

TOWARDS A THIRD PHASE OF REGULATION

Re-imagining private security in South Africa*

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With the legislative review of police oversight currently taking place in South Africa, now is a good time to reflect on the regulation of the private security industry. This article does so by focusing on three challenges to the current private security regulatory systems: the increased pluralisation of policing within public spaces; the operation of hidden sectors within the industry; and the nature of criminal abuses perpetuated by the industry. We do this to demonstrate the need for a re-imagining of what regulation, especially state regulation, of this industry should entail. The aim of the article is not to review the current legislation or to identify gaps and propose means of filling those gaps, but rather to reflect on the underlying premises informing the legislation and propose a shift in thinking. We do this by briefly identifying two phases of state regulation in South Africa, implemented before and after the change to a new democratic dispensation, and suggest that we are now entering a third phase of regulation. We conclude with suggestions as to what this third phase may entail.

THE NATURE OF PRIVATE SECURITY IN SOUTH AFRICA

The private security industry in South Africa is of interest to academics and policy-makers the world over, for a variety of reasons. It is believed to be the largest in the world in terms of its contrib-

ution to the country's GDP (Gross Domestic Product) – approximately 2% of the total GDP of the country – and had an estimated annual turnover of approximately R40 billion in 2007 and R50 billion in 2008.¹ The industry has grown exponentially for the past few decades, both in terms of numbers of guards and numbers of companies (Figures 1 and 2).²

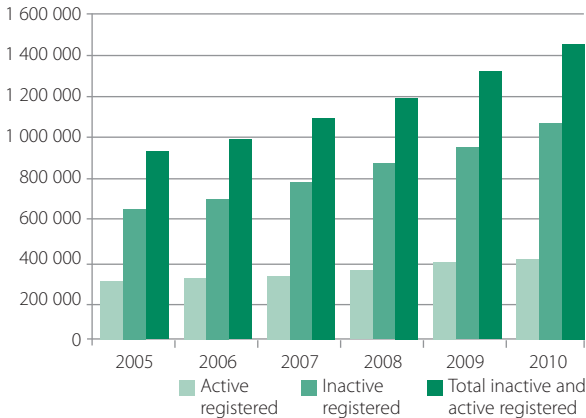
A significant proportion of the industry is armed – which is not necessarily the case in other countries (for instance Sierra Leone and Nigeria).³ Arguably, the guarding staff of private security companies in South Africa are confronted with violent situations that private security guards in many other countries would never have to confront, at least not on a regular basis. The

* This paper has been developed on the basis of a policy brief originally written for the African Policing Civilian Oversight Forum (APCOF) and has been made possible by funding from the Open Society Foundation for South Africa. Thanks are due to Sean Tait for his insights that have framed some of the contents of this paper.

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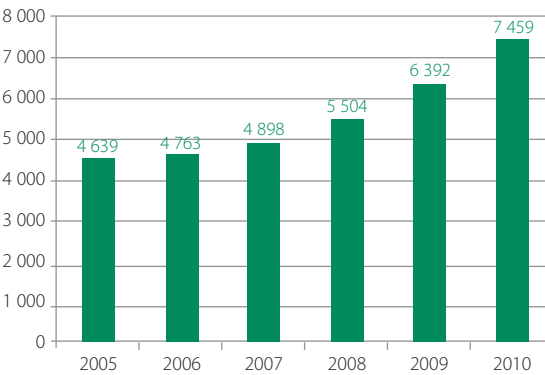
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Figure 1: Number of active and inactive registered security offices in South Africa 2005-2010



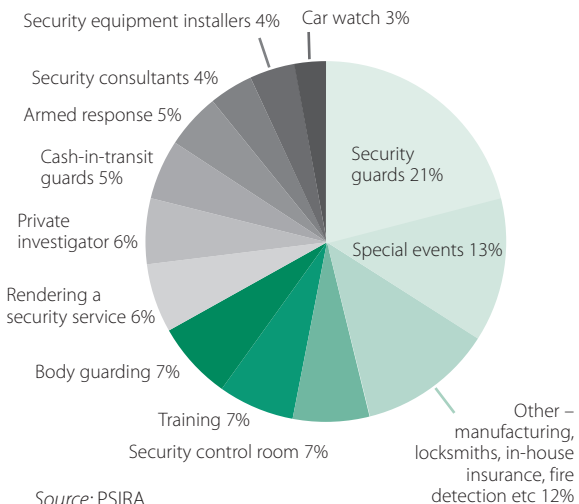
Source: PSIRA

Figure 2: Number of active registered security businesses in South Africa 2005-2010



Source: PSIRA

Figure 3: Security services offered in South Africa as at 2005



Source: PSIRA

industry also undertakes a range of sometimes overlapping activities, and performs functions both within and outside the purview of the state, as set out in Figure 3.

In light of this, South Africa may be a natural site for issues of regulation to be both challenged and developed.

South Africa has a very comprehensive set of laws for regulating the industry;⁴ so much so that countries like Kenya and Uganda are modelling their regulatory framework on the South African laws – at least on paper.⁵ Yet there are still challenges to ensuring that the industry operates professionally, constitutionally and to a high standard.⁶ These challenges include, but are not limited to, ineffective implementation of the legislation. This leads us to challenge the underlying ways of thinking or ‘mentalities’ that have informed private security regulation in South Africa.⁷ In doing so we firstly explore what is meant by regulation; we secondly outline what we think of as the first two phases of state regulation in South Africa; and then propose a third phase through highlighting three developments that challenge prevailing mentalities and practices. In conclusion we reflect on how these developments force one to re-think or re-imagine how some aspects of regulation could work in South Africa.

REGULATING WHAT? TWO PHASES OF STATE REGULATION

When speaking of regulation one is actually speaking of systems of control and accountability.⁸ Regulation is something usually requiring norms or rules that are enforced by some party in an attempt to shape the behaviour of others, and then to hold them to account (or to be answerable) for that behaviour.⁹ In this article we conceive of regulation as including non-state regulation. We use Julia Black’s definition of regulation as something that can come from a variety of directions and sources, it ‘occurs in many locations, in many fora’, and it is a ‘product of interactions’ rather than exclusively formal, top-down or legal (state) control.¹⁰ In other words,

regulation can be undertaken by both state and non-state actors (such as clients, the public, private businesses, private security companies and so forth).¹¹ However, a great deal can be learnt about the underlying theory, rationale or goal by reviewing systems of state regulation, as set out below. We argue that there have been two (overlapping) phases of state regulation of the industry since the 1980s.¹²

First phase

The first phase – apartheid-era regulation – reflected the nature of the relationship that the state had with the industry at the time. The first law, the Security Officers Act, was passed in October 1987 and was enacted primarily to create a Security Officers’ Board. The Board was essentially created to ensure that security companies, employers and employees would register with it (with certificates issued to that effect), and it decided who could qualify to be registered or not.¹³ The state sought to involve the industry both directly and indirectly in policing activities. For instance, the National Key Points Act granted security personnel guarding key points (such as fuel plants and military bases) powers of arrest and search and seizure.¹⁴ In many instances, the security of strategic facilities was undertaken by private security companies, and thus the industry was forced to professionalise.¹⁵ The system of regulation created during this time was aimed at achieving professionalisation through ‘state-enforced self-regulation’.¹⁶

In distinguishing between the first phase of regulation and the second, it could be argued that the 1987 law was intended to protect the interests of the industry, whereas laws that were passed later, during phase two, were intended to protect the interests of the public. That would explain why newer legislation takes a more punitive and exclusionary stance with respect to the treatment of the industry by the government.¹⁷

Second phase

The second phase of security regulation corresponded with political change. There was also a need to

address loopholes in the Security Officers Act (1987), such as, for instance, the exclusion of the in-house sector in its regulatory mandate; and the presence of industry representatives on the Security Officers’ Board, which rendered the Board subject to vested interests. This resulted in the Security Officers Amendment Acts of 1992, 1996 and 1997 and the Private Security Industry Regulation Act of 2001 and other supporting legislation.¹⁸ With the change to a democracy, the changed nature of relations between the state and the industry resulted in different regulatory goals, i.e. the protection of labour rights and of the public. This shift reflected the changed nature of the relationship between the state and the industry, from industry being viewed as an ally of the state to a potential threat.

This article argues that the time is ripe to enter a third phase of regulation.¹⁹ We support this contention by outlining three challenges we believe are not adequately addressed by current systems of state regulation: the increasing pluralisation of policing; the operations of hidden sectors of the industry; and the actual (and potential) criminal abuses arising from the industry.²⁰

THREE CHALLENGES TO STATE REGULATION

Pluralisation

A claim often made when talking about private security is the fact that ‘it is now almost impossible to identify any function or responsibility of the public police that is not, somewhere and under some circumstances, assumed and performed by private police in democratic societies’.²¹ This is especially true for South Africa. Of the many activities the private security industry performs, the movement into public spaces and the policing thereof is surely one of the most controversial. In recent years there has been an increased pluralisation of policing in what are considered to be public spaces. Pluralisation entails the increasing involvement and diversity of non-state (and state) entities in conventional policing activities. There are a number of causes and

drivers for this development that are not discussed here. However, it is important to note the changing nature of spaces and the power afforded to private security in these spaces. In relation to the changing nature of spaces, a blurring of public and private space is observable, such that private spaces take on aspects of public-ness through being open to the public and having a public feel (mass private property such as sports stadia, shopping malls and so forth). On the other hand certain public spaces increasingly adopt a private feel, as, although accessible to the public, a private system of ordering operates alongside the state system (City Improvement Districts, gated communities and so forth).²²

Private security operating in private space derives considerable power through contract and property law. Private security operating in public space derives considerable power (both symbolic and legal) through, for instance, laws such as the Criminal Procedure Act and/or through sheer numbers, resources and technologies at its disposal), which enables it to work alongside the state police and do very similar things to the state police. This movement into public space necessarily means that at various points state and private security share the same spaces. Research has shown that one of three things happen: cooperation, hostility or co-existence.²³

Where it results in cooperation (which has been the case in many settings in South Africa), complex state and non-state relationships may develop, and interesting questions begin to form,²⁴ such as who is responsible for what? Who is to be held accountable should something go wrong? Who is meant to ensure an alignment to constitutionality, human rights and professional practice? Thus increasing pluralisation of policing may result in the 'problem of many hands... where so many people contribute that no one contribution can be identified; and if no one person can be held accountable after the event, then no one needs to behave responsibly beforehand.'²⁵

The more complex the network becomes, and where authority, resources, knowledge and skills

are shared, the more difficult it is to hold individual policing organisations to account. Currently there is no normative framework through which all those groupings and institutions involved in policing can be guided in their engagement with each other, especially with respect to the types of functions that the private sector is legally permitted to perform.²⁶ In addition, existing regulatory bodies responsible for oversight of the private security industry on the one hand and the police on the other, tend to operate in silos and thus may not be able to address challenges arising from collaboration between state and non-state policing institutions.²⁷

Hidden sectors

In addition to the abovementioned shortcomings, existing legislation does not refer to what we refer to as 'in-house' security. In-house security consists of a company making use of its own security operations, personnel and equipment to protect its interests.²⁸ Nowhere does existing legislation provide a framework for regulating the activities of 'contract security' companies.²⁹ Contract security companies provide a range of services: they may head a client's risk management operations; offer human resources services; consult on matters such as security policies and procedures; identify weaknesses in security; provide security technologies such as surveillance systems and access control; introduce undercover agents into the workforce; be responsible for conducting an investigation when an offence takes place; and act as a liaison between the client and state law enforcement. They thus offer a security package to their clients, fulfilling all of their security needs, allowing clients to focus on their core business. This sector has emerged because it is more cost-effective and efficient for a company (e.g. a retailer) to employ a contract security company to head in-house operations and provide the knowledge and technology required, than to employ their own staff to perform this function. These service providers have specialised skills, knowledge of the industry, and contacts that are desired by clients.

In 2010 Jean-Pierre Nouveau conducted field research for the purpose of completing a Masters

dissertation. The study involved the observation of and participation in an investigation into the theft of a number of valuable products held within the client's warehouse by a syndicate consisting of staff members of the client. This investigation was conducted by contract security providers, and involved polygraphers. The investigation resulted in a disciplinary hearing by the client company, and the crime was only later reported to the police, once the investigation was completed. Once the crime had been reported to the police the security company also acted as liaison between the client and the police and prosecutor, briefing them on the investigation that took place as well as providing them with the evidence that they had accumulated, such as the results of polygraph tests and formal statements. In addition to the researcher's observation during the investigation, over the period of a year he also analysed the core business functions of the client, and spent a semester interning at the contract security company that was employed by the client.

Research has shown that 'in-house security' still largely remains outside of the purview of the state.³⁰ The same is true for contract security; yet, contract security companies increasingly act as if they were part of the businesses they are contracted to provide services to. This has contributed to a blurring of the functions of the *in-house* security sector and the *contract* security sector.

While in the past a client's in-house security unit/branch would have been responsible for internal investigations, companies now contract private security providers to conduct the investigations for them.³¹ In addition, undercover agents employed and governed by contract security companies are contracted to the client to provide in-house security. In such cases the contract security company is responsible for training and vetting the agents and paying them a set basic salary for their work under cover. In addition the client pays them for the specific work they are doing while they are under cover, as per the normal wages of employees in their position. They are therefore both agents of the contract security company and the client company.

As a result of this blurring, the functions associated with contract security exist in the very private, insulated sphere of in-house security. Contract security, which has been the focus of regulation, is concealed within the space/s of in-house security, which, as mentioned, is largely outside of the purview of the state, despite the normative frameworks in place. This means that a large part of the industry in practice operates outside of state regulation or control and natural (i.e. public) surveillance.

Through missing a large part of the industry, the current regulatory system does not reflect the reality of the private security industry. However, Nouveau's research has shown that while the state may be absent, the industry is not entirely unregulated. We have used the concept of *regulation through association* to describe this form of regulation.³² Simply put, regulation through association refers to the fact that future business prospects are determined by the relationships, resources and the reputation that private security companies possess.

Relationships exist between clients and security companies, between different security companies, and between police agents and security companies, to name a few. Resources include the services and technology available to a contract security company as well as the contacts they have that provide services and expertise such as truth verification (for example, polygraph tests). As for reputation, good relations with associates will determine future employment. Ultimately, a company has to consistently prove itself and maintain a positive reputation with its clients. In so doing it will become more attractive to potential clients. These three factors in combination determine a company's associative value. Companies associate themselves with the strategic partners in order to secure business opportunities for one another. Clients are often known to one another, as well as to security providers. The decision to align oneself with a particular security provider is a crucial one, and is linked to the services they provide and how they conduct their activities. An intimate association (for instance by means of a retainer)

with key clients lends desirability to particular security providers; that is, they have a high associative value. In this way private security companies are held accountable by other players within the industry. This is a mutually beneficial act of symbiosis. Crucially, this has the consequence of keeping out the fly-by-night security providers, by starving them of work. Thus the novelty and advantage of regulation through association is its capacity to introduce social, moral, and personal dynamics into the arena of regulation.

Nouveau's research has also shown that security providers form selective associations according to their interests and are free from external regulatory tools, such as codes of conduct. The problem is that these networks of associations are not necessarily legitimate, nor do they necessarily operate within the confines of the law. Some clients may require that security providers act within the law, while others turn a blind eye to unlawful activities, as these may be what they require. This may include the use of 'old boy' networks to acquire privileged information.³³ Moreover, these associations may exist in the absence of a contract. As such, behaviour is regulated by the requirements of the association rather than through contracts, laws or codes of conduct.

Association seems to be an important element of regulating the industry, and in one respect the network of associations acts as a regulatory body. Yet, this is not sufficient to ensure that these companies comply with the law, or act in a way that benefits society. It may be concluded that the idea of a single entity that can act as an overarching regulator is untenable.

Criminal abuses

So far we have shown that the pluralisation of policing and the complexity of the industry present both challenges and opportunities for conceiving of a new form of regulation. A third issue, criminal abuse, needs to be considered before we can move on to suggesting a new approach.

The private security industry (or at least sections of it) can, in theory, threaten the security of individuals – as demonstrated by the types of incidents appearing in recent media reports and high-profile court cases.³⁴ This may be due to, for instance:

- the fact that private security guards are often the first line of defence for their clients and may thus be confronted with potentially violent situations
- a large part of the industry is (heavily) armed – particularly armed response dealing with emergency calls
- the increased movement of private security into public spaces, as mentioned, means greater interaction with the public
- a large part of the activities of private security guards may take place outside the purview of transparent, state oversight.

This is compounded by the fact that very little is known about the deaths and injuries caused by people within the industry, except through a review of court cases.³⁵ Coupled with this is the absence of analytical capacity. In other words, there is no body or institution which regularly and routinely analyses the nature of criminal abuses in the industry to ascertain whether there are any systemic problems within the industry itself that need to be resolved.³⁶ Incidents of criminality are dealt with either internally or through court cases (but not necessarily so), on an *ad hoc* basis.

The root of the problem is the fact that the current regulatory system, and specifically PSIRA, is, in practice, 'a business regulation model rather than a model of public service governance'.³⁷ Although the legislation provides for peace officer status and confers a number of powers on inspectors, the reality is that inspections focus on the business aspects of regulation, while criminal cases are referred to the SAPS.

...what we [PSIRA] do is we randomly select companies where we go do inspections or we go specifically in terms of a plan. We check the name list to see whether the people are registered, trained, whether they are paid the

correct allowances like [...] Sunday time, etc. Those types of normal things. ... but we don't really get involved in criminal issues as such.³⁸

In other words, PSIRA deals with such things as licensing, certification and minimum standard setting, but is not equipped to deal with criminality, episodes of violence, human rights violations and the illicit use of firearms. Where these incidents are identified, PSIRA's powers are limited to the issuing of a warning, suspension or withdrawal of registration of the offending private security company. In other words, PSIRA relies on the SAPS to prosecute cases of abuse.³⁹

CONCLUSION: TOWARDS A THIRD PHASE OF REGULATION

The above three challenges – the increased pluralisation of policing, the operation of hidden sectors of the industry, and criminal abuses – indicate the need to re-examine our current (state) regulatory systems if we are to enter a third phase of regulation that addresses these problems. This requires innovation, recognising these and other problems and conceiving of a system of regulation that is a mix of regulatory techniques and practices from both state and non-state sources. A one-size-fits-all approach is not sufficient.

A business model of regulation, if implemented well, can resolve a number of issues (with respect to the rights of employees for instance), but falls short if not supplemented by other techniques. Regulation through association, as discussed above, demonstrates that the private security industry is an organic network of associations that is constantly changing and evolving in unpredictable ways. A centralised, hierarchical approach to regulation cannot succeed if the aim is to enter the regulatory space of the hidden sector. If the state wished to make inroads into regulating the hidden sector, it could enter into the field of regulation, not as commanders, but as an associate within the network of associations. It would then need to form flexible and purposeful associations with other consenting actors, in a mutually beneficial and symbiotic manner. This

would be a form of circular regulation, which could be supplemented by a vertical approach (that is, a top-down legislative system of regulation).⁴⁰

The current state regulatory system also lacks a system of accountability. That is not to say that the industry is not accountable at all, since private security can be 'governed by and accountable to different people/bodies for different aspects of their work, at different times, and in different ways.'⁴¹ In some ways private security may in actual fact be more accountable than the state police, but in other respects less accountable, depending on who one is required to be accountable to. A company may, for instance, be accountable to its client but still operate on the fringes of legality.

What is lacking is a way to ensure that private security companies and their employees are held accountable to the Constitution and to principles of human rights. In order to do this it is necessary to ask what accountability should entail. This raises a number of important questions: For what reasons should companies have to account for their actions? For example, is it because of their impact on public safety, or because of their potential to hamper freedom of movement and privacy? To whom should the company account? Is it the state, the client, the public, parliament, or all of these? For what actions should the company have to account, and when? Before, during or after an action for which they should be accountable? How should they account? Through the submission of information or written reports? And to which level should they report: local, national, regional – or all three?⁴²

Not all sectors of the industry need to be subject to the same systems of accountability, since some sectors are involved in activities that may pose no immediate threat to human rights or public safety. This suggests the need for multiple levels or sites of accountability, aimed primarily at the sectors that have the potential for abuse. For this to happen, both state and non-state players have to be involved. The state may not necessarily have the knowledge, power and capacity to fully and

effectively regulate all and every aspect of the industry, nor is it necessary that it does, if a multi-faceted approach to regulation is adopted.⁴³ This is a conclusion that the state has at various stages probably also reached, given the nature of the regulatory system in place in the past and present.⁴⁴ So perhaps the path to a third phase is already being paved. What remains is to find a way to link state and non-state systems and/or meta-regulate systems (to regulate the regulators) already in place, and align them with the Constitution.⁴⁵

We would like to conclude with a proposal for a different approach to regulating the private security industry, which may also be relevant to the regulation of policing in general. Given the plurality of policing of public spaces, and in fact in the private realm as well, perhaps there should be a focus on the *functions* of policing rather than only the *institutions* of policing. In this way, instead of having discrete regulatory bodies for each institution, one could have regulatory bodies or even one overarching regulatory body with representation from state and non-state institutions, aimed at specific functions, no matter who is engaged in this function.

This is not a new idea. It stems from recommendations made by the Independent Commission on Policing in Northern Ireland (known as the Patten Commission) on ways to reform policing in Northern Ireland. One of the recommendations was to create a Policing Board responsible, amongst other things, for the democratic accountability of all policing and which would therefore go 'beyond supervision of the police service itself, extending to the wider issues of policing and the contributions that people and organizations other than the police can make towards public safety.'⁴⁶

It was proposed that this Board should consist of state representatives but also representatives from 'business, trade unions, voluntary individuals, community groups and the legal profession.'⁴⁷ It is not difficult to imagine similar principles of regulation and accountability finding expression in the South African context. However, we need

to know more about the nature of policing, such as the hidden sectors for instance, to be able to move into a third phase. We thus agree with Clifford Shearing that one possible way to a third phase of regulation would be to establish a Policing Commission to fully investigate the nature of policing in its entirety in South Africa and propose a practical way forward for effective, innovative regulation.⁴⁸



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NOTES

1. Rita Abrahamsen and Michael Williams, *Security beyond the state: private security in international politics*, New York: Cambridge University Press, 2011, 21; Annalise Kempen, South African private security enters into partnership with European counterparts, Servamus, 28 August 2008, http://www.servamus.co.za/index.php?option=com_content&task=view&id=192 (accessed 3 November 2011).
2. The information generated in the three graphs is derived from the Private Security Industry Regulatory Authority (PSIRA) Annual Reports from 2004/2005 to 2009/2010, available at <http://www.psira.co.za/> (accessed 14 October 2011).
3. According to the Central Firearms Registry of the South African Police Service, in September 2003 1 643 out of 3 252 private security companies (that is, more than half) had a total of 58 981 firearms in their possession. Unfortunately later figures are not available. Central Firearms Registry presentation to the parliamentary portfolio committee on safety and security, 17 September 2003; Chandré Gould, Guy Lamb, Gregory Mthembu-Salter et al, Country study: South Africa, in Chandré Gould and Guy Lamb (eds) *Hide and seek: taking account of small arms in Southern Africa*, Pretoria: Institute for Security Studies, 2004, 185; Abrahamsen and Williams, *Security beyond the state*.
4. These include the Private Security Industry Regulation Act 56 of 2001, Private Security Industry Levies Act 23 of 2002, Firearms Control Act 60 of 2000, Private Security Industry Regulations, 2002, Code of Conduct for Security Service Providers, 2003, Improper Conduct Enquiries Regulations, 2003 and the Appeal Regulations, 2002.
5. Rita Abrahamsen and Michael Williams, *The globalisation of private security country report: Kenya*, Aberystwyth: Department of International Politics, University of Wales, 2005, 9.
6. Anthony Minnaar and Kris Pillay, *A review of the issues and challenges facing the private security industry in South Africa*, unpublished research report, Pretoria: Department of Security Risk Management, School of Criminal Justice, College of Law, University of South Africa, 2007.

7. David Bayley and Clifford Shearing, *The new structure of policing: description, conceptualization, and research agenda*, Washington DC: National Institute of Justice, 2001, 3.
8. Philip Stenning, Introduction, in Philip Stenning (ed), *Accountability for criminal justice: selected essays*, Toronto: University of Toronto Press, 1995.
9. John Braithwaite, *Restorative justice and responsive regulation*, New York: Oxford University Press, 2002, x.
10. Julia Black, *Critical reflections on regulation*, London: Centre for Analysis of Risk and Regulation, 2002, 4, 6.
11. For a review of state and non-state regulation, see Julie Berg, The accountability of South Africa's private security industry: mechanisms of control and challenges to effective oversight, *Open Society Foundation for South Africa Criminal Justice Initiative Occasional Paper Series*, 2, 2007.
12. The aim of this article is not to review the legislation, but to reflect on underlying premises informing the legislation. To see a review of the legislation pre- and post-Apartheid see Julie Berg, The private security industry in South Africa: a review of applicable legislation, *South African Journal of Criminal Justice*, 16(2) (2003), 178-196; Julie Berg, Holding South Africa's private security industry accountable: mechanisms of control and challenges to effective oversight, *Acta Criminologica*, 21(1) (2008), 87-96; Anthony Minnaar, *Inaugural Lecture: private-public partnerships: private security, crime prevention and policing in South Africa*, Pretoria: Department of Security Risk Management, School of Criminal Justice, College of Law, University of South Africa, 2004, Available at <http://www.crimeinstitute.ac.za/reports/inaugural.pdf> (accessed 14 October 2011); Minnaar and Pillay, *A review of the issues and challenges facing the private security industry in South Africa*.
13. Security Officers Act 92 of 1987, s 10(1), s 11(3), s 13 and s 14.
14. Evadne Grant, Private policing, in Thomas Bennett, Derry Devine, Dale Hutchison, Solly Leeman and Dirk Van Zyl Smit (eds), *Acta Juridica*, Cape Town: Juta, 1989, 92-117.
15. Prabhat Mehta, Gray, ANC Representatives Debate on Divestment Issue, *The Tech* 110 (1990), 1, 11. <http://tech.mit.edu/V110/N24/colloq.24n.html>
16. John Braithwaite, Enforced self-regulation: a new strategy for corporate crime control, *Michigan Law Review*, 80 (1982), 1466-507, 1467. It is in the composition of the Security Officers' Board (which includes representatives from the private security industry), as well as the influence of security associations in the process of drafting, promoting and the self-implementation of the legislation, that one can consider the legislation to be geared towards a form of enforced self-regulation.
17. Jenny Ibbotson, Repositioning the security industry in a changing South Africa, *Security Focus* 35, 1994, 59.
18. See note 4 above for a list of the supporting legislation.
19. In 2010, the Ministry of Police began a review process of the functioning of PSIRA, during which gaps in the legislation were identified. This has prompted a new process to address the legislation regulating the industry and other 'operational deficiencies' within the industry: Speech: Minister Nathi Mthethwa urges Security Companies to monitor their firearms, 10 August 2011, <http://www.info.gov.za/speech/DynamicAction?pageid=461&sid=20609&tid=39089> (accessed 3 November 2011).
20. We only focus on three developments, notwithstanding the fact that there are many more issues we could have focused our attention on.
21. Philip Stenning, Powers and accountability of private police, *European Journal on Criminal Policy and Research*, 8(3) (2000), 325-352, 328.
22. Clifford Shearing and Philip Stenning, Modern private security: its growth and implications, in Michael Tonry and Norval Morris (eds), *Crime and justice: an annual review of research*, vol. 3, Chicago: University of Chicago Press, 1981, 193-245.
23. Trevor Jones and Tim Newburn, *Private security and public policing*, Oxford: Clarendon Press, 1998.
24. See Minnaar, *Inaugural Lecture: private-public partnerships: private security, crime prevention and policing in South Africa*, and Julie Berg, Private policing in South Africa: the Cape Town City Improvement District – pluralisation in practice, *Society in Transition*, 35(2) (2004), 224-250.
25. Rod Rhodes, The new governance: governing without government, *Political Studies*, 44(4) (1996), 652-667, 663.
26. For further discussions about public-private policing partnerships, see Julie Berg, Challenges to a formal private security industry-SAPS partnership: lessons from the Western Cape, *Society in Transition* 35(1) (2004), 105-124; Anthony Minnaar, Private-public partnerships: private security, crime prevention and policing in South Africa, *Acta Criminologica* 18(1) (2005), 85-114; Minnaar, *Inaugural Lecture: private-public partnerships: private security, crime prevention and policing in South Africa*.
27. Current regulatory bodies include PSIRA, the Independent Complaints Directorate, civilian oversight committees (where established) for the Metro Police and/or City Councils, provincial secretariats of police and the national Civilian Secretariat of Police, as well as Chapter 9 institutions such as the Human Rights Commission and the Public Protector.
28. James Coleman, *Power and the structure of society*, New York: Norton, 1974; Shearing and Stenning, Modern private security: its growth and implications; Clifford Shearing and Philip Stenning, Private security: implications for social control, *Social Problems*, 30(5) (1983), 493-506; Jaap De Waard, The private security industry in international perspective, *European Journal on Criminal Policy and Research*, 7, 1999, 143-174.
29. Shearing and Stenning, Modern private security: its growth and implications.
30. Mark Button, Assessing the regulation of private security across Europe, *European Journal of Criminology*, 4(1) (2007), 109-128.
31. See Clifford Shearing, *Commission of inquiry: Canada post (office) security*, Quebec: Canadian Government Publishing Centre, 1981. In the research it was found that the Canadian Post Office created the Security and Investigation Services branch to be responsible for the majority of the Post Office's security requirements.
32. See Fern Jeffries, *Private policing: an examination of in-house security operations*, working paper of the

- Centre of Criminology, Toronto: University of Toronto, 1977; Shearing, *Commission of inquiry: Canada post (office) security*.
33. Old boy networks are social ties among members of the police whereby former public police use informal networks to gain information and privileges not available to the general public.
 34. See, for instance, SABC, NPA disappointed over Aurora mine killings ruling, SABC, 16 September 2011, <http://www.sabc.co.za/news/a/3f4f3c00485a61eadcaaf0e3505e7d1/NPA-disappointed-over-Aurora-mine-killings-ruling-20110916> (accessed 14 October 2011); SAPA, Guards held for armed robbery, SAPA, 25 April 2008, <http://www.news24.com/SouthAfrica/News/Guards-held-for-armed-robbery-20080425> (accessed 3 November 2011); Lizel Steenkamp, Criminals are guarding us, *Rapport*, 8 June 2008, <http://www.news24.com/SouthAfrica/News/Criminals-are-guarding-us-20080608> (accessed 3 November 2011); SAPA, 11 nabbed over Cape Town hotel robbery, SAPA, 12 July 2011, <http://www.news24.com/SouthAfrica/News/11-nabbed-over-Cape-Town-hotel-robbery-20110712> (accessed 3 November 2011); SAPA, Security guards arrested for theft, SAPA, 30 August 2011, <http://www.news24.com/SouthAfrica/News/Security-guards-arrested-for-theft-20110830> (accessed 3 November 2011).
 35. The *Firearms Control Act: Regulations on the Issuing, Possession and Use of Firearms and Other Weapons By Security Service Providers* (2003), section 3(2)(l), stipulates that a private security companies 'inform [PSIRA] in writing within 10 days after the use of a firearm by a security officer if such use caused any death, personal injury or damage...'. However, this information is not publicly available, PSIRA's Annual Reports only cite the number of criminal cases for a given year with no details given otherwise. PSIRA does not deal with these cases itself but lays a criminal charge with SAPS and the case is treated as any other.
 36. Although PSIRA is mandated to 'conduct an ongoing study and investigation' of private security activities so as to identify gaps in the legislation and abuses/violations of legal provisions (according to the *Private Security Industry Regulation Act*, 2001, section 4(d)), it is clear that this is not taking place with regards to criminal cases in light of the fact that these cases are handed to SAPS and PSIRA's reporting excludes information on this besides the numbers of cases.
 37. Philip Stenning, Governance and accountability in a plural policing environment – the story so far, *Policing: A Journal of Policy and Practice*, 3(1) (2009), 22-33, 26.
 38. Interview with PSIRA representative, Cape Town, 2006. Field research was conducted by one of the others in 2002, 2004, 2006 and 2008 on issues of private security partnering and regulation.
 39. Anthony Minnaar, Oversight and monitoring of non-state/private policing: the private security practitioners in South Africa, in Sabelo Gumede (ed), *Private security in Africa: manifestation, challenges and regulation*, Pretoria: Institute for Security Studies, 2007. Minnaar also found in a study that firearms within the industry were not being effectively regulated (Anthony Minnaar, The impact of firearms' controls on the South African private security industry, *Acta Criminologica* 21, 2008, 100, 104.)
 40. Braithwaite, *Restorative justice and responsive regulation*.
 41. Philip Stenning, Governance and accountability of policing, video presentation, in Centre of Criminology, University of Cape Town, *Trends in the governance of security*, Learning across borders DVD series, seminar 9, Cape Town: Centre of Criminology, University of Cape Town.
 42. Stenning, Introduction, in Stenning (ed), *Accountability for criminal justice*, 5.
 43. Peter Gill, Policing and regulation: what is the difference? *Social & Legal Studies*, 11(4) (2002), 523-546. Adam Crawford, Stuart Lister, Sarah Blackburn and Jonathan Burnett, *Plural policing: the mixed economy of visible patrols in England and Wales*, Bristol: Policy Press, 2005.
 44. David Garland, The limits of the sovereign state: strategies of crime control in contemporary society, *British Journal of Criminology*, 36(4) (1994), 445-471.
 45. Peter Grabosky, Beyond the regulatory state, *The Australian and New Zealand Journal of Criminology*, 27(2) (1994), 192-197.
 46. Independent Commission on Policing for Northern Ireland, *A new beginning: Policing in Northern Ireland, Report of the Independent Commission on Policing for Northern Ireland*, Norwich: H.M.S.O., 1999, 29.
 47. Independent Commission on Policing for Northern Ireland, *A new beginning: Policing in Northern Ireland*, 30.
 48. Clifford Shearing, Making South Africans safe: possibilities and prospects, *Acta Criminologica, CRIMSA Conference Special Addition*, 1 (2008), 1-11, 9.