

CHAPTER 12

CRIME IN SOUTH AFRICA

INTRODUCTION

The phenomenon of farm attacks need to be analysed in the context of the crime situation in general. The underlying reasons for crime are diverse and many, and need to be taken into account when interpreting the causes of crime in South Africa. Notwithstanding the complexity of crime and its causes, it is worthwhile asking whether there is any correlation between general crime levels and the prevalence of farm attacks, that is, whether high general crime levels imply a high level of crime committed in the context of farm attacks, and vice versa. Should there be a correlation (or an inverse correlation) between general crime levels and the incidence of farm attacks, it may be possible to formulate useful hypotheses that warrant further investigation, for example, that the underlying motive behind farm attacks is, or is not, a criminal one.

To make such a comparison, reliable statistics are required. However, measuring crime, particularly over sustained periods, is fraught with difficulties. Recorded crime levels undercount the real levels of crime as they do not reflect unrecorded crimes. For crime to make it onto the official police records two things need to happen. First, victims or witnesses must report it to the police. Second, the police must record the crime in their records.

According to Statistics South Africa's 1997 national Victims of Crime Survey, crimes involving valuable and insured property are mostly reported. For example, 95% of vehicle thefts, 60% of vehicle hijackings and 59% of burglaries are reported. Less serious property crimes and interpersonal violent crimes are more often not reported than reported. Thus, only 41% of robberies, 38% of assaults and 28% of thefts of personal property are reported.¹ Furthermore, rape, which is a very serious crime, is notoriously underreported.

In South Africa the collection of statistics has been further complicated by the historic divide between large parts of the public and the police, and the different policing agencies existing in what is present day South Africa. The former South African Police (SAP) crime figures, for example, excluded crimes committed and reported in the erstwhile TBVC states and KwaZulu-Natal. This implies a substantial 'dark figure' of crime which was not collected by the SAP's statistical net before 1994.² While pre-1994 official crime statistics must be treated with caution, crime patterns for this period cannot be ignored if crime trends in the late 1990s are to be fully understood.

¹ Statistics South Africa *Victims of Crime Survey 1998* (Pretoria, 1998)

² Schönteich M. 'Crime increase partly a statistical quirk' in *Fast Facts*, No. 3/99 (South African Institute of Race Relations, Johannesburg, 1999) p. 2-3.

CRIME PATTERNS: 1980 – 1993

Contrary to popular perception, levels of recorded crime did not suddenly increase after 1994. Crime – as recorded by the South African Police Service – increased fairly consistently after the mid-1980s, and especially in the early 1990s.

If one takes the long view, recorded crime *rates*, (i.e., recorded crime measured on a *per capita* basis), increased by about 35% in the twenty year period from 1974 to 1993. Crime remained more or less steady at around 4 000 incidents of recorded crime per 100 000 of the population between 1975 and 1982, but increased from 1983, rising dramatically in the early 1990s.³ In the thirteen years covering South Africa's political transition between 1981 and 1993, the following trends of recorded crime can be identified (Table 31):⁴

- Murder increased almost uniformly between 1981 and 1987, rising sharply thereafter – especially in the late 1980s. Many of the murder statistics from the late 1980s onwards are a reflection of significant increases in political violence during this period.
- Rape experienced a fairly consistent upswing between 1984 and 1990, increasing significantly thereafter.
- Robbery (both robbery with aggravating circumstances and ‘common’ robbery) increased modestly in the early 1980s. Between 1984 and 1993, robbery levels increased at an escalating rate.
- Assault with intent to commit grievous bodily harm remained at an almost uniform level during the 1980s – with the exception of a brief decrease in 1986 – and then increased between 1990 and 1993.
- Housebreaking (residential and commercial) increased in the early 1980s, rising significantly in the mid-1980s. Between 1987 and 1990 housebreaking declined, increasing again between 1990 and 1993.

Table 31

Percentage change in the number of crimes recorded over four 4-year periods between 1981/82 and 1993				
	1981/82 to 1984/85	1984/85 to 1987	1987 – 1990	1990 – 1993
Murder	11%	9%	54%	30%
Rape	4%	13%	12%	33%
All robbery	2%	18%	32%	43%
Assault GBH	3%	-2%	3%	17%
Housebreaking	20%	41%	-5%	15%

CRIME PATTERNS: 1994 – 2000

During the first four years after South Africa's political transition in 1994, overall crime levels almost stabilised, albeit at very high levels of especially violent crime. Between

³ Glanz L. ‘The not so long arm of the law’ in *Indicator Crime and Conflict*, No. 5 (Durban, 1996) p 10.

⁴ Sidiropoulos E. *et al*, *South Africa Survey 1997/98*, (South African Institute of Race Relations, Johannesburg, 1998) p 29-30.

1994 and 1997, recorded crime increased at an average of only 1% per year. Thereafter levels of recorded crime, measured from one year to the next, increased at an escalating rate. Overall crime levels increased by almost 5% between 1997-98, 7% in 1998-99, and 7.6% in 1999-2000.⁵ (See Table 32)

The crime rate (as measured per 100 000 of the population), increased from 5 173 crimes in 1994, to 5 635 crimes in 2000.⁶ At the 2000 level, the total risk of being a victim of crime per person per year is 5.6%, even before unrecorded crimes are considered.

Table 32

Percentage change in the number of crimes recorded for two 4-year periods between 1994 and 2000		
	1994 – 1997	1997 – 2000
Murder	-8%	-12%
Rape	23%	1%
Aggravated robbery	-18%	59%
Robbery (common)	63%	66%
Assault GBH	12%	17%
Housebreaking	7%	17%
20 most serious and prevalent crimes	3%	21%

The latest available crime statistics at the time of writing are those for the period April 2001 to March 2002. During this period 2.52 million crimes were recorded – and increase of 25% over the eight year period since 1994/95. While recorded crime has been increasing for some time, the rate of increase is slowing down. During 2001/02 recorded crime increase by only 0.9% - the lowest year increase since 1996/97.

Not all crimes increased at the same rate between 1994 and 2000. Overall, the 20 most serious and prevalent crimes increased by 24% during this period. Common robbery – that is, robbery without the use of a dangerous weapon – experienced the greatest increase of 169%. This might be partly attributable to an increase in muggings to rob people of their cell phones, given the significant increase in cell phone ownership in the late 1990s.⁷

Robbery with aggravating circumstances, serious assault and residential burglary all increased by over 30% between 1994 and 2000. The number of recorded murders and car thefts decreased. The decrease in murder levels can partly be attributed to the significant decline in politically motivated murders after 1994. It is significant that recorded murders have consistently declined since 1994. Murder is the most reliable crime type to measure, as virtually all murders are uncovered and recorded by the police. By contrast, the violent crimes of rape and assault are frequently not reported to the police, and official rape and assault statistics are an inaccurate reflection of the true extent of these crimes.

While murder levels declined after 1994, overall levels of violent crime have experienced the greatest increase compared to all other crime categories. Between 1994 and 2000, violent crime increased by 34%, property crime by 23%, violent crime against property

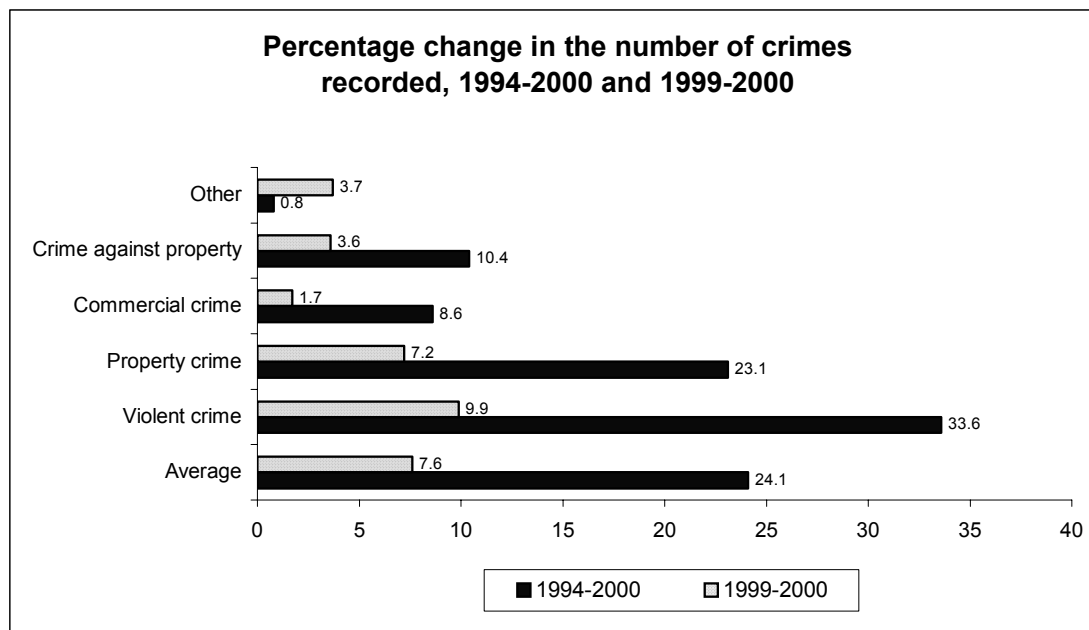
⁵ Crime Information Analysis Centre *Provincial crime specific statistics for the period January to December 1994 to 2000*, (Pretoria, 2001)

⁶ Media statement by the Minister for Safety and Security. Mr S.V. Tshwete, Cape Town, 2001-05-31.

⁷ Media statement by the Minister for Safety and Security, Mr S.V. Tshwete, Pretoria, 2001-12-14.

(i.e., arson and malicious injury to property) by 10%, commercial crime by 9%, and drug and drunk driving related offences by 1%. When measured over the 1999 – 2000 period, the same trend emerges, with violent crime increasing at the greatest rate. (See Figure 4)

Figure 4



Recorded crime rates differ significantly between provinces. In 2000, the Western Cape had the highest provincial per capita rates of recorded murder, attempted murder, common assault, residential burglary, theft out of motor vehicles and general theft, and the second highest rates of rape, serious assault and commercial crime. Gauteng had the highest rates of robbery, theft of motor vehicles and commercial crime. By contrast the Northern Province had the lowest rates in 13 out of the 15 serious and prevalent crimes recorded by the police.⁸

Crime trends in South Africa's major cities have followed a similar pattern as those nationally since 1994.⁹ A comparison of crime rates shows that Johannesburg has by far the highest incidence of serious crime – both violent and property – followed by Pretoria, Cape Town and Durban. (In this analysis Cape Town is covered by the statistics for the West Metropole police area.) The risk of becoming a victim of crime in 1999 was thus highest in Johannesburg and lowest in Durban according to the police statistics. In all four cities, the proportion of violent crime was similar, at around one quarter of all recorded crime. In Durban however, a slightly higher proportion of violent crime (29%) was recorded. (See Figure 5).

A comparison of how the risk of crime compares in the four cities clearly indicates that victimisation varies substantially from one part of the country to the next. This illustrates

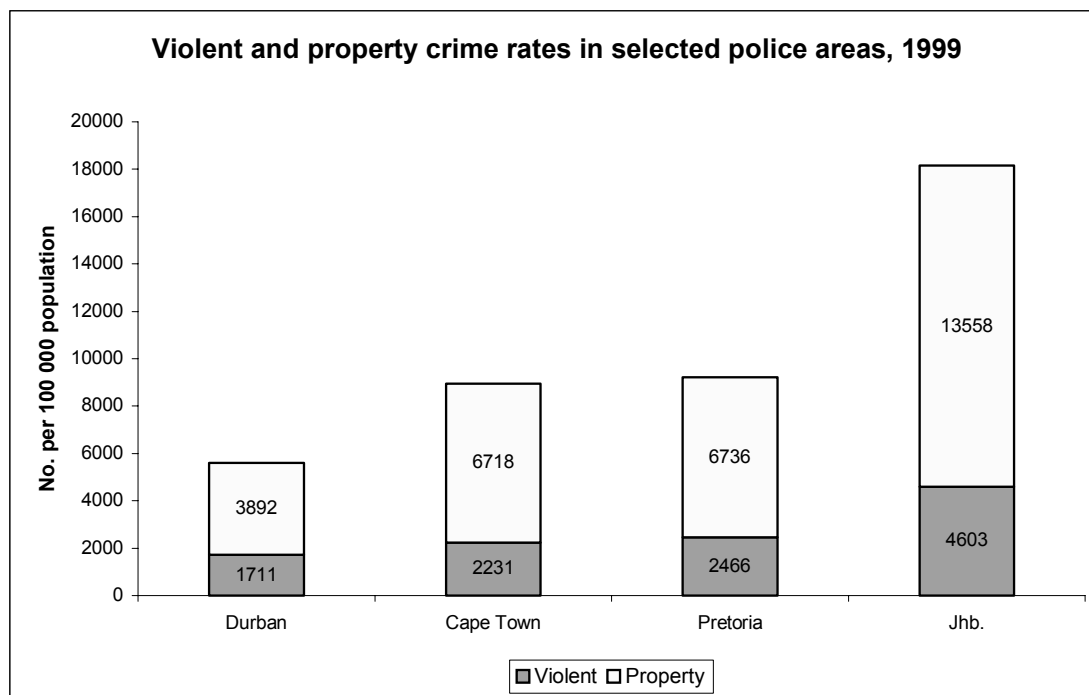
⁸ *Specific crimes per 100 000 of the population for the provinces during the period January to December 2000, Crime Information Analysis Centre, Pretoria, 2001.*

⁹ For a detailed analysis of city crime trends see A Louw, *City crime trends, Nedbank ISS Crime Index* (Institute for Security Studies, Pretoria, 2001) p. 7-15.

that all South Africans are not affected by crime to the same extent and that solutions to crime problems need to be based on local crime patterns.

In 1999 the murder rate was over three times higher in Johannesburg than in Pretoria. The murder rate in Johannesburg was 117 murders recorded per 100 000 people, compared to 82 in Durban, 68 in Cape Town and 37 in Pretoria.

Figure 5



An analysis of how the risk of murder varies within the suburbs of Johannesburg, Cape Town and Pretoria shows that people living in the poorer parts of the city, including the townships, were much more at risk of murder than those in the wealthier areas in 1999. The murder rate was also comparatively higher in inner city areas (Cape Town central, Johannesburg central and Pretoria central) than in the residential suburbs, although the comparison may not be completely valid because of the few permanent residents in the city centres.

The risk of residential burglary was higher for people living in Johannesburg in 1999 than any of the other three cities. In contrast to the murder trend, Pretoria was in second place after Johannesburg as the city with the highest rate of burglary. That is, in 1999 there were 1 903 recorded burglaries per 100 000 of the population in Johannesburg, followed by Pretoria (1 261), Cape Town (1 104) and Durban (643).

The risk of car hijackings was significantly greater in Johannesburg (272 per 100 000 of the population) than in Durban (65), Pretoria (47) and especially Cape Town (21). People in Johannesburg were about 13 times as likely as those in Cape Town to be the victim of a car hijacking in 1999.

In three of the four cities, crime levels increased more than the total for all crime recorded in South Africa between 1994 and 1999. All serious crime increased the most in Pretoria (by 19%) and in Durban (by 19%) during this period. Crime in Cape Town increased by 17%. This means that although the risk of crime is fairly low in the Mother City, the risk of

becoming a victim has increased almost as fast in Cape Town as in Durban and Pretoria. Johannesburg was the notable exception with regard to how crime levels have changed between 1994 and 1999. In the city, recorded crime decreased marginally (by 2%) during this period. The decrease in crime in Johannesburg can largely be attributed to a drop in property crime in the city. Indeed levels of violent crime increased by 17% between 1994 and 1999 in Johannesburg.

Of the four cities covered in this analysis, violent crimes increased at a faster rate than the national total over this period in Pretoria only, viz. 30%. In Durban and Cape Town property crime increased slightly more than violent crime between 1994 and 1999. In Pretoria and Johannesburg the opposite was true.

SA CRIME IN AN INTERNATIONAL CONTEXT

Difficulty of comparing crime across borders

Comparing crime rates between countries is fraught with difficulties.¹⁰ This is so for a number of reasons:

- Countries have different legal and criminal justice systems. Crime definitions vary from one country to the next. For example, a serious assault in one country could be recorded as an attempted murder somewhere else. Moreover, what constitutes a recordable crime in one country might not be a criminal offence in another.
- The likelihood of victims reporting crime, and the police recording them, is not the same in every country. Crime victims are less likely to report crime in a country with an oppressive or incompetent police force than in a country where the police is helpful and trustworthy. The distances people have to travel to the nearest police station, and the availability of transport to get there, is another factor which can affect reporting rates.
- Multiple offences are not recorded uniformly in all countries. In some countries only the most serious offence reported in a single incidence is recorded, while in others all offences reported are recorded.
- Differences in data quality between countries is also a factor. In developed countries recorded crimes are entered in a computerised database and channelled to a central point for analysis. In many less developed countries crime statistics are recorded on paper which can easily result in the loss of some of the statistics.

High violent crime

By global standards South Africa has high levels of violent crime.¹¹ Every third crime recorded in South Africa is violent in nature (i.e., involving violence or the threat of violence). In the United States, considered to be a relatively violent society, violent crime makes up 15% of all recorded crime, while in the United Kingdom only 6% does so.

¹⁰ Masuku S. 'South Africa: World crime capital?' in *Nedbank ISS Crime Index* (Institute for Security Studies, Pretoria, 2001) p. 16-17.

¹¹ *Ibid* p 16-21.

Comparing South Africa's crime figures – or that of any other country in Sub-Saharan Africa – with those of developed countries is an unfair comparison. Socio-economic conditions, levels of inequality, unemployment levels and the State's ability to help those in need, tend to be more favourable in the developed industrialised states concentrated in the northern hemisphere. Moreover, developed states have the capacity to pay for well-resourced criminal justice systems, and to increase spending as and when upsurges in crime occur.

Murder is the most suitable crime to compare between countries. There are few definitional disputes about what constitutes a murder and most murders are recorded because the evidence of the crime, in the form of the body of the victim, is rarely concealed permanently. Reliable crime data on African countries is sketchy.

Nevertheless, a comparison of murder rates shows that South Africa has by far the highest rate in the region. In 1998, the number of murders recorded per 100 000 of the population was 59 in South Africa, 45 in Namibia, 18 in Swaziland and only 9 in Zimbabwe. Moreover, murder rates per 100 000 of the population in 1998 were 21 in Brazil, 20 in the Russian Federation, 4 in Hungary and 3 in Spain.¹²

REASONS FOR HIGH CRIME RATES

There is no one satisfactory explanation for South Africa's high levels of crime – especially the high and increasing levels of violent crime. There are, however, a number of explanations which help to explain South Africa's consistently high levels of crime.

Violent past

A multitude of apartheid and Draconian internal security laws were placed on the South African statute books between the mid-1950s and late-1980s. Behaviour which is considered normal in a free society was criminalised.

As the legitimacy of the South African Government at the time declined, and opposition to its policies intensified, the distinction between political and criminal behaviour became blurred. Apartheid offences were classified as crimes. The State's security forces committed crimes, and showed disdain for the rule of law, in their zeal to clamp down on the Government's political opponents. And those engaged in 'the struggle', particularly from the mid-1980s onwards, justified forms of violence as legitimate weapons against the system. Actions which were violent crimes were often seen and justified by their perpetrators as a legitimate defence against political opponents and enemies. The result was a society in which the use of violence to achieve political and personal aims became widespread.¹³

Period of transition

¹² *International crime statistics 1998*, International Criminal Police Organisation (Interpol), Lyon, 1998.

¹³ Shaw M. *Partners in crime? Crime, political transition and changing forms of policing control* (Centre for Policy Studies, Johannesburg, 1995) p. 9.

As pointed out above, there is a link between South Africa's political transition over the last decade and the growth in the crime rate. Increases in crime in South Africa over the last ten years are consistent with the experiences of other countries undergoing transitions to democracy, which are followed by attempts to consolidate the new democratic institutions. As change and democratisation processes proceed, society and its instruments of social control (both formal and informal) are reshaped. The result is that new areas for the development of crime open up.¹⁴

The South African transition brought about a restructuring of the criminal justice system, and the abolition of a number of laws and the promulgation of new ones. As a result many criminal justice functions have been operationally weakened. Moreover, the experienced personnel working in the system, who were trained in the policing methods of the old authoritarian order, are now unsure how to function effectively within a new legal framework based on the rule of law and a constitutionally entrenched Bill of Rights.

Cycle of violence

Some explanations for the high rate of violent crime refer to South Africa's political history, suggesting that families suffered from 'institutional violence' for decades through the disruption of their lives by mass removals and migrant labour policies of apartheid. Political violence compounded this disruption of family life. The resultant weakening of the family unit and thus parental control over children may prompt criminal behaviour among the youth.

Moreover, while the liberation movements' strategy of ungovernability was theoretically directed against the apartheid state, it had other destructive effects. In the process of destabilising black local government, leading violent campaigns against black policemen, and urging a people's war which involved the youth in particular, massive violence was unleashed in black communities which bred a culture of violent lawlessness and a distrust of authority.¹⁵ Since 1994, little has been done to reverse these tendencies and to draw young (especially black) South Africans into a society governed by the rule of law.

'Culture of violence' theories similarly argue that the effects of apartheid, coupled with years of political violence and the continued exposure to violence in the home and in the neighbourhood, have produced a destructive culture which manifests itself in what the Nedcor Project on Crime, Violence and Investment calls 'murderous intolerance'.¹⁶ It also means that South Africans quickly resort to violence as a means of solving conflicts – whether in the domestic, social or work environment.

Proliferation of firearms

South Africa is a heavily armed society. According to the police's Central Firearms Registry three-and-a-half million South Africans legally possess some 4.2 million firearms,

¹⁴ Shaw M. South Africa: *Crime in transition* (Institute for Security Studies, March 1997) p. 1.

¹⁵ See Kane-Berman J. *Political Violence in South Africa*, (South African Institute of Race Relations, Johannesburg, 1993)

¹⁶ *Nedcor Project on Crime, Violence and Investment: 1996* (Johannesburg, 1996).

of which slightly more than half are handguns. It is estimated that a similar amount of illegal firearms are circulating in South Africa.

South Africa's porous borders – especially with Mozambique – allow arms smugglers to bring large quantities of firearms (especially AK47s), remnants of Mozambique's long civil war, into South Africa.¹⁷ Because of an over-supply of such weapons and the impoverished state of Mozambique these guns sell cheaply (for example, R500 for an AK47), making them accessible to small-time South African criminals and juveniles. Because of the long history of armed conflict many South Africa are familiar with firearms and know how to use them.

Organised crime

It is likely that organised crime syndicates are behind a significant number of car hijackings, vehicle thefts, armed robberies (especially cash-in-transit and bank robberies), burglaries of homes in upper-class areas and businesses, commercial crimes and even certain types of shoplifting.

While no accurate figures exist, it is likely that organised crime has grown considerably in South Africa since 1994. Organised crime tends to grow rapidly during periods of political transition, when levels of violence are high, leading to state resources being concentrated in certain areas only and gaps emerging in which organised criminal groups may operate.¹⁸ Moreover, inadequate border controls, a good transport infrastructure, markets for and sources of contraband, such as endangered species products and cannabis (dagga), a good banking system, and a ready supply of trained recruits would have contributed to the growth of organised crime in South Africa.¹⁹

Youthful population

The relationship between age and crime has been the subject of considerable criminological analysis. It has been suggested that 'probably the most important single fact about crime is that it is committed mainly by teenagers and young adults'.²⁰ According to a National Institute for Justice paper on violent crime by young people, '(a)ge is so fundamental to crime rates that its relationship to offending is usually designated as the "age-crime curve". This curve, which for individuals typically peaks in the late teen years, highlights the tendency for crime to be committed during the offender's younger years and to decline as age advances.'²¹

¹⁷ Hennop E. 'South Africa's porous borders: A haven for arms smugglers' in *Nedbank ISS Crime Index*, (Institute for Security Studies, Pretoria, 2000) p 20 – 23.

¹⁸ Shaw M. *Organised crime in post-apartheid South Africa* (Institute for Security Studies, Midrand, 1998) p 1.

¹⁹ CIMC *The incidence of serious crime between 1 January and 31 December 1997* (Quarterly Report No 1/98, Crime Information Management Centre, 1998) p 25.

²⁰ Smith D.J. 'Youth Crime and Conduct Disorders' in Rutter M. and Smith D.J. (ed's), *Psychological Disorders in Young People: Time Trends and their Correlates* (Chichester, Wiley, 1995) p 395.

²¹ Blumstein A. 'Violence by Young People: Why the Deadly Nexus?' in *National Institute for Justice Journal*, No 229, August 1995, p 3.

According to a 1995 British Home Office report at least one-quarter of all recorded crime committed in England and Wales is committed by 10 to 17 year olds, and over two-fifths is committed by those under 21.²² Overall for all crimes the peak age of offending for males in England and Wales is 18. For property offences it is 14 years, for violent offences 16 years, and for drug offences 20 years.²³

In the United States the situation is similar. Persons most likely to commit murder in the US are aged between 18 and 24. A person in this age group is almost three times as likely to commit a murder than a person in the 25 to 34 age group, and more than six times as likely than a person aged 35 to 49.²⁴

No national figures are available on the number of crimes committed by young people in South Africa. Conviction figures, however, show that young males are considerably more at risk of being convicted for a wide range of crimes than older males, or females of any age group.²⁵ During 1995/96 (the latest period for which figures are available from Statistics South Africa), 2 283 out of every 100 000 males aged 18 to 20 were convicted of committing a crime. For males under 18 the corresponding ration was 318 per 100 000, and for males aged 21 and over it was 1 481 per 100 000.²⁶ For serious violent crimes the per capita conviction rate for males aged 18 to 20 is considerably higher, compared to that of men of older age groups. For example, during 1995/96 males aged 18 to 20 were more than three times as likely of being convicted of robbery, than males aged over 20.

The higher than average propensity of juveniles and young adults to engage in criminal activity would seem to be similar in South Africa as it is in the rest of the world. However, in comparison to many other countries - especially developed countries - South Africa has a relatively youthful population. According to the last census results (1996), a third of the South African population was under the age of 15, and 44% under the age of 20 years. The numerically largest population segments were those aged 5 to 9 years and 10 to 14 years, each of which made up 11.5% of the total population in 1996.²⁷

Rapid urbanisation²⁸

²² *Information on the Criminal Justice System in England and Wales* (Home Office Research and Statistics Department, London, 1995).

²³ Newburn T. 'Youth, Crime, and Justice' in Maguire M., Morgan R., and Reiner R. (ed's), *The Oxford Handbook of Criminology* (Clarendon Press, Oxford, 1997) p 627.

²⁴ FBI *Supplementary homicide reports, 1976-97*, <<http://www.ojp.usdoj.gov/bjs/homicide/oage.txt>> (3 May 1999).

²⁵ Conviction figures do not necessarily reflect the exact level of criminality of a specific age group – they should be seen as indicating a pattern only. This is because on the one hand young males might be more likely to be convicted than older males. (The latter are more likely to be recidivist and might exploit the criminal justice system's weaknesses better, resulting in a greater number of acquittals. Younger accused are also more likely to plead guilty as they are less likely to receive a heavy sentence because of their youthfulness and the likelihood that they are first offenders.) On the other hand, young accused are less likely to be convicted (especially in respect of less serious offences) because of a variety of diversion programmes which remove young accused, who admit guilt, from the criminal justice system process.

²⁶ Central Statistical Service *Crimes: Prosecutions and convictions with regard to certain offences, 1995/96* (Pretoria, 1998). See also M Schönteich, The dangers of youth? Linking offenders, victims and age, *ISS Nedcor Crime Index* (Institute for Security Studies, Midrand, 1999) p. 22-28.

²⁷ Statistics South Africa *The People of South Africa Population Census, 1996, Census in Brief* (Pretoria, 1996).

²⁸ Most of the material contained in the sub-section on 'rapid urbanisation' has been taken from Glanz L 'South African cities under siege' in *Indicator Crime and Conflict*, No. 2, Winter 1995, Durban, p. 17.

It is a world-wide phenomenon that crime rates are higher in cities than in rural areas, with the rate generally increasing according to city size. Most factors associated with high crime rates characterise cities to a greater extent than small towns. Population density, for example, is thought to be associated with crime, in that greater concentrations of people lead to competition for limited resources, greater stress and increased conflict.

Factors which characterise urbanisation, such as overcrowding, unemployment and increased consumer demands and expectations are themselves believed to be associated with high crime rates. High levels of gang activity and the availability of firearms are also mainly evident in urban areas and are known to be related to criminal activity.

Cities also have higher levels of anonymity, which means a criminal's chance of recognition is slight. The offender is also surrounded by strangers who are less eager to censure misconduct and to intervene when a crime is in progress.

Many theorists contend that the abundance of visible wealth in cities, in the form of large quantities of consumer goods, is not in itself conducive to crime. It is the relative deprivation (i.e. the difference between the 'haves' and the 'have nots') in urban areas that fosters crime. Inequalities in wealth are considerable greater in urban than in rural areas.

With the abolition of influx control in the mid-1980s urbanisation rates increased in South Africa – especially in the country's larger metropolitan areas to which a large number of people were drawn in the search for employment. South Africa is the third most urbanised country in sub-Saharan Africa: 56% of the country's population is urbanised (up from 46% in 1960 and 52% in 1995).

Weak criminal justice system

South Africa's criminal justice system is not performing optimally. In 2000, some 2.6 million crimes were recorded by the police. Of these approximately 610 000 (24%) went to court, and the prosecution service took 271 000 (11%) cases to trial. These resulted in slightly more than 211 000 (8%) convictions, the other cases being withdrawn or settled otherwise.

The poor performance of a criminal justice system should not be interpreted as a cause of crime. The primary aim of the criminal justice system is not to reduce crime but to process cases and offenders speedily and effectively and to hand down appropriate sentences (punishment) to those convicted of an offence. Nevertheless, how well the system functions is important for several reasons:

- A relatively small proportion of people are believed to commit the majority of serious crimes, and especially organised crime. If these perpetrators are apprehended and convicted timeously and effectively, certain crimes can be reduced.
- A functional system helps to deter some potential offenders from committing a crime.
- Criminal justice successes – especially if well publicised – are essential for boosting public confidence in the Government's ability to reduce crime and make people feel safer.

CRIMINAL VIOLENCE AND RURAL SAFETY IN KWAZULU-NATAL

Historical background

Like the rest of South Africa, KwaZulu-Natal experiences high levels of criminal violence, and it shares the same broad context within which crime in general, and threats to rural safety in particular, should be placed. However, there are also long-standing political dynamics in certain areas of the province, which have added a new dimension to violent crime, and which continue to impact on the safety of rural residents, including farmers, up to the present time. It would be impossible to understand the nature of farm attacks, including land invasions, in KwaZulu-Natal without having regard to these dynamics.

These dynamics are rooted in the history of the province and especially in its status as a British colony. The KwaZulu homeland, consisting in the mid 1980s of 42 pieces of land, was the most geographically fragmented of the homelands, its composition directly linked to the situation of 'reserves' for blacks established by the British Government in the 19th century.²⁹ There were also a large number of 'black spots', i.e. pieces of freehold land purchased before the implementation of the 1913 Land Act.³⁰ As a consequence, the areas in which white farmers share their borders with black rural communities are more numerous than in other parts of the Republic. Population density in KwaZulu was also extremely high, exceeded only by that of Qwa Qwa.³¹

Tensions which may arise from the contiguity of commercial farmland with impoverished, overcrowded areas are not a new, post-1994 phenomenon. An example is the Muden-Weenen area, in the old Natal, which borders on Msinga, in the then KwaZulu.³² Before the late 1970s, no white farmers had lived on the Natal border side, and Msinga residents had grazed and watered their cattle on both sides of the boundary as they had for generations. Together with the white farmers came new fences, and the friction started as Msinga residents found themselves cut off from traditional footpaths and sources of water, and had to travel out of their way to reach the town of Weenen. Among the problems farmers were experiencing by the 1980s were 'pilfering, illegal wood-cutting, stock theft, trespassing and veld-burning'.³³

Historical processes rooted in the British colonial status of Natal (which, after the Anglo-Zulu war of 1879 incorporated 'Zululand' north of the Tugela River) have also impacted in distinct ways on relationships between English and Afrikaans-speaking, and black and white, residents of the province. There is, for example, a long history of English-speakers, representing powerful vested economic interests, who wanted a different political dispensation for themselves³⁴ and epitomized by the epithet 'the last outpost of the British Empire'.

²⁹ Robbins D. and Hartley W. *Inside the Last Outpost* (Shuter & Shooter, Pietermaritzburg, 1985) p117

³⁰ Despite large numbers of people removed for 'consolidation' purposes there were still 189 of these 'black spots' in the mid 1980s – see Platzky L and C Walker *The Surplus People: Forced Removals in South Africa* (1985) p 53

³¹ Platzky and Walker *op cit* p 17.

³² Robbins and Hartley *op cit* p 107-109

³³ *Ibid.*

³⁴ De Haas M. and Zulu P. 'Ethnicity and Federalism: The Case of KwaZulu/Natal' in *Journal of Southern African Studies*, 1994, Vol 20 No 3, p 433

Whilst the English-Afrikaner political divide was to assume increasingly less salience during the latter part of the 20th century, the supposed ‘uniqueness’ of the province re-emerged after the establishment of KwaZulu. Firstly, the Buthelezi Commission, which drew together business interests, academics and politicians, recommended, among other things, some form of ‘consociational’ government for the region.³⁵ A few years later, in 1986, the KwaNatal Indaba, supported by Inkatha (as the Inkatha Freedom Party was then called), the opposition Progressive Federal Party and a variety of politically ‘centrist’ groupings³⁶ and business interests in the province, also argued for a ‘special’ regional political dispensation for the province.³⁷ Together with its political allies the IFP continued, both before and after the 1994 elections, to secure a ‘special’ status for the province, culminating in the rejection by the Constitutional Court, in 1996, of its Constitution for the province, which one judge commented, appeared ‘intended to legitimise armed secession’.³⁸

Whilst the KwaZulu Government and the IFP remained, on the surface, implacably opposed to the National Party Government’s policy, its officials collaborated closely with police and army personnel when violence flared in the region in the 1980s. Some members were even part of Joint Management Committee structures³⁹ and the homeland’s Chief Minister, Gatsha Buthelezi, was also Minister of Police. Inkatha was therefore in the position of having support from both the nationalist Government (covertly) and the ‘liberal’ English speaking opposition (overtly) in its ‘war’ with members of the UDF in the 1980s and, after the momentous changes of February 1990, with members of the unbanned liberation movements, especially the ANC. This support for Inkatha, for different reasons, by both English and Afrikaans-speaking whites in the province, was largely a product of perceptions that Buthelezi was a ‘moderate’ political leader, who led a ‘peaceful’ organisation which supported ‘free enterprise’, as opposed to the perceived ‘radical’ and ‘communistic’ ANC and its allies.⁴⁰

The development of a culture of violence

The political violence, simplistically and erroneously cast as ‘black on black’, structurally was a struggle between pro- and anti-liberation forces. The liberation movements and their internal allies represented the ‘Total Onslaught’ against whom the State and its homeland allies engaged in a ‘Total Strategy’. However, there is also little doubt that a number of people within the liberation movements themselves collaborated with the security arm of the *apartheid* State. Research carried out at the time suggested that criminals were well

³⁵ Randall P. (ed) *Survey of Race Relations in South Africa 1982* (South African Institute of Race Relations Johannesburg 1983) p 399

³⁶ Groupings to both the left (e.g. the United Democratic Front, representing the banned ANC) and the right (e.g. Conservative Party) did not participate; nor did the Nationalist Party, which did send an observer

³⁷ Cooper C. et al *Race Relations Survey 1986 Part 1* (South African Institute of Race Relations, Johannesburg 1987) p100-104

³⁸ De Haas M. ‘Violence’ in Louw R et al (eds) *South African Human Rights Yearbook 1996 Vol 7* (Centre for Socio-legal Studies, Durban, 1998) p 275

³⁹ De Haas M. ‘The Ghosts of Trust Feed’ *Indicator* Vol 9 No 3 Winter 1992 pp65-68

⁴⁰ Regarding the connections between Inkatha and business interests in the 1980s see, for example, chapter 6 of Mare G. and Hamilton G. *An Appetite for Power* (Ravan Press, Johannesburg, 1987)

represented in the ranks of perpetrators of political violence, on both sides of the political divide, and also in vigilante groupings.⁴¹

The violent political struggles in KwaZulu-Natal in the 1980s spawned a phenomenon termed 'warlordism', in which powerful men controlled territories and personnel through a combination of force and patronage.⁴² Most, but by no means all, of these warlords were aligned to Inkatha and some chiefs (now referred to as 'traditional leaders'). According to the Truth and Reconciliation Commission, 'in the kwaZulu-Natal context, a warlord is a powerful local leader who gets and keeps political power in an area by paramilitary or military force'.⁴³ The TRC report continues that the political power-wielders to whom the warlords gave at least nominal allegiance, were not only Inkatha but also, 'in a sense, the police, who represented the central Government and demonstrated its tolerance of such unofficial local or district "government"'.⁴⁴ The TRC also found that the late Harry Gwala of the ANC had functioned as a 'self-styled warlord'.⁴⁵ This conflict engendered death, injuries, destruction of property, displacement of tens of thousands, disruption of family life, and permanently traumatised children, and it also entrenched a culture of violence in the province.

During the 1980s the major focus of political violence was urban, but it spread to increasing numbers of rural areas in the early 1990s. This violence initially does not seem to have jeopardized the safety of farmers⁴⁶, with one reported exception. In 1991, as the Richmond 'war'⁴⁷ escalated, one Mr Osborne was murdered on his farm at Richmond. Nothing was stolen, and a political motive for his killing may be found in the fact that the murdered man was a supporter of the Nkabinde family. Sifiso Nkabinde, dubbed a 'warlord' by the TRC,⁴⁸ was the leader of the ANC in Richmond. White farmers in the Richmond area 'increasingly found themselves caught in the crossfire'. A number of farmers living in an isolated area some fifteen kilometers from Richmond were living under virtual 'siege' conditions and they and their families were going about fully armed.⁴⁹

Complicating relationships between warring parties and farmers, however, were persistent allegations that the Afrikaner Weerstandsbeweging (the AWB – a rightwing Afrikaner resistance movement) was running a training camp for foot soldiers in the violence on a farm in another Richmond area.⁵⁰ Allegations of white farmers supporting combatants in the violence were not confined to Richmond. In Appelsbosch, in the Maphumulo magisterial district, an attempt to launch an ANC branch in the area in November 1991 was

⁴¹ Haysom N. *Mabangalala: the rise of right-wing vigilantes in South Africa* (Centre for Applied Legal Studies, University of Witwatersrand Johannesburg, 1986); Minnaar A. (ed) *Patterns of Violence : Case Studies of Conflict in Natal* (Human Sciences Research Council, Pretoria, 1992) Chapters 5,6 & 7; The Truth and Reconciliation Commission *Interim Report*, Vol 1, notes p 312.

⁴² Minnaar A. 'Undisputed Kings': Warlordism in Natal, in Minnaar A (ed) *Patterns of Violence ; Case Studies of Conflict in Natal* (1992)

⁴³ Truth and Reconciliation Commission *Interim report* Vol 3, p 214

⁴⁴ *ibid*

⁴⁵ Two key warlords mentioned by Minnaar, also feature in the same TRC report

⁴⁶ While the TRC heard evidence about a political campaign against farmers during the struggle for liberation, the PAC, which is the main organisation linked to this campaign, had very little support in the province

⁴⁷ Osborne H. 'Richmond : The war continues' in Minnaar A. (ed) *Patterns of Violence : Case Studies of Conflict in Natal* (1992) p188

⁴⁸ Truth and Reconciliation Commission *Interim Report* Vol 3, p 215.

⁴⁹ Osborne H *op cit* p 199

⁵⁰ Osborne H *op cit* p 187-188

thwarted by the arrival of lorry loads of armed Inkatha supporters. Their transport 'was believed to have been provided by sympathetic white farmers in the area, and allegations were made about shooting ranges on white farms'.⁵¹

Post-1994 violence

Relationships between political parties and individuals identifying with them, on the one hand, and members of the police, army and intelligence communities, on the other, which had been forged during the 1980s and early 1990s, continued to impact upon the situation in the province after the first democratic elections. Whilst the same type of overt collaboration, for example, between some police and warlords, noticeable in the 1980s and early 1990s, became less evident, it has not disappeared. In 1995, for example, when Captain Mandla Vilakazi (a former member of the Goldstone Investigative Team who headed a small team investigating dozens of murders in Mandini) arrested IFP supporters, who were subsequently convicted in the High Court for a number of murders, attempts were made by both politicians and senior police members to stop his work.⁵²

For the first two years after the elections political violence continued, culminating in the massacre of 19 people at Shobashobane on 25 December 1995⁵³. Whilst overtly, high profile political violence died down somewhat from 1996, it was to re-emerge in Richmond in 1997 and 1998. This violence was linked to the expulsion from the ANC of Sifiso Nkabinde, referred to above, following allegations that he was a police informer of long standing.⁵⁴ He then shifted his allegiance to the newly formed United Democratic Movement. Nkabinde met an untimely death, and although some of the foot soldiers involved in the violence were subsequently convicted, the forces behind it remained unexposed.

Although one Member of Parliament and one member of the Provincial Government have been killed during the past five years, high profile political killings have been largely replaced by less obvious 'political' violence, such as the targeting of local political figures, often in rural areas where their deaths receive no coverage. Despite the existence of a working relationship between politicians at a leadership, political tolerance does not necessarily exist at a ground level. A lack of true freedom of political association is particularly noticeable in rural areas, where traditional leaders – a number of whom have 'warlord' backgrounds – rule with an iron fist and make their intolerance of political opposition known in various ways. As seen from the interviews conducted by the Committee in especially Mangete and Nqabeni, many farmers believe that some of these traditional leaders are instrumental in orchestrating illegal land invasions. In the case of Mangete, the chief of the neighbouring area is named in a court action which legal

⁵¹ De Haas M 'From tranquility to terror: Appelsbosch 1990-1992' in Minnaar A (ed) *Patterns of Violence: Case Studies of Conflict in Natal* (1992) p 207

⁵² De Haas M. *The more things change...policing in the 'new' South Africa* (Mimeo, 1999) One of the senior police members interfering in Vilakazi's work had been in charge of the North Coast Security Police at the height of the political violence in the early 1990s.

⁵³ A Commission of Enquiry established in 1996 heard a great deal of evidence that the police had been warned of an impending attack but had failed to take appropriate action. The report has still not been publicly released.

⁵⁴ This was confirmed by the Truth and Reconciliation Commission in its Interim Report, Vol 3, p 215. Even before the killings started again in Richmond, members of the SAPS at Richmond wrote to the Area Commissioner, complaining of collusion between Nkabinde and certain senior police members.

residents brought to try and secure an interdict against land invaders – which action was suspended pending the lodging, by the chief concerned, of a purported ‘tribal’ claim for land restitution.⁵⁵

Allegations were also made to the Committee by farmers whose land had been invaded that the traditional leaders concerned were making money out of the invasions by collecting ‘rent’ from people, to whom they had ‘allocated’ land which did not belong to them. Since traditional leadership is highly politicised in KwaZuluNatal, there may also be important political gains for leaders and the parties to which they have allegiance (some to the extent of serving as political office-bearers). Increasing the size of their constituencies may assist them to expand their own personal sphere of influence, while swaying voters in favour of their party, through tactics varying from dispensing patronage to their subjects to coercion.

Many of the killings in rural areas go virtually unnoticed and, when they do attract attention, they may be dismissed by the police as ‘faction fighting’.⁵⁶ In fact, it has become entangled with issues varying from to political conflict to boundary disputes and from taxi-violence to stock theft.⁵⁷

This continuing culture of violence impacts upon the farmers. Firstly, in conflict-ridden rural communities where true freedom of political activity does not exist, farmers may still be perceived (rightly or wrongly) as politically aligned rather than neutral by-standers. Secondly, political foot soldiers serving a rural warlord, for example, may rob, rape and kill for purely criminal gains, since they are armed, and make a living out of violence.

⁵⁵ Although the matter is still pending in the Land Claims Court, the court has already ruled that there is no basis for a ‘tribal’ claim

⁵⁶ Faction fighting, however, in the past used to be essentially family or clan-based feuds, in which men (not women and children) were singled out in acts of retribution.

⁵⁷ For further information on the patterns of violence, see <www.violencemonitor.com>.