



EDITORIAL

Those of us with an eye on policing have lately been preoccupied. Questions have been posed in the media – and by the Department of Justice – about the thousands of arrests made as part of the police's goal to apprehend 10 000 criminals wanted for 'serious' crimes. How many arrests are usually made over the same period? Are their crimes all serious? What does serious mean? Are these from the 'most wanted list' or new offenders, and should this matter?

Two points can be distilled from this tangle: first, setting goals of this nature for the police (and other criminal justice arms) is problematic. There is a fine line between maintaining accountability through setting public targets, and resorting to deviance or strong arm tactics when these cannot be met. If possessing illegal weapons is a 'serious' crime, do police set up roadblocks in townships across the country to inflate arrest totals?

The second point relates to the simmering tensions between the Department of Justice and police since Commissioner Fivas's Police Plan announcement and prosecutors' go-slow. This is indicative of how the criminal justice system works (or does not work). Thousands of arrests do not mean the problem is solved or the police have done their part: guilt still needs to be proved, which depends on police providing reliable evidence and on prosecutors' workload and competence.

This raises the subject of government's National Crime Prevention Strategy – presented and critiqued in this issue. In terms of meeting specified goals, the Strategy goes to the other extreme, setting none at all. But the document's greatest strengths are its very existence, and its incorporation of various government departments. Short and long term measures provide valuable ammunition to fire at these departments. The Strategy also directs new attention to women, the youth and victims of crime.

Articles in this issue addressing violence against women, ranging from murder to torture and sexual harassment show why this is so necessary. Women are targets of specific kinds of violence that do not apply to men. Female criminals also, have a different profile to men, as Naude and Munnik illustrate. We need to know more about women, both as victims and offenders.

Antoinette Louw
Crime and Conflict editor

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“Man shoots wife”

Intimate Femicide in Gauteng, South Africa

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This article is based on a study exploring reasons for women's vulnerability to intimate domestic violence. Our society supports the notion that women are possessions belonging to men and although domestic violence is not altogether condoned, men are excused from beating or killing their wives for a variety of different reasons: cultural factors, alcoholic abuse, and society's notions of provocation. Women on the other hand have no protection or support.

Gender has a notable influence on violent behaviour. The violence that women experience differs in both type and form from the violence that men experience. Women, for example, are vulnerable to sexual assault and domestic violence, in a way that men are not.

Morris (1987) has identified some of the following characteristics as being quite specific to crimes against women: most women are victimised by men and are more likely than men to know their attacker; women are also more likely than men to be blamed in some way for their victimisation.

Women are most likely to be murdered by male intimates and less frequently by strangers

Homicides involving women (either as victims or perpetrators) are also understood to be influenced by different dynamics to those involving men. When men are murdered they are typically killed by acquaintances and strangers, and, only occasionally, by a male or female intimate.

Women, by contrast, are most likely to be murdered by male intimates and less frequently by

strangers. It was in response to this observation that the term 'femicide' was coined. First used at the 1976 International Tribunal on Crimes Against Women, it was developed to emphasise that in some instances, women are murdered for no better reason than being female (Russell and Van de Ven 1976, cited in Stout 1992).

Intimate femicide

Stout (1992:133) defined intimate femicide as the 'killing of women by intimate male partners' – a definition adopted by this study.

'Male partners' should be understood to include husbands, common-law partners and boyfriends. Men who at the time of the murder were estranged, separated or divorced from their partners still fall within this study's description of a partner. Whether or not others (such as children, or other family members) were killed in conjunction with the woman, did not affect the working definition at this point.

Sources of information for the study were drawn from two archival and documentary sources: inquest records and newspaper reports.

All inquest dockets opened for women in the Johannesburg magisterial district (this includes greater Johannesburg, Lenasia, Soweto and Eldorado Park) during 1994 were scrutinised.

The various causes of death were then categorised according to the International Classification of Diseases (ICD 9th Revision 1975), enabling the researcher to identify a total of 29 murders for analysis.

The relationship between perpetrator and victim became the next point of study.

Newspaper stories reporting on incidents of intimate femicide were drawn from the three largest English newspapers within the Gauteng region: *The Sowetan*, *The Citizen* and *The Star*. A total of 118 separate such incidents, occurring during the two-year period between 1993 and 1994, were collected from these three newspapers.

The word femicide was developed to emphasise that in some instances, women are murdered for no other reason than being female

Limitations of findings

Due to time and financial constraints, it was not possible to investigate regional and supreme court criminal records – which would have substantially increased the number of murders available for analysis. When a strong case exists against an accused, it bypasses the inquest courts entirely, being referred directly to the regional or supreme courts for criminal prosecution. A more substantial analysis of all records may therefore highlight different trends.

During the study, it became evident that newspaper reports reflected a

racial bias, being more likely to focus on the murders of white women than on the murders of women of other race groups. Different trends may possibly emerge then, from sources that are more racially representative.

Newspaper reports focused on the murders of white women rather than on the murders of women of other race groups

As this was a pilot study, it must be acknowledged that the statistics and information presented cannot be generalised to the population as a whole.

Many of the trends described in the study will need to be substantiated by other sources of empirical data, as well as interviews with family and other actors. The study did, however, provide some insights into the phenomenon, as well as identify potential areas for further study.

Selected findings

Sixteen (or 56%) of the 29 murders identified in the inquest records were committed by male partners or friends. This strengthens the hypothesis that women are at greater risk of being murdered in familiar environments by men known to them, than they are at risk from strangers in strange places. It is ironic (if not tragic) that women continue to be warned incessantly of 'stranger danger' when intimate partners and acquaintances emerge as the greater threat to their safety and security.

This study identified 130 separate incidents of intimate femicide. As 11 of these cases occurred prior to 1993, then at least 119 incidents of intimate femicide took place during 1993 and 1994. In other words, a woman was killed by her partner every six days during this two year period. But this figure needs to be treated as an underestimate.

While collecting reports, a number of other cases were found where, at the time of the report, the woman was still alive, although in a critical

condition. It is possible that these women may have died at a later stage (unfortunately, there is no media follow-up of these cases).

Newspapers also did not report on every murder that occurred; only a quarter of the cases in the inquest sample received newspaper coverage.

Considering the prevalence of intimate femicide, it is essential that further research attempt to identify specific risk factors. One such factor suggested by this study is divorce or the ending of the relationship.

At least 23 out of the total 130 cases examined appear to have been directly prompted by the partner's inability to deal with this ending. Perhaps the most trivial motive for murder was that precipitating Christina Kunene's death. When her partner returned home one night to find no dinner waiting for him (because Ms Kunene had had no money to purchase food), he beat her so severely that she died of her injuries a few days later.

At least 119 incidents of intimate femicide took place during 1993 and 1994

Another priority may be educational programmes aimed at primary and high school pupils. Approximately 14 women of the newspaper sample of 118 were estimated to be 20 years and younger, the youngest victim being 14 years old at the time of her death. The youth of these women is cause for concern as it suggests that young women may become involved in abusive relationships while still adolescents.

To date though, little or no attention (in South Africa at least) has been focused on violence within dating relationships; it appears to have been assumed that violence occurs only in longterm or marital relationships. This assumption ignores the fact that young women start dating fairly early, often going out with men quite a few years their senior.

Young women and men, lacking experience in relationships may depend upon romanticised and idealised depictions of love. Possessive, controlling behaviour, for example, is interpreted as 'true love' while male sexual aggression is considered normal, and even desirable (Levy 1991).

Left unchallenged, these caricatures of relationships, and male and female behaviour, may be all that is available to adolescents seeking information and role models. And certainly within the larger context of South African society, it has been noted that

"the increase in township based youth violence has most notably been accompanied by a dramatic increase in violence that is specifically directed against young women."
(Mokwena 1991:17)

Provocation

Men who kill their partners do not stand apart or isolated from broader society; they are in fact very much part of a society well able to understand – if not accept – that some men should feel an overwhelming urge to kill their partners. The role of provocation for instance was frequently included as a mitigating factor in a host of judgements. It seems then, that judicial officers, among others, subscribe to folk theories of the male mind which assume that it is an unbearable provocation for a man to discover his wife's infidelity – his violent response is understandable under the circumstances (Daly and Wilson 1992).

Possessive, controlling behaviour, for example, is interpreted as 'true love' while male sexual aggression is considered normal

□ Elena Tamas

'Mr Tamas said he had lost control after being provoked by his wife's allegations' (*The Citizen*, 5 May 1994). These included her admission that she had been

drugging Mr Tamas with sleeping tablets so that she could sleep with a younger boarder. No doubt adding insult to injury, Ms Tamas went on to say that she 'even had oral sex with him' (the boarder) (*The Star*, 5 May 1994). According to Mr Tamas's testimony, the provocation offered by such a statement was so great that he experienced an overwhelming attack of 'non-insane autonomism'. During this bout of amnesia he beat his wife to death by banging her head against a wall.

The typical response of society to domestic violence has been indifference and denial

□ *Dolly*

Provocation was again accepted in the trial of Johannes Mncwabe who killed his girlfriend Dolly (no surname available) out of 'extreme provocation' (*The Star*, 17 February 1994). Dolly fell and knocked her head after being hit by Mncwabe when he found out that she had slept with a colleague.

□ *Patricia Strydom*

Patricia Strydom was beaten to death the day after she was married. The events leading to her death began with an argument that ended with Ms Strydom saying that she wanted to stay with a relative. Before she was able to drive away, her husband pulled her from the car by the hair and dragged her into the house.

In the ensuing fight, Ms Strydom accidentally knocked over a lamp given to her as a wedding present by her husband. When Mr Strydom asked why she had broken the lamp, Ms Strydom apparently responded by saying that she had only married him to spite her previous husband. "I completely lost control" said Strydom, explaining why he had kicked and punched his wife and beat her head against the wall. Magistrate H Wolmarans described the murder as a 'tragedy', prompted in part by alcohol and provocation (*The Star*, 23 June 1993).

□ *Elizabeth Makhowane*

Elijah Nzibande was also ostensibly provoked into murdering Elizabeth Makhowane according to Justice Els. Ms Makhowane had told Mr Nzibande to move out of the shack as another man was moving in that night. Mr Nzibande said she then assaulted him and hit him on the head with a brick. Admittedly, this is an aggressive action but it does not justify murder – for Mr Nzibande retaliated by setting the shack alight some time later in the day. Both Elisabeth Makhowane and her two young daughters were burnt to death (*The Sowetan*, 24 February 1993).

This understanding of provocation fits neatly into what American criminologists Wilson and Daly (1992) have termed male sexual proprietariness. This is defined as:

"A tendency to think of women as sexual and reproductive 'property' that they can own and exchange ...

Proprietariness implies a more encompassing mind-set (than jealousy), referring not just to the emotional force of one's feelings of entitlement but to a more pervasive attitude towards social relationships.

Proprietary entitlements in people have been conceived and institutionalised as identical to proprietary entitlements in land, chattels, and other economic resources."

□ *Francesco Gobbi*

Francesco Gobbi was shot in the head by her ex-husband Giuseppe di Blasi in September 1992. Despite the fact that the couple had been divorced the previous year, di Blasi had continued to harass Ms Gobbi, assaulting her, as well as attempting to kill her on at least two occasions. Ms Gobbi eventually obtained a British High Court injunction against di Blasi and came to South Africa (*The Star*, 25 August 1993).

This is his explanation as to why he shot Ms Gobbi:

"I felt I would be committing an act of mercy by killing her ...

she looked straight into my eyes. She knew it was the end. She tried to run but I shot her in the back. I was determined to kill her. I felt no guilt. The guilt was hers alone. I was the victim not she"
(*The Star*, 24 August 1993).

Di Blasi seems to have thought of Ms Gobbi as a 'thing' that belonged to him – a perception shared by defence psychologist Hendrik Venter. At one point in the trial, Ms Gobbi is described as the most precious possession he (di Blasi) ever had. Di Blasi may also have believed that Ms Gobbi's primary purpose in life was the satisfaction of his needs. The reciprocal recognition of her needs appears never to have been considered, so Ms Gobbi was apparently killed for the humiliation and dishonour she brought him by suing for divorce.

Apparently di Blasi found this dishonour particularly unbearable, 'deeply rooted' as he was in Sicilian culture where marriage was considered sacred, divorce unacceptable and 'where men were quick to defend their honour when it came to their women' (*The Citizen*, 28 August 1993). Lest di Blasi be thought of as an aberration, psychologist Hendrik Venter explained that he had since been approached by a Portuguese man who said he identified with di Blasi's humiliation because women belonged to their husbands and it was important for di Blasi to 'keep that woman' (*The Citizen*, 28 August 1993).

Social change encouraging men not to think of their partners as 'things' that they own, is essential

This combination of ethnic stereotyping, linked to descriptions of di Blasi's apparent psychological torments, appears to have been successful in securing di Blasi a four year prison sentence. It also appears to have touched Justice DM Williams' sensibilities deeply for he said that:

"behind the bare facts of the deliberate killing of di Blasi's

ex-wife, lay a story of heartache and obsessive love which evokes much compassion ... the court felt deeply sorry for di Blasi but deplored his action" (The Sowetan, 24 September 1993).

This particular case presents a number of challenges to anyone interested in preventing intimate femicide. Legal remedies, in the form of divorce and a High Court injunction, quite obviously did not protect Ms Gobbi, mainly because di Blasi seemed so determined to kill her.

In this instance, the kind of social change that does not encourage men to think of their partners as 'things' that they own, is essential. The myth of the hotblooded Mediterranean with its quaint notions of male honour, can also not be condoned.

The typical response of society to domestic violence has been indifference and denial – a combination very likely to foster an environment that ignores intimate femicide.

Janine Bellingan's fear that her husband would kill her appears, by and large, to have been dismissed

as the fantasies of a 'drama queen' who seemed 'somewhat neurotic.' One witness in her husband's murder trial stated 'we didn't really want to hear too much about it – and we were not sure if it was factual' (*The Citizen*, 20 April 1994).

What is needed from society is more compassion for the victim and less identification with the perpetrator

Or there is the example offered by academics at Pretoria University. Testifying in mitigation of sentencing for David Jacobs, Professor Schotz said that Mr Jacobs' academic work was very valuable and it would, from a scientific point of view, be a shame if he was removed from society (*The Citizen*, 9 June 1993). This perspective can only be reached – and maintained – if one is prepared to ignore the victim and phenomenon entirely.

Finally, preventing intimate femicide may sometimes be as simple as responding to a woman's screams. After Nomali Hadebe was murdered by her partner, a fellow resident said, 'Her screams went on

for three hours. We were able to sleep only when she stopped screaming.' During these three hours Ms Hadebe was 'beaten all over her body, given electric shocks, stabbed and hacked on the head' (*The Sowetan*, 1 November 1994). It appears that nobody had thought to investigate the cause of Ms Hadebe's screams.

As more research into intimate femicide is initiated, and strategies implemented to combat intimate femicide, it is hoped that men's proprietorial attitudes towards women may one day be remembered as an example of archaic folly. In the meantime, what is needed from society is a little more compassion and sorrow for the victim and a little less identification with the perpetrator. [L]E[Q]

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Gender and the Truth and Reconciliation Commission

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By viewing our past through a gendered lens we gain a deeper understanding of how our particular history has shaped the lives of all South Africans.

This paper is concerned with the process of uncovering the experience of past human rights abuses and violence which is being undertaken by the Truth and Reconciliation Commission (TRC). Its central concern is to highlight the importance of a gendered perspective in understanding this experience.

This is a summary of a much larger document which was presented to the TRC as a contextual submission. Here we first examine the reasons for developing a gender analysis of political violence. We then consider one area of the TRC's focus, that of human rights violations. We explore the gendered experiences of victims in a range of situations of political violence. Finally, we suggest that the findings of our research have certain practical implications for the TRC and we make certain proposals in this regard.

Why gender ?

Gender refers to the social construction of masculinity and femininity, not to the sexual differences between men and women. In particular it highlights how power is constructed around these identities, and thus how women have been subordinated and oppressed through socially constructed differences.

Gender has accorded women identities which cast them in particular social roles which have restricted their civil and political status.

These form the basis of the 'public-private' divide, which has given to men the role of civil and political representative of the household, to the exclusion of women. Intersecting with gender are also race, class and other identities, such as ethnic and religious allegiances.

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Human rights violations

The Promotion of the Truth and Reconciliation Act 34 of 1995 defines 'Gross violation of human rights' as comprising 'the killing, abduction, torture or severe ill-treatment of any person'. We advocate that the words 'severe ill-treatment' should be interpreted to include a wide range of abuses which took place under apartheid.

Detention without trial itself is severe ill-treatment. Imprisonment for treason against an unjust system is severe ill-treatment. Forced removals, pass arrests, confiscation

of land, breaking up of families and even forcing people to undergo racially formulated education are all forms of severe ill-treatment.

In addition, the gendered dimensions of this system had an added dehumanising effect on many people's lives. The influx control system, lynch-pin of the migrant labour system, not only separated families, it also criminalised a huge number of men and women who were merely trying to be together and to find work to support themselves and their families.

While men's lives were hard under apartheid, women suffered even greater economic burdens and social restrictions

Apartheid crippled people's lives, and forced people to live under assumed identities and deny their origins. It forced husbands and wives apart and tore at the fabric of community and family life. However, the law, and its implementation and effects, were different for men and women. While men's lives were hard under apartheid, women suffered even greater economic burdens and social restrictions that oppressed them and caused suffering. Lydia Kompe, an MP and founder of the Rural Women's Movement, described her suffering:

"It was an internal violence... I lived in a society for many years using false identities for my survival because I was a victim of the influx control... I had to do away with my own African culture, with my own self, and call myself a different thing so that I could come and work, because I was not allowed to work in the so-called 'proclaimed area' of Johannesburg, because I didn't

qualify. I was a rural woman. I had to use false names and false identities... The surname Kompe is not my surname, it is a false one... I respect that name because it made me bring up my children and send them to school."

It is important to see women as primary, not secondary victims because they themselves suffered directly

One of the harshest legacies of apartheid is the poverty it caused and the worst victims of this poverty are women. The Truth Commission needs to acknowledge all forms of past suffering in some way, even if its main attention must remain focused on the most extreme cases of violent rights abuses.

Gender and political violence

Women as direct and indirect victims

The definition of victim in the Act also includes relatives or dependants of victims. This is very important since it locates wives, mothers and children in centre stage as having suffered 'gross violations of human rights'. It is important to see these women as primary, not secondary victims because they themselves suffered directly.

Women in prison

In prison, physical torture was combined with psychological torture to target women's femininity and sexuality and all were experienced in a gendered way. They were used effectively to undermine women detainees' sense of self.

Accounts of women's experiences in detention, recorded by the DPSC in 1987 (FEDTRAW 1987) include assault and electric shocks on pregnant women; inadequate medical care leading to miscarriages; teargassing; solitary confinement; body searches and vaginal examinations; rape and

forced intercourse with other prisoners; foreign objects including rats being pushed into women's vaginas.

In accounts by former detainees in South Africa, physical assaults against women were combined with an assertion of male potency in order to undermine their sense of personal and political identity. Jenny Schreiner described how the physical violence she experienced while being tortured came as a particular shock to her as a woman. Her interrogator use physical force to assert his power and control over her, but at the same time referred to her sexuality as a means of identifying her vulnerability as a woman.

The threat of rape

Rape and the threat of rape have been a constant feature of women's detention experience in South Africa. In an anonymous interview (Agenda 1989), one woman described her experience in detention.

"Some women actually have been raped in detention. And you yourself whilst you are there you have that fear the whole time that you can be raped. I had that fear, in particular after I had been up at the police offices for interrogation and one of the security police intimated that the best treatment for me would be rape."

The police developed sophisticated methods of psychological torture which specifically aimed to undermine women. These methods targeted the traditional roles and social location of women. Women detainees were made to feel they were unfeminine, irresponsible, or immoral.

Violence perpetrated by women

It is important to note that the perpetration of violence is not the preserve of men alone. Institutionalised violence was perpetrated by women in their capacity as officers of the state. There have been press reports of

women in hostels organising sex slavery and women central to the necklacing of informers. Witch-burning has included women as much as men.

Many feminist theorists have attempted to explain why women sometimes collude in their own oppression and are even complicit in the oppression of other women. We do not attempt to outline these debates here but a host of possible reasons emerged from our research

One was that economic issues were at the forefront in a situation of high township unemployment (Duarte 1996). Mokonyane spoke also of the devastating effects of fear and uncertainty on family life.

A conscious strategy of destroying families of opponents by the state also emerged from our informants' stories. Wives were recruited to spy on their husbands or other family members, and were often enticed into other sexual relationships which ended in divorce.

Some acts of complicity are more difficult to explain, such as sadistic torture of women by women. Mokonyane mentioned the case of 'a woman pumping water into another woman's fallopian tubes or attaching electric shocks to another woman's nipples'.

Wives were recruited to spy on their husbands or other family members as a conscious state strategy of destroying families

Understanding that women are capable of perpetrating violence enables us to see that women are not monolithic in their outlook as a group and are not bearers of certain essential qualities such as kindness and compassion.

Women, like men, are divided by race, class and ideology, quite apart from the important aspects of individual psychology and pathology. Many women supported apartheid and were fundamentally convinced through their experience of the society, that racism and violence were necessary

mechanisms to ensure order, stability and to maintain a particular way of life.

Township violence

In the townships, many women were victims of township punishment meted out to ordinary residents who were accused of complicity or collaboration with oppressors.

The infamous 'necklace' was one such method. In consumer boycotts failure to heed proscriptions on certain shops could lead to assault or even death.

Pule Zwane (Zwane 1994) has conducted a fascinating and chilling study linking rape in the townships to the decline of political organisation, coupled with unemployment and other factors. A group of youth in Sebokeng actually formed a group called South African Rapist Association (S.A.R.A.), which grew from a lack of political direction.

Yet much of the official perception is that men are the main victims of violence. This was reflected in assistance provided after the Boipatong Massacre of June 1992. Jessie Duarte (CALs workshop 1996) pointed out that:

"there were 128 people who died in that massacre and 73 people who were eventually accused of having perpetrated that massacre. Of the 128 victims about 48 were men and the balance (80) were women...It was only the families of the men who were ultimately provided with legal assistance. The single women who died in that incident were completely ignored. They were totally and absolutely ignored as if they had nothing to contribute to society so they didn't need to be given any kind of legal support".

Conflict in KwaZulu-Natal

The conflict in Natal is too complex to deal with in any depth in this paper. Much of it seems to revolve

around access to political power and material resources. The struggles created an enormous refugee problem. More than a million people fled their homes during the decade following the upsurge of violence in the mid-1980s.

Jenny Irish (Irish 1993) coordinator of the Network of Independent Monitors (NIM) gave evidence that in the refugee centres on the South Coast of Natal, sexual harassment appears to have been prevalent, and 'at least three women were forced to flee the camp after being raped by men in the camp.'

Violence in the camps

We were unsuccessful in our attempts to speak to women about their experiences in the camps.

We interviewed Thenjiwe Mtintso, a senior member of the ANC's army about her experiences. She said she had no personal experience of sexual abuse in the camps, but was aware of allegations of rape in the camps and said that women are reluctant to talk about their experiences for two reasons.

The confidentiality clause (section 38 of the Act) should be more openly publicised to encourage women to come forward

Firstly, on a personal level, they are not easily able to talk about rape. Secondly, on an organisational level, they do not wish to have their experiences used politically in the TRC where apartheid is equated morally with the ANC's actions. Some of these women have chosen to participate in an organisational submission being prepared by the ANC rather than come forward individually but it is as yet unknown whether the submission will cover acts such as rape.

Mtintso saw parallels between the anger of the security police and some of the men in the camps towards independent and strong women. She suggested that the lack of counselling and support

structures in the camps may have exacerbated the psychological problems of some people.

Mtintso also spoke about the rapes and sexual abuse that occurred in the underground structures of the liberation movement. She said that abusive men knew that women would not want to talk about having been raped, and so felt able to act with impunity.

The prevailing sexism in society coupled with the stresses of the underground lifestyle resulted in some men at times taking advantage of women.

There is currently a debate going on in Namibia about SWAPO torture of supposed 'informers' during the liberation struggle. The Namibian government attacked those raising the issues as divisive and disloyal opponents trying to raise something which should be best left in the past.

There is also a veil of silence in South Africa regarding some of the experiences within the ANC. We need to be cognisant of the psychological literature that indicates the difficulties many people face in talking about sexual abuse.

But we also need to consider the important goal of highlighting the abuse of women so that change can begin to occur in this regard. The only way to do this properly is to explore these issues openly – we do have to lift the veil of silence.

Recommendations

We made a number of practical proposals to the TRC on ways to accommodate gender. We specifically rejected the notion of a 'gender neutral' approach. Briefings of statement takers, as well as a safe environment for women to openly disclose any sexual abuse are vital.

Women may feel freer to talk to women than to men. The confidentiality clause (section 38 of the Act) should be more openly publicised to encourage women to come forward. Women's own

experience of violence should be solicited from those women who speak only for others.

The most significant of our proposals was the holding of women's special hearings, or group hearings, attended possibly by women commissioners only. This could be extended to a men's only hearing for cases of sexual abuse.

We also felt that expert evidence could become an important means of providing insights into some of the experiences of violence.

With respect to the amnesty issue, we felt that the issue of judicial attitudes towards credibility of women witnesses and the way the probability of their evidence is questioned ought to be understood. This relates to judicial ignorance of the social context of women's experiences, proven male identification with witnesses and accused persons and stereotyping of women's position.

Gendered assumptions creep into judicial fora and the Commission needs to consider how they should be handled. A number of NGOs are currently doing work on judicial training and could be approached for assistance in this regard.

The TRC must lift the veil of silence hanging over the suffering of women

Our submission to the TRC highlights many facets of the pain and suffering that violence in South Africa caused to women and men. It also focuses on the violence and inequality which are an ongoing part of women's lives in this country. These abuses are still occurring although within an altered political context.

By raising these issues within the TRC process we cannot simply put them behind us and assume that abuse of women has been neatly

dealt with in our past and reconciliation has occurred. Examining the conditions which allow women to be harmed and violated should focus all our attentions on the need to eradicate this ongoing abuse. If the TRC is to leave a valuable legacy it must lift the veil of silence hanging over the suffering of women and must incorporate the struggle to end this suffering in the struggle for human rights in our country. [LSE]

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Sexual Harassment at Work:

Are employers responsible?

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The new Labour Relations Act has remained silent on the issue of sexual harassment in employment situations – when it could have settled this problematic issue in a definitive way. This article holds that sexual harassment must not be considered as a women's issue, but rather a workplace issue for which employers must take responsibility.

Sexual harassment in the workplace can be broadly defined as the imposition of sexual requirements in the context of a relationship of unequal power (Mackinnon 1979). Behaviour which qualifies as harassment can range from verbal innuendo, jokes and inappropriate gestures to indecent assault and in its most extreme form, rape. In the majority of cases it is women who are the victims of sexual harassment in the workplace.

Little has been done to promote the equality of women in employment despite their contributions to the labour force. Women constitute approximately 30% of all employees in formal employment in South Africa. These figures do not however reflect the work done by women outside the formal sector – in the home and in subsistence agriculture. Even in the formal sector women are predominantly found in low status jobs where they earn little.

The purpose of this article is to discuss the extent to which employers should be held responsible for sexual harassment in the workplace. I shall begin by discussing the law as it presently exists in South Africa and thereafter I shall draw on the experience of the American and English systems and analyse the difficulties with their approaches.

South African law

Criminal law

Sexual harassment is regarded as a crime against the bodily integrity of the person and it is therefore a crime. Harassment may be a species of *crimen injuria* - assault, indecent assault, rape and in some instances extortion. The action is against the harasser personally and will be taken up by the State (Burchell & Hunt 1983). The employer will not bear responsibility unless there was a duty to act. Criminal responsibility will only follow where there is a legal and not a moral duty to act.

Labour law

The Industrial Court has treated sexual harassment as an unfair labour practice. It is ironic that the whole issue has come before the courts through 'the back door' as the cases which the courts have heard are those of the harasser challenging his dismissal as being unfair, rather than the victim of the harassment asserting an unfair labour practice.

South African case study

In *J v M* (1989 ILJ 7) the leading South African case on sexual harassment, the applicant was employed as a senior executive employee by the Respondent. The

applicant had received prior warnings to refrain from conduct which several women under his authority had found to be offensive. There had been numerous complaints about his behaviour and some women had resigned as a result. The court held that the applicant's prospects of success in the Labour Relations Act 28 of 1956 s46(9) determination would be slender and as a result refused to grant the applicant the s43 relief which he sought. The court went further and pronounced its views on sexual harassment in the workplace as follows:

"Sexual harassment ... is a serious matter which requires attention from employers. Sexual harassment, depending on which form it takes, violates that right to integrity of the body and personality which belongs to every person and which is protected in our legal system both civilly and criminally. An employer has a duty to ensure that its employees are not subjected to this form of violation in the workplace."

New Labour Relations Act

The new Labour Relations Act 66 of 1995, which comes into effect in August this year, does away with the concept of the unfair labour practice, but does retain it in certain circumstances in terms of Schedule 7 as a 'residual unfair labour practice' and it would seem to include harassment as a species of sex discrimination in terms of section 2(1)(a) which will only be an unfair act or omission that arises between employer and employee.

The implication of this is that sexual harassment would be dealt with by our courts in the same way as the American and British courts have done. There are various problems

with their approaches which will be addressed at a later stage.

Unfair labour practice

The current relief available in terms of the unfair labour practice jurisdiction is relatively ineffective. The industrial court is limited to instructing an employer to cease the unfair labour practice or restore the position to that which existed before the introduction of the unfair labour practice.

The industrial court's purpose regarding compensation is to redress an unfair labour practice in so far as monetary compensation can do so (Labour Law Briefs September 1990). The court may compensate the applicant for losses which have been caused by or are attributable to the unfair labour practice being committed by the respondent.

The industrial court may award patrimonial loss and will in certain limited situations award compensation for sentimental loss (Labour Law Briefs September 1990).

Women avoid confrontation

Experience has shown that the victims of harassment have not pursued the route of obtaining relief via the industrial court, which is partly due to the fact that women's issues have not been regarded as a priority by the trade union movement in the past. They cannot however carry all of the blame as the way in which women's conditioning has taught them to respond to confrontation is also part of the problem. It has been found that women would rather avoid confrontation and resign when sexually harassed, than 'make a fuss' (Dancaster 1991).

Sexual harassment in the US

American federal courts have interpreted the concept of sex discrimination to include sexual harassment under two causes of action:

Firstly, the quid pro quo claim where the employment related consequence of the non-compliance

with the sexual requirement is regarded as unlawful and not the sexual harassment 'per se.'

Secondly, the hostile environment claim which is problematic in that where the woman has not retaliated she will not have a claim. This was recognised by the Equal Employment Opportunity Commission (EEOC) in 1980 when it issued guidelines on sexual harassment.

The EEOC's view was that sexual harassment was also unlawful where it had the effect of creating an intimidating, hostile or defensive working environment (Dancaster 1991).

These guidelines did not however have the force of law and it was only in the case of *Bundy v Jackson* (Vinciguerra 1989) that the hostile environment approach obtained the force of law. The court held that a person would be guilty of illegal discrimination if his/her behaviour had the effect of /purpose of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

In a quid pro quo harassment claim the plaintiff must show a causal link with a term or condition of employment and then pecuniary relief will follow. In the hostile environment claim however, the plaintiff has limited relief for pecuniary damages because of the requirement that the harassment must be sufficiently pervasive to alter the conditions of employment.

The courts have concentrated on the hostile environment claim to the exclusion of the quid pro claim with the result that they have failed to recognise the subtle interaction between both types of claim (Vinciguerra 1989).

Employer liability

The EEOC guidelines require that the workplace be free from sexual harassment and intimidation and that employers take a firm, proactive role in the prevention of sexual harassment in the workplace (Rubenstein 1983).

In *Horn v Duke* (Vinciguerra 1983) the court adopted an 'allocation of risk' analysis. It held that if torts (delicts in our law) are reasonably foreseeable and the employer is, from a cost perspective, more efficiently able to avoid the risk, the employer and not the plaintiff, should bear the cost of the torts of its employees as a required cost of doing business.

Here the strict liability approach was favoured by the court which had the effect of placing greater responsibility on the employer to take action against the harasser in the workplace.

The Appeal court in the *Meritor* (Vinciguerra 1983) decision altered the approach previously adopted by the courts to employer liability in sexual harassment cases. Strict liability no longer applied, but was overruled by the principles of agency. The Court of Appeals reversed the decision of the lower court, holding that supervisors are the 'agents' of their employers and therefore employers are liable for the actions of their supervisors, regardless of whether they have notice of such conduct.

The United States Supreme Court held that the strict liability test was to be rejected and that by using the word 'agent' Congress had intended to place limits on the acts of employees for which employers may be held responsible (Vinciguerra 1983). The key to the employer's liability then lies in the authority granted to the supervisory personnel.

The implication of this is that the employer would rarely be held liable for sexual harassment committed by an employee because the objectives of the employer are not furthered thereby. Perhaps however if the broader principles of agency were to be applied, then employers would be liable on the basis of their delegated authority (Dancaster 1991).

British examples

The Sex Discrimination Act (Rubenstein 1983) imposes a strict standard of vicarious liability

rendering the employer liable for acts done by a person in the course and scope of his employment, whether or not they were done with the employer's knowledge and approval.

The employer has a defence if he/she can show that they took such steps as were reasonably practicable to prevent the employee from doing the act of which the complaint is made (Rubenstein 1983).

Discrimination against one woman/group of women, defined by gender for special treatment is regarded as unlawful where a comparable man is similarly treated, even though not all women are discriminated against in this way.

South African examples

Delictual issues

Employees may sue in the civil courts for damages suffered as a result of the harassment suffered. There are three instances when an employer who did not actually commit the act may be joined as a co-defendant:

- Where the employer knows that the act was being committed and was negligent in taking or failing to take steps to prevent it.
- An employer is vicariously liable for the delict of an employee whose acts occur within the course and scope of employment.
- The employer's liability may be extended on the principles of agency to include those in a supervisory capacity - where the power delegated to the supervisor includes the right to hire and fire or generally judge the employee's performance, the supervisory employee may abuse the power in order to obtain sexual favours. The employer will still be liable to the harassed employee on the basis of the law of agency (Dancaster 1991).

This delictual action does not award the plaintiff loss of income in the form of pecuniary damages, but rather awards 'sentimental damages', thus compensating the victim for his/her loss of dignity, reputation and bodily integrity.

Common law cause of action

It is my submission that we already have a cause of action in our law which no-one has to date exploited. The following four elements must be proved for liability to follow: a wrongful act or omission, fault, causation and patrimonial loss. To succeed under this action, a legal duty must exist. I submit the common law already provides us with such a duty.

It is the duty of the employer to set standards of acceptable behaviour which employees must abide by to create and maintain a healthy and safe working environment, which includes an environment free of sexual harassment.

The duty to provide a safe and healthy working environment requires employers to have clear enforceable policy and to ensure that employees are treated with respect (Campanella 1994). It seems the court in *J v M* (Campanella 1994) laid the basis for this approach.

Unbeneficial legislation

Anti-discrimination legislation which is based on the Aristotelian concept of equality requires a woman to show that she has been treated less favourably than a man in a similar situation (i.e. like cases to be treated like). Therefore a complainant must show that there is a male who has been more favourably treated. There are only a few women who are in the unusual position of being similarly situated to men and who would therefore be in a position to benefit from the anti-discrimination legislation.

I would agree with O'Regan's argument that by adopting an equity approach which focuses on groups rather than individuals we reproduce the significance of

groups and ignore the differentiation within members of the group. Our understanding of equality must be reconsidered. Equal treatment seldom produces equal results. We should rather focus on equalised outcomes which will allow us to take account of differences without this leading to discriminatory treatment.

A workplace issue?

It is my submission that although sexual harassment prevents in the main, women from full participation in the workplace, the correct place in which to find a satisfactory cause of action is not within the confines of the sex - discrimination law, but rather we should look no further than the common law. Sexual harassment should not be so much a 'women's' issue, but rather should be considered a workplace issue for which employers must take responsibility.

It is a resounding statement on the status of women in the workplaces of the:

"New South Africa' that the new Labour Relations Act, which would have been the ideal opportunity to settle this issue in a definitive way, remained silent on the issue of sexual harassment. It seems that once again sexual harassment must attempt to find its way into the courts through the 'back door.'" [PEW]

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Female Felons

Profile of White Female Prisoners in South Africa

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White female offenders are largely in their mid-thirties, come from single families with two or more children and occupy clerical positions. Most have been convicted several times for economic offences. Based on doctoral research, this article examines only white offenders as costs and the availability of data precluded studying other racial groups.

Traditionally, researchers in South Africa and elsewhere have paid very little attention to the profile and crime patterns of female offenders. During the past two decades research mostly focused on females as victims of crime. The research which this article is based on is an attempt to compile a profile of incarcerated white South African female offenders in terms of their personal characteristics, previous and current convictions, and crime patterns.

Research procedure

The study included all white female prisoners in South Africa in 1992. Cost factors and the availability of data precluded the study of other racial groups, although this is part of an ongoing research project which also aims to research the other racial groups. Three percent of the South African prison population constitutes females.

In terms of the 1991/1992 Correctional Services Report the breakdown by racial group was:

- white females 180;
- coloured females 711;
- Asian females 27;
- black females 2 510.

Although the prison population has increased considerably since 1992, incarcerated females currently constitute 2,3% of the prison population in terms of the 1995 Correctional Services Report. The racial composition remains unchanged.

The data was collected by means of a schedule designed for the purpose of the research and the following was taken into account:

Incarcerated females currently constitute 2,3% of the prison population in terms of the 1995 Correctional Services Report

→ *The availability of file information*
As all the relevant information was not available on computer, additional information had to be obtained from the files of the prisoners.

→ *Compilation of the questions*
The questions compiled from the information register (file), were divided into seven subcategories:

- Demographic information: age, birth place, marital status, language, study record, occupation, religion and number of children.

- Number of previous convictions.
- Nature of previous convictions.
- Nature of present convictions.
- Number of accomplices.
- Handling of the accused after sentencing for the previous as well as the current convictions.
- The various prisons where they were incarcerated.

A preliminary investigation was executed at Pretoria prison to establish what information could be obtained from the file.

All white female criminals in custody in the following prisons as at 31 August 1992 were included in the research: Pretoria (11), Johannesburg (37), Kroonstad (35), Durban (15), Pollsmoor (16), Port Elizabeth (6), Bloemfontein (3), Klerksdorp (2), Potchefstroom (3), Heidelberg (4), Louis Trichardt (1), Middelburg (1) and King William's Town (1). The total sample was 135.

Respondents' characteristics

Table 1 indicates that the age of the respondents varies from 18 to 60 years (94,1%) with 28,1% falling in the 31 to 40 year age group and 38 falling in the 21 to 30 year group. The average age was 36,5 years. Only two women were under the age of 20.

Most of the respondents (65,9%) were born in the city (Table 1). The higher percentage of sentenced women born in the city possibly indicates that urbanised women have more opportunities to commit crimes. Most of the respondents

were also single: 31,9% were unmarried, 23,7% divorced, and 5,2% were widows, while 39,3% were married.

Table 1: Characteristics of Respondents

Characteristics	n	%
Age:		
13-18 years	1	0,7
19-20 years	1	0,7
21-30 years	38	28,1
31-40 years	46	34,1
41-50 years	36	26,7
51-60 years	13	9,6
Place of birth:		
City	89	65,9
Rural area	46	34,1
Marital status:		
Married	53	39,3
Unmarried	43	31,9
Divorced	32	23,7
Widow	7	5,2
Language:		
Afrikaans	89	65,9
English	38	28,1
European languages	8	5,9
Qualifications:		
Std 6 or 7	13	9,6
Std 8 or 9	52	38,5
Std 10	52	38,5
Std 10 + 1 - 2 years	9	6,7
Std 10 + 3 years	4	3,0
Std 10 + 4 years	5	3,7
Occupation:		
Manager	4	3,0
Professional		
Medical related	2	1,5
Attorney, engineer	1	0,7
Administrative		
Clerical	68	50,4
Sales person	21	15,6
Services/Transport	1	0,7
Sports and recreation	10	7,4
Inactive/Housewife	28	20,7
Religion:		
Calvinist	45	33,3
Roman Catholic	12	8,9
Lutheran	1	0,7
Anglican	6	4,4
Methodist	16	11,9
Apostolic Religion	40	29,6
Islamic Religion	3	2,2
Traditional (ZCC)	1	0,7
Baptist	8	5,9
No religion	3	2,2
Children:		
None	31	23,0
1 child	22	16,3
2 children	33	24,4
3 children	26	19,3
4 children	14	10,4
5 children	4	3,0
6 children	3	2,2

It is generally accepted that marriage has a stabilising influence on people, and this seems to be true with regard to the research group.

Crime is also frequently linked to poverty. As most of the respondents are one parent families, economic needs may have influenced the criminal careers of these women. This viewpoint is confirmed by Chapman (1979), who avers that women who are exposed to the correctional system are almost always poor, without work, have little or no skills and have a low level of education. They are usually the sole household providers and have more than one child.

It is further evident that most of the respondents are Afrikaans speaking (65,9%) while 28,1% are English speaking (Table 1). According to census figures, white Afrikaans speaking women number 1 329 911 (59,5%), while there are 906 983 (40,5%) English speaking white women (Central Statistical Services 1991). Afrikaans speaking women are therefore over-represented in prison by 6,4%. The reason for this is not evident at this stage.

Most of the respondents (51,9%) have matric or a higher qualification, while 47,11% have lesser qualifications. Upbringing and education enhances a person's socio-economic circumstances, but higher educational qualifications

can also increase the opportunity to commit crimes. As most women have a matric, it appears that the latter may apply to the research group.

The respondents' level of education clearly has a bearing on their occupations before they were incarcerated. Table 1 indicates that most of the women (58,4%) were clerks, 20,7% housewives and 15,6% sales persons. Four occupied managerial posts, while 10 were in service positions (such as the police). Two were in the medical corps, one was a technician and one was in the transport services.

An employed person normally works outside the home which increases the opportunity to commit crime. It is also true that in a work situation push-and-pull factors present in the community can predispose a person towards crime. Push-and pull factors present in the community include phenomena such as poverty, unemployment, conflict and discord, minority group status and limited opportunities for individuals to improve themselves. Environment pulls are those factors that divert individuals from normal and socially acceptable life patterns (Siegal and Senna 1981).

Some of these factors may influence a single parent without the necessary qualifications, in a low paying job, to provide a child

Table 2: Comparison of Male/Female Crime Rates in Selected Countries for 1990

Country	Offence	Males	Females	Total
United States	Murder and homicide	15 219	1 752	16 971
England and Wales	Violence against the person	48 100	4 400	52 500
South Africa	Violence against person's life and body	78 002	12 649	90 651
United States	Sexual offences*	97 162	57 459	154 621
England and Wales	Sexual offences	6 500	100	6 600
South Africa	Indecent acts*	7 948	1 157	9 105
United States	Fraud and falsification**	181 873	129 860	311 733
England and Wales	Fraud and falsification	17 200	4 600	23 800
South Africa	Falsification and relevant cases	7 171	1 516	8 687

*includes prostitution.
**includes embezzlement.

(or children) with what they deem necessary. In order to withstand these factors a person must have very strong inner (intrinsic) control, which is influenced by factors such as self control, a positive self image, ego strength, a well developed superego, high frustration tolerance, strong resistance, a sense of responsibility, purposiveness and the ability to find other satisfactory forms of behaviour to reduce tension by rational means.

The fact that 66% of the women occupied low paying positions and that more than 20% were housewives, may be a factor which influenced them to commit crimes.

Multiple factors

This data suggests that multiple factors could have influenced these women in their decisions to commit crimes. As criminal behaviour is influenced by personal characteristics (intrinsic factors) and environmental factors (extrinsic factors), an integrated crime explanation model should be used to explain criminal behaviour. However, the critical question that cannot be explained is the consistently low rate of female crime in both developed and developing countries. In most countries, female criminality contributes some 12% to 15% of the total crime rate, as the following comparison shows.

The general consensus is that there should not be separate theories to explain female criminality, but the question can rightly be asked why females are less detrimentally effected by poor socioeconomic or psychological conditions than

Convictions	n	%
None	42	31,1
1	22	16,3
2	17	12,6
3	8	5,9
4	7	5,2
5	9	6,7
6	30	22,2
Total	135	100,0

Table 4: Previous and Current Convictions

Type of crime committed	Previous convictions		Current convictions	
	n	%	n	%
Against government authority and good order	6	4,4	6	4,4
Against communal life	20	14,8	14	10,4
Against personal relations	5	3,7	10	7,4
Against property and economic affairs	83	61,4	114	84,4
Against road traffic	7	5,2	2	1,5
Total (n = 135 = 100%)	121	95,8	146	108,1

males? If the low female crime rate can be ascribed to the different socialisation and social control methods to which females are

exposed, these factors should in future play an important role in the control of crime. Future research should focus on these aspects.

Table 5: Specific Crimes for which imprisoned

	Previous crimes		Present convictions	
	n	%	n	%
Government authority/good order				
Escaping from police custody	2	1,5	2	1,5
Resisting, obstructing police	-	-	2	1,5
Unlawful possession of fire-arms and ammunition	4	3,0	1	0,7
Perjury	-	-	1	0,7
Total number of crimes	6	4,5	6	4,5
Communal life*				
Indecent assault	-	-	1	0,7
Public indecency (prostitution)	12	8,9	4	3,0
Indecent pornographic publications	1	0,7	-	-
Dealing in drugs	4	3,0	2	1,5
Possession of drugs	15	11,1	10	7,4
Offences against the alcohol and gambling laws	1	0,7	-	-
Total number of crimes	33	24,4	17	12,6
Personal relations				
Assault with grievous bodily harm	3	2,2	-	-
Murder, attempted murder	1	0,7	9	6,7
Crimes injuria: defamation	1	0,7	1	0,7
Total number of crimes	5	3,6	10	7,4
Property and economic affairs*				
Theft	63	46,7	78	57,8
Burglaries	5	3,7	11	8,1
Robbery	5	3,7	4	3,0
Fraud (forgeries or embezzlements)	55	40,7	59	43,7
Total number of crimes	128	94,8	152	112,6
Road traffic				
Driving under influence of alcohol	4	3,0	1	0,7
Reckless driving	1	0,7	1	0,7
Other traffic violations	1	0,7	-	-
Total number of crimes	6	4,4	2	1,4

* Female criminals committed more than one crime.

Crimes committed

The types of crime which the research group committed, are of interest.

Table 3 shows that only 31,1% of the respondents had no prior convictions. Of the repeat offenders, most (22,2%) were guilty of six or more previous convictions, 12,6% had two previous convictions, while 17,8 had between three and five convictions.

The question can be asked why females are less detrimentally effected by poor socioeconomic or psychological conditions than males?

Table 4 shows that most of the convictions concerned crimes against property and economic offences: 61,4% in the case of previous convictions and 84,4% for current convictions. The contention that most crimes committed by the respondents are for financial gain, is thus confirmed. The second most prevalent crime committed by the respondents was against communal life: 14,8% – previous convictions and 10,4% of the current convictions.

In terms of Table 5, most respondents were convicted for theft (previous convictions 40,7%; current convictions 43,7%) and fraud (previous convictions 40,7%; current convictions 43,7%). Very few women were imprisoned for crimes such as possession of drugs, murder or traffic offences.

Profile

In terms of the research findings, the following profile can be drawn of incarcerated white South African females:

- Age: older than 30 years (70,4% – average age: 36,5 years).
- Birth place: urban (65,9%).
- Marital status: single – not married, divorced and widowed (60,7%).
- Language: Afrikaans (65,9%).
- Qualifications: standard 8 (38,5%) and standard 10 (38,5%).
- Occupation: clerical (50,4%).
- Religion: mostly Calvinistic/Apostolic (62,9%).
- Number of children: two or more (70,8%).
- Previous convictions: for those guilty of more than one crime – crimes against property/economic affairs (94,8%).
- Current convictions: for those guilty of more than one crime: crimes against property and economic affairs (112,6%).
- Previous convictions: equal distribution between none or one (47,4%) and two and more (47,4%).

- Previous sentences: suspended sentence (52,6%); short term prison sentence (24,4%); long term prison sentence (20,7%).
- Current sentence: long term prison sentence (88,8%); short term prison sentence (11,1%).
- Crime pattern: theft (43,7%); fraud (43,7%).

Economic factors such as poverty and low income seem to be important contributors to women's criminal behaviour

Conclusion

Incarcerated female criminals are in their mid-thirties, come from single families with two or more children and mostly occupy clerical positions. The majority have been convicted several times for economic offences, predominantly theft and fraud. Economic factors such as poverty and low income seem to be important contributors to their criminal behaviour. [12]

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The Nedcor Project on Crime, Violence and Investment

Extracts from the executive summary of the recently released Nedcor Project examine findings regarding the impact of crime and violence on business and on foreign investment. Business perceives government as failing in its political role to deal with the problem. For investors, crime is not nearly as important as political violence and conflict related to industrial action. The Project's recommendations are also outlined.

Over the past two years, providing statistics on crime and violence in South Africa has become a growth industry with an understandable scepticism developing in its wake. Statistics reflect only crimes reported to the police and it is estimated that underreporting of crime in South Africa could be as high as 50%.

This and other factors such as unreliable census figures raise doubts about the accuracy of current statistics. Nevertheless, statistics are vital for understanding crime, and the Nedcor Project used them extensively.

In terms of reported crimes, the incidence of crime in South Africa is well above the world average. South Africa's recorded crime rate is 5 651 per 100 000 persons, while the international average is 2 662 per 100 000. This places South Africa roughly at the same level as countries such as Norway, the USA and France.

However, these developed countries have excellent crime statistics and high levels of crime reporting, which make comparisons very favourable to South Africa.

South Africa is probably the most murderous society on earth. Our reported murder rate is 45 per 100 000, while the international average is 5,5 per 100 000. Only the Bahamas has a higher reported murder rate than South Africa, with

the notorious Colombia coming close.

The Nedcor Project

The Nedcor Project on Crime, Violence and Investment is a response to the seriousness of the crime situation, within the framework of the roles and responsibilities of business in respect of crime. The Project has the following objectives:

- To produce a short, comprehensive overview of the crime and violence situation in South Africa.
- To identify and describe causes of the current crime wave.
- Based on the above, to identify specific actions that could be taken by business to reduce the impact of crime.
- To assess the impact of crime and violence on foreign investment.
- To identify large scale crime prevention initiatives that business could undertake.

The Project accepted the dominant international model of crime prevention and control in which these functions are designated – ultimately and exclusively – to government. A democratic government is accountable for the management of crime and requires

a policy, strategy and implementation programme to carry this out.

Despite this, governments universally cannot succeed in crime prevention and control without actively cooperating with many other agencies, including business and the community. Government's crime prevention strategy has to be developed in consultation with other actors, for whom reasonable and sustainable roles must be defined.

National Crime Survey

In October 1995 the Nedcor Project conducted a National Crime Survey regarding the experience of crime and violence in households across the country. In the first eight months of 1995, 18% of all South African dwellings experienced some form of crime or violence against adults.

The most common crime against adults was robbery (19%) and against children – rape (59%). The costs of crime involving property or additional expenses to households is estimated at R1,7 billion per annum.

The Survey revealed that crime dominates – to an unprecedented degree – the concerns of all South Africans. Of the respondents surveyed, 45,6% believed that crime was the most serious current problem. Other problems rated significantly lower as shown below:

Problem: Respondents rating it most important	
Crime	45,6%
Unemployment	18,1%
Lack of housing	3,6%
Poor education	2,0%

Impact on business

The Survey measured the impact of crime on South African businesses and on these organisations' investment decisions. The survey was based on a sample of businesses (large, small and clusters) and persons knowledgeable about business.

The broad overall picture seems to be that individual businesses experience around one crime per business every two years, but with the physically more vulnerable operations experiencing crime more frequently.

It is revealing to compare the incidence of crime in the business context to that in the personal lives or at the houses of the business owners or managers interviewed. The incidence of crime they experience is three times higher in the business context than in the personal or domestic sphere.

Using information provided by respondents, the Project calculated that the average cost, loss or damage of each crime was R42 300. This is almost nine times higher per crime than the losses sustained in the average personal crime affecting the interviewees, which amounted to R5 000.

Given that businesses experienced an average of one crime every two years, the direct costs of crime amount to around R21 000 per business per annum. If this amount is multiplied by the approximately 750 000 formal businesses in South Africa, the national cost of crime to business amounts to R15,8 billion per annum.

The business people surveyed see South Africa's recent political transition as positive for investment and growth – it is among the half dozen factors regarded as most important in encouraging investment. Regrettably, however, the upsurge in crime has more than negated the positive economic effects of democratisation.

Crime dominates the major disincentives felt by respondents, which also include fear of political

instability, pressures from unions, general anxieties concerning future stability, and concerns over interest rates and future fiscal policies. Of small businesses surveyed, 82% cited crime as a reason for not making further job creating investments – 77% in cluster business and 59% in big business responded similarly.

The extent to which hijacking trucks and vans dominates the effect of crime is surprising. This includes attacks on trucks carrying goods produced, supplies, cash and equipment. The rate of hijacking has escalated due to increased security at business premises. Vehicle transport is clearly the most vulnerable operation of business and is thus targeted to an increasing degree.

Respondents were also asked whether they had actually stopped or postponed investments or expansions over the past 12 months, and if so, why. The results suggest that crime is significant, but not the most influential factor in discouraging investment and expansion. Among small businesses, however, crime is the second most important factor inhibiting expansion.

Collectively, these results suggest that crime is associated with a reluctance to embark on new investments or expansions. Crime is not the primary factor, but an important secondary factor, particularly among small businesses. There can be no doubt, however, that the crime wave – particularly vehicle hijacking – is contributing substantially to a lack of confidence in business's operating environment.

These results and survey data on business people's thoughts on combating crime, reveal four interacting themes:

- To a large degree in the perceptions of business people, crime and violence is hurting business, reducing confidence and diminishing investment.
- There is a widespread perception by business that the

state is failing in its political role to deal with crime, and that the criminal justice system is ineffective.

- Consequently, businesses have taken unilateral steps to protect themselves, leading to a huge growth in the private security industry, which is now larger than the SAPS. Businesses have to a lesser degree, entered into cooperative activities with other companies aimed at mutual protection against crime.
- However, a strong willingness remains to cooperate with government in creating and implementing an effective crime prevention programme, extending to a fairly open view on making available additional resources, despite a general view of already being highly taxed.

Foreign investment impact

A widespread 'truth' has arisen that crime and violence are negatively affecting foreign investment. After all, who would wish to risk capital in a crime ridden society? Which company would open an operation, exposing citizens of another country to levels of crime that South Africans find terrifying?

The study's focus is not on whether companies are concerned about crime, nor whether individual members have been victims of crime. The focus is specifically on the question: 'Does the present rate of crime and violence fundamentally influence decisions to (re)invest in South Africa?'

A total of 67 companies were interviewed on the basis of a standard questionnaire. Six countries and 18 business sectors were represented. The companies concerned had shown an interest in or were considering investing or had invested in South Africa.

The most pertinent finding is that current levels of crime are not an important factor in foreign companies' decisions to (re)invest in South Africa. Companies responded to a question on factors

influencing their investment decisions by stating 22 distinct categories of influence. The more important categories were cited up to 41 times and in all, the companies cited 223 specific influences.

'Crime and corruption' was mentioned only once, along with power costs and availability of raw materials. No clearer indication can be given of the relatively low level of influence this aspect of doing business in South Africa has on foreign investment decisions.

Political and industrial conflict

However, 'political and social stability' was the second most important influence in investors' decisions. This priority is supported by the finding in the consultant's discussions that foreign investors are much more concerned about political violence – specifically in KwaZulu-Natal – than about 'ordinary' crime.

Interviews clearly revealed that perceptions of crime and violence are relative to other experience: foreign investors assessed the importance of crime in South Africa by comparison with other countries. This is a significant element in their regarding crime as of relatively low importance in investment decision making.

Political violence has declined dramatically in South Africa since April 1994 – by over 50% – and has also been localised geographically. Thus foreign investors correctly perceive a country that is becoming politically more stable, and draw a distinction between political violence and general crime.

However, in response to another question, foreign investors clearly stated two factors that will negatively affect their decision to invest. Leading the list is political and social conflict with associated violence and crime, illustrated by events in KwaZulu-Natal before the elections.

The second most important disincentive is conflict and violence

related to industrial action. The general strike of 30 April and the violence associated with the demonstration outside Parliament is a good example. The Nedcor study is unequivocal that even high levels of 'ordinary' crime will not deter foreign investors. Relatively low levels of political or industrial conflict on the other hand, will.

In general, companies were adamant that it was government's responsibility to prevent and combat crime – a function that is paid for from tax revenue. Investor companies have reservations about contributing further financially through private crime prevention programmes.

Of those companies responding clearly, 38 would participate in crime prevention programmes under specific circumstances, while 24 would not under any circumstances. The most important 'specific circumstance' for all foreign companies is that the crime prevention programme be part of a coherent and comprehensive government sanctioned and led initiative.

Conclusions

Government policy

The most important conclusion is that government policy risks remaining ameliorative and well intentioned, but not decisive in diminishing or controlling crime. This will make it difficult to transform a wish list of crime prevention programmes into an 'action effort'.

This will continue until the ethical base for crime prevention is clarified and the whole policy is placed unapologetically on the basis of the right and obligation of government to act vigorously against criminals, within the limits of due legal process.

Popular perceptions

Government's inability to deal with crime and violence represents by far its greatest failing to date and could have noteworthy political

consequences in the general elections of 1999.

Culture of crime

Vigorous action against crime is not only the most important task of government and civil society, but also the most urgent. Medium and long term strategies are important, but without successful short term programmes, other approaches may be impossible as a culture of crime takes hold of the country.

Costs of crime

The country simply cannot afford the current levels of crime and violence. Using figures drawn from several of its studies, the Project calculated an overall cost of crime for 1995 shown in the following table:

Category	Cost (billions)
Crime against households	17,0
Crime against business	15,8
Commercial crime	13,0
Serious economic crime	0,8

At a minimum of R31,3 billion per year, crime costs are 18% of the 1996/97 national budget (R173 659 billion) and 5,6% of the projected 1996/97 GDP (R560 19 billion). These costs are completely unsustainable in a developing economy.

Investment

Economic growth in South Africa absolutely requires investment, and levels of crime and violence – in association with other factors – clearly inhibits this. Specific programmes aimed at investors and based on the best empirical evidence are needed to improve the chances of investment.

Action within public policy

Action against crime has to be led by government and based on a clear

policy, adequate resources and a strategy that decentralises the responsibility for crime prevention within a firm set of guidelines.

Metro and local government

Metropolitan policing is supported, despite some criticism that this introduces yet another level of structures and associated costs. The provincial level is too large and diverse to be an effective agent of crime prevention, while an individual local authority is too small.

Criminal justice system

The present criminal justice system is not a credible deterrent to criminals. It also seems uncoordinated, with departments criticising one another and legislation proposed by Ministers and then opposed by Members of Parliament from the same party.

While laudable aspirations are expressed by each component of the system, a realistic concentration on specific problems – for instance, staff shortages in the Department of Justice – would be helpful and inspire more confidence among the public than statements of intent.

Business impact

Business is suffering real negative impacts from crime, which also represent negative impacts on the country. Business has a right and an obligation to take action against crime, but its actions have been not been effective enough at national level.

Business also requires a stronger, independent, more visible organisation to give effect to its concerns. Business has to deliver the resources for such a development and continue its efforts at local and provincial

levels. Urgent attention is also necessary to counter white collar crime.

Re-inventing the wheel

All organisations concerned with crime prevention should first consider international evidence, especially approaches and projects that have worked, and use this information to accelerate action, before re-inventing the wheels of successful crime prevention, and at a much higher cost. [E:16]

Acknowledgement

Sections from the executive summary of the main Nedcor report have been extracted for publication here with kind permission from The Nedcor Project. The executive summary and the main report can be obtained from Nedcor in Johannesburg.

RECOMMENDATIONS

GOVERNMENT

Recommendation 1:

The Government should state unequivocally that effective crime prevention and controlling violence associated with crime is its single most important priority.

Recommendation 2:

Government should lend substance to its statement that crime prevention is its priority by:

Making crime prevention and control a Presidential accountability, exercised through a *Crime and Violence Prevention Office*, with direct accountability to the President and specific, public targets.

Increasing the financial resources to departments in the criminal justice system and the national crime prevention agencies.

Launching a national communications programme on the need for universal participation in crime prevention measures. Such a programme should operate on at least the scale of the programme for the Constitutional negotiations.

Recommendation 3:

Government should dramatically accelerate implementation of the National Crime Prevention Strategy (NCPS), with acceptance and participation by all government departments.

Recommendation 4:

All parties should accept the basic analysis in the NCPS, its long term policy and strategy, and the major programmes proposed. However, the NCPS should be complemented in the short to medium term by:

The SAPS Commissioner's policing plan for 1996/97.

Acceptance of the internationally successful strategy of acting vigorously and visibly against any crime, however small, while pursuing long term strategies – loitering, littering, public nuisance, and small property crimes, are examples of such crimes.

Recommendation 5:

The Crime and Violence Prevention Office should be responsible for motivating, assisting and partly funding crime prevention programmes at provincial, metropolitan and local authority levels. Such programmes should fall within the NCPS and receive earmarked funding from central government.

Recommendation 6:

The Office should assist metropolitan and local authorities in creating public-private sector 'crime prevention funds', with contributions from government, business, funding agencies locally and abroad, and individual citizens, for funding specific crime prevention programmes. These funds will be administered by representatives of all contributors and should also provide support to effective NGOs operating in crime prevention.

Recommendation 7:

The President should personally give top priority to improving the criminal justice system, to deter criminals and increase public confidence. Initially improvement should focus on:

Increasing the rate of arrests.

Increasing the rate of convictions.

Improving prison conditions and space to make longer sentences possible, with offenders serving the full sentence.

Undertaking more intensive rehabilitation of criminals.

Providing alternative sentences and facilities for less serious crimes.

Recommendation 8:

While the Department of Justice would normally be dealt with as part of the criminal justice system, one aspect of its operations is so widely criticised and so crucial that it must be singled out. The Office of Crime Prevention should develop and implement (with the Minister of Justice) a programme that will:

Increase experienced staff retained in service.

Increase retention of public prosecutors.

Increase retention of experienced judges and magistrates.

Increase the rate of appointment of new, experienced staff in all senior positions.

Use professionals on contract to alleviate staff shortages.

The programme should aim to achieve a rate of 80% of all key posts filled by the most competent people available within a three month period.

SOUTH AFRICAN POLICE SERVICE

Recommendation 9:

The SAPS should recognise that community policing cannot produce short term results in specific crime prevention. While by no means abandoning community policing, emphasis must – for a period – be placed on three other objectives in order to act more visibly and vigorously against crime:

- Developing focused, cooperative strategies with other parties to eliminate certain types of crime (see recommendations 10 and 11 below).
- Improving the SAPS as a professional career option, by improving salaries at lower and middle levels, and a much stronger professional, technical and managerial focus in recruitment and training. In the long term, fully professionalising the SAPS is the only way to reduce corruption.
- Improving management of the police services using existing staff. The required training should come from outside the SAPS.

Recommendation 10:

The Nedcor research shows that specific crimes have an inordinate impact on the community and/or business, leading to further negative effects. For instance, hijacking of delivery vehicles has a negative effect on investment. Once such crimes are identified, focused 'drives' should be launched to reduce or eliminate their incidence.

These drives are not recommended as the general pattern of policing, but only in circumstances where research shows that significant gains can be made that will restore confidence in important sectors of the community and in the SAPS.

Recommendation 11:

The increased salaries, training and professionalisation of the SAPS will expand the Service's numerical strength. However, the President, with the Minister of Safety and Security and the National Commissioner, should set a target for the numbers of police officers employed by the end of 1996, with special emphasis on deploying staff in accordance with unique South African conditions:

- In dispersed, under-policed areas.
- In internal investigation units, to limit corruption further.
- In units that will achieve 'saturation' of certain areas in respect of particular crimes.

Recommendation 12:

International experience indicates that cooperative programmes between the police and other stakeholders can be effective in crime prevention, provided:

- The crime problem is analysed and a prevention strategy agreed upon.
- An implementation and management plan is agreed upon, with paid civilian staff in key positions.
- Resources are available.
- Different strategies are employed for different crimes.
- 'Displacement of crime' is monitored and corrected.
- A sound public communications programme is carried out.
- The police are visible as the programme's primary agents.

It is recommended that 'integrated local policing' of this kind become an important mode of SAPS operation. Existing community policing is compatible but less specific than this approach and these two approaches can coexist.

Recommendation 13:

As far as possible, all administrative, computer, communications, logistical and other specifically non-professional positions in the SAPS should be filled by civilians, releasing all police officers for policing duties. The Minister of Safety and Security should be provided with an earmarked government grant to achieve this goal in three years.

Recommendation 14:

To the greatest extent possible, all service provision in the SAPS – housing, catering, vehicle maintenance – should be outsourced to the private sector on the basis of professionally managed contracts.

Recommendation 15:

International evidence clearly indicates that increases in crime can be combated using state-of-the-art technology. The Office of Crime and Violence Prevention should facilitate an agreement between business in South Africa and abroad, as well as police at all levels in the country, to ensure that the SAPS can expand their use of technology to include:

- Information technology (such as for the national crime information management centre).
- Investigative technology.
- Surveillance technology.
- Response technology.

Private sector assistance should not be limited to provision of hardware, but should extend to software and support in the establishment and maintenance

of operating systems. Among these should be a 'crisis' or '107' Centre in every metropolitan policing area.

Recommendation 16:

The Nedcor Project supports the NCPS conclusion that most government departments have roles to play in crime prevention and should be obliged to show, in their annual plans and budgets, exactly what they are/will be doing in this regard. This annual exercise should be coordinated by the Office of Crime and Violence Prevention. It must be borne in mind, however, that the actions of some Departments can be very direct – the Department of Finance report on crime, violence and investment – and others more indirect and long term – job creation and socio-economic improvement. The national strategy must take account of this, as well as the urgency of a total government approach to crime.

Recommendation 17:

Government and the private sector, in consultation with existing crime prevention agencies, should jointly establish and fund a 'National Crime Prevention Institute' (NCPI) with each party mobilising funds from abroad. Planning of the NCPI should include the possibility of subsuming several existing crime and criminology research bodies, to avoid duplication.

The NCPI should have two functions only:

- To scan international experience and evidence on an ongoing basis, identify ideas, approaches, programmes, partnerships and other successful crime prevention activities and make these known to the appropriate crime prevention structures.
- To study the 'culture of crime' and provide government with indicators of any circumstances which lead to such a culture and the steps needed to counteract it. This would involve considering: establishing more appropriate role models for youth; re-establishing family systems; analysing gang cultures; creating alternatives to formal employment; and rebuilding viable community leadership.

BUSINESS

These recommendations are proposed without prejudice to the work already done by persons and organisations in business. These are freely acknowledged. However, the seriousness of the crime situation makes it essential to state the findings quite bluntly.

Recommendation 18:

Business should identify one organisation only to represent it nationally and provincially in the National Crime Prevention Strategy, and should withdraw from other organisations duplicating such work. This organisation must be a re-conceptualised and expanded Business Against Crime (BAC). The preconditions for the successful representation of business by a new BAC are:

- To maintain a head office in Gauteng and to establish branches in all provinces including Gauteng.
- To be formally recognised by government as the voice and arm of business nationally in crime prevention.
- To begin a membership structure for other business based bodies concerned with crime prevention.
- To disengage from the National Business Initiative and establish a separate physical location, administration and identity. However, the relation with Business South Africa should be maintained.
- To appoint a very senior businessperson as full time executive chairperson of the Board, to whom the present managing director should report. The chairperson will produce a policy, strategy and plans of action and staffing needs.

Through a re-organised BAC, business should play a vigorous role in the plans for the implementation of the NCPS. Through BAC, business should also enter into the cooperative relationships with government and the SAPS that have already been described.

Recommendation 19:

In addition to the joint ventures already described, business should enter into campaigns with other stakeholders in respect of two major crime prevention projects of immediate concern to itself:

- Crime prevention on the borders of the country and in the ports and harbours. This is a critical problem that is costing the government, business and the country enormously. The flow of stolen and illegal goods, arms and drugs has to be combated. Prevention possibilities include the use of private security, advanced electronic surveillance and secondments to the Department of Customs and Excise.
- A project already mooted by BAC in which business launches a campaign to control and progressively close down all markets for stolen goods.

Recommendation 20:

A strong case has been made in the Nedcor Report for a business led campaign in the prevention of white collar crime. In terms of business image and costs to business in the country, this has to be a priority.

All Plan, No Action?

Government's National Crime Prevention Strategy

Enver Daniels

Special adviser to the Minister of Justice

The Strategy aims to combat crime through long term deterrence. Four areas for immediate intervention have also been identified. But the plan is not based on guaranteed results, additional resources or implementation proposals. This apparent weakness may be a strength as mechanisms can be adjusted to accommodate changed circumstances.

It is not by chance that crime has become a highly emotional issue in South Africa. Current debates tend to ignore the fact that for decades the majority of the population, who are black, were subjected to a reign of terror by both state forces and criminal elements.

Being disadvantaged and disenfranchised, black people were unable to take meaningful steps to address the crime problem. Today, as a result of past discriminatory practices, crime rates remain unacceptably high in black areas and require drastic intervention.

Crime under apartheid

The state of lawlessness prevailing in black areas was condoned, overlooked and encouraged by the apartheid authorities. Crime, particularly gang related activity, was tolerated by the government because it made political mobilisation difficult. Violent crime made it dangerous for activists, especially women, to organise support for political change.

This partially explains why only a small portion of the state's resources was spent on making black areas safe, although the need there was greater than elsewhere. Incidents of crime, particularly violent crime and attacks on black

women and children seldom, if ever, received mention in the press.

Whites are more insulated against the effects of crime because a disproportionate share of the state's resources was spent on improving their quality of life at the expense of black people's. Furthermore, the large sums of money spent on improving the infrastructure in white areas meant they were relatively safe and crime free.

However, not even the apartheid state with its awesome security machine could guarantee the privilege and security of white people.

By the mid-1980s, the central business districts throughout the country were becoming increasingly unsafe and crime began escalating in white areas. This resulted in unprecedented media coverage which perhaps explains why crime has become highly emotive.

It has also become fashionable for political parties – which seldom paid any attention to crime – to suddenly blame crime on the government, and thus the African National Congress (ANC). This is opportunistic and designed to capture votes in future elections. However, if crime is to be addressed effectively, it must be de-politicised.

Varied causes

Decisive intervention and considerable resources will be required to reduce crime. However, a clear understanding of the issues which influence criminality is required to address the root causes of crime.

Apartheid had economic, social and political components all of which impacted negatively on the lives of black people. Although the causes of crime are varied and complex, the effects of apartheid on South African society suggest a link between apartheid and crime.

The destruction of stable communities and families through forced removals had a particularly disruptive effect. This appears to have led to increases in gangsterism, rape, robbery, assault, theft and murder, which have escalated under conditions of poverty and deprivation. This should have promoted a national plan of action years ago. Instead, it elicited no response from the apartheid authorities.

But apartheid had other less noticeable effects which caused serious harm to the economy and the country. Apartheid gave rise to spectacular corruption, white collar and economic crimes which cost South Africa billions and inhibited growth, development and social upliftment.

Several departments

After the April 1994 elections, the Government inherited a country characterised by rampant crime and deteriorating living conditions among the majority of its people. This required a commitment by government to improving the quality of life for all South Africans within a human rights culture.

In May 1995 the Cabinet established an interdepartmental committee consisting of the Ministers of Safety and Security, Justice, Correctional Services, Home Affairs, State Expenditure and the Deputy Minister of Intelligence to develop the process which would result in the National Crime Prevention Strategy (NCPS).

All relevant government departments and organs of civil society had to be consulted and the committee reported regularly to the Cabinet Committee on Safety and Intelligence. In addition to developing the NCPS, the committee identified departments to be involved in the Strategy's implementation, calculated the resources required and proposed short, medium and long term objectives. The committee also recommended broader public and private participation in the NCPS.

The NCPS recently adopted by government was shaped by its vision statement:

"South Africa shall be a society in which all its inhabitants can pursue their daily lives in peace and safety free from undue fear of crime and violence. It shall be a society in which the fundamental rights of the individual are effectively protected with the support and cooperation of fellow citizens. Economic development among all sectors shall be unhindered by fear, and South Africa shall attract the confidence of investors and the interest of tourists."

Recognising the crisis

The NCPS represents – for the first time in South Africa's history – government's recognition that crime has reached crisis proportions. The document also acknowledges that crime is a complex social phenomenon, while nevertheless analysing aspects thereof in detail.

Seven key crime categories have been identified which pose the greatest threat to South Africans and to the country's prosperity:

- Crimes involving firearms.
- Organised crime, including smuggling illegal immigrants and narcotics, and gangsterism.
- White collar crime.
- Gender violence and crimes against children.
- Violence associated with inter-group conflict, such as political conflicts, taxi violence and land disputes.
- Vehicle theft and hijacking.
- Corruption in the criminal justice system.

The Strategy recognises that to be dealt with effectively, the root causes of crime must be eliminated. For that reason, the NCPS is one of the pillars of the Government's growth and development strategy. Crime combating efforts will be coordinated in conjunction with an economic and developmental framework.

The document stresses that because the most vulnerable people in society are women and the youth, special measures are required to protect women and children from crime. The fear of violence alone, prevents women from realising their full potential as workers, while children who witness crime or who are victims, may themselves become perpetrators.

The document also acknowledges the rights of victims of crime. Victims need state assistance in different ways, not only to dispel popular misconceptions that perpetrators are afforded more consideration by the authorities than victims, but also to prevent victims from themselves becoming perpetrators.

Although combating crime is primarily government's responsibility, the enormity of the task means it is naive to suggest that government alone can eradicate the problem. Crime is a social phenomenon requiring a shared responsibility and can only be combated effectively through a

partnership between government and civil society.

Both the public and private sectors have developed considerable expertise in the fight against crime, and this needs to be utilised creatively to achieve the goals of the NCPS. If the Strategy is to work, all available resources must be used effectively.

The NCPS will be driven by central government but implemented at local level, enabling the state's resources to be harnessed and coordinated at national, provincial and local levels. The Strategy aims to develop a common vision of crime which communities will be able to identify with and which will encourage the public to become involved in prevention.

Four pillars

The NCPS's approach is multi-faceted and entails intervening in four critical areas:

- The criminal justice system.
- Community values and education.
- Environmental design.
- Regional security.

These pillars are areas which, if correctly handled, could result in a significant reduction in crime in the short term. While the NCPS acknowledges that eradicating crime requires a long term strategy, steps need to be taken to intervene immediately. Each pillar represents an area in which the factors causing crime need to be dealt with.

Criminal justice system

Central to the NCPS's success is enhancing the efficiency of the criminal justice system. This will ensure that a large percentage of criminals are apprehended and successfully prosecuted. Deterrence is vital to combat crime, and improved arrest and conviction rates will serve this purpose.

This requires greater cooperation between the Departments of Justice, Correctional Services, and Safety

and Security. Information will have to be shared and resources pooled. Blockages in the system must also be removed to ensure that prosecutions are swiftly dealt with.

The system must become more user friendly, specifically regarding the needs of victims. Victims should play a more meaningful role in the justice process and the damage suffered by them needs to be addressed. This will encourage victims to report crimes and to testify in court.

Prisons are also overcrowded and cannot absorb the large numbers who are likely to be sentenced and incarcerated. Diversion programmes for juveniles and minor offenders must therefore be developed. This will create space in prisons for serious offenders and enable Correctional Services to review its parole policies. In addition, secure care facilities are urgently required to separate juveniles from adult suspects and convicts, and to reassure the public that such juveniles will not escape.

It is crucial that the justice system overhauls the prosecutorial policies to ensure consistency and uniformity throughout the country. This will entail developing clear guidelines agreed upon by the Attorneys General and the police. Such guidelines will identify priority crimes requiring greater cooperation between the police and prosecution authorities and additional resources.

Environmental design

According to the NCPS, many crimes can be prevented through careful planning and design. Facilities such as residences and commercial and industrial facilities need to be designed in ways which eliminate crime.

A new identification system which includes finger printing is also necessary to identify perpetrators more easily. Because vehicle theft hijackings are a major problem, a comprehensive vehicle parts identification is required. This will assist police in tracking stolen vehicles and the perpetrators of vehicle theft and hijackings.

White collar crime and corruption place a huge burden on the resources of both government and the private sector. The problem can only be eliminated if these crimes are reported, if a public and private sector initiative is launched to detect such crimes, and if plans are implemented to tackle the problem.

Values and education

Public and school education projects are needed urgently to inform the public about crime generally to highlight ways in which the public can help prevent crime. The Strategy focuses on school children, stressing that key life skills need to be developed to reduce victimisation, conflict and violence.

The youth also need to be educated about the criminal justice system and the positive ways in which public and community based organisations can prevent crime. The formal school system provides the state with an opportunity to develop responsibility and empower the youth. This will influence how they view their roles in society.

Regional security

South Africa has not escaped the attention of international and regional crime syndicates and has experienced similar crime problems as other countries in transition. To deal with this effectively, proper border and port entry point controls are needed.

Search and seizure methods will have to be improved and corruption eliminated. Improvements in the operations of customs officials will restrict the flow of illegal goods and immigrants, and regulate the flow of people into and out of the country.

South Africa attracts numerous people from other countries in southern Africa. Unemployment and instability in the sub-continent have forced many people to migrate to this country. Although the actual figures are not known, it is estimated that between one and four million people have entered South Africa illegally.

A significant number of those are believed to be involved in criminal activities, although the NCPS states that these figures are probably exaggerated. Stricter border controls and better surveillance techniques will not necessarily improve the situation. A development plan for the sub-continent is needed to create greater employment, school, health and welfare opportunities.

The NCPS is fundamentally important to the country. It analyses the causes of crime, recognises areas requiring immediate intervention, locates crime prevention in a growth and development framework, aims to develop a partnership between government and civil society, and recognises the fundamental rights of citizens to safety and security. Most importantly, the document emphasises that the problem is not insurmountable.

Resources and results

Interestingly, the document does not guarantee results or promise additional resources to combat crime. Rather it identifies ways to reduce crime and stresses that the resources required will have to be found within existing budgets.

The Strategy's weakness is perhaps that it does not deal adequately with implementation strategies. It proposes initiatives to encourage interdepartmental cooperation to improve delivery. This apparent weakness is likely to be the NCPS's strength: the implementation mechanisms can be changed periodically to accommodate changed circumstances.

It will also empower communities to play a meaningful role in crime prevention and will enable departments to adjust their own programmes to fight crime without contending with rigid, bureaucratic regulations. In this sense then, the Strategy is very flexible.

The real power to combat crime rests with the community. If people are vigilant, take an active interest in government initiatives around

crime, help to develop community cohesiveness, build community safety nets and cooperate with the criminal justice agencies, the battle against crime is half won. This does not mean that the Government can

shirk its duty to fight crime aggressively.

The National Crime Prevention Strategy provides the Government and all interested people with an

opportunity to take decisive action to improve the quality of life for all South Africans. It needs to be welcomed and supported. **LEA**

THE FOUR PILLAR APPROACH TO CRIME PREVENTION

Pillar 1: The Criminal Justice Process

Re-engineering the criminal justice process

Lead Agency: JUSTICE, assisted by Safety and Security, Correctional Services, Welfare, private sector and NGOs.

⇒ **Key Actions:**

- Streamline process between investigation, arrest, prosecution and conviction.
- Design new systems, training personnel and funding critical leverage points.

Criminal justice information management

Lead Agency: SAFETY AND SECURITY assisted by Justice, Correctional Services, Welfare, private sector and NGOs.

⇒ **Key Actions:**

- Create networks between departments for data concerning cases, suspects and convicts.
- Design data programmes to assist in assessing the effectiveness of different functions within the criminal justice process.

Crime information and intelligence

Lead Agency: NICOC (National Intelligence Coordinating Committee), assisted by Justice, Defence, Safety and Security, Correctional Services, Welfare, the South African Secret Service, academic analysts and NGOs.

⇒ **Key Actions:**

- Increase the analysis of strategic information.
- Greater integration of crime data gathered at station level.
- Integrating public sources of information and analysis with 'intelligence' gathered by other means, and making certain crime intelligence more widely available.

Prosecutorial policy

This policy will rest with the Attorneys General (AGs).

Lead Agency: JUSTICE, in collaboration with AGs, Law Commission and Safety and Security.

⇒ **Key Actions:**

- Guidelines to emphasise priority crimes and meet needs of special interest groups.
- Improve and control linkages between police and prosecutors.
- Appropriate community sentencing.

Lead Agency: CORRECTIONAL SERVICES, assisted by Welfare, Safety and Security, Justice, the Law Commission and NGOs involved with rehabilitation.

⇒ **Key Actions:**

- Develop criteria in line with priority crimes and guidelines for sentencing.
- Review and upgrade existing community sentencing options and the potential roles of community service providers.
- Diversion programme for minor offenders.

Lead Agency: WELFARE, assisted by Correctional Services, Justice, Defence, Safety and Security and NGOs concerned with child welfare and rehabilitation.

⇒ **Key Actions:**

- Extend existing capacity for diversion.
- Develop standardised referral system, in consultation with AGs and SAPS.
- Secure care for juveniles.

Lead Agency: WELFARE through the interministerial committee on Young People at Risk, which includes Justice, Safety and Security and Correctional Services, assisted by Public Works, NGOs and the private sector.

⇒ **Key Actions:**

- Speed up the completion of buildings for secure care facilities.
- Implement legislative steps and social programmes to discourage exploitation of juveniles by criminal syndicates.
- Rationalisation of legislation.

Lead Agency: JUSTICE, supported by Safety and Security, South African Law Commission, relevant portfolio committees of National Assembly.

⇒ **Key Actions:**

- Review progress of all legislation promoted by departments.
- Speed up the preparation of key legislation.
- Victim empowerment programme.

Lead Agency: WELFARE, supported by Health, Safety and Security, Justice, local health authorities and service groups.

⇒ **Key Actions:**

- Train police and justice officials in greater victim sensitivity, and referral to other service providers.
- Implement a victim support programme.
- Provide basic information to complainants and victims regarding case progress, as well as information enabling victims to lay complaints more easily.

Pillar 2: Environmental design

Environmental design and maintenance

Lead Agency: SAFETY AND SECURITY, supported by Sport and Recreation, Trade and Industry, Home Affairs, Justice, Health, Welfare, Provincial and local government. Professional associations such as architects, town planners and the security industry, and development agencies and NGOs.

⇒ **Key Actions:**

- Establish institutional capacity to research, advise and monitor environmental design in the private sector and develop environmental design policy for government.
- Examine the need for greater regulation of business sectors involving high value commodities which fuel the development of crime.

Identification system

Lead Agency: HOME AFFAIRS, supported by Safety and Security, Justice, Transport, service providers and private sector.

Key Actions:

- Establish mechanisms for law enforcement agencies to access the National ID system.
- Speed up implementation of a new ID system which utilises an Automated Fingerprint Identification System, as well as the implementation of a network which allows 'on-line' checking of ID validity.
- Facilitate education and publicity on the applications of this ID system for private and public service providers.

Motor vehicle regulation

Lead Agency: SAFETY and SECURITY, supported by Transport, Trade and Industry, provincial and local traffic authorities. The Automobile Association, Business Against Crime, taxi industry and panelbeating industry also have key roles.

Key Actions:

- Establish consensus on major prevention initiatives.
- Speed up the implementation of a new licensing system.
- Improve coordination and cooperation between all role players.

Corruption and commercial crime

Lead Agency: SAFETY and SECURITY, supported by Justice, Independent Complaints Directorate, intelligence agencies, Finance, Trade and Industry, the Public Service Commission and Public Protector, private sector, professional and consumer bodies and Committee on Harmful Business Practises.

Key Actions:

- Consensus on codes of conduct for business and government.
- Speed up legislation to restrict money laundering.
- Government/civil society resource on information required to address corruption.

Pillar 3: Public values and education

Public education programme

Lead Agency: SAFETY and SECURITY, supported by SA Communication Service, Justice, Welfare, Correctional Services, Health, Business Against Crime, organised labour, religious groups and NGOs. Provincial and local government and local community groups are also key players.

Key Actions:

- Launch of a National Public Education programme on crime.
- Liaison with provinces to initiate provincial and local public education programmes.
- A comprehensive internal education programme for officials in various government departments, for dynamic implementation of the NCPS.

School based education against crime

Lead Agency: EDUCATION, Correctional Services, Justice, Welfare, Safety and Security, Home Affairs, Health, provincial education authorities and NGOs.

Key Actions:

- Develop a pilot schools curriculum and the selection of pilot schools across the country.
- Produce materials for teacher training and classroom facilitation.

Pillar 4: Transnational crime

Transnational organised crime

Lead Agency: SAFETY and SECURITY, Trade and Industry, Foreign Affairs, Defence, National Intelligence Coordinating Committee, Justice, Inter-state Defence and Security Committee (ISDSC), SA Secret Service, Home Affairs and South African Revenue Service (SARS).

Key Actions:

- Activate ISDSC structures for regional intelligence and security coordination.
- Forge cooperation between agencies working with cross-border transactions and tariffs.
- Border control and ports of entry.

Lead Agency: SAFETY and SECURITY, Defence, Trade and Industry, Justice, Foreign Affairs, National Intelligence Coordinating Committee, SA Secret Service, Home Affairs and South African Revenue Service (SARS).

Key Actions:

- Integrate workings of the five agencies involved with regulating ports of entry.
- Effective implementation of Aliens Control Act of 1995.
- Activate ISDSC structures for regional intelligence and security coordination.

Matching Policing With Politics

The Crime Prevention Strategy and the Constitution

Peter Leon
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The National Crime Prevention Strategy not only lacks short term implementation plans, but suffers from the centralisation of policing under the final Constitution – a likely product of the desire to wrest political control of police in KwaZulu-Natal. Provincial policing will be controlled nationally, reducing provinces and local governments to spectators in the execution of crime combating strategies.

Other than the precipitous slide of the national currency, nothing grips the public imagination more than South Africa's crime crisis. Government has done little to ameliorate this situation, other than talking about it, sporadically announcing regional anti-crime strategies and commendably, increasing police salaries in 1996.

It has become fashionable to berate opposition parties, particularly the Democratic Party, for exploiting politically our crises of criminality. But 1995 crime statistics show that despite nationally driven, but regionally implemented, crime prevention programmes, the South African Police Service (SAPS) is simply not winning the war against crime.

In 1995 Gauteng continued to dominate the country's crime statistics by a huge margin, in fields as diverse as taxi violence, hijackings, bank robbery, residential housebreaking, murder and robbery. To make matters

worse, many of these crimes increased in Gauteng between 1994 and 1995: hijackings by more than 100%, 'carjackings' by 10%, taxi violence by 10% and hostel violence by 20%.

Despite the embryonic civil war in KwaZulu-Natal, Gauteng still experienced more murders (5 617) in 1995 than did the former province (5 187), although Gauteng experienced a surprising 10% reduction in commercial crime.

The NCPS analysis of the current crime situation in South Africa is honest, if not compelling

Partly as a by-product of the new civilian secretariat for Safety and Security and directly as a result of the 1995 South African Police Service Act, Government recently launched the National Crime Prevention Strategy (NCPS). A multi-disciplinary, apparently holistic approach to crime prevention, the initial version was

due to be brought before the Cabinet Committee on Security and Intelligence in April, but was suddenly withdrawn in the face of questions about its short term practicability.

NCPS strengths

Although many aspects of the NCPS read more like a sociology essay than a crime prevention strategy, the document's analysis of the current crime situation in South Africa is honest, if not compelling. In particular, the document recognises regional and local differences in crime priorities and experiences as well as the 'culture of impunity' bedevilling our criminal justice system.

The analysis acknowledges that the cessation in 1990 of repressive social control, coupled with the deconstruction of such control have led to high levels of social, political and economic dislocation in our transitional society.

Recognising that our culture of violence is more normative than deviant, the NCPS correctly notes that South Africa now has a widespread tolerance of anti-social behaviour which is almost normative, a high level of marginalised youth, and endemic poverty driving a crime industry in the absence of any national social security system.

The NCPS recognises that crime in South Africa is a major threat to all Government's strategic priorities and objectives, while acknowledging that there is no common policy

framework between the core criminal justice departments of safety and security, justice and correctional services. Rejecting what it calls a mono-dimensional solution to crime prevention, the strategy emphasises holism and a differentiated approach to different crimes.

NCPS weaknesses

So much for theory: the NCPS's four pillared solution is deeply flawed. While the strategy's first pillar is appropriately the criminal justice system, the reforms which it suggests seem to take no account of the breakdown in South Africa's criminal justice system itself.

One does not need to be a social scientist to appreciate that at the very least, the following short term measures need to be adopted urgently before any medium to long term strategies can be introduced:

- The re-education and training of the SAPS, in particular in investigative and detective skills.
- The introduction of modern management techniques into the SAPS.
- Massive upgrading of information technology.
- Focused management driven solutions to serious crimes.
- Decentralised, operationally driven anti-crime operations.
- Pro-active visible policing on a localised basis.
- The effective deployment of human and logistical resources.
- Urgently addressing Gauteng's police resources which is nearly half that of the national average, despite leading the country in every major crime indicator.
- Allowing the provincial police a much greater say in the determination of a province's police budget – a process which is currently driven nationally.

It is more than three years since the Waddington report damned the SAPS investigative techniques as inadequate, antiquated and ineffective. Yet, how much has changed in the average SAPS charge office? Should the NCPS not be examining how long it takes a constable to write a simple statement and what happens to such a statement once it enters a system, before burying itself, as it does, in the arena of a criminal justice information system?

It is equally obvious that with a car theft rate of more than 100 000 vehicles per year, together with some 10 000 hijackings representing a loss of R4,5 billion annually, vehicle theft is one of South Africa's priority crimes, as well as being a major industry.

Despite this, the NCPS blandly observes that the National Traffic Information System will only be operational in a number of years and that consideration should be given to a compulsory marking system for vehicle parts. Equally naive, the NCPS's solution to commercial crime, of which there were some 60 000 cases reported nationally last year, is developing of a code of conduct for business and government departments.

It is at the level of policing policy that the fault lines of Government's approach to crime prevention are apparent

Again, obvious short term measures to deal with economic crimes should include professionalising the SAPS's commercial crime units, re-resourcing the Office for Serious Economic Offences and out-sourcing the prosecution of all serious commercial crime.

Police policy problems

Yet, it is at the level of fundamental policing policy that the fault lines of Government's approach to crime prevention are most apparent. While the NCPS recognises the need to 'disaggregate' crime and acknowledges regional and local differentiation in crime patterns, the

African National Congress (ANC)-National Party (NP) Government of National Unity was set on re-centralising the SAPS for ideological reasons under the final Constitution.

Under Chapter XIV of the interim Constitution, provincial governments are given limited but important powers over provincial policing: the power to appoint provincial commissioners, the right to give such commissioners policy directions, and the power to legislate on metropolitan and community policing.

Indeed in the context of metropolitan policing, Gauteng has taken the national lead, by publishing a green paper on the subject and commissioning its Safety and Security Standing Committee to undertake further domestic and foreign research. In the absence of any constitutional impediment, Gauteng would enact a metropolitan policing statute by mid-1996.

Internationally, there is good reason for this, as comparative experience has shown that the localisation of crime requires operational decentralisation. Although the SAPS has gradually decentralised its operations, it remains – unlike the police services in many other countries – a national monolith with powerful centrifugal forces.

The great achievement of the interim Constitution was to break this political monopoly by making provincial police commissioners politically accountable to provincial governments. For the first time in the SAPS's decade's long history, political control was focused other than at the centre.

In a sense, such a shift had been anticipated by local communities since the onset of the transition in 1990 through the establishment of *de facto* local authority police services (via traffic departments), suburban based crime prevention programmes and localised street patrols. Such a response reflected community concern at the spiralling crime wave and the seeming ineffectiveness of the SAPS to respond to it. Indeed, these

concerns precipitated the establishment of municipal police services in France in the 1980s as a supplement to the Police Nationale.

Centralised policing

Ignoring this reality and apparently frustrated by the apparent diminution of the centre, the ANC has proposed, with the concurrence of the National Party, the removal of all significant provincial policing powers under Chapter 11 of the draft final Constitution.

Influenced more by its desire to wrest political control of the provincial police in KwaZulu-Natal, the ANC and its principal negotiating partner have proposed that all political control over provincial police commissioners should revert nationally, and that in future they should be appointed nationally.

In policing matters the provinces will in future operate more as provincially based community police forums

Gauteng's initiative in developing and legislating a metropolitan policing policy is given short shrift in the draft final Constitution, Section 195 (3) of this document provides:

"Other than the security services established in terms of the constitution, armed organisations or services may be established only in terms of national legislation."

In other words, neither provinces nor local governments may make any legislative attempt to deal with crime in our regions or cities. Not only does this ignore factual reality, but it attempts to impose national solutions regionally and locally, contrary to international experience in effective crime prevention.

While pretending to leave the provinces with some legislative competence in relation to policing, schedule 4 of the Constitution states that this is only to the extent that such powers are 'expressly' granted under Chapter 11. As no such powers are in fact expressly granted under the Chapter, it is difficult to see what legislative role provinces will play in relation to policing in the future.

Of course, the provinces had to be thrown a bone – or is it a crumb – under the final Constitution, contained in section 203 (5) which provides that:

"Each provincial government is responsible for monitoring and oversight of the conduct and efficiency of the police service, and for cultivating good relations between the police and the rest of the community in its province."

In other words, in policing matters the provinces will in future operate more as provincially based community police forums than as important sites of power in their own right. Once provincial commissioners have no political accountability to provincial governments, it is difficult to see how the provinces will even be able to exercise their limited monitoring and oversight role under the final Constitution.

Likewise, once provincial legislatures lose any residual legislative competence in relation to policing, it is difficult to see – let alone justify – what function provincial standing committees on safety and security will perform in the future.

Centrally driven NCPS

This has far reaching implications for the National Crime Prevention

Strategy. First it means that Government's key crime prevention strategy will essentially be directed and implemented nationally. Second, it means that legally and practically, provinces and local government will be reduced to spectator status in the design and execution of crime combating strategies.

The NCPS is strong on analysis, but weak on solutions – let alone results

Third, and perhaps most unfortunately, it will end the provincial shift in the reporting lines of the SAPS, by re-consolidating the power of the centre both politically and operationally.

It is probably not accidental that the NCPS says little about implementing regional and local crime prevention programmes given the policy imperative to drive policing from the centre. It is certainly not accidental that metropolitan policing has been removed as a provincial competence under the final Constitution in view of fears – no doubt exaggerated – that the Zulu *impi* will revive themselves in the form of an uncontrolled, unregulated and poorly disciplined local police force in KwaZulu-Natal.

It is a sad reflection however, on the lack of maturity in our body politic that selfish political imperatives will not only shape our final Constitution, but threaten to undermine those aspects of our principal crime prevention strategy before it leaves the drawing board.

But then perhaps the NCPS is a great deal like the Government of National Unity's policy malaise: strong on analysis, but weak on solutions – let alone results. [DE]

Politics and Priorities

City Policing in Gauteng

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The city policing debate – essentially metropolitan or municipal policing – has gathered momentum in Gauteng. Many local authorities already practice city policing through their traffic and security departments. The 'why' of city policing is no longer in dispute, but simply the 'how' – a question complicated by the final Constitution.

The current debate on city policing was fuelled by the interim Constitution which provided for the establishment of metropolitan and municipal police services. In keeping with these stipulations, the concept was also encapsulated in the South African Police Services Act of 1995. Despite this, the legal framework within which city policing should have taken place was by no means clear. Numerous interpretations of how the concept might be advanced were delivered, and the debate continued until late 1995.

The most constructive interpretations were made by a working group of the United Municipal Executive in late 1994 (van der Waals 1995) and by Shaw, Leon and van Rooyen in 1995. Their contributions contain what might be described as the current consensus on city policing.

This consensus has coalesced around three crucial premises:

- City policing must comprise the amalgamation of existing traffic and security departments – and possibly even licensing departments.
- City policing must have the capacity to police the Road

Traffic Act – that is, function as traffic officers – and have 'Peace Officer' status (according to Section 334 of the Criminal Procedure Act 51 of 1977) with all the policing powers that this implies.

- City policing must be spared investigative functions and their crime prevention efforts should feed into those of the South African Police Service (SAPS) rather than replace them.

After December 1995, progress towards city policing in Gauteng at least, has developed rapidly – encouraged by political and local government agitation, as well as ministerial initiative by the MEC for Safety and Security, Jessie Duarte.

City policing exists in spite of the absence of a coherent legislative framework, rather than because of it

Both the Gauteng Ministry for Safety and Security and a Technical Committee on Metropolitan and Municipal Policing of the Standing Committee on Safety and Security in the Gauteng Legislature worked closely to create an enabling legislative framework within which

local authorities could establish city police services. Ms Duarte's ministry then released a concept document on metropolitan policing. The document has since been workshopped and re-released by the Ministry in April 1996.

Final constitution

That collective political agitation has paid off – provisions for city policing were made in the final draft of the 1996 Constitution (these provisions were not present in earlier drafts). Section 199 (3)(b) states:

"In appropriate circumstances, a municipality may establish a municipal law enforcement agency, the establishment of which must be regulated by national legislation."

Existing national legislation that makes any provision for city policing is the SA Police Services Act of 1995. Unfortunately the Act is incomplete – it makes only rudimentary provision for city police services, with no arrangements for the powers and functions of such services. The Technical Committee on Metropolitan and Municipal Policing is now recommending that the SA Police Services Act of 1995 be amended to provide more comprehensively for the establishment, powers and functions of city police services.

The purpose of this article, however, is not to detail the legislative complexities of implementing city policing. Instead it argues that the reality on the ground exists in spite of the absence of a coherent legislative framework, rather than because of it. This reality is that local authorities are already, to varying degrees, engaging in 'city policing'.

It is also true that this situation would be difficult to reverse. Proposals at local level have met with immediate approval – the speed with which the Eastern Metropolitan Substructure (MSS) of Johannesburg passed the Proposal for Implementation of an Eastern Metropolitan Police Department (Stephens 1995) on 30 January attests to this.

The growing capacity of local authorities to police themselves should in no way be reduced

Indeed, local government has traditionally borne much pressure from constituent communities to address growing crime rates. The establishment of democratically accountable local and metropolitan authorities in November 1995 is likely to increase this pressure and deepen the resolve of these authorities to combat crime.

This adds poignancy to Shaw's (1995: 100) observation that

"Local policing lies close to the debate over the distribution of power between national and local government."

Crime prevention strategy

Whatever direction the debate on the distribution of power between national and local government takes, the growing capacity of local authorities to police themselves should in no way be reduced. The need to decentralise operational control of policing is reflected in the National Crime Prevention Strategy (NCPS) which calls for the:

"...maximum delegation of powers and authority. Such delegation is required in order to maximise the effectiveness of local police initiatives because most crime is best managed at the local level. Maximising the responsibilities of local police officers will ensure that those officers with the experience of local conditions will have the authority to implement

solutions to local problems and will ensure that they can be effectively called to account to the local community whom they serve." (Ministry of Safety and Security 1996: 9)

While the NCPS applies specifically to decentralisation in the SAPS, the same principle underpins the motivation for city policing. The existence of local city police services functioning in operational coordination with the local SAPS will complement the efforts of the national service. Further, local authorities are ideally placed to gauge the needs of their constituents, and are democratically answerable to them. Such responsibility, in the area of policing, will be enhanced if the immediate accountability and loyalty of current traffic officers to their employing local authority is applied to any future city police services.

Traffic and security

The 'city policing' that local authorities already undertake is carried out by their traffic and security departments and seems to be the result of circumstances rather than design. As crime rates have grown, so traffic and security departments have become drawn into policing outside the enforcement of traffic laws and municipal by-laws.

Many traffic and security departments maintain that crime prevention constitutes a central pillar of their work – according to some, more than 50% – often as a result of the SAPS's failure to arrive at the scenes of crisis calls. Little statistical data exists to substantiate this sentiment which nevertheless illustrates that traffic departments are acutely aware of their policing role.

The easy development of local traffic departments' crime prevention role is explained by Smit (1995: 6):

"on a general level, crime prevention and visibility and availability of law enforcement

officers (any) are concomitant. Traffic officers probably are the most visible entity of the criminal justice system.... They are particularly close to their respective communities."

In short, local traffic services are on patrol as a matter of course, travel in distinctly marked cars and wear uniforms that identify them as symbols of authority. They are ideally placed to provide a crime reaction service because they are already 'on the road' when emergency calls are made, and can prevent crime by their very visibility.

As their crime prevention and policing role has grown, so local traffic departments have structured and equipped themselves accordingly. Traffic officers and in some instances security officers, have 'Peace Officer' status with the implied authority to police all offences listed in Schedule One of the Criminal Procedure Act of 1977.

Many municipal traffic, security, fire and ambulance services are also contained within umbrella directorates of public safety. The furthest advanced in this regard – the Eastern MSS of Johannesburg and the Midrand/Ivory Park MSS of the North East Rand – have set up single number crisis centres that provide a 24 hour traffic, fire and ambulance service and a helicopter service for Midrand/Ivory Park.

Local traffic services are ideally placed to provide a crime reaction service

These centres also alert the SAPS where necessary. Kempton Park since 1987, and Sandton more recently, have embarked on a programme that integrates their traffic departments' activities with the local SAPS. These initiatives centre around seating SAPS members and traffic officers together in vehicles for patrols and, if they prove sustainable, might provide a model of how other local authorities can coordinate local police actions with those of the SAPS.

Even where such integration has not been undertaken, single emergency numbers exist to alert traffic and security services to crises, and to relay crisis calls to other emergency services where necessary. Only where people are unaware of the traffic department's capacity to assist them in a crisis, are these departments underutilised in their reaction capacity.

Local authorities emphasise the policing capacity of their security departments in different ways. In Krugersdorp security officials are trained with traffic officers and are mutually interchangeable with them.

Pretoria's security division of 375 people shares patrolling and crime prevention functions with the traffic division. Its investigation unit investigates crimes committed against the council or on council property.

Regardless of the extent of crime policing by local traffic and security departments, their work continues to be regarded as essentially feeding into and complementing that of the SAPS. Few traffic chiefs would condone extending their powers to such an extent that it impinges on their ability to fulfil their traffic function adequately.

Further, local traffic and security departments have no lock up facilities and very little investigative capacity. Again, this should not be changed in any future city police service. Many traffic chiefs believe that it is precisely the absence of investigative responsibilities that allows them to fulfil their crime prevention role.

The wisdom is that an investigative capacity will tie up valuable personnel behind desks and telephones, when they could be better utilised patrolling the streets of their jurisdiction.

Costs and delivery

As the city policing debate has developed, two concerns have arisen: who will bear the increasing

costs of policing at local level, and the issue of providing such services uniformly across a province.

The former is already being addressed by local authorities themselves, while the latter has been taken up by the Gauteng Ministry for Safety and Security and the Technical Committee on Metropolitan and Municipal Policing. The first draft of the Police Bill of 1994 made the following provision in Section 108: Municipal or Metropolitan Police Services:

"Police services established in terms of this section shall be responsible and accountable to the relevant local government who shall also be responsible for the funding of such police services."

The final Police Act makes no such provision. Whatever the drafters' motivations, the elimination of the funding clause has not removed the very real need to address this question. Local authorities, obviously undeterred, have begun to design innovative funding mechanisms in spite of the prevailing legislative obscurity.

If city policing is realised in Gauteng, it will have to operate according to uniform standards

Clearly, much local authority policing is already being done on existing budgets, and any future integration between traffic, security and licensing departments in pursuit of a city police service should be accompanied by some rationalisation.

One funding option that has already proven successful, is that in the Midrand/Ivory Park MSS. Here the council levies property owners the value of 0,1673 cents per rand per month of the site value of their property (excluding fixtures) for a crisis service.

The revenue generated has paid for a helicopter and the provision of a model crisis management and crime prevention system. Similarly in January 1996 the Eastern MSS accepted some funding proposals

contained in the 'Proposal for Implementation of an Eastern Metropolitan Police Department'. These include the issuing of police bonds, the creation of a Section 29 company to raise funds, the application of special levies, and the sale of emergency and security equipment.

The structure of 'city policing' currently undertaken by local authorities varies considerably. Clearly, if city policing is realised in Gauteng, it will have to operate according to uniform standards. The suggestion placed before a Joint Task Group on Traffic Policing by van Rooyen (1994) has proved useful.

Van Rooyen conducted an inquiry into the accreditation system that has existed for United States law enforcement agencies since 1979, and suggests that a similar concept be applied to any future city police services in South Africa.

US accreditation system

The idea was developed further by the Gauteng Ministry for Safety and Security into a comprehensive provincial oversight mechanism – essentially a provincial inspectorate. This inspectorate will apply the mandatory standards that a local police service will need to comply with in order to qualify for city police status.

It will also apply non-mandatory standards that will give various city police units a service rating for excellent service provision. The inspectorate's primary functions will however, among others, be to:

- Ensure uniformity of standards.
- Make recommendations regarding training of city police personnel.
- Receive public complaints.
- Ensure compliance with national and provincial policy.

The value of the accreditation process was concisely outlined by Carter and Sapp (1994: 195) in their examination of the US case:

"Regardless of the profession, the goals of accreditation remain essentially the same. These include the articulation of definitive standards, quality control of organisational functions, a self assessment of current policies and procedures in comparison to the standards, a review of operating practices by a recognised team of peers, and the acceptance – at least by inference – of professional and ethical principles in the performance of responsibilities."

Traffic departments are already subject to an AA audit every year. The concept of being reviewed and accredited – competition among departments – also already exists. The creation of a provincial inspectorate will qualitatively and quantitatively enlarge this process.

This discussion has hopefully shown that establishing city policing in Gauteng implies formalising a *de facto* reality rather than creating a policing entity that is entirely new and parallels existing traffic, security and SAPS structures (van Rooyen 1995).

Unfortunately the legislative framework for formalising this reality has never been clear. The

interim Constitution and the SA Police Services Act of 1995 divided the responsibility for establishing city policing between the provincial MEC for Safety and Security and the national minister. Some provisions for the powers and functions of city police services were also made.

National legislation should be revised to address the oversight of city police services

The new Constitution removes the partial responsibility for establishing city police services from provincial level, placing it exclusively at national level – and no provisions for powers and functions are made at all. National legislation should as a priority, be revised to address this issue and the oversight of city police services.

Moreover, politicians cannot afford lengthy deliberations on these issues. The newly elected local authorities are demonstrating a propensity to engage in what they have been elected to do – serve their constituents' needs.

Combating crime is arguably one of the most important of these needs. Accordingly, developments towards

city policing are setting the agenda in localities and have created the situation where it is no longer a case of politicians bringing stakeholders into the process – rather the stakeholders have to bring the politicians along. [236]

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