

A COMPARATIVE ANALYSIS OF CRIMINAL JUSTICE PROCESSES IN  
SOUTH AFRICA AND THE UNITED STATES

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As a result of British colonization and their attempts to govern a variety of different cultures many nations now share a common bond in their criminal justice systems. This research focuses on the impact of some of those common bonds on the South African and United States criminal justice systems.

Along with many national historical similarities there appears to be similarities in the approaches these two governments have taken to remedy criminal justice issues that arise.

Political interference, lack of cooperation, poor communication skills, interagency discord and a lack of unified direction seem to plague both criminal justice systems. As a result both criminal justice systems appear to be fragmented and in a constant state of flux.

One solution that attempts to remedy the mistrust developed by individual citizens and their communities as a result of the fragmentation of their criminal justice system is community policing. Both nations are embarking on a concept that was proposed by Sir Robert Peel in 1829 when he espoused the ideal of "Police, at all times, should maintain a relationship with the public that gives reality

to the historic tradition that the police are the public and the public are the police".

The fragmentation which causes many of the dilemmas faced by the criminal justice system appears to be a necessary element of any system that wishes to be able to grow and change with time. As we embark on the 21<sup>st</sup> century, globalization will become a factor in every surviving national government. South Africa and the United States appear to be positioning themselves to be active participants in this process.

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## Table of Contents

List of tables and charts

### Chapter 1 Introduction

1.1	Prologue	1
1.2	Justification	5
1.2.1	Separation of Power	7
1.2.2	Bureaucracy	9
1.2.3	The Problem	12
1.3	Objective of the Research	14
1.3.1	General Aims of the Study	15
1.4	Research Methodology	16
1.4.1	Questionnaire	18
1.4.2	The Sample	19
1.5	Literature Review	21
1.5.1	Personal Correspondence	21
1.5.2	Empirical Research	21
1.5.3	Demographics of Responders	22
1.5.4	Reliability of Data	24
1.6	Delimitation of the field of study	24
1.6.1	Period of Study	25
1.6.2	Geographical Delimitation	25
1.7	Definition of Key Concepts	25
1.8	Division of Chapters	25

### Chapter 2 Law and Society

2.1	Societal Expectations	32
2.2	Crime and Deviance	33
2.3	Fragmentation	35
2.4	Origin of Paramilitary Policing	37
2.4.1	Metropolitan Policing Model	38
2.4.2	Colonial Policing Model	42
2.4.3	Implementation of a Paramilitary Model	46
2.5	Police Bureaucracy	49
2.6	Analysis	54
2.7	Conclusion	55

### Chapter 3 Historical Overview

3.1	Structure, Purpose and Activities	62
3.1.1	United States History	64
3.1.2	South Africa History	77
3.2	Conclusion	95

## **Chapter 4 Cooperation and Coordination**

4.1	The System	103
4.2	Closed vs. Open Systems	106
4.2.1	The Seventh Phase	109
4.3	Criminal Law vs. Criminal Procedure	114
4.4	Management and Leadership	117
4.4.1	Decision Making	120
4.5	The Dilemma	124
4.6	Conflict	125
4.7	Community Policing	127
4.8	Conclusion	137

## **Chapter 5 Toward Professionalism**

5.1	Toward Professionalism	148
5.2	Affirmative Action	153
5.3	Regional Disparity	157
5.4	Employee Job Satisfaction	162
5.5	Communication	168
5.6	Victimization and Public Perceptions	174
5.7	Conclusion	180

## **Chapter 6 Comparisons and Conclusions**

6.1	Comparison of the Systems	189
6.2	The Norms of Democratic Policing	189
6.3	Generic Lessons for Changing Police Organizations	192
6.4	Lessons for Police Reform	197
6.5	Comments	198

## List of tables and graphs

Chart 1-1	Status of Responders	23
Chart 1-2	Ethnicity of Responders	23
Chart 4-1	SAPS Organizational Structure	52
Chart 5-1	Distribution of Crime in SA	160
Chart 5-2	Police Visibility	161
Chart 5-3	Provincial Police Levels	161

# Chapter 1

## Introduction

### 1.1 Prologue

During the 21<sup>st</sup> century, modern society will continue to experience constant and rapid change. The rapidity of change brings with it a domino effect in that when one portion of society changes another section of that society feels its impact and must adapt to that change. One societal institution that has a far reaching impact on almost every segment of a society is their criminal justice system.

To properly research a criminal justice system an understanding of how laws came into existence must be undertaken. Since people first formed societies, folkways and mores existed to control the conduct of members of those societies. Eventually the combination of customs, mores and religious beliefs and practices became codified and became known as laws. Violations of the law became known as crimes and the criminal law represents a government's ability to control human behavior and punish behavior that violates social rules.

In England in medieval times judges rendered decisions based upon customary or common practice. These practices

were eventually codified and later referred to as "common law". "Common law was what the courts of England decided, and the law was being developed by new cases that extended or elaborated on the law of preceding cases" (Adler, Mueller & Laufer, 1994).

With the signing of the Magna Carta in 1215, England's King John established a covenant with the freeman of England when he consented to a limitation of his powers (Lyons, Scheb II & Richardson, 1995). The Common Law can be viewed as an attempt to justify a measure of control over centralized power and holds that judges exercise control by interpreting statutes as if they were enacted in order to comply with standards of reason (Dyzenhaus, 1991). Protecting citizens against crime became one of the fundamental responsibilities of government. Citizens were guaranteed a jury trial and proportional punishment by the Magna Carta (Samaha, 1999). When the colonies were settled, the immigrants brought with them the Common laws and criminal justice traditions of England.

During its colonizing period the British Empire was spread around the globe, and the statement "the sun never sets on British soil" was common and accurate. The effects of this colonization are still felt to this day, with Hong

Kong being the latest colony returned to the People's Republic of China on July 1, 1997.

The establishment of a formal criminal justice system in a democracy seems straight forward. Laws are enacted by a legally elected legislature, the police enforce the laws and arrest violators, the court system provides a fair and impartial trial for the accused, and if the accused is found guilty and sentenced to imprisonment the correctional system ensures the punishment is administered in an equitable manner.

Police authority is delegated by the community it serves and "... consent of the governed is what gives policing its moral quality" (Radlelet 1986). The question may be asked, why is there so much turmoil in the system? The answer may be found in the organizational structure of the system and how the components and individual stakeholders interpret their function within the system.

Barnard (1938) states "The vitality of organizations lies in the willingness of individuals to contribute forces to the cooperative system". He stressed the importance of factors emanating from the entire system as well as individual members.

Barnard posits that in order for an organization to survive it must:

- have a common purpose
- demonstrate a willingness to cooperate
- have effective communications.

Stojkovic, Kalinich & Klofas(1998) acknowledge that organizations:

- are more than a collection of people and that organizations act
- that leadership in an organization is more than supplying leadership of individuals
- that socialization in an organization includes individualized attitudes as well as a reflection of the organization's ethics
- that decision making is shaped by influences beyond those of individual decision makers.

Two major government bodies that are continents apart yet reflect the impact of British and Dutch colonization on democratic societies are the United States and South Africa. Focusing primarily on policing, this research will compare the criminal justice systems processes of the United States and South Africa and investigate the various functional units.

Both systems have developed their respective processes for performing their immediate function and integrating

their results with the remainder of the system. The term process, for this research, means the system of interacting with each other in order to proceed to the next highest level. Process can be influenced by intra/inter personal, intra/inter group, intra/inter agency and inter system relationships.

Radelett (1986) states:

Every society recognizes that the police function is essential to its survival. The question is one of the means necessary to maintain that function. In democratic societies, order is not an end in itself; rather it is a means to the end of justice and sanctity of individual liberty. (p. 6)

Are police given the necessary means to perform their function and to what societal end are they directed? The question of whether a society is dominated with a quest for justice or is that society controlled by the "Rule of Law" will be addressed in this document.

## **1.2 Justification**

The police uniform is almost universally recognized. Police uniforms are seen as symbols of authority. Because the police are the most visible agents of a criminal justice system in a democratic society, the average citizen

when speaking about law and order or lawlessness in society tend to blame the police.

James Q. Wilson (1968) in Vanities of Police Behavior identified three types of police agencies: watchman, service and legalistic. (See section 3.1.1) The watchman style was not professional while the service and legalistic styles were professional and bureaucratic with the service style having "shallow bureaucracies" and the legalistic style was "highly bureaucratic" (Smith, 1984).

Adler, Mueller, & Laufer (1994) group police functions into three categories: service, order maintenance and law enforcement. Order maintenance and law enforcement functions often involve the exercise of coercive authority. Whenever the officer encounters a citizen while in uniform, the uniform announces the message that the officer has authority and if necessary can use force to gain compliance to their instructions (Cox & Fitzgerald, 1996).

Smith (1984) examined inter-organizational variations of police officers decisions to arrest. He concluded the "the style of control exercised by organizational members in encounters with the public will reflect dominant values within the police organization".

The researcher aimed to discover if this recognition is a product of the uniform the officers wear, the agency

for which they work or are they simply scapegoats for a fragmented system of which they are the most visible part.

Henslin (1996) cites John Dollard's research where he defines the term scapegoat. People who are unable to strike out at the real source of their frustration find someone else to blame. This enables a group who is not the entire cause of the people's frustration to become convenient targets on which to vent.

### **1.2.1 Separation of Power**

Charles de Secondat (Baron de la Brede et de Montesquieu) published On the Spirit of Laws in 1748. Montesquieu believed the idea of a democratic form of government could only exist with the right balance of power. He maintained that a "separation of power" between the three groups of officials (legislative, executive and judicial) with each branch maintaining equal powers would provide a safeguard from one group dominating the system. His idea for a separation of powers became a fundamental part of the United States and South Africa's Constitution.

The United States and South Africa have adopted political systems, which employed a federalist model. Power is divided between a national government with authority over the entire country, while reserving powers

for the individual states or provinces, the states or provinces in turn allocate powers municipal governing bodies.

A major difference in the two systems is that South Africa employs a parliamentary system, whereas, the United States employs a presidential system. In a parliamentary system the executive branch of government is selected from and by members of parliament, whereas, in the presidential system the executive is elected in a separate election (Lyons, Scheb & Richardson, 1995).

The framers of the U.S. Constitution established three separate branches of government within the national government to ensure a separation of power. Article I Section I of the U.S. Constitution states "All legislative powers herein shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives". Article II Section I states "The executive power shall be vested in a President of the United States of America" and Article III Section I states "The judicial power of the United States shall be vested in one supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish".

Crucial to administering a system that contains a separation of power is a means of checks and balances.

Lyons, Scheb & Richardson (1995) defines checks and balances as the:

fundamental principle underlying the American constitutional system whereby institutions of the government can check one another in order to prevent one branch from becoming too powerful. (p. 60)

The irony of this form of government is that its very strength may be the root cause of confusion and dissention in the system. Inevitably one branch of the government interferes with or crosses over their legally designated specialty that creates animosity among the other branches of government.

## 1.2.2 Bureaucracy

"The dominant type of formal organization in modern society is the bureaucracy" (Farley, 1998). The United States and South African governments provide excellent examples of bureaucratic styles of government. Stojkovic, Kalinich & Klofas (1998) indicates that the term organization hinges on three important issues: structure, purpose and activities. Citing Weber (1947) they describe three characteristics of a bureaucracy:

- Regular activities are distributed in a fixed way as official duties (division of labor)

- the authority to give commands is distributed in a stable way and is strictly delimited (chain of command)
- methodical provision is made for the regular and continuous fulfillment of these duties (formal rules).

Weber posits that rationalization, a shift toward making all decisions on the basis of what will accomplish organizational goals would drive bureaucracies. Bureaucracy facilitates rationalization by:

- identifying the task to be completed and assigning someone to complete the task
- providing a means of coordinating the activities of large numbers of people working on different tasks, ensuring that their efforts contribute to the common good (Farley, 1998).

As a part of the executive branch of government, police agencies are para-military organizations operating within a democratic government employing bureaucratic principles. Often the police agency is placed in a dilemma in deciding what is their role in a democratic society. The agencies often have to decide on a bureaucratic (rational and rule oriented) system or a political (responsive and individualized) system. Roberg & Kuykendall (1990) state:

The conception of police role implementation as bureaucratic assumes that justice is a product of consistency, and that consistency is best defined by precise and strict rules. The rules of law provide the basic requirements while organizational policies, procedures, and well-defined position descriptions provide officers the essentials of their work. Ideally, these rules are rationally developed and free of any biases that would be inconsistent with the fundamental principles of society.

The political view of the police role has two possible explanations. At the worst, laws and the police primarily serve the interest of the most influential persons in the community... The second explanation focuses on responsiveness and individualization. Advocates of this role conception argue that strict rule enforcement does not take into account the uniqueness of the problems and needs of individuals and neighborhoods in the community. Consistency is not required and preferential treatment is unnecessary. (p. 57)

When processing a suspected offender, the design of most criminal justice systems traditionally parades the suspect back and forth between agencies. The police officer

historically arrests a suspect, the suspect is arraigned in court, if he or she cannot make bail they are remanded to a correctional facility to await trial, the individual then proceeds through the judicial process and if tried and found guilty they are returned to a correctional facility.

The separation of power within the criminal justice system is unique in that the laws the police enforce are a product of the legislature. The police, represent the executive branch in enforcing the laws, the judicial system regulates the legality of the officer's actions and corrections enforces the dictates of the judicial branch. However, corrections is part of the executive branch. The criminal justice system functions under inter and intra organizational structures.

### 1.2.3 The Problem

From a sociological viewpoint, depending on the individual who is receiving or requesting police services, police agencies are visualized as being either the representatives of the ruling class and are used as a means of controlling the masses (conflict theory) or as representatives of the people and laws serve a utilitarian function (consensus theory) in most democratic societies.

(See section 2.2)

From a managerial viewpoint:

The conflict model is a perspective on the study of criminal justice which assumes that the system's subcomponents function primarily to serve their own interests. According to this theoretical framework "justice" is more a product of conflicts among agencies within the system than it is the result of cooperation among component agencies.

On the other hand the consensus model is a perspective on the study of criminal justice which assumes that the system's subcomponents work together harmoniously to achieve that social product we call "justice.

(Chillier, 2002)

In the majority of police encounters where the police officer has to make a decision based on law enforcement or order maintenance one party to the decision is going to be unhappy. Police officers are traditionally placed in a position of being unofficial judges in most street encounters.

Technically officers are supposed to enforce the law, while in reality a majority of their time is spent as mediators and referees in a wide variety of disputes. The officer on street patrol is perhaps the most powerful of all police personnel in that he or she is the individual

who can be called upon at a moments notice to make a life or death decision.

Police can produce conflict by utilization of partisan methods, the narrow social composition of its members, and stereotyping. "The fragmentation of political, cultural and ideological conflicts that has occurred in ethnically divided societies allows the police to intervene in further ways" (Brewer, 1991).

What guidelines are used while making these decisions? Are departmental rules and regulations reflective of the dictates of the community being policed or are they the dictates of the governing body? Cox & Fitzgerald (1996) state:

We expect the police to use 'common sense', to know how much public order to maintain at different times, even though we ourselves have not been able to formulate common standards from which to develop a common sense. (p. 24)

### 1.3 Objective of the Research

"One thing that can be stated categorically: very little is known about the police in Africa" (Igbinovia, 1981).

The researcher's objective was to acquire knowledge of the administration and management of the United States and South African Police agencies, attempt to determine how much impact outside agencies, the command structure (philosophy) and the populous have on decision making, compare the data, and interpret how their management styles impact ordinary/routine policing.

### 1.3.1 General Aims of the study

This research assessed the impact of a para/quasi military police agency and the impact the other governmental agencies have on the decision-making processes of the police officer while performing his/her routine duties.

Every nation has developed some system of criminal justice. Regardless of the type of political structure, societies require law making and policing or enforcing laws. South Africa has recently abandoned a system of minority rule (whites) that employed the use of apartheid to subjugate the black majority while the United States functioned under a majority rule after conquering the native American population.

This researcher believes that

- the police officers in any democratic society will perform their police duties in concert with the laws that govern the society they are protecting; the "laws" not the individuals in uniforms are at the base of any injustice
- the police are part of the problem, not the cause of it
- policing is evolving into a profession and as a result the societies being policed benefit from the evolution.

The United States and South Africa share many similarities (See sections 3.1.1 and 3.1.2). In 1996 South Africa adopted a new constitution. The Vera Institute and Dullah Omar (previous Minister of Justice):

agreed that a permanent vehicle for reform was needed to help build trust in the criminal justice system and reduce crime. . . The challenge facing South Africa's criminal justice system is to protect the rights enshrined in the new Constitution while ensuring public safety (Vera Institute, 2000).

#### 1.4 Research Methodology

Police practices are affected by the nature of society

and the state, and by state-society relations. (Brewer, 1991) This research suggests that the basic dynamic of policing ordinary crime transverses police agencies on an international scale.

In deciding on an appropriate way to conduct this research, three factors that could impact the study became evident. The first was the researcher's personal biases stemming from 26 years as a law enforcement officer with the Elizabeth, New Jersey Police Department. Personal experiences of the researcher have led him to undertake this research project in an attempt to vindicate some of the actions taken by police officers while performing their duties. This research in no way supports police misconduct and the officers that are involved in illegal activities, however, the researcher feels there are many incidences where the police officer/constable is made the scapegoat for the criminal justice system.

The second was the fact that the study was of an international nature. Van Dijk and Kangaspunta (2000) comment on the difficulties of comparing international criminal justice systems. They report:

The major problems with comparing international crime data are differences in laws and in definition of legal terms, improper statistical classifications,

procedural differences among countries, ambiguous coding structures, and differences in the units of count used. (p. 36)

Some data for this research was gathered through a survey while other data was gathered from academic journals and publications or national archives.

The third factor is that the South African government since 1994 is in a state of flux. Writing a new constitution after the abolition of apartheid and establishing a representative form of government cannot possibly be accomplished without a certain amount of trial and error when implementing changes. The problem is further exasperated by attempting to find the correct personnel for sensitive governmental positions.

#### 1.4.1 Questionnaire

The researcher acknowledges the challenge of conducting meaningful comparisons between two countries where historical, legalistic and ideological factors are different. A survey seemed the proper solution.

The questionnaire contained 32 questions regarding police procedures along with 11 generic social and demographic questions. The questionnaire was used as a diagnostic instrument. The police procedures questions can

be divided into seven categories. The categories include: the respondents attitude about the entire criminal justice system, use of discretion, effectiveness of communication, intra/inter criminal justice system support, self/departmental evaluation, job satisfaction and personnel development. (See Appendix A)

The responses provided profiles of the respondents. These profiles were compared to identify similarities and differences in the two criminal justice systems.

Although the responders spoke or wrote English the meaning of some terminology occasionally became problematic. The questionnaire created problems for some responders when asked to compare US and SA police agencies. Both US and SA responders, at times, related that they did not have enough knowledge of the other agency to make a comparison.

The breakdown of South African provinces and tribal nature is as different as the breakdown of sentiments of northern, southern, eastern and western states. Definitions of what are crimes and what is not and the punishments for a variety of criminal offenses differs from state to state.

#### 1.4.2 The Sample

The nature and patterns of ordinary policing will vary with locations. At one end of the spectrum are large urban centers and at the other end are small rural communities. This researcher hypothesized that national assessments of ordinary crime would provide a reasonable match for comparison purposes.

The questionnaire was administered via the worldwide web and the internet. Originally, the researcher intended to personally interview subjects, but it was determined this would place the data collected by South African participants at an unfair disadvantage. Although the questionnaire was designed to measure police officer's perceptions, other members of the criminal justice system and their civilian employees were permitted to respond. The questionnaire also allowed retired members of police agencies to respond.

Franz & Jones (1987) noted that a comparison of other bureaucracies with police agencies with their quasi-military management style might "shed some light on the impact of the military model on certain aspects of law enforcement". Although their research was confined to the Chicago, Illinois area, this research may provide insight of a global nature.

## 1.5 Literature Review

Data was gathered from a wide variety of sources which included books, journals, periodicals, government reports, and internet sources. Because this research project is on a national and international scale the internet and the world wide web are extremely useful. Beside containing a massive amount of information, the internet is an economical means of communicating with a world wide audience.

### 1.5.1 Personal Correspondence

The differences in respondents' accessibility was more problematic for this researcher as the gathering of data from South Africa relied heavily upon the assistance of third parties in that country.

This researcher gathered data by searching for criminal justice sites on the worldwide web and writing to various interested parties, and by utilizing the web site: [www.wcboll.com](http://www.wcboll.com) which was financed to conduct this criminal justice research. The web site was created and designed by the researcher.

### 1.5.2 Empirical Research

Champion (1993) states research methods and statistics as applied to criminal justice research fulfill several functions:

- Exploratory
- Descriptive
- Experimental
- Decision making.

Decision making research helps to describe the topic under examination and identify relationships between two or more variables. This researcher chose to conduct a survey to attempt to identify and determine the relationship and impact between:

- inter-agency (legislative, executive, judicial) fragmentation
- intra-agency (service, order maintenance, law enforcement management styles) fragmentation
- individual officers perception and conduct while performing ordinary policing.

### **1.5.3 Demographics of Responders**

The number of responders was minimal and cannot be considered generalizable to either the United States or South African policing agencies, however, results will be mentioned throughout the thesis as they do reflect some of

the sentiments held by members of the criminal justice communities. Replies to the survey came from thirty (30)

STATUS	UNITED STATES	SOUTH AFRICA
Active	108	51
Retired	14	1
Resigned	1	4
Reservist	0	5
Missing	0	1
Total	123	62

Chart 1-1

different states and seven (7) different provinces. The demographics of the responders reveal (See Chart 1-1),

ETHNICITY	UNITED STATES	SOUTH AFRICA
White	115	53
Black	3	5
Colored	0	1
Asian	1	3
Hispanic	3	0
Other	1	0
Total	123	62

Chart 1-2

thirty seven (37%) percent of US responders and fifty (50%) percent of SA responders had ten (10) years or less of

service. United States responders ranks ranged from Patrolman to Chief of Police and South African responders ranks ranged from Constable to Senior Superintendent.

#### 1.5.4 Reliability of Data

Champion (1993) identifies reliability as "test consistency" or the ability of an instrument to consistently measure the topic under examination.

In the United States, gathering information and data is relatively easy, however, gathering information from reliable sources in South Africa was difficult.

On an international level, when gathering data over the internet proving the accuracy of the respondent's profession as well as their responses was difficult. Compounding the situation was the accessibility of computers to any possible respondents as well as their computer literacy.

#### 1.6 Delimitation of the field of study

The delimitation of the study reflects the historical significance of the South African and United States criminal justice systems from their inceptions until the present date.

### 1.6.1 Period of study

The literature review was initiated in March 1999 until the present. The survey commenced in May 2001 and continued until May 2002.

### 1.6.2 Geographical delimitation

The United States and South Africa were selected for inclusion into this research study, however, an international questionnaire was also linked to the web site. Since there was only one international response attained that portion of the study was eliminated.

## 1.7 Definition of key concepts

The criminal justice system is viewed as consisting three components with all their subsystems. The components are the police, the courts and corrections, however, this researcher feels an additional component politics should be added because of its impact on the policing strategy employed by each segment of the criminal justice system.

## 1.8 Division of Chapters

"A Comparison Analysis of the Criminal Justice Processes in South Africa and the United States of America" undertakes a comparison of the two systems from a criminological viewpoint.

**In Chapter 1** the researcher introduces the topic of the thesis, identifies the objective of the research and the aims of the study. The researcher then identifies the methodology that will be employed during the research.

**In Chapter 2** the researcher identifies the bureaucratic components of the criminal justice systems and reviews the interrelationship amongst the different components.

**In Chapter 3** the researcher provides a historical overview of the United States and South African police agencies and makes comparisons regarding para-military policing, police misconduct and education.

**In Chapter 4** the researcher provides an overview of two fragmented criminal justice systems and suggests honesty, communication, community involvement and education as solutions to the problems confronting the systems.

In Chapter 5 the researcher explores policing in the 21<sup>st</sup> century move toward professional policing.

In Chapter 6 conclusions are made and the two systems are compared.

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# Chapter 2

## Law and Society

### 2.1 Societal Expectations

The rule of law is an abstract concept or ideal. One measure of the fairness of any government or judicial system is the degree to which it achieves this ideal on a daily basis (Steury & Frank, 1996, p. 13).

Societies share expectations of behavior from their citizens, these expectations are traditionally called norms. Norms may be prescriptive in that they state what behavior is appropriate and acceptable or proscriptive in that they state what behavior is inappropriate or unacceptable (Kendall, 2001).

There are three types of norms - folkways, mores and laws. Folkways are informal, minor norms or everyday customs that carry minor or informal sanctions; mores are rules and expectations that are taken more seriously and have great moral significance; and laws are formal, standardized norms that are codified and carry with them specific sanctions (Farley, 1998; Macionis, 1998; Henslin, 1996; Kendall, 2001).

Sanctions may be positive or negative depending on the way a person conforms to the norms of a society. Positive

sanctions are expressions of approval (praise) for following a norm, whereas, negative sanctions are punishments for violating a norm. The sanctions for violating a law can span the difference between a formal reprimand to the death penalty (Kendall, 2001; Henslin, 1996).

## **2.2 Crime and Deviance**

Human conduct has been regulated by societies since history was first recorded. Criminal laws are attempts to regulate human conduct by detailing what activities people can and cannot do. Deviations from the criminal law are called crimes. Crime or deviations from the law are subject to punishment.

Under democracies the establishment of laws are conducted by the legislature, the enforcement of laws are carried out by the executive branch of the government. The process of interpreting laws and meting out punishment is the responsibility of the judicial branch. Democracies are supposed to be a reflection of the consensus of the society governed which elects its representatives.

Farley (1998) states "Sociologists view deviance as defined by society rather than a violation of absolute

norms". Adler, Mueller & Laufer (1998) defines "deviance as any behavior that members of a social group define as violating their norms". McCaghy & Capron (1997) state "Standards and expectations concerning behavior depend less upon either universal norms or consensus over norms than upon a particular point of view".

How deviance is defined and who is doing the defining are topics of numerous criminological debates. Two predominant theoretical perspectives have evolved - Consensus and Conflict theories. Consensus theorists argue that "laws reflect shared values and norms held by all members of the society, rather than the norms and values of a particular group" (Conklin, 1995). Traditionally, lawfully elected legislators propose bills. The proposals are then forwarded to the entire legislature where they are discussed, debated and modified until a compromise bill is enacted or the proposal is defeated. The lawfully elected legislature represents the consensus of the population and in theory projects the will of the people.

Conflict theorists argue "Groups able to assert their political power use the law and criminal justice system to advance their economic and social position" (Siegel, 1995). "Individuals and groups often seek to define behaviors of others as deviant so as to enhance their own political,

social, or economic position" (Farley, 1998). "Conflict theory holds that the people who possess the power work to keep the powerless at a disadvantage" (Adler, Mueller & Laufer, 1998).

McCaghy and Capron (1997) cite Stuart L. Hills: Criminal laws (including legislative statutes, administrative rulings, and judicial decisions, will change with modification in the interest-power structure of society. As social conditions change ... criminal laws will change, adapting to these shifting conditions. (p. 6)

### **2.3 Fragmentation**

"Organizations have many goals, and their respective goals often conflict. It is important to avoid the oversimplified view of an organizations as pursuing a single goal or even a most important goal" (Stojkovic, Kalinich & Klofas (1998). These goal conflicts often contribute to perceived misconduct or inappropriate behavior by police agencies which result in fragmentation of the criminal justice system's mission, i.e., "to protect and serve" the citizenry.

Fragmentation results from:

- conflicting goals between the courts, police and corrections
- conflicting perception of the problem confronting a particular segment of the criminal justice system
- conflicting strategies on how to approach and solve a problem
- conflicting philosophies (national, state/providence, local and individual).

Bartollas & Miller (1998) identify fragmentation in the American Juvenile Justice System as "the lack of cooperation and communication among some practitioners". They point out that the consequences of fragmentation are manifest in duplication of services, soaring costs and agencies working at cross-purposes. The conflict becomes evident when the goals of the police, the courts and corrections collide.

In paraphrasing Bartollas & Miller (1998) while substituting juvenile justice system for criminal justice system, the following becomes worth noting:

Criminal justice clearly can function effectively only to the degree that each segment of the system takes into account its subparts. The efficiency, accountability, and fairness of the system depend greatly on the coordination and communication among the

subsystems. As long as so many jurisdictions continue to go their own ways, the criminal justice system will remain disjointed and fragmented. (p.26)

Tracing the development of our modern concept of policing can assist the reader in identifying some of the sources that contribute to this fragmentation.

## **2.4 Origin of paramilitary policing**

With the end of feudalism, the advent of the industrial revolution and the colonization of the world by England, their system of justice began to be spread throughout the world. Great Britain had established two systems of justice:

- Metropolitan policing (established under Robert Peel) to control the masses who were migrating to the cities for employment
- Colonial style which was employed in England's worldwide colonization.

Although the word "police" originated in France, the British Empire helped determine the modern concept of policing. Great Britain relied primarily on locally appointed constables and the army as the primary agents who responded to public disorder and criminal activity.

Clayton and Killingray (1989) summarize the main principles of British police philosophy:

- A police force is concerned essentially with the protection of citizens and their full legal rights.
- Police are the agents of the law; its officers and executives, rather than the agents of any government of the day.
- The British concept of the "constable". . . The constable is both keeper of the Sovereign's Peace and also a representative of the local community who carries out duties that by common law belong to all citizens.
- A force primarily of individuals acting as constables is then essentially a body of local citizens formed voluntarily into a constabulary for certain specific purposes.

Clayton and Killingray (1989) state "this model depended on a public consensus and generally agreed norms of social behavior".

#### **2.4.1 Metropolitan policing model**

With the increase of inner city crime caused by the massive immigration of laborers into the metropolitan

cities of England and the lack of an organized system of law enforcement, legislatures began searching for a viable process to maintain law and order. In 1812, 1818 and 1822, Parliament appointed committees to investigate proposals for centralized policing. Two opposing political philosophies evolved. One group feared the police would become a direct threat to personal liberty. "The other group-composed of reformers such as Jeremy Bentham and Patrick Colquhoun-argued that the absence, rather than the presence, of social control was a greater danger to personal liberty" (Swanson, Chamelin & Territe, 2000).

In 1829, after campaigning by Sir Robert Peel (Home Secretary) the first Metropolitan Police Act was passed and the Metropolitan Police force was established. New West Police state Sir Robert Peel's theory on policing can be condensed into nine principles:

- The basic mission for which the police exist is to prevent crime and disorder.
- The ability of the police to perform their duties is dependent upon public approval of police actions.
- Police must secure the willing co-operation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public.

- The degree of co-operation of the public that can be secured diminishes proportionately to the necessity of the use of physical force.
- Police seek and preserve public favour not by catering to public opinion but by constantly demonstrating absolute impartial service to the law.
- Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient.
- Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.
- Police should always direct their action strictly towards their functions and never appear to usurp the powers of the judiciary.
- The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.

(<http://www.newwestpolice.org/peel.html>)

These principles appear in a wide variety of literature supporting a community-oriented approach to the prevention of crime. "Each principle has a community dimension" (Radelet, 1986). These principles "attempted to take into account that to a large degree the police must be well trained, committed and ethical organizations" under legitimate government control and responsible to its citizens (Oliver, 2001). Prevention of crime should be the primary task of policing; repression of crime by force should be secondary (Coffey, 1990).

The Metropolitan model can be dissected into two philosophies. Radelet (1986) discusses the historical perspective of the British model and the United States model of policing. He posits that although it is generally assumed the two models are similar there are real differences. While the British model emphasizes prevention of crime, the United States model tends to "emphasis the protection of security and enforcement of laws as the two primary factors". The application of these two models can and does impact on how police agencies are organized and assignments are prioritized. "The widespread confusion and lack of consistency or consensus among police officers

themselves on the question of their role has been pointed out by many observers" (Radelet, 1986).

To see the role predicament as basically political, and to see the key to its satisfactory resolution as correspondingly political, is to recognize that all public administration in democratic society faces and must settle the constant consensus questions via the same processes. . . In this respect, the administration of police and criminal justice agencies is no different from that of other entities (Radelet, 1986, p. 35).

#### **2.4.2 Colonial Policing Model**

In 1786, the Royal Irish Constabulary (RIC) was formed. "It was designed to function in a crime prevention role and retained the constable as its basic unit" (Walsh, 1998). The RIC worked closely with the military and on occasions supported and reinforced the army. Most of the RIC officers lived in small barracks dotted throughout the Irish countryside (Griffin, 1999).

The RIC developed intimate knowledge of the communities in which they were stationed, and became the eyes and ears of the national government. Their military style training made them well-suited for suppressing

disturbances and sectarian riots, as well as performing the mundane tasks of daily patrol and dealing with a wide variety of petty offenses (Griffin, 1999).

Three significant facts separated the RIC from other police forces of the day. First, the RIC was subject to close control by the national government. Second, the RIC was armed and trained to respond with force to any breakdown in public order (Walsh, 1998). Finally, it operated under a militaristic style chain of command. These factors combined to give the RIC the identity of a national police force.

Derrig (1999) takes a rather callous view of Great Britain's attitude toward the peasantry and the indigenous peoples of the colonized nations. He states "Feudalism could afford to kill off peasants in the fields - capitalism needed labour and lots of it... Controlling them {natives} them had to become non-lethal". The implication is that the colonies needed laborers to perform a variety of tasks and therefore needed to preserve some segments of the local population's history and social systems to gain compliance.

United States history is unique in that the colonizers broke the yoke of Great Britain's domination early on in their history. As a result the northeastern colonist

became self-sufficient and had less of a demand for local laborers, this resulted in the "elimination" or otherwise absorption of native Americans into a new society.

(Doughton, 1999)

Historical documentation indicates that the British Empire imposed justice systems on their colonial provinces. The British realized the necessity for modifications to their police philosophy for interim periods while they imposed their constabulary concept on their conquered colonies. "The conditions in the colonies necessitated force under the control of central governments rather than different local authorities" (Clayton & Killingray, 1994).

The principles of **indirect rule** and **customary law** guided British colonial policy. "Indirect rule refers to the imposed government of Africans through their own institutions" (Deflem, 1994). Indirect rule attempted to integrate European and African culture although "the acceptance of native political authority always implied a British redefinition and limitation of the role of African political powers" (Deflem, 1994). Indirect rule allowed traditional native chiefs to govern their tribes, "but only to the extent that the over all political and economic goals of colonialism were not threatened" (Deflem, 1994).

Customary law implied that it represented the legal

principles of native Africans. "Customary law was only accepted on the condition that it did not conflict with the basic principles of British law" (Deflem, 1994). Violations of customary laws were settled in separate organized native courts.

The Royal Irish Constabulary was instrumental in organizing most of the police forces in the British colonies and is credited with developing the concept of Colonial Policing. The term Colonial Policing represents the tactics employed on the colonists by Great Britain. Deflem (1994) states:

since the way the colonial police forces were conceived, organized, and gradually underwent changes has contributed to shape contemporary modes of law enforcement in the African continent and is a necessary element in our understanding of comparative policing issues today. (p. 46)

Colonial policing changed over time; shifting from a need for territorial conquests, to the protection of settlers, to economic and political control only to eventually become independent states. This sequence occurred to a lesser or larger extent in all British colonies, including the United States.

The original police forces of the colonies were the British army and mercenaries. Deflem (1994) refers to the quest for state leadership which "was externally directed at the protection of the frontier, while internal control was established" through the imposition of taxes or alliances with the locals. Coercive control was seen as necessary to maintain colonial control and who was better suited for the job but the army and its counterpart, the police.

The RIC colonial model of policing appears to have been implemented in one form or another by all the police forces in the British Colonies.

### **2.4.3 Implementation of a Paramilitary Model**

To paraphrase Samuel P. Huntington's The Soldier and the State by substituting his research on a military approach to the state with the need for routine policing.

The aims of police agencies in democratic societies are to "protect and serve" the social, economic and political institutions in those societies. Their services are to be provided to the citizenry 24 hours a day, 7 days a week, 365 days a year. Policing attempts to deal with threats to the stability of a society by routinely enforcing violations of their criminal laws. Police

agencies have developed standard operating procedures to employ when encountering threats to members of their society.

The immediate operating issues of the police agency usually involve:

- The quantitative issues of size of the department, recruitment, area served and the budget allotment devoted to policing needs
- The qualitative issues of the organization, composition, equipment, deployment of police officers/ constables, weaponry, and compacts with the courts, prosecutors, and correction facilities
- The dynamics of the utilization of patrol officers, when and under what circumstances force can be used.

In "the long run the nature of the decisions on these issues is determined by the institutional patterns through which decisions are made" (Huntington, 1964). The objective is to provide the maximum amount of safety for a society at the least financial expense, with the least sacrifice to social values and freedoms.

The paramilitary organizations of most police agencies are shaped by two forces: "a functional imperative stemming from the threats to society's security and the societal imperative arising from social forces, ideologies, and

institutions dominant within the society (Huntington, 1964).

The principle focus of civilian-police relations is the conflict between functional and societal pressures that arise between the police and the state. While the police are responsible for the security of the society, "the state is the active directing element of society and is responsible for the allocation of resources" (Huntington, 1964).

Protecting a consensus form of government is a major challenge to a democratic society. Most nations depend on and maintain a well disciplined conscientious, moral and patriotic police force.

Most police agencies consider themselves neutral instruments of the national, state, province or local government. Police exist to protect society and function under strict guidelines. Often, these guidelines are a product of a government that attempts to manipulate the neutrality of the police. At times, the paramilitary nature of policing requires responding to direct orders without asking "Why?".

The paramilitary nature of policing can be perceived as an organized form of legislative aggression. The relationship between the citizen population and the police

is usually subject to instant emotion and little rational thinking by most citizens.

It is not the nature of the police officer that accounts for perceived police misconduct but the nature of the profession. The police officer is merely an individual who performs a function in which aggressive behavior is one facet of that function.

## **2.5 Police Bureaucracy**

An organizational structure is necessary to assure that the various tasks needed to accomplish the missions and goals of the organization are performed. The structure represents the formal hierarchical network of relationships that exist among the various components, units, and positions of authority within the organization (Silverman and Vega, 1996, p. 280).

Police agencies are traditionally multi-layered pyramids designed to promote uniformity in personnel and procedures. The pyramid model attempts to control behavior through the implementation of standard operating procedures. In bureaucratic organizations the hierarchical system is the focal point of control. "Rules and procedures are created, but the emphasis for control is placed on the hierarchy" (Rasor, 1999).

As a result of the lengthy historical involvement between the army and the police, most police agencies have adopted a military command structure, which includes uniforms and military ranks. Rosberg & Kuykendall (1997) believe that police agencies incorporated "classical military lines in an attempt to insulate the police from partisan politics".

The "unity of command", "chain of command" and "span of control" identify the driving principles behind most police organizations.

O.W. Wilson (1977) stresses the importance of unity of command. Wilson states this concept implies "(1) that only one person be in complete command of each situation and (2) that one person be in direct command or supervision of each officer". Bennett and Hess (2001) state "Each individual, unit and situation should be under the control of one - and only one - person". Silverman & Vega (1996) maintain "The rationale for this type of command structure is that it reduces the confusion for workers if they are only responsible for following the orders of one superior".

O.W. Wilson (1977) describes the chain of command as "The line of direct control (chain of command) is the channel through which power of command passes. Command affects those in the vertical line". This concept

"recognizes that in order to maintain control of a large organization a leader must delegate" authority to executives and middle managers (Silverman & Vega, 1996).

"Most police agencies recognize and reward effective and **downward** communication because this is the channel through which police, procedures, practices, indoctrinations, and instructions are all formally transmitted" (Braunstein, 1999).

Braunstein (1999) posits that in larger agencies and those with a wide variety of ranks, the possibility of change being implemented at the lowest level becomes less likely. Because of the paramilitary nature of police agencies, little attention is given to effective upward communication. As a result, officers/constables who have the most immediate contact with the citizenry, have the least input when plans are being formulated. "The most reliable source for information on the prevention and diagnosis of problem situations and people is upward communication from the ranks" (Braunstein, 1999), but it is the least utilized.

O.W. Wilson (1977) defines the span of control as "The ability of one person to direct, coordinate and control immediate subordinates". The smaller the amount of officers/ constables a supervisor has to control, the

greater his/her ability to "maintain close contact with and control over all subordinate" (Rosberg @ Kuykendall, 1997).

### Organization Rank Structures

<p>The chart represents the titles or ranks within the South Africa Police Service and depicts the chain of command and formal communication structure.</p>	<b>South Africa Rank Structure</b>
	National Commissioner
	Deputy National Commissioner
	Provisional & Divisional Commissioner
	Assistant Commissioner
	Director
	Senior Superintendent
	Superintendent
	Captain
	Inspector
	Sergeant
	Constable

(<http://www.saps.org.za/profile/rank.htm>) Chart 4-1

Police personnel are divided departmentally by the functions they perform. Typically, line personnel are the individuals who literally "protect and serve" the community. They are constables, investigators and traffic officers. Staff personnel are all the other individuals who are employed by the police agency that support the line. These services can include but are not limited to training, record keeping and communications.

The **patrol unit** is typically the largest and most visible unit of a police department. "It is unquestionably the most time-consuming and resource-intensive task of any

police agency" (Bohn & Haley, 2002). Officers/constables normally respond to calls for service 24 hours a day, seven days a week. "The responsibilities of patrol personnel include responding to crime violations, doing preliminary law enforcement, being involved in crime prevention and answering calls for service" (Bartollas & Hahn, 1999). Foot patrol, motorized patrol and bicycle patrols are the primary methods employed in performing patrol functions.

**Investigative units** conduct criminal investigations. "Criminal investigation is a lawful search for people and things to reconstruct the circumstances of an illegal act, apprehend or determine the guilty party, and aid in the state's prosecution of the offender" (Berg & Hogan, 1998). Investigators or detectives are considered prestigious positions within most police agencies.

Although the enforcement of motor vehicle violations is the responsibility of all officers/constables, many medium to large agencies have separate **traffic units**. Ensuring an orderly flow of vehicular and pedestrian traffic, enforcement of motor vehicle laws, and the investigation of motor vehicle accidents describes the primary responsibilities of a traffic unit (Bohn & Haley, 2002; Bartollas & Hahn, 1999).

## 2.6 Analysis

Responses, although minimal, tend to support the fragmentation theory. When responding to the question "Do you believe the police, the courts and corrections always act in the best interest of the Criminal Justice system?" ninety nine (99%) percent of the United States (US) respondents and ninety six (96%) percent of the South African (SA) respondents stated "No". This data reflects a strong confirmation as to the fragmentation of the criminal justice system.

When responding to the perceived conflict between Federal/National laws, Provisional/State laws and Municipal/Customary laws, fifty-eight (58%) percent of SA respondents and thirty-five (35%) of the US respondents felt there was a conflict. The political situation is further exasperated when sixty four (64%) percent of the US respondents and ninety-two (92%) percent of the SA police feel that politicians interfere with police performance. When the low end of a statistic indicates at least one-third (35%) of the responders feel there is a problem throughout the criminal justice system and two thirds (64%) of the responders feel politicians are interfering with police performance, fragmentation appears to be supported.

When responding to questions regarding receiving support from corrections and the courts systems, the data further supported fragmentation. Seventy one (71%) percent of SA responders and forty nine (49%) percent of US responders felt there was minimal support from corrections and fifty eight (58%) percent of SA responders and twenty one (21%) percent of US responders felt there was minimal support from the court system.

A study of the histories of both systems may help reveal some of the underlying causes of this fragmentation and assist in ascertaining some suggestions to rectify this dilemma called fragmentation.

## **2.7 Conclusion**

Criminal Justice systems tend to be fragmented. This can be demonstrated in a wide variety of approaches to the protection of society and the defense of the rule of law.

- Formal and informal punishments
- Positive and negative sanctions
- Defining deviant behavior - Consensus versus Conflict theories
- Models of policing - Metropolitan Policing versus Colonial Policing

- Established goals - prevention of crime, security or the enforcement of laws
- Paramilitary policing - Department size and budget, organization composition and utilization of patrol officers
- Conflict between police functions and societal demands
- Police bureaucracy - Chain of command and its communication system
- Divisions within police agencies between line and staff personnel
- Intradepartmental fragmentation between patrol officers, investigators and traffic officers as well as administrators and subordinates
- Interagency fragmentation - police, courts and corrections

Each segment has devised its own interpretation of the systems goals and designed systematic procedures to attain those goals.

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# Chapter 3

## Historical Overview

### 3.1 Structure, Purpose and Activities

The 17<sup>th</sup> through the 20th centuries histories of the United States and South Africa are replete with examples of colonization, exploitation of the native inhabitants and an ever changing evolution of their criminal justice systems.

Kelling & Moore (1991) identify three Eras of Policing in the United States:

- Political Era (1840s to 1930s)
- Reform Era (1930s to 1980s)
- Community Era (1980s to the present). Anderson &

Newman (1998) refined the data and state American policing has evolved through five stages, all of which have some overlap and residual effect on policing today. Those stages are:

- the colonial era and early frontier
- the political era
- the reform era
- the incident driven era
- the community-oriented/problem solving era.

Brewer (1994) discusses the history of the South African Police (SAP) and England's impact on its method of policing. He defines the two styles of Policing as:

- Colonial model policing was centralized into one national force in order to facilitate the control of policing by the state. The police were agents of the government rather than the law . . . This often showed itself in the merging of policing duties with civil, judicial, military or political administration, so that police performed . . . a wide range of functions outside normal police duties. The emphasis was upon control of the populace in order to maintain the authority of the government rather than ordinary crime fighting or a service role in the community. (p. 6)
- In the Liberal/Municipal model police recruitment reflects fairly the social composition of the wider society, where the police are neutral arbiters in social conflict, are above political manipulation and control, operating on the basis of consensus rather than force, relying on modern management techniques, and well trained professional officers. (p. 1)

This research will demonstrate the impact of these two styles of policing.

### **3.1.1 United States History**

When Christopher Columbus discovered the New World (North America) in 1492, Europe entered into the exploratory race for new lands. In 1497 John Cabot sailed up the St. Lawrence River and planted a flag on the shore and claimed dominion for England over a land of an unknown size and charter in North America. At this point the history of the United States was about to unfold.

During the next century Portuguese, Spanish, French and English explorers began to map out the new continent. In 1609, Henry Hudson sailed up the river now bearing his name and laid claim to the territory for his Dutch employers. The area became know as "New Netherlands" (Beard, 1968). In 1621, the Dutch West India Company was chartered to undertake colonization and commerce in the New World. In 1624, a colony was established on Manhattan Island. Other Dutch communities were established in the Hudson Valley and on the Connecticut and Delaware rivers. (Harrison & Sullivan, 1968)

Peter Minuit became the director general of New Netherlands and established the office of sheriff attorney

to enforce the laws of the Dutch West India Company. The sheriff attorney was both police officer and prosecutor, and was responsible for both civil and military law (Territo, Halsted, & Bromley, 1995).

During the 17th century, English merchants eager to exploit the real estate in America, systematically began to claim territories held by other nations. In 1624, New Netherlands was seized from the Dutch West India Company, and in 1664 New Jersey and Delaware (founded under Dutch auspices) were also seized (Bread, 1968), but the English gave the Dutch territories elsewhere. The Dutch and English eventually formed an alliance against France during this colonization period.

At first the governor of the colonies was supplied with an army to protect his citizens. During this colonization period a system of policing slowly evolved which is referred to as the Colonial model. Colonial settlers living in the cities adopted the parish-constable system from England. Constables performed a variety of duties, including law enforcement functions like serving warrants, making arrests, and testifying in court as well as preserving order (Adler, Mueller & Laufer, 1994).

Constables and watchman were appointed to prevent crimes. This system adopted the following measures:

1) Watch and Ward System. Constables had the authority to draft any male into service to guard the town at night,

2) Hue and Cry. When a watchman confronted resistance he could call for help, and the men of the town were required by law to lend assistance,

3) Curfew. The gates to the town were locked at a set time each night, and

(4) Weapon ordinance requiring all males to keep weapons in their home for use during a "hue and cry" (Ragoli & Hewitt, 1996).

Outside the cities, the chief law enforcement officer was the county sheriff. The position was considered one of considerable prestige and power. As a law enforcement officer, the sheriff responded to formal complaints lodged by members of the community, made arrests and served subpoenas (Adler, Mueller & Laufer, 1994).

A major factor in determining the American Criminal Justice system was the frontier, which remained vast and untamed until late into the nineteenth century. This untamed environment provided a natural "haven" for outlaws. Only the boldest settlers tried to police the frontier. Citizen posses were often the only law available to settlers (Schmallegger, 1997).

As early as 1619, slaves were brought to Virginia plantations, by 1770 about one sixth of the population of the American colonies were slaves. Slave trade merchants and shippers, particularly from New England and New York carried cargoes of slaves from Africa to the West Indies and the southern colonies (Beard, 1968).

The northern colonies developed strong interests in commerce and shipping while the southern colonies developed large plantations for agricultural produce. The majority of the slaves were in the southern colonies where they were needed for tobacco and rice production. Since the death rate of slaves in the rice fields was high, rice production fostered the importation of more slaves (Beard, 1968).

In the rural areas of the South, policing took on a different form. Vigilante groups, bands of citizens who took the law into their own hands, were called upon to suppress crime. Slave patrols were also established to control the rapidly increasing slave population and outbreaks of slave revolts (Regoli & Hewitt, 1996).

With the western expansion, frontier law enforcement was somewhat different from that found along the East Coast or in the rural South. In the Western territories, law enforcement was provided by U.S. marshals and by elected

sheriffs in growing towns. Vigilante groups also emerged in the West (Regoli & Hewitt, 1996).

Vigilantism has taken on a negative connotation, however, most of the original vigilantes of the American West were honest men and women trying to forge communities for themselves in a challenging environment. These pioneers did what they could to bring standards of civilization, as they understood them, to bear in their communities (Schmallegger, 1997).

To overcome the problems created by the limited geographic area covered by sheriffs in the west, federal marshals were appointed, given wide-ranging jurisdiction, and sent to the western territories. However, once statehood was achieved, law enforcement became the responsibility of local and state government (Anderson & Newman, 1998).

In 1835, while still a republic, Texas provisional government established the Texas Rangers. The Texas Rangers were actually a military unit, formed into three companies. In 1874 the Texas Rangers were commissioned as police officers in Texas, thereby becoming the first state police department (Texas Ranger Law Enforcement Association).

During the Civil War, populations became increasingly urbanized and fringe areas became incorporated suburbs of

the larger cities, a trend developed to add departments to the police organization rather than to consolidate or centralize them. These newly developed fringe cities had their own police departments, which fostered complex, uncoordinated relationships, compartmentalization, and inefficiency (Territo, Halsted, & Bromley, 1995).

After the Revolutionary War, the United States adopted the liberal/metropolitan model which incorporated the ideals that:

- Police should have limited authority as they are guided by specific rules and regulations
- The majority of policing should be conducted on the city or county levels, thereby reflecting the citizen's desire for local control
- policing should be decentralized and not depend solely on a national police force (Regoli & Hewitt, 1996).

Law enforcement in America consisted of a variety of strategies, most of them tailored to the needs of a particular community in which they were established (Adler, Mueller & Laufer, 1994).

As the cities grew there was a shift to a more formalized police operation. During this period, England was developing and advancing the idea of preventive

policing and establishing an organized police force. The Metropolitan Police Act of 1829 was eventually passed and Robert Peel established the Metropolitan Police and implemented a Liberal/Metropolitan model of policing.

Legislators from New York City visited the London Metropolitan Police Department and were highly impressed (Territo, Halsted, & Bromley, 1995). As a result, America's first consolidated metropolitan police force with full-time officers was established in 1845 in New York City. Other cities were quick to follow. By 1860, police departments had become accepted in all of America's largest cities (Regoli & Hewitt, 1996). The American police departments borrowed selectively from the organization of the Metropolitan Police, with the most striking difference being the area of control. England had a strong central leadership in the Metropolitan police and were able to deal immediately with police problems because they had clear lines of authority up to the commissioner, who in turn was responsible to the Home Secretary (Bratollas & Braswel, 1997).

The American system was disorganized with no clear lines of authority. Geography and the cultural influences unique to each geographic area determined differences in policing tactics. Police were organized around wards or

neighborhoods and police authority was vested in locally elected officials. This arrangement allowed police to be hired and fired by those elected to an office, as a result the police had no option but to participate in politics. Those local politicians were uniformly male and white (Anderson & Newman, 1998).

The two systems embodied two different philosophies. Police officials in London believed that officers carried the moral authority of the state and that their uniform was the legitimate symbol of that authority. London's officers did not carry firearms and were discouraged from using force. In America, police authority came from elected officials who stressed obedience and control of the public and did not discourage the use of force against unruly citizens. The public and the police showed little respect for each other. The coupling of decentralized policing and local political control lead to wide spread brutality and corruption (Regoli & Hewitt, 1996).

Because of the independent development of police in states and regions with little direct relationship with each other, American policing was fragmented. Little information passed from one jurisdiction to another and the decentralized nature of police authority contributed to a lack of leadership and discipline (Anderson & Newman, 1998).

The passage of the Pendleton Act of 1883, brought some control over the corrupt system. The act established and set rules for a Civil Service Commission which governed entrance examinations, promotion based on merit, as well as settling grievances within police organizations. The system allowed police officers to keep their jobs regardless of who was in power. (Bratollas & Braswell, 1997; Regoli & Hewitt, 1996)

In the early twentieth century American policing began to change in two different ways - professionalizing the police and efforts to improve police technology.

To investigate the extent of American crime and the ability of the police to control it, the Wickersham Commission was created by President Herbert Hoover in 1931. The commission pointed out that there was no intensive effort made to educate, train, or discipline police officers or to eliminate those who were incompetent. The commission also noted, with few exceptions, police forces suffered from inadequate methods of communications and had poor equipment (Anderson & Newman, 1998).

The founder of the police professionalism movement was August Vollmer, who served as Chief of the Berkeley, California Police Department and instituted a summer program in Criminology at the University of California at

Berkeley and began emphasizing the importance of educating police. The reform agenda's goals that continue to influence police operations today were:

- Restriction of political influence
- Hiring qualified managers
- Redefinition of the role of police
- Higher personnel standards
- Scientific Management
- Specialization (Reid, 1998; Regoli & Hewitt, 1996)

The rise of reform minded police administrators influenced the emergence of a professional model of policing, including not only the use of management skills but also the application of modern technology in improving police work (Reid, 1998). The result was a model characterized by a tight quasi-military organization with rigid rules and regulations with maximum emphasis on the job and minimum attention on the human interrelationship of people filling the position. The pyramid of authority predominated, with a hierarchy of authoritative management and a chain of command. Command officers and supervisors had complete authority over subordinates. Communication flowed downward. Selection was based largely on physical qualities and most applicants had military experience. This

model predominated most pre-World War II agencies (Bennett & Hess, 1996).

During the post World War II or Cold War era, police practices and movement toward professionalism was subjugated in light of global conflicts. "The serious breach in police-citizen relationships went largely unnoticed until the 1960s, when the police needed to respond to social unrest surrounding the Vietnam War and Civil Rights Movement" (Regoli & Hewitt, 1996)

During the twenty year period (1940-1960), policing was primarily incident driven, that is police officers would respond to a dispatcher's call that followed a citizen's call to the police station. Once the officer arrived at the location, he/she was dispatched to, he/she would try to resolve the problem. This is commonly called "reactive policing" in that the police react to an incident that has already happened (Anderson & Newman, 1998).

James Q. Wilson (1968) in Varieties of Police Behavior identified three types of policing styles: Watchman, Legalistic and Service.

**Watchman-style** is characteristic of lower class communities where informal intervention into the lives of residence is employed while keeping the peace. Police administrators allow officers to ignore minor infractions

of the law, provided the order is maintained in the community.

**Legalistic style** departments are characterized by a strict concern with enforcing the precise letter of the law. Administrators often encourage this policing style because it is considered right to obey all laws, but also to protect themselves from any suspicion of corruption or criticism that they are not doing a good job.

The **Service style** is characterized by a concern with service to the public rather than strict enforcement. Administrators tend to be highly sensitive to local personalities and politics, and take advantage of community resources (Adler, Mueller, Laufer, 1996; Schmallegger, 1997).

Regoli & Hewitt (1996) describe order maintenance as what the police do whenever the law must be interpreted, where a standard of correct conduct must be determined and blame assigned. They believe order maintenance is central to the police mission for two reasons. First, the police have many more opportunities to maintain order than to enforce the law, and secondly, police are most vulnerable to physical danger when they are restoring peace.

Schmallegger (1997) states "Legalistically oriented departments can be expected to routinely avoid involvement in community disputes arising from violations of social

norms which do not break the law". This style of policing tends to give minimal attention to community service and order maintenance.

The service function tends to shift the police's role of controlling dangerous people to that of controlling crime. As a result of effective police service, citizens tend to develop a respect for the police which results in a motivation to assist the police in solving crimes and becoming more involved in the criminal justice system. The lines of communication between citizen and police officer tend to be more open.

In the mid-1960s, the United States Supreme Court handed down many legal decisions that had significant impacts on police procedures. During this period, the United States was also experiencing an influx of immigrants to the larger cities which further compounded the problems confronted by the police.

In 1974, the Kansas City Preventive Patrol Study was conducted. The results indicated that increasing or decreasing preventive patrol efforts had no significant effect on crime, arrests, citizen fear of crime or police response time.

The response to the Kansas City Experiment has resulted in a shift in American policing to community

oriented policing. This shift to involvement with and responsiveness to the community was established by Robert Peel in 1829 but somehow faded from American policing only to be reborn at a later date.

There is no definitive definition for community policing, just a variety of implementation strategies.

"The community policing philosophy broadens the scope of police-community interactions from a narrow focus devoted exclusively to crime to an examination of community concerns such as the fear of crime, disorder of all types, neighborhood decay and crime prevention" (Mayhall, Barker, & Hunter, 1995). Community policing helps to develop a partnership between the police and the community they serve.

### **3.1.2 South African History**

John D. Brewer (1994) states:

The police have never been much concern to analysts of South Africa, the major focus being on the military, to which the police are considered an adjunct...The dearth of published work on policing might seem a paradox given that the country is often described as a police state. (p. 6)

In 1488, Vasco De Gama, a Portuguese explorer first sighted South Africa while rounding the Cape of Good Hope. In 1652, Jan van Riebeeck, an employee of the Dutch East India Company, established a settlement at Cape Town.

Van Riebeeck was immediately confronted with a shortage of laborers (Reader, 1997). In 1658, the company imported two shiploads of slaves, one from Dahomey and another shipload from Angola. Over time, the company government, senior officials and free burghers became dependent on slave labor (Reader, 1997; Thompson, 1995).

Thompson (1995) states:

Formal authority over the colony was virtually a monopoly of the Dutch officials. The governor and Council of Policy, consisting exclusively of senior officials, ruled the Cape, subject to instructions from the Council of Seventeen in Amsterdam and the governor general in Batavia. Officials also had a majority in the judiciary (the Court of Justice) and the other administrative bodies, and the governor nominated the burgher members of those bodies. Even the religious establishment was controlled by the company. (p. 41)

The western part of South Africa was occupied by two groups of copper hued people - the **San** who lived by hunting

and the **Khoikhoi** who raised cattle and sheep. The Europeans eventually called the San (**Bushman**) and the Khoikhoi (**Hottentots**) (Thompson, 1995; Reader, 1997).

The Europeans established control of South Africa with superior arms and by exploiting internal divisions among the native people. In the 1680s, members of the Khoikhoi began to detach themselves from their society and served burghers as shepherds and cattleherds.

In 1657, the Dutch East India Company began to release some employees from their contracts and gave them land with the status of **free burghers**. These former employees became known as **Boers** (farmers). In 1679, the Dutch East India Company began to offer free passage to new settlers from Europe; they ended this practice in 1707 (Reader, 1994; Thompson, 1995).

Within five years Governor Van Riebeeck appointed the settlements first law officer, known as a Fiscal. Because of their ruthlessness they were replaced by 'Ratelwag' (Rattle Watch). The Ratelwag were equipped with wooden rattles which emitted a clapping sound which alerted the populace of an offenders presence (Dippenaar, 1988).

The duties of the 'Ratelwag', consisting of ten Free Burghers under the command of a sergeant and a corporal, were of a preventive nature, as they were

responsible for patrolling the streets to prevent rather than investigate crime ...In 1792, the 'Ratelwag was reorganized into two units, the 'Nagwag' ('Night Watch') and the 'Dienaars' (law officers) (Dippenaar, 1988, p. 2).

By the early 18th century, there were more slaves than free burghers. The settler population of the Cape totaled 13,800 in 1793, while they owned 14,747 slaves (Reader, 1997). These slaves came from more diverse linguistic, religious and social backgrounds than those in the Americas. Most of the slaves were not even from mainland Africa, they came from Mozambique, Madagascar, Indonesia, India and Ceylon (Thompson, 1995).

The company established centers of local administration. These centers were staffed by a company employee, a clerk and perhaps a soldier or two. Law and order was effectively in the hands of the farmers, with the wealthiest and longest established having the greatest say (Reader, 1997).

The Cape community was subjected to the usual crime associated with an urban community. The British retained the 'Nagwag' and 'Dienaars' once they occupied the Cape in 1806. These watches were eventually transformed into civil police forces with a focus on ordinary crime and service to

the local community. By 1873, there were thirteen town police forces in the Orange Free State. The impetus behind the development of policing was the growth and fear of crime (Brewer, 1994).

The Bushmen often raided the cattle and sheep, and sometimes the homes, of incoming farmers. In response to this perceived threat, the farmers formed the **commando** forces to police the area. The "Bushman Wars" ensued in which commandos attacked all Khoisan communities (Reader, 1997). The company had initially used its own personnel in its military operations. By the end of the 17th century, it had added some free burghers. From 1715 on, the commandos consisted of civilians who were aided by the company (Thompson, 1995).

The Cape remained under Dutch control, aided by the presence of the French garrison from 1781 to 1795, when it was captured by the British during the Napoleonic Wars. Under terms contained in the Treaty of Amiens, the settlement reverted back to Dutch control in 1803 but was again reoccupied by British troops in 1806, and sovereignty was confirmed in Britain's favor by a peace agreement negotiated in 1814 (Reader, 1997).

The rural areas of the British colonies were militarized in discipline, command structure, divorced from

the local population and officered by the British (Brewer, 1994). British police forces tended to be paramilitary as well as bureaucratic. Structurally, the police forces were stratified by ranks and divisions of units and a civil service orientation was closely associated with the administrative framework. The civil service was an instrument both for policy advice and for the implementation of the will of the state as determined by the legitimate political institution to which the civil servant must be both subordinate and subservient (Opolot, 1992).

The Afrikaner police adopted a paramilitary policing style employed by ad hoc commando type units made up of local citizens controlling the Black population by displays of superior force and brutality. The citizen police model was used in rural areas, however, a civil police model was used in towns (Brewer, 1994).

The fact that the Cape economy ran on slave labor was an embarrassment to Britain, which had spearheaded the anti-slavery movement and enacted legislation abolishing slave trade. While the British did not condone the slave based economy, their policies appeared to be distinctly pro-settler. An official commissioner sent to examine the frontier situation concluded that a lasting peace between

the settlers and Africans could only be achieved by keeping the two groups absolutely separate (Reader, 1997).

Between April and June 1820, four thousand British immigrants arrived in Algoa Bay, representing the largest organized group of white settlers ever to come to the country. They were transported by ox wagon to various locations on the frontier. By May 1823, only 438 of the original 1,004 male grantees remained in rural locations, the rest had moved to the cities (Reader, 1997).

The British colonial powers engaged in institution building and in obtaining new territories in Africa predicated upon an overarching scheme of broader interests. These interests included protecting mercantile interests (trading posts and trade routes) and furthering political control by implementing indirect rule. "Indirect rule refers to the imposed government of Africans through their own institutions" (Opolot, 1992).

Deflem's (1994) analysis of British Colonial Africa identifies the British policy of acceptance of native political authority. This acceptance always implied a limitation of the role of African political power and political paternalism replaced indirect rule when local politics did not resemble appropriate government in the eyes of the British. The British imported their legal

system, then took into account customary laws inasmuch as they were reconcilable with British standards of morality.

Black policemen were employed by the British in an attempt to diminish the power of the chiefs. British administrators drew on tribal forms of law and order by using paid headmen as a police force. As the need for effective social control increased, various regiments of paramilitary Black police were formed in rural areas. In an attempt to segregate the races, Black police were restricted to keeping the peace in locations on the edge of the towns where Blacks lived (Brewer, 1994).

By empowering tribal police next to the central police reflected the principles of indirect rule and customary law. The enforcement of customary law was mostly left to the tribal police in rural areas, while the central police handled violations of the British criminal code (Deflem, 1994).

Most rural police work was not primarily concerned with the prevention and detection of crime, but focused on the economic foundation of colonial power and the establishment of colonial rule (Deflem, 1994). The emphasis was on order maintenance.

Opolot (1992) reports that the District Commissioner exercised far-reaching administrative, judicial, penal and

police powers within a defined geographical area. The District Commission, while on tour, was expected to inspect some store ledgers, cash accounts and to take a look at townships, police stations, courts, jails and prisons with the expectation he would make comments on the state of the local economy and on the promotion and posting of staff. There was no separation between the administration of justice and the administration of services.

In an attempt to break the Boers's control of the gold mining industry in Transvaal, the British provoked the Anglo-Boer War (1899-1902). The Boers suffered early losses in the war and eventually resorted to guerrilla tactics. Britain's Lord Kitchner retaliated with a 'scorched earth' policy along with establishing concentration camps for Boer women and children. "Boer refugees perished in the British concentration camps, a death toll that amounted to twice the number of men killed in action on both sides" (Reader, 1998). Many black Africans suffered the same fate.

Boynton (1997) states:

After the British won the war in 1902, they set about containing and subjugating the Afrikaners. Under the British High Commissioner, Lord Milner, English was made the country's official language (even though the Afrikaners outnumbered the British).

Brewer (1994) describes the pre-Union South Africa police as divided into four types of forces:

those whose appointment was made solely by the government and paid for out of the general revenue; forces under the appointment of the governor; those employed by several municipalities for additional town duties, paid for half from the rates; and those under the appointment of the regional or district councils, paid for one-third from the rates. In addition there were both urban and rural forces in the old Boer Republic. (p. 29)

Policing was localized and decentralized while also suffering from a lack of definitive central control.

In 1910, the Cape Colony, Natal, the Orange Free State, and Transvaal joined together to form the Union of South Africa. Cape Town became the legislative capital of the Union and Pretoria became the administrative capital. The unionization of South Africa was followed by a resurgence of Afrikaner nationalism, ultimately establishing apartheid segregation in 1948, when the National Party came into power.

In 1913, the state determined there was a need for a centralized police force but it was not always possible to implement. The government established two separate police

forces. The South African Police (SAP) duties took on the features of the civil tradition focusing on law and order and crime fighting in urban areas. The SAP was divided into two main branches: the uniform branch and the detective service. The second force was the South African Mounted Riflemen (SAMR) which policed the rural areas. Along with its policing function the SAMR was given military duties in both internal and external defense (Brewer, 1994).

The SAP were charged with three essential tasks:

- the responsibility for ordinary or routine police work
- the maintenance of public order
- the regulation and control of race relations.

In a racially stratified South Africa, the police were also required to regulate social boundaries between Afrikaners and the British (Brewer, 1994).

The SAMR were mobilized during World War 1 which resulted in the SAP policing their area. Because of the reduction of the police force citizen volunteers were recruited. They became the forerunners of the current Police Reserve. During this period (1914 - 1926) attempts were made at modernization and professionalization of the SAP. These attempts included:

- adoption of modern technology and management techniques

- improvement in educational standards required to become a police officer
- accountability to the public being served
- improved disciplinary measures
- development of public relation skills
- increased effectiveness.

During this period the Criminal Investigation Department (CID) was established. "Professionalism, in other words, is evidenced in features of police organization, in the way the public are dealt with by the members of the police, and by the manner in which police work is accomplished" (Brewer, 1994). At the same time, the SAP was dropping bombs on protestors and adopting military titles to designate their ranks.

At the end of World War I, the government assimilated the SAMR with the SAP. This incorporation gave the SAP a more pronounced paramilitary character. The modernization of the South African Crime Bureau (SACB) intensified the division between the Metropolitan Police practices in the urban cities with that of the rural black population. "Ordinary crime, however, was the least of the SAP's worries. Public order policing of industrial agitation, and

ethnic and racial unrest, consumed much police effort and time" (Brewer, 1994).

Brewer (1994) states during the period from 1927 until 1945, "the primary task of policing in South Africa narrowed to be control of Blacks". Black South Africans were becoming more militant in their quest for equality, and Afrikaner nationalism was becoming more politically successful, and culturally strident. There were conflicts between the English speaking officer-class and the rank and file Afrikaners. The modernization of the police continued on the line of centralization and militarization. Black officers were placed in subordinate positions and supervised by white officers.

"A decline in the fortunes of the ruling United Party and the rise of Afrikaner nationalism in the post World War years resulted in the National Party victory of 1948" (Silke, 1997). Leonard Thompson (1995) writes that after its electoral victory in 1948, the National Party started to eliminate every vestige of black participation in the central political system. The National Party used its control of the government to fulfill Afrikaner ethnic goals as well as white racial goals. White recruitment into the SAP was overwhelmingly Afrikaans speaking males.

The National Party (NP) retained control under successive leadership of Hendrik Verwoerd, B.J. Vorster, P.W. Botha and F.W. DeKlerk (Davenport, 1995).

Graham Boynton (1997) describes this transition.

At the turn of the century, they were the poor and the dispossessed of South Africa, defeated by the British army and treated like second-class citizens by their English-speaking rulers. But fifty years later they took political power, and during the next forty years they transformed the Afrikaner Republic of South Africa into the wealthiest country on the continent.

(p. 22)

Policing in South Africa redirected its attention toward race control and political policing, and control of ordinary crime became a secondary objective. The SAP resisted government control and strove for organizational autonomy which eventually led to the concept of a police state. The SAP reputation for brutality increased.

In 1959, the legislature passed the Promotion of Bantu-Self Government Act. The act recognized eight national units among the African population, and promised them self-determination in their homeland (Brewer, 1994). The 1970 Bantu Homelands Citizenship Act made every black South African a citizen of a tribal homeland and thus a

non-citizen of South Africa (Boynton, 1997). Between 1972 and 1974, legislative assemblies were established for each of the territories. This caused the Africans to lose their African citizenship, irrespective of whether they lived in 'White' South Africa or their homeland (Brewer, 1994).

In 1952, the SAP adopted the 'own areas' policing strategy. "Coloured, Asian, and African policemen were given responsibility for their own areas rather than deployed collectively in Black areas" (Brewer, 1994). Ethnic differences were taken into account and black policemen were given command of police stations in some communities. This action resulted in an increase in black police officers (Cawthra, 1993), however, it did not result in any improvement for the Africans since black police officers were as brutal as their white counterparts.

The 'own areas' strategy resulted in the black areas being relatively under policed for the amount of ordinary crime that was occurring. "In some townships residents established 'self protection groups' or vigilante groups" called **makgotla** (Brewer, 1994). The makgotla were semi-official tribal courts and vigilante groups. "They utilized the grey area of 'traditional law' to administer punishment to perceived malefactors, mostly by whipping" (Cawathra, 1993).

Cawthra's (1993) research reveals that the deployment of semi-autonomous black forces, whether police or vigilantes continued into the 1980s and 1990s. By utilizing the vigilantes, the SAP could distance themselves from politically sensitive issues.

"The apparent presence of communist influences in Angola coupled with the tacit support from the then Soviet Union resulted in the formulation of the 'Total Onslaught' ideology" (Silke, 1997). In March 1977, Defense Minister P.W. Botha became the leading proponent of the total strategy/total onslaught strategy. The total onslaught strategy focused on defending South Africa against and the destroying of communism. The strategy accommodated the requirement of reform and repression by allowing the government to deny the legitimacy of the anti-apartheid struggle. By the mid-1980s the SAP were enthusiastic supporters of the total onslaught strategy (Cawthra, 1993; Brewer, 1994).

Bowing to international pressures, President P.W. Botha passed a new constitution in 1984. The constitution gave the colored and Asian communities a limited role in the national government, however, Blacks were excluded. The power of the government, ultimately, stayed in the hands of the NP (U.S. Department of State, Silke, 1997).

In September 1989, Frederick De Klerk was elected president. Although his government composed almost all the same personnel as his predecessor, his style and policies reflected a preference for a constitutional government (Brewer, 1994). On February 2, 1990, President De Klerk legalized the ANC, the PAC and the SACP, (opposition organizations) which had been previously banned by the National Party government. As a result, Weitzer (1993) stated "The official mission of the SAP has changed from defence of a social order based on white supremacy to neutral law enforcement in a democratizing political system".

In July 1990, violence exploded in townships around Johannesburg. The violence coincided with attempts by Inkatha to transform themselves from a bantustans based Zulu culture into a national political party, the Inkatha Freedom Party (IFP) (Cawtha, 1993).

In September 1991, after long and quarrelsome debates, the ANC, Inkatha, the National Party government and the SAP became signatories of the National Peace Accord (Rauch, 1992; Cawtha, 1993). The Peace Accord included the following:

- Police Code of Conduct which emphasized professionalism

- Police Reporting Officer - a legally trained ombudsman
- Special Units for investigating alleged police misconduct
- Police Board which advised the Minister of Law and Order on matters of police policy, local and regional dispute resolution committees (Rauch, 1992).

Although the SAP under DeKlerk's administration outwardly appeared to be following the guidelines of the peace accord, Weitzer (1993) noted that "many of the top brass remaining in the force, including the present commissioner, are hardliners who have been implicated in illegal activities -or are tainted by their previous involvement in the SAP's Security Branch". Rauch's (1992) appendix depicts nine incidents of police misconduct while Waddington's (1994) report on the Boipathong massacre indicates police incompetence. "Few people doubt there is collusion between Inkatha and the SAP, and other security personnel, although this is denied by the government, despite its admission that it funded Inkatha in 1989 and 1990" (Brewer, 1994).

In 1994, Nelson Mandela was elected President of South Africa, and governed under an Interim Constitution. South

Africa's Constituent Assembly (CA) produced a final document which was adopted in December 1996. Along with the new constitution, the South African criminal justice system and South African Police force are being realigned and reconstructed.

Until the early 1990s, the South African Police exemplified the Colonial model by actively and often violently enforcing Apartheid. South Africa is a nation attempting to overcome deep social conflicts which are endemic to religion, ethnicity, race and national origin (Brewer, 1996).

### **3.2 Conclusion**

Upon researching the United States and South Africa police histories, one becomes aware of many similarities as well as dissimilarities, but are those differences tangible incidents or merely degrees of difference?

While United States' police authority was delegated by the majority population, South Africa's police authority was derived from a white minority. The structure of both police systems reflect a para-military style of management, however, the United States' police major emphasis (purpose) is/was on crime control, while South Africa's police emphasis was on maintaining white superiority with a lesser

emphasis on crime control. The activities employed by each police system supported the purpose of the ruling governing body.

The South African Police have been called one of the most secretive police agencies in the world, but are they so much different than United States Police Departments?

Brutality exists in U.S. departments, but to a lesser degree. On August 9, 1997, a white police officer sexually assaulted a black prisoner (Abner Louima) with his night stick. Abner Louima was mistakenly arrested for being a participant in a bar room brawl. The officer who assaulted Mr. Louima has been sentenced to lengthy prison terms. The U.S. Department of Justice launched an inquiry into whether the New York City Police Department "fostered brutality through lax discipline of wayward officers" (Hays, 2000).

Discrimination exists but is far less pronounced. On April 23, 1998, two New Jersey State Troopers were involved in a shooting. They have since been charged with the attempted murder of three black men. Although the legality of their firing their weapons will be debated in court, the incident gained national notoriety regarding racial profiling. Racial profiling is the discriminatory practice by police of singling out individuals to be investigated based on their color or ethnic background (Carter, 2000).

Educational standards exist but are they proportionate with the requirements of a police officer? The patrol officer is the lowest level of the police echelon yet he/she has more immediate discretionary power than any other criminal justice professional. The patrol officer is only required to have a high school diploma or equivalent certificate. When the police officer testifies in court he/she is (in most instances) the least educated criminal justice professional. The judges, defense attorneys and prosecutors all have Juris Doctorate degrees.

Where will these police systems be in the new millennium? Will these systems take a proactive approach to crime fighting or revert back to a reactive style of policing? South Africa is in the process of reconstructing their entire criminal justice system, what steps can be taken to ensure that fairness and justice for all will prevail? How will the necessary changes be introduced, and will these changes be introduced without removing members of the old system?

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## Chapter 4

### Cooperation and Coordination

#### 4.1 The System

Perhaps the most important thing to remember in learning about the American system of justice is that there is no such thing as the criminal justice 'system'. No mention of a criminal justice system appears in the Constitution or in any federal or state law. In reality, the criminal justice system is a string of more than 55,000 independent government agencies set up to deal with different aspects of crime and treatment of offenders (Albanese, 1999, p. 134).

Albanese (1999) states that although the various criminal justice agencies were not set up as a system, "they must attempt to act together if justice is to be achieved". Since there is so much interactivity among the agencies, failure to act in a systematic manner has resulted in a wide variety of problems facing criminal justice agencies.

"For centuries, everywhere in the world, criminal justice was a fragmented, chaotic process or event".

(Adler, Mueller, & Laufer, 1994) Regoli & Hewitt (1996)

reported that the 1993 bombing of the World Trade Center resulted in criminal investigations by federal, state and local law enforcement and highlighted the existence of "conflict and lack of cooperation among various parts of the system". Apparently, the system relapsed just eight years later.

On September 11, 2001 when the twin towers of the World Trade Center (WTC) in New York City were destroyed by terrorists, the aftermath revealed fragmentation among federal, state and municipal security agencies. Although all the agencies had the best interest of the country and its communities, the same agencies failed to share information and tended to develop their own little fiefdoms. These failures in communications and coordination indicate the resistance to change within the United States criminal justice system.

A criminal justice system may be viewed as a sub system of the community dedicated to the administering and coordinating of those agencies charged with enforcing the laws (police), prosecuting criminals and adjudicating crimes (courts) and the rehabilitating or punishing of convicted offenders (corrections) (Roberg & Kuykendall, 1997; Senna & Siegel, 1996).

The term system assumes that complex entities are composed of interrelated parts (Stojkovic, Kalinich & Klofas, 1998) and that "all parts of the system are interrelated and interdependent" (Roberg & Kuykendall, 1997). Bartollas & Hahn (1999) point out that a failure of management to recognize that each component of the criminal justice system is "separate from and managed independently of the other" will result in a "fragmented approach to the management of the total organization".

The Challenge of Crime in a Free Society (1967)

identified the criminal justice system as five interrelated phases.

- Entry - encompasses the reporting, investigating, identifying and arresting the offender.
- Prosecution and pre-trial services - preparing charges, answering motions, grand jury presentments and preparing the case for prosecution.
- Adjudication - The defendant pleads to the formal charge(s), a trial is held and the prosecution and defense present their cases.
- Sentencing - if the defendant is found guilty the judge imposes a sanction, sentence or punishment.

- Corrections - the agencies that ensure the punishment ordered by the court are carried out.

"Although the segments of the criminal justice system have their own particular functions and goals, they share the common purpose of responding to the problem of crime" (Regoli & Hewitt, 1996).

The U.S. Department of Justice (1988) identified a sixth phase, the private sector, into the criminal justice system. Its contributions include:

- Reporting crimes to the police
- Being reliable witnesses and jurors
- By accepting the disposition of the system as just and reasonable
- By voting and being taxpayers

Citizens participate indirectly in the policy making process, the resources available and identifying the goals and objectives of the criminal justice systems by elections or through interest groups. "Political pressure can be placed directly by interest groups on criminal justice agencies rather than through governmental structure" (Stojkovic, Kalinich & Klofas, 1998).

## 4.2 Closed vs. Open Systems

Von Bertalanffy (1968) espoused the use of the "classical" system theory be expanded to a General Systems Theory which could encompass other academic disciplines. Von Bertalanffy was responding to system studies conducted by physicists which were 'closed': they did not interact with the outside world (Heylighen, 1998). Roberg and Kuykendall (1997) state "Systems can be viewed as either open or closed: a system is open if it interacts with its environment and closed if it does not".

Closed systems are organizations that are considered self-contained and isolated from their environment. This approach assumes that relevant variables are:

- Clear and easily understood
- The organization is composed of elements that are related to one another
- Communication follows the lines of hierarchy
- Tends to lean to a state of most probable distribution which is a tendency toward maximum disorder (entropy)
- Unresponsive to their environments

(Stojkovic, Kalinich & Klofas ,1998; Royberg & Kuykendall, 1997; von Bertalanffy, 1968).

Von Bertalanffy "emphasized that real systems are open to, and interact with, their environments" which enables

them to evolve. "Rather than reducing an entity to the properties of its parts or elements, system theory focuses on the arrangement of and relations between the parts which connect them into a whole" (Heylighen & Joslyn, 1992).

Royberg & Kuykendall (1990) critique Katz & Kahn (1966) characteristics of an open system. They note the importance of:

- Inputs from the external environment (Community input)
- Transformation of energy into a product or service.  
(Purchasing the necessary equipment to perform the police function)
- Exportation of the product or service back into the community. (Order maintenance, law enforcement or service functions)
- Attainment of negative entropy, which continues the existence of the organization
- Process information either positive or negative so the organization can adapt
- Differentiation - functions are specialized in order to accommodate system growth

"The systems approach distinguishes itself from the more traditional analytic approach by emphasizing the

interactions and connectedness of the different components of a system" (Heylighen, 1998). Systems Theory can be utilized on both a macro and mirco level when researching criminal justice agencies.

Social stratification is a system in which people are divided in layers according to their relative power, property, and prestige. . . Every society stratifies its members (Henslin, 1996). A society in which individuals can determine their socioeconomic and educational mobility is classified as an **open stratified system**, whereas, a society with low socioeconomic and educational mobility is classified as a **closed stratified system** (Farley, 1998).

#### **4.2.1 The Seventh Phase**

Von Bertalanffy (1968) cites Kuhn (1962) approach to a scientific revolution:

A scientific revolution is defined by the appearance of a new conceptual schemes or "paradigms". These bring forth aspects which previously were not seen or perceived, or even suppressed in "normal science" (p. 18)

To properly investigate criminal justice systems, I propose an additional phase be added to the system -

political intervention or politics. Practically every text dealing with the criminal justice system at one point or another references politics, but political intervention has never been determined to be part of the system. Skillfully, politicians have managed to evade the stigma of inappropriate policing and place the blame on individuals, particular agencies or system wide organizations.

Dating back to the middle ages, policing systems were developed with their main purpose being "to serve the interest of the political authority that created them" (Fyfe et al., 1997). Policing can be viewed as "a political institution, inextricably tied to the function of governing through the executive responsibility for enforcement of laws enacted by legislatures and interpreted by courts" (Radelet, 1986). "Political conditions can affect an organization directly through pressures from constituents and clients and indirectly through governmental action" (Stojkovic, Kalinich & Klofas, 1998).

Many police agencies display the motto "to protect and serve". The motto incorporates the constitutional guarantee of life, liberty, and property in an orderly society. Police enforcement of legally adopted rules are the tools police employ to insure our liberty. How many people today would tolerate a police force that refused to

enforce the laws of their society? In the United States an officer can be charged with nonfeasance for failing to perform when he/she is required to do so.

Yet **every** law enforcement officer realizes it is impossible and impracticable to enforce every law.

"Considering the quantity and breadth of laws they are required to enforce" police are often restrained because of budgetary and personnel resources as well as the possibility of placing an extraordinary burden on the courts and corrections systems. "At times a department may have to sacrifice strict application of laws to achieve the values of 'order' and 'service giving' that are also part of the police mission" (Mayhall, Thomas & Hunter, 1995; Wilson, 1968).

One blatant example of modern day political misuse of police agencies was found in South Africa Police (SAP) prior to 1991 with its enforcement of apartheid laws. Police officers were routinely fulfilling their police duties which were legislative appropriate but morally wrong.

Farley (1998) identifies pre-1991 South Africa as a racially caste system. "South Africa's apartheid laws defined four racial castes: European (white), African (black), coloured (mixed European and African ancestry),

and Asian". The system was closed. As suggested by von Bertalanffy, the system would eventually self-destruct.

Cawthra (1993) places the blame for "the acute problem of violence and crime in South Africa" on apartheid and the debasing of laws and its institutions. Because of the color of their skin, millions of South Africans were denied opportunities to improve their lives and were condemned to lives of poverty. Apartheid was a national injustice that was placed on a majority of its citizens by a minority of its citizens who were in political control.

In the United States, during the mid 1850s, a cultural divide developed between the Northern states who found slavery repugnant and the Southern states that wanted to maintain their way of life which relied heavily on slavery. The Southern states eventually seceded from the Union; this subsequently resulted in a Civil War which lasted for four years. The U.S. Congress eventually passed the 13<sup>th</sup> and 14<sup>th</sup> amendments to the Constitution to abolish slavery and provide equal protection of the law. The Southern states responded by passing Jim Crow laws which created a racial caste system which continued into the 1960s (Lyons, Scheb II & Richardson, Jr., 1995).

The United States stratification details an open Northern states strategy that triumphed over the Southern

states closed society.

Condemnation for racially discriminatory acts committed by Southern law enforcement personnel, who were complying with legally enacted laws, should be placed where it belongs, on the shoulders of the politicians as opposed to the enforcers of the law. Individual excesses committed by law enforcement personnel should never be tolerated, however, political inaction to police misconduct can only be interpreted as an affirmation for that conduct. "Police frequently provide the most visible direct response to dissent" that societies wish to see made but do not wish to be personally involved so "police find themselves doing the 'dirty work' of larger political and social forces" (Mayhall, Barker & Hunter, 1995).

In Zimbabwe, President Robert Mugabe is engaging in government backed looting and reclaiming commercial farm lands from white farmers who represent less than half a percent of the population. Human rights groups and opposition parties say Mugabe is using the land issue as a smoke screen to bolster support for his upcoming election. Britian's Prime Minister Blair and South Africa's Thabo Mbeki have both agreed that the situation in Zimbabwe is deteriorating. (A/P, January 13, 2002) "Law is, after all, a

reflection of societal values; and so, too is what is defined by law as crime" (Radelet, 1986).

On a micro level, there are officers who abuse their authority. They operate in a closed system of vigilantism, where they legislate, enforce and punish wrongdoers. These individuals cannot be tolerated in any system and should be immediately removed from any agency that employs them. Closed systems can be found at all stages of the criminal justice system.

Respondents to the question, "Do you feel outside influences (politics) interferes with police performance"?, ninety two (92%) percent of the South African responders and sixty four (64%) percent of the United States responders gave grades indicating excessive interference. Only two of the US responders and three of the SA responders gave grades indicating "Not at all". Although the sample size is small, the data does support a need to include political intervention into the equation when trying to identify ways and means to better coordinate criminal justice activities and increase cooperation at all levels.

### **4.3 Criminal law vs. Criminal procedure**

Samaha (2002) describes the rule of law as "the principle that the government can punish people only if there is an exact law that both defines and prescribes the punishment for criminal behavior". Societies typically accept these laws and obey them, provided there is consistency in their implementation. In the criminal justice system, there are major disagreements over which set of rules to emphasize. Palaciss, Cromwell & Dunham (2002) define these two basic sets as criminal law and criminal procedure.

"Conservatives emphasize the rules of the criminal law . . . Liberals tend to emphasize the rules of procedures" (Palaciss, Cromwell & Dunham, 2002). Criminologists define these terms as crime control model and due process model (Siegel, 1998; Kaplan, Skolnick, Feeley, 1991).

"The crime control model is based on the proposition that the repression of criminal conduct is by far the most important function to be performed by the criminal justice process" (Kaplan, Skolnick & Feeley, 1991). The crime control model's overriding purpose "is protection of the public, deterrence of criminal behavior, and incapacitation of known criminals" (Siegel, 1998).

"The due process model insists on the prevention and elimination of mistakes to the extent possible" (Kaplan,

Skolnick, Feeley, 1991). "The due process model combines elements of liberal/positivist criminology with the legal concept of procedural fairness for the accused (Siegel, 1998). Adherents of due process believe in "individualized justice, treatment, and rehabilitation of the offender" (Siegel, 1998).

Historically, the court system champions the due process model. The court system duties include ensuring that there is fundamental fairness in the system and that procedural safeguards have been followed. When respondents were asked, "How much support do you get from the court system?" seventy seven (77%) percent of US respondents and forty three (43%) of SA respondents gave middle to positive ratings. These scores would indicate that the police and corrections officers identify with the court's dilemma. Although the South African respondents score may seem low, this may be indicative of the fact that they have just rewritten their Constitution and a reaction to the changes imposed on their policing philosophy.

Respondents answers to "Do you feel the demilitarisation of the police and movement toward a community friendly police service is in the best interest of controlling crime?" reveals fifty nine (59%) percent of US respondents and forty five (45%) percent of the SA

respondents felt that the shift would assist in controlling crime. The low percentage of affirmative responses may be indicative of the fact that sixty five (65%) percent of the SA respondents had over ten (10) years of service and were members of the SAP prior to adopting the new Constitution.

Baratta (1994) states:

Chief among these difficulties are the rigid military police organization which must initiate a new way of policing, the type of field personnel responsible for implementing the new concept, the current poor relationship between the black communities and the police, the history of violence and animosity between some major tribes, and the political climate which fosters, hate, anger and violence. (p.25)

#### 4.4 Management and Leadership

Fyfe et al., (1997) state "The literature on management and leadership is replete with mention of cooperation as a central organizational goal".

"Management is concerned with the optimum attainment of organizational goal. . .managers work with and get things done through other people" (Robbins, 1983).  
Management includes the process of integrating and

coordinating the components of a system under effective leadership.

"Law enforcement management is a process of deciding goals and objectives, adopting a work plan", obtaining and utilizing resources and making decisions that result in high levels of performance and productivity (Bennett & Hess, 2001).

Stojkovic, Kalinich & Klofas (1998) believe definitions of management usually ignores the notion of office. They view management "as a function that may not be the sole responsibility of any office" and incorporate front-line (bottom of the organizational hierarchy) police and corrections officers because they exercise management responsibilities when they manage people. Their view of the criminal justice system suggest that many workers in criminal justice influence the direction of their organizations.

Autocratic managers direct employees, allowing minimal participation while democratic managers encourage employees to participate in decision making (Roberg & Kuykendall, 1990). Robbins (1983) identifies the autocratic-democratic continuum model. This model places the two (autocratic/democratic) extremes at the end of a continuum with a variety of leadership styles in between, and "the style

selected dependent upon forces in the leader himself, his operating group and the situation".

Glensor, Peak & Gaines (1999) dissect the styles.

**Autocratic leaders:**

- Are leader centered
- Have a high initiating structure
- Are primarily authoritarian in nature
- Prefer to give orders
- Have a tendency to be personal in criticism
- Work best in emergency situation

**Democratic leaders:**

- Like working within groups
- Elicit ideas and support
- Are consideration oriented
- Strive to attain mutual respect with subordinates
- Operate within an atmosphere of trust
- Delegate considerable authority

In emergency situations democratic leadership may be time consuming and awkward.

These managerial styles present a dilemma for criminal justice agencies because, depending on the situation, each one is applicable. Perhaps Kaplan, Skolnick & Feeley (1991) summed up the situation best when they stated:

The police are a peculiar executive agency of government. Like all administrative departments, they are accountable to the community that has authorized them to act. Unlike other executive agencies, however, they do not simply carry out particular policies stated in law; they are responsible for enforcing law generally. Political responsibility and the rule of law intersect at the police. (p. 172)

To further expound concern to the managerial situation Stojkovic, Kallinich & Klofas (1998) state:

The criminal justice system has a well-established history of creating a cadre of managers whose experience and subsequent socialization has trained them to work heroically to protect their existing system and culture from intrusion, outsiders, and environmental forces. Criminal justice managers have assumed and struggled to behave as if they were working in a closed system. (p. 7)

#### 4.4.1 Decision making

A consideration of power, authority, and influence in an organization points to the very real limits on a leader's behavior and action. It recognizes that there are often several competing sources of authority

within organizations and that individuals and groups respond to these sources differently. It recognizes there is no "one best way" to lead. (Fyfe, et al., 1997, p. 88)

"Decision making in criminal justice extends well beyond the policy formation process" (Stojkovic, Kallinich & Klofas, 1998). Decision makers must take into consideration:

- The laws - national, state/provincial, municipal and tribal
- Their department's policies, rules and regulations
- Their personal values, knowledge and mores
- The individuals involved
- The communities attitude

"Defining problems and recognizing acceptable and workable solutions...are framed within the control of the organizational culture" (Stojkovic, Kallinich & Klofas, 1998). Organizational culture (assumptions and beliefs) is passed on to new members through formal and informal socialization processes. The formal and informal structure is based on the division of power at all levels.

Miller & Hess (1994) define the power structure as:

The **formal power structure** includes divisions of

society with wealth and political influence such as federal, state, and local agencies of governments, commissions, and regulatory agencies. . . The **informal power structure** includes religious groups, wealthy subgroups, ethnic groups, political groups, and public interests groups. (p. 43)

Assumptions about who makes decisions and at what level of the organizations are often based upon past practices and bureaucratic structure and not necessarily based on rational thought or reflection on the agency's mission or goals (Stojkovic, Kallinich & Klofas, 1998).

Organizational decision making often includes struggles for control and/or power. "No effective criminal justice administrator or managers underestimates the power and influence of politics, both internal and external" (Stojkovic, Kallinich & Klofas, 1998). Internal politics can include race, age, gender, education, work assignment and promotion while external politics can comprise the public at large, politicians, lobbyists, labor unions and activist groups.

These quests for power can be positive (functional) or detrimental (dysfunctional) to an organization, depending on the openness of the organizational structure (Robbins, 1983). An organization with a "groupthink" mentality

resists change and can diminish its ability to adapt and grow, while an organization that embraces functional conflict and change can survive. "Conflict should be viewed as a continuous process, occurring against a backdrop of relationships and events" (Glensor, Peak & Gaines, 1999). Within any organization, there will be a variety of conflicting opinions. Most processes used to decrease the conflict and increase productivity and harmony will benefit that organization.

With most front-line criminal justice decisions, somebody or some parties feel cheated, disappointed, discriminated against, frustrated, and victimized while others feel vindicated. Most front-line employees feel imperiled when making spontaneous decisions.

The decision maker in many of these situations is left in a precarious situation if their split second evaluation and decision was wrong or contradicted one or more of the cultural taboos. The critiquing of the employee's action or inaction, by middle and upper level managers who have time to investigate, research and then decide on the appropriateness of an officer's actions can be demoralizing to a criminal justice agency.

"Officers tend to expect supervisors to make policies realistic in their application, while administrators expect

supervisors to follow the letter of the law with regard to policies and procedures" (Glensor, Peak & Gaines, 1999).

"People differ in their willingness to take chances" in making decisions while trying to decide whether to assume or avoid risk (Robbins, 1983).

#### 4.5 The Dilemma

The below listed components contribute to a greater or lesser extent to the fragmentation of a criminal justice system. They include but are not necessarily limited to the macro and micro levels of:

- Federal/National, State/Provincial, County, Municipal and tribal governing bodies
- Police, courts, corrections, the public and politicians
- Philosophy of the agency - Open or Closed
- Historical Implications - slavery/apartheid
- Law enforcement philosophy - Criminal law (crime control) versus criminal procedure (due process) or does society take a sociological turn and help to eliminate the causes of crime.
- Failure to properly define goals and objectives and strategic plans to implement them.
- Failure to define problems and developing solutions.

- Conflicting leadership styles - Autocratic versus Democratic.
- Budget restraints
- Personnel to assign (not enough manpower)

Upon reading the list and realizing the enormous amount of people and ideologies involved, one might wonder how any thing gets accomplished. In our day to day living, conflict is unavoidable, be it over a parking space, smoking in a non-smoking area or just being plain rude. Conflict can have a negative or a positive result. Conflict becomes negative when it is avoided or approached on a win/lose basis. Conflict can be positive when it is used to explore new ideas. Conflict is a part of living in the twenty first century.

#### 4.6 Conflict

Glensor, Peak & Gaines (1999) state that "Conflict can occur throughout an organization". They warn the "conflict can occur at four levels within the agency:

- Intrapersonal, where an individual has conflict within him-or herself.
- Interpersonal, where individuals have conflict with others in the unit or department

- Intergroup, where work groups within the organization develop conflict.
- Interorganizational, where different organizations are at odds as the result of some issue or event. (p. 81)

Weeks (1992) examines the ingredients of conflict. He identified seven basic elements that characterize conflict:

- Diversity and Differences - can open up possibilities, challenge us to consider alternatives, and keep us from allowing ourselves to stagnate.
- Needs - conditions we perceive we cannot do without, or that are critical to our well being and development.
- Perceptions - people can have different perceptions about how and why an event occurred and what the event means.
- Power - the capacity to act effectively and ability to influence others.
- Values and principles - something we consider to be of significant importance.
- Feeling and emotions - Most conflicts involve investment of feelings and emotions.
- Internal conflicts - Occur when people are not sure of their values and perceptions.

The addition of Week's precepts seems to make the dilemma even more insurmountable. Perhaps the sanest way to approach the dilemma is on a micro level. Police (1973) states:

The specific goals and priorities which the police establish within the limits of their legislatively granted authority are determined to a large extent by community desires. These desires are transmitted to the police through the community and the governing body of the jurisdiction in which the police operate.

(p. 9)

This statement encompasses some of the major components (goals, priorities, jurisdictions, police, community served, and governing body) of the criminal justice system.

#### 4.7 Community Policing

Since the demise of apartheid, all South African factions realize the SAPS will have to take substantial steps "to ensure joint partnership between the police and structures of civil society, as well as oversight bodies of the South African Police" (Marks, 1998). This is an ideal time for South Africa's criminal justice system to decide

which priority it wishes to emphasize: crime control, due process or elimination of the causes of crime.

The police by the very nature of their position must control criminal activity, but to what degree should they address the underlying causes of crime. Marks (1998) presents an excellent argument supporting the paramilitary need for policing. "It is the responsibility of the state to ensure peace and stability within its boundaries" and the SAPS have the duty to ensure "peace and stability within its boundaries" (Marks, 1998).

The majority of the literature on communications within the criminal justice system deals with internal organizational communication. In the 1960s, many police agencies in the United States began police public relations contingents within their departments. Their communications were closely monitored and were one-way communications, from the police agency out to the public.

"External communications include all interactions with agencies and individuals outside the department, including citizen contacts and interaction with the media (Bennett & Hess, 1996). With the advent of the Community Policing concept there has been a huge influx of external two way communication with police agencies and the citizens and governing bodies they serve.

Survival rests on the ability to change the right things at the right time; failure is the direct result of an inability to make an accurate self-diagnosis".

(Grossman, 1974, p. 42)

A review of recent criminal justice literature reveals it is difficult to find one definitive definition for community policing. United States' criminal justice history reveals a wide variety of attempt to include the communities being policed by attempting to include citizen participation in some police functions.

In the 1970s, the Team Policing concept was adopted by many larger police agencies. "Officers were divided into small teams and assigned permanently to small geographic areas or neighborhoods" (Peak & Glensor, 1996). In the 1980s, police departments began to return to the use of foot patrol with the expectation that the walking officer would have more direct contact with the citizens in the community as well as using the Problem Oriented Policing concept where the community and the police attempted to define a problem and reach some compromise on how to solve the problem. The shift in policing was moving away from a reactive style to a proactive style of policing (Peak & Glensor, 1996; Fyfe, Greene, Walsh, Wilson & McLauren, 1997; Mayhall, Barker & Hunter, 1995; Miller & Hess, 1994).

Prevention of crime was stressed rather than dealing with the aftermath and its victims.

Peak & Glensor (1996) discuss "communitarianism" (a term promulgated by Amitai Etzioni) that argues that government has "gone too far toward extending rights to our citizens and not far enough in asking them to fulfill responsibilities to the community as a whole". The concept nurtures the ideals of sound family structure, caring neighborhoods, religious organizations, and associations that promote moral and community ties. "It is well established that people act more responsibly when they control their own environment than when they are controlled by others" (Peak & Glensor, 1996).

Criminological definitions deliberately espouse the ideal of a community/police partnership but struggle when it comes to specific implementation.

Every community varies in many crucial ways when it comes to unity and common purpose and to an even greater degree in what is necessary to achieve this. What works well in one community may actually do harm in another... (p. 261) This is because of the incredible variations and needs, realities, and circumstances among cities, counties and states...(Coffey, 1990, p. 266)

Peak & Glensor (1996) cite Trojanowicz & Carter (1988) defining community policing:

as a philosophy and not a specific tactic, a proactive, decentralized approach, designed to reduce crime, disorder, and fear of crime by involving the same officer in the same community for a long-term basis. (p. 71)

Miller & Hess (1994) cite Trojanowicz & Bucqueroux (1990) in defining community policing as:

Based on the concept that police officers and private citizens working together in creative ways can help solve contemporary community problems related to crime, fear of crime, social and physical disorder and neighborhood decay. (p.16)

These definitions indicate that 'one size does **not** fit all' and that community policing should be reflective of the community it serves.

In 1993, South Africa opted to change its colonial military policing style to one of community policing (Baratta,1994), "Many communities, because of the political struggle, have developed a culture of mass participation and militancy" (Nina, 1998). Developing an accountable police service was to be accomplished by decentralizing the police system by creating accountable structures at the

local level called Community Police Forums (CPSs) (Nina, 1998).

Baratta (1994) indicates that Dr. Bhekimpilo of the University of Zimbabwe and Dr. Mike Brogden of John Moores University speculate that the transition to community policing forums will not be easily accomplished based on the history of the SAP. "The sincerity of the SAP to effect change seems to ignore the almost impossible difficulties not even conceived by other police administrators worldwide" (Baratta, 1994).

Dixon (2000) states that along with the:  
globalization of liberal democracy as the form of political organization within nation-state. . . has come the globalization of distinct forms of police organizations and particular styles of policing. (p. 32)

Dixon (2000) goes on to cite Bayley's warning of the:  
transfer of inappropriate policing technologies from nations with long histories of non-authoritarian rule to countries with little or none. . . (p. 32)

and cites Brogden and Sheary's suggestion:

that the marketing of developed world solutions of problems of ordering in countries like South Africa amounts to a new form of colonialism. (p. 32)

Since 1993 the objectives of the Community Policing forums have shifted four times.

- An initial emphasis, from 1993 to 1995, on 'oversight' of the police, characterized by explicit monitoring and evaluation functions of CPFs.
- From 1995 to 1997, an emphasis on building relationships between the police and the community, characterized by a focus on liaison and communication functions of CPFs.
- Then, in 1997, a clearer shift with the publication of the departmental policy on community policing which emphasized the establishment of problem-solving 'partnerships' to help improve police services and assist in reducing crime.
- In 1998, the White Paper on Safety and Security, which directed CPFs towards co-operation with local government, community mobilization against crime, and other social crime prevention functions.
- Finally, in February 2001, the minister for safety and security committed government to integrate the CPF with the liaison structures of other departments 'as part of our overall drive to bring communities on board' (Pesler, 2001, p. 2).

Pelser (2001) states:

Government ambivalence on what it wants these structures (CPFs) to do, and its antipathy towards providing meaningful practical support, has had the result that these structures have little reach into South Africa's communities and are unable to mobilize community participation. (p. 1)

Pelser (2001) argues the lack of practical and systematic support for CPFs is a result of its contested legal status and he calls for "a clear and practical demonstration from the government" to meet "its legal obligations to ensure that CPFs are able to perform their intended functions".

The credibility of the national governments commitment to CPFs may be interpreted as minimal response to a problem that they do not know how to correct and their refusal to acknowledge this to the citizens of South Africa will only result in the continued disrespect and distrust of the police. How can citizens be expected to step forward and support the police when the police administration and national government is not supporting them?

Pesler (2001) reports that out of 17231 South Africans surveyed only 44% knew about or heard of the CPF structure. How are citizens going to interpret the government's lack of communicating this concept to the people? Humphries'

(2000) survey of 2700 South African adults found that 53% of the respondents thought corruption within state institutions was increasing.

Ted Leggett's (1999) interview with Steve Tshwete revealed the following comment:

My priorities are to unify the police service. Only a united and disciplined police service can be capable of getting on top of the crime situation. I do not want to preside over a fragmented and racially and ethnically divided police service. We have to form a united front across the ranks because our common enemy is the criminal out there. (p. 5)

Worrall-Clare (1998) makes the argument that policing in South Africa should take a step down and place its emphasis on the municipal level. The decentralization of the police will make them more accessible to the populous while "making police service more sensitive to local input". "Successful policing in South Africa depends . . . on the degree of trust the police command within the community they serve" (Worrall-Clare, 1998). The incorporation of police and community should enhance a sense of partnership between both segments.

Worrall-Clare (1998) identifies the advantages of bringing the police closer to its citizens. They include:

- Municipalities constitute the base level of government planning and policy implementation.
- Municipalities are the closest to community and thus able to speedily identify crime trends.
- Research indicates that crime varies from area to area, so different strategies and approaches are needed in the implementation of national, provincial and local initiatives.

"No administrator can afford to ignore public opinion when deciding which laws to enforce" (Mayhall et al., 1995).

"The prevention and control of crime is a super-ordinate goal, in which all elements of the community have an important stake" (Radelet, 1986). Community policing attempts to have the police act in a proactive manner, that is, prevention of criminal activity as opposed to reactive policing which is responding to calls for assistance, historically after a crime has occurred. Community policing involves decentralizing police services for the purpose of community interaction, crime prevention and problem solving (Fyfe et al, 1997).

Community policing is an organization wide philosophy and management approach, which promotes community, government, and police problem solving to address issues of crime, social partnerships, proactive

physical disorder, and addresses quality of life issues. (NJ Regional Community Policing)

The community policing movement reflects "a critical and creative phase in the development of policing" that involves "researchers, academics, and police executives," and the members of the community "thinking and working closely together" to develop proactive solutions to criminal and quality of life issues (Fyfe et al., 1997).

#### 4.8 Conclusion

The very nature of law enforcement is dichotomous. Societies need laws and law enforcement but individuals resent being told what to do. To minimize the harm and frustration caused by fragmentation, societies should openly acknowledge the role politicians employ in policing, thereby making elected representatives more responsible for the conduct of law enforcers as well as the maintenance and purchase of equipment necessary to complete their mission. It is easy to raise money for homeland security (military) but the finances seem to dwindle when police need patrol cars or good communications systems. An acknowledged commitment by elected officials, that they will be held accountable for, will go a long way to reform the system.

When asked if their agency provides them "with adequate equipment to provide security for its citizens?" ninety five (95%) percent of the SA respondents and forty two (42%) of the US respondents said "No". How do these responses address the commitment to the officers and constables who place their lives on the front line? What does this data indicate about the government's commitment to combating crime?

Fragmentation will never be eliminated, but if a criminal justice system wants to reduce its impact, it must begin at its foundation. In criminal justice systems communications, status, and financial support always trickle down, perhaps it's time to reverse that trend and insure that the front line personnel are well equipped. One SA responder felt there would be a minimal amount of SA responders because most police buildings do not have access to computers and the internet.

On a national level, the criminal justice system must decide on its philosophical approach to crime fighting and law enforcement and that philosophy must filter down to all segments of the system. In turn, the lower level (front line) personnel must have a communication system, whereby, they can relay information to the top echelon on the feasibility of implementing that philosophy.

Community policing appears to be an excellent conduit with which to gather information and filter it to the top. South Africa's movement toward the establishment of more municipal police agencies is another step in the right direction. The need to establish friendships at the grass roots level is imperative if a criminal justice system is to reflect the needs of the community and thereby survive.

Sir Robert Peel (1829) the founder of modern policing in Great Britain principles contained:

The police at all times should maintain a relationship with the public that gives reality to the historic tradition: The police are the public and the public are the police. (p. 1)

The criminal justice system must utilize and open the lines of communication. The communication problems encountered by municipal police officers when establishing community policing units are indicative of the same barriers that have to be overcome at the various levels of the criminal justice system. There must be a reciprocal communication system set in place, and the "closed system" mentality must be removed from the criminal justice system.

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# Chapter 5

## Toward Professionalism

### 5.1 Toward Professionalism

Schneider (2001) identifies three characteristics of social structures in Countries with low crime rates.

- Informal Social control by social groups, i.e., the family, the neighborhood, schools, work and leisure groups. The citizenry have developed a sense of responsibility for themselves.
- Public spirit is of crucial importance, there are almost no socially disintegrated areas or ghettos in big cities or industrial centers.
- The criminal justice systems are highly respected and police seek close contact with the community. Citizens do honorary work in order to support the police, courts or prisons.

Both the United States and South Africa appear to be lacking in all three areas, this statement is easily supported by their crime statistics. The quest for low crime rates cannot rest upon the shoulders of law enforcement agencies alone, however, the nature of the profession requires they accept a large share of the responsibility.

Both countries are embarking on the community policing concept and both countries are meeting with resistance from their respective citizenries, police themselves and a lack of financial support from the electorate.

Holman & Quinn (1996) suggest that "the answer to controlling crime does not lie in hiring more police officers or building more prisons" but in hiring "better educated" and "more professional practitioners". They espouse the ideal of "quality, not quantity, seems the most reasonable answer to the future of crime control". They state new professional officers "will require an investment of both dollars and effort" by the communities they serve.

How does an agency go about selecting the proper candidate for employment in a criminal justice agency? Many of the US and SA criminal justice agencies require some, if not all of the below listed criteria:

- No Criminal record
- Pass a written examination
- Pass a background check
- Be in good physical and mental health
- Have at least a high school diploma
- Pass a lie detector test
- Pass an oral interview

- Must be within a minimum and maximum age limit, usually 18 to 35 years of age

With all these precautions being taken there is still no guarantee that a selected candidate will be successful in his or her career.

Once a candidate has been accepted for a position on a police department or a correctional agency, the candidate must successfully pass a state or federally accredited educational program to prepare them for active employment. Many of these training institutions offer curricula that are so specialized that colleges and universities are offering credits to candidates upon successful completion of the programs.

Fyfe, et al (1997) state:

Any reasonable assessment of the police task demonstrates that it is on a par with other public service careers that require a baccalaureate degree or more for entry. Like schoolteachers, police officers exercise considerable discretion and work out of the sight of their supervisors. Like prosecutors, police officers make decisions that can affect citizens' lives, liberties, futures and reputation. (p. 286)

If one envisions the criminal justice system as a straight line continuum with the police at the entry end of

the line and corrections (prisons) at the other end, almost every other agency in between requires a bachelors degree or higher. Why do most criminal justice systems allow the individuals with the most immediate contact with its citizens and criminals be the least educated? The design of the criminal justice system appears to promote the problems it espouses it is trying to correct.

Schonteich (2000) states:

Many officers in the SAPS are badly trained.

According to previous national police commissioner, George Fivaz, a quarter of all police officers are "functionally illiterate". Moreover, in excess of 10 000 do not have a driver's license. (p. 2)

Louw (2000) reports that "Over the past five years the SAPS has received the least actual increase in its budget of all the criminal justice departments" and given the SAPS' financial constraints urges the prioritizing training of already employed officers to "read and write as a matter of urgency".

Although not totally the present administration's fault, rectifying this situation falls firmly on its shoulders. One source stated "before 1994 it was relatively easy to get into the police and Std 8 was sufficient with a medical check and a clearance of no

criminal record". Std 8 is less than a high school diploma. With the end of Apartheid "The unions then stepped in and demanded their integration as full members ... which led to a number of members falling into the functionally illiterate" category.

Another source addressed this dilemma by stating:

You have to realize there are 11 official languages in South Africa, so it would be pretty difficult to be able to converse in all these languages let alone write all of them. English is taken to be the official language of the SAPS so for everyone to be able to speak English would be impossible. The police however attempt to utilize people in areas where they speak the language.

Bennett & Hess (1996) report that 62 percent of United States law enforcement agencies "have some kind of educational incentive program, but that only 13.8 percent require higher education". There were mixed reports from South African respondents regarding higher education reimbursement. Some respondents reported there was "none", another indicated that "If you study for the National Police Diploma or degree, the Police will recompensate you for the cost of study fee" upon successful completion of the Diploma or Degree, and another stated finances are

"very scarce", while another respondent felt the money was to being doled out based on Affirmative Action guidelines. These varied responses seem to call for better communication by the administration to the rank and file as to what educational benefits, if any, are available.

## 5.2 Affirmative Action

"Affirmative action is based on the concept of socio-economic equality" (McElroy, 1996). In 1994, the new South African government inherited a Public Service which was strongly influenced by the doctrine of apartheid. In its attempt to restore an effective, efficient and equitable Public Service an affirmative action policy was implemented. The White Paper on Affirmative Action in the Public Service states:

Restoring legitimacy and credibility through the development of a broadly representative Public Service has come to be seen as one of the keys to the transformation process. To this end, affirmative action police were introduced . . . to bring into the administrative heart of government, people from those groups who had been marginalized and systematically discriminated against in the former area. (p. 3)

The SAPS has adopted an affirmative action policy which employs a seventy/thirty (70/30) ratio. White males represent the thirty (30%) percent and the remainder are non whites, females and disabled persons.

Johnson's (2000) survey on affirmative action found that fifty four (54%) percent of South African respondents were in favor of making appointments on merit only while less than a quarter of the respondents were in favor of strong affirmative action measures. The respondents were multiracial as well as socio-economically diversified. It appears to be hypocritical to endorse affirmative action if Johnson's statement "Africans who for decades believed passionately that job reservation on racial lines was wrong and that merit alone should be rewarded" is correct. "The contradictory notion of 'discriminating in order to obtain equal treatment' seems to violate common sense" (McElroy, 1996).

Grossman (1974) states "Change is good but too rapid a rate of change has a negative effect on an organization". Grossman (1974) cites Eric Hoffer's (1969) explanation of the story of Moses and the Exodus in the Old Testament. He believes that Moses roamed the desert for 40 years to allow time for the recently freed Jewish slaves to shed the yoke of a slave mentality and develop the mentality of a freed

man. This he hypothesized would take two generations or 40 years. Is the South African government trying to do too much too soon and inadvertently disrupting some of the good already in place?

Chung (1993) indicated that one side effect of quotas "is that a person becomes complacent, and may not strive to achieve all that he can, because he knows that he is more or less required by a quota to maintain his position".

Most people acknowledge and despise the idea of apartheid but to correct past injustices does a government need to sacrifice quality for immediacy? While the impact of affirmative action will show numerical advancement of previously discriminated personnel, is the South African criminal justice system taking a step back instead of advancing into the professionalization of the 21<sup>st</sup> century? Dott (2002) states:

A major criticism of South African organizations and government is that they haven't moved away from favouritism and nepotistic actions when appointing individuals to critical' influential posts. (p. 2)

In the United States affirmative action was put into place because certain minority populations (mainly blacks and females) were being exploited and not given equal opportunities to advance. In South Africa the majority

population was suppressed under apartheid. In a rush to rectify past injustices through affirmative action South Africa may be sacrificing its ability to increase its intellectual capital by promoting based on race and gender and not ability. The mere volume of native South Africans should ensure a continued democratic government and prevent any future injustices.

This researcher suggests the effort to ensure a criminal justice system that reflects the 21<sup>st</sup> century ideals should concentrate its efforts on education and training for all criminal justice personnel before they are placed in managerial positions. A combination of higher education and an affirmative action point system would provide equality and professionalism to the SAPS. Merely promoting individuals based on a quota provides 'nay sayers' and the individuals who are promoted with a stigma.

Dott (2002) states:

Corporate governance principles are intended to provide a framework for the management and accountability of key decision-making bodies.

Governance is, in essence, the organizational arrangements that have been put in place to provide an appropriate set of checks and balances on the stewards

of an organization... It's about leadership with integrity, responsibility and transparency. (p. 1)

It may be argued that affirmative action quotas may have an impact on intra-agency activities, will these quotas impact on how policing is carried on in the communities? The distribution of SAPS personnel in the provinces raises issues regarding crime control.

### **5.3 Regional Disparity**

L.A.J. (Adolphe) Quetelet and Andre-Michael Guerry in the 19<sup>th</sup> century in Europe developed the cartographic school of criminology. They integrated the use of maps with social statistics which provided demographic information on the population and crime. "Quetelet identified many of the relationships between crime and social phenomena" (Siegel, 2001). Cartography, in one form or another, and criminology have progressed into the 21<sup>st</sup> century and are currently used to track crime patterns.

To justify the existence of a criminal justice system, governments traditionally track the characteristics and amount of criminal activity and compare that with the financial expenditures incurred. The results typically indicate what the cost of crime prevention, detection,

apprehension, prosecution and detention of offenders cost its citizens.

In the United States criminologists and researchers can go the U.S. Department of Justice, Bureau of Justice Statistics and retrieve information on a wide variety of topics.

Examples of the data for 2000 reveal:

- Urban residents had the highest violent victimization rates, followed by suburban resident rates. Rural residents had the lowest rates.
- The Western portion of the nation experiences the highest rates of property crime overall in the nation.
- Urban households have historically been and continue to be the most vulnerable to property crime, burglary, motor vehicle theft and theft in the United States.
- Suburban households were more likely to experience motor vehicle theft than were rural households.
- States spend more on criminal justice than counties, municipalities, or the federal

government.

- Direct expenditure for each of the major criminal justice functions (police, corrections, judicial) has been increasing.

The data that is gathered allows criminologist and police agencies to determine where, when and how crimes are occurring and develop strategies to combat specific types of crime. The data also indicates what portion of society is shouldering the financial burden that the criminal justice system requires.

Mamalian & LaVigne (1999) state:

Computerized crime mapping technology enables law enforcement agencies to analyze and correlate data sources to create a detailed snapshot of crime incidents and related factors within a community or other geographical area. (p. 1)

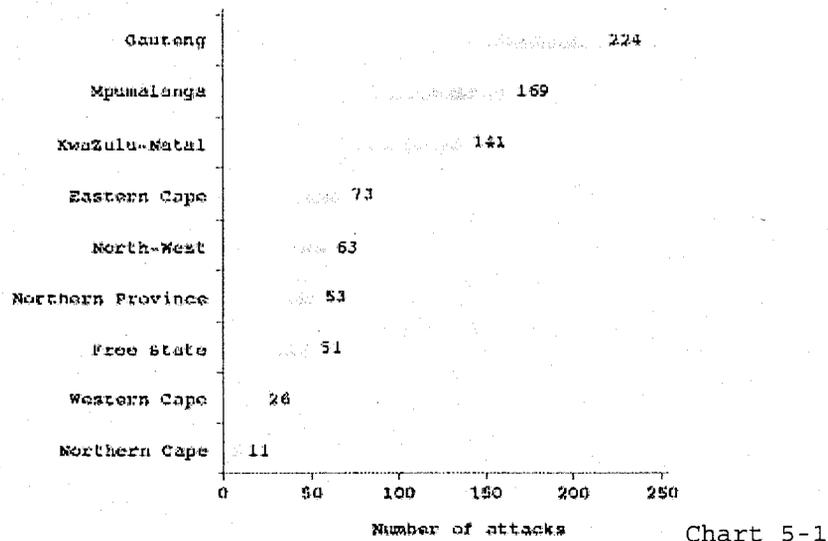
Louw & Shaw (1997) state crime in South Africa is not uniform and increases in crime appear to affect different parts of South African society in different ways. This implies that since not all South Africans are exposed to equal dangers, different strategies will need to be devised in particular areas to curb crime. (p. 5)

Louw (2000) reports SAPS statistics indicate a

4.7% overall increase in crime between 1998 and 1999, "with notable increases in levels of robbery, housebreaking and theft".

The 1999, Institute for Security Studies research project showed that the rural protection plan to combat crimes on "farms and smallholdings varied from area to area" and that "the plan's success depends primarily on strong civilian participation" (Schonteich & Steinberg, 2000).

Schonteich & Steinberg's (2000) (Chart 5-1) exposes the distribution of crime in South Africa's provinces.



Source: Crime Information Analysis Centre (CIAC)  
National Operational Co-Ordinating Committee (NOCOC)

Pelser (2000) states "People living in deep rural areas are almost as likely to become victims of crime as those in urban areas". The data for this statement was obtained from a 1998 ISS Rural Victims survey of 756

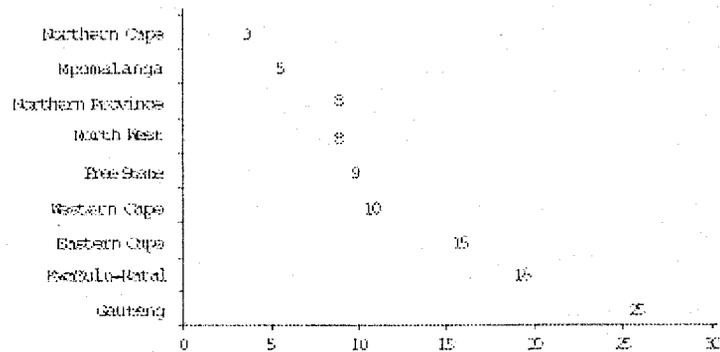
inhabitants of 40 African rural settlements. (See 5-2) The respondents further reported on 'Police Visibility' in their community. The results indicate either an underutilization of police personnel or insufficient

Response	Number of respondents	Percentage respondents
Never see a police officer	253	33.50%
See a police officer less than once a month	241	31.90%
See a police officer more than once a month	134	17.70%
See a police officer at least once a week	78	10.30%
See a police officer every day	50	6.60%
Total	756	100%

Chart 5-2

patrol personnel for the areas they cover.

Schonteich (2000) reports that policing levels are



(Schonteich, 2000) Chart 5-3

partly determined by the total population in each province.

Schonteich's (2000) chart (5-3) indicates the provincial distribution in percentages of the 105,560 uniformed SAPS police officers available to South African citizens.

Schonteich (2000) states:

While 98% of Gauteng's residents are urbanized, only 11% of the residents in the Northern Province are. Similarly, while the Western Cape has an unemployment rate of 12%, in the Eastern Cape it is 29%. Given these disparities it is logical that policing resources should be allocated differently to the country's provinces. (p. 5)

This disparity in distribution of SAPS personnel impacts both intra-departmentally as well as the external community served. It seems reasonable to assume that fewer officers assigned to high crime areas are going to have to work harder than officers who are assigned to less active areas. This disparity can lead to dissatisfaction among officers and eventually lead to high turnover of trained personnel.

#### **5.4 Employee Job Satisfaction**

To understand how and why these organizations often perform contrary to their own rules and goals, we need to know how the rules are experienced by workers in the organization and to what other pressures they are subject. (Lipsky, 1980, p.xi)

Lipsky (1980) classifies police officers and other law enforcement personnel as "street level bureaucrats" since the services they provide are an "extension of state influence and control". Public safety is a governmental responsibility, and criminal justice personnel are the agents that have significant direct interaction with its citizens and their exercise of discretion can have a significant impact on a person's life.

If policing is to change, the street level criminal justice (CJ) personnel must be involved in the change. Because of their direct contact with its citizens, street level CJ personnel are a direct reflection of their agency. Citizens can "respond angrily to real or perceived injustices, develop strategies to ingratiate themselves with workers, act grateful and elated or sullen and passive" as a result an employee's actions" (Lipsky, 1980).

Job related attitudes reflect an employee's attitude about their work environment. These attitudes can be positive or negative. Robbins (1983) states there are three primary attitudes of concern to employees.

- Job satisfaction
- Job involvement
- Organizational commitment

Employees with high level of job satisfaction have positive attitudes while employees who are dissatisfied hold negative attitudes about their employment. Employees with high levels of job involvement are assumed to be highly committed, better performers, and have lower employee turnover ratios. Organizational commitment refers to an employee's loyalty, identification with and involvement in the organization.

Bennett & Hess (1996) remind us that:

Many factors within the law enforcement career itself can contribute to low morale, including lack of administration support; lack of necessary equipment or training to perform effectively; lack of promotion opportunities; political interference; corruption within the department; the criminal justice system itself. . . (p. 443)

Respondents when answering the question "how much support do you get from the Administration portion of your police department?", while using a scale of 1 to 5, forty six (46%) percent of the SA responders fell within the **lower** two ranges, whereas, twenty nine (29%) percent of US responders fell within the **lower** two levels. Bennett & Hess (1996) warn that managers who treat subordinates with disrespect and show little concern for them, are asking for

problems. The SA percentages may be a direct result of the large number of white male responders who are affected by affirmative action, however, this may be an indication that the officers feel a lack of recognition to their plight from the SAPS administration.

How tactfully was the affirmative action requirement detailed to the white male employees? Many of the responders seem more upset about how affirmative action was implemented as opposed to the ideal of affirmative action. Sugar coating one's presentation of a topic can often make it easier for someone to absorb.

Respondents using a scale of 1 to 5 when answering the question "how often has your input/opinion been requested in making a major decision for your police agency?", sixty nine (69%) percent of SA responders and fifty one (51%) of US responders responded fell within the lower two levels.

Participative or consultative leadership encourages employees to be creative and innovative while instilling a sense of personal growth in the employee. Managers receive an employee's input, but still make their decisions based on the totality of the information gathered. "Participative management does not always work in every situation, in the long term it usually obtains better results than autocratic" managers do (Bennett & Hess, 1996). The nature

of police work requires an autocratic style in many instances, however, when the opportunity presents itself, what is gained by inclusion in a decision making process far outweighs a perceived loss of power. "The lower your position and the greater your familiarity with the work, the easier it is to recognize what should be altered" (Grossman, 1974).

When asked "Do you feel that the administrative powers are in contact with the realities of policing on the street?" eight nine (89%) percent of the SA responders and sixty one (61%) percent of the US responders said "No". Grossman (1974) states "many organizations are under attack because of their inability to keep pace with changing conditions and meet the human needs of employees for meaningful work and self-fulfillment".

When respondents were asked "Are you content with your career choice in the Criminal Justice System?" fifty two (52%) percent of SA responders and eighty seven (87%) percent of US responders said "Yes". The lower approval rate by SA responders may be reacting to their disapproval of an administration they feel is estranged with policing in South Africa.

Grossman (1974) states:

Employees have to become more involved in the social contribution of their organizations; they have to be given the opportunity to contribute beyond their normal tasks. Since they are not isolated from the real world, they must become partners in progress, not merely cogs in some gigantic machine. Organizations have to structure jobs so workers can reach their individual potential and achieve real satisfaction. .

. We need to overcome organizational inertia and build ways to get workers involved in planning. (p. 22)

Bennett & Hess (1996) dictate that improving morale requires certain attitudes on the manager's part. They are:

- Managers must believe that subordinates can grow and change given the right circumstances.
- Managers must be **open** and **honest** with their subordinates, treat them with respect and seek to understand them.
- Managers must understand themselves. They must recognize their own prejudices, their own strengths and weaknesses, and realize their role as a model for others. (P. 447)

As this research progressed it became more evident that the fragmentation, distrust, resentment and low employee satisfaction was not so much a result of certain

individuals or situations but how they communicate with each other. Somewhere within the territorial fragments of the criminal justice system (police, corrections and courts) the real purpose for a criminal justice system gets lost.

## **5.5 Communication**

"Communication is one of the most important dynamics of an organization" (Glensor, Peak & Gaines, 1999).

"Effective communication is the lifeblood of a law enforcement agency, whether it is written, spoken, downward, upward, lateral, informal or formal, internal or external" (Bennett & Hess, 1996). Communication is the conduit between thought and implementation. The process of communication tends to be accepted by most people as mundane when in fact, it is a complex process which can encounter pitfalls at each step of the process.

The process typically encompasses the following steps:

- A message or idea is selected by a person, group or organization to be sent.
- The message is (encoded) translated into a form that can be interpreted by the receiver.
- An appropriate channel or medium of exchange of information is decided on.

- The message is then transmitted to another individual, group or organization.
- The message is received by the individual, group or organization.
- The message is then decoded (Glensor, Peak & Gaines, 1999; Bennett & Hess, 1996; Mayhall, Barker & Hunter, 1995).

At anyone of these steps some form of distortion can occur which may result in the misinterpretation of the message.

To eliminate or minimize the damaging effects of distortion good communicators often rely on feedback: "the process whereby the sender initiates additional two way communication to test the receiver's comprehension of the information communicated" (Glensor, Peak & Gaines, 1999).

"COMMUNICATION IN PART IS WHEN THE MESSAGE SENT IS THE SAME MESSAGE THAT IS RECEIVED" (Coffey, 1990).

Mayhall, Barker & Hunter (1995) identify three modes of interpersonal communication:

- Verbal - written or spoken words and combinations of words transmitted in a message
- Nonverbal which is divided into three subcategories:
  1. paralanguage (vocal characteristics)
  2. kinesics (body language)

3. proxemics (personal and social space as well as intradepartmental communications i.e., who was included and who was excluded)

- Symbolic (style of dress, employment, education, use of official letterhead)

How effectively messages are conveyed depends on the:

- Communication skills of the sender.
- Clarity of purpose.
- Effectiveness of the message itself.
- Appropriateness of the channel used.
- Receptivity of the receiver.
- Communication skills of the receiver.
- Feedback (Bennett & Hess, 1996, p. 111)

The most common channel of communication is oral. Oral (verbal) communication provides a wide variety of mediums to exchange information and provide an opportunity for immediate feedback. Telephone conversations, video conferencing, radio dispatching and seminars provide opportunities for two way communication. Unless these communications are tape recorded there is normally no permanent record of what was said. Audiocassettes, videos, (often used in training) and television provide the means for one way verbal communication (Bennett & Hess, 1996).

Written communication provides a permanent record of the communication. "As an official document, written communications have weight or authority requiring a measure of action or response" (Glensor, Peak & Gaines, 1999). Typically, written communications include notes, memos, letters, reports, manuals, bulletins, policies" and recently included are faxes and e-mails (Bennett & Hess, 1996).

Organizations historically have formal structures but within those structures are informal work groups. Within the formal structure is a formal communication system which has been purposefully developed by management. Information flows downward and upward through a formal chain of command. This system on occasion may be "inefficient and ineffective" (Stojkovic, Kalinich & Klofas, 1997).

"Every organization has a robust and often intractable communication network referred to as a rumor mill or grapevine" (Stojkovic, Kalinich & Klofas, 1997) and is considered the informal information system. Information can move vertically, horizontally and across working units, although not verifiable the information is often credible (Stojkovic, Kalinich & Klofas, 1997). "The grapevine is strongest in organizations in which information is not openly shared" (Bennett & Hess, 1996).

Mayhall, Barker & Hunter (1995) identify the following blocks to effective communication:

- community distrust of the police - distrust causes avoidance and failure to communicate
- police distrust of community members - police will react negatively to people they presume are hostile to them
- poor training of police - unprepared officers will encounter difficulty in defusing dangerous situations and communicating with diverse populations
- organizational structure of the police agency - the chain of command limits the front line officer-constable's ability to communicate with the administration
- scapegoating - placing blame upon an individual or organization whether partly or wholly unwarranted.

This researcher believes 'fragmentation' should be added to this list. The conflicting goals between the courts, police, and corrections, the conflicting perceptions of the problems confronting each part of the criminal justice system, the conflicting strategies to remedy a problem and

the conflicting philosophies of all segments of the community and the system lead to fragmentation.

South Africa's White Paper on Safety and Security (WPSS) employs a two fold approach to ensuring the safety of its citizens. By establishing a Department of Safety and Security, it is envisioned that citizens "will enjoy greatly improved levels of safety" and that a "Real reduction in crime will be attained" (WPSS:1988-7). The strategy to attain this "vision and mission, involves (allegedly) combining multiple factors and resources "to achieve these prime objectives" (Nina, 1998).

The Minister of Safety and Security would be responsible for overall policy development, the National Commissioner of Police would have executive responsibility over the police service, and the Secretary of the Department of Safety and Security would handle the administration of the police, including all aspects of police management and contracts (Nina, 1998, p. 2).

This strategy may be embarking on a communication nightmare that may bog down the entire criminal justice system of South Africa. This lack of "central uniformity opens the door for local nepotism and corruption" (Nina, 1998) by providing a fragmented system of leadership.

Rauch (2000) points out that South Africa's police functions are divided among:

- The South African Police Service
- The Directorate of Special Operations (the Scorpions)
- Provincial traffic departments
- Local traffic departments
- Local by-law enforcement personnel
- Metropolitan or municipal police services
- South African Revenue Services
- The Department of Home Affairs inspectors

"This multiplicity of police agencies means that law enforcement efforts are often fragmented and duplicated, and that resources are not always efficiently utilized" (Rauch, 2000).

With the adoption of its new Constitution South Africa and its criminal justice system is in a state of flux. Grossman (1974) points out that change will occur when "External forces demand change; internal forces press for it, while others favor the status quo".

## 5.6 Victimization and public perceptions

Addressing the suffering of victims was deemed to be less important than dealing with the symbolic threat

posed by law breakers to the social order. . . . The goals of deterring crime through punishment, protecting society by incapacitating dangerous persons, and rehabilitating deviants through treatment began to over-shadow the demands of victims that they be restored to financial, emotional and physical health (Karmen, 1996, pp24-25).

For the past several centuries criminal justice agencies focused their concerns on apprehending, prosecuting, and punishing offenders, leaving the victims of crimes as tools for the prosecution who were no longer necessary to the system upon conviction of an offender. The US Constitution provides no additional benefits to its citizens but "protection of life, liberty and the pursuit of happiness". Only recently have criminological studies started to focus on victims of crimes, its impact on them and their response to crime.

In 1764, Cesare Baccaria authored On Crime and Punishment in response to the system of prosecution and punishment of criminal offenders throughout Europe. He advocated the ideals that the punishment should fit the crime and that punishment should be **prompt and effective**. Jeremy Bentham incorporated Beccaria's ideals into his Utilitarianism concept in which he saw people as human

calculators who weigh the pleasure and pain that could be associated with committing a criminal act. Beccaria and Bentham were the originators of the Classical School of Criminology. (Adler, Mueller, & Laufer, 2001; Karmen, 1996)

Since a society's social, political and economic structures are based on fundamental premises about human beings, their inherent tendencies, abilities, weaknesses and preferences, the Classical School of criminology assumed that human beings were rational and made choices based upon a "free will" assessment of cost and benefits. "Bentham reasoned that if prevention was the purpose of punishment, and if punishment became too costly by creating more harm than good" the key to crime prevention was deterrence. (Adler, Mueller, & Laufer, 2001)

"Deterrence theory holds that **swift and sure punishment** is the solution to the crime problem" (Karmen, 1996). Deterrence theory is typically broken down into two categories: general and specific deterrence. "General deterrence holds that crime rates are influenced and controlled by the threat of criminal punishment" (Siegel, 2001). General deterrence seeks to prevent crime by informing society of the consequences. Specific deterrence assumes "that individuals who are punished for a particular crime will not commit that crime because their risk-reward

calculations have been altered by the punishment" (Conklin, 1995).

The Classical School of Criminology was followed by Biological Theories of Crime and is predominated by Sociological Theories today. There is, however, a resurgence of the classical school under the titles of Rational Choice, Routine Activities and Situational Crime Prevention. Criminology appears to be making a gradual 360 degree turn in its thinking on crime. But the main question still remains unanswered, "Is there validity to deterrence theories"?

Proponents of deterrence theory support the concept of swift and certain punishment as a necessity. This may help explain the failure of societies to control vigilantism.

Tucker (1985) states:

The social contract that says we will forswear private vengeance and allow the state to defend us in criminal matters is only that - a social contract. If there is widespread feeling that the state is no longer holding up its end of the bargain, then people will start "taking the law back into their own hands" - which is where it was in the first place. (pp. 26-27)

Tucker (1985) goes on to say that vigilantism in America is active today because citizens are frustrated by jury

convictions being overturned and the undermining of public decisions by adhering to procedural rules and minutia that are often totally irrelevant to the substance of the case. What does society perceive as more important 1) obeying the rules of law or 2) justice?

Pinnock (1995) states "Crime is a social phenomenon, with loose definitions grounded in community experience, and it is not just a set of artificial legal categories". Maepa (2001) reports that South African citizens are seeking "alternative forms of recourse in the light of the perceived failure by government to protect its citizens against rising levels of crime".

The growth in vigilantism in recent years have been rising crime, together with poor perceptions about the ability of the criminal justice system to respond, and inadequate delivery of services by the police and courts. . . These perceptions are held by many if not most South Africans. (Case Study of Mapogo-A-Mathamaga, p. 1)

Maepa (2001) identifies five (5) traits found in South Africa's vigilantism:

1. They are carried out in public
2. The threat of violence and the actual violence is pervasive.

3. They generate fear and control through repression.
4. They are based on a model of **instant, retributive** justice.
5. They arise from a variety of causes such as the inefficiency of the criminal justice system. p1

The Case Study of Mapogo-A-Mathamaga supposes vigilantism exists because of an "organized, localised, non-state response to a particular problem or set of problems that arise in a specific place and point in time". This problem is further inflamed because police "are unsure of exactly what constitutes legal police action" within the Bill of Rights and "the messages communicated by political leaders about crime fighting" (Maepa, 2001). The police are caught in the middle, trying to determine what action is proper under the Constitution and what is legitimate force when resolving disputes.

Tucker (1985) describes community as:

people who, when you ask them to describe themselves, will probably use the word "decent". They are not the pillars of the community, but they are its backbone. They are people who do not feel that they are at war with society. But more and more they feel that society is at war with them. The one thing they always say is

that their neighborhood is not as safe as it used to be. (p. 340)

What causes good people to resort to vigilantism? Its difficult to believe that all legislators are corrupt and do not care about their constituents, that all police are corrupt and uncaring, that all prosecutors and defense attorneys are corrupt and that all corrections officers are corrupt. The fragmentation and a failure to properly communicate within and outside the criminal justice system has led two societies, stratified and thus unaware of this shared dilemma. The United States and South Africa are at cross-roads in a global dilemma that cries for a solution.

## 5.7 Conclusion

The informal social controls in the USA and SA appear to have been displaced by a legalistic society that values the rule of law above justice and is willing to sacrifice a society to prove it. Tucker (1985) warns that:

Crime is not controlled only in the courts. It is controlled in the streets and, above all in people's minds... When the justice system no longer reinforces people's sense of right and wrong-when what comes out of the courts no longer corresponds with what people

are thinking-then public standards of morality begin to erode. (p. 33)

The concept of family, neighborhood, schools, work and leisure groups carry with them a fear of civil litigation if something should go wrong. In the United States, it's a rarity in many larger cities that people know more than two or three families in their apartment buildings. Laws are being enacted to control parents at Little League baseball games and other childhood activities.

The average citizen refuses to accept the consequences for his or her actions. The recent demise of Enron, a multi billion dollar corporation, epitomizes the "It's not my fault mentality". Politicians, corporate businesses, merchants, religious persons, security agencies, police department all refuse to accept responsibility for any misdeed.

Until the disaster at the World Trade Center on September 11, 2001, most civil servants (police, fire and emergency medical technicians) were considered bureaucratic losers.

The thing that most people who study the police always seem to want to ignore or forget is that the cop is one of the only people in society who is continually

confronted with the dark underside of human nature.

(Tucker, 1985, p. 213)

Community policing seems to be the conduit that can unite all the aspects of a criminal justice system and politicians, if the advantages are recognized by all parties involved. The first step consists of politicians, police officers, prosecutors, defense attorneys, and corrections personnel being honest with all citizens. The system of justice was not designed to protect criminals but to protect society and **innocent persons**.

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# Chapter 6

## Comparisons and Conclusions

### 6.1 Comparison of the systems

Bayley (2001) attempts to establish a manual for US criminal justice trainers when assisting police agencies in emerging democracies around the world. The manual identifies:

- The Norms of Democratic Policing
- Generic Lessons for Changing Police Organizations
- Lessons for Police Reform Abroad

as three of the major lessons in reforming police agencies.

This researcher will compare the present transition taking place in South Africa with some of Bayley's suggested guidelines. The highlighted text are Bayley's guidelines.

### 6.2 The Norms of Democratic Policing

Police must give top operational priority to servicing the needs of individual citizens and private groups.

Although the commitment level is difficult to determine, South Africa's attempt to incorporate community policing forums can be viewed as an attempt to become

accountable to its citizens and can be utilized to demonstrate how service oriented policing can be employed.

(See 4.7 - Community Policing)

**Police must be accountable to the law rather than the government.**

When responders were asked "What is your first priority in making a decision while performing routine police functions?" Forty eight (48%) percent of the SA responders and sixty two (62%) percent of the US responders stated 'the laws governing the situation' while the second most popular answer was 'your personal evaluation' with twenty seven (27%) percent of SA responders and seventeen (17%) percent of US responders opting for this answer.

While it is encouraging that the largest percentages from both countries chose 'the laws governing the situation' there were a considerable percentage of responders who chose one of the other four choices. The fact that such a large percentage of responders in both countries chose 'your personal evaluation' was surprising. While there is a definite need for discretion in routine police work, perhaps it is being over utilized by a large percentage of officers.

Police must protect human rights, especially those that are required for the sort of unfettered political activity that is the hallmark of democracy.

In 1994, Nelson Mandela was elected President of South Africa, native South Africans were freed from the bonds of apartheid and in 1996 a new Constitution was adopted. Since the adoption of the Constitution, South Africa has been progressing through the growing pains associated with forming a democratic government.

Many political organizations that united to overthrow the minority rule government, splintered and appear to be positioning themselves to ensure their political view is recognized. As a result political affiliations appear to be hindering decisions which in turn hinder policing throughout the country. (See 4.2.1 - The Seventh Phase)

**Police should be transparent in their activities.**

One of the major challenges facing the South African Police Service is to uproot elements of criminality among its members. In the year 2000 over 14600 cases involving the police were investigated, and in 1999 over 1500 SAPS members were convicted for criminal offenses" (Masuku, 2001, p. 1).

There are numerous press articles regarding police misconduct in South Africa. It appears that the South African government is open to examination about matters outside their jurisdiction, however, there also appears to be widespread suspicion of anyone researching beyond what is sanctioned by the police administration. The limited number of responders to the questionnaire after contacting the SAPS seems to reinforce this viewpoint. One responder stated "The SAPS is a very closed community..."

While the press is granted access to what information is legally theirs, there appears to be a "gag order", be it formal or informal regarding the operation of the SAPS. In the United States this limited access is often referred to as "the Blue Wall of silence".

### **6.3 Generic Lessons for Changing Police Organizations**

**Any reform program must be based on a clearly articulated understanding of the connections between the objectives to be achieved and the actions proposed.**

Fragmentation appears to be the inhabiting aspect of the entire criminal justice process. South Africa has an enormous amount of people who want to do the right things for all South Africans but they have differing philosophies

on how to attain their goals. The situation only gets worse when you factor in the political process. (See 2.3 - Fragmentation; 4.3 - Criminal Law vs. Criminal Procedure)

Improving communication networks both intra and inter agencies (police, courts, corrections) and providing a more harmonious communication's network with the governing body is essential. Unless communications open up, and the veil of secrecy that is associated with South Africa is lifted, the criminal justice system will always be suspect. (See 5.5 - Communication)

**The key to changing any aspect of policing is management, that is, the way in which the members of a police organization are brought to do what policies call for.**

South Africa will be experiencing growing pains for many years to come; the important aspect of change is to be aware of what is taking place, be willing to make mistakes, own up to them, and above all learn from them.

Better recruitment methods, higher employee standards, higher education requirements, better training, continuing education and development of leadership qualities have to be addressed. (See 5.4 - Employee Job Satisfaction)

**Police behavior cannot be changed by formal reorganization**

within the police or by restructuring on a national basis.

South Africa must seriously consider decentralization of the SAPS and relinquishing some of its police powers to municipal or provincial police agencies. United States police agencies have their police powers distributed on a wide variety of levels. There are national police agencies that have powers throughout the entire country, there are state agencies that have state police powers within state jurisdictions, and within the states there are county and/or municipal police agencies that have full police powers within their jurisdictions.

What is preventing South Africa from utilizing the SAPS as an agency, similar in power to the United States Federal Bureau of Investigation? The provinces than could have their own Provincial Police similar to State Police officers in the United States and for larger urban centers why not have Municipal Police Officers with full police and investigative powers? The burden and financial responsibility for crime prevention and law enforcement would be placed on a more localized area.

Worrall-Clare (1998) states "Successful policing in South Africa depends. . .on the degree of trust the police command within the community they serve". Municipal policing makes police more accessible, more knowledgeable

of the area they patrol and the people within their city. Municipal policing should assist in implementing a Community Policing Forum because both organizations are uniquely aware of the problems confronting the community. The SAPS "can never be omnipresent, but municipal police services can help address the crime epidemic by reacting appropriately to localized crime trends" (Worrall-Clare, 1998).

Rauch (2000) reports that Durban and Johannesburg are on their way to establishing metropolitan police services but indicates they will lack powers "to conduct criminal investigations or create intelligence structures..." and will have to co-ordinate their activities closely with the SAPS. While this is a step in the right direction it implies a distrust of municipal governments.

**Significant reform requires widespread acceptance across ranks and assignments in a police department.**

How to garner acceptance for change is one of the most challenging assignments for new administrators.

In the face of shifting public moods, the corporation gropes for the proper combination of quality, service, brands and image. . . the internal workings of the corporation must be geared to work with these outside

agencies. . . The impact of the outside world on the corporation is too important to leave in the hands of novices; it requires knowledgeable change agents who can weigh the import of these external pressures and develop a coordinated strategy to meet changing world conditions" (Grossman, 1974, pp. 26-27).

The scars of apartheid are hindering the restructuring of a new government in South Africa. In the United States affirmative action is over 30 years old and it has established a black middle class and has lessened many discriminatory activities but it has not eliminated discrimination. Governments cannot legislate emotions but educated, altruistic leaders and administrators can communicate effectively with their people and attain compliance and open-mindedness toward a desired goal. (See 5.4 - Employee Job Satisfaction)

**Increasing contacts between police personnel and respectable, non-criminal members of the public is an important way of encouraging the development of an accountable, service-oriented organization.**

South Africa has embraced the concept of community policing and it is extremely important that all facets of the criminal justice community also embrace the concept.

In both the United States and South Africa there appears to be resistance to the concept. Many officers/constables as well as administrators envision their profession as being crime fighters or summons issuers as opposed a service oriented organization. (See 4.7 - Community Policing)

#### **6.4 Lessons for Police Reform**

**Democratic police reform requires the separation of police from the military.**

The first step in writing this thesis began with a literature review to familiarize myself with South Africa and its police. One of the first books I read was Black and Blue: Policing in South Africa by John D. Brewer. I was surprised to see the cover displayed a picture with two members of the SAP one armed with a rifle and the second standing atop an armored personnel carrier. Further study revealed the close ties between the army and the SAP. (See 3.1.2 - South African History)

There is a strong standing in United States policing that separates policing and the military except in times of a national emergency. In recent years the federal government has employed the U.S. Coast Guard to assist in narcotic interdiction but only on a limited basis.

Bayley (2001) points out that the missions of both agencies are so different "that each contaminates the other". "Policing requires mediation skills" and "the exercise of discretion" and "a facilitative style of supervision", military personnel "take orders from above rather than responding to the appeals of individual citizens".

## 6.5 Comment

Democracy and the fragmentation that is associated with it illustrate imperfections in the system, and recognition of imperfections calls for change and so the cycle continues. Democratic governments and their criminal justice components are continually evolving with changes in societies, not to evolve would be unnatural and destructive.

South Africa is an infant democracy. It has its shortfalls but they are related to growing pains. The basic infrastructure appears to be sound. The government and its people are preparing to become part of the global world and are trying to identify their place in this emerging 21<sup>st</sup> century global society.

The SAPS as part of that changing environment **must change and adapt** at a faster rate than many of the other

agencies in the government. Without justice and the lawful enforcement of laws chaos will follow. One only needs to review the dilemma Zimbabwe has created for itself by hastening to please the masses and not critiquing the possible consequences of their actions. Zimbabwe is an example of what South Africa refuses to become.

A police force is an essential component of modern society. It would be difficult to envisage how the person and the property of the individual could be protected with-out such a policing mechanism. A police force, however, would be counter-productive if its powers and resources were not limited and subject to the rule of law" (Walsh, 1996, p. 114).

South Africa is changing, too fast for some and not fast enough for others. The glue that binds and protects the entire process is the police. Through extensive screening of candidates, education, training, standardized promotional procedures and decentralization of the police, South Africa and the United States will take their places in this global society.

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## Appendix A



## South Africa



This is a study of Criminal Justice Systems in the United States of America and South Africa. Both governments consist of three branches (1) Executive (2) Legislative and (3) Judicial. The Criminal Justice Systems of both countries consist of three components (1) the Police (2) the Courts and (3) Corrections. You will be asked questions regarding the justice systems and your response in your community. This should take about 20 minutes.

Participation is entirely voluntary. Most of the questions are easy to answer. You may, of course, end your participation at any time. There is a box for comments as well as an e-mail address at the end of the questionnaire.

**All data will be held CONFIDENTIAL.**

**All respondents will remain anonymous.**

### QUESTIONNAIRE

Enter your agency's name:  Years Employed:

Gender:  Male  Female      What is your rank

What is your e-mail address (optional)

Education       Age:       Race:

Status       Professional Standing

What province do you work in?

1. On a scale of 1 to 5, where 1 means poor and 5 means excellent, how would you say that most people think the police's performance in the criminal justice system is?

1    2    3    4    5

2. On a scale of 1 to 5, where 1 means not at all and 5 means very often, how often has your input/opinion been requested in making a major decision for your police agency?

1    2    3    4    5

3. On a scale of 1 to 5, where 1 means not at all serious and 5 means extremely serious, how serious is crime in your district?

1    2    3    4    5

4. On a scale of 1 to 5, where 1 means not at all and 5 means very often, how much support do you get

from the court system?

1    2    3    4    5

5. On a scale of 1 to 5, where 1 means not at all and 5 means very often, how much support and information do you get from the correction/prison system?

1    2    3    4    5

6. Where Inspectors and Captains and considered middle Management and Superintendent and above are considered Administration/Upper Management, on a scale of 1 to 5, where 1 means not at all and 5 means very often, how much support do you get from the Administration portion of your police department?

1    2    3    4    5

7. On a scale of 1 to 5, where 1 means not at all professional and 5 means extremely professional, how would you rate your police agency when compared with United States police agencies?

1    2    3    4    5

8. On a scale of 1 to 5, where 1 means not at all and 5 means very often, do you feel that outside influences (politics) interferes with police performance?

1    2    3    4    5

9. On a scale of 1 to 5, where 1 means not at all and 5 means very often, do you feel that your discretion is limited by Administration/Upper Management's inclination to control police operations?

1    2    3    4    5

10. On a scale of 1 to 5, where 1 means not at all and 5 means very often, do you feel your department/agency has used racial profiling as a means of detecting criminals?

1    2    3    4    5

11. On a scale of 1 to 5, where 1 means not at all and 5 means very often, how much discretion are patrol officers/constables allowed to use in their routine patrol functions?

1    2    3    4    5

12. On a scale of 1 to 5, where 1 means not at all efficient and 5 means very efficient, do you feel your agency/department is being run efficiently?

1    2    3    4    5

13. Do you feel the demilitarisation of the police and movement toward a community-friendly police service is in the best interest of controlling crime?

Yes    No

14. What is your first priority in making a decision while performing routine police functions?

- The law governing the situation    Departmental policy    Your personal evaluation  
 The individual(s) involved attitude    Community (neighborhood) attitude

15. What is your second priority in making a decision while performing routine police functions?

- The law governing the situation    Departmental policy    Your personal evaluation  
 The individual(s) involved attitude    Community (neighborhood) attitude

16. Do you feel your police agency is doing enough to provide officers/constables with adequate equipment to provide security for its citizens?

Yes  No

17. Do you feel you have been assigned your present assignment based on your agencies needs or your ability to fill that need?

Agency's need  My ability  Both

18. Are you ever asked to contribute suggestions on how to handle a particular situation by a supervisor?

Yes  No

19. Are you content with your career choice in the Criminal Justice System?

Yes  No

20. Do you feel there should be more civilian positions in your police department?

Yes  No

21. Do you believe the police, the courts and corrections always act in the best interest of the Criminal Justice system?

Yes  No

22. Do you feel that the administrative powers are in contact with the realities of policing on the streets?

Yes  No

23. Do you feel that you are discriminated by your agency/department?

Yes  No

24. Do you feel that you are discriminated by the courts?

Yes  No

25. Do you feel that you are discriminated by your community?

Yes  No

26. Do you feel your police agency has an effective policy structure?

Yes  No

27. Do you feel there is a conflict between Federal/National law, Provisional/State law and Municipal/customary law?

Yes  No

28. Do you feel your police agency has an effective management system?

Yes  No

29. Have you ever encountered difficulty on an assignment based on a language/communication problem?

Yes  No

30. Are commands and directives communicated clearly to all officers/constables?

Yes       No

31. What do you consider your TWO top priorities in policing?

- Patrol
- Investigation
- Crime Prevention
- Community Policing
- Victim Assistance
- Social Worker

32. Which of the following best describe your police function?

- Administrative/Management
- Middle Management
- Police Officer/Constable
- Traffic Officer
- Detective/Investigator
- Community Relations Officer

Enter Comments Here:

SUBMIT

Clear form



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Thank you for participating in this survey.

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## United States



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**All data will be held CONFIDENTIAL.**

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## QUESTIONNAIRE

Enter your agency's name:  Years Employed:

Gender:  Male  Female What is your rank

What is your e-mail address (optional)

Education  Age:  Race:

Status  Professional Standing

What state do you reside in?

1. On a scale of 1 to 5, where 1 means poor and 5 means excellent, how would you say that most people think the police's performance in the criminal justice system is?

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