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Citation: 4 S. Afr. Hum. Rts. Y. B. 193 1993



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## Policing

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### Introduction

In 1992, even as many of its leaders became aware of the need to improve the image and effectiveness of the organisation, the ghosts from its apartheid past kept haunting the South African Police (SAP). Continued efforts by the SAP to improve its performance and reputation were hampered both by shock revelations about past conduct and by harsh criticism from all quarters regarding its professionalism and efficiency. It became clear that the transformation of the SAP from a white dominated police force intent on combatting the total onslaught, to a people friendly community based organisation trusted by people in suburbs and townships throughout the country, would not happen overnight.

Many factors contribute to the difficulty of the transformation process. At a tactical level, the SAP has since its inception been geared in large measure towards an internal counter-insurgency role. Its primary function has been to protect the state and the white community against both armed and peaceful resistance by the black majority. After the 1976 Soweto revolt, the SAP's training, its culture and weaponry, its modus operandi and its internal organisation became even more militarized. This process escalated sharply during the national uprising in the mid-1980's.<sup>1</sup> As a result the SAP is not equipped tactically to deal with conflict and violence in a restrained manner.

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<sup>1</sup> E Marais and J Rauch 'Policing South Africa: Reform and Prospects' (June 1992) unpublished paper for the Centre for the Study of Violence and Reconciliation 6.

At a psychological level, the SAP's antagonism towards anti-apartheid organisations is so deeply ingrained that its members are unlikely to adapt easily and quickly to the new political situation. This is made worse by the racism of white policemen and women. This racism, entrenched in these personnel in their formative years in the police, has been strongly reinforced by the organisational culture of the SAP and its role in enforcing discriminatory legislation over decades.<sup>2</sup>

The SAP also lacks legitimacy in the wider community. As the Goldstone Commission pointed out, the SAP is a police force that for a majority of South Africans has not been community based or oriented. Many South Africans perceive the police force as being an unfair, biased and unfriendly institution.<sup>3</sup>

Finally, commentators have speculated about the willingness of the police leadership to transform itself to fit into the new social and political environment. According to a report in the June 1992 issue of *African Confidential*, President De Klerk had become an almost immobilized captive of a powerful clique of securocrats who, aided by upper echelons of the Department of Military Intelligence, were determined to obstruct his political initiatives.<sup>4</sup> After the Boipatong massacre, Cyril Ramaphosa revealed that President De Klerk had admitted to Nelson Mandela that he had no power over his police force.<sup>5</sup>

In this chapter I will examine the ways in which the SAP leadership attempted to address these fundamental issues of transformation in 1992.

## Structure and operation

The structure and function of the SAP is regulated by the Police Act of 1958.<sup>6</sup> The Act was amended in 1992 to scrap the SAP's special protection from press scrutiny contained in section 27(b) of the Act. Section 27(b) made it an offence for any person to publish information

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<sup>2</sup> L Nathan 'Policing Deviance in the 1990s' (August 1992) unpublished paper prepared for the working group on Police Deviance and Accountability 10.

<sup>3</sup> The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation 'Second interim report' (29 April 1992) 5.

<sup>4</sup> (1992) 33 *African Confidential* no.15 at 3.

<sup>5</sup> *The Daily Dispatch* 30 June 1992.

<sup>6</sup> Act 7 of 1958.

about the actions of the police 'without having reasonable grounds for believing the statement to be true'.<sup>7</sup>

The Riot Police were also reorganized and reformed into a 20 000 strong Internal Stability Unit (ISU) charged with the duty to keep the peace in strife torn townships.

In line with a programme of expansion announced six years ago, the total compliment of men and women in police uniform increased. In 1992, the force's compliment reached 98 000.<sup>8</sup> Up to 1 000 extra policemen were also put on the beat after reorganization of the SAP's administration in which civilians were hired to perform many of the administrative roles at police stations.<sup>9</sup>

More than 10 500 complaints were laid against policemen and women in 1991. As a result, 1 467 were prosecuted for crimes and 3 476 faced disciplinary hearings. The Minister of Law and Order announced in Parliament that 713 policemen and women were convicted of crimes in 1991, 246 of them resulting from complaints of assault. Eighty who faced disciplinary action were dismissed from the force.<sup>10</sup> This trend continued in 1992 with policemen convicted and jailed for an assortment of crimes including theft,<sup>11</sup> armed robbery,<sup>12</sup> kidnapping,<sup>13</sup> assault<sup>14</sup> and murder.<sup>15</sup>

The police also came under fire for alleged political bias and unprofessional behaviour in the carrying out of their duties.<sup>16</sup> The Inkatha Freedom Party (IFP) accused the police force of racial bias. To prove their point they gave the example of the SAP policy of only offering cash rewards for information on white cases and not for black cases. They also claimed that the SAP only had a 20 per cent success rate in detection of the culprits who carried out attacks on black political leaders. In a rare show of solidarity, the ANC supported the IFP in these claims.<sup>17</sup>

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<sup>7</sup> *Business Day* 10 February 1992.

<sup>8</sup> *The Natal Witness* 28 February 1992.

<sup>9</sup> *The Cape Times* 6 February 1992.

<sup>10</sup> *The Cape Times* 13 February 1992.

<sup>11</sup> *The Cape Times* 26 February 1992.

<sup>12</sup> *Business Day* 17 March 1992.

<sup>13</sup> *The Natal Witness* 5 March 1992.

<sup>14</sup> *The Daily Dispatch* 21 March 1992.

<sup>15</sup> *The Natal Witness* 10 December 1992.

<sup>16</sup> *The Cape Times* 23 May 1992.

<sup>17</sup> *The Natal Witness* 25 February 1992.

Under these conditions morale in the SAP dropped. A record 223 policemen were killed between January and December 28 1992. This represents an increase of nearly 70 per cent over the number of policemen killed in 1991. Of these, 102 were on duty and 121 were off duty when killed.<sup>18</sup> A police psychologist told a court that police suicides were increasing; about 90 such cases were reported in 1992.<sup>19</sup>

The number of resignations in the SAP rose significantly after a circular was sent out to police stations nationwide notifying policemen that no overtime pay would be paid. Resignations increased from 1 662 in 1990 to 2 514 in 1991.<sup>20</sup>

While most white policemen and women in the SAP refrained from collective demonstrations of dissatisfaction, other members were increasingly prepared to join the Police and Prisons Civil Rights Union (Popcru) to fight for better working conditions and respect both from within the SAP and for respect from the public. Despite the prohibition on SAP members joining a trade union without the approval of the commissioner of the department,<sup>21</sup> Popcru strengthened its position markedly in 1992. At its first national congress since its inception, the organisation resolved to engage in national campaigns both to educate the public about the duties of the police and to make the public aware of transgressions.<sup>22</sup> The organisation also launched a campaign to stop the admission of the SAP as a member of International Police (Interpol). December saw a first ever march by Popcru members in full uniform through the streets of Durban, in demand of better working conditions.<sup>23</sup>

In 1992, the activities of other police forces also came increasingly under the spotlight. The KwaZulu Police (KZP) was singled out for criticism by the Goldstone Commission which uncovered more information about the training of KZP recruits by the South African Defence Force (SADF) in 1986. The Commission heard claims from trainees that they had been told they were trained to protect Inkatha and the KwaZulu Government from the enemy, and that the enemy was the ANC.<sup>24</sup> In its report, the Commission expressed concern at the

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<sup>18</sup> *The Citizen* 29 December 1992.

<sup>19</sup> *The Daily News* 8 December 1992.

<sup>20</sup> *The Cape Times* 14 February 1992.

<sup>21</sup> *The Natal Witness* 8 June 1992.

<sup>22</sup> *The Natal Witness* 25 June 1992.

<sup>23</sup> *The Natal Witness* 19 December 1992.

<sup>24</sup> *The Natal Witness* 13 April 1992.

fact that a large number of people in KwaZulu and neighbouring areas viewed the KZP as the private army of the IFP.<sup>25</sup> The KZP's reputation also suffered after a massive crime ring was uncovered within it and the KwaZulu Government.<sup>26</sup>

## The internal reorganisation of the SAP

Throughout 1992, the SAP went to some lengths to bring the organisation into line with political developments in the country. The organisation continued to reorganize in terms of its Strategic Plan adopted at the end of 1991. The Strategic Plan identified, amongst others, the following problems in the SAP:<sup>27</sup>

- \* the rendering of services is not of an adequate standard;
- \* the SAP has a poor public image;
- \* the SAP also has internal image and insecurity problems;
- \* manpower in the SAP is not employed effectively;
- \* training is inadequate and insufficient; and
- \* funds and other resources are not used efficiently.

In order to deal with these weaknesses, the SAP leadership accepted a need to: depoliticize the police force; increase community accountability; conduct more visible policing; establish improved and effective management practices; reform the training system; and restructure the organisation as a whole.<sup>28</sup> The senior leadership in each region was mandated to institute these reforms, but 1992 showed little evidence of this new approach. Some visible changes were, however, instituted.

The basic training system for new recruits was made a priority and was significantly reformed. In 1992, the first 'integrated' intake into basic training took place. Nevertheless, this process was still far from completion and the training system retained many of its racist and military features.<sup>29</sup>

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<sup>25</sup> Report on the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation 'Second interim report' (29 April 1992) 9.

<sup>26</sup> *The Natal Witness* 22 April 1992.

<sup>27</sup> E Marais and J Rauch 'Contextualising the Waddington Report' (October 1992) unpublished paper for the Policing Research Project 7.

<sup>28</sup> See note 27.

<sup>29</sup> See note 27 at 10.

Other reorganizing steps were also taken. In March, it was reported that members of the riot squad (later renamed the ISU) were receiving mediation and negotiations skills training.<sup>30</sup> The police also hired a consultant in creative behaviour to teach their members to think and act with greater flexibility.<sup>31</sup>

In August, the Minister of Law and Order announced the establishment of a division of police-community relations to be headed by a Lieutenant General. This reflected the SAP's commitment to taking police-community relations more seriously. The division includes four sub-divisions: Police Community Relations, Public Relations, Internal Liaison and National Peace Accord (NPA) Coordination. The new division also became responsible for strategic planning, for conflict evaluation and for the co-ordination of the SAP's participation in commissions of enquiry.<sup>32</sup>

Some commentators predicted that the mere reorientation of police training and the appointment of public relations personnel would not address the deeply embedded prejudices of the informal police culture that serve in practice to negate the effects of formal training. They maintained that nothing less than a fundamental reorientation of the entire institution was necessary.<sup>33</sup> Values, style of policing and internal organisation had to be dealt with to change the police.

Despite these criticisms, the SAP did end the year on an upbeat note when Peter Stevens, a London Metropolitan Police Chief superintendent who visited South Africa, declared that there was a great mood swing within the SAP towards providing a community friendly service based on close communication between police and the community.<sup>34</sup>

## National Peace Accord (NPA)

The National Peace Accord, formalized in September 1991 and endorsed by the SAP, contained a number of provisions on policing, that held, and perhaps still hold, the potential to transform the tactical and psychological operation of the SAP. The NPA introduced a range

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<sup>30</sup> *The Weekly Mail* 20 March 1992.

<sup>31</sup> *The Weekly Mail* 22 March 1992.

<sup>32</sup> E Marais and J Rauch 'Policing South Africa: Reform and Prospects' (October 1992) unpublished paper for the Policing Research Project 2.

<sup>33</sup> See note 27 at 13.

<sup>34</sup> *The Natal Witness* 3 December 1992.

of new structures and methods of operation which the police were bound to observe. It also set out the requirements for the conduct of the police and prescribed that:<sup>35</sup>

- \* The police shall endeavour to protect the people of South Africa from all criminal acts in a rigorously non-partisan fashion, regardless of political belief and affiliation, religion, gender, race, or ethnic origin;
- \* The police shall be guided by a belief that they are accountable to society in rendering their policing services and shall therefore conduct themselves so as to secure and retain the respect and approval of the public;
- \* The police shall endeavour to obtain the co-operation of the public in controlling and preventing crime;
- \* The police shall expect a higher standard of conduct from their members in the execution of their duties than they expect from others; and
- \* The police shall exercise restraint in the pursuance of their duties and shall use the minimum force that is appropriate in the circumstances.

The NPA also provided for the establishment of a Police Board to make recommendations to the Minister of Law and Order with regard to the policy relating to the training and efficient functioning of the police. This was done with a view to reconciling the interests of the community with those of the police. The Board came into operation in April, and prominent human rights lawyers and independent academics were appointed to the Board.<sup>36</sup>

In the first year of its operation, the NPA seems not to have had much of a restraining and moderating effect on the SAP,<sup>37</sup> despite the fact that the technical aspects of the code of conduct it imposed on the SAP, such as the commitment to proper identification of police personnel and vehicles, were most successfully implemented.<sup>38</sup>

There are several reasons for this. First, the process of circulating the code of conduct through the SAP took a number of months and was not accompanied by an educational process. Secondly, although

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<sup>35</sup> National Peace Accord (1991) 9-19.

<sup>36</sup> *The Daily News* 27 April 1992.

<sup>37</sup> See note 27 at 8.

<sup>38</sup> See note 27 at 9.



the mechanisms and guidelines did reflect the reform agenda of certain sectors of the SAP leadership, rank-and-file police members found these reforms difficult to accept. Thirdly, in an attempt to circumvent resistance to reforms, the SAP leadership 'sold' the negotiation process (of which the NPA was a product) to recalcitrant members on the basis that there was 'nothing new' in the Code; thus implying that the SAP had retained the moral high ground and given nothing away in the negotiations.<sup>39</sup> The 'International Commission of Jurists Report' summed up the SAP's dilemma when it described the code as 'an excellent document', but added that 'unfortunately there was a vast gulf between police practice and the Code'. Once again, the traditional police culture was blamed.<sup>40</sup>

## Police culture

Police culture is the set of informal values which characterize the police force as a distinct community with a common identity. While its formal organisational aims are reflected in the standing orders and the official objectives of the police force, it is recognised that the informal culture, the 'way one actually gets things done', is vital in understanding how the police actually behave.<sup>41</sup> Police culture exists because it makes the life of working police officers easier. It survives because police culture and its variations are reflections of the power structures of the societies policed. For this reason, police culture will not alter unless there is fundamental alteration in the social and political relations of the society which is being policed.

The SAP culture is a major obstacle to attempts at transformation of the organisation.<sup>42</sup> It encourages secrecy and solidarity amongst members which creates an attitude of 'we help each other against the outside world'. Recently a supreme court judge, Mr Justice Page, criticised policemen for protecting other members of the force responsible for committing crimes. The judge made his comments before he convicted Warrant Officer Hendrik Steyn of the murder and

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<sup>39</sup> J Rauch 'A Preliminary Assessment of the Peace Accord Code of Conduct on Police Behaviour' paper presented at the Centre for Criminal Justice Conference in August 1992 on 'Policing in the new South Africa' 6.

<sup>40</sup> 'International Commission of Jurists Report' (1992) 12.

<sup>41</sup> See note 27 at 3.

<sup>42</sup> See note 27 at 8.

attempted murder respectively of two ANC prisoners. Referring to Steyn's commanding officer, Captain Joseph Erasmus, the judge said

It is deplorable that a commanding officer of a unit, out of misplaced loyalty towards one of his members that committed a crime, neglected his honesty and duty as a policeman to see that justice is done.<sup>43</sup>

Any substantive progress in diminishing the influence of the police sub-culture is a function of external factors. The structures of the NPA directed at policing (including the Goldstone Commission), represent such external pressure for police reform. But the SAP's response to the NPA, and the many revelations regarding the SAP's handling of vigilante violence, cast doubt upon the effectiveness of these measures in 1992.

### **Policing vigilante violence**

In 1992, the SAP continued to be criticized for the way it policed political violence, especially on the East Rand and in Natal/KwaZulu. A major Amnesty International Report published in June severely criticised the SAP, claiming that it had either failed to take action to halt political violence or that it had participated in attacks on people, usually ANC supporters or activists. The report concluded that the police had

passively and at times actively colluded in Inkatha attacks on people believed to be ANC supporters and that the principle aim of the police often appears to have been to perpetuate conflict [and] prevent peaceful transition.<sup>44</sup>

Amnesty International also criticised the reluctance of the authorities to order swift, credible and public investigations into allegations of human rights violations by members of the police, and said that this had created and maintained an environment in which the police felt they could do anything in their power against the enemy.<sup>45</sup>

These criticisms may seem harsh, but they are nevertheless supported in 1992 by two divergent but telling exposés of police operations.

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<sup>43</sup> *The Natal Witness* 10 December 1992.

<sup>44</sup> Amnesty International (1992) 10 *Southern Africa Report* no. 23.

<sup>45</sup> *The Daily Dispatch* 10 June 1992.

## The Trust Feeds case

The 'Trust Feeds Massacre' and the subsequent police investigation revealed much about the entrenched 'Total Onslaught' culture prevalent in the SAP in the 1980's.<sup>46</sup> The case arose from the massacre, on 3 December 1988, of the inhabitants of a household in Trust Feeds, Natal, where a night vigil was being held for a family member. Eleven people were shot and killed and two others injured in the attack. The attack was planned by Captain Brian Mitchell, the then station commander of the SAP in the Trust Feeds area, and was executed by special constables under his command. In the subsequent trial,<sup>47</sup> six policemen, including Captain Mitchell, were convicted on all eleven counts of murder and on two counts of attempted murder. In his judgement, Mr Justice Andrew Wilson severely criticised the SAP and said that the Trust Feeds case revealed disturbing facts about the manner in which policing was conducted in South Africa in 1988. These practices can be broken down into the following categories:

**Police partisanship:** The evidence presented in court makes it clear that the massacre at Trust Feeds took place in order to strengthen and consolidate Inkatha's position and control in the area viz-a-viz the United Democratic Front (UDF). The killing of UDF members was intended to cause UDF supporters to flee the area so that Inkatha could take over control and management of Trust Feeds area.<sup>48</sup>

**Police recruiting policies:** it came to light at the trial that members of the Riot Unit and the Special Constables were recruited from the community and placed as a wedge against 'the tyranny of the comrades'. They were recruited from an 'Inkatha or an anti-UDF background, given training, and then put back in the field to use against the UDF'.<sup>49</sup>

**Police cover-up:** It was clear from the beginning of the investigation that members of the police force were involved in the massacre. The initial investigating officer was extremely reluctant to investigate. He was unable to find the special constables involved in the killings and failed to make any arrests. Evidence presented at the trial made it clear that the police attempted to cover-up their involvement. This is

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<sup>46</sup> For a more detailed discussion of the case, see TS Thipanyane 'The Trust Feeds case: reflections on policing in South Africa' (1992) 3 SACJ 306-312.

<sup>47</sup> *S v Van den Heever* unreported CC 140/90 (NPD).

<sup>48</sup> See note 47 at 4795.

<sup>49</sup> See note 47 at 4464.

borne out by the fact that within two weeks of his taking over the investigation, the new investigating officer, Captain Frank Dutton, managed to have all the special constables arrested. The judge commented on this cover-up and said "In my view it is essential that there should be a full, open and public enquiry into this matter.... It should extend to finding out how far up the cover-up operated".<sup>50</sup>

The police will quite fairly point out that these events happened in 1988, but the way in which the SAP and the minister involved reacted to the judgement revealed much about the police's view of itself as a beleaguered institution with a need to protect itself from honest reflection and self-criticism. In the days after the judgment was handed down, the SAP maintained that there was no need for any public enquiry. Instead it launched an internal enquiry headed by Lieutenant General Basie Smit.<sup>51</sup> After a public outcry, a former regional court chief magistrate was appointed by the Minister of Law and Order to investigate all aspects of alleged irregularities in the police investigation. The magistrate in question was the surviving assessor in the discredited Delmas treason trial which had been declared a mistrial by the Appeal Court. His choice as investigator was described by Allister Sparks as a choice as sensitive to public perceptions as choosing a juror of the Rodney King case to investigate the Los Angeles riots.<sup>52</sup>

### **Boipatong and the Waddington Report** <sup>53</sup>

On the night of June 17 1992, about 200 men armed with guns and axes rampaged through the township of Boipatong, killing 39 people and leaving scores injured. Residents blamed Zulu-speaking men from the nearby KwaMadala migrant workers hostel, a stronghold of the IFP, for the massacre. The local ANC chairman claimed that the police 'removed' residents patrolling the area shortly before the attack in anticipation of the impending attack. Residents also claimed to have seen police unloading the hostel dwellers in the township.<sup>54</sup> On June 19, State President FW De Klerk visited the area but had to beat a

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<sup>50</sup> See note 47 at 4815.

<sup>51</sup> *The Daily News* 6 May 1992; *The Natal Witness* 6 May 1992.

<sup>52</sup> *The Cape Times* 14 May 1992.

<sup>53</sup> PAJ Waddington 'Report of inquiry into the police response to, and investigation of, events in Boipatong on June 17 1992' 20 July 1992.

<sup>54</sup> *The Cape Times* 19 June 1992.

hasty retreat when angry residents crowded in on his car and it was pelted with rocks. Shortly afterwards, police opened fire on the crowd with tear smoke, rubber bullets and bird shot, despite the fact that no order to fire was given.<sup>55</sup>

These events precipitated a national and international outcry and led to the appointment by the Goldstone Commission of British criminologist, Dr PAJ Waddington, to investigate the police response to and investigation of the events in Boipatong. Dr Waddington's report exonerated the SAP from complicity in the attack, stating that a cover-up was highly unlikely because 'that would have required an attention to detail in fabricating an acceptable version of events that has not been evident [in SAP operations].'<sup>56</sup>

The report evaluated the police action in the aftermath of the massacre and concluded that the SAP response to and investigation of the massacre was 'woefully inadequate in a number of respects'.<sup>57</sup> These failures included:

- \* Inadequate command and control of officers patrolling and responding to incidents in the township of Boipatong and its surrounding areas;<sup>58</sup>
- \* A lack of effective intelligence, including the absence of any well-developed system for assessing the level of tension throughout areas and within particular districts;<sup>59</sup>
- \* A lack of contingency planning, despite the fact that the SAP does have guidelines on contingency planning. This suggested a significant gap between prescription and practice;<sup>60</sup>
- \* Unstructured investigative procedures which inhibit the gathering of evidence;<sup>61</sup>
- \* A lack of awareness of the importance of sound community relations with all sections of the population which can assist in both maintaining the peace and investigating crime;<sup>62</sup>

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<sup>55</sup> See note 53 at 15.

<sup>56</sup> See note 53 at 44-45.

<sup>57</sup> See note 53 at 46.

<sup>58</sup> See note 53 at 46.

<sup>59</sup> See note 53 at 46.

<sup>60</sup> See note 53 at 46.

<sup>61</sup> See note 53 at 46.

<sup>62</sup> See note 53 at 46.

- \* The obvious and significant difference in the treatment afforded by the SAP to the (ANC sympathising) Boipatong victims and the (IFP sympathising) KwaMadala suspects, which suggests a police bias towards the hostel dwellers;<sup>63</sup> and
- \* The fact that the style of investigation adopted by the SAP in the case, and in general, is confession oriented; the aim of the investigation being to obtain confessions from suspects without thorough forensic examinations and gathering of other evidence. This is the opposite of sound investigative techniques.<sup>64</sup>

The report concluded that if these obvious failures were in any way representative, they suggested that the SAP is an unaccountable police force, as systems do not exist for either internal or external accountability.<sup>65</sup> There seemed to be an enormous gap between the aspirations contained in the SAP's corporate strategy and reality.<sup>66</sup>

## Conclusion

In 1992, the SAP continued its attempts to untangle itself from its apartheid past as it struggled to come to grips with new political realities. Greatest resistance to change came from within the ranks of the organisation. This point is neatly illustrated by the experience of a civilian who started work at police headquarters in Church Street Pretoria at the end of 1992. When she was shown around the building, she noticed that the door of one of the women's toilets was locked. She enquired about this and was informed that she would be supplied with a key. It transpired that only white staff members received keys to the locked toilet, while other staff used the communal facilities. Change, indeed, comes slowly in the SAP.

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<sup>63</sup> See note 53 at 34-35.

<sup>64</sup> See note 53 at 42. This fact was underlined when in the same month the Waddington report was issued, an eminent pathologist, the late Dr Jonathan Gluckman, revealed that post mortems he had conducted showed that 90 per cent of 200 deaths in detention had probably been caused by the police. Gluckman said that he had provided the State President with this information eight months previously but had not received any response; see (1992) 10 *Southern Africa Report* no. 30. Police found themselves not guilty of all the charges after an internal investigation; *The Sowetan* 1 December 1992.

<sup>65</sup> See note 53 at 44.

<sup>66</sup> See note 53 at 47.