

CHAPTER 4

FINDINGS OF THE STUDY

SECTION A: STOCKOWNER INTERVIEW RESULTS

Background: Socio-economic profiling of stockowners

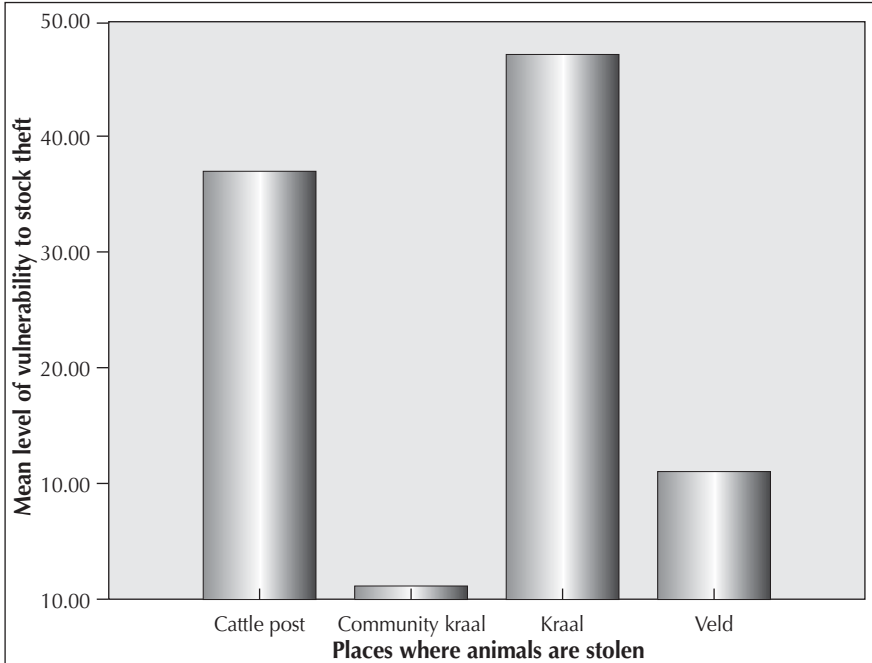
The study found that 92.9% of stockowners resided in rural areas, while only 7.1% were urban dwellers. A total of 92.9% owned cattle in the last two years, while 7.1% did not, a situation that can be attributed to stock theft. Stockowners are mostly rural dwellers, which means that any strategies that are implemented must be targeted at rural community infrastructure. In addition, 92% of the stockowners had lived in the areas for more than 20 years and 97.5% owned property.

The study revealed that all respondents had houses. The main materials used to build houses varied, with over half of the respondents building their homes with traditional materials (mud, unburnt bricks, cow dung, etc). However, more than a third (37.4%) of the homes were permanent houses, built with burnt bricks, stones or blocks. A few were permanent shacks built from corrugated iron, timber, etc. The most commonly used roofing material was traditional (grass thatch), which was used by 56.1% of the respondents; and 41.9% of the respondents used permanent roofing (corrugated iron sheets and tiles). These results are significant in determining the migration patterns of stockowners and verifying the economic losses that are incurred in abandoning homesteads due to violence.

When asked what kind of transport they used, only nine out of 198 (4.5%) reported that they owned a car in working condition. Six other respondents owned a van/truck/minibus and two owned bicycles. Most respondents (29.7%) used horses as their primary means of transportation, 16.5% used public transportation, followed by those who walked at 6.1% or used scotch carts (6.0%). Cattle, donkeys or horses are used to pull the scotch carts.

Slightly more than a third of the respondents (35.9%) were Roman Catholic, 27.3% belonged to the Lesotho Evangelical Church (LEC), and 6.6% were members of the Anglican Church. The rest were members of churches

Figure 1 Area and levels of vulnerability to stock theft



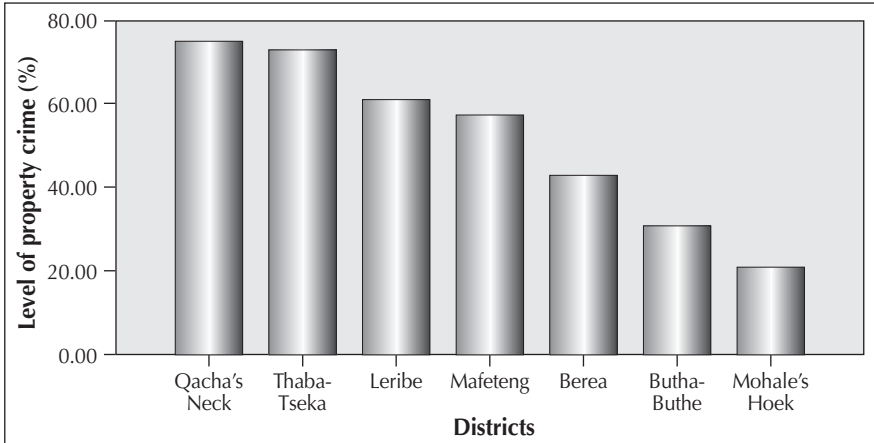
such as Methodist, Apostolic, Baptist, and Zion Christian Church (ZCC). Religious beliefs affect views, opinions and perceptions. When respondents were asked about the most important measure they had taken to protect themselves against crime and violence, 12.6% said prayer and 56.1% said they had not taken any measures to protect themselves and could only hope and believe that God would protect them.

Individual and community views and responses to crime

The study tried to ascertain where the theft occurred in order to determine the vulnerable areas.

The highest numbers of cattle are stolen from kraals, followed by cattle posts, then the veld. Community kraals are the safest place for animals. What is disturbing is that criminals are not afraid go into villages and steal stock from a kraal outside the homes of stockowners. This causes a lot of insecurity among villagers, who are unprotected against armed stock thieves.

Figure 2 Levels of property crime by district



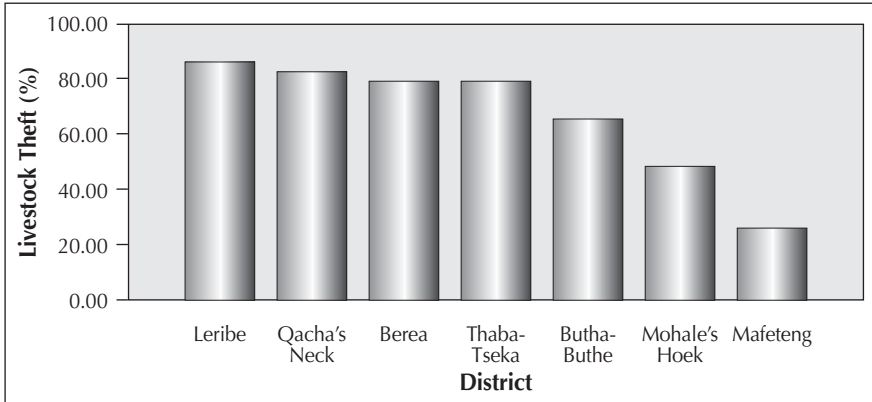
Stock is also stolen from cattle posts. This is because shepherds are young boys who are a long way from villages where they could get help in the event of attack by thieves. Some stockowners reported that they now look after their own stock and keep them close to their homes because herdboys are reluctant to live in cattle posts.⁴³

Violence and stock theft

When asked what type of crime occurs most in their area/village, 64.6% of the respondents said livestock theft. When asked which crime they were most afraid of, the majority (53%) said stock theft. This is evidenced in the increase of stock theft in the country.

The data shows that overall property crime is on the increase but that this does not necessarily translate into an increase in stock theft. For instance, Mafeteng has the lowest incidence of stock theft but has a high level of property crime. The conclusion is that the reduction in stock theft in Mafeteng is not necessarily due to better social protection strategies and systems, but to environmental and ecological factors and smaller numbers of animals.

Stockowners reported that they were vulnerable and could not protect themselves against armed thieves. This vulnerability is conducive to vigilantism and is the primary reason for increased violent conflict in villages. For instance, when asked what the government could do to make their villages safer, respondents gave answers that ranged from "Allow us to

Figure 3 Levels of livestock theft by district

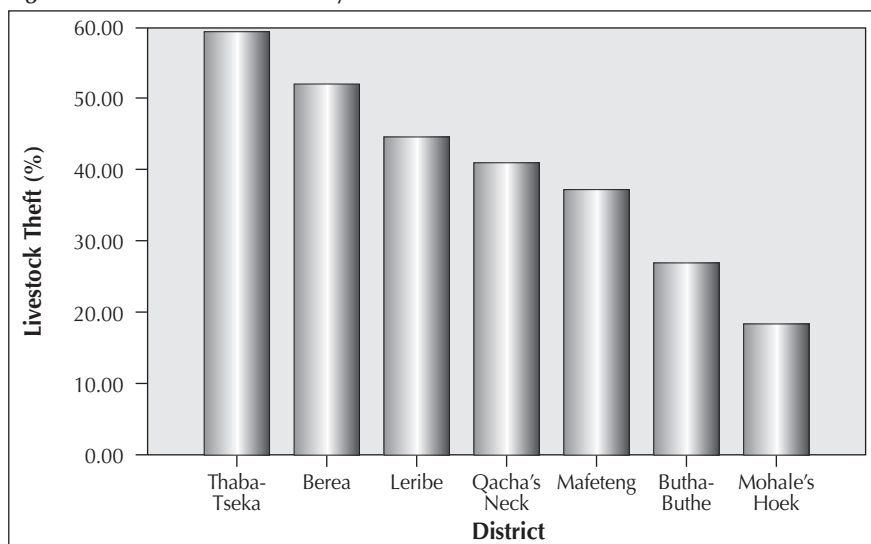
kill thieves” and “Give us authority to kill perpetrators” to “We should be given guns”. These are all signs of the desperation of people whose lives are threatened every day.

Of the respondents, 30.8% feel that the youth are most likely to commit crime, 25.8% that people living in their areas were the ones who committed crimes, and 16% that Basotho from outside their villages committed crimes. Only 0.5% of the respondents are of the opinion that police and chiefs are involved in crime and only 7.6% feel that the perpetrators are organised crime syndicates. However, the respondents do feel that “the youths are usually led by older men who organise them”.

The majority of the respondents (82.3%) do not feel that poverty is the motivating factor for committing crime. They consider the motivating factors to be unemployment (21.7%), jealousy (19.7%) and drugs (5.6%), among others.

Magnitude of the problem

Respondents were asked whether any of their livestock had been stolen between January 2000 and December 2002, and between January 2003 and January 2005. This was to determine whether there had been an increase or decrease in the number of stock thefts in those two periods. The investigation included the type of livestock stolen, such as cattle, sheep, goats, horses, donkeys, mules, pigs, domesticated ostrich and poultry.

Figure 4 Levels of violent crime by district

The results show that there was a decrease of 3.6% in cattle theft, from 33.1% to 29.5%. There was also a decrease in the theft of donkeys, from 10.1% to 5.1%. There was no difference in the number of sheep stolen. This supports statistics that show that cattle numbers have remained stable in Lesotho, while the number of sheep has declined significantly.

There has been a decline in stolen cattle, which could be because cattle are harder to sell and buyers do not have ready cash of between R1,200 (US\$200) and R5,000 (US\$ 840) (the going price of cattle). This makes it difficult for the thieves to dispose of cattle quickly. Sheep are a much better deal for stock thieves, as they are found in larger numbers and are easier to sell informally at lower prices of around R250 to R400.

Government intervention

There seems to be general apathy among communities regarding government intervention in the problem. When asked what the government could do to make their villages safer, 28.3% of the respondents said “nothing”, while 25.3% believed that the government has no way of dealing with this issue other than to give them the means to make their own communities safer. They suggested the following ways:

- allow them to kill thieves;
- give them the power to arrest thieves;
- give them guns
- give them means of communicating with the police, such as cellphones and walkie-talkies;
- help them to start stock theft associations and arm them; and
- train their neighbourhood watch groups.

The next largest group of respondents (22.2%) said that the government should increase visible police units in these areas.

Community policing

It seems that communities are taking responsibility for their own protection and becoming involved in neighbourhood watches and anti-crime associations and committees (ACCs). A total of 61.6% of the respondents said that an organisation or a group other than the police provided protection against crime in their communities. Of these, 54.5% said the organisation was a volunteer group and 36.9% admitted to paying a fee for their services.

A total of 48% of respondents said that there were stock theft associations in their villages and 29.3% said that there were anti-crime committees. Therefore some villages have both a stock theft association and an anti-crime committee, while other villages have only a stock theft association. Of the respondents who have a stock theft association or an anti-crime committee in their village, 75.5% participated in the activities of the group.

When asked about the task of the stock theft associations and/or anti-crime committees, only 29.2% said they searched for stolen animals and/or recovered stolen animals. A total of 7.5% of the respondents said that the groups assisted with police/community communication and 6.1% said the associations/committees held meetings to discuss stock theft reduction. Only 4.5% of the respondents said the groups were 'helping' the police to deal with crime.

While the tasks of the stock theft associations and anti-crime committees were seen as, first, searching for and recovering stolen animals (29.3%);

second, protecting the community (20.7%); and third, arresting thieves and handing them over to the police (14.1%), only 31.8% of the respondents had witnessed a suspect being apprehended by these groups.

Stock theft associations and anti-crime committees

On the whole, stock theft associations and anti-crime committees are considered very effective: 70.1% of the respondents who have such groups in their villages consider them effective. The 29.9% who consider them ineffective gave the following reasons:

- corruption – members are bribed by thieves to be informants;
- lack of community commitment – members are not paid, so fail to commit;
- mistrust – the respondents do not believe that some of the members are genuine and think they are informants for thieves;
- safety issues – members are afraid of being shot by armed thieves; and
- poor organisation.

To make these groups more effective, the respondents feel that members of these groups should have a way of communicating with police and other members using cellphones and shortwave radios when they need it. They also feel that they should be given firearms to protect themselves. Respondents support the idea that members should be registered and then fully trained so that they can be recognised as part of the formal protection services sector. They indicated that they should be given the power to shoot and be given protection under the law should they kill thieves. Formalising these groups would allow members to be paid for the work they do, hence advancing their effectiveness.

Perceptions and opinions of the protection services

It is the view of 52% of the respondents that the police are doing a relatively good job. They feel that the police are committed (53%); respond on time (25%); come to the scene of the crime (10%); are trustworthy (8%); and patrol high-activity areas (4%). The 39.9% who feel that police are doing a

poor job say the police are corrupt (20.5%); never respond on time (18.1%); are lazy (12%); cooperate with thieves (10.8%); do not come to the scene and release criminals early (9.6% respectively); and are harsh towards victims and never recover goods (6% respectively).

These results are based on the service that the police have given to the respondents at one time or another. To ascertain whether their opinions were based on actual experience, respondents were asked if they had ever been to their police stations, to which 91.7% answered yes. Of these, 59.4% said their opinion of the police had been positively affected, while the opinion of 26.9% had been negatively affected.

Joint army/police patrols

In the last five years there has been a marked increase in joint army/police patrols in Lesotho, and 46% of the respondents indicated that there had been joint patrols in their villages. Of these, 98.9% indicated that the patrol had been in the last 1-5 years. According to the respondents joint patrols in Berea are the most visible, with 82.1% of respondents in this district confirming that there had been joint patrols in their areas. The least visible patrols district is Thaba-Tseka, with only 17.9% of the respondents indicating that they were aware of joint police/army patrols in their villages.

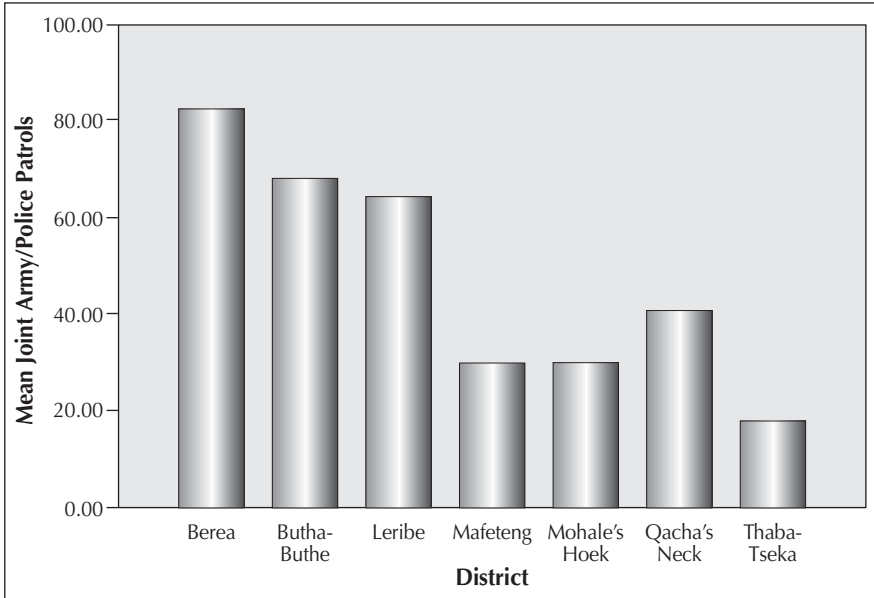
Of the respondents who had had army patrols in their areas, 79% indicated that joint patrols had reduced crime in their area. Their comments included:

- Reports of crimes go down while patrols are taking place (73.4%).
- People stop moving around at night during these patrols (10.9%).
- People know that the army/police are serious about cracking down on crime (7.8%).
- Stolen stock is recovered during these patrols (2%).

The 20.5% who felt that army/police patrols have not reduced crime in their areas gave the following reasons:

- Crime is still on the increase (54.2%).
- The operations happen only once in a while (20.8%).

Figure 5 Levels of joint army/police patrols by district



Army patrols, although considered effective, do not have any real impact. For instance, Berea has had numerous joint army/police patrols, but still has the highest incidence of stock theft. This is an indication that there is no correlation between joint army/police patrols and incidences of stock theft. The strategy may be worth exploring, but only if operations take place more often than they do at present.

Perceptions and opinions of the judicial system

When asked whether they had ever been to court, 62.1% of the respondents answered in the affirmative and 37.9% indicated that they had not. The respondents went to court as parties to cases (65.8%), as witnesses (20.5%) and just to attend court (12.8%). A single respondent went to court to complain about cases being postponed. Most of the respondents (73.7%) seemed to know the location of the magistrate's courts that serve their areas. However, since some had not been there personally, only 69.9% of the respondents could suggest how long it would take them to get to the magistrate's court – 45% said it took three hours or more. This data is significant when one examines the time it takes to complete a case and the

distance the stockowners would need to travel to attend court proceedings. Because this sometimes takes a day, more and more stockowners are taking cases of stock theft to traditional courts, which do not have the jurisdiction to handle these cases effectively. They do not have the power to impose fines of more than M1,000.00 or jail sentences, meaning that the most victims can hope for is that the perpetrator will be beaten or told to return the stolen animals.

A total of 47.9% respondents thought that the courts generally performed their duties adequately because they made fair decisions, were hard on criminals, were impartial, and were not corrupt. Another 33.3% were of the opinion that courts were not performing adequately because they took too long to complete cases; were lenient towards criminals; lacked resources; were inconsistent in their handling of cases; showed favouritism; and did not supply information to the parties involved in a case. The rest of the respondents could not comment as they said they did not have direct knowledge of how the courts worked.

With regard to sentencing, 61.1% of the respondents were happy with the sentences handed down by courts, citing that they were fair in handling cases, gave punishments that fitted the crime, and were efficient. The 38.9% of respondents who were not happy with sentencing cited corruption in the courts, the length of time it takes to complete a case, the short notice given of hearings, leniency towards criminals, and the release of criminals on bail as reasons for their unhappiness.

SECTION B: INTERVIEW RESULTS OF THE CHIEFS

Economic standing of chiefs

Most chiefs have the economic standing of an average Mosotho with their livestock ranging from one to twenty herds of cattle, one to two horses, and five to fifty sheep. In addition to rearing animals, gazetted chiefs receive a salary from the government. According to the study most chiefs use horses and oxen-drawn trailers as means of transport. Only one chief out of those interviewed owned a car in working condition. With regard to religion, 35% of the chiefs are Roman Catholic, 14% belong to the LEC, and 14% belong to the Anglican Church, while members of other denominations make up the rest.

Most chiefs use stones and thatch grass to construct their houses, while some use block bricks and corrugated iron. Like any Mosotho homestead,

a typical chief's homestead consists of grass-thatched stone-huts and a flat corrugated-iron-roofed two- to three-roomed house. Only one of the 36 chiefs interviewed had water piped into his house, 14 got water from community taps, and 15 obtained drinking water from wells/springs. A total of 68% used pit latrines, while 22% did not have any toilet facilities. They used the bush or dongas for ablutions.

While some chiefs, like the ordinary Basotho, cannot afford toilets, the presence or absence of a toilet is not a reliable measure of economic standing in rural Lesotho, because many people do not attach much significance to them.

The level of crime in communities

Forty three per cent of the chiefs believed that the level of crime in general had increased in their areas in recent years, while 46% thought it had decreased. Despite mixed responses to crime in general, stock theft remains one of the most feared crimes in the rural communities. This is corroborated by 54% of the chiefs, although 16% of them argue that assault occurs more. A total of 66.6% of the chiefs know of local residents who earn a living from crime or supplement their income by committing crime. They attribute the rampant crime to unemployment and lack of skills development centres to absorb high-school leavers.

In relation to government intervention, 32% would like government to increase armed police patrols, while 14% feel that if government created employment, crime would automatically be reduced. Other suggestions include control of drug consumption, increased efficiency of the police, and payment for STA members.

Strategies for dealing with crime

Communities deal with crime through such strategies as establishing crime prevention committees and stock theft associations (STAs), and building communal kraals. STAs are not formally registered in terms of the Law of Associations. Their main purpose is to prevent stock theft through neighbourhood patrols and to search for stolen stock.

Seventy six per cent of the chiefs indicate that they have a form of STA or community protection organisation in their areas. Most of the associations were formed with the assistance and encouragement of the police, together

with chiefs. They do not usually mete out punishment to the suspects but apprehend them and hand them over to the chiefs for transmission to the police. Statistics show that 50% of the chiefs participate in the activities of the STAs. In response to a question relating to the effectiveness of STAs, 84.2% of the chiefs pointed out that they are effective, while 15.7% thought they are not effective. Their main reason is that the STAs have to deal with armed thieves, whereas they (STA members) are not armed. Besides, most of the members are unemployed and despondent, so motivation is a serious issue, even before they join STAs. Some cite lack of commitment from community members as a source of ineffectiveness. This is reflected in their desire to be paid for their STA activities even though this is for their own safety and security.

The strategy of building communal kraals and having cattle posts in close proximity has not been very successful, particularly because in most villages kraals are still under construction. In others there is reluctance from individual stockowners because they are closely attached to their livestock. Persuading them to let their animals go to community kraals is an on-going process.

Chiefs' perception of the police

Most chiefs believe that the police are doing a good job in reducing stock theft, and 63.8% of the chiefs are satisfied with the performance of the police. However, 27.7% of the respondents feel that the police are performing poorly in their areas. The main source of unhappiness is that the police do not respond to community calls on time. They all feel that the police could improve their service delivery if they had adequate resources. Respondents pointed out that more police stations are needed, because people still walk long distances to get to a police station.

According to the chiefs, joint patrols between the army and the police are a resounding success. These patrols usually discover more illegal firearms that are used by perpetrators of stock theft and more stolen animals are recovered during these operations. Stock thieves regard the police differently during combined patrols with the army, who are allowed to use force. Their only complaint is that the patrols are carried out so seldom.

Performance of the courts

Most chiefs believe that there is a huge backlog of stock theft cases at the courts of law. They feel that bail makes the police despair because they keep

chasing the same perpetrators. Moreover, communities become agitated when perpetrators return to the villages shortly after they have been arrested. Consequently some members of the public take the law into their own hands and kill the perpetrators. A total of 58.3% are satisfied with the performance of the courts, but 33.3% think that the courts are not performing adequately. Those who are satisfied believe that the courts are impartial, give fair judgments, and are hard on criminals.

The respondents who are not happy with the performance of the courts point out that the courts are inconsistent in the way in which they handle cases, they take too long to complete a case, and court authorities show favouritism towards people they know. A total of 76% of the interviewed chiefs go to court frequently as witnesses or as parties to cases, while 22% have never been to a magistrate's court.

Chiefs' experience of stock theft

Most chiefs own livestock in the categories of cattle, sheep and goats. Like other members of the public, they experience stock theft. In 2003 most chiefs were victims of stock theft: about 58% were personally affected by it.

The recovery rate of stolen animals is very low. Animals are mostly recovered by the police, and in some instances STAs are instrumental in the recovery. The percentage of cases involving chiefs that go to court is very low and does not indicate preferential treatment for chiefs.

SECTION C: INTERVIEW RESULTS OF THE POLICE

Profile of the Lesotho Mounted Police Service

The police force is structured in a bottom-heavy way. The entrance point is at the level of trooper. This level forms 52.4% of the service. The next larger percentage is at sergeant level (21.4%). The higher echelon of the service constitutes a very small percentage. The stock theft unit forms 54.8% of the service and the general unit 40.5%.

These percentages show that the larger portion of the service is engaged in the prevention of stock theft. The rural deployment is 54.8% compared with 42.9% urban deployment. This means that most members of the service are deployed in rural areas, where stock theft is most problematic.

Most members of the police (26.2%) have worked in the force for between one and five years. A relatively smaller number (23.8%) have worked for 21 years or more. Generally 47.6% of the service deal with the stock theft problem and they have worked in this unit for between one and five years. Stock theft is caused mainly by unemployment because of retrenchment. This is illustrated by the 42.9% of the police who cite reasons for stock theft as being drought causing lack of food and laziness, while others do not know the best way to make a living. Another 21.4% trace the problem to poverty and hunger as poor people provide a market for cheap stolen stock even when they are not directly involved in theft.

Causes of stock theft

Fifty seven per cent of police members interviewed believed there has been a decrease in stock theft in the last five years, while 43% argue that it has increased. Both groups justify their argument with reduced or increased numbers of reports of stolen animals, and 76% attest that Basotho men are the perpetrators of stock theft.

Those who argue that stock theft has increased attribute this to the proliferation of illegal firearms in rural communities, among other reasons. They indicate a correlation between the increase in stock theft, the increase in illegal weapons, and dagga trafficking.

In 2002/03–2003/04 there has been a decline in stock theft. This is confirmed by 57.1% of the police, despite 43% observing that the problem is escalating. Most police believe that police patrols have contributed to the decline in the number of cases. This is confirmed by 61.9% of the police, although 31% believe that the problem is increasing, citing an increase in reported cases to substantiate their argument.

Strategies to reduce the incidence of stock theft vary from STA/community policing – which 35.7% of the police view as effective – to awareness campaigns (26.2%), while 21.4% argue that police raids, patrols and arrests contribute to preventing incidents.

Stock theft prevention strategies

Joint patrols between the army and the police have proved very successful: 76% of the police believe that these patrols have been very successful,

although 24% feel that they are not very successful. These patrols are not regular and are conducted for various crimes. The patrols are important for various reasons, such as deterring potential perpetrators and holding meetings to advise communities. In addition, the army is not as restrained as the police in the use of force when dealing with criminals.

Other crime prevention strategies include community policing, stock theft associations, and communal kraals. The statistics show that most communities responded very positively to the suggestion by the police that they form STAs to engage in community protection and search for stolen stock. Of the STAs, 57% were established by the villagers with the assistance of the police, while 19% were formed by chiefs together with villagers. Most of the associations were formed in 2000. Everyone in the village usually becomes a member. However, in a few cases only stockowners could become members.

The data indicates that STAs are relatively effective: 76% of police respondents believe that they are effective. However, in some areas they have become dormant and ineffective after the initial enthusiasm. The establishment of communal kraals is intended to make it easy for STAs to guard them against theft. The associations also report theft and suspicious-looking people to the police. They hold successful raids, arrest and hand perpetrators over to the police, but they need to be monitored closely, as at times they have been infiltrated by thieves. Police meet monthly with STAs to discuss methods of reducing crime.

Forty three per cent of the police indicate that the most critical constraint is shortage of resources: clothing, storage units, food when going on patrol, helicopters, bullet-proof vests, sleeping bags and vehicles. For example, 73% said their police stations did not have a secure exhibit storage room/cupboard, as opposed to 26% who said they did. Seventy per cent say they did not have 4 x 4 vehicles, while 30% say they did. There are plenty of horses: 85% indicate that they have horses and they are mostly used in the mountainous areas.

Other constraints are armed criminals, delay by victims in reporting stolen stock, problems of tracking stolen animals due to the issuing of bail to suspects, and suspects fleeing to South Africa. These constraints can be overcome by accessing the resources listed above. The government should devote more resources to addressing the problem of stock theft through mobile police stations and give the public telephone numbers so they can inform the police about crimes as soon as possible. The constraints can be

overcome by applying several options, such as forcing people by law to report cases, following up where they receive tips, and encouraging people to give evidence.

Eighty one per cent of the police interviewed said that they have good relations with the chiefs; 98% indicated that they consult chiefs regarding strategies to prevent stock theft. This relationship is crucial, because the police and the chiefs are important stakeholders in the fight against stock theft. The chiefs are closer to the communities and are trusted, they invite the police to public gatherings to motivate the STAs, they share information that helps to combat the problem, and they call public gatherings to discuss crime in general. Most headmen are open to new ideas and hold pitsos about rearing animals legally. They play an important role in the prevention of stock theft by arresting criminals together with STAs. The chiefs are the first to be consulted when new legislation is to be introduced. That is why they are role models in demonstrating the marking of stock. In all the districts, the chiefs were au fait with the Stock Theft Act, particularly regarding the compulsory marking of stock. Chiefs are responsible for keeping the master stock register and showing the community how to mark and register stock. As primary agents of the national government, they are officers of law by duty and guardians of the community by right.

Police perception of the criminal justice system

The police rate prosecutors' and magistrates' handling of stock theft cases positively: 60.0% in Berea and in Leribe, 62.2% in Mohale's Hoek, 100% in Qacha's Neck, and 57.1% in Thaba-Tseka. Butha-Buthe and Mafeteng are rated at 16.7% and 25% respectively. This means that according to the police, magistrates and prosecutors in these districts handle stock theft cases poorly.

With regard to severity in dealing with stock theft cases the police rate prosecutors and magistrates positively in only two districts, namely Berea (100%) and Qacha's Neck (80%). The rest are rated negatively: Butha-Buthe 25%, Leribe 40%, Mafeteng – unrated, Mohale's Hoek 25%, and Thaba-Tseka 42.9%.

In relation to the quality of cases presented, Qacha's Neck rated 80%, Mohale's Hoek 80% Butha-Buthe 66.7%, Berea and Leribe 50%, Thaba-Tseka 16.7%, and Mafeteng 33.3%. Mafeteng is consistently negative in the three variables. This is cause for concern for the judicial authorities.

Fifty two per cent of the police interviewed believed that the sentences handed down to perpetrators of stock theft were too lenient, while 21% considered them fair. Their reasons included the suspension of some sections of the Stock Theft Act by the Chief Justice because they were in conflict with the constitution in the penalties they were prescribing. This leaves a gap in terms of standard penalties. Moreover, some police suspect that the court authorities are offered bribes.

Legislation

All the police respondents were aware of the legislation that compels stockowners to mark their livestock. They indicated that chiefs mark their own livestock. Of the respondents, 97% said they examined the master stock register regularly; 36% indicated that the master stock register kept by the chief is not always up to date, and 55% said that the master register is up to date every time they check it.

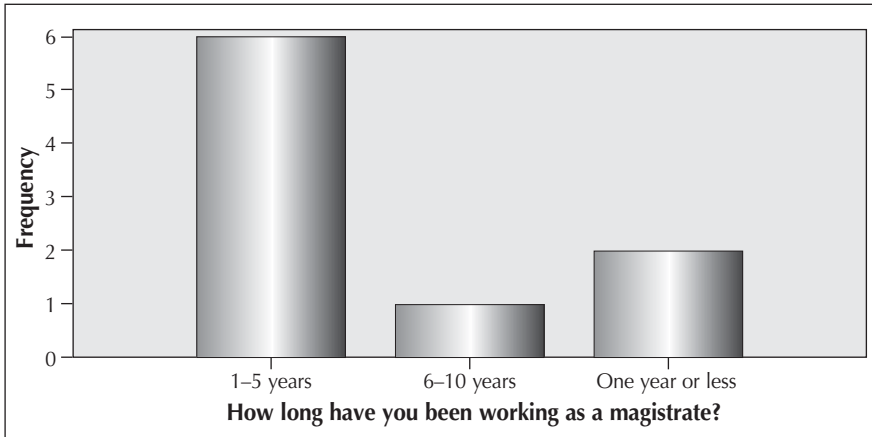
Some stockowners do not abide by the time limitations in the legislation for transporting livestock. This was revealed in the 42% of police who indicated that stockowners do not abide by the law, although 58% indicated that stockowners did so.

With regard to selling and buying stolen livestock, 74% of the interviewees believed that stolen animals were bought and sold in their areas. Shooting usually ensues if the perpetrator comes into contact with the owner during the theft.

SECTION D: INTERVIEW RESULTS OF MAGISTRATES AND PROSECUTORS

The experience of magistrates with regard to the handling of stock theft cases

Lesotho has three chief magistrates and ten magistrates (one per district). Magistrates are overloaded with work, because they preside over hundreds of cases per year while having to deal with different types of crime in the vast areas under their jurisdiction. In addition, most magistrates are not very experienced, which creates its own problems. Data indicates that three of the magistrates have 1-5 years' working experience, one has 6-10 years, and two have one year or less.

Figure 6 Length of time on the bench – magistrates

Four magistrates said they deal with fewer than five cases of stock theft per month, one magistrate said he deals with 15-20 cases per month, and one magistrate deals with 6-10 stock theft cases monthly. These results show that stock theft cases are given less attention by the magistrate's courts.

Two of the magistrate's courts take more than a month to finalise stock theft cases, one takes up to a month, and one takes between one and five days. But many reported stock theft cases have to be dealt with and most of them are left unattended. Having one magistrate to deal with all the criminal cases in a district impacts negatively on the quality of services provided.

Adherence to the sentences for stock theft prescribed in the legislation

Three magistrates indicated that they do not adhere to the sentences prescribed in the Stock Theft Act of 2000, for various reasons. One said that sentences imposed in the Act are too harsh; one said the Act is no longer constitutional; another is of the opinion that the law prescribes sentences beyond one's sentencing powers; and the remaining one was frustrated by the constitutional law changes.

According to two of the magistrates they are adhering to the Act; one indicated that if the court fails to adhere to the Act, the perpetrator or the suspect could appeal against unjust treatment in the higher courts. One magistrate said that he adheres to the law because it is mandatory, so that

the prosecutor does not have discretionary power to decide which cases are taken to court.

Fines and sentences

Different magistrates approach the imposition of a fine from different angles. One tries to determine how rife the crime is in the area it was committed, and another indicates that he looks at the seriousness of the offence. One looks at what the suspect earns and other mitigating factors, another considers whether the stock was found, whether force was used, and whether the correct number of animals had been returned to the owner.

The sentences handed down to stock theft perpetrators must discourage them from being convicted again for the same kind of offence. But in most cases, perpetrators continue to steal livestock, regardless of the possible sentence. Four magistrates said that stock theft perpetrators are sentenced to three and more years in prison; one magistrate said they are sentenced to imprisonment without the option of a fine, and the other magistrate attested to perpetrators being fined.

The sentence depends on the discretion of the judge. For instance, a perpetrator may have to pay M5,000.00 for stealing a goat as prescribed by the Act. This is attested to by 70% of the prosecutors.

Five of the magistrates said that they adhered to the sentence prescribed in the Stock Theft (Amendment) Act of 2003. The remaining magistrate believed that a constitutional court judgment precluded sentences prescribed in the Act, as they are considered unconstitutional. The magistrates were also asked whether sentences handed down by courts deter perpetrators of stock theft – to which four magistrates disagreed and two agreed. Of those who disagreed, one said that perpetrators think about punishment before committing a crime but continue to commit stock theft. Another believed that the sentences would not deter people as long as current economic conditions prevail.

Causes of stock theft

Two of the respondents felt that one of the major causes of stock theft was poverty, one respondent thought that poor people resorted to stock theft because they want to get rich quickly, and another indicated that pride and jealousy were the causes of stock theft. Two of the respondents cited

unemployment, greed and poverty, especially when one had to perform social and cultural ceremonies that required an animal to be slaughtered.

Perceptions of the way prosecutors handle stock theft cases

According to four of the magistrates, prosecutors are doing relatively satisfactory work in presenting their cases, that is, their presentations are neither good nor bad. Two of the magistrates thought that prosecutors are good at presenting their cases, while one magistrate felt that the quality of cases presented by the prosecutors is bad.

The respondents were of the opinion that the kind of evidence the prosecutors bring before the court is credible, they present their cases well and try their best. Prosecutors also familiarise themselves with information in police dockets and the law before going to court.

Prosecutors make an effort to get to know their witnesses, which helps witnesses to give proper evidence and testimony before the court.

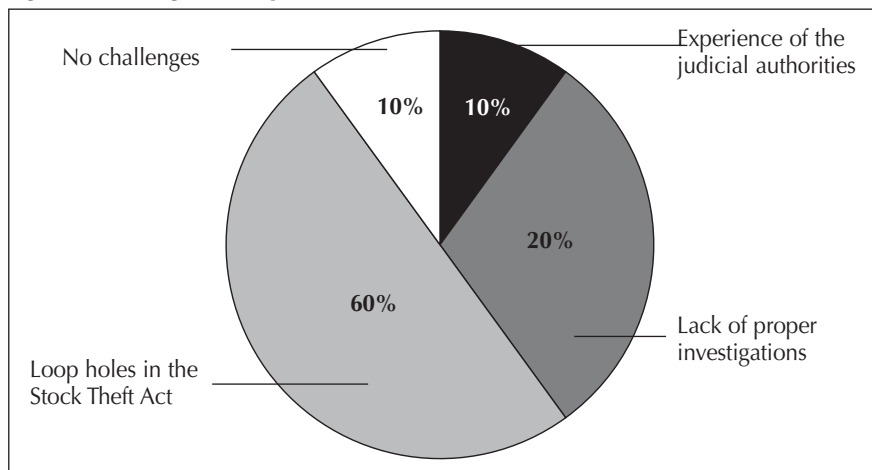
Perceptions of prosecutors' knowledge of the relevant legislation

Most of the prosecutors are relatively conversant with the legislation pertaining to the cases they present in court. Lack of training and facilities was blamed for prosecutors who are not abreast of the legislation.

Perceptions of the way police handle stock theft cases

Magistrates believe that the police present their cases well in court and rarely send cases to court that cannot be won. Most have been involved in police matters for more than five years. One magistrate said that the more police are exposed to stock theft cases, the more skills they acquire for handling such cases.

Magistrates felt that the police's knowledge of the relevant legislation is good, with only one magistrate disagreeing. They said that police often have to explain the reasons for their arrest to suspects, as well as the type of crime that has been committed. The police are well read and can quote the relevant sections of the law. They know the law and charge suspects with the section of the law that has been contravened.

Figure 7 Challenges in the prosecution of stock theft cases

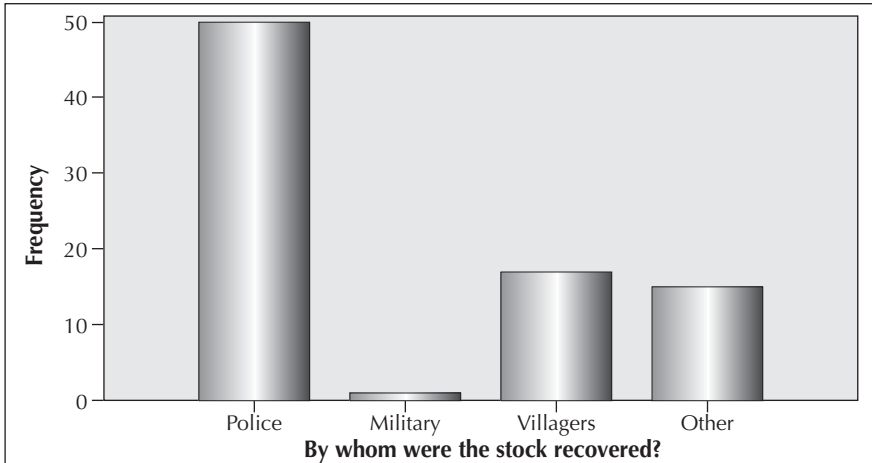
What the police are doing to reduce incidences of stock theft

One of the magistrates indicated that the police must be equipped with helicopters, vehicles and cellphones in order to do their work as quickly as possible. One of the respondents said the police should hold public gatherings in their communities. Another suggested that police should investigate thoroughly and arrest suspects, bringing them before the court. Another suggested that police should be given more vehicles and more training. One of the respondents said the only way the police could reduce the incidence of stock theft was to talk to stakeholders and hold public gatherings to discuss strategy. Another suggested that the police should work with the communities and guide stockowners on how to protect their stock.

SECTION E: DOCKETS

The socio-economic profiling of perpetrators of stock theft

A total of 73.1% of stock theft offenders are males; only 1% are females. The gender of 5.8% of offenders was not recorded and the gender of the rest of the offenders is unknown. Most of the thieves were between 16 and 25 years, followed by the group between the ages of 26 and 35 and those between 36 and 45 years. Most of the stock thieves are unemployed, or are stockowners who steal from other stockowners. Some are shepherds. Basically, the stock

Figure 8 Recovery rate of stock by stakeholders

thieves are unemployed and steal from their fellow villagers. Some of the thieves form syndicates or gangs to enhance their 'effectiveness'.

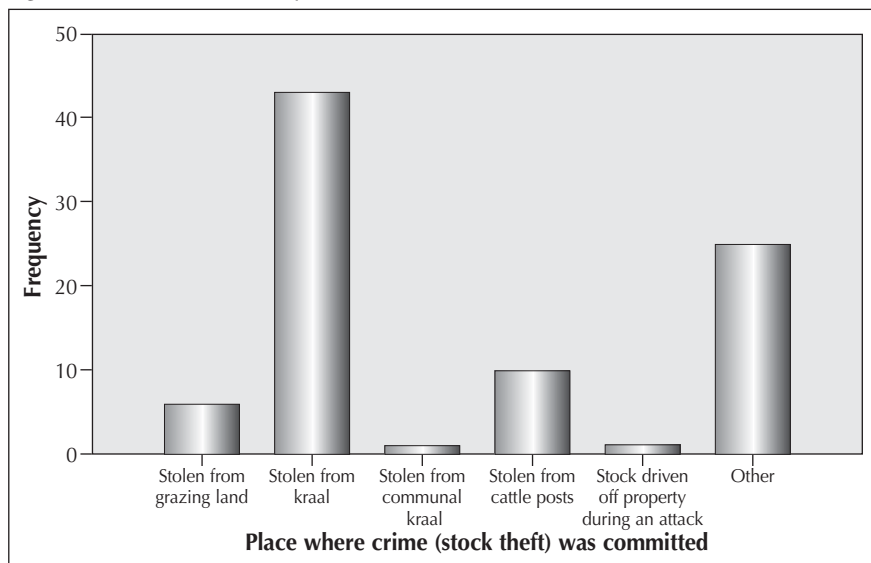
Recovery of stolen stock

Although the police lack human and material resources to do their work efficiently, the rate at which they manage to recover stock under these conditions is amazing: 48.1% of the stock was recovered by the police, 16.3% by the villagers themselves, 1.2% by the army, and the remaining 14.4% by people whose status was not mentioned. Most of the stolen stock was found in the village where the theft had occurred.

Reliability of docket

Docket analysis revealed that a lot of information is omitted from dockets. For instance, the time of day or night when the crime was committed is not systematically recorded, and in 52.9% of the dockets the time that the crime was committed was omitted.

A previous study by Kynoch showed that most animals are stolen from cattle posts where they are guarded by shepherds. However, the present study showed that this is not the case as 50% of stock is stolen from kraals outside

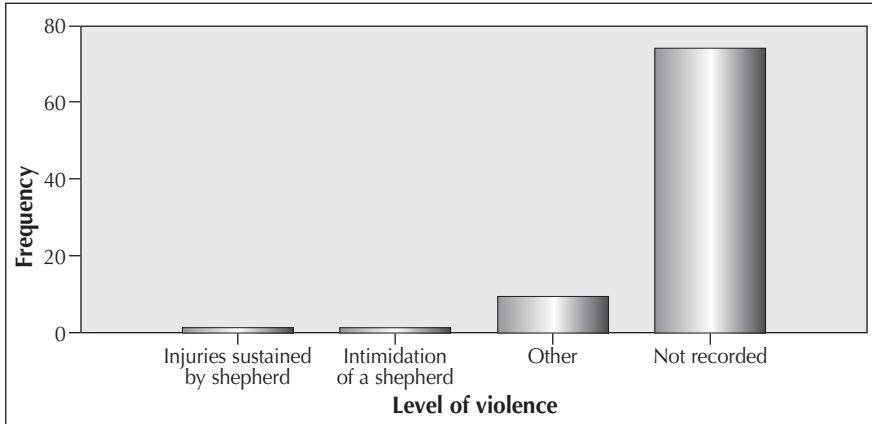
Figure 9 Areas of vulnerability to stock theft

the home, 11.6% from cattle posts, 7% from grazing land, and 1.2% from the communal kraal, while 1.2% is driven off property during attacks. (The remaining statistics on where animals were stolen is not recorded, hence the category "Other".)

This is a clear indication that stock theft perpetrators are no longer targeting cattle posts and are not afraid to go into villages to steal from kraals. The results also show that the communal kraal is an effective strategy used by stockowners to combat stock theft.

Levels of violence

Most stock thieves are armed with guns, and in some incidents stockowners are killed by thieves. One would expect the police to look at the level of violence during stock theft, but the findings indicate that the police do not record whether violence was involved when stock are stolen. For example, 87.1% of the dockets that were analysed did not reflect whether violence was used; 1.2% showed that shepherds sustained injuries and 8.7% of the shepherds were intimidated when the stock were stolen. Less than 5% of

Figure 10 Police records on level of violence during stock theft

dockets reflected the use of guns and knives in stock theft even though stock theft is said to be synonymous with violence.

The courts

Although most stock theft offenders are arrested, they are given bail and affordable fines. The findings also indicate the following:

- 69.2% of the thieves were arrested, while 25% were not – it was not recorded whether the other 5.8% were arrested;
- 62.5% of stock theft cases proceed to court, while 31.7% fail to proceed to court, for various reasons;
- in 9.6% of cases the prosecutor declined to prosecute;
- 8.7% of cases could not be tried because of insufficient evidence;
- 2.9% of prosecutions failed because the suspect escaped;
- 3.8% of prosecutions failed because the victim agreed to be compensated by the suspect for the stolen stock; and
- the remaining 2.9% of cases were withdrawn by the accused.

In addition, the findings indicate:

- There is poor handling of stock theft reports by the police.
- Courts are confronted with the problem of trying cases which lack sufficient evidence for conviction.
- Prosecuting authorities fail to inspire confidence in handling stock theft cases.

The failure to administer justice in these cases makes victims lose confidence in the judicial system.