

THE WHITE RIGHT

A threat to South Africa's internal security?

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In late 2002 a number of bomb blasts brought home the realisation that the South African white right did not disappear after the 1994 election. The police have made a number of arrests and seem to have stopped the bombings – for now. The white right cannot garner the support necessary to execute a successful coup in South Africa. However, given sufficient backing, the extreme white right could maintain a sustained sabotage campaign and impair South Africa's international image while damaging race relations in the country.

Just after midnight on 30 October 2002 eight bombs rocked Soweto, South Africa's largest township. Seven of the blasts destroyed commuter railway lines running through the township, inconveniencing more than 200,000 commuters. The eighth blast occurred at a mosque, causing parts of the building to collapse. A hitherto unknown organisation, Die Boeremag (Boer force/power) claimed responsibility for the bombings.

During 2002 almost two dozen alleged Boeremag members – including serving military officers – were arrested and charged with terrorism-related offences, sabotage and high treason. After uncovering a Boeremag weapons cache, the national commissioner of police, Jackie Selebi, revealed that there were about 100 key Boeremag members in the country, many of whom have access to defence force weapons. Selebi pointed out that most of the suspects were young – between the ages of 17 and 40 years – and that many of the suspects were qualified professionals and prosperous farmers.

South Africa's industry, wealth and human capital are concentrated in a few metropolitan areas. A number of powerful bombs, strategically placed,

could cause considerable harm to South Africa's fragile economy. Alternatively, the assassination of a handful of cabinet ministers and popular black political or religious leaders could take the country to the brink of a race war.

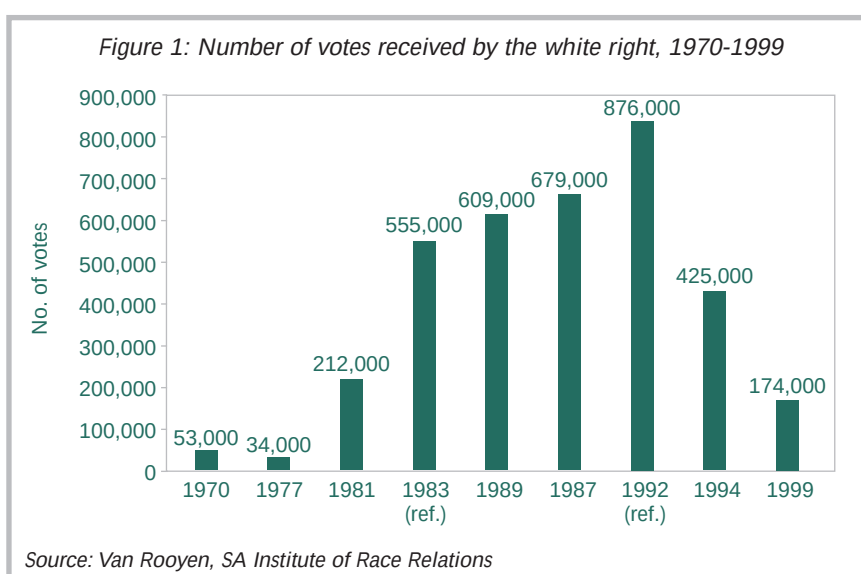
Before 1994

In order to evaluate the threat the white right poses to South Africa's internal security, it is vital to understand the historical context in which the white right – and more particularly the Afrikaner right – came about. The emergence of the contemporary white right must be understood against the background of the rise of Afrikaner nationalism in the twentieth century. Throughout their history Afrikaner nationalists believed that the only way to protect the status and identity of the Afrikaner, and to prevent the group from being dominated by other ethnic groups or races, was to exercise power through self-determination in an ethnically homogenous territory.¹

A significant weakness of the white right is its internal divisions on issues of policy and strategy, and personality-driven differences. Notwithstanding such divisions, however, Afrikaner nationalists argue that they share three common ethnic attributes: the Afrikaans language, Calvinist religion,

and Afrikaner history, with its claim to an own territory or *volkstaat* (people's state). While race is not specifically mentioned as an attribute, it is implied in the understanding the Afrikaner right has of ethnicity.²

In the late 1980s the white right had significant support among Afrikaners. In the 1989 election the white right enjoyed the support of the majority of Afrikaners in the then Transvaal and Orange Free State provinces. In 1992 close to a million white South Africans voted against sharing political power with black people at central government level (Figure 1).



In the run-up to the country's first democratic election based on universal adult suffrage in 1994, the white right arguably had the capacity to push the country into a civil war and unilaterally establish an exclusive white, Afrikaner *volkstaat* in a part of South Africa.

In the post-1994 era most right-wing whites, disillusioned by the political impotence of right-wing organisations and leaders, have withdrawn from political activity. Some try to withdraw from the realities of the new South Africa by moving into gated communities. Others – especially the younger generation – are emigrating.

Appearance of the Boeremag

However, a few isolated, but significant, violent incidents after 1994 reveal that there is some activity

on the fringes of the white right. The most significant of these have been the actions of the Boeremag. The unexpected appearance of the Boeremag means that there are groups of hardcore right-wingers who are tenaciously devoted to creating an Afrikaner state.

The story of the Boeremag makes a fascinating case study of how the extreme right mixes religion and politics. The Boeremag's sabotage campaign was driven by a philosophy based on extreme nationalist views and a sense of God-given purpose: a lethal cocktail, given the damage religiously inspired

terrorism has caused in other parts of the world.

It is apparent from documents confiscated from alleged Boeremag members that the organisation is motivated by prophecies made in the early twentieth century by a Boer seer, Nicolaas van Rensburg. Indeed, there are strong indications that the insurrectionist plans of the Boeremag were at least partly motivated by Van Rensburg's prophecies.

Van Rensburg predicted the coming into power "of a black government", but that this would be of a short duration only. During this time, "hostility from Indian ranks reaches a crisis over the Afrikaans language... the language of the Boers and everything connected with it is now being denied and trampled upon. All the protests of the Boer fall on deaf ears." Van Rensburg further said "a day will come when the Indians will occupy positions of power in the country. The Christian values of the Afrikaner will then be in direct conflict with the religion of Islam."³

The Boeremag makes a good case study, for another reason. Initially underestimated by the police and the intelligence community, the danger posed by the organisation grew to become South Africa's primary security threat in late 2002.

The police successfully identified and arrested key Boeremag suspects, bringing to a halt the bombing campaign before it resulted in any major loss of life. The police's success was largely based on good intelligence work. With these arrests the police seriously disrupted the plans of the Boeremag. However, if the Boeremag is organised in a cell-like structure (which seems likely), it is probable that some individual cells have gone unnoticed by the police.

Mobilising support

The number of extreme right-wingers who are prepared to use violence to achieve their aims is likely to be small, and unlikely to ever engender the active participation of most Afrikaners. It is a sobering fact, however, that for a sabotage campaign to be successful and create long term instability, this is not necessary. At the height of its activities the Irish Republican Army (IRA) had no more than a few hundred active members. The secret of the IRA's success was that it had a large number of sympathisers who provided the organisation with logistical support. In South Africa a small group of right-wing saboteurs will be difficult to apprehend if they are viewed sympathetically by Afrikaners in general.

A confiscated Boeremag document reveals how the organisation seeks to give a populist spin to its activities. The document cites post-1994 levels of crime, unjust affirmative action policies, and the sidelining of the Afrikaans language as reasons why an independent Afrikaner state is justified. Given the current high levels of violent crime, rising white unemployment, and the state-sponsored campaign against farmers in neighbouring Zimbabwe, such arguments may be capable of eliciting widespread sympathy among conservatively-minded Afrikaners.

Moreover, under certain circumstances, and with a right-wing organisation capable of exploiting popular Afrikaner grievances, it is possible that a right-wing sabotage campaign could be condoned – and even tacitly supported – by a significant number of Afrikaners.

The state needs to guard against alienating the broader ethnic community in which the white right

operates. The white right should not be allowed to succeed in creating martyrs whose 'suffering' and 'sacrifices' can be idealised and used to enlist new impressionable young recruits.

Supposing conservative Afrikaners did support the state's fight against right-wing saboteurs, this support could rapidly be undermined in the event of security force excesses. The perception can then be fostered that the security forces (and by implication the government), are victimising members of the ethnic group in general. With time, and depending on the extent of the abuses, a significant number of Afrikaners, and not only right-wing extremists, may begin to view the security forces as the real enemy. Once this happens a small but substantial number of Afrikaners may stop co-operating with law enforcement agencies, and even develop sympathies for the extremists amongst them.

There are already allegations that Boeremag suspects have been tortured by the police. According to press reports a homeless white man was mistakenly arrested in connection with the Soweto Boeremag bombings. The man alleges that the police tortured him, which included giving him electric shocks to his toes, and demanded information about bombs and right-wing operatives. The legal representative of some of the arrested Boeremag members has also alleged that his clients were tortured by the police.

It would be a victory for the extreme white right if any of these allegations turn out to be true. Firstly, it could result in the acquittal of guilty accused if crucial confessions were made under duress and torture. This would be an acute embarrassment to the criminal justice system and the government, while providing a moral boost to the extreme right. Secondly, such abuses would enable the extreme right to create the martyrs they need to sustain support and enthusiasm for their cause.

Coup d'état

It would however seem that the extreme white right cannot attract sufficient popular support, nor develop the organisational capacity to execute a coup d'état. According to military analyst Rocklyn

Williams it is vital that a number of preconditions are in place for a coup to be successful in any country (all of which are absent in respect of the South African right wing):

- A high level of political will and mass mobilisation must exist to ensure that the coup plotters possess the required levels of legitimacy and political support.
- The coup plotters need to be able to secure control over the most important of the country's strategic installations. In a country as large, complex and organised as South Africa this is close to impossible to achieve.
- The majority of the officers' corps, or a significant part thereof, need to support the objectives of the coup, and possess the political will to govern.

With every passing year since 1994 the extreme white right's chances of violently taking power, or establishing an independent Afrikaner state, have diminished. Most of the country's senior civil servants are African National Congress (ANC) appointees. The South African National Defence Force (SANDF) and South African Police Service (SAPS) have become multiracial organisations at all command levels. Moreover, many senior officers in the defence force and the police who held right-wing beliefs have been sidelined or given early retirement.

In mid-1991 some 43% of the police personnel in the former South African Police (SAP) were white. Officers' ranks were virtually exclusively white. Even in mid-1994, some 95% of the officer corps in the SAP were white. At the end of 2002 the picture looks very different: just over a quarter (26%) of all police personnel in the SAPS are white, and just under half (48%) of the commissioned officers and 22% of the non-commissioned officers are white.

Conclusion

In a democracy it is not an easy task to deal effectively with a sustained terrorist threat. Civil liberties, constitutionally entrenched rights and the rule of law come at a cost when it comes to fighting terrorism: the state has to expend considerable resources and patiently collect evidence over frustratingly lengthy periods of time to successfully

convict the kingpins in a closely knit terrorist network. This requires excellent teamwork between the various intelligence and law enforcement agencies, and a motivated and specialised investigating and prosecuting unit devoted to identifying and convicting terrorists.

Even more difficult to deal with is an ethnocentric and religiously inspired terrorist campaign. Such a campaign can successfully take advantage of popular grievances against the central government, and exploit ethnically based aspirations for greater political and cultural autonomy.

To crack an isolated terror cell is possible. To defeat a band of terrorists who are abetted in their actions by a growing group of sympathisers spread across large parts of the country is almost impossible. The former can be done through good police and intelligence work alone. The latter requires a political solution.

To ensure their long-term success, terrorists need the support of parts of the community in which they live. Terrorists – discounting the exceptional loner who works on his own – are members of bigger groups and gangs that provide them with logistical support and finances to further their cause. Terrorists who live and hide among people who do not co-operate with law enforcement agencies can be a state's biggest nightmare. Such a scenario must be avoided at all costs in South Africa.

Endnotes

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This article is drawn from a forthcoming ISS monograph on the topic by Martin Schönteich and Henri Boshoff.

DO UNTO OTHERS – AND PAY THE PRICE

Combating sexual violence in the south of Johannesburg

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By the time they turn 18 years of age, 20% of teenage girls and 13% of teenage boys living in the southern parts of Johannesburg have experienced sexual abuse. Constant exposure to sexual violence has forced them to choose between humiliation and survival. Faced with a no-win situation, a study by CIETafrica has shown that the youth have developed attitudes that allow them to see themselves as survivors. However, this has come at a cost – in this case, the development of a culture of sexual violence. More effective police and legal action in registering rape cases and in prosecuting and convicting perpetrators could contribute to reversing this culture.

Sexual violence is not limited to South Africa. However, one legacy of the apartheid era is that Soweto, as well as the 'deep south' informal townships of Johannesburg, became known as the 'rape capital' of the world.

The calculated fragmentation of communities under apartheid has been compounded by a divisive plague of violence. The endemic violence characterising these areas has become highly sexualised and turns against community members with bitter effect. White and black, male and female, and children and adults are the victims of sexual violence as frustrations and feelings of inadequacy are vented in what has been called a sexualised culture of violence.¹

CIET's three-year social audit, conducted at the request of the Southern Metropolitan Local Council (SMLC) of Johannesburg, produced the largest and most detailed information base on sexual violence in the country as yet.

Three fact-finding and communications cycles covered the full spectrum of communities in southern Johannesburg. The audit ranged from

Soweto in the west to City Deep in the east, and from the central business district in the north down to Orange Farm in the south. The area as a whole is diverse and heavily populated, home to 41% of Johannesburg residents. The stratified last stage random sample was proportional to the population. Several instruments were applied in each sentinel community, in three cycles of fact-finding and feedback of results.

The truth comes out

The proportion of respondents who suffered sexual abuse increased steadily with age. Asked if they had experienced sexual violence in the last year, 3% of respondents said they had been raped. Thirteen per cent of the girls said they had been beaten, 27% said they had been touched inappropriately, and 28% said they had been verbally abused.

Boys up to the age of 15 were as likely as girls to have suffered abuse, but thereafter the proportion of boys who have been beaten dropped off, presumably reflecting their increased ability to defend themselves.

What men will do

Over 2,000 men were interviewed in streets and in shops. One in three said they could be violent towards women. This view increased with age, with no significant difference in the responses between employed and unemployed men. Of those who openly said they could be violent towards women, 68% said they would be physically violent and 12% said they would be verbally abusive. Another 12% said they would punish the woman by sending her home to her parents, taking her money, or not letting her into the house. Three per cent said they would be sexually violent. Overall, one out of five men admitted to having had forced sex with a woman without her consent.

Men who said they could NOT be violent to a woman were asked why not. The most common response had to do with their identity as non-violent, good people.

One in four men saw sexually violent peers as more powerful. The majority of men, however, viewed physical violence as a negative characteristic. This was reinforced by focus groups: in Regent's Park men who do not rape were said to be mentally strong, and in Jabulani, Soweto, they were said to have 'the art of thinking'.

What women think

Women were asked about the conditions under which they might accept sexual abuse, in order to probe how they weigh sexual violence in relation to other pressures in their daily lives. Almost all women – 98% – felt they had the right not to be sexually abused, yet two out of three said economic adversity might force a woman to accept abuse.

The link between a woman's economic power and her sense of empowerment is evident, given that almost one half of the women said economic adversity might cause a woman to allow her daughter to be abused.

The youth: saying it straight

If the frequency of sexual violence amongst the youth was surprising, the attitudes they expressed were worse. Nearly half of the teenage boys questioned said they believed a woman who says 'no' really means yes.

Among those who knew someone who had been raped, 7% said the woman enjoyed the experience and that she had 'asked for it'. One in four boys under 19 admitted to having had forced sex with someone without his or her consent.

Especially worrying was the opinion of teenage girls: 10% said they did not have the right to be protected from sexual violence; 27% said forcing sex with someone you know did not count as sexual violence.

One in five girls said they meant 'yes' if they said 'no', and two out of three said sexual violence was at least in part the woman's own fault.

Professional responses to sexual violence

The same social audit also examined how the police, medical workers and judiciary in Johannesburg's SMLC handled cases of sexual violence.

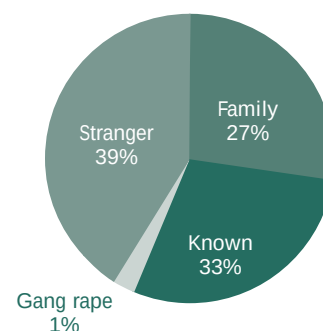
Interaction with the police system

CIET spoke to 1,995 rape victims. One in four (24%) of them had been raped more than once in the last year. Nearly half the rapes happened in the home or in a neighbour's house (Figure 1). Improved policing, in the traditional sense of the term, would do little to stop this. With 60% of rapists known to their victims, there is little that a police presence on the street will do to prevent these rapes.

A rape case requires investigation and specific evidence for it to stand the test of the court process. It is likely that a stream of strong cases would be a disincentive to rape.

The police expressed frustration at a number of obstacles they encounter when trying to open or

Figure 1:
The victim's relationship with the perpetrator



complete a case of rape following official procedures.

Victims would often refuse to open a case in the first place – a consequence of the woman being in shock, or too scared to speak. Alternatively, they withdraw the case, sometimes because they are scared, or if they arrive at a settlement with the perpetrator.

The third most common reason for a case failing to make it to court is the inability to identify the suspect. Furthermore, proving that force was used – a crucial factor in demonstrating that there was no consent – is one of the most difficult tasks in building a convincing case for court.

Police in the Booyens area said a lack of training and huge caseloads further hampered the process, while stations in Naledi, Moroka, Ennerdale and Braamfontein said officers lack the transport necessary for investigations. When they do finally track down a vehicle to get to the rape scene, the victim often has second thoughts about reporting the rape, gives in to fear, or decides to go home or to a doctor.

Interaction with the medical system

The medical system plays a crucial part in obtaining evidence of a rape. The accuracy of this evidence, its timeliness and its inclusion in every case reported can make a substantial difference to the progress of a case.

Police officers from Naledi, Jabulani and Orlando police stations expressed concern at the time it takes the victim to see a district surgeon – at the time of an incident of sexual violence the only medical professional responsible for conducting a physical examination. The victim has little influence over the delays – sometimes it takes up to six hours before she is seen to.

Interaction with the legal system

Prosecutors reiterated the lack of training of police officers as the main cause of problems when taking the victim's statement, as well as a lack of evidence.

Another problem is the state of mind of the victim – women who have been raped are scared and embarrassed, and easily intimidated by court

procedures. The ease with which bail is granted to perpetrators is a serious cause for concern.

It is widely recognised that the number of convictions for sexual violence, or even the number of cases reported to the police, cannot be used reliably to determine the rate of rape occurrence.

Nonetheless, the performance of the police and the judiciary can be measured through rates of conviction and punishment for rape. This in turn conveys a clear message about the social condemnation or, as it were, acceptability of, sexual violence.

Evidence from the SAPS Crime Information Management Centre (CMIC) enabled tracking the efficacy of police action against sexual violence, from the time a docket was opened, through its referral to court, to conviction. The tracking system omitted cases in which a docket was not opened, but nonetheless allowed an evaluation of the progress of cases that do get into the system.

In the entire southern Johannesburg region, 2,779 cases of sexual violence were registered in 1997. Of these, 777 (28%) were referred to courts, and of these there were 165 convictions (21% of referrals). Convictions in sexual violence cases, as a proportion of all reported cases from 1997 to 1999, ranged from less than 1,5% in the informal settlement of Orange Farm, to 12% in Jabulani and 11% in Orlando (Soweto). The middle-class eastern suburbs fell somewhere between these extremes.

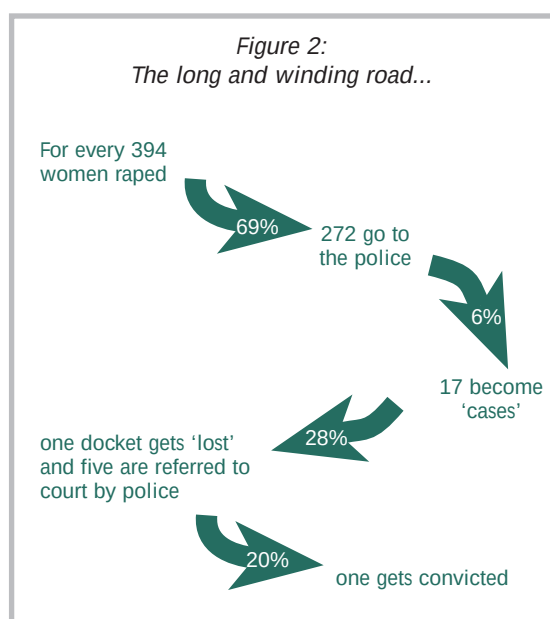
The audit of police records was complemented by information from serving police officers. Based on interviews with 91 police officers, it would appear that several things can happen between a victim going to the police and the opening of a case docket. For instance, the victim may lose confidence, or may be pressurised by the perpetrator, her family, or even the police to leave without formally reporting the case. The officer receiving the report might 'negotiate' the case in some way, perhaps labelling it as a 'family matter', or the officer might label the case as assault, which is not coded as sexual violence in the legal system.

The police records were combined with 3,967 interviews with women, revealing the interface between communities and the police. A rape victim could go to a police station and tell the police on duty what happened to her, but this report was not always entered into the crime management information system as a case of rape.² Figure 2 shows the considerable attrition of cases from rape through to conviction — for every 394 women raped, one conviction was secured.

CIET asked each woman who said that she had reported her rape case to the police whether she was satisfied with the way the case was handled. An important majority, 61%, said they were satisfied. Of the 39% who were dissatisfied, 14% said corruption was involved and that their dockets were 'lost'.

In the case of sexual violence, such system leakage communicates a strong message about the low social value of women, the perceived unimportance of their abuse and the low price of violence.

Sadly, all the prosecutors and magistrates CIET interviewed said that there were opportunities for corruption when dealing with cases of rape. They said lost dockets and bribery were the biggest mechanisms of system leakage. When asked about this issue, three out of four policemen questioned in the SMLC area claimed that there was plenty of room for corruption in rape cases. They identified



three major areas of leakage:

- the perpetrator gives money to the police to destroy the case (21%);
- dockets are stolen, lost or somehow destroyed (20%); and
- the prosecutor and/or other court officials are bribed to destroy the case (17%).

Evidence-led solutions

Based on the evidence generated from communities and institutions, and after consultations and workshops with decision-makers and service workers, a list of recommendations were drawn up for the consideration of the SMLC. They included:

- A policy to decisively increase the risks to the perpetrators of sexual violence, and to stimulate increased reporting, referral and conviction of cases.
- A well-publicised policy of zero tolerance of police abuses, negligence and bribery in cases of rape, to contribute to the sense of condemnation of sexual violence and improved police performance. It will increase the registration of cases, speed up their referral to court, and improve conviction rates.
- An area wide adoption of a results-based management approach for in-station progress and inter-station comparisons over time.

Police, prosecutors and magistrates have the following suggestions for increasing the effectiveness of interaction with the legal system:

- more communication among service workers to ensure a well presented case and well prepared victim;
- higher bail or no bail for perpetrators;
- more resources to investigate the case properly;
- less red tape and delays in court cases;
- more and better training for police, prosecutors and magistrates;
- more experienced prosecutors and magistrates who don't have conservative views of sexual violence; and
- a special court to deal with cases of sexual violence, with hearings held in camera.

Next steps

This southern Johannesburg study of the prevention of sexual violence was the foundation and a catalyst for a national study on the youth voice on

sexual violence and HIV risk that started in October 2002. Funded by UNICEF and the Canadian International Development Research Centre, this national youth audit seeks to establish a participatory mechanism to monitor national and community-based education initiatives to prevent HIV/AIDS and sexual violence.

It is hoped that the voice of 300,000 youth from almost 1,500 schools across South Africa will contribute to the realisation of effective evidence-based solutions to prevent the risk of HIV and sexual violence.

Endnotes

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Acknowledgement

The authors gratefully acknowledge the contribution of the field workers and the 37,236 participants from south Johannesburg. The police audit would not have been possible without the support and commitment of the late police commissioner of Gauteng Province, Sharma Maharaj.

Edited by Heidi Sonnekus, this article presents segments of a report that can be downloaded from <http://www.ciet.org>.

CIETafrica (Community Information Empowerment and Transparency) is a Johannesburg-based member of the CIET group of non-profit, non-governmental organisations, charities and research institutes dedicated to building the community voice into planning. CIET involves communities in gathering and interpreting quantitative and qualitative evidence. CIET analysis focuses on impact, coverage and costs, to produce locally relevant community-led solutions.

FAILING OUR FUTURE

Responding to the sexual abuse of children

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The flood of media coverage over the past year focused attention on the horror of child rape. But for those working in the field, sexual abuse of children is not a new problem. What is worrying to service providers is the massive increase in the number of reported cases, the decrease in the average age of both victims and offenders, the escalation of the use of force, the number of gang rapes, and the number of children victims who are HIV positive. This article considers the trends and possible solutions.

The publicity around the rape of baby Tsepeng in Upington highlighted for government and South Africans in general a problem that workers in the field of child abuse – particularly sexual assault of children – had been attempting to draw attention to for some time: the increased incidence of reported child sexual abuse, and the declining average age of the sexually abused child.

However, government's response to the rape of infants, and the issue of sexual assault of children generally, has remained knee-jerk, and has resulted in a number of uncoordinated and poorly planned processes to understand and deal with the problem.

How many children are affected?

The frank response to this question is that we simply do not know. On 15 May 2002, the late Minister of Safety and Security, Steve Tshwete, gave the following figures in Parliament: from January to September 2001 15,650 rapes of children were reported to the South African Police Services (SAPS). Of these 5,859 children were between 0-11 years and 9,791 were between 11-17 years.¹

When interpreting these figures, it should be kept in mind that many acts of sexual assault are never reported to the SAPS, for the following reasons:

- Many crimes against children, especially in rural areas, are seldom reported, as children and even their adult caretakers simply do not have access to police stations and other points of entry into the criminal justice system.
- As most sexual crimes against children are committed within the family or immediate neighbourhood, family members of the child may block access to the criminal justice system.
- Some families, especially those who live in poverty, may be persuaded or motivated to accept damages from the perpetrator as an alternative 'solution' to the sexual assault on the child.
- The child and/or family may be intimidated, and fear reporting the assault.
- Children – because of feelings of shame, guilt, loyalty to the family, or financial pressures – may refuse or fail to disclose the sexual abuse or the alleged assailant.
- Some families or caretakers of abused children believe that reporting to the criminal justice

system will further traumatise the child with no positive outcome for the child or themselves.²

- Some communities have little faith and confidence in their local police. While political issues of the past are relevant, problems such as police attending crime scenes drunk, verbal abuse of complainants, the use of police vehicles for collecting alcohol from local shebeens, and the lack of available senior personnel to address complaints, must be addressed.

In addition to the problem of under-reporting, another factor influencing the official statistics on sexual crimes against children is that not all cases reported to the SAPS are actually recorded. The following are some of the problems experienced by Childline, assaulted children, and their families or caretakers:

- Police sometimes turn away children and families or caretakers who come to report, stating that the assault is a domestic issue and should be resolved as such.
- Where the assailant is a child or youth, families are often misinformed that nothing can be done through the criminal justice system.

Official statistics no doubt reflect a considerable understatement of the problem of sexual assault on children. Other studies that attempt to measure the prevalence and incidence of child sexual assault will also be limited by the above factors. Nevertheless, it is essential to note that those working in the field of child sexual assault are overwhelmed by their increased workload and the shrinking resources allocated to address the problem. Moreover, many hours and resources are diverted away from direct management of the child in order to address the inadequacies of the criminal justice system.

Types of sexual abuse of children

According to the experiences of Childline and other practitioners, children are exposed to every type of sexual abuse imaginable. These would include rape, attempted rape, indecent assaults such as oral rape, anal rape, finger penetration, penetration with objects, fondling of the genitals and/or breasts, forcing or manipulating the child into fondling the

genitals/breasts of the assailant, exposure to adult and child pornography, sexually suggestive remarks or language to a child, and indecent exposure. Sometimes children are severely beaten or physically assaulted in the context of these assaults, or even killed to maintain silence.

Trends in the nature of child sexual abuse that are of particular concern

After conducting an overview of statistics of reported child abuse over the last ten years, Childline has noted:

- A massive increase in the number of reported cases of child sexual abuse: up by 400% over the past eight to nine years.
- A decrease in the average age of the sexual assault victim: in 1991 the average age of the sexually assaulted child was between ten and 12 years. Presently 50% of all children attending KwaZulu-Natal's therapy services after sexual abuse are under the age of seven years.
- A decrease in the average age of the sexual offender: in 2000, 43% of all cases of sexual assault reported to Childline nationally were committed by children under the age of 18 years.³
- An escalation of the use of brute force: many of the sexually abused children attending Childline therapy centres are also severely beaten and physically intimidated by the person who has sexually assaulted them.
- An increase in the reported incidence of gang rape – a sexual crime against children which is complex to manage and which has a particularly traumatic impact on the child.⁴
- An increase in the number of children who present as HIV positive after a history of sexual assault. The response of the criminal justice and health system to these children requires improvement: as yet the promise of post-exposure prophylactic medication after sexual assault has not been implemented in most provinces. There is no accepted protocol for providing this medication, and no voluntary counselling HIV/AIDS protocol suitable for child victims of sexual assault.⁵

Why the increase in reported cases?

The discussion below on possible reasons for the present increase in reported cases of sexual offences against children is based on Childline's work and research with both victims and perpetrators of child sexual assault.

Breakdown of family and community

South Africa's socio-political history has eroded family and community life. Apartheid laws, migrant labour practices, and the culture of violence that developed during the struggle for freedom have separated, disintegrated and distanced many families and communities. Many young adults have grown up in situations of disadvantage, exposed to continuous institutional violations of human rights, and in the absence of complete family units. Most young people in disadvantaged communities were – and continue to be – exposed to acts of violence. These acts create a 'blunting' effect; i.e., their ability to show empathy for others is severely restricted – but this is the only way in which these young people survive, emotionally and psychologically.

Few of the offenders that Childline has dealt with over the years come from families that are intact. Typically the family life is characterised by the disintegration of the family, and physical, emotional and/or sexual abuse of the women and children within the family unit. The family life (or lack thereof) of child offenders is characterised by severe emotional, relationship and/or physical deprivation. Many of these children lack guidance and control, the opportunity to learn family values and relationship skills such as empathy, and the ability to negotiate the fulfilment of needs via relationships. Father figures and role models are often absent – if not physically, then emotionally.⁶

Another factor related to the breakdown of community is that traditional methods of teaching young people responsible sexual behaviour have been lost, and alternatives that are acceptable have not yet been integrated into the fabric of family and community life.

Poor communication of rights and responsibilities

The media constantly reinforces the message that sexual expression should be free and unfettered by

values, faithfulness and self-control. Even children from rural areas are exposed to messages that do not promote consideration for the sexual rights and safety of others. This is compounded by the inculcation of a culture of human rights in the new South Africa, without an equal focus on personal responsibility for protecting the rights of others.

Contributing role of HIV/AIDS and domestic violence

The HIV/AIDS pandemic and the myths that accompany it have contributed to the vulnerability of children. Many children are living with caretakers who are not biological parents, or living on their own as sibling groups. As access to social security is unavailable or difficult for many of these children, they are easily sexually exploited in exchange for meeting basic needs.

The pandemic of domestic violence is also a contributing factor. Sadly, Childline encounters many adult female victims of domestic violence who are, or have been, unable to protect their children from sexual assault by their adult partners.

Poverty and poor service delivery

Poverty contributes enormously to the sexual vulnerability of children. The absence of the child support grant for children over the age of seven years is an iniquitous blight on family life for those families who live in poverty. Many children support their family, pay their school fees, and have their uniforms and books supplied through sexual favours.

The lack of service delivery, free schooling and employment opportunities for youth, especially those living in poverty, has also resulted in many young people feeling disillusioned and disempowered. This is associated not only with an increase in child sexual assault, but also an increase in gang rape in which children are targeted by youth gangs, separated from their friends, and raped by a number of sexual assailants.

Inadequate service delivery from all sectors sends the message to sexual offenders that they can abuse children with impunity, and to children and their families that they will not be protected. For

example, Childline has dealt with:

- many children and families/caretakers who have not been notified of court dates, resulting in charges being withdrawn;
- children and families/caretakers who have not been able to access medical examinations;
- children who have been assessed by police or medical staff as 'not traumatised', resulting in the failure to open a docket and leaving the child in immediate danger;
- child victims who are not afforded the protection of bail and where existing bail legislation is not implemented appropriately;⁷
- children who have not had the advantage of the protective intermediary system when testifying against a sexual assailant in court, often because the magistrate or judge does not accept that testifying in the same courtroom as the assailant is traumatic for the child;
- the fact that up to a year can pass before cases of sexual assault reported to the Department of Social Development result in any service being offered to the child and family, which leaves children in vulnerable situations for long periods during which they are subjected to continuous acts of sexual and physical assault;
- instances in which the SAPS has not responded to an urgent request for assistance with respect to a victim who is in immediate danger; and
- instances in which the various sectors fail to co-ordinate with each other, compromising the sexually assaulted child by the lack of communication and co-operation of the different parts of the system.

Many of the sectors mentioned above note the lack of resources, both material and personnel, training, motivation and debriefing as reasons for the poor delivery of their services. However, as long as children who have suffered acute secondary trauma at the hands of these systems state (as they often do): "I wish I had never told, because what happened to me after I told was worse than the rape", the contribution of these systems remains in question.

Lack of support for the NGO sector

There is a lack of financial support for the NGO sector that provides essential services to vulnerable

children and their families. It is of enormous concern that NGOs that provide the bulk of child protection services are poorly supported and subsidised. Early childhood education facilities that provide many infants, toddlers and young children with safe care and protection are closing because of the lack of subsidy. These facilities are essential for the protection of children from poorer families whose caretakers cannot afford alternative care.

The lack of financial support is compounded by the constant and unfair criticism of the NGO sector by the minister of Social Development. In KwaZulu-Natal the bulk of quality child protection services in the welfare sector are provided by resource-strapped NGOs who work extensive hours for salaries well below those earned in government. In fact, referral to government welfare services in the province is usually a last resort, due to their unsatisfactory response.

Inadequate policy

Government has failed to implement the National Child Protection Strategy that was drawn up by the National Committee on Child Abuse and Neglect and presented to the then minister of Social Development in 1997. This strategy, developed by experts in government and civil society, deals with the prevention and management of child abuse in all its forms.

In the case of interventions that are being implemented, some are misdirected. Child abuse prevention programmes have often been based on adult premises about children's ability to protect themselves, and have largely ignored long-term solutions that may prove more effective. For example, programmes have focused on children saying 'no' and being able to rescue themselves from vulnerable situations, both of which are unrealistic when one considers the imbalance of power between children and their assailants, as well as the universal norm of respect of children for adults. Another weakness lies in programmes that focus on the empowerment of women and of the girl child without acknowledging the disempowerment and emasculation of the majority of men.

Possible solutions

There are no quick fix solutions to the problem of child sexual assault. It is essential that solutions are carefully researched before they are lobbied with the general public or put to decision-makers.

Because this is a field that arouses strong human emotion, it is essential that proposals and decisions are carefully thought through and are not simply knee-jerk reactions. The following suggestions should be considered:

Law reform

This process is well underway both with regards to the reform of the Sexual Offences Act⁸ as well as the review of the Child Care Act. These law reform recommendations are well researched and have also explored international efforts to solve the problem of child sexual assault. However, unless resources and political will are committed to their implementation, these acts will remain 'paper tigers'. There is in fact some progressive legislation currently in place that is simply not implemented.

Implementation of policy

A number of suggestions are made in this regard:

- The performance of the criminal justice system in particular has to improve in order to restore public confidence, facilitate increased reporting, reduce secondary trauma to children and the families of children, and improve the outcome of cases.
- The National Child Protection Strategy must be implemented. At present there is no comprehensive policy in place that facilitates the co-ordination of child protection work. Consequently efforts are piecemeal, resources are frequently wasted on projects that are not effective, or existing efforts are duplicated. The various systems concerned with child abuse need to develop and implement both intra- and intersectoral management protocols, so that each victim is appropriately managed and helped, allowing the criminal justice system to achieve an improved conviction rate.
- Those working in the child protection system must be appropriately selected, trained, and debriefed on a regular basis.
- Criminal justice system officials who fail their responsibility to protect children through their

own corruption, disinterest and carelessness, must be held accountable and disciplined.

- Social security provisions must be developed for all children who are destitute, and more easily accessed by all children who are deserving of this assistance.

Handling of adult sex offenders

Punishment of the adult sex offender has to be more appropriate. There are few appropriate programmes available in prisons or under community corrections. Parole is often extended to sexual offenders without proper assessment of their risk to the community, or without programmes being put in place for their support and rehabilitation when they are returned to the community. Victims are not informed of the release of offenders, and are thus exposed to further risk.

It is also unrealistic to believe that heavier sentences for convicted child sex offenders will stem the tide of child abuse. Minimum sentencing legislation has been in place for several years in South Africa and yet reports of child sexual abuse continue to rise. The conviction rate is, at best, 5% of all reported cases. It is therefore clear that most sexual offenders will never be held accountable for their abusive behaviour. Nevertheless, offender management strategies that offer treatment possibilities and encourage the acknowledgement of offending behaviour must be considered. This also has the advantage of saving the child victim the trauma of testifying in a trial.

Schools-based interventions

The Department of Education must be encouraged to:

- include in life skills education the teaching of child and human rights, as well as impulse management and education on responsible sexual behaviour to all learners at every level of the educational process;
- include in life skills training, as well as across the curriculum, information and skills training on responsible parenting;
- develop schools as centres of learning and protection for all members of the communities in which they are situated, for example, offering courses on parenting and early childhood education for parents, and providing child care on school premises; and to

- stem the tide of sexual assaults on school children by educators and learners, by ensuring that a protocol for the management of reports of sexual assault is developed and properly implemented, and that educators who sexually exploit learners are dealt with in the strongest possible way.

Specific projects

- The development of positive family and community life and values should be encouraged via projects in communities affected by historical disorganisation, violence and poverty.
- Resources must be committed to projects that effectively protect children from abuse. However, programmes should be carefully evaluated for their effectiveness.
- Resources must be committed to projects that effectively manage children after they have been abused.
- Attention must be paid to the child sexual offender. It is essential to develop programmes and services for these young people, who are usually victims of abuse themselves. They should, whenever appropriate, be diverted from the criminal justice system, where they are subjected to further abuse and exploitation, and be exposed to programmes specially designed to address aberrant sexual behaviour and assist in the development of responsible sexual behaviour.
- Therapy must be offered to victims of child sexual assault and other forms of child abuse, including male victims. Childline's research indicates that male victims of childhood abuse and neglect are more likely to develop abusive behaviour during both child and adulthood. Services to child victims should therefore be made available and accessible to all who need them.

Endnotes

- 1 Report from parliament, Morning Live, SABC 2, 15 May 2002.
- 2 Sadly this perception often materialises. At a recent national workshop with senior personnel in the criminal justice system and others who work with sexually assaulted children, when asked if they would report the sexual assault of their own child to the CJS as it

presently functions, there was unanimous agreement that they would seek an alternative solution.

- 3 L Cawood, *Analysis of Childline SA statistics 2000*, unpublished research, Childline Gauteng, 2001.
- 4 J van Niekerk, Gang rape of children: the context and dynamics of gang rape from a child victim perspective and management issues for child protection professionals, *Children First*, August 2002.
- 5 X Keke, HIV prevalence in children who have been sexually abused and the impact on the family, *Children First*, August 2002.
- 6 L Dhabicharan, *Adolescent Sexual Offending*, unpublished thesis submitted to the University of Natal Durban, July 2002.
- 7 An example of this occurred when bail was granted to the rapist of a young child and the child was raped again to punish her. The rapist was again released on bail for the second rape and the child is now in hiding.
- 8 SA Law Commission Discussion Paper, *Sexual Offences*, December 2001.

FOR BETTER AND FOR WORSE

South African crime trends in 2002

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National and provincial police crime figures indicate that crime has, to a certain extent, levelled off in the course of 2002. Murder continues to decline, as does vehicle theft. However, the trends for car hijacking are less positive. Of all the provinces, Western Cape, Northern Cape and Gauteng featured prominently in most of the crime categories. The volume of interpersonal violent crime remains a cause for concern, which suggests that government intervention should expand its focus on crime prevention through social development.

The recent South African Police Service (SAPS) national and provincial crime statistics are contained in the SAPS 2001/02 annual report released towards the end of 2002.¹ It is important to note that these crime statistics are structured according to government's financial period (1 April to 31 March), rather than January to December, as was previously the case. This structure does not greatly affect the recording of crime figures, but could impact on SAPS planning and operations.

The year 1994 is used as a base year, as detailed and accurate crime statistics from station to national level were first made publicly available by the SAPS in that year.

When analysing the following police crime figures, caution must be exercised, since these figures do not accurately present all crimes that were committed in the given period. Police statistics rely heavily on public reporting and police recording of crimes. Under-reported and poorly recorded crimes do not accurately reflect the reality out there. But despite these problems – which occur all over the world – South African crime figures are generally regarded as comprehensive, and largely reliable.²

Good news in latest overall crime trends

The SAPS crime statistics cover the 20 most serious and prevalent crimes. These crimes account for over

99% of the volume of all serious crimes recorded by the police.

The total number of crimes recorded by the police between 1 April 2001 and 31 March 2002 was 2,515,808, representing a marginal increase of only one per cent over the previous 12 months. When comparing crime figures of April 2001 to March 2002 with that of the same period in 1994/95, the number of crimes increased by 20%. The one per cent annual increase in crime in 2001/02 is the smallest year-on-year increase over the past seven years, compared to the more pronounced increase in crime that occurred after 1998/99 (Figure 1).

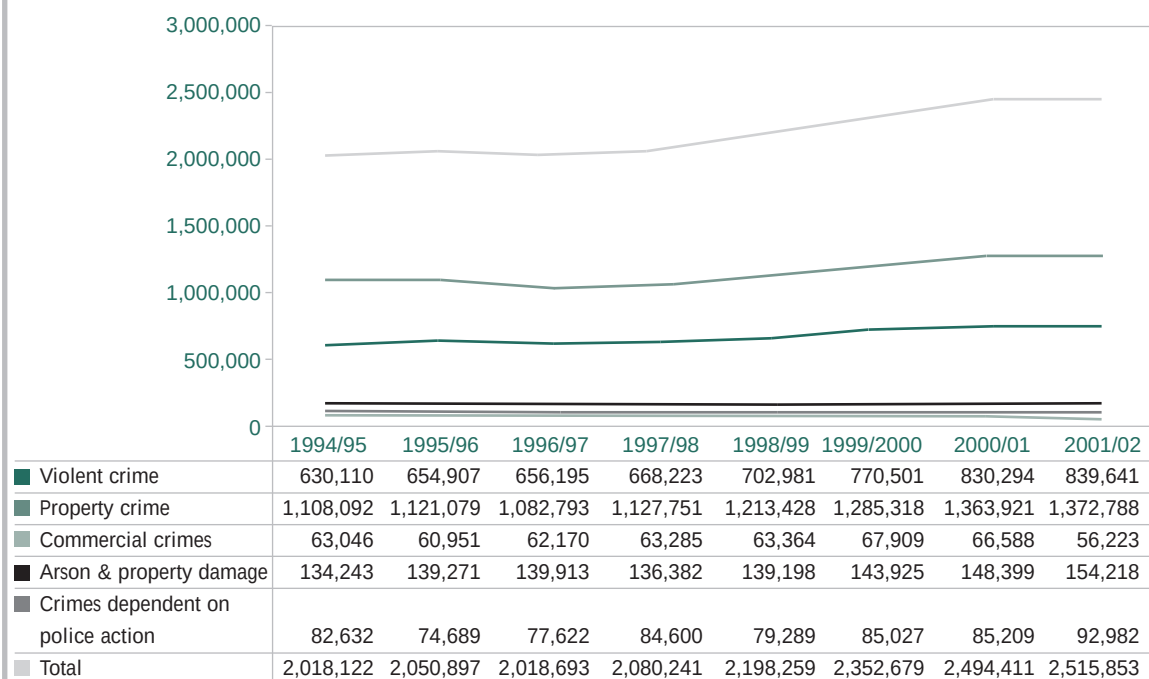
When measured on a per capita basis (per 100,000 of the population) for the same period, crime rates were at their lowest between 1996 and 1997. They began to increase moderately but consistently from 1998 to 1999, and were at their highest in 1999/2000 and 2000/01. A slight decrease occurred in 2001/02 (Figure 2).

The small increase in the number of crimes and the decrease in the crime rate in 2001/02, support the SAPS claim that crime is beginning to 'stabilise', or level off. While this may be a fair observation, it is worth noting that overall crime rates remain very high.

The only crime category that shows a substantial decline is commercial crime, which decreased by 11% between 1994/95 and 2001/02, and by 16% between 2000/01 and 2001/02 (Figure 3). In the past seven years (1994/95 to 2000/01), violent crime increased by 33%, the highest increase in any

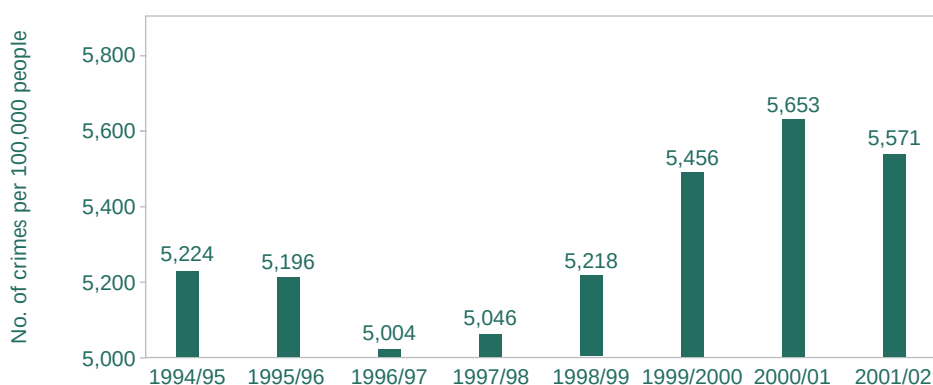
crime category. However, in the past 12 months violent crime increased by only one per cent. Trends for property crimes were similar, whereas violence against property (arson and malicious damage to property) and crimes dependent on police action (illegal possession of firearms, drug-

Figure 1: Number of recorded crimes, March 1994 - March 2002



Source: SAPS 2001/02 Annual Report

Figure 2: Total recorded crime rate, March 1994 - March 2002



Source: SAPS 2001/02 Annual Report

related crimes and drunken driving) increased to a greater extent (Figure 3). This is a good performance indicator for the police, since increases in these latter crime categories suggest that the police have succeeded in proactively detecting and recording so-called 'victimless' crimes, which would otherwise probably not be reported to the authorities.

The small increase in the number of violent and property crimes in 2001/02 is a most remarkable improvement, particularly when compared to the rapid increase in these categories of crime between 1997 and 2000. These trends are largely responsible for the small increase in the total number of crimes in 2002. It appears that there was a concerted effort by the SAPS to reduce these types of crime. It is possible that the ongoing high-density police operations in high crime areas could have contributed to the low increase in violent and property crimes. However, one cannot be certain about this, since in the absence of detailed monthly statistics for specific geographic areas, it is difficult to directly correlate police operations with the reduction of certain crimes. The increase in drug-related crimes and firearm-related crimes come as no surprise, since these are a few of the crime types that can be directly linked to police operations.

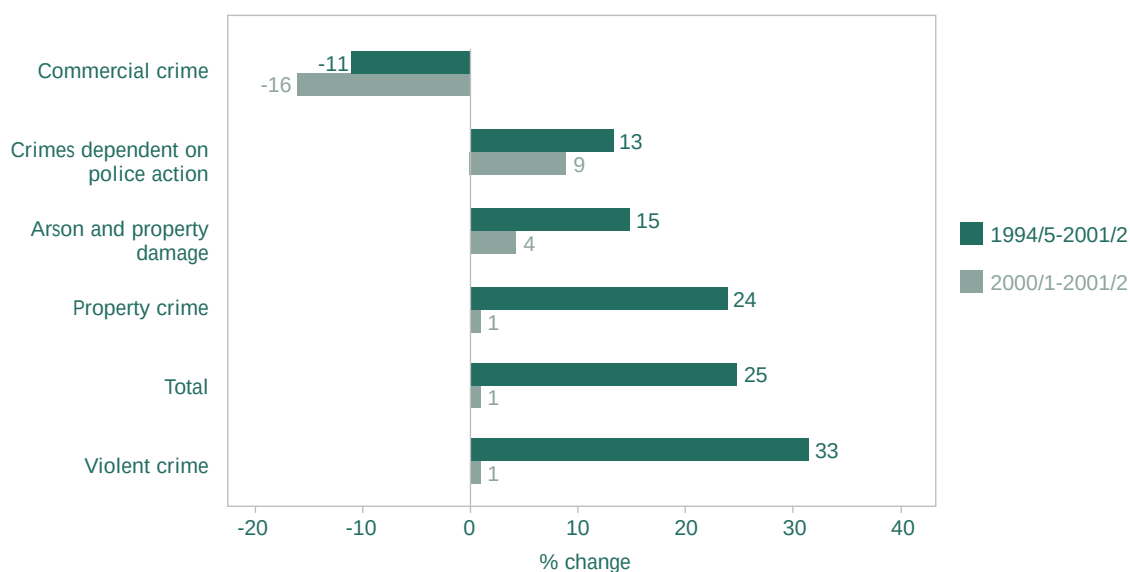
The number of crimes in each category, as a proportion of the total, remained the same in 2001/02 compared to previous years. This was particularly the case for violent and property crime. Property crime (home and business burglary and all forms of theft) accounted for 55%, and violent crime (including inter-personal violence and all forms of robberies) comprised 33% of all crimes reported from 1st April 2001 to 31st March 2002.³

Changes in specific crime types

Murder and theft of vehicles are the only serious crimes that are clearly showing declining trends in both the long and short term. Murder decreased by 18% in the past seven years and by 2% in the past 12 months (Figure 4). Although murder is decreasing, it must be noted that South African murder rates remain exceptionally high. Between April 2001 and March 2002 over 21,000 people were killed in South Africa. That is equivalent to ten schools with an average population of 2,000 per school. According to Interpol, South Africa had higher murder rates (59 per 100,000 of the population) in 1998 than any other country that submitted their crime statistics to the organisation.⁴

Murder is one of those crimes where many perpetrators tend to be known by community

Figure 3: Percentage change in recorded crime categories, 1994/5 - 2001/2



Source: SAPS 2001/02 Annual Report

members and sometimes by the police. But despite this, only half of all murder cases are sent to court. In 2000 only 49% of murder cases were sent to court.⁵ The number of murder cases sent to court, and those resulting in successful convictions, are also low. For instance, between January and December 2000, the police recorded 21,995 murders. That year, nearly half (10,696) of murder cases were referred to court, but only 4,007 resulted in a guilty verdict.⁶ There were more cases that could not be traced by police, than there were cases sent to court. And in court there were more cases that were withdrawn, than cases with a not guilty verdict (Figure 5).

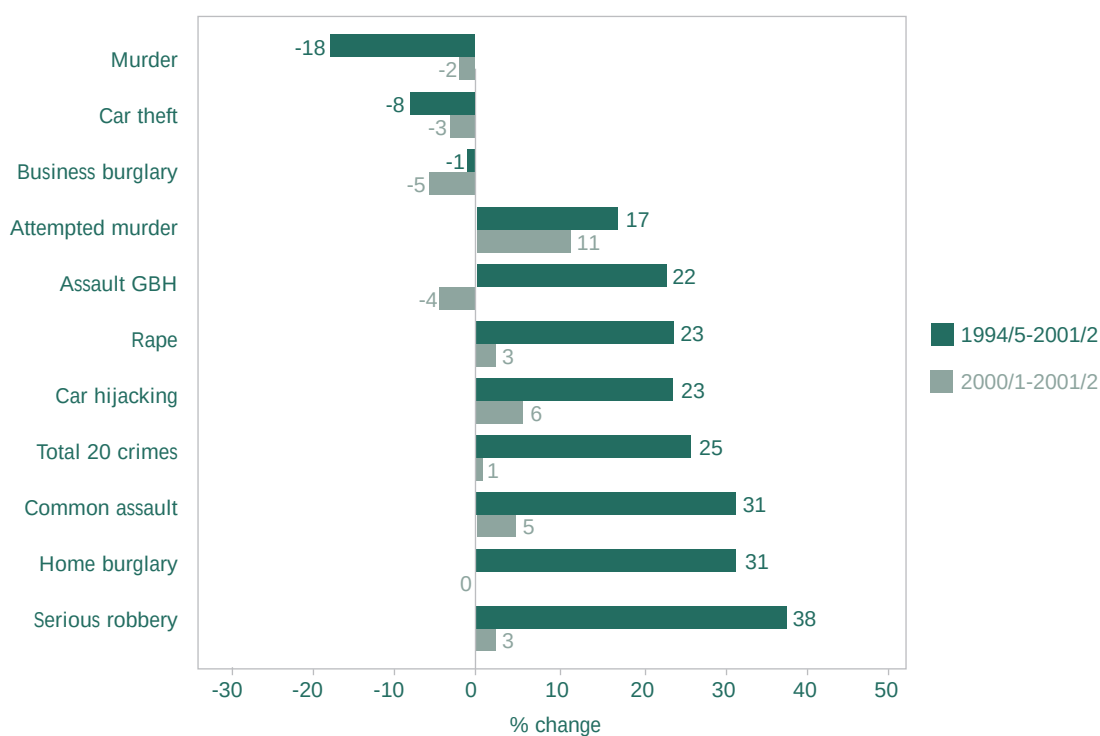
This raises questions not only about the quality of investigations by the SAPS, but also about the quality of the court prosecution. Given the seriousness of murder, it is suggested that government institutes a national murder monitoring project, to better understand the circumstances in which murders are occurring, and to gather thorough information about murders from the time cases are reported to and investigated by the police,

and throughout the court proceedings.

Theft of vehicles decreased by eight per cent in the past seven years and by three per cent in the past 12 months (Figure 4). This may to some extent be influenced by an improvement in car security. Whilst theft of vehicles decreased, thefts out of vehicles increased moderately between 1998/89 and 2000/01, remaining stable in 2001/02.

Robbery increased faster than any other crime type between 1994/95 and 2001/02. Although the number of common robberies (including muggings without dangerous weapons) remained the same in the past 12 months, it increased over 100% between 1994/95 and 2001/02. This huge increase can be considered a statistical 'outlier' and should be investigated by the police to test for recording anomalies. Serious robberies increased by three per cent in the previous 12 months and by 38% in the past seven years. Trends for car hijacking are of concern: hijackings increased by 23% since 1994/95, and by six per cent between 2001/02 (Figure 4).

Figure 4: Percentage change in selected recorded crime types, 1994/5 - 2001/2



Source: SAPS 2001/02 Annual Report

Home and business burglaries, taken together, were the second most prevalent crimes recorded by the police, after general theft. These crimes accounted for 16% of all crimes recorded in 2001/02. Home burglary has been steadily increasing since 1994/95, whereas business burglary has remained more or less the same in the past seven years, even decreasing slightly in some years (Figure 6). It is nevertheless encouraging that home burglary, while growing by 31% between 1994/95 and 2001/02, remained stable in the previous 12 months (Figure 4).

The stabilisation of business burglaries does not come as a surprise, since South African businesses have been investing millions of rands in target hardening and private security. The installation and management of close-circuit television cameras (CCTV) in a number of crime hotspots around some cities may also have contributed to this stabilisation.

With regard to residential burglaries, people living in wealthier suburbs have also been spending a considerable amount of money on private security and target hardening. However, there is still insufficient evidence regarding the impact of these measures on residential burglary. It should also be taken into account that people living in poor suburbs and informal settlements are more

vulnerable, and often do not have sufficient money to spend on target hardening and private security. In other instances the nature of some houses and physical community structures facilitate these crimes. These variables and other factors need to be thoroughly assessed in order to develop effective strategies to combat home burglaries.

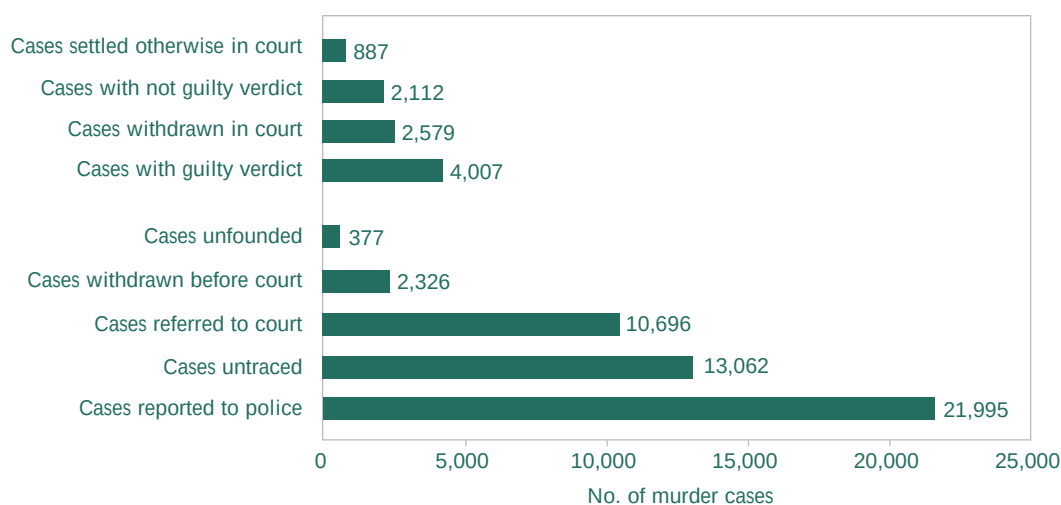
Provincial figures

The impact and volume of crime in the country is not uniform; some provinces experience high levels of crime while others have relatively low levels of crime. However, during the 2001/02 period, the provincial crime rates were in line with the national recorded crime rate. In all provinces, crime rates are either slowly declining or levelling off.

The Western Cape, Gauteng and Northern Cape continue to lead the pack with crime rates far above the national average in all crime categories. Whilst Western Cape crime rates remained the same in the past 12 months, Gauteng and Northern Cape recorded a three and four per cent decrease respectively in their crime rates. Limpopo Province continues to register lower crime rates than all other provinces (Figure 7).

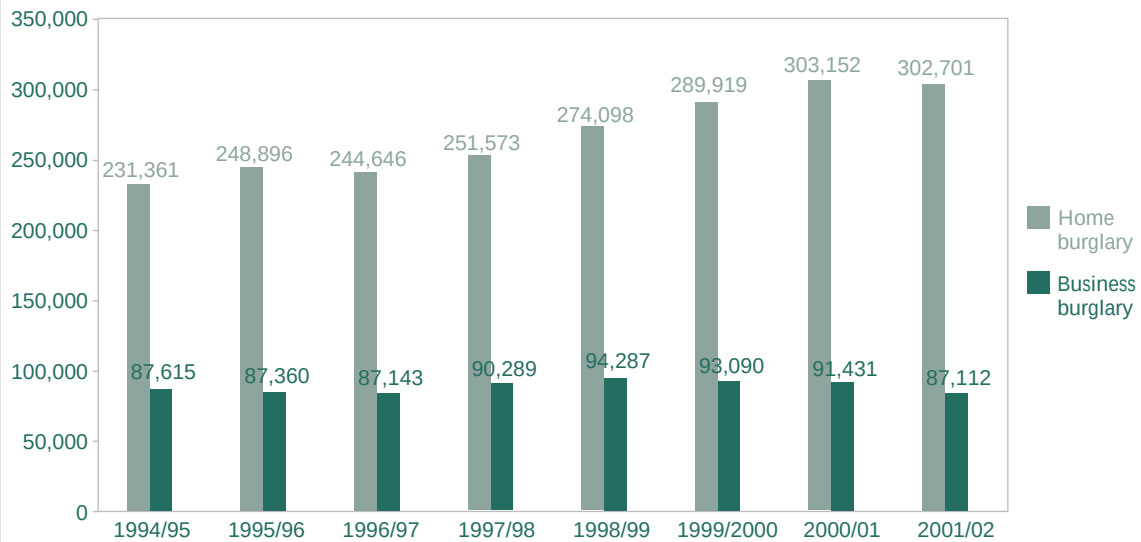
In the past two years the Western Cape, Gauteng and KwaZulu-Natal have had the highest murder

Figure 5: Number of murder cases handled by police and courts, January - December 2000



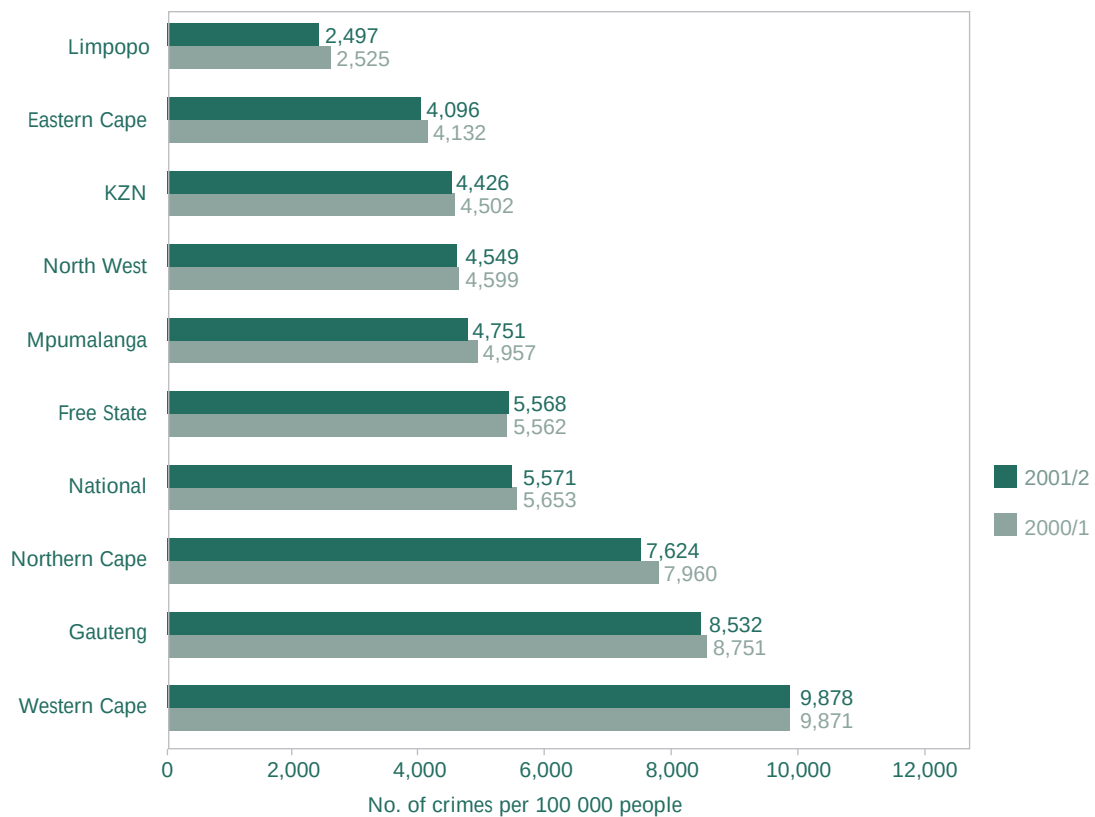
Source: SAPS Crime Information Analysis Centre, 2001

Figure 6: Number of burglaries recorded by police, March 1994 - March 2002



Source: SAPS 2001/02 Annual Report

Figure 7: Total provincial crime rates, 2000/1 and 2001/2



Source: SAPS 2001/02 Annual Report

and attempted murder rates of all the provinces, far above the national average of 47 per 100,000. However, on a more positive note, murder rates are on the decline in all provinces (Table 1).

On the other hand, attempted murder has increased in five provinces, remained the same in two provinces and decreased in the other two provinces. The Northern Cape registered unbelievably high attempted murder rates in the past 12 months.

Serious and common assault rates recorded in the Northern Cape were far above the rates registered in other provinces, followed closely by the Western Cape. As with murder rates, serious assault figures have decreased in all provinces, but common assault increased in most provinces except the Western Cape, Northern Cape and Free State.

The Northern Cape, Western Cape and Gauteng also lead other provinces with regard to rates of

rape; however, rape figures registered in all provinces have remained the same in the previous 12 months.

By far, the highest number of serious robberies was recorded in Gauteng, followed at much lower levels by Western Cape and KwaZulu-Natal. Gauteng also led with regard to common robberies, followed by Western Cape and Northern Cape. Serious robbery increased slightly in many provinces, except in KwaZulu-Natal, Gauteng, North West, and Limpopo. In line with serious robbery, common robbery also increased slightly in many provinces except in Gauteng, Mpumalanga, Northern Cape and North West.

Residential and business burglaries are generally stabilising in all provinces. The Western Cape, Gauteng and Northern Cape had the highest recorded residential burglary rates of all the provinces. These three provinces also registered high rates of burglaries of businesses.

Table 1: Provincial crime rates per 100,000 of the population 2000/01 and 2001/02

	Western Cape		Gauteng		Northern Cape		Free State		Mpumalanga		North West		KwaZulu-Natal		Eastern Cape		Limpopo	
Year	00/01	01/02	00/01	01/02	00/01	01/02	00/01	01/02	00/01	01/02	00/01	01/02	00/01	01/02	00/01	01/02	00/01	01/02
Murder	83	79	62	59	55	50	33	32	32	29	30	30	60	58	51	52	15	15
Attempted murder	97	92	90	91	41	183	34	51	54	51	54	64	78	77	46	55	29	30
Assault GBH	872	840	744	672	1565	1327	663	605	651	623	688	643	375	361	616	603	450	423
Common assault	1136	1099	675	740	1029	996	878	876	392	405	486	516	361	381	444	432	356	381
Rape	157	154	153	153	169	160	123	131	115	116	128	133	100	100	100	97	79	84
Serious robbery	270	283	674	662	49	50	73	88	173	177	157	154	262	258	112	124	59	58
Other robbery	326	331	382	349	249	249	147	154	124	120	193	189	154	157	148	150	82	83
Residential burglary	1250	1243	1062	1005	748	714	661	660	684	664	538	519	529	520	503	521	301	280
Business burglary	326	331	245	236	386	327	230	218	215	186	193	179	164	150	147	138	125	117
Car theft	280	292	638	575	57	49	105	103	132	122	111	112	190	192	91	85	37	33
Theft out of vehicle	1154	1167	749	733	283	444	315	337	335	283	273	247	376	356	250	240	130	121
Drug crimes	305	309	75	107	203	212	125	158	58	54	63	84	102	110	85	106	27	31
Firearm crimes	51	49	44	45	18	19	18	20	26	26	21	23	102	110	32	31	11	13

Source: SAPS 2001/02 Annual Report

Theft of motor vehicles was highest by far in Gauteng, followed at much lower levels by Western Cape and KwaZulu-Natal. Theft out of motor vehicles was highest by far in the Western Cape, followed by Gauteng and KwaZulu-Natal.

It is difficult to interpret these property rate figures, since they do not give a true reflection of the extent of crime in different provinces. The per capita ratio measurement for property crime is misleading. A better way of measuring property crimes is to use the number of business ownership or number of property units, rather than units of population.⁷

Conclusion

National and provincial crime figures indicate that crime has to a certain extent stabilised over the past 12 months. However, this stabilisation is occurring at a high level, particularly for violent and property crimes. Given that stabilisation has only happened in the last year, it might be too soon to claim victory. Year-on-year crime trends need to be monitored for some time before concluding that crime is no longer on the increase.

The high volume of violent crimes, in particular interpersonal violent crime, is worrying. The SAPS has classified most of these crimes as social fabric crimes, to highlight the little control police have over these crimes. These crime types disproportionately affect poor communities, but this does not suggest that there is a direct link between crime and poverty. It is not just about poverty, but about many factors associated with socio-economic development. These include a low standard of education, a lack of social and vocational skills, poor housing and living conditions, a lack of parenting skills, and so forth. Therefore strategies aimed at reducing these crimes are heavily dependent on serious investment in the social and economic development of the country's poor.

The Western Cape, Northern Cape and Gauteng featured prominently in most of the crime categories. Western Cape and Northern Cape continue to be notorious with high records of interpersonal violent crime, while Gauteng leads in the category of serious robbery. Crime reduction strategies therefore need to be problem- and area-

specific. Interpersonal violent crime, particularly in poor communities, will require crime prevention through social development as well as consistent law enforcement. On the other hand, crimes such as robbery will heavily depend on various government agencies' control of public spaces, and police investigation and intelligence.

Endnotes

- 1 Annual report of the South African Police Service, 2001/02.
- 2 M Schönteich, 2001 Crime Trends: A turning point. *South African Crime Quarterly* 1 (1), July 2002, pp 1-5.
- 3 For a more detailed discussion on violent crime trends see, S Masuku, Prevention is better than cure: Addressing violent crime in South Africa, *South African Crime Quarterly* 2 (1), November 2002, pp 5-12.
- 4 International Crime Statistics, INTERPOL, *International crime statistics*: 1998, Lyons, 2001.
- 5 M Schönteich, *Tough choices: Prioritising criminal justice policies*, ISS Paper 56, May 2002.
- 6 Caution needs to be exercised when comparing the annual number of cases recorded with the annual number of cases withdrawn, sent to court, and prosecuted and convicted. Cases recorded during one year are often investigated and prosecuted in the following year.
- 7 A Louw and M Shaw, *Stolen opportunities: the impact of crime on South Africa's poor*, ISS Monograph Series, no.14, 1997.

SEARCH ME

Public opinion on crime and justice in central Johannesburg

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A poll of inner-city residents indicates that many are willing to permit substantial curtailment of civil rights if necessary to make the area safe. Over 80% of those polled said they would be open to the idea of police searching their homes once a month if this would reduce crime. A third of respondents favoured execution for drug dealers, and 70% of those who had experienced a police Crackdown operation in their area thought it had helped the situation. This is an expression of the desperation of a community where 88% of the people do not feel safe walking the streets at night.

A survey of the Johannesburg Central and Hillbrow police station areas was conducted in mid to late 2002, including a geographic sampling of over 1,300 households, all told. (See SA Crime Quarterly No. 2 November 2002.) In addition to detailed questions about criminal victimisation, the respondents were asked their opinions about crime and criminal justice performance in the area. This article is based on their responses.

Most victim surveys ask a set of standard questions about perceptions of safety, and impressions of the state's response to crime. This is opinion data only, more likely to be influenced by yesterday's sensational headlines than a considered analysis of fact. But public opinion is highly important in a capitalist democracy: people vote and invest with their opinions, however uninformed and prejudiced these views might be.

In addition, negative public opinion of the performance of the criminal justice system can lead to very real problems, such as vigilantism, underreporting of crime, and an unwillingness to co-operate with the police as witnesses or

informants. These questions also have value simply because they have been asked so many times, and are therefore comparable across jurisdictions and time periods.

Just under half of all the respondents said they had been victims of one of the specified serious crimes in the last year in inner Johannesburg. As a result, much of this data is informed by some direct and recent experience.

A remarkable 61% of victims claimed to have reported their experience to the police, which reflects a high level of confidence in the authorities overall, but this rate varied sharply by crime type: just over a third of all robberies were reported to the police, for example.

Perceptions of safety

One of the most consistently asked questions in victim surveys is "How safe do you feel walking in the area where you live in the daytime and at night?" The responses to these questions in our survey are graphed in Figures 1 and 2.

The daytime safety profile is fairly typical for an inner city area, with about half of respondents

Figure 1: How safe do you feel walking in the area where you live during the day?

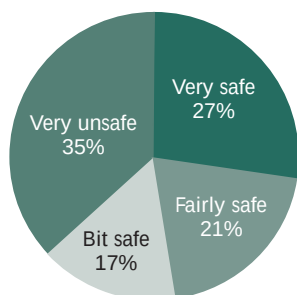
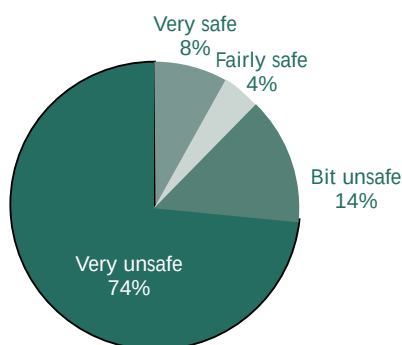


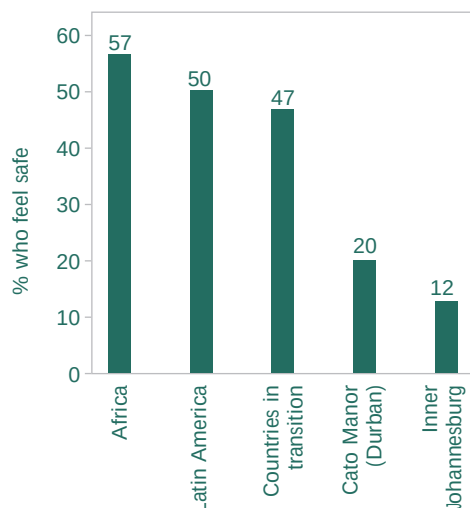
Figure 2: How safe do you feel walking in the area where you live at night?



feeling safe and half not. The night time response is, however, quite extreme, with less than 20% feeling safe on the streets at night, and nearly three quarters feeling very unsafe. Figure 3 compares the answer to this question to similar questions asked in surveys around the world and in South Africa. From this it is clear that feelings of safety at night are lower in inner Johannesburg than in just about any comparable place in the world where similar studies have been done.

However, there was considerable variation within the survey area in this regard. In some areas, upwards of 90% felt unsafe at night, while in one area, 36% felt very safe. In the residential hotels, notorious sites for drug dealing and prostitution (See SA Crime Quarterly No. 2 November 2002), only 35% felt safe during the day, and only seven per cent felt safe at night.

Figure 3: Comparative feelings of night time safety



Source: Various sources¹

Despite this fear, 30% of the people polled felt that crime in their area had actually decreased since 1994. However, 55% felt it had increased either a little or a lot, with 15% saying it had stayed the same. Again, this figure varied quite a bit by survey area: in one area, 67% felt crime had increased a lot, and in another 40% thought it had decreased either a little or a lot.

For example, among the majority of Indian respondents from the suburbs south of Johannesburg Central station, there was a feeling that crime had decreased. But these decreases may have been off a very poor base. Almost half of the people who said they thought crime had decreased a lot said they nonetheless felt very unsafe walking at night.

Role of the state

Overall, 86% of the people interviewed held government responsible for changes in the crime rate, whether wholly or in part, positive or negative. Of those who thought that crime had increased "a lot" since 1994, 87% felt the government was at least partially responsible for this increase. Of those who felt that crime had decreased a lot, 81% gave the government at least partial credit for this improvement. This suggests that the public believe

that government possesses the ability to control the crime rate, and that failure to do so represents a lack of service delivery.

As most people living in inner Johannesburg are afraid to walk the city streets, and feel the situation is getting worse, it is not surprising that many favour radical solutions to the problem. The majority of people polled said they favoured the death penalty for murderers, and a third favoured it for drug dealers. White and Indian South Africans in particular favoured the death penalty for both crimes, with southern Africans, central Africans, west Africans, and coloured South Africans being less likely to favour this brutal approach for drug dealers.

Three quarters of the people said they would "definitely" be willing to have their home searched by the police once a month if this would reduce crime, with west, east, and central Africans and whites being less enthusiastic about this prospect. Factoring in those who said they "might" be willing to allow monthly searches, nearly 81% said they would open their doors to law enforcement, with only 16% expressing dissent. Surprisingly, in the residential hotels, respondents were slightly more in favour of law enforcement intervention.

These attitudes towards punishment and law enforcement suggest that the residents of inner Johannesburg do not think much of constitutional protections, either for the criminals or, indeed, for themselves. This reflects a sense of desperation in the face of crime that many feel makes the streets unsafe to walk, and against which the state is losing its battle to assert control.

It is not surprising that foreign nationals are less enthusiastic about radical solutions to the crime problem, because if public opinion is anything to go by, they would likely be on the receiving end of these measures. When asked who they think commits most of the crime in their area, 63% mentioned "foreigners". This is particularly remarkable given that nearly a quarter of the sample was foreign.

In fact, 39% of foreign nationals said, among other things, that foreigners were responsible for crime.

However, unemployment, a cause particularly favoured by the black community when discussing the causes of crime in other polls², emerged again as the most prevalent explanation: 70% mentioned unemployed people as the source of crime.

Perceptions of policing

With 70% of the people interviewed saying that the crime situation had not got better despite government efforts, and most of them blaming government for this lack of progress, it might be expected that public opinion about the police would be poor. But most of the respondents who had been to the local stations said their visit had either improved their opinion of the police (39%) or that it had stayed the same (36%). Furthermore, most people felt the local police were doing a good (20%) or fair (41%) job, with the remaining 38% feeling they were not doing well.

Those with a negative opinion of the police were most likely to blame this on corruption (63%) or laziness (17%), with very few mentioning racism, brutality, or a lack of resources. In the Johannesburg Central station area, people were less likely to think the police corrupt (58%), and more likely to think them lazy (20%), an opinion that may be due in part to the drug trade in Hillbrow.

The vast majority (77%) of the respondents said they saw a police member in uniform at least once a day, and 92% said they knew the location of their local police station. Of these, 62% had actually been to this station. Most people (84%) knew to call 10111 if they had an emergency, and only 6% did not know a number to call. This level of public awareness is truly remarkable, but may be due in part to the high level of population density and crime in the area.

An impressive 22% knew the name of a police member they could approach with a problem. This single fact is very reassuring with regard to the implementation of community-oriented policing in the area. One of the key tenets of community-oriented policing is that police members should establish personal relationships with community members, getting out of their cars and into the neighbourhoods for more contact with the people

they serve. While there is plenty of room to improve this picture, the fact that over a fifth of those polled knew a local cop by name is quite positive.

Hillbrow was one of the areas where the high-density policing operations conducted under the geographic focus of the National Crime Combating Strategy (popularly known as Operation Crackdown) were premiered. These operations generally involve both police and military personnel conducting building searches, cordon and search operations, and roadblocks, in the most crime-prone station areas in the country. Sixty-one percent said there had been a Crackdown operation in their area in the last two years, and 70% of these people felt that it had helped to reduce crime in their area. This police policy initiative has apparently caught the public imagination and garnered its support, even in areas as hard hit by operations as Hillbrow.

Residential hotel residents, often the targets of these raids, were not as convinced of their efficacy. Eighty per cent said they knew of an operation in their area, but only 36% felt that it was worthwhile. This is despite the fact that residents of these hotels were just as likely to say they would allow monthly searches of their homes if this would reduce crime.

Unfortunately, other crime prevention initiatives were not as well-known or popular. Very few people understood the community police forum (CPF) concept. Only 17% said they understood what a community police forum was supposed to do. Of these, the most popular response was "to give the police information". Only 2% (20 people) said that they knew of a CPF in their area, and of these, only 11 people said they had ever attended a meeting. Five out of the six that regularly attended the meetings said the CPF was working, while those who occasionally or never attended were split three to three on the issue.

This level of awareness falls far short of what the government hopes to achieve with the CPF programme. Every citizen should have access to a CPF, yet only 2% of the inner Johannesburg community was aware that a CPF was operating in their area.

The overall public evaluation of police performance is therefore mixed. The police get top marks for visibility, seem to be doing well in terms of community contact, and are not often accused of brutality and racism. On the other hand, there is a very widespread view that the police are corrupt, especially in Hillbrow. The CPFs do not seem to be widely known, which is a shame given that the poll indicated that the public has a great deal of knowledge about crime in the area. The public seems to prefer, and to be open to, massive raids and searches of the 'Crackdown' variety. The willingness to give up basic privacy rights for some modicum of protection reflects the desperation felt by a community where 88% of the people do not feel safe walking the streets at night.

Endnotes

- 1 For Africa, Latin America, and Countries in Transition, see A Alvazzi del Frate, *Victims of crime in the developing world*, UNCRI publication number 57. For Cato Manor, see T Leggett, Safe shack living: Criminal vulnerability in shacks and government housing, *Nedbank/ISS Crime Index*, 5(5), 2001.
- 2 For example, a victim survey in Durban found that 58% of black respondents thought job creation was the best non-police solution to making things safer, while less than 35% of other race groups agreed. See R Robertshaw, A Louw, M Shaw, M Mashiyane, and S Brettell, *Reducing crime in Durban: A victim survey and safer city strategy*, ISS Monograph series No 58, Institute for Security Studies, Pretoria, 2001.

NPA IN THE DOCK

Thumbs up for the prosecution service

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General public confidence in the criminal justice system and the government's handling of crime is low, according to an Institute for Security Studies survey. Yet, most people trust the police and would willingly give evidence in court. People who have been to court as state witnesses are more positive about the work of the prosecution service compared to those who have not. Indeed, most court users have a positive opinion of prosecutors and the work they do. Dissatisfaction is primarily a result of lengthy delays in trials, and unhelpful and unprofessional prosecutors.

In late 2001, the Institute for Security Studies (ISS) conducted an opinion survey to evaluate the services provided by the National Prosecuting Authority (NPA). The survey covered the general public, as well as crime victims and state witnesses who interacted with prosecutors in 18 magistrates' courts throughout the country.

The NPA commissioned the ISS to conduct the survey, and intends using the survey results to develop performance indicators and to improve its service to the public and court users.

General public perceptions

The largest part of the survey sought to measure perceptions the general public has of, among other things, the performance of the criminal justice system and the role of the prosecution service. Some 210 randomly selected people, who lived within a few kilometres of the selected court sites, were interviewed per site. In total 18 courts were selected (two per province), and 3,830 people were interviewed.

Overall, the respondents were fairly representative of the general South African population, with coloured, white, and female respondents slightly over-represented. The majority of respondents lived in an urban area, were young to middle-aged (21 to 40 years) and had a relatively high level of education

(57% had completed matric). Almost half (47%) were employed in either the formal or informal sector.

Close to a third (29%) of the respondents stated that they had been a victim of a crime in the two years prior to the survey. Of these respondents, 79% reported the matter to the police. However, only four out of ten (39%) respondents who reported the crime were satisfied with the police's response. This could be because over three-quarters (76%) of the reported cases did not end up in court.

Overall, respondents were negative about the general functioning of the criminal justice system since 1994, and the government's role in fighting crime. Nevertheless, the majority of respondents indicated a willingness to report crime to the police and give evidence in court (Figure 1).

While almost half (49%) of the respondents had been inside a criminal court in the ten years prior to the survey, only 54% knew what the function of the prosecution service is. This may be because many of the respondents who had attended court did so simply to watch or to provide support to a relative or friend. Just over a quarter (28%) of respondents said they had ever met a prosecutor.

When asked how good a job the prosecution service generally is doing, three-quarters of the respondents

stated either “okay” or “good” (51% and 24%, respectively). Only 15% thought the prosecution service was generally doing a “bad” job.

To gauge what the general public thinks of the different professions in the criminal justice field, respondents were asked what profession they would choose for their children given the following choices: police officer, detective, magistrate, prosecutor, lawyer in private practice, or none of these.

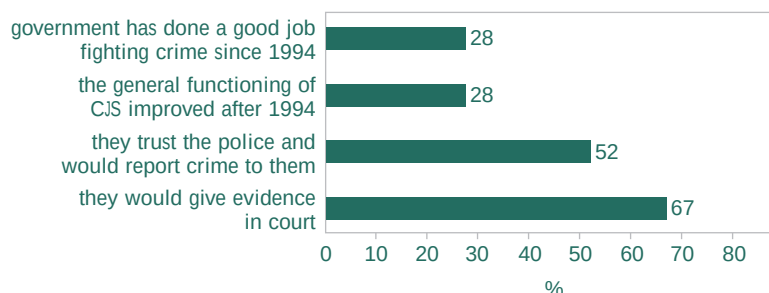
The most common response, given by 40% of the respondents, was “none of these”, i.e. none of the given career choices in the criminal justice field. This answer was followed by “lawyer in private practice” (35%), magistrate (11%), prosecutor (5%), and police officer and detective (both 4%).

When asked to rank the different components of the NPA in terms of perceived effectiveness, respondents ranked the Scorpions as the most effective NPA component (with 84% of respondents stating that the Scorpions were effective). This was followed by the Asset Forfeiture Unit (64%). Interestingly, only 58% of the respondents thought that the Directorate of Special Operations (DSO) was effective. The DSO is the official name of the Scorpions, and the response indicates that many people do not know that the DSO and the Scorpions are the same organisation (Figure 2).

Court users' perceptions

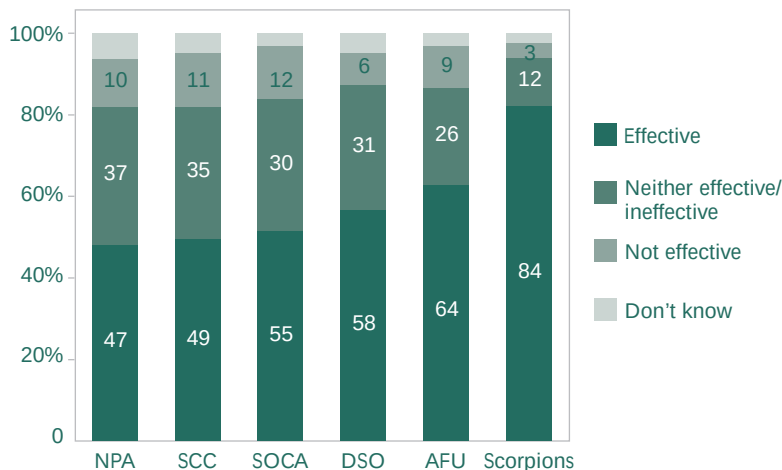
A second aspect of the survey gauged the opinions of court users: people who interacted with the prosecution service as state witnesses or crime victims. One hundred interviews were conducted per

Figure 1: Proportion of respondents who said ...



Source: ISS perception survey of public and court users, 2001

Figure 2: Effectiveness ratings of NPA components



SCC = Specialised Commercial Crimes; SOCA = Sexual Offences and Community Affairs

Source: ISS perception survey of public and court users, 2001

court site, covering 50 state witnesses and 50 witnesses who were victims of crime in the cases before court. People were interviewed as they were leaving the court building.

Interestingly, the opinions of court users were more positive about the work of the NPA compared to people who had not used the courts. Of the 1,800 state witnesses and crime victims surveyed countrywide, the vast majority said that the prosecutor they had dealt with was willing to help them, and that the prosecutor understood their concerns (Figure 3).

Court users gave two main reasons why they were satisfied with a prosecutor's service. Firstly, because the prosecutor was helpful, competent and treated

them with respect and professionalism. Secondly, because the prosecutor informed them about the justice process and what to expect in court.

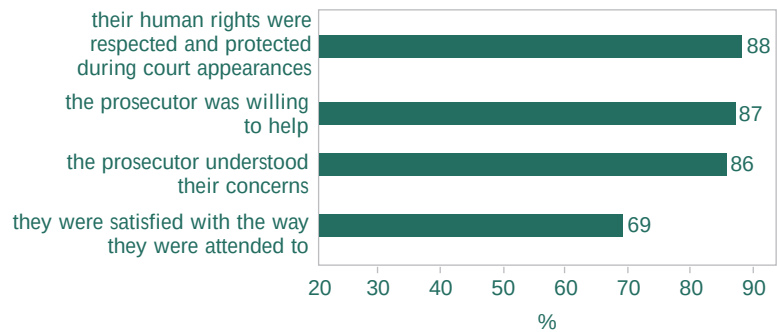
According to the survey, court users were most likely to be dissatisfied with the service provided by prosecutors because of frequent postponements, numerous delays in the court process, and a lack of information provided by prosecutors. For example, about half (53%) of court users said that the prosecutor handling their case had not identified him/herself to them. This comment was highest among black respondents, with 59% stating that the prosecutor did not identify him/herself, followed by coloured (42%), white (37%) and Indian (26%) respondents.

The success of a prosecution usually depends on the credibility and cogency of the testimony given by the state's witnesses. Given this it is disappointing that 43% of respondents felt that the prosecutor had not explained what was expected of them in court. Moreover, only 64% of the respondents stated that they had received assistance from the prosecutor in going through their written statement. Coloured and white respondents were significantly more likely than black and Indian respondents to state that the prosecutor had assisted them in going through their written statement (Figure 4).

On the whole, just under a fifth (18%) of the respondents felt the prosecutor would have treated them in a better way if they had been of a different race. Among black and Indian respondents 22% thought so, while only 10% of coloured and 6% of white respondents had this perception.

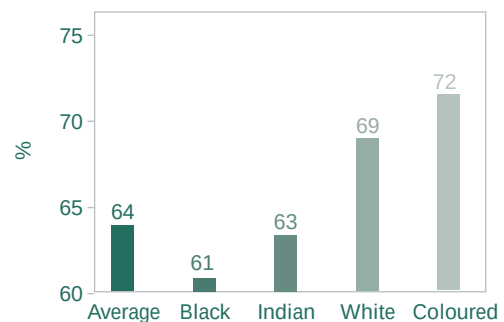
The survey revealed that state witnesses experience numerous delays before testifying. Some two-thirds (67%) of the respondents said they were not informed by the prosecutor as to how long they would have to wait before their case was heard. Almost a third (32%) of respondents had their case postponed on the day of the interview. Of the

Figure 3: Proportion of respondents who said ...



Source: ISS perception survey of public and court users, 2001

Figure 4: Those who said the prosecutor assisted them by going through their written statement



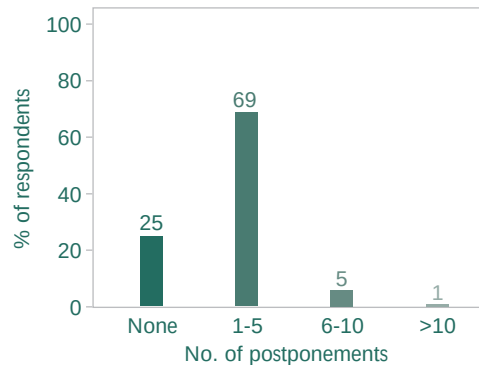
Source: ISS perception survey of public and court users, 2001

respondents whose cases were postponed, only a third (33%) were consulted about a new trial date that would be suitable to them.

Most of the respondents said the case in which they had to testify was postponed between one and five times without ever giving evidence in court. Only one respondent in four managed to testify on the day they appeared in court for the first time to give evidence (Figure 5).

While court users were dissatisfied with some service standards, they expressed a high opinion of the professional competence of prosecutors. Over four-fifths (82%) of court users said that prosecutors know "more" or "the same" as defence attorneys. Moreover, 89% of respondents thought that the prosecutor who was dealing with them knew what to do with their case.

Figure 5: Proportion of respondents whose cases were postponed without them testifying



Source: ISS perception survey of public and court users, 2001

Overall, 12% of respondents felt that, having attended court, their perceptions of the effectiveness of the criminal justice system worsened because of their experiences at court. White respondents were most likely to say this (26%) (Figure 6).

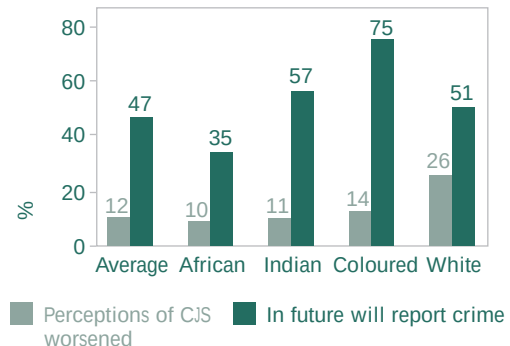
Significantly, of the respondents who felt that their perceptions of the criminal justice system had worsened, only 47% would in future report a crime to the police if they became a victim of crime, knowing that they might have to go through a similar process and give evidence in court. Among black respondents whose perceptions of the criminal justice system had worsened, only 35% stated that they would in future again report a crime to the police.

When asked why their perceptions of the criminal justice system had worsened, most respondents said it was because “criminals walk free” (27%), followed by “unhelpful/disrespectful court personnel” (15%), “court process too slow” (15%), and “sentences too lenient” (12%). Only 5% gave as the reason for their dissatisfaction “bias or racism”, with 4% stating “corruption”.

Conclusion

Encouragingly, the perceptions of the courts and the prosecution service are more positive among those respondents who have actually experienced the service offered by prosecutors, compared to the general public.

Figure 6: Respondents whose perceptions of CJS worsened having attended court, but who would still report crime in the future



Source: ISS perception survey of public and court users, 2001

The main expectations state witnesses and crime victims have when they go to court are of receiving a professional and competent service, being informed about the court procedure and their role within that process, and to not be unreasonably delayed. Most of these expectations are reasonable and can be met in an inexpensive manner. They primarily require a change in prosecutors' attitudes to service delivery, and professional and friendly conduct.

Overall, given the delays state witnesses face, they are surprisingly positive about the services provided by prosecutors. On most performance indicators prosecutors have fared very well. This should not be a reason for complacency, however. There are a number of individual courts covered in the survey where respondents' perceptions of the services provided by prosecutors were consistently below the national average.

Moreover, while only one out of eight respondents who attended court felt that their perceptions of the effectiveness of the criminal justice system worsened because of their experiences at court, almost half of them would in future not report a crime to the police. In order to function, the criminal justice system relies on the co-operation of the public. Without public support the relevance of the system diminishes, resulting in a loss of public trust in the state's ability to protect them from crime. This, in turn, may encourage vigilantism and mob justice.

THE PROS AND THE CONS

Public-private partnerships (PPP) in South African prisons

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A decision to introduce new generation prisons, based on the concept of unit management, was aimed at easing overcrowding and promoting the rehabilitation of offenders. The two new privately run prisons in South Africa are based on this concept, and have been in operation for a little over a year. It is too early to say much about their effectiveness and the performance of their staff, but a visit reveals well-run and well-managed facilities which bode well for the Department of Correctional Services (DCS). Nonetheless, within government there seems to be some dissatisfaction with the private prisons.

Prison privatisation in South Africa has been controversial, particularly for government (DCS and members of parliament). The privatisation process was not clearly understood when the first contracts were signed, and this legacy remains. Part of the reason for this misunderstanding is that when PPP prisons were planned, Treasury regulations were not in place, and therefore strict legal criteria designed to ensure affordability, value for money and appropriate risk allocation in public-private partnerships, did not exist.¹

In addition, the two privately run prisons recruited a number of senior DCS personnel who were originally involved in the negotiations of contracts with these prisons. As a result, there is an inadequate understanding among remaining DCS staff of the terms of the contracts. What this also means is that the ability of DCS to optimally manage partnerships is limited.²

What was also clear from the beginning was that there were doubts around privatisation. Initially

11 sites were identified for the building of private prisons. As negotiations proceeded, these were reduced to four sites and eventually to the two current sites. These two sites are seen as pilot projects and will determine whether government will decide to build more private prisons or renegotiate present contracts.³

What is prison privatisation?

Strictly speaking, the term privatisation in this context is a misnomer, since it suggests private sector financing and ownership of infrastructure traditionally financed and owned by the public sector.⁴ However, there is no such thing as a fully privatised prison. Given that the provision of law and order is a basic service of any government, it would follow that a prison service cannot be fully turned over to the private sector.⁵

Prison privatisation therefore does not involve turning over the prison service to private companies, but instead involves the state contracting out the design, construction, finance

and management of a prison. Private finance schemes enable government to hand over the finance, design and construction of a new facility as well as related services to a company or consortium in exchange for monthly fees over an agreed period of time (25 years in South Africa). Government has no immediate capital costs, as the company borrows the necessary finances, but the ultimate responsibility for the prison still rests with the state.⁶

In South Africa the contractor is explicitly prohibited from taking disciplinary action against prisoners, or becoming involved in determining the computation of sentences, deciding at which prison prisoners will be detained, deciding on the placement or release of a prisoner, or granting temporary leave. The Correctional Services Act ensures that the responsibility for punishment lies with the state and that only services are delegated to the contractor.⁷ The legislation guiding privatisation of prisons is contained in the Correctional Services Act (CSA) 111 of 1998. Chapter XIV, section 103 on joint ventures states:

- 1) The Minister may, subject to any law governing the award of contracts by the State, with the concurrence of the Minister of Finance and the Minister of Public Works, enter into contract with any party to design, construct, finance and operate any prison or part of a prison established or to be established in terms of section 5.
- 2) The contract period in respect of the operation of a prison may not be for more than 25 years.⁸

Despite the fact that the issue of privatisation is recognised by legislation and the fact that the contracts were signed after much consultation and negotiations with various key officials, the issue of PPP prisons remains controversial. In 2002 a multi-departmental task team comprising officials from Correctional Services, Public Works, and the National Treasury, was set up to review public-private partnership prison contracts. The objective of the task team was to understand the existing PPP contracts in order to:

- establish a sound basis for their management;
- identify areas of renegotiation; and

- establish a framework for decision-making processes for future prisons.⁹

Among other things, the task team found that, although private prisons delivered according to DCS specifications, these specifications were too high. They found it difficult to directly compare private prisons and public prisons, due to differences in construction dates, types of prisons, inmates per cell, capacities, overcrowding, available information, and in-house catering and services, to mention but a few.¹⁰

The challenge of prison accommodation

DCS has estimated that its prison population will increase to a quarter of a million inmates by 2005. Currently, South African prisons are overpopulated by over 70%. Correctional Services has unveiled a new plan – the new generation prisons – to be built to accommodate an additional 30,000 people over the next three years. However, it is unlikely that the problem of overcrowding will be solved. According to DCS projections, prisoner population will increase to 225,000 inmates in the next three years. If this is the case, then increasing cell accommodation by 30,000 does not seem to be adequate.

It takes three to five years to build a public prison. Therefore the slow pace of building a prison, coupled with a fast increasing prison population, means that DCS will have to either build more prisons, seek faster ways of building prisons or persuade the judiciary to impose non-custodial sentences. Failure to meet the demand for extra accommodation will exert further pressure on already stretched resources. It will also impact on the ability of Correctional Services to meet its core functions.

Why privatise?

One of the criticisms of private prisons is that they may force government into dependency. Even if this is true, the South African situation is such that government is required to look at other options. One would be to look at alternatives to prison sentences for minor crimes, which might help to reduce overcrowding. But if government moves in the direction of building more prisons, it may well

need assistance in order to keep pace with the growing prison population.

The privatisation of prisons has the following advantages:

- Private companies build prisons faster than government; six months to a year, compared to two to five years by government.
- Private companies are more apt to design for efficient operation.
- Private prisons are highly visible, while public prisons are often ignored. Public suspicion of big business translates into increased vigilance over those who run these prisons.
- Private companies promote the development and use of objective performance measures. Government often spends taxpayers' money without an incentive to measure quality of performance, but private contracts usually specify performance indicators and, to the same extent, broader goals.¹¹

The success of any prison system is its ability to rehabilitate offenders and to reduce rates of recidivism. The current state of South African prisons poses a big challenge in terms of meeting these two goals. The two privately run prisons – Mangaung prison in the Free State and Kutama-Sinthumule in the Northern Province – boast impressive rehabilitation programmes. For example, upon admission in Kutama-Sinthumule, inmates are taken through an induction process. During this stage a sentencing plan is designed with the prisoner, a counsellor and a psychologist, to determine suitable programmes to meet the needs of the inmate.¹² Programmes are therefore not random, but specific.

Private prisons are able to do this because they can afford to pay for specialists and cannot afford to provide a poor service. This would be tantamount to a violation of the contract, and could lead to severe criticism. More importantly, it is in the interest of private prisons to provide up-to-standard services in order to avoid heavy fines imposed on poor services. Also, due to the fact that this is a competitive market – motivated by profit – compromising standards could prove disastrous for the future involvement of private companies.¹³

Against privatisation

Opponents of prison privatisation argue that provision of law and order is the key function of any government. This duty should not be delegated to the private sector, because it is motivated by profit. They argue that money that could be allocated to services is creamed off in profits and fees for consultants and advisory schemes; the private sector becomes even more entrenched in criminal justice policy making; and the fuse is lit on a financial time bomb.¹⁴ They further argue that so far private prisons have failed to demonstrate that they are cost-effective, innovative, and have lower recidivism rates.

In the case of South Africa it is difficult to say much since the two private prisons have been in operation for just over a year. But the appointment of the task team to review the public-private partnerships seems to support the above argument.¹⁵ A few of the problem areas identified by the task team are:

- that DCS design and operating specifications were too high;
- additional budgetary pressures for DCS, resulting from the lack of feasibility work that should have established the affordability limits of DCS prior to procurement;
- an inability to increase the holding capacity of PPP prisons, despite severe overcrowding in DCS.

In the United States, the Corrections Corporation of America was found by the grand jury to be using excessive force to control juveniles. Wackenhut Corrections Corporation was ordered by the US Justice Department to end the use of corporal punishment, excessive force, and mechanical restraints.¹⁶

A frequent complaint is that private companies have a disregard for human rights. Aside from the moral and ethical arguments about prison privatisation, there is ample operational evidence that the policy itself is flawed. The fact that the human rights dimension of private prisons has not been fully examined, is a dereliction of duty.

Some of the concerns raised by the opponents of private prisons can be allayed, at least in the case of

South Africa. The Department of Correctional Services has appointed controllers for each of the prisons; their function being to ensure that contractual obligations are not violated. In addition, the Independent Prison Visitors under the office of the Inspecting Judge will ensure that prison conditions are to the specified standard and that the treatment of prisoners is in accordance with the provisions of the CSA of 1998. DCS also conducts audits of the prisons to ensure compliance. These can be spot-checks.

Conclusion

The challenge facing South Africa is that private prisons are a new concept, and that these prisons have been running for less than two years. Although it is too early to form any informed and insightful opinions about them, it is imperative that public scrutiny of these institutions is guaranteed. It is necessary that contractual obligations are not violated, nor standards of service compromised.

Continued monitoring will also enable DCS to assess whether privatising prisons is what they need. If they do decide to privatise, they will at least be in a better position to know whether they need a short-term or a long-term contract, and what the benefits of each of these contracts are. They will also be able to provide appropriate specifications. Prisons in general are expensive institutions, but how expensive prisons are, should be less of a consideration. The key consideration is that what government pays for is cost-effective, manageable and productive.

The current state of affairs is that DCS is in the process of building more prisons, and it is during this process that these considerations become important. Any prison that is being built, whether public or private, should contribute to crime prevention by rehabilitating prisoners and reducing repeat incarceration. Finally, the state of South African prisons does require that DCS seek other options to reduce overcrowding and facilitate rehabilitation.

Endnotes

- 1 Ben Skosana, The Role of Public-Private Partnerships in Expanding the Delivery of Correctional Services in

South Africa, Keynote address during a Third Annual Public Private Partnership Global Summit, Hotels van Oranje, Noordwijk, The Netherlands, 6th-8th November 2002.

- 2 Technical Review of the Public Private Partnership Prisons Contracts for the PPP Prisons Task Team, 8 November 2002, p 8.
- 3 www.pmg.org.za/docs/2002/viewminute.php?id=2288
- 4 Interview with Ronald Champion, Wackenhut Corrections Corporation, Louis Trichardt, 28 October 2002.
- 5 KC Goyer, *Prison Privatisation in South Africa*, ISS Monograph no 64, Pretoria, September 2001.
- 6 Ibid, See also Technical Review op cit.
- 7 KC Goyer, op cit.
- 8 Jutta's Statutes of South Africa, Correctional Services Act 111 of 1998, 2-162, Creda Communications, Eppindudt, 31 December 2001.
- 9 Technical Review of PPP Contracts, op cit, p 3.
- 10 Ibid, pp 17-19.
- 11 KC Goyer, op cit.
- 12 Interview with Lucky Mthethwa, Deputy Prison Director at Kutama-Sinthumule Private Prison, Louis Trichardt, 28 October 2002.
- 13 See Ronald Champion op cit, also KC Goyer, op cit.
- 14 www.penalreform.org/english/article-privatisation.htm
- 15 Technical Review of PPP Contracts, op cit.
- 16 KC Goyer, op cit, see also www.penalreform.org/english/article-privatisation.htm