

NOTES

- 1 *Victims of Crime Survey 1998*, Statistics South Africa, Pretoria, 1998.
- 2 *Provincial crime specific statistics for the period January to December 1994 to 2000*, Crime Information Analysis Centre, Pretoria, 2001, <http://saps.org.za/8_crimeinfo/bulletin/942000/index.htm>.
- 3 M Schönteich, *2001 Crime trends: A turning point?* SA Crime Quarterly 1, July 2002, pp 1–6.
- 4 S V Tshwete, media statement by the minister for safety and security, Cape Town, 31 May 2001.
- 5 *Attitudes to National Issues in South Africa*, Human Sciences Research Council, Pretoria, 1994 and 2000.
- 6 L Glanz, *South African cities under siege*, Indicator Crime and Conflict 2, Winter 1995, p 17.
- 7 Because the boundaries of city governments do not match those of the SAPS, the city analysis in this monograph is based on a selection of ‘police areas’ that best represent the cities discussed.
- 8 Caution needs to be exercised when comparing the annual number of cases recorded with the annual number of cases undetected, withdrawn, sent to court, and prosecuted and convicted (also called the ‘yearly-review’ method). Cases recorded during one year are often investigated and prosecuted during the following year. For example, the investigation of a complicated murder case reported in December 1999 might be finalised in mid-2000. The prosecution of the case may occur only in 2001. Rates based on the yearly-review method are premised on the assumption that the statistics are stable from year to year and that there is no growth or decline in backlogs. The advantage of the yearly-review method is that it is quick to collect data for an entire population. The yearly-review method is widely used both in South Africa and internationally. Moreover, a study which tracked the outcome of individual cases (also called the individual case tracking method) came to similar results as the yearly-review method. See R Paschke, *Conviction rates and other outcomes of crimes reported in eight South African police areas*, Research paper 18, Project 82, South African Law Commission, Pretoria (undated).

- 9 For a detailed description of the categories see M Schönteich, *Assessing the crime fighters. The ability of the criminal justice system to solve and prosecute crime*, ISS Papers 40, September 1999, pp 6–10.
- 10 This is the test prosecutors are supposed to use when deciding whether to institute a prosecution against a suspect. See *National Prosecuting Authority of South Africa Policy Manual*, October 1999, Pretoria, p A.3.
- 11 *The incidence of serious crime in South Africa between January and December 2000*, Crime Information Analysis Centre, Pretoria, 2001. E-mail to the author from Inspector Ina du Plessis, Crime Information Analysis Centre, Pretoria, 27 July 2001.
- 12 A 1996 survey of people on the Cape Flats (outside of Cape Town) found that most disapproved of, and were dissatisfied with, the performance of the SAPS and the courts. Overall, perceptions of the police and the courts were worse among those who had been victimised. Moreover, perceptions of the police and the courts were the most negative among those who had laid a charge and had had contact with the police and the courts. See, C Africa et al, *Crime and community action: Pagad and the Cape Flats, 1996–1997*, POS Reports 4, June 1998, p 11.
- 13 For a discussion of the various reasons why cases are withdrawn see M Schönteich, *Lawyers for the people. The South African prosecution service*, ISS Monograph Series 53, March 2001, pp 93–94.
- 14 Interview, Marnus Steyn, Court Management Unit, National Prosecuting Authority, Pretoria, 23 October 2000.
- 15 *National Prosecuting Authority of South Africa mid-term report*, 2000, p 8.
- 16 *National Prosecuting Authority of South Africa Policy Manual*, op cit, pp B.22 – B.25.
- 17 Section 92(1), Magistrates' Courts Act no. 32 of 1944, as amended, read with GN R1411 (Government Gazette 19435) of 30 October 1998.
- 18 *National Prosecuting Authority Annual Report 2001/2*, Pretoria, 2002, annexure B.
- 19 Over 95% of all criminal trials take place in the magistrates' courts (also known as the lower courts). Only the most serious crimes such as serial murders and particularly violent rapes are prosecuted in the high courts.
- 20 The conviction rate being the number of cases convicted as a proportion of the number of cases prosecuted.
- 21 The data for this figure comes from two different sources. The data for the years 1996–1999 is from the police's Crime Information Analysis Centre, while the 2000 and 2001 data are from the NPA's Court Management Unit. The NPA has been collecting court-related performance statistics since mid-1999. Compared to the police, the NPA is more intimately involved with what happens in the

- country's courts. Consequently use is made of NPA court-related statistics whenever these are available. Readers should note, however, that the CIAC and NPA statistics do not always coincide. Thus, for 2000 the NPA recorded 307,547 prosecutions compared to the police's 271,057. No prosecution statistics for 2001 had been released by the police at the time of writing.
- 22 *New plan to 'chop farm attacks*, Pretoria News, 14 February 2001.
 - 23 G Chuenyane, *Prosecutors struggle with load*, Sowetan, 12 October 2000.
 - 24 National Prosecuting Authority, *Annual Report 2001/2*, op cit, p 5, and Department of Justice and Constitutional Development, medium-term strategic framework (2000–2005), court services, <<http://www.pmg.org.za/docs/2002/appendices/020528court.htm>>.
 - 25 S Masuku, *Providing a 'correctional' service? Overcrowding in South African prisons*, Nedbank ISS Crime Index 5(5), September–October 2001, p 3.
 - 26 *Department of Correctional Services Presentation to the Select Committee on Security and Constitutional Affairs*, Cape Town, 7 June 2000.
 - 27 *Department of Correctional Services, Annual Report 1 January 2000 to 31 March 2001*, Pretoria, 2001, p 70.
 - 28 B Skosana, Parliamentary media briefing by the minister of correctional services, Cape Town, 12 February 2001.
 - 29 *Office of the inspecting judge, Annual Report 2000, Prison & Prisoners*, Cape Town, 2001.
 - 30 M Schönteich, *Justice versus retribution: Attitudes to punishment in the Eastern Cape*, ISS Monograph Series 45, February 2000.
 - 31 D C J Burger, et al, *Summary report of the Integrated Justice System*, 17 November 1998, p 3. The same objective is also contained in IJS Project: Executive summary, 20 September 1999, p 3, which is attached to the Business Against Crime business plan submission to Business Trust on the Integrated Justice System, 27 September 1999.
 - 32 D C J Burger, et al, op cit, p 11. Virtually identical benefits of the implementation of the IJS are contained in Business Against Crime business plan submission to Business Trust on the Integrated Justice System, 27 September 1999, p 2.
 - 33 Business Against Crime business plan submission to Business Trust on the Integrated Justice System, 27 September 1999, p 1.
 - 34 See M Shaw, *Crime and policing in post-apartheid South Africa. Transforming under fire*, David Philip Publishers, Cape Town, 2002, p 24.
 - 35 *The Integrated Justice System Court Centre. A blueprint of the Eastern Cape experience April 1999–February 2002*, BAC Eastern Cape, Port Elizabeth, 2002, p 1.

- 36 Interview, Hardie Fourie, IJS Programme Director, Pretoria.
- 37 *An evaluation of the BAC IJS-Project Office (1 July 2000 – 30 June 2001)*, Institute for Security Studies, Pretoria, 15 June 2001 (unpublished report).
- 38 *IJS Court Centre Project*, Department of Justice and Constitutional Development, Business Unit: Court Services, Pretoria, (undated), p 1.
- 39 The South African Bureau for Justice Assistance (part of the US-based Vera Institute of Justice) commenced its work in 1997. See, <<http://www.vera.org/>>.
- 40 Courting success, <<http://www.196.44.4.153/pubs/display/scripts/DispArticle/DispArticle.asp>>.
- 41 Ibid.
- 42 Section 7(2)(c), Correctional Services Act no. 111 of 1998.
- 43 Section 19, Correctional Services Act no. 111 of 1998.
- 44 Section 29, Correctional Services Act no. 8 of 1959, as amended by the Correctional Services Amendment Act no. 14 of 1996.
- 45 Section 29(5A), Correctional Services Act no. 8 of 1959, as amended by the Correctional Services Amendment Act no. 14 of 1996.
- 46 See M Schönsteich, *The dangers of youth? Linking offenders, victims and age*, Nedcor ISS Crime Index 3(5), September–October 1999, pp 22–28.
- 47 *Integrated management of awaiting-trial prisoners*, Bi-annual newsletter: NCPS 1(1), June 2000, p 4.
- 48 *The Integrated Justice System Court Centre*, op cit, p 8.
- 49 Ibid.
- 50 Interview, Ashwill Simon, previous SAPS ATP Project case review team member, Port Elizabeth, 27 February 2002.
- 51 *The Integrated Justice System Court Centre*, op cit, p 14.
- 52 See R Paschke, *Toward sound bail: The accused and pre-trial services*, Crime & Conflict 15, August 1999, pp 33–36.
- 53 Interview, Ms Hannelie Bakker, Senior Public Prosecutor, and PTS staff, Port Elizabeth, 26–27 February 2002.
- 54 R Paschke, op cit, pp 33–36.
- 55 This involved a promulgation in the Government Gazette (no. 21221, 2 June 2000) establishing a court seat for a periodical regional and district court.
- 56 Section 35(3)(c), Constitution of the Republic of South Africa Act 108 of 1996.

- 57 *The Integrated Justice System Court Centre*, op cit, p 27.
- 58 This is the test prosecutors are supposed to use when deciding whether to institute a prosecution against a suspect. See *National Prosecuting Authority of South Africa Policy Manual*, op cit, p A.3.
- 59 Section 84(1), Criminal Procedure Act no. 51 of 1977.
- 60 Interview, Ms Hannelie Bakker, Senior Public Prosecutor, Port Elizabeth, 26 February 2002.
- 61 As set out in *Shabalala and Others v Attorney-General Transvaal and Another 1995 (2) SACR 761 (CC)*, the prosecution may oppose access to documents contained in the police docket (or part of a docket) where: there is a real risk that the identity of an informer may be disclosed; state secrets may be revealed; state witnesses may be intimidated; the proper ends of justice may be impeded; policing methods and investigative techniques may be disclosed; or confidential co-operation between various police forces may be revealed.
- 62 *National Prosecuting Authority of South Africa Policy Manual*, op cit, pp A.5–A.6.
- 63 *The Integrated Justice System Court Centre*, op cit, p 30.
- 64 Interview, Hannelie Bakker, op cit.
- 65 For a breakdown of the Court Centre personnel and the staffing levels for each of the individual Court Centre services see *The Integrated Justice System Court Centre*, op cit, p 31.
- 66 *Department of Justice and Constitutional Development Annual Report*, 30 April 2000 – 31 March 2001, 2001, paragraph 2.115, p 24.
- 67 *Ibid*, paragraph 2.119, pp 24–25.
- 68 *Business Against Crime Eastern Cape Annual Report*, 2000–2001, Port Elizabeth, 2001, p 7.
- 69 *The Integrated Justice System Court Centre*, op cit, p 32.
- 70 M Schönteich, *Lawyers for the people. The South African prosecution service*, ISS Monograph Series 53, March 2001, pp 108–110.
- 71 It needs to be borne in mind that individual prosecutors throughout the country were responsible for keeping a record of statistics on hours lost in their courts. This methodology lends itself to potential bias as some prosecutors would have hesitated to blame themselves for lost court hours.
- 72 Interview, Piet Steyn, Provincial Head: Inspectorate, Department of Correctional Services, Port Elizabeth, 28 February 2002.
- 73 *Ibid*.

- 74 Interview, Rapphepheng Mataka, Provincial Commissioner (Eastern Cape): Department of Correctional Services, St Albans prison, 27 February 2002.
- 75 Interview, Peter Hundermark, Provincial Co-ordinator (Eastern Cape): Legal Aid Board, Port Elizabeth, 28 February 2001.
- 76 *The Integrated Justice System Court Centre*, op cit, p 21.
- 77 Ibid.
- 78 M Schönreich, *Rocky road ahead? Crime in South Africa over the next ten years*. Paper presented at the 2000 annual national conference of the Security Association of South Africa, Midrand, 12 October 2000.
- 79 *The Integrated Justice System Court Centre*, op cit, p 32.
- 80 *IJS Court Centre Project*, Department of Justice and Constitutional Development, Business Unit: Court Services, Pretoria, (undated), p 5.
- 81 Interview, Ross Siphon Mpongoma, Provincial Commissioner (Eastern Cape): South African Police Service, Bisho, 26 February 2002.
- 82 *An evaluation of the BAC IJS-Project Office (1 July 2000 – 30 June 2001)*, op cit.
- 83 Interview, Peter Rothman, Chief Magistrate: Port Elizabeth, Port Elizabeth, 28 February 2002.
- 84 Interview, Kevin Hustler, Managing Director: BAC Eastern Cape, Port Elizabeth, 26 February 2002.
- 85 Interview, Ross Siphon Mpongoma, op cit.
- 86 Interview, Matt Gennrich, Chairman: BAC Eastern Cape, Port Elizabeth, 1 March 2002.
- 87 Interview, Kevin Hustler, op cit.
- 88 Interview, Pieter van Straaten, Project Manager: BAC Eastern Cape, Port Elizabeth, 27 February 2002.
- 89 Interview, Willie Pretorius, Senior Public Prosecutor, Port Elizabeth, 27 February 2002.
- 90 Ibid.
- 91 Interview, Kevin Hustler, op cit.
- 92 Interview, Matt Gennrich, op cit.
- 93 Interview, Hannelie Bakker, op cit.
- 94 M Sekhonyane and A Louw, *Violent justice. Vigilantism and the state's response*, ISS Monograph Series 72, April 2002, p 36.

- 95 See, E Pelsler, J Rauch, S Henkeman, *DFID review: Safety, security and access to justice* (unpublished discussion document), Institute for Security Studies, Pretoria, 30 March 2001, p 11.
- 96 *New plan to 'chop farm attacks*, op cit.