Chartered Governance Institute of Southern Africa

Beyond SA's policing malaise
Governance for SAPS institutional strengthening

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Introduction

- Madlanga Commission - Influence of criminal networks (‘organized crime’) on SAPS senior echelons
- Broader backdrop of high crime, moribund policing system, low trust in the SAPS.
- This presentation focused on governance of policing – specifically the SAPS.
- **Three focal points:**
  1. General observations re: South African Police Service (SAPS) & SA policing system and questions of governance.
  2. Controlling inappropriate political interference.
  3. Provisions of the Constitution relating to National Policing Policy (NPP) highlighting consistent failure of ministers of police to provide strategic policy direction to the SAPS & argue for **strategic policy focused on institutional strengthening.**

SAPS - an institutional colossus

- 187 681 personnel in March 2025 (155268 police, 32413 Public Service Act personnel) distributed across ……..
- 12 divisions at national level (detectives etc)
  - 5 perform policing functions;
  - 7 are ‘support’ divisions
- 9 provincial management systems incorporating divisional elements
- 52 districts.
- 1165 stations
- Divisions have multiple organisational units or components within them e.g. Visible Policing includes most uniformed personnel at stations as well as ‘tactical units’ like the Special Task Force, NIU.

Policing activities performed by SAPS

1. Receiving reports of crime and responding to victims and Community Service Centres (‘charge offices’).
2. Mobile response to victims in distress and other calls for service.
3. Analysing crime data.
4. Visible policing & operations - roadblocks, & patrols & other crime prevention activities.
5. Border security.
6. Protecting national key points & senior public officials.
7. Crime investigation, including attending crime scenes, taking statements, gathering evidence, collecting and analysing forensic material, arresting suspects and undertaking covert surveillance (latter under ‘Crime intelligence’).
8. Public order, including responding to protests or medium- and high-risk situations through public order.
9. Escorting vehicles carrying dangerous criminals and responding to dangerous situations through tactical units.

Governance of SAPS & broader policing system

- **Critical questions face both the SAPS and other components of the policing system:** this presentation focuses on the SAPS, but evidence before the Madlanga Commission also demonstrates that there are extremely serious problems within metro police departments.

- **SAPS Governance** ▪ Minister empowered by s206 of the Constitution ▪ Civilian Secretariat for Police (Section 208) ▪ Portfolio Committee on Police ▪ Equivalent structures at provincial level ▪ Community Police Forums (CPFs) at each police station ▪ Courts ▪ IPID ▪ Auditor-General of South Africa ▪ Police unions in labour bargaining council.

- **Other policing and (sometimes overlapping) governance systems** ▪ Metros have jurisdiction over metro police but not SAPS ▪ National, provincial and local traffic policing ▪ Private security notably Private Security Regulatory Authority ▪ SANDF ..

Inappropriate political interference in the police

Instruction by Minister of Police ordering closure of Political Killings Task Team (PKTT)

- 31 December 2024: Senzo Mchunu issues written instruction for Political Killings Task Team (PKTT) to be shut down.
- What was happening here? – Madlanga Commission supposed to answer this.
- Deliberations of the Ad Hoc committee suggest they are not going to deliver a verdict on this question.
- Questions that have been asked include
  - Was this illegitimate operational interference?
  - Was proper process followed?
  - Is consultation required?
  - How to assess the motivation provided in instruction?
  - Was the PKTT effective?
  - Why was the instruction issued on 31 December?

Authority of Minister to issue policy AND directions

“The National Commissioner must exercise control over and manage the [SAPS] in accordance with the national **policing policy and the directions** of the Cabinet member responsible for policing.” (Constitution, Section 207(2))

Maj Gen M Van Rooyen, affidavit to Madlanga Comm: ‘neither chapter 11 of the Constitution nor the SAPS Act **provide any clear guidance** on the ambit or scope of the policy or directives that the Minister may issue’.

Policy & operational matters are not always distinct

- Political influence frequently focuses on police priorities and use of police resources.
- Political influence of this kind is **simultaneously both** ‘policy’ (priority setting) and ‘operational’ (effects how police resources are deployed and used).
- This illustrates the key point: the terms ‘policy’ and ‘operational’ are not clearly distinct from each other.

Inappropriate political interference

- Political influence over police leadership appointment results in compliant senior leaders.
- Interference frequently takes place ‘informally’ through direct contact between Minister and Police commissioner (not written directions).
- Apart from Minister of Police-National Commissioner interface - exercised from different points in the political system and targets diverse people in the police leadership system.
- Rare for disputes between Police Commissioner and the Minister to become a public issue
  - Australian experience: usually disputes only happen when a new political party comes into power and a new Minister is appointed.
  - In SA only one police leader has ever called out politicians for interference – did so in 2012 and again in 2025.

5 measures to prevent inappropriate interference (Australian and New Zealand models)

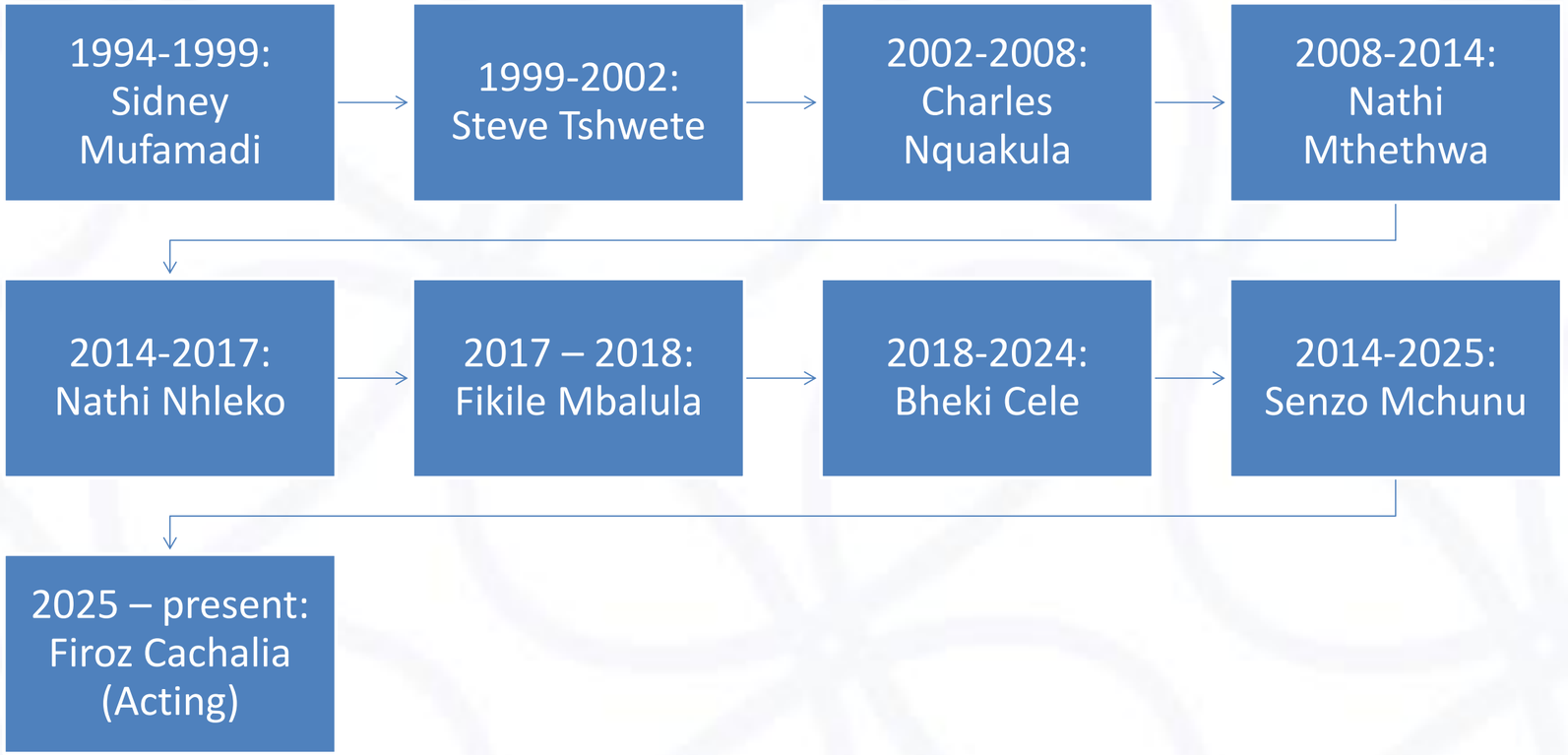
1. Leadership selection ensures appointment of professionally orientated police leaders.
2. Prior to issuing a direction to the police chief/national commissioner, the Minister must consult him/her.
3. Directions must be issued in writing.
4. Copies of all directions must subsequently be provided to Parliament or a Committee of Parliament.
5. Legislation specifies a ‘minimum core’ set of issues that may not be addressed in Ministerial directions.

Mchunu's 31 Dec 2024 PKTT instruction

- Assessment:
  - Notable that this is a written instruction – basis for accountability.
  - Poorly motivated and not well considered.
  - Account which is sympathetic to him would emphasise:
    - Possible that he saw PKTT as Bheki Cele's fiefdom.
    - Had received reports criticising PKTT.
    - Motivation that police resources of this kind should be used for community interests and not just those of politicians.
  - Seems at least to have been influenced by others with 'hidden agendas'.

The Minister of Police's Policy Making role

SA’s Ministers of Police since 1994



Characteristics of Ministerial influence

- Defining feature of SAPS since period of reform in late 1990s has been ‘stasis’
- Ministerial influence has supported police leadership in treading water –
  - Sustain police numbers through recruitment and doing everything else the same.
  - Absence of engagement with institutional fundamentals - Core elements of the organisation that need to change to reposition the SAPS to better meet the challenges that it is facing – leadership appointments and structure, recruitment and training systems; technology.
- Most ambitious – Nathi Mthethwa representing Zuma faction of ANC
  - Aim to strengthening police authority by greater use of force and internal discipline.
  - Lead to superficial change (militarisation of ranks) and to Marikana massacre
- Other features of period:
  - No clear and considered articulation of crime priorities
  - Establishment of Task Teams standard response to any problem.
  - Involved in mediating in communities in which there was conflict related to crime or policing (notably Bheki Cele).

Policy development

- Core responsibility of Minister in terms of Constitution (s 206(1) & (2)) - development of national policing policy (incorporating provincial exec inputs)
  - Since 2000 no evidence of Minister with institutional strengthening agenda.
  - Provision has been largely dormant.

- Civilian Secretariat for Police (s 208) should be policy development arm of the Minister
  - No real policy development capacity but this has not been an issue as Ministers generally have no policy agenda of substance.

Policy development in practise (‘NPP 2025’)

- A ‘National Policing Policy 2025’, was signed by Minster Mchunu (3rd December 2024).
  - Development started in 2022
  - Draft circulated in November 2023
  - Large number of consultative meetings both within the SAPS and criminal justice system and with external role players.
  - Process of broad consultation helpful in obtaining diverse perspectives - but cumbersome & may not address critical questions or support responsiveness.
- Not much more than an ambitious set of good intentions
  - Aligned with conventions in government in which ‘policy’ sets out overarching vision and is often of limited direct value in helping to improve government systems.
  - Constitution does not require NPP to take form of a single ‘comprehensive’ policy though there are provisions of the SAPS Amendment Act Bill, drafted by Secretariat, that are based on this assumption.
- Policy is only meaningful if it provides clear direction on what to do.

Conclusions

- Forthcoming report of Madlanga Commission expected to provide direction on addressing impact of organized crime on policing:
  - Possible that will recommend new ‘super agency’ to address organized crime and corruption.
  - Also strengthen use of lifestyle audits, and motivate for special vetting procedures, within the SAPS and other agencies.
- Provisions of SAPS Act Amendment Bill should set parameters around political influence on police.
- Along with issues of integrity that Madlanga Commission recommendations should speak to, enduring issues is where will direction around institutional strengthening come from.

Can we look to the Minister to move policing forward?

- Policy making is embedded in the Constitution as a responsibility of the Minister.
  - The political system has not sustained capacity for credible policy development.
- Practise of ‘policy making’ that has become embedded in SA tends to be based on ‘grand vision’ of the ideal system.
- What is needed is ‘strategic policy making’
  - Setting priorities but also conscious of limitations and constraints.
  - Changing or fixing things that will enable other things to be fixed
  - Informed by an awareness of what is important as well as what is achievable.
- Can one look to the Minister of police to provide strategic policy direction?

Examples of policy challenges

- Criminal capture of the police???
  - Is this a problem of organised crime or of corruption
  - What critical measures must be taken
  - Currently Madlanga Commission tasked with this.
- Other
- IT
- Specific types of crime
  - Gang violence (in the Western Cape above all)
  - Organised crime
  - Firearm crime
  - Financial crime
- Leadership development

Thank you