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THE FACTS BEHIND THE FIGURES

Crime statistics 2002/3

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The new crime figures indicate that violent crime continues to decline, although violent acquisitive crime (robbery) is on the increase. However, these broad national trends conceal vast regional differences, including the continued growth of crime in the Western Cape. And a close look at some of the new figures suggest that crime recording rules continue to be refined in the post-moratorium period.

The 2002/3 SAPS Annual Report is, in many respects, an improvement on previous editions. While it is still more of an advocacy piece than a detached analysis of police progress, the report makes a real attempt to explain the causes behind crime trends, an improvement over the submissions of the last two years.

Issue could be taken with many aspects of this discussion, particularly the sections on the impact of HIV/AIDS and vigilantism. But it is encouraging to see a little of the old crime analysis coming back into the picture, especially as the Annual Report has become the only regular public document released by the state on the vital topic of crime and its prevention.

The bottom line for the South African public is the release of the crime statistics, and this year the Minister has graciously expanded the information available to the public by running area-level recorded crime figures on the Internet. It is on these figures that the following discussion is based.

Murders and attempts

Murder is down once again, at least as a rate. The actual number of victims increased ever so

slightly, but the trend is clearly downward since 1994. This is reassuring because murder is the one form of violent crime that is not heavily under-reported, and it is thus the most reliable indicator of the real violent crime situation. At 47 murders per 100,000 citizens (about the same as the most dangerous urban area of the United States, Washington, D.C.), the situation is still dire. But we are no longer in top contention for the title of 'murder capital of the world'. Columbia, our old rival for the honour, has long surpassed us, with 66 murders per 100,000 in 2002.

The 'success ratio' of murders to attempted murders has shown a distinct decline since 1994 (Figure 1).



This suggests that the increase in recorded attempted murders is a result of an increased rate of reporting by the public, not an increase in real incidence. The alternative is to believe that we are 11% less effective at killing one another today than we were in 1994.

But the picture is not uniformly rosy. The number of murders in the Western Cape is at an all time high. Certain policing areas within the Western Cape have been particularly badly afflicted: murder in the East Metropole is up nearly 20% in the last year, up over 60% from 1994/5.

Robbery

By far the most troubling trend as far as national recorded crime is concerned is the increase in reported robberies. Although we know this is a crime that is heavily under-reported (about 41% of 1997 National Victim Survey respondents who were victims of robbery said they reported it), the increase is so striking that it is difficult to believe that there is not a real increase in incidence.

Nationally, the number of aggravated robberies reported is up about 50% since 1994, but in many areas, including the Western Cape, the number of incidents has more than doubled. Unless nearly everyone is now reporting, which would be unusual by international standards, things have genuinely got worse.

The national commissioner last year and the minister this year have suggested that an increase in fraudulent reporting is behind this boom, largely tied to insurance fraud involving cell phones. Increases in the number of people insured could result in an increase in reporting. But if these cases are indeed fraudulent, one would expect a corresponding increase in fraud cases. In fact, fraud cases are down sharply since 1999/2000.

To their credit, the police have this year started keeping track of robberies that occur in the home as a subset of aggravated robbery, an innovation the ISS has recommended in the past. This crime combines the worst aspects of robbery (the use or threat of violence) with the worst aspects of burglary (violation of the sanctity of the home), producing a crime more serious than either offence considered separately.

The majority of these crimes occur in Gauteng, which suggests that this is a criminal technique with the potential to be exported from the big city.

After dipping to a six-year low in 2001 (162 incidents), cash-in-transit robberies shot up to 421 in 2002. But this is most likely a result of changes in recording practices by the SAPS, because with regard to bank robberies, the opposite trend is observed: 432 incidents recorded in 2001, and only 153 in 2002. Looking at the phenomenon at a more local level, the number of cash-in-transit robberies in Johannesburg policing area went from 16 in the last financial year to 42 in 2002/3, while bank robberies dropped from 56 to eight.

Overall, what the SAPS is calling 'bank related robbery' dropped from 594 in 2001 to 574 in 2002, down from over 1,000 in 1994. This is good news, since this is not a crime likely to be under-reported, and these improvements could be directly attributed to improvements in security and enforcement.

Car thefts and hijackings

Like murder and bank robbery, vehicular thefts and robberies are highly reported crimes, due to the fact that cars and trucks are valuable items and are often insured. Declines in these figures should be taken seriously, and incidents of both offences have seen national reductions.

The SAPS announced with justifiable pride that national hijacking figures were down by 20%. Hijacking, which is often tied to organised crime syndicates, is precisely the type of crime which the SAPS is well-equipped to deal with on a national level, and this trend could well be the direct result of enforcement efforts. Unfortunately, how this reduction was achieved has not been documented for the public.

The most remarkable decline has been not in carjacking, but in truck hijacking. It is probable that this is partly an artefact of changing recording practices ('is a bakkie a truck?'), but it may partly be due to the fact that truck hijacking is even more likely to be tied to organised crime than carjacking. At national level, the number of truck hijackings dropped from 3,333 in the previous year to less than

1,000 in 2002/3. Truck hijackings are at a national low from the time they were first recorded as a separate crime category, down from a high of over 6,000 in 1998/9.

But these aggregate trends conceal stark regional contrasts. Truck hijackings were down by only 4% in the Eastern Cape, contrasted to an 83% reduction in KwaZulu-Natal. And in some areas, like Johannesburg, the decline has been nothing short of precipitous. In 1996/7, the Johannesburg policing area produced about a quarter of all truck hijackings nationally, with over 900 incidents that year. Last year, there were only 51. Even if some of those early 'trucks' were Sandton SUVs, this has to be seen as progress.

Looking at the crime that concerns most of us - carjacking - the reduction has been significant but more modest: about 8% better than last year in terms of total incidents. According to the official rates, our national chances of being carjacked are now down to about what they were in 1996/7.

However, certain areas have experienced remarkable increases. In the Western Cape, carjackings have more than tripled since the first year the SAPS started counting them (1996/7), and are up more than 20% in the last year alone. In the West Metropole, the number of carjackings this year is more than four times that of 1996/7.

Gauteng still has by far the highest rate of carjackings, but the risk of victimisation has remained fairly stable in recent years. This provincial trend belies significant local changes, however. While there has been little change in Soweto, the number of incidents in Pretoria have increased from 371 in 1996/7 to 892 last year. This figure is, however, down from 998 Pretoria carjackings in 2001/2.

Nationally, car theft has been coming down sharply since a peak in 1998/9. The share of stolen vehicles taken by force (that is, carjackings versus vehicular thefts) has fluctuated between 15% and 17% since 1996/7, before reaching a new low this year at 14%. This is encouraging because it runs counter to the theory that hijackings are a response to increasing levels of vehicular security, and that we can expect

more violent means of acquiring property to follow attempts to protect ourselves.

Locally, however, there is considerable variation on this trend. In Gauteng in 1996/7, the share of violent vehicular thefts was 16%. In 2001/2, it was 19%. This year saw a reduction to 18%, but this was due to a decline in truck hijackings, not carjackings.

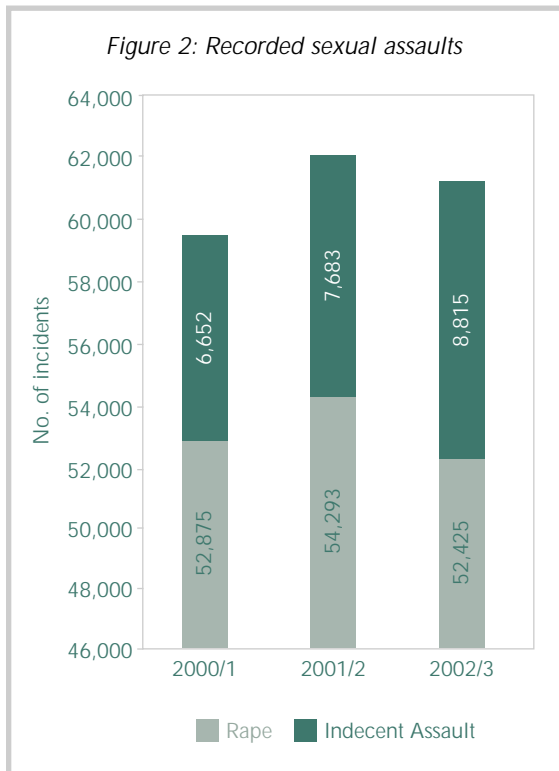
Other crimes

Trends in many other offence categories are difficult to discuss, because they are often heavily influenced by reporting rates. Particularly for violent interpersonal crimes like rape and assault, various campaigns and pieces of legislation designed to increase reporting rates should, if successful, lead to increases in recorded cases.

It is therefore inappropriate to celebrate the decline in recorded rape cases. This dip could be the result of increasing disenchantment with the criminal justice system rather than a real decline in incidence. But the same holds for overall increases in assault, which could be nothing more than diligent application of the Domestic Violence Act coming into play.

It also appears that the rape decrease may, once again, be partly due to shifting recording patterns. Indecent assaults went up by nearly as much as rape went down (Figure 2), so this could be the repackaging of what is nearly the same number of offences.

The statement is made in the Annual Report that "everybody should know by now that... at least one out of three rapes is reported to the SAPS", citing surveys by, among others, the ISS. In fact, everybody, especially the SAPS, should know by now that this is not true. This figure is based on victim surveys, but many women who refuse to report rape to the police might also be hesitant to mention it to some fieldworker who comes to her door, especially if her assailant is standing behind her in the one room shack. While the actual reporting rate remains unknown, it is undoubtedly higher than one in three, in line with underreporting rates found in countries where



better research has been done in this area. If anything, lack of services and cultural issues should make the rate of rape reporting less here than in better-developed countries.

A crime area that also seems to have been subject to definitional re-jigging is kidnapping/abduction. While abduction cases shot up by a quarter, kidnapping cases dropped by almost the same amount, for a minor aggregated decrease. A similar trend is seen at local level.

The number of child abuse cases nearly doubled between 2001/2 and 2002/3, a change so dramatic that it is probably also a recording phenomenon. Like rape, this is a massively under-reported crime, and so the change is actually encouraging. The total is still under 5,000 cases nationally, a tiny total when compared to (also under-reported) cases of child sexual abuse. Unless child rape is more common than other forms of abuse, there is considerable scope for improvement in reporting in this area.

Yet another pair of offences that may be subject to definitional shifts are commercial and residential

burglary. Commercial burglary is down 15% in one year, to its lowest levels since 1994, while residential burglary is up by 5%. Because commercial burglaries are less common than residential ones, the total of these two offence categories is actually stable. Since most commercial premises are more likely to be insured than domestic ones, commercial burglary is a more reliable indicator of real burglary levels, so this year's figures are good news.

Like other under-reported crimes, increases in theft rates should be taken with a grain of salt. The better-developed countries have theft rates far in excess of that of South Africa, due to the fact that people diligently report minor crimes out of a sense of civic duty, trust the police to take such cases seriously, and are required to report for insurance purposes. As South Africa becomes better developed, we should expect even more thefts to be recorded every year.

Regional risks

While the SAPS seems adamant about denying the public access to station-level crime statistics, the very figures we need to protect ourselves and to lobby for resources, they have done us the service of identifying the police areas and station areas that produce the highest numbers of offences.

Unfortunately, these lists are actually quite unfair. By referring to numbers of offences committed rather than using a rate based on the population size, the larger policing areas and station areas are unfairly prejudiced. The populations of policing areas vary widely, from under 100,000 (Namaqualand) to nearly three million (Umtata).

For example, Marico in the North West makes it to the top 11 policing areas for murder, but this is not because the average citizen of the area is as much at risk as one living in the Johannesburg policing area. Marico has one of the largest populations of any station area, projected to be over 1.8 million in 1999. Johannesburg, on the other hand, was estimated to have less than 900,000 residents during the same period. So even if your chances of being murdered were twice as bad in Johannesburg as Marico, the number of dead bodies produced would be the same.

The same is true for the station area comparisons. Station areas can serve communities of a few thousand or a few hundred thousand. Thus, mega stations like Moroka, Mitchell's Plain and Khayelitsha make it onto almost every list. In the end, this information is useless if you want to know where you are most at risk.

What is more interesting is when small station areas pop up from time to time. Although it has a tiny resident population (just over 20,000), Johannesburg Central remains among the top stations listed for both murder and aggravated robbery, despite crowing about the success of CCTV in that area.

On a larger scale, it is clear from the preceding discussion that the Western Cape has both the worst and the fastest growing crime situation in the country. The reasons behind this are the subject of current ISS research, but it is clear that the Cape must be the focus of intensive attention by the SAPS if it is not to swing entirely out of control.

Good, but not good enough

For the most part, the crime rates are out of the control of the SAPS, and so should not be used as a benchmark of police performance. When considered in light of changing reporting trends, however, they do give an indication that South Africa is beginning to move beyond the violence of its tumultuous past. Certain trends, like the decline in bank-related robberies and hijackings, do reflect well on the work of the police, but these phenomena are best understood at a local level of analysis.

What is still lacking are station-level crime statistics. The present operational strategy of the police, the National Crime Combating Strategy, is based on the idea that enforcement in specific high-crime areas will stabilise crime nationally, but in order to evaluate this claim, station-level figures are essential. Until these are released to the public, the impression will remain that claims of crime reduction are simply smoke and mirrors.

PLOUGHING IN RESOURCES

The investigation of farm attacks

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The information contained in this article is drawn primarily from research conducted by the Committee of Inquiry into Farm Attacks. The mandate of this Committee was to investigate the motive for farm attacks. To this end the Committee interviewed investigating officers, victims, offenders and prosecutors. In addition, the agricultural unions, the South African Police Service, non-governmental organisations and the South African National Defence Force made submissions to the Committee. The Committee found that the primary motive for farm attacks was robbery and, more importantly, that the conviction rate was high at 90%. This article therefore examines the investigative techniques used in the investigation of farm attacks and suggests that the little known Tracking Unit is a significant factor in the successes achieved to date. Its past experience in dealing with politically motivated insurgency in rural areas has proven effective in apprehending suspects. However, these techniques have not been effective in reducing the number of attacks. This article explores how farm attack cases have been handled by the criminal justice system.

Background

Farm attacks¹ appear to be a phenomenon unique to South Africa. Although crimes such as murder, robbery with aggravating circumstances and rape do occur on commercial farms elsewhere in the world, these have been singled out for special attention in South Africa due to the sensitivity and the scale of the issue (see Figure 1 on page 11). Farm attacks have been accorded the status of a 'priority crime'. This means that organised agriculture, representatives of the South African National Defence Force (SANDF) and the South African Police Service (SAPS) meet regularly to plan, co-ordinate, execute and integrate strategies to reduce the incidence of farm attacks.

In an attempt to understand farm attacks, focus group interviews and one-on-one interviews were undertaken with investigating officers and

perpetrators respectively.² Focus group interviews were conducted with investigating officers in all nine provinces. Investigators estimated that the conviction rate for farm attacks ranged from 50% to 90% – much higher than for other violent crimes. However, the Committee was unable to verify these figures with statistics from the Crime Information Analysis Centre (CIAC). Given the sparse, isolated areas in which farm attacks are carried out one would assume that the conviction rate for farm attacks would be low, because victims are far from a police station and perpetrators have enough places to hide.

In an attempt to determine the relative conviction rate for similar crimes in an urban area the Committee relied on the CIAC in the Eastern Cape for assistance.³ The Committee requested the CIAC to carry out a comparison between house robberies

on farms and urban areas. Due to the availability of data and a belief that provincial trends would probably reflect national trends, the Committee used the Eastern Cape data. The data covered the two-year period 2000 and 2001. In sum, the exercise revealed that in 43% of house robberies on farms there had been a conviction but by contrast there was only a 6% conviction rate in the urban areas.⁴ A further 53% of cases on farms were either undetected or withdrawn and 4% ended with an acquittal. By contrast, 92% of cases in the urban areas were undetected or withdrawn and 2% were acquittals.

The question that should be asked: why is the arrest and conviction rate for farm attacks so high? Supporting this Eastern Cape trend, investigators in the focus groups were of the opinion that only a small number of cases remained unsolved. Moreover, the sentences handed down to perpetrators were rather stiff. Research carried out by Mistry and Dhlamini found that the sentences handed down to perpetrators ranged from 10 years for common robbery to 25 years for murder, possession of illegal weapons and ammunition.⁵ According to the judgements handed down, none of these sentences were reviewable. In the beginning, the conviction rate for farm attacks may have been low but the figure has increased to 90% in some areas.⁶ The high success rate can be attributed to three factors:

- Political will;
- Resources; and
- Investigation techniques.

Each of these factors will be discussed in more detail in the following sections.

The political will

Organised agriculture garnered a great deal of support from white commercial farmers and prevailed upon government to take responsibility for the safety and security of farmers. Consequently, in October 1998 former President Mandela hosted a Rural Safety Summit to address the concerns of organised agriculture. Organised agriculture was of the opinion that the criminal justice system was ineffective and that perpetrators of farm attacks were, literally, getting away with murder. In

addition, organised agriculture was also of the opinion that the attacks on white commercial farmers were politically and racially motivated - the idea being to drive white people off the farms in order to make land available for redistribution. By typifying the attacks in such a way, the agricultural unions contributed to the popular perception that farm attacks were a continuation of the armed struggle against the apartheid state waged by Umkhonto weSizwe (MK) and APLA. A definition of farm attacks was drawn up (see endnote 1) as a result of lobbying by organised agriculture, and in 1998 it was given the status of a priority crime.

Other priority crimes include crimes against women and children, gang and taxi violence, and bank-related crimes. The Rural Protection Plan (RPP) was devised in response to representations to the National Operational Co-ordinating Committee (NOCOC)⁷ by organised agriculture. Once farm attacks were given the status of a priority crime, a subcommittee on Rural Safety was formed. This is a subcommittee of NOCOC.⁸ The priority committee on Rural Safety consists of members of the SAPS including the Crime Information Analysis Centre (CIAC), members of the SANDF, organised agriculture in the form of AgriSA, and the Department of Land Affairs (DLA). This committee meets every Thursday to discuss the reports of farm attacks received from the various CIAC offices throughout the country. The members of the committee examine each incident to determine whether or not a particular incident can be classified as a farm attack.

The priority committee on Rural Safety is tasked with the operational planning and implementation of the RPP.⁹ Other functions include:

- Co-ordinating all security-related actions relating to rural protection;
- Identifying factors that have a negative influence on the safety of the farming community; and
- Distributing relevant information and providing feedback on the rural protection plan to all relevant role players.¹⁰

Prioritising a crime may be the most effective way of demonstrating political will, but in order to combat farm attacks the following resources need to

be mobilised and utilised:

- Commandos
- Tracking Unit
- Air wing, Disaster Management Team

At least two of the mechanisms mentioned above are legacies of the past. The commandos were established in response to guerrilla infiltration, and MK and APLA attacks on farms. As a result of the political transition, these commandos fell into disuse. However, with the increasing incidence of farm attacks, the commandos were given a new lease of life and legitimacy. Similarly, members of the Tracking Unit served with the SADF in the bush war. This will be discussed in more detail below. The marnet radio system,¹¹ which appears to be widely used in rural areas, is yet another example of old war techniques. All these instruments come from the apartheid state's response to rural insurgency in the 1980s.

Investigation techniques

Due to their status as priority crimes, farm attacks are generally investigated by a specialised unit, the Serious and Violent Crime Unit. The members of this unit are well-trained, seasoned investigators.

The investigators interviewed said that they applied the same techniques to farm attacks as they do to other similar crimes. None of them have, however, received any special training in respect of farm attacks. Their expertise has been gleaned from the number of farm attacks investigated over the last few years. The investigators are divided into field teams. This ensures that each investigator is utilised to the best of his or her ability. Investigators and station level detectives work together because the latter are knowledgeable about local systems and informants. In order to optimise prosecution rates the most experienced investigator is sent to court to give evidence. This ensures that the case is presented in a professional manner by an articulate investigator. The investigators work closely with the prosecutors.

The investigators revealed that they are very committed to their work and some are even known to sleep at the crime scene or work throughout the night on apprehending the suspects. This is unlikely

to be the practice in urban areas. The use of the informer network is also a valuable source of information in all investigations. In some areas the investigators give priority to an incident on a farm at the expense of other cases. In others, the investigators are able to work equally well on violent crimes in urban and rural areas. Once the police have been notified of a farm attack, the forensics experts, Tracking Unit and investigators rush to the crime scene. The forensic experts collect evidence and the Tracking Unit is able to determine how the suspects entered the homestead. In addition, in examining how the victims were attacked the forensic experts ascertain what instruments or weapons were used. This information points to the type of suspects the investigators should be looking for.

Tracking Unit

This unit is one of the most effective and invaluable tools at the disposal of the SAPS in farm attack investigations. It makes a major contribution to the arrests of suspects and subsequent convictions. The Tracking Unit is used for tracking, pursuing and arresting suspects. It also determines how the suspects entered the homestead and for what purpose. These units typically have a few members from Ovamboland in Namibia who are internationally considered among the foremost experts in tracking. They were used widely by the former South African Defence Force to track down SWAPO guerrillas in the bush war.

Even though there are courses for trackers in South Africa, the farm investigators regard these members of the Tracking Unit as the very best. A member of the Tracking Unit stated that his members are able to follow the track (spoor) of the suspects longer than are the dog units. Moreover, they are also able to find clues regarding the age of the tracks and the condition of the suspects. For example, they are able to see minute bloodstains in the sand and assess the freshness of the tracks. In addition, the height, weight, speed and fitness of the suspect can be determined from his tracks. In this manner the Tracking Unit also assists the air wing of the SAPS in its search for the suspects.

From 1998 to 2001 most farm attacks occurred in Gauteng, Mpumalanga, KwaZulu-Natal and the

North West respectively. The Tracking Units are located in three provinces, the Eastern Cape, Free State and Limpopo: large, sparsely populated rural areas. The Tracking Unit in Limpopo Province has the most members, while the Eastern Cape unit only has three. But as these provinces in fact do not account for the highest number of farm attacks, the question must be asked whether this can be attributed to the existence of the Tracking Units.

Commandos

The effectiveness of the commandos varies from one area to the next. The commandos are tasked with assisting the police with rural safety and security. The commando is often made up of local farmers who may or may not be former members of the SANDF. They are issued with state weapons. These commandos are often the first to receive a call for assistance from the farmer under attack, since farms are generally far away from police stations. Many farmers in the rural areas are linked to each other via a marnet radio system. The commandos then call the police and inform them that a crime has been committed. They set up a roadblock and start looking for the suspects.

There are three types of commando structures in the rural areas:

- Area-bound reaction force commando members
- Home and Hearth protection reaction force commando members, and
- House and Hearth protection commando members.¹²

Area-bound reaction force units are composed of people who live in towns and cities.¹³ When there is an emergency these members are called upon to assist, and are issued with a uniform and rifle for that purpose. The members of this unit are trained with police reservists to conduct patrols, roadblocks, follow-up operations, cordon and search operations, and farm visits.¹⁴

Home and Hearth protection reaction force commando members are made up of farmers, smallholders, and their labourers. Once an incident has been reported on a farm in the area this commando is called. They set up roadblocks and a search begins for the suspects. House and Hearth

protection commando members are composed in the same manner as the Home and Hearth protection reaction force commandos. However, they only protect their own properties and are given a rifle if they do not have their own. In addition to relying on the commandos, a contingency plan has been drawn up in some areas, using members of the local community to assist the police. This also contributes to the high rate of successful farm investigations.

In the Bushveld area of Limpopo, as well as in the Eastern Cape, contingency plans have been drawn up to determine what should be done at the scene of a farm attack. The Area Co-ordinating Committee (AOCOC) oversees these plans. In sum, a Joint Operations Centre (JOC) is set up, and the investigation of a farm attack is co-ordinated from this spot. Any information emanating from the crime must be relayed to the JOC, who then sends it on to the relevant stakeholders. In the Bushveld area, in addition to mobilising the Tracking Unit, commandos and air wing, a disaster management team is also called upon to assist. Each of the stakeholders has a clearly defined role in the contingency plan. Hence, there is no confusion when the plan is put into action, and valuable time is not lost. The plan also states who will be in command of the investigation.

On the 14th of February 2003 President Mbeki announced that the commando system would be phased out and replaced with sector policing under the leadership of the SAPS. The reasoning behind this was that crime prevention was not the mandate of the SANDF, but the responsibility of the SAPS.¹⁵ The President's announcement created a great deal of unhappiness amongst farmers who rely upon commandos for rural safety and security. On the 5th of August 2003 the minister of Safety and Security confirmed that the commandos would be phased out over six years, but that special police units would be established in the rural areas and that commando members could get involved in these.

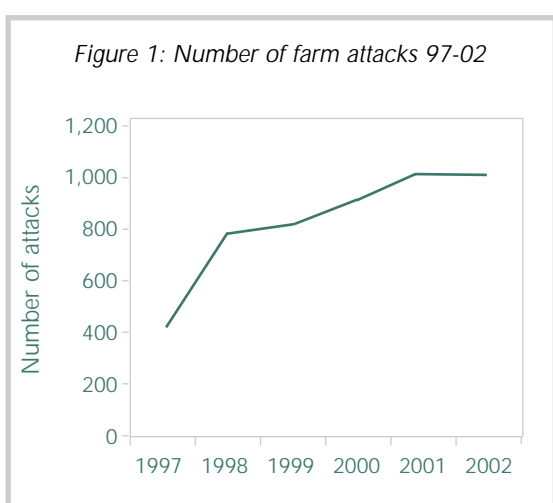
Air wing

The air wing of the SAPS, using light aircraft, is often called upon to support and assist the Tracking Unit in its search for suspects. The Tracking Unit

relays vital information to the air wing, for instance about the height and build of the suspects.

Limitations to the strategy

As discussed, the three factors that have contributed to the high conviction rates for farm attacks are political will, investigation techniques, and resources. It is clear that a great deal has been invested in the investigation of farm attacks, yet these crimes continue to increase. Figure 1 below shows the number of farm attacks recorded by the police since 1997.¹⁶



It would appear that old techniques from the guerrilla war have been applied in dealing with farm attacks. This strategy has resulted in high conviction rates but not in a reduction in the incidence of farm attacks.

Firstly, the problem lies with the reactive nature of policing farm attacks. Most of the infrastructure is geared to the aftermath of farm attacks and not to prevention. Secondly, even though the tracking units in the Free State and Eastern Cape play a major role in the success of investigations into farm attacks, they are small entities attempting to cover vast areas. Ideally, there should be tracking units in each area, attached to a serious and violent crimes unit.

In addition, the SAPS have not actively recruited members to the Tracking Units. Consequently, their unique tracking skills appear to be dying out.

Training courses are held at Upington in the Northern Cape, rather than in the areas in which the members are based. It is important for the Tracking Unit members to be trained in the areas in which they are based as each unit is dealing with different terrain. It is also necessary to regularly update the course. Moreover, members of the various Tracking Units should be brought together to share expertise and experiences.

What is needed to complement the current strategies is a comprehensive proactive intervention strategy. Part of the solution falls within the domain of security on farms. Research carried out by Mistry and Dhlamini amongst perpetrators of farm attacks and in interviews with investigators revealed that security measures on some farms leave a lot to be desired.¹⁷ Many farmhouses have no burglar bars on their windows or security gates on their doors. Windows and doors are often left open, and in some cases there is no fence around the homestead.

Concluding remarks

Sector policing is being touted as a potential solution to the reduction in incidents of farm attacks. This would increase the visibility of the police in rural areas that are usually isolated and vulnerable to crime. However, a good communication strategy is required. The police need to ensure that they have a regular slot on local radio stations in which they convey information on any incidents, suspects wanted, whether or not suspects have been arrested and the sentences handed down to perpetrators. This may help to reduce the incidence of crime on farms, as is the case in the Bushveld area of Limpopo Province.

Another important factor to consider is the role played by farm workers. They are an integral part of rural communities and there are known cases where they have been used unwittingly by perpetrators to obtain information about certain farms. Research undertaken by the Committee found that farm workers are secondary victims of farm attacks, and although they may escape harm, are most likely to suffer when farms are sold, downsized or liquidated. None of the commandos have integrated farm workers into their structures. However, farm workers have a stake in the

apprehending of perpetrators and may well be willing to participate in rural safety and security structures. As such, they are a significant resource in terms of any rural safety plan and need to be recruited more actively in this regard.

Although the large number of farm attacks has been dwarfed by the number of violent crimes committed in urban areas, the prioritisation of farm attacks means that victims are more likely to see an arrest, and the prosecution and conviction of a perpetrator. However, this may appear to be inequitable. In the context of severely limited resources, any disproportional allocation of resources to tackle any one type of crime (no matter how politically sensitive) can only be at the expense of other needs. In the long run, addressing farm attacks depends on justice not only being done to farm attackers but on justice being done and being seen to be done with respect to criminal behaviour at large - and this within the context of less social and economic injustice.

Endnotes

- 1 Attacks on farms and smallholdings refer to acts aimed at the person(s) of residents, workers and visitors to farms and smallholdings, whether with the intent to murder, rape, rob or to inflict bodily harm. In addition, all actions aimed at (disrupting) farming activities as a commercial concern, whether for motives related to ideology, labour disputes, land issues, revenge, grievances, racist concerns or intimidation, should be included. (Cases related to domestic violence or drunkenness, or resulting from commonplace social interaction between people – often where victims and offenders are known to one another – are excluded from this definition).
- 2 Nine focus group interviews, one in each province with investigating officers. On average there were between 8 to 10 investigators in a group. Only eight perpetrators were interviewed by the Committee because 48 had already been interviewed in the Mistry & Dhlamini study referred to below.
- 3 In 2002 the CIAC undertook a study of house robberies in all nine provinces using docket analysis. The sample size was 1000 dockets.
- 4 Report of the Committee of Inquiry into Farm Attacks. p 351. July 2003. The sample size was 147 dockets for house robberies on farms and 66 dockets in urban areas. 'Of those 77 had been disposed of in the manner described'.
- 5 D Mistry & J Dhlamini. Perpetrators of Farm Attacks: An Offender Profile. Institute for Human Rights and

Criminal Justice Studies. March 2001.

- 6 Interview with investigators, Limpopo and Free State.
- 7 The role of NOCOC in general is to deal with crime matters at an operational level. NOCOC is comprised of amongst others members of the SAPS headed by Deputy National Commissioner C A Pruis and SANDF.
- 8 At provincial level there is POCOC, area level (AOCOC) and ground level (GOCOC).
- 9 M Schonteich & J Steinberg. Attacks on Farms and Smallholdings. An evaluation of the rural protection plan. 2000. Institute for Security Studies. p 20.
- 10 Ibid.
- 11 The marnet radio system is an area network communication system.
- 12 Schonteich & Steinberg, op.cit p 21.
- 13 Ibid.
- 14 Ibid.
- 15 The SANDF is responsible for co-ordinating the efforts of the Commandos.
- 16 Report of the Committee of Inquiry into Farm Attacks. July 2003.
- 17 Mistry & Dhlamini. op.cit p 25.

TWO SIDES OF THE SAME COIN?

Sector policing and community policing forums

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In its efforts to address crime the South African Police Service is increasingly focused on the implementation of sector policing. This is a strategy that calls for a more focused approach to policing at the local level, and includes the establishment of sector policing forums. Indeed, sector policing could be seen as a way of enhancing community policing. One of the key challenges is to ensure that these new police-community based structures do not experience the same shortcomings as community policing forums. This article will describe sector policing and consider some of the challenges to its effective implementation.

Sector policing is a UK based policing model that can be traced back to the previous decade, and was initially known as 'neighbourhood policing'.¹ Sector policing adopts a far more decentralised approach to policing, as it is a strategy intended to address root causes of crime at specific geographical locations, in partnership with particular communities. Thus, sector policing can be seen as an approach that seeks to tailor-make policing responses to suit specific local needs.

Although sector policing has only recently become more of a feature, the idea behind this strategy was mentioned as early as 1994 in the Minister of Safety and Security Draft Policy Document, where then Minister Sidney Mufamadi referred to "community police officers with an intimate knowledge of a particular area and its problems as a main operational unit of a 'lean and efficient' police organisation." Although very similar in principle, the term 'sector policing' was not at that stage used to describe this approach to problem-solving policing.²

In 1996 sector policing was briefly mentioned in the National Crime Prevention Strategy (NCPS) as an operational strategy to addressing violence associated with inter-group conflict in Kwazulu-Natal. In this case, the term sector policing was not specifically defined, but rather used to describe the deployment of police officers to specifically affected areas.

The term sector policing again made an appearance in the 1998 White Paper on Safety and Security where it was defined as "the division of areas into smaller managerial sectors and assignment of police officers to these areas on a full time basis. These police officers regularly patrol their own sectors and are able to identify problems and seek appropriate solutions. Sector policing encourages constant contact with members of the local communities."

The White Paper further states that sector policing should be:

- Proactively, vigorously and fairly conducted;
- Based on clear instructions from the police commanders to patrol officers;

- Planned on the basis of crime analysis;
- Focused on a specific problem within an area;
- Implemented on the basis of specific time frames; and
- Developed in collaboration with the municipal police and other relevant stakeholders.

According to the White Paper the idea behind the implementation of sector policing is to maximise effective police visibility and enhance accountability at local level. More recently, in a SAPS planning information document for 2003/2004, sector policing is identified as a service delivery indicator for visible policing, with the aim of being established at the 145 priority stations by 2005. Some headway has been made in this regard with the Johannesburg policing area already having been divided into 111 policing sectors.

Implementation of sector policing

According to the report of the Johannesburg CPF Area Board workshop on sector policing, the implementation of sector policing comprises four phases. The idea behind breaking down the implementation of sector policing into clearly defined phases is to enable the stations to monitor their progress as to how far they are in terms of implementing the policy.

Phase one entails each station deciding on how many sectors it will have within its precinct. The number of sectors will be determined by the capacity of the station, crime 'hot spots', and the size and diversity of the precinct.

In phase two the station needs to compile a profile for each sector. This entails the identification of the following:

- Root causes of crime within that area;
- Factors inhibiting effective crime prevention;
- Means of eliminating those factors;
- Key role players within that area; and also
- Partnerships with community based organisations or NGOs.

Then, in phase three, the station commissioner needs to appoint a sector manager for each sector. These sector managers have to be members of the SAPS with the following responsibilities:

- Getting to know the sector
- Establishing sector forums
- Organising meetings and other events in the sector
- Liaising with all the relevant community stakeholders
- Initiating crime prevention strategies based on the profile and the dynamics of the sector
- Reporting to the station commissioner.

The sector managers will be accountable to the station commissioner, whose responsibility it will be to monitor all sectors falling under his or her station.

Phase four entails the establishment of a sector policing forum (SPF), which will be a consultative forum at which all relevant stakeholders of a particular sector will be represented. For this forum, a secretary and a chairperson need to be appointed by the participants. The activities of SPFs include the following:

- Monthly meetings
- Identification of crime prevention strategies
- Co-ordination and implementation of sector policing activities.

The phased approach is useful in providing a structured way in which to implement and monitor sector policing. Nevertheless, some flexibility could be exercised in relation to the order of the activities in each phase. For instance, appointing a sector manager, which is seen as happening in phase three, could occur before profiling the sector, which supposedly happens in phase two. Given that the manager is responsible for managing the sector, it would make sense that s/he is part of the profiling process.

If successful, sector policing can be seen as resulting in a number of benefits, including:

- Improving the identification of hot crime spots and the root causes of crime at a local level;
- Better use of policing resources according to the needs of a particular sector;
- Improving visible policing;
- Allowing for enhanced manageability, given that the precincts will be divided into smaller areas;
- More effective and efficient police response to

- community complaints and emergencies;
- Better cooperation between the police and communities at local level to address specific crime problems.

Community policing forums and sector policing forums

As with any new policy initiative, there are bound to be challenges during the initial stages of implementation. With sector policing, a key challenge involves clarifying how the sector policing forums (SPFs) differ from community policing forums (CPF). Part of the reason for the confusion is that at the outset there appears to be little to distinguish the two structures.

Indeed, the following five core elements that underpin CPFs could easily be extended to SPFs:³

- Service orientation: the provision of a professional policing service, responsive to community needs and accountable for addressing these needs.
- Partnership: the facilitation of a co-operative, consultative process of problem solving.
- Problem solving: the joint identification and analysis of the causes of crime and conflict and the development of innovative measures to address these.
- Empowerment: the creation of joint responsibility and capacity for addressing crime.
- Accountability: the creation of a culture of accountability for addressing the needs and concerns of communities.

Given the similarities between CPFs and SPFs, how these two structures differ in practice is a frequently raised question. The answer can be found in the following statement made at a Johannesburg CPF Area Board workshop on sector policing in 2003: "Sector policing is not intended to replace the community policing forum, [but rather to] to maximise effective visible policing and to enhance accountability and transparency on the part of the police. Sector policing is intended to work in collaboration with CPFs. If problems cannot be addressed at the sector police forum, they should be channelled to the CPF, which would act as a facilitator."

It is expected that the CPFs and SPFs will work together if necessary with SPF chairpersons attending CPF meetings to share information about the activities and concerns of their particular sector. Some key differences between CPFs and SPFs include:

- CPFs represent large areas consisting of different communities, making it an unsuitable forum for police to develop specific crime prevention strategies with particular community representatives.
- All too often, communities or groups that could play a crucial role in tackling certain crime problems are not represented in CPFs. However, due to the smaller size of a police sector, specific groups or individuals could be targeted to participate in particular activities that could have a direct impact on the area where they live.
- CPFs often cover areas that are too large and diverse for any one police representative to have the kind of detailed knowledge of a particular location that would be expected from a sector manager.

Despite these differences it is apparent that both structures are expected to complement each other in enhancing the SAPS policy of community policing.

Challenges to the effective implementation of sector policing

Apart from initial confusion as to how SPFs differ from CPFs, the Johannesburg Area Board workshop raised a number of other challenges relating to the implementation of sector policing and the establishment of SPFs.

- A lack of common understanding as to what exactly sector policing entails.
- A shortage of sector managers who are adequately trained for managing a sector and mobilising relevant stakeholders.
- Inadequate resources (such as vehicles and cell phones), for sector managers to function efficiently and effectively.
- Ensuring accountability is one of the potential challenges of sector policing, especially in bigger stations. Station commissioners are likely to find it difficult to adequately monitor all

- sectors, given their heavy workloads.
- Some SPFs are experiencing similar problems to CPFs in trying to mobilise members of the community to volunteer of their time to attend meetings and get involved in activities.

International research has highlighted other substantial challenges to implementing the sector policing approach. One study revealed how tensions often occur between the demands of performance indicators established by a typically centralised command structure, and the particular needs that emerge from a decentralised sector.³ For example, performance indicators will typically prioritise reactive policing activities, such as numbers of arrests, while neglecting sector policing activities such as proactive foot patrols around certain locations at certain times to prevent particular crimes from occurring. As a result of having to comply with established organisational performance standards, police officers involved in pro-active policing activities emerging from the needs of a particular sector were quick to revert to policing activities against which their performance would be formally measured. The study also found that even though sector policing was intended to be a consistent policing approach, this was not the case in practice as different sectors would typically prioritise different problems and respond in different ways.⁴

Conclusion

Although the police have only recently started to implement sector policing, this model has many challenges to overcome before it can be considered to be working consistently and effectively. In particular, clear guidelines need to be established to explain the role and purpose of the SPFs and to ensure that sector policing is practised consistently. To this end it would also be a good idea if 'good practices' could be identified and disseminated amongst sector managers to ensure that sector policing achieves its aims more broadly. Performance indicators will also have to be developed and incorporated into the formal performance management system to ensure that innovative sector policing initiatives are not abandoned. Importantly, sector managers are going to need support from their stations if they are going

to build solid working relationships with people in the communities. Hopefully the smaller size of the police sectors will go some way in enabling the SPFs to overcome some of the challenges faced by their earlier cousins, the CPFs.

Endnotes

- 1 See Dixon, B. (2000). *The Globalisation of Democratic Policing: Sector Policing and Zero Tolerance in the New South Africa*. Institute of Criminology, University of Cape Town.
- 2 Ibid.
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BARRICADED IN THE SUBURBS

Private security via road closures

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One of the international debates that occupy academics, policy makers and civil society at large is, undoubtedly, the pluralisation and/or privatisation of security and policing. At the centre of this debate is the inability of states to serve the security needs of their citizens. Perhaps it is just a realisation that, despite perceptions to the contrary, the state has historically never been able to provide adequate security, and that the current inability is by no means unique to modern society. Whatever the reason, the fact remains that the state has become just one of the providers of safety and security – with private security (in its various incarnations) – increasingly assuming more of a role in the provision of security than the state. The role of the state is being toned down from that of the primary provider of safety and security, as anticipated, to that of a ‘regulatory’ organ. The role of the state has been observed as that of steering the boat rather than rowing it.¹

South Africa is no exception to this ever-growing phenomenon of private security. Given the transitional and weak nature of the South African state, it is hardly surprising that access to security and justice will be restricted, providing a perfect business opportunity for private security entrepreneurs. It has been estimated that private security in South Africa outnumbers the South African Police Service (SAPS) by four to one in terms of personnel.² Moreover, private security companies – owing to the dictates of the market and fierce competition in the field – tend to be more client-orientated, and better equipped, than the SAPS. One example that immediately comes to mind is the number of vehicles available to private security companies, compared to that of the SAPS,³ let alone the quality of such vehicles. Also worrying is the fact that private security companies ‘poach’ staff from the SAPS. Many members of the then South African Police – especially those who took retirement packages at the dawn of the new dispensation – joined the private security industry. Moreover, the

SAPS still loses some of its good personnel to the private security industry as the latter offers greener pastures, particularly in terms of remuneration.

It would appear a realistic – if not the only reasonable – option to forge working relations, or strengthen existing ones, between the SAPS, the private security industry, and civil society. This immediately calls for a discussion of boundaries and authority. Core to such a relationship would be the accountability of private security to both the state and the public at large. But a broader question, however, is the commercialisation of security and the potential impact it would have on South African society. At first glance, it seems inevitable that the poor will be marginalised – but this should not necessarily spell disaster. Looking on the positive side, it could be construed as a window of opportunity for creative and innovative ways of using state resources more efficiently, ultimately benefiting the poor, given that the rich can afford their own security. At present, unfortunately, the rich are

double beneficiaries of both private and state security. For example, at present most of the country's poorly staffed and badly equipped police stations are in impoverished areas, while the stations in wealthier areas are relatively better equipped and staffed.

The gated communities

Private security and policing have taken on interesting forms. Currently one of the most topical of these is the 'gated community' – the focus of this article. In recent years we have seen a number of gated communities established in South African cities, among others, through road closures. These gated communities have sparked off a heated debate between those in support of, and those against them.

According to Landman,⁴ gated communities can be divided into enclosed neighbourhoods and security villages. She defines gated communities as "...a physical area that is fenced or walled off from its surroundings, either prohibiting or controlling access to these areas by means of gates or booms".⁵ This definition, also supported by current literature, will be used in this article.

At the time of writing (July 2003) South Africa did not have a comprehensive national policy regarding gated communities. The private security industry is regulated by the Private Security Industry Regulation Act 56 of 2001 (hereafter 'the Act'). If one were to apply the term private security in its broad sense, the Act should cover gated communities, but it does not. As a result very little can be gleaned from the Act when trying to deal with this issue. In the main, the Act concentrates on the industry itself, and its regulation through the Private Security Industry Regulatory Authority as established in terms of the Act. At most, the Act seems to cover the members of the private security industry who provide the service. This leaves local authorities with the responsibility to regulate gated communities within their respective areas of jurisdiction.

The lack of a uniform national policy on gated communities leads to different approaches in various provinces throughout the country. Kwazulu-Natal and Gauteng, for example, seem to have adopted a tough stance on the issue of creating gated communities through road closures. Gauteng at

present has resolved to tear down all illegal booms in Johannesburg. Community and residents associations have been given a chance to apply for permission to create or keep such gated communities. But on 22 July 2003 – five days after the deadline – it was estimated that only 300 applications had been received.⁶

Gauteng, which leads the other provinces in its number of gated communities, has a clear policy on this subject, spelled out in the Rationalisation of Local Government Affairs Act, 10 of 1998. This is clearly a move in the right direction, from reliance on the Local Government Ordinance No 17 of 1939 (whose applicability is suspect even on legal grounds) and the prevalent *ad hoc*, application-based, discretionary approach of many local authorities, to a clear comprehensive legal framework. While this initiative by the Gauteng Province is welcome – notwithstanding the teething problems – there are a number of issues that remain unresolved in the oft-heated debate on the appropriateness or otherwise of gated communities. The remainder of this article focuses on some of the core issues that characterise the debate.

New Apartheid?

There can be little doubt that gated communities result in segregation by excluding certain people from, or controlling access to, such gated places. While the practice of gated communities, or fortified cities, has been taking place worldwide for centuries, the problem starts when such road closures are done in public spaces and affect other members of society not party to such arrangements. The second problem – a more serious one – arises when a code is used (or is perceived to be used) to deny certain people access to the gated places. This denial of access is principally based on financial means.

Moreover, the debate takes a new and worrying twist in the South African context. In South Africa gated communities have been criticised for being a new form of apartheid,⁷ and racist in their approach. The argument suggests that these communities are a subtler version of the blatantly racial, pre-1994 dispensation.

There have been allegations that some of the guards who man entry points into the gated communities display racist attitudes in dealing with people who

pass through. This is clearly an illegal practice – as will be discussed in more detail later, no one has a right to stop another person on a public road or in any way interfere with their freedom of movement. Yet many people who have made use of these entry points bear witness to the fact that the guards wield tremendous powers in deciding who to let in, and on what basis – and that, in the final instance, black people are the ones who are turned away.⁸

Proponents of the 'new apartheid' thesis believe that gated communities affront the post-1994 South African ethos, and are therefore unacceptable.

The legal argument

It is common cause among many involved in the debate that many gated communities and barricades have been set up illegally. The law of the country does not allow people – acting independently – to tamper with public property by creating booms and gates. If there is a need to do so, permission has to be sought from the authorities. The South African authorities have, until recently, adopted a very lax (if not indifferent) attitude towards these road closures. This attitude sent out the message that it was fine to create these booms without permission, and to operate them with impunity.

In instances where members of the community raise no objections, the attitude of local authorities has largely been to turn a blind eye on road closures, despite the unlawfulness of such closures. In Gauteng, until recently, as pointed out above, the law did not specifically provide for road closures by members of the community. In terms of the 1939 Ordinance only the local authority could close a public road. In the absence of specific legislation that would authorise road closures by members of a community, such closures are unlawful because they contravene both the Ordinance that requires the local authority to keep the public roads open, and the Road Traffic Act, which prohibits closure of public roads. This, however, is changing, and Gauteng province has taken the lead in providing for gated communities in its legislation.

The illegality of road closures is hard to comprehend, given the impunity with which such closures have been operating throughout the country. There does not seem to be any significant

difference between the so-called 'vigilante' groups and the communities that bring about road closures. For one, both groups claim high crime rates as the reason for their activities. There is no significant difference other than the reaction of the South African government to these two types of activities.

The question is: why do people who make road closures happen, get away with it? We know that the South African state prides itself for respecting the rule of law. Indeed, authorities take action when vigilante groups take the law into their own hands. When individuals close public roads it should then surely also be construed as taking the law into their own hands? Road closures, even if legal (as will now be the case in Gauteng) remain constitutionally challengeable, as it is a phenomenon that encroaches on the human rights of citizens, including the right to freedom of movement (Section 21) and the right to privacy (Section 14), as entrenched in the Constitution.⁹

The urban planning argument

Gated communities have also been criticised for the inconvenience that they cause in the areas concerned. Common complaints are that such areas are not freely accessible to emergency and other necessary services, and that the closures cause traffic congestion. As a result of the road closures, the areas next to the gated communities have to cater for traffic that has been diverted. It is argued that this may have dire consequences, as these roads may not have been designed to cater for the number of vehicles forced to take alternative, and often inconvenient, routes.

The criminological fallacy argument

The issue of space, place, and crime has been of concern to criminologists for a very long time. The South African National Crime Prevention Strategy (NCPS) also prioritised 'crime prevention through environmental design'.¹⁰ Despite the apparent ease with which proponents of gated communities link crime and physical accessibility of space, that link is, from a criminological point of view, suspect. Indeed, some criminologists argue that these boom gates are not effective as crime control measures,¹¹ but in fact tend to give people a false sense of security.¹²

The question therefore begs answering: if these boom gates – being erected at a rapid rate – are not effective in controlling crime, why should they be tolerated, given the problems associated with their presence? The main justification for the existence of these gated communities is crime control. It therefore follows that if they are not effective in that regard, they are unwarranted, and pointless. Furthermore, other criminological arguments suggest that gated communities tend to displace crime to other areas, thereby not solving the overall crime problem.

Conclusion

Despite the concerns raised above, it is clear that gated communities are destined to remain part of our society. It must be emphasised that the gating of communities is a response to the high levels of crime in South Africa today. People – rightly so – feel vulnerable to crime. The state fails, or is seen to be failing, to protect its citizens, driving ordinary people to take extraordinary measures to protect themselves – such as gating their communities. Proponents of gated communities – rightly or wrongly – perceive these enclosed spaces as secure and safe.

This necessarily calls for a balancing act between the constitutional rights of citizens on the one hand, and those of the community as a whole on the other. The Gauteng legislature is indeed trying to keep these forces in balance. It would appear that the legislature and its different local authorities tend to discourage road closures. Their policy is that road closures should be used as a measure of last resort to deal with crime, but even then there are conditions to be met.

This approach is laudable. It appeases those who believe gated communities to be safe havens, and equally addresses the concerns of the many other people adversely affected by the closures. This said, however, it is worth reiterating that gated communities as a crime control measure does not stand up to close scrutiny. The bulk of evidence in the literature suggests that gated communities are only effective in dealing with opportunistic, often petty, criminals. They are not as effective in dealing with the more organised criminals who commit serious crimes.

While crime – especially violent crime – should rightly concern all of us, gated communities do not seem to be the answer. The main problem with gated communities is that they only cater for a selected few and therefore leave the majority of people outside those spaces. They also make life more difficult for those left outside, rerouting traffic and displacing crime.

What is needed is a joint effort between the criminal justice system (the SAPS in particular) and the communities that it serves. Instead of campaigning for road closures, communities could participate in crime prevention as police reservists or as members of neighbourhood watches. This would be a long-term solution to the problem, especially if these communities are willing to pour resources into fighting crime.

Endnotes

- 1 E Osborne & T Gaebler, *Reinventing Government*, New York: Addison-Wesley, 1992.
- 2 M Schonteich, *Unshackling the Crime Fighters - Increasing Private Sector Involvement in the South African Criminal Justice System*. Johannesburg: SAIRR, 1999.
- 3 Ibid.
- 4 K Landman, *An Overview of Enclosed Neighbourhoods in South Africa*. Pretoria: CSIR, 2000
- 5 Ibid.
- 6 K Mabuza, 'Boom Removals May Blow Cover', *The Citizen*, Tuesday, 22, July 2003.
- 7 See C Shearing & M Kempa 'The Role of "Private Security" in Transitional Democracies', *Crime and Policing in Transitional Societies*. Konrad-Adenauer-Stiftung, 2001. A similar view is also held by C Spinks, *A New Apartheid? Urban Spatiality, (Fear of) Crime, and Segregation in Cape Town, South Africa*. 2001 Available online: www.lse.ac.uk/depts/destin/workpapers/Spinkswp.pdf.
- 8 One example here is the article written by Salgado with the title: 'Charges of Racism as Town Fathers Moot St Lucia Ltd', in *Sunday Times*, 28 November 1999.
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WHAT HAVE WE LEARNED?

Social crime prevention in SA: A critical overview¹

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Crime prevention is a relatively new enterprise in South Africa, and the nature of progress in this area has been mixed. While much activity has been noted, particularly among civil society organisations, the generation and utilisation of information is an area of weakness. Key questions remain: how to promote government accountability for service delivery, and how crime prevention advocates engage with issues such as human rights and the strengthening of democracy.

As with any emerging enterprise, it is always useful to review developments over time and to offer critical assessments of progress. With crime prevention and reduction in South Africa, this is even more important, given the many definitional, political and contextual variables that complicate this field. This article seeks to offer a brief review of developments in policy and practice over the past three years, with some reference to other reviews of this nature. This article will not engage in any definitional discussions relating to crime prevention vs. reduction but will broadly discuss initiatives intended to both prevent or reduce crime, and will be biased towards developments relating to social crime prevention. Only a superficial overview is possible in the context of this article, and references to other documents providing further detail are offered in the text.

Thinking again about crime prevention

The crime prevention discourse over the past three years has remained in a distinctly technical terrain, engaging in the details of projects and programmes, and to a great degree disregarding some of the broader questions that ought to be addressed. South

Africa is characterised by deep economic and social division, a rapidly changing environment, and a population that is under severe pressure from poverty, crime and HIV/Aids, among other factors. It is critical to consider how inequality, poverty, and strategies for development feature in the crime prevention discourse.²

Crime prevention is as political a venture as any other project to effect social change. It requires engagement with questions relating not only to the perpetual prevention vs. law enforcement concern; but more broadly with regard to how social justice, human rights, and democracy feature in this endeavour. It could be argued that many kinds of crime may be very functional responses to challenging social, economic and cultural conditions. Foremost in this discourse, therefore, should be the continued examination of crime prevention choices and of whose interests are being served by these choices. Allied to this is the question of how a critical civil society should act in this environment.

Overall, our notions of crime prevention have remained state-centred and this has created both

intellectual and practical limitations. Social crime prevention needs to be recognised as strongly in the domain of civil society, with the state playing any number of roles to support, facilitate or enable such activity. It is, however, by no means fundamental to this endeavour.

Government and crime prevention

Policy developments

The policy environment that relates directly to crime prevention has remained relatively static over the past few years (this has been discussed in detail by others³); however, there have been some developments that warrant discussion. With regard to national government, it would seem that the impetus for crime prevention created by the National Crime Prevention Strategy has all but been lost, given the emphasis on law enforcement strategies. Some of the principles of the NCPS have, however, emerged in the Urban Renewal Programme.⁴

A brief resurgence of social crime prevention was noted in 2002 when the social cluster within national government engaged in a process to identify each department's programmes in this area. Civil society organisations were not engaged in this process. It is unclear as to what has become of this, except that it is now the responsibility of the Department of Arts and Culture. This department is also responsible for another recent government project, the Moral Regeneration Movement. While the premises of this 'movement' may echo ideas about values expressed in the NCPS, its language and appeals to a common morality have been met with scepticism. This notwithstanding, the process will be important to watch.

While the ability of the criminal justice system to promote crime prevention is often questionable, proposed new legislation may offer some opportunities for crime prevention. When enacted, new Child Justice legislation will create opportunities for crime prevention through diversion and alternative sentencing. Although diversion has been practiced for some time, the difference will be that government will be expected to create broad access to these services, and to pay for their provision. The Children's Bill also has great potential for this kind of impact but requires much campaigning in order to

maximise these possibilities in the provisions of the Bill. It is certain that there are other pieces of legislation that will offer such value and it requires that crime prevention advocates maintain some vigilance in this area. It is also worth noting that the 1998 White Paper on Safety and Security is due to complete its five-year term. This, and the expected review of the SAPS Act could also offer some opportunity for furthering the crime prevention agenda, notwithstanding the limitations of the police in this area.

Probably some of the more interesting developments are occurring at the level of local government, offering credence to some of the early optimism for the role of local government in crime prevention.⁵ Some of the impetus for this has come from the Urban Renewal Programme, which is a multi-disciplinary attempt to engage safety and security concerns into a programme for urban development. This has been comprehensively reviewed elsewhere.⁶ Integrated Development Plans are also being seen as critical opportunities to include crime prevention and security concerns into local development planning. This is an emerging area and should also be watched.

Several recent initiatives have also aimed to assist local government to develop and implement crime prevention strategies. There is every indication that this can be done quite successfully, but that very specific conditions apply to good practice.⁷

'Joined-up government,' or delivery on core function?

A key question continues to be whether the energy of government departments should be directed at inter-sectoral governance, or should be focused on the fulfilment of their core functions. While it is difficult to argue these as mutually exclusive, it is worth considering where the focus and concentration of government should be. In November 2002 Pelser and Louw⁸ argued for an initial focus on the latter (especially by departments considered to be central to crime prevention), given the pressure for service delivery and the inability of government departments to respond to this. Now, a year later, this argument still carries considerable weight, given the continued trend of limited delivery.

Their argument is given further substance when examining the key functions of some of these departments and the fact that many would have a certain crime prevention impact if they succeeded in delivery on their core functions. Creating access to schooling for all, and the extension and improvement of the quality of early childhood development services, relating to the Departments of Education and Social Development, are just two examples. This then raises the central question of how these departments are to held accountable for this delivery.

Civil society and crime prevention

There is no question that civil society organisations have been the most energetic and committed proponents of social crime prevention. A disparate range of organisations, including NGOs, CBOs and faith-based organisations undertake activities based on a range of interests. These include security, human rights, development, public health, and a range of sectoral interests such as children, young people, women, and the elderly. Over the past three to five years a great deal of learning has been generated by these organisations in a range of areas, sometimes in partnership with government, and this is discussed in more detail later. While great strides have undoubtedly been made, overall much of this work has suffered from a lack of rigour, which is also discussed later.

A further concern relates to how new 'knowledge' and learning is disseminated and used. While significant information is being generated by the larger organisations, the great difficulty lies in how this new information can be made to serve local needs. This essentially involves creating an exchange with smaller, more community-based organisations, whose own experiences will also strengthen this knowledge base. There are currently few mechanisms to do this, but the range of membership networks and forums may offer some opportunities in this regard. One issue is, however, becoming palpably clear: the practice of disseminating research and documentation is not enough to transfer new information, and to enable the translation of new learning into practice.

A final point relates to civil society's role of oversight and promoting government accountability. The experience in crime prevention thus far has been a

drive towards partnerships with government. This undoubtedly compromises the oversight role, however hard civil society organisations may attempt to finesse and balance these conflicting roles. The obligation of accountability to the public by civil society organisations is also of issue. The practice of making claims of success in the absence of strong evidence is as problematic as is unaccountable government. Especially when NGOs are powerful, with international profile, and programme beneficiaries are poor communities with limited resources, greater obligations towards transparency and accountability are created.

The role of the general public

The criminal justice system relegates citizens to two neat categories: offender and victim, and affords only a very limited additional role to citizens, for instance participation in community policing forums. Interesting questions for crime prevention practitioners are what role should be assigned to the ordinary citizen, and how citizens would define their own roles. In recent experience, the role most often promoted is that of volunteer, and NGOs have sought to engage citizens into service as life-skills trainers, counsellors, youth mentors, victim support providers, etc. Given that many crime prevention initiatives are directed at poor communities, the people engaged in these activities are often poor, unemployed women. In a context of great inequality, it is necessary to question what demands are made on those already under significant pressure. Are appropriate 'contracts' negotiated? Do these exchanges benefit the volunteer in a real and enduring way? A further question is how middle class suburbanites may be engaged. This group has been the beneficiary of a great many advantages, is in possession of many useful skills, and often has the personal resources to assist; yet such people are recruited on a very limited basis.

Generating learning in crime prevention: practice, documentation and evaluation

One of the central questions that we seek to answer is: What have we learned about crime prevention? This begs the question: What constitutes learning? One of the greatest weaknesses in the work generated thus far has been a general lack of scientific rigour. This has various dimensions but begins with a weak engagement with programme

theory. Very few crime prevention initiatives are able to articulate the set of theoretical and process assumptions that motivate and rationalise the interventions that are undertaken in the field, and these initiatives are seldom informed by local and international research findings. This weakness permeates the programme planning process, and these factors conspire to frustrate any process of evaluation.

Evaluation is also an area of concern. There is limited commitment to well-documented and appropriately evaluated crime prevention initiatives, and this presents great problems for the construction of learning that can be used by others. This weakness is evident in the strategies even of some of the larger, more resourced NGOs. While it is acknowledged that evaluations that have a high degree of methodological rigour can be expensive, it is true that there is a range of information available about how best evaluation may be addressed, which need not be expensive if integrated into programme planning and implementation. It is also necessary to continue to learn about evaluation, in order that informed decisions may be made. The philosophy offered by a 'utility-focused'⁹ approach, and 'realistic evaluation'¹⁰ both offer useful, but different pathways into evaluation strategy.

There is no doubt that our ability to work with information is a critical factor in driving crime prevention in South Africa, and that weaknesses in both the generation and the utilisation of information need to be addressed.

What have we learned thus far, and what are the gaps?

Children and youth: preventing offending and victimisation

Children and young people have been obvious targets for crime prevention interventions, in terms of the prevention of both offending and victimisation. Much learning has been generated by those organisations working with youth at risk, especially in the context of diversion and offender reintegration services. For instance, a review of 16 different programmes for youth is currently being undertaken by the Open Society Foundation and will be

available in February 2004. This review includes the work of organisations such as Nicro, Educo, Khulisa, and the National Peace Accord Trust. Some longitudinal evaluation data is also available.¹¹ However, there is still little information available about how generic programmes such as sports and recreation, life skills, and employment creation contribute to crime prevention.

Schools present an interesting challenge. While some valuable learning has been generated in relation to school safety,¹² it is also true that the piecemeal interventions that can be offered by NGOs cannot be the basis for promoting safety in the over 27,000 schools in the country. Mechanisms to promote school safety clearly have to be integrated into how schools and school districts are run. This requires that a minimum set of expectations in this regard is established for these schools and districts. This kind of thinking has, however, yet to surface within government.

The range of victimisation of children and young people (e.g. child abuse, child labour, sexual exploitation, gun violence) is complex and disparate and has yet to be addressed in any meaningful way. It is also true that the victimisation debate is skewed in relation to child victimisation, and the range of ways in which young people, especially young men, are victimised, has received far less attention. Some new work with great potential is emerging in relation to the prevention of child victimisation, e.g. home visiting programmes (such as offered by the Parent Centre in Cape Town) and after-school care programmes,¹³ but it is still too early to discuss their impact.

Preventing violence against women

The country's overall engagement with the issue of violence against women has been appalling, and from the perspective of prevention, the issue continues to confound us. The perceived intractability of the problem has created a difficult intellectual impasse and there is no doubt that an injection of new energy is needed to shift this debate forward.

While specialists in this field have been engaged in service provision and lobbying in relation to the

needs of the high numbers of victims, attention to the question of prevention has been limited. Innovative ideas relating to prevention are scarce,¹⁴ but some are currently being tested. These include:

- Gender-based violence education in schools (for instance the programme offered by the School for Public Health at the University of the Western Cape);
- Community-based safety promotion (A project to test women-led safety promotion is being implemented by the UNISA Centre for Social and Health Sciences);
- Working with men to enrich family life (Embizweni, a programme based in Khayelitsha in the Western Cape, undertakes one such programme).

This sector is hugely conflicted on the question of programmes for perpetrators, for example in the area of domestic violence. This has resulted in few tests in this area, and limited information about the value of such approaches. Another gap in information relates to the role of victim support services in crime prevention, and further information in this regard would be useful. Overall, it is true that the experts in this sector have yet to apply themselves to the issue of prevention in a focused way, and this is critical to pushing this discussion forward.

Local crime prevention

Crime prevention initiatives focused on geographical areas have proved to be the most labour and resource intensive, but a fair degree of learning has emerged. Much of this relates to partnerships and co-ordination, structures for crime prevention, and the question of scale of these initiatives.¹⁵ Only very limited work of this nature has been undertaken in rural or peri-urban areas.¹⁶ Some very useful learning is available on how crime prevention strategies and programmes may be embedded into the operations of local government.¹⁷

There is no question that this is a difficult area of work, and generating knowledge here is inextricably tied to development issues in local communities. It is here that questions relating to the point where crime and development meet, are most tangible, offering valuable opportunities for learning in this regard.

Violence

The issue of violence remains a critical problem, yet new ideas relating to prevention have largely been elusive. The public health sector (particularly the MRC and the Centre for Social and Health Sciences at UNISA) is offering valuable baseline data; and is also setting high standards in terms of methodological rigour. The National Injury and Mortality Surveillance System, and the Crime, Violence and Injury Lead Programme are examples of such data. Thus far, however, it is still too early to demonstrate impact in relation to prevention. It cannot but be noted however, that much of the problem is conceptual, and work in this area needs to remain a constant focus.

Issues for the future

Generating learning

The crime prevention enterprise is unequivocally dependent on the quality of information that is produced, and here an argument is being made for a much more information-driven approach to crime prevention. Such an approach requires far greater attention to programme theory, evaluation and documentation, and is centrally about the development of technical skills relating to the management and utilisation of information. This kind of approach will enable a far more critical approach to issues such as the ability to replicate models and programmes (thus far proved to be a myth), and requires equal commitment from donors and NGOs.

Building technical skills for crime prevention, and providing support where this is needed, is also critical to the future of this enterprise. A national crime prevention centre, as discussed by Pelser and Louw,¹⁸ could be a valuable driver of the emerging crime prevention enterprise in South Africa. Such a structure would however have to be appropriately skilled and resourced, and maintain a critical distance from government.

Human rights, democracy, accountability and development

These issues remain absent from crime prevention debates, notwithstanding clear indications of the erosion of some key human rights principles in response to the high levels of crime.¹⁹ As crime

prevention advocates seek to build technical skills and knowledge, we cannot afford to be naïve about the broader social, economic and political forces that actively shape the risk factors for crime. This more global view is essential to understanding both current realities and foreseeing future adversity.

Endnotes

- 1 Some of the ideas in this article were presented at a USAID Experts Meeting on Crime Prevention held in November 2002.
- 2 This issue was addressed in a recent workshop hosted by the Open Society Foundation. The report can be accessed at www.osf.org.za.
- 3 J Rauch. 2002. Changing Step: crime prevention policy in South Africa. In Pelser (ed), *Crime Prevention Partnerships: Lessons from Practice*. Pretoria: Institute for Security Studies.
- 4 J Rauch. 2003. Thinking Big: The National Urban Renewal Programme and Crime Prevention in South Africa's Metropolitan Cities. Johannesburg: Centre for the Study of Violence and Reconciliation.
- 5 M Shaw. The Role of Local Government in Crime Prevention in South Africa. *ISS Paper 33*. August 1998
- 6 J Rauch. 2003, op. cit. Thinking Big: The National Urban Renewal Programme and Crime Prevention in South Africa's Metropolitan Cities. Johannesburg: Centre for the Study of Violence and Reconciliation.
- 7 R Griggs. Forthcoming. Lessons from Local Crime Prevention. Cape Town: Open Society Foundation for South Africa.
- 8 E Pelser and A Louw. A Critical Assessment of Crime Prevention. *S A Crime Quarterly No.2*. November 2002.
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- 11 L Muntingh. 2001. The Effectiveness of Diversion Programmes - a longitudinal evaluation of cases. Cape Town: NICRO.
- 12 R Griggs. 2002. Preventing Crime in Schools in South Africa: a review of learning and good practice. Cape Town: Open Society Foundation for South Africa. (<http://www.osf.org.za>).
- 13 Partners with After-School Care Projects (PASCAP) is testing after-school care programmes in the Western Cape and the Eastern Cape. (<http://www.pascap.org.za>).
- 14 In 2001 and 2002, the Criminal Justice Initiative at the Open Society Foundation hosted workshops intended to generate discussion and debate about the prevention of violence against women. These reports are available at www.osf.org.za.
- 15 R Griggs. Forthcoming. Lessons from Local Crime Prevention. Cape Town: Open Society Foundation for South Africa. Pelser (2002) also provides valuable insights in relation to this in *Crime Prevention Partnerships: Lessons from Practice*. Pretoria: Institute for Security Studies.
- 16 P Mathabathe and T Shabangu. 2001. Bolobedu: Towards an intervention strategy to prevent crime and violence in rural South Africa. Pretoria: IDASA.
- 17 R Griggs. forthcoming. Lessons from Local Crime Prevention. Cape Town: Open Society Foundation for South Africa.
- 18 E Pelser and A Louw. A Critical Assessment of Crime Prevention. *S A Crime Quarterly No.2*. November 2002.
- 19 These are analysed in some detail in a forthcoming article by Jody Kollapen and Makubetse Sekhonyane. This forms part of a report by the International Council on Human Rights Policy which investigates the question of human rights in high-crime environments in five countries.

DECLARED UNFIT TO OWN A FIREARM

Are the courts playing a role?

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This article is a follow up to a previous article dealing with the role of the police in declaring a person unfit to possess or own a firearm.¹ Similarly, it draws on a study² that examined how the criminal justice system excluded unfit persons from firearm ownership; the primary legal means being sections 11 and 12 of the old Arms and Ammunition Act, no. 75 of 1969. Section 12(1) refers to persons who are automatically declared unfit due to a conviction for a crime involving a firearm. Section 12(2) refers to the discretionary declaration of unfitness upon conviction for certain other crimes. As a result of the large number of crimes that are committed with firearms and the number of firearms that are stolen from legal gun owners, there is a drive by the criminal justice system to reduce the amount of firearms, both legal and illegal, in circulation. This article concentrates on s12 and reveals a number of shortcomings by both prosecutors and magistrates in the application of this section. These may have a considerable impact on the effective implementation of the new Firearms Control Act.³

The GunFree SA / Technikon SA study found that magistrates rarely overturned automatic declarations (where a person was convicted in a matter involving the use of a firearm) as stipulated in the legislation. However, because such a declaration is 'automatic', magistrates tended not to record the ruling, and if they did so, recorded it with the cryptic phrase "no order is made". This has led to widespread confusion, particularly within the police, who have interpreted the phrase to mean that the court did *not* declare the person unfit.

Moreover, while the law gives the court discretion

to declare a person unfit in instances not involving a firearm, prosecutors interviewed said that they tended to use these provisions only in cases involving violence.

The courts and declarations of unfitness

Broadly, section 12 of the Arms and Ammunition Act (s12)⁴ refers to the declaration of a person to be unfit to possess or own a firearm on conviction of certain crimes not necessarily involving a firearm. S12 is divided into two parts, namely s12 (1), which is the so-called 'automatic deeming' provision, while s12 (2) deals with the discretionary declaration provision.

Automatic unfitness on conviction in court

In terms of s12 (1), any person convicted of the following offences is deemed to be unfit, unless the court determines otherwise:

- Possessing a firearm without a licence;
- Willfully pointing a firearm at another person;
- Failing to safeguard or to take reasonable steps to safeguard such a firearm, i.e. failing to lock away (in the prescribed safe, strong-room etc.) a firearm when it is not in his/her lawful possession, under his/her direct control, or is not carried on his/her person;
- Negligent loss of a firearm, including as a result of theft arising from the failure to lock away or take reasonable steps to safeguard the firearm;
- Unlawful discharge of a firearm thereby injuring or endangering another person or his/her property, or negligent handling of a firearm (whether discharged or not);
- Handling a firearm while s/he is under the influence of liquor or a drug which has narcotic effect, or supplies an arm to a person whom s/he knows or should reasonably suspect to be under the influence of liquor or a drug which has a narcotic effect; and
- Any offence in which a firearm was used to commit the offence (unless the conviction follows payment of admission of guilt fine).

In other words, the convicted person is **automatically** considered by the law to be unfit to possess a firearm on conviction of any of these offences, unless the court decides to the contrary. This judicial discretion is intended to give the accused an opportunity to present reasons why such a declaration should not be made. Procedurally, magistrates and judges are required to record such a declaration in terms of s12 (1) as 'no order is made'. This is usually done on the SAP 69 form, which records the conviction and sentence of the accused.

Discretionary unfitness on conviction in court

In terms of s12 (2), the court has discretion to declare any person who has been convicted of an offence contained in Schedule 2 of the Act unfit to own a firearm, unless the conviction follows on an admission of guilt fine. Schedule 2 offences include:

- High treason
- Sedition

- Terrorism
- Subversion
- Sabotage
- Public violence
- Intimidation
- Murder
- Malicious injury to property
- Rape
- Assault
- Robbery
- Theft of game
- Breaking or entering any premises, whether under the common law or a statutory provision, with the intent to commit an offence
- Kidnapping
- Child stealing
- Culpable homicide
- Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.

The court may make such an order even where the offence was committed **without** the use of a firearm. In these instances, the person is not automatically deemed to be unfit to possess a firearm, but the court may make an explicit order to that effect. Procedurally this would be in response to a recommendation by the prosecutor. This situation would usually provide an opportunity for the accused to forward reasons why such a declaration should not be made.

The court is required by s12(3) to bring the provisions of these subsections to the attention of the convicted person and give him or her an opportunity to advance reasons and give evidence as to why he or she should not be declared unfit to possess a firearm.

Results of interviews with magistrates and prosecutors⁵

All the magistrates interviewed were of the opinion that a person convicted of any of the offences listed in s12(1) is automatically declared unfit to possess a firearm. Moreover, as is required by law (s12(3)), magistrates said they do inform the accused that s/he has been automatically declared unfit. This normally occurs after sentencing, and the accused is afforded the opportunity of giving reasons why such an order should not be made. According to

magistrates, the accused typically argue the following:

"I need a firearm if one day I'm employed as a security guard."

"I need it for protection."

"I may want to become a police officer."

Magistrates are, however, guided by the offence committed, and can rarely be swayed by such reasons. Yet they have found that unlicensed firearm holders are unconcerned about the declaration, since they obtain firearms illegally anyway.

Some of the magistrates complained that few prosecutors alert them to the prospect of a declaration of unfitness. They averred that it was the prosecutor's responsibility to bring the section to their attention. Magistrates attributed the failure to do so to two factors namely, the prosecutor's lack of experience and the fact that they do not regard it as their duty to warn magistrates of such a declaration. One magistrate remarked "they expect the defence attorney to place on record that he does not want the accused to be declared unfit". And, according to another magistrate, "just about every case we hear is a s12 enquiry".

Most of the prosecutors admitted that they did not, as a matter of course, alert magistrates to the possibility of a declaration because "usually the court brings up the issue automatically and there is no need for the prosecution to raise the issue", or, "it is usually the magistrate who brings it up... the magistrate is normally ahead of the prosecution on the issue".

Whether or not magistrates are alerted to the prospect of an automatic declaration of unfitness is purely academic because this is primarily reliant on administrative action. The confusion may have little practical effect because the primary mechanism of enforcement is through the administrative actions of the Central Firearms Register (CFR). If an accused applies for a firearm licence the CFR will be able to determine whether the offence for which s/he was convicted attracted an automatic declaration of unfitness. In this way, the CFR would prevent him or her from obtaining a firearm licence.

There seems to be some differences in the interpretation and application of s12(2) amongst magistrates. With respect to s12(2), the vast majority of magistrates said they would declare an accused unfit for any crime involving violence. They cited murder with a knife, robbery, culpable homicide, serious assault, rape, high treason, housebreaking, public violence, domestic violence and any other crime involving violence as examples. However, a few magistrates found it difficult to make a declaration of unfitness where a firearm was not involved. "I would not declare anyone unfit because it is not necessary if a firearm was not used", one magistrate said.

In addition, the role of the prosecutor is important. One of the magistrates said

...unless it comes out in the court proceedings that the accused may have a firearm - a possible declaration of unfitness would not spring to mind for a magistrate considering a case not involving a firearm. Otherwise, it would only come up if the prosecutor were to suggest it.

Another remarked "with crimes not involving a firearm, if there is no request from the state (prosecutor) then the issue will not come up and is ignored."

A few of the prosecutors interviewed did not request declarations of unfitness in respect of s12(2); either because there was no firearm involved, or they had no knowledge of the provision. One of the prosecutors averred that "s12(2) is never invoked", and another thought that this section was never used anywhere in South Africa. Furthermore, a minority were of the opinion that "some ignore it because the SAPS will do the [s11] enquiry". A s11 enquiry is held by the police, irrespective of whether or not a person has been convicted of a criminal offence.

It appears as if s12(2) is not used as often as it could be, given the fact that magistrates are of the opinion that 99% of violent crime matters are heard in the regional courts. This section should be used more often so as to reduce the incidence of violent crime and instil a respect for human rights. It is

preferable that there is judicial action rather than a reliance on administrative action.

In order to determine whether magistrates were routinely declaring people unfit to possess a firearm in terms of s12, the researchers examined 158 SAP 69 forms at the Criminal Record Centre (CRC).⁶ The CRC is tasked with the responsibility of keeping a record of all offences committed by people in the country. When a firearm application is sent to the Central Firearms Register for approval, the CFR requests the CRC to check whether the applicant has a criminal record. The 158 forms consisted of crimes ranging from murder to negligent loss of a firearm.

The most prevalent crime (49%) in the sample was assault with the intent to commit grievous bodily harm (assault GBH).⁷ Rape constituted 8% of the sample, whilst robbery and murder each accounted for 7%. Culpable homicide made up 4%, attempted murder 3%, and domestic violence 1%. Possession of arms and ammunition (3%) and negligent discharge of a weapon (3%) were some of the other crimes included in the sample. Most of these crimes fall within the category of offences specified in s12(2) listed above.

The sentences were examined in order to determine whether the offence attracted an automatic declaration or a declaration in terms of s12 (2) of the Act.

In the vast majority (88%) of cases, the magistrates did not specifically state on the SAP 69 whether or not the accused had been declared unfit to possess a firearm. That section of the SAP 69 was simply left blank.⁸ In only 6% of the cases in the sample did the magistrates expressly state that the accused had been declared unfit.

Problems experienced

'No order made'

According to a trainer at Justice College, magistrates have been taught to use the phrase 'no order is made' for s12(1) and should write it down on the SAP 69 form. Where the accused is not declared unfit, the magistrate should note the following on the SAP 69; 'the accused is not deemed unfit to

possess an arm' – a rather obscure but legally correct way of stating that the accused is fit to possess a firearm.

A problem also arises when magistrates do not explicitly indicate whether an accused has been declared unfit. For example, investigating officers who collect the dockets from the courts are puzzled by two things; by the phrase 'no order is made', and by the lack of accurate record keeping.⁹ The confusion is however, not only confined to investigating officers – it extends to staff at the CRC who record the information from the SAP 69 forms on to their systems.¹⁰

Communication between courts and police

There was a difference of opinion amongst magistrates and prosecutors as to who was responsible for informing investigating officers of the declarations of unfitness. The vast majority of magistrates interviewed were of the opinion that it was not their duty to do so. They felt that the prosecutors have a responsibility to record such information on the cover of the police docket, thereby notifying the police.

Prosecutors felt that their role in informing investigating officers or the CFR of an order was limited to noting the information on the charge sheet or the docket. In addition, they averred that it was the duty of the investigating officer to ensure that such information is relayed to the CFR.

Accurate record keeping

Prosecutors indicated that magistrates are responsible for completing the SAP 69 forms and should ensure that such information is accurately captured. In some cases prosecutors complete the SAP 69 forms and magistrates are required to inspect them for accuracy and sign off these forms.

In spite of this, many of the prosecutors interviewed highlighted poor record keeping as an issue of concern.

What worries me is that I don't know what happens to the court record. The charge sheet is a public document, and we write it on the sentence and the declaration order. We don't know what happens to the order.

The clerk is supposed to record it. There is also a place on the SAP 69 for this but it is not our responsibility to follow up on this which goes to the CRC.

Also,

Overall checking and scrutiny is not being done as it was in the past. In the past, a senior magistrate would check each charge sheet before being filed. This has now fallen away.

Irrespective of who is responsible for completing the SAP 69 form, it still stands to reason that all the pertinent information must be accurately recorded. The overview of SAP 69 forms at the CRC suggests that there is a systematic failure to do so.

The impact of declarations of unfitness

During the interviews with magistrates, the majority expressed concern about the impact of declarations of unfitness. Their greatest concern was whether such orders were in fact carried out. They asked questions such as,

What purpose do these orders serve?

What does the SAPS do?

How do they put these orders into effect?

What are the practical implications of the order?'

They did not seem to know what happens beyond the order being made. These concerns should be read in the context of high levels of crime and the assertion of magistrates that 99% of regional court cases involve serious violent crime – and, moreover, that the **majority** of the accused who appear before such magistrates are in fact unlicensed firearm holders.

Despite magistrates' concerns about the implementation of declarations of unfitness, the study found that 9% of applicants had their applications turned down by the CFR because they had been declared unfit to possess a firearm by the courts.

Furthermore, in terms of s14(2) of the Arms and Ammunition Act, the order may be set aside after a period of two years. The person against whom the order was made can appeal in writing to the

Chairperson of the Appeal Board and request a discharge. The Chairperson of the Appeal Board stated that the lifting of such an order would depend on the seriousness of the contravention committed. In a case of an automatic declaration of unfitness, the Appeal Board examines the conviction, the criminal record of the person, and the merits of each case. Although there are no guidelines or regulations to consult in this regard, it is estimated that 20 declarations are lifted each month.

This is potentially a problem, because magistrates often make orders for specific periods of time, that is, 99 years or three years, after they have considered the facts of the case and perused the record of the accused. Nevertheless, it is reassuring that the Appeal Board has criteria according to which declarations are lifted and that there appears to be careful consideration with respect to each matter. In terms of the new Firearms Control Act a person can apply for the declaration to be uplifted after five years.

Conclusion

In order to address the concerns raised in this article, prosecutors and magistrates need to be re-trained on the merits of s12(2), and should also be made aware of the provisions of Chapter 12 section 103 of the new Firearms Control Act that deals with similar issues. This is sorely needed in order to ensure optimal effectiveness of the Act in reducing the incidence of violent crime.

The lack of knowledge displayed by magistrates and prosecutors about the effectiveness and implementation of declarations of unfitness points to poor co-ordination and co-operation between the courts and the police. In addition, the lack of communication within the courts amongst magistrates and prosecutors regarding such declarations is of serious concern.

Regional court presidents and senior public prosecutors must take the initiative and discuss issues of co-ordination and effectiveness in order for the courts to play a more meaningful role with respect to declarations of unfitness. It is not prudent to merely rely on the police to hold s11 enquiries.

Until then, the failure of the courts to fulfil their role indicates a denial of their responsibility.

Endnotes

- 1 See A. Minnaar & D. Mistry. Unfit to own a firearm? The role of the police in firearm control. *SA Crime Quarterly*, No. 4. June 2003, pp. 31-36.
- 2 See D. Mistry, A. Minnaar, J. Redpath & J. Dhlamini. *The role of the criminal justice system in excluding unfit persons from firearm ownership*. Gun Free SA/Institute for Human Rights & Criminal Justice Studies, TechnikonSA. December 2002.
- 3 Even though the new Firearms Control Act (60 of 2000) was passed in October 2000, at the time of this study (July-October 2002) it had still not been promulgated in its entirety. The full implementation of the new Act is still some way off since new draft regulations requiring public comment to reach the Central Firearms Register (CFR) by 29 April 2003 were only gazetted on 27 March 2003. These were the third set of draft regulations in the long process of implementation of the Act. Estimations by the head of the CFR were that it would be at least another six months after April before the regulations were finalised so that they could be implemented. Only at that time would all the provisions of the Act be officially promulgated in their entirety.
- 4 In the new Firearms Control Act provision for section 12 declarations is made in Chapter 12, section 103. This section broadly follows s12 while incorporating all the s39 provisions but with additional clarifications of offences namely:
 - any offence involving violence, sexual abuse or dishonesty, for which the accused is sentenced to a period of imprisonment without the option of a fine (s103 (1) (h))
 - any offence involving physical or sexual abuse occurring in a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act No. 116 of 1998); or any offence in terms of this Act for which the accused is sentenced to a period of imprisonment without the option of a fine (s103 (1) (i) & (j))
 - any offence in terms of the Explosives Act, 1956 (Act no. 26 of 1956) for which the accused is sentenced to a period of imprisonment without the option of a fine (s103 (1) (m))
- 5 For the study 92 separate interviews or focus group sessions were undertaken by the researchers with police, prosecutors, magistrates and women's organisations in the four provinces of Gauteng, the Western Cape, KwaZulu-Natal and the Eastern Cape, covering both urban and rural areas.
- 6 A total of 376 SAP 69 files were perused but 158 were closely scrutinised.
- 7 Figures may not add up to 100% due to rounding off.
- 8 More recent SAP 69 forms have the following

question: Has the accused been declared unfit to possess a firearm? Tick Yes or No. This should ease record keeping for magistrates, prosecutors and the police.

- 9 See previous article by Minnaar and Mistry.
- 10 Ibid.

ON THE TUK-TUK EXPRESS

Has methamphetamine hit the Cape Flats?

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Crystal methamphetamine is a drug with a high addiction potential that can elicit bizarre and aggressive behaviour. Preliminary research with gang members on the Cape Flats suggests that the drug may be growing in that community. If so, this is an issue for law enforcement to watch, because speed and violent criminals are not a good combination.

There has long been a market vacuum for methamphetamine in South Africa. The major precursors have been available, and the manufacturing process is not complicated. South African clubbing youth have a taste for speedy drugs, and the international market in MDMA has not been consistent. Trafficking routes to the Far East involving, among other things, Cape abalone, have been detected, and it is in the East where the drug has become most problematic. South Africa also has internationally linked biker gangs, and bikers are some of the leading promoters of speed overseas. It was only a matter of time before someone put two and two together.

According to Andre Koch, the clandestine lab specialist for the SAPS National Forensic Labs, the first time the police bust a methamphetamine manufacturing operation was in November 1998, but this was clearly a bit of an anomaly, because there were few seizures of the drug until 2001. In total there have been 10 laboratories discovered in the country, all but one of which was in Gauteng. The exception was found in Woodstock in 2001. A white man and his coloured girlfriend were caught in possession of the chemicals to make the drug, though none of the finished product was found. The property where the lab was found is currently the subject of an asset forfeiture case.

While manufacture appears to have been based primarily in Gauteng, National Forensic Lab figures indicate that the drug has penetrated both the white and coloured communities in areas across the country. In the early years, many of the seizures of methamphetamine were in the form of tablets or powders in which methamphetamine was combined with MDMA (the primary drug in most ecstasy tablets) or other stimulants. Much of this was likely for use in the (white-dominated) club scene. In 2001, the majority of seizures were in Gauteng and most of these involved MDMA or other stimulants.

But insofar as enforcement figures track underlying usage changes, there seems to have been a shift in recent years. Of cases so far recorded in 2003, the majority are in the Western Cape, including multiple seizures in Mitchells Plain and other coloured areas. Most involve pure methamphetamine powder. Similar to the growth of ecstasy in the coloured community, a crossover with crystal meth may be taking place.

According to the South African Community Epidemiological Network on Drug Use (SACENDU), treatment demand for methamphetamine addiction in the Western Cape has also increased in recent months. In the first half of 2002, there were only

three meth patients in treatment in Cape Town, out of over 1,600 in rehab for drug addiction. This increased to 13 in the second half of 2002, and to 35 in the first half of 2003. Of the sentinel sites SACENDU monitors, which include all the major metropolitan areas, only Cape Town has shown crystal meth admissions.

It would thus appear that, in addition to a growing crime problem, Cape Town might be facing a whole new order of powerful stimulants. And there are preliminary indications that it is becoming popular with some gangsters.

What it is

Methamphetamine is a kind of speed, a more potent version of amphetamine sulphate. It can be found in a variety of forms, from a fine powder to larger crystals ('ice'). Depending on how well and by what method it is manufactured, it can smell of ammonia. It can be smoked, snorted, swallowed, or injected.

Like all forms of speed, the principal effect is stimulation. Users get wired for varying periods of time, depending on dosage, tolerance, and method of ingestion. But in general it is a long-acting drug, far more so than crack-cocaine. There is a feeling of elation and confidence that some argue is greater on meth than on other forms of speed. It can keep users awake for days, with little desire for food.

It is sometimes referred to as 'Hitler's drug', as it was allegedly utilised by the Nazis (under the brand name 'Pervitin') as a means of assisting soldiers in combat. This formulation of the drug is said to be used by manufacturers in Thailand today, where methamphetamine has become more popular than locally grown heroin in recent years. According to the United Nations Office on Drugs and Crime publication *Global Illicit Drug Trends*, in 1990 there were only 97 people treated for methamphetamine abuse in the whole of Thailand. A decade later, this number had increased to more than 15,000.

Indeed, it appears that America's problem drug has been crack, Europe's has been heroin, and Asia's has been methamphetamine. In the Philippines,

92% of all drug treatment admissions are for the drug and in Japan, 90% of all drug violations are for methamphetamine. According to the UN, much of the problem in the region has developed since the mid-1990s.

Both the psychological and physical effects of running on fast-forward are not good. Like many drugs with intense highs, coming down is also intense, and can result in suicidal depressions. Tolerance and dependency can develop quickly. Overdose can result in temporary 'amphetamine psychosis', and there is evidence of long-term disruption of brain chemistry among serious abusers.

Gangsters on speed

According to preliminary research with gang members in Manenberg and Elsie's River in the Cape Flats, crystal meth is a recent arrival on the scene. Members in Manenberg talk in terms of a year or so, but in Elsie's River, an area where the drug trade is fiercely competitive and linked to the prison numbers gangs, the arrival date of the drug is measured in weeks.

They call it "tuk-tuk", because of the clicking sound it makes when being smoked.

Tuk-tukkie. Dit is beter as wyn.

It is also referred to as 'globes' because it is smoked in the glass sphere of light globes after the metal threading has been removed.

Jy tik met die straw binne in die globe.

But this technique, also seen abroad, has not been perfected yet:

Die globe breek na 'n rukkie en dan val jou hele R60 uit [the unit price of the drug].

Apparently, some members have purchased purpose-made glass pipes for smoking tuk-tuk:

A Popeye dit het 'n klein gaatjie bo en jy kan hom skoonmaak. Amper soos daai wat hulle in die wetenskap klas gedoen het. It is round at the bottom.

A third term for crystal meth is 'straws', so called because:

You buy it in short straws. Then you open it up. It is like salt. Crystals. You put it in a globe and you light your lighter - smoke it in the globe.

The drug is actually vaporised and the fumes inhaled through a straw, similar to 'chasing the dragon' with heroin.

Reviews of the drug and its effects are mixed:

You never sleep for three-and-a-half days. You start to go crazy. I think we should go back to the old stuff - ja, die slow boats [dagga]. Daai maak jou nie so vinnig deurmekaar nie. Jy is nog in control van jouself.

As jy alcohol in jou het - ons gaan skiet daai en ons soek moeilikheid met die een. Nou die goed dan gaan lê jy. Jy sien hoe baklei hulle met mekaar. Jy hou vir hulle so dop en dan kan jy môre vir hulle vertel hoe hulle aangegaan het.

The 'white pipe' combination of dagga and Mandrax is used as a sedative to come down. Methamphetamine is seen as an ideal tonic to prepare gunmen for a hit, removing inhibitions, sharpening senses, and fuelling aggression. So, in a sense, Hitler's vision of a 'combat drug' may ultimately be fulfilled.

"Beter as wyn"

To acquire drug market share in an area flooded with crack cocaine is no mean feat. One comparative advantage of crystal meth is its potential to be manufactured cheaply locally. It is imperative that this potential not be realised.

On 2 May 2003, ephedrine was made a Schedule 5 drug, accessible only by prescription. This is a step forward in reducing local manufacture of the drug. But drug entrepreneurs overseas have found ways around this inconvenience, including the use of

pseudoephedrine, the popular congestion remedy. Pharmacists should be wary of anyone without a major head cold buying stacks of Sudafed.

Much law enforcement attention has been diverted to methcathinone, the synthetic version of the East African herbal drug khat. Some 25 cat labs have been found this year alone. But cat is extremely mild compared to crystal meth, and while its manufacture and use is doubtless more widespread at present, it lacks the destructive potential of its more potent cousin.

Ironically, it may be the extreme nature of crystal meth that prevents it becoming an issue in South Africa. To a certain extent methamphetamine is a self-limiting drug. Its downsides are so extreme that it lacks the appeal to become popular with the masses.

But among certain classes of marginalised people, including violent criminals, a niche market can develop, as it has in the past among bikers, Mexican gangs, and Hawaiians in the United States. This niche can be more dangerous than widespread use of softer chemicals. Law enforcement should keep its eye on this one.

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Sgt. Rikus van der Berg of the Johannesburg
Flying Squad (Police emergency response unit)
orders suspects out of a suspected stolen
car.

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