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MINDFUL PUNISHMENT

What to do about the South African penal system, and why

Todd R Clear, John Jay College, New York
tclear@jjay.cuny.edu

Penal reform is crucial to South Africa’s long term crime control and criminal justice agendas. This article shows how the penal system could respond more ethically without an overwhelming investment of new resources. There are two strategies South Africa can employ to create a ‘mindful’ penal system. First, the length of sentences must be reduced. Second, a viable new system of community based (non-prison) penalties must be created. Neither strategy will be easy, but doing one without the other will fail.

It is generally believed that the South African penal system is broken. There is plenty of evidence for this view:

• Prisons are so woefully overcrowded that even an aggressive campaign to expand capacity will lag behind growth projections
• Gangs dominate much of prison life, and in some prisons they play a more profound role in daily prison life than anything else about the prison
• Staff are overwhelmed by the combination of poor prison conditions and unmanageable crowding, so that even a modicum of prison programming too often seems beyond reach
• Recidivism rates are very high, giving evidence that rehabilitation programmes do not work and prison serves as a kind of revolving door
• Imprisonment is about the most expensive ‘service’ offered by the criminal justice system, at about R125 per person per day

A broken penal system is a problem for a young democracy such as South Africa. Human rights, the rule of law, and basic decency require a functioning, credible penal system. Anyone looking at the list of problems facing South Africa would be correct to think that reforming the penal system must be a high priority for this democracy. They would likely assume, as well, that reform would be both difficult and expensive.

They would be very right on the first count, but wrong on the second - or at least, not so right. Penal reform is the sine qua non of a functioning justice system, and yet even today’s most established democracies struggle to operate an effective correctional system. History shows that punishing people well is a difficult challenge. But it need not break the bank. This article explains why reform is crucial to South Africa’s long term crime control and criminal justice agendas. The article then shows how reform can enable the penal system to respond more ethically without an overwhelming investment of new resources.

That is not to say that penal reform can be done on the cheap. Punishment costs money. But a much more scarce resource, when it comes to the penal system, is imagination and creativity - a willingness to forgo failed ideas and try new ones. South Africa can punish more wisely without a massive shifting of resources from other priorities, such as...
schools and health care. But it can do so only if it is willing to chart a new course for its penal agenda.

South Africa needs to be more ‘mindful’ in the way it punishes its criminals. By ‘mindful’, I mean punishments that reflect not only the humanitarian values of the new democratic state of South Africa, but are also consistent with its urgent need to focus its limited public resources on strategies that improve community life for the large subgroup of South Africans who struggle in poverty. A mindful strategic approach to punishment will also take account of what we know about the impact of different penal arrangements on public safety and on the poorest communities. The need for penal reform is apparent to anyone who looks, but the way out of the current mess is not so obvious.

How the South African penal system got the way it is today
There is a grand irony in the South African penal system. It has one of the largest prison systems per capita in the world, yet one of the lowest conviction rates for violent crime of nations who keep that statistic. How can the prison system be so large if so many people escape being caught? Here is why: South Africa’s judicial system hands out some of the longest sentences for violent crime in the world, and those who eventually get released return to prison at very high rates.

Being tough
This leads to at least one immediate conclusion. Leniency is not South Africa’s problem. Her judges already impose very long sentences on the convicted — almost half get sentences ten years or longer. These people then experience harsh confinement conditions and, true to form of studies of harsh confinement in democratic states, return to prison at very high rates (Langan & Levin 2002). Doing more of this hardly seems to be a radical shift in thinking.

Presumably judges impose these long sentences to prevent crime, not by a promise of rehabilitation, but by incapacitating the person who will be behind bars for a very long time. But long sentences are known to be a particularly inefficient way to try to prevent crime through incapacitation. Crime is a young man’s game. The peak age of criminal arrest for men is late teens, and the peak age for incarceration is early twenties. The well known age-crime curve means that as men get older, their propensity for criminal activity decreases. On their own, then, long sentences are inefficient ways to prevent crime through incapacitation, because each additional year in prison prevents an ever decreasing amount of crime.

Moreover, the crime prevention effects of a person spending any time in prison are generally overestimated. Most crimes are committed in groups. When a person is arrested and removed from the group, the typical result is not the group’s break-up, but rather its recruitment of a replacement for that person. Thus, the logical result is that when a person goes to prison on a long sentence, the impact on the criminality of the group is minimal – and there is now someone new involved in the group’s crimes who might not have been, had the original group remained intact.

Add to this scenario two important facts. First, well over 90 per cent of those who go to prison are eventually released anyway. Second, stays in prison are criminogenic, even short ones: they increase rather than decrease the chances of a person returning to crime once released (Nieubeerta, Nagin & Blokland 2007). This explains why recent empirical reviews find that the incapacitation effect of imprisonment is small (Stemen 2007).

Of course, long sentences also tie up prison capacity. A prison capacity of, say, 100 000 cells can house 50 000 people serving two years each, but if the average person gets a ten year sentence, there is space for only 10 000 people.

No wonder that while South Africa’s prison system is one of the largest in the world, crime appears to have been largely unaffected. Few criminals are caught; those who get caught are easily replaced. People who go to prison get out eventually, and most of them re-offend. None of this takes account of the stream of at-risk youth headed for lives of crime, ignored by a crime prevention policy that is heedless of them. (The void in strategies for at-risk youth is especially mindless, given the growing
mountain of evidence that such programmes are the most cost effective way to reduce crime.)

The centrality of prison

There is another anomaly in South Africa’s penal system. Unlike most other democracies, South Africa is far more committed to using prison as its main vehicle of punishment. Throughout Europe, in the United States, and in other Western democracies, the vast majority of sentences imposed by the court involve penalties carried out in the community: fines, community service, probation, and the like. It is not uncommon for these countries to have two or three people under community sanctions for every person confined. The pattern is reversed in South Africa, where there are ten people behind bars for every person on probation, and people in custody outnumber those in the community by more than three to one (Department of Correctional Services 2008).

Thus, South Africa’s troubling penal system became the way it is by being different from the rest of the democratic world in three significant respects. First, its rate of violent crime is a notch higher than elsewhere. Second, it relies on prison as a penalty far more uniformly than other democracies. Third, while it prosecutes but a low percentage of those who are actively criminal, it imposes unusually long sentences upon the few it catches.

This in turn leads to a second obvious conclusion. Any meaningful strategy to improve the justice system will have as a very high priority a substantial increase in the rate of clearing crimes of violence. Today, well under five per cent of the violent crime of robbery, for instance, results in a conviction (Altbeker 2007:81). But any improvements in law enforcement efficiency will pose mind-boggling challenges to an already beleaguered prison system.

All things being equal, a doubling of the clearance rate for crimes such as robbery, from three per cent to a rate approaching that in other nations (10-20 per cent) would also more than double the demand for prison space. With prison demand already at 140 per cent of capacity, this is hardly sustainable without an enormous influx of new funding into the prison system. But even in the unlikely event that such funding becomes available, in the absence of other changes, the only result would be a much larger version of the same, already failing, prison-centric system.

This is the final, unassailably practical reason why South Africa must reform its prison system. It cannot fight crime without making the police more effective, and a promise to make the police more effective is empty without a penal system to respond in new ways to the additional workload a more effective police practice will create. The current way of doing business at the back end of the system simply will not sustain a reinvigorated front end of the justice system. A new way of thinking about penal policy in South Africa is needed. What can be done?

Two penal strategies for South Africa

There are two penal strategies South Africa can employ to create a mindful penal system. First, the length of sentences must be reduced. Second, a viable system of penalties operating in the community must be created. Neither strategy will be easy, but doing one without the other will fail.

Reduce the length of prison sentences

The average South African, living in a country where there is a general public perception that the system is lenient, will most likely find the idea that prison sentences should get shorter to be shocking, even silly. But the fact is that sentences in South Africa are not short. More than that, long sentences are counterproductive. A bevy of studies show that longer sentences do no better at preventing crime than short ones (Clear 2007:30-35), yet they tie up already scarce prison resources, water down the incapacitating effect of confinement, and contribute to overcrowded prisons that discredit justice.

Reducing sentence length will have important advantages for South Africa. First, it will automatically make more capacity available, much faster than any plan to build more prisons. In this way it will make the prison system more efficient, allowing a larger number of people to be processed through confinement and back into the community. Reducing sentences will allow South Africa to punish a growing number of people convicted of
the problem is that it does not get the desired results.

Surveillance strategies in community based sanctions have been well studied, and the consistent result is that when the core method of community supervision is surveillance with strictly enforced rules of conduct, failure rates for rules violations are high (Lipsey & Cullen 2007), even when arrest rates for new crimes do not increase (Haapanen & Britten 2002). In other words, a surveillance philosophy does not deter people from new criminal involvement, but it does turn up enough non-criminal misbehaviour to end up with high rates of return to prison for failure to abide by surveillance requirements.

So if South Africa is to do something different in its community based penalties, it will have a wonderful opportunity to avoid the usual mistakes, and instead to build something quite new, based on emerging ideas in community based penalties, tailor-making its own version of community and restorative justice. What would this entail?

Community justice is a philosophy of justice that holds as its highest priority the promotion of improved communities, places that are not only safe, but provide the kind of infrastructure that makes a community a good place to live, work, and raise a family (Clear & Karp 2000). At its core, those who believe in community justice (as contrasted with ‘criminal’ justice) recognise that people who commit crimes do wrongs not only against the specific victim, but against the entire community in which we live.

Indeed, one of the main reasons why criminality is so abominable is that it makes community so difficult to sustain. It creates fear, distrust, and isolation from one’s fellow citizens, eating away at the very foundation of society. Daily life in South Africa is too often a kind of testimony to the hard validity of this view. So while people who commit crimes have wronged the victim of their crimes, they have also wronged all of us, taking away some of our capacity for society. They owe restitution to the victim, yes, but also to broader society.
At the same time, the philosophy of community justice is integrative, for it recognises that even when a person has been convicted of a crime, that person retains membership of his or her community. The only way that community can be valued is if all members of the community have equal value, even those who have transgressed against it.

Punishments under a community justice ideal, then, have as their core aim the restoration (and promotion) of community. There is a role for confinement – either when a person’s crime against the community was so serious that it would be inconsistent with the idea of community to allow him (or her) to remain there, or when a person is such a continuing threat to a community that there is no justification to place that community at continued risk. But for the vast majority of those who break the law, penalties are designed with certain core ideas in mind:

- The person owes a debt to both the victim and the community, and that debt can (perhaps even must) be repaid through labour — if, for instance, a person works 36 hours a week on a community project, only some portion of that work (say, one-third) will be for compensation
- The kind of labour that community justice systems promote seeks to improve community infrastructure, especially the construction of housing and public facilities such as schools, meeting halls, and even sewage systems
- Local businesses provide the community development work and supervise the labour, hiring locally, developing local project priorities, and retaining profits locally – in this way the ideal of community is sustained by the system of penalties
- Community integration occurs when people who are repaying their debt work side-by-side with people who are not under community supervision, it is just that the latter receive wages for all their work, not just some of it
- After a person has demonstrated, through community justice labour and by living within the law, that he (or she) is a contributing member of the community, the person’s full return to the community is promoted by helping that person to buy property and take a job that pays full wages

The strategy whereby penal budgets previously spent on imprisonment are diverted to fund community based penalties that are designed specifically to build community is called ‘justice reinvestment’ (Tucker & Cadora 2003). Rather than treating people who are convicted of crimes as social costs to be borne by society, they are seen as potential social investments that can be a part of community development.

Each person assigned to ‘justice reinvestment’ strategies not only costs but a fraction of what is spent on the equivalent prison penalty, but a consequence of the penalty is specific improvements in affected communities – making community justice not only far cheaper, per capita, but also far more productive.

Community justice is a socially optimistic ideal, but it is not a Pollyanna ideal. Systems of community justice take risk seriously, provide drug and alcohol treatment for those who need it, hold people accountable for obeying the law while they are under penal authority, and operate under a system of incentives that reward local business for being effective and for not placing the community at risk. Its proponents recognise the inevitability of errors when dealing with a penal population, but experience has shown that the rate and level of problems under a community justice mandate are not as troubling as the same problems that we now face under a punitive criminal justice regime.

Choosing the future
This article started out suggesting that penal reform in South Africa need not break the bank. This is so, but only on two conditions. First, the political will must be found to break away from the current dysfunctional reliance on long prison sentences as the central way in which South Africa holds its fellow citizens accountable for the crimes they commit. Second, the creative imagination must be found to build a new community based penal system that has the credibility to be useful for a large percentage of those who violate the law.

These are not impossible aims, but they must be actively sought – there must be an ethic of mindfulness in the design and execution of a new
penal system. Without leadership, that cannot occur. But history tells us that if any nation has the vision to chart out a new future and the courage to set the bar high, it is this one.

References


Endnotes
1 Sources for these impressions and facts include Altbeker (2007); Giffard & Muntingh (2006); Steinberg (2004); The Judicial Inspectorate of the Prisons (2007) and the Department of Correctional Services (2008).
2 South Africa’s incarceration per capita ranks first in Africa and in the top eighth of the world’s nations, with the ninth most prisoners in the world (International Centre for Prison Studies 2008).
A person’s home is usually considered a sanctuary, a safe haven from the rest of the world. To suddenly be confronted at home by armed and hostile strangers whose intention is to threaten violence and steal valuables and property, is an experience that leaves most people deeply traumatised. The police record this type of crime as residential robbery. Residential robberies share several common characteristics: the victims will always be at home and they will experience a direct threat, or the attackers will use violence to ensure compliance with their demands. 

Until relatively recently, all reported cases where a direct threat or use of violence occurred as a means to illegally acquire cash or goods were recorded by the South African Police Service (SAPS) under the broad category ‘robbery aggravating’. It was only in 2002 that residential robbery and business robbery were added as separate subcategories of ‘robbery aggravating’, joining the four other subcategories namely vehicle hijacking, truck hijacking, bank robberies and cash-in-transit heists (CITs).

Very little research has been undertaken on the subject of residential robberies in South Africa. Most of what is known resides with police investigators and is usually geographically specific to the areas in which the investigator works. Nevertheless, the available data and information are growing and have started to provide insights into the extent and nature of this crime.

Home robbery trends in SA
It must be recognised that South Africa is not alone in experiencing this type of crime. Typically referred to as ‘home invasions’ in the international literature, such crimes are also a challenge in other countries. In the USA, for example, there are approximately 1.4 million home invasions each year, and these increased by 18 per cent between 1999 and 2003, compared to an increase of only one per cent in the total number of all other types of armed robberies (Adame 2005).

In South Africa a total of 126 558 aggravated robberies (of all subcategories) was recorded by the SAPS during the 2006/07 financial year. Of this number, 12 761 or ten per cent were recorded as residential robberies. Although official statistics only reveal part of the picture, a 2003 national victimisation survey found that 72 per
cent of victims of residential robberies reported the crime to the police (Burton et al 2003:135). This is substantially more than the 12 per cent of street robbery victims who report the incident to the police.

Of all the country’s provinces, Gauteng records the lion’s share of home robberies: 58.5 per cent of the national total recorded in the 2006/07 financial year. At an average of 20 cases per day, Gauteng has almost three times the number of residential robberies as KwaZulu-Natal, the province that records the second highest number (Table 1).

Furthermore, residential robbery as a proportion of all recorded aggravated robberies in Gauteng had also been increasing from eight per cent in 2002/03 to 14 per cent in 2006/07 (Table 2).

A vast majority – 63 per cent or 33 410 – of the total 52 924 cases of aggravated robbery that took place in Gauteng in 2006/07 occurred in public

The average annual increase between the 2002/03 and the 2005/06 financial years was three per cent nationally and six per cent in Gauteng (Figure 1). However, during the 2006/07 period, residential robbery increased by 25 per cent nationally and by 26 per cent in Gauteng.

### Table 1: Residential robbery in SA by province, April 2006 – March 2007

<table>
<thead>
<tr>
<th>Province</th>
<th>Cases recorded</th>
<th>% of national figure</th>
<th>Ratio per 100 000 of the population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gauteng</td>
<td>7 461</td>
<td>58,5%</td>
<td>81,0</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>2 655</td>
<td>20,8%</td>
<td>27,3</td>
</tr>
<tr>
<td>North West</td>
<td>853</td>
<td>6,7%</td>
<td>22,0</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>505</td>
<td>3,9%</td>
<td>15,5</td>
</tr>
<tr>
<td>Western Cape</td>
<td>658</td>
<td>5,1%</td>
<td>13,9</td>
</tr>
<tr>
<td>Eastern Cape</td>
<td>356</td>
<td>2,8%</td>
<td>5,0</td>
</tr>
<tr>
<td>Limpopo</td>
<td>199</td>
<td>1,6%</td>
<td>3,5</td>
</tr>
<tr>
<td>Free State</td>
<td>64</td>
<td>0,5%</td>
<td>2,2</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>10</td>
<td>0,1%</td>
<td>1,1</td>
</tr>
<tr>
<td>RSA Total</td>
<td>12 761</td>
<td>100%</td>
<td>26,9</td>
</tr>
<tr>
<td>Source: SAPS</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Table 2: Residential robbery as a proportion of total aggravated robbery in Gauteng per financial year, 2002/03 to 2006/07

<table>
<thead>
<tr>
<th></th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
<th>2005/06</th>
<th>2006/07</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of aggravated robberies</td>
<td>58 167 5 154 5 365 5 909 7 461</td>
<td>5998 60 998 55 139 48 784 52 924</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. of residential robberies</td>
<td>4 701</td>
<td>5 154</td>
<td>5 365</td>
<td>5 909</td>
<td>7 461</td>
</tr>
<tr>
<td>% of residential robberies</td>
<td>8,1%</td>
<td>8,5%</td>
<td>9,7%</td>
<td>12,1%</td>
<td>14,1%</td>
</tr>
<tr>
<td>Source: SAPS</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
spaces such as streets, parks, and walkways. Although it is clear that there are increasing numbers of perpetrators targeting residences for the purposes of robbery, the reason for such a substantial increase in 2006 is not known.

Initially, the prolonged and bitter strike by private security guards that took place in May 2006 was blamed for the increase. However, the vast majority of Gauteng residences were not protected by those guards who went on strike, and even after the strike ended, the rate of increase in such robberies did not abate.

There is ample evidence that, when the incentives for and risks of committing particular crimes change, criminals will respond by shifting their focus. A convincing argument has been made that improvements in tackling vehicle hijacking contributed to the increase in other forms of aggravated robbery in South Africa (Altbeker 2006). At least one study found evidence that perpetrators of armed robbery had initially been involved in committing other types of crime before moving towards aggravated robbery (Zinn 2002).

As noted above, a vast majority of the total cases of aggravated robbery that took place in Gauteng in 2006/07 occurred in public spaces. However, street robberies have decreased by 22 per cent since 2002/03, which raises the question: are many street robbers turning their attention to households? Typically, street robbers prey on individuals and get a relatively small amount of cash, cell phones and some jewellery during each incident. However, when targeting the occupants of a household, robbers can steal many more items of higher value, including electronic goods such as laptops, i-pods, DVD players, and digital cameras.

Given that the number of residential burglaries in Gauteng has decreased by 22 per cent between 2002/03 and 2006/07 (Figure 2), it is possible that some burglars are also turning to robbery. This may have arisen due to the likelihood that many people have improved their home security in response to the general increase in crime since the mid-1990s. This target hardening approach would make it more difficult for burglars to gain access to homes. It is possible that some of these criminals may have switched to robbery as a means of accessing the valuables kept at residences. However, the extent to which this contributed to the increase in residential robbery requires further research and analysis.

It is also possible that some of the increase in residential robbery can be attributed to changes in the way the crime is recorded. The 2003 National Victims of Crime Survey found that although approximately 9 000 incidents of residential robbery occurred nationwide, only 9 000 incidents were recorded under the category of residential robbery by the police. As this subcategory of robbery had only been introduced by the SAPS the year before, it is likely that it would have taken time for all police members to get used to the new category and that ‘... these crimes were probably captured under the heading of general robbery’ (Burton et al 2003). In every subsequent year a greater number of residential robberies would have been accurately recorded.

Nevertheless, the scale and consistency of the increase indicates that there are far too many people willing to take on the risks associated with committing residential robbery. Until quite recently, most of the risks to the perpetrator were posed by
the victims and not by the criminal justice system, as too few perpetrators were being arrested and effectively prosecuted. As has been coherently argued, robbery is a difficult crime to police anywhere in the world because ‘the number of targets out there and the adaptability of criminals makes the prevention of robbery almost impossible, while the difficulties associated with making a case means that conviction rates are low’ (Altbeker 2007:82).

As individuals and gangs of robbers successfully avoid the criminal justice system, more and more people of criminal bent are encouraged to engage in this type of crime. South Africa’s huge wealth gap and endemic inequality mean that there will always be a market for cheap household items which would otherwise be well beyond the reach of many millions of people.

However, none of these explanations adequately explain the scale of the increase recorded during 2006 and focused research on this issue is required.

**The nature of residential robbery**

Typically, a crime is recorded as a residential robbery when two or more armed individuals enter a private residence by force while the people who live or work there are present. The primary motivation for the crime is robbery, with perpetrators usually targeting money, electronic goods (such as laptops, DVD players, etc.), jewellery and firearms.

Profiles of perpetrators seem to suggest that a substantial number are experienced career criminals who commit a large number of other criminal acts before they are caught. Furthermore, these criminals have typically progressed to home robbery from other forms of petty crime and street robberies. Over time they become experienced in using violence to steal from people. Robbers target residences as these yield higher rewards than street robberies in which the takings are relatively small.

It would appear that the perpetrators of most residential robberies target certain areas more than others. This is because they are familiar with the exit and entrance routes of those areas and are reasonably close to where the stolen goods will be dropped off for cash. According to the latest SAPS Annual Report for 2006/07, a small proportion (three per cent), or 32 police precincts in South Africa account for 40 per cent of all residential robberies (SAPS 2007:233). Among these stations, 47 per cent were classified as serving primarily suburban communities, 38 per cent township communities and 15 per cent CBDs (central business districts).

An unpublished analysis of a sample of residential robbery dockets at five police stations that record among the highest numbers of residential robberies in the country, found the following:

- 75 per cent of incidents are carried out by groups of two or three perpetrators (with the size of the group sometimes consisting of up to six people)
- Most of the perpetrators are males between the ages of 17 and 29
- 92 per cent of the incidents involved firearms
- 50 per cent took place between 21h00 and 04h00, but this differs according to area
- 60 per cent of incidents occur following a ‘forced entry’ while people are in their homes
- 12 per cent of incidents occur as a result of ‘easy access’, as residents have not locked doors or windows, or left gates open or unlocked
- Three per cent of incidents occur when perpetrators wait for the victims to get home before forcing them inside
- Three per cent of incidents occur with the perpetrators following victims home from other locations (e.g. shopping malls)
- 13 per cent of the incidents were committed against ‘shack dwellers’

Different groups have different ways of accessing the residences that they target. The most common modus operandi is to break into homes while the residents are at home. This is because people have turned off their alarm systems, are relaxed, have opened doors and windows and usually have televisions or radios on and are not always aware of people intruding until it is too late to call for assistance.

Typically, perpetrators target residences about which they have some information. Sometimes this
information is gathered through observing the residence or through forging links with people who work at or have worked at the residence. Sometimes would-be robbers gain access for reconnaissance purposes by pretending to be officials of some kind (e.g. water meter readers). It is interesting to note that 30 per cent of victims appeared to ‘know the perpetrator’ (Burton et al 2003:136).

The primary intention of the perpetrators is to steal and leave the premises as soon as possible. Although the fear experienced by victims who are subject to direct violence is very real, the reality is that in a vast majority of residential robberies, victims are left mostly unharmed. While cases of horrific violence such as rape, torture and murder do occur, serious violence associated with home robberies is relatively rare. The abovementioned docket analysis found the following:

- Murder occurred in two per cent of incidents
- Attempted murder occurred in nine per cent of incidents
- Rape occurred in four per cent of incidents
- Some form of injury occurred in 13 per cent of incidents

It is also becoming apparent that a significant proportion of residential robberies are the work of criminal syndicates. Often the perpetrators will immediately transport the stolen property to a ‘receiver’ who will exchange the goods for cash. A network of people belonging to the syndicate will then be responsible for storing, repackaging, transporting and reselling the stolen property as new or ‘second hand’ goods and laundering the money that is made. A proportion of the stolen property is transported to other provinces or across the national border.

Turning the tide

In July 2006 the Gauteng MEC for Community Safety, Firoz Cachalia, publicly announced that there was an increase in certain crime categories, including residential robbery, in the province. The intention was to begin the process of mobilising the police and the public to take action against crime. As part of this announcement he launched a six-month high intensity police operation called ‘Operation Iron Fist’.

Early in 2007 the MEC reported on an evaluation of the operation. It was found that, while the police had successfully stepped up their activities and that certain crimes had stabilised or decreased, the tactics used did not have the desired impact on residential robbery in particular (Cachalia 2007a).

The lack of success in dealing with residential robberies during the last six months of 2006 led to a number of new initiatives launched in early 2007. In February 2007 the SAPS launched ‘Operation Trio’, which saw the police more carefully targeting the perpetrators of residential robberies, business robberies and vehicle hijackings. Police stations recording the highest numbers of these particular crimes were clustered together to coordinate operations and investigations and further resources were deployed at these stations. More attention was given to developing intelligence about perpetrators and syndicates behind these crimes.

By July 2007 it was evident that the police initiatives had started to have an impact. Arrests for residential robbery had increased by 44 per cent, arrests for vehicle hijacking had increased by 98 per cent and arrests for business robberies had increased by 243 per cent (Cachalia 2007b).

In addition to the shifts in policing strategy and tactics, a range of other initiatives spearheaded by other agencies and sectors were also underway. In March 2007 the Gauteng Department of Community Safety launched the ‘Take Charge against Crime’ campaign. Attended by over 11 000 people from across the province, the launch marked the start of a programme to mobilise various communities to play a greater role in tackling crime.

In the run-up to the launch, consultations were held with over 300 organisations representing or working in 11 different sectors (e.g. youth, gender and faith based organisations, labour, hostel Indunas, etc.). Community volunteer patroller programmes were launched, a number of community policing forums (CPF) were revived and communities were encouraged to participate in safety initiatives, to report crime and not to purchase stolen goods.
The business sector was also starting to make headway on a number of projects initiated by the Big Business Working Group initiative that had been endorsed by the President and Cabinet towards the end of 2006. In addition the media started to play a more active role in supporting the movement against crime with notable examples being Primedia’s launch of ‘Crime Line’, an anonymous sms crime reporting number, and the Star newspaper initiative to increase the profile of and support for community policing forums.

From April 2007 it was clear that the improvement in targeted policing, along with the other initiatives, were starting to show results. For the first time in half a decade the number of residential robberies recorded started to decline. At the time of writing the latest official crime statistics released by the national Minister of Safety and Security revealed that between April and September 2007 residential robberies in Gauteng had decreased by eight per cent or 297 cases when compared to the same period in the previous year. Furthermore, residential robberies in Gauteng as a proportion of the national figure had also decreased from 59 per cent to 53 per cent.

While the results achieved during 2007 are to be welcomed, the battle against residential robbery in Gauteng and the rest of the country is far from over. Even with the recent decreases, the number of residential robberies in Gauteng is still far too high. Nevertheless, a good start has been made and it has been demonstrated that targeted policing supported by initiatives in communities, civil society and business, can make a difference.

As the SAPS continues to strengthen its capacity and ability to target the perpetrators of residential and other forms of aggravated robbery, and other initiatives are launched or expanded during 2008, we will hopefully start to see further progress, not only in Gauteng, but throughout the country.

References


Endnotes
1 Residential robbery is often confused with residential burglary. The key difference is that during a burglary the victims will not be home and will not have direct contact with the perpetrator. A robbery by its very definition requires the direct threat or use of violence by a perpetrator against a victim. Sometimes a burglary turns into a robbery, for example if the victims return home while a burglary is in progress and are then threatened by perpetrator/s.

2 All South African crime statistics presented in this article are officially released by the South African Police Service and are available from www.saps.gov.za.

3 Zinn’s work is very useful for obtaining a better understanding of the profile of a perpetrator who engages in violent robberies generally.

4 Although these findings cannot be generalised beyond the specific stations involved in the study, the results provide some insight into the nature of the crime.
Crime and violence are arguably the greatest obstacles to a prosperous and peaceful South Africa where all people can live together free from fear and able to participate in all that the country has to offer. Over the past ten years the South African Police Service (SAPS) has recorded approximately two million serious crimes each year. Of these, about a third are so-called ‘contact’ crimes - crimes such as murder, car hijacking, armed robbery and rape that drive a society into a corner of fear and distrust.

**Living dangerously: drink, drugs and guns**
The relationship between alcohol, crime and violence is complex and central to any debate about the lack of safety in South Africa (Parry & Dewing 2006). The most obvious connection is between alcohol and domestic and other interpersonal violence. This is reflected in the fact that these crimes are commonly recorded on Saturdays, followed by Fridays and then Sundays (CSIR Central Karoo Study 2006; Cullinan 2004; Obot 2007).

Drinking to the point of being drunk and beyond is common across most cultures in South Africa. People drink because they are lonely or because they are gathered together. They drink when they are sad or when they are happy. They drink to commiserate or to congratulate. They drink to

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**WHY LAW ENFORCEMENT IS NOT ENOUGH**

Lessons from the Central Karoo on breaking the cycle of crime and violence

Barbara Holtmann
Council for Scientific and Industrial Research
bholtmann@csir.co.za

A 2003 initiative to develop a crime prevention strategy for the Central Karoo District Municipality helped formulate the ‘life cycle’ that perpetuates crime and violence, which is discussed in this article. Children’s developmental needs are obvious and logical if we are to raise young people with good self esteem, who are capable and prepared to contribute to society in a constructive manner. Yet in the Central Karoo (and many other communities) our children’s needs are being ignored. As a result, children learn to fend for themselves and some quickly tip over from being vulnerable victims to becoming young offenders. This article shows that as long as we ignore children’s needs, we can never build a criminal justice system that will adequately address crime and violence in South Africa. It demonstrates why safety is an issue for society as a whole and not just for the police, courts and prisons.
celebrate or to ‘drown their sorrows’. In 2006, South Africans spent R41 billion on alcohol. During the same period:

- 47 per cent of homicide victims tested positive for alcohol at time of death (MRC 2004)
- 66 per cent of people presenting in trauma units at hospitals tested positive for alcohol (MRC 2004)
- More than 50 per cent of rape victims were ‘high or drunk’ at the time of the incident (SAPS 2007a)

The relationship between alcohol and the commission of crime is often referred to (Parry 2006; Open Society Foundation for South Africa 2004). What needs much more inspection is the connection between alcohol and the vulnerability to victimisation. Both relationships contribute to our high rate of recorded murder, rape, attempted murder and assault.

Drugs and crime have a similarly complex relationship, where the need to feed a drug habit is a motivator for crime. Drugs also affect the kind of crime that is committed; perpetrators under the influence of drugs, particularly drugs such as Tik and crack cocaine, are likely to be less inhibited, more aggressive and out of control (SAPS 2007b).

Guns also play a significant role in our lack of safety. Over 62 per cent of homicides are committed with guns, and of course guns are used in close to 100 per cent of car and truck hijackings and armed robberies (Soros 2006; Matzopoulos 2005). The ready availability of guns makes it easier for perpetrators to commit certain crimes (Kirsten et al 2006).

According to the 2007 SAPS annual report, an approximate 66 guns a day are lost or stolen from the legal pool to the illegal pool, enabling an estimated 192 000 new violent crimes in the course of last year – or 528 per day (SAPS 2007b), as each gun is used in about eight crimes before it is recovered.

Gun crimes put pressure on the criminal justice system with a greater need for investigation, arrest, prosecution and, if convicted, a much longer sentence (a minimum of 15 years) – thus increasing the burden on our correctional facilities (Sloth-Nielsen & Ehlers 2005; Kirsten et al 2006; Mistry & Minnaar 2003). These facilities are already overcrowded, with existing capacity at 111 000 and existing population at about 160 000 inmates (Steinberg 2005; Fagan 2005).

This in turn makes it difficult, if not impossible, for the Department of Correctional Services to deliver programmes that will contribute to rehabilitation and reintegration of offenders once they are released (Muntingh 2001). Currently less than 19 per cent of all inmates of correctional facilities in South Africa participate in such programmes. The single largest group of inmates is those sentenced to between ten and 15 years – these are the serious offenders who arguably most need the interventions since they are more likely to reoffend when they are released if there is no change while they are incarcerated.

Guns also make us very scared. The knowledge that an attacker is armed with a gun dramatically increases the trauma associated with victimisation. Gun violence sets us apart from many other societies where there are high rates of crime. While theft may be distressing, it is not, generally speaking, life threatening. Armed robbery is.

Living in fear: walls, guards and alarms
We are a society overwhelmed by fear of crime, experience of crime, the impact of crime, and violence (Open Society Foundation 2004). Typical responses to traumatic events include some, and at times, all of the following: sadness, anxiety, distress, depression, anger, a sense of loss, irritability, short temper, emotional swings, a need for revenge, feelings of being out of control and chaotic and an inability to look forward or plan for positive events in the future (Burton et al 2003).

We see these responses all around us – in the traffic with road rage, in acts of petty corruption by people who would in other circumstances not commit crimes, in increased interpersonal conflict and pessimism with regard to our future. And, of course, in increased drinking and binge drinking.

Guns also make us very scared. The knowledge that an attacker is armed with a gun dramatically increases the trauma associated with victimisation. Gun violence sets us apart from many other societies where there are high rates of crime. While theft may be distressing, it is not, generally speaking, life threatening. Armed robbery is.
Perhaps the most destructive impact of crime and violence is that it encourages a fear-driven response at a cost of more than R46 billion per annum in private security (Berg 2007). The urban landscape is made up of fortress-like enclaves, walled and gated communities protected by armed guards, electric fences, alarms and, of course, surveillance cameras (Landman & Schönteich 2002).

We have through all of this lost a sense of our destiny. We look anxiously over our shoulders but tend not to carry with us a vision of a safe South Africa; something worth striving towards; that place where we can live together in peace, harmony and prosperity, where our children play safely in the streets of leafy suburbs and doors and windows are thrown open to the warm summer evening air (CSIR 2007).

While it is evident that these and other security based responses to crime and violence have not reduced our vulnerability to victimisation, it is difficult to persuade neighbourhoods, communities, towns and cities to adopt alternative strategies (Buur & Jensen 2004; Emmet et al 2007). When creative suggestions are made, the response is often to ask for proof of success – and there is rarely such proof available, as few examples of well supported, properly resourced crime prevention interventions that have been monitored and evaluated, exist.

What exists is evidence that our current efforts have not succeeded, nor do they show any signs of breaking the cycle of crime and violence that holds our beautiful country in its grip. Lessons from a study in the Central Karoo, however, provide clear direction on how a more holistic approach to tackling the cycle of crime and violence can succeed.

**Living desperately: a study of the Central Karoo**

In 2003 the CSIR Crime Prevention Research Group (CPRG) was commissioned by the European Union on behalf of the South African Police Service (SAPS) to facilitate the development of a local crime prevention strategy for the Central Karoo District Municipality. The intention was that the learning achieved in the Central Karoo could be used elsewhere in the country, particularly in rural contexts.

The study provided an opportunity to better understand the cycle of crime and violence at a local level and to use this understanding to promote crime prevention interventions with short, medium and long term objectives. The study focused on the causes of crime and violence, and identified the roles and responsibilities of a wide range of stakeholders including, but by no means confined to, those in the criminal justice system.

‘What does it look like when it’s fixed?’

The CPRG had developed a Local Crime Prevention Toolkit (LCPT) based on research into the obstacles experienced in dealing with generic crime and violence related problems in various places around the country (CSIR 2007). The research identified a need for process tools to help establish multi-disciplinary local crime prevention partnerships necessary for the development and implementation of local strategies.

The LCPT methodology requires the articulation of a shared vision of a safe place, the identification of who must be doing what to get there, indicators of progress towards that safe place, the gathering of baseline information (sometimes called a safety audit) to establish a starting point, the development of a local crime prevention partnership (LCPP) and strategy, and an implementation plan and monitoring and evaluation framework (CSIR 2006).

The Central Karoo study thus inevitably required widespread consultation with local communities and service providers. Using the LCPT methodology the research team began by asking people to imagine ‘what it looks like when it’s fixed’. In groups of varying composition, participants were asked to paint or draw images of a safe Central Karoo. From the elements that made up the images, we identified the key activists and actions that would be required to achieve a safe community, village, town and district.

Life without alcohol abuse?

Typically in this exercise people paint a utopian place, free from burglar bars and drunken fights, where children play safely in the streets and old and young, men and women, are free to move about day or night (CSIR 2006).
What was significant, however, was that participants could not imagine life without the oppression of alcohol abuse. They drew liquor outlets with rows of taxis waiting to take drunken people home; they drew creches to look after children while their mothers went out drinking (CSIR 2006). This helped identify alcohol abuse as one of the biggest contributors to crime and violence in the district and we ensured that our investigations drew out information about the relationship between alcohol and the lack of safety in the Central Karoo.

The police told us that over 90 per cent of crimes were related to alcohol abuse. In one of the small towns with a population of less than 7,000 people, there are 64 known illegal outlets for the sale of alcohol (CSIR 2006). Alcohol is often purchased with social grant money – and as the illegal shebeen owners are often also micro-lenders, many people are in effect paying massive interest on their alcohol consumption.

Alcohol also makes people very vulnerable. In line with data elsewhere in the country, the connection between alcohol abuse and victimisation was clear. Young girls become vulnerable to rape as a result of getting drunk, very often in illegal shebeens where underage drinking is allowed. The area also records one of the highest incidences of Foetal Alcohol Syndrome (FAS) in the country, and in the world. This means that babies are born to drinking mothers at a disadvantage that they are unlikely to overcome in their lives.

The study found that there were many people in the Central Karoo for whom there is no particular purpose in society. Young men were problematised and characterised as dangerous and without usefulness (CSIR 2005). Business people resisted expanding their businesses as they felt that the young people were unmotivated and unreliable – once again alcohol was mentioned as an indicator of a lack of interest in working and progressing.

There was a fear that drugs were becoming more prevalent, that underage children in shebeens were encouraged to take drugs and to sell them in the local schools. Child prostitution was also linked to the sale of drugs and to children’s need to support their drug habits.

The life cycle that perpetuates crime and violence

In collating the findings, we began to map the context for crime and violence (in the centre of Diagram 1) and the life cycle that perpetuates crime and violence. It was demonstrated that the victim is the same person as the offender – just at a different point in the life cycle (see outer circle of Diagram 1).

The life cycle began with dysfunctional families, often as a result of accidental pregnancy and without a present father. Children were neglected and abused and violence was normalised at an early age (see the right-hand half of the circle in Diagram 1). Children were both victims of violence in their homes and bystanders to violence between adults. During their essential early childhoods, they did nothing and were often to be seen sitting passively and unsupervised, staring out at the street. When they went to school, they could be truant without consequence and once again were left to their own devices in the afternoons, leaving them vulnerable to further victimisation outside of the home. Basic needs were often not met and children were hungry and bored.

Extensive research into the importance of these early years demonstrates some logical and vital developmental needs if we are to grow our children into young people with good self esteem, who are capable and prepared to contribute in a constructive and useful way:

- Children need love, peace and nurturing from conception and throughout their childhood
- Children should be protected from harm and victimisation
- Physical contact should be related to love and care
- Children should be supervised and attend school without truancy
- Children should be offered a wide range of activities, both to keep them busy and out of immediate harm, but also – and vitally – to ensure that they learn to do things well, love doing them and want to do them again

These developmental needs seem obvious, logical and vital - yet, in the Central Karoo (and we have subsequently found the same to be true in many
and various other communities), our children’s needs are being ignored. In the absence of intervention, children quickly learn to fend for themselves and some tip over from being vulnerable victims to becoming young offenders.

While it was possible to ignore the needs of children while they were vulnerable victims, once they tipped over into offending behaviour (see the left-hand half of the circle in Diagram 1), they were quickly identified as a problem and the community demanded that the police act against them. The police responded by saying they had inadequate resources, which worsened the already unstable relationship between the police and the community.

The children meanwhile found a sense of belonging, identity and purpose in gangs and among other children engaged in risky behaviour. They quickly found themselves in conflict with the law and joined the problematised category of ‘youth’, marginalising themselves from mainstream opportunity; becoming angry, resentful, and without purpose. These young people engaged in risky behaviour of all kinds, including sexually risky behaviour. In many cases young girls saw their sexuality as a commodity – but in others they were the victims of non-consensual sexual activity.

By the time they were 15 years old, many young girls were pregnant and raced to the top of the cycle as the dysfunctional parents, to perpetuate the cycle once again. Young men, with little or nothing constructive to offer, were without hope for the future – possibly the most dangerous element in any society. For a young man for whom tomorrow offers no expectation of good things, there is no fear for the consequence of today’s behaviour.

The study demonstrated known truths:
• That while not all victims of violence will go on to become violent offenders, the overwhelming majority of violent offenders first experience violence as victims or as witnesses of violence
• That we need to invest as early as possible in the life cycle - if possible during pregnancy and at the first moments of life, if we are to see a return on that investment in terms of growing constructive, contributing adults (see Diagram 2)

• That as long as we ignore the needs of children, we can never build a criminal justice system that will adequately address the levels of crime and violence
• That safety is an issue for society as a whole and not just for the criminal justice system

Living for the future: recommendations
The study eventually resulted in a series of recommendations, as depicted in Diagram 2. Notably, many of the recommendations were in the social arena rather than the criminal justice domain. As a result, we engaged the departments of Social Development, Sports and Recreation, Arts and Culture, Health, and Education, at least as much as we did the SAPS or Department of Justice.

The study provided compelling insights into the need for a broad and inclusive strategy for safety, rather than a security based strategy, with each stakeholder responsible for interventions at different points in the cycle, each according to its mandate and focus. It is of course essential that the criminal justice system is transparent, fair and accessible – and the study offered recommendations in this regard.

However, the study also noted that to achieve a changed vision of a safe Central Karoo, the departments responsible for education, health and welfare would have to work together to break the toxic stranglehold that alcohol abuse holds over the community. The study also demonstrated that community involvement is essential in both understanding the problems and finding solutions.

Many recommendations coming out of the study have significance for communities beyond the Central Karoo. These include:
• Implement a local crime prevention partnership that includes all key department heads, local and provincial, as well as representatives of civil society, to set the agenda and monitor progress. (In some provinces this is being implemented as a Community Safety Forum – the name is not important, but the ability to work together in an integrated and cooperative way is essential).
• Start with a clear vision of ‘what it looks like when it is fixed’; if people’s vision of a safe place...
is not one of surveillance cameras, barbed wire, electric fences, alarms, and armed guards, then solutions need to move beyond these target hardening measures.

- Benchmark the lack of safety and agree indicators for progress towards safety.

- Understand as much as possible about what assets exist in the community to help establish and maintain interventions, particularly those aimed at keeping children busy, supervised and at school.

- Address the levels of post-traumatic stress in the community and build capacity for victim support. Simple, practical interventions will make a significant difference to the communal psyche.

- Alcohol abuse is a massive obstacle to a safe South Africa. We need to approach it from every perspective – so that social grants are used for poverty alleviation and not to buy alcohol, so that girls don’t get pregnant because they are drunk, so that mothers don’t drink during pregnancy, and so that crime and violence are not an inevitable part of weekends in homes, neighbourhoods and communities. A range of strategies emerged from the study to address the problem of alcohol. These combine a moratorium on the public sale and consumption of alcohol on ‘all-pay day’, in-patient detoxification services for those dependent on alcohol, out-patient support for families, alternative economic and leisure opportunities, and consistent law enforcement to significantly reduce the number of liquor outlets and stem underage drinking.

- A support system for pregnant girls and mothers, providing information about the impact of alcohol, drugs and cigarette smoking on unborn children, as well as information about how to access and properly use social grants, and helping to prepare for motherhood and bonding. This is seen as primarily a long term intervention, but would undoubtedly have short term benefits for community building.
• Celebrate partnerships and small successes; use every opportunity for optimism and affirmation.

• Invest more and spend less; interventions that prevent children from tipping over into offending behaviour will generate a return – spending on them once they are offending is money lost.

The models that have come from the study have been used in training SAPS members in crime prevention, and are constantly being refined through exposure to other environments and research. Everywhere we use them, service providers and community members recognise their own communities in these models and add learning and value to their ability to drive strategies that will help make South Africa safe.

Perhaps the key long term learning to emerge from the study is that if we intervene for our teenage pregnant girls today, there is a good chance that in 15 years time their daughters won’t be pregnant and their sons won’t be committing violent crime.

References


It is commonly accepted that corruption is an immeasurable phenomenon. Even when we are able to identify its presence in an organisation, we are never able to definitively quantify the extent to which it exists. This is particularly true within police organisations where individuals often feel isolated from civilian communities and show particular loyalty to their colleagues.

Police institutions, unlike many other sectors, endow members at the very bottom of the organisational hierarchy with easily abused discretionary power. Because this street level corruption tends to take place beyond the gaze of organisational oversight, it is unlikely that evidence of the corrupt act will survive. As a ‘victimless’ crime in which both bribe payer (whether monetary or otherwise) and receiver benefit from the transaction, it is unsurprising if neither blows the whistle.

Of course corruption is not victimless. At the simplest level the law has not served its intended purpose. Additionally, police officers who solicit bribes not to issue speeding tickets know they have undermined the law. Perhaps they do it in isolation, perhaps with the knowledge that their colleagues do the same. Either way, as law enforcement officers they are unlikely to maintain full faith in either their own or other justice institutions, having themselves been involved in obstructing justice.

The same is true of the other party. Some of the most vehement protestors about police corruption are those who pay roadside bribes. They fail to see themselves as active proponents of the crime, instead laying the blame at the feet of the police officer. As a result they too lose faith in policing and justice institutions.1

Which ‘police’ are corrupt?
Both the corrupt cop and corrupting member of the public (or vice versa) inevitably share their experiences with others, leading to the creation of

BRING THEM INTO LINE
Managing corruption in SAPS and metro police departments

Andrew Faull, Research consultant
andrewfaull@gmail.com

Police corruption has become increasingly topical following the corruption charges levelled against the SAPS National Commissioner early this year. South Africa has a national police service as well as one municipal and five metropolitan police services. Public debate around the ‘police’ generally fails to distinguish between these independent organisations, and perceptions of police corruption negatively undermine the entire policing fraternity. Because of this, the various police agencies should consider working together on corruption. This article examines approaches to corruption in the national, metropolitan and municipal police services. Among others, important issues that need to be addressed are the disciplinary code within the metro police departments, the lack of investigative powers granted MPD officers, and the SAPS’s failure over the past seven years to effectively implement any relevant strategies.
Difficulties with corruption data and reporting

Annual reports of the South African Police (SAP), predecessor to the SAPS, are fairly scant compared with the transparency afforded the South African public under democratic rule. SAP reports made no mention of internal disciplinary processes, let alone corruption. However, as transparent as SAPS reports may now appear, they remain at times misleading.

In 1996 the SAPS formed its first dedicated Anti-Corruption Unit (ACU). Through this unit the public was for the first time able to access accurate data on organisational action against corrupt members. During its first six years of operation the ACU was increasingly successful in bringing to book such members. The unit’s success peaked in 2000 when 1 048 members were arrested and charged by the unit.

Ironically it was the following year, 2001, that the unit had its staff halved in a move towards its closure in 2002. According to the SAPS, the ACU’s function was duplicated by the organised crime unit and should thus be located there (SAPS 2005). Ironically in 2002, just prior to the ACU’s closure, the head of KwaZulu-Natal’s organised crime unit was convicted on corruption charges brought against him through the ACU’s work.

While in line with the restructuring the organisation has seen since 2002, the closure of the ACU, led by the national commissioner, has been widely questioned by some within the SAPS as well as many outsiders. Since the closure of the unit, the SAPS alters the manner in which it presents corruption related disciplinary data almost annually, making comparisons with the ACU era almost impossible. This is largely due to the fact that in recent years the only available data refer to suspensions of members rather than the arrest and conviction based reporting implemented by the ACU.

Despite difficulties in comparison it seems clear that the organised crime unit, with its broad and busy mandate, has been unable to replicate the ACU’s success in the sphere of SAPS corruption. Data available from 2006/07 show a total of 222 members suspended for corruption and fraud.
during that financial year (SAPS 2007). This must be compared with the 1 048 corruption arrests (the majority of which, it can be assumed, resulted in temporary suspensions) and 193 convictions led by the ACU in 2000 (SAPS 2002).

The later figures reek of organisational inaction, and inaction there has been. From 2001 to 2007 the SAPS reported the development (and implied the implementation) of various macro anti-corruption strategies. In truth, rollout for what is now called the Corruption and Fraud Prevention Plan only began in September 2007, despite it still being incomplete.3 This obscene delay, combined with the misleading approach to reporting, raises serious questions about political will to tackle corruption in the organisation.

However, should the National Prosecuting Authority (NPA) successfully prosecute National Commissioner Jackie Selebi, new light may be cast on this lack of action and aspects of the closure of the ACU, as well as some aspects of the new Plan. In such a case all the Commissioner’s decisions relating to corruption management, as well as any other plans he may have spearheaded, will need to be revisited.

The Corruption and Fraud Prevention Plan

Delays and potential concerns aside, the rollout of the Plan must be viewed in a positive light. From what little is known about it, it seems both extremely complex, yet promising if fully developed and implemented effectively.4 One of the most exciting aspects of the Plan is its leaning towards public education on police corruption. Through as yet undecided means, the SAPS hopes to educate the public about police corruption and the mechanisms it will put in place to combat it. Importantly, one of these mechanisms will include a SAPS anti-corruption hotline, something else that was lost with the ACU.

Public education around police corruption is perhaps the most important anti-corruption approach, though as yet never pursued by the SAPS. The campaign will need to be handled delicately and in partnership with the media so that it is not misconstrued as further evidence of apparent rampant corruption in the organisation.

Other promising new tools include an ‘alternatives to corruption’ policy which will provide exit plans to members whose hands are already dirtied by corruption, and anti-corruption training modules taught in both basic training, and following promotions.

A possibly contentious aspect of the new Plan is that it fails to reintroduce a dedicated anti-corruption body in the SAPS. Instead the investigation of corruption remains with station level detectives, with high profile cases referred to the organised crime unit.

While policing its own members is obviously not the organisation’s priority, the checks and balances that keep a democratic police agency in line cannot be ignored. The SAPS has adopted a community-centric approach to policing which is heavily reliant on the presence of strong, trusting relationships between its members and the public. As the Afrobarometer findings referenced above suggest, broad national trust in ‘the police’ remains an illusive prize at this stage.

For this to change the SAPS is going to need to tread with careful haste in the rollout of its new Plan. The organisation will also need to carefully manage its response to the charges against the national commissioner.

**Corruption and the metropolitan police departments5**

Since 2000 Durban, Johannesburg, Ekurhuleni, Tshwane and Cape Town have established metropolitan police departments (MPDs). Swartland in the Western Cape established the country’s only municipal police department. Accountable to municipal governments and tasked with crime prevention, by-law and traffic enforcement within municipal limits, MPDs are considerably smaller than the SAPS.

The Johannesburg MPD, the country’s largest, has a total staff complement of 2 200 which is proportional to 0,1 per cent of the SAPS. While for the most part MPDs appear to exemplify an ease of corruption management when compared with the SAPS, they have their hands tied in some aspects of
their work through restrictions imposed by the SAPS National Commissioner.

With few circumstantial exceptions, MPDs do not have the power of investigation. While many within the MPDs consider this as a hindrance to their work, the absence of detective services means one of the most fertile grounds for corruption is absent from the organisations. SAPS detectives might 'lose' dockets or parts thereof, alter statements, plant or destroy evidence, or any other number of actions in return for reward. In this regard MPD officers might be seen as less corruptible than SAPS members.

However, the area of traffic enforcement in which the majority of citizens will encounter metro police, is one in which corruption is most visibly rife. Because corrupt traffic related exchanges span a greater proportion of the population, affecting the wealthiest to the poorest (rather than the SAPS who often disproportionately police the poor), it is one of the more public and damaging forms of corruption.

Tackling traffic related corruption will be extremely important when the Administrative Adjudication of Road Traffic Offences Act (AARTO) is implemented. AARTO is a license points demerit system through which traffic violations will result in license demerit points and suspensions, in addition to fines. After a decade in the making, a pilot of the system will be rolled out in Tshwane in 2008.

While it has the potential to revolutionise traffic enforcement for the better, many within MPD management believe it will increase the prevalence of bribery and corruption among their officers. The logic follows that if motorists are willing to pay bribes to avoid monetary fines, they will be more willing to pay bribes to avoid the loss of points which could lead to the suspension of their licenses.

Effective integrity and anti-corruption management within the MPDs and other traffic policing agencies will be vital if this system is to be effective. While all but the Swartland Municipal Police Service (SMPD) have anti-corruption related units, none has any formal anti-corruption or integrity management policy, strategy or training, and few have any functionally relevant structures outside of these units.

**MPD anti-corruption related units**

Within the MPDs there exist three basic models of anti-corruption unit. The Johannesburg (JMPD), Ekurhuleni (EMPS), Tshwane (TMPD) and Cape Town MPDs (CTMPD) all have anti-corruption related units.\(^7\) For the most part these units are reactive in nature, sharing a general mandate to investigate all complaints (including those not deemed corruption related) against members of their respective organisations.

In 2007 the JMPD introduced a ‘proactive’ subsection to its unit. These investigators are tasked with visiting offices and officers to conduct spot firearm, ticket book, process adherence and other systems checks. This function is similar to what the TMPD calls its Inspectorate. The TMPD’s Inspectorate monitors and assesses all departmental processes and conducts spot checks to measure adherence and uncover irregularities. If foul play is suspected, a case will be referred to their anti-corruption unit.

The TMPD also has a unique Civilian and Internal Affairs Unit mandated to advise TMPD managers with regards to civil claims, disciplinary and departmental action against employees, and to provide pre-emptive legal assistance for operations. The TMPD is currently moving to combine these three anti-corruption related units into a single Integrity Unit.

Durban’s MPD is unique in its current approach to combating corruption. While it previously had an anti-corruption unit, this was closed in 2007 and its function (but not members) moved to the city’s Ombudsman’s office. This is the only example of corruption investigation capacity located outside the city’s police department. While the importance of an independent unit is clear, the fact that investigators are unfamiliar with the police environment, and that the office's capacity was not increased when taking on this role, is concerning.

The Swartland MPD does not have any dedicated anti-corruption structures. All complaints and
investigations are headed by the chief or his deputy. This is understandable considering the uniquely small size of the MPD (46 members) operating in a peri-rural, small town environment. According to Swartland’s chief, the MPD has not received a single corruption complaint.

While there is as yet no clear best practice among the different MPDs’ approaches to anti-corruption units, a number of points stand out. It makes sense that related functions are located within a single unit and that this unit is positioned outside the department or in the office of the chief. It is also vitally important that the inspectorate-type function is fulfilled by all units, signalling a proactive drive against corruption. Ideally such a proactive drive would include monitoring of officers on the road, though at present this is only done by the JMPD.

MPD perceptions, structures and challenges

Top management within all of the MPDs consider corruption a serious challenge. However, almost none of the units tasked with combating it share these views. Most point to the relatively few corruption related complaints they receive to illustrate the health of their organisations. While not a focus of this article, most MPD civilian oversight committees, none of which is concerned about corruption, adopt the same attitude.

This argument flies in the face of public opinion and survey results and would only be valid if anti-corruption reporting and investigation structures existed, functioned and were advertised to the public. In such a scenario the whistleblower would know who to call and would feel safe doing so, the MPD would respond swiftly, justice would be served, and complaint figures would rise before declining. The same would happen if MPD employees were educated about, and encouraged, to report misconduct amongst colleagues, or if anti-corruption type units were proactive in their functions. This is not the case.

None of the MPDs have structures or guides for blowing the whistle on corrupt colleagues and none, with the exception on the JMPD, runs any form of public education campaign relating to corruption. The JMPD is the only MPD with a dedicated anti-corruption hotline, impressively advertised on all its vehicles. The JMPD and DMP are also the only MPDs to introduce driver identification and vehicle tracking technologies to help ensure personal accountability should a whistleblower refer to a particular vehicle when reporting corruption.

One of the most aggressively proactive forms of combating police corruption – the field integrity test – is not readily available to South African MPDs. Through such a test, anti-corruption officers posing as members of the public would cajole officers into potentially engaging in corruption. While such strategies raise obvious ethical questions, the knowledge that officers may be set up would likely deter many. However, due to complications around applying for entrapment orders from the Director of Public Prosecutions, this strategy is not available to MPDs unless a credible complaint against an officer arises. It is for this reason that the EMPD’s Integrity and Standards Unit views lack of entrapment powers as its greatest hindrance. However, entrapment orders and the resulting video and audio evidence of a corrupt act are only necessary for criminal prosecution. Councils should be able to take their own disciplinary action, based on evidence gathered without such an order. At present this does not happen.

Additional challenges

Perhaps the greatest hindrance to the governance of integrity in the MPDs is the disciplinary code. Unlike the SAPS, which has a code separate from that of other civil servants, MPD employees are governed by the same code as all council employees. In other words, firearm wielding, fast car driving individuals with immense discretionary power are liable to the same disciplinary definitions and punishments as secretaries, human resource managers and grounds staff.

Infringements are not considered within a policing context but in a civilian, council context. For example a ‘lost’ firearm would be treated as ‘lost council property’, not as the loss of a lethal weapon. Furthermore, disciplinary action is taken by council rather than by the MPD, further removing the misconduct from the policing context.

This argument flies in the face of public opinion and survey results and would only be valid if anti-corruption reporting and investigation structures existed, functioned and were advertised to the public. In such a scenario the whistleblower would know who to call and would feel safe doing so, the MPD would respond swiftly, justice would be served, and complaint figures would rise before declining. The same would happen if MPD employees were educated about, and encouraged, to report misconduct amongst colleagues, or if anti-corruption type units were proactive in their functions. This is not the case.

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In all but the JMPD, only councils can handle expulsions.

No case history or law exists to guide MPD discipline. MPD employees receive very different punishments for the same acts across time and departments.

With little control over discipline, MPDs complain of councils drawing procedures out to the extent that blatantly guilty employees are allowed to return to work based on the legally stipulated three-month maximum suspension preceding disciplinary action. The result is that officers who have been caught red-handed remain unpunished within their original positions while councils prepare to hear the case.

A solution to this situation would seem to lie in the development of a new disciplinary code in line with that of the SAPS rather than that of council, and the shifting of disciplinary management to within the departments. Ideally, MPDs would also develop and share precedents on the punishment of offences, and in so doing educate employees about the consequences of illicit self-enrichment.

The fact that MPD investigators do not have the criminal investigative powers of SAPS detectives also has a negative effect on the manner in which MPDs approach corruption. Criminal corruption investigations against MPD offenders must be handed over to already overburdened SAPS detectives. Solid cases are then at risk of being neglected and eventually withdrawn by senior prosecutors. Even when an MPD unit has gathered the necessary statements and evidence to convict officers, progress often slows once dockets are handed to the SAPS.

Again, this can result in blatantly guilty officers returning to work after the maximum three-month suspension. In order for this to change, the SAPS National Commissioner needs to appoint MPD investigators in terms of the Criminal Procedure and SAPS Acts, endowing them with the powers vested in these acts. Similarly, the inability to trap officers without prior orders issued by the Director for Public Prosecutions restricts the independence and power of MPD units in seeking out corrupt officers.

**Conclusion**

Discourses on ‘police’ in South Africa seldom differentiate between the country’s national, metropolitan and municipal police. As such, the Afrobarometer and ISS Victims of Crime surveys, among others, make it difficult to determine the extent to which MPDs influence public perceptions of ‘police’. While such distinctions may not be of paramount concern, they are worth considering when scrutinising management within the different organisations.

Perceptions of corruption in the country’s policing bodies negatively undermine the entire policing fraternity. As such, these disparate bodies with mostly separate management systems and structures might consider working together on corruption, among other management issues. While proactive, healthy relationships already exist between most of the MPDs and the SAPS (at a senior management level), it would seem that much could come from closer cooperation in the future. The SAPS could share much with the MPDs in terms of its detailed Corruption and Fraud Prevention Plan. By the same token, the MPDs’ relevant anti-corruption units might stand as models that the SAPS may choose to replicate.

Both the SAPS and MPDs lack publicly familiar and effective corruption reporting mechanisms. More importantly, advertising of hotlines and reporting procedures, where they exist, does not seem widespread. Given that the development of such resources and advertising can be costly, particularly in the context of local government budgets, it would seem logical for the country’s policing institutions to pool their resources in publicising anti-corruption structures. This would need to be managed effectively so as to encourage whistle blowing against offenders whilst not bolstering negative perceptions of police. Additional partners could be found in the National Anti-Corruption Forum and Public Service Commission, among others.

The simplest strategy would be a well marketed campaign (including television or radio commercials) advertising a national police anti-corruption hotline. Call centre employees would
direct complaints to relevant organisations, units or stations. In addition to ease of use, this would allow for the centralisation of complaints within a single database through which oversight bodies could follow up on action taken.

This option is particularly favourable in light of the SAPS's future plans to embark on a public anti-corruption campaign. This campaign, through partnerships with the media, would also benefit from publicising the arrests and prosecutions of members of the public involved in police corruption, which would hopefully arise through a proactive policing of officers and their engagements with the public.

Other important issues that need to be addressed are the disciplinary code within the MPDs, the lack of investigative powers granted MPD officers and the SAPS's failure over the past seven years to effectively implement any relevant strategies. If these issues can be checked, the country's police will have made an important step towards restoring their credibility.

References


South African Police Service 2005. Reorganising of specialised units (detective service) and in particular the anti-corruption units of the SAPS. SAPS handout at the 2nd National Anti-Corruption Summit hosted by the National Anti-Corruption Forum, CSIR, 22-23 March.


Endnotes
1 In a bizarre manipulation of the justice system based on the country's climate of police corruption, the Ekurhuleni Metropolitan Police Department alleges that some motorists falsely accuse EMPD officers of soliciting bribes in order to evade legitimate traffic penalties. Such a claim would have appeal if it were institutionally accepted that corruption is pervasive.
2 For ease of reading, the terms 'metro' and 'MPD' will refer to both metropolitan and municipal police.
3 SAPS strategic management reports that a national instruction was issued by the national commissioned for the rollout of the strategy in September 2007, although this claim has not been independently verified.
4 For more detail on the Corruption and Fraud Prevention Plan see Faull, A 2007. Corruption and the South African Police Service, A Review and its Implications. ISS Occasional Paper 150. Pretoria: Institute for Security Studies. Despite regular correspondence with the developers of the Plan at the time of writing, the pace at which the Plan continues to change means that some early SAPS goals presented in the paper are no longer valid.
5 Information in this section was gleaned through interviews with senior management, heads of relevant units and where possible, oversight committees in the following departments: SAPS, Johannesburg Metropolitan Police Department, Tshwane Metropolitan Police Department, Cape Town Metropolitan Police Department; Durban Metropolitan Police Service, Ekurhuleni Metropolitan Police Service and Swartland Municipal Police Service. Interviews were conducted between 26 October 2006 and 1 October 2007.
6 In the last quarter of 2007 Cape Town relocated its traffic enforcement outside of the Cape Town Metropolitan Police Department in a separate Traffic Department.
7 For ease of reading I refer to the TMPD's 'Internal Conduct Investigations Unit' and the EMPS's 'Integrity and Standards Unit' by the same name used by the JMPD, an 'Anti-Corruption Unit'. All three have very similar functions.
8 Alternately advertisements for the current national anti-corruption hotline could be made which then include reference to police corruption.
The Criminal Record and Forensic Science Service (CRFSS) was established in May 2005 as a division of the SAPS falling under the deputy national commissioner of crime intelligence and crime detection. Previously known as the Forensic Science Laboratory and the Criminal Record Centre, it fell under the detective service. Now a division on its own, it provides ‘an even more integrated approach to the analysis of exhibits and the presentation of expert evidence; [and] expensive and scarce resources such as the photographic laboratory and crime scene equipment are also shared’ (SAPS 2006).

Overview and components of the CRFSS

The purpose of the CRFSS is ‘to render criminal record and forensic science services to the SAPS in order to effectively prevent and combat crime’ (SAPS 2007a). The allocated operational budget for the CRFSS for 2006/07 was R156 687 000 and an extra R36m has been allocated for equipment (Du Toit 2007). The main facility is located in Silverton in Pretoria, with an additional biology unit in Arcadia. The laboratory in Cape Town has most of the forensic functions, while the laboratories in Durban and Port Elizabeth provide chemistry and ballistics analysis.

The CRFSS is headed by a divisional commissioner, and includes three components: the Criminal Record Centre (CRC), Technology and Technical Management (TTM), and the Forensic Science Laboratory (FSL) (see Diagram 1). The functions of the CRFSS are:

- The application of forensic science in respect of crime prevention and crime detection [FSL]
- The management of criminal records and the application of sophisticated techniques to recover physical evidence from crime scenes [CRC]
- The facilitation of technology development in the SAPS and the rendering of support services to the division [TTM] (SAPS 2007a)

Criminal Record Centre

The function of the Criminal Record Centre (CRC) is the management of criminal records and the

ARE WE TAKING PHYSICAL EVIDENCE SERIOUSLY?

The SAPS Criminal Record and Forensic Science Service

Bilkis Omar, Institute for Security Studies
bomar@issafrica.org

Much criticism relating to delays in processing DNA and DNA backlogs has been levelled at the police’s forensic science laboratory in recent years. It is, however, encouraging that South African Police Service statistics show that while backlogs were substantial from 2004 to 2006, the situation has since improved. Despite this, the Criminal Record and Forensic Science Service (CRFSS) in the SAPS still faces several challenges, notably the high cost of training, low salaries, high staff turnover in the CRFSS and problems relating to evidence collection at crime scenes.
application of sophisticated techniques to recover physical evidence from crime scenes (SAPS 2007a). Ninety-two local criminal record centres (LCRC) are located across the nine provinces. LCRC members are responsible for collecting evidence from a crime scene, ranging from taking photographs to removing spent cartridges or samples of bodily fluids left at a scene – with members working on the simple rule that ‘all evidence must first be documented before it can be removed’ (SAPS 2007b). In 2002, the CRFSS also established an Automated Fingerprint System (AFIS). The function of this within the CRC is to enable the identification of criminals.

LCRCs previously fell under the ambit of the provincial commissioners. They are now being moved to the office of the divisional commissioner at national level to enable coordination, management and function purification of LCRCs.

Technology and Technical Management

The function of the Technology and Technical Management (TTM) component is the facilitation of technology development in the CRFSS and the rendering of support services to the division (SAPS 2007a). This component is responsible for the procurement of the most up-to-date technology for the CRFSS and the other divisions of the SAPS.

Forensic Science Laboratory

The Forensic Science Laboratory (FSL) comprises the biology, chemistry, scientific analysis, ballistics, ‘questioned document’ and explosives units.
Forensics is used to analyse almost all types of crimes, with different techniques being used for different crimes. For example, burglary, car hijacking, bank robbery, and cash-in-transit heists would require the use of fingerprint identification, ballistics and the questioned document units. Murder, attempted murder, rape, indecent assault and common assault by comparison would require fingerprint identification in addition to DNA analysis.

Given the types of crimes committed in the country, the ballistics and biology units are the most frequently used units in the component. Seventy per cent of the biology unit’s cases comprise sexual assault (Lucassen 2008).

A career at the CRFSS

The entry requirement for employment at the CRFSS is a Bachelors degree in science, engineering, criminology or law. The entry post level is that of a sergeant, with a starting salary of between R96 570 to R122 190 per annum (Swart 2008).

For graduates, employment at the laboratory begins with an induction, followed by specialised in-house training which varies according to specialty. Thereafter, written and oral examinations take place in addition to practical competency testing. Remedial training follows and if successful, the scientist is then declared competent. Operational mentorship is provided and once this is complete the scientist is authorised to work independently.

The cost of training per scientist is exorbitant. Biology DNA training costs approximately R450 000 per person, while the training for ballistics amounts to approximately R500 000 per trainee. Chemistry toxicology and chemistry drugs training costs approximately R330 000 per person. The duration of training courses is two to three years.

Tertiary institutions in South Africa provide courses in the sciences that are applicable for employment as a scientist at the FSL. However, none of the tertiary institutions provide ballistics or biology training that will fully equip the individual to be employed as a forensic analyst at the FSL.

Apart from the in-house training for graduates, analysts from the CRFSS provide three-day information workshops for medical doctors, nurses, magistrates and judges, and members from the National Prosecuting Authority (NPA) to update them on current activities. Investigating officers also receive training on these activities.

The process: from crime scene to laboratory to court

The crime scene

When a crime is committed, in most instances a witness will be the first to report the incident to the police. A uniformed officer from a station will respond to the call and attend to the crime, and on request, a detective will attend to the crime scene. A case will be opened, either by the uniformed officer or the detective assigned to the case, and a Case Administration System (CAS) number will be issued. In most cases the local criminal record centre members will collect the evidence from the scene, but sometimes detectives collect crime scene evidence (bearing in mind that there are only 92 local criminal record centres in the country).

The laboratory

Once collected, the evidence is sent to the laboratory for testing. The laboratory administrative assistant receives and registers the case, issues a lab number, and then registers the case on the Exhibit Management System (EMS), a system that manages and controls case files and items in storage. In this way the tracking of files and items to other storage areas and persons is simplified (Lucassen 2007).

The reporting officer or analyst begins the process of evaluating the evidence received. It is important to note that some DNA cases are not immediately analysed – they are activated when requested by a state prosecutor.

The next phase is the activation of the DNA analysis process. This process involves the following steps: extraction of DNA from the exhibit, amplification of the DNA to a workable amount, and separating of the DNA fragments into different sizes. The sample result interpretation is then done and the reporting officer thereafter compiles a report which is
reviewed by another senior reporting officer. The administrative staff then dispatch the report and the exhibits.

The courts
In many instances the analysts forward an affidavit to the prosecutor, which suffices to prove the state’s case. However, analysts often have to be available to testify in court.

Case turnaround times and backlogs for DNA processing
Given that the media and public interest is largely focused on the functioning of the Forensic Science Laboratory, this section considers issues of casework process, turnaround times, and backlogs in relation to DNA testing at the FSL’s biology unit only.

Much criticism relating to delays in processing DNA and DNA backlogs has been levelled at the forensic science laboratory in recent years (Sunday Times 2006; Carte Blanche 2006; Saturday Star 2007). Due consideration must be given to the complexity of the analysis process and the fact that various factors influence this process. Having said this, SAPS statistics indicate that while backlogs were substantial from 2004 to 2006, the situation has since improved (Table 1). Between April and November 2007 the laboratory received 35 241 cases, and 36 754 cases were finalised (the finalised number is greater because it includes samples carried over from previous years).

At the laboratory, it takes approximately 30 days from receipt of case until activation of the analysis. Thereafter, the time from activation until the report is forwarded to court is 90 days. In total then, the duration of time from receipt of a case until the submission of a report to court is approximately 16 weeks or 120 days (see Diagram 2 for the process from crime scene to court). These turnaround times are influenced by various factors such as:
- The condition of the sample (the sample may have been exposed to environmental factors, for example, sunlight and rain, for a few days

Diagram 2: Process from crime scene to laboratory to court

Table 1: Cases received and finalised by the Forensic Science Laboratory

<table>
<thead>
<tr>
<th></th>
<th>Apr 04-Mar 05</th>
<th>Apr 05-Mar 06</th>
<th>Apr 06-Mar 07</th>
<th>Apr 07-Nov 07</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases received</td>
<td>41 285</td>
<td>42 746</td>
<td>42 724</td>
<td>35 241</td>
</tr>
<tr>
<td>Cases finalised</td>
<td>35 805</td>
<td>41 256</td>
<td>47 230</td>
<td>36 754</td>
</tr>
</tbody>
</table>

Source: SAPS Biology Unit, CRFSSS
before a crime is reported with the result that the DNA in the sample degrades
• The amount of DNA (which sometimes is insufficient to do a DNA test)
• The court date and the urgency of a case

There has been a move by the Divisional Commissioner and the biology unit to improve the turnaround time by ten per cent, which would mean that the turnaround time from receipt of a case to submission of a report to court will be 108 days.

A comparison with international laboratories illustrates that the FSL’s 120 days turnaround time is not unreasonable. The average forensic laboratory service turnaround time for a biological sample in Canada in June 2005 was 114 days (Fram 2007). At the Federal Bureau of Investigation (FBI) DNA Forensic Science Laboratory, ‘the average turnaround time for a case is about one year’ (Fram 2007).

In order to determine the success or otherwise of the FSL’s biology unit in terms of its statistics, it is important to understand the casework process. In a particular year, the biology unit can receive up to 42 000 cases for DNA analysis. These cases will be sent for evidence recovery which involves screening each case for the presence of body fluids. If no blood or semen can be found, no DNA analysis will be performed.

Based on previous experience, one can expect 60 per cent of 42 000 cases to be classified as ‘negative’; thus, DNA analysis will not be done on 25 200 cases. Of the 40 per cent (16 800) cases that are expected to be blood or semen ‘positive’ and on which DNA analyses will be done, only 24 per cent will have enough ‘good quality’ DNA that will be further analysed. Thus, realistically, only 4 032 of the original 42 000 cases (or ten per cent) will potentially be analysed.

Evidence collection

The above numbers are cause for concern. Some challenges lie at the evidence collection phase at crime scenes. Evidence is collected by forensic field workers based at the local criminal record centres, and in some instances, by detectives. Health care practitioners or district surgeons also collect DNA samples from victims.

Some of the problems that can be attributed to the evidence collection phase are:
• The training of forensic field workers is insufficient
• The samples are of a poor quality because of degradation due to exposure to environmental factors
• The health care practitioner submits a crime kit that is partially complete
• The crime kits are not stored in a cool place, or the kits are not sent to the laboratories as quickly as possible

It stands to reason that if there is a problem at the evidence recovery stage - the most important phase of the process - the laboratories will demonstrate flawed statistics, and success will be difficult to achieve.

Prosecutor requests

One of the requirements of the laboratories is the submission of a letter or form in which DNA analysis of exhibits is requested. In 2007, only 6 984 prosecutor requests were received by the biology unit that were finalised on a DNA level. This means that many cases remain unanalysed and are simply being stored in laboratory fridges.

The prosecutor request form is compiled by the lab and provided to prosecutors to complete when requesting the analysis of DNA. The purpose of the letter is to prioritise the sample testing process to ensure that samples are ready as evidence for the next court appearance or hearing. The failure to produce a prosecutor letter results in the case not being given priority by the labs, and a concomitant delay in the court process because of a postponement. The prosecutor request further serves to make the lab aware of the precise information required for court.

An argument can be made that a request need not be furnished as all evidence submitted to the laboratories would be for the purposes of DNA testing. However, the reasons for requiring the
request are sound. For example, if a false rape claim is made and the case is subsequently withdrawn from the court roll but the laboratories are not informed of the withdrawal, the labs would proceed to do the test, wasting substantial time and resources in the process (Lucassen 2007).

Staffing and case complexities

The staff complement at the biology unit is concerning and further exacerbates delays in DNA processing. The total personnel count is 210 made up of 90 casework analysts, 30 technicians working on the DNA analysis process, 50 support staff and 40 staff employed at other sections (Lucassen 2008).

Capacity in the CRFSS as a whole is a serious challenge. As of March 2007, the total number of CRFSS personnel was 1 391, excluding members working at the 92 local criminal record centres in the nine provinces. There is a move to employ a further 486 staff at the CRFSS to increase the division’s human resource capacity (Du Toit 2007).

The capacity challenge is evident in the high staff turnover at the laboratory. Many highly skilled scientists have left South Africa to work in foreign countries like the USA, UK, New Zealand and Australia (Du Toit 2007). These scientists generally enter foreign institutions without needing any additional training because the CRFSS training is of such a high standard (Gouws 2007).

South African institutions like the Department of Health have also successfully attracted scientists trained by the CRFSS; the lure being a salary twice that of the SAPS. In the Western Cape alone, a total of 49 years of experience has been lost since 2000 because members have left the SAPS (Gouws 2007). The divisional commissioner of the CRFSS is not able to offer higher pay to retain staff, but has introduced the scarce skills policy that provides for an additional R1 000 per month for each scientist in the lab (Du Toit 2007).

The promotion policy too is of concern. Members are required to apply to other units or divisions to progress to a more senior rank, with the result that they have to be re-trained for the specific job. This means that either their expertise within the unit is lost, or they remain in the same post for many years.

Given the high cost of training, the low salaries, and the high staff turnover, the strategy to retain staff may need to involve relying on contracts, and staff will have to pay back the cost of their training if they leave the CRFSS within a specific time period (Du Toit 2007). This strategy will serve to retain staff for a longer duration and will ensure that the SAPS receive value for money on its investments.

How the new robotics system can help

In 2005 forensic scientists in the SAPS lab developed a forensic automation system for DNA evidence using robotics. Called the Genetic Sample Processing System (GSPS), it is the first and the largest single automated forensic DNA analysis system in the world, costing approximately R80m. The system is controlled by 27 personal computers and four robotic arms, which facilitate conveyance of laboratory wares between components (SAPS 2007c).

The GSPS system, from the police’s side at least, seeks to improve the SAPS capacity to process DNA samples. As has been illustrated previously, while there has been a marked improvement in case backlogs, the GSPS system will serve to improve DNA testing by a bigger margin.

Housed in a glass room, analysts feed samples into the system, and the robotic features direct the samples through a series of analytical processes in three chambers. The technology that is used during the process ensures that no detectable cross contamination takes place between the samples and it also eliminates space for human error.

The final outcome of the process is the generation of a DNA profile which is then compared to DNA profiles on the DNA database.

It is not possible, currently, to provide a time frame for the processing of DNA from chamber one to chamber three, because the process is not running to full capacity. However, it is anticipated that the system will generate approximately 4 000 samples
per week, at different levels of the DNA analysis process (Lucassen 2008).

The GSPS first became operational in March 2007. Since then most of the technical problems that were of concern have been ironed out. The most challenging problem for the laboratory – the ongoing maintenance of the system – has subsequently been allocated to a German company (Du Toit 2007). The GSPS has an uninterrupted power supply, and all results generated are backed up by a server. This is an important consideration because all recorded results will at some time be required for court purposes.

Since February 2008, only DNA cases that have been stored are being processed by the GSPS, due to the absence of court dates, or because no arrests have been made in connection to these cases. Completed cases are being fed into the DNA database of suspects, and these will be matched against all future cases coming into the laboratory. Cases required for current court purposes are being processed by the manual DNA analysis process.

The benefits of the GSPS are boundless. Once fully operational, the potential for human error will be eliminated, DNA analysts will be used for case work management to analyse and verify results, a high volume of cases will be processed, and – most importantly – the SAPS will be able to improve their turnaround time.

Summary of challenges facing the CRFSS

Turnaround time
The length of time to process DNA has been a contention for many years but the complexity of the casework process, in addition to the annual increase in the volume of casework and shortage of staff, has demonstrated that this process cannot be much improved. In addition, other factors, like staff having to testify in court, exacerbate the matter.

Evidence collection
Probably the most challenging issue for the CRFSS is the inadequate collection of evidence by the LCRC investigating officers and health care practitioners, which is the cause of many samples being of too poor a quality to be tested.

Prosecutor requests
The request for a prosecutor letter to accompany an exhibit is designed to prioritise testing for court and assists the lab in preparing for the court case. The challenge lies in getting prosecutors and related role players to adhere to this.

Retention of staff
It is not surprising that the low salary paid to graduates, in addition to the questionable promotion policy and lack of career development at the CRFSS, has caused an exodus of staff from the Service.

Unsuccessful trainees
The cost to the SAPS of training graduates is exorbitant, especially if the graduate does not pass the examinations. Apart from the large amount of money spent on training graduates, there is no probationary period that can provide for an exit strategy. The result is that the CRFSS is compelled to continue to employ the graduate. The option of a transfer to a police station is not possible because graduates do not have police training.

Recommendations
The following recommendations might assist the CRFSS in its approach.

Given the number of cases being processed yearly, the CRFSS needs to increase its human resource capacity. Even if this is attainable, it can only be maintained if the posts are made more attractive. Salaries must be market related, an effective promotion policy must be introduced, and career development must be made a priority, more especially because the work of an analyst/scientist is so specialised.

Furthermore, and as proposed by the Divisional Commissioner (Du Toit 2007), the introduction of a higher entry level will ensure that more experienced personnel are employed. In addition, staff must be made contractually liable for at least five years in order to ensure that the high cost of training pays off and the SAPS gets a return on its investment. If rescinded, the employee should refund the cost of the training.
New graduates must be placed on probation in the event that they are unsuccessful in the examination. They must further be compelled to re-write the examination until a suitable score is attained. This will remove the obligation on the organisation to retain their service.

The use of an offender database is not permissible because it is considered a violation of a person’s human rights. Given the high rate of crime in South Africa, an offender database will enable police to find a ‘match’, which will facilitate a speedy prosecution. It will also ensure that the rate of recidivism is decreased or prevented. Thus, when a person is convicted of an offence, s/he should be compelled to provide a blood sample in order that his or her DNA history is recorded on the database. Article 37 of the Criminal Procedure Act has to be re-examined for this purpose.

It has been proven that the prosecutor letter is a necessary requirement given that not one request to date has ever been denied by the laboratories. In order to get the various role players, especially the prosecutors, to comply with this, more frequent training workshops must be held.

The poor quality of evidence being collected from crime scenes must be addressed urgently. An audit of all 92 LCRCs must be done to identify the problem offices. The national CRFSS has to further ensure that more LCRCs are established to improve service delivery and that members assigned to a case be provided with regular, comprehensive training in evidence collection.

**Conclusion**

This article provides an overview of the SAPS CRFSS with a focus on the ballistics and biology units of the forensic science laboratory component. As has been illustrated, various challenges face the Service, all of which are acknowledged by the CRFSS. In many instances, policies, such as those relating to salaries and promotions, are formulated at other divisions or levels of the SAPS, and compliance with these policies is a requisite. However, the unique skills and expertise that the CRFSS depends on requires that special consideration be given to the issues identified above.

**References**


**Endnotes**

1 Finalised cases include all cases received and registered by the biology unit. In many instances, cases are analysed for body fluids and the process is halted pending a request from a prosecutor, and in some instances, the analysis process is completed until it is dispatched to court.
Security guards respond to an alarm call in Parkmore, Johannesburg, at one of a growing number of homes where security-conscious householders have chosen to supplement the service offered by the police with a private arrangement.

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Pretoria office:
P O Box 1787, Brooklyn Square, Pretoria 0075
SOUTH AFRICA
Tel: + 27 12 346 9500/2 Fax: +27 12 460 0998
Email: iss@issafrica.org

www.issafrica.org

Editors: Antoinette Louw email: alouw@issafrica.org
        Bea Roberts email: bearoberts@wisenet.co.za
Design and production: Image Design
Repro and print: Remata iNathi