

The state of local government law enforcement

Preliminary report prepared for the South African
Local Government Association



The state of local government law enforcement

Preliminary report prepared for the South African
Local Government Association

August 2022

Contents

Acronyms	3
Introduction	4
Research methodology	4
Limitations	5
Acknowledgements	5
Terminology	5
Preliminary notes	6
Safety risk areas relevant to local government	6
Use of the terms 'safety' and 'law enforcement'	8
Integrating violence and crime prevention into municipal departments' work	9
Local government law enforcement	10
Legal mandate	10
Governance of SAPS and municipal police in metropolitan areas	11
Role and capacity of municipal law enforcement agencies	12
Investigation powers of municipal personnel involved in law enforcement	13
Cooperation between metros, SAPS or other government agencies	14
Coordination of law enforcement at metropolitan level	14
Conflict over responsibility and sources of revenue	15
Challenges in enforcing traffic laws and by-laws	15
Scope of by-laws	15
Development of by-laws	16
Training and human resource development challenges	17
SAPS and NPA approach to traffic and by-law violations	17
Municipal courts	18
Municipal strategies for infrastructure and other asset protection	19
Terminology regarding municipal assets and infrastructure	19
Major threats to infrastructure	19
Other municipal assets	20
Asset and infrastructure protection and municipal risk environment	21
Role of law enforcement	21
Investigation and information-gathering powers	21
Using technology to protect municipal infrastructure	22

Education and awareness raising	22
Challenges facing asset and infrastructure protection	22
Conclusion: cross-cutting issues	23
Recommendations	24
General	24
Infrastructure and other asset protection	25
Capacity building and training	25
Notes	26

Acronyms

AARTO	Administrative Adjudication of Road Traffic Offences (AARTO) Act (Act 46 of 1998)
CCTV	Closed Circuit Television
CPA	Criminal Procedure Act (Act 51 of 1977)
CPF	Community Police Forum
CPTED	Crime Prevention Through Environmental Design
CMAA	Criminal Matters Amendment Act (Act 18 of 2015)
CSF	Community Safety Forum
DPCI (Hawks)	Directorate for Priority Crime Investigation
ICVPS	Integrated Crime and Violence Prevention Strategy
IDP	Integrated Development Plan
LEAP	Law Enforcement Advancement Plan
NPA	National Prosecuting Authority
RTMC	Road Traffic Management Corporation
SALGA	South African Local Government Association
SAPS	South African Police Service
STED	Safety Through Environmental Design

Introduction

The South African Local Government Association (SALGA) was established in line with Section 163 of the South African Constitution. In terms of its mandate, which includes developing common approaches to issues facing municipalities in South Africa, SALGA has taken various steps to support them in understanding and addressing issues of safety and law enforcement. This has included:

- Commissioning research on specific aspects of by-law enforcement¹
- A submission on legislation addressing the law enforcement powers of municipalities²
- Publishing a handbook on the role of municipal councillors in building safer communities³
- Organising a symposium on the use of technology for protecting municipal infrastructure⁴
- Publishing reports and organising discussions about risks to municipal councillors and employees linked to political killings and intimidation, as well as the risks posed to municipalities by violent protests⁵

This report, developed by the Institute for Security Studies in cooperation with SALGA, is intended to take forward SALGA's efforts to support municipalities in their efforts to address questions of safety. The report focuses on law enforcement as an instrument for promoting safety. It identifies and explores critical issues that local governments need to address in order to strengthen their responses to the safety challenges they face.

This report is intended to provide SALGA with a foundation to take forward analysis and discussion of the role of municipalities in addressing safety and law enforcement. It addresses key challenges faced by municipalities regarding the following:

- Local government law enforcement and its legal mandate to do this
- Cooperation between metros and the South African Police Service (SAPS) or other government agencies on law enforcement
- Challenges in the enforcement of traffic laws and by-laws
- Municipal asset and infrastructure protection

The conclusion highlights cross-cutting issues, and recommendations are provided on how to strengthen local government's contribution to safety, particularly through law enforcement.

Research methodology

This is a preliminary report on law enforcement and municipalities in South Africa. Because municipal law enforcement in South Africa is a relatively under-researched area, especially at an operational level, an exploratory methodology has been used. Accordingly, the study involved a combination of different research methods, relying on both primary and secondary data sources.

Primary sources included a series of 60- to 90-minute interviews with senior officials in select municipalities, who cumulatively offer several decades of experience in municipal safety. The interview format was conversational in nature but confined to exploring specific identified issues. To encourage open and honest conversations, interviewees were told that interviews would be kept confidential.

Secondary sources of information and analysis included a selection of local and international analytical literature, relevant policy documents, legislation, and reports developed by SALGA about by-law enforcement and other local safety challenges. It also included other municipal reports and integrated development plans, parliamentary portfolio committee meeting and media reports, as well as a review of select municipal by-laws. Documentation included specific instruments addressing issues such as the regulation of liquor outlets and road and traffic enforcement.

Limitations

As will be reflected in this report, the field of safety and law enforcement and the role of local government in it is complex and multifaceted. This report is not a complete study of law enforcement across all categories of municipalities (metros, districts, and local) and in all nine provinces.

The observations and recommendations are based on interviews with a limited number of current and former senior level officials from metros who have extensive experience in the respective areas. It also includes data from metros whose documentation on safety-related issues is more readily available. Accordingly, the selection of data sources for this report may reflect a bias towards municipalities that have more advanced responses to safety challenges.

Acknowledgements

The authors would like to thank the interviewees who generously gave their time to provide invaluable insights and information for this study.

Terminology

The following definitions are relevant to this report:

Crime prevention

Crime prevention is a broad term that refers to programmes, techniques or actions that prevent crime. Section 205(3) of the Constitution provides that the functions of the SAPS include ‘to prevent, combat and investigate crime.’ As indicated below, municipal police services also have crime prevention as a formal part of their mandate.

Police, or other law enforcement agencies, can contribute to preventing crime through law enforcement and through other types of activities. However there are many programmes, techniques and actions that can contribute to preventing crime that don’t require police involvement, or where the police aren’t necessarily the main role players.

Related concepts that deal with specific aspects of crime prevention or overlap with the concept of crime prevention include: social crime-prevention; situational crime-prevention; violence prevention; Safety Through Environmental Design (often referred to as Crime Prevention Through Environmental Design (CPTED)).

Many of these concepts are not mutually exclusive. For example six types of ‘violence prevention’ measures that may also be seen as examples of ‘social crime-prevention’ are discussed in a World Health Organization briefing document on violence prevention that was published in 2010.⁶

Criminal justice process

The criminal justice process is a process of law enforcement through which people are arrested, charged, prosecuted, convicted and sentenced for crime. In this sense the process of law enforcement relies on role players other than police (or other law enforcement officers). In South Africa these other agencies or organs of state include the National Prosecuting Authority (NPA), the judiciary, and the Department of Correctional Services.

Law enforcement

Law enforcement (as an activity, function or process) refers to activity focused on ensuring compliance with laws. This includes measures to prevent, discourage or stop violations of the law and measures to hold people who have allegedly violated the law accountable for their actions.

In this report the law enforcement discussed includes both enforcement of common law and statutory provisions as well as the enforcement of by-laws. Accountability may therefore be through the criminal

justice process or municipal courts or the payment of fines. In this report law enforcement is therefore a function carried out by police and law enforcement officers (as well as other agencies – see criminal justice process above).

Law enforcement officer

In the context of local government, a law enforcement officer is a category of 'peace officer' who is appointed by a municipality to perform certain functions. As provided for in Section 334 of the Criminal Procedure Act (Act 51 of 1977), the justice minister may issue a notice in the Government Gazette providing for the appointment of certain categories of peace officers. The current Gazette regulating the appointment of law enforcement officers by municipalities was issued by the justice minister on 19 October 2019.⁷ Law enforcement officers exercise some, but not all, of the powers of police members. They are not municipal police.

Municipal police (metro police)

Municipal police (metro police) are police who are members of municipal police services. These are local government police services created in terms of Chapter 12 of the SAPS Act. There are six municipal police services in South Africa, all of them in metropolitan areas. They are often referred to as metropolitan ('metro') police and the two terms are therefore interchangeable.

There are municipal police services in the following metros: Cape Town (Western Cape); Johannesburg (Gauteng); Tshwane (Gauteng); Ekurhuleni (Gauteng); eThekweni (KwaZulu-Natal); and Nelson Mandela Bay (Eastern Cape)).

Police member or officer

In this report police officers or members are members of the SAPS or municipal police services. The formal convention in South Africa is to refer to members of these services as 'members'. The term 'police officer' is sometimes understood to refer to a member who is of officer rank but sometimes is also used to refer to any police member.

Safety

Safety is a broad term referring to a condition where certain categories of risks or threats (including from violence or other harm, road accidents, disasters etc.) are minimised through preventive measures as well as law enforcement (see Chart 1 and the discussion of 'safety risks' that follows). In the context of local government the term 'public safety' is used frequently to refer to the combination of law enforcement (including traffic enforcement), fire and emergency services,⁸ and disaster management.

Traffic officer

The term traffic officer includes members of the municipal police service (whose qualifications include those as traffic officers) as well as other accredited traffic officers. Section 1 of the National Road Traffic Act also provides that members of the SAPS ('the service') are traffic officers.⁹

Preliminary notes

Safety risk areas relevant to local government

As discussed further below, the term 'safety' can be applied in various ways. One of these, reflected in many of the risks listed in Chart 1, refers to risks to physical safety, including death or injury, but also the safety of property from theft, vandalism or other damage.

For instance, Chart 1 refers to 'health and medical services'. The main example given relates to the government's ability to provide services such as ambulances and medical facilities for responding to incidents where people require medical attention (which may be linked to risks to physical safety such as crimes, road accidents, etc.).

Chart 1: Safety risk areas relevant to local government

Type of risk	Illustrative examples of consequences
Crime targeted at members of the public, businesses or other institutions or organisations (violence, property crimes etc.)	Murder, rape, robbery and other violence; loss of property; fear, and other emotional or psychological consequences.
Traffic violations and other traffic safety risks	Death, injury and damage to property from road accidents and negligent or reckless driving.
By-law violations	<p>A longer list could be provided, but examples include:</p> <ul style="list-style-type: none"> • Illness or poisoning from food that's sold or distributed in violation of food safety standards. • Death or injury of community members or municipal employees linked to violations of by-laws relating to the safe supply of electricity. • Accidents or injuries from buildings that don't comply with safety-related provisions regarding construction, risk of fire and maintenance.
Crimes involving municipal assets or infrastructure (e.g. cable theft; abuse of municipal assets by officials)	<p>Direct risks: electrocution from electrical infrastructure; disease or sickness from contamination of water supply; road accidents linked to damaged road safety infrastructure; disasters such as gas explosions.</p> <p>Indirect risks: theft or other damage to infrastructure compromises electricity and water supply and the delivery of municipal services, impacting on safety and responses to threats to safety.</p>
Illegal electricity or water connections or tampering with municipal metering	<p>Death or injury from unsafe electrical connections.</p> <p>Loss of municipal revenue.</p>
Violent protest	<p>Injury to civilians, police or others.</p> <p>Destruction of state (e.g. municipal buildings, schools) or private property.</p>
Health and medical services	Availability of services impacts on the ability to respond to incidents of injury and disaster.
Disasters	<p>Floods, fires.</p> <p>Risks related to underground fuel and gas pipelines from e.g. illegal mining.¹⁰</p>
Quality of governance and administration, human resource decisions, and level of corruption	<p>Overall quality of governance and governance arrangements determine risk analysis, problem solving ability and strategic decision making.</p> <p>Human resource decisions impact on quality of strategic decision making and implementation of policy.</p> <p>Administrative corruption by employees and officials (such as officials responsible for law enforcement, licensing and inspections) undermines enforcement of traffic laws and by-laws, thereby undermining safety standards.</p> <p>Procurement corruption has generalised negative impact by leading to wasteful municipal expenditure and procurement of poor-quality services and goods from providers and suppliers. This includes security and safety equipment and security services.</p> <p>Perceived unfairness or dissatisfaction with service delivery leads to unrest.</p>

However, one could add other health risks to the list of safety risks – such as disease resulting from poor sanitation. Similarly, economic factors such as employment, spending on grants and other ‘social spending’ by government also directly relate to security issues. Hunger and malnutrition can be seen as safety risks. Related to this, local governments that focus on strengthening the economic environment or on medical and health services can argue that they’re addressing key aspects of safety.

Section 152(1)(d) of the Constitution states that the promotion of safety is one of the objects of local government.¹¹ However, the term ‘safety’ as used in Section 152(1) is open to different interpretations. There are various options available to local government in promoting safety, including through law enforcement (the focus of this report), violence and crime prevention (which partly overlaps with law enforcement) and other responses to threats to safety (such as ensuring the availability of ambulance and health services, disaster preparedness, etc.).

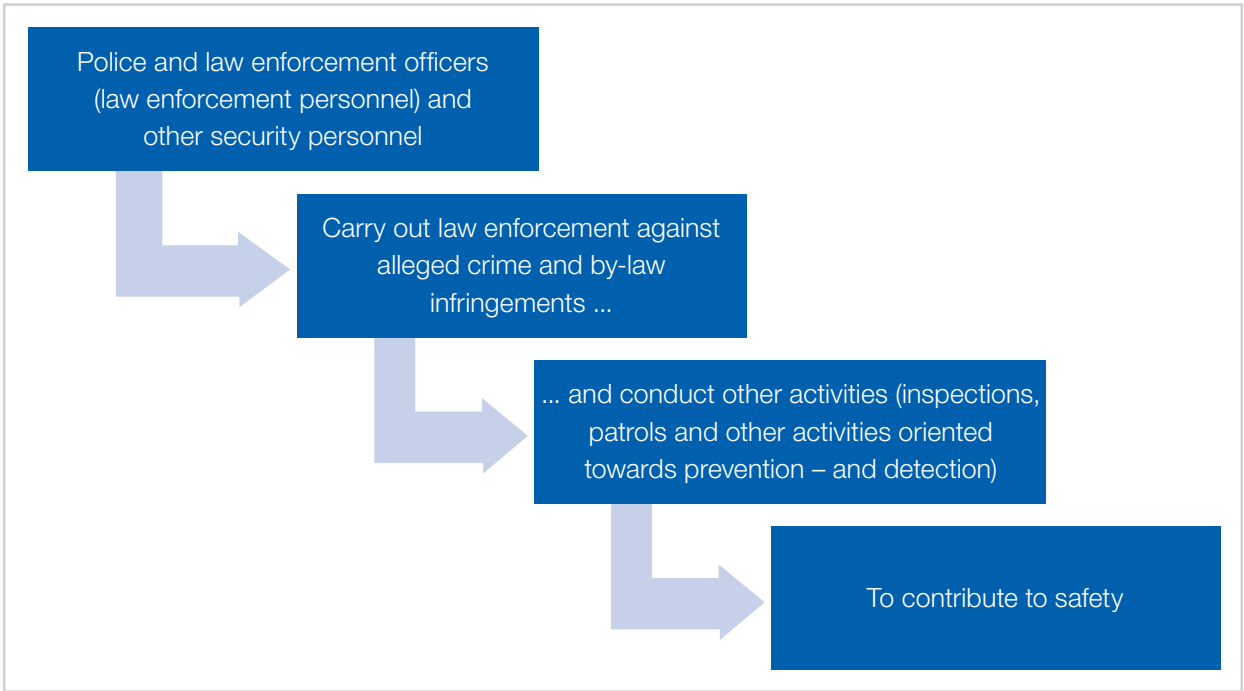
Use of the terms ‘safety’ and ‘law enforcement’

This is not a general report on the range of local government agencies and activities that can contribute to safety. Rather it focuses on the role of law enforcement (as an activity or function) and personnel involved in law enforcement (police, traffic and law enforcement officers) in contributing to safety.

There are various implications of this focus:

- First, it’s narrower than a discussion of the role of local government in promoting safety. There are many programmes or activities local governments can engage in that can directly or indirectly enhance safety. This report doesn’t address all these issues. (See further the discussion of the policy framework below.)
- Second, this report focuses not only on the ‘crime prevention’ part of law enforcement, but also the enforcement of by-laws. By-law enforcement (and other measures to prevent by-law violations) may not necessarily be a way to prevent crimes (as defined in common law or statute), but could contribute to safety in other ways.
- Third, enforcing some by-laws (such as those regulating business zoning and trading activity) may not directly advance safety or crime prevention. For instance, some by-law provisions focus on business or economic activity, and the main objective is to promote conditions that support economic development

Chart 2: Process diagram showing the report’s main focus



in the municipality or prevent intrusion of businesses into areas zoned for residential use. Enforcement of these by-laws doesn't primarily serve to improve safety, but is intended to serve other purposes. However, the focus of this report is on strengthening the contribution of municipal police and other municipal personnel involved in law enforcement to safety.

Integrating violence and crime prevention into municipal departments' work

The Constitution states that the promotion of safety is one of the objects of local government. One way they can do this (which partly overlaps with law enforcement) is through violence and crime prevention.

A challenge here is the tendency to equate violence and crime prevention with policing and law enforcement. Related to this, community safety functions tend to be located within law enforcement directorates or metro police services. This affects how municipalities understand crime and violence prevention.

Many key policy documents dealing with violence and crime prevention in South Africa call for developmental approaches that are integrated into and cut across different municipal departments (transversal approaches). These include the National Development Plan (2012), the White Paper on Safety and Security (2016), the Integrated Urban Development Framework (2016),¹² the National Strategic Plan on Gender-Based Violence and Femicide (2020), and the Integrated Crime and Violence Prevention Strategy (ICVPS), which was adopted by Cabinet in March 2022.¹³ These approaches motivate that violence and crime prevention should be informed by assessments of 'what works' in crime and violence prevention.

The most detailed version of this agenda is set out in the ICVPS, which provides a framework for carrying forward the 2016 White Paper on Safety and Security.¹⁴ The ICVPS states that the office of the municipal manager should drive the strategy in each municipality.

For this purpose each municipal manager's office will need to establish capacity to drive implementation (it's indicated that this aspect of the strategy's implementation will need to be costed) and ensure 'the integration of crime and violence prevention interventions' in the Integrated Development Plan (IDP).¹⁵

The ICVPS also makes other recommendations for evidence-based approaches to crime and violence prevention to be more fully integrated into the work of all spheres of government, including local government. This includes calling for the development of regulations or guidelines to address 'the requirement that community safety planning is a core pillar/strategic focus area of the IDP and is integrated into all strategic priority areas and plans.'

It also includes developing model by-laws on issues relevant to violence and crime prevention and other aspects of community safety such as 'social behaviour and conduct in public spaces, land use zoning and spatial design of the built environment.'¹⁶

The integration of safety measures into municipal programmes – proposed by both the White Paper and ICVPS – would require that safety measures be identified in the IDP as well as Service Delivery and Budget Implementation Plans of relevant sector departments in the Community Services, Infrastructure Services, and Economic Development and Planning Directorates.

One interviewee suggested, for example, that city safety strategies include provision for municipal standards for fixing street lights to prioritise routes used by pedestrians, due to the risk of robbery and other crimes they face on these routes.

Integrating safety measures into the work of diverse municipal departments calls for relatively sophisticated capacities for policy development, and the coordination and management of implementation. It also requires cooperation between municipal departments.

However, the extent to which municipal departments work together varies greatly and depends on the support of political and administrative leadership. Some argue therefore that community safety should be driven from the municipal manager's office, as it has the power to compel all departments to integrate safety outcomes into their sector plans.

A sector department will need to take overall responsibility for ensuring that plans are implemented. However, that sector department will need to have sufficient support from the municipal manager's office to hold other sector departments accountable. Implementation also needs political commitment from the metro council and the executive mayor's office, as well as administrative, human, and financial support.

The tendency to equate safety with law enforcement exists at both a political and administrative level. Interviewees said politics played a significant role and interfered with the capacity of the administration to perform its functions. One said, 'We are being taught how to do community-driven approaches and use evidence-based practice, but it all depends on what the politicians want to do.'

It's not necessarily the police and other officials involved in law enforcement who are most resistant to implementing more integrated responses to safety challenges. Politicians often equate improved safety with the recruitment of more metro police or law enforcement. They're often unaware of the potential and need for violence and crime prevention to incorporate other types of measures.

These limitations can also extend to senior management in municipalities. One interviewee noted that, 'Management is used to doing whatever the politicians want' and often isn't aware of the potential for other types of preventive approaches. 'There are ways you can be innovative, but no one wants to listen,' the interviewee said.

There have been some capacity-building workshops to promote a shift in the conceptual thinking around safety among municipal officials. However most people who attend these initiatives are responsible for implementing programmes rather than strategic design and decision making.

Graduates of these initiatives frequently encounter resistance from senior levels when trying to motivate for different approaches. There may also be a lack of enthusiasm from other municipal colleagues. An interviewee mentioned that when the topic of introducing collaborative approaches was raised during a meeting of the regional safety forum, some participants responded with, 'So now you want to give us more work to do?'

The interviewee said: 'They feel like we are dumping on them. It really is difficult to get people to think more broadly. It could be addressed if people were more agile, but there isn't much of a will to change.'

Local government law enforcement

In discussing this issue, it's first 'important to note that not all municipalities have law enforcement in their organisational structures, and that most municipalities have limited human and financial resources.'¹⁷ Data on the law enforcement capacities of most municipalities also isn't readily available. (This should be explored by further research.)

As indicated, this report focuses mostly on metropolitan municipalities. Some of these maintain municipal police departments. Those that don't (Mangaung and Buffalo City metros) do at least employ some other traffic and law enforcement officers.

Legal mandate

As mentioned, Section 152(1)(d) of the Constitution states that the promotion of safety is one of the objects of local government. Some of the provisions relevant to understanding the law enforcement powers of local government include:

- By-laws – Section 156(2) of the Constitution provides that municipalities are authorised to 'make and administer' by-laws in respect of matters that they have a 'right to administer.' (Section 156(1) and other provisions of Section 156 as well as Schedules 4¹⁸ and 5¹⁹ deal with the identification of matters that municipalities have a right to administer.) Authority to administer certain functions may be conferred on a municipality if it has the capacity to administer it, and so not all municipalities have the same range of authority to issue by-laws. Within the formal provisions of the Constitution, there is also not necessarily clear differentiation. For instance, 'road traffic regulation' is referred to in Part A of Schedule 4, while

‘traffic and parking’ is under Part B of Schedule 5. However, Section 156(3) indicates that the authority of municipalities to issue by-laws is a subordinate power as ‘a by-law that conflicts with national or provincial legislation is invalid.’

- Powers of law enforcement officers – As indicated, Section 334 of the Criminal Procedure Act (Act 51 of 1977) provides for the justice minister to issue a notice in the Government Gazette providing for categories of peace officers that may be appointed. The current Gazette regulating the appointment of law enforcement officers by municipalities was issued by the justice and correctional services minister on 19 October 2019. It specifies that the powers of municipal law enforcement officers apply to by-laws or regulations made by a municipality. They also apply to identified sections of laws (or related regulations), such as the Businesses Act,²⁰ Occupational Health and Safety Act,²¹ National Building Regulations and Building Standards Act,²² Fire Brigade Services Act²³ and others.
- Municipal courts – The operation of municipal courts is governed by numerous legal provisions. One of these is the Municipal Systems Act, which provides that municipal staff, who are authorised in terms of Section 22(8)(b) of the NPA Act²⁴ to conduct prosecutions, ‘may institute criminal proceedings and conduct the prosecution in respect of a contravention of or failure to comply with a provision of: (a) a by-law or regulation of the municipality; (b) other legislation administered by the municipality; or, (c) other legislation as determined by the National Director of Public Prosecutions.’²⁵ While the prosecutors are municipal employees, presiding officers in these courts are provided by the Department of Justice and Constitutional Development.
- Crime prevention – Municipal police services that are established in terms of Chapter 12 of the SAPS Act (58 of 1995) have a mandate to carry out ‘crime prevention’, the ‘policing of municipal by-laws’ and ‘traffic policing.’

Governance of SAPS and municipal police in metropolitan areas

In recent years the discussion of questions to do with the Constitutional framework regarding policing in South Africa has often taken a very narrow approach. The reference to the ‘single police service’ in Section 199(1) has often been emphasised above the wide range of other provisions of the Constitution.

However, discussion of policing and law enforcement needs to be based on the full range of relevant Constitutional provisions, rather than selectively foregrounding any single provision.

The South African Constitution provides both for a national police service and the establishment of municipal police services.

- The SAPS is the national police service that is referred to in Section 205(1) of the Constitution. In Section 199(1) the Constitution also uses the term ‘single police service’. The most reasonable interpretation of the Constitution is that the single police service referred to in Section 199(1) is the same as the national police service referred to in Section 205(1).
- Section 206(7) of the Constitution also states that national legislation must provide for the establishment of municipal police services. Section 206(7) is aligned with Section 199(3) which states that: ‘Other than the security services established in terms of the Constitution, armed organisations or services may be established only in terms of national legislation.’

There is a need for forward movement in the debate around policing in South Africa. A key focus should be on strengthening governance arrangements in order to improve management of police and law enforcement resources at the metropolitan level.

There is a duplication of functions between the SAPS and municipal police (in the metropolitan areas where they exist), as both have a crime prevention mandate. Systems or structures should be put in place to ensure better coordination of the SAPS and municipal police and law enforcement human resources at the metropolitan level. This should ensure that these resources are used in a way that optimally supports safety at the metropolitan level.

Chart 3: Primary roles of municipal personnel involved in law enforcement

	Municipal law enforcement	Traffic officers	Municipal/metro police
By-laws	Yes		Yes
Traffic laws and by-laws		Yes	Yes
Crime prevention			Yes

Chart 4: Number of metro police in selected metros in December 2021

Metro	Number of metro police	Figure excludes
Johannesburg ²⁶	4 074	Academy, internal affairs, security, and auxiliary
eThekweni ²⁷	Roughly 2 742, which includes approximately 2 172 operational staff of whom about 600 are 'authorised officers' who are 'not fully fledged Constables as yet' ²⁸	Other personnel include approximately 197 employed in fines and licensing, five in strategy and management, 59 in logistics and 309 dedicated scholar patrol members
Cape Town ²⁹	565 uniform staff	236 civilian staff

There's currently a tendency to see the issue in political terms. The debate needs to be framed around what governance and coordination arrangements that are compatible with the Constitutional framework will best enable police, law enforcement agencies, and other local government agencies, to contribute to safety.

Role and capacity of municipal law enforcement agencies

Chart 3 illustrates the main roles that different municipal personnel could play in law enforcement. (Publicly available information on the number of personnel employed as police, traffic or law enforcement officers in metros is limited.)

The numbers in Chart 4 are approximate – they change frequently due to members retiring, resigning or passing away.³⁰ Also, comparisons between different metros are difficult as they often categorise their personnel in different ways.

Focusing on the number of municipal police will also exclude other law enforcement staff. This is most prominent in Cape Town, where the metro has maintained separate traffic and law enforcement departments along with the metro police department.

While in some metros the main emphasis has been on expanding the number of metro police members, in Cape Town the numbers of traffic and law enforcement officers appear to be comparable to, or outnumber, metro police personnel. For instance a 2018 City of Cape Town festive season planning document indicates that 380 metro police operational staff, 514 law enforcement staff and 449 traffic officials were to be deployed.³¹

The number of law enforcement personnel in Cape Town has recently been expanded through the Law Enforcement Advancement Plan (LEAP). This is a joint initiative of the City of Cape Town and the Western Cape provincial government. LEAP personnel receive both peace officer and by-law training, obtain a traffic warden certificate and 'also assist other enforcement agencies with crime prevention.' According to an

October 2021 report, the number of LEAP personnel was due to exceed 1 000 following the recruitment of an additional 233 members.³²

Investigation powers of municipal personnel involved in law enforcement

An issue that needs greater clarity is whether municipal personnel involved in law enforcement may carry out investigations. Some interviewees felt that local authorities were prohibited from conducting investigations. Others believed that local authorities do exercise investigation powers of some kind.

The Constitution authorises local governments to ‘promote’ a safe environment and to administer by-laws. Furthermore, regulations provide for local government law enforcement officers to exercise search and arrest powers in relation to the administration of these by-laws and the enforcement of other laws referred to in the 2019 Gazette issued by the justice minister under Section 334 of the Criminal Procedure Act.³³

For law enforcement officers to exercise these powers in a reasonable manner, it seems necessary for them to carry out investigative activities of some kind. If they don’t, municipalities could expose themselves to civil suits for unjustified arrests. In addition, as SALGA noted in a submission on the draft SAPS Amendment Bill in 2020, the SAPS wasn’t always able to investigate ‘matters which affect municipalities, such as cable theft, land invasions and damage to municipal property.’³⁴ However, as in any agency, investigative powers are open to abuse. If municipal law enforcement is to be involved in investigations, this needs to be subject to a strict code of ethics and rigorous accountability measures.

Provisions of the SAPS Act relating to the powers of municipal police services also don’t expressly prohibit municipal police services from carrying out investigative activities. It seems reasonable to argue that investigation is necessary for what they need to do, as part of their responsibility for the ‘policing’ of traffic and by-laws provided for in Section 64E of the SAPS Act.

In line with this, it seems reasonable to argue that municipal law enforcement agencies can:

- Integrate and analyse data relating to crime and by-law violations relevant to issues of safety and violence and crime prevention in the municipality.
- Carry out investigations based on this information as well as other information from law enforcement personnel and other members of the public. Such investigations may include scrutiny of photographic and video material and analysis of documents that the municipality has lawful access to, as well as information obtained during the search of premises where illegal activities are allegedly carried out. It might also include investigative interviews (of witnesses and people suspected of by-law violations who agree to be interviewed). On the other hand, they ‘may not use investigative methods exclusive to police or intelligence agencies, such as the interception of communications with court permission, or taking fingerprints.’³⁵
- Carry out arrests insofar as authorised to do so by the proclamation issued under Section 334 of the Criminal Procedure Act.
- Based on such information, open cases with the SAPS, or charge people under municipal by-laws.

Metros such as Johannesburg,³⁶ Ekurhuleni³⁷ and Cape Town³⁸ already maintain dedicated investigative units particularly in connection with alleged crimes or by-law violations that involve municipal property, assets or personnel, including acts of alleged corruption, theft and maladministration. The Johannesburg Metropolitan Police Department also has an internal integrity unit.³⁹ These units have a critical role to play in internal disciplinary investigations. However, insofar as a crime docket is to be opened and a crime investigation pursued, municipal law enforcement personnel will inevitably rely on the availability, willingness and commitment of the SAPS and NPA to pursue matters.

The investigation of cases involving an organised crime element may also include involvement of the Directorate for Priority Crime Investigation (Hawks) or SAPS’s provincial organised crime units. Municipal law enforcement wouldn’t be able to ensure that crime investigations are carried through to the lodging of

criminal charges and prosecutions unless there is some form of involvement by the SAPS or the Hawks, and the NPA.

In 2020, the Civilian Secretariat for Police Service published a draft amendment to the SAPS Act that proposed that the Act be revised to forbid municipal police from exercising investigation powers. A SALGA submission on the draft amendment argued that the proposal was ‘in conflict with the vast range of investigatory-type powers which have already been conferred on municipal police and to a lesser extent, law enforcement via Section 334 of the Criminal Procedure Act. These powers include powers of search and seizure in relation to certain offences and jurisdictions.’⁴⁰ The proposal motivated that:

- Municipal police services should be authorised ‘to investigate matters directly affecting them.
- Municipalities with capacity to investigate by-law infringements, B-Crimes and traffic violations should be allowed to do so and facilitate diversion programmes regarding rehabilitation and skills development connected to B-Crimes and minor drug and alcohol offences. This can then also give effect to the Prevention of and Treatment for Substance Abuse Act, 2008.’⁴¹

Cooperation between metros, SAPS or other government agencies

Coordination of law enforcement at metropolitan level

There is extensive provision for coordination between the SAPS and metropolitan police departments, with metro police being represented in various forums at national and provincial levels.⁴² For instance the SAPS Act provides that the metro police chief (‘executive head’) must participate in policing coordinating committees established by the SAPS provincial commissioner.⁴³

There are also requirements that metro police should be represented on Community Police Forums.⁴⁴ In briefings to Parliament, the SAPS has said that ‘[municipal police services] are involved in Police Coordinating Committees at national (National Joint Intelligence and Operational Structures), Provincial (Provincial Joint Intelligence and Operational Structures and Provincial Crime Combating Forums) and local levels (cluster crime combating forums).’⁴⁵

National level forums may serve to address common challenges that metropolitan police departments are facing. However, the critical question is to what degree the governance arrangements and processes facilitate effective responses to violence and crime at the metropolitan level. For example it’s required that metro police plans for crime prevention be assented to by the SAPS.⁴⁶ But because there is no structure that coordinates the SAPS at the metropolitan level, in practice this means that the SAPS provincial commissioner has to input on and give final approval to the metro policing plan.

In turn, the approach of the SAPS provincial commissioner to policing priorities is often heavily influenced by national targets and priorities. These arrangements emphasise ensuring that the activities of metro police departments are aligned with the SAPS’s crime combating objectives at the national and provincial level. (Provision is also made for the involvement of local SAPS cluster commanders and CPFs in the development of metro police plans.)

Various interviewees said there was frequently good collaboration in terms of joint operations between the SAPS and metro police services. However the planning process isn’t oriented towards ensuring that adequate attention or priority is given to understanding and addressing the overall crime and safety challenges and policing needs within the metropolitan area itself. Instead, national level priorities are imposed at the local level, whether relevant or not. As one interviewee said: ‘The SAPS doesn’t care about the local level. Their budget is national, their plan is national, their officers are national. There are no local interests. SAPS members complain about it too.’

Considerations should be given to establishing mechanisms for the coordinated management of policing and law enforcement resources in each metropolitan area to ensure more responsive policing and management of safety at the metro level. Section 205(1) of the Constitution provides that: ‘The national

police service must be structured to function in the national, provincial and, where appropriate, local spheres of government.’

It may be argued that it would be appropriate for the SAPS Act to be amended, in line with Section 205(1), to provide for consolidated governance and management of the SAPS not only at provincial level but at metropolitan level. (It isn’t suggested here that this should apply in other municipalities.) Such a system should provide for overall coordination of law enforcement activities by the SAPS, municipal police and other law enforcement within metropolitan areas to enable the optimal use of these law enforcement resources in these areas (see recommendation 2).

Conflict over responsibility and sources of revenue

One of the foundational chapters of the Constitution is Chapter 3, which says the national, provincial and local spheres of government should be guided by principles of ‘Cooperative Governance’. It also provides for mechanisms to be established to address and resolve intergovernmental disputes. Chapter 3 is sometimes seen to embody the idea that the three different spheres are equal in status. Nevertheless, in some respects there’s a hierarchy and imbalance of power between them. Related to this there are sometimes issues around which local governments may believe that national or provincial government have acted unfairly.

As indicated above, the general situation is that national priorities and political considerations relating to policing take priority over the need to ensure that policing is focused on addressing safety needs at a municipal level.

Another issue that has caused concern is the Administrative Adjudication of Road Traffic Offences (AARTO) Act (Act 46 of 1998) and its amendments. In January 2022 the North Gauteng High Court held that the AARTO Act and amendments were unconstitutional⁴⁷ as they ‘unlawfully [intrude] upon the exclusive executive and legislative competence of the local and provincial governments.’⁴⁸ The court action was initiated by the Organisation Undoing Tax Abuse.

One of the key arguments put forward in support of the court action was that the AARTO system would deprive municipalities of revenue from traffic fines.⁴⁹ One of the provisions of the Act was that 50% of the fines and the admin fees would go to the Road Traffic Infringement Agency, a national agency established in terms of the Act. This would mean that municipalities ‘lose 50% of the income generated from road traffic fines.’⁵⁰ Interviewees indicated that AARTO, along with the establishment of the Road Traffic Management Corporation (RTMC), which was established to coordinate traffic across all spheres of government, had encroached on the mandate of local government on traffic.

Challenges in enforcing traffic laws and by-laws

Scope of by-laws

By-laws are published on the websites of the various metros, for example Johannesburg,⁵¹ Mangaung,⁵² Nelson Mandela Bay⁵³ and Cape Town.⁵⁴

The complexity of understanding and administering by-laws is related to the wide range of issues they address. A SALGA report discussing by-law enforcement states that: ‘Each municipality decides on the number of and design of its by-laws. Therefore, given the lack of a national or provincial by-law “template”, municipalities cover municipal safety differently in their by-laws.’⁵⁵ The report notes that: ‘The list of competencies that are supposed to be covered by by-laws is inexhaustible.’

It provides a ‘list of competencies selected ... on the basis of their direct promotion of community safety and security. Those listed are: Cemeteries and burials; Connection of electricity; Disaster management; Fire services and emergency response; Land use; Liquor licensing; Municipal health; Property; Public facilities; Recycling; Street trading; Transport; Waste; Water and sanitation.’⁵⁶

Another report by the SA Cities Urban Safety Reference Group lists the following as aspects of urban safety 'typically covered in by-laws': beaches, community safety, disaster management, environmental health services, events, fireworks, informal trading, problem properties, public amenities, public parks and streets, roads and traffic safety, storm water management, streets, public places, nuisances (including noise), behaviour and substance abuse.⁵⁷

There are overlaps between the two lists. However differences between the lists indicate that there isn't agreement on how by-laws impact on safety and which by-laws are most important for promoting safety. These issues need to be understood and analysed more fully. Another important point in this regard is that laws and their implementation are political and economic in nature, and don't always strengthen safety in a neutral manner. They may favour certain groups and impact negatively on others. Certain voices and groups may have a much stronger influence on politicians and their interests may impact on how laws are enforced.

These issues are highlighted by a campaign conducted by some Southern African civil society organisations focusing on the 'decriminalisation of poverty'. The campaign challenges certain kinds of criminal provisions or by-laws that impact on 'the poorest of the poor' such as 'beggars, street kids, [and] homeless people.'⁵⁸ Infringements may be linked to poverty and the lack of access to certain facilities (such as public toilets and washing facilities).⁵⁹ This doesn't mean these laws don't serve some kind of social purpose. However, their enforcement doesn't necessarily enhance safety.

For example by-laws regulating informal trading focus on regulating how economic activity is conducted, and aren't primarily concerned with safety. Inevitably they reflect the fact that there's often a conflict between different interests such as those of businesses in the formal sector, or those of property owners.

Municipal by-laws regulating informal trading may often be motivated by the concern to protect these interests rather than safety. By-laws relating to the sale of food may also be motivated by health-related considerations. This doesn't mean there shouldn't be administration and enforcement of these laws. But this administration and enforcement should be firmly grounded in legal provisions that recognise the need for local government to promote economic inclusion as a way to address poverty.⁶⁰

This highlights one of the major challenges in strengthening law enforcement, including the enforcement of by-laws. Enforcement of laws, particularly where this is done in an arbitrary and unfair manner, doesn't necessarily improve safety, and may reinforce economic exclusion. Law enforcement should be guided by social policies that aim to address poverty and marginalisation, and should be conducted in a fair and impartial manner.⁶¹

Economic factors and their influence on law enforcement are varied. Law enforcement officials may avoid enforcing by-laws against poorer people on the basis that they will be unlikely to pay fines. Poverty therefore may serve to neutralise the potential impact of laws.

Questions to do with the affordability of fines may also influence the prevalence of corruption. If fines are benchmarked at levels linked to the incomes of wealthier people, many may view them as unaffordable. More affordable fines may motivate people to pay them rather than looking for a 'way out' by paying a bribe.⁶²

There are also potential perverse incentives on municipalities in the ability to impose fines. Fines may come to be relied on as a revenue stream and enforcement may focus on imposing them rather than on measures to improve safety.

Development of by-laws

Developing by-laws is complex. Many of the smaller municipalities find it difficult. As noted in one report, '[P]roper drafting of a by-law requires legal and other skills and resources, which may be out of reach for many municipalities.'⁶³ Metropolitan municipalities are in some respects better off, as they can better mobilise the legal and other technical skills relevant to the development of by-laws.

The SA Cities Urban Safety Reference Group has recommended that ‘the potential of standard draft by-laws, as provided for in Section 14 of the Local Government Municipal Systems Act (No. 32 of 2000),’ should be recognised.⁶⁴ As mentioned, this recommendation is also reflected in the recently adopted ICVPS, which calls for model by-laws specifically regarding community safety and crime and violence prevention.

The ICVPS says issues such by-laws could address might include: ‘CPTED principles, management of public spaces and safety in communities (e.g., by addressing issues of gun-free zones; sale of alcohol; location and hours of operation of shebeens/taverns and their proximity to schools and child care facilities); and the built environment.’⁶⁵

A report based on a meeting of SALGA’s Mpumalanga Executive Committee also recommends that: ‘SALGA should engage the Department of Cooperative Governance and Traditional Affairs on the review of standard by-laws to cover all local government competencies that need to be regulated. Municipalities should be supported to review by-laws or to develop updated by-laws.’⁶⁶

Training and human resource development challenges

Training standards and the development of a law enforcement capacity with the appropriate range of skills remain a challenge. One of the issues here concerns having a strategic and sustainable approach to recruitment. Various interviewees mentioned situations where there had been overhasty expansion of metropolitan police services.

Another concerns conflicting national policy around the training requirements for municipal police. Interviewees say current training requirements are imposed separately by the RTMC and the SAPS, meaning that municipal police require a total of 3.5 years of training. They argued that there’s a need for a single standardised policy and time frame regarding the training of municipal police.

A further challenge is ensuring that law enforcement capacities have the appropriate profile of skills. For example, people who are appointed as inspectors should be subject matter experts on e.g. regulations for building, health, or sale and consumption of alcohol. Inspectors are often trained in specific aspects of this subject, and it could be difficult for municipalities to maintain the necessary range of skills.

SAPS and NPA approach to traffic and by-law violations

By-laws become enforceable after adoption by the municipal council and publication in the relevant Provincial Gazette.⁶⁷ A frequent concern of municipalities is that violations of by-laws and traffic violations are not taken seriously enough by non-municipal law enforcement agencies. This is one of the difficulties municipalities face, and pertains both to the SAPS and NPA. One of the constraints here is that the SAPS Act provides that members of municipal police services must hand over any arrested person to the SAPS.⁶⁸

An interviewee said that there is a lot of variation between SAPS stations in this regard. The interviewee said that: ‘Some SAPS stations refuse to accept certain petty crimes. Others don’t. When we arrest people for drunken driving, we have to hand them over to SAPS because we can’t carry the docket. Drunken driving is a petty crime to them.’

Municipal police and other municipal law enforcement also rely on prosecutors at the magistrate’s courts (in the absence of their own municipal courts) to ensure that offences under traffic laws and by-laws are prosecuted. Partly as a way to manage their workloads, prosecutors may elect to withdraw charges in many such cases. An interviewee also indicated that in addition to low levels of prosecution, courts often reduce fines that have been levied by law enforcement personnel.

As one SALGA report states: ‘In the courts, cases related to by-law enforcement are generally treated as marginal and generally, court authorities are not capacitated sufficiently to deal with cases related to by-law enforcement. Also, it is difficult for municipalities to know if penalties issued by the courts have been paid

Chart 5: City of Tshwane and City of Cape Town: examples of municipal courts matters

Offences	City of Tshwane ⁷¹	City of Cape Town ⁷²
Traffic offences	Yes	Yes
Zoning and building/national building regulations	Yes	Yes
Public amenities by-law	Yes	–
Informal/street trading by-law	Yes	Yes
Parking/parking meter by-law	Yes	Yes
Waste management/solid waste by-law	Yes	Yes
Cemetery by-law	Yes	–
Air pollution and water pollution	–	Yes
Fireworks	–	Yes

by the offenders. This point reiterates ... that there are gaps in the inter-institutional coordination aspect of the by-law enforcement.¹⁶⁹

The issue of whether municipal law enforcement may exercise investigative powers of some kind (as discussed above) is clearly relevant here. In particular the investigation of by-law infringements is only likely to be prioritised by municipal law enforcement and municipal police. If these agencies don't investigate cases related to alleged infringements of these laws, there is no other agency that will investigate them.

Municipal courts

Municipal courts are dedicated courts established by municipalities. Much municipal law enforcement relies on the imposition of fines and on the willingness of members of the public or businesses to pay the fine (which is generally understood to amount to an 'admission of guilt'). However, where people don't agree to pay fines, law enforcement depends partly on the availability of courts where questions regarding guilt or innocence and appropriate penalties for guilty parties are argued and adjudicated on.

For this purpose, most municipalities rely on the magistrate's courts. But, as indicated, prosecutors in these courts may not pay proper attention to alleged by-law offences. These are often seen as less serious, and may be complex to prosecute. Alleged traffic violations may also be treated in this way.

Accused parties are usually required to appear in court by means of a notice issued in terms of Section 56 of the Criminal Procedure Act. As indicated the prosecutors in municipal courts are municipal employees authorised in terms of Section 22(8)(b) of the National Prosecuting Authority Act to conduct prosecutions (see above on the local government law enforcement 'Legal mandate').⁷⁰ On the other hand, presiding officers in these courts are provided by the Department of Justice and Constitutional Development.

Reflecting the complexity of by-laws, municipal courts also deal with a diversity of matters (see Chart 5).

It's argued that: 'Well-functioning municipal courts could make by-law compliance and enforcement more effective, as they would be able to prioritise and dedicate time and resources to by-law contraventions.'⁷³ However, there are complexities and costs to establishing and maintaining these courts. They also don't

necessarily achieve high conviction rates, with many cases potentially being withdrawn, while fines that are instituted may be relatively low so that they don't necessarily 'pay for themselves'.

Municipal strategies for infrastructure and other asset protection

Terminology regarding municipal assets and infrastructure

In this report, the term 'infrastructure' is understood to refer to fixed physical assets including buildings and other facilities or installations, or component parts of these physical assets, which are linked to the provision of services.⁷⁴ Forms of infrastructure are therefore types of municipal assets ('infrastructure assets') that can be distinguished from 'movable assets' such as vehicles.

The terms 'critical infrastructure' and 'essential infrastructure' are also important. These two terms are sometimes used almost synonymously, and it is sometimes not clear how to distinguish between them. They're defined in two separate pieces of legislation – the Criminal Matters Amendment Act 18 of 2015 and the Critical Infrastructure Protection Act 8 of 2019.

The Criminal Matters Amendment Act (CMAA) (Act 18 of 2015) defines 'essential infrastructure' as 'any installation, structure, facility or system, whether publicly or privately owned, the loss or damage of, or the tampering with, which may interfere with the provision or distribution of a basic service to the public.'⁷⁵

The CMAA provides that whether a specific 'installation, structure, facility or system' qualifies as 'essential infrastructure' depends on an assessment of whether it is linked to the provision of 'basic services' to the public. 'Basic service' is defined in the CMAA as 'a service, provided by the public or private sector, relating to energy, transport, water, sanitation and communication, the interference with which may prejudice the livelihood, well-being, daily operations or economic activity of the public.'

Infrastructure that qualifies as 'critical infrastructure' would probably qualify as 'essential infrastructure' under the CMAA. But for it to be defined as 'critical infrastructure', the police minister must declare it to be such under Section 20(1) of the Critical Infrastructure Protection Act (Act 8 of 2019).⁷⁶ Municipal 'essential infrastructure' therefore becomes 'critical infrastructure' if the minister has declared it as such following an application by the municipality.⁷⁷

The Critical Infrastructure Protection Act provides a definition of 'basic public services' that is almost identical to the definition of the term 'basic service' in the Criminal Law Amendment Act.⁷⁸ The terms 'basic services' and 'basic public services' are to be distinguished from the term 'essential service' that is used in the Labour Relations Act.⁷⁹

However, in terms of Section 16(1)(b) of the Critical Infrastructure Protection Act, considerations related to issues such as 'safety and the maintenance of law and order' should also be taken into account when considering whether infrastructure should be classified as 'critical infrastructure'.

Theft, damage or other offences involving municipal assets and infrastructure won't be offences under these laws if the assets involved do not qualify as 'essential' or 'critical'. But they may still be common law offences such as theft, malicious damage to property, or fraud, or offences under the Prevention and Combating of Corrupt Activities Act or other legislation. The laws allow for infrastructure to be defined as 'critical' or 'essential' whether it's publicly or privately owned.

Major threats to infrastructure

Widespread copper cable theft has received considerable public attention in recent years. Much of the media coverage of the issue has focused on its impact on infrastructure belonging to parastatals such as Transnet, Telkom, Eskom Holdings, and the Passenger Rail Agency of South Africa.⁸⁰ But the problem also seriously affects municipalities.⁸¹

Copper cable theft leads to financial losses, disrupted services, and more severe consequences. Disruption of electricity supply, particularly critical points in the electricity infrastructure that are linked to bulk supply,

may dramatically impact on the provision of other services. This is because many other components of the infrastructure network depend on electricity to operate.

Loss of bulk power supply comes with many risks. There may be a loss of supply from water reservoirs, where pump stations don't have their own generators. Cellphone communication towers, where backup batteries have run out or been stolen, may also not be able to function. The resulting loss of communication may impact on the provision of other emergency services.

Municipalities must be aware of the broad range of risks and threats to infrastructure and assets. Threats to infrastructure include not only cable theft, but other theft and vandalism more generally. A City of Johannesburg statement says city-owned entities 'like the Johannesburg Roads Agency (JRA), City Power, Joburg Water, Metrobus, Rea Vaya, Pikitup and Johannesburg City Parks & Zoo' are especially affected.⁸²

Apart from electrical copper cables, other frequently targeted municipal infrastructure includes metal fixtures such as electrical wiring, drain and manhole covers, geysers, taps, and security gates at municipal facilities such as libraries and swimming pools. At water treatment works and pump stations, electrical cables, motors, pumps and valves are often targeted.⁸³ Security equipment such as fencing and security gates and CCTV can also be targeted. The City of Johannesburg also highlights the targeting of 'steel and aluminium safety rails, electrical equipment and other valuable material from sub-stations, water meters and traffic lights.'⁸⁴

Illegal electricity and water connections, and meter tampering to reduce recorded consumption, also raise the need for infrastructure protection. They could also carry risks for members of the public. The 2020-21 Johannesburg City Power annual report indicates that 'theft and vandalism, tampering and illegal connection on the City Power network has resulted in permanent disability and fatalities in some cases,' with 15 fatalities and five incidents of injury recorded.⁸⁵

The theft of metals and other components of municipal infrastructure may involve 'opportunistic crime' as well as organised crime syndicates, with the latter most likely linked to the 'theft of infrastructure that can be sold as scrap metal.'⁸⁶ In some cases armed gangs are reported to be involved, using violence, or the threat thereof, to intimidate security guards at power depots.⁸⁷

One interviewee indicated that while the thieves themselves may be operating independently, the middlemen in the scrap industry and particularly those buying from scrap metal merchants could be linked to organised crime. Municipal employees, who could take advantage of their access to and knowledge about the infrastructure network, may also be involved.⁸⁸

Over the years, violent protests have led to the destruction of municipal buildings and other important infrastructure such as clinics and school buildings. Interviewees from metropolitan municipalities generally agreed that cable theft and other crimes were more of a threat, and that protests were mostly not a major cause of loss to metropolitan municipalities.

However, in a survey carried out by SALGA, some municipalities did identify 'vandalism' to municipal infrastructure and assets during protests as a risk.⁸⁹ In particular, acts of arson linked to protests can cause major financial losses and destroy facilities. However, during the July 2021 unrest in KwaZulu-Natal and Gauteng, it appears that most of the damage to infrastructure was to economic infrastructure falling under the private sector.

Other municipal assets

Theft and vandalism threaten not only infrastructure, but also other municipal assets. Misappropriation and other abuse by municipal employees are also risks. Abuse of municipal assets includes that of municipal vehicles, other municipal facilities such as sports fields and halls, and electronic assets such as pumps, generators and computers.

Abuses include for example private use of vehicles or facilities, or renting out vehicles or facilities ‘off the book’ for personal enrichment. Risks in this regard vary from one department to another depending on the types of vehicles and facilities they control.

Asset and infrastructure protection and municipal risk environment

Asset and infrastructure protection measures are part of the management of municipal infrastructure and other assets. Management of these assets also includes maintenance, and replacement when they are damaged or no-longer functioning effectively.

Municipalities need to take a balanced approach. If infrastructure is not properly maintained, the investment in that infrastructure’s protection will be of limited value. By the same token, investment in the maintenance of infrastructure without adequate investment in protection can also be a waste.

Role of law enforcement

Law enforcement action to address crimes related to municipal assets and infrastructure may involve the municipal police or law enforcement officers. Some municipalities have dedicated units such as ‘cable theft’ units⁹⁰ or others. Particularly where municipal employees are suspects, internal municipal integrity units may also be involved.⁹¹ Joint operations with the SAPS are also conducted, for instance when dealing with scrap metal dealers.⁹²

Legal provisions allow for law enforcement officers employed by municipalities to enforce various provisions relevant to the protection of municipal assets and infrastructure:

- Regulations issued by the justice minister under Section 334 of the Criminal Procedure Act (Act 51 of 1977) address the powers of municipal law enforcement officers.⁹³ The regulations provide that powers exercised by municipal law enforcement officers also apply to offences under Section 3 of the Criminal Matters Amendment Act (Act 18 of 2015) which includes tampering with, damaging or destroying essential infrastructure.
- The powers of law enforcement officers also extend to standard criminal offences such as theft and arson referred to in Schedule 1 of the Criminal Procedure Act (Act 51 of 1977).
- Section 31 of the Second-Hand Goods Act 6 of 2009 also allows for the minister to extend powers under the Act to police officers employed by municipalities. This provision was brought into effect in February 2017 when the police minister issued a notice authorising Cape Town municipal metal theft unit law enforcement officers to exercise powers under the Act.⁹⁴ Other municipalities have also requested extension of these powers to them.

Investigation and information-gathering powers

The issue of asset and infrastructure protection raises questions about municipalities’ law enforcement powers. To what extent are they dependent on the SAPS and NPA to carry out law enforcement activities, and to what extent can they carry out their own investigations?

As discussed (see the section on ‘investigation powers’), some believe municipal law enforcement may not carry out investigations. Others say municipal law enforcement officers may carry out some investigative activities. Analysis of information and investigations may be particularly important in relation to infrastructure and other asset protection.

Analysing data relating to crime and by-law violations may be particularly useful in understanding threats to infrastructure and other assets. It’s important to identify the types of infrastructure most at risk, the areas with high rates of infrastructure theft, the times when theft is most likely to occur, and other factors regarding criminals’ modus operandi.

Using technology to protect municipal infrastructure

Law enforcement measures become relevant when crimes or by-laws are being violated. It's clearly preferable to reduce the risk of offences against assets and infrastructure. In response to a survey carried out by SALGA, various municipalities identified the following types of 'target hardening' or 'situational crime prevention'⁹⁵ measures they were using to control access to municipal property or otherwise protect infrastructure and assets:⁹⁶

- Security personnel
- Electric or other security fencing or other physical barriers
- Alarm systems/intruder-detection systems
- Lighting including flood lights
- CCTV
- Biometrics

As discussed at a 2021 SALGA symposium on alternative technology for protecting municipal infrastructure,⁹⁷ there's increased interest in new technology for municipal infrastructure protection and other safety aspects. Other measures mentioned in media articles and interviews included:

- Installing aerial bundle conductor (ABC) cables across the city to prevent cables being stolen (ABC cable is made of aluminium, and is hard to cut as it has a steel core)⁹⁸
- Replacing lattice electricity transmission towers with monopoles⁹⁹
- Applying concrete on surfaces where cables have been laid, making it difficult to dig them up¹⁰⁰
- Drones

Aluminium¹⁰¹ has become increasingly viable as a replacement for copper, due partly to cost factors, and partly to 'developments in aluminium wiring that compensate for lower conductivity and less flexibility.'¹⁰² However aluminium could still be a target for theft – despite its resale value being less than that of copper.

Education and awareness raising

Municipalities also conduct awareness raising programmes to inform community members about the consequences and risks of theft and damage to infrastructure.¹⁰³ This includes encouraging community members to report infrastructure-related crimes or suspicious activity.¹⁰⁴

Challenges facing asset and infrastructure protection

Municipalities generally face challenges in terms of lack of resources (personnel, equipment, etc.). Respondents to the SALGA survey on infrastructure protection identified several challenges they faced:¹⁰⁵

- Staffing – filling critical positions and staff shortages, including guards
- Other budget or resources shortages, including for procurement and maintenance of vehicles, equipment and security infrastructure (perimeter fencing, gates and lighting)
- Budget constraints limit the ability to migrate from manual to electronic security systems
- Specific challenges with infrastructure or equipment such as no dedicated control rooms or continued reliance on manual access control
- Procurement issues with service providers

A lack of skills, including specialised/technical knowledge, is a critical problem. This includes for the overall strategic management of infrastructure protection, legal expertise and adequately trained technical personnel.

The absence of systems and controls creates an environment conducive to the abuse of assets. An interviewee commented that: 'The challenges around assets relate firstly to poor management internally by municipalities. Often they don't know what they own and have. That is even before we get to individual corruption. The corrupt individuals know there is no system that will pick this up. The potential return far outweighs the risk.'

The interviewee highlighted the example of introducing System Applications and Products in Data Processing (SAP) software at one of the municipalities. The software was used only for financial and human resource management, and not the management of assets, which relied instead on paper-based reporting and monitoring. Ultimately the system relied on individual memory and knowing who was 'dealing with it.' If the person was deceased or couldn't be identified, records regarding the use of assets would often be difficult to trace.

Another critical issue is that any investment in technology must consider not only the upfront costs of buying and installing it, but also ensuring that the right personnel and systems are in place to support its effective monitoring and maintenance. A presenter at last year's SALGA symposium for example referred to the risks associated with 'a culture that does not focus on maintenance.'¹⁰⁶

One illustration of this is the investment in CCTV by various cities including Johannesburg¹⁰⁷ and Cape Town.¹⁰⁸ Problems with the use of CCTV cameras were highlighted by the findings of the Khayelitsha Commission of Inquiry into Policing in Khayelitsha, Cape Town. The commission heard evidence that numerous CCTV cameras were no longer operating after having been installed. It also heard that footage from CCTV cameras was rarely used for providing evidence in court.¹⁰⁹

Likewise in a presentation at the 2021 SALGA symposium, a Johannesburg City Power representative indicated that 'inadequate monitoring and response' and a lack of maintenance and repair frequently undermined or detracted from the potential value of some of the initiatives to use technology in order to improve infrastructure.¹¹⁰

Conclusion: cross-cutting issues

There's a need for better information and understanding at the local level regarding challenges to safety and how law enforcement can best support it. There's also a need for a commitment to coherent policy in order to support municipalities' ability to optimise their contribution to law enforcement and safety.

The issue has come to be seen as politicised, creating an impasse around law enforcement at a municipal level. National and provincial government can strengthen the support they provide in this regard through e.g. developing a legal framework that supports consolidated strategic management and governance of law enforcement at a metropolitan level, and supports district and local municipalities in formulating and implementing by-laws.

Consistent challenges across the municipal law enforcement environment include a lack of resources and specialised/technical knowledge. As one interviewee explained, this isn't only about general capacity issues (i.e. staff numbers), but also specific skills, e.g. having the 'right person to deal with the Second-Hand Goods Act' or to act against organised syndicates. Regarding threats to infrastructure, the interviewee cited the establishment of a specialised metal theft unit in Cape Town as an example of good practise.

Maintaining information management and analysis skills is also an area that is often neglected. More sophisticated data analysis can considerably enhance the ability of municipalities to respond to threats to infrastructure and other safety issues.

The interviewee said there was 'a lot of data being collected, but very few municipalities have the capacity to analyse it.' Often the investments made in law enforcement focus on personnel numbers, but analyst positions lack funds. Where these positions are created, the people employed are 'pulled out of another line function' rather than having the specialised skills required.

Political influence often does little to strengthen purposeful responses to issues of safety, instead promoting fairly crude approaches to safety improvements, especially expanding the number of municipal police or other law enforcement officials. Politicians need to recognise and support critical needs such as:

- Sustained investment in the development of a strategic management and data analysis capacity
- Long-term investment in improving critical skills in a sustainable way that builds capacity incrementally
- A holistic approach to investment in technology that recognises the need for sustained investment in maintenance and monitoring alarm and surveillance systems
- Vigorous measures to promote integrity and address corruption, including in law enforcement

For law enforcement to support municipal safety requires a sustained investment by metropolitan governments. On the other hand, smaller municipalities are less likely to be able to develop and maintain an overall capacity for strategic management of safety.

Recommendations

The following recommendations are intended to help SALGA and municipalities optimise metropolitan police, traffic and law enforcement officials' contributions to safety.

General

1. There are major differences between the various categories of municipalities in South Africa. These differences affect how SALGA engages with them, and the type of support that it is appropriate for SALGA to provide to them. SALGA's support to municipalities around safety issues should be informed by an understanding of these differences. Policy and other measures that may benefit metropolitan governments won't necessarily be appropriate for district and local municipalities. SALGA should adopt a two-stream approach that differentiates between the safety and law enforcement challenges facing metropolitan (Category A) municipalities, and those facing district and local (Category B and C) municipalities.
2. Section 205(1) of the Constitution provides for the national police service (SAPS) to be structured to function 'where appropriate' in the local sphere of government. In line with Section 205(1), structures and systems should be established to enable consolidated coordination of SAPS law enforcement and crime prevention activities in metropolitan areas. The necessary legal and regulatory provisions should be introduced to formalise this. The structures that are established should enable:
 - Enhanced strategic coordination of responses to violence and crime within the geographical area over which metropolitan governments have jurisdiction
 - Coordination of SAPS activities in metropolitan areas with those of metro police and other metropolitan government personnel involved in law enforcement
 - Optimum use of resources, personnel, and mandates to respond to violence and crime within the metropolitan area

To put this recommendation into practice it must be realised that SAPS police station boundaries that are situated on the perimeter of metropolitan areas don't always align with metropolitan boundaries.
3. SALGA should engage in discussions and consultations around the Integrated Crime and Violence Prevention Strategy to explore how it can support the strategy's implementation. An important focus should be on the implications of the strategy for municipal police departments, other municipal law enforcement personnel and other municipal departments.
4. There should be greater emphasis on cooperation between law enforcement agencies and service delivery departments in metro and other local governments (i.e. engineering and infrastructure, liquor authority, housing, community services, etc.).

5. Steps should be taken to clarify questions regarding the investigation powers of municipalities and good practice regarding management of internal investigative units.

Infrastructure and other asset protection

6. Guidelines should be developed for municipalities on when it is appropriate to request that infrastructure be declared 'critical infrastructure' under the Critical Infrastructure Protection Act, and what the implications for municipalities are when this occurs.
7. Steps should be taken to facilitate the uptake of technology innovations and optimal contracting in respect of asset protection.

Capacity building and training

8. Within metropolitan governments, there should be development of the capacity for analysis of information relating to issues of safety to support better understanding of safety challenges and the appropriate responses to them.
9. SALGA should produce publications and take other steps to promote understanding of good practice in promoting safety. This could help strengthen the strategic management of safety and promote evidence-based approaches to community safety.
10. A single standardised policy and time frame for the training of municipal police should be developed.
11. Metro police and law enforcement officials and people responsible for overseeing by-laws should be trained to understand social contexts to support more collaborative approaches to enforcement against those engaging in life-sustaining activities (e.g. informal traders).
12. SALGA should do a survey of members to assess the categories of by-laws they most need help with.
13. Analysis should be done to strengthen an understanding about how by-laws and by-law enforcement can most contribute to violence prevention and safety. This should involve the scoring of by-laws to leverage the promotion of safety and motivate for the amendment of by-laws to take a more developmental approach to safety.
14. To support strategic management of law enforcement resources, more data collection and research is needed, especially in:
 - Legal analysis
 - Comparative number of law enforcement personnel and other capabilities (vehicles and other categories of equipment)
 - Staffing and capacities of municipal courts
 - Comparative research on law enforcement and other responses to issues such as street trading, homelessness, etc.

Notes

- 1 T Fish Hodgson and M Clark, Informal Trade in South Africa – Legislation, Case Law and Recommendations for Local Government, Socio-Economic Rights Institute of South Africa and the South African Local Government Association (SALGA), www.salga.org.za/Documents/Knowledge%20Hub/Publications/Research%20Projects%20and%20Results/SERI-SALGA%20Informal%20Trade%20Jurisprudence.pdf, 2018.
- 2 SALGA, SALGA submission on the SAPS Amendment Bill 2020, 13 May 2021.
- 3 SALGA, The Role of Municipal Councillors in Building Safer Communities, www.salga.org.za/Documents/Knowledge%20Hub/Gazettes/Role%20of%20Municipal%20Councillors%20in%20Building%20Safer%20Communities%20-%20Pocketbook.pdf, 2016.
- 4 SALGA Symposium on Alternative Technology for Protecting Municipal Infrastructure Symposium, www.salga.org.za/event/atfpmis/Home.html, 15 September 2021.
- 5 SALGA, Violence in Democracy – The Political Killing and Intimidation of Local Representatives and Administrators, www.salga.org.za/Documents/Documents%20and%20Publications/Publications/p20/Violence%20in%20Democracy%202016.pdf, 2017; SALGA, Violence in Local Government – A Study on Damage to Property, Intimidation, Threats, Harm, and Killing of Councillors and Municipal Officials, www.salga.org.za/Batch%201%20-%20Latest%20Knowledge%20Products/SALGA%20Study%20on%20Violence%20in%20Local%20Government.pdf, 2019.
- 6 Measures that are discussed include: Preventing violence through the development of safe, stable and nurturing relationships between children and their parents and caregivers; Preventing violence by developing life skills in children and adolescents; Preventing violence by reducing the availability and harmful use of alcohol; Reducing access to instruments of violence such as guns, knives and pesticides; Promoting gender equality to prevent violence against women; Changing cultural and social norms that support violence; Reducing violence through victim identification, care and support programmes. World Health Organization, violence prevention: the evidence, 2010, <https://www.who.int/publications/i/item/violence-prevention-the-evidence>.
- 7 Minister of Justice, Declaration of peace officers in terms of Section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977): Law enforcement officers appointed by a municipality, Government Gazette, www.salga.org.za/khub/Knowledge-hub-docs/unlawful-land/CPA%20Peace%20Officers%20Municipalities%20Oct%202018.pdf, 19 October 2018.
- 8 As provided for in Schedule 5 of the Constitution, ambulance services are a provincial responsibility.
- 9 National Road Traffic Act, Act 93 of 1996, Section 1, www.saflii.org/za/legis/num_act/nrta1996189/.
- 10 R Chelin and W Els, Smuggled explosives keep illegal mining syndicates in business, *ISS Today*, <https://issafrica.org/iss-today/smuggled-explosives-keep-illegal-mining-syndicates-in-business>, 30 September 2021.
- 11 Section 152 identifies ‘to promote a safe and healthy environment’ as one of the objects of local government. Other objects of local government include to ‘provide democratic and accountable government for local communities,’ ‘ensure the provision of services to communities in a sustainable manner,’ ‘promote social and economic development’ and ‘encourage the involvement of communities and community organisations in the matters of local government.’
- 12 Department of Cooperative Governance and Traditional Affairs, Integrated Urban Development Framework, 33–34, https://iudf.co.za/pdf_downloads/2016-integrated-urban-development-framework/, 2016.
- 13 SANews, Integrated Crime and Violence Prevention Strategy approved for implementation, www.sanews.gov.za/south-africa/integrated-crime-and-violence-prevention-strategy-approved-implementation, 25 March 2022.
- 14 The White Paper sets out numerous steps that it envisaged municipalities would take to ensure implementation of this policy framework for promoting safety. These include the development of local strategies and plans for implementation of the White Paper and integrating ‘safety, crime and violence prevention outcomes into strategic plans, performance plans, norms and standards’ (CSPS, White Paper on Safety and Security, 42).
- 15 Integrated Crime and Violence Prevention Strategy, 57 and 60, www.gov.za/sites/default/files/gcis_document/202102/44173gen50.pdf, 2021.
- 16 Ibid, 38.
- 17 SALGA Mpumalanga Provincial Executive Committee, Progress report on the review of the municipal law enforcement strategy and by-laws, 3, 2021.
- 18 Schedule 4 deals with ‘Functional areas of concurrent national and provincial legislative competence’.
- 19 Schedule 5 deals with ‘Functional areas of exclusive provincial legislative competence’.
- 20 Businesses Act, 1991 (Act No. 71 of 1991).
- 21 Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
- 22 National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).
- 23 Fire Brigade Services Act, 1987 (Act No. 99 of 1987).

- 24 The National Prosecuting Authority Act 32 of 1998, Section 22(8)(b).
- 25 Local Government: Municipal Systems Act, Act 32 of 2000, Section 112, www.saflii.org/za/legis/consol_act/lgmsa2000384/.
- 26 Email: Dion Ndlovu, Johannesburg Metro Police Department, by email, 20 December 2021.
- 27 Email: Steve Middleton, eThekweni Metro Police Department, 14 December 2021.
- 28 On Ethekeeni see also: Willem Phungula, Forensic report found that the hiring of 590 Durban metro cops was "tainted with irregularities", *Daily News*, www.iol.co.za/dailynews/news/kwazulu-natal/forensic-report-found-that-the-hiring-of-590-durban-metro-cops-was-tainted-with-irregularities-72d1deb4-7b75-46af-8ffc-637c22226150, 26 October 2021.
- 29 Parliamentary Monitoring Group, Cape Town Metropolitan Police Department 2021/22 Annual Police Plan, Presentation to the WCPP Community Safety, Cultural Affairs and Sport committee, <https://pmg.org.za/committee-meeting/33764/#:~:text=Each%20operational%20area%20averages%2077,a%20population%20of%203.9%20million>.
- 30 Email: Steve Middleton, eThekweni Metro Police Department, 14 December 2021.
- 31 City of Cape Town Safety and Security Directorate, Integrated Festive Season Policing Plan 2018–2019, 8–10.
- 32 City of Cape Town, LEAP deployment to top 1 000 soon, www.capetown.gov.za/Media-and-news/LEAP%20deployment%20to%20top%201%20000%20soon, 3 October 2021.
- 33 Minister of Justice, Declaration of peace officers in terms of Section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977): Law enforcement officers appointed by a municipality, Government Gazette, www.salga.org.za/khub/Knowledge-hub-docs/unlawful-land/CPA%20Peace%20Officers%20Municipalities%20Oct%202018.pdf, 19 October 2018.
- 34 SALGA, SALGA submission on the SAPS Amendment Bill 2020, 13 May 2021.
- 35 JP Smith, 'We won't close our eyes to crime to please Cele', *News24*, www.news24.com/news24/columnists/guestcolumn/opinion-city-of-cape-towns-jp-smith-we-wont-close-our-eyes-to-crime-to-please-cele-20220309, 9 March 2022.
- 36 Group Forensic and Investigation Services, Joburg uncovers stationery 'kickback' scam, *News24*, www.news24.com/News24/joburg-uncovers-stationery-kickback-scam-20180131, 31 January 2018.
- 37 The EMPD's Compliance-Loss Control and Investigation Unit, City of Ekurhuleni employee caught on camera stealing cable, *Brakpan Herald*, <https://brakpanherald.co.za/241582/city-of-ekurhuleni-employee-caught-on-camera-stealing-cable/>, 5 December 2020.
- 38 JP Smith, 'We won't close our eyes to crime to please Cele', *News24*, www.news24.com/news24/columnists/guestcolumn/opinion-city-of-cape-towns-jp-smith-we-wont-close-our-eyes-to-crime-to-please-cele-20220309, 9 March 2022.
- 39 Corruption Watch, JMPD seeks anti-corruption ambassadors to help it clean up its act, www.corruptionwatch.org.za/jmpd-seeks-anti-corruption-ambassadors-to-help-it-clean-up-its-act/, 5 January 2022; City of Johannesburg, Help the JMPD clamp down on corrupt officers, www.joburg.org.za/media_/Newsroom/Pages/2021%20News%20Articles/December/Help-the-JMPD-clamp-down-on-corrupt-officers.aspx, 3 December 2021.
- 40 SALGA, SALGA submission on the SAPS Amendment Bill 2020, 13 May 2021.
- 41 Ibid.
- 42 See for instance G Newham and T Masuku, Towards Improving Collaboration between the South African Police Service and the Metropolitan Police Services, Centre for the Study of Violence and Reconciliation, www.csvr.org.za/docs/policing/towardsimprovingcollaboration.pdf, 2004.
- 43 SAPS Act, Act 68 of 1995, Section 64C(2)(e).
- 44 Ibid, Section 64C(2)(f).
- 45 Parliamentary Monitoring Group, Portfolio Committee on Police meeting on Metro Police Performance & SAPS relationship with Metro Police, <https://pmg.org.za/committee-meeting/27871/>, 13 February 2019.
- 46 SAPS Act, Act 68 of 1995, Section 64C(2)(g).
- 47 Organisation Undoing Tax Abuse v Minister of Transport and Others, High Court of South Africa, Pretoria, Case No. 32097/2020, www.ouata.co.za/web/content/208187.
- 48 Ibid, paragraph 45.
- 49 P Ruthun, Pretoria High Court rules AARTO Act and its amendment unconstitutional and invalid, *News24*, www.news24.com/wheels/licences/pretoria-high-court-rules-aarto-act-and-its-amendment-unconstitutional-and-invalid-20220113, 13 January 2022.
- 50 Organisation Undoing Tax Abuse, AARTO Amendment Act is not the answer to road safety – issues & concerns, www.ouata.co.za/projects/transport/aarto-fix-isnt-good-enough, accessed 31 March 2022.
- 51 Joburg, By-Laws, www.joburg.org.za/documents_/By-Laws/Pages/By-Laws.aspx.
- 52 Mangaung Metro Municipality, Municipal By-Laws (approved), www.mangaung.co.za/2020/02/10/municipal-by-laws/.
- 53 Nelson Mandela Bay Municipality, Document Library: Documents, By-Laws (selected under 'select category' search options) www.nelsonmandelabay.gov.za/documentslist?catID=15.
- 54 City of Cape Town, Policies, by-laws and publications, www.capetown.gov.za/Family%20and%20home/Meet-the-city/City-Council/Policies-by-laws-and-publications.
- 55 SALGA Community Safety, Draft Report on Assessment and Strategy: Municipal By-Law Enforcement, 10, October 2020.
- 56 Ibid.
- 57 SA Cities Urban Safety Reference Group, By-laws as a tool for urban safety regulation in South African cities, Urban Safety Brief 1, 2, www.saferspaces.org.za/uploads/files/Web_GIZ_Urban_Safety_Brief_2018%EF%80%A21.pdf, 2018.
- 58 M Kozah, Poverty is not a crime: Decriminalise and declassify petty offences, African Policing Civilian Oversight Forum (APCOF), SaferSpaces,

- www.saferspaces.org.za/blog/entry/poverty-is-not-a-crime-decriminalise-and-declassify-petty-offences, 6 February 2017.
- 59 C Ballard et al, Poverty is not a crime – Decriminalising petty by-laws in South Africa, African Policing Civilian Oversight Forum, <https://apcof.org/wp-content/uploads/030-study-on-decriminalising-poverty-in-south-africa-clare-ballard-patrick-burton-louise-edwards-abdirahman-maalim-gossar-and-chumile-sali.pdf>, 2021.
 - 60 T Fish Hodgson and M Clark, Informal Trade in South Africa – Legislation, Case Law and Recommendations for Local Government, Socio-Economic Rights Institute of South Africa and the South African Local Government Association (SALGA), www.salga.org.za/Documents/Knowledge%20Hub/Publications/Research%20Projects%20and%20Results/SERI-SALGA%20Informal%20Trade%20Jurisprudence.pdf, 2018.
 - 61 Ibid.
 - 62 Corruption Watch, The law for sale – Endemic corruption in the Johannesburg Metropolitan Police Department, 46-77, www.corruptionwatch.org.za/wp-content/uploads/migrated/CORRUPTION%20WATCH%20REPORT%20FINAL.pdf, 2012.
 - 63 SA Cities Urban Safety Reference Group, By-laws as a tool for urban safety regulation in South African cities, Urban Safety Brief 1, 2018, 1, https://www.saferspaces.org.za/uploads/files/Web_GIZ_Urban_Safety_Brief_2018%EF%80%A21.pdf
 - 64 Ibid, 2.
 - 65 Integrated Crime and Violence Prevention Strategy, 2021, 38, https://www.gov.za/sites/default/files/gcis_document/202102/44173gen50.pdf.
 - 66 SALGA Mpumalanga Provincial Executive Committee, Progress report on the review of the municipal law enforcement strategy and by-laws, 2021, 3.
 - 67 SA Cities Urban Safety Reference Group, By-laws as a tool for urban safety regulation in South African cities, Urban Safety Brief 1, 2, www.saferspaces.org.za/uploads/files/Web_GIZ_Urban_Safety_Brief_2018%EF%80%A21.pdf, 2018.
 - 68 SAPS Act, Act 68 of 1995, Section 64H.
 - 69 SALGA Community Safety, Draft Report on Assessment and Strategy: Municipal By-Law Enforcement, 12, October 2020.
 - 70 Local Government: Municipal Systems Act, Act 32 of 2000, Section 112, www.saflii.org/za/legis/consol_act/lgmsa2000384/.
 - 71 City of Tshwane, Municipal Courts, www.tshwane.gov.za/sites/Departments/Corporate%20and%20Shared%20Services/LegalServices/MunicipalCourts/Pages/Municipal-Courts.aspx.
 - 72 Western Cape Government, Municipal Courts, www.westerncape.gov.za/service/municipal-courts.
 - 73 SALGA Community Safety, Draft Report on Assessment and Strategy: Municipal By-Law Enforcement, 10, October 2020.
 - 74 The New Zealand Infrastructure Commission defines infrastructure as: 'A system of inter-connected physical structures that employ capital to provide shared services to enhance wellbeing,' www.tewaihang.govt.nz/about-us/.
 - 75 Criminal Matters Amendment Act, Act 18 of 2015, Section 1, www.gov.za/sites/default/files/gcis_document/201512/39522act18of2015crimalmattersamendact.pdf.
 - 76 Section 16 of the Act outlines requirements for infrastructure to be classified as critical infrastructure. The Act also outlines the procedure for applications to be made for infrastructure to be declared as critical infrastructure. The transitional provisions to the Act provide that infrastructure previously defined as a National Key Point would become Critical Infrastructure.
 - 77 However Section 30 of the Critical Infrastructure Protection Act provides that all infrastructure that was already classified as a National Key Point would automatically be classified as Critical Infrastructure, subject to review by the National Commissioner.
 - 78 Critical Infrastructure Protection Act 8 of 2019.
 - 79 Labour Relations Act 66 of 1995, Section 213.
 - 80 South Africa introducing new laws targeting cable thieves holding economy to ransom, *Bloomberg*, <https://businesstech.co.za/news/government/562592/south-africa-introducing-new-laws-targeting-cable-thieves-holding-economy-to-ransom/>, 24 February 2022.
 - 81 City Power welcomes eight-year jail terms for cable thieves, *TimesLive*, www.timeslive.co.za/news/south-africa/2022-01-15-city-power-welcomes-eight-year-jail-terms-for-cable-thieves/, 15 January 2022; A Mokgobu, Six bogus City Power workers arrested for cable theft, *JacarandaFM*, www.jacarandafm.com/news/news/six-bogus-city-power-workers-arrested-cable-theft/, 2 February 2022; City of Cape Town, Metal theft arrests increase by nearly 50%, www.capetown.gov.za/Media-and-news/Metal%20theft%20arrests%20increase%20by%20nearly%2050, 12 March 2022.
 - 82 City of Johannesburg, City loses over R50 million annually to theft and vandalism, www.joburg.org.za/media_/Newsroom/Pages/2019%20Newsroom%20Articles/November%202019/City-loses-over-R50-million-annually-to-theft-and-vandalism.aspx, 28 November 2019.
 - 83 N Soodyal, eThekweni blames theft for water outages, *East Coast Radio*, www.e-cr.co.za/news/news/ethekweni-blames-theft-for-water-outages/, 11 February 2022; C Pieterse, Vandalism blamed for water pollution, *Lowvelder*, <https://lowvelder.co.za/750847/vandalism-blamed-for-water-pollution/>, 3 October 2021.
 - 84 City of Johannesburg, City loses over R50 million annually to theft and vandalism, www.joburg.org.za/media_/Newsroom/Pages/2019%20Newsroom%20Articles/November%202019/City-loses-over-R50-million-annually-to-theft-and-vandalism.aspx, 28 November 2019.
 - 85 City Power, Annual Report 2020–21, 107, www.citypower.co.za/city-power/Annual%20Reports/2020_2021%20City%20Power%20Annual%20Integrated%20Report.pdf.
 - 86 City of Cape Town, Metal theft arrests increase by nearly 50%, www.capetown.gov.za/Media-and-news/Metal%20theft%20arrests%20increase%20by%20nearly%2050, 12 March 2022.
 - 87 S Burger, Joburg highlights industrial-scale electricity infrastructure theft, *Engineering News*, www.engineeringnews.co.za/article/joburg-

- highlights-industrial-scale-electricity-infrastructure-theft-2022-04-01/rep_id:4136, 1 April 2022; M Sun, Our energy infrastructure is under siege, *News24*, www.news24.com/news24/columnists/guestcolumn/opinion-city-of-johannesburgs-michael-sun-our-energy-infrastructure-is-under-siege-20220407, 8 April 2022.
- 88 The EMPD's Compliance-Loss Control and Investigation Unit, City of Ekurhuleni employee caught on camera stealing cable, *Brakpan Herald*, <https://brakpanherald.co.za/241582/city-of-ekurhuleni-employee-caught-on-camera-stealing-cable/>, 5 December 2020.
 - 89 Municipalities that specifically referred to protest as a risk included Ntabankulu (Eastern Cape), Xhariep DM (Free State), and the Ekurhuleni metro (SALGA, Assessment report and proposed mechanism to enhance protection of infrastructure and assets, unpublished report, March 2021).
 - 90 City of Cape Town, Metal theft arrests increase by nearly 50%, www.capetown.gov.za/Media-and-news/Metal%20theft%20arrests%20increase%20by%20nearly%2050, 12 March 2022.
 - 91 The EMPD's Compliance-Loss Control and Investigation Unit, City of Ekurhuleni employee caught on camera stealing cable, *Brakpan Herald*, <https://brakpanherald.co.za/241582/city-of-ekurhuleni-employee-caught-on-camera-stealing-cable/>, 5 December 2020.
 - 92 Joburg Metro, Keep the power on: Help prevent cable theft, undated, www.joburg.org.za/services/_/Documents/Illegal%20electricity%20connections/Cable%20theft.pdf.
 - 93 Minister of Justice, Declaration of peace officers in terms of Section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977): Law enforcement officers appointed by a municipality, Government Gazette, www.salga.org.za/khub/Knowledge-hub-docs/unlawful-land/CPA%20Peace%20Officers%20Municipalities%20Oct%202018.pdf, 19 October 2018.
 - 94 Minister NPT Nhleko, Second-Hand Goods Act, 2009 – Extension of powers, https://cisp.cachefly.net/assets/articles/attachments/67592_40616_gon120.pdf, 14 February 2017.
 - 95 Australian Institute of Criminology, Understanding Situational Crime Prevention, Crime Prevention Matters, www.aic.gov.au/sites/default/files/2020-05/crm003.pdf, 17 June 2003.
 - 96 SALGA, Assessment report and proposed mechanism to enhance protection of infrastructure and assets, unpublished report, March 2021.
 - 97 SALGA Symposium on Alternative Technology for Protecting Municipal Infrastructure Symposium, www.salga.org.za/event/atfpmis/Home.html, 15 September 2021.
 - 98 Joburg Metro, Keep the power on: Help prevent cable theft, undated, www.joburg.org.za/services/_/Documents/Illegal%20electricity%20connections/Cable%20theft.pdf.
 - 99 Ibid.
 - 100 Ibid.
 - 101 B Phetoe, City Power to replace copper cables as thefts get out of hand, *TimesLive*, www.timeslive.co.za/news/south-africa/2021-01-26-city-power-to-replace-copper-cables-as-thefts-get-out-of-hand/, 26 January 2021; S Thela, City Power Electricity Network Infrastructure, Presentation at SALGA Symposium on Alternative Technology for Protecting Municipal Infrastructure Symposium, 5, www.salga.org.za/event/atfpmis/Presentations.html, 15 September 2021.
 - 102 E Onstad et al, Auto, power firms save millions swapping copper for aluminium, *Reuters*, www.reuters.com/article/us-aluminium-copper-substitution-idUSKCN0WH1RI, 15 March 2016.
 - 103 S Thela, City Power Electricity Network Infrastructure, Presentation at SALGA Symposium on Alternative Technology for Protecting Municipal Infrastructure Symposium, 5, www.salga.org.za/event/atfpmis/Presentations.html, 15 September 2021.
 - 104 Joburg Metro, Keep the power on: Help prevent cable theft, undated, www.joburg.org.za/services/_/Documents/Illegal%20electricity%20connections/Cable%20theft.pdf; City of Cape Town, Metal theft arrests increase by nearly 50%, www.capetown.gov.za/Media-and-news/Metal%20theft%20arrests%20increase%20by%20nearly%2050, 12 March 2022.
 - 105 SALGA, Assessment report and proposed mechanism to enhance protection of infrastructure and assets, unpublished report, March 2021.
 - 106 D Gonçalves, Creating a Culture of Innovation: Vertical integration for Critical Infrastructure Protection, Presentation at SALGA Symposium on Alternative Technology for Protecting Municipal Infrastructure Symposium, www.salga.org.za/event/atfpmis/Presentations/Speakers/Dr%20Goncalves/CSIR%20SALGA%20Presentation%20R0.20.pdf, 15 September 2021.
 - 107 Joburg, IIOC provides for intelligent policing using CCTV cameras, undated, www.joburg.org.za/media/_/Pages/Media/Newsroom/IIOC-provides-for-intelligent-policing-using-CCTV-cameras.aspx.
 - 108 JP Smith, 'We won't close our eyes to crime to please Cele', *News24*, www.news24.com/news24/columnists/guestcolumn/opinion-city-of-cape-towns-jp-smith-we-wont-close-our-eyes-to-crime-to-please-cele-20220309, 9 March 2022.
 - 109 Towards a Safer Khayelitsha: Report of the Commission of Inquiry into Allegations of Police Inefficiency and a Breakdown in Relations between SAPS and the Community of Khayelitsha, The Commission of Inquiry into Policing in Khayelitsha, op. cit., 371–372, www.westerncape.gov.za/police-ombudsman/files/atoms/files/khayelitsha_commission_report_0.pdf, 2014.
 - 110 S Thela, City Power Electricity Network Infrastructure, Presentation at SALGA Symposium on Alternative Technology for Protecting Municipal Infrastructure Symposium, 5, www.salga.org.za/event/atfpmis/Presentations.html, 15 September 2021.

About this report

The constitutional mandate of local government in South Africa includes promoting ‘a safe environment.’ This report focuses on the law enforcement powers, capacities and challenges of local government. They may employ different types of law enforcement personnel including law enforcement officers, traffic officers or (in specific municipalities) municipal police. Local government law enforcement personnel exercise powers under various laws and have responsibilities in relation to the policing of by-laws and traffic regulations, and the protection of municipal assets and infrastructure. They may also play a role in crime prevention. The report explores critical issues that local governments must address in order to strengthen their responses to safety challenges.

About the ISS

The Institute for Security Studies (ISS) partners to build knowledge and skills that secure Africa’s future. The ISS is an African non-profit with offices in South Africa, Kenya, Ethiopia and Senegal. Using its networks and influence, the ISS provides timely and credible policy research, practical training and technical assistance to governments and civil society.

About SALGA

The South African Local Government Association (SALGA) is an autonomous body of all 257 South African local governments. Its role is to represent, promote and protect the interests of local governments and to raise the profile of local government, amongst other objectives. SALGA is a Schedule 3A public entity and is accountable to Parliament in terms of the Public Finance Management Act of 1999.

Development partners



This report is funded by the Hanns Seidel Foundation and the South African Local Government Association. The ISS is also grateful for support from the members of the ISS Partnership Forum: the Hanns Seidel Foundation, the European Union, the Open Society Foundations and the governments of Denmark, Ireland, the Netherlands, Norway and Sweden.