

**A PREVENTATIVE POLICING STYLE FOR PUBLIC VIOLENCE IN THE  
TOWNS OF HARRISMITH AND WARDEN IN THE EASTERN FREE STATE**

**BY**

**BRENDA PEARCE**

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**Supervisor : Prof H F Snyman**

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**Declaration**

**Student Number: 36794562**

**I hereby declare A PREVENTATIVE POLICING STYLE FOR PUBLIC VIOLENCE IN THE TOWNS OF HARRISMITH AND WARDEN IN THE EASTERN FREE STATE to be my own work and that all references used or quoted were indicated and acknowledged comprehensively.**

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Brenda Pearce

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Date

This study is dedicated to my mother Anna-Marie, Elizabeth Erasmus

**Declaration by Carol Keep**

This is to certify that the script submitted by Brenda Pearce, in accordance with the specifications for a Master's degree, has been duly proofread and edited by me to comply with the language requirements of academic discourse.

**C J Keep (Mrs) MA, BEd, SOD**

**8 Van Wyk Street**

**Brandwag**

**BLOEMFONTEIN**

**93001**

**Phone: 051-4445373**

**Cell: 0725080936**

**Email: [mkeep@mweb.co.za](mailto:mkeep@mweb.co.za)**

**09 June 2007**

\_\_\_\_\_(Signed)\_\_\_\_\_

**Carol Keep**

**2007-06-08**

**Abstract**

This exploratory and qualitative investigation is used as a research strategy to indicate a preventative policing style for public violence in the Eastern Free State. The research's integration of problem-solving methods may be used in instances where public violence is common and pre-empted.

The study researched the policing of public expression against poor service delivery in a democratic South Africa after the adoption of a new Constitution. The Scanning, Analysis, Response and Assessment Model is applied by way of a service-oriented, preventative policing style involving the principles of the Community Policing Style.

The dissertation argues that though the South African Police Service's handling of public violence in the Eastern Free State, was reminiscent of the former public violence of political oppression, it should gradually move away from the military approach to a preferred community policing style and include relevant role players in using a systematic and service-orientated preventative policing style to address public violence.

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### **CHAPTER 1: INTRODUCTION AND METHODOLOGICAL OVERVIEW**

## 1.1 INTRODUCTION

On 30 August 2004, South Africa's national television showed incidents of community violence taking place in Harrismith. On 13 September 2004 incidents of violence that took place in Warden in the Eastern Free State, were also shown on national television. The violence was initiated by community concerns about reported poor service delivery from the local municipalities. The South African Police Service was responsible for attending to the disruptive actions of the community and the violence which endangered the public. The violence resulted in a number of criminal cases being opened which needed to be investigated and judicially processed. A number of citizens and police members were injured or killed in this violence. There was damage to the property of the South African Police Service, as well as to public and private property.

The South African Police Service officials are obliged to ensure public safety in terms of the SAPS Act. In the Constitutional court case, Carmichele v Minister of Safety and Security and another (Centre for Applied Legal Studies Intervening) 2002 (1) SARC 79(CC), the obligation was tested and found to be binding. The community viewed this police action as a public order exercise closely resembling the action of the SAP Force during the years of political oppression. The action of the police was therefore contrary to the current policy of providing a service.

During the debriefing of the police action and a discussion by the Free State Provincial Crime Combating Forum, concerns were raised about the following issues: the community's perception of the police actions, reasons for the violence and its possible re-occurrence, and poor service delivery. It has become evident that a proactive policing style needs to be promoted to accommodate freedom of expression, while maintaining law and order. The Scanning, Analysis, Response,

and Assessment model for problem-oriented policing will be considered as a possible vehicle for application.

In this chapter, the problem statement and objectives of the study will be presented. The methodology of the data collection and data analysis will be discussed.

## **1.2 PROBLEM STATEMENT**

When incidents of community violence in Harrismith, were shown on television, the visuals of the handling of the violence reminded South Africans of the years of political oppression and the manner in which violence was handled during the apartheid years. A number of newspaper articles followed the broadcasting of the marches expressing community dissatisfaction about poor service delivery. The number of newspaper articles and general public outrage against poor service delivery were an indication of the level of public awareness and outrage. It followed that more public demonstrations took place in Bethlehem, Memel, Kestell, Warden, Winburg, Vrede, Paul Roux, Cocolan and Ficksburg in the Eastern Free State. Ten years after democracy, questions are being asked as to whether the SAPS are both suitably equipped and able to correctly manage public expression in amidst violence. It is further questioned as to whether the current practices of a service differ at all from those of the force during apartheid years.

**Table 1.1 The number of cases investigated: injuries and damage to property and injuries as a result of the public violence in Harrismith and Warden.**

	HARRISMITH (2004-08-30)	WARDEN (2004-09-13)
Number of case to be investigated	6	4
Number of SAPS injuries or deaths	2	0
Number of citizens injured or deaths	11 injuries 1 death	1 injury 0 deaths
Number of arrests	51	17
Estimated damage to SAPS's property	R 75 000	R 20 000
Estimated damage to public property	R 26 000	R 300 000

Table 1.1 contains information which was verbally presented at the SAPS Free State Provincial Management meeting, 26/3/5/2 dated 2006-09-13.

According to Table 1.1, a member of the community lost his or her life and in total, twelve members of the community were injured. The Police suffered two injuries and the estimated damage to Police and community property came to R 421 000.

Day and Murdoch (1993:84) completed a locality study in the 1980's which was defined by Walklate and Evans (1999:13) which referred to the term 'community',

as the relationship between people as a result of a common policy, local culture, politics, and a social system. This collective noun for a number of people refers to, or results in, a community.

The South African community's perception of the South African Police Service has been negatively influenced. This perception needs to be verified and evaluated so that measures to restore the image of the South African Police can be implemented. Another issue which needs closer scrutiny is the contributing factors to the violence and how the resulting injuries, damage, police arrests, and investigations could have been prevented."

Masuku (2002:5) is of the opinion that the key to the prevention of violent crimes is the understanding of various individuals, social and environmental risk factors. The marches and public display of concern for poor service delivery and lack of infrastructure were by poor communities. Masuku states that the police and community require "streetlights, open routes, well maintained public spaces in helping to prevent crime." According to Masuku crimes are influenced by overcrowding, poor housing design, and the lack of infrastructure. According to the newspapers the community was marching because of the lack of housing and infrastructure. Masuku reported on a crime prevention study for the Govan Mbeki municipality in Mpumalanga. The study concluded that the residents from the informal settlements sited street lighting and bush clearing as two factors that would contribute to their personal safety. When these factors are separated and carefully analyzed, they will produce meaningful long-term solutions to the reasons for the marches and the ways to police the public demonstrations.

One way of going about solving the problem of violence is to use the SARA model (Center for Problem-Oriented Policing, 2007). The SARA model is a four-stage problem-solving process which involves; scanning, analysis, response, and assessment. Scanning relates to the identification of the problem. To apply this model to the topic at hand, repeated calls for service delivery or repeated series



of similar incidents, such as the Harrismith incident, which was repeated at Warden, may be regarded as a problem. The scanning part of the process initiates the problem-solving cycle and determines whether there have been more incidents of this nature. The second stage of the SARA model is the analysis of the problem in an example, the identification of the cause of the problem in relation to the victim, the environment, or the offender. In other words, what factors caused and supported the problem to persist in Harrismith and Warden? The third stage is to look at long-term, creative, tailor-made solutions to the problem. Glensor (1999:140-141), lists a range of possible response options to different problems. They range connecting with other government and private services, to use mediation and negotiation skills and to altering the physical environment so as to reduce opportunities for a re-occurring of the problem to re-occur.

Clark (1992:12-21) organizes the potential solutions into four groups, namely; totally eliminating the problem, reducing the seriousness of the damages and injuries, dealing with a problem more effectively and removing the problem from police consideration.

The final phase of the SARA model relates to the evaluation of the overall effectiveness of the application of the model. The completed assessment is necessary to evaluate the effort and will show an indication of the effectiveness of the applied SARA model. The assessment of the effectiveness may be easy in this case, because if no incident of violence re-occurs, it can be accepted that the applied SARA model was successfully applied.

The incidents in Harrismith and Warden involved community members who acted collectively. They allegedly raised their concerns about poor service delivery, in a violent and criminal way. Partnership and a problem-orientated policing style could be considered as a start to the crime prevention process. Problem-orientated policing has a distinctively proactive focus.

According to Clark (1992:12-21), there is a strong relationship between problem-orientated policing and traditional crime prevention. Problem-orientated policing requires an analysis of the cause of the problems: it promotes short-, medium-, and long-term initiatives and allows for a broader vision of creativity to emphasize the quality of the solution. Both Community Policing and Sector Policing may serve as a mechanism to put the partnership and problem-orientated policing style in motion.

A Community Police Forum, according to the South African Police Amendment Act, represents one entire Police Station area, while Sector Policing relates to a sub section of the police station areas. This sub section is determined by considerations to geographical size, natural boundaries, homogeneous CAS blocks, resources available and business and residential areas. Holtzhausen, (2004:22), states that the role of the community is to contribute to crime prevention action plans by alerting the sector commander on crime related issues in the sector.

Maroga, (2003:1) states that sector policing encourages constant contact with members of the local communities. Maroga stresses that the White Paper states that sector policing should be developed in collaboration with the municipal police and other relevant role players, to promote the facilitation of a co-operative consultation process for problem-solving. It seems that in the Harrismith and Warden Cases, this consultation process either did not take place or failed and that this required the public order police to intervene. There is some truth in the observation by Pillay, van der Merwe, and Smit (1999:54-55) when they state that the adoption of community policing has not brought about any drastic changes in the crime situation in South Africa. In essence, it has placed the SAPS on a new path with regard to the manner in which they manage the crime situation, in order to build trust and confidence between the police and the community.

In the Free State, the South African Police Service management is keen to explore the reasons for the violence, in order to find solutions to ways to prevent a re-occurrence of the same or similar events and to seek a long-term solution to the lack of a co-operative consultation process as mentioned by Maroga.

The research question in this study is whether acts of public violence would be better policed, through a service-oriented policing style.

### **1.3 RESEARCH OBJECTIVES**

The objective of this research is to establish the following:

- 1.3.1 What gave rise to the public violence which required police intervention?
- 1.3.2 What informed the subsequent police action?
- 1.3.3 Who the role players were who enacted or committed the public violence;
- 1.3.4 How the SAPS Public order unit reacted to the violence; and
- 1.3.5 What preventative steps are deemed necessary to be taken by the SAPS to prevent a re-occurrence of such an event.

### **1.4 VALUE OF THE RESEARCH**

Nel and Bezuidenhout (1995:25) refer to the fact that the police adopted a “doctrine of community policing” by introducing this police style in articles published in *Servamus*. Community policing is a policing style which seeks to address the issue of policing by consent and requires police members to be sensitive to community needs. The Police consequently changed from law enforcement to a service delivery institution (Nel and Bezuidenhout, 1997:54). The value of this research to the South African Police will be to establish how the police may change their approach from a public order approach to a service delivery approach by applying related policy according to the applicable Acts, Standing Orders and Regulations.

The community has demanded a more sensitive approach to policing issues since 1996. These demands have paved the way for the institution of a

community policing style that has changed the law-enforcement approach to a service delivery approach.

The value of this research to the community is that it may add value to the transparency and service delivery process in the Free State community.

The academic value of this study is that it will give some indication of the progress made towards democratic policing and service delivery in relation to community needs and the actual application of current policy or a lack thereof.

## **1.5 RESEARCH METHODOLOGY**

The incidents at Harrismith and Warden are regarded as two of the examples of poor service delivery from municipalities. This study is exploratory in nature and was conducted in a qualitative paradigm, relating to the same origin, namely poor service delivery from the municipalities and culminating in the reaction of the SAPS towards the public order violations that resulted from it.

### **1.5.1 Research approach and design**

This research was approached as an exploratory study. Forty interviews, structured and unstructured, were conducted. These have been listed in Addendum D. The intended qualitative approach lessened the distance between the researcher and the researched issue, as opposed to quantitative research. The variables were largely unknown and the individual interviews, although time-consuming, yielded rich information on the topic. The researcher needed, for example, to obtain various interpretations of the reasons for the violence in order to determine the common themes.

The interaction between the researcher and the respondents was one-on-one, so as to shorten the distance and interaction between the researcher and those

being researched. The violence in the Eastern Free State, particularly in Harrismith, was serious, as a youth was shot dead by the South African Police Service. While television and newspaper reporters were reporting on the Harrismith incident, the Warden community was recruiting residents of Warden to join a public march in support of a popular public opinion, which was alleged at the time to be about poor service delivery by the municipality. This march also resulted in damage to private and public property.

The reason for the two demonstrations of public violence by the residents of the two towns, which are in close proximity, was not established at the time. It was rumored that the marches were organized to demonstrate a popular public opinion about the municipal services. The one-on-one interviews resulted in an understanding of not only the reasons that informed the violence, but also a Gave first hand impressions of the underlying emotions involved.

In terms of the axiological dimension of the qualitative research, the researcher was actively aware of her biases, of being marginalized and of the language and cultural differences involved. The researcher is a white female whose first language is Afrikaans. Forty interviews were conducted with twenty-three respondents being Sesotho speaking, three English speaking and fourteen Afrikaans speaking. The researcher took into account that the respondents had difficulty in expressing themselves in English and used common English phrases and at times, Sesotho expressions. The cultural differences between a Caucasian woman and African men, was also evident. African men are more dominant in their culture. This was particularly evident in the area where the interviews were conducted as it is a rural area of strong African. This dilemma will be discussed in more detail in Section 1.6., which deals with the problems that complicated the study.

The first theme identified the reasons given for the violence: poor service delivery, a lack of consultation and poor communication, while the police

response was identified as the second theme for the research. The third theme for the research was the proposed solutions offered by the respondents to the violence in the Eastern Free State.

### **1.5.2 Method of data collection**

Interviews were conducted with 40 respondents; see Addendum D. Twenty-five South African Police Service members, who were in some way involved or deployed, in Harrismith and or Warden, were interviewed. Eight more interviews were conducted with persons who took part in the march and with seven respondents who were affected by the violence in the Eastern Free State. Public violence became a burning issue and commonly featured on national television in newspapers and in articles in journals and government reports. There was also a number of service letters by South African Police Service members and reports by the deployed members to the Free State Provincial Police Service management available for analysis.

#### **1.5.2.1 Documentation and document analysis**

Documents such as newspaper cuttings, media statements and reports, documents, circulars and minutes of the South African Police Service and Provincial Government meetings and statements in dockets, were collected for assessment, integrated and collated and added as corroborated information. These are reflected in the reference list at the end of Chapter 6.

Henning (2004:27) contends that the content analysis is the first step in establishing the context to a study in order to argue a case. It is vital to use as wide a variety of resources as possible. This results in a more diverse view on the issue and contributes in various areas to influence and broaden the scope of possible solutions to the problem. According to Hart (1998:111), a literature review also develops the analyst's competence. If the South African Police

Service was the only source of information, the solution would be one-sided and the solutions limited to Police action only. Members of the community were also interviewed to establish their views on what had given rise to the violence, how they experienced the police response and what their expectations were so as to ensure a balanced analysis and the participation of all the role players. It was the researcher's responsibility to keep abreast of the topic of research on until the report was concluded. It prevented the research from becoming outdated or irrelevant prior to its being published.

#### **1.5.2.2 Data collection technique**

To obtain empirical data for the study, the researcher was guided by involved South African Police Service personnel to identify key role players for interviews. The target population for this research was policemen, civilians and municipal officials, who were involved or who were present at the Harrismith and Warden marches. The interviewed respondents also directed the researcher to people whom they thought would be able and willing to assist with relevant information.

The non-probability sampling technique was used for reasons of convenience.

The snowball sampling technique was informed by individual interviews of the general community, which served to inform whom to interview next to complete the picture. It was the researcher's intention to apply the saturated sampling technique for the SAPS members who were deployed in Harrismith and Warden at the time. Due to the fact that some SAPS members were transferred to KwaZulu Natal and others to Bloemfontein in the Free State, the sample was not a saturated sample but a convenience sample. Another issue that added to the sample not being a saturated sample was that complications occurred with the recording of eight of the interviews. The recordings failed due to hardware issues. This resulted in the interviews of the first eight members of the Area Crime Combat Unit of Bloemfontein being discarded.

The sample constituted twenty five police members who were deployed or involved in Harrismith and Warden at the time. Eight were community members, who took part in or were present at the march. There were seven persons interviewed who were affected by the incidents in Harrismith and Warden. These seven persons were represented by a Community Police Forum chairperson, a Democratic Alliance Party political member and activist, an African National Congress Youth League member, a Democratic Alliance Councillor, a concerned resident and a former South African Police Captain. The police captain terminated his services after he was charged for manslaughter due to actions at the Harrismith incident. The researcher recorded the questions and answers of the respondents and made written notes during the interviews. The audio tapes were transcribed and checked against the notes. This data formed the basis of the analysis in Chapter 4.

Appointments were made with individuals such as the CPF chairperson, Station commissioner, Commanders of the Area Crime Combat Unit (ACCU) and Council members of Harrismith and Warden. Eleven of the identified respondents were members of the South African Police Service who were involved in the shooting of the youth in Harrismith. Three of the respondents were prosecuted and the others were witnesses for the prosecution and the defense and were present for the court proceedings in Harrismith. Although the public prosecutor was not agreeable, due to concerns that the interviewing process would interfere with the course of the law, the researcher was able to engage with some of the members of the public at the hearing.

The Area Crime Combat Unit member's interviews were conducted in split groups in Bloemfontein at their unit and the balance from Phuthaditjhaba and Bethlehem, at the Harrismith Police station.



It was not possible to interview the two Mayors of Harrismith and Warden, although every effort was made to engage them. At the time of the interview, it seemed that there was too much controversy concerning the issues of service delivery and public and media sensitivity for the Mayors to comment on it. The political interviews, interviews with the CPF members, SAPS members, privately involved role players, as well as the interview with the prosecuted South African Police Service Captain, were relatively easy to arrange.

The purpose of the interviews was explained to the respondents. They were further advised that they would be asked specific questions and that the interviews although confidential, were being recorded and transcribed. They were also informed that the interviews were voluntary and that the prosecuting authorities heard about their participation in the interviews. The chain of events and the reliability of the information were taken into consideration. The respondents gave their permission to be interviewed. Their verbal consent was audio taped. The recorded interviews were transcribed for analysis purposes and the relevant consent filed for future reference.

The focus group for the interviews is listed on the interview schedule in Addendum D. The questions posed to the respondents are listed in Addendum C. Interviews were conducted with forty respondents, twenty five members of the South African Police Service, who were deployed at Harrismith and, or Warden, and eight persons who took part in the public marches and who witnessed the violence. Seven persons, who were affected by the events in Harrismith and Warden agreed to be interviewed. One member of the South African Police Service was interviewed about the Harrismith and Warden incident because he was deployed at both incidents.

Twenty six interviews were conducted on the Harrismith incident and fourteen was conducted on the Warden incidents.

The aim of the interviews was to establish:

- The attitudes and opinions the actions taken by the Public Order Police in relation to the public violence offences in Harrismith and Warden.
- How the Public Order Police reaction was directed by Standing Orders, Acts and Policies.

### **1.5.3 Data analysis**

The data was qualitatively analysed for different patterns or themes, utilising the 8-step thematic analysis technique developed by Tesch (Guba & Lincoln, 1989). Three themes were identified, namely: the respondents cited reasons for the violence; the police response; and proposed solutions to the violence in the Eastern Free State.

The first step in the data analysis process was to obtain an overview of the problems in the Eastern Free State. All the transcribed interviews were read to obtain a holistic understanding of the information and viewpoints.

The researcher then grouped the interviews together based on apparent themes or on a specific theme relating to the history of violence in South Africa, the political and social development and some predictions of the levels of municipal service delivery. These issues assisted the researcher's insight into the respondents' views, during the interviews.

In the third step, the related themes from the interviews were marked in the margin, concerning the political, economic, and social reasons for the poor service delivery and the reasons for the violence and the resultant police responses. The interviewer took into account that the respondents had essentially different interests and agendas regarding the violence and therefore these were taken into consideration in their responses. The different opinions which emerged on the same topics were clustered together. A list was made of

the reasons given for the violence that caused the police actions and the proposed solutions to the reasons for the violence and how the police should have reacted to it. Once three major response groups (based on interest and involvement) had been identified through listing and colour coding the responses were compared and categorized. The reasons for the violence were categorized according to the respondents' views, as well as according to the listed categories of what caused the police actions and the proposed solutions to the reasons for the violence and the listed categories of how the police should have reacted.

In the fourth step the reasons for the violence as offered, were split into specific groupings. The groups were the reasons given for the violence by the community, the Community Police Forum members and the activists, and were separated from the reasons given by the SAPS members, which were also separated from the municipal officials, councillors and politicians from Harrismith and Warden. The views of the respondents on how the SAPS responded to the violence were separately categorized along the lines of the three groups of respondents. The first group of respondents was the SAPS members, the second was the involved marchers and activists, and the third was the municipal officials, councillors, and politicians of Harrismith and Warden. The third category of views was on possible solutions proposed to the violence in the Eastern Free State, which were formulated by the three groups of respondents. Thus the respondents were formed into three groups. Although the questions to the respondents were grouped, some themes emerged. The responses had to be sought in the answers to the questions; namely what gave rise to the violence, how did the SAPS respond to the violence and what possible solutions to the violence were proposed? The topics were then marked in case another group of respondents, a theme, or category emerged from them. In this step, the researcher colour coded the grouped respondents and then alphabetically coded the answers to the three main themed questions: what gave rise to the violence in the Eastern Free State, how did the SAPS respond to the violence and what possible solutions to the violence were proposed? The supporting newspaper

articles, internet articles and the interviews were grouped according to the colour codes. All of the responses from the three groups: the SAPS members who were deployed or involved; municipal officials, politicians and councillors; and the community police forum members, activists and persons who took part in the marches, were grouped together along themes such as:

- What they thought had given rise to the violence;
- What had informed the subsequent police action?
- Who the role players had been who acted on the public violence;
- How the South African Police Area Crime Combat Units had reacted to the violence; and
- Their views and approaches to the problem and the proposed solutions.

In step five the most descriptive wordings of the reasons for poor service delivery, were identified and grouped together. This was also done with the views on the police responses. It became evident from the responses that police members had different views in their responses, to those of the members of the community, the municipal officials, the councillors and the politicians.

Step six required the researcher to alphabetize each category. The responses were therefore grouped under the three emerging questions, (what had given rise to the violence in the Eastern Free State, how had the SAPS responded and what the possible solutions to the violence are?). The related data to the questions were grouped and coloured according to the identified three groups: SAPS members, community members (community police forum members and activists) and municipal officials (councillors and politicians).

In step seven, data relating to the reasons for the violence contributed by the SAPS members were listed, followed by the information provided by the second identified group who were the ordinary citizens given their common background and popular opinions, (community, community police forum members and activists). The views of the last group, the municipally involved persons,

(councillors and politicians), and who are responsible for the level of service delivery, were grouped together.

The eighth step of Tesch's process namely data analysis and recoding of existing data, was not required as the collected data was applicable to the three broad themes and were interpreted as such.

#### **1.5.4 Ethical considerations**

The ethical considerations that were observed are the ones listed by Welman and Kruger (1999:181) who caution that ethical considerations are relevant at three stages of a research project:

The first stage is to acquire the consent of the interviewees to be interviewed. The interviewees are identified and contacted for an appointment. On arrival, the researcher, while recording, explains the purpose of the interview and how it would be conducted and transcribed and asks permission for an interview with the respondent. If the respondent consents to being interviewed, the researcher continues with the interview while recording the responses. The respondent's consent to being interviewed is therefore recorded on audio cassette and this is then transcribed.

The second ethical consideration is to have the consent of the organization or bodies involved or implicated. The researcher applied to the South African Police, Head of Strategic Research and to the Provincial Commissioner of the South African Police Service of the Free State Province, to conduct the research. Letters of consent are in Addendum E and F.

The third consideration for the researcher is not to alter data. Transcription were done by a third party and checked for accuracy. Once analyzed and collated, data was checked to the original recordings for accuracy.

All direct quotations are in inverted commas and an effort was made not to commit plagiarism, when elaborating on certain ideas. The researcher acknowledged the mentioned opinions of other authors and the sources used to inform her findings and listed the sources in the reference list following Chapter 6.

## **1.6 PROBLEMS THAT COMPLICATED THE STUDY**

There were a number of problems ranging from arranging appointments for interviews, language and cultural considerations, overcoming the disapproval of the prosecuting authority's to interview state witnesses, to recording of the interviews.

### **1.6.1 Appointments for the interviews**

The distance from Bloemfontein, where the researcher resides to Harrismith and Warden was about 330 km; a fair distance and therefore, required planning on the part of the researcher to avoid undue traveling costs, as well as a commitment on the part of the respondents to honor the arrangement.

The commanders of the Harrismith South African Police Service members and the Phuthaditjhaba Area Crime Combat Unit members were contacted to arrange meetings with the identified members who were deployed in Harrismith at the time. A criminal prosecution hearing of the SAPS members who were involved with the shooting of the youth who died was to take place on the same date, without the prior knowledge of the researcher. The interviews were scheduled for the day of the hearing, because members would then not be deployed on special duties and were all available in the Harrismith court for the hearing. The station commissioner of Harrismith and the commander of the ACCU members of Phuthaditjhaba assisted with the arrangements to meet with members involved.

Dates for the interviews were difficult to arrange and appointments for interviews had to be postponed until after the festive season, as only a few people were available. It was also important to complete the interviews before the political campaigning started for the national elections, which were to take place on 1 March 2006.

Two of the SAPS respondents had been transferred since the incident and arrangements were made to meet one of these respondents at the court hearing. The individual had to travel 280 km to meet the researcher.

### **1.6.2 Language and cultural considerations**

The researcher's first and preferred language is Afrikaans, though the dissertation is written in English. Very few of the respondents are English-speaking. Thirteen of the respondents preferred to speak Afrikaans; 22 spoke English, even though their first language is Sesotho and only three respondents were actually English-speaking. The majority had to respond in a second language and sometimes found it difficult to understand the question. Consequently, the respondents were at times frustrated, because they could not express themselves fluently.

The researcher put the questions to the interviewed respondents in their first language, if they were Afrikaans or English speaking. If their first language was Sesotho, then in their preferred second language. She allowed a person to assist her when necessary.

The researcher experienced difficulty in remaining incognito in the residential areas where she was conducting the interviews. In the researcher's opinion, because she was a Caucasian female from a different culture. She had to obtain permission from the men to interview the residents in their „charge“. The African

men from the community were very dismissive and difficulty was had to persuade them to be interviewed. The researcher had to explain the purpose of her movements in their residential area. She was noticeably not a member of the community.

### **1.6.3 Prosecuting authority's disapproval of the interviews**

Since three South African Police Service members were being prosecuted for the death of the youth involved in the Harrismith incident, some of the respondents were at the hearing in Harrismith and agreed to be interviewed after they had appeared in court. Fortunately, the court case started on Monday 30 January 2006, after the festive season and long before the election campaigns. The prosecuting authorities, however, did not approve of the arrangements and stated clearly that they regarded the interviews as interfering with the course of the law.

On the day of the arranged interviews, the public prosecutor objected to the interviews stating that the interviews would disrupt the course of justice and advised the summoned witnesses not to agree to the interviews. The interviewer then proceeded to the township and asked the local residents where to contact the different role players. On their directions, the CPF chairperson was interviewed, who in turn arranged for the interviewer to interview the person who initiated the march. This person in turn directed the interviewer to a councillor who had been involved. The station commissioner at the police station in Harrismith assisted with the interviews of the police officers, explaining the purpose of the interviews and relaying the concerns raised by the public prosecutor. Regardless of the concerns mentioned by the public prosecutor, a number of police members agreed to be interviewed.

### **1.6.4 Recording of the interviews**



The first eight recordings failed because they were recorded with a technically complicated machine which was able to download the recording directly onto a computer hard drive. It was not possible to check the operation after the recorder and when an attempt was made to transcribe the recording, it became evident that the recording had failed. On closer examination of the successfully recorded interviews, it became evident that the South African Police members had rehearsed many of their responses. They anticipated some of the questions asked during the criminal prosecution hearing of the police members who were charged with the death of the youth who was shot in Harrismith. The researcher realized that she would not get more or different responses to those already received, because the analyzed data was saturated. Re-interviewing the eight respondents was therefore not warranted.

#### **1.6.5 Stereotyped responses**

The members of the Public Order Unit of Phuthaditjhaba work closely together daily. They responded in much the same way to the interviewer's questions. The court case started on 20 January 2006 and this time frame overlapped with the interviews of the respondents. Therefore, their preparation for the hearing might have added to stereotypical responses which were empty and rhetoric. In order to counter the rhetorical responses, the researcher interviewed members who were also deployed at Harrismith and Warden, but who did not mix with the Phuthaditjhaba members and who were not preparing for the court case. Their responses were more informative and individual, not appearing to be rehearsed.

#### **1.7 Delimitation of the study**

In every research study, delimitations are needed in order to make the research project manageable. In this study, the geographical parameters had to be clearly set, the timeframe closely defined and the concepts clarified. This allowed for a

focused study that provides in-depth knowledge and understanding of the problem that has been researched.

### **1.7.1 Geographical delimitations**

The researcher's area of responsibility is the whole of the Free State Province of South Africa. Although public violence occurred in 11 towns in the Free State, the researcher limited her scope to Harrismith and Warden. This public violence was staged on a national road and the death of a youth by the hands of police members was national news. The incidents in Harrismith and Warden were the first of 11 subsequent incidents in the researcher's area of responsibility. Two maps which indicate the geographical parameters of the study, are displayed in Addendums A and B.

### **1.7.2 Time delimitation**

The research proposal was prepared over the period of August 2004 to November 2005. January 2005 to June 2005 was spent mainly on researching relevant literature on the research problem, preparing a framework for the dissertation and writing the introduction to the dissertation. July to December 2005 was spent on examining the facts and researching related policy and legislation. Arranging the interviews for the collection of data took place in January and some time in February 2006. The trip to Harrismith and Warden and the recording of the interviews were done in February and March 2006, while transcription of the data took from April to the beginning of June 2006. The interpretation and analysis of the research data were written from July to November 2006 and the dissertation was completed during December 2006 to March 2007.

### **1.7.3 Conceptual delimitation/Key concepts**

In this section, two key concepts will be defined; namely crime prevention and public order policing. This will be done by referring to an official definition, as well as an academic definition, of each concept. From these, an operational definition that will direct this study will be derived.

#### **1.7.3.1 Crime Prevention:**

When a definition is devised for crime prevention, it should attempt to state what the aims of crime prevention are, who is responsible for crime prevention, as well as how crime prevention should be carried out. The National Crime Prevention Institute (2001:1) states "Crime prevention is an elegantly simple and direct approach, that protects the potential victim from criminal attack, by anticipating the possibility of attack and eliminating or reducing the opportunity for it to occur and the possibility for personal harm or property loss, should it occur."

Koch, (1998:22) mentions various authors' attempts at a definition of crime prevention, such as Tuck, who was of the opinion that it included all the formal criminal justice agencies, social, educational and moral training and policy to prevent crime, which could mean situational crime prevention.

A practical, pro-active crime prevention approach involves the application of the 'crime triangle'. The objective is to establish the contributing factors and to categorize the factors into three groups relating to the 'victim', the 'perpetrator', and the 'environment'. The argument is that if one or two of the factors can be successfully removed, theoretically, no crime can be committed. A study and methodical analysis of a crime problem are required to establish a crime pattern analysis. The police should involve relevant role players with their skills and resources to address the root cause of crime problems through partnership initiatives in a transparent way (Stevens: 2003).

An operational definition for crime prevention is: “A practical method of crime control which involves the analysis of the criminal opportunities to manage crime risks” (National Crime Prevention Institute, (2001:1)). It involves all the role players in the specific crime problem and requires effective communication between them which should be timorously carried out so as to identify potential problems.

### **1.7.3.2 Public Order Policing**

In terms of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996) and the South African Police Strategic Plan (2004-2007:1), one of the objectives of the SAPS is to maintain public order. The South African Police Service Code of Conduct states that “all Police Officers are to be committed to preventing action which may threaten the safety or security of any community and investigate criminal conduct, which has endangered the safety or security of the community and bringing the perpetrators thereof to justice.”

The profile of the South African Police Service Operational Response Service (2004:1) shows the functions of the Operational Response Service as to:

- Ensure public order
- Initiate, co-ordinate and monitor intervention operations;
- Ensure air support;
- Ensure border police functions; and
- Ensure proper management and utilization of all resources allocated to the immediate post environment in accordance with relevant directives and legislation.

For the purposes of this study, public order policing is regarded as a re-active policing style, to prevent crime, maintain public order and prevent damage to property.

## **1.8 LAYOUT OF THE DISSERTATION**

Chapter 1 serves as an introduction and overview of the research methodology. The nature and extent of the problem of public violence in the towns of Harrismith and Warden in the Eastern Free State are discussed in the second chapter. Chapter 3 covers the integrated approach to Public Order Policing and Crowd Management. The questions are developed in Chapter 4. The interpretation of the findings and the application of the SARA Model are found in Chapter 5 and the summary of the research issue, conclusion, and recommendations of the study in Chapter 6.

**CHAPTER 2: THE NATURE AND EXTENT OF THE PROBLEM OF PUBLIC VIOLENCE IN HARRISMITH AND WARDEN IN THE EASTERN FREE STATE**

## **2.1. INTRODUCTION**

In South Africa the frequency of public violence around 1992 was an indication of the need for political change. A Commission of Inquiry regarding the prevention of public violence was appointed in 1992 and Heymann (1992:50) reported on the principles and procedures developed by this Commission of Inquiry, to ensure that the “policing of demonstrations, even violent demonstrations, is carried out in a reasonable and, as far as possible, a peaceful manner”. Heymann (1992:51) agrees with the panel that demonstrations are a form of rightful public expression in a democratic society, also expressing concern that the right to prohibit a demonstration might be abused. He cautioned that local authorities should only exercise extreme measures in “circumstances where the only practical way of avoiding bloodshed and destruction is the total prohibition of a particular demonstration.” The fundamental right to demonstrate has been accepted; therefore, marches have become indicative of public expression.

## **2.2 NATURE OF THE PROBLEM**

On 30 August 2004, an incident of “public expression” was broadcast on the national television network of South Africa, (SABC 2 News 30 August 2004). The film footage reminded South Africans of the manner in which violence had been dealt with during the apartheid years. Ten years after democracy, people were asking themselves: “What has changed? Is how the police SERVICE manage public violence (poor service delivery inspired) any different from the way the police FORCE of the past handled the public (politically inspired)?” During the sharing of information with the Area Commissioner of the SAPS in the Eastern Free State, the community indicated that it was dissatisfied with the following issues: poor service delivery by the Municipality, nepotism within the Municipality, insufficient water-taps to service the community, dirty water, a lack of recreational facilities in the township, no halls in which to host meetings, no libraries, no

street lights, the bucket toilet system, no tar roads or poor road conditions in the township and councillors who should not be living in reconstruction and development program houses. Furthermore, unemployment should be addressed, available stands should be developed and arrested people should be released (SAPS Circular 26/3/5 (2004)).

Twenty-four children were hurt and 38 arrested in Harrismith (SABC 2 News, 30 August 2004). Violence started when youths barricaded the N3 road near Harrismith and 800 youths were dispersed by police members while throwing stones at the Police (SABC 2 News, 31 August 2004). The youths protested against poor service delivery and “preferential treatment given to residents of Qwa Qwa by the local municipality at the expense of the also previously disadvantaged black residents of Harrismith who lived in Inthabazwe (SABC 2 News, 31 August 2004). Inthabazwe is about 4 kilometres outside Harrismith. Harrismith’s residents are predominantly white. Because the Inthabazwe residents work in Harrismith they therefore feel that they are more deserving of the generated taxes than the Qwa Qwa residents, given their economic role. Another complaint was that the municipality was losing its focus on health, including HIV/Aids, (SABC 2 News, 1 September 2004).

The Inthabazwe residents disrupted public and taxi transport to Harrismith. The chairperson of a Harrismith group called the Concerned Group, said that the situation was tense because the residents were not allowed to leave the township and all the taxis had been stopped, (Gifford 2004:1).

South African Police Service members were deployed to address the disruptive actions. A 17-year-old teenager, Teboho Mkhonza, allegedly died of internal bleeding after having been shot with rubber bullets fired by SAPS members. A post mortem was held to establish the cause of death of the youth who died (SABC 2 News, 31 August 2004). Most of the arrested youths were released on

R100, 00 bail each and the minors were released into their parent's custody, (SABC 2 News, 1 September 2004).

The premier of the Free State, Beatrice Maarshoff visited Harrismith and stated that she has received the residents of Inthabazwe's complaints and a memorandum about the Reconstruction and Development program houses and the lack of employment opportunities.

Some 200 youths continued their protests and called for the removal of the executive mayor, Balekile Mzangwa of Maluti-a-Phofung Municipality, (SABC 2 News, 1 September 2004). The continued protests lead to similar incidents of violence which occurred in the Zamani residential area in Memel and Mr. Peter Frewen of the DA was quoted as having said that "the locals are battling to gain access to services while the municipal managers are granted a substantial increase" (SABC 2 News, 20 September 2004).

The Warden incident followed the Harrismith incident. Twenty six persons appeared in court (SABC 2 News, 7 October 2005) on charges of public violence and taking part in an illegal march. The police took action. It was reported that the police fired rubber bullets and stun grenades to disperse a crowd who had blocked the road to the township. Mr. Khotsoane, the provincial government Member of the Executive Council, after a visit to the Phumelela Municipality announced that: "It's clear that there is poor service delivery and problems with basic services in the municipality." Mr. Khotsoane announced that a task team had been established to work with the municipality in addressing the situation (SABC 2 News, 6 October 2004).

The police actions are tragically reminiscent of the past policing style, whilst the community is expressing dissatisfaction about basic services to which they have a right according to the South African Constitution of 1996.



### **2.2.1 Historical background of public order policing**

A review of the development of public order policing is essential in order to ascertain the progress, if any, made by the police, to 'police' public expression, demonstrations, marches, meetings and any resulting violence.

The level of political violence in South Africa was high in 1992 (Human Rights Watch: 1993). This was after the referendum had indicated that the majority of the population was in favour of continued negotiations to establish a democracy in South Africa.

In 1992 the number and frequency of public demonstrations were an indication of the need for political change. Heymann (1992:50) highlights that "a political response is a necessary precondition for democratic policing". Heymann agrees with the Goldstone Commission panel that "peaceful demonstrations are a form of democratic expression", because people in a democratic society have the right to democratic expression. Heymann also states that "this right should only be curtailed in exceptional circumstances" (1992:50).

During April 1992, the Goldstone Commission was responsible for an inquiry regarding the prevention of public violence, because public expression was accompanied by high levels of violence. In the second interim report by the Goldstone Commission of Inquiry (1992:15), it was reported that the causes of the violence were many and complicated. The "economic, social and political imbalances amongst the people of South Africa" were cited as the consequences of racial discrimination and policies which resulted in violence. The police and army were not seen as fair, objective and friendly institutions (SA Commission of Inquiry Second Interim Report, 1992:15).

Political violence was also rife amongst Inkhatha Freedom Party members and in the largely underground African National Congress and its front organisations.

The police were hampered by a lack of government support, when the display or carrying of dangerous weapons in public was banned in 1991. The ban excluded the Zulu 'cultural weapons' despite numerous violent incidents involving those weapons. As a result, the ban was defined but it was not enforced during public gatherings or marches (Human Rights Developments, 1993:3).

"Human Rights Watch" (1993:3) and the previously mentioned Goldstone Commission Second Interim Report (1992:11) implied during a Goldstone hearing, that the South African Police Force was involved in the violent fighting. A witness alleged that hostel dwellers entered a township at night, assisted by the police and hacked and stabbed township residents. The SAPS subsequently, in an effort to avoid further violence, "without negotiation and by force in a surprise action", seized a number of weapons from the hostel dwellers (Waddington Report, 1992:13).

The Goldstone Commission recommended that the Government place fences around the hostels, to provide security in the townships. The SAPS was to prevent the township and hostel residents from carrying weapons when entering or leaving the hostels and complied with this agreement, but was faced with a highly politicised campaign of Inkatha members, carrying 'cultural weapons' such as spears and sticks. The South African Government acknowledged the problems and allowed international involvement to resolve some of the issues. A report by a special representative of the United Nations recommended that the National Peace Accord structures be strengthened in South Africa which resulted in United Nations monitors being present during public protests and demonstrations. It was subsequently reported that the UN was instrumental in reducing violent incidents (Human Rights Developments, 1993:4).

In May 1992, the Goldstone Commission announced that a multi-national advisory panel would examine the policing of public demonstrations. The panel made the following recommendations:

- 1) New training to police officers in public relations.
- 2) Training on the use of non-lethal equipment to control demonstrations.
- 3) Transferring authority to improve conditions at demonstrations from police to local magistrates and appropriate criteria (Human Right Developments, 1993:4).

This panel also sanctioned a review by Dr Peter Waddington of the Boipatong massacre in which he criticised the investigation as to have been "woefully inadequate" and "incomplete" (Waddington, 1992: 43). Significantly, it was also found that there were major shortcomings in the command and control of the SAP intervention and in the contingency planning. In the Waddington report (1992:43), it is stated that the South African Police Force is an unaccountable police force, highlighting the "absence of suitable organisational structures to facilitate effective policing."

The following failures on the part of the SAP are listed in the Waddington report:

- "Insufficient command and control of patrolling officers and response to incidents in the Boipatong area.
- A lack of effective intelligence and resultant contingency planning.
- Unstructured investigative procedures which inhibit the gathering of evidence.
- The lack of committed community relations and awareness with all the relevant role players who could assist in both maintaining the peace and investigating crime." (Waddington, 1992:43).

The Government's failure to ensure accountability for security force violations of human rights remained a serious problem. It also did not help the SAP image when it became evident that police officers were implicated in the violence. The SAP members were often not suspended or put on trial and received lenient sentencing if convicted. A provision of the SA Police Act of 1958 was repealed,

which prohibited the media from reporting on police actions under certain circumstances (Human Rights Watch, 1993:12).

As in the protest marches of Harrismith and Warden, on 7 September 1992, during a large authorised protest march to a stadium in Bisho, the capital of the Ciskei, twenty-nine people were killed and hundreds were injured. The march was organised by an alliance of the African National Congress, the Congress of South African Trade Unions and the South African National Congress. The purpose of the march was to draw national and international attention to "their demands for the creation of a climate of free political activity and an end to violence in the Ciskei" (Commission of Inquiry regarding the Prevention of Public Violence and Intimidation, 1992:2).

According to the report of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation (1992:9), approximately 1 200 trained marshals were responsible for maintaining crowd control, during this large authorised protest march to Bisho. Although safety measures were taken to manage the protesting crowd, a group led by Kasrils moved out of the stadium in the direction of Jongilanga Crescent. According to the report of the Commission of Public Violence (1992:16), the crowd was met by Ciskei soldiers who fired 185 rounds of ammunition and detonated four grenades. Twenty-nine people were killed and hundreds were injured.

In a review of the Bisho incident, the Commission of Public Violence (1992:29) made some recommendations, one being that South Africa should tolerate and allow complete freedom of expression and of peaceful assembly after the lifting of restrictions on free political activity by black political parties. Political leaders should immediately and publicly abandon any political action that could potentially result in conflict and violence.

The Goldstone Commission subsequently concentrated its investigation on the South African National Defence Force, the SAP, the KwaZulu Police, Umkhonto we Sizwe and other paramilitary groups. In order to reduce the potential for violence, the Minister of Justice appointed a committee to investigate the procedures to regulate mass demonstration. The investigation of the forces resulted in the public being very suspicious of the government forces. To add to the suspicion, the Government through legislation, was allowed to unconditionally exempt members of the security force from being prosecuted for offences they had committed, which included the most serious of human rights violations. A large part of the repressive legislation remained. Two consequences of the legislation were that the police were permitted to detain a person without trial for up to ten days and The Public Security Act also permitted the Minister of Law and Order to declare an area an “unrest area”. It resulted in searches and seizures without warrants, the detention of suspects without trial for up to thirty days, indemnity against prosecution, imposed police curfews and imposed restrictions on the entry to and exit way of the mentioned unrest areas.

According to the Report on Regulation of Gatherings and Marches (1993:10), a draft bill on the conduct of public demonstration was consolidated and the committee suggested that the draft bill be circulated for public cognisance and comment.

During the first seven months of 1992, 49 areas were declared “unrest areas.” The Amnesty Law subsequently protected police officers from being prosecuted for human rights abuses. The failure by the criminal justice system to prosecute unlawful police activity contributed to the public’s suspicion. A peaceful climate was there for not possible as long as the people lacked confidence in the impartiality of the police. The post-1994, new democratic South Africa, was preceded by many collective acts of public expression and demonstration (Report on Regulation of Gatherings and Marches, 1993:10). The public demonstrations ranged from public marches, stay-away actions and presentations of

memorandums, to public gatherings and speeches, with many of these actions resulting in public violence.

Prior to 1994, the South African Police Force, in terms of the SA Police Act of 1958, 1994, was by law, responsible for public safety and therefore responsible for public peace. In terms of the SA Police Act of 1958 they were bound by the law to keep the peace. Their action, however, was not always regarded as apolitical and without bias; in fact, there were a number of investigations of unlawful conduct. The public violence, deaths, injuries, acts of intimidation and resultant South African Police Force action all gave rise to public concern about the unrest before 1994, as well as the policing of these gatherings. The general public regarded the South African Police Force with suspicion and the general perception was that the South African Police Force was not of the people, or for the people (Human Rights Watch, 1993:10.) According to Heymann (1992:48), "apartheid was an undemocratic system of repression, enforced far too often with terrible violence by a police force that did not serve all or most South Africans." It followed that role players from the community, non governmental organizations and government departments had to be involved in the political demonstrations and marches and had to assist the police in ensuring safety. The municipalities, which were keen to maintain services and to protect public property, were also actively involved in identifying safe routes for marches and in involving the traffic department and municipal police (Heymann, 1992:14).

The municipal authorities involved party marshals and municipal officials to determine safe conditions for the demonstrations to take place. The appointed marshals had a vested interest in expressing their civil rights (freedom of expression), in a safe environment.

The concerns of the Goldstone Commission concerning police members abusing their powers and authority were addressed when the panel recommended monitoring by the community. Elected community representatives involved in

policing through the community police forums reflected the needs of the community and complemented transformation, as well as transparency.

Public order policing has as a result of the Goldstone recommendations, been monitored by more than the media; it has also been scrutinized by involved, democratically elected community members and the appointed MEC for Safety and Security in the provinces (Heymann, 1992:14). The Community Policing philosophy was introduced to invite partners to address safety issues and to apply a problem-solving approach to policing matters. An overview of community policing is discussed in Section 3.2. This system contributed to transparency and a sense of involvement (Heymann, 1992:15).

The South African police have been transformed from a Police Force to a Police Service, which is sensitive to the needs of the community. The article by the Wood Royal Commission on Police Corruption (2002), reports on the occupational culture of the police, with reference also made to recommendations by the Goldstone Commission.

Moreover, the Commission was commended for starting the new (post-apartheid South African) approach to public order policing, where the police are not regarded as the principal source of public order policing. Following the recent events in the Eastern Free State, Area Crime Combating Units were established and reported in the media as the police abusing legislation while regulating marches. The allegations drew attention to the current legislation in terms of the policing of marches (Watch cops at marches: COSATU, 2006).

### **2.2.2 Current manifestation of the problem**

From 2004, the Eastern Free State experienced disruptive actions, marches and public demonstrations at some of its police stations. The Area Commissioner gave instructions that at each station a visibility plan should be compiled where

problems had been experienced (SAPS Circular 26/3/5 2004). The following stations were identified and plans were drafted in the case of violence related to Local Government: Bethlehem, Memel, Kestell, Warden, Winburg, Vrede, Paul Roux, Clocolan and Ficksburg, as well as where taxi violence was anticipated in the last-mentioned town.

#### **2.2.2.1 Bethlehem**

According to Circular 26/3/5 of 2004, a number of events took place during the month of August 2004. The non-governmental organisations, in close co-operation with the Bohlokong Civic Association, allegedly consulted with the council to express their dissatisfaction with the service rendered by the local municipality in Bohlokong. Some of their problems included the non-compliance of the municipal services to the requested to improvement of parks in Bohlokong or to the upgrading of car washes. One other crucial dissatisfaction raised was the issue of houses that had allegedly been allocated to ANC members, instead of to Bohlokong Civic Association members. They allegedly tried repeatedly to consult with the relevant people, but to no avail. To express their concerns, they ultimately decided to take documents from the offices of the town councillors and they burnt the mayor's car, which led to the arrest of some members.

After the arrest of the above-mentioned people, the community of Ward Five was mobilised and engaged in public unrest. They closed the roads with large stones and burned tyres in the roads, which led to the South African Police Service arresting more demonstrating group members. The Bethlehem South African Police Service's crime prevention component approached the aggrieved groups and requested a meeting with them to serve as a problem-solving opportunity between the council and the concerned groups. The groups acceded to the request and the date for the meeting was set (Circular 26/3/5: 2004).



The very first meeting was held between the police and the concerned groups who mentioned everything that bothered them and this was recorded for scrutiny by municipal officials. The meeting was convened to discuss all the problems raised by the community and an agreement was reached that a meeting be held between a municipal official and delegates from the groups. The idea was to allay the groups' fears by responding to their problems, as well as giving explanations of some of the duties of municipal officials. Thus, the meeting was held and some problems discussed. It lasted almost three hours and another date was set for 2004-11-29 for the finalisation of the remaining issues.

#### **2.2.2.2 Memel**

Memel forms part of Phumelela Local Municipality in the Eastern Free State. On 2004-09-19 members of Crime Intelligence reported a gathering in Zamani, a residential area in Harrismith (Circular 26/3/5: 2004). The Zamani residents expressed their concerns about the standard of the services rendered by the councillors of Phumelela Local Municipality, who are responsible for Harrismith and Memel. However, there were no specific threats or actions planned. At 07:00 on 2004-09-20, the community from Zamani started to gather with some negotiations taking place between the demonstrators and members of the Harrismith Crime Intelligence Unit. The group then continued to march towards Memel.

At about 09:00, members of Bethlehem Area Crime Combating Unit arrived at the scene. They stopped the protesters approximately eight hundred metres from Memel where negotiations started again, despite the fact that the group had no prominent leader. During the negotiations, the group requested to meet the mayor and the councillors. The former could not be found and a local councillor was the only person available. The group then asked to meet with a specific councillor, demanding that he should address them in the Community Hall at

Zamani. According to this person, he was advised by the mayor and the other councillors not to meet the community on his own.

At about 09:50, the protestors started to return to Zamani Township. On their way back, the crowd blocked the access to the township by stacking stones in the road. Immediately after entering the township, they broke into smaller groups. The groups started to break the toilets that were erected outside the houses in the Township and several streets became blocked with broken toilets. Protestors stacked toilets that were removed from the houses, as well as dust bins, at the councillors' houses. Area Crime Combating Unit members were guarding the house of the mayor from possible attacks. The SAPS dispersed the crowd by firing 15 rubber bullets and one stun grenade; fortunately, nobody was injured. The police identified the perpetrators who had set the tyres alight in the streets and instructions were given to arrest all the identified trouble-makers. While patrolling the township, it was discovered that two municipal buildings in the township were looted by unknown persons with furniture and documents inside those buildings being burnt in the street outside. These buildings are used by the municipality as a service point where the community pays their rent and services. Four people were arrested and charged with unlawful gathering and a further fourteen people arrested on public violence charges.

According to Circular 26/3/5 of 2004, at about 20:30 on 2004-09-20, an unknown suspect approached the library, which had already been looted. The person approached from behind the building and set the documents and books alight which were strewn on the floor from the previous incident. The building was gutted after unsuccessful attempts by members of the Area Crime Combating Unit to extinguish the fire. The Fire Brigade was not available, according to a member of the Brigade who was summoned. The damage to the building and the contents was estimated at around thirty thousand rand and a case of public violence was opened at Memel, CAS 21/09/2004. No arrest was made in this case.

On 2004-09-22 concerned group leaders applied to march. The application was approved for the march to take place at 10:00 on 2004-09-24. At 10:00 on 2004-09-24, the concerned group of Zamani and the community of Zamani marched from the township to the municipal offices in town. The concerned group leader and the Rates and Taxes Association leader, handed the memoranda to the mayor. The mayor told the community that he was prepared to work with the concerned group leaders to address their grievances. Approximately a thousand people took part in the march. The community then returned to the location without any incident and dispersed peacefully at 14:00.

At 06:30 on Monday, 2004-09-27, it was announced that there would be a meeting at Zamani Hall at 17:00 on the same date. The Community was requested to attend. The concerned group requested that the police should not attend the meeting, because they feared that violence would follow. Two councillors were present to address the community, but the meeting was interrupted by the youth. Stones were thrown at the car of Councillor Zwane with the damage estimated at fifteen thousand rand. Memel CAS 05/09/2004, malicious damage to property was to be investigated. On Wednesday, 2004-09-29 at 14:00, the mayor and community leader met to discuss and prioritise the needs of the community of Zamani. The police monitored the situation and there were no incidents of violence.

On 2004-10-09, the Zamani Community was addressed by the delegation from the office of the President and also from the Provincial Administration concerning the memorandum of grievances handed over to the mayor on 24 September 2004.

On 2004-10-27, the concerned groups held a meeting with the community. It was reported that a march had been planned to take place on 2004-10-28. SAPS members engaged the concerned groups on 2004-10-28, but it appeared

that the concerned groups knew nothing about the march. No incident was reported and no march took place. At about 17:00 on 2004-11-04, the concerned group from Zamani held a meeting. According to information received, the aim of the meeting was to prevent municipal employees of Zamani from going to work. The stay-away actions were to support the content of the memoranda handed to the office of the MEC Benny Kotsoane. Despite this, the stay-away was not well supported. The municipal services were not disrupted and most employees went to work and no incidents were reported.

The new court date was 2004-12-01 (Circular 26/3/5: 2004) and the bail conditions of the persons who were arrested, were as follows:

The arrested persons were warned that they should not be found at any gathering in terms of Gathering Act 205/1993.

### **2.2.2.3 Kestell**

According to Circular 26/3/5 of 2004, disruptive action started in the predominantly black residential area of Tlholong in Kestell at about 04:00 on Monday 2004-11-08. The group of concerned community members danced and marched along the main road from Tlholong to Phahameng. When they were approached, they demanded that the councillor avail himself to address them concerning their grievances. The councillor did not address the concerned group, because his safety could not be guaranteed and he was moved back to his home for safety. The two main roads to Tlholong were closed with stones and burning tyres by the concerned group.

The crowd was dispersed by the Area Crime Combating Unit members firing with twelve bore guns, batons and 7, 62 millimetre bullets. The concerned groups retaliated, attacking the police members and their vehicles by throwing stones. The concerned group set fire to buildings and stoned one Crime Intelligence Gathering Unit vehicle. The buildings that were damaged were the old clinic

building that was not in use, the police satellite station, as well as the community hall at Tlholong. The damage to the above-mentioned buildings was estimated to be around three million rand. The following case was registered: Kestell CAS 16/11/2004, public violence, unlawful gathering and malicious damage to property. Twenty-nine people were arrested, three of them, minors; one of them, slightly injured. At about 22:30, on 2004-11-08, the municipal office was also set alight. The scene was visited by the station commissioner and the estimated damage was calculated at one hundred thousand rand.

On Tuesday, 2004-11-09, another suspect was detained; which brought the total number of detainees to thirty with another case of arson being registered. On 2004-11-10 all the detainees were brought before the court. Three minors were released on free bail, while the rest were released on two hundred rand bail each.

Meetings were held with councillors, Jabu Khumalo and Mozangwa concerning the matter. They told the SAPS that they had sent council vehicles from Phuthaditjhaba to Kestell to collect the leaders of the concerned community as they wished to meet with them. The leaders, however, did not turn up at the agreed points to be collected to resolve the matter (Circular 26/3/5: 2004).s

#### **2.2.2.4 Warden**

At 04:00 on 2004-09-15, according to Circular 26/3/5 of 2004, the concerned group members closed the roads with sewerage buckets and burning tyres. The places that were targeted were Iphondle Secondary School and Warden Public School. Mr. Thithi Mokebe, the Municipal Manager, refused to meet with the community, without giving reasons. A meeting was held on the same day at 13:00 and according to the Circular, the meeting was fruitless. Mr. Tjhetane told the community that the Premier would be visiting Warden on 16 September 2004. The crowd became disagreeable and the Area Crime Combating Unit escorted the councillors out of the Hall. On the same day, members of the concerned

group declared a stay-away and all the entrance routes were blocked and tyres were burnt. The Area Crime Combating Unit persuaded the group to go back to the Community Hall where they compiled and presented a memorandum to Mr Mahlaba who received the memorandum on behalf of the premier.

At 03:00 on 2004-10-06, tyres were set alight near Iphondle Secondary School. A group of people were armed with sticks and sjamboks. The entrance routes to Ezenzeleni were blocked again and the Area Crime Combating Unit dispersed the crowd when they threw stones at the Police. Twenty-four people were arrested for public violence, as per CAS 27/10/2004 and two people were arrested for arson as per CAS 30/10/2004.

At 08:00 on 2004-10-25, the concerned group, together with the Taxpayers Association, gathered at the entrance of Ezenzeleni. It was a lawful march and a memorandum was handed to the station commissioner of Warden, at the City Hall. The memorandum was faxed to the office of the premier. Thereafter, the march dispersed peacefully (Circular 26/3/5: 2004).

#### **2.2.2.5 Winburg**

According to Circular 26/3/5 of 2004 at 09:00, on Wednesday 2004-11-10, a shopping centre belonging to an individual was set alight and a case, CAS 23/11/2004 for Public Violence, was registered. This was an isolated incident and the owner left Winburg. On Wednesday, 2004-11-17 at 11:00 and Thursday 2004-11-18 at 18:00 meetings was held between the concerned residents of Makheketla and the Local Council concerning service delivery problems at Winburg. The concerned residents of Makeleketla are a non-political group under leadership of Mr Alfred Lund, of the PAC. In CAS 23/11/2004, four suspects appeared in court on charges relating to arson, on 08/12/2004 (Circular 26/3/5: 2004).

#### **2.2.2.6 Vrede**

On 2004-09-14, according to Circular 26/3/5 of 2004, about 70 concerned group members, mostly youths, began to block the streets in Thembalihle, citing their action as being against poor services by the local municipality. They marched to the police station and demanded to be transported to the Vrede municipal offices to see the mayor, Mr. Letawana. They were advised to write a letter, requesting such a meeting. This was done and they indicated that they wanted to meet the mayor, councillors and officials.

At about 13:00, nearly 50 concerned group members blocked other streets, threw dustbins around and burnt tyres. Two front wheels of a tractor belonging to the municipality were deflated in the process. A meeting was held and about 150 people attended. The youth raised nearly all the same issues as previously mentioned demanding the immediate resignation of the mayor, officials, and councillors. Two cases of public violence were opened, following the throwing of the dustbins and burning of the tires, as per Vrede, CAS number 62/09/2004 and 63/09/2004. On 2004-09-15, the station commissioner met with the leaders of the concerned youth with the purpose of helping the youth with the correct procedure of having a lawful protest march. The youth indicated that they would march on 22 September 2004. On 2004-09-15 an application for a protest march was drafted and given to the municipal manager who approved it on 2004-09-16. A Section 4 meeting in terms of the Regulations of Gatherings Act of 1993 was held on 2004-09-16 in preparation for the planned protest march.

On 2004-09-22, the planned march took place. Assistant Commissioner Nkuna accepted the memorandum on behalf of the premier. On 2004-09-30, delegates from the Provincial Government (Mr. Mahlaba, Mr. Masekoane, Mr. London, and others) held a meeting with the concerned group and the Tax Payers Association. During this meeting, a resolution was taken to establish a task team comprising of all stakeholders.

On 2004-10-08, the MEC met the concerned group and the Tax Payers Association members from Phumelela Municipality. On 2004-10-29, the concerned youth applied for a protest march for 4 November 2004. On 2004-11-01 an approval letter for the planned protest march was received from Mr. Thithi. A Section 4 meeting was held on 2004-11-03, at which the youth indicated that they would march to the town hall on 9 November 2004 at 10:00 and hand over their memorandum to somebody. The protest march took place on the 2004-11-04 and the memorandum was faxed to the premier's office.

At about 10:00 on 2004-11-10, a group of about 30 youths converged on Thembalihle Community Hall. Mr. Mahlaba from the Provincial Department of Local Government and Housing office arrived whilst the meeting was taking place and attempted to arrange a meeting with the councillors. The attempt failed, because the mayor, Mr. Letawana did not answer his cellular phone. Mr. Motaung was subsequently contacted and he said that the mayor was the only person who had the authority to instruct the councillors to address the community. He informed Henry and Kholaeza about a meeting which had been arranged at Phumelela, for stakeholders, in Vrede at 14:00 on 2004-11-12.

Henry and Kholaeza returned to the community. At about 13:00, 300 community members decided to march to the municipal offices in town. They were stopped near the municipal offices in Thembalihle by Area Crime Combating Unit personnel. The group moved back to Thembalihle. While SAPS members (Area Crime Combating Unit, Visible Policing, and Crime Intelligence members) were patrolling Thembalihle, it was discovered that the same group which gathered near the Thembalihle municipal offices, went to Evungwini Secondary School. They demanded that Mr. Motaung (a councillor), address the community. The Area Crime Combating Unit controlled the group. An attempt was made to burn a municipal tractor from Thembalihle. The Police arrived in time and only the front tyre was deflated. While Area Crime Combating Unit members were waiting for the municipality to make safety arrangements for the tractor to be moved to



their premises, protesters began to throw stones and burn tyres. Members of the Police fired forty-nine bullets and seven protestors suffered minor injuries, while another person suffered serious injuries.

Six protesters were arrested on charges of public violence, as per Vrede CAS 50/11/2004. Some vehicles were damaged and stoned, while the windscreen of a Vrede SAPS vehicle was damaged.

On 2004-11-11 some of the streets in Thembalihle were closed for traffic. Huge stones were placed in the streets. Crime prevention members discovered fire damage at the clinic. It seemed as if paraffin bombs had been thrown through the windows.

According to information, petrol bombs were made at Vumile`s coal yard and some suspects were arrested. On 2004-09-14 at about 16:20 a meeting was held as demanded by the youths. Around one hundred and fifty people attended, where they also made similar demands as previously mentioned, pertaining to a shortage of sports facilities, street lights, and poor quality of water, etc. They also demanded the immediate resignation of the mayor, officials and councillors. The meeting dispersed at 17:20, after six protesters had been arrested for public violence.

On Friday 2004-11-12, a number of people was arrested by Area Crime Combating Unit members, as they were suspected of having burnt the municipal tractor at the municipal office in Thembalihle. On 2004-11-17 information was received from the mayor of Phumelela Municipality, Mr. Letaoana, that the MEC of Local Government and Housing, Mr. B. Kotsoane would be in Vrede on Thursday 2004-11-18, Circular 26/3/5 (2004) to meet with concerned residents.

#### **2.2.2.7 Paul Roux**

On 2004-10-19, the Leaders of the Concerned Residents of FTN approached the station commissioner about a march which they wanted to arrange. Forms were given to them to complete. The internal march would be held on 2004-12-28 from 14:00 until 17:00. At 12:00 on 2004-10-27 a Section 4 meeting in terms of the Regulation of Gatherings Act of 1993 was held. The march took place on 2004-10-28 from 14:00 until 17:00, without any problems, Circular 26/3/5 (2004).

#### **2.2.2.8 Clocolan**

According to the Circular 26/3/5 of 2004, on 23 September 2004, the ANC Youth league held a march in Clocolan to express their dissatisfaction with the councillor of Ward 11 and the lack of service delivery in this ward. A memorandum was handed to the speaker of the Sesotho Local Municipality, Mr Thamae. On 1 November 2004 a request was received from SANCO to hold a march on 6 November 2004 to hand a memorandum to the premier of the Free State Province, Ms. Beatrice Maarshoff. SANCO postponed the intended march to 13 November 2004. Another Section 4 meeting was organized to be held on 5 November 2004. The meeting was postponed to 10 November 2004, to obtain clarity whether the premier would be attending. On 10 November 2004 SANCO received a letter from the office of the premier. SANCO decided to suspend the march and first explore other avenues to resolve their problems. The chairperson of SANCO, Mr. T. Tsoeu passed various letters on to the SAPS, expressing their dissatisfaction about poor service delivery from the Municipality. There was a reply from the Sesotho Municipality, stating that they were considering SANCO's request for a meeting.

SANCO were dissatisfied with the Sesotho Municipality and councillors for not responding to their requests. The youth of Hlohlolwane were not satisfied, since there was no feedback from the Municipality regarding their grievances. They felt that their problems were not looked into and wanted to take action. They tried to have meetings with the Municipal Management, but the Municipal Management

refused. They decided to host a march to hand their memorandum to the speaker. Another Section 4 meeting was scheduled for 2004/11/19 at 10:00 at Clocolan SAPS.

#### **2.2.2.9 Ficksburg**

On 5 September 2008 transport services were temporarily interrupted when the Melodita Taxi Association prevented the Morning Star Taxies from transporting passengers as the taxi rank had been legally closed by the Provincial Transport Department. Morning Star alleged that the rank was temporarily closed and that the notice had expired, according to their legal representation. Mr Lekgema of the Traffic Department was contacted regarding this matter. It was established that the order for the closing of taxi rank was for three months. The Department had issued another letter on 2004-09-10 for a further three months and it was renewed again. The matter was cleared up and no further conflict was reported, Circular 26/3/5 (2004).

The previously mentioned community actions are symptoms of the community's active participation, in the transformation process. The community is expressing their disappointment, about poor service delivery, after a lot of legislation has been passed to enhance the quality of life of the average citizen since 1994. The underpinning implementation policy and administrative processes of this legislation seem to be challenging to public servants and disappointing to the community.

### **2.3 POLICIES AND ACTS PERTAINING TO FREEDOM OF EXPRESSION, PUBLIC VIOLENCE AND POLICING IN SOUTH AFRICA**

The South African Police Service members are to act in accordance with a number of policies, acts and regulations, regulating gatherings, negotiating conflict and controlling perpetrators and offenders.

It is important to measure police responses against the standards and objectives prescribed in the Standing Order (General) 262: Crowd Management during gatherings and demonstrations, Regulations of Gatherings Act of 1993, the South African Police Service Act, and the Criminal Procedure Act No 51, Section 49, to assess whether the police either meet or fail in their responsibility to ensure respect for the protection of the rights and freedom of the individuals within their jurisdiction.

The most common form of public violence is the “unregulated and disruptive activities of crowds” (Role of the Investigative Function in South African Policing (2005:2). In instances as mentioned the roles and responsibilities of the police are to prevent crime, protect life and property, “insofar as the activities of the people in crowds impact on other people both within and outside the crowd.”

De Wet and du Plessis (2005) reported in a newspaper article on an incident which took place in Hennenman, where a crowd expressed their anger about poor service delivery. The week before, the President was quoted to have said during his state of the nation speech, that violent demonstrators “will be met with the full force of the law,” (Terreblanche, 2005:7).

The question follows: What is the challenge facing the South African Police Service? During the demonstration, the angry crowd started to throw stones at the mayor’s vehicle and at the police and their vehicles. The police replied to the stone-throwing with fifteen rubber bullets. The community then had a meeting to discuss the actions of the police.

### **2.3.1 The Constitution of the Republic of South Africa, Act 108 of 1996**

Chapter two, the Bill of Rights of the Constitution provides a legal framework, which ensures the most basic Human Rights, such as the freedom of religion,

belief and opinion and the right to freedom of expression, assembly, demonstration, picket and petition as well as freedom of association and political rights, human dignity and freedom and security of the person are recognised. There are however, limitations to these rights. When the safety of others is compromised and property is damaged, the police are responsible for keeping order and preventing any actions that compromise safety as well as damage to property.

### **2.3.1.1 The Constitution and the right to basic needs, Chapter 2 Section 27**

This section in the Constitution guarantees the right to sufficient food, water, and social security. Municipalities are to provide the most basic needs to the community, which are at least 50kws of electricity, 6kl of water, access roads, sanitation and cleaning services. To meet these responsibilities, the municipalities, according to Du Plessis (2003:17), may source the service to appropriate partners to render the above-mentioned services to satisfy the community's basic needs.

### **2.3.1.2 The Constitution and the protection of the right and freedom of individuals, Chapter 2, Section 12 (1) (c)**

The intention of this section of the Constitution is to guarantee personal safety against any form of violence, regardless of where the violence originates from, either privately or of public violence.

### **2.3.1.3 The Constitution and Public Administration, Chapter 10, Section 195 (1)(a) (b) (c) and (d)**

Chapter 10, section 195, subsections (1) (f) and (g) provide basic values and principles governing public administration, stating that “public administration must be accountable” and “transparency must be fostered by providing the public with timely, accessible and Area Crime Combating Unit information.”

#### **2.3.1.4 The Constitution and freedom of expression, Chapter 2, Section 16**

Sub-section (2) (a) stipulates that these previously mentioned “values and principles” apply to administration in every sphere of government. “Any one who has a concern about service delivery may make recourse to the Constitution to establish these rights.”

#### **2.3.1.5 The Constitution and assembly, demonstration, picket and petition, Chapter 2, Section 17**

The Constitution promotes the way for peaceful assembly, demonstration and picketing while protecting the rights and freedom of individuals. While maintaining public order, police officials are to take into account that chapter 2, section 17, sub-section (1) of the Constitution of the Republic of South Africa 108 of 1996 stipulates that “every one has the right to freedom of expression.” Although freedom of expression is essential in a democracy, people disagree on what kind of expression should be protected and what should be allowed or restricted. According to MCAT-Mason, O’ Brien and Greene (1991:29), some people are of the opinion that speech should be controlled when it causes violence by inciting riots, calling on people to revolt, is racist or bigoted, or undermines the government.

While everyone has this right, it is not extended to the incitement of imminent violence. Section 17 also provides for everyone to have the right to “peacefully and unarmed assemble to demonstrate, to picket and to present petitions”. In terms of this section, it is against the law to force others to join in against their will. The SAPS charged a number of the protestors on sedition charges, when they protested against poor service delivery in Harrismith. The newspaper article “Government wants to “criminalize” protesters” (2005), reported on Cosatu’s

views that the Governments' reaction was too severe. Cosatu sympathized with the "poorest section of our population" and insisted that people campaigning for rights which the government has promised, should not be charged for contravening lesser laws. Cosatu suggested that the government should rather investigate the levels of service delivery than investigate the people who live in poor conditions and who are demanding "basic services and legitimate rights."

According to Snyman (2002:319) the definition for Public Violence is the "unlawful and intentional commission, together with a number of people, of an act or acts which assume serious dimensions and which are intended forcibly to disturb public peace and tranquility or to invade the rights of others."

The elements of this crime, amongst others, include the intention to disturb public peace and order by violent means, but also to infringe the rights of others, while the safety and security of persons other than the participants is threatened, i.e. as previously mentioned in paragraph (2.3.1.5), to barricade the entrance of Happy Valley, near Blackheath. It is difficult to categorize a specific criminal act to be an act of public violence, since the different actions overlap. According to Snyman (2002:320), these criminal actions include "assault, malicious injury to property, arson and robbery" and violent resistance to the police by a mob (while the police are acting lawfully), forcible coercion by strikers or other workers. A suspect is not charged with these crimes, because of the dangerous dimensions of these acts, they are charged with public violence. Public violence, like sedition, cannot be committed by a single person acting on his or her own.

### **2.3.1.6 The Constitution and limitations to rights, Chapter 2, Section 36 (1) and (2)**

This Act provides a limitation or circumscription clause. It is used by the courts to determine whether government infringes on the fundamental rights and freedoms guaranteed by the Constitution and if the infringements are justifiable and therefore constitutional. This Act comes into play where a fundamental right has

been infringed. The rights enshrined in the Constitution are not absolute and the way these rights are limited is determined by the limitation clause. Nel and Bezuidenhout (1995:108) cite a good example, in that they highlight the fact that the Constitution reads, “Every person shall have the right to life.” Legislation however, limits this right, because it provides lawful conditions “for the death penalty, abortion, and euthanasia making the right to life less than absolute.” According to Kruger and Currin (1994:134), to limit any fundamental right “entails a complicated and comprehensive set of tests.” The two main principles to test against are reasonableness and justifiability, on the one hand and not “negating the essential content of the right” on the other hand. Reasonableness is an objective test, and it bears relation to the principle of proportionality. Justifiability “must be read in context with an open and democratic society, which is based on freedom and equality.” To give meaning to ‘justifiable’ in its context, the court will first have to give content to the meaning of freedom and equality, being the foundation of an open and democratic society.”

### **2.3.1.7 The Constitution and limitation of rights, Chapter 2, Section 37 (1) and (2)**

The result of the prescription of this Section is that the right in the “Bill of Rights” may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including:

- (a) The nature of the right;
- (b) The importance of the purpose of the limitation;
- (c) The nature and extent of the limitation;
- (d) The relation between the limitation and its purpose; and
- (e) Less restriction means to achieve the purpose. Sub-Section (2) provides that “no law may limit any right entrenched in the Bill of Rights”, except as provided in subsection (1) or in any other provision of the Constitution.



### **2.3.1.8 The Constitution and Security Services, Chapter 11, Section 119 and Section 205**

In terms of Section 199 the South African Police Service is one of the three security services established in terms of the Constitution. In terms of Section 205, the main functions of the South African Police Service (SAPS), are to prevent crime, combat crime, investigate crime, maintain public order, protect and secure the inhabitants of South Africa and their property and to uphold and enforce the law.

### **2.3.1.9 The Constitution and the stating of emergency, Chapter 2 Section 37 (1), (a) and (b)**

The constitutional stating of an emergency may be declared if public order is under grave threat and ordinary law enforcement can no longer deal with the situation. The State President may proclaim a state of emergency. The Public Safety Act 3 of 1953 covers a wide spectrum of possible threats which may threaten public safety requiring the declaration.

The public awareness rate on issues of human rights in South Africa is relatively high. In an article by Mokopanele (2005), Chichi Selepe, the SAMWU spokesman, was reported to have stated that he did not know why the police arrested the striking workers, during a wage strike. It is evident that the public maintain that they have the right to express themselves, but they are not aware of the limitations to these rights or wish to ignore them. Subsequently Selepe stated that he was not sure if their three-day strike would be suspended, because of police interference. Police action is perceived as hampering the democratic right to public expression. In an attempt to counter this perception, police officers are raising the awareness of the public on how to legally and lawfully demonstrate.

The public seems to execute their democratic rights to such an extent that even the President commented on the impact of it on democracy. Quintal and Mtyala (2005:1), reported on the comments made by President Mbeki, after the protests in the Eastern Cape, Gauteng, Free State and Mpumalanga. The President during his budget vote in parliament said that the protestors were “apparently driven by feelings among the poor that so far, the democratic order has failed them” According to Quintal and Mtyala (2005:1), it was also apparent that when the protestors expressed their expectations, they were met with rubber bullets fired by the SAPS and the President was of the view that it was not an immediate threat to democracy.

The South African Police Service is subsequently under public pressure to observe the law. In a newspaper article covering a public demonstration and public order operation, the station commissioner of Phomolong invited the public to lodge complaints if they had any, about the action of the police. The complaints would be investigated by the Independent Complaints Directorate (De Wet 2005:3). This is clearly an attempt to allow public expression and meet public expectation within the boundaries of the law.

All the members of the South African Police were instructed to attend a workshop on the new Constitution of 1996, as a well as workshop on cultural diversity, issues of service delivery and transparency. Issues of human rights, equity, victim empowerment and general accountability to the public were stressed. The concern is that “Police officials who are described as law enforcement officials, sometimes break the law designed to protect human rights when enforcing other laws”, (Crawshaw, Devlin and Williamson 1998:23). It is therefore imperative that they know the law very well.

### **2.3.2 South African Police Service Act, 1995 Act no. 68, Chapter 6, Section 17**

The Police Act directs the National Commissioner to establish and maintain a national public order policing unit. The National Police Commissioner has the authority to deploy the national public order police unit in any province on request of a Provincial Commissioner to render support in the relevant province. The National Commissioner will take into account factors which may influence the maintenance of public order and which may require such deployment. A public order police unit which is deployed in this manner, is subject to the directions of the Provincial Commissioner concerned. The President may also direct the National Commissioner to deploy the National Public Order Police Unit when such intervention is required to maintain public order and the Provincial Commissioner concerned, is unable to restore it.

### **2.3.3 Regulation of Gathering Act of 1993, Section 205 (3) and (5)**

The Regulation of Gatherings Act of 1993, prescribes that “every person has the right to assemble with other persons and to express his views on any matter freely in public and to enjoy the protection of the state while doing so and whereas the exercise of such right shall take place peacefully and with due regard to the rights to others”.

Sub-section (3) however states the conditions with which the convener of the gatherings has to comply. These conditions pertain to the required written notice, the required attending marshals, the route, and time of the demonstration. Participants should not carry dangerous weapons. No one is allowed to incite hatred or cause violence. Demonstrators are not allowed to disguise their identity and the demonstration is not to interfere with emergency services or block public access.

The Act prescribes what the notice should contain and how the notice should be approved, as well as the responsibilities when a police member receives information regarding the proposed gathering.

Sub-section (5) provides conditions under which gatherings may be prevented and prohibited. If there is any threat that a planned gathering will result in serious disruption of any traffic, injury to participants or other persons or extensive damage to property and it is brought to the attention of the responsible officer under oath, who then has to meet with all the relevant role-players in order to consider the prohibition of the gathering.

If all the requirements of the Act are not met, the gathering is not necessarily illegal. A police official may only disperse a gathering if it has been declared prohibited or if a South African Police Service inspector or someone of higher rank has reasonable grounds to believe that danger to persons and property, due to the gathering, cannot be prevented by other means prescribed in the Act if the gathering were to proceed.

#### **2.3.4 South African Police Service Act No. 68 of 1995, Chapter 7, Section 18 to 23**

The South African Police Service is instructed to adopt a community police orientated crime prevention style and to establish partnerships with the community and the police to promote communication and co-operation to improve service delivery, transparency and accountability, while promoting joint problem identifying. The Act prescribes the establishment and functioning of community police boards.

#### **2.3.5 Criminal Procedure Act No 51, Section 49**

The Act provides the legal framework for the use of force in affecting an arrest. The Act defines an “arrestor” to be any person “authorized under this Act to arrest or to assist in arresting a suspect.” A “suspect” is defined to mean “any person in respect of whom an arrestor has or had a reasonable suspicion that such a person is committing or has committed an offence.”

The Act, states further in paragraph (2) that “if any arrestor attempts to arrest a suspect and the suspect resists the attempt, or flees, or ....it is clear that an attempt to arrest him or her is being made and the suspect cannot be arrested without the use of force, the arrestor may, in order to effect the arrest, use such force as may be reasonably necessary and proportional in the circumstances to overcome the resistance or to prevent the suspect from fleeing; provided that the arrestor is justified in terms of this section in using deadly force that is intended or is likely to cause death or grievous bodily harm to a suspect, only if he or she believes on reasonable grounds:

- (a) that the force is immediately necessary for the purpose of protecting the arrestor, any person lawfully assisting the arrestor or any other person from imminent or future death or grievous bodily harm;
- (b) that there is a substantial risk that the suspect will cause imminent or future death or grievous bodily harm if the arrest is delayed; or that the offence for which the arrest is sought is in progress and is of a forcible and serious nature and
- (c) Involve the use of life-threatening violence or a strong likelihood that it will cause grievous bodily harm.

It is unfortunate that Police members have to react instantly, considering complex legislation, on the scene, while delayed scrutiny and consideration of the implementation of legislation, are argued at length after the incident.

### **2.3.6 Standing Order (General) 262 Crowd management during gatherings and demonstrations**

The purpose of the Standing Order is to regulate crowd management within democratic principles of the Constitution and acceptable international standards. It prescribes the procedures to be followed to exercise freedom of speech. The Order obliges the South African Police Service to “play a proactive role in identifying and diffusing possible conflict”, through Community Policing Forums. The order prescribes that a list of authorised members designated in terms of section 2(2) (a) of the Act, to help with the arrangements, must be available at the Area Commissioner’s office and be displayed in the Community Service Centre. The authorised member has the responsibility and duties to:

- (a) Represent the Service during consultations.
- (b) Maintain good relationships
- (c) Arrange and negotiate the extent of security forces to be deployed
- (d) Inform the responsible officer of the organised and unforeseen gatherings
- (e) Record keeping of plans, reports for three years
- (f) Attend the debriefing
- (g) Request conditions or prohibitions, and
- (h) Brief all members performing duties at a gathering or demonstration regarding the content of the notice in accordance with the Act.

Key to this procedure is that a threat assessment needs to be done to decide the level of the threat and “the most suitable component to manage the proposed event.” A joint operational centre must be established and a commander of the joint operational centre must take command of the centre. The joint operational centre is required to prepare a written operational plan and to submit the plan to the Area Commissioner and to implement an effective information-gathering system. The information is used to decide the application of resources.

The Order provides guidance for the briefing of members to be deployed. The operational commander must brief the members personally and communicate “the objectives of the operation clearly too all members deployed for the event” and the operation must “be defined in detail”. The operational commander must “instruct all commanders or section leaders to furnish detailed written plans on their specific tasks. A name list is to be compiled of all members present when a briefing is given”.

Sub-paragraph (11) prescribes the use of force during the execution of the operation. The use of force must be avoided at all costs and procedures are given when negotiation fails. “If force is unavoidable, minimum force must be applied to accomplish the goal.” The “degree of force must be proportional to the seriousness of the situation and the threat posed”. The force must be reasonable and it must be discontinued once the objective has been achieved. The use of 37 mm stoppers, firearms and sharp ammunition including bird shot and buckshot is prohibited. The use of rubber bullets is restricted. Shotgun batons may only be used to disperse a crowd in extreme circumstances, when a less forceful method proves ineffective.

Members may not act individually. Force may only be used on the command of the commander of the joint operational centre. All visible members must be trained in the management of crowds. This order does not affect the principles of self-defence of common law. According to sub-paragraph (12) an operational diary has to be completed to ensure a detailed record of activities. A recorded debriefing is prescribed in Sub-paragraph (13), to determine whether the operation was effective and communication adequate. “A thorough evaluation must be conducted and, if possible, video coverage must be shown”. Trainers must attend the debriefings to rectify improper conduct and mistakes and good practices must be identified as part of a learning process. Sub-paragraph 14 gives guidance to a member who first arrives at an unforeseen gathering, requiring the member to preserve the peace and to contact the operational centre.

### **2.3.7 Peterson v the Minister of Safety and Security, 2005 A 624**

A young boy was shot when the South African Police Service was confiscating abalone and the crowd resisted the confiscation of the illegally harvested abalone. The applicant, the boy's mother, claimed from the police, alleging that the police owed her son a duty to ensure that no harm befell him. The court dismissed the appellant's claim but the judgment was significant and provided guidance to the police. The judgment emphasized that police action has to be consistent with the Bill of Rights and that they (the police) have to exercise their powers "strictly within the prescribed bounds." Their actions must "benefit the society as a whole" and there must be complementary obligations which have been imposed by the constitution, while the fundamental rights of individual members of the community are also protected.

Public Order Police members are constantly challenged to preserve public order while observing the rights of individuals. The judgment emphasizes that there is a decision to be taken as to what is of greater importance: the SAPS's constitutional obligations or the proper performance of their duties. When assessing what is more important, accountability must serve as a point of departure. The judge admitted that the police have to make quick decisions in an emergency situation. Most important is that Judge Pikis in the case of *Andronicon and Another v Cyprus* (1998) 25 EHRR 491 at 565 with this judgment said: "The state has the added duty of planning as well as controlling the operation so as to limit the circumstances in which force is used, and if force is unavoidable, to minimize its effects". Finally this judgment underpins the whole argument that all possible preventative crime prevention measures must be explored and implemented involving all the role-players, using all available skills and resources. The objective is to avoid the occurrence of a situation which could require the SAPS to make an instant decision between their constitutional obligations and proper performance of their duties.



## **2.4. THE EXTENT OF POOR SERVICE DELIVERY IN THE EASTERN FREE STATE**

The public violence that is the focus of this study seems to be related to public expectations of the standard of municipal services, as well as the roles and responsibilities of municipalities, while the police seem to be under increasing pressure to maintain public order. There also seems to be an increased intolerance of the police by the public. Thompson, (2005:1) paints a picture of a crowd expressing their dissatisfaction with municipal services. While a public order policeman collapses with stress and a heart attack and while policemen try to resuscitate their colleague, the crowd meet the policemen's concerns with animosity and "heartfelt cheers".

There were Area Crime Combat Units featured in the media during the events in the Harrismith and Warden in the Eastern Free which drew attention to the current legislation regulating the policing of marches (Watch cops at marches: COSATU, 2006). "Government wants to criminalise protestors", says COSATU (2005) who also painted a picture of government reaction being too severe. Area Crime Combat Units were also followed by the media who said that "the authorities were abusing legislation to regulate marches" (Watch cops at marches: COSATU, 2006).

### **2.4.1 Municipality's responsibilities and roles**

Du Plessis (2003:7) states that the role of municipalities is to deliver the most basic needs to the community as determined by the Constitution of the Republic of South Africa, which are at least 50kWh electricity, 6kl water, available access roads, sanitation and refuse removal services. To meet these responsibilities, the municipalities, according to Du Plessis, may outsource the services to

appropriate partners to render the above-mentioned services to satisfy the community's basic needs.

Various newspapers reported on poor service delivery, yet President Mbeki has been quoted as saying that all the public protests, marches, damage to public property and strikes are not a threat to democracy (Quintal and Mtyala, 2005:2). The Local Government Municipal Finance Act of 2003 Chapter 12, Article 121 (1), (2) and (3) requires the municipality to prepare and adopt annual reports. The purpose of the report as set out in sub-section (2) is to provide a record of activities, to report on performance in relation to expenditure and to promote the Municipality's accountability to the community. It is this accountability and reporting to the community which seems to have been the reason for the violence in the Eastern Free State. Article 119 of the same Act requires municipalities to ensure the competency of municipal supply chain management. Sub-section (2) instructs a municipal entity to provide training to officials to achieve the required competency level. Sub-section (3) gives the opportunity to municipalities to request training assistance from the National Treasury.

Article 69 (1) (2) and (3) of the Local Government Municipal Act of 2003 prescribes that a municipal accounting officer should ensure that the approved budget is implemented and the expenditure is properly monitored. Sub-section (3), requires the accounting officer to draft a budget implementation plan, as well as a service delivery implementation plan. Municipalities should therefore be in position to account to the community on the progress of service delivery, as well as the expenditure and/or an adjusted budget in accordance with sub-section (2).

Article 78 91)(b) and (d) states that all the senior managers of municipalities have a responsibility towards financial management. Amongst other responsibilities, they are to ensure that the expenditure and the application of resources are done, "effectively, efficiently, economically and transparently". This article should address the issue of service delivery, which is accountable, if properly applied.

Article 97 (a) (i), addresses the issue of revenue collection and the effective management and accounting of revenue. The Local Government Municipal Systems Act 32 of 2000, Chapter 6, Section 42, promotes mechanisms stated in Chapter 4, to obligate a municipality to involve the local community in participating in the "development, implementation and review of the municipality's performance". The section gives the opportunity to the community to "participate in the setting of appropriate key performance indicators and performance targets for the Municipality".

#### **2.4.2 Challenges to municipalities**

Since 1994, some changes have been made to legislation to meet the demands of basic service delivery. According to Bosch and Mbedzi (2002:32), the changes required a structured implementation. The municipalities however, were not able to successfully complete the required rationalisation process, because they were not clearly assisted with guidelines on municipal powers and functions. Following the failed rationalisation process, the municipalities were further challenged to function with outdated procedures and processes which did not provide for the new legislation. Bosch and Mbedzi also contend that municipalities have not been able to cope with the issue of lack of payment for services by consumers. The lack of payment for services forced some municipalities to use funding that was required for development, to be used for maintenance. Where development funding could not be used for maintenance, the municipalities relied on National Government to assist with maintenance on existing infrastructure.

A lack of clarity on the roles and responsibilities between municipalities and Provincial and National Government did not serve the development or maintenance of infrastructure. The issue of free basic service delivery burdened existing development and maintenance funding further, as did the rising cost of water and electricity. Municipalities should link their budget to government's

strategic objectives and the different Integrated Development Plans. They should focus on the importance of budget reforms that are required for transformation and service delivery. If municipalities do take on these challenges, they can be assisted by Price Waterhouse Coopers who has developed a product called “Excelsior Improvement Programme” which Reich (2002:35) states, is designed to “link strategies to outcomes through a systematic and transparent process”.

### **2.4.3 Related issues that complicate municipal services**

In the Free State, as in the rest of the country, many different issues such as nepotism, a lack of training and expertise, corruption and fraud, complicate the quality of service delivery by the municipalities.

#### **2.4.3.1 The role of nepotism in the appointment of municipal officials**

There is evidence that many appointments made are as result of nepotism. President Mbeki raised the issue of nepotism and was quoted by Phillips (2005:2) to have warned municipal authorities not to make appointments based on emotional ties (as in the sympathetic case of being comrades or relatives). Competent people should be appointed who can satisfactorily fulfill the job requirements.

According to de Bruin (2005:2), comments made by the President, after the Cabinet Legotla during July 2005, were criticized by Professor Werner Lybrand. He was quoted to be of the view that well-trained and able people are not appointed, because of their political association. The Professor re-affirmed the issue of appointments as being determined by relations and political affiliation. The appointment of incompetent people has resulted in poor service delivery; yet, according to Lybrand, there *are* competent people who are not appointed. Expensive consultants and experts are then employed from abroad to assist, train, and develop the poorly performing municipalities.

#### **2.4.3.2 The lack of training of municipal officials and its impact on accountability**

Another serious concern that was raised, which also impacts negatively on service delivery, is the lack of training and expertise which is covered by Versluis (2005:2), who reported on poor financial management by municipalities. The Free State Legislature assigned a committee to question various senior officials of the different Free State municipalities on the financial management of the municipalities. The reports from the municipalities resulted in the chairman, Mr Abrie Oosthuizen expressing his disappointment about the poor work (Versluis, 2005:1). Ms Anna Buthelezi was quoted to have said that according to reports, nearly all areas of municipal financial management could not be explained to the committee's satisfaction, (Versluis, 2005:1). The chairperson expressed the view that the municipalities were not well-prepared to answer the questions posed by the committee. Versluis also quoted the chairperson as having said that there were numerous things that were wrong in the municipalities and that the situation was unacceptable (2005:2).

According to Steyn (2005), Minister Sydney Mufamadi announced that a unit would be established to "improve their capacity for service delivery." The Minister suggested that "capacity building" or training is an ongoing task. This "trouble shooting unit" would be established to identify areas where training, skills development, and capacity building are required and would address those needs.

#### **2.4.3.3 The impact of the lack of expertise on service delivery**

Joubert (2005:2) quotes President Mbeki as saying that the ongoing violence in the Free State is the result of poor service delivery, due to a lack of expertise on the part of municipal officials. According to the article, President Mbeki said that there are insufficient qualified officials in the rural municipalities.

In an attempt to address the lack of expertise, a survey was conducted on the status of municipal service delivery. The survey revealed that there are severe backlogs that still exist in thirty-five of the sixty local municipalities in KwaZulu-Natal. Ten million rand was availed to these municipalities to help speed up service delivery and to develop capacity “so that they can manage their own strategic planning process internally, as well as other performance related management processes” (Madlala, B : 2002).

Benjamin (2005), states that it is unlikely that services will be improved in the immediate future. A survey by the Auditor General has stated that “only 8% of government workers qualified as ‘highly skilled’ while 90% were either low- or ‘semi-skilled’”

Attempts to overcome the shortage of expertise include plans to second experts to 136 municipalities; to recruit retired skilled professionals and to recruit engineers from India to speed up the delivery of basic amenities (Benjamin, 2005).

Evidence of a lack of expertise can be seen when the National Treasury report of early 2005 is analyzed. According to Joffe (2005), only R2 billion of a R12 billion capital budget was spent by South Africa’s nine provinces. It was reported that many of the Eastern Free State’s local authorities struggled to spend their capital budgets.

The largest amount of the operating budget, namely 30%, is paid towards salaries. A concern raised by Joffe is that the average pay packet of a senior municipal manager is R419 979, but expertise has been proven to be poor.

#### **2.4.3.4 The effect of the incorrect application of the Affirmative Action Policy**

Since 1990, many government departments have been downsized and skilled professionals have taken early retirement because of affirmative action (Benjamin, 2005). The premature and early retirement exodus has resulted in municipalities now seriously lacking appropriate technical training and professional development plans and highly skilled staff, who were mostly white. The Government announced, through the Public Service and Administration Minister, Geraldine Fraser-Moleketi, on 3 November 2005, an initiative to “plug gaps in the skills-strapped public service.” The initiative is intended to address, amongst other things, the shortage of skills in areas of financial management, engineering, teaching, health, and information technology which have been lost (SA head-hunt skills in India, 2005-11-03).

#### **2.4.3.5 The effect of corruption and fraud**

Various members of the public have been voicing their concerns about the corruption of municipal officials. These allegations have proven to be true when the Scorpions recently arrested six senior members of the Mangaung Municipality. They were arrested for alleged fraud and corruption, involving many millions of rand. Witnesses do not want to be identified and the community has lost faith in municipal officials. They fear being victimized and they fear for their lives (Six Mangaung officials were probed for fraud, 2005:4).

#### **2.4.3.6 The effect of poor debt collection by municipalities**

Municipalities are to provide, amongst other services, electricity, water, roads and infrastructure which require complex financial management. A number of municipalities are unable to collect outstanding debt. “The average debt collection period in 2004/2005 for the 23 large municipalities was 136 days” (Ensor, 2005). The non-collection of debt leaves the municipalities unable to deliver services effectively. “The total debt of 23 of the country’s largest municipalities rose in the year ending March 2005 by R1,9 billion to R19,2 billion

which the auditor general described as a ‘phenomenal amount of money’” (Ensor,2005). Local authorities are unable to afford services and infrastructure investment, which leads to public protest and marches.

#### **2.4.3.7 The effect of poor performance by municipal managers**

According to Oelofse (2006), the Department of Provincial and Local Government has started a process to improve the performance of Municipal Managers. Very high salaries are paid to these managers in relation to the open market salaries. Minister Mufamadi said “Now there will be a direct relation between what managers do and what the community expects of them”. The Minister also said that a process has been started to develop legislation to regulate the performance of municipal managers to perform in the “basic service delivery and infrastructure municipal transformation and development, financial viability, economic development and good governance” areas.

Poor municipal services are deemed to be the reason for the residents of Harrismith and Warden having taking to the streets and having expressed their dissatisfaction about, amongst other things; dirty water, no recreation facilities, no street lights, the bucket sanitary system, no proper roads and insufficient water outlets.

## **2.5 ENVIRONMENTAL DESCRIPTION OF THE EASTERN FREE STATE**

It is essential to have an understanding of the environment of the Eastern Free State to appreciate the context in which the public demonstrations, which required police public order actions, unfolded.

### **2.5.1 Urban and rural imperatives:**

According to the 2001 Census, the Free State area is 129 480 square km which amounts to 10, 6% of the total area of South Africa. The Free State population



was recorded to have been 2 706 775, which comes to 6.4% of the national population. The Eastern Free State is mainly a rural area where formal fruit farming and informal farming (agricultural activities), as well as tourism, are the main sources of employment. There is great social diversity both in race and culture. The Eastern Free State borders Lesotho. The Free State had a Gross Geographic Product (G.P.) of R44.1 billion in 2001. Government is the largest contributor to Gross Geographic Product at 15%, followed by mining (13.6%) and then agriculture at 9%. According to the 2001 Census quoting the Labor Force Survey figures of September 2001, 33,7% of the Free State population is employed, 25,5% is unemployed and 40,8% is not economically active.

The poverty profile of the Free State recorded and estimated 66% living in poverty the “ third highest poverty rate in the country” (World Bank Reports on Key Indicators of Poverty in South Africa, 1995). It is estimated that 75% of the poor live in the rural areas. There is a vast rural area named Qwa Qwa, in the Eastern Free State, where families are not economically active. In this area schools are far apart, small and over-crowded. Since there are very limited job opportunities and most families survive only through informal farming for domestic use, they cannot afford to educate their children. The pass rate at senior certificate level was 50% in 2000 and the illiteracy rate is 85%, the highest in the country. The lack of education impacts negatively on job opportunities and resultant income to pay for services.

Many of the families do not own a house or a vehicle and do not have any income except for government grants for the elderly or for orphaned children. The infrastructure meets, to a degree, the demands of the farming and tourist industry. It has the main N1 road (Gauteng - Cape), N3 road (Gauteng - Kwa Zulu-Natal) and N5 road (Bloemfontein - Maseru) passing through it, as well as the main railway lines from East London and the Cape to Gauteng.

The Qwa Qwa area in the Eastern Free State shows very limited evidence of town planning, due to informal settlements which crowd the area and it lacks good infrastructure such as access roads, housing, water, functioning sanitation and electricity. There are not enough schools, libraries, clinics, and police stations (Free State Development Plan: 2002-2005).

### **2.5.2 The prevalence of HIV/AIDS**

Heunis and van Rensburg (2005) give a possible indication of the Aids infection rate in the Free State. In 2002, the Aids infection was estimated at 16,7% of the total Free State population, representing a figure of 486 672 persons infected out of a total of 2 914 201. In 2003, the Department of Health estimated that 31 111 (6%) of the infected population could be in need of anti-retroviral treatment.

In the Eastern Free State in particular, an assessment of infected persons is available at facilities in Tseki, Namahadi and Tsiame clinics in the Thabo Mofutsanyana district and treatment is available at the Mofumahadi Manapo Mopeli Regional hospital. The purpose of these services is to support a research project on the question of effective, efficient and equal rollout of anti-retroviral treatment, by the Centre of Health Systems Research and Development (University of the Free State and the Free State Department of Health). The combating of AIDS infection requires enhanced service delivery from clinics. Poor service delivery at clinics has contributed to disappointment and dissatisfaction and the expression of these concerns through marches, followed by public violence, in both Harrismith and Warden.

### **2.5.3 Population per police ratio**

As municipalities are expected to plan ahead to deliver a satisfactory service to the community, so the South African Police is also challenged to maintain

anticipated service levels by recruiting and training the required number of officials in relation to the race and number of residents who require their services.

**Table 2.1 Table of the comparative race ratio expressed in percentage of the Free State population**

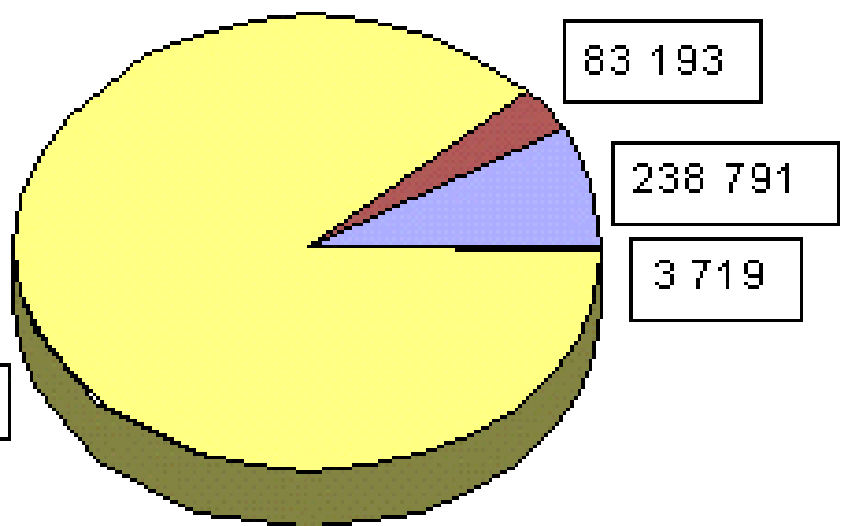
(Statistics: *Census 2001*) (Free State Development Plan: 2002-2005.)

Comparative Race Ratios				
Total:	White	African	Asian	Coloured
2 706 775	238 791	2 381 073	3 719	83 193
100%				

Diagram

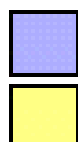
2.1

A pie chart il



(Statistics: *Census 2001*) (Free State Development Plan: 2002-2005.)

There are 109 police stations in



WHITE  
AFRICAN



COLOURED  
ASIAN

the Free State Province provided for the above-mentioned race ratio of citizens. In the Eastern Free State there are 32 stations and the majority of the stations are rural police stations. The average police station in the Free State serves an average of 1210 square kilometres. When a complainant requires service, the complainant either reports the matter by phone or has to travel a distance of more than 30 km on average, to lodge the complaint. The majority of station commissioners do not have enough vehicles to deliver a quality service to a relatively poor African, rural area, where infra-structure is scarce.

In Addenda A and B, maps are included that reflect the geographical location of Harrismith and Warden. A funnel approach is used in the order in which the maps appear. The map in Addendum A represents the whole Free State Province. The legend in the right hand corner shows the relation of the Free State Province to South Africa. Addendum B shows the Northern and Eastern Free State areas and the relation between some of the towns where public violence occurred displayed; such as Bethlehem, Clocolan, Memel, Kestell, Warden, Harrismith, Vrede and Ficksburg (**Addenda A and B**).

#### **2.5.4 Police personnel profile of police in the Free State**

Throughout the country, crime prevention is focused on the implementation of sector policing in a community police style. The point of departure regarding Sector Policing is, at a local level, to identify hot spots and the root causes of crime. The intention of Sector Policing is to divide the areas of operation into smaller areas to improve effectiveness and to enhance efficiency. The deployment in smaller areas of police members involving the community is deemed "to better cooperation between the police and the communities at local level to address specific crimes" (Maroga, 2003). Below, is a table reflecting the rank, race and gender of South African Police members deployed in the Free State Province.

**Table 2.2 The South African Police Service as per gender, race and rank, in the Free State Province**

	WHITE		INDIAN		COLOURED		AFRICAN		TOTAL		
	M	F	M	F	M	F	M	F	M	F	
Fixed appointment : Officer Permanent	8	113	0	0	2	3	127	197	137	313	450
None/Invalid											
Total	1	113	0	0	2	3	127	197	137	313	450
Fixed appointment : officer permanent on probation	0	1	0	0	0	1	12	34	12	36	48
None/Invalid	0	1	0	0	0	0	0	0	0	1	1
Total	0	2	0	0	0	1	12	34	12	37	49
Contract											
Student	2	0	0	0	1	0	71	6	74	6	80
Student Level 1	2	0	0	0	0	0	93	11	95	11	106
Student Level 2	0	0	0	0	0	0	2	0	2	0	2
Total	4	0	0	0	1	0	166	17	171	17	188
Services permanent											
Student	0	0	0	0	0	0	1	1	1	1	2
Constable	20	4	0	0	3	3	75	37	98	43	141
Sergeant	27	3	0	0	2	2	329	7	358	10	368
Captain	51	20	1	0	3	3	52	33	107	53	160
Inspector	177	52	0	0	11	11	1011	53	1199	105	1304
Assistant Commissioner	0	0	0	0	0	0	1	0	1	0	1
Director	1	0	0	0	0	0	1	1	2	1	3
Senior Superintendent	3	0	1	0	0	0	8	1	12	1	13
Superintendent	11	1	0	0	1	1	16	14	28	16	44
Student Level 2	0	0	0	0	0	0	2	0	2	0	2
Total	290	80	2	0	20	3	1496	147	1808	230	2038
Grand Total	302	195	2	0	23	7	1801	395	2128	597	2725

(Source : PERSAL, 2006)

## 2.6 POLITICAL CONTEXT IN WHICH MUNICIPALITIES FUNCTIONS

The process leading to the 1994 political transformation was, in many instances, an ideal political process. Pessimists were surprised that the change was not accompanied by violence and optimists believed that there would be no obvious problems. This was during the term of President Nelson Mandela; a time of anticipation and idealism. In the term of President Mbeki, the realism set in. The idealism had to be put into practice and intensive consultation followed to reform transformation legislation. In due time, the country became entangled in the

mechanics of writing and underpinning implementation policy, to meet the anticipated quality of life. South African society is not a stable one and more and more society dictates the system, rather than the system dictating society. This is an indication of a system now in crisis after starting with all the anticipated change such as democratic accountability; sustainable provision of services; the promotion of economic and social development; the promotion of community involvement in the safety and health environments and in local government. Nearly 900 laws were written to mirror the euphoria.

The reality however, is showing itself as decaying. This decay explains the political decay which is the opposite of the transformation ideal. The election has contributed to the unstable nature of our society. Voting is one way of ensuring change, in the sense that more promises were made by politicians adding to the anticipation, while the reality is that even in the corporate environment the success rate of transformation is calculated at between a mere 30% and 40%. It is even more difficult for government, because government is more complex; more politically entangled, has more processes and has to cater for more diversity.

Transformation requires an immense amount of social engineering and when social engineering takes place, society is involved and people participate. This participation can be one of two scenarios, radical and revolutionary or total passivity. Of the two scenarios, total passivity is more dangerous, because nothing happens, whereas there is power during a revolution, providing some dynamics, which takes the process forward (Duvenhage: 2005).

There were 843 municipalities during the so-called "apartheid years" before 1994. The municipalities were rationalised to 284 after 1994. This process took place before proper economic viability was considered. The more financially sound municipalities, mainly 'white municipalities', served as a centre for the induction of poorer mainly 'black municipalities'. The municipalities are not only

responsible for basic service delivery, such as sanitation, but they also have to meet development needs. They have drafted integrated development plans for this purpose. The incorporated municipalities benefited from this arrangement, but it became evident that sound economic development principles were absent in this new structure of municipalities, because poor administration was not able to deliver basic services. The community expects the municipalities to deliver basic services, as well as make progress on integrated development plans.

One hundred and thirty-six of the 284 newly established municipalities are considered to be in crisis and have been consolidated under one project, because of the poor performance of the incorporated municipalities (Free State Development Plan: 2002-2005.)

The Department of Provincial and Local Environment provided the following statistics: 203 of 284 municipalities are not able to provide sanitation to 60% of the residents. 155 Municipalities cannot provide water to 80% of the residents. One hundred and twenty-two municipalities are not able to provide a refuse removal service to residents and 122 municipalities are not able to provide electricity to 60% of residents. One hundred and sixteen municipalities are unable to provide houses to 60% of residents and 42 municipalities are unable to deliver 50% of the required services which they need to provide. The financial debt of municipalities was 23, 7 billion rand in the financial year 1999/2000. This debt grew to 31, 8 billion rand in 2001/2002 and to a further 35, 9 billion rand in 2002/2003. Currently this amount is more than 40 billion rand for municipalities. The increase of this debt has doubled in the past five years, while the central government's financial subsidy to municipalities grew by 20% annually. (Free State Development Plan: 2002-2005).

This situation has given rise to a number of problems which are referred to as the "September revolution", when the community of Harrismith expressed its dissatisfaction with poor service delivery in a very explosive way. A 'revolution' is

described in literature, as an explosion of political participation. When the local authorities were unable to resolve the issues with the community, who then resorted to public violence, the “praetorian forces” of the South African Police were called on to restore the peace. The South African Police Service reaction reminded many people of the 1980s, with their approach to crowd management.

Democracy requires a stable governing environment. An indication of system failure occurs when a government is unable to deliver a service and security services are called on to stabilise the political environment. The “politics of structure” refers to a government which governs through structures. “The politics of survival” refers to a situation when structures collapse and individuals are responsible for their own survival. It is followed by the adoption of alternative structures; sometimes Mafia-like structures (Duvenhage: 2005).

There are a number of phases of system failure. The first phase is the perfectly stable system which is more an ideal phase than the reality. The system functions and sometimes experiences system stress: it does have problems, but the system manages to overcome the problems. The second phase occurs when a system is in crisis and sometimes loses direction: and at times has to change gears, but it does not leave the road. The system disintegration or phase of collapse is recognised by the system’s complete failure. It shows evidence of revolution and the development of a totally new system. This new system can, however, also be caught up in disequilibrium (Duvenhage: 2005). The political system of the Free State is not functioning in the system stress phase: it is functioning in the dynamic equilibrium and at times it turns into the disequilibrium, possibly close to the system collapse phase. Municipalities where the system has been operating well are Bultfontein, Parys, Koffiefontein, Ladybrand and Reitz (Duvenhage: 2005).

What gives rise to the instability in the Eastern Free State? There seem to be four possible reasons. There is internal conflict within the governing African



National Congress party. Secondly the African National Congress is failing to be legitimate. A third reason is poor service delivery and the fourth is unfulfilled anticipation due to economical growth.

The internal conflict is dynamic and changes overnight, and weekly. In the northern area of the Free State, Ace Magasule rules the party with the most popular politics. The greater ANC group rules the southern part of the Free State. It is called the "Govender structure". These two competing factions are permanently in conflict with one another. In the northern area Ace Magasule appoints whoever he chooses, based on political loyalty. There is evidence of corruption and these appointments seem to be made in a climate of survival. Corruption is not limited to political appointments. When appointments are made without considering competency, but political affiliation, service delivery suffers (Duvenhage: 2006).

An organisation is regarded as legitimate, because it has, through a process of procedures acquired value and stability. An organisation's elements of support, functional ability, and its ability to adapt and to create new structures to deliver a service, are measurable. It has functioning support between components. Newly rationalised units, without entrenched and supporting administrative processes, are prone to political administration. This is not only common to the Free State, but is generic throughout the country. Failing to be legitimate is the second reason for conflict and instability (Duvenhage: 2006).

The economic growth in South Africa is estimated to be between four and five percent. The interest rate is low, but even with the low interest rate the Government is not able to distribute this economic growth through the system to the less advantaged. The government has to explain the backlog of housing and services to frustrated voters, who are waiting for the delivery of the politicians' promises. There is evidence in literature, that strong economic growth has preceded unstable and violent governance. There was strong economic growth

in the late sixties and seventies, followed by the inevitable economic slump, because such growth could not be maintained. The population also anticipated sharing in this growth and prosperity and when this economic and political prosperity was not experienced by all, the Soweto uprising resulted, followed soon after by the declaration of “a state of emergency.” Another “state of emergency” was declared in the eighties after a good economic climate. Economic growth, on its own, is not responsible for conflict or violence; it sometimes serves as a trigger for conflict and violence, along with the other three reasons for conflict and violence, relating to governance (Duvenhage: 2006).

## **2.7 SUMMARY**

In *Peterson v the Minister of Safety and Security*, 2005 A 624, a young boy was shot, while the South African Police Service was confiscating illegally harvested abalone and the crowd resisted. The applicant, the boy's mother alleged that the police owed her son a duty to ensure that no harm befell him. The court dismissed the appellant's claim, but the judgment was significant and provided guidance to the police. The judgment emphasized that police action has to be consistent with the Bill of Rights and the police have to exercise their powers “strictly within the prescribed bounds.” Their actions must “benefit the society as a whole” and must complement obligations, which have been imposed by the constitution, while the fundamental rights of individual members of the community are also protected. Public Order Police members are constantly challenged to preserve public order while observing the rights of individuals. The judgment emphasizes that there is a decision to be taken as to what is more important: the SAPS's obligation by legislation, or “the proper performance of their duties.” When assessing what is more important, accountability must serve as the point of departure. The judge admitted that the police have to make quick decisions in an emergency situation. Most important is that Judge Pikis said, in the case of *Andronicon and Another v Cyprus* (1998) 25 EHRR 491 at 565 said in his judgment that: “The state has the added duty of planning as well as controlling

the operation so as to limit the circumstances in which force is used, and if force is unavoidable, to minimize its effects”.

Finally this judgment underpins the whole argument that all possible crime prevention measures must be explored and implemented, involving all the role-players and using all available skills and resources. The objective is to avoid the occurrence of situations which could require the SAPS to make instant decisions and priorities between constitutional obligations and the proper performance of their duties. The violence pertaining to the Eastern Free State resulted in three policemen from Harrismith being prosecuted for the death of a youth resulting from the police members firing on a marching crowd which threatened to move onto the N3 road between Gauteng and KwaZulu Natal. The judge dismissed the case against the members stating that they had acted in an emergency.

Political change since 1994 has required idealism to be put into transformation. There were numerous marches and incidents of public violence accompanying the political transformation of South Africa. The Goldstone investigations, amongst others, directed the new police direction in South Africa to be of a more community oriented policing style.

The South African Constitution paved the way for new legislation, to ensure South African's right to freedom of expression. Eight hundred and forty three municipalities have been rationalised to two hundred and eight four municipalities since 1994. The rationalisation of the municipalities required a new administrative process, unfortunately hampered by a lack of skills, training and expertise. Nepotism and the incorrect application of the affirmative action policy, as well as internal conflict, bribery and corruption has resulted in poor service delivery, and collectively, it served as a trigger to public violence in the Eastern Free State.

## **CHAPTER 3: AN INTEGRATED APPROACH TO PUBLIC ORDER POLICING AND CROWD MANAGEMENT**

### **3.1 INTRODUCTION**

The significance of understanding the unlawful intentions of a crowd and how to give the same priority to the facilitation of a crowd's lawful intentions are important considerations.

Crowd management and public order policing remain a problem to policing agencies worldwide. The SARA model of problem-solving is often used by law enforcement as a convenient model to apply in order to find new guidelines for public order policing. It forces people to fully explore the underlying dynamics, before they start inventing solutions. In this chapter, the relationship between community policing and the SARA model for problem-solving will be explored. This will be done with a view to derive a suitable proactive policing approach towards public order policing.

### **3.2 AN OVERVIEW OF COMMUNITY POLICING**

The South African Police Service has adopted a community policing style to crime prevention with the establishment of community policing forums and boards, as prescribed by the South African Police Act No 68 of 1995. The Act instructed the South African Police service to adopt and implement this crime prevention style and to establish local community police forums and area boards.

#### **3.2.1 Historical perspective on Community Policing**

Due to the ongoing violence and political change, the South African Police Force was challenged in its policing style before 1990 during and after the apartheid's years. The police were seen as a one-sided force of the government "protecting

the security of the state” against “political protest”. The police have converted from a “force” to a “service” and have subsequently changed their policing style so as to be accountable to the community (Nel, & Bezuidenhout 1995:21-24). According to Hansen (2000:47). The South African Government ensured community participation through the provision of the South African Police Service Act, 1995 (Act 68 of 1995) which provided legislation for the establishment of Community Police Forums and Boards. Hansen states that the purpose of the Forums and Boards is to promote consultation and the conveying of “policing needs” as well as providing an evaluation opportunity for the police service. The result of functioning Community Police Forums and Boards is to ensure civilian oversight and to contribute to efficient policing.

### **3.2.2 The development of Community Policing in South Africa**

South African society was accustomed to the Public Order Police units of the South African Police Service being deployed in the townships. Their main focus was public order and daily crime prevention duties suffered as a result. According to Pillay, van der Merwe, and Smit (1999:54), “political opportunism and the irrational degradation of ordinary citizens at the hands of criminals”, added to the South African public’s distrust of the police. To resolve the poor relations between the community and the police, community policing was instituted.

The South African Police Force is referred to as “colonial policing” before 1994 by Nel and Bezuidenhout (1995:24), because it was part of a control mechanism imposed on the indigenous people of the land, and above all, law and order. The political conflict between blacks and whites required policing and since the police force mainly protected the interests of the “white government”, the police were perceived to be oppressors.

The National Peace accord and the newly adopted Constitution in 1996 became the legal framework for the moral values of South Africa. The legitimacy of the

police was compromised and to promote accountability to the community, the police were forced to adopt new values of open-mindedness, objectivity and fairness.

The restructuring of the police was part of the project of political transition: superficial changes would have been seen as “cosmetic changes”, thus a shift in policing philosophy was required. The conditions set in the interim Constitution, in Section 221, provided the way for the establishment of local forums and their functioning. The forums were to promote co-operation between the SAPS and the community, monitor the effectiveness and efficiency, advise the South African Police Service on policing needs, evaluate the service provided by the police, and request enquiries into policing matters (Nel and Bezuidenhout 1995:21-27). The forums were consulted to assist with the essential step-by-step approach to finding the underlying, root cause of a problem, rather than simply addressing the symptoms.

By identifying the offender, the victim and the location, of a crime, the police should attempt to eliminate one of the three elements, because in theory, a crime cannot be committed if one of the three elements is absent. Added to the crime prevention approach, public violence cannot be prevented without considering the community. Different Governments approach the public differently.

Recent public protests against election results in Ethiopia were the result of the community complaints of “massive ruling party fraud in the election.” Shooting followed weeks of rising tension over preliminary results from the parliamentary election during May 2005. On the day that the election results were announced, more than 100 people were injured and at least 22 of those who died had not participated in the demonstrations. The government defended the security forces, stating that their action was necessary to prevent the looting and destruction of property (Ethiopian police kill 23 demonstrators, 2005). The Ethiopian government statement leaves the question as to the value of human life versus

property and their commitment to peaceful consultation and negotiation. In stark contrast to the Ethiopian Government, the Canadian policing Style was shaped by the colonial policing models of the Royal Irish Constabulary. The initial police forces were militarized temporary forces. The Mounted Police Forces followed by the mounted constabulary and the British Columbia Constabulary formed in 1858 were formed mainly to preserve the peace and to prevent riots near public workers, protests against the rebellion and the protection of the construction of the Canadian Pacific railroads.

It is very noticeable that contrary to the Ethiopian Police, the Royal Canadian Mounted Police promotes the use of less lethal weapons such as 'baton rounds' to promote legitimacy and consensus in the community they serve (King 2001:73). This policing style keeps the community involved and fosters a community sensitive policing style. There seems to be a shift in focus of some UK police forces. According to Hall (1998:225), the "orientation of the service provided by the police has, over recent years, been increasingly focused upon the measurable achievement of operational effectiveness and efficiency." Hall questions the measurement of effectiveness and efficiency and his approach to this measurement is to judge acceptable and unacceptable behavior. He admits that there "exists a multiplicity of public views with regard to desirable and possible levels of order." The diversity and plurality of the community resulted in acceptable and unacceptable behavior.

Closer to home in South Africa, members of the former South African Police Force were never brought to justice for incidents relating to conduct during public violence and riots. Four hundred and fifty one people were reported killed in the 1976 demonstrations (Bruce, 2005). Tragic incidents similar to them, followed in Langa in 1985, Sebokeng in 1990 and in Bisho in 1992.

The South African Police Service has shifted its focus since 1994. An Independent Complaints Directorate has since been established. The

Directorate has been responsible for investigating police members involved in killings. The South African Police Service style has also changed since the appointment of the Directorate and according to Bruce (2005), "riot police are retrained to focus on crowd management rather than repressing popular protest." Legislation was also amended by means of the regulation of the Act of 1993, governing the holding and policing of demonstrations. "It is important to recognize," says Bruce "that the recent wave of protest has resulted in one death," when in the last decade the SAPS "has been involved in the policing of thousands of demonstrations where no lives have been lost, or injured. Teboho Mkhonza was killed outside Harrismith on 30 August 2004, and this death has resulted in the "Independent Complaint Directorate investigation in three policemen standing trial for murder."

The inconsistency of expectation requires a greater measure of regulations and order for police functionality. Professionalism and a common standard are achieved through "training, the experience, and delegation of legal powers." Policing order is difficult to regulate without legislation, regulations, and orders. Hall argues that without it, it can be interpreted that the police have flexibility which allows for re-interpretation of concepts of order in the light of prevailing social morals. Hansen (2000:57), states that the implementation of the new policing policies must fall within the framework of the Constitution. It is against this backdrop, according to Hansen, that police managers are to implement and evaluate their effectiveness and combine policing theories and strategies such as community policing and the SARA model in support of problem oriented policing challenges.

The major objective of community policing is to "establish active partnerships between the police and the community at local level". These partnerships are then jointly responsible for establishing crime trends, considering service delivery levels and jointly formulating and implementing solutions. According to Stevens



(2003), the community policing philosophy is essential to support Public Order Policing.

### **3.2.3. The link between Community Policing and the Scanning, Analysis, Response and Assessment Model**

Stevens (2003) states that problem-solving is a “key element in many community strategies”. Over the past few years, the South African Police style has been expanded to involve an initial overview of the offence. This is followed by an in-depth analysis of the conditions and circumstances of the offence, while possible responses are considered involving external role players and resources such as the community, with the effectiveness of the responses also being assessed. It is Stevens’s (2003) opinion that the SARA (Scanning, Analysis, Response and Assessment) model “is the conceptual model of problem-solving”.

The advantages of the SARA model are many. Firstly, it provides an opportunity to consult with different role players. Secondly, the consultation process puts in motion the community policing concept of partnership policing. Thirdly, it provides a multi-agency approach to crime prevention. The same advantages are apparent when the SAPS and the community apply the four stages of local crime prevention strategy, as described by Nel (2000:37), in relation to community-based crime prevention. The theory of the SARA model and the community-based crime prevention style, provide practical measures for the SAPS to involve stakeholders and to actively find solutions to the identified crime-related problems. The advantages of a multi-disciplinary approach to crime problems are, that it is most responsive to local needs, involves partners that might otherwise be excluded, maximises participation and provides access to exclusive skills and resources (Nel, 2000:33).

The first step to a crime prevention strategy is proposed in this study to promote community involvement. The Scanning, Analysis, Response and Assessment

Model are proposed because it provides a methodical proactive crime prevention strategy process. The SAPS is deemed to benefit from the community policing style because the community is involved in scanning and completing a safety audit, while identifying crime related problems. The second step is to analyse the identified problem and through community involvement, develop a crime prevention strategy along the crime triangle theory. The theory is aimed at eliminating one, two or all three of the elements of the crime triangle. The third step of the SARA model is to execute the agreed response, according to the crime prevention strategy, involving all the relevant role-players in their mandated roles and responsibilities. It is important to involve all the role players to assess the outcome of the developed strategy.

**Table 3.1 The similar objectives of the applied SARA Model and the Community-Based Crime Prevention Style**

<u>SARA Model</u>	<u>Community based crime prevention</u>
1. Scanning (Identify the problem)	1. Complete community safety audit (identify the problem)
2. Analyze the problem	2. Develop a strategy
3. Response (Respond)	3. Manage and implement the strategy (Respond)
4. Assess the response	4. Monitor and evaluate the strategy. (Assess the response)

Source: (Nel, (2000:37) and Townsley and Pease (2001).

During the assessment, the role-players need to establish whether the problem was correctly identified whether all the role-players were involved and whether all the role-players implement and manage the best crime prevention strategy to eliminate one, two or all the elements of the crime triangle so as to address the root cause of the problems and not merely the symptoms of the problem. If it seems from the assessment that the strategy has failed, the SARA model must be applied again.

### **3.3. THE SCANNING, ANALYSIS, RESPONSE AND ASSESSMENT MODEL**

Townsley and Pease (2001) are of the opinion that the model provides a versatile process which should be well documented to review the process, to compare the problem-solving process and to provide a way for police officials to combine different events into groups to identify problems. Two or more incidents which are similar in one or more ways constitute a crime, a fear or a disorder problem in a community. A problem in the SARA model is not an isolated or individual incident and a persistent problem results in a pattern (*"SPD community policing SARA Model"* [online]).

Observant police officers identify isolated incidents and when a pattern is established, a problem is constituted (*"Balanced and restorative"* [online]). Information from police records, from staff, police and local government research and planning divisions, information from national organisations and associations, crime statistics and letters from the public, are all used to find patterns which could constitute a problem. When a strategy is being developed for a problem, the problem must be specific. The more specific the problem or hypothesis of the problem, the greater the likelihood of creating a strategy that makes a real difference to the problem. Townsley and Pease (2001), state that it is more effective to group incidents together and to find an effective way to deal with a group of incidents, than to react to separate incidents.

According to Townsley and Pease, (2001), some problems are chronic and some are spikes, brief but intense activities of a specific nature or recurrent low-level problems that are only apparent over a long time period of time. When the problem is identified, Townsley and Pease recommend that it may be focussed by describing the problem in ways that highlight the offensive behaviour. If the offensive behaviour is mentioned in the problem statement, the problem is more descriptive and the problem becomes more focussed which will help to direct the deployment of resources. The same position is taken in the article “Balanced and restorative justice” [online], where it is stated that the more specific the problem, the better the strategy and more effectively the SARA model may be applied to make a difference. When the problem has been well stated and the consequences of the problem well-established, the scanning phase also provides the scope to prioritise the problem.

There are four components to the SARA model with all the components being equally important. Townsley and Pease, (2001), advise that the first step to applying the SARA model is to be sure about the four phases of the model and to avoid the common problem of blurring the phases. The four phases are called scanning, analysis, response and assessment.

### **3.3.1 Scanning (preliminary review of information)**

Scanning is the first phase of the four phases. Briefly, it refers to a descriptive exploration of the problem. It is the only preliminary review of information which confirms that there are related or recurring incidents that constitute a problem, a crime or disorder. The incidents might have been noticed by an observant officer or through the reviewing of police information.

The scanning process is the first step in narrowing the problem down to its lowest common denominator (“Implementing Innovations in Juvenile Justice in Michigan” [online]). During the scanning process the length of time that the

problem has occurred is established. Offensive behaviour will always be an action.

Gaines, Glensor and Peak (2004) summarise the following as issues for consideration when establishing a problem: behaviours, location, persons (individuals) and time analyses, while Robin (2000:44), adds a category of people. Behaviours, according to the mentioned source, relate to the repeat offender who commits specific crimes such as burglaries and motor vehicle theft. They may be symptoms of the same problem, which need to be prioritised and one or more can be selected for examination. Given that problems can be prioritised, the scanning phase is also the phase during which it should be confirmed that there is actually a problem.

One of the examples that explain the scanning phase is supplied by Townsley and Pease (2001). They use the example of a motor vehicle which would not start. The question was if the 'vehicle' was the problem, or was the problem 'the vehicle not starting'. Since the vehicle did not start, the engine did not turn, no lights came on when the key was turned and the starter motor made no sound. These were signs of the 'problem' and an indication of the vehicle not starting. The motor vehicle is not the 'problem', nor the lights not coming on and all the other signs. What constitutes the 'problem' is that the vehicle is not 'performing'. The problem therefore is that "the vehicle cannot be started".

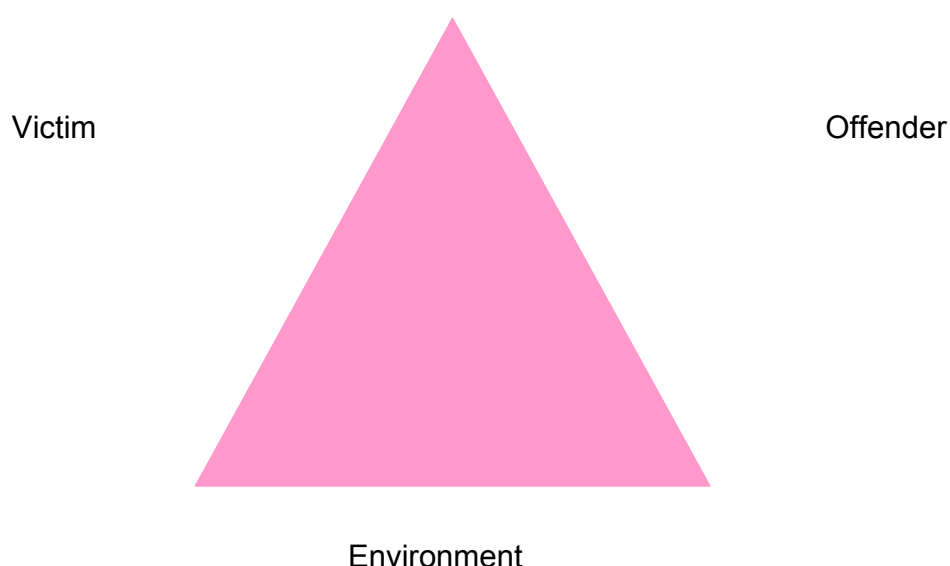
### **3.3.2 Analyses (to understand the events that preceded the problems)**

The analysis of the problem is the process which takes place when the problem is identified, in order to understand the events and conditions that preceded and accompanied the problem, so that a response suited to the problem could be customised. Robin (2000:44) is of the opinion that no intelligent solution or response can be formulated to a problem if a proper analysis of the problem has not been made. It is suggested that the main source of data must be closely examined as a starting point for the ordered collection and review of the

information. The collection of data or gathering of information, police records, interviews, telephone reports or complaint surveys, crime patterns and literature searches, could be used to establish a problem. Robin (2000:44) also suggests that the information should be grouped according to location, common behaviour or common offender, to establish if there were preceding events or similarities which constitute a problem.

By understanding and grouping the problems, a greater likelihood exists of identifying a response which would make a real difference (Balanced and Restorative Justice Michigan [online]). According to the article “Making South Africa Safe: a manual for community based crime prevention” (2000:4), the purpose of this phase is to establish to “the highest degree of confidence what factors produce offensive behaviour”. It is suggested that the focus of the analysis should be on what is referred to as the “Problem Analysis Triangle”.

**Figure 3.1 “Problem Analysis Triangle”**



Source: Nel (2000:4)

All three of the crime triangle elements need to be present for a crime to be committed. While all three perspectives require close examination; it is most important to establish how they interrelate to result in the particular problem.

The challenge is in the analysis phase, to find the causes of the problem and to address these, instead of finding a response to the symptoms. Robin (2000:44) gives an example of mentally ill persons, who after being de-institutionalised, behaved violently. The mentally ill were not the problem; their behaviour was. After careful analysis, it was established that they failed to use their prescribed medication. A programme of care was instituted to ensure that they took their medication. As a result of their efforts the number of violent incidents decreased. This example shows that the obvious problem of violent behaviour was the result of an underlying problem which was the failure to use the prescribed medication. By understanding the conditions that preceded the violent behaviour, a customised response was developed to prevent the violent behaviour.

Robin (2000:44) concludes that, while applying the problem-solving approach and identifying possible responses during the analysis phase, it should be stressed that changing the environment should first be attempted, rather than trying to change people's anti-social behaviour. The example posted was the problem of youth who used to make a noise in a public area in front of a tavern. Instead of trying to change their behaviour in public (making a noise), the officers requested the tavern owner to avail the back yard of the tavern, where they could be as noisy as they wished and not bother anyone. The problem was solved but during the analysis, while considering a number of responses, the responses were not focussed on the offence (which would have been close to being impossible to change), but rather changing the location (environment of the offensive behaviour).

Police officers are to respond to individual complaints or problems. When a number of problems are identified and grouped during the analysed i.e. the

causes of the problem and a pattern established for the causes, then the causes must be addressed. When complaints are received from the same address, they need to be clustered. It is likely that the cause of the complaints is the same. During the research, the problem is related to the Crime Analysis triangle. Townsley and Pease (2001) advise that police officers should research the problem thoroughly with all three elements in mind. When a victim is repeatedly targeted, there could be a collective number of reasons e.g. the victim could be a particularly soft target (old person); the victim might live in a particularly crime-conducive environment (with poor security); the victim could be an attractive target due to lots of available cash. Together these circumstances make for a very easy target and the victim is singled out by a particular offender.

If the problem is well-researched in all three elements, including the relationship between the elements, a well-informed response can be formulated as to the best element or elements to eliminate. If one or more of the elements are absent, then no crime can take place and the problem is solved.

Police officers respond to complaints and only after having responded a few times to a complaint is a pattern identified. Often, during the analysis of the problem, it becomes evident that the initial response treated the symptoms of the problem, but not the root cause. By closely examining the problems and the different responses and their resultant impact a benchmark can be formulated of the responses (Robin, 2000:46).

### **3.3.3 Response**

Brainstorming of new interventions is very important in this phase. Police officers frequently respond to the symptoms of a problem. They do not make an effort to explore the root cause of the problem before responding.

When responses to problems are considered, it is imperative not to react to the symptom of the problem, unless the symptom is so undesirable that it cannot be



avoided. Nevertheless, in the long term, solutions to the root cause must be the ultimate goal (Lab and Das 2003:10). Research on what other communities with similar problems do, is recommended.

When alternatives are considered, the article "Implementing Innovations in Juvenile Justice in Michigan" agrees that, "it is best not to focus on the offender". Offenders, once addressed, are often substituted with new offenders and there is little success with their rehabilitation.

Changing the environment might be less challenging and victim awareness or community involvement to address the victim has shown to be possible and more worthwhile. It is also important not to restrict the response by addressing only one of the three sides of the Crime Triangle. Possible responses to consider should address at least two sides of the Crime Triangle. It is essential to be creative when considering potential responses to problems.

When a response is considered, the objective of the response is to eliminate or reduce the problem or to reduce the harm which was created by the problem, while finding ways of dealing with the problem in an effective way (Hess and Miller 1998:94). According to Hess and Miller (1998:94), some law enforcement officers would argue that the response is best handled by the law enforcers, but many of the responses might not be within the mandate of the law enforcement agency.

#### **3.3.4 Assessment of the response is evaluated**

During the assessment phase, the effectiveness of a response is evaluated. The evaluation can be a mere observation or a very involved process of analysis. An example cited by Gaines, Glensor and Peak (2004:390) of a very simple assessment, involved an unsafe park which had been avoided by families. The park was cleaned and mowed, more recreation facilities erected and loitering

individuals were removed. An assessment proved that the intervention was positive. More families were using the park which served as a simple indicator for the assessment and the action taken had been effective.

According to the article "Implementing Innovations in Juvenile Justice in Michigan", it is clear that an assessment does not mean to judge the outcomes on the "simple basis of pass or fail". Some ways of collecting data, to establish a baseline to use when comparing data pre- and post - the application of the SARA model, is to either photograph or video tape visual evidence or to record interviews or to take quantitative and qualitative measures. According to Lyons (2000), however "specific assessment measures depend on the problem being addressed".

Robin (2000:46) states that assessment can be promoted. There are different ways of assessing whether a SARA model has been successfully applied. In the case of graffiti, the absence of new graffiti can be an indication of the problem having been resolved. A comparison of pre- and post-calls for service or the expressed satisfaction of residents could also be an indication of successful response to a problem.

When the assessment of a problem shows that the problem has not been resolved, the problem must again be scanned and analyzed and possible responses must again be implemented. An assessment must again be completed and if the outcome is not satisfactory, the phases must be repeated.

### **3.4 SUMMARY**

This step-by-step approach to finding the underlying, root cause of a problem does not only address the symptom of the problem it also provides an opportunity to engage all the relevant role-players to add expertise and resources to address the problem. The systematic approach sets a standard because of the

established step-by-step approach, namely the scanning, analysis, response, and assessment steps. This problem-solving approach involving all relevant role-players removes the crime prevention initiative from a military-only approach and is in keeping with a service-orientated preventative policing approach and is complementary to democracy in South Africa.

## **CHAPTER 4: PRESENTATION OF THE RESEARCH FINDINGS**

### **4.1 INTRODUCTION**

Four themes emerged from the interviews and data. The first theme concerns the reasons for the violence in Harrismith and Warden. This was reminiscent of the concerns raised by all South Africans who were politically, economically and socially disadvantaged before 1994. Surprisingly, these concerns were also shared by the affluent members of the society.

The second theme is the views of the twenty five of the forty respondents on what caused the police reaction. In Harrismith, the South African Police Service members fired at the marchers and killed a youth. In Warden, although there was extensive damage to property, there was no excessive force used by the SAPS.

The third theme which emerged, focus on the role-players and the extent of their involvement. There was a distinction between the respondents who believed that improved service delivery would prevent future violence and the respondents who were politically involved. The respondents who were politically involved said that even if the services were improved, it might not prevent future violence.

The majority of respondents were merely concerned about poor service delivery. The councillors and organizers of the marches in Harrismith and Warden were very concerned about the reasons for the poor service delivery and sited a number of things that needed to be changed to prevent future violence. They offered some advice on the management of future potential violence.

The last theme, discussed the proposed solutions to the violence. Although the violence was attributed to poor service delivery but the respondents had different views as to why their organized expression of their democratic right to freedom of speech turned violent.

#### **4.2 THE REASONS FOR THE VIOLENCE IN HARRISMITH AND WARDEN**

In this theme, the various reasons offered by the interviewees, as factors that contributed to the violence and that gave rise to the violent action are discussed. It is a known fact, that every action is underpinned by a specific motivation and an explanation for it is discussed. Although the reason for a specific action can only be deduced after the event, that reason has subconsciously and often consciously, given rise to the action. Actions can often be better understood, if the reasons for them are clarified. The reason for an action however, does not imply that it justifies the action. The violence in Harrismith and Warden reminded the public, of the violence and police brutality that preceded the new democratic South Africa. Serious concerns were raised about how the SAPS responded. It appeared that excessive force was applied to control and contains an approved expression of the democratic right to freedom of speech.

The questions asked were formulated to establish what prompted the march. What preceded the march? Why the community thought that a march was necessary? They were also aimed at establishing whether there was a notice to the local authorities of their intention to stage a march. Was the march authorized, what was the police involvement and how did the situation occur? This theme gives an indication as to why the people got together, where they gathered and why, as well as who was there and what happened.

The interviewer's reported that the people of both Harrismith and Warden were displeased about the poor service delivery from their municipalities. Numerous attempts were made to engage the councillors and the mayors of the two towns to ascertain why there had been so little progress made to provide basic needs, such as sewerage, water, and electricity. They were also concerned as to the poor maintenance and the development of local infrastructure.

A formal notice was given to the two different authorities of their intent to stage a protest march. In Harrismith, the notice was not responded to. This resulted in a

'sit-in' action, when the community sat in the municipal building, where the mayor's office is situated. The 'sit-in' action prompted the mayor to promise to meet a delegation, but when the agreed time came he was nowhere to be found. He did not answer his cell phone. The concerned community members, led by the organiser of the Harrismith march, agreed that as in the case of the previous attempts to engage the local and the provincial authorities in a legal way, their concerns would not be heard. It was then agreed to disrupt the traffic on the N3 national road in an attempt to draw the attention of the national government.

In Harrismith an in-depth interview with the organiser of the march and two councillors confirmed that the Municipal Council of Maluti-A-Phofung did not adhere to the Municipal Systems Act. Not all the personnel were appointed and they agreed that there was a lack of knowledge in research and planning skills. Municipal Structures Acts prescribes the reporting of progress and meetings. This was not adhered to according to a councillor who was interviewed. The poor reporting on financial matters are also in violation with the Municipal Finance Act. According to the interviewed DA councillor of Harrismith it was reported that he was over ruled by the speaker of the Harrismith council at a recent meeting, although he followed the required protocol prescribed by the Standard Rules and Orders governing the orderly functioning of the Council and the Municipality.

They confirmed that there was a great number of defaulting customers of both taxes and services, but there was also a lack of expertise to administer the defaulting payers. The DA councillor said that the Council's operating plan needed to be amended and the emergency and disaster management budget reduced by eighty percent to accommodate the lack of income from defaulting payers. This cut was the result of a culture of non-compliance of payment for services which added to the effect of poor administration and the failure to effectively collect debt.

One councillor seriously questioned the integrity of the elected councillors. He stated that of equal concern was that paying customers were not receiving the professional services that they were paying for and neither were they able to make any enquiries or requests to the municipal authorities.

The respondents also stated that incompetence seemed to be rewarded rather than challenged and that party politics did not complement the process when the issue was raised in an open debate at council meetings. According to protocol and the Standard Rules and Orders governing the orderly functioning of the Municipal Council, the Mayor has to report according to the agenda on the minutes of the previous meeting. When a councillor asked for feedback on an issue that had been recorded, he was not answered. When he again referred correctly to the issue, by saying, "On a point of information," which is allowed once for clarity, and the correct procedure, the speaker chose not to follow the protocol and allow feedback. The enquiring councillor left the council meeting to show his dissatisfaction. It was reported that certain ANC members congratulated the opposing party for leaving, as it highlighted and demonstrated the lack of accountability by the council and the poor application of the Standard Rules and Orders governing the orderly functioning of the Council and the Municipality. Although they did not publicly support the walk out due to party politics they said to him: "Note, you know the system."

Incompetence of budgeting process by Harrismith's municipality required the additional appointment and services, of Price Waterhouse at a cost to the local rates and tax payers. This budget had to be published for scrutiny and redress. The budget and annual expenditures required feedback to the community and to the provincial government, but there was no-one sufficiently competent to compile the budget or to give the required feedback.

The respondents in Warden also said that there was a lack of accountability on the part of the mayor. This was displayed, according to the respondents, by his

appointment of incompetent staff. They were unhappy about the salaries that were paid to people who were not able to do the job. The roads were in poor condition. According to the Warden SAPS intelligence officer, the road maintenance equipment was sent to another municipality in Qwa Qwa, a previously disadvantaged municipality. No attempts were being made to resolve the poor road conditions in Warden. Another respondent reported that as the road maintenance equipment was in Qwa Qwa, an affluent member of the community offered to do maintenance on the road, free of charge yet the councillors failed to negotiate a deal with the person.

The Warden political activist from the Democratic Alliance Party who was interviewed said that the incompetence in Warden is the result of the affirmative action appointments of formerly disadvantaged persons. This resulted in poor electrical maintenance. Shop owners suffered the loss of fresh produce and stock due to power failures. The person responsible for electrical maintenance switched off the whole power grid and not only that part of the grid that required maintenance. Emergency arrangements were needed to store frozen foods, at great financial loss to the shopkeepers.

A respondent and DA councillor said that some officials display poor work ethics. They were paid to work, but they did not turn up for work and no-one seemed to worry about their absence or make an effort to counter the loss. Concerns of the community were never taken seriously and no-one investigated the allegations and gave any feedback to the community.

According to a respondent from Warden, she suspected that there was a conspiracy between the councillors and members of the South African Police, because property had been stolen from the council and no case was reported or investigated.



The organiser of the Warden demonstration said that some councillors were dishonest and corrupt. They owned low income houses in different towns, through their connections. Poor administration resulted in their not being able to be charged. He supported this allegation with a report from a chartered accountant in Bloemfontein, KPMG Chartered Accountants. According to this report, a certain person was granted a subsidy for a house with number 1262, but he had no title deed for the property and could not claim it. This person said that because of this title deed, he also did not qualify for any other subsidy, to get any other property. The municipality listed the property number 1262 as the property of another person. On inspection of the actual property, neither one of the parties was residing at the house. The house was being rented from some one who was not either one of the two mentioned persons. The question now was: who gets the rent, and how? Further enquiries resulted in tracing one of the persons, who said that he did not have a house and had no deed either. He also claimed that he had no deed to prove that he was the owner of the house.

A memorandum was prepared on all the discrepancies and forwarded to the Minister of Local Government in November 2005. The provincial authorities gave instruction to a chartered accountant in Bloemfontein, KPMG Chartered Accountants, to prepare a report on the discrepancies raised. Copies of the report on some of their findings indicated that as many as twenty houses which had not yet been built, were being subsidized from the authority's budget, and assigned residents were required to pay varied additional amounts for the properties. The residents, who paid for these houses, never received them and were staying with family. The questions raised by the residents which the council failed to answer were; were the authorities' subsidized amount of money and the residents' money rolled over to the next financial year? Would they still be given the houses? Why were they charged varied amounts in addition to the subsidized amounts of money for the houses? Why were the houses not built? Would they be refunded?"

Some of the interviewers mentioned nepotism as a reason for corruption. They reported that the wife of a police official, who was also the sister of the mayor, lived with her husband in a government house assigned to police officers. The community was unhappy because she was able to secure an RDP house intended for the poor or unemployed. She was later found to be letting the property to supplement her income. Neither the local authority nor the police questioned the state of affairs, adding to the community's belief that the two parties were collectively corrupt and guilty of nepotism.

The Community Police Forum Chairman of Harrismith said, "I don't know how I can put it but the reasoning was, there were people who tried several times, to talk to the relevant people about the lack of toilets, road conditions and poor infrastructure and nothing happened, while at other places they are fighting. It is not a question of certain people competing for leadership, or whatever, but people out there are the ones that are not doing anything or, informing the community about the different developments that are going to happen and are happening, so we have a problem with our leadership. That's why you will see a lot of places coming up with strike action, because of that. People are not informing and not making people aware of the developments that are coming". Some reference was also made by the organiser of the march in Harrismith to political ambitions as reasons for the demonstrations. He said, "I swear there is friction. They are also using the very same persons to position their people and to influence the structure. They are getting totally new people to where those people come from; it doesn't matter where you stand. You see, if I am getting the mayor to speak to me, or not." He also said that houses were built and awarded just before local elections so as to ensure support for the party and certain officials.

According to the organizers of the Harrismith and Warden marches, both communities had applied to the Municipal Authorities to arrange a march. The application by the community of Harrismith was not given any response, despite the fact that they had even held a 'sit-in action. In the case of the Warden

application, following Harrismith's very violent and public display of concern, consultation did take place, and the march was approved. There was some damage to public property, but there were no serious injuries or deaths.

The concerns about service delivery could have been resolved if the local authorities of Harrismith and Warden were experienced administrators and were able to collect debt successfully to pay for the services. The ongoing corruption and fraud allegations against the mayors, the appointments of unskilled officials and the lack of consultation and accountability to the tax payers, collectively amounted to the grievances of the community. Service delivery was a concern to all members of the community, both poor and affluent. They had made a number of attempts to bring their concerns to the attention of the local authorities and the provincial government. The respondents cited the lack of consultation and effort on the part of the mayors of Harrismith and Warden as the reason for the demonstrations. The organiser of the march in Harrismith said that if the mayors had made an attempt to meet with them and to address their concerns, they would not have attempted to attract the attention of the national government or demanded to see the President, Mr. Mbeki.

#### **4.3 THE DIFFERENT REASONS WHICH WERE OFFERED FOR THE POLICE REACTION**

In this section, the various reasons that were offered by the interviewees, as factors that contributed to the police reaction will be discussed. With reaction, the reverse action and response or reciprocal action is referred to and is being investigated and reported on. Before the march the community was the initiating party when they gave notice of their intention to stage a march. The community behaved in a manner that warranted a response from the SAPS. This response was in answer to the actions and behavior of the community and had to be matching in 'weight'. The community demonstrated unacceptable behavior not within legal parameters and norms and as such, required a SAPS response. This response has been annotated as the 'SAPS reaction'. It was behavior needed to

counter or manage that of the initiating party, in this case, the community. During the interviews, questions were asked to establish the reactions of the police. How were the police's actions perceived by the community? What was the sequence of events that resulted in the specific counter reaction of the SAPS? What was the counter-reaction of the SAPS?

Demonstrations and marches were common in South Africa before the 1994 election and so was the term 'public order policing'. Since 1994 a greater awareness of democratic rights and freedom of expression moved the police to adopt a more negotiating and consultative style in answer to public expression. The Goldstone Commission made a number of suggestions to improve the policing style termed 'public order policing'. Legislation was passed to promote a safer, less confrontational policing style, termed 'crowd management'.

An application in terms of the Public Gatherings Act is now required to organize a legal demonstration. If the notice is accepted, the authorities and the demonstrators might agree on a number of issues to promote a manageable and peaceful march or demonstration. Therefore, the style of the police is now to "manage the crowd" and not to "order the public" as was the case prior to 1994, when violent demonstrations were very common. One possible reason for the level of violence in Harrismith and Warden was explained by one respondent saying, "You are not yourself: you are part of a crowd".

There seems to have been a different approach to the crowd in Harrismith than to the crowd in Warden. In both cases the police were aware in advance of the community's intention to stage a public protest. In the case of Harrismith, there was an application made to the municipality to stage a march, and 'sit-in' action, to demonstrate the community's intention to consult with the municipal authorities, councillors and the mayor. On failing to get a response, the community planned a march for the Monday. Information officers advised the station commissioner of the community's intention to stage a march on the Monday. According to the

Harrismith Crime Prevention Officer the police officers were ordered to be on duty at six o'clock on the Monday. According to the officer, no contingency plan was prepared. The CIAC member confirmed that they did not prepare for the eventuality of the crowd going to the N3 because they did not have information of this intention. The inspector of the Area Crime Combating Unit information management said that they had received a notice in time but had not acted in time. On arriving at the demonstration on the Monday a crowd of approximately one hundred and fifty people met the police. The organisers of the march were known to the crime prevention head who met with them. The crime prevention head from the Harrismith SAPS and the organiser of the march made arrangements with the mayor to meet a delegation at eleven o'clock. The mayor failed to appear at 11 o'clock which resulted in the furious crowd throwing stones and hurling insults at the police. The organiser of the march said that the marchers then agreed to proceed in the direction of the N3 with the intention of disrupting the national road traffic to attract national attention.

They proceeded to schools where they enlisted schoolchildren to join the march. The crime prevention head said that the marchers involved young children as a deliberate strategy to avoid prosecution. According to the crime prevention head, their numbers grew to approximately 2 000 people. The police strength was 22 members at the time, which included the nine Area Crime Combating Unit members of Phuthaditjhaba. The crime prevention head consulted with the organiser of the march and tried to come to an agreement, but the angry crowd forcefully prevented the organiser from negotiating with the crime prevention officer. The Area Crime Combating Unit with nine members from Bethlehem arrived, after which the command was first transferred from the Harrismith crime prevention head to the captain of the Area Crime Combating Unit, due to the difference in their core training and responsibilities.

While the captain of the Area Crime Combating Unit was in charge, the crowd moved from the residential area to the N3 national road. Members of crime

prevention went back to the station to arm themselves with shotguns since they had only side arms on them and the only ammunition available to them was number five ammunition for the shotguns. Police vehicles were parked to form a barrier with the Area Crime Combating Unit members and crime prevention members. They were lined up to prevent the crowd from moving on to the N3 and to stop them from disrupting the traffic and behaving in a disorderly manner. The Area Crime Combating Unit commander, a superintendent, arrived and took command from the captain, who briefed him on the situation. The captain, when interviewed, said the crowd proceeded to set the grass alight on either side of the vehicles and the police members had to fall back and extinguish the fire. Someone in the crowd fastened a rope on to a tyre and lit the tyre. He then lifted the tyre and proceeded to swing it in a circle amongst the chanting crowd. The superintendent commanded the members to fire a stun grenade and to fall back. At that time the crowd moved around the lined-up officers on the sides and moved onto the N3 road. They endangered their own lives and those of the oncoming road users. The superintendent commanded the officers to fire on the crowd. The crowd dispersed and ran towards the Intabazwe residential area. A number of people were injured and one youth died as a result. It seems that he was fatally wounded by a number five round, fired from a shotgun by one of the members of the crime prevention unit. These rounds are not permitted to be used and it was not clear why no other rounds were available at the Harrismith police station. The members who fired the rounds claimed that they were not aware of the prohibition on firing of these rounds. An investigation and criminal prosecution was instituted and the members were charged with culpable homicide. On 13 July 2006, they were found not guilty. The court ruled that they had acted out of necessity and emergency. (Van Wyk: 2006).

When the crime prevention head of Harrismith was asked about the consultation process and possible preventative measures or ways to have redirected the march, he replied that the demonstrators did not want any negotiation after the mayor failed to appear. He said that he was consulting with the organiser of the

demonstration, when he was forcefully removed. The crime prevention head said of the demonstrators, "They deprived me and then I failed to do anything". On the issue of why the members of crime prevention used the number five ammunition, one of the charged members, formerly from crime prevention who was charged with murder said "Opleiding, dit is wat die polisie manne nodig gehad het" (Training, that is what the police members needed).

According to the station commissioner of Warden, the community of Warden applied to the municipal authorities to stage a peaceful march. A concerned resident said that the affluent members, as well as the previously disadvantaged residents, marched from the bridge in the location to the Warden town hall where they proceeded to hand over a memorandum to the station commissioner, because neither the mayor nor any one of the council was there. Failing to receive the memorandum on the part of the municipality sparked further unrest. The station commissioner organised a formal meeting between the concerned residents and the involved role-players. According to an inspector of Warden Crime prevention the concerned residents were in two political groups, represented by the predominantly ANC and the DA supporters. That meeting and a number of meetings thereafter did not resolve the problems. The concerned residents then took the tractor and the already overfull tank of sewerage and dumped the sewerage next to the bridge on their way into the residential area. This sparked more unhappiness from the people using the road to get to work in Warden. The station commissioner was informed by information officers of Area Crime Combating Unit, about the demonstrators' intentions to prevent pedestrian and vehicle movement between the location and the town. The captain went to the scene of the demonstration, where the road was already obstructed with stones placed in the road. He asked the demonstrators about their intentions and they tried to convince him that their intentions were peaceful. He was not convinced and requested the assistance of the area commissioner who dispatched the Area Crime Combating Unit. The station commissioner was

relieved from command by the Crime Combating Unit commander, a superintendent.

The demonstrators demanded that he withdraw the Area Crime Combating Unit, but he refused and gave them 20 minutes to disperse. The crowd did not disperse and the station commissioner requested the area commissioner and his deputy to go with him, to the leaders of the demonstration in a armoured vehicle. According to the station commissioner, the leader of the demonstration and the area commissioner and his deputy agreed to a meeting at two o'clock in the town hall. The intention was to have the required representatives at the meeting, which included the Area Commissioner and a representative of the MEC of Local Government and the Premier of the Free State Province. A meeting took place where representatives of the local municipality of Warden, the district of Pumela and the province were present. A committee was established chaired by a representative from the Provincial Government to address the issues raised by the community.

The Harrismith demonstrators showed no concern for possible conflict or the levels of violence, while the Warden crowd made it very clear to the station commissioner that their intentions were peaceful. He is quoted as saying, "They are not violent any more, but they hope that the SAPS of Warden can handle the situation". The station commissioner said that they had asked that the Area Crime Combating Unit be withdrawn. The police of Warden, in keeping with an instruction from the area commissioner, made an effort to only arm members with tonfas and shields. The station commissioner gave explicit instructions to members, not to arm themselves with shotguns.

The two station commissioners of Harrismith and Warden, had very different approaches to the demonstrators actions. The station commissioner of Harrismith did not go to the scene and did not make any attempt to negotiate with the concerned residents. There was also no reference to any attempts being



made to involve the Community Police Forum. The station commissioner of Warden involved members of the Community Police Forum and made a personal attempt to negotiate with the demonstrators in that he received their memorandum which was intended for the mayor.

The Harrismith municipal council ignored the notice from the community of their intention to gather in public, whereas the Warden council approved the application. There was a different approach from Warden's demonstrators concerning the expression of their dissatisfaction about the poor service delivery, from that of the demonstrators of Harrismith. The Warden demonstrators made an effort to have their application for gathering and demonstrating approved. In the case of the Warden community's demonstration, it was multiracial and participation was from different political parties.

#### **4.4 THE INVOLVED ROLE-PLAYERS AND THE EXTENT OF THEIR INVOLVEMENT**

In this section, the various involved persons and the extent of their involvement are discussed. This discussion centres on those parties that participated in the events and their specific actions. There were a number of persons party to the situation, but only a select number of these persons played a role. Who were the "involved" persons or parties? Their actions and the extent of these are described as their "involvement." The violence in Harrismith and Warden involved a number of different people comprising concerned citizens, councillors, SAPS members, Community Police Forum members etc. Their participation differed due to varying responsibilities or reasons. Questions were put to them to establish their participation and involvement.

During the Harrismith violence only the Area Crime Combating Unit Head was present to negotiate with the demonstrators after the mayor had failed to keep his appointment. The national television network broadcast the events in Harrismith.

The community and the South African Police Service, of Harrismith were present and according to their responses were the main role players in the violent events. According to the crime prevention officers, the information officers advised the station commissioner of the community members' intentions to gather and demonstrate against poor service delivery. Many of the respondents said that the local authority and the councillors' lack of involvement and communication gave rise to the community's unhappiness. No respondent confirmed any efforts of any role-player to serve as a mediator. According to the chairperson of the Harrismith Community Police Forum, the CPF was not used as a platform to negotiate. The local authorities made no effort to engage the community, not even after the 'sit-in' action or after receiving a notice of intention to arrange a march. The station commissioner reportedly alerted the crime prevention officer of a possible demonstration, followed through on operational arrangements, but did not make an effort to engage the mayor or the local authorities. The crime prevention head and the commanders of the Area Crime Combating Units of Phuthaditjhaba and Bethlehem tried to negotiate with the organizers of the demonstration. The crowd however prevented the negotiations after the mayor failed to meet with the community at eleven o'clock.

According to the Harrismith crime prevention head, young children were deliberately recruited to join the demonstrations. The recruitment of children from schools to participate in the demonstration complicated the police members' response because the arrest and prosecution of juveniles was involved. He said that some of the perpetrators used the children as decoys and were hiding behind them. The crime prevention head of Harrismith said the following about the involvement of small children; "Ja, so usually what they are doing, they take these small kids, in fact and then they go after a small kid, so that you can't, because it is small kids. OK, we don't arrest and if you want to arrest them, they are running and you can't arrest these small kids."

The events in Warden occurred after the event in Harrismith, with a similar event in Vrede. According to the Warden Station commissioner, the role-players from Warden were the concerned residents and they were in two groups, the ANC and the DA supporters. The information officers of the police informed the station commissioner of Warden of the intentions of the community to demonstrate. This was after they had completed a peaceful march and handed a memorandum to him. The local authorities did not make an effort to entertain their concerns or to receive the memorandum. The station commissioner of Warden reported that he involved representatives of the ANC, DA and DA political alliance parties, to hear what was going on. Early the next morning, according to him, he went to see two councillors, two whose names escaped him.

The station commissioner said the mayor agreed to meet with the concerned residents at nine o'clock, but then at eight o'clock he said that he had other commitments. This resulted in the people starting to march to the police station, resulting in the Area Crime Combating Unit being deployed to stop them. The marchers agreed to go to the town hall to meet with the councillors. They waited until after two o'clock, when the municipal manager arrived. A number of meetings were postponed after that and then the incident occurred. The organiser of the march complimented the area commissioner on his involvement, saying that the area commissioner involved the Scorpions and investigating officers. He said that the area commissioner had taken their memorandum and arranged a meeting that same day. He was of the opinion that the police positively affected the attitude of the crowd. The meeting referred to was the meeting which the area commissioner, his deputy and the station commissioner had agreed to arrange, and which they requested all the stakeholders to participate in. This resulted in members of the provincial government establishing a committee which was responsible for an investigation of the concerns of the community in order, to address them and to give feedback to the community.

The role-players participation in the two events was similar. Their involvement, considering their responsibilities, related to their accountability. Some were involved and some not involved in the events, either by their actions or by their lack of action. A greater number of different role-players was involved in the Warden event compared to the event in Harrismith. The involvement of the national television agency contributed to a greater awareness and more consultation.

The role-players in the events in the Free State were mainly the persons concerned about the services that should have been provided by the authorities and the South African Police. According to the respondents the lack of action and communication on the part of other role-players and service providers resulted in the violence. According to the respondents, not all the role players were involved and were prepared to be consulted and accountable to the community.

#### **4.5 THE PROPOSED SOLUTIONS OFFERED BY THE RESPONDENCE TO THE VIOLENCE**

The respondents during their interviews mentioned potential solutions to the problems at hand: “things to be done” or behavior to be practiced that was suggested for consideration to end the violence. The respondents answered questions on how they would have done things differently to avoid violence. They indicated who they thought should have been involved; who should have done what, when and how. The solutions or methods for solving the problems were derived from their approach, which was to avoid the violence.

There was a natural tendency for the respondents to group their solutions according to their participation and experience of the events. The first set of proposals relates to the actual prevention of the march and highlights the value of negotiation and consultation. The second set of proposals relates to the

prevention of the initial issues raised concerning service delivery and the third set of proposals relates to the policing of the march.

The chairperson of the Community Police Forum of Harrismith said that the Community Police Forum was not involved as a partner to promote a platform for communication, negotiation, and conciliation. When a mayor or prominent person does not honor an arrangement to meet with the community, the police should stay calm and not compromise any negotiations. The organiser of the march questioned the police's sensitivity, stating that officials must pre-empt the demonstrators' intentions in order to promote pro-active policing. The Harrismith information officer said that there was no information from the intelligence officers to inform a contingency plan.

A crime prevention officer also said that there, no contingency plan had been compiled.

Police members and Community Police Forum members suggested that the Community Police Forum should be used as a platform for negotiations when violence is anticipated. They expressed the advantages of negotiations between the local authority, the Community Police Forum and the SAPS. The information officers said that if notice had been given of the intention to host a march, violence could have been prevented. All relevant role players should together have negotiated terms and conditions for a safe demonstration. .

The most common solution cited by nearly all the respondents was that a constant flow of information and communication is required by the community on progress being made. The municipal authorities should keep appointments with the community and answer their questions. Politicians should promote healthy politics. The respondents said that as long as action is not taken against

municipal officials and politicians for poor performance, nepotism, corruption and fraud, the violence could re-occur.

Some respondents stated that affirmative action legislation should be repealed and competent people should be appointed. They thought that the use of consultants was unfair, because officials were rewarded for incompetence. A preventative measure suggested by a councillor is that municipal authorities should comply with legislation, such as the Municipal Systems Act, the Municipal Structures Act and also follow the Standard Rules and Regulations Orders. Fully functional structures to support municipal officials, was also mentioned to improve service delivery.

There were respondents who suggested that job creation would contribute to a sense of well-being and would enable people to pay for services. One respondent suggested that tollgates be instituted in close proximity to small towns, which could be bypassed free of charge if the traveler chose to travel through the town. This suggestion would benefit the rejuvenation of the small rural towns, through the influx of motorists.

Most of the respondents said that poor service delivery was the reason for the violence. When asked what could be done differently to avoid future violence their focus was on being heard, rather than suggesting ideas to improve the levels of service delivery. Respondents from the police were more inclined to make suggestions on policing actions. Service delivery was the most mentioned reason for the demonstration, but to prevent the violence, most of the respondents suggested that their concerns should be heard and respected by the local authorities.

#### **4.5 SUMMARY**

The perception formed from reports by the media (newspapers and national television) is that poor service delivery was the initial reason for the violence in the Eastern Free State. The recurring violence was the result of the communities' frustration because the authorities did not react to their efforts to consult and negotiate and did not meet their expressed concerns to their satisfaction. The actual display of a popular public opinion was not a surprise to the SAPS because information officers anticipated some sort of mass action relating to the various applications by the public to organize a public gathering. The handing over of a memorandum to the authorities was also a clear indication that there was a problem.

Consultation and communication between the role-players would have promoted transparency and would have promoted a common understanding of the challenging problems, as well as the credible concerns. The community, after consultation, communication, and efforts to resolve the problems might still have wanted to stage a public display of collective concern. The current legislation provides terms and conditions to stage a legitimate public gathering. A remark by one of the respondents however, demonstrates the prevailing psychological condition amongst the gathered crowd. "They think they do not have to listen to us."

The police respondents charged with the responsibility of maintaining public law and order and ensuring safety and security, proposed different solutions to the ongoing violence in Eastern Free State. Nearly all the respondents proposed consultation and communication. From all the responses it is evident that there was an anticipated problem with no one willing to resolve it. There was governing legislation in place allowing and providing a legal framework to resolve the problems but because the community acted unlawfully, a police response was required. The community's actions exceeded the lawful level of violence, to which the police's response was not unlawful, although resulting in the death of a youth.

South Africa's history of violent public demonstration has resulted in many injuries and deaths, as in the case of the recent violence in Ghana. The South African and Canadian Governments attempts to change the policing style to suit indigenous people, has resulted in public participation, public scrutiny and information sharing. The police in both countries have attempted to reflect the culture and gender of the community they serve.

In view of the reasons quoted for the violence, the participation of the role-players and the solutions cited for the violence, the application of the SARA model provides a methodical process for reducing the impact of crime and problems of disorder in the community.

## **CHAPTER 5: INTERPRETATION OF THE RESEARCH FINDINGS**

### **5.1 INTRODUCTION**



The violence that took place in the Eastern Free State is an ongoing concern for the authorities and poses a constant challenge to the South Africa Police Service. While freedom of expression is a Constitutional right, it is not an unconditional right and the SAPS is charged to maintain law and order and to protect the public and property. The SARA model of problem-solving could motivate the SAPS to rise to the challenge of expanding their capacity, of monitoring possible threats and of involving more partners to prevent violence. The SAPS will be required to complete an initial overview or assessment of the offence to establish what common factors were involved in the violence that erupted. The initial threat identification has to be followed by an in-depth analysis of the reasons, conditions and circumstances which contributed to the offences.

## **5.2 THE SCANNING PHASE**

The first phase of the SARA model confirms whether there is indeed a problem or not. The scanning involves an attempt to collect information from public opinion, newspaper reports, case reports, television broadcasts, sector police managers, and Community Police Forums on the violence that took place. How the violence took place, when, where and who was involved, are the questions to be asked.

At Harrismith the community arranged an illegal 'sit-in' at the municipal offices to force the mayor to meet with them. The police were responsible for their removal from the municipal offices. This incident, according to the interviews is the result of their need to consult with the Municipal Authority, the SAPS, and the CPF. Twenty-four children were injured and one young boy died, while 38 arrests were made during the march in Harrismith. On 31 August 2004 SABC 2 reported the incident on national television. The youth protested against poor service delivery and the preferential treatment of previously disadvantaged Qwa Qwa residents, at the expense of the Inthabazwe residents. Traveling in the area was difficult because the taxi service was discontinued. On 2 September 2004, SABC 2 news reported that the youths demanded the removal of the executive mayor. Similar

incidents of violence followed in Memel and in Warden. Twenty six persons appeared in court on charges of public violence and taking part in an illegal march. The SAPS area commissioner of the Eastern Free State informed by similar incidents in Memel, Kestell, Vrede, Paul Roux, Clocolan, Ficksburg, and Warden identified a common trend, threat, and problem. The common trend, the community's intention to host a march, served as an early warning sign to information officers of the Area Crime Combating Unit, who informed the station commissioner of Warden. At the time, it was said that the reason for the march was to demonstrate their dissatisfaction about poor service delivery. The Warden station commissioner alerted relevant role-players such as councillors of the Warden local authority, political party representatives, business representatives and the SAPS Area Management, who arranged to meet in the town hall. The actions of the station commissioner were in keeping with the scanning phase of the SARA model, which means that he identified a trend and responded.

The police were aware of ongoing attempts by the community to engage the municipality. When the communities in the Eastern Free State started to voice their dissatisfaction about poor service delivery, they reverted to what was historically an effective way to bring about change. They demanded their Constitutional right to basic needs, (South Africa 1996: Sec 27), in keeping with the right to assembly, demonstration, picketing, and petitioning (South Africa 1996, Section 205).

Having completed the scanning process to assess the problem, the contributing factors need to be established. The question is why then did they march and why did it in end in violence? The violence according to the media and interviews with the respondents was related to the poor performance of the municipalities. The responsibilities of the municipalities are to supply 50 kWh of electricity, 6kl of water, access roads, sanitation, and cleaning services. The designated municipal officer, in accordance with the Local Government Municipal Finance Act, is also required to ensure competency of the municipal supply chain management to

manage revenue and expenditure properly as well as to manage revenue collection.

The municipalities were not able to deliver on these responsibilities for a number of reasons. According to Phillips (2005:2), the President, Mr. Mbeki raised one of the reasons, nepotism, as a concern. A unit was to be established on the instruction of the National Minister of Provincial and Local Government, Mr. Mufamadi to develop capacity for service delivery (Steyn, 2005). A recent survey revealed that there were severe backlogs in the service delivery of municipalities and the premature retirement of mostly whites left municipalities with a shortage of skills in areas of financial management, engineering and information technology. They were replaced with affirmative action appointees, (SA head-hunt skills in India (2005-11-03)). Corruption in the Free State was evident when six members of the Mangaung municipality were convicted for fraud, (Six Mangaung officials were probed for fraud 2005:4).

According to the 2001 Census the environment is also a challenge to the municipalities. As per to the national census the area is 129 480 square km and mostly rural (Phillips, 2005:2). The 2001 Census also revealed that 25, 5 % of the population is unemployed and an estimated 66% is living in poverty. There is an estimated 16, 7 % AIDS infection rate and this requires more service delivery from clinics which they are unable to deliver (Heunis and van Rensburg, 2005). Eight hundred and forty-three municipalities were rationalized to two hundred and eighty four municipalities after the 1994 elections (Lebone, 2006). According to the interview with Professor Andre Duvenhage (2006), 136 of the 284 newly established municipalities are considered to be in crisis and are now consolidated under one project because of their poor performance. Sound economic development principles are absent in this new arrangement and because of poor administration and environmental challenges they are unable to deliver on politicians' promises.

According to Duvenhage (2006), politicians have been promising the voters more houses and services; yet even with low interest rates and some economic growth, the government is not able to distribute the economic growth through the system to the less advantaged. The findings of the Goldstone Commission shaped policing when they recommended that the police are trained in public relations and that they use non-lethal equipment to control demonstrations. Furthermore, the Commission advised that local magistrates be involved in improving conditions in demonstrations (Human Rights Developments, 2004:4). The Police have changed from a 'force' to a 'service' and as a result have changed their policing style so as to be accountable to the community (Nel, & Bezuidenhout, 1995:21). The subsequent Regulations of Gatherings Act 1993, Section 205 (3) (5) states the conditions with which the convener of a gathering has to comply. The participants should not carry dangerous weapons, incite hatred resulting in violence, or disrupt any traffic. The Act states that a written notice is required with the particulars of the marshals attending the route and the time of the demonstration.

The statement offered to an information officer of the Area Crime Combating Unit, on the Harrismith violence was, "I was told that the people did apply to do a proper march in an approved way, but when they demanded to see the mayor, the mayor failed to turn up." The Area Crime Combating Unit intelligence officer's response was "That is not correct. Yes, they did march several times to an extent, but they did not get a proper response and they tried to do a sit-in." It seems as if there was no scanning taking place. No-one made an attempt to put this information together to make a presentation to identify and involve role-players to establish partnerships. In Warden the station commissioner, when he was informed about the community's intention to launch mass action, replied that "I called all the groups involved the municipality and all those concerned. In other words these concerned groups were divided into two groups, if I can recall." The station commissioner of Harrismith, in his interview, said that there was no application for the march. He said the march started spontaneously. He stated: "Crime prevention is soontoe en probeer om die ding onder beheer te bring, toe ek hoor daarvan toe het ons basies die leiers probeer uitmekaar kry. Ons het toe 'n

vergadering gehou en het met hulle ooreengekom dat hulle die mense onder bedwang bring en ons sal die burgermeester help om die mense toe te spreek.“ (The crime prevention unit went out and tried to bring the situation under control. When I heard about it, we basically tried to get the leaders away from each other. We then had a meeting and agreed with them that they would control the people while they assisted the mayor to address the people).

Since this notice was not accepted by the local authority and responded to according to the Act, the marchers went on to participate in an illegal march, not meeting some required safety conditions. They also threatened the safety of the N3 road users according to the Area Crime Combating Unit commander in Harrismith. There was distrust between the relevant role-players and a respondent even suspected a conspiracy between members of the police and the councillors because property of the municipality was stolen, but no case was investigated. This notice could have served as an early warning sign to police officers of possible action which might result in violence. The violence was not pre-empted and resulted in the required safety measures not being enforced. Reference was also made by the organizers of the march to political ambitions as reasons for the demonstrations. From the above, it is evident that the following shortcomings occurred in the manner in which the SAPS managed the process prior to as well as the actual violence:

- Coordination of policing functions  
The intelligence members of the SAPS were aware of the Harrismith community's wishes to speak to the mayor. The information was relayed to the station, but the assigned Community Policing member with the CPF chairperson did not call CPF meeting. The SAPS intelligence members did not involve the crime prevention officers and the area crime combating members who together should have performed their core function of completing an eventuality plan.
- Sharing of information with the other role players in the areas in Harrismith.

Although the information officers in Harrismith were aware of the concerns of the community, together with the station commissioner and the chairperson of the Community Police Forum they had limited success in involving the council members they were to convince them to have a meeting with the concerned residents. The communication to the crime prevention officers was also limited, as the crime prevention head was only informed on the Saturday night, in order to prepare the members for a parade on the Sunday morning. According to the interviewed members, they were ill informed about the possible risk factors and there was no draft eventuality plan.

#### Availability of resources

There were not enough area crime combat unit members involved with the Harrismith incident to prevent damage to property and violence. The commander of the ACCU requested back up from the Harrismith station commissioner. The station commissioner and the crime prevention head did not call a meeting to coordinate functions and resources. A captain from the crime prevention unit confirmed that he returned to the station, from the scene to collect fire arms and ammunition. It was however not the prescribed ammunition it being all there was. There had been no planning of prior arrangements for alternative ammunition.

#### - Communication to the public

The mayor failed to communicate with the residents and did not keep his appointment with them to address their concerns. The organizers of the demonstration then did not have enough support for their intended demonstration and had to recruit children from the schools to partake in the demonstrations. The Harrismith station commissioner and Harrismith chairman of the CPF failed to meet in advance with the demonstrators to explain the mayor's position. The crime prevention head tried to negotiate

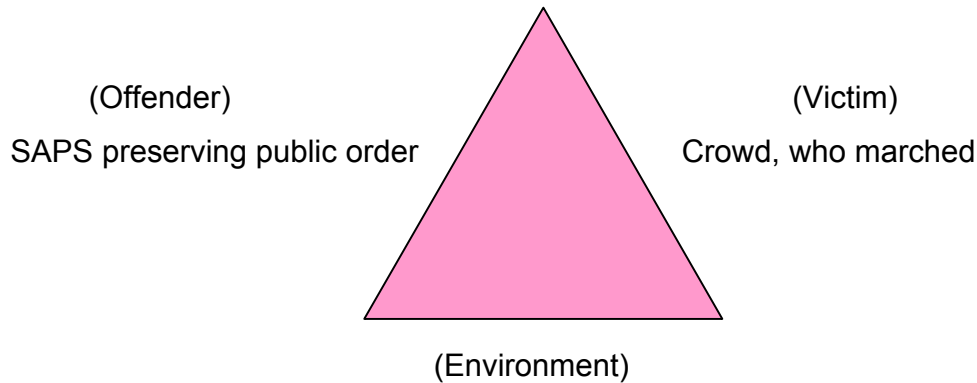
with the demonstrators on the day of the demonstration when it was too late.

### **5.3 THE ANALYSIS PHASE**

The SARA model requires an analysis of the problem after the problem has been identified during the scanning phase. The analysis is to follow data collection from the literature searches, police records, interviews with the media and relevant role-players, complaints surveys, crime pattern analysis, and the grouping of information. The information grouped along the “Problem Analysis Triangle” will effectively group information along the categories related to the “victim, the offender and the environment”. The analysis of the problems in the Eastern Free State is the process from when the violence was identified, to understanding the events and conditions that preceded and accompanied the violence, in order to customize a response to prevent the violence.

The obvious problem of violent behavior, is the result of an underlying problem. By understanding the conditions that preceded the violent behavior, a customized response can be developed to prevent it. A thorough analysis is required to confirm the suspected reasons for the violence. It was alleged that poor performance on the part of the municipality was the trigger to the violence. What gave rise to the poor services? All three of the Crime Triangle elements should be present for a crime to be committed and by understanding and grouping these elements, the greater the likelihood becomes of identifying a response that will make a real difference. The initial application of the “Crime Triangle” may be demonstrated in the following diagram from Nel, (2000:4). South African Community and environmental conditions as a result of poor services

#### **Figure 5.1 Applied Crime triangle**



Poor service and lack of basic needs, such as water, sewerage removal and available housing, were identified and grouped during the analysis phase. The problems included the crowd who expressed their intention to march, with or without approval of the authorities, the authorities' evident lack of commitment and involvement, and the SAPS, who were to preserve public order and prevent crime, yet their involvement resulted in a boy being killed.

**The environmental element of the Crime Triangle** was established when the Premier of the Free State visited the Eastern Free State after having received numerous complaints and a public outcry in the media about poor service delivery. Mr. Peter Frewen of the DA was quoted as having said that "the locals are battling to gain access to services, while the municipal managers are granted a substantial increase", (SABC 2 news, 20 September 2004). The violence in the Eastern Free State was headline news in many newspapers. The reason for the violence, according to indicators in the newspapers, SABC 2 news on, 7 October 2004 and radio Lesedi on 7 October 2004 was poor service delivery. The municipalities failed to deliver the required standard of service.

The poor service delivery was reported by to be the result of nepotism (Phillips, 2005:2), a lack of training and expertise (Versluis, 2005:1), affirmative action appointments (Benjamin, 2005), corruption, as well as fraud (Six Manguang officials were probed for fraud, 2005:4) and poor debt collection (Ensor, 2005).



The interviews with the marchers also confirmed that the main reason for their dissatisfaction was poor service delivery.

The Eastern Free State is an area where there are expectations from the ruling ANC party to deliver housing, jobs, and progress, because it is a previously disadvantaged area. (Free State Development Plan: 2002-2005). According to the interviews with community members, they organized the march because there was still no running sewerage system, many did not have electricity, and the building of houses was behind schedule.

The Local Government Municipal Finance Act of 2003, Chapter 12, Article 121 (1-3), requires the accounting officer to ensure that the budget is implemented and their responsibilities in financial management are carried out, as well as raising revenue in a competent way and providing annual reports as a record of activities. In addition to the Finance Management Act of 2003, the Municipal Systems Act 32 of 2000, Chapter 6, Section 42 also obligates the municipality to involve the local community to participate in the "implementation and review of the municipality's performance". It is therefore unfortunate that on the question of why the community marched in Harrismith, the DA councillor of Harrismith, stated; *"Dit is as gevolg van sisteme wat nie uitgevoer is nie. Dis is as gevolg van byvoorbeeld dinge wat geliasseer is in die Raad en waarop nie teruggerapporteer of gekommunikeer is nie."* (It is because the systems were not applied. It is because feedback was not reported and communicated in the Council). This section gives an opportunity to the community to participate in the setting of appropriate key performance indicators and performance targets for the municipalities. They however fail to do so because they are not involved. The theory of the "Crime Triangle" is that if the municipal officials had delivered on the legislative requirements and involved the community successfully with regard to the environmental element of the Crime triangle and there had been no concerns about the environment, crime would not have taken place.

**The second element, the offender element, of the “Crime triangle”** was the South African Police Service who is charged in accordance with the South African Police Service Act, No 68 of 1995, and Chapter 6, Section 17, to maintain national public order. The South African Police Service is required to act within the legal framework of the Criminal Procedure Act. The Act states the conditions for deadly force that are intended or are likely to cause death or grievous bodily harm to a suspect; in this case the offending members participating in the march. The Regulation of Gathering Act of 1993, Act No 205 allows for exceptions for the SAPS. When all the requirements of the Act are met, a police official may only disperse a gathering, if it has been declared a prohibited gathering or if the legally required Inspector has reasonable grounds to believe that danger to person or property cannot be prevented by other means prescribed in the Act.

The Police Service is also challenged to maintain anticipated service levels by recruiting and training the required number of officials in relation to the number of residents who require their services. The average police station in the Free State serves an average of 1 210 square kilometers. (Free State Development Plan: 2002-2005). According to the Area Crime Combating members of Harrismith, the Area Crime Combating Unit members are based in different areas. When they are notified about possible crowd action, they are not always able to respond in time. The station commissioner of Harrismith said that in the case of Harrismith, the crime prevention unit was sent to the scene where the public was demonstrating. Not all the members had received training according to the latest amended syllabus, involving crowd management.

Dr. Peter Waddington listed insufficient command and control of patrolling officers, lack of effective intelligence, and lack of committed community relations as previous failings on the part of the police (Waddington Report, 1992:43). In May 1992, the Goldstone Commission recommended the police are trained in public relations and in the use of non-lethal equipment to control demonstrations (Human Rights Developments, 2004:4). Police officers have since been trained in

accordance with human rights principles and public relations. In the interview with the station commissioner of Harrismith, the station commissioner said that the greatest problem was the lack of information and that there were no local police officials trained to deliver a local response to the demonstrating crowd. Also a number of crime prevention members had to assist the Area Crime Combating Unit response unit. An Area Crime Combating Unit inspector responsible for information management said that the notice was received timorously but the police did not act on the information in time. A crime prevention officer of Harrismith crime prevention said that the lack of updated training and the availability of the correct ammunition resulted in three members firing with the wrong ammunition. It resulted in the youth being killed.

Had the police members received training according to the latest curriculum or had they not been deployed, because the Area Crime Combating Unit members were insufficient, the offender element of the crime triangle would have been absent and a crime would not have been committed.

**The third element of the “Crime Triangle” is the victims** and in local analysis the victims were the marching crowd of Harrismith, who were fired on when they threatened their own safety and the safety of the road users of the N3 main road. According to the interview with the crime prevention officer, the marchers in Warden were also victims of violence in that sewerage was dumped at the entrance to the town and the police had to re-direct their march, while they attempted to get the mayor or a councillor of Warden to address the marchers.

According to the interview with the Harrismith DA councillor it seems that the community was frustrated because the requirements of the Finance Management Act of 2003 and the Municipal Systems Act of 2000, obliging the municipality to involve the local community to participate in the “implementation and review of the municipality’s performance,” did not take place. They were not given the opportunity to participate in the setting of appropriate key performance indicators

and performance targets for the municipalities. The repeated complaints of poor service delivery in Bethlehem, Memel, Kestell, Warden, Winburg, Vrede, Paul Roux Clocolan and Ficksburg, provided a common thread to the problem, (SAPS Circular 26/3/5/ 2004). The similar responses from the (victims) communities to request meetings with the local authorities, councillors, and mayors are an indication of clustered causes of complaints. Because their complaints were not adequately addressed violent behavior from the community accompanied marches and petitions (SAPS Circular 26/3/5/ (2004)). The question is, if the community was given the opportunity to participate in the setting of the appropriate key performance indicators and performance targets, would they have marched? Would they have marched if the officials had reported to the community as legislation requires? The community also had the option to march, to express their grievances, but could they do it in accordance with the Public Gatherings Act, which requires them to give notice of their intention? When demonstrators abide by the Act, are they able to express their views freely in public and enjoy the protection of the state with due regard to others? Would the conveners comply with agreements relating to the route, time, and the number of marshals? Would the marchers be armed with dangerous weapons or incite hatred or cause violence? Provided there is compliance, there should be no serious disruption to traffic, injury to participants or extensive damage to property because these actions are largely prevented if they abide by the law.

In this instance the marchers did not agree to the terms in accordance with a legislatively required notice. The result was that they marched illegally and were as result not protected by the Regulation of Gathering Act of 1993. There for the police acted in terms of the Criminal Procedure Act. The marchers were in violation of the law. There would not have been victims if the South African Police Service had not been obliged to act. The action of the police was however criticized and scrutinized after the Congress of the South African Trade Unions called for a high-level investigation into the conduct of police at the protest marches (Watch cops at marches, Cosatu (2006)).

If the services were of a satisfactory level, the crowd would not have had the need to gather and to demonstrate. It is most important to investigate the interrelation between the residents who started out as the offenders, being involved in an illegal march, and who were turned into the victims when a boy was killed and a number of marchers injured. The SAPS who were mediating and who were to an extent neutral, turned into the offenders when a boy was killed by a SAPS bullet. The municipality who started out as the victims against whom a march had been launched, then turned into the offenders, when it was established that they were responsible for the environmental reasons for the march, and for not meeting the conditions as were proposed by the SAPS.

On the occasion in Harrismith, the organiser of the march stated that their actions were to disrupt the N3 national road traffic, to draw the attention of the President, Mr. Mbeki. In Warden the community spilled the sewerage in an area close to the entrance of the town. This action did not encourage consultation and resulted in a health risk and disruption to road users and pedestrians along that road.

The conclusion reached after the analysis process is;

- The root cause of the violence is the community's concerns about municipal services;
- The contributing factors to the poor level of service delivery are nepotism in the appointment of municipal officials, lack of training of municipal officials, lack of expertise on service delivery, incorrect application of Affirmative Action effect of corruption and fraud, poor debt collection and poor performance by municipal managers.
- There was a lack of communication and consultation between the role-players
- There was a lack of information available to the SAPS to prepare planning and a briefing to the members;
- There was no contingency plan prepared involving the role-players; and

- The councillors did not adhere to the Finance Management Act of 2003 and the Municipal systems Act of 2000 which resulted in poor service delivery and poor accountability to the community.
- The marcher did not adhere to the Regulation of Gathering Act of 1993.
- The South African Police did not manage the crowd in terms of Standing Order (General) 262 Crowd Management during gatherings and demonstrations.

#### **5.4 THE RESPONSE PHASE**

When the analyses have been completed, the response needs to be formulated. The response should be aimed at the root causes of the problem and not at the symptom. If the response is aimed at the symptom, the symptom might be addressed to a degree, but if the root cause of the problem remains the same, the problem is likely to recur. An effective response needs to be formulated to eliminate or reduce the problem or to reduce the harm which was created by the problem. Some law enforcement officers would argue that the response would be best handled by the law enforcers, but many of the responses might not be within the mandate of the law enforcement agency.

In the Harrismith case, police members were deployed to prevent crime and to preserve public order. During their attempts to prevent the crowd from moving on to the N3 national road, someone in the crowd lit a tyre which was tied to a rope and was hurled around. The crowd moved onto the road and subsequently the Area Crime Combating Unit commander gave an order to the police members to open fire. Culpable homicide charges brought made against three members of the police, after a boy was killed during the march (van Wyk: 2006). A number of youths were also injured. Prosecution was instituted against the three members to decide if the force applied was justified in terms of Section 49 of the Criminal Procedure Act, no 51 of 1977.

It is unfortunate that police members have to react instantly considering the complex legislation regarding justified force, which was argued at length after the incident. According to the analyses, the public's expectation of the standard of municipal service is the underlying reason which caused the crowd's dissatisfaction and gave rise to the launch of a march. A large number of the persons interviewed said that the violence was a result of poor service delivery. To the question "What can be done to prevent the violence?", a greater number indicated that they required consultation with the local authorities. The Local Government Municipal Act 69 of 2003, Article 69 ensures that the budget is implemented according to a service delivery implementation plan on which they are expected to account to the community. Article 78 provides legislation to address the issue of service delivery which is accountable if it is properly applied, because it assigns responsibility for "effective, efficient, economical, and transparent" application of resources. Article 97 of the Local Government Municipal Act, of 2003, promotes the collection of revenue and the effective management and accounting thereof. This legislation was not adhered to according to the interview with the Harrismith Democratic Party political representative and councillor. The lack of payment for services forced the Harrismith Municipality to use funding that was required for development, to be used for maintenance. Duvenhage (2006) states that of the 284 municipalities, 122 are not able to provide basic services such as refuse removal services and 60% of the residents have to go without electricity. One hundred and thirty-six of the 284 newly established municipalities are considered to be in a crisis.

The communities need to meet, communicate and consult with the municipality, because of the poor service delivery. Since it is not the South African Police Service's core business to facilitate communication between two conflicting parties, this issue is a problem. The consultation and partnership approach to crime prevention are in keeping with the Community Police style which the South African Police Service has adopted since the 1994 democratic elections and the institutionalizing of Community Police Forums. The Community Police style caters

for the collective approach to crime prevention and collective accountability. It calls on the police to take a multi-disciplinary approach to the problem. It is evident from an analysis of the violence that a contributing factor to the violence was the reactive approach on the part of the SAPS and the lack of participation on the part of the involved role players and resources. The major objective of community policing is to establish partnerships between the police and the community at local level. The “community police forum” did not represent the broader community, as in the case of the elected mayor and councillors. These partners were not jointly responsible for the contributing factors to crime but were jointly responsible for preventing crime.

According to the interviews with members from both Harrismith and Warden, the South African Police response was not pro-active. The SAPS did not promote sufficient participation and information sharing. They did not actively commit to the principle of Community Policing. They did not promote responsibility and commitment to all the role-players to prevent crime and they did not call all the role-players to accountability. This approach did not enhance information sharing or promote a climate conducive to communication and consultation. It also did not serve as an early warning mechanism of a pending problem, with the result that no multi-disciplinary expertise was available to prevent the incident from happening.

According to the interview with the station commissioner of Warden, the area commissioner, after consulting with a number of the station commissioners in the Eastern Free State and having been advised by intelligence officers, arranged a meeting with the Provincial Member of the Executive Council. A committee was established, representing the SAPS and Local Authorities to assess the problems and to make the required arrangements to pro-actively address the dissatisfaction of the communities and to address the root causes of the marches.

The process to pre-empt the violence by the police serves as an attempt to address one of the elements of the Crime Triangle. Another attempt from the



police to address an element of the Crime Triangle is to address the police's approach to the public demonstrations. The police have attempted to ensure that the required notice to launch a public gathering or march is accepted according to the prescribed legislative procedures and the required agreements to "enjoy the protection of the state while doing so and whereas the exercise of such right shall take place peacefully and with due regard to the rights to others". While the crime prevention officers assisted the Area Crime Combating Unit members, an inspector from the crime prevention component of Harrismith reported: "*die ander ding net terwyl Area Crime Combating Unit bevelvoerder operasionele bevel oorgevat het, was daar niemand aangewys wat in bevel is van Harrismith stasie nie, so die stasie lede wat daar was, was maar daar en het nie geweet hoe om 'n reaksie te hanteer nie*". (...the other thing is that while the Area Crime Combating Unit commander took charge, no one was appointed to take charge of the Harrismith station members. They were there but did not know how to handle the reaction.) The inspector from Harrismith said; „*Ek dink ek moes die sigpol lede, stasie personeel ontrek het van die toneel af en aangewend het vir ander dienste soos patrollies en om die situasie te monitor en die beheerpunte se mense in kennis te stel.*” (I think the visible police members, should have redeployed the station members from the scene to do other duties, such as patrols, monitoring the situation and keeping the persons from the control points informed). The crime prevention commander of Harrismith said; "*I was going to hand over all my duties to them because, at the crime prevention level, I can't interfere, because I am not actually trained to handle such a situation*".

The ultimate response must address the root cause of the problem. The problem as identified is the service level of the municipality, which the police are not able to change. The symptom of the problem is the accompanying violence during protest actions. The police response therefore will be aimed at the crowd (victim) and the police (offender) elements of the Crime Triangle, within the legislative mandate of the police.

From the assessment, it is evident that no one single response is required to address the root cause of the violence in the Eastern Free State. The South African Police Service will be required to formulate a response:

- To a march organized to express concern about poor service delivery;
- To the lack of joint consultation and participation by all the partners and role-players;
- To the lack of training of crime prevention members in relation to public order duties;
- With clear command and control guidelines;
- Within the mandate of the SAPS (who will do what? when?)

## **5.5 THE ASSESSMENT PHASE**

During the assessment phase, the effectiveness of the response is evaluated. There are different ways of assessing whether a SARA model has been successfully applied. The absence of a problem can be used as an indication that the model has been successfully applied. A comparison of pre-and-post calls for service, or expressed satisfaction of residents can be an indication of a successful response to a problem. When the assessment of a problem shows that the problem has not been resolved, the process should again be completed and if the outcome is not satisfactory, the phases should be repeated.

The questions to be asked are: Has there been violence since the Warden and Harrismith incidents? There have been marches and public gatherings, but no incidents of violence comparable to the incidents in Warden and Harrismith. Has there been any dissatisfaction with service delivery? Have there been incidents reported in the media of ongoing dissatisfaction about service levels? Have there been applications for public gatherings or marches? Have there been applications in terms of the Regulation of Gatherings Act of 1993?

During the interviews with the respondents, they were asked to propose solutions to the violence in the Eastern Free State. The chairperson of the Community Police Forum in Harrismith requested the promotion of the Forum to serve as a platform for communication and negotiation. The information officer of the Area Crime Combating Unit said that if a notice was given of the intention to host a march, violence could be prevented if all the role-players sat down and negotiated the terms and conditions for organizing a safe demonstration. The station commissioner of Harrismith and the Crime Prevention Head proposed avoiding the deployment of crime prevention members as part of the reactive strategy, stating that the crime prevention members' training was not in accordance with recent standards. The Area Crime Combating Unit's response time was mentioned as taking too long and suggestions were made to train a local response group of crime prevention officers instead, so as to improve the response time. When the response to the violence was assessed, the respondents who were interviewed said that if they had the opportunity to meet the local authorities or the mayors, they would not have had to resort to disruptive actions.

According to the station commissioner of Warden, the South African Police Service area commissioner had become aware of the common problems in the different towns. He has since made efforts to consult with the Eastern Free State Police station commissioners. Their reports and his involvement resulted in negotiations with the Provincial Member of the Executive Council Government. The SAPS used the legal framework to their benefit when they applied the Regulation of Gatherings Act of 1993 and assembled with other role players in the town hall of Warden: this consultation as part of the response assisted the negotiations. The SAPS according to the interviewed station commissioner of Warden, initially responded to information which was part of the scanning process and the threat analysis resulted in their being able to make attempts to bring together the relevant role-players in keeping with the scanning process and applying the community policing principles of involving relevant role- players to address a problem in a multi-disciplinary manner.

According to the interview with the Warden station commissioner a committee has since been established at provincial level, with representatives of the South African Police Service Intelligence and Provincial Local Government representatives, who, with Area level representatives arranged consultative meetings and kept the community informed.

The premier has since been to a number of municipal areas where there have been backlogs on housing and services about which communities expressed their dissatisfaction. It bears questioning as to the professionalism, responsibility, accountability, and integrity of the municipal authorities. The applications to arrange public gatherings sparked some concern by the authorities; consequently, they arranged for a public forum to promote communication and consultation. Since the initial violence at Harrismith, more incidents followed at a number of towns in the Eastern Free State, providing an opportunity to assess the police response. The assessment highlighted the roles and responsibilities the SAPS needs to address:

- Service delivery concerns, as to ensure public safety and security
- Communication and consultation issues;
- training of SAPS members;
- Human response capacity;
- Logistical challenges for operational deployment; and
- Contingency planning

## **5.6 SUMMARY**

Having applied the different phases of the Scanning, Analysis, Response and Assessment model, it is clear that the South African Police remains obligated and challenged to prevent crime. It was already evident during the scanning phase that there was indeed a problem in the Eastern Free State. The media, local residents, sector policing managers, Community Police Forum members, activists

and politicians reported violence, injury, death, and damage to private and public property.

The collected data and analysis confirmed the reported problems related to the community's concern about poor service delivery. There were contributing factors to the poor levels of service delivery. There was a lack of communication and consultation between the role-players, which was cited by the interviewed residents as one of the proposed solutions, apart from improved service delivery. There was a lack of information to the police, inhibiting contingency planning and briefing of the members. The operational planning did not involve all the role-players to their maximum capacity and in the areas of their responsibility. The role players did not adhere to governing legislation. The municipality did not comply with the Municipal Acts and Regulations. Mayors did not full fill their duties and obligations in terms of the Municipal Acts and Regulations. Activists did not stage their public expression of dissatisfaction in terms of the Public Gatherings Act. The result was that the SAPS were held accountable for the subsequent injuries and the death of a youth.

## **CHAPTER 6: SUMMARY, CONCLUSION, AND RECOMMENDATION**

### **6.1 THE RESEARCH ISSUE, RESEARCH QUESTIONS AND GOALS OF THE STUDY**

South Africa's progressive Constitution and supportive legislation created the impression the public that freedom of expression is unlimited. According to

Duvenhage (2006), politicians have created expectations with the general public and failing to meet these expectations has sparked discontent. The expression of discontent has been accompanied by violence in some instances, (SABC 2 news, 30 August 2004). The violence and public disorder have become a major challenge to the South African Police Service to become innovative in its approach to public order. The protest marches experienced in the Eastern Free State since August 2004 have been experienced in all the provinces in South Africa. The community has regarded this police action as a public order exercise, closely related to political oppression and contrary to the police policy of providing a service.

It has become evident from the latest number of marches and violence in the Eastern Free State, that a pro-active police style is required. Ten years after democracy, questions were asked: "Is the Police Service able to handle public expression? Is the way the police service manages the public violence after 1994 any different from the way that the police FORCE handled public violence previously?"

The aim and objective of the research was to establish what preventative steps by the SAPS are necessary to prevent a repeat of such an unfortunate event. The value of the study was that it will give some indication of the progress made towards democratic policing and service delivery or the lack thereof. The study is exploratory in nature and was conducted in a qualitative paradigm. Interviews were conducted with involved role-players and reports, letters and newspaper articles were analysed and a number of interviews were conducted.

## **6.2 SUMMARY**

Since the fundamental right to demonstration has been accepted, marches have become indicative of public expression as demonstrated in the Harrismith incident. Twenty-four children were hurt and 38 arrested in Harrismith (SABC 2 news, 30

August 2004). A 17-year-old teenager died of internal bleeding after allegedly being shot with rubber bullets. The premier of the Free State visited Harrismith and stated that she had received complaints and a memorandum about the Reconstruction and Development Programme housing and about employment opportunities. Another complaint was that the municipality was losing its focus on health, including HIV/AIDS (SABC 2 news 2 September 2004).

In Warden, 26 persons appeared in court (SABC 2 news 7 October 2004) on charges of public violence and taking part in an illegal march. According to the SAPS Circular 23/3/5 (2004), the following stations were identified and plans were drafted in cases of violence related to Local Government: Bethlehem, Memel, Warden, Kestell, Winburg, Vrede, Paul Roux and Clocolan, as well as Ficksburg. Where taxi violence was anticipated the community is actively participating in the transformation process by expressing their disappointment and executing their rights. Three South African Police Service members from the Crime Prevention Unit of Harrismith, were charged and appeared in court on culpable homicide charges and a number of the community members were arrested and charged with public violence offences in both Warden and Harrismith.

There are a number of policies, acts, and regulations regulating gatherings, negotiating conflict and controlling perpetrators and offenders. The Constitution of the Republic of South Africa, Act 108 of 1996, provides a legal framework, which establishes the most basic Human Rights, such as freedom of religion and opinion and the right to freedom of expression, assembly, demonstration, picketing and petitioning as well as freedom of association and political rights, human dignity and freedom and security of the person. The Constitution, Chapter 2, Section 12 (1) guarantees personal safety against any form of violence, regardless of where the violence originates. Freedom of speech is enshrined in the Constitution, Chapter 2, Section 16, there for any person who has a concern about service delivery may make recourse to the Constitution to establish these rights. While everyone has these rights, they are not extended to the incitement of imminent

violence, “for one has the right to peaceful and unarmed assembly to demonstrate”. Although freedom of expression is essential to a democracy, people disagree on what kind of expression should be protected and what should be allowed or restricted.

According to Mc Quid-Mason, O’ Brien and Greene (1991:23), some people are of the opinion that speech should be controlled when it causes violence by inciting riots, calling on people to revolt, is racist or bigoted, or undermines the government. The Criminal Procedure Act No. 51, Section 49 provides the legal framework for the use of force in effecting an arrest. The force justified is such force as may be reasonable and necessary and proportional in the circumstances to overcome the resistance or to prevent the suspect from fleeing.

The purpose of Standing Order (General) 262, crowd management during gatherings and demonstrations, is to regulate crowd management during gatherings and demonstrations in accordance with the democratic principles of the Constitution and acceptable international standards. The Standing Order must be read in conjunction with the Criminal Procedure Act No 51. The Order requires the Service to devise effective methods to promote public safety by playing a “pro-active role in communicating with the public through the Community Police Forum or other channels.” Thompson, (2005:1) reported that the crowd expressed their dissatisfaction with the delivery of municipal services. The following factors seem to contribute to poor service delivery in the Free State: equity policy appointments, bribery, corruption, nepotism, lack of training and expertise, affirmative action, corruption, fraud and poor debt collection by municipalities. There were 843 municipalities during the so called “apartheid years” before 1994. The municipalities were rationalized to 284 after 1994. According to Duvenhage (2006) the community is expecting the municipalities to deliver basic services as well as progress on integrated development plans.



According to Duvenhage (2006), there seem to be four possible reasons for the instability in the Eastern Free State: internal conflict within the governing African National Congress, the lack of acquired value and stability; and poor service delivery. The fourth possible reason flagged by Duvenhage is the recorded evidence in the literature that strong economic growth has preceded unstable and violent governance.

The Eastern Free State is mainly a rural area where formal fruit farming and subsistence farming, as well as tourism are the main sources of employment. The poverty profile of the Free State recorded an estimated 66% of people living in poverty: 'the third highest poverty rates in the country', (World Bank Reports in Key Indicators of Poverty in South Africa, (1995)). The area sadly lacks infrastructure such as roads, housing, water, working sanitation and electricity. There are not enough schools, libraries, clinics, and police stations. (Free State Development Plan: 2002-2005). There are 32 police stations in the Eastern Free State and the majority of the stations are rural police stations. The average police station in the Free State serves an average of 1210 square kilometers. The majority of station commissioners do not have enough vehicles to deliver a quality service to a relatively poor rural area, where infrastructure is poor.

As stated in Chapter 2, the South African Police Service has emerged from a "force" to a "service" and has subsequently changed policing style to be accountable to the community. The problems in the Eastern Free State need to be explored to inform future police response. The persistent problems in the Eastern Free State seem to be a recurring pattern.

The SARA model is a methodical process to establish the root cause of the problems. The model provides a versatile four-component process, namely scanning, analysis, response, and assessment, to establish if there is a problem and how to respond to it.

During the scanning phase an attempt was made to collect information from public opinion, newspaper reporting, case reporting, television broadcasts and police correspondence and reports. The scanning phase provided the scope to priorities the problems, after it was confirmed that there was a problem. It served to confirm that there were related and recurring incidents that constituted problems of crime and disorder. Similar incidents occurred in Memel, Kestell, Vrede, Paul Roux, Clocolan, Ficksburg, and Warden. The questions were formulated to establish what had given rise to the public violence which required police intervention; what informed the subsequent police action; who the involved role-players were; how the SAPS Crime Combating Unit reacted to the violence and what the views and approaches were of those interviewed to the problems and proposed solutions. The violence, according to the media and interviews with the respondents, was related to the poor performance of the municipalities. More data was collected from police records, interviews, crime patterns, literature searches and grouped to be analyzed.

An in-depth analysis along the “Problem Analysis Triangle” was completed to separate the environmental, offender and victim related contributing factors to the violence in the Eastern Free State. From the data considered by the researcher, four themes emerged. The first was that violence was indeed experienced; the second theme was, the reasons given for the police involvement; the third theme involved the different role-players and the last theme considered solutions to the problems experienced.

According to an analysis, the root cause of the violence was the poor services of municipalities as well as the community’s expectations of services, derived from political promises. There is evidence that little progress has been made with the provision of basic services. According to the data, the provision of services is severely hampered by a number of serious factors such as the lack of expertise and training, unsuitable appointments of municipal workers, corruption, bribery, and nepotism. Paying customers are not receiving the professional services that

they are paying for and they are unable to make any satisfactory enquiries or requests to the municipal authorities. While the communities have made numerous attempts to voice their dissatisfaction and to engage the mayors and councillors, the lack of communication and consultation resulted in a public display of concern. The march in Harrismith took place in a public area on the N3 national road between Gauteng and KwaZulu Natal in violation of sub section (5) of the Regulations of Gathering Act of 1993. According to the crime prevention and Area Crime Combating Unit members, the marchers went on the road and lit the grass alongside, while one person lit a tyre, tied it to a rope, and swung it around in the air. Members of the Police Service were commanded to fire on the marchers and three members were charged with manslaughter. On 12 July 2006, the court found the members not guilty, since they were found to have acted in self-defense. Thirteen members of the community were charged with public violence related charges. Eleven members were released, while 2 were found not guilty and released.

While the Regulation of Gatherings Act, 1993, states that “every person has the right to assemble with other persons and to express his/her views on any matter freely in public” while enjoying the protection of the state, the gathering is not allowed to seriously disrupt traffic, injure other participants or other persons or damage property. This Act also makes provision for a police officer, an inspector, or higher authority to disperse a gathering which has been declared a prohibited gathering or because of previously mentioned grounds.

In the case of Harrismith the crime prevention officer said that they were poorly informed about the community’s intentions and that they did not prepare a contingency plan. They were merely told to report for duty at six o’clock the next morning. The CIAC Inspector confirmed that they had too little information, too late, and that the lack of information resulted in poor planning and poor briefing to the members. According to the station commissioner, he was not present at the march. The crime prevention head and the organiser of the march said that they

consulted during the march, when angry members of the community took the organiser away from the police and prevented negotiation. The crime prevention head reported that the marchers intentionally recruited under-aged children from the schools to participate in the march, because they would not be prosecuted. Most of those interviewed stated that the outcome of the march would have been different if the mayor had kept his appointment with the organizers of the march and had met with them at the agreed time and place.

The Harrismith incident was followed by the Warden March a week later. According to the station commissioner of Warden, he was involved with negotiations and was previously informed about the community's intention to organize a public demonstration of their concerns relating to poor service delivery. The station commissioner said that because there was no councillor to receive their memorandum, he had to receive it on the council's behalf. According to the interviews the area commissioner, the deputy area head of crime prevention, as well as the station commissioner were present at the march and the station commissioner was able to arrange a meeting with the concerned residents and the councillors to discuss the concerns of the community. On the day of the organized march however, the marchers proceeded to unlawfully restrict the use of a public road, by placing stones and rocks in the road. The marchers did not comply with the requirements as prescribed in the Regulations of Gathering Act 1993, Section 205(3), (5). The crowd's unlawful behaviour resulted in the Police being obliged to deploy Area Crime Combating Units to ensure safety and security.

### **6.3 CONCLUSION**

A pattern was established when events in the Eastern Free State were scanned according to applied SARA model. The root causes of the problems were public disorder problems. The public disorder was due to violence accompanying marches, organized by the community, because of concerns about poor municipal services.

Having analyzed the data on the reasons for the violence and the responses from the interviewed, involved role-players, and the information that informed the police response, it is evident that it is not the South African Police Service's sole responsibility to formulate a response to the violence. Most of the respondents indicated that they were of the opinion that improved quality of service delivery from the municipality would address their problems. It was apparent that the root cause of the problem started with the service delivery of the municipality. Some respondents said that communication would solve the problem. They did not insist on the services from the municipality, but they wanted an explanation and the opportunity to voice their opinion. The South African Police Service is not deemed to be the main role-player in preventing the public display of violence. Most of the respondents expected the South African Police Service to deliver their core function, of preventing crime and providing safety for all. They related the public violence problem in the Eastern Free State, not to the police, but to an array of role-players.

During the scanning process the lack of coordination, information sharing with role-players and poor internal and external communication was identified as reasons for the poor response on the part of the police. There was not enough information to inform the consultation meetings between the relevant role-players or the preparation of planning and briefing on the part of the SAPS. The result was that the available resources were poorly applied and the community was not informed about the challenges faced by the municipality and the SAPS to provide a quality service.

The data analysis provided the researcher with an explanation of the contributing factors to the root cause of the violence. The community's concerns about municipal services, is the result of a lack of expertise, inadequate training, inappropriate appointments, corruption, bribery and nepotism. Paying customers do not receive the professional services for which they are paying and they are

unable to make any satisfactory enquiries or requests to the municipal authorities. The lack of information prevented the police from preparing pro-active planning, and briefing members from applying the available resources optimally.

The police response was not well-informed and formulated, because the response was not directed at the root cause of the violence. Rather, it was directed at the violence, which is the symptom of the problem. It might have been because the municipal service provision is not the core business of the police. Moreover, the service providers did not make any effort to facilitate communication between the community and the municipality after having noted that there were attempts on the part of the community to engage the mayor and councillors. Furthermore, the SAPS also did not involve the Community Police Forum to its full capacity. The deployment of crime prevention officers, who were not trained in the recent public order curriculum and waiting for the arrival of the Area Crime Combating Unit members result of crisis management. The members of crime prevention fired prohibited rounds and caused the death of a youth because of a lack of training and no briefing. The lack of clear command and a controlled handover between the crime prevention commanding officer and the Area Crime Combating Unit commander resulted in the commanding officer being unaware of the line ammunition of the crime prevention officers. South African Police Service members operated within their mandate. It is not within the South African Police Service's mandate to address municipal services. The South African Police Service is responsible for preventing crime and ensuring public safety, with the involvement of relevant role-players, through community policing.

The South African Police Service's response was not directed at the root cause of the problem. There is, however, no evidence that the station commissioners made concerted efforts to bring the different role-players together to facilitate consultation in a correct problem-solving and community-policing style. The lack of communication and consultation is not in keeping with the adopted democratic style of community policing, where the focus is on transparency and information

sharing. Information officers advised the station commissioners of the intentions to arrange public demonstrations. The station commissioners did not apply the information to arrange consultative meetings to facilitate the peaceful exchange of information. The South African Police Service did not promote participation and information sharing. They did not actively commit to the principle of partnership policing, nor did they promote shared responsibility and commitment with all the role-players to prevent crime. This approach did not enhance information sharing and a climate, conducive to communication and consultation. Moreover, it did not serve as an early warning mechanism of a pending problem and no multi-disciplinary expertise was available to prevent the problem from occurring.

With regard to the consultation in Harrismith, the notice was given in time but the police did not act on it and it was used only to inform members to report for duty at 06:00 on the Monday morning 30 August 2006. No one prepared a comprehensive briefing for the crime prevention and Area Crime Combating Unit members according to a written operational plan.

Concerning the planning process, the information did not inform a written contingency plan and no external members were at the briefing session to advise or to consult, such as a representative of the Community Police Forum, a representative of the organizers of the march or the municipal council or traffic department. The response capacity was informed merely by the available information. The crime prevention members were not nearly enough and they were not adequately enough equipped with crowd control gear to provide protection and the preservation of peace. The Harrismith crime prevention officer and the Warden Station commissioner requested assistance from the area commissioner who dispatched the Area Crime Combating Unit members from Bethlehem. The distance of the Area Crime Combating Unit members from Bethlehem to Warden, was too far to provide emergency response services and it was not taken into account.

The training of Area Crime Combating Unit members concerning negotiation and equipment has been adapted since 1994. Area Crime Combating Unit members are trained to negotiate with the organizers of gatherings in a post-democratic society. Contrary to this, the crime prevention members are not trained to an adequate level, nor are they equipped to handle public gatherings and as a result the numbers of the marchers grew substantially, as marchers went to the schools to recruit the children to join them. The children were also recruited intentionally, because the police would find it difficult to prosecute them. The marchers became too numerous to control and their aggressive attitude towards the SAPS, the threat to the N3 road users, as well as their own safety left the SAPS with no choice, but to authorize their members to open fire.

The handover of command and the control of the gathering between the crime prevention commander and the Area Crime Combating Unit commander were, according to the officers, according to procedure. There were no questions asked about the briefing process and it is not established if the members were reminded about the use of force and the authorized ammunition. The Harrismith crime prevention officers did not arm themselves during the parade; they went to the station during the operation and armed themselves with ammunition that was unauthorized. According to the interviews there was no authorized ammunition available. The Area Crime Combating Unit commander was not informed about the unauthorized ammunition, but in the visual data the members can be clearly seen carrying firearms and side weapons, which also may not be fired during public violence operations.

In the case of Warden, which followed the Harrismith incident, the root cause of the violence was also poor service delivery. The notice given by the community of their intention to arrange a public demonstration was submitted in time and information managers of Area Crime Combating Unit informed the station commissioner about the march. There were no questions asked about the briefing of the members during the parade, but the interviews revealed that the station



commissioner involved the area commissioner, who in turn involved relevant stakeholders. Regardless of the poor participation on the part of the mayor and the councillors, the organizer of the march was involved and the consultation between the role-players relieved some of the tensions and the SAPS were able to limit the damage to public property and there was only one injury sustained compared to the eleven injuries and one death sustained in Harrismith.

The judgment made in *Peterson v the Minister of Safety and Security, 2005 A 624*, is that police action has to be consistent with the Bill of Rights and they have to exercise their powers “strictly within the prescribed bounds.” Their actions must “benefit the society as a whole” and must be complementary to the obligations which have been imposed by the constitution, while the fundamental rights of individual members of the community are also protected. Public Order Police members are constantly challenged to preserve public order while observing the rights of individuals. The judgment also rules there is a decision to be taken as to what is more important, “the South African Police constitutional obligations”, or the “proper performance of their duties”.

When assessing what is the more important, accountability must serve as a point of departure. The judge admitted that the police have to make a quick decision in an emergency situation. Most important is that Judge Pikis, in the case of *Andronicon and Another v Cyprus (1998) 25 EHRR 491 at 565* said: “The state has the added duty of planning as well as controlling the operation so as to limit the circumstances in which force is used, and if force is unavoidable, to minimize its effects.”

#### **6.4 RECOMMENDATIONS**

A step-by-step service-orientated, preventative policing style is suggested for public violence in the Eastern Free State. Following is a discussion of the steps, as well as Diagram 6.1, which is a schematic illustration of the step-by-step approach.

#### **6.4.1 Step 1: Training of members in crime information analysis**

A station has to have members trained in crime information analysis. Members deployed in the crime intelligence analysis centre, must search for possible crime patterns, from crime related data, the literature, informers and members, concerning the offender, to the victim and the environmental factors contributing to crime. These procedures will establish a preliminary indication or pattern that may constitute a crime related problem.

#### **6.4.2 Step 2: Involve the relevant role players**

The role-players must be involved in terms of the South African Police Service Act No. 68, which instructs the South African Police Service to adopt a community police orientated crime prevention style and to establish partnerships with the community to promote joint problem identifying. An ideal Community Police Board represents all the relevant role-players. In many cases an extra effort is deemed necessary to engage all the relevant role-players, because the Community Police Board does not represent the community. Possible role- players to engage are: Local Government Departments, Non-Governmental organisations, Chamber of Commerce and business representatives, school children, church, and religious role players, security fraternity and the elected community police board.

#### **6.4.3 Step 3: Apply the Scanning, Analysis, Response and Assessment Model in accordance with the philosophy of a community police crime prevention style**

The SARA Model provides a practical step-by-step approach to the involved community to complete a safety audit to identify the problem, to develop and manage a strategy and to monitor and evaluate the outcome.

There should be a focus on the elements of the Problem Analysis Triangle. The elements of the triangle will serve to group the information along the elements of the triangle. The root cause of the problem must be identified along the elements of the triangle. Since all three of the Crime Triangle elements need to be present for a crime to be committed, the challenge is to find at least one element (root cause), to be present by addressing it, instead of the symptoms of the problems.

Underpinning legislation must be considered during all the phases of the model. The Constitution of South Africa serves as a point of departure. The South African Police Service Act is helpful in assigning roles and responsibilities and serves as a mandate for police action. Standing Orders guide the implementation of the response and court cases serve to inform decision-making and instructions.

The four phases of the SARA Model involve the scanning process, whereby the South African Police Service with all the identified role-players complete a preliminary review to confirm that there is a pattern of related, recurring incidents that constitute a problem.

The second phase, the analysis phase, involves the South African Police Service and relevant role-players in analysing the events and conditions that preceded or accompanied the problem to customize a response to the problem and to eliminate an element, by grouping information and using a multi-agency and inclusive approach to the crime problem.

The third phase, the response phase, requires that the South African Police Service and the relevant role-players, execute an agreed response, which would address one, two or all three elements of the Crime Triangle. The response should not be restricted to the South African Police Service. A response should only be directed at the root cause of the problem; not at the symptom of the problem.

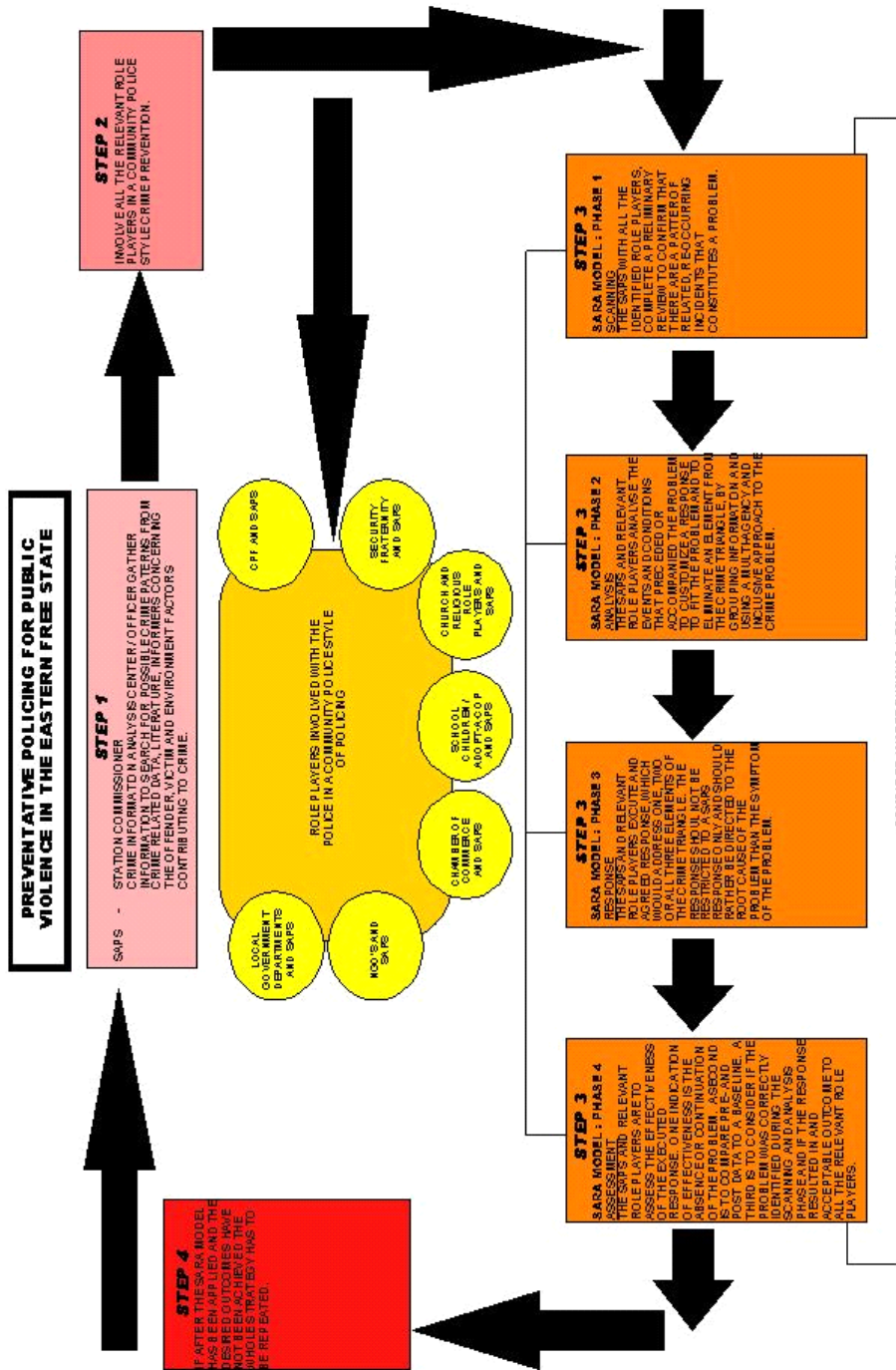
The final phase, the assessment phase, is to assess the effectiveness of the executed response. One indication of effectiveness is the absence or continuation of the problem. A second indication is to compare pre-and post data to a baseline. A third is to consider whether the problem was correctly identified during the scanning and analysis phase and if the response resulted in an acceptable outcome for all the relevant role-players.

#### **6.4.4 Step 4: Address the training issues**

The Assessment phase of the SARA model will provide an indication of where the role-players failed in their approach to the crime problem. All the role-players must provide the required training and skills development related to their role and responsibility and mandate, to contribute in an informed and positive way to addressing the root cause that contributes to the crime.

All possible preventative crime prevention measures must be explored and implemented, involving all the role-players, using all available skills and resources. The objective is to avoid the occurrence of a situation which could require the South African Police Service to make an instant decision and to prioritise between constitutional obligations and the proper performance of their duties.

Training should counter the perception that “police officials who are described as law enforcement officials, sometimes break the law designed to protect human rights when enforcing other laws”, (Crawshaw, Devlin and Williamson 1998:23). It is therefore imperative that they act in keeping with current policy and training. This training will promote valuable consultation and multi-disciplinary approaches to problems.



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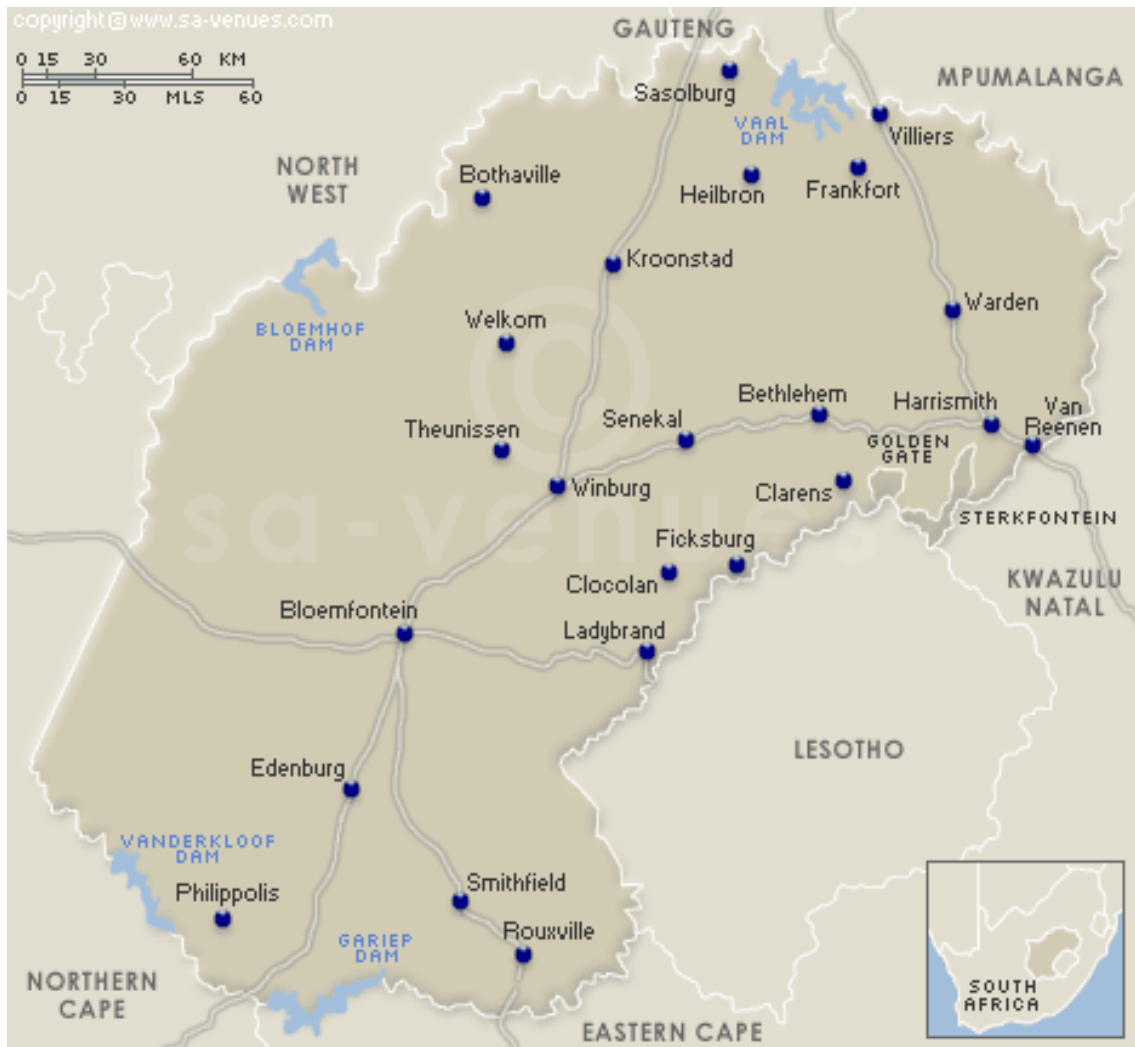
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## **ADDENDA**

**Addendum A: A map of the Free State Province of South Africa**

Source: [www.sa.venues.com](http://www.sa.venues.com)



**Addendum B: A map of the Northern and Eastern Free State Areas of the Free State Province of South Africa**

Source: [www.wheretostay.co.za](http://www.wheretostay.co.za)



### Addendum C: A list of questions posed to the respondents

1. Questions in relation to the Harrismith events
  - 1.1 All the possible persons to interview

- 1.1.1 The Mayor of Harrismith
  - 1.1.2 Council members of Harrismith
  - 1.1.3 Politically involved role-players
  - 1.1.4 Private persons present at the march
  - 1.1.5 SAPS intelligence officer
  - 1.1.6 The commander of ACCU
  - 1.1.7 Members of ACCU
  - 1.1.8 Member of the media who covered the events
- 1.2 To answer the following question in the dissertation: “1.3.1. What gave rise to the public violence which required police intervention?” the following questions are proposed:
- 1.2.1 What happened on 30 August 2005, before the police came to Harrismith?
  - 1.2.2 Where did the people gather together and why?
  - 1.2.3 What did the people talk about?
  - 1.2.4 Who was there?
  - 1.2.5 What happened?
- 2.1 Possible persons to interview
- 2.3.1 The Mayor of Harrismith
  - 2.3.2 Council members of Harrismith
- 2.2 To answer the following question in the dissertation: “1.3.1. “What informed the subsequent police action?” the following questions are proposed:
- 2.2.1 Who requested the police?
  - 2.2.2 When did the police respond and to what did they respond?
  - 2.2.3 Why did the police come to the scene?
- 3.1 Possible persons to interview for this question:
- 3.1.1 The Mayor of Harrismith
  - 3.1.2 Council members of Harrismith
  - 3.1.3 Politically involved role-players
  - 3.1.4 Private persons present at the march
  - 3.1.5 SAPS intelligence officer
  - 3.1.6 The commander of ACCU
  - 3.1.7 Members of ACCU
  - 3.1.8 Members of the media who covered the events
  - 3.1.9 Politically involved role-players
  - 3.1.10 Private persons present at the march
  - 3.1.11 SAPS intelligence officer
  - 3.1.12 Commander of ACCU
  - 3.1.13 Members of ACCU Who were the involved role-players who acted on the public violence?
  - 3.1.14 Member of the media who covered the events

3.2 To answer the following question in the dissertation: “1.3.1. “Who were the involved role-players who acted on the public violence?” the following questions are proposed:

3.2.1 Who were the involved role-players who acted on the public violence?

3.2.2 Who was present at the scene?

3.2.3 Who was reported to have been involved?

4.1 Possible persons to interview for this question:

4.1.1 The Mayor of Harrismith

4.1.2 Council members of Harrismith

4.1.3 Politically involved role-players

4.1.4 Private persons present at the march

4.1.5 SAPS intelligence officer

4.1.6 The commander of ACCU

4.1.7 Members of ACCU

4.1.8 Members of the media who covered the events

4.2 To answer the following question in the dissertation: “1.3.1. How did the SAPS Public Order Unit react to the violence?” the following questions are posed:

4.2.1 When did the police arrive?

4.2.2 What happened after the police arrived?

4.2.3 What did the police do in response to the actions of the crowd?

5.1 Possible persons to interview for this question:

5.1.1 The Mayor of Harrismith

5.1.2 Council members of Harrismith

5.1.3 Politically involved role-players

5.1.4 Private persons present at the march

5.1.5 SAPS intelligence officer

5.1.6 The commander of ACCU

5.1.7 Members of ACCU

5.1.8 Members of the media who covered the events

5.2 To answer the following question in the dissertation: “1.3.1. What are the views and approach of the interviewed to the problems and proposed solutions?” the following questions were posed:

5.2.1 What do you think could have been done differently by you to prevent the manner in which the incidents were handled?

5.2.2 What do you think could have been done differently by the police, to prevent the damage and bloodshed that occurred during the incident?

5.2.3 How likely is it that similar problems, will occur in future?

5.2.4 How do you think you would handle the problems that gave rise to the violence differently in future?

## **2. Questions in relation to the Warden events**

- 1.1 All the possible persons to interview
  - 1.1.1 The Mayor of Warden
  - 1.1.2 Council members of Warden
  - 1.1.3 Politically involved role-players
  - 1.1.4 Private persons present at the march
  - 1.1.5 SAPS intelligence officer
  - 1.1.6 The commander of ACCU
  - 1.1.7 Members of ACCU
  - 1.1.8 Member of the media who covered the events
  
- 1.2 To answer the following question in the dissertation: “1.3.1. What gave rise to the public violence which required police intervention?” the following questions are proposed:
  - 1.2.1 What happened on 30 August 2005, before the police came to Warden?
  - 1.2.2 Where did the people gather together and why?
  - 1.2.3 What did the people talk about?
  - 1.2.4 Who was there?
  - 1.2.5 What happened?
  
- 2.1 Possible persons to interview
  - 2.3.1 The Mayor of Warden
  - 2.3.2 Council members of Warden
  
- 2.2 To answer the following question in the dissertation: “1.3.1. What informed the subsequent police action?” the following questions are proposed:
  - 2.2.1 Who requested the police?
  - 2.2.2 When did the police respond and to what did they respond?
  - 2.2.3 Why did the police come to the scene?
  
- 3.1 Possible persons to interview for this question:
  - 3.1.1 The Mayor of Warden
  - 3.1.2 Council members of Warden
  - 3.1.3 Politically involved role-players
  - 3.1.4 Private persons present at the march
  - 3.1.5 SAPS intelligence officer
  - 3.1.6 The commander of ACCU
  - 3.1.7 Members of ACCU
  - 3.1.8 Members of the media who covered the events
  - 3.1.9 Politically involved role-players
  - 3.1.10 Private persons present at the march
  - 3.1.11 SAPS intelligence officer
  - 3.1.12 Commander of ACCU
  - 3.1.13 Members of ACCU Who were the involved role-players who acted on the public violence?

### 3.1.14 Member of the media who covered the events

3.2 To answer the following question in the dissertation: “1.3.1. “Who were the involved role-players who acted on the public violence?” the following questions are proposed:

- 3.2.1 Who were the involved role-players who acted on the public violence?
- 3.2.2 Who was present at the scene?
- 3.2.3 Who was reported to have been involved?

4.1 Possible persons to interview for this question:

- 4.1.1 The Mayor of Warden
- 4.1.2 Council members of Warden
- 4.1.3 Politically involved role-players
- 4.1.4 Private persons present at the march
- 4.1.5 SAPS intelligence officer
- 4.1.6 The commander of ACCU
- 4.1.7 Members of ACCU
- 4.1.8 Members of the media who covered the events

4.2 To answer the following question in the dissertation: “1.3.1. How did the SAPS Public Order Unit react to the violence?” the following questions are posed:

- 4.2.1 When did the police arrive?
- 4.2.2 What happened after the police arrived?
- 4.2.3 What did the police do in response to the actions of the crowd?

5.1 Possible persons to interview for this question:

- 5.1.1 The Mayor of Warden
- 5.1.2 Council members of Warden
- 5.1.3 Politically involved role-players
- 5.1.4 Private persons present at the march
- 5.1.5 SAPS intelligence officer
- 5.1.6 The commander of ACCU
- 5.1.7 Members of ACCU
- 5.1.8 Members of the media who covered the events

5.2 To answer the following question in the dissertation: “1.3.1. What are the views and approach of the interviewed to the problems and proposed solutions?” the following questions were posed:

- 5.2.1 What do you think could have been done differently by you to prevent the manner in which the incidents were handled?
- 5.2.2 What do you think could have been done differently by the police, to prevent the damage and bloodshed that occurred during the incident?
- 5.2.3 How likely is it that similar problems, will occur in future?
- 5.2.4 How do you think you would handle the problems that gave rise to the violence differently in future?



**Addendum D: Interview schedules**


<u>Not numeric (numbers of interviews</u>	<u>Date of interview in 2006</u>	<u>Harrismith or Warden</u>	<u>Respondent representatives</u>	<u>Name and surname</u>	<u>Contact number</u>
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1.	17 January	H	ACCU Inspector	P E Kumbane	082 3818453
2.	17 January	H	ACCU Inspector	RM Faba	084 4281244
3.	17 January	H	ACCU Inspector	N I Mamagwe	051 409 5700
4.	17 January	H	ACCU Inspector	B T Rakate	082 5385723
5.	17 January	H	ACCU Inspector	N Lepele	082 7383987
6.	17 January	H	ACCU Captain	S J Henning	082 5116656
7.	17 January	H	ACCU Captain	D J Victor	082 8563099
8.	17 January	H	ACCU Inspector	J A Diggiden	076 7410710
9.	31 January	H	Station Commissioner , Snr Supt	F Marais	082 4556133
10.	31 January	H	CIAC Inspector	J H Beyers	084 4325611
11.	31 January	H	Crime Prevention Head Supt	Mpembe	082 4668961
12.	31 January	H	Human Resource Management Captain	S Mokanyane	082 9780216
13.	1 February	H	CPF Chairperson	J Mosili	072 8144042
14.	2 February	W	Crime Prevention Head Inspector	J Hilario	082 7744987
15.	2 February	W	Private person present at the march	Evilina Tshabalala	058 643004212
16.	2 February	W	Private person present at the march	Pelina Meduna	058 6430042
17.	2 February	W	Private person present at the march	Miriam Lekele	058 6430042
18.	2 February	W	Private person present at the march	Francina Hatebe	058 6430042

19.	2 February	W	Private person present at the march	Izak Motaung	058 6430042
20.	2 February	W	Private person present at the march	C Stemmet	058 6430042
21.	2 February	W	Intelligence officer of SAPS	Willa Wessels	058 6430042
22.	2 February	W	Detectives Inspector Investigate the docket	C Swart	082 4115717
23.	2 February	W	DA party member and political activist	Doreen Wessels	084 2451921
24.	2 February	H	ANC Youth League	George Mohala	Pinkie's Trade Shop
25.	3 February	H	ANC Youth League and member of ANC Executive Committee (Arranged the march)	Neo Motaung	073 7218106
26.	6 February	H	CPF Coordinator Inspector	M Swart	058 6221050
27.	7 February	H	DA Councillor	Henk Badenhorst	082 9269923
28.	7 February	H	ACCU, Inspector	V Smith	076 1717657
29.	7 February	H	ACCU, Sergeant	K S Masiteng	073 6740650
30.	7 February	H	ACCU, Captain	NVH Mokoena	083 3928945
31.	7 February	H	ACCU, Inspector	M L Mabe	083 7599253
32.	7 February	H	ACCU, Inspector	F S Mofokeng	083 7546278
33.	7 February	H	ANC Councillor of the Malutie A Phofung Municipality	N E Msibi	082 5647507
34.	9 February	H	Crime Prevention Officer	Supt C Heroldt	083 7847734

35.	9 February	W	Concerned resident	Wilna van Schalkwyk	082 4336252
36.	9 February	W	Chairperson of the Concerned Residents Association	Abie Mahlaba	072 4240329
37.	10 February	H	ACCU Commander, Captain HWJ Labuschagne	HWJ Labuschagne	084 5811890
38.	10 February	W	ACCU Commander, Captain HWJ Labuschagne	HWJ Labuschagne	084 5811890
39	10 February	H	Former Captain and charged with murder	Visser	082 445 4358
40	24 February	W	Station Commissioner	Supt Tsoetsi	051 507 6000

**Addendum E: Letter of approval from the Head Strategic Research of the SAPS, approving the Research Proposal**


<i>South African Police Service</i>			<i>Suid-Afrikaanse Polisdiens</i>	
Private Bag	X94	Fax no	(012) 393 3178	
Privaatsak		Faks no		
YOUR REFERENCE / U VERWYSING		THE HEAD / DIE HOOF		
MY REFERENCE / MY VERWYSING	3/34/2	STRATEGIC RESEARCH /		
ENQUIRIES / NAVRAE	SI/Supt J Schnetler /Supt GJ Joubert	STRATEGIESE NAVORSING /		
TEL NO	(012)393 3177 / 3118	STRATEGIESE BESTUUR		
		PRETORIA		
		0001		
		14 April 2005		

**PROF RIKA SNYMAN  
UNISA**

**ATT: SUPT B PEARCE**

**RE: REQUEST FOR PERMISSION TO CONDUCT RESEARCH : A PREVENTATIVE POLICING STYLE FOR PUBLIC VIOLENCE IN THE EASTERN FREE STATE : RESEARCHER: SUPT B PEARCE**

1. E-mail from Prof Snyman dated 9 March 2005 refers.
2. Permission is given to Supt Pearce to conduct research on the above mentioned topic. However, the following must be taken in consideration:
  - 2.1 The conducting of the research must take place without any disruption of the duties of members of the Service and where it is necessary for the *research goals, research procedure* or *research instruments* to disrupt the duties of a member, prior arrangements must be made in good time with the commander of such member;
  - 2.2 The researcher undertakes that information divulged by either a member of the Service, or any person with whom such a member is conducting an interview, will at all times be treated as strictly confidential. If information pertains to the investigation of a crime or a criminal case, the researcher acknowledge that he or she by *publication* thereof may also be guilty of interfering with the cause of justice or contempt of court;
  - 2.3 The researcher is not indemnified from paying fees or following further procedures applicable to his or her request, for example fees or procedures applicable for obtaining the records of the Service;
  - 2.4 Then researcher will donate an annotated copy of the research work to the Service; and
  - 2.5 The permission of the relevant line manager must be obtained.
3. A copy of this letter must be submitted to the relevant role players.

  
SNR SUPT  
HEAD: STRATEGIC RESEARCH  
J SCHNETLER

**Addendum F: A letter of approval from the SAPS Free State Provincial Commissioner**



**INTERNE MEMORANDUM  
INTERNAL MEMORANDUM**

*Provinsiale Misdaadvoorkoming, Vrystaat  
Provincial Crime Prevention, Free State*

AAN/TO : The Provincial Commissioner Free State Province  
: Deputy Provincial Commissioner  
: The Provincial Head Crime Prevention  
VAN/FROM : Supt Pearce  
DATUM/DATE : 2005- March-08  
VERW/REF : 0436826/6

**CRIME PREVENTION: OPERATIONAL PLANNING/SOCIAL CRIME PREVENTION:**

1. I have been granted a SAPS bursary to further studies pertaining to Policing and to invest in the outcome of the study. The Unisa's School of Criminal Justice Research Committee supports the study and the value of the outcome of the study for the rest of the country, (see attached letter, marked annexure A.)
2. The topic of the research proposal is:  
  
"A Preventative Policing Style for Public Violence in the Eastern Free State".  
Attached is a copy of the approved research proposal. The topic was chosen because it is a burning issue, which seems to be rolling out to the rest of the country. In an effort to counter poor service delivery and criticism the problem should be researched and efforts are to be made to be pro-active. The problem can be well researched by applying the SARA Model for problem solving.
3. Here with is an application for consideration to invest in the outcome of the research.

May I please have permission to conduct interviews with the relevant roleplayers to collect data for the case study.

.....SUPERINTENDENT  
(B PEARCE)

COMMENTS:

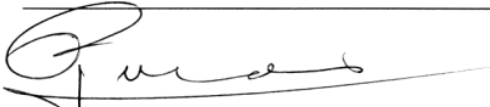
*Recommended.  
This case assist with a  
critical issue*



.....DIRECTOR  
PROVINCIAL HEAD: CRIME PREVENTION  
(HA PANERAS)

COMMENTS:

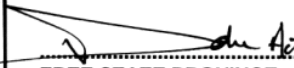
*Recommended*



.....DEPUTY PROVINCIAL COMMISSIONER  
FREE STATE PROVINCE  
(J LUCAS: SOE)

COMMENTS:

*Approved*



.....PROVINCIAL COMMISSIONER  
FREE STATE PROVINCE  
(MS LANDU)