



## The Extent in Which the Tshwane Metro Police and South African Police Service Complements Each Other During the Service Delivery Protests and Related Crimes in Tshwane Area

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### **Abstract**

This study explores the extent in which the Tshwane Metro Police (TMP) and South African Police Service (SAPS) complements each other during the service delivery protests and related crimes in Tshwane area. The introduction of Metropolitan Police Department (MPD) was to assist the South African Police Service (SAPS) in crime prevention. The 1998 White Paper on Safety and Security encourage a multi-disciplinary approach for crime prevention while the 2016 White Paper on Policing promotes inter-sectoral collaboration and integrated service delivery between the Metropolitan Police and SAPS. A qualitative research method was adopted in this study to collect data. Twenty-one (21) participants from panel of experts ranging from SAPS, TMP, Institute for Security Studies (ISS) and academics in the field of policing as well as former members of SAPS were interviewed using open-ended interviews. The researcher followed purposive sampling. The study found that political interference in the affairs of both police organisation and limitations of powers to MPDs as negatively affect the relationship between the TMP and SAPS during the service delivery protests and related crimes. The study found that the two policing agencies do support each other during the service delivery protests and related crimes, however, the challenge is only command and control which is designated to SAPS Public Order Policing (POP) only as the custodian of policing in South Africa. The study recommends that in future the command and control must be designated to both the MPD and SAPS to avoid the abuse of power and unnecessary conflicts, thus, whoever responded first to the scene of protest, such policing agency must provide command and control.

**Keywords:** *Tshwane Metropolitan Police; South African Police Service; Public Order Police; Service Delivery Protests; Tshwane Area*

## Introduction

The TMP as well as other MPD are required to perform their duties within the prescribes laws of the country includes of the 1996 Constitution of South Africa, SAPS Amendment Act and the 1998 White Paper on Safety and Security which encourage partnership of both the SAPS and MPD towards prevention of crime and maintenance of public order. The National Instruction 4 of 2014 require Metropolitan Police personnel who receive basic crowd management training to support the SAPS in policing of protests and related crimes. This study seeks to explores the extent in which the TMP and SAPS complements each other during the service delivery protests and related crimes in Tshwane area, Gauteng Province of South Africa. The South African Police Union (SAPU) cites the rising of violent service delivery protests and related crimes as a clear indication of ineffective policing and failure of both the MPD and SAPS Public Order Policing (POP) to carry out crowd management duties. This study seeks to elaborates on the response time and effectiveness of MPD and SAPS to service delivery protests and related crimes.

## Literature Review

Section 205 (3) of the 1996 Constitution of South Africa require the police service (SAPS) to combat and prevent crime as well as enforcing the law. White Paper on Safety and Security (1998) makes provision that local government was given substantial authority to carry out both by-law enforcement and social crime prevention through the MPD in collaborations with the SAPS, Community Policing Forums and other law enforcement agencies partners such as Traffic Police.

The 1998 White Paper on Safety and Security states that local government require to play a significant role of ensuring safety, prevention of crime and violence within the communities they service. The paper also indicates that such prevention of violence and crime must be done with the support of both national and provincial government to municipalities in relations to the allocation of resources and human capacity to better services delivery (Water Paper, 1998).

The establishment of the Metropolitan Police was to regulate traffic and enforce municipal by-laws within the jurisdiction of metropolitan municipalities (Rauch *et al.*, 2001:2). Strategically, the Metropolitan Police role was to pledge support to the SAPS towards crime prevention, maintain public order and ensure visible policing across the demarcated municipality (National Instruction 4 of 2014).

This means that the introduction of TMP was to assist the SAPS in addressing crime at the local level. Though some members of the public in Tshwane perceive the role of the TMP as mainly for traffic control. Newham, Masuku and Gomomo (2002:1) note that there are three statutory functions of municipal police agencies namely traffic policing, crime prevention and municipal by-law enforcement. Municipal police officers have legal powers of arrest, search and seizure within their area of jurisdiction (meaning municipal boundaries).

However, Newham (2004:4) indicates that the mandate of metropolitan or municipal police agencies in South Africa includes crime prevention, traffic and by-law enforcement. MPDs were created with the intention to promote safety and security within their local areas where they are established.

## Legal Framework

Despite performing their duties within the jurisdiction of their municipalities, Metropolitan Police personnel are appointed under South African Police Service Act (Act 83 of 1998 as amended).

The existing legal prescripts such as National Instruction 4 of 2014 require the Metropolitan Police to complements the SAPS in policing of protests. Though, the Metropolitan Police officers are not trained as First Line Operational Managers (FLOM) or as Operational Commanders Training (OCT).

In the absence of FLOM and OCT, (Omar, 2007:58) postulate that the Metropolitan Police do not have a legal mandate to act alone or have authority over command and control for mass gatherings includes of service delivery protests and related crimes. This translate that the MPD can only support the SAPS during crowd management events.

### **Historical Development of the SAPS and Metropolitan Police in South Africa**

Notwithstanding that the South African Police Service Act (Act No. 83 of 1998) as amended pronounce on the formation of the MPD, thus, some other policing experts still hold a different view regarding the clear functions of the Metropolitan Police in South Africa (Muntingh & Dereymaeker, 2013:8).

The Metro Police Service (MPS) (thereafter refer to as MPD) was introduce in early 2000 as a division of the SAPS at the local government level. The functions of the MPD as pronounce in section 64e of the SAPS amended Act are to perform crime prevention, road policing and policing of municipal by-laws (Khumalo & Obioha, 2016:107).

The establishment of MPD was to perform policing of road trafficking, the control of traffic flow and attendance to road emergencies and crashes which refer to as Motor Vehicles Accidents (MVAs). This is because the Metropolitan Police officers are often the first responders to these incidents (Subramaney, Libhaber, Pitts, & Vorster, 2012:178).

The functions of Tshwane Metro Police Department (TMPD) as well as all other MPDs are related to the 1998 White Paper on Safety and Security in terms of policing operations and mandates. The 1998 White Paper on Safety and Security require the MPD and SAPS to collaborate in preventing or deterring the occurrence of certain crimes within the communities they serve and maintain public order thereon (Khumalo & Obioha, 2016:107).

Khumalo and Obioha (2016:108) states that the goals and objectives of the TMP and other MPD departments must be aligned to that of the National and Provincial government in relation to policing of crime. In this respect, the TMP is designated to prevent and combat crime as well as to respond to service delivery protests and related crimes in Tshwane area.

Both members of the TMPD and SAPS are appointed under South African Police Service Act (Act No. 68 of 1995) as amended. However, the only different between the two policing organisations is that the TMPD is funded and accountable to local government sphere while the SAPS is accountable to national and provincial government (Khumalo & Obioha, 2016:107).

### **Challenges Hampering the Working Relationship between the SAPS and MPD during the Service Delivery Protest and Related Crimes**

Political interference in the affairs of police destabilise the working relationship between the TMP and SAPS during the service delivery protests and related crimes. The power to investigate criminal offences is limited to SAPS, though, the MPD makes arrests and handover docket to the SAPS Detective unit for further investigations despite that these detectives already fail to cope with their workload (Faull, 2008:23). Thus, politician fails to understand that the SAPS require the supplement services of TMP to fight crime in Tshwane area.

Another challenge is the failure of society to understand that both the MPD and SAPS are called on to maintain law and order during protests and not to deliver the promised basic services, as those responsibilities must be carried out by municipalities as well national and provincial government (Mthethwa, 2014).

Mthethwa (2014) cites confrontations between the public and police as challenge which require urgent attention of government, South African Human Rights Commission (SAHRC) and civil society organisations to address this.

Furthermore, Mthethwa (2014) point out intimidation of ordinary citizens by protesters and the blockade of school children from attending schools and workers from going to work as a failure of communities to understand the right to demonstrate as stated in section 17 of the 1996 Constitution of South Africa and the role of the MPD and SAPS during the service delivery protests and related crimes in Tshwane area.

Legislative framework such as limitations in terms power to investigative crimes as well as excessive requirements placed on training and accreditation of Metropolitan Police were cited as a challenge for MPD to perform crime prevention duties to their best of their abilities (Ngobeni, 2016). Faull (2008:24) noted the exceptional circumstances that derail the MPD work as the lack of mandate to investigate criminal offences.

Faull (2008:24) went further to indicate that the absence of detective units within the MPDs open doors for corruptions and irregularities by Metropolitan Police personnel within the MPDs. This interpret that the MPDs must relies on the SAPS detectives to investigate such criminal offences. Moreover, there is a lack of trust to SAPS detectives by MPDs as they believe that these detectives might interfere and temper with the provided evidence.

Ngobeni (2016) and Phiyega (2014) note lack of funding for MPD and SAPS to procure POP equipments such as water cannon as major challenges, despite that the population of Tshwane keeps on rising annual while the capacity of two policing agencies remain low. Phiyega (2014) further cites lack of specialised training programme and equipment, more specifically in relating to crowd management to members of TMP POP as another challenge.

Notwithstanding these legal challenges, there is a lack of clarity as to what must happen if SAPS member holds a junior rank than those of Metropolitan Police officials during the protests (Omar, 2007:58).

### ***Research Methodology***

The study followed qualitative research approach. Qualitative researcher method allows the researcher to provide an in-depth description of the extent in which the TMP and SAPS complements one another during the service delivery protests and related crimes (Dworkin, 2012:1319). Data for this study was constituted through face-to-face interviews as well as telephonic interviews due to Covid-19 pandemic using open-ended interview and observation. Open-ended interview was formulated as a study guide to the research objectives and research questions (Adhabi & Anozie, 2017). Open-ended interview considered to be suitable in providing vital data regarding the working relationship of TMP and SAPS during the service delivery protests and related crime (Abutabenjeh & Jaradat, 2018:247). A permission was requested from participants to record the data using audio recorder during the interview session (Johnson, O'Haral, Hirst, Weyman, Turner, Mason, Quinn, Shewan, & Siriwardena, 2017:5). Ethical clearance to conduct the study was obtained from the Faculty Committee for Research Ethics of Tshwane

University of Technology. A permission to interview some of the participants was obtained from TMP and SAPS to interview participants from POP unit (Akaranga & Makau, 2016:2).

The collected data were kept strictly confidential and identity of participants remain anonymous as the researcher used letter “P” and a “number” as reference to participants’ responses (Austin & Sutton, 2014:439). Approval for ethical clearance was granted by TUT: FCRE-HUM to allow the researcher to continue with the study. To validate the information recorded in the study, the researcher cease from deceiving (Akaranga & Makau, 2016:2).

The importance of adopting qualitative research in this study is that the sampling depends on a smaller number of research participants and data is gathered through individual interviews while concerned about participants’ experience on the working relationship between the TMP and SAPS during the service delivery protests crimes (Slavin, 2018). For this study, 21 participants were interviewed. NHS England (2017:4) states that the size of qualitative research sample must be small, ranging from 10 to 30 participants, yet, such sample size must be able to provide useful and applicable data to the study.

To provide a comprehensive and valuable data to the study, purposive sampling using semi-structured interviews guide was adopted to demonstrate a wide-ranging and valuable data to this study. Purposive sampling was deemed to be suitable to address the objectives of the study based on the experience and expertise of participants (Kegler, Comeau & Cooper, 2019:24). Purposive sampling method intends to find out the collaboration between the TMP and SAPS during the service delivery protests and related crimes in Tshwane area (Ames, Glenton & Lewin, 2019:6).

Marczyk, DeMatteo and Festinger (2005:158) indicated that to make a conclusive finding, the term validity is important. The term validity in qualitative research confirm that the collected data and findings of the study are quality and can be reliable for future study (Hayashi Jr, Abib & Hoppen, 2019:98). Johnson *et al.*, (2017:8) emphasise that credibility and accuracy of the study results was important as the study depended upon experience participants.

The study was carried out in Tshwane Metropolitan Municipality, Gauteng Province of South Africa. Empirical data was collected from selected panel of experts from SAPS and TMP POP, Institute for Security Studies (ISS) and academics in the field of policing using open-ended interviews. Etikan, Musa, and Alkassim (2016:2) emphasise that participants were selected purposively based on their expertise and experience of policing of protests.

The advantage of open-ended interviews is that it allows participants to thoroughly express their viewpoint based on their experience. The disadvantage of open-ended interviews is that it becomes difficulty for the researcher to code the data and “extract similar themes or codes from the interview transcripts as they would with less open-ended responses” (Turner III, 2010:756). Barrett and Twycross (2018:63) indicate that the disadvantage open-ended interviews is time consuming.

## **Results and Discussions**

The participant of the study provided the data on the extent in which the TMP and SAPS response to service delivery protests and related crimes in Tshwane area. The results of the study are presented verbatim in italic manner and discussed in short thereafter.

### **Theme 1: TMP and SAPS Response to Service Delivery Protests Crimes**

Participants were asked how quickly the SAPS respond to service delivery protests related crimes in Tshwane area? Most of the participants agreed that the SAPS respond quickly and efficiently to service



delivery protests and related crimes in the Tshwane area. Though, the response will further depend on the area of protests and its accessibility. Participant also mention that it is difficult to respond effectively in informal settlement contrary to the townships. Participants' views were expressed as follows using thematic verbatim quote:

- *The SAPS respond as soon as tip-off (information) of service delivery protests and related crimes in the Tshwane area is received by the POP unit. (P17)*
- *The SAPS respond quickly as they have many local police stations across Tshwane as compared to limited regional offices of TMP. The SAPS take five to 10 minutes to respond to service delivery protests. (P12)*
- *The Client Service Centre (CSC) officials, are the first respondents to service delivery protests. As a rule, first respondents must respond immediately to complaints including service delivery protests. However, the relevant POP Unit will only be activated by the first respondents upon the positive confirmation of service delivery protests and complaints. This process impacts the response time from the relevant SAPS POPs Unit, but this is necessary to prevent the activation of the unit based on false reports and helps prevent misuse of resources. (P7)*
- *The SAPS's response to service delivery protests related crimes in Tshwane area will depend on the location of the protests. However, if these protests take place close to local police stations, stationed operational members of SAPS will respond swiftly. (P14)*
- *The TMP respond swiftly as they are local municipal police across Tshwane area. (P12)*
- *The TMP respond swiftly (as soon as possible) after service delivery protests related crimes are reported to the Metro Police. (P13)*
- *The TMP respond as soon as possible to service delivery protests and related crimes in the Tshwane area. (P15)*
- *The TMP respond as soon as they are notified of the march either through the invitation by the protest organisers themselves, residents in the area where the demonstrations are taking place. (P21)*
- *Participants believe that TMP respond rapidly to service delivery protests related crimes; however, their mandate is limited as compared to that of the SAPS as they can only arrest and hand over the suspect to the SAPS for investigations and prosecutions. (P2)*

The study found that both TMP and SAPS make effort to respond quickly to incidents of service delivery protests crimes. Their prompt respond sometimes depends on the area of the protests and accessibility thereon. Although the SAPS members are sometimes the first responders to the scene of protests crimes in Tshwane area, it was found that the TMP regional offices members often arrive first on the scene of service delivery protests despite that the latter have few offices as compared to SAPS police stations.

Roelofse (2017:16) indicates that the police response to service delivery protests and related crimes relies on the availability of human capital or resource and tools to be utilised. Furthermore, Yitay (2013) emphasises that the efficiency intervention as well as active response to violent service delivery protests by both TMP and SAPS will often depend on the characters of the deployed police personnel. The researcher is of the view that the estimated response time will, in addition to the locations of the protest's crimes and access thereto, depend on the availability of POP resources from both the TMP and SAPS in Tshwane area.

## **Theme 2: Challenges Experienced by TMP and SAPS during the Service Delivery Protests and Related Crimes**

Participants were asked about the challenges between TMP and during the service delivery SAPS are protests and what led to those challenges? Most of the participants indicated that communication

through Radio is a challenge since the TMP and SAPS use different Radio frequencies. Subsequently, command and control remain an issue (for instance, the inadequate coordination which affects command and control over the members of the SAPS and TMP during the policing of protests; thus, creating a multitude of challenges about roles and responsibilities), Standardisation of equipment, a clear mandate regarding the role to be played by both TMP and SAPS during the service delivery protests.

Other challenges revealed by participants using thematic verbatim quote include:

- *Absence of notice to protest by protesters makes it difficult for the police to manage service delivery protests, Inappropriate handling of service delivery protests by TMP and SAPS, unavailability of authorities to receive memorandums or demands from the protesters and poor intelligence gatherings by SAPS Crime Intelligence.*
- *Participant one went further to mention service delivery protests which are politically motivated or hijacked by group of criminals with their ulterior motives as a bigger challenge and threat to the country's democracy and the 1996 South African Constitution. (P1)*
- *Inadequate resources and lack of coordination between the TMP and SAPS were cited as other challenges towards tackling service delivery protests related crimes. (P2)*
- *Lack of resources/ equipment, lack of proper consultation (communication) prior to the service delivery protests between the SAPS and TMP. (P21)*
- *The biggest challenge is the legal mandate between the TMP and SAPS during the service delivery protests. For instance, the mandate of the TMP is only limited to municipal by-laws, traffic policing/ laws and crime preventions while the mandate of SAPS is much extensive (broad) as stipulated in Section 205 of the 1996 South African Constitution which require them to do crime preventions, crime combating, crime investigation, maintenance of public order, protection of public property, enforcement of laws and all other range of responsibilities as stated in Section 205. Thus, SAPS have far wider mandate than that of the TMP which often becomes a contentious issue between the two organisations. During the service delivery protests, the TMP is seen as secondary police services as compared to SAPS, though, they are the first respondents. After the SAPS arrive at the scene of service delivery protests, they expect the TMP to step back which often cause a friction and tension between the two organisations. The new SAPS Amendment Bill is set to address such issues that cause the tension between the Metro Police and the SAPS. (P3)*

The researcher found that the challenges experienced by the SAPS and TMP in adequately responding to the protest's crimes are not only limited to inadequate resources and training for members of POP. Other challenges relate to, *inter alia*, the command and control, inadequate resources and standardisation of POP equipment, radio frequency, political interference and lack of coordination. Though members of the TMP POP perform more or less the same function as those of the SAPS during the service delivery protests and related crimes. The issue of whether the police are militarised or civilised post 1994 needs to be cleared during crowd management training. Currently, it is argued that some members of the Public Order Police act according to the instructions issued by police management and political heads, not according to the instructions received during training and as per the requirements of 1996 Constitution of South Africa.

Steinberg (2014:189) states that former Police Commissioner, Bheki Cele becomes popular when he advocates for remilitarisation of police to deal with violent crimes in South Africa. The commissioner established the Tactical Response Team (TRT) where its members were military trained to approach perpetrators who place threats to property, state and lives of ordinary citizens.

Duncan (2016) argues that the centralisations of SAPS increases the likelihood of possible political interference and control of senior police management contrary to that of police forces in some other democratic states. The SAPS upward reporting hierarchy and its police members accountable to the

police management who afterwards accountable to the executive authority of the police sometimes creates gaps for abuse of power. If police management are not held accountable by the executive authority of the police, the opportunity for abuse of power arise.

The researcher found that it will remain a challenge for the TMP and SAPS to prevent the service delivery protests crimes as some of the protests occur spontaneously and without notice of protests been served in terms of Section 3 of the Regulation of Gathering Act, 205 of 1993 (RGA) to the local authorities beforehand to enable them to prepare adequately. The researcher further established that there is an apparent lack of adherence to RGA and the 1996 South African Constitution by protesters. This manifest in spontaneous protests which remain violent and likely pose a threat to lives and property.

Based on researcher's observations, it was established that sometimes protesters provoke the police, disregard their instructions and incite violence which force the police to take a necessary action by dispersing them. In some instances, protesters utter profanities at the police, aggressively confront and throw stones at them. Despite these provocations from the protesters, civil society organisations, politicians and society believes that the police must always exercise caution and tolerance as they are tactical trained to deal with crowd management.

Ngcamu (2019) states that "service delivery protests in South Africa have been characterised by mass meetings, drafting of memoranda, petitions, 'toy-toying', processions, stay-away, election boycotts, blockading of roads, construction of barricades, burning of tyres, looting, destruction of buildings, chasing unpopular individuals out of townships, confrontations with the police and forced resignations of elected officials".

Skelton and Nsibirwa (2017:45) argue that despite the lack of adherence to section 17 of the 1996 South African Constitution and RGA, the police are well trained and expected to exercise tolerance and restraint to avoid injuries and fatalities even if there are dangers to lives of ordinary citizens or malicious damage to property.

The mandate of TMP is limited to municipal policing as compared to that of SAPS. Lack of accountability by public representatives and office bears was cited as another major challenge facing both the TMP and SAPS POP units in the Tshwane area. It may be said that genuine protests are increasingly being hijacked by certain individuals with nefarious motives such as pursuing a certain political agenda and furtherance of criminal intent.

Some police members are brought through into the operational POP by senior police management without undergoing a thorough crowd management training. This practice may be attributable to nepotism.

### **Recommendations**

The morale of the police, more especially the operational members of POP remain relatively low due to factors such as lower salaries, inadequate resources and lack of proper training on crowd management. This leaves them more susceptible to engaging in criminal elements during the crime prevention and protests such as bribery, corruption, extortion to mention but a few.

The researcher recommends that members of the POP must improve their *modus operandi* employed when negotiating with conveners of the protests and protesters. Tactical response training needs to be improved and aligned with the current trend of spontaneous service delivery protests and related crimes. Members of the POP must always adhere to the high level of professionalism by performing their



duties in line with section 205 of the 1996 South African Constitution and other relevant prescripts on crowd management.

Despite that the role of TMP is more or less the same as SAPS during the service delivery protests and related crimes, such roles are not clearly articulated or catered in the SAPS Act as amended, the 1996 South African Constitution, except that the MPD must collaborate and play a pivotal supporting role to the SAPS towards crime prevention and crowd management.

The MPD perform the crowd management duties under the operational command and guidance of SAPS. The National Instruction 4 of 2014 states that the SAPS POP members must exercise operational command and the Metro Police service may assist the SAPS in policing of level three crowd management events. The level three events amongst others includes violent service delivery protests which are likely to pose threat to lives and property.

The researcher recommends that the new crowd management legislation or framework should be developed to balance the role of the MPD and SAPS during the protests or crowd management. The legislation should state that the first responder to the service delivery protests and related crimes between the POP members of MPD and SAPS must oversee the command and control as well as taking the full responsibility and control of the situation. Notwithstanding that they must continue to complement one another because both the MPD and SAPS share a common interest of crime prevention, safeguarding the inhabitants and property.

## Conclusion

Based on analysed data and presented study results, the 1998 White Paper on Safety and Security encourages the collaboration between the Metropolitan Police and SAPS in fight against crime, maintaining public order and securing communities they service. The study results reveal that the police response time to service delivery protests and related crimes depends on the accessibility and area of protests. The study noted several challenges facing the two policing agencies during their partnership towards policing service delivery protests and related crimes. Some of the challenges noted, and which must be address is the absent of investigative mandates and command control to Metropolitan Police members of POP, despite often these members being the first responder to service delivery protest and related crimes. The study results found that it remains a challenge for both the SAPS and MPD to contain spontaneous service delivery protests and related crimes, as the broke from nowhere and caught police unprepared. The failure of Crime Intelligence to detect early signs of these spontaneous protests continue to expose the vulnerability of MPD and SAPS POP towards maintain public order. Until such time citizens are conscientise and warned not to abusing section 17 of the 1996 Constitution of South Africa in relation to demonstrations and moreover urged to apply the section concurrently with the Regulation of Gathering Act (Act 205 of 1993), spontaneous and violent protests will continue to rise in South Africa.

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