

CROWD MANAGEMENT FOR PLATOON/SECTION COMMANDERS



MODULE 1:

LEARNER'S GUIDE

THEME: CROWD MANAGEMENT FOR PLATOON/SECTION COMMANDERS

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May 2006

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TITLE PAGE

THEME : Crowd Management for Platoon Commanders	
MODULE 1 : Effectiveness of a Platoon Commander	
UNIT STANDARD NUMBER	UNIT STANDARD TITLE
<ul style="list-style-type: none"> • 115337 • 115327 	<ul style="list-style-type: none"> • Manage crowds • Plan, implement, monitor and assess operations
PROVIDER	SOUTH AFRICAN POLICE SERVICE
NQF LEVEL	<ul style="list-style-type: none"> • 115337: (Level 4) • 115327: (Level 6)
CREDITS	<ul style="list-style-type: none"> • 115337: (8) • 115327 (6)
<p>SPECIFIC OUTCOMES</p> <p>After completing this unit standard, police officials will be able to:</p> <ul style="list-style-type: none"> • Prepare for crowd management operations. • Execute crowd management techniques • Use personal equipment related to crowd management • Apply force against crime • Monitor the implementation of the operation • Assess the impact of the operation 	

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CHAPTER ONE TEAMWORK FOR CROWD MANAGEMENT

LEARNING OUTCOMES

At the end of this chapter, the learner should be able to:

1. Identify the importance of teamwork for crowd management.
2. Explain the benefit of teamwork in relation to crowd management;
3. Discuss characteristics of successful teams in crowd management;
4. Discuss the platoon commander responsibilities concerning cohesiveness and uniformity

1. INTRODUCTION

People work in teams because together they have the potential to create something they cannot create alone. By maximising the quality of the relationship between team members, teams maximise their performance.

The quality of contact between team members affects all aspects of their relationship and the teams performance. Without contact, people misunderstand each other and information and opportunities are lost. With contact, communication is meaningful, understanding of others is increased, insights are shared and abilities of people are acknowledged.

Teams are not machines, they do not operate in mechanical ways and when they stop growing they begin to stagnate and die. People have a desire to contribute. If they are told what they must achieve and how they must achieve it and are bound by structures, managed by commands and limited by controls - they will eventually lose the ability to achieve their potential.

The best teams manage their own relationships and processes. They perform consistently and continue to optimize their performance. They have leaders, roles, goals and measures but they continually re-invent themselves.

2. DEFINITION

Team work can be defined as getting organised cooperation/combined effort from team members to attain a common goal.

3. BENEFIT OF BETTER TEAM WORKING DURING CROWD MANAGEMENT

- Improved Communication
- Raised morale
- Greater motivation
- Problem solving techniques
- A focus on key issues
- Ownership of decisions
- Higher confidence
- Effective use of resources
- Better use of time
- Development of planning skills

4. CHARACTERISTICS OF SUCCESSFUL TEAMS

- A common understanding of purpose and objectives.
- Some success against the task to develop credibility.
- Confidence that the group can continue being successful together
- A clear understanding of roles, responsibilities and authorities.
- Developing a climate of trust is recognised as the crucial element for facilitating all of the above elements

The order in which these characteristics develop is as important as the characteristics themselves. Group Members have confidence in each other only after they have a clear picture of their task and have experienced some successes together.

5. PLATOON COMMANDERS RESPONSIBILITY IN RESPECT OF TEAMWORK

The following elements can play a role:

- the nature of the units
- the level of preparedness and training
- the professionalism of the commanders, the staff and personnel
- the cohesion of the unit
- the morale, based on the belief in the values of the SAPS and the importance of the functions to the unit, responsible for crowd management.
- the equipment and armour

The means have to be considered as a combination of intellectual, moral and material values.

5.1 Cohesion

To ensure effective cohesion, the following should be in place:

- There must be clear and understandable orders/instructions from all levels of command.
- The regularly information needs to be clearly defined and understood.
- The movement of members must be disciplined and according to the outcomes of the operation.
- When teams and units intervene, it must be in closed routes, ensuring that there is no individual actions.
- The team needs to remain calm and project impassiveness to ensure that the team is cohesion.

When one responds use the above as foundation, the impression create by the team will be of:

- Power over the situation, by having the ability to resolve the current situation effectively.
- What the crowd observes is that by applying common sense, it would be ill advised to take on the team, thus being able to dissuade the crowd from acting rashly.

Most of the time individual acts of violence during mass demonstrations are generated by the fact that individual members lose contact with their colleagues and see no other way out than the use of violence for their own protection or for the protection of key-points.

5.2 Line of communication

Effective communication between, the operational commander and the platoon commander, the platoon commander and the section leaders, is very important. This line of communication should be uninterrupted.

5.3 Uniformity

Uniformity in the manner members are dressed, equipt and organized during public order operations is extremely important to obtained effective cohesion as well as to have an optimum impact on the participants.

6. SUMMARY

To create high performing teams means to make a conscious commitment as well as taking actions. It begins with diagnostic work to establish which links are working and which are dysfunctional. From the outcome of the diagnostic report, a program is constructed which is specific for that team to perform.

When presenting the programme to the team issues such as self esteem, being open and consistent must be kept in mind for the platoon/section to become a team, they have to believe it, feel it and act it out consistently.

To understand the fullness of teamwork, the annexure on leadership ought to be need together with the chapter.

CHAPTER TWO RESPONSIBILITIES OF THE PLATOON COMMANDER

LEARNING OUTCOMES

At the end of this chapter, the learner should be able to:

1. Define a platoon commander according to Standard Operational Procedures;
2. List the goals of crowd management according to the Standard Operational Procedures;
3. Explain the optimal use of means (equipment) by members and platoon commander in terms of the Standard Operational Procedures;
4. Explain how to prepare, execute and assess crowd management operations in terms of the Standard Operational Procedures;
5. Explain how to give commands to the members during crowd management exercises;

1. INTRODUCTION

The responsibilities of the platoon commanders cannot be delegated away during operation .The platoon commander may delegate his authority to his second in command to enable him to execute a part of the operation, but the responsibilities of the platoon operation is still that of the platoon commander.

The platoon commander will be held accountable for the outcome of the operation Therefore it is important that platoon commanders will study his mission as given to him as it would assist him in determining his responsibilities for that specific operation. Therefore the platoon commander needs to do a detailed assessment for his operation thus able to determine the task of his subordinates and his responsibilities.

2. DEFINITION OF A PLATOON COMMANDER

A Platoon Commander is subordinate to the Company Commander and is responsible for the operational readiness, tactical deployment, training, administration and maintenance of the platoon.

3. UNDERSTAND THE GOALS OF CROWD MANAGEMENT

To establish standardized procedures in the SAPS to manage crowds in such a way that these conform to democratic values and accepted international standards.

To install an approach in concurrent with SAPS values, of acting at all times in a professional, acceptable and an effective manner; in a way that is community orientated and to be accountable for every action. The actions of the police must comply with the following principles:

- Upholding the constitutional rights of the individual or groups of people to voice their concerns/grievances/feelings/opinions, without infringing upon the rights of others,
- Acknowledging the rights of citizens and the community to demonstrate peacefully without infringing on the rights of others,
- Being firm, fair and impartial,
- Being predictable and tolerant.

3.1 To accomplish the following ideals for crowd management situations:

- No loss of life,
- No damage to property,
- No injuries,
- All citizens satisfied with the conduct of the SAPS,
- All citizens present at a gathering to feel safe and secure,
- SAPS' personnel will not be requested to place themselves in situations where unacceptable risks have to be taken and
- To perform all tasks effectively and efficiently.

4. OPTIMAL USE OF CROWD MANAGEMENT RESOURCES

“Can I get the maximum output of my means?”

4.1 Being issued with the correct crowd management equipment

Optimization is the optimal use of equipment and personnel to reach or obtain the goal set out in the planning phase. The optimal use of equipment and personnel is only possible when a complete analysis is made of the risks involved in the situation. This analysis entails the consideration and studying of all factors which could possibly influence the effective achievement of a proposed goal, with the aim of finding the most suitable solution for the problem. Crowd management equipment is issued according to a briefing received from the commander as stipulated in an operational plan. The basic equipment to any member dealing with crowd management will be the following:

- Helmet
- Shield
- Tonfa
- Body armour
- Gas mask
- Shotgun with appropriate ammunition
- Pyrotechnical aids (appropriate)
- Uniform (Field dress as prescribed by Operational Instructions)

Although the maintenance, come transportation of equipment is a direct responsibility of a member, it is nevertheless the platoon commanders responsibility to ensure that all equipments issue is kept to its optimal standards.

NOTE: All crowd management equipment is maintained, transported and stored according to manufacturing specifications:

- **Shield:**
Clean with non alcohol based fluid. When stored or transported, care should be taken that the shield is not scratched

- **Helmet**
 Helmet should be transported and stored in such a way that the neck protection is not folded and the visor (if perspex) is not scratched or damaged.

- **Gas Mask**
 Clean with a non alcohol based fluid when contaminated.
 When contaminated, clean with luke warm mild soapy water.
 Do not stored in direct sunlight.
 Breather hole must be closed after use.
 Filter must be renewed frequently (check expiry date).

- **Body armour**
 Kevlar panel must be cleaned with a damp cloth.
 Do not machine wash, dry clean, immerse in water or cleaning Liquid.
 When transported or stored, care should be taken that ceramic tile or kevlar is not damaged.

- **Pyro technical equipment**
 Pyro technical aids should be kept away from heat sources.
 Pyro technical aids must be stored in a dry place away from heat sources, for example:
 - Practice grenades, if not in used;
 - The detonator must be separated from the ball and stored.

Use of crowd management equipment will vary from situation to situation and must be used in conjunction with the threat level, as well as the principles of intervention. The baton and the use thereof must comply with Organisational Policies and all legislation pertaining to the use of force.

4.2 Inspection of all firearms, ammunition and relevant duty registers

The booking out of firearms and ammunition are regulated as per Standing Order Stores and as well as SAPS 15 and Equipment Sheet. The Platoon Commander must ensure that inspection of relevant registers and control mechanisms as well as inspection of firearms in respect of their serviceability are conducted frequently. Crowd management equipment is standard to all personnel, although the use thereof may vary from situation to situation.

The members on parade must ensure that equipment is fitted according to manufacturing specifications and is used in a manner that match the threat/situation. Personnel on ground level are normally supervised by section leaders and platoon commanders, although members maybe visited by the operational commander and other senior officers.

4.3 Dressing of officials according to the dress order

Uniformity in the manner members are dressed (field dress), equipped and organised during public order operations is extremely important to obtained effective cohesion as well as to have an optimum impact on the participants.

The second in command (2 IC) must ensure that inspections of members and equipment are carried out at parades or prior to briefings. The 2IC will also ensure that the equipment is fitted according to manufacturers specifications (refer to manufacturers guide/user manual).

5. CROWD MANAGEMENT OPERATIONS

5.1 Prepare for the operation

Several key moments:

- Receiving of the mission
- Decision about the action
- Communication of the decision to lower level
- The beginning of the operation

Work method

- Identify influences of the environment and general situation
- Study of the activities needed and the prioritizing thereof
- Formulate a work programme (with several possibilities)

Note: The key to any successful operation is preparation together with identifying of contingencies. Allocation of reserve personnel and equipment is essential in providing assistance to members when the need arises.

5.2 Execute an operation

In order to execute an operation, the following guideline should be taken into consideration:

- probable nature of the mission;
- timing (start of preventive measures, operations,...) ;
- general information about transportation and routes to be used ;
- invitation for briefing/plan group, including information about maps and documentation to prepare;
- necessary reconnaissance prior to briefing ;
- urgent measures for administrative or logistical problems ;

5.2.1 Operational orders

Different types of plans/orders

- Warning order
- Operational plan
- Reserve operational plan
- Administrative order
- Contingency plan
- Movement order
- Integration order
- Particular order

5.2.2 Briefing

The objective of the briefing is for the platoon commander:

- To be able to visualize his/her plan to their subordinates so that they would be able to execute the planned operation as determined by the operational commander;
- To briefly point out the positions of the various key points and their importance during the operation;
- The possible threats which can be expected during the operation and how they are to be managed according to his/her assessment;
- To give the general operational layout of the operation.

5.3 Assessment

5.3.1 Definition

Assessment is a technique of reasoning you will follow by an operational commander as soon as, you are confronted by an operational problem, receives a mission or decides to impose a mission upon yourself.

5.3.2 Characteristics of an assessment

An assessment should be continuous, general, flexible and dynamic.

5.3.3 Methods of assessment

There are various methods on how to do an assessment, for example; a SWOT analysis, Mind mapping, trip wire technique, brain storming, etc. which must address the four M's. Assessments can be done mentally and/or be reduced in writing.

5.3.4 Assessment before event and study of overall operation

Will entail the study of the 4 M's

- Mission _____ Tasks
- Menace _____ Threat
- Milieu _____ Terrain
- Means, and _____ Equipment, personal
- operational concept

5.3.5 Assessment during event

During an operation assessment oSAPSrs on different levels and at each level the overall operational commander/ platoon commander assess different aspects of the operation for which they are responsible. The overall commander does a tactical assessment together with a strategic long term assessment and in so doing tries to determine what will the long term effect be of the tactical decisions taken now. The commanders are responsible for the implementation of the operation focus on the immediate circumstances with which they have to deal with. They must try to solve the immediate problem by using what they have available and try to stay within the limits set by the overall operational commanders. Essential Elements of Information (EEI) must be identified before, during and after the event. An early warning mechanism/system should also be put in place.

5.3.6 IODA - LOOP

As stated in the paragraph above, commanders who have to command an operation at any level needs to do an assessment before during and after and operation. During the operation assessment needs to be done continuously considering the 4 M's and within the mind of the commander.

The IODA loop starts with the Information available which the commander uses to proceed to the next step of the Orientation in which the commander will determine the

possibilities of the destabiliser and look at several possibilities which are available to solve the specific situation. In the next step **D**ecision the commander will evaluate the various tactical option available with each one's outcome then take the decision on one tactical option. In the **A**ction step the commander issues the instructions to implement the tactical option decided upon, then the cycle continues again

5.3.7 Assessment after event

- Will include a short debriefing of personnel.
- Completion of Ops diary by section leaders.
- Debriefing report to company and ops commander.
- Take part in debriefing with other role players.
- Complete all organisational requirements for example expenditure reports.

6. COMMANDS

The platoon commander will give the following commands pertaining to crowd management techniques with respect to foot, platoon and section formations (see chapter 6 and 7 for detailed information).

7. SUMMARY

A successful platoon commander must have an intimate knowledge of crowd management techniques to achieved positive operational results and the optimal use of personnel.

CHAPTER THREE PRINCIPLES AND RULES OF INTERVENTION

LEARNING OUTCOMES

At the end of this chapter, the learner should be able to:

1. Discuss the principles and rules pertaining to intervention during crowd management operations;
2. Apply the principles and rules of intervention during crowd management operations.

1. INTRODUCTION

1.1 Definition of public order

Public order is the state of tranquillity and security that is needed in society and that should be pursued by the State in order to ensure the constitutional rights and to benefit thus a harmonic development of society. Crime Combatting Unit is an executive tool, operating under the responsibility of the Minister for Safety and Security, and according to a number of rules, namely:

- The need for a legal basis,
- To pursue a legal purpose,
- To pursue good relations with the community,
- To be cost-effective.

2. THE PRINCIPLE OF LEGALITY

“WHAT IS THE LEGAL BASIS OF MY ACTION ?”

It is very important that each operational planning process complies with the legal instructions, as already stated in paragraph 3.1. of the policy document on crowd management.



Before engaging in an operation, a clear answer should be found as to whether the planned intervention falls within the legal framework. It must be clear that, in every circumstance the interventions of crowd management and the way in which crowd management is engaged by the authorities in all circumstances shall be legal in terms of the law. *(Ask for a written request from the university if they want you to act/intervene on the campus)*

The instructions and requests of the Minister for Safety and Security from the provincial and local administrative authorities as well as the interventions on the initiative of crowd management need to have a legal basis.

The engagement of the means (deployment of personnel, etc) and the execution of police actions to maintain and to restore public order must be considered as expressions of the use of force against individuals.

This use of force can sometimes involve violence. Both the use of force and of violence are justifiable in terms of the Constitution, which makes provisions for a compromise between individual rights and the general, or public interest.

The instructions of the Minister for Safety and Security to the National Commissioner of the SAPS regarding matters which concern public order, or instructions which concretize the laws are of an obligatory nature and will determine the attitude of the SAPS. Parliament will hold the Minister for public safety and security in the Republic and he will also have to be accountable for the above orders and instructions and the way in which crowd management has implemented them during public order activities. Given the responsibility and accountability of the Minister he should be kept informed immediately of any eventuality as soon as the situation requires it.

3. PRINCIPLE OF SITUATIONAL APPROPRIATENESS

“MY INTERVENTION HAS TO SOLVE A PROBLEM OF PUBLIC ORDER AND NOT TO CREATE A BIGGER ONE”

The principle of legality should not be the sole intervention principle in crowd management. The actual situation before and during an event will make it necessary to make a decision which is appropriate to each action. This assessment should be made by the local authorities according to the circumstances, and for the SAPS operational commander, if possible, after consultation. The purpose of SAPS operations is to prevent unrest and criminal behaviour, and if necessary, to restore public order in terms of the law. Consequently the actions of SAPS may never transgress the limits of the Law. This could mean that the local authorities and/or operational commanders will sometimes have to make concessions to the participants. It is not necessary, in every circumstance to intervene in order to recover a peaceful demonstration/gathering and thus not go for the maximum of what the Law permits SAPS to do.

The main idea of this principle is that if public order will be more disturbed by an immediate SAPS intervention than by doing nothing, then it is definitely better to opt for another solution to the problem: either stand back and do nothing, or negotiate and enter into dialogue with the parties concerned, or postpone the planned operation. The boundaries between the economic, social and political fields become more and more blurred. This means that in the near future SAPS will most certainly be faced with situations in which local authorities will intervene in social conflicts. To enable these authorities to interpret the Law and to make the best decision (situational appropriateness), SAPS will have to provide them with all the necessary information for doing so. Insofar the decision to intervene are legal, SAPS **should** not discuss them, but try to put them into practice in the best possible manner.

4. RULES FOR IMPLEMENTING SITUATIONAL APPROPRIATENESS

4.1 Rule 1: Knowledge of the demonstrators and of the circumstances in general

A good knowledge of the demonstrators is an important starting point. The best assessment is worthless if it is not based upon correct and complete information about the demonstrators. Knowledge of demonstrators is obtained in two different stages:

Long term (or during calm periods)

During this period the goal of the intelligence function is to collect the maximum information about the potential demonstrators and about the circumstances in general.

POTENTIAL DEMONSTRATORS

- Knowledge of philosophical doctrines
- The projection of these doctrines into the organization, functioning and general goals of the groups (pressure groups, subversive groups, etc);
- The keeping of documentation about and the surveillance of these groups whose actions may generate a conflict situation or that may endanger public order
- The keeping of documentation about persons whose activities can be linked directly with the potential disturbance of public order.

POSSIBLE INTERVENTIONS

- Knowledge of political, social, economical, cultural, ideological, etc institutions;
- Investigate those events which can eventually generate drifts of public opinion, that can provoke violent reactions in the political, social, economical, etc situation
- Keeping documentation that can help, in periods of unrest, determine the boundaries of possible SAPS interventions; eg the internal organization of institutions and enterprises that could form an objective for participants.

Short term (period of unrest or threat)

During the preparation phase of operations the intelligence function should:

- determine the real causes of the conflict;
- determine the degree in which this issue is sensitive for the entire or part of the population;

- determine who the parties concerned are, and what are their respective points of view;
- determine how the parties concerned are planning to exert pressure upon the authorities, etc. Will they go over to action in public places? Will they seek confrontation with opponents?
- go through the legal aspects of all possible actions;
- decide upon the moment that crowd management should engage in preventive action:
- enter into a dialogue with the administrative authorities, establish contacts with other authorities, and enter into dialogue with the parties concerned.

4.2 Rule 2: Dialogue (consultation) with the local authorities

The authorities of crowd management SAPS have to play the role of an active technical advisor in favour of those local authorities responsible for public order.

They must be informed about the evolution of public order and about the most important elements, which will enable the authorities to decide in time upon the possible administrative measures they can take to minimise the risks for incidents.

Incidents occur when local authorities are not equipped to tackle the difficulties relating to public order, and are wary to take measures which **may be regarded as being of a political nature.**

In some circumstance it will be the task of SAPS commanders to convince the local authorities that the efficiency of SAPS operations is aimed at the maintenance of public order. The need to prevent unrest becomes more apparent when decisions are taken and measures adopted, ensuring the safety of the people and property threatened, to ease the spirits and to ensure the individual freedom.

The advice that is given and the agreements reached should always be documented and sent to the authorities concerned.

4.3 Rule 3: Entering into Dialogue with the parties concerned

In every conflict situation it is necessary to talk to the groups who are actually living in the area where the conflict takes place, or the people who are affected by the conflict.

The participants and SAPS should exchange their various points of view about the legality of the actions of the participants and about the interventions by SAPS. The participants should know the limits of tolerance for their actions.

In this regard it is the responsibility of SAPS may never take a stand about the reason for the conflict, but merely state the concern for public order. The constitutional rights of all persons should be kept in mind by the operational commander.

Whatever the parties agree on should be documented and distributed to all the parties concerned. The relevant authorities must be continuously informed on the evolution and the results of the discussions.

This dialogue has to take place before the event (planning committee) but also during the event by keeping contact with the convenor and trying to let them first intervene in case of problems. Only if he cannot keep his people within the limits of tolerance SAPS will have to find a solution.

4.4 Dissuasion

During discussions between the operational commanders and the parties concerned (planning committee meeting), no doubt may remain about the severity and rigour with which SAPS will intervene should unlawful behaviour of the parties involved be of such a nature that SAPS is forced to taken action.

These discussions will also make it possible for the operational commander to decide whether or not he wants to show his deployed forces to the participants right from the beginning. The preventive display of power that obviates the need to use

it in a repressive manner can be considered a valuable way of dissuasion on condition that the people are not roused too much.

When the crowd is no longer rational only an operational commander who has experience in crowd management and has a good insight into mass psychology, and the particular crowd (knowledge of the participants and the circumstances surrounding the event) will be able to choose the right moment to show his/her forces. If the incorrect moment is chosen then the SAPS actions will be considered as provocative.

4.5 Minimization

The notion of "minimization" is used in the sense of dedramatization, in other words doing away with all passions on our side.

Before executing offensive actions, SAPS commanders should consider the balance of the advantages they are counting on, with the negative outcome for public order. If one is considering offensive action with the sole aim of making people obey the Law and not with the purpose of the immediate protection of persons and property, it will only be possible to justify this intervention in exceptional circumstances.

Finally, the operational commander, who has to decide upon an action, may not forget that in principle human life will be of far greater importance than that of material losses.

5. PRINCIPLE OF PROPORTIONALITY BETWEEN GOALS AND MEANS

"IS THE BALANCE REASONABLE BETWEEN WHAT I WANT TO ACHIEVE AND THE MEANS I NEED TO DO IT"

The purpose of proportionality is to ensure that the means which have to be used in order in order to reach the aimed goal are still reasonable. If they are not, then two solutions remain:

- either adapt the goal;
- or find another way to achieve it.

Eg. During a march an operational commander wants to arrest a violent participant. But he sees that the person still remains in the group of other participants who probably will make trouble if the commander decides to arrest him. If he decides to, he will have to use a complete platoon to get into the group and arrest the person. Is it reasonable ? He can probably arrest him at a later stage (when he will be alone) of identify him by other means (video, etc).

6. RULES REGARDING THE PRINCIPLE OF PROPORTIONALITY

6.1 Rule 1: Knowledge of the demonstrators and of the circumstances within the framework of intervention

This knowledge will enable the SAPS operational commander to find the elements of assessment in order to prepare for his/her missions.

DEMONSTRATORS:

- Who are the demonstrators?
- The potential or real number of demonstrators?
- Are there counter demonstrators?
- What are the means available to the demonstrators?
- What their state of mind?
- Do they have specific plans, or what are their possible plans, etc
- During the demonstration: what is the intentional time of regrouping?
- Do they have declared plans?

FRAMEWORK OF INTERVENTION

- Determine the probable places of unrest
- Identify the key points
- Locality of the place where the gathering is to take place
- Reactions of the public or community towards the announced demonstration

6.2 Rule 2: Knowledge of one's own means

The extent of one's own means is just as for the demonstrators, not the simple sum of quantitative elements.

The following elements can play a role:

- the nature of the SAPS units
- the level of preparedness and training
- the professionalism of the commanders, the staff and personnel
- the cohesion of the unit
- the morale, based on the belief in the values of SAPS and the importance of the mission of SAPS
- the equipment and armour

The means have to be considered as a combination of intellectual, moral and material values.

The purpose of using the principle of proportionality is to achieve a sense of moderation. This implies that only the measures and means that are essential for the execution of an operation should be used. On the other hand it means to prepare and execute only operations that are feasible, and to take into account the available means.

Should operational commanders require reinforcements, the sense of moderation must also be taken into consideration. The commanders should bear in mind that all manpower engaged in this one operation may endanger the capacity and the freedom of action of the entire SAPS.

7. PRINCIPLE OF OPTIMIZATION

“CAN I GET THE MAXIMUM OUTPUT OF MY MEANS”

This principle means that the operational commander has to use his means in a good way, which means:

- either adapt his goals to the means he has;
- or ask for reinforcements for the goals he wants to reach.

Once he has decided about the actions that will take place, he still has to distribute the several missions without wasting capacity.

In order to respect the principle of optimisation the operational commanders must apply the following rules:

- freedom of action
- optimal effect of means.

7.1 Freedom of action

7.1.1 Definition

In order to optimize his/her decision the operational commander should be able from an operational point of view, at any moment execute their decision, and not be obliged to do what the participants impose upon him/her.

Operational commanders must remain in control of the operations without being vulnerable, and must also be able to balance the force used against demonstrators with the manpower and means. If he/she permits the participants to impair the activities of his/her units, he/she loses his/her freedom of action completely or in part. This can, in general, be countered effectively by taking the following tactical measures in time.

7.1.2 Information gathering

The systematic collecting of information about demonstrators by Information Collecting Services (patrols, etc) before and during the event in order to be fully informed about the actual situation and the real situation of the demonstrators.

7.1.3 Members in reserve

In order to ensure he can at all times have a good answer regarding an unforeseen action of the participants, the overall commander should always have some members in Res, under his command.

At the same time, every commander at each level (up to the level of Pl Comd) should have a reserve.

The operational commander who are surprised by the actions of participants, can be forced to engage his members as soon as secondary unrest erupts and start to spread. This will make the operational commander lose control (freedom of action) and will have to engage far too early in fierce actions in order to compensate for the lack of reserves.

The missions of the Res will be possible action modes for each possible threat for which the commander did not foresee a measure in-line.

7.1.4 Joint efforts

Instead of working separately to tackle minor problems, operational commanders should join forces to point out the priorities and to regroup when sub-units are needed to deal with a limited number of more important incidents. This will ensure that these issues are dealt with according to the priorities quickly and effectively. If offensive measures or interventions need not be taken, it can be more interesting to work with smaller units and to work in the entire area of action in a preventive manner. The flexibility of the units is important, should the commander want to change the approach.

7.1.5 Natural/manmade obstacles

In general it can be stated that the operational commanders need to have enough time and space to execute their planned operation. They can do so by using

obstacles, either to secure the flank of their operation, or to prevent the participants from entering an area into which the conditions (eg open spaces, rough terrain, possible projectiles for demonstrators) may hamper an effective operation, or would cost them too much in manpower.

7.1.6 Routes for interventions

To ensure his freedom of action, the operational commander should have a plan on how to move the units easily from one position to another. When isolating a key point, the operational commander will have to move along with his reserve and his special means (eg water cannon) to a place where one of his sections is under pressure. Preplanned route for intervention are necessary to ensure the swift movement of reinforcements.

8. THE OPTIMAL EFFECT OF MEANS

8.1 Definition

In order to obtain the optimal effect from the means and as a result of the principle of situational appropriateness , the principle of proportionality the operational commander must decide between goals and means. He/she must engage these means to obtain the maximum intensity at the desired moment and place with the minimum damage on both sides.

8.2 This rule requires the following tactical measures

Intensity and continuity

As soon as the operational commander decides to intervene, he/she must strive for a mass-effect. During public order operations the method of adding "small packages" of units every few minutes would prove to be counterproductive, because the time factor and the lack of supervision would work in favour of the participants.

Once an operation starts and the unit becomes involved with the demonstrators, the operational commander will have to ascertain that he only has to use force once, an order to get the demonstrators moving. Each discontinuation in the operation will add further use of violence by both sides, (SAPS and participants) which should be prevented.

8.3 Cohesion

To ensure that a unit intervenes in cohesion, understandable and clear orders, formations, discipline of movement, interventions in closed ranks, calm and impassiveness are required.

Such a way of intervening will create the impression of power, resolution and effectiveness. At the same time, it appears to the common sense of participants and helps to dissuade them from acting rashly.

Most of the time individual acts of violence during mass demonstrations are generated by the fact that individual SAPS members lose contact with their colleagues and see no other way out than the use of violence for their own protection or for the protection of key-points.

8.4 Arrests

In some cases an operation will only have an effect if the real troublemakers (authors of criminal activities, instigators) can be removed and arrested.

As soon as the instigators have been isolated from the rest of the crowd of participants, it will be much easier to end or control the incidents. Nevertheless one must be very careful not to provoke the participants and by doing so create even more incidents. In some cases it will be necessary to make arrests at a later stage, by applying the principle of situational appropriateness.

8.5 Choice of the place

The action with the chosen means will only have the maximum effect, if it takes place at the most suitable place. In public order this is the place where the greatest threat or danger exists.

8.6 Speed

During public order operations one must bear in mind that there will be people in danger somewhere, or will cause trouble.

To prevent this the time spent on controlling the situation should be kept short as possible. This will hasten the speed of interventions and keep the duration and of the incidents that SAPS has to deal with within reasonable or acceptable boundaries.

This does not mean that operations are executed without any preparations: on the contrary, the very detailed study and knowledge of participants and what they may do will enable SAPS to engage in the execution of planned operations almost without being notice.

8.7 Line of communication

Effective communication between, the operational commander and the platoon commander, the platoon commander and the section leaders, is very important. This line of communication should be uninterrupted.

8.8 Uniformity

Uniformity in the manner members are dressed, equipt and organized during public order operations is extremely important to obtained effective cohesion as well as to have an optimum impact on the participants.

8.9 Neutral zone

The operational commander must always take control over an area large enough from which to launch an operation and at the same time be used as a basis from which to organise and control. No participants or innocent bystanders are allowed to enter or interfere with the neutral zone.

9. SUMMARY

The analysis of the rules that make it possible to apply to the principle of optimisation clearly show that all rules favour the offensive operations, while the commander who is in charge of protective measures can only take advantage of but a few of them. For offensive operations one chooses the moment and place, while during defensive operations, the forces are spread over a larger area. Nevertheless, it needs to be stated that, according to the general goals of public order and crowd management, operational commanders should always favour preventive actions and try to find other ways towards a peaceful settlement, other than intervening offensively. Whenever, at a certain moment reserve units have to engage in an offensive operation, they should be well-prepared and according to the various principles and rules.

CHAPTER FOUR: PREPARE FOR CROWD MANAGEMENT INCIDENTS

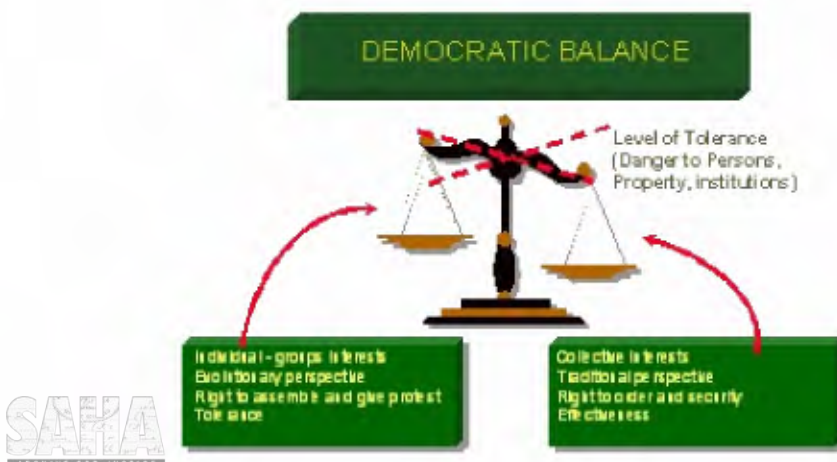
LEARNING OUTCOMES

At the end of this chapter, the learner should be able to:

1. Explain how to negotiate with the crowd according to the Standard Operational Procedures;
2. Explain the appropriate actions to be taken so as not to provoke or result in a higher level of violence;
3. To explain on how to take steps on the safety of police officials and other persons in terms of the Standard Operational Procedures;
4. Demonstrate the understanding with regard to the legal policy and procedural framework in terms of the Standard Operational Procedures;

1. INTRODUCTION

The application of force against a community or group of people who protest in a democratic society is considered to be a drastic measure. In a democratic society, the community entitles the police to use force against them. However, there is a contract between the police and the community that, when force is applied during social conflict, the force that is applied must be proportional, consistent and appropriate in the circumstances. The police must also consider the democratic balance. When the police use too much force to retain the balance, another protest condemning the police's actions could follow.



The balance of democracy concerning the policing of gatherings is not an easy one as there are always two sides of the story. What often makes it ever more difficult to negotiate is that both groups believe that they are right. On the one hand of the balance are the rights of the protesting group and on the other there are the rights of the non participating individuals. Both have rights that are protected by the constitution. The question is whose rights at a given moment carry the most weight? There are some people who believe in the traditional methods of policing, as they have been tried and tested, while other people are open to change and consider the new approach to the policing of gatherings to be the better way.

On the one hand there are people that expect the police to be tolerant towards protestors and on the other hand people that expect the police to be effective in the policing of the gathering. Each party have their own expectations of the police and they consider themselves to be right. The balance will never be in equilibrium. However, the trick is to maintain a healthy balance which is acceptable to the community and international standards. Who said policing gatherings was easy?

2. NEGOTIATION BEFORE AND AFTER PHYSICAL FORCE IS APPLIED

Not all crowds are violent, in fact, studies have indicated that less than five percent of all gatherings become violent or have violent elements. Police actions on the scene also play a significant role in the level of violence because their actions will either escalate the violence or forestall it. This is why the police need to have a holistic view of violence and must pick it up as soon as possible, even before the organisation or community gives notice that they are going to have a protest. During this early stage the police can play the role of mediator and try to get the role-players to resolve the conflict before it becomes a problem of public appeal and protest.

2.1 Time line activities



Table 1: Illustration of the time line activities

Before	During	After
<ul style="list-style-type: none"> • Pro-vention 	<ul style="list-style-type: none"> • Prevention • Reaction 	<ul style="list-style-type: none"> • Lessons • Learnt

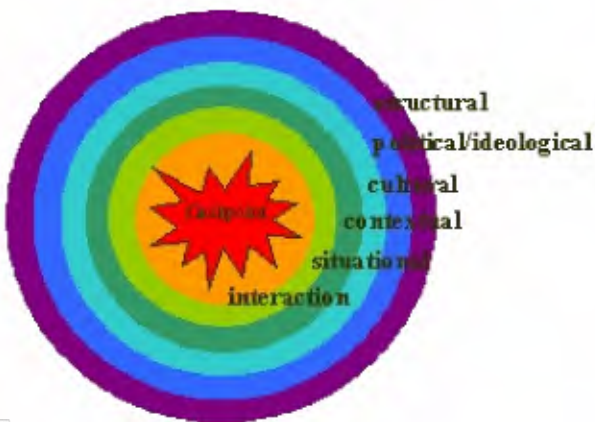
- Defensive : Prevention Approach
- Offensive : Reaction Approach

To enable the police to manage crowds there must be an effective information-gathering process. The information collected prior to the march/gathering will enable the police to negotiate better and have the necessary insight in to the reasons for protest. The ability to build better community relations must be based on open communication. The police can play a leading role in guiding the community through a peaceful and successful march.

The police if they act in accordance with the Regulation of Gatherings Act (Act 205 of 1995), together with the relevant role-players, they can build lasting relationships with the communities and organisations that protest regularly. Every march that is managed successfully builds stronger relationships and promotes trust.

Every gathering occurs within a specific context and for specific reasons. Waddington (Waddington *et al.* 1994) states that for every incident, to which he refers as a **flashpoint**, occurs within a specific context.

Waddington Model:



By understanding the role and purpose of a protest march, the police are able to be more tolerant towards the participants. The police are also able to manage the democratic balance better. If information concerning a protest march is acquired in time, the police are able to inform the community in time, allowing people to plan their day according to the route of the procession. Better planning will lead to more tolerance and understanding. The ultimate goal is that neither the police nor the participants in the protest display force during the march.

Furthermore, the police empowers the community to manage the protest from within its structures and prescribe what would be the normal behaviour for the crowd. The community would also be able to apply the requirements set out by the Regulation of Gatherings Act (Act 205 of 1995). It is in this particular area that the police can play an advisory and consultive role in empowering the community to abide by the regulations.

3. RESPONSIBILITIES OF PLATOON COMMANDER

3.1 Manage the use of force

The platoon commander is responsible to manage the use of force by command and control. The following activities need to take in to consideration according to the **four (4) principles and rules of interventions:**

- **Legality:** The platoon commander must have a legal mandate to use force.
- **Situational appropriateness:** It must be determine if use of force that will be used, will it solve the problem, or will it create a bigger problem.
- **Proportionality:** The deployment of use of force must be proportional to the threat levels.
- **Optimisation:** The platoon commander must make best use of the resources available.

3.2 Actions that are taken, do not provoke or result in a higher level of violence

3.2.1 Pro-active conflict resolution

According to Standing Order (General) 262 sect 3 (1) to (3) , where there is any threat for public safety, the platoon commander must initiate a process to resolve the factors that underlie the disorder peacefully through negotiations

- (1) Station commissioners must identify indicators of potential violent disorder in their areas by means of continuous information *gathering* by the information managers.
- (2) All potential problems must be analyzed and reported to the Provincial Commissioners. If there is any threat for public safety, the Community Policing Forum (CPF) or station commissioners concerned must initiate a facilitation process to resolve the factors that underlie the disorder peacefully. They must identify role players and stake holders who can play a role in resolving the problem, bring them together for talks and identify and implement problem solving initiatives. They must engage in conflict resolution processes to prevent any form of physical conflict or the eruption of violence.
- (3) If negotiations fail and life or property is in danger, the platoon commander must follow the following procedures:
 - Put defensive measures in place as a priority.
 - Warn participants according to *the Act*, of the action that will be taken against them, should defensive measures fail.
 - Bring forward the reserve or reaction section or platoon, that will be responsible for offensive measures, as a deterrent to further violence, should the above- mentioned measures not achieve the desired result.

- Give a second warning before the commencement of the offensive measures, giving innocent bystanders the opportunity to leave the area.
- (4) Execute all planned well and execute them under strict command after approval by the *CJOC*.
- (5) The degree of force must be proportional to the seriousness of the situation and the threat posed in terms of situational appropriateness;
- (6) It must be reasonable in the circumstances;
- (7) The minimum force must be used to accomplish the goal; and
- (8) The use of force must be discontinued once the objective has been achieved.

3.3 Actions taken, to not compromise the safety of police officials

Safety refers to the safety of the platoon members in the formation and the participants of the crowds and the community considering the limitations and restriction of the offensive equipment/weapons.

3.4 Escalation/de escalation of violence

According to Standing Order (General) 262 sect 11 (3) to 11 (7), (3) If the use of force is unavoidable, it must meet the following requirements:

- (a) the purpose of offensive actions are to de-escalate conflict with the minimum force to accomplish the goal and therefor the success of the actions will be measured by the results of the operation in terms of cost, damage to property, injuries to people and loss of life;
- (b) The five C stairs is a model that shows the relationship between the police and the crowd. The aim of crowd management is to solve conflict at the lowest level, thus being in a position to use as little force and constraint as possible.

- (c) To achieve this you must start at the level of comprehension and understanding. You must obtain insight into the conflict and the driving factors behind the conflict and protest. You must understand the conflict within the context: different interests, multicultural attitudes, importance, etc refer to **Waddington Model**, p 31
- (d) Once you comprehend for the situation, you can step down to other levels of communication and if possible achieve full co-operation with the convener and other role-players. This enables you to achieve the ultimate (*optimum remedium*) in that should there be a march it will be well controlled and the rules will be respected by all the parties involved in the conflict.
- (e) To achieve the ultimate there must be trust between all persons involved with the protest and conflict. The police also need to have the correct attitude towards crowds.

Figure: The Conflict Resolution Model

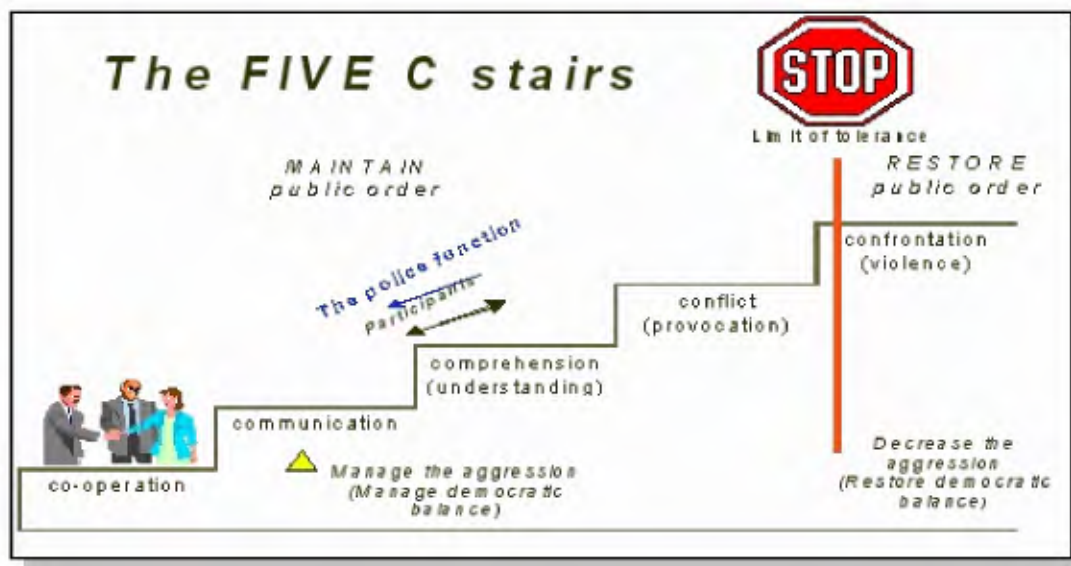


Figure 4

4. POLICY AND PROCEDURAL FRAMEWORK REGARDING CROWD MANAGEMENT

4.1 Understanding of legal framework

Understanding the legal framework for the management of crowds is an important element of being able to operate effectively within the environment of crowds and protest. The understanding is not only limited to the legal framework of our own country but understanding that South Africa is considered to be an international player and therefore one must consider the international standards for the policing of a person's rights, which are listed under the United Nations Charter of Human Rights - *Geneva convention*.

The police is responsible for the policing of human rights. Waddington (Waddington: 1980) has stated that it is a very difficult task, as you need to balance the human rights against what is required to combat crime and at the same time protect the rights of victims. For public order policing the role becomes more difficult to balance as you need to consider the rights of protestors and the rights of individuals that are not part of the protest or do not want to be part of the protest. To walk this delicate path you must have an understanding of crowds and also of the rights of individuals within the legal framework of what is considered to be appropriate in the circumstances.

According to Standing Order (General) 262 sec 1 (1) to (3):

- (1) The purpose of this Order is to regulate crowd management during gatherings and demonstrations in accordance with the democratic principles of the Constitution and acceptable international standards.
- (2) The Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), (hereinafter referred to as "the Act"), shifted the focus away from obtaining permission to hold a gathering, to giving notice of an intended gathering. This Act prescribes the procedures that must be followed when the Constitutional rights to protest, petition and exercise freedom of speech are exercised. In order to give effect to the purpose and objectives of this Order it must be read in conjunction with the Act.

- (3) While working in partnership with the community and other agencies, the Service must devise effective methods to promote public safety, as well as reassuring the various communities that they are protected. To ensure this, the Service must play a pro-active role in attempting to identify and diffuse any possible conflict before it escalates to violence. This is to be done by playing a pro-active role in communicating with the public through the Community Policing Forums or other channels.

4.1.1 Constitutional Powers of police

Section 205 (3) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) determine:

- Prevent, combat and investigate crime.
- Maintain Public Order.
- Protect and secure the inhabitants of RSA and their property, and
- Uphold and enforce the law

4.1.2 Section 36 (1) Constitutional

- Contained in law of general application.
- Reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

4.1.3 Powers of police given by law

In line with the Constitution various laws gives enabling powers to the SAPS to discharge it power.

- Criminal Procedure Act.
- Police Service Act.
- Regulations of Gatherings Act.

4.1.4 Code of Conduct SAPS

Police officials promise to:

- Uphold the constitution.
- Uphold and protect the fundamental rights of every person &
- Exercise the powers conferred upon them in a responsible and controlled manner.

4.1.5 Police Service Act, 1995 (Act 68 of 1995)

Section 13 subsection (3)(b) states:

Police Officials who are authorized by law to use force, may use only minimum force which is reasonable in circumstances.

4.1.6 Ethical Principles

- Integrity.
- Respect for diversity.
- Obedience to Law.
- Service Excellence.
- Public Approval.

These principles are key ingredients for successful use of force decisions.

4.1.7 The reasonable police official

- Have extensive knowledge of police powers given by Law.
- In second nature act in private defense.
- Understands the dynamics of the society he/she serves.
- Comply to the ethical principles of the Service and by doing so serve the Constitution and Code of Conduct.

4.1.8 Scale summary

Before the force is used, the following points must be taken into consideration:

- May or Can I? (Power).
- Will it stand the reasonable man test?
- Based on human dignity, equality and freedom (Constitution).
- Minimum force which is reasonable in circumstances.
- Comply to the SAPS Ethical Principles.

4.1.9 Deadly Force Triangle

- Improper shooting decisions the potential for costly civil claims
- criminal prosecution
- strained community relations and
- ruined professional and personal lives
- Such decisions takes place under high stress situations.
- Officials are afraid of consequences.
- In most cases the decision is complex and risky.
- Apply the AI TEST and
- Being well trained.
- **will simplify shooting decisions.**
- The Deadly Force Triangle will improve high stress shooting decisions.

4.1.10 Criminal Procedure Act, 1977 (Act 51 of 1977)

Purpose

- Prescribe procedures to;
- Obtaining evidence &
- Securing Presence of SAPSsed in court.

4.1.11 Powers

- Searching Persons / premises
- Seizing articles
- Arresting persons
- Use force

Art 49 : Use force to arrest with the inclusion of firearm in certain situations.



4.1.12 Regulation of Gathering Act, 1993 (Act 205 of 1993)

Purpose

- To Regulate Public Gatherings to be peaceful.

4.1.13 Powers

- Restrict spontaneous gatherings &
- Disperse in certain circumstances by using force including use of firearms.

4.1.14 Private defense according to the Common Law

- Defense of self or somebody else against an unlawful attack on life, body, property or person.

4.1.15 Conditions for private defense

- Actions of the attacker:
- Must be unlawful.
- Attack must still be threatening.
- The attack can be against a third party and not the defender.

4.1.16 Requirement of defense

- Must be the only way out.
- Must do no more damage than what is necessary to protect against the attack.
- Must be aware of the fact the action is out of private defense.

4.1.17 Discretion

- Discretion is given in empowering provisions in law by using the words “Can or May”
- The police official must carefully consider all the different options and prevent infringing the rights of individuals as far as possible.

4.1.18 Police discretion

- Do you have the power?
- Is it reasonable and justifiable to do it?
- What about the constitution?
- What about the Code of Conduct & Police Service Act?
- Do you have professional ethics as police officials?



4.1.19 Reasonableness

- Force used is reasonable when
- A person believe it is appropriate to act
- The belief is based on facts
- Any reasonable person in the same circumstances and view of the ground would have the same belief.
- The reasonable man test will be used to test reasonableness of all use of force decisions.

5. SUMMARY

To enable police to make the best possible judgement call about the management of crowds they must know what the legal powers are that are applicable to the current situation. If there is legal basis for the decided action, is it the best action considering the result of such actions. The police must tread such a fine line when it comes to the management of crowds during protest. Would your action withstand the reasonable man test, the code of ethics and are your actions in line with the principles of minimum force? The actions taken, or not taken, must not cause the current levels of violence to rise, as the purpose of police actions should be to de-escalate the levels of violence (get the participants to go down the stairs). Any levels of violence that are considered abnormal must be as short as possible to allow the community to return to normal. All possible evidence that was left from the conflict must be removed as soon as possible so that the community can forget the past conflict, and rather focus on solving the conflict.

BIBLIOGRAPHY

Goldstone, R. (1992). *Towards Peaceful Protest in South Africa*. HSRC.

Rauch, J. and Storey D. (1989). *The policing of Public Gatherings and Demonstrations in South Africa 1960-1994*.

Reynecke, F. and Fourie, M. (2002). *Police Management beyond 2000*, Juta & Co, Cape Town

Storey, D. (1996). '*Protesting and policing*'. Presentation to members of Public Order Police, 7 February 1996. Pretoria. SAPS Dog School.

Syer J and Connally C (1999) *How Teamwork Works*. London, Mcgraw-Hill Company

Van Ryckeghem, D and Hendrickx, E. (1999). *Community Policing, Public Order and Crowd Management*. Presentation to the management of Public Order Police.

Waddington, P.A.J. (1994). *Liberty and Order*, UK.

ACKNOWLEDGMENTS

The following people are commended for the contribution towards the development of the learning material, validation of content, writing of scenarios and development of assessment tools.

Snr Supt F Ally
Snr Supt S. Van Rensburg
Snr Supt M.R. Twala
Supt C Amstrong
Supt S.H Barkhuisen
Supt E Seroma
Supt P. Msweli
Capt T.M. Beesnaar
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Capt P. Maphanga
Capt M.B. Nkwini
Capt V.G.E. Julius
Capt N.R Singo
Capt O.S Lubisi
Insp C.J Oldewage
Insp G. Terblanche
Insp A.R. Stephanus
Insp T.C. Mkhabela
Insp C.L Fourie
Insp D.A. Smit
Insp R.R. Ryland
Insp Z Ally
Insp K.M Mulautzi
Insp L.B Williams
Insp A M Dagada
Insp L R Naidoo
Insp T J Matshane
Insp AJ Meth
Insp CL Fourie
Insp R L Madavha
Sgt P.J. Kenny
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SAPS Durban
SAPS, Vhembe Limpopo
SAPSPort Elizabeth
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APPENDIXES

- Appendix A:** Leadership
- Appendix B:** Operational Policy
- Appendix C:** Standing Order (G) 262
- Appendix D:** Gatherings Act, 1993 (Act 205 of 1993)

Appendix A:

Leadership

1. INTRODUCTION

The new democracy in South Africa demands a new policing approach, with this came significant developments in relation to legislation, strategies and tactics for dealing with public order, which necessitated that a module on leadership be formulated.

It is important that all officers, particularly platoon commanders, consider the role they play in public order and their contributions which will ensure that public order is maintained.

It is with this in mind that platoon commanders should have a thorough knowledge of leadership and be able to adopt different styles of leadership to various situations so that the SAPS will be successful in achieving its aims. There is no particular style of leadership that must be followed at all times, however during operations the leadership style which needs to be followed is one based on trust between the Platoon Commander and his/her subordinates. Members are to follow strict and concise instructions from the Platoon Commander without hesitation, unless an obvious unlawful command is given.

Operational integrity of the overall commander cannot be jeopardised by platoon commanders who are unable to command and control their members effectively.

2. DESCRIPTION

2.1. Definition

“Leadership is the process whereby one individual influences other group members towards the attainment of defined group or organizational goals.” (GREENBERG and BARON 1990: 441)

“The process of influencing the activities of an individual or a group in efforts towards goal achievements in a given situation.” (STODGILL 1950: 1)

Elements of leadership

The following elements have bearing on the definition:

- * the qualities of the leader
- * the style of the leader
- * competency, responsibility, tasks and techniques
- * human relations and influence
- * prevailing circumstances

2.2. Sources of leadership

The actual list of possible sources of leadership is:

- * knowledge
- * influence
- * speech competency
- * ambition
- * physical strength
- * success
- * life span

2.3. Sources can be divided into (5) five categories

2.3.1 The formal source

The person is given the leading function by the organisation he or she is working for. eg. rank.

2.3.2 The subject knowledge source

Some people become leaders because of their expertise, subject knowledge and skills.

2.3.3 The personal source

People develop themselves to be on a higher position eg by intelligence, moral and characteristics

2.3.4 The leading technique source

Some people control better than others by leadership techniques eg the art to motivate and / or to organise.

2.3.5 The human source

Some people have a bigger influence because they have knowledge and skills that others do not have.

3. CHARACTERISTICS OF A SUCCESSFUL LEADER

3.1. Research has indicated that all successful leaders have certain common characteristics that distinguishes them from other people. These are:

<u>Trait or Characteristic</u>	<u>Description</u>
Drive	Desire for achievement; ambition; high energy; tenacity; initiative
Honesty and integrity	Trustworthy; reliable; open
Leadership motivation	Desire to exercise influence over others to reach shared goals
Self-confidence	Trust in own abilities
Cognitive ability	Intelligence; ability to integrate and interpret large amounts of information
Knowledge of the business	Knowledge of industry, relevant technical matters
Creativity	Originality
Flexibility	Ability to adapt to needs of followers and requirements of situation

4. LEADERSHIP STYLES

There are many variations when considering the different leadership styles. An important aspect that should never be lost sight of is that in the SAPS there is no particular style of leadership that must be followed at all times. People in leadership positions within the SAPS must realise that different situations require a different style of leadership.

Leadership styles that are relevant in the SAPS are autocratic, bureaucratic, participative, diplomatic and laissez-faire. These styles are not without fault, but different situations demand that different leadership styles be used when dealing with people.

4.1. Autocratic leadership

Autocratic leadership is a style that is often regarded as the least popular one. The reason for this resentment is that it usually results in one-way communication and is mainly “top-down”.

Autocratic leadership - advantages

A definite advantage of this leadership style is that it speeds up the decision-making process, especially when members fail to accept responsibility (SHEEHAN AND CORDNER 1995:304).

Autocratic leadership - disadvantages

The disadvantages are that members in a group, may feel that they do have a role to play in the decision-making process and that they should have been consulted in this process.

The autocratic leader may even be regarded as a liability by the people within the group (SHEEHAN AND CORDNER 1995:304)

The leader of a team or group must realise that if this leadership style is to be used successfully, he or she will have to possess the relevant knowledge and skills which cover a wide range of areas (SHEEHAN AND CORDNER 1995:304)

4.2. Bureaucratic leadership

The SAPS is well-known for the structures and procedures that have to be followed in given situation. The bureaucratic leader operates “by the book” and never deviates therefrom. Police Standing Orders, Regulations, the Police Act 68 of 1995, all other government instructions and regulations determine every decision made by the BUREAUCRATIC leader. If there is any doubt in respect of a decision that has to be made, this leader will always either consult a superior or someone who knows the proper procedure (SHEEHAN AND CORDNER 1995:304).

Bureaucratic leadership - advantages

The advantages of bureaucratic leadership is that it is consistent and fair, i.e. all similar situations are treated in the same manner (SHEEHAN AND CORDNER 1995:304)

Should any error be made by the bureaucratic leader, it is easy to trace where the error occurred due to the “paper trail” that is present in the decision-making process.

Bureaucratic leadership - disadvantages

A disadvantage of bureaucratic leadership is that is rigid. Many regard this leader as being a very conservative and a person who lacks imagination and vision.

4.3. Participative leadership

Participative leadership - definition

The participative leader consults with the people under his or her command before making a decision. In certain instances, the group may make decisions on its own.

This results in more support for the decision made during the decision-making process. An advantage of this leadership style is that people feel that they have access to more information than what they would originally have had.

Participative leadership - advantages

Active participation leads to the growth of the individual and the institution
(SHEEHAN AND CORDNER 1995:305)

Participative leadership - disadvantages

Disadvantages of the participative leadership style are that it is time consuming and may slow down the decision making process.

Cliques may also form within the group and members whose input is not accepted, may become negative which could “rub off” on other members of the groups
(SHEEHAN AND CORDNER 1995:305)

4.4. Diplomatic leadership

Diplomatic leadership - definition

The diplomatic leader always makes decisions without involving anyone in the decision-making process. Once a decision has been made, the diplomatic leader will attempt to “soft-sell” the decision to the group.

An advantage of this leadership style is that the leader may gain support from the group because the group may feel that the leader respects them because he or she explains the reasons behind the decision that was made.

Diplomatic leadership - disadvantages

Distinct disadvantages of this leadership style is that should the leader have made a poor decision, the group may resent him or her as their leader and it is quite possible that the group may “see through” the leader and reject him or her for excluding them from the decision-making process. (SHEEHAN AND CORDNER 1995: 304)

4.5. Laissez-faire leadership

Laissez-Faire Leadership - Definition

The laissez-faire leadership style occurs where leaders have a minimum input in directing and controlling the group. This style of leadership has often been referred to as the “free-reign style” (SHEEHAN AND CORDNER 1995: 305)

An advantage of this leadership style is that certain individuals will grow and feel empowered under this leadership style.

Laissez-Faire leadership - disadvantages

The disadvantages of this leadership style is that certain groups will not be able to operate effectively and as a result of the minimum control, the risks involved are very high (SHEEHAN AND CORDNER 1995:305)

4.6. Situational leadership

This theory implies that a leader will use a different style of leadership in different situations. Leadership is therefor influenced by various aspects. These include:

THE LEADER	<u>LEADERSHIP</u>	
	THE GROUP	SITUATION
Behaviour	Norms and Values	Organisational values
Knowledge	Cohesion	Technology
Values	Goals and Needs	Tasks
Competencies	Individual expectations	

According to this theory sub-ordinates can be divided into four (4) levels of maturity.

M1 Low Maturity

Unwilling and incompetent

M2 Low to Average Maturity

Willing but incompetent

M3 Average to High Maturity Competent but unwilling

M4 High Maturity Willing and competent

As already mentioned the leader will adapt his / her style according to the situation.

The following four (4) styles can be identified:

S1 (M1) Telling: One-way communication; leader gives instructions without explaining why; directive style

S2 (M2) Selling: Two way communication; leader gives support; still directive

S3 (M3) Participating: Two way communication; participation exists, few control measures

S4 (M4) Delegating: Sub-ordinates take responsibility; leader delegates function; no control

4.7. SUMMARY

The leader has to determine the level of maturity of his sub-ordinates. The higher this level is in terms of competency and willingness, the less descriptive he will be.

5. LEADERSHIP TASKS / ROLES

5.1. The leader as sponsor

Provides strategic direction and resources to the group.

5.2. The leader as facilitator

The facilitator ensures that meetings, group dynamics and interpersonal relationships function effectively.

5.3. The leader as coach

This role involves providing support and guidance to the members with regard to the execution of their tasks

5.4. The leader as member

This role involves that the members takes responsibility for the execution of the groups tasks. The leader actively takes part in the activities of the group.

5.5. The leader as healer

In this role the leader plays the role of mediator in bringing people together and maintaining relationships.

5.6. The leader as administrator

This role involves the administrative and systems management of the group. It also involves liaison with other group.

6. LEADERSHIP AND POWER

The fact that a person is a leader might imply that the leader has power. This statement is only partly true.

Leadership is based on five (5) types of power.

TYPE OF POWER	DESCRIPTION OF BASE
Reward Power	Based on the ability to control valued organizational rewards and resources (e.g. pay, information)
Coercive power	Based on control over various punishments (e.g. suspensions, formal reprimands)
Legitimate power	Based on the belief that an individual has the recognized authority to control others by virtue of his / her organizational position (e.g. the person is a high-ranking corporate official)
Referent power	Based on the liking of the power-holder by sub-ordinates (e.g. the superior is friends with a sub-ordinate)
Expert power	Based on the accepted belief that the individual has a valued skill or ability (e.g. expert medical skills)

It is important that leaders take note of the influence of power in a situation and apply it towards reaching the goals of the group.

7. POWER

7.1 Power of the leader

A leaders behaviour is influenced by the leader's own personality, background, knowledge and experience.

- value system of the leader
- the leaders confidence in sub-ordinates
- the leaders own leadership philosophy, and
- the leaders feeling of security in an uncertain situation

7.2 Power of the sub-ordinates

Every sub-ordinate is influenced by his leaders personality, and the way that he treats his sub-ordinates.

A leader can give more freedom and responsibility in the decision making process of :

- the sub-ordinate has a need to be independent
- he must be ready to take responsibility
- relatively high tolerance against ambiguity
- an interest in the problem
- an understanding of organisational objectives
- to have the knowledge and experience
- understanding of what is expected of them in the decision making process.

7.3 Powers in the situation

In a general situation the relationship between the leader and the sub-ordinates influences the leaders behaviour.

The most important situational conditions are as follows:

- the type organisation, values and tradition which influence the behaviour of people
- group dynamics, which include previous experience, group cohesion, mutual acceptability and community goals
- the problem itself, and the complexity of it
- the time schedule that influences the decision making process for those that are not involved

8. SUMMARY

The role of SAPS Commanders is vital in maintaining law and order and essential in up-holding democracy in South Africa.

Platoon Commanders must realize that not only one style of leadership will be successful. By applying situational leadership to different situations will be a step in the right direction.

Leaders are born leaders or made leaders and platoon commanders can be either. By unlocking the talent and potential of our leaders the success of the South African Police Service will be unbelievable.

9. QUESTIONS

1. List the characteristics of a successful leader ?
2. Name the different leadership styles ?
3. Discuss the situational leadership ?
4. Explain the types of powers ?

10. ANSWERS**QUESTION 1**

Research has indicated that all successful leaders have certain common characteristics that distinguishes them from other people. These are:

Trait or Characteristic	Description
Drive	Desire for achievement; ambition; high energy; tenacity; initiative
Honesty and integrity	Trustworthy; reliable; open
Leadership motivation	Desire to exercise influence
Self-confidence	Trust in own abilities
Cognitive ability	Intelligence; ability to integrate and interpret large amounts of information
Knowledge of the business	Knowledge of industry, relevant technical matters
Creativity	Originality
Flexibility	Ability to adapt to needs of followers and requirements of situation

QUESTION 2

- Autocratic leadership
- Bureaucratic leadership
- Participative leadership
- Diplomatic leadership
- Laissez-faire leadership
- Situational leadership

QUESTION 3Situational leadership

This theory implies that a leader will use a different style of leadership in different situations. Leadership is therefor influenced by various aspects. These include:

	<u>LEADERSHIP</u>	
THE LEADER	THE GROUP	SITUATION
Behaviour	Norms and Values	Organisational values
Knowledge	Cohesion	
Values	Goals and Needs	Technology
Competencies	Individual expectations	Tasks

According to this theory sub-ordinates can be divided into four (4) levels of maturity.

M1 Low Maturity	Unwilling and incompetent
M2 Low to Average Maturity	Willing but incompetent
M3 Average to High Maturity	Competent but unwilling
M4 High Maturity	Willing and competent

As already mentioned the leader will adapt his / her style according to the situation.

The following four (4) styles can be identified:

S1 (M1)	Telling: One-way communication; leader gives instructions without explaining why; directive style
S2 (M2)	Selling: Two way communication; leader gives support; still directive
S3 (M3)	Participating: Two way communication; participation exists, few control measures
S4 (M4)	Delegating: Sub-ordinates take responsibility; leader delegates function; no control

QUESTION 4**1 Power of the leader**

A leaders behaviour is influenced by the leader's own personality, background, knowledge and experience.

- value system of the leader
- the leaders confidence in sub-ordinates
- the leaders own leadership philosophy, and
- the leaders feeling of security in an uncertain situation

2 Power of the sub-ordinates

Every sub-ordinate is influenced by his leaders personality, and the way that he treats his sub-ordinates.

A leader can give more freedom and responsibility in the decision making process of

- : the sub-ordinate has a need to be independent
- he must be ready to take responsibility
- relatively high tolerance against ambiguity
- an interest in the problem
- an understanding of organisational objectives
- to have the knowledge and experience
- understanding of what is expected of them in the decision making process.

3 Powers in the situation

In a general situation the relationship between the leader and the sub-ordinates influences the leaders behaviour.

The most important situational conditions are as follows :

- the type organisation, values and tradition which influence the behaviour of people
- group dynamics, which include previous experience, group cohesion, mutual acceptability and community goals
- the problem itself, and the complexity of it
- the time schedule that influences the decision making process for those that are not involved

ACKNOWLEDGEMENTS

- Mr. P Boysen NCP&RS Personnel Services
- Capt. B van Houtte Belgium Gendarmerie
- Capt. CJ Armstrong POP Development Services
- Capt. F Ally POP Durban
- Insp. N Seppings POP Durban
- Sgt. B Malimela POP Durban
- Sgt. H Heistermann POP Durban

REFERENCES

G. Greenberg and R. A. Baron, (1990). *Behaviour in organisations: Understanding the human side of work (Forth Edition)*. Allyn and Bacon.

Appendix B:

Operational Policy

1. INTRODUCTION

As a result of the vast socio-political changes that have occurred in South Africa over the past few years, new approaches, tactics and techniques must be developed to align the management of crowds, with the democratic principles of transparency and accountability. Police actions must also be reconciled with the Bill of Human Rights and the statutory provisions pertaining to crowd management.

The findings of the Goldstone Commission, on public violence and intimidation, and the subsequent Regulation of Gatherings Act 1993 (Act no 205 of 1993), were taken into consideration when this document was drawn up.

The emphasis has shifted from the control of crowds in the past, to the philosophy of crowd management where fundamental rights of all citizens are taken cognizance of.

To put these changing circumstances into perspective, it is important to regard the recent history on crowd control/management in South Africa. This history includes the following:

- 1.1 2 Feb 1990 - The unbanning by Parliament of political parties like the ANC, SACP and the PAC which resulted in the freedom of expression and the right of citizens to demonstrate peacefully, etcetera.
- 1.2 9 July 1992 - The Goldstone Commission makes recommendations on the management of crowds for the interim period. Most of the recommendations are incorporated into the Regulations of Gatherings Act 1993 (Act No 205 of 1993). These recommendations indicate the importance of negotiation and consultation during gatherings.

- 1.3 12 Feb 1993- The Act on the Regulation of Gatherings 1993 (Act No 205 of 1993) is published. This Act was enacted on 15 November 1996. It clearly defines the responsibilities of the local authorities, the police authorities and the conveners involved.
- 1.4 27 April 1994- The Interim Constitution, 1993 (Act No 200 of 1993) which includes the Bill of fundamental rights, comes into operation.
- 1.5 8 May 1996 - The new Constitutional text was approved by Parliament and will be in effect as from 4 February 1997.

The changing circumstances place a high premium on the fundamental rights of the individual. This requires the South African Police Service (SAPS) to change and adapt its tactics and strategies according to the circumstances, so that the SAPS without forfeiting its ability, will still be able to prevent violence effectively during gatherings and marches.

2. GOALS

The goals SAPS are the following:

- 2.1 To establish standardized procedures in the SAPS to manage crowds in such a way that these conform to democratic values and accepted international standards.
- 2.2 To install an approach in SAPS, concurrent with SAPS values, of acting at all times in a professional, acceptable and an effective manner; in a way that is community orientated and to be accountable for every action. The actions of SAPS must comply with the following principles:



2.2.1 Upholding the constitutional rights of the individual or groups of people to voice their concerns/grievances/feelings/opinions, without infringing upon the rights of others,

2.2.2 Acknowledging the rights of citizens and the community to demonstrate peacefully without infringing on the rights of others,

2.2.3 Being firm, fair and impartial,

2.2.4 Being predictable and tolerant.

2.3 To accomplish the following ideals for crowd management situations:

2.3.1 No loss of life,

2.3.2 No damage to property,

2.3.3 No injuries,

2.3.4 All citizens satisfied with the conduct of the SAPS,

2.3.5 All citizens present at a gathering to feel safe and secure,

2.3.6 SAPS' personnel will not be requested to place themselves in situations where unacceptable risks have to be taken and

2.4 To perform all tasks effectively and efficiently.

3. PRINCIPLES OF CROWD MANAGEMENT

3.1 All interventions by the SAPS will be prepared and executed according to the following basic principles of crowd management:

3.1.1 The legal aspects of crowd management.

3.1.2 The situational appropriateness at that particular time, taking both the participants and non participants into consideration.

3.1.3 The full utilization of suitable means available.

3.1.4 The proportionality of the means which is used on the participants.

3.2 Legal aspects of crowd management

3.2.1 In terms of the Constitution, the powers and functions of the SAPS are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law. The SAPS is in terms of the South African Police Service Act 1995, (Act No 68 of 1995) an Institution of the State which is tasked to uphold and safeguard the fundamental rights of every person as guaranteed by the Constitution.

3.2.2 In terms of the Bill of Rights every person has the right to gather in order to protest and to give petitions peacefully and unarmed. These rights are confirmed in the Constitution and also the limitations on the carrying of weapons must be adhered to.

3.2.3 The SAPS is at the service of a society which is constantly developing and therefore, it is the responsibility of the SAPS to respect and protect the said fundamental rights of both participants and non participants at the gathering of crowds. This means that every action of crowd management must be in line with the Constitution, the Police Service Act and the Regulation of Gatherings Act.

3.2.4 Before any intervention in crowd management, the SAPS must know under what authority they may have to intervene and also which legal restrictions were imposed by the authorities, as this would influence decision making during the gathering.

3.3 Situational Appropriateness

3.3.1 Situational appropriateness is the assessment by the operational commander of a public order situation and the taking of the most appropriate action at that time.

3.3.2 The legal aspects are not the only factors which will determine the intervention of the SAPS in crowd management. The situation in which these interventions will take place must also be considered. Thus, the operational commander must consider the situation at that specific moment and in that specific area in terms of the legal provisions. It is the operational commander's responsibility to take into account the situational appropriateness. To do this correctly the operational commander needs continuous and accurate information on the situation at all times.

3.3.3 This could mean that in some situations the operational commander could make certain concessions. If the participants are peaceful for example, the participants could be allowed to talk to the opposing party or to come closer to a building which was not initially agreed upon during the planning phase.

3.3.4 According to the principle of situational appropriateness, arresting people at the scene is not always viable, as this could antagonise and aggravate the crowd even further. One can proceed to the necessity of making arrests at a later stage when the persons are isolated and away from the scene.

3.3.5 During an operation where individuals or crowds are hostile towards the police, verbal abuse, minor incidents of stone throwing etcetera should be tolerated in order to defuse a situation.

3.3.6 Situational appropriateness also means taking advantage of intelligence concerning all aspects of the gathering and all people involved, for example steps could be taken by the operational

commander to search or isolate those that intend bringing weapons to a gathering. Negotiation during the planning phase should be used to reach agreements before the march begins.

3.4 Optimization

3.4.1 Optimization is the optimal use of equipment and personnel to reach or obtain the goal set out in the planning phase.

3.4.2 The optimal use of equipment and personnel is only possible when a complete analysis is made of the risks involved in the situation. This analysis entails the consideration and studying of all factors which could possibly influence the effective achievement of a proposed goal, with the aim of finding the most suitable solution for the problem.

3.4.3 The analysis will always take into account all available intelligence and information concerning the mission to be accomplished. Intelligence and information include the following: the means and manpower at the disposal of the operational commander, the involvement of other public services, the participants in the gathering or the crowd, the non participants, the location, the safety of all persons involved and all other principles of this policy.

3.4.4 In general, this principle will lead to an operational plan which will always include the involvement of information gathering teams, a traffic service, units to protect key points and a reserve.

3.4.5 By using and analysing all available intelligence, the operational commander can take the necessary precautions to protect key points (any place or building near or along the planned route) with the minimum utilization of manpower.

3.4.6 Reserve sections or platoons which will not be visible to the participants, should be placed at strategic locations, yet close enough to react to any potential situation of violence. These reserve sections

or platoons will reinforce members at positions where the violence is present, assist members to push back the crowd towards the agreed route or to assist in arresting identified ringleaders.

3.5 Proportionality

3.5.1 Proportionality is the proportion of means applied during a public order situation by the operational commander.

3.5.2 Members should be suitably equipped according to the circumstances before being deployed. During the planning phase the use of less lethal equipment should be determined.

3.5.3 The force which is used must cease immediately once the objective of the operation is obtained.

4. PREPARATION FOR CROWD MANAGEMENT OPERATIONS

4.1 Levels of responsibility

4.1.1 To determine the level of responsibility in maintaining public order, it is necessary to define the meaning of “the maintenance of public order”. The definition of maintenance of public order is generally accepted as: **“The policing of assemblies, mass actions’ and/or gatherings of persons, whether peaceful or of an unrest nature”**.

4.1.2 As the maintenance of public order is the primary function of the SAPS component, the policing of crowd management situations as mentioned in the definition, will be performed by this component.

4.1.3 The management of less significant sport/entertainment events, should be dealt with by station management. The SAPS commander responsible for that area should be notified of such an event and where deemed necessary, should assist in the planning of policing such events. When necessary, a ASAPS section or platoon should be placed on standby close to the venue.

4.1.4 Although the maintenance of public order is the prime function of the SAPS component, this function will be performed in cooperation with all other relevant role-players.

4.2 Pre planning

4.2.1 Effective crowd management demands timeouts, relevant and accurate proactive information. It is for this reason that information must be gathered continuously, and all information and intelligence to assist the operational commander in preparing for possible actions by the participants during the gathering of crowds must be obtained.

4.2.2 Once notice has been given or information has been received about a demonstration, gathering or meeting that is going to take place, the following steps must be taken:

4.2.2.1 Evaluate the complete crowd management process, including the threat of violence and levels of hostility that can be expected. Further proactive information and intelligence should be gathered and processed.

4.2.2.2 All role-players, participating or affected by the gathering, must be identified and involved, for example the owners of the stadium, the local authorities, the leadership of organizations, etcetera. It is obligatory that these role-players shall meet prior to and after a march or gathering, this will ensure co-ownership of the successful proceeding of the march or gathering.

4.2.2.3 In terms of the Regulation of Gatherings Act, the local authorities must hold a meeting with the SAPS and the convenor of the demonstration in which mutual agreements are reached during the planning phase.

4.2.2.4 Through the officer responsible, the local authorities together with a legal advisor, must guide the convenor through the

application process, in order to facilitate the correct submission of the application and to ensure that the administrative process proceeds smoothly.

- 4.2.2.5 The importance of constant two-way communication, negotiation and liaison among all the relevant role-players cannot be overemphasised. The organisers must be made aware of their responsibilities should the prior agreement be broken.

4.3 Command and control

- 4.3.1 Subject to the provisions stipulated in this document and of section 17 of the South African Police Service Act 1995 (Act No 68 of 1995), the Provincial Commissioner shall, for the purposes of the operational utilization of SAPS within his province, have command over ASAPS members. The Provincial Head of National Safety Services and the Head of SAPS in the province, shall therefore be responsible to the Provincial Commissioner. SAPS units will function under the command of the Provincial Head: Public Order Police.

- 4.3.2 The Provincial Commissioners and Area Commissioners can therefore utilize SAPS members on a day-to-day basis for planned crime prevention/combating operations. Execution of the primary function of SAPS namely maintaining public order, will however at all times have preference to all other functions. The planning and operational command of public order operations must always be entrusted to commanders of SAPS units (in consultation with the Provincial Commissioner) as they are trained and usually experienced in such matters. All operations will be executed in terms of National Standards and policy approved by the Minister's Committee or procedures determined by the Head: SAPS.

- 4.3.3 The National Commissioner retains the authority to place any nationally declared operation/project which is announced by himself, the President and/or the Minister of Safety and Security, under the command and control of the Divisional Head: National Safety Services.

4.3.4 Across provincial and international border operations, will be coordinated by the Divisional Head: National Safety Services.

4.4 The co-ordinating and operational committees

4.4.1 Once the application has been approved by the relevant local authority or magistrate, all role-players should meet once again to discuss any restrictions and iron out logistical difficulties.

For operational purposes two separate meetings should take place. All the possible role-players involved in crowd management should be invited to the first meeting and will be part of the co-ordinating committee.

During the second meeting, only the authorities and the SAPS will be present. These authorities and the SAPS will make up the operational committee. A proposed list of role-players of these committees is attached, marked annexure A.

All negotiations and consultations will take place within the framework as set out in the Regulation of Gatherings Act.

4.4.2 **The following are the functions of the co-ordinating committee:**

4.4.2.1 Sharing of intelligence among all role-players

4.4.2.2 Gathering of information of all relevant issues pertaining to the gathering

4.4.2.3 Negotiating with all relevant parties to reach mutual agreements relating to the gathering for example the route, number of participants, agenda etcetera

4.4.2.4 Clarifying responsibilities with the organisers, their security personnel and marshals

4.4.2.5 Clarifying in general what is the tasks and functions of the SAPS, the local authorities and the organisations

4.4.2.6 Planning logistical arrangements

4.4.2.7 Clarifying eventual restrictions on the crowd gathering imposed by local authorities or the magistrate.

4.4.3 **The functions of the operational committee are:**

4.4.3.1 To draw up a list of priorities and do an analysis of the risks involved

4.4.3.2 To draw up an operational plan, containing the missions for all SAPS and ASAPS units (including reserve units, traffic departments, SANDF, etc).

4.4.3.3 To establish a Tactical Joint Operations Centre - mobile or static

4.4.3.4 To develop preventive actions

4.4.3.5 To establish direct command channels - lines of command

4.4.3.6 To determine the most appropriate resources to manage the crowd

4.4.3.7 To take all possible scenarios and eventualities into consideration

5. EXECUTION

5.1 **An ordinary crowd gathering** requires the following involvement by the SAPS:

5.1.1 Members of the SAPS are to be structured, organised, well trained and provided with suitable protection, and equipment before being deployed. A detailed briefing, during which the line of command is clearly defined, must be given to all the members involved. During this briefing, the levels of force must be predetermined and clearly explained to all members and that it can only be effected by instruction of the operational commander. Force shall be managed in a professional and disciplined manner and within the terms set out in this policy.

5.1.2 Police officials could be placed in the crowd and surrounding areas, close to key points, to collect information on the development of the crowd gathering and to pass the information on to the operational commander.

5.2 Methods of execution

The SAPS/ASAPS policy towards crowd management will be one of a gradual build up from negotiation, through the implementation of defensive measures, to the undertaking of offensive operations.

5.2.1 Continuous contact at the scene is necessary with organisers through direct communication, negotiation and mediation. Continuous dialogue with the organisers allows the operational commander to set the limits of tolerance and to detect the possible sources of tension. It also guarantees and improves dealing with potential conflict, by resorting to appropriate persuasion and the use of necessary tact.

5.2.2 Even if problems arise, the first step to solving them must still be continuous dialogue and communication.

5.2.3 Should negotiations fail, the next step would be to contain the situation, to protect critical points and nonparticipants through the implementation of defensive measures. In these types of operations it is important to maintain a distance between the demonstrators and SAPS/ASAPS personnel by means of nonviolent methods.

5.2.4 Should defensive measures fail, the participants will be warned in accordance to the Regulation of Gatherings Act regarding the measures which are going to be taken against them such as a tonfa baton charge, teargas etcetera.

5.2.5 Should the above-mentioned warning not achieve the required goal, the reserve/reaction section or platoon, which will start the offensive measures, should be brought forward as a deterrent for any further violence.

5.2.6 A second warning should be given before the start of the offensive measures, giving innocent bystanders the opportunity to leave the area.

5.2.7 The SAPS must at all times make provisions to identify perpetrators during the course of action. This can be done by means of video coverage, photographs, witness building or other means to gather evidence at the scene, so that the perpetrators can be arrested at a later stage.

5.2.8 After every offensive measure, follow-up actions must be launched as a proactive measure to prevent groups reforming and continuing the violence.

5.2.9 Feedback concerning the operation must be continually conveyed to the operational centre.

5.2.10 Record-keeping of the execution of any crowd management tasks is essential. A record-keeper and a video operator must be appointed by the operational commander.

5.3 When a **spontaneous event** occurs, the following steps should be taken:

5.3.1 Identify the leadership element in order to establish communication and negotiation.

5.3.2 Set up a mobile Joint Operational Centre (JOC).

5.3.3 Inform the local authority of the gathering and if possible the reasons or purpose of the gathering.

5.3.4 The situation should be managed by applying the procedures indicated in this policy document.

5.4 The use of force

5.4.1 During operations SAPS units may have to use force. The use of force must meet the following requirements:

5.4.1.1 Corresponding to a gradual police response, in terms of the situational appropriateness and deterioration in the mood of the crowd.

5.4.1.2 Proportionate to the threat

5.4.1.3 Reasonable in the circumstances

5.4.1.4 Minimal to accomplish the goal.

5.4.2 No more force should be used, or harm done than is necessary to accomplish the set goal.

5.4.3 Initial alternative options such as water canons (if available), tonfa and shields, chemical agents (teargas etc), pyrotechnics (smoke grenades, stun grenades etc) should be used as first option.

5.4.4 The use of rubber bullets (shotgun batons) may only be used to disperse a crowd in very extreme circumstances according to the law in order to prevent further injury or when the less forceful methods have been ineffective.

5.4.5 The use of lethal force is only justified in the conditions laid down in the principles of criminal law and the Regulation of Gatherings Act.

5.5 Media

Media participation is to be permitted and encouraged. The media can play an important role in being transparent and also used to the advantage of the community, for example by keeping the community up to date on what the situation is in relation to traffic etcetera. It is therefore important to have a media liaison officer on hand at all times.

5.6 The SANDF

The use of the SANDF should be limited to a supportive role in performing preventive tasks. The SANDF should never be used in the physical front line of marches or gatherings.

5.7 Traffic Departments and other Emergency Services

The local traffic department and/or city police are responsible for the regulation of the traffic and nothing else. Ambulances, tow-away vehicles etcetera can be placed on standby if necessary.

6. DEBRIEFING

- 6.1 Debriefing must take place after each march or gathering. All relevant role- players for example organisers, SAPS, marshals etcetera must be present. This would already have been determined during the planning phase.
- 6.2 A second, formal debriefing session, for the command structure of the operation, must be held at a later stage.
- 6.3 Record-keeping of operational plans, all reports on the execution of operations and debriefing reports must be kept by the unit commander for a period of three years at a SAPS unit.
- 6.4 The counselling and support of members by the helping profession is essential to defuse members involved in shooting incidents during crowd management situations.

ANNEXURE A

ROLE-PLAYERS OF THE CO-ORDINATING AND OPERATIONAL COMMITTEE

Co-ordinating Committee

Members of this Committee should include:

- * Area Commissioner (or representative) (chairperson)
- * Station Commissioner of the area where the gathering is to take place
- * Station Commissioners of other areas, should a march involve other station boundaries
- * Public Order Police
- * Internal Security
- * Organisers
- * Local authority
- * Communication Services
- * Legal Services
- * Community Police Forum
- * Authorised officer
- * The local traffic department
- * Detective Services
- * South African National Defence Force (SANDF)

Operational Committee:

Members of this committee should include:

- * PUBLIC ORDER POLICE (chairperson)
- * Internal Security
- * Legal Services
- * Station management
- * Sport organisers etc. (Where necessary)
- * The SANDF
- * Traffic Departments and other Emergency Services

8. SUMMARY

The Policy Document must be studied in its entirety as it gives the member on the ground the rules on how the PO event must be managed. If you do not know the rules, you cannot play the game. The Policy Document must be read in partnership with Act 205 as well as the principles and rules of PO Interventions.

9. QUESTIONS

1. As a PI Comd for a public order operation, what are your goals/outcomes for the operation? How would you determine if you were productive.
2. How would you define the maintaining of public order?
3. Discuss briefly the principles for crowd management operations?
4. You are a PI Comd with a full platoon doing a crime prevention operation in the area. You ride down the main street and you come across a group of people who are marching towards you. There are approximately 50 people in the march and they have not given notice. There was also no mention of the march in the daily situational report. What actions would you take according to the crowd management policy?
5. You approach this group of Prt and you start negotiating. They however refuse to negotiate and all communication with the group has broken down, what is the next step according to the policy document?
6. The Prt have over stepped the limits of tolerance and they have started with violent actions. You receive a mission from the overall commander to DISPERSE the Prt. You are required by law to give a warning according to the stipulations in the regulation of Gatherings Act (205/1993). However the policy requires that you give a second warning. What is the purpose of this warning.

7. After giving the second warning to the Prt before you start your operation. To execute the operation you have to use force. According to the policy what are the requirements for using force?

8. Just as you are about to start your operation the local media arrive at the scene. How does this influence your operation and how would you handle the media according to the policy document?

10. ANSWERS**QUESTION 1**

The goals for public order operations are:

- We are to follow standardised procedures which will conform with acceptable international standards and good democratic values.
- The approach being that of common values of the SAPS being:
 - to protect every persons rights (both Prt and non Prt) and being impartial;
 - accountable to the community;
 - use powers given in a responsible manner;
 - provide a high quality of service;
 - do continuous evaluation of service provided to improve present service;
 - use resources effectively
 - co-operate with community and all other role players.
- Being tolerant and predicable;
- To achieve the following ideals:
 - no loss of life;
 - no damage to property;
 - no injuries;
 - all people involved are satisfied with the conduct of SAPS;
 - all citizens present felt safe and secure;
 - members have not been requested to place themselves in situations which are unacceptable or of high risk to life.

Therefor by seeking to achieve all the issues mentioned a PI Comd will be able to determine whether or not they have been productive for the day. Should there be no loss of life or damage to property and all people involved felt safe and secure during the public order operation, then one could easily say that it was a successful and good operation, which was very productive.

QUESTION 2

In general it is considered to be the policing of assemblies, mass actions, and/or gatherings of persons whether peaceful or not. According to the definition it is the policing of any event in which people come together for a common purpose and they are either peaceful or not.

QUESTION 3**1. LEGALITY**

Legality is the legal foundation upon which the SAPS and ASAPS in particular base their actions during public order operations.

2. SITUATIONAL APPROPRIATENESS

Situational appropriateness is when the operational/platoon commander asks the question "Is it necessary to intervene", and what will be the outcome of the operation if I take action now. Will the level of violence decrease or increase.

Therefore this principle requires that the commander at the scene does an assessment of the situation and tries to determine what will happen after he/she takes action, and then deciding the best action or most appropriate action according to the situation.

This principle is thus directly related to the taking advantage of all the available intelligence of both the people involved and the situation. Negotiation is thus an integral part of this principle.

3. OPTIMISATION

This principle requires that the commander does a complete analysis of the equipment available for which he needs to reach the mission. This also includes the manpower available and their level of training.

As with situational appropriateness intelligence and information about the means is also important to the commander. The more the information and the better the intelligence available the better the commander is able to make good decisions.

4. PROPORTIONALITY

Proportionality is the proportion of the means used during the public order operation. Therefore the members should be suitably equipped when arriving at the scene. For if they are incorrectly equipped the level of force used should it be necessary would be lower as they are prepared for the situation. If they are not correctly equipped and proportional to that of the Prt, the members would be forced to use more force than is needed as they are not prepared and have to improvise with what they have available.

QUESTION 4

When a PI comd comes across a spontaneous crowd the following steps should be taken:

- First is to determine the leadership element in order to establish a good foundation for communication and negotiations;
- Next is to set up a JOC;
- After the JOC the local authority must be informed about the march and the intentions of the Prt;
- Once the above has been established the march would then be managed as though the Prt have given notice. However once the march is over a case must be opened as required by law.

QUESTION 5

Once negotiations have failed the next would be to:

- Contain the situation;
- Protect possible Key P;
- Protecting the non Prt who are not involved in the march;
- As negotiation have failed there will be conflict between the Prt and ASAPS. It would be to your tactical advantage to maintain a distance between yourself and the Prt, thus reducing the conflict where ever possible.

QUESTION 6

The purpose of the second warning is to give innocent bystanders the opportunity to leave the area before you start your operation. This is once again linked to the goals of crowd management is to protect the non Prt as well.

As a PI Comd one must never forget the fact that not all the people in front of your lines are your enemies, in fact they want to inform the authorities about their grievances. Therefor some of the people in front of you can assist or help, or wish to leave the area before you start your operation.

QUESTION 7

Whenever using force it must conform with the following:

- It must be in a gradual response in terms of situational appropriateness and the level of violence of the crowd;
- Must be proportionate to the threat;
- Reasonable in the prevailing circumstances;
- Minimal to accomplish the goal/mission as given by the overall commander, in other words only use that which is needed to reach the mission and not an ounce more.

The PI Comd must consider the outcomes of the force which is going to be applied. If too much force is used then he/she has overstepped their authority (not in line with the values and goals of our operations) and if too little force is used the possibility the level of violence by the Prt will escalate which is not in line with the outcomes of the policy either. Therefor ones must try to obtain the delicate balance.

QUESTION 8

Media participation is to be permitted and encouraged. The media can when handled correctly be of valuable importance to an operational/platoon commander. The media play an important role in ASAPS being transparent in our actions. The media can be used to

inform the community of the present situation and that certain routes are blocked because of the march, thus reducing traffic jams in the area reducing conflict between Prt and non Prt.

However because of the present situation the PI Comd can do one of two things:

One is that he informs the media briefly of the situation and then asks them to step aside to enable him/her to execute the operation, after which the PI Comd can inform the media again as to the result of the operation.

Two the PI Comd can refer the media to the JOC where the media relation officer is present to give media statements on the situation at hand or the overall commander.

11. ACKNOWLEDGEMENTS

- Assist. Comm. HC Vermeulen Head SAPS
- Director A Behr Deputy Head SAPS
- Colonel E Hendrickx Belgium Gendarmerie
- Snr.Supt SP J v Rensburg SAPS Dev. Serv.
- Supt. V Day SAPS Head Office
- Captain CJ Armstrong SAPS Dev. Serv.
- ASAPS Work Group on the Policy Document.

Appendix C:

Standing Order (G) 262

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

Operational Response Services V01.00

Issued by Consolidation Notice 13/2004

STANDING ORDER (GENERAL) 262

CROWD MANAGEMENT DURING GATHERINGS AND DEMONSTRATIONS

1. Background

- (1) The purpose of this Order is to regulate crowd management during gatherings and demonstrations in accordance with the democratic principles of the Constitution and acceptable international standards.
- (2) The Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), (hereinafter referred to as “the Act”), shifted the focus away from obtaining permission to hold a gathering, to giving notice of an intended gathering. This Act prescribes the procedures that must be followed when the Constitutional rights to protest, petition and exercise freedom of speech are exercised. In order to give effect to the purpose and objectives of this Order it must be read in conjunction with the Act.
- (3) While working in partnership with the community and other agencies, the Service must devise effective methods to promote public safety, as well as reassuring the various communities that they are protected. To ensure this, the Service must play a pro-active role in attempting to identify and diffuse any possible conflict before it escalates to violence. This is to be done by playing a pro-active role in communicating with the public through the Community Policing Forums or other channels.

2. Definitions

In this Order, unless the content otherwise indicates, —

- (a) “SAPS” means South African Police Service;
- (b) “*authorized member*” means a member of the Service designated in terms of section 2(2)(a) of the Act, to help with the arrangements relating to a gathering or demonstration;
- (c) “*convener*” means a convener as defined in Section 1 of the Act;
- (d) “*crowd management*” means the policing of assemblies, demonstrations and all gatherings, as defined in the Act, whether recreational, peaceful, or of an unrest nature;
- (e) “CJOC” means the commander of the joint operational centre that is designated by the National Commissioner, a Divisional, Provincial or Area Commissioner to take command of the JOC;

- (f) “*defensive measures*” refer to pro-active tactical measures such as static barriers which are used to protect and safeguard people or property, by cordoning off, blocking, isolating, patrolling, escorting and channeling people.
- (g) “*demonstration*” means a demonstration as defined in Section 1 of the Act;
- (h) “*gathering*” means a gathering as defined in Section 1 of the Act, 1993;
- (i) “*information manager*” means the member designated to take responsibility for the collection and supply of all pro-active information of all crowd management events to the operational commander to ensure that all crowd management events are policed professionally. The information manager also liaises with all information based role-players and is never involved in covert or undercover information gathering;
- (j) “*JOC*” means the joint operational center that is activated at the scene of an incident or event;
- (k) “*JOCCOM*” means the Joint Operational Coordinating Committee that is an integrated operational body involving Service as well as external roleplayers such as SANDF, Metro Police, etc. The consultation process regarding the threat assessment is carried out by the JOCCOM, and involves all information role-players. The threat determination, mandate and tasking for the event will come from this meeting. The JOCCOM meets weekly and only deals with planned activities, such as a coming Cosatu march. Furthermore the JOCCOM will activate the JOC, appoint the Operational Commander and identify all the required role-players involved.
- (h) “*operational commander*” means an operational officer who is responsible for the operational co-ordination of an operation;
- (i) “*responsible officer*” means a person as defined in Section 1 of the Act;
- (j) “*the Act*” means the Regulation of Gatherings Act, 1993; and
- (k) “*VISPOL*” means visible policing.

3. Pro-active conflict resolution

- (1) Area and station commissioners must identify indicators of potential violent disorder in their areas by means of continuous information *gathering* by the information managers.
- (2) All potential problems must be analyzed and reported to the Provincial Commissioners. If there is any threat for public safety, the area or station commissioners concerned must initiate a facilitation process to resolve the factors that underlie the disorder peacefully. They must identify role players and stake holders who can play a role in resolving the problem, bring them

together for talks and identify and implement problem solving initiatives. They must engage in conflict resolution processes to prevent any form of physical conflict or the eruption of violence.

- (3) Area and station commissioners must support the commitment to partnership with the community by —
 - (a) building positive and constructive relationships with event organizers, community leaders and non-governmental organizations;
 - (b) participating in safety advisory groups of local authorities to deal with issues relating to public safety; and
 - (c) exploring the potential for establishing formal liaison panels, to prevent and defuse community disorder in conjunction with institutions such as local authorities, civic associations, community policing forums and non-governmental organizations.

4. Designation of authorized members

- (1) An Area Commissioner must in writing, designate an officer at station or area level, as the *authorized member*.
- (2) After the Area Commissioner has designated an *authorized member*, the Area Commissioner must —
 - (a) keep and maintain a register with the particulars of the *authorized members* (containing the persal number, rank, name, contact numbers of such members) at his or her office; and
 - (b) ensure that the particulars of the *authorized members* are submitted, in writing, to every municipality within the area and to the Provincial Head: Operational Response Services.
- (3) A station commissioner must ensure that a notice containing the name and contact particulars of the designated *authorized member(s)* for his or her

5. Duties and responsibilities of a authorized member

The duties and responsibilities of an *authorized member* are to—

- (a) Represent the Service and liaise with the *responsible officer* and *conveners* concerning all negotiations and consultations as prescribed by *the Act*;
- (b) Maintain a good relationship with the *responsible officer* and *conveners*;
- (c) Arrange and negotiate the extent of security forces to be deployed for the operation;
- (d) Inform the *responsible officer* of any unforeseen (spontaneous) *gathering*;

- (e) Keep all records of operational plans and reports on the execution of operations and debriefing reports, for three years;
- (f) Take part in the overall debriefing of events by attending the debriefing;
- (g) Request conditions or prohibitions; and
- (h) Brief all members performing duties at a *gathering* or *demonstration* regarding the content of a notice, conditions and amendments thereto, issued in accordance with *the Act*.

6. Receiving notice or information of a gathering

- (1) When an *authorized member* receives a notice or information regarding a *gathering*, the following action must be taken:

If... then...

the *authorized member* received a notice from a *convener* of a gathering, he or she must inform the *convener* that such notice is to be handed to the *responsible officer* and indicate how the *convener* is to contact the *responsible officer*. The *authorized member* must consult with the *responsible officer* and ensure that such notice has been received.

The *authorized member* received information from other internal police sources that a *gathering* is to take place, he or she must consult with the *responsible officer* and enquire whether notice has been given to him or her. If notice has not been given to the *responsible officer*, the *authorized member* must contact the *convener* and inform him or her that notice is to be given and inform them of the provisions of *the Act*. The *authorized member* must consult with the *responsible officer* in this regard.

The *authorized member* is contacted by the *responsible officer* to inform him or her that a *gathering* is to take place, the *authorized member* must make an attempt to gather further information pertaining to the proposed *gathering* by using the *SAPS* information network and requesting a meeting in terms of section 4 of *the Act*.

- (2) During consultations referred to in subparagraph (1) —
 - (a) All the arrangements for the proposed event must be finalized; and
 - (b) The necessity for negotiations with the *convener* concerning any aspect of, or any condition about the proposed *gathering*, must be decided.
- (3) The *authorized member* must inform the Area Commissioner of the arrangements made in accordance with subparagraph (2).

7. Threat assessment after information has been received

- (1) Immediately after notification or information has been received by the Area Commissioner or member designated by him or her of a proposed gathering, he or she must, in consultation with the provincial head Operational Response Services or *SAPS* unit commander, determine at *JOCCOM* the threat level involved, in order to identify the most suitable component to manage the proposed event.
- (2) The assessment of the threat level must be based on available tactical information in terms of level of risk, discussions and arrangements with the convener, history of peaceful or violent protests by the parties involved, past experiences with the party, suitability of vicinity or venue in terms of alleviating or aggravating risk etc.
- (3) The results of a threat assessment must be calculated in accordance with the following:
 - (a) Level one: a peaceful gathering and less significant sport or entertainment events which can be policed by *VISPOL* with the *SAPS* on standby;
 - (b) Level two: *VISPOL* are the primary role-players, with the *SAPS* in reserve at the scene; and
 - (c) Level three: the *SAPS* takes operational command and *VISPOL* assist in the policing of the event.

8. Appointment of the CJOC

- (1) The Divisional, Provincial Commissioner must ensure that the *CJOC* is designated, and that he or she is conversant with this Order and relevant legislation and is well trained to take responsibility for the operation.
- (2) The *CJOC* is in overall command of the specific operation for which he or she is designated and is responsible for all actions taken.

9. Pre-planning of operations

- (1) The appointed *CJOC* is responsible for well-planned and co-ordinated actions for the duration of an operation.
- (2) For purposes of pre-planning, the *CJOC* must follow the following procedure:

Step Action

- 1 Develop a comprehensive written operational plan (see the guidelines contained in Module 2 of the *Crowd Management* for *SAPS* management module).
- 2 Submit the operational plan for approval to the Area Commissioner.
- 3 Activate a *JOC* and appoint an *operations officer*, taking into account the circumstances and the results of the threat assessment. In the event of a level 3 threat, a *SAPS operational commander* must be appointed in consultation with the *SAPS* unit commander.

- 4 Implement an effective information *gathering* system for the operation to proactively gather up-to-the-minute, relevant and SAPSrate information, enlisting the assistance of *VISPOL* members, having discussions with the public or the use of the information network of the *SAPS*.
- 5 Collect the following information:
 - (i) the actual route the participants plan to follow;
 - (ii) the likelihood of an outbreak of violence;
 - (iii) whether the participants are aggravated;
 - (iv) whether any firearms are or will be present;
 - (v) the intention of the participants;
 - (vi) the actual number of participants that will take part; and
 - (vii) any other information which is of importance for the operation (see the Procedural Manual on *Crowd Management* for *SAPS* management).
- 6 Use this information to apply the available resources or means effectively. In all instances where *SAPS* is actively involved in any operation (level 3) they must continually approach their information managers to gather information before and during an operation.
7. All information that is gathered during and before an operation must continually be reported to the *CJOC* so that he or she is always aware of the actions of the participants. The members must report all information to their officer in charge on the ground who must then report it to the *CJOC*. This information must be reported either telephonically or by radio using the designated channel for upward reporting to the *CJOC*.

10. Briefing of members

- (1) Members must be properly briefed before they are deployed to perform *crowd management* duties.
- (2) The *operational commander* must —
 - (a) Personally brief all members in the command structure;
 - (b) Ensure that all members in the command structure communicate the objectives of the operation clearly to all members deployed for the event; and
 - (c) Instruct all commanders or section leaders to furnish detailed written plans on their specific tasks.
- (3) During the briefing, the tasks of all role players involved in the operation must be defined in detail. The communication channel must also be thoroughly explained to all members during the operation.
- (4) A name list is to be compiled of all members present when a briefing is given. Section leaders must be identified and briefed in accordance with the operational plan on what is to be done. Members must be questioned to ensure that they understand what is expected of them.

11. Execution

- (1) The use of force must be avoided at all costs and members deployed for the operation must display the highest degree of tolerance. The use of force and dispersal of crowds must comply with the requirements of section 9(1) and
- (2) of *the Act*. During any operation ongoing negotiations must take place between officers and *conveners* or other leadership elements.
- (3) If negotiations fail and life or property is in danger, the following procedure must be followed:

Step Action

1. Put defensive measures in place as a priority.
2. Warn participants according to *the Act*, of the action that will be taken against them, should defensive measures fail.
3. Bring forward the reserve or reaction section or platoon, that will be responsible for offensive measures, as a deterrent to further violence, should the above-mentioned measures not achieve the desired result.
4. Give a second warning before the commencement of the offensive measures, giving innocent bystanders the opportunity to leave the area.
5. Plan all offensive actions well and execute them under strict command after approval by the *CJOC*.
6. If the use of force is unavoidable, it must meet the following requirements:
 - (a) The purpose of offensive actions are to de-escalate conflict with the minimum force to accomplish the goal and therefor the success of the actions will be measured by the results of the operation in terms of cost, damage to property, injuries to people and loss of life;
 - (b) The degree of force must be proportional to the seriousness of the situation and the threat posed in terms of situational appropriateness; (c) it must be reasonable in the circumstances;
 - (c) The minimum force must be used to accomplish the goal; and
 - (d) the use of force must be discontinued once the objective has been achieved.
- (4) The following are prohibited or restricted during *crowd management* operations:
 - (a) the use of 37 mm stoppers (prohibited);
 - (b) the use of firearms and sharp ammunition including birds hot and buckshot (prohibited); and

- (c) the use of rubber bullets (shotgun batons) (may only be used to disperse a crowd in extreme circumstances, if less forceful methods prove to be ineffective - restricted).
- (5) Force may only be used on the command or instruction of the *CJOC* or *operational commander* (if appointed). Members may never act individually without receiving a command from their commander.
- (6) All members involved in the actions must form part of a unified command structure, consisting of sections, platoons or companies. Members not working in sections may not be deployed. All visible policing members deployed for such purposes must be trained in the management of crowds.
- (7) Common law principles of self defense or private defense are not affected by this Order.

12. Reporting and record keeping

- (1) Members involved in an operation must keep the *JOC* up to date on actions and developments during the operation.
- (2) The *CJOC* must ensure that a detailed record is kept of all activities during the operation. All vehicles must have an operational diary which is completed by a member on that specific vehicle. The operational diary must contain all postings and instructions issued and all activities of participants during the event. An Occurrence Book entry must be made of the action taken and measures instituted by all functional role players involved in the operation.
- (3) Records of operational plans, all reports on the execution of operations, and debriefing reports must be filed together and kept according to the Record Classification System of the Service.
- (4) The representatives of all main role-players must be present at the *JOC* for the duration of the event.

13. Debriefing

- (1) The *CJOC* must ensure that debriefing take place after each event or *gathering* and that record is kept thereof.
- (2) Every level of command must debrief the levels below it individually, followed by an in-depth debriefing by the commanders of the operation. Afterwards a debriefing must be held with all role-players to determine whether the operation was effective and whether communication with the role-players was adequate.
- (3) A thorough evaluation must be conducted and, if possible, video coverage must be shown.
- (4) All good practices, as well as shortcomings, must be recorded as part of a learning process to enhance good practices and address or prevent recurrences of identified mistakes.

- (5) Trainers and instructors must attend the debriefings, to review actions taken by members, and to rectify improper conduct by means of in-service training in *crowd management* techniques.

14. First member(s) at the scene of an unforeseen (spontaneous) gathering

- (1) The first member who arrives at the scene or venue of an unforeseen (spontaneous) *gathering* must seek to preserve the peace and to protect and help the community.
- (2) The first member who arrives at the scene or venue must follow the following procedure:

Step Action

- 1 Contact the operational center and request back-up by personnel trained in *crowd management*.
- 2 Set up a mobile *JOC* and notify *SAPS* who will take operational command on arrival.
- 3 Attempt to create an atmosphere which is conducive to negotiations by refraining from the display of aggression, such as for instance, the brandishing of firearms and special equipment.
- 4 Identify the leadership element in order to establish communication and to start negotiations.
- 5 Set the highest standards of tolerance and, do not use any firearms against the demonstrators except in the case of private defense should lives be in serious danger.
- 6 Consult with the local authorities and *authorized member* concerning the *gathering* and the purpose of the *gathering*.
- 7 Bring the contents of section 9(1)(c) of *the Act* to the attention of the leadership element.

Appendix D:

Gatherings Act

(205 of 1993)

GATHERINGS ACT ACT 205 OF 1993

1. INTRODUCTION

1.1 USING THIS GUIDE

This guide introduces the responsibilities and duties of Authorized members of the South African Police Service flowing from the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993). The guide provides a broad outline of these functions, responsibilities and duties plus suggested working procedures. While studying the provisions of the Regulation of Gatherings Act is still necessary, we trust that Authorized Members could use this guide as a reference.

1.2 BACKGROUND OF THE REGULATION OF GATHERINGS ACT

The Regulation of Gatherings Act¹ emanates from an inquiry by the Goldstone Commission into the regulation of gatherings and marches, to limit disruption and violence during such gatherings as far as possible. The inquiry consisted of a panel of south African and international experts who produced a report on 9 July 1992 to serve as a model for such regulation, this panel consulted extensively with representatives of several parties, including the African National Congress, Inkatha Freedom Party, the (former) South African police, the (former) South African Defense Force and the Department of Justice.

The authorities drafted and published a draft bill based on the report by the inquiry (Government Notice No. 153 of 1993 in government Gazette No. 14590 of 12 February 1993) for general information and comment. More than 35 bodies and organizations commented upon the draft. These comments were incorporated into further drafts and even further comments on these drafts were, where feasible, included in the final draft. The resultant bill was therefore a negotiated and cooperative effort deemed an essential instrument in maintaining peace and public order during the run-up to the general election in 1994.

At the inquiry, the panel agreed on important aspects such as the right to peaceful public expression and peaceful assembly and the right to state protection in the enjoyment of these rights. This agreement is fundamental to the procedures to regulate the exercise of these rights and the preamble to the Act enunciates this.

The regulation of Gatherings Act, among others, provides for the appointment of a convener of the gathering², the notification of a

1 *Act No 205 of 1993 (as amended). The Act came into operation on 15 November 1996 by proclamation no r. 69, 1996 published in Government Gazette No. 17632 of 15 November 1996.*

2 *Section 2(1)*

responsible officer (appointed by a local government structure) of the fact that a gathering will take place, prior negotiations with interested parties, including the South African Police Service, judicial review of decisions by responsible officers, the general conduct of participants and their protection by the South African Police Service, circumstances under which the South African Police Service may disperse a gathering and use force to achieve this civil liability of organizers, and certain offences

These aspects will all play an important role in safeguarding the rights of people who wish to exercise their democratic rights on the one hand and protecting the rights of non participants on the other. We submit that the Regulation of Gatherings Act can play an important role in the community, as the Act provides for a partnership between local government, the South African Police and the community.

1.2.1 The effect of the Constitution on gatherings

The Constitution of the Republic of South Africa provides in section 8(1):

- (1) *The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.*

The effect of the Constitution is therefore an important consideration in the interpretation and application of the Regulation of Gatherings Act, as the Act limits an entrenched rights. Whereas section 16 entrenches the right to freedom of expression, section 17 provides that everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions. The right to freedom of speech or assembly, however, is not absolute, as the right may be limited in terms of section 36:

3 *Section 2(4)*

4 *Section 3*

5 *Section 4*

6 *The authorised member appointed into section 2(2).*

7 *Section 6*

8 *Section 8*

9 *Section 9*

10 *Section 11*

11 *Section 12*

12 *Act 108 of 1996 - referred to as "the Constitution)
application to the extent that 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 restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of rights.

Section 36 makes it clear that any law of general application³ restricting the fundamental right to freedom of expression or assembly, must serve a substantial and pressing governmental interest. Such a law must also be proportional to the objective - in other words legal limitations of the freedom of assembly should be minimal to withstand constitutional muster.

The effect of the Constitution is therefore that we must interpret an infringement on the fundamental right to expression or freedom of assembly restrictively. This is to reduce the effect of the infringement on the freedom, unless the law must serve a substantial and pressing government objective.

Seen in this light, the express (and general) limitations on the right to freedom of assembly in terms of the Regulation of Gatherings Act ought to withstand the scrutiny of the Constitutional Court. The focus of the Act moved away from permission to hold a gathering to the situation where notice of an intended gathering is sufficient. Consequently, the fact that the Act does not expressly require expression or assembly in an a way that is reasonable and justifiable in our society.

A purpose of the regular of Gatherings Act is clearly not only to preserve and protect the rights to freedom of expression and assembly, but also to protect the rights of non participants. This objective is of overriding concern and the rights of non participant should be taken into account when the local government conduct any negotiations with conveners and place conditions upon the event.

It logically follows that we should interpret the Regulation of Gatherings Act as narrowly as possible to comply with the requirements of section 36 of the Constitution⁴ . A local government must therefore prohibit gatherings only when a substantial danger exists that the gathering will threaten the life or property of another

13 *Such as the Regulation of Gatherings Act 205 of 1993.*

14 *This is also in accordance with accepted principles of statutory interpretation, where it is presumed that the legislature intends to infringe on existing rights as little as possible.*

1.2.2 The effect of the Constitution on the policing of gatherings

In terms of the Constitution⁵ the South African Police Service is responsible for the maintenance of public order. As such, it is the responsibility of the South African Police Service to protect the rights of all people affected by gatherings, whether they participate or not.

Consequently, the South African Police Service adopted policy designed to regulate the management of crowds within these parameters.

1.3 WHEN IS A GATHERING SUBJECT TO THE GATHERINGS ACT?

The Gatherings Act describes two kinds of gatherings:

1.3.1 DEMONSTRATIONS⁶

The South African Police Service will regard a gathering of people as a demonstration when a group of less than 15 people gather to demonstrate their feelings about some person or some cause. One example is an event where 15 workers or less gather to express their demands for better salaries or working conditions.

We often ignore the second part of the definition. We will deem a gathering as a "demonstration" if the object is to protest against somebody or something only.

1.3.2 GATHERINGS

When more than 15 people decide to be part of a meeting, rally or march which they hold on a public road, the South African Police Service will regard it as gathering. An example of a gathering is an event where more than 15 people of a political party or trade union decide to march through their town or city and present petition to the authorities.

The definition of a gathering as contained in the Regulation of Gathering Act, is important, as this is the basis upon which the authorities can act.

15

Sections 218(1) (k) and 219(1) ©) of the Constitution of the Republic of South Africa, Act 200 of 1993. These section continue to be in force by virtue of section 24 of Schedule 6 of the Constitution of the Republic of South Africa, Act No 108 of 1996.

16

The regulation of Gatherings Act 1993 defines it as such: "Demonstration" includes any demonstration by one or more persons, but not more than 15 persons, for or against any person, cause, action or failure to take action.

The Regulation of Gatherings Act, 1993 provides that:

“Gathering” means any assembly, concourse or processions of more than 15 persons in or any public road as defined in the Road Traffic Act, 1989 (Act No 29 of 1989), or any other public place or premises wholly or partly open to the air-

- (a) at which the principles, policy, actions or failure to act of any government, political party or political organization, whether or not that party is registered in terms of any applicable law, are discussed, attacked, criticized, promoted or propagated; or
- (b) held to form pressure groups, to hand over petitions to any person, or to mobilize or demonstrate support for or opposition to the views, principles, policy; actions or omissions of any person or body of persons or institution, including any government, administration or governmental institution.

Reading the second part of the definition in subsections (a) and (b) with the first part is important. Whilst the second part of the definition is reasonably clear, we often misunderstand the phrases public road and public place/premises.

1.3.2.1 Public road

The Road Traffic Act, 1989⁷ provides that:

“Public road” means any road, street or thoroughfare or, ... any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

From this definition we can clearly interpret the definition of “public road” widely. No golden rule exists and every situation will have to be measured up against the above definition.

1.3.2.2 Public place or public premises wholly or partly open to the air

This phrase causes a lot of doubt, as people often interpret it to mean a sport stadium which will include sports events under the definition of gatherings. It is true that we will regard stadiums for sports, most amphitheatres and other open structures as public places. Subsections (a) and (b) are of vital importance, as the object of the gathering will usually determine whether a meeting of persons is a gathering for purposes of the

Act. The Control of Access to public Premises and Vehicles Act⁸ defines “Public premises” as such:

“Public premises means any building, structure, hall, room, office, convenience, land, enclosure or water surface which is the property of, or is occupied or used by, or is under the control of, the state or a statutory body, and to which a member of the public has a right of access, or is usually admitted or to which he may be admitted.

1.3.2.3 Grey areas Because of the fact that definitions in statutory enactments are often in broad and general terms, we may perceive some gatherings to fall within a grey area. Because the legislature includes as many individual factual permutations as possible, the effect is often that we gloss over definitions. The definition of “gathering” is an example of a broad definition that, when glossed over, seems confusing. We recommend that the definition of “gathering” be read within the framework of the preamble to the Regulation of gatherings Act. The preamble clearly enjoins the state⁹ to protect people in the exercise of the right to assemble and demonstrate. This shows that we ought not to interpret the definition narrowly.

Example: A teacher college wishes to advertise its existence and recruit students by arranging a gathering. There are 50 students involved who will march with banners from the college. The march will be a gathering for purposes of the Act, as it is “a procession of more than 15 persons in or on any public road ... held to ...mobilize or demonstrate support for ... the principles (or) policy ... of any ... institution”.

Where the definition excludes a gathering, for instance in a gathering within a roofed structure, such as a shopping centre, the gathering will clearly not fall within the parameters of the Act.

2. THE ROLE PLAYERS

The Gathering Act refers¹⁰ to three persons who will work together closely to make the planned event possible. The persons are:

- The convener
- The responsible officer of the land government
- The authorised member of the South African Police Service

Let us first meet these people to see who they are:

2.1 THE CONVENER

the convener is the person who wants to have a gathering, demonstration, march or rally to express some demand or grievance, or to make public some view. The convener may act out of this own or on behalf of a political party, trade union or group.

The convener is a very important person because he or she will have to plan for this march and is responsible for the conduct of the participants.

2.2 THE RESPONSIBLE OFFICER

The responsible officer is someone who acts on behalf of the local government in the area where a gathering or demonstration takes place. The responsible officer will see to it that the gathering or demonstration is properly planned and that everything will go smoothly.

The responsible officer is also a very important person, because he or she will consult and negotiate with different people who are also part of the process. The responsible officer will help the convener to arrange with the police, traffic police etc. to see to arrangements such as road safety.

The responsible office will help the convener to organize the event.

2.3 THE AUTHORIZED MEMBER

The National Commissioner of the South African Police Service appointed certain police members to help with the arrangements of a gathering or demonstration. He or she will responsible for seeing to it that the gathering or demonstration takes place and that they protect all people who participate, and all people who do not participate.

The authorized member is an important person because he or she will be part of the negotiations between the convener and the responsible officer.

3. THE AUTHORIZED MEMBER

3.1 INTRODUCTION

In terms of section 2(2) (a), the National Commissioner must authorize a suitably qualified and experienced member to perform the functions, exercise the powers and discharge the duties of an Authorized Member¹¹. The office of Responsible Officer is the primary axis around which Regulation of gatherings Act revolves, but the responsible Officer cannot function properly without the assistance and support of the Authorized Member. The Act clearly sets out the duties and responsibilities of the Authorized Member and it is therefore essential that he or she is familiar with the provisions of the Act. Close cooperation between the Responsible Officer and the South African Police Service is as essential as cooperation with the convener.

21 *The National Commissioner authorized Area Commissioners to appoint Authorized Members in consultation with the provincial Commissioner. The minutes from the National Commissioner 31/1/5 dated 12 November 1996 refers*

In this section, the main duties and responsibilities of the Responsible Officer and Authorized Member will be set out, with a suggested working procedure between the responsible Officer and the Authorized Member. As far as possible, we will follow the sequence in which events should take place.

3.2 THE CONVENER AND THE RESPONSIBLE OFFICER

3.2.1 Register of conveners

Every organization wishing to stage a gathering, must supply the Responsible Officer in terms of section 2(1)(b) with the particulars of a convener appointed in terms of section 2(1)(a) for the arrangements for the gathering, plus the particulars of his or her deputy. The organization may, in terms of section 2(1)(c) appoint someone else as convener in certain circumstances, but any further appointments must be with the approval of the Responsible Officer. Section 2(1)(b) also enjoins the responsible Officer to provide that information to the Authorized Member.

In a similar guide for responsible Officers, we have suggested that the responsible Officer keep an alphabetical register of appointed conveners and deputy conveners. Although every responsible officer may use his or her own format for this register, such a suggested register should at least contain certain information, necessary for reference purposes. We enclose a suggested format as Annexure "B". Authorized Members should request responsible Officers in their areas to keep such a register, as this may be important to the SAPS in cases where conveners are unknown etc.

To simplify reference, the Authorized member of the appointment of conveners and the date, time and manner of notification must be recorded in the appropriate column of the register. This register may be an important source of information, as will become apparent later.

3.2.2 Notice of gathering

Section 3(1) provides that a convener must give notice of an intended gathering. The responsible Officer must help the convener to reduce the notice to writing if he or she is unable to do so.

In terms of section 3(2), a convener must give notice not later than seven days before the date of the gathering, but if this is not reasonably possible, at the earliest opportunity.

If the convener gives notice less than 48 hours, the responsible Officer may prohibit the gathering by notice to the convener. The Responsible Officer therefore has a discretion in following a shorter notice period. To comply with the requirements of section 3(3), the notice must contain at least the following information.

If a notice does not contain the information required in section 3(3)(a) to 3(3)(j), the responsible Officer must not regard the notice as a valid notice in terms of the regulation of Gatherings Act. The responsible Officer should, however, if he or she knows the convener's particulars, help the convener with the required form. We append the suggested form of a notice in terms of section 3(3) as Annexure "A". The Authorized Member should check the information contained in the notice to establish whether they cover all aspects. These details are important for operational planning and should therefore be comprehensive.

3.3 THE RESPONSIBLE OFFICER AND THE AUTHORIZED MEMBER

Good relations between the responsible Officer and Authorized Member are important for the effective application of the regulation of gatherings Act. If a working relationship does not exist, the protection of participants and non participants may be in serious danger. Every local government must appoint a responsible Officer in terms of section 2(4). When the local government do not appoint such a Responsible Officer, the chief executive officer of the local government structure must fulfill the functions of the responsible Officer. We must convey the name, rank and address of the Authorized Member to the Responsible Officer or concern local authority in terms of section 2(2). Another SAPS member may be designated as Authorized Member if the Authorized Member becomes unable to fulfill his or her duties, but we may only make any further appointments with the approval of the responsible officer. In this section we will discuss the duties of the Authorized Member.

3.3.1 Notification of a Gathering

Section 4(1) provides that, on receipt of a notice of an intended gathering, the responsible Officer must immediacy consult with the Authorized Member. This consultation is to decide the necessity for negotiations with the convener(s) concerning any aspect of, or any condition about, the proposed gathering. Although notifying the Authorized Member in writing is not necessary, we suggest that the notice be faxed or delivered to the Authorized member as well. The Responsible Officer will enter the particulars in the register above and will state which steps he or she took to consult with the Authorized Member. Similarly, the Authorized Member will enter the relevant particulars in his or her register.

The responsible Officer and Authorized Member will decide that negotiations are not necessary, or threat negotiations are necessary:

3.3.1.1 Negotiations are not necessary - section 4(2)(a)

If the Responsible Officer, after consultation with the Authorized Member, is satisfied that negotiations are not necessary, and the gathering may take place as set out in the notice, he shall notify the convener and the gathering will take place. The Responsible officer may even agree with the convener to amend the notice to avoid formal negotiations.

Example: *A convener gives notice of an intended may be an important source of information, as will become apparent later.*

Example: A convener gives notice of an intended may be an important source of information, as will become apparent later.

3.3.1.2 Negotiations are necessary - section 4(2)(b)

If the Responsible Officer, after consultations with the Authorized Member, thinks negotiations are necessary, he or she must call a meeting between him or herself and -

The composition of the meeting will vary according to the situation, but the responsible Officer and the first three people in the above list must be called to attend. We should note that section 4(2) (2) (iv) provides that the Act includes the community police forum and local authority representatives as representatives of public bodies. The section does therefore not limit the representatives of public bodies to those people, but could include other people such as traditional leaders or business leader. When, for instance, the gathering is to be held on the parking area of a shopping centre, the owner or manager of such centers may be included. We recommend that the Authorized member helps the responsible Officer in this, as the Authorized Member will probably suggest attendance by certain identified role players.

We identify these role players in the Crowd Management Policy and we should make proper preparation for planning in the SECOM structure.

We can hold this meeting at any venue - the offices of the Responsible Officer will probably be regarded as neutral ground. The facts will guide the Responsible Officer and may determine any venue that is, in his or her discretion, suitable.

At this meeting the purpose is to find ways of making the gathering possible by discussing the contents of the notice, or amending the notice, or imposing certain conditions. Should a party be absent from the meeting, the meeting may go ahead nevertheless. In terms of section 2(3) consultation or negotiations without the convener or SAPS, are binding upon the convener and the SAPS.

Examples: A convener gives notice of an intended march of seven thousand participants through the street of the town or city to commemorate a political leader's death at the hands of their political opponents. Because of the emotional tensions, this type of march could result in violence.

By changing the route and imposing certain conditions, we could defuse the situation. At the meeting, we must discuss the possibility of damage or injury and negotiate an alternative solution.

We recommend that the proceedings at the meeting be minute, to prevent subsequent disputes. We should bring the provisions of section 8 to the attention of the convener, minute this fact minute and append a copy to the amended notice or the conditions. When everyone agrees, the Responsible Officer must draft and sign a written notice with

amendments and conditions by the Responsible Officer, the convener and the Authorized Member. The Responsible Officer must see to it that he or she hands a written copy of the notice and any amendments or conditions, to the convener and the authorized member, and every party attending the meeting - section 4(5) (a).

If the meeting fails to yield positive results and they cannot agree, the Responsible Officer may impose conditions out of his or her own accord, or if the Authorized Member requests him or her to impose certain conditions, provided reasonable grounds to do so exist - section 4(4) (b). The Responsible Officer will aim these conditions at ensuring that the gathering do not impede traffic unduly, participants maintain an appropriate distance between themselves and participants in another gathering, that access to property and workplaces is possible, the prevention of injury to person or damage to property.

The Authorized Member must request the responsible Officer to impose the necessary conditions for holding the gathering.

When the Responsible Officer decides to impose conditions, he or she must give the convener written reasons for doing so. If, on the other hand, he or she refuses to impose conditions as requested by the Authorized Member, the Authorized Member is entitled to written reason for the refusal -subsection c) of section 4(4) refers. The Responsible Officer may, however, not impose conditions relating to the operational independence of the Authorized Member.

Example: The Responsible Officer imposes a condition on the SAPS to the effect that the SAPS may not use any rubber bullets, teargas or firearms as a method to manage the crowd at a march. This condition will not be binding on the SAPS, as the SAPS are authorized by virtue of section 9 of the Act, to use these methods.

Where the whereabouts of the convener is unknown or if urgency requires it, other ways in which we may bring the contents of the notice and amendments to the attention of the convener, are possible. Section 4(5) (a) sets out ways in which to public the notice.

The Responsible Officer must in his or her discretion determine the most effective manner(s) of publication. Although the practical application of this section may be problematic, the facts will dictate which actions are necessary. .if other means of publication seems more practicable, publishing the notice in at least one of the prescribed ways is important to ensure compliance with the section. The Responsible Officer will have to effect the publication, but many request the SAPS to help.

If they postponed or delayed the gathering, the convener must notify the Responsible Officer. The Responsible Officer may call another meeting in terms of section 4(6)(a), but if the convener calls off the gathering, the notice will lapse - section 4(6)(b). The Responsible Officer must notify the Authorized Member immediately - section 4(7).

If the Responsible Officer fails to take steps within 24 hours to call the convener to the meeting in terms of section 4(2)(b), the gathering may take place as planned -section 4(3). Immediate consultation with the Authorized member is therefore important to the Responsible Officer to prevent any such situation. Should the Authorized member not be available immediately, we recommend that the Responsible Officer call a meeting - the Authorized Member must then comply with the requirements.

3.3.2 Gathering where they give no notice

In this section, we will concentrate on the situation where the Responsible Officer receives no notice of a gathering, or when he or she does not receive the notice timorously.

3.3.2.1 Late note - section 3(2)2and section 5(1)

Where a convener does not give notice of the gathering timorously, the Responsible Officer may prohibit the gathering because of the insufficient time to make reasonable preparations for the gathering. Section 3(2) provides that a Responsible Officer may prohibit a gathering by notice to the convener if he or she receives the notice from the convener less that 48 hours before the intended gathering.

Similarly, the Responsible Officer may prohibit a gathering if the convener gives no notice and information under oath is brought to the attention of a Responsible Officer of a proposed gathering that will disrupt traffic, result in injury or damage to property and that the SAPS or traffic officers probably cannot manage. As with a regular gathering , the Responsible Officer must meet the Authorized Member, the convener and other interested party. If time does no allow for a meeting, the Responsible Officer may consult with these parties. We recommend that this may be done telephonically. At this meeting or during the consultation, the Responsible Officer will consider a course of action. When the gathering may take place, we should follow the steps as set out above. If, however, no possibility of managing the gathering properly exists, the Responsible Officer may prohibit the gathering.

The Act does not specify the format of the information under oath. It is clear, however, that the affidavit must at least contain information that will establish

reasonable grounds for a prohibition of the gathering. The South African Police Service must prove these grounds through proper investigation. Mere rumors or information from unidentified sources will not suffice. We submit that the requirements are similar to the requirements to obtain an arrest or a search warrant.

3.3.2.2 Prohibition of gathering - section 5(2)

In terms of section 5(1), The Responsible Officer may prohibit a gathering if he or she is convinced on reasonable grounds that an amendment or imposition of a condition will not prevent serious traffic disruption, injury or property damage. If he or she decides to prohibit the gathering, the Responsible Officer must inform the convener Authorized Member and every other person consulted, of such prohibition - section 5(3). We recommended that notification to the Authorized Member be effected by fax.

3.4 General

3.4.1 Gathering in terms of section 7

An exception to the general rule of notification is found in section 7 of the Act. In this section, the Act prohibits gathering and demonstrations in the vicinity of Courts, buildings of Parliament and Union Buildings.

It may happen that a convener wishes to organize a march that passes within the area described in section 7(1) - for instance, within 100 meters of a court building. A Responsible Officer may impose a condition that the convener obtains permission from the relevant authority, should the notice reveal that the proposed route of a march will fall within such an area. Negotiating other routes for marches and venues for gathering away from these areas when possible, is advisable.

Gatherings at courts may present a problem when a court hears bail applications or urgent applications outside normal court hours.

The relevant portions of section 7 of the regulation of Gathering Act 205 of 1993 read as follows:

- 7(1) Subject to the provisions of subsection (2) all demonstrations and gatherings-
- (a) in any building in which a courtroom is situated, or at any place in the open air within a radius of 100 meters from such building, on every day of the week, except Saturdays, Sundays and Public Holidays;... are hereby prohibited.
- (2) The provisions of subsection (1) shall not apply-
- (a) to any demonstration or gathering referred to in subsection (1)(a) for which permission has, on application to the magistrate of the district concerned, been granted by him in writing;...
- (3) any application for permission contemplated in subsection (2) shall be made to the person empowered to grant such permission, within a reasonable time before such demonstration or gathering is to take place.

Whereas this section is reasonably clear on the fact that demonstrations and gatherings in or near court buildings are to be treated in a specific manner, the section does not state whether the section applies to bail applications or

special court sessions held after normal court hours, during weekends or on public holidays. We submit that civil proceedings such as urgent applications outside normal court hours may also fall in to this category.

One purpose of the section is clearly to preserve the dignity and independence of the court Whether this objective is of such overriding concern to limit the right to freedom of assembly to the extent that it does, is perhaps arguable. For purposes of this discussion we accept that the legislature intend that the section would stand a higher level of limitation.

It logically follows that we should interpret section 7 as narrowly as possible to comply with the requirements of section 36 of the Constitution. This is also according to accepted principles of statutory interpretation, where we presume that the legislature intends to infringe on existing rights as little as possible.

“On ever day of the week”

Section 1 of the Criminal Procedure Act 51 of 1977 contains definitions relating to the Criminal Procedure Act that are relevant for purposes of this discussion. The Act defines the word “day” to mean “the space of time between sunrise and sunset”. Court sessions on Saturdays, Sundays and public holidays as well as court sessions on weekdays before sunrise and after sunset, falls outside the scope of the specific prohibition contained in section 7(1)(a) of the regulation of Gatherings Act. Persons planning any demonstration or gathering in a court building or within a radius of 100 meters of such building, will therefore not have to comply with he provisions of section 7(2) and 7(3)

“Within a radius of 100 meters”

Another question that arises is whether a procession or march that passes within a radius of 100 meters from a court building is also subject to the provisions of section 7. Accepting that we ought to interpret the section narrowly, we submit that the convener will not have to comply with section 7, especially if the object of the march does not relate to any court proceedings. This does not, of course, mean that the responsible officer of a local government may not impose a condition requiring the convener to obtain permission from the relevant magistrate.

Section 7 regulates a *specific* type of demonstration or gathering, whereas the more general provisions contained in chapter 1(section3) will apply to demonstrations and gatherings in general. Chapter 1 therefore regulates all demonstrations and gatherings except the specific situations expressly set out in section 7. The general provisions of the Act will regulate the factual situations outside the narrow scope of section 7. One may very well argue that such special court proceedings are often urgent and giving notice of an intended gathering to protest at, for example, a bail application on Saturday, would be impossible. This argument, however, does not hold water. Section3 of the regulation of Gatherings Act provides for a seven day notice period, but section3(2) specifically states that:

3.(2) The convener shall not later than seven days before the date on which the gathering is to be held, give notice of the gathering to the responsible officer concerned: provided that if it is not reasonably possible for the convener to give such notice earlier that seven days

before such date, he shall give notice at the earliest opportunity: Provided further that if such notice is given less than 48 hours before the commencement of the gathering, the responsible officer may by notice to the convener prohibit the gathering.

Since section 33 of the Constitution requires the public officials performing an administrative function to exercise their discretion lawfully, reasonably and procedurally fair, we submit that notice shorter than 48 hours will not always attract a prohibition.

3.4.2 Offences and penalties

Section 12 provides for certain offences and penalties. We recommend that the Responsible Officer be familiar with these offences, as this knowledge will be of assistance during consultations and negotiations.

3.4.3 Conflict of laws

Section 14 of the Regulations of Gatherings Act provides that the Gatherings Act enjoys preference to any other law with conflicting provisions.

3.4.4 Dangerous weapons and firearms

By virtue of section 2(3) of Dangerous Weapons Act No 71 of 1968, the Minister for Safety and Security prohibited the possession of any firearm at any time at any gathering or in a public place. The National Commissioner issued instructions in this regard and we advise Authorized members to study these instructions carefully.

By virtue of section 2(2) and 2(5) of the Dangerous Weapon Act, the Minister also prohibited the possession of dangerous weapons at any time at any gathering at or in a public place. The National Commissioner also issued instructions in this regard.

We must circulate an updated duty list of Authorized Members to the Responsible Officer monthly.

4. POLICE POWER

4.1 INTRODUCTION

Section 9 sets out all the power conferred by the Act on members of the South African police Service. Nothing that the section does not distinguish between “legal” and “illegal” gatherings and demonstrations, is important. This means that we must also manage gatherings and demonstration that do not comply with the provisions of the Act, within the framework of the powers conferred in section 9. This is a further indication of the paradigm shift required from police members. Whereas a clear distinction existed between “legal” and “illegal” gatherings before the Act came into operation, this line is not so clear anymore. The Act requires of police members to manage gatherings and demonstrations according to the provisions of section 9 even if the gathering is, strictly speaking, not in compliance with the Act (and therefore “illegal”).

Instead of repeating the provisions of section 9, the following section will concentrate on specific issues that are of practical and operational importance.

4.2 CHANGING OFFENDERS

The responsible Officer and the Authorized Member must see to it that offenders are charged for contravention of the Regulation of Gatherings Act. The only way in which we can contribute towards a culture of legality, is to apply the Act uniformly. The Authorized Member or operational commander must ensure that the correct person is charged with the relevant offence. It is neither prudent nor possible to postulate a general rule for all situations. In some possible to postulate a general rule for all situations. In some instances, we should charge a convener with an offence, while in other situations we ought to charge an instigator of violence or leader.

4.3 ARRESTING OFFENDERS

As with charging offenders, the circumstances of every situation will be different and we cannot postulate a general rule. The discretion whether to arrest or not, lies with every member on the scene. The purpose of arrest is to bring an offender before the court. In the previous dispensation, police members often arrested “troublemakers” and released them immediately after a gathering. These so-called “preventative arrests” are illegal and may result in civil claims, as the police member has no intention of charging that person or bringing that person before a court. Offenders will mostly be arrested under section 40(1) of the Criminal Procedure Act 51 of 1977, as a police member may without an arrest warrant, arrest a person who commits an offence in his or her presence. Section 49(1) sanctions the use of reasonable necessary force in arresting such an offender. However, section 13(3)(b) of the South African Police Service Act 68 of 1996 provides that only the minimum force which is reasonable in the circumstances may be used.

Section 12(1) offences are classified as Schedule 1 offences, as it may attract imprisonment of more than 6 months without the option of a fine.

Police members must, when deciding whether to arrest or not, exercise this discretion judiciously. Arrests may lead to increased violence in some cases and thus defeat the principles of crowd management. In those circumstances it would often be more effective to wait for an opportune moment after the gathering, or to charge offenders (or the conveners) at a later stage.

When effecting an arrest, the arresting member must comply with the requirements of a legal arrest as set out in the Criminal Procedure Act. Firstly the arresting member must inform the arrested person of the reason for the arrest. Secondly the arresting officer must physically subject the arrested person to his or her control, unless the arrested person unequivocally subjects him or herself thereto.

4.4 PROCEDURE AFTER ARREST

Police members are often uncertain about the proper procedure to follow after an arrest. The Criminal Procedure Act provides for the various ways in which an arrested person may be treated.

4.4.1 Release

The arresting member must take the arrested person to a police station as soon as possible. If the police member decides not to charge the suspect, the suspect must be released, or he or she must bring the suspect before a court within 48 hours. The arresting member must release the suspect if he or she does not bring the suspect before a court within that period. Form J127 may be used for this purpose.

If the arresting officer releases the suspect without charging him or her, the suspect may still be issued with a summons to appear before a court at a later stage. The summons will be issued in terms of section 54(1) by the clerk of the court after the police present the prosecutor with a docket and the prosecutor decides to prosecute.

4.4.2 Bail

The suspect is entitled to bring a bail application *immediately* after arrest. The arresting officer may also release the suspect on bail in terms of section 59(1) (a) if he or she has the rank of inspector, or higher. Although we regard an offence in terms of the Regulation of Gatherings Act as a Schedule 1 offence, it is not an offence, referred to in part I or Part III of Schedule 2. A suspect may therefore be released on "police bail" - Form J 70 may be used for this purpose.

Detention is a serious infringement on a person's right to freedom of movement and the arresting member must carefully weigh up the circumstances of each case before deciding to detain a suspect without bail. Where the arresting member can ascertain the identity and particulars of an offender, we submit that the offender should in most cases be released.

4.5 CROWD MANAGEMENT

The policy Document on Crowd Management is a valuable guideline in the application of the regulation of Gatherings Act. The policy is designed to comply with the requirements of the Constitutions and the Regulation of Gatherings Act. Every Authorized member and operational commander should know the principles enunciated in the policy by heart. Despite the fact that the policy is firmly built on a legal foundation, some questions still arise.

4.5.1 The legality of operational methods such as encirclement and push back

Section 9(1) (c) empowers a member of the police to restrict the gathering to a place, or to guide participants along a route in certain circumstances. The provisions of section 9(1) (e) and (f) provide:

9.(1) If a gathering or demonstration is to take place, whether or not into compliance with the provisions of this Act, a member of the police -

shall take such steps, including negotiations with the relevant persons, as are in the circumstances reasonable and appropriate to protect persons and property, whether or not they are participating in the gathering or demonstration.

This section clearly authorizes the use of any reasonable and appropriate method of crowd management, including (but not restricted to) negotiations. The circumstances will determine the reasonableness and appropriateness of the methods as enlightened by the crowd control policy. Clearly these principles are also appropriate when considering to redirect a crowd.

4.5.2 Use of force




Section 9(2) sets out the conditions for the use of force sufficiently. The Crowd Management Policy dovetails with these provisions and no further discussion is necessary.





4.5.3 Amending conditions while the gathering is in process

The provisions of the Act aims at making the parameters within which the gathering may take place, known to the local government, police, convener, marshals and participants - see section 4(5) (b). If these conditions may be charged willy-nilly, the police may frustrate the purpose of the Act. The function of the police is to manage the crowd and maintain public order. Should public order be threatened, section 9 (especially section 9(1) (f)) provides the means to maintain public order.

4.5.4 Convincing a responsible officer to impose conditions

In some instances, the Authorized Member may deem it necessary for the Responsible Officer fails to understand the importance of such a condition, there are review procedures available whereby a magistrate or judge may review this decision. The appropriate steps to take are the following:

-  step 1: Request conditions in terms of section 4(4) (b)
-  step 2: Responsible Officer must give written reasons for refusal
-  step 3: Forward reasons within 24 hours (section 6(3) refers) to Legal Services with a factual report to obtain authority to Initiate review proceedings in terms of section 6(1) (b)

-  step 1: Bring information under oath in terms of section 5(1)
-  step 2: Attend meeting
-  step 3: Receive section 4(5) a Notification
-  step 4: Consult Legal Services within 24 hours (section 6(3) refers) Regarding the notification and to initiate review proceedings in terms of section 6(1) (b)

4.6. Troubleshooting

Wherever a problem concerning the application of the Act crops up, consult NCP & RS Legal Services immediately, as this problem may also exist in other provinces or areas. Although anyone of the Legal Officials may be consulted, the contact person is Mr J A van der Walt.

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