in Nigeria and United States" in *International Journal of Humanities and Social Science*, vol. 2, no. 11, pp. 250-257.
- Kelley, T. 1996. "A Critique of Social Bonding and Control Theory of Delinquency Using the Principles of Psychology of Mind" in *Adolescence*, vol. 31, no. 122, pp. 321-337.
- Kobayashi, E. & Kerbo, H. 2012. "Differences in Perceived Levels of Informal Punishments for Noncompliance and Rewards for Compliance: A Comparison of Japanese and American Workers" in *Deviant Behaviour*, vol. 33, no. 1, pp. 40-57.
- Kynoch, G. 2016. "Apartheid's Afterlives: Violence, Policing and the South African State" in *Journal of Southern African Studies*, vol. 42, no. 1, pp. 65-78.
- Levine, K. 2016. "Police Suspects" in *Columbia Law Review*, vol. 116, no. 5, pp. 1197-1258.

- Long, M. Cross, J. Shelley, T. & Ivkovic, S. 2013. "The Normative Order of Reporting Police Misconduct: Examining the Roles of Offense Seriousness, Legitimacy, and Fairness" in *Social Psychology Quarterly*, vol. 76, no. 3, pp. 242-267.
- Luloff, A. 2006. "Using Key Informant Interviews to Better Understand Open Space Conservation in a Developing Watershed" in *Journal of Arboriculture*, vol. 32, no. 2, pp. 54-61.
- MacCoun, R. & Hix, W. 2010. *Unit Cohesion and Military Performance, in Sexual Orientation and U.S. Military Personnel Policy: An Update of RAND's 1993 Study*. RAND: Santa Monica.
- Manning, P. 1980. "Violence and the Police Role" in *The Annals of the American Academy of Political and Social Science*, vol 452, no. 1, pp. 135-144.
- Manning, P. 2014. "Role and Function of the Police" in Bruinsma, G & Weisburd, D (eds.), *Encyclopaedia of Criminology and Criminal Justice*. Springer: New York.
- Marchand, A. Nadeau, C. Beaulieu-Prevost, D. Boyer, R. & Martin, M. 2015. "Predictors of Posttraumatic Stress Disorder Among Police Officers: A Prospective Study" in *Psychological Trauma: Theory, Research, Practice and Policy*, vol. 7, no. 3, pp. 212-221.
- Marks, M. 2000. "Transforming Police Organisations from Within: Police Dissident Groupings in South Africa" in *The British Journal of Criminology*, vol. 40, no. 4, pp. 557-573.
- Martin, J. 2012. "Vigilantism and State Crime in South Africa" in *State Crime Journal*, vol. 1, no. 2, pp. 217-234.
- Mashele, P. 2008. "The 'shoot to kill' Approach: Inflammatory Rhetoric no solution to Crime" in *SA Crime Quarterly*, no. 26, pp. 11-14.

- Matsueda, R. & Heimer, K. 1987. "Race, Family Structure and Delinquency: A Test of Differential Association and Social Control Theories" in *American Sociological Review*, vol. 52, no. 6, pp. 826-840.
- May, D. 2003. "Nonsocial Reinforcement and Violence: Can Juvenile Justice policies be effective against intrinsic gratification received from violent activity among youth?" in *Journal for Juvenile Justice and Detention Services*, vol. 18, no. 1, pp. 9-32.
- Meares, T. 2017. "Policing and Procedural Justice: Shaping Citizens' Identities to Increase Democratic Participation" in *Northwestern University Law Review*, vol. 111, no.6, pp. 1525-1535.
- Mummolo, J. 2017. "Modern Police Tactics, Police-Citizen Interactions and the Prospects for Reform" in *The Journal of Politics*, vol. 80, no. 1, pp. 1-15.
- Murphy, D. & Robinson, M. 2008. "The Maximizer: clarifying Merton's theories of anomie and strain" in *Theoretical Criminology*, vol. 12, no. 4, pp. 501-521.
- Newham, G. 2015. "Avoiding another Marikana Massacre: Why Police Leadership Matters" in *SA Crime Quarterly*, no. 53, pp. 39-48.
- Nicholas, L. 2008. *Introduction to Psychology: 2nd Edition*. UCT Press: Cape Town.
- Northern Ireland Policing Board. 2017. *Policy on Unacceptable Behaviour*. <https://www.nipolicingboard.org.uk/sites/nipb/files/media-files/policy-on-unacceptable-behaviour.pdf>. Accessed 25/08/2019.
- Obasogie, O. & Newman, Z. 2017. "Police Violence, Use of Force Policies, and Public Health" in *American Journal of Law and Medicine*, vol. 43, no. 2-3, pp. 279-295.
- Opp, KD. 1989. "The Economics of Crime and the Sociology of Deviant Behaviour: A Theoretical Confrontation of Basic Propositions" in *Kyklos*, vol. 42, no. 3, pp. 405-430.
- Paat, YF. & Hope, T. 2015. "Relationship Dynamics, Gender, and Criminal Offending in Fragile Families" in *Journal of Family Violence*, vol. 30, no. 2, pp. 227-241.

- Payne, A. & Salotti, S. 2007. "A Comparative Analysis of Social Learning and Social Control Theories in the Prediction of College Crime" in *Deviant Behaviour*, vol. 28, no. 6, pp. 553-537.
- Pemberton, S. 2008. "Demystifying Deaths in Police Custody; Challenging State Talk" in *Social and Legal Studies*, vol. 17, no. 2, pp. 237-261.
- Pienaar, J. & Rothmann, S. 2006. "Occupational Stress in the South African Police Service" in *SA Journal of Industrial Psychology*, vol. 32, no. 3, pp. 72-78.
- Rajakaruna, N., Henry, P. & Scott, A. 2015. "A Necessary Safety Net: Use of a Confidential Internal Telephone Line to Report Unethical Behaviour" in *Police Practice and Research*, vol. 16, no. 5, pp. 431-443.
- Scheider, M. & Florence, J. 2000. "Are we explaining different things? The failure to specify the dependent variable in Criminology" in *Deviant Behaviour: An Interdisciplinary Journal*, vol. 21, no. 3, pp. 245-269.
- Scriven, D. 2015. "Blue On Black Violence: Freddie Gray, Baltimore, South Africa, & the Quietism of Africana Christian Theology" in *The Journal of Pan African Studies*, vol. 8, no. 3, pp. 119-126.
- Sherman, L. 1980. "Perspectives on Police and Violence" in *The Annals of the American Academy of Political and Social Science*, vol. 452, no. 1, pp. 1-12.
- Sisk, D. 1982. "Police Corruption and Criminal Monopoly: Victimless Crimes" in *Journal of Legal Studies*, vol. 11, no. 2, pp. 395-403.
- Sklansky, D. 2005. "Police and Democracy" in *Michigan Law Review*, vol. 103, no. 7, pp. 1699-1830.
- Skogan, W. & Meares, T. 2004. "Lawful Policing" in *The Annals of the American Academy of Political and Social Science*, vol. 593, no. 1, pp. 66-83.

- South African Police Service. 2011. *Standing Order (General) 350 Use of Restraining Measures*. Government of South Africa: Pretoria.
- South African Police Service. 2011. *Standing Order (General) 101 – The Management of Complaints against the South African Police Service*. Government of South Africa: Pretoria.
- South African Police Service. 2014. *Common Law Definitions of Offences*. <https://www.saps.gov.za/faqdetail.php?fid=9>. Accessed 05/01/2019.
- South African Police Service. 2014. *South African Police Services Code of Ethics*. Government of South Africa: Pretoria.
- South African Police Service. 2014. *South African Police Service Code of Ethics*. <https://www.saps.gov.za/about/ethics.php>. Accessed 05/01/2019.
- South African Police Service. 2018. *South African Police Services Annual Financial Report 2017/2018*. Government of South Africa: Pretoria.
- South African Police Service. 2018. *South African Police Services Annual Strategic Report 2016/2017*. Government of South Africa: Pretoria.
- Steinberg, J. 2012. “Security and Disappointment: Policing, Freedom and Xenophobia in South Africa” in *The British Journal of Criminology*, vol. 52, no. 2, pp. 345-360.
- Stinson, P. Reyns, B. & Liederbach, J. 2011. “Police crime and less-than-lethal coercive force: a description of the criminal misuse of TASERS” in *International Journal of Police Science and Management*, vol. 14, no. 1, pp. 1-19.
- Stinson, P. Todak, N. & Dodge, M. 2015. “An Exploration of Crime by Policewomen” in *Police Practice and Research*, vol. 16, no. 1, pp. 79-93.
- Strauss, A. & Corbin, J. 1998. *Basics of Qualitative Research, Techniques and Procedures for Developing Grounded Theory: 2nd Edition*. Sage Publications Inc: London.

- Subramaney, U. Libhaber, E. Pitts, N. & Vorster, M. 2012. "Personality, depressive symptoms and prior trauma exposure of new recruits at two Metropolitan Police Service academies in South Africa" in *South African Journal of Psychiatry*, vol. 18, no. 4, pp. 176-180.
- Tankebe, J. 2010. "Public Confidence in the Police: Testing the Effects of Public Experiences of Police Corruption in Ghana" in *The British Journal of Criminology*, vol. 50, no. 2, pp. 296-319.
- The United Nations Women Virtual Knowledge Centre to End Violence Against Women and Girls. 2012. *Module Three Justice and Policing: Essential Services Package for Women and Girls Subject to Violence*. The United Nations Entity for Gender Equality and the Empowerment of Women: New York.
- Tittle, C. Antonaccio, O. & Botchkovar, E. 2012. "Social Learning, Reinforcement and Crime: Evidence from Three European Cities" in *Social Forces*, vol. 90, no. 3, pp. 863-890.
- Tittle, C. Burke, M. & Jackson, E. 2001. "Modelling Sutherland's Theory of Differential Association: Toward an Empirical Clarification" in *Social Forces*, vol. 65, no. 2, pp. 405-432.
- Tyler, T. 2004. "Enhancing Police Legitimacy" in *The Annals of the American Academy of Political and Social Science*, vol. 593, no. 1, pp. 84-99.
- Ukpere, W. & Zondi, Z. 2014. "Police Brutality in Post-Apartheid South Africa Reviewed" in *Mediterranean Journal of Social Sciences*, vol. 5, no. 3, pp. 574-579.
- Van Reenen, P. 2002. "Routine Police Torture: Towards a Personalistic Analysis and Strategy" in *Human Rights Review*, vol. 4, no. 1, pp. 52-73.
- Weitzer, R. 2005. "Can the Police be Reformed?" in *Contexts*, vol. 4, no. 3, pp. 21-26.
- Westmarland, L. 2001. "Blowing the Whistle on Police Violence: Gender, Ethnography and Ethics" in *The British Journal of Criminology*, vol. 41, no. 3, pp. 523-535.

Yates, S. (2004). *Doing Social Science Research*. Sage Publications, Inc.: London.

Young, M. Koortzen, P. Oosthuizen, R. 2012. "Exploring the meaning of trauma in the South African Police Service: A systems psychodynamic perspective" in *SA Journal of Industrial Psychology*, vol. 38, no. 2, pp. 1-11.



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APPENDICES

Appendix 1

Semi-Structured Interview Protocol – Police members and officers

Intro questions:

1. What is your rank in the SAPS?
2. How many years have you been a police official?
3. Which station are you positioned at?
4. How old are you?
5. Male/Female?
6. Are you part of a specialized policing unit?
7. Racial category



Research Question 1: To what extent is police criminality prevalent within Buffalo City Metropolitan Municipality?

1. What do your daily duties consist of?
2. In the fulfilment of any of those duties, are you required to apprehend or detain suspects?

Prob: If so how do you go about doing this?

3. What would you regard as being unacceptable behavior of a police officer?
4. What would you regard as being unethical behavior of a police officer?
5. What would you regard as being illegal behavior of a police officer?
6. What would you regard as being criminal behavior of a police officer?
7. In your opinion, have you ever crossed the line on any of the following:

Prob: Unethical behavior?

Prob: If so, in what way?

Prob: Illegal behavior?

Prob: If so, in what way?

Prob: Criminal behavior?

Prob: If so, in what way?

8. Do you know of any colleagues who, in your opinion, have crossed a line on any of the following:

Prob: Unethical behavior?

Prob: If so, in what way?

Prob: Illegal behavior?

Prob: If so, in what way?

Prob: Criminal behavior?

Prob: If so, in what way?

9. Do you know of any colleagues who have been suspended for any disciplinary infractions?

Prob: If so, what was the nature of the infraction?

10. Do you know of any colleagues who have been dismissed for any disciplinary infractions?

Prob: If so, what was the nature of the infraction?

11. Do you know of any colleagues who have been arrested for any legal infractions?

Prob: If so, what was the nature of the infraction?

12. Do you know of any colleagues who have been convicted of any legal infractions?

Prob: If so, what was the nature of the infraction?

13. How prevalent do you think such incidences as the above mentioned are, in both your station and in the SAPS in general?



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Research Question 2: What sociological factors explain police criminality?

1. Do you feel as police officers you are fairly and satisfactorily remunerated according to your duties?

Prob: If not, how far are you from being satisfied with your remuneration?

Prob: If yes, do you think remuneration is an issue in the SAPS?

2. Do you have adequate resources necessary for you to successfully do your job?

Prob: If not, what changes would you like to see in terms of support services?

Prob: If not, what changes would you like to see in terms of additional resources?

Prob: If yes, do you think that lack of resources is an issue in the SAPS?

3. How do you feel about reporting a colleague for a disciplinary matter you have witnessed or been privy to?

4. How do you feel about reporting a colleague for a criminal matter you have witnessed or been privy to?

5. How do you think the East London community views the SAPS, in terms of fulfilling its mandate to serve and protect?

6. Do you feel that the SAPS and you in particular receive enough support from your superiors in order to successfully fulfil your mandate to serve and protect?

7. Do you feel that the criminal justice system in South Africa encourages police unethical behavior?

8. Do you feel that the criminal justice system in South Africa encourages police illegal behavior?

9. What do you think needs to change in order for the criminal justice system to deal with criminals in a more effective way?

Research Question 3: To what extent are the South African Police Services' (SAPS) internal disciplinary measures and policies effective mechanisms for deterring police criminality?

1. Are you fully aware/knowledgeable about legislation governing the SAPS?
2. Do you know what the internal disciplinary policies in the SAPS are?

Prob: If so, what are they?

3. In your opinion, do these policies stop police officials from being involved in unethical behavior?
4. In your opinion, do these policies stop police officials from being involved in illegal behavior?
5. In your opinion, are these measures implemented fairly and consistently in your station/unit, or throughout the SAPS?
6. What areas of the internal and legal governing policies would you change?
7. What areas of the internal and legal governing laws would you change?
8. Do you think these policies and laws are reasonable, taking into account the unique nature of the policing profession and your daily duties?

Appendix 2

Semi-Structured Interview Protocol – Key Informant – Station Commander

Intro questions:

1. What is your rank in the SAPS?
2. How many years have you been a station commander?
3. Which station are you positioned at?
4. How old are you?
5. Male/Female?
6. Racial category

Key Informant questionnaire:

1. What is the procedure for the detainment and apprehension of suspects?
2. What is regarded as being unacceptable behavior of a police officer?
3. What is regarded as being unethical behavior of a police officer?
4. What is regarded as being illegal behavior of a police officer?
5. What is regarded as being criminal behavior of a police officer?
6. Have any police officers been involved in any of the above mentioned behaviors at your station?

Prob: If so, what were the circumstances of the incident(s) and what was the outcome?

7. How prevalent do you think unacceptable, unethical, illegal, and criminal incidences are, in both your station, and in the SAPS in general?

Research Question 2: What sociological factors explain police criminality?

1. Is remuneration an issue in the SAPS?

Prob: If so, how severe is this issue?

2. Is lack of adequate resources an issue in the SAPS?

Prob: If so, what specific resources are lacking?

3. Do you think police officers are comfortable and willing to report one another for transgressions of any nature?

Prob: If not, why?

4. Do you feel that the SAPS have support from the East London community?
5. What role do you think the criminal justice system in South Africa plays in encouraging police unethical and illegal behavior?

Research Question 3: To what extent are the South African Police Services' (SAPS) internal disciplinary measures and policies effective mechanisms for deterring police criminality?

1. What legislation governs the SAPS?
2. How do the internal disciplinary policies deal with unethical and illegal behavior of policemen?
3. In your opinion, do these policies stop police officials from being involved in unethical and illegal behavior?
4. In your opinion, are these measures implemented fairly and consistently in your station/unit, and throughout the SAPS?
5. What areas of the internal and legal governing policies and laws do you feel need to change?

Appendix 3

Semi-Structured Interview Protocol – Key Informant – Public Prosecutor

Intro questions:

Key Informant questionnaire:

1. What is the procedure for the detainment and apprehension of suspects?
2. What is the procedure for the investigation/prosecution of suspects?
3. What is the procedure for the investigation/prosecution of police officials?
4. What is the relationship between the NPA and IPID?
5. What is the relationship between the DoJ and IPID?
6. What discretionary powers do you as a prosecutor have in terms of investigating or prosecuting police officials?
7. Do you think police officials are comfortable and willing to testify against one another?
8. Do you think the criminal justice system has a role to play in encouraging or facilitating police unethical and illegal behavior?

Research Question 3: To what extent are the South African Police Services' (SAPS) internal disciplinary measures and policies effective mechanisms for deterring police criminality?

1. What legislation governs the SAPS?
2. In your opinion, does this legislation stop police officials from being involved in unethical and illegal behavior?
3. In your opinion, are these measures implemented fairly and consistently in your station/unit, and throughout the SAPS?
4. What areas of legal governing policies and laws do you feel need to change?

Appendix 4

Semi-Structured Interview Protocol – Key Informant – Institute of Security Studies

Intro questions:

1. What is your position with the ISS?
2. What is the nature of your research at the ISS?

Key Informant questionnaire:

1. What is the procedure for the detainment and apprehension of suspects?
2. What is your understanding of a police officer's right to use force?

Research Question 2: What sociological factors explain police criminality?

1. Is remuneration an issue in the SAPS?
Prob: If so, how severe is this issue?
2. Is lack of adequate resources an issue in the SAPS?
Prob: If so, what specific resources are lacking?
3. Do you think police officers are comfortable and willing to report one another for transgressions of any nature?
Prob: If not, why?
4. Do you feel that the SAPS have support from the East London community?
5. What role do you think the criminal justice system in South Africa plays in encouraging police unethical and illegal behavior?

Research Question 3: To what extent are the South African Police Services' (SAPS) internal disciplinary measures and policies effective mechanisms for deterring police criminality?

1. What legislation governs the SAPS?
2. How do the internal disciplinary policies deal with unethical and illegal behavior of policemen?
3. What areas of the internal and legal governing policies and laws do you feel need to change?



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Appendix 5

Semi-Structured Interview Protocol – Key Informant – Counselling Psychologist and Criminologist

Intro questions:

1. What is your current position?
2. How long have you been in this position for/how many years of experience do you currently have?

Research Question 2: What sociological factors explain police criminality?

1. Do you feel that police members are exposed to more than normal amounts of violence and trauma?
Prob: If so, how severe is this issue?
2. Do you feel that such exposure places them at risk for developing mental health issues?
Prob: If so, what specific issues may manifest as a result?
3. Do you think exposure to violence and trauma may have a role to play in members propensity to commit violence themselves?
4. In your experience do police members receive the requisite debriefing and counselling they need?
Prob: If not, why?
5. Do you feel that members have support for these types of services from superiors, and the SAPS in general?

Appendix 6

University of Fort Hare Ethical Clearance Certificate



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ETHICAL CLEARANCE CERTIFICATE REC-270710-028-RA Level 01

Certificate Reference Number: MOY201SLON01

Project title: **A sociological appraisal of police crimes and internal disciplinary measures in Buffalo City Metropolitan Municipality.**

Nature of Project: PhD in Sociology

Principal Researcher: Amy Megan Long

Supervisor: Prof P Moyo

Co-supervisor: N/A

On behalf of the University of Fort Hare's Research Ethics Committee (UREC) I hereby give ethical approval in respect of the undertakings contained in the above-mentioned project and research instrument(s). Should any other instruments be used, these require separate authorization. The Researcher may therefore commence with the research as from the date of this certificate, using the reference number indicated above.

Please note that the UREC must be informed immediately of

- Any material change in the conditions or undertakings mentioned in the document;
- Any material breaches of ethical undertakings or events that impact upon the ethical conduct of the research.

The Principal Researcher must report to the UREC in the prescribed format, where applicable, annually, and at the end of the project, in respect of ethical compliance.

Special conditions: *Research that includes children as per the official regulations of the act must take the following into account:*

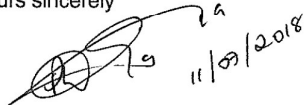
Note: The UREC is aware of the provisions of s71 of the National Health Act 61 of 2003 and that matters pertaining to obtaining the Minister's consent are under discussion and remain unresolved. Nonetheless, as was decided at a meeting between the National Health Research Ethics Committee and stakeholders on 6 June 2013, university ethics committees may continue to grant ethical clearance for research involving children without the Minister's consent, provided that the prescripts of the previous rules have been met. This certificate is granted in terms of this agreement.

The UREC retains the right to

- Withdraw or amend this Ethical Clearance Certificate if
 - Any unethical principal or practices are revealed or suspected;
 - Relevant information has been withheld or misrepresented;
 - Regulatory changes of whatsoever nature so require;
 - The conditions contained in the Certificate have not been adhered to.
- Request access to any information or data at any time during the course or after completion of the project.
- In addition to the need to comply with the highest level of ethical conduct principle investigators must report back annually as an evaluation and monitoring mechanism on the progress being made by the research. Such a report must be sent to the Dean of Research's office.

The Ethics Committee wished you well in your research.

Yours sincerely



Professor Pumla Dineo Gqola
Dean of Research

05 July 2018