

Exploring questions of power

Peace officers and private security

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There is a need for different stakeholders to work together to help the South African Police Service (SAPS) combat crime in Gauteng. Through the Constitution, the SAPS is mandated to combat crime. Private security officers (PSOs) are well positioned to help the police, as they may witness crimes in the course of their duties. PSOs protect organisations (public and private) and individuals as their paying clients. But the PSOs can only perform their duty as ordinary citizens, not as police. This article presents the findings of interviews and a survey intended to gauge the extent to which senior actors in the private security industry and the police think security officers need additional legal powers, and what powers would be suitable for them to help the police combat crime.

The Constitution of the Republic of South Africa 1996, Section 198(a) notes that the national security of citizens is the responsibility of government. Section 199(1) states that the security services protecting the country are the South African National Defence Force (SANDF), the South African Police Service (SAPS) and any intelligence services formed in line with the Constitution. In short, the term 'security services' refers to law enforcement agencies that offer a public service to citizens.

The term 'security service', in the Constitution, excludes private security services. A public service is 'one which is provided collectively and from benefits of which non-payers cannot be

excluded', while a private service is 'a service that is provided to a specific user or consumer, to the exclusion of everyone else'.¹ The private security industry is mainly concerned with servicing paying clients, who are also protected by the police service. As such, clients of private security companies enjoy more safety and security than others.

The public police service cannot prevent crime by itself. In 1996 the South African government compiled a document known as the National Crime Prevention Strategy (not in force at present), which encouraged the establishment of partnerships between the police and private security, the latter seen as a potential crime prevention body.² In most instances, the contribution of private security officers (PSOs) to reducing crime is likely a result of crime rates stretching the capacity of police. For example,

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during a 1970s spike in airline hijackings in the United States (US), police had to be deployed at airports to ensure the safety of passengers. As a result, police were withdrawn from normal duties, creating what Berg calls a vacuum.³ This led to private security personnel being deployed at airports to provide safety and security while police were redeployed to perform their rightful tasks.⁴

In South Africa in the 1950s and 1960s, robberies targeting businesses at industrial sites escalated. In response, the security company Springbok Patrols (now Fidelity Security) developed a cash-in-transit unit.⁵ PSOs also became the 'eyes' and 'ears' of the police in combatting crime in general. While it may be assumed that PSOs are helpful to police in terms of crime prevention, the question explored in this article is: Do PSOs need additional legal powers to help the police combat crime in South Africa?

As one of the stakeholders involved in crime prevention, the private security industry has experienced rapid growth in recent decades. PSOs now significantly outnumber police in South Africa, and elsewhere.⁶ In 2011 the ratio of PSOs to police was as follows: South Africa 2.87:1; US 2.26:1; Australia 2.19:1; Honduras 4.88:1; India 4.98:1 and Guatemala 6.01:1.⁷ This places the private security industry in a good position to help police combat crime effectively. Thus, if PSOs are given additional legal powers or afforded the status of peace officers, it may increase their effectiveness as crime prevention agents.

The study on which this article is based involved one-on-one interviews with senior management, and self-administered questionnaires with operational members from both the SAPS and the private security industry.

The aim of the study was to build a case for PSOs receiving additional legal powers to help

police reduce crime, given that South Africa is a country with a high crime rate.

Giving PSOs the powers of peace officers to help police combat crime will empower them to arrest any person who commits any offence in their presence in their jurisdiction, rather than only offenders committing Schedule 1 offences, as is currently the case. The reason PSOs who are given additional legal powers will be restricted to their jurisdiction is clarified in Section 334 of the Criminal Procedure Act 1977 (Act 51 of 1977), which states that the minister may declare certain people peace officers for specific purposes within a specified area.

Contextualisation: peace officer status

PSOs can only be afforded additional legal powers if they are awarded peace officer status by the minister of justice, as stipulated in Section 334 of the Criminal Procedure Act. Of critical importance this section states that

the employer of any person who becomes a Peace Officer under the provisions of this section would be liable for damage arising out of any act or omission by such person in the discharge of any power conferred upon him under this section, the State shall not be liable for such damage unless the State is the employer of that person, in which event the department of State, including a provincial administration in whose service such person is, shall be so liable.

It is clear from the act that any public or private citizen may be given the status of peace officer. The purpose of conferring that status is to broaden an individual's legal powers in accordance with objectives to be achieved. For instance, PSOs may be

given additional legal powers to help police combat crime. However, the act also notes that private security companies will be liable for any misconduct by their employees and so should pursue additional powers only for their most competent employees.⁹ According to Schonteich, special powers (e.g. search and seizure of articles suspected to have been used in the commission of crime) have been given to some PSOs in the United Kingdom and the US, but this has been contingent on proper training being given to the relevant officers.⁹ If deserving PSOs are awarded these powers, it will help them to face the many security challenges of the current era, from property crime to terrorism. South Africa could draw on the experiences of other middle-income countries with comparable violent crime rates by exploring initiatives that empower deserving PSOs and make them more effective in preventing crime. As a result they would no longer be restricted to arresting people who commit Schedule 1 offences (e.g. serious crimes such as theft, robbery, arson and malicious damage to property), as is currently the case. Consequently, they may be able to help the police to lower crime levels in South Africa.

The only legislation empowering PSOs to combat crime in South Africa is Section 42 of the Criminal Procedure Act. This allows security officers to arrest without warrant anyone who commits a schedule 1 offence in the presence of security officers (where security officers are deployed).

The powers granted to PSOs to combat crime are the same as an ordinary citizen's powers to arrest a perpetrator. When security officers arrest a criminal, they have to call in the police to take the matter further. The same applies to Metro Police officers, the only difference being that they have been awarded peace officer status. This is clearly outlined in Section 64(F)

(3) of the South African Police Service Act 1995 (Act 68 of 1995).

Minnaar has noted that the issue of additional legal powers for South African PSOs has been discussed since 1997, when the South African Security Association (SASA) made a submission to Parliament to amend the act.¹⁰ Its submission was rejected. Minnaar also notes that strict regulation is important in this type of initiative. A 2010 study exploring the effectiveness of the Private Security Industry Regulatory Authority (PSIRA) found that most private security provider participants believed the industry was not well regulated.¹¹ Gumedze found the same in a 2007 study.¹²

Research purpose, questions, methods and procedures

The purpose of this study was to explore the perceptions of police and security officers with regard to whether private security industry personnel need additional legal powers to help the SAPS prevent and fight crime in South Africa.

The following questions guided the study: Do PSOs in South Africa need additional legal powers to act in support of the SAPS in combating crime effectively? (Asked in interviews with top management of the SAPS and the private security industry [PSI]). If so, to what extent? (Asked in self-administered questionnaires with operational members of both the SAPS and PSI).

One-on-one interviews (qualitative)

One-on-one interviews were conducted with the management of selected PSI (contract and in-house) service providers and the police station management of the SAPS. High-ranking officials from both the SAPS and PSI were chosen because they are responsible for strategic decision-making within their organisations. Two participants from each organisation were purposively selected to participate in the study.

Twenty police stations participated, with 37 officers at various levels being interviewed – from the station commander to the operational manager/visible policing (VISPOL) head.

From the 20 private security organisations participating in the research, the researcher interviewed 30 people at various levels, ranging from managing director to marketing manager and operational manager. Interviews were carried out in neutral settings.

The aim of the interviews was to test the following perception-based hypothesis (positive and negative statements):¹³

H₁: Security officers in South Africa need additional legal powers to act in support of the SAPS in combatting crime effectively

The hypothesis was tested through the empirical data gathered during interviews.

Survey questionnaire (quantitative)

To complement the interviews, a survey questionnaire was designed and distributed to a sample of private security service providers and members of the SAPS. Three hundred questionnaires were distributed to the SAPS and PSI respondents: 173 police officers and 163 PSI members returned completed questionnaires.

Private security companies and police stations were randomly selected in Gauteng province. A multi-stage probability sample was used, whereby the units (e.g. cities) and sub-units (e.g. police stations and private security companies) of analysis were randomly sampled.

Data collected from the questionnaires were coded, entered into Epi-info and analysed, using the Statistical Package for the Social Sciences (SPSS) version 22. Descriptive statistics were used to find patterns across the variables, using frequencies and proportions. A reliability analysis was carried

out to determine the reliability of the aspects on *additional powers for private security officers*. The respondents at operational level were asked to read the statements provided and indicate the extent to which they agreed/disagreed with them. As a result, leading questions were intentionally formulated. The reason this question was phrased differently to that presented to respondents at the top management level was precisely to test perceptions of its potential operationalisation. Response choices on the individual items were formulated and closed-ended with a five point Likert scale, ranging from strongly agree (1) to strongly disagree (5).

Research findings and analysis

Additional powers for PSOs: views of SAPS and PSI top management

Both the SAPS and PSI participants were asked the following question: ‘Do private security officers in South Africa need additional legal powers to act in support of the SAPS in combatting crime effectively?’

Sixteen of the PSI respondents indicated that PSOs do not need additional legal powers to act in support of the SAPS in combatting crime; 11 felt that PSOs need additional legal powers; and three indicated that they were unsure. Only one respondent (of the 16 PSI respondents) indicated that PSOs could be given additional legal powers if the regulating authority was effective.

In this regard, respondent 9 noted: ‘If I give my guard more powers and they use that next door and my client is attacked, who can I penalise? I do not think they need more powers.’ It makes sense that security company owners might reject the idea, because they are in business and their business is to look after their paying clients. As such, security company owners will need assurance that when their PSOs help police to reduce crime it

will not be to the detriment of their own paying clients. The role of PSOs can be effective and beneficial to non-paying clients. For example, in a residential area protected by a PSO, neighbours who are not protected by any security company enjoy the benefit when the PSO sees crime committed and reports that incident to the police.

This is supported by respondent 14, who said: 'No, private security officers should not have additional legal powers. It will create a lot of confusion. Now, you arrest and you call the police. We do not have to take over SAPS powers. More so these powers will likely be abused by security guys.'

The 11 participants who supported the idea that PSOs should be given additional legal powers proposed that they be given the power to stop and search people suspected or known to have committed an offence, and the power to arrest someone, irrespective of the nature of the offence. Currently, PSOs can do such things only as private citizens in line with Section 42 of the Criminal Procedure Act, as outlined above.

Ten of the 37 SAPS participants indicated that PSOs need additional legal powers to act in support of the SAPS and Metro Police in combating crime, 13 opposed the idea and 14 were unsure. The respondents gave different reasons for their views. For instance, respondent 4 said: 'If private security personnel will be under control of SAPS they may need those powers. Otherwise they will abuse these powers. If SAPS members abuse powers, the Minister of Police is held responsible. If private security officers abuse these powers, who will be responsible?'

SAPS participants were generally concerned about the possibility of abuse of power by PSOs. PSOs are not suited to working with police, participant 30 stated: 'Even if private security officers can get additional legal powers

they cannot go as far as police because some of them work with criminals.' In some parts of Gauteng, especially in the northern areas of Johannesburg (e.g. Rosebank, Sandton, Parktown, Parkview, Morningside, Parkhurst), officers from security companies such as ADT, Fidelity, G4S and Bidvest Protea Coin detain criminals and call the police to make the arrest, but according to some PSI participants, the police do not take them seriously. As participant 18 from the PSI clarified: 'A security guard arrests a criminal and calls the police but when the police turn around the corner they let the criminal free and the same criminal will make sure that he will come and just confirm to you that police let him free.' If security officers had peace officer status within the geographical area where they work, they could take control of alleged criminals until such persons come before a court of law.

Views from the SAPS and PSI participants at an operational level

Operational SAPS and PSI respondents were asked to reflect on the application of additional legal powers for PSOs, using a scale of 1 (strongly agree) to 5 (strongly disagree). The survey of operational officers was conducted first, in order to inform the interviews. The one-on-one interviews with top management, combined with the survey results, were intended to build a case for giving PSOs additional legal powers to help police reduce crime. The question asked of respondents at both operational level and top management level was: To what extent do you think private security personnel should be given extralegal powers to help public police combat crime in public? The respondents were asked to read the statements provided and indicate the extent to which they agreed/disagreed on a five-point Likert scale (1 = strongly agree, 2 = agree, 3 = neutral, 4 = disagree and 5 = strongly disagree) (see Table 2).

Please note: The researcher would like to acknowledge that the information in both tables 1 and 2 is not clear and may have impacted the results.

Table 1: PSI views on the granting of additional legal powers to private security personnel

Statement	Level of agreement					Sample size	Rank
	1 (Strongly agree)	2 (Agree)	3 (Neutral)	4 (Disagree)	5 (Strongly disagree)		
In order for private security personnel to be given peace officer powers, Safety and Security Sector Education and Training Authority (SASSETA) should design a specific training course to be attended by security personnel wanting to be peace officers	65.0% (93)	24.5% (35)	8.4% (12)	–	2.1% (3)	143	1
In order for security personnel to be given peace officer powers, security personnel should attend training administered by the police	55.9% (80)	31.5% (45)	6.3% (9)	2.1% (3)	4.2% (6)	143	2
The power to stop and search members of the public when suspecting them to be in possession of any unauthorised items suspected to have been used in crime	62.2% (89)	23.1% (33)	5.6% (8)	5.6% (8)	3.4% (5)	143	3
To be given peace officer powers by the minister of police	43.3% (61)	33.3% (47)	9.9% (14)	7.1% (10)	6.4% (9)	141	4
Powers of arrest with a warrant	48.6% (70)	27.8% (40)	8.3% (12)	7.6% (11)	7.6% (11)	144	5
An independent body headed by a retired judge could be established to allocate the status of peace officer to private security personnel	31.9% (45)	33.3% (47)	18.4% (26)	7.8% (11)	8.5% (12)	141	6
Powers of arrest without a warrant for any offence committed under any crime schedule	35.9% (51)	21.8% (31)	21.8% (31)	9.9% (14)	10.6% (15)	142	7

Table 2: Additional legal powers for private security personnel as viewed by the SAPS

Statement	Level of agreement					Sample size	Rank
	Strongly agree	Agree	Neutral	Disagree	Strongly disagree		
1. In order for private security personnel to be given peace officer powers, SASSETA should design a specific training course to be attended by security personnel wanting peace officer powers	34.2% (51)	34.9% (52)	11.4% (17)	8.7% (13)	10.7% (16)	149	1
2. In order for security personnel to be given peace officer powers, they should attend training administered by the police	33.3% (50)	32.7% (49)	14.7% (22)	8.7% (13)	10.7% (16)	150	2
3. The power to stop and search members of the public when suspecting them of being in possession of unauthorised items suspected to have been used in crime	36.0% (54)	22.7% (34)	13.3% (20)	11.3% (17)	16.7% (25)	150	3
4. Powers of arrest with a warrant	25.7% (38)	27.7% (41)	11.5% (17)	15.5% (23)	19.6% (29)	148	4
5. Powers of arrest without a warrant for any offence committed under any crime schedule	24.2% (36)	26.8% (40)	16.8% (25)	15.4% (23)	16.8% (25)	149	5
6. To be given peace officer powers by the minister of police	18.0% (27)	22.0% (33)	23.3% (35)	16.0% (24)	20.7% (31)	150	6
7. An independent body headed by a retired judge could be established to allocate the status of peace officer to private security personnel	13.4% (20)	18.8% (28)	28.9% (43)	21.5% (32)	17.4% (26)	149	7

For the purposes of presenting the research findings, ‘strongly agree’ and ‘agree’ are condensed under ‘agree’, and ‘strongly disagree’ and ‘disagree’ are condensed under ‘disagree’.

Statement 1: For private security personnel to be given peace officer powers, SASSETA should design a specific training course: 90% of PSI respondents at the operational level

agreed with the statement, 8% were neutral and 2.1% disagreed. At the operational level, 69.1% of SAPS respondents agreed with the statement, 11.4% were neutral and 19.4% disagreed.

The reason both groups of respondents agreed with the statement may be attributed to the fact that SASSETA is the body responsible for quality assurance of training in South Africa's PSI. It is therefore understandable to have such a body offer specific training on peace officer powers.

Statement 2: For security personnel to be given peace officer powers, they should attend training administered by the police: 87.4% of PSI respondents agreed with the statement, 6.3% were neutral and 6.3% disagreed. Among the SAPS respondents, 66% agreed with the statement, 14.7% were neutral and 19.4% disagreed.

In this statement there is agreement between the respondents from the PSI and respondents from the SAPS to the same degree in all respects, that is, from both groups the level of agreement is high, neutral views are medium, and the level of disagreement is low. The PSI might want security personnel who want peace officer powers to be trained by the police, possibly because they believe the police are best suited to this, having been granted peace officer powers on joining the police service. One needs to consider that respondents were asked leading questions.

Statement 3: With regard to the power to stop and search members of the public who are suspected of being in possession of unauthorised items used in a crime, 85.3% of PSI participants agreed with the statement, 5.6% were neutral and 9% disagreed. From the SAPS, 58.7% of respondents agreed with the statement, 13.3% were neutral and 28% disagreed.

It can be observed that the PSI and the SAPS respondents agreed to the same degree on all aspects. That is, the level of agreement is highest in both instances, followed by disagreement in both instances, while the fewest are neutral in both instances.

The power to stop and search members of the public who are suspected of possessing unauthorised items used in the commission of a crime is a good thing for private security personnel to have, but it has implications: What happens when private security personnel step outside the law while carrying out that duty? Who will be liable for a wrongful act committed by a PSO who has been declared a peace officer? It is thus important that security officers undergo training to equip them with the skills they need to be able to effectively perform their task as peace officers.

Statement 4: In respect of officials needing peace officer powers given by the minister of police, 76.6% of PSI respondents agreed, 9.9% were neutral and 13.5% disagreed. Of the SAPS respondents, 40% agreed with the statement, 23.3% were neutral and 36.7% disagreed. The reason both groups believe peace officer powers should be conferred by the minister of police may be that currently, such powers are awarded by the minister locally. This might be an indication that the respondents want the status quo to remain.

Statement 5: As regards powers of arrest with a warrant, 76.4% PSI respondents agreed with the statement, 8.3% were neutral and 15.2% disagreed. From the SAPS, 53.4% respondents agreed with the statement, 11.5% were neutral and 35.1% disagreed.

Again, the power to arrest with a warrant may be viewed as merely following procedures written on the warrant itself. Arresting a perpetrator should not have implications for private security personnel, unless they wrongfully arrest the innocent or fail to follow the

necessary steps after executing an arrest, which would entitle victims to lay civil claims against such personnel.

Statement 6: An independent body headed by a retired judge could be established to confer the status of peace officer on private security personnel: 65.2% PSI respondents agreed with the statement, 18.4% were neutral and 16.3% disagreed. From the SAPS, 32.2% respondents agreed with this statement, 28.9% were neutral and 38.9% disagreed.

It is clear that there is a disagreement between the PSI and SAPS respondents on this issue. This may be attributed to the fact that respondents from the SAPS want the status quo, whereby they are given these powers by the minister of police, to remain. Respondents from the PSI want that to change and, in their view, an independent body such as a retired judge could be ideal.

Statement 7: As regards powers of arrest without a warrant on any offence committed under any schedule 1 offence: 57.7% PSI respondents agreed with the statement, 21.8% were neutral and 20.5% disagreed. From the SAPS, 51% respondents agreed with the statement, 16.8% were neutral and 32.2% disagreed.

At an operational level, respondents from both groups agreed on six statements regarding private security personnel being afforded additional legal powers. However, they disagreed on the issue of an independent body headed by a retired judge being appointed to confer peace officer powers. This contradicts the responses of top management from both groups: there, the majority were of the opinion that private security personnel should not be given additional legal powers. Top management were only asked if PSOs in South Africa needed additional legal powers to act in support of the SAPS and the Metro Police in combatting crime effectively. The reason this question was

phrased differently from the one presented to respondents at the operational level was precisely to test whether it would be possible at an operational level to implement the idea, if top management approved in principle. Thus, all respondents were asked the same question, in different ways. It can be concluded that top management of both groups agreed that PSOs should not be given additional legal powers to act in support of the police in combating crime. This proves the hypothesis false.

As regards the seven items presented to both groups at the operational level, all respondents agreed, in all items, that PSOs should be given additional legal powers to act in support of the police in combatting crime in accordance with the extent to which they agreed with the question. This supports the hypothesis.

Discussion and concluding remarks

It is clear from this study that senior SAPS and PSI managers reject the hypothesis.

The four groups of respondents (SAPS operational level, SAPS top management level, PSI operational level and PSI top management level) had differing opinions. The respondents from the top management levels of both the SAPS and PSI overwhelmingly agreed that PSOs should not be given additional legal powers to act in support of the police in reducing crime. Although the reasons for this rejection vary, the following may apply: the PSI is profit driven and looks after its paying clients. This was confirmed by respondent 18 from SAPS top management. They can only extend their crime prevention mandate to non-paying clients to a limited extent, by reporting any crime they witness to the police. Top management may fear that PSOs will be distracted from protecting paying clients to focus on public members who are not clients. This will negatively affect business, because if business is not delivering the services that clients are

paying for, they may terminate their contracts. However, it is equally possible that when PSO or security officers are known to arrest criminals, their private clients will be happy and private business may grow.

In addition, PSI top management may be afraid that security officers will be subjected to litigation while busy protecting the public, for instance if they fail to follow proper procedure. Such legal issues could tarnish the image of the security organisation. Once an arrest has been made, security officers will need to present as witnesses their case in a court of law (which to some extent happens in the current set-up), which will compromise human resources on the ground (the operational needs of the security company). As a result, security officers may be overworked; however, this could be compensated for and built into a revised system. Of critical importance is that, even if PSOs made arrests, the police would still be responsible for further investigating alleged crimes and preparing dockets for court.

SAPS top management also opposed PSOs having additional legal powers to help police combat crime. Possible reasons may include the fact that they do not believe anyone other than public police can prevent crime effectively (as claimed by respondent 11 from PSI top management respondents); they fear that security companies might not take responsibility for the actions of their officers (as the police minister does for police officers – this was the view of respondent 9 of PSI top management respondents); and they may fear that PSOs will collude with criminals in committing crimes. As top management, the police are concerned about strategic aspects of the SAPS: they want to avoid any possible obstacles to their work in preventing or combatting crime. A forced partnership with another stakeholder in crime prevention may lead to unforeseen complications.

At an operational level, both groups disagreed with their superiors. The reason for this is that the PSOs do the practical security work and they think additional powers would assist them to do this; their daily interactions with the public inform the scope of growth in the PSI.

In terms of the statistical reliability test, the Cronbach alpha was used to determine how unified the items in the dimension are, by measuring the internal consistency (the extent to which all of the items within a single instrument yield similar results).¹⁴ A high Cronbach value signifies that the items are measuring the underlying (or latent) construct. The following is a rule of thumb: >0.9 – excellent, >0.8 – good, >0.7 – acceptable, >0.6 questionable, >0.5 poor and < 0.5 unacceptable.¹⁵ However, the generally agreed lower limit for Cronbach’s alpha is 0.7, although it may decrease to 0.6 in exploratory research.¹⁶ In this research, 0.6 is deemed an acceptable level. The following measures of reliability were obtained for the PSI and the SAPS on the dimension ‘additional powers for private security’ (see Table 3).

Table 3: Reliability of results of issues regarding additional legal powers for private security officers

Aspect	No. of items	Cronbach’s alpha	Acceptable level
PSI	7	0.687	Acceptable
SAPS	7	0.890	Excellent

The overall reliability of this dimension was 0.687, which is acceptable, and thus overall the instrument was reliable. In terms of the SAPS the overall reliability of the same dimension was 0.890, which is excellent, thus the overall instrument was reliable.

Businesses always strive to grow their profit margins. With this in mind, it is important to look at different ways of empowering crime

prevention partners such as PSOs. The government's main interest is to ensure that all citizens are safe in a democratic manner that does not oppress anyone. The police cannot do this by themselves. Private security companies have significant human and infrastructural resources. Of course, this does not suggest that empowering PSOs will end crime in South Africa.

This study explored the opinions of police and security officers at both the operational and top management levels. At an operational level there was agreement that PSOs should be given additional legal powers. Top management had a different view, however. The few respondents from top management who agreed that PSOs should be given additional legal powers pointed out that such powers could include making arrests, as well as stopping and searching members of the public who are suspected of having committed a crime. For a more definitive answer on this matter, more research is needed.



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Notes

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